

08-1691-CD

Linda Lockett al vs Clearfield Hospital al

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA LOCKETT,

*Individually, and as Personal
Representative of the Estate of*

GILBERT W. LOCKETT,

Plaintiff,

v.

**CLEARFIELD HOSPITAL,
CLEARFIELD AREA HEALTH
SERVICES,**

and

GORDON P. CLARK, M.D.,

Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

**CIVIL ACTION
MEDICAL PROFESSIONAL
LIABILITY ACTION**

Case No. 08-1691-CD

Filed on behalf of Plaintiff:
LINDA LOCKETT.

Counsels of Record for this Party:

Victor Hunter Pribanic

Pa. I.D. No.: 30785

Sherie Lynn Painter

Pa. I.D. No.: 92820

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NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an 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 Decedent. 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.**

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COMPLAINT

NOW COMES Plaintiff, **LINDA LOCKETT**, by and through her counsel—Victor H. Pribanic, Sherie Lynn Painter, and Dr. Christopher Buck—and, in support of this medical professional liability action against Defendants, avers as follows:

PLAINTIFF

1. **Linda Lockett:** Plaintiff, Linda Lockett ("Mrs. Lockett") is a citizen of the Commonwealth of Pennsylvania, and currently resides in Clearfield County.
2. Mrs. Lockett was appointed Personal Representative of the Estate of Gilbert W. Lockett ("Mr. Lockett"; "Decedent"), by the Register of Wills of Clearfield County.

DEFENDANTS

3. **Clearfield Hospital:** Defendant, Clearfield Hospital ("Clearfield Hospital"), is a professional corporation incorporated in the Commonwealth of Pennsylvania, and is engaged in the operation of a hospital facility located in Clearfield County, with its principal place of operations located in Clearfield, Pennsylvania.
4. Pursuant to Rule 1006(a) of the Pennsylvania Rules of Civil Procedure, this action is brought in Clearfield County, in which the cause of action arose and where Defendants may be served.¹
5. At all relevant times, Defendant, Clearfield Hospital, expressly and implicitly represented to the general public that those who treated Decedent, Gilbert W. Lockett, practiced medicine in a skilled and proper manner and possessed the degree of professional learning, skill and ability ordinarily possessed by other physicians who are engaged in the practice of medicine in the same or similar communities.
6. At all relevant times, Defendant, Clearfield Hospital, was charged with the professional responsibility of rendering proper care and treatment to Decedent, Gilbert W. Lockett, and of assuring that proper medical care and attention were provided during all periods of time during which Mr. Lockett remained under said Defendant's protocol, care and treatment.

¹ Rule 1006(a) of the *Pennsylvania Rules of Civil Procedure* provides that "an action against an individual may be brought in and only in a county in which the individual may be served or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose or in any other county authorized by law."

7. At all relevant times, each and every physician, each and every nurse, as well as each and every other medical professional who treated Decedent, Gilbert W. Lockett, was acting as an agent, ostensible agent, servant and/or employee of Defendant, Clearfield Hospital; that each said medical professional operated within the scope of his or her agency and respective duties when delivering all medical care referenced herein; and, having been duly charged with the professional responsibility of rendering proper care and treatment to Mr. Lockett, each acted under a duty of care in maintaining all medical professional standards to which each said medical professional was trained and to which he or she thereby subscribed, in order to assure that proper medical care and attention were provided, at all relevant times, while Mr. Lockett remained under said Defendant's protocol, care and treatment.
8. Among the agents, servants and employees of Clearfield Hospital were Defendant, Gordon P. Clark, M.D., who examined and treated Mr. Lockett, and nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as well as those physicians, residents, registered nurses, nurse practitioners, licensed practical nurses, respiratory therapists, laboratory technicians and/or other non-physician healthcare professionals and personnel of Defendant, Clearfield Hospital, and its actual, apparent and/or ostensible agents and employees, who were substantially involved in the medical diagnosis, care and treatment of Mr. Lockett.
9. Defendant, Clearfield Hospital, is responsible for all of its actual, apparent and/or ostensible agents or employees who rendered any medical and/or nursing care and treatment to Decedent while he was a patient under Clearfield Hospital's care, protocols and treatment.

10. **Clearfield Area Health Services:** Defendant, Clearfield Area Health Services (“CAHS”), is a professional corporation incorporated in the Commonwealth of Pennsylvania, and is engaged in the operation, *inter alia*, of a hospital facility—Clearfield Hospital—located in Clearfield County, with its principal place of operations located in Clearfield, Pennsylvania.
11. Pursuant to Rule 1006(a) of the Pennsylvania Rules of Civil Procedure, this action is brought in Clearfield County, in which the cause of action arose and where Defendants may be served.
12. At all relevant times, Defendant, CAHS, expressly and implicitly represented to the general public that those who treated Decedent, Gilbert W. Lockett, practiced medicine in a skilled and proper manner and possessed the degree of professional learning, skill and ability ordinarily possessed by other physicians who are engaged in the practice of medicine in the same or similar communities.
13. At all relevant times, Defendant, CAHS, was charged with the professional responsibility of rendering proper care and treatment to Mr. Lockett and of assuring that proper medical care and attention were provided during all periods of time during which Mr. Lockett remained under said Defendant’s protocol, care and treatment.
14. At all relevant times, each and every physician, each and every nurse, as well as each and every other medical professional who treated Decedent, Gilbert W. Lockett, was acting as an agent, ostensible agent, servant and/or employee of Defendant, Clearfield Area Health Services; that each said medical professional operated within the scope of his or her agency and respective duties when delivering all medical care referenced herein; and, having been duly charged with

the professional responsibility of rendering proper care and treatment to Mr. Lockett, each acted under a duty of care in maintaining all medical professional standards to which each said medical professional was trained and to which he or she thereby subscribed, in order to assure that proper medical care and attention were provided, at all relevant times, while Mr. Lockett remained under said Defendant's protocol, care and treatment.

15. Among the agents, servants and employees of CAHS were Defendant, Gordon P. Clark, M.D., who examined and treated Mr. Lockett, and nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as well as those physicians, residents, registered nurses, nurse practitioners, licensed practical nurses, respiratory therapists, laboratory technicians and/or other non-physician health-care professionals and personnel of Defendant, CAHS, and its actual, apparent and/or ostensible agents and employees, who were substantially involved in the medical diagnosis, care and treatment of Mr. Lockett.
16. Defendant, CAHS, is responsible for all of its actual, apparent and/or ostensible agents or employees who rendered any medical and/or nursing care and treatment to Decedent while he was a patient under CAHS's care, protocols and treatment.
17. **Gordon P. Clark, M.D.:** Defendant, Gordon P. Clark, M.D. ("Dr. Clark"), is a physician licensed to practice medicine in the Commonwealth of Pennsylvania, is affiliated with and is an employee of Clearfield Hospital and Clearfield Area Health Services, and maintains an office located in Clearfield County, in , Clearfield, Pennsylvania.
18. At all relevant times, Dr. Clark was acting as an agent, ostensible agent, servant and/or employee of Defendants, Clearfield Hospital and Clearfield Area Health

Services; that Dr. Clark operated within the scope of his agency and respective duties when delivering all medical care referenced herein; and, having been duly charged with the professional responsibility of rendering proper care and treatment to Mr. Lockett, Dr. Clark acted under a duty of care in maintaining all medical professional standards which he was trained to uphold and to which he thereby subscribed, in order to assure that proper medical care and attention were provided, at all relevant times, while Mr. Lockett remained under said Defendant's protocol, care and treatment.

STATEMENT OF FACTS COMMON TO ALL COUNTS

Summary of the Case

19. This is a case of failure to diagnose urosepsis and of nursing negligence that enhanced Mr. Lockett's death on March 16, 2007.
20. Mr. Gilbert Willis Lockett was a 70-year-old man who resided at 1946 Barrett Road, Woodland, PA 16881.²
21. Mr. Lockett died on Friday, March 16, 2007, at 3:39 AM.³

First Visit to Emergency Department

22. On March 15, 2007, at 18:37, Mr. Gilbert Lockett, accompanied by his wife, Mrs. Lockett and son, Timothy Lockett, arrived at Clearfield Hospital by stretcher via ambulance from his private home.⁴
23. Mr. Lockett presented at the Emergency Room of Clearfield Hospital, complaining of a burning pain of his urinary tract, along with complaints of nausea and

² Harry Kamerow, M.D., *Autopsy Pathology Report*, Mount Nittany Medical Center (State College, PA), 03-17-07.

³ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁴ Harry Kamerow, M.D., *Autopsy Pathology Report*.

increasing weakness:⁵ “I’ve been nauseous and getting weaker. Yesterday I fell from being weak.”

24. Mr. Lockett’s general state of health was described: “The patient appears in fair general health.”
25. Mr. Lockett was a non-smoker, and was negative for alcohol use or drug use.
26. As for his mental status, Mr. Lockett was awake and alert; he was oriented, speaking coherently.
27. Mr. Lockett’s past medical history includes: Enlarged prostate, arthritis, previous cardiac catheterization, and prostate surgery.⁶
28. The patient had a “photovaporization-laser prostate” procedure at Clearfield Hospital 1/10/2005.⁷
29. Mr. Lockett has had urinary incontinence ever since laser surgery.
30. Mr. Lockett was unable to bend very well, due to advanced arthritis.
31. Mr. Lockett had a 2–3 day history of progressive weakness and fever.
32. Over the previous two days, Mr. Lockett had experienced nausea, vomiting and abdominal pain, along with some diarrhea.
33. During the previous 24 hours, Mr. Lockett was cold and clammy, and chilly.
34. Earlier that day, on March 15, 2007, Mr. Lockett’s family noticed that Mr. Lockett’s urine was extremely dark and foul-smelling.
35. Moreover, Mr. Lockett had some dysuria, pyuria, and hematuria.
36. Mr. Lockett denied that having chest pain, dyspnea, cough, or hemoptysis.
37. While Mr. Lockett had no palpitations, he was light-headed, although he had no syncope.

⁵ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁶ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁷ Harry Kamerow, M.D., *Autopsy Pathology Report*.

38. The nursing assessment in the Emergency Room of Clearfield Hospital on March 15, 2007, indicates "burning pain" of the urinary tract.⁸
39. The patient's vital signs at 21:26 hours on March 15, 2007 included a mild elevation in temperature at 37.7 degrees Centigrade, pulse of 100, respiratory rate of 18, systolic pressure of 116 and diastolic pressure of 43.⁹
40. The physician's note indicates "a chronically ill, obese, in moderate distress" patient.¹⁰
41. Mr. Lockett's family was at his bedside.
42. Mr. Lockett was found to be dozing off and on.
43. Medications noted included Bumetanide at 1 mg PO qd, aspirin at 325 mg PO qd, and Tylenol for arthritis.¹¹
44. At 19:36, Mr. Lockett was sent to the Imaging Department for a CT, and was taken to radiology by stretcher.
45. At 21:23, urine was collected and sent to the the lab for analysis.
46. The patient had a CBC which reveals leukocytosis at 18.6, anemia with a hematocrit of 33.6%, and thrombocytopenia with a platelet count of 100.¹²
47. The CBC does not appear to include a differential.¹³
48. A basic metabolic panel revealed mild elevation of the glucose at 133 mg/dL, elevation of the BUN in and 49 mg/dL, and elevation of the creatinine at 2.4 mg/dL.¹⁴

⁸ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁰ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹¹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹² Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹³ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁴ Harry Kamerow, M.D., *Autopsy Pathology Report*.

49. Urinalysis revealed leukocyte esterase A, moderate amounts of blood, protein and 100 mg/dL, 5–10 red blood cells per high-power field, a greater than 100 white blood cells per high-power field.¹⁵
50. Interestingly, 2+ bacteria were noted in the high power field.¹⁶
51. The patient was diagnosed with a urinary tract infection and dehydration.¹⁷
52. The patient was treated with 1 gram of Rocephin intravenously at 22:06 hours at March 15, 2007.¹⁸
53. The patient was also treated with intravenous fluids, to include 500 cc of normal saline as a bolus.¹⁹
54. A CT scan of the head/brain without contrast was obtained.²⁰
55. The patient was given a prescription for Ciprofloxacin at 500 mg PO bid.²¹
56. Moreover, a progress note was entered by Dr. Clark at 05:32 (a late entry) stating that Mr. Lockett was ambulating well with a walker, felt much better, said that he was well enough to go home, and no longer had abdominal pain, dysuria or rectal pain:

PROGRESS NOTES

Symptoms have resolved. The patient's diagnosis, condition, and treatment were explained to the patient/representative. The patient/representative expressed understanding. Patient is feeling much better. Outpatient trial indicated with instructions to return if condition worsens. Patient is ready to go home.

¹⁵ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁶ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁷ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁸ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁰ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²¹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

Progress Note: Patient is ambulating well with a walker and states he feels much better than he did when he came to the ED. States he feels well enough to go home, and no longer has abdominal pain, dysuria, or rectal pain.²²

- 57. Mr. Lockett was discharged with a diagnosis of dehydration and urinary tract infection.
- 58. Dr. Clark talked with the family prior to discharge.
- 59. Mr. Lockett reportedly stated he felt much improved, and was able to ambulate with a walker.
- 60. A nursing note states the patient was "discharged to home in good condition via wheelchair accompanied by family member and spouse."²³
- 61. Further review of the medical records indicates there was some difficulty in placing the patient into his car.²⁴
- 62. The patient was discharged from the Emergency Department of Clearfield Hospital at 2:00 AM on March 16, 2007;²⁵ however, an ambulance was not available to take Mr. Lockett at that time.

Attempts to Place Mr. Lockett in his Vehicle

- 63. Upon discharge, Mr. Lockett was placed in the family's Ford Explorer in such a position as to compromise his ability to freely breathe, under the following facts:
- 64. In reviewing the medical record, it is noted that late entries were added by the nursing staff and Dr. Clark.

²² Gordon P. Clark, M.D., *Progress Notes*, Clearfield Hospital, 03-16-07 (dictated 01:59, entered at 05:32).

²³ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁴ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁵ Harry Kamerow, M.D., *Autopsy Pathology Report*.

65. A late entry was added at 03:30 by Linda L. Blake, RN (this is the same time that Mr. Lockett returned to the ED in cardiac arrest) that, at 01:45, Mr. Lockett was out of bed with assistance and was able to ambulate with a walker, and that the patient was "unable to bend very well due to arthritis."
66. Additionally, a late note entered at 06:15 by Linda L. Blake, R.N., described the details of how Mr. Lockett was assisted into the car:
- Pt's wife took him out to the car via wheelchair at 0205. Nursing was called out to the car because the family could not get the patient into the car. LuAnn Dixon RN, Gwen Thomas RN, Linda Blake RN went out to help the family get the patient in the car. When we got out there pt was facing the inside of car[;] he was attempting to crawl into the car and lay face down for the ride home. We got him up and turned him around to sit down and get into the car. Pt was unable to bend to get his head into the car. ... The son then came to help us pull him into the back seat on his stomach, but there was not enough room for his feet. It was then suggested to put down the rear seat and to use the slider from the ED to get him into the back of the car. After we got him into the back of the vehicle[,] he was partially lying on his left side. The blanket was smoothed away from his face and a folded blanket was placed under his forehead to prevent his head and face from coming in contact with the car. ... When we finally got him in and positioned and covered [him,] both her and his son were laughing and thanking us for our help as they could never [have] got him into the car without us.
67. According to Mrs. Lockett, however, the three nurses were "hell bent" on getting the Mr. Lockett into the Ford Explorer.
68. Contrary to the nurse's note, however, this 285-lb man, with a very corpulent belly, was actually placed on his stomach, face down; that is, Mr. Lockett was not "partially lying on his left side."

69. Upon information and belief, after Mr. Lockett complained, in words to this effect, "I can't breathe!", the nurses placed a blanket "under his forehead" (exactly as the nurse's report states regarding this fact).

70. The following is Timothy Lockett's eyewitness account, dated May 2, 2008:

March 15, 2007[.] My father went to [the] hospital by ambulance. He then was released March 16, 2007 about 2:30 PM [AM]. At this time he was in a wheelchair[.] So I took him to the Explorer where he was to [too] weak and could not bend to get into [the] Explorer. I went to get a nurse and she could not get him in, then she got another nurse and they could not get him in. At this an off-duty nurse came to help. So they put a blanket around him, under his arms to drag him face down across the back seat, but his feet stuck out and [the nurses] could not shut [the] door. Then they come [came] up with the idea to fold down seats and put him in with a flex board face down into the back of [the] Explorer. I asked if he could stay at [the] hospital[.] [B]ut they said ["We can get him in."] He could only bend a little at the waist so [the nurse] got him face down and pulled & pushed him into [the] back of [the] Explorer. Then they had to get another blanket to hold his head up so he could breathe. Then within a 10 min ride home and [after I] pulled [the] flex board to get half of his body out[,], he died.

P.S. At first I did try to help [the] nurses to get him into [the] Explorer. But when they put him into the back, I said to them, ["I will never get him out[,]" time and time again. They said[,]"Y]es you will[,]" because you can pull him on the flex board.["]

71. An additional late note, entered at 08:02 by Linda L. Blake, R.N., documented that, at 03:30, "a member of the ambulance crew stated that the family stated the patient told them he was sick and when would they be home. The family stated that he said this a couple of times on the way home."

72. The following is Mrs. Lockett's eyewitness account, dated May 2, 2008:

March 15, 2007: [A]rrived at Clearfield Hospital (by ambulance) emergency room around 6:00 PM. Gib [Decedent, Gilbert Lockett] was in the hallway until 11:00 PM. Dr [Dr. Clark] said he could go home at about 2:30 AM if he could walk. He walked a few steps (with a walker) and Dr. Clark sent him home. We took Gib in a wheelchair to the SUV. [W]e could not get in. My son (Tim) went back in the hospital and asked for a[n] ambulance to take him home. Nurses said [the] ambulance would not take him home.

Three nurses came out[,] put Gib in the back seat on his stomach[.] [H]is feet hung out. My [son] said[, "H]ow will I get him out when we get home[?"] (One nurse went back in and got a white flex board.[]]) They told my son to open [the] back of [the] Explorer[,] put seats down. One nurse got in front of the car [and] she pulled & two [others] pushed Gib in on his stomach[. T]his took a half hour & [or] 45 min's (280 pounds). On the way home[,] Gib felt sick in stomach. About 10 minute[s] to get home. As we pulled him out, and pressure came off stomach[,] he died.

My son did CPR (I called 911) until emergency people arrived. We knew he was dead the second he collapsed.

We went back to [the] hospital. [W]e told Dr. Clark with the nurses did. [H]e couldn't believe it. He had my son bring car around to [hospital] entrance and show how they put Gib in [the] car.

A little later[,] Dr. Clark said we might be right [that] it might have been position [causing death].

Dr. Clark said if he knew Gib could not get in [the] car[,] he would not have sent him home.

Poor communicating between Dr. and nurse at discharge. Dr. did not know Gib couldn't get in car[/]SUV.

Gib at not deserve to be treated this way!!

73. The patient, Mr. Gilbert Lockett, apparently arrived home in "full arrest."

74. The patient returned to the Emergency Department of Clearfield Hospital a possible unresponsive, intubated, and receiving CPR at 03:41 hours on March 16, 2007.²⁶

Second Visit to Emergency Department

75. The EMS report states as follows:

History Present Illness

Patient was returning home after being discharged from Clearfield Hospital's ER. He had was [been] seen for generalized weakness and illness. As they were getting out of the vehicle in the garage the patient went unresponsive.

[02:47] Dispatched by Clearfield County 911 for a person in cardiac arrest. Family members were receiving CPR instructions from 911 dispatcher.

[02:57] Arrived at patient's side with one member and QRS performing CPR and using a BVM to assist with respirations. ALS assessments by D. Kaiser: Patient in cardiac arrest. The rest of the complete survey was deferred for treatment.

76. At 3:03 a.m. Mr. Lockett was transported by EMS back to Clearfield Hospital.
77. At 3:30 AM, on March 16, 2007, Mr. Lockett arrived at Clearfield Hospital.
78. When Mr. Lockett arrived back at the hospital, he was in asystole.
79. Careful review of the medical record from the Emergency Department of Clearfield Hospital dated March 16, 2007, 03:41 hours, indicates the patient complained that he was "getting sick" on the drive home from the hospital after discharge at 02:00 hours on March 16, 2007.²⁷
80. ACLS protocol was followed but a normal cardiac rhythm was not obtained.²⁸

²⁶ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁷ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁸ Harry Kamerow, M.D., *Autopsy Pathology Report*.

81. The nurse notes that the patient had a recent coronary catheterization which was quote completely normal."²⁹
82. Mr. Lockett was cyanotic and unresponsive.
83. At 3:39 AM, resuscitation efforts were terminated.
84. Mr. Lockett was pronounced dead by Dr. Clark at 3:39 AM. March 16, 2007.³⁰
85. The family was notified of Mr. Lockett's death.
86. Time of notification was 3:40 AM.
87. The diagnosis was cardiac arrest.
88. However, the autopsy cause of death was urosepsis.³¹
89. The family was not able to have contacts with Mr. Lockett due to the scene not being cleared by law enforcement.
90. The body was taken to the morgue at approximately 6:30 PM on Friday, March 16, 2007.
91. Mr. Gilbert Willis Lockett died as a result of urosepsis.³²
92. This determination rules out cardiac arrest as the cause of death, as previously thought as the time of Mr. Lockett's death: "CLINICAL DIAGNOSIS: Rule out myocardial infarction."³³
93. The autopsy report discloses the following physical characteristics of the Decedent:

FINAL ANATOMIC DIAGNOSES

- (1) Acute, necrotizing prostatitis with abscess formation, 100 grams.

²⁹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁰ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³¹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³² Harry Kamerow, M.D., *Autopsy Pathology Report*.

³³ Harry Kamerow, M.D., *Autopsy Pathology Report*.

- (2) *Bacteroides uniformis*, *Bacteroides thetaiotaomicron*, and *Candida glabrata* are present in a postmortem blood culture.
 - (3) Cystitis, mild, chronic/active.
 - (4) Interstitial nephritis, mild, focal, bilateral.
 - (5) Arteriosclerosis, renal, bilateral, mild.
 - (6) Cardiomegaly, 650 grams.
 - (7) Arteriosclerosis coronary artery disease, mild to focally moderate, resulting in 40% occlusion of the distal portion of the left anterior descending coronary artery and 60% occlusion of the distal portion of the right coronary artery.
 - (8) Aortic arteriosclerosis, distal, mild.
 - (9) Pulmonary congestion, moderate, bilateral.
 - (10) Pulmonary edema, mild, bilateral.
 - (11) Congestive splenomegaly, 300 grams.³⁴
94. Gross examination in this case revealed a 100 gram, boggy prostate with purulent material easily noted on sectioning.³⁵
 95. Microscopic examination of the prostate gland reveals severe, acute prostatitis with multiple foci of abscess formation.³⁶
 96. In fact, gross examination reveals the purulent material from the prostatic gland has transgressed prostatic capsule and involves the soft tissue of the pelvis adjacent to the prostate gland.³⁷
 97. Microscopic examination clearly reveals purulent material with fibroadipose tissue outside of the prosthetic capsule.³⁸

³⁴ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁵ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁶ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁷ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁸ Harry Kamerow, M.D., *Autopsy Pathology Report*.

98. A postmortem blood culture was obtained in a sterile manner from the aorta.³⁹
99. This postmortem blood culture reveals the presence of three organisms commonly seen in urosepsis.⁴⁰
100. *Bacteroides uniformis* and *Bacteroides thetaiotaomicron* were formerly classified within the *Bacteroides fragilis* group.⁴¹
101. As such, it should be noted that in one study the predominant anaerobe recovered in suppurative genitourinary infections was *Bacteroides* species.
102. In addition, *Bacteroides fragilis* are often seen in anaerobic bacteremia.
103. Finally *Candida glabrata* is not an uncommon pathogen in urinary tract infections.
104. Thus, the gross examination in this case, the microscopic examination in this case, and the blood culture results all indicate urosepsis.
105. Postmortem toxicologic analysis of this patient's blood, chain of custody intact.
106. This postmortem toxicologic analysis simply reveals acetaminophen at 22.7 mg/L, a therapeutic level.

PHYSICIAN MALPRACTICE ANALYSIS

107. Acute prostatitis presents as an acute urinary tract infection in men.
108. An elderly patient, with a chief complaint of generalized weakness, and who is described, by the emergency physician himself, as being in "moderate distress" and dehydrated, and who demonstrates a fever, elevation of white blood cell count with a shift, and a complaint of "burning" while voiding, especially in the context of a history of prostate problems, including hypertrophy, are all "red flags" that this is a patient who may very well be seriously ill.

³⁹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁴⁰ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁴¹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

109. A simple urinary tract infection, moreover, should not cause constitutional symptoms such as generalized weakness, lethargy, fever, elevated white blood cell count, or dehydration.
110. Males, because of the longer urethra, do not have frequent urinary tract infections unless there is some form of obstruction.
111. Therefore, with men, the standard of care requires that the first urinary tract infection have a work up.
112. The minimal tests include a rectal digital prostate examination and a post voiding residual urine measurement.
113. In patients with reduced renal function, an ultrasound of the kidneys and bladder or other examination for a urinary tract obstruction is indicated.
114. A simple urinary tract infection, moreover, should not cause constitutional symptoms such as generalized weakness, lethargy, fever, elevated white blood cell count, or dehydration.
115. Dr. Clark failed to investigate the reason for a new urinary tract infection and diagnosed a simple urinary tract infection which was actually a complex urinary infection with an abscess and sepsis.
116. The fact that Mr. Lockett's blood pressure dropped during his first visit is important, as it adds to the number of symptoms placing him clearly in the category of sepsis, as does the final measured respiratory rate.
117. *Sepsis*, *severe sepsis*, and *septic shock* are terms used to describe the body's systemic responses to infection.
118. Lacking precise biochemical characterization of the syndromes or a certain understanding of their causation, experts have defined them by applying clinical and laboratory findings to a likely framework of pathogenesis.

119. One widely used set of definitions (vide infra) was developed by a consensus committee of American experts in 1992.
120. These experts assumed that even the early systemic responses to infection, such as tachycardia, leukocytosis, and fever, are inflammatory, and they used them to define a systemic inflammatory response syndrome (SIRS) .
121. SIRS as an abnormal generalized inflammatory reaction in organs remote from the initial insult.
122. When it occurs in a patient with proven or suspected infection, experts recommend that SIRS be called "sepsis."
123. If sepsis is associated with hypotension or with dysfunction of organs distant from the site of infection, it becomes "severe sepsis."
124. "Septic shock" is sepsis-associated hypotension that is associated with lactic acidosis or organ hypoperfusion and cannot be reversed by the administration of intravenous fluids.
125. Mr. Lockett, on presentation to the emergency department, demonstrated a fever, elevation of white blood cell count with a left shift, a pulse rate greater than 90, and hypotension that responded to fluid resuscitation.
126. He had evidence of organ dysfunction away from the infected source in lethargy, weakness and renal dysfunction.
127. Therefore Mr. Lockett presented with severe sepsis and not just a simple urinary tract infection with dehydration.
128. Both dehydration and sepsis can result in hypotension that will respond to fluid replacement.
129. The key difference is that in dehydration, the BUN goes up faster than the serum creatinine.

130. Mr. Lockett's BUN was 49 mg/dl roughly 2 times the upper limit of normal, and the creatinine was 2.4 also roughly 2 times normal.
131. These values represent renal dysfunction, not just some dehydration.
132. Dr. Clark diagnosed dehydration and missed the diagnosis of severe sepsis.
133. Key to the successful treatment of sepsis, besides adequate intravenous antibiotics, is to control the source.
134. Abscesses need to be drained and any obstruction has to be alleviated or bypassed.
135. Had Dr. Clark performed a rectal exam, the anticipated exquisite tenderness from Mr. Lockett's prostate abscess would necessitate admitting this patient in the hospital for further evaluation and treatment.
136. Other indications for prompt admission treatment are severe sepsis, renal insufficiency, lethargy and severe weakness demonstrated by the inordinate difficulty for the hospital staff to place Mr. Lockett in the family's Ford Explorer.
137. In fine, Dr. Clark and the nursing staff at Clearfield Hospital Emergency Department on March 15, 2007 failed to diagnose and treat the Decedent's urosepsis.
138. Dr. Clark failed to perform a digital examination of decedent's prostate, as mandated by decedent's known history of prostatic surgery and as mandated by the standard of care formulated by the fact this was a new urinary tract infection.
139. Further work up was clearly indicated to determine the source of the sepsis specifically in a male with a new urinary tract infection, the need to rule out an obstruction or abscess.

140. Dr. Clark failed to exercise sound judgment in deciding to manage Mr. Lockett as an outpatient.
141. Anyone who is hypovolemic from sepsis and or dehydration will feel better after rehydration.
142. Also the ability to walk a few steps with a walker did not demonstrate the strength and stamina to be managed as an outpatient.
143. Subsequently, this manifested itself in his inability to get into the family car.
144. Dr. Clark and the nursing staff at Clearfield Hospital Emergency Department on March 15, 2007 failed to diagnose and treat the Decedent's urosepsis.
145. On these factual predicates, Defendants, with respect to this alleged medical professional negligence, therefore failed to adhere to the application standards of care, and failed to exercise reasonable care in the treatment of the Decedent.
146. The standard of care owed to a patient by a reasonable and prudent emergency physician was violated in the following ways, in order of their occurrence as best as can be reconstructed from the records, the particulars of which are as follows, to wit:
 - (A) With a 2-3 day history of progressive weakness in a 70 year-old man, *failure to search for a possible significant cause including sepsis;*
 - (B) With extremely dark and foul smelling urine, *failure to consider a significant urinary tract infection requiring further investigation and possible admission and intravenous antibiotics;*
 - (C) With nausea, vomiting and abdominal pain, *failure to consider a significant systemic infection requiring admission for intravenous antibiotics;*
 - (D) In a patient who was cold, clammy and chilly for 24 hours, *failure to consider sepsis and rule it out or admit the patient;*

- (E) With blood pressure 102 over 50 dropping to 80 over 48, responding to IV fluids, *failure to realize the patient was, indeed, septic requiring admission and intravenous antibiotics;*
- (F) With respiratory rate 28 at discharge, *failure to recognize significant sepsis by definitions readily available in the literature and failure to do a more thorough exam, admit the patient, and administer intravenous antibiotics;*
- (G) In a patient in moderate distress with the above findings, *failure to consider this further evidence of sepsis and do a thorough evaluation and admission;*
- (H) With a white blood cell count of 18,600 with a left shift, *failure to recognize sepsis criteria were met and the patient required admission and intravenous antibiotics;*
- (I) With a BUN of 49 and creatinine of 2.4, *failure to recognize volume depletion and another reason to admit the patient for intravenous fluid administration;*
- (J) With a urinalysis showing evidence of infection in the face of prostate enlargement and diminished ability to void, *failure to examine the prostate and consider the infectious process significant enough to require admission and intravenous antibiotics in the face of the previously-described findings of sepsis.*
- (K) *Failure to properly and adequately treat Plaintiff's condition as otherwise set forth in this Complaint.*
- (L) *Failure to properly and adequately treat Plaintiff's condition as as discovery may reveal, by Plaintiffs filing a motion to amend the pleadings, pursuant to Pa. R.C.P. 1033, in order to amplify the factual background of the underlying averments—and not to constitute a new cause of action.*

147. These failures resulted in Mr. Lockett's loss of a chance to have treatment at a time when such treatment could have prevented his premature death and the suffering which led up to it.

NURSING NEGLIGENCE ANALYSIS

148. Under Pennsylvania law, professional nursing is governed by the Professional Nursing Law, Act of May 22, 1951, P.L. 317, as amended, 63 P.S. § 211 et seq., and its Regulations, 49 Pa. Code, ch. 21, as well as the *Practical Nurse Law*, Act of March 2, 1956, P.L. (1955), 63 P.S. § 655 et seq.
149. Title 49 of the Pennsylvania Code regulates Professional and Vocational Standards, with Chapter 21 addressing professional standards of nursing.
150. The Pennsylvania Code sections relating to nursing, 49 Pa.Code, ch. 21, has established the following general responsibilities of registered nurses practicing in the Commonwealth of Pennsylvania:

RESPONSIBILITIES OF THE REGISTERED NURSE

49 Pa. Code § 21.11 (2007)

§ 21.11. General functions

- (a) The registered nurse assesses human responses and plans, implements and evaluates nursing care for individuals or families for whom the nurse is responsible. In carrying out this responsibility, the nurse performs all of the following functions:
 - (1) Collects complete and ongoing data to determine nursing care needs.
 - (2) Analyzes the health status of the individuals and families and compares the data with the norm when possible in determining nursing care needs.
 - (3) Identifies goals and plans for nursing care.
 - (4) Carries out nursing care actions which promote, maintain and restore the well-being of individuals.
 - (5) Involves individuals and their families in their health promotion, maintenance and restoration.
 - (6) Evaluates the effectiveness of the quality of nursing care provided.

- (b) The registered nurse is fully responsible for all actions as a licensed nurse and is accountable to clients for the quality of care delivered.
- (c) The registered nurse may not engage in areas of highly specialized practice without adequate knowledge of and skills in the practice areas involved.
- (d) The Board recognizes standards of practice and professional codes of behavior, as developed by appropriate nursing associations, as the criteria for assuring safe and effective practice.

151. These are statutorily-imposed duties under Pennsylvania law.
152. At all relevant times, Decedent, Mr. Lockett, was a patient of Defendants, Clearfield Hospital and Clearfield Area Health Services, and their actual, apparent and/or ostensible agents and employees, each and all, owed to Decedent the duty to exercise the degree of care and skill required by like physicians, residents, registered nurses, nurse practitioners, licensed practical nurses, respiratory therapists, laboratory technicians and/or other non-physician healthcare professionals and personnel in general under similar conditions and like surrounding circumstances as presented herein in their medical diagnosis, nursing diagnosis, care and treatment of Mr. Lockett.
153. At all relevant times, during the period of his stay at Defendants, Clearfield Hospital and Clearfield Area Health Services, Decedent, Mr. Lockett, submitted himself to the care and custody of Defendants, who undertook to diagnose and treat his condition.
154. Nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., upon information and belief and at all times relevant to this litigation, were employed by Defendants, Clearfield Hospital and Clearfield Area Health Services.

155. At all relevant times, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., were acting as agents, ostensible agents, servants and/or employees of Defendants, Clearfield Hospital and Clearfield Area Health Services.
156. At all relevant times, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., had a duty to provide a level of nursing care consistent with basic standards.
157. Pennsylvania's *Professional Nursing Law*, 63 P.S. § 211 et seq., prohibits nurses from doing anything that might compromise a patient's safety.
158. The nursing staff of the emergency department of Clearfield Hospital had a duty and responsibility to assure Mr. Lockett's safety and well-being upon discharge from the emergency department.
159. The family recruited the nursing staff to the parking lot to assist and the nursing staff at Clearfield Hospital Emergency Department failed to assess the return of ongoing weakness.
160. The nursing staff at Clearfield Hospital Emergency Department failed to check his vital signs to determine if his severe weakness was due again to a drop in blood pressure.
161. The nursing staff at Clearfield Hospital Emergency Department failed to report Mr. Lockett's condition to Dr. Clark for re-evaluation.
162. A reasonable and prudent registered nurse would have utilized a degree of skill, care and judgment in assessing and re-evaluating the plan to discharge Mr. Lockett in a safe manner.
163. The nursing staff of the emergency department of Clearfield Hospital had a duty and responsibility to meet the nursing standard of care by notifying the emer-

gency department physician of the patient's condition or a change in that condition.

164. A reasonable and prudent registered nurse, using the same degree of skill, care and judgment, would have notified the physician of Mr. Lockett's poor condition upon discharge so that an alternative plan could have been implemented to assure his safety.
165. A deviation of this standard of care occurred when the emergency department nurses failed to notify Dr. Clark of Mr. Lockett's severe weakness and progressive worsening condition as noted by his inability to get into the family vehicle.
166. But for the lack of professional nursing responsibility in the discharge of Mr. Lockett in the family vehicle and lack of notification to Dr. Clark of Mr. Lockett's condition, Mr. Lockett's death could have been prevented.
167. At all relevant times, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., owed a duty of care to Decedent, Mr. Lockett, upon his discharge, to properly and safely position Mr. Lockett in the vehicle that would transport him to his home.
168. A deviation in this standard of care occurred when Mr. Lockett was placed into the family vehicle unsafely and in a compromised position that predisposed him to complications.
169. Within a reasonable degree of nursing certainty, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., did not meet this standard of care when caring for Mr. Lockett.
170. In addition, the respiratory compensation to a metabolic acidosis would be an increase in respiratory rate, in an attempt to increase carbon dioxide elimination and normalizing the acidotic pH caused by the metabolic acidosis.

171. Being placed in this prone position, Mr. Lockett's respiratory compensation to a metabolic acidosis during his ride home was compromised, causing increasing hypoxemia, and progressive hypotension.
172. Within a reasonable degree of medical certainty, placing Mr. Lockett in the back of the Ford Explorer in a prone position, face downward, substantially limited Mr. Lockett's chest excursion, and, with the patient's head and face "cushioned" with blankets, inhibited the patient's ability to hyperventilate and eliminate carbon dioxide.
173. To a reasonable degree of medical certainty, the acts of the three nurses deviated from acceptable medical standards, and such deviation was a substantial factor in causing harm to the Decedent.
174. On these factual predicates, Defendants, with respect to this alleged nursing negligence, therefore failed to adhere to the application standards of care, and failed to exercise reasonable care in the treatment of the Decedent in the following particulars, to wit:
- (A) *Failure to diagnose and treat the Decedent's urosepsis.*
 - (B) *Failure to assess the Decedent's return of ongoing weakness.*
 - (C) *Failure to check the Decedent's vital signs to determine if his severe weakness was due again to a drop in blood pressure.*
 - (D) *Failure to notify the emergency department physician of the patient's condition or a change in that condition; that is failure to report Mr. Lockett's severe weakness and progressive worsening condition to Dr. Clark for re-evaluation, as noted by his inability to get into the family vehicle; Defendants' failure to report this deterioration to Dr. Clark led directly to Mr. Lockett's discharge, without further evaluation, to his home, where he died on arrival due to inadequate treatment.*

- (E) *Failure to place Decedent in a safe position after discharge, when Mr. Lockett was placed into the family vehicle unsafely and in a compromised position that predisposed him to thereby increasing risk of positional asphyxia and/or other complications.*
- (F) *Failure to optimize Decedent's respiratory compensation to metabolic acidosis by placing Decedent in a prone position, thus compromising Mr. Lockett's ability to compensate for increasing metabolic acidosis during his ride home, and thereby causing increasing hypoxemia, and progressive hypotension.*
- (G) *Failure to properly and adequately treat Plaintiff's condition as otherwise set forth in this Complaint.*
- (H) *Failure to properly and adequately treat Plaintiff's condition as as discovery may reveal, by Plaintiffs filing a motion to amend the pleadings accordingly, pursuant to Pa. R.C.P. 1033, in order to amplify the factual background of the underlying averments—and not to constitute a new cause of action.*

- 175. Pursuant to Pa. R.C.P. 1020(c), each of the foregoing allegations of deviations from the standard of care is pleaded in the alternative.
- 176. To a reasonable degree of medical certainty, the acts of Defendants were unwarranted departures from generally accepted standards of medical practice—including all liability-producing conduct arising from the rendition of professional medical services—and such deviations were substantial contributing factors resulting in increased risk of harm and causing actual injury to Decedent, Mr. Lockett.

COUNT I—PROFESSIONAL MEDICAL NEGLIGENCE

LINDA LOCKETT v. GORDON P. CLARK, M.D.

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 176 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

177. *Duty*: Defendant was under a medical professional duty to adhere, at minimum, to the relevant, prevailing medical professional standards of care.

178. *Deviations*: On the basis of the factual predicates and deviations analysis provided in the *Statement of Facts Common to All Counts, supra*, Defendant failed to adhere to the standards of care, and failed to exercise reasonable care in the treatment of the Decedent in the following particulars, to wit:

- (A) With a 2–3 day history of progressive weakness in a 70 year-old man, *failure to search for a possible significant cause including sepsis*;
- (B) With extremely dark and foul smelling urine, *failure to consider a significant urinary tract infection requiring further investigation and possible admission and intravenous antibiotics*;
- (C) With nausea, vomiting and abdominal pain, *failure to consider a significant systemic infection requiring admission for intravenous antibiotics*;
- (D) In a patient who was cold, clammy and chilly for 24 hours, *failure to consider sepsis and rule it out or admit the patient*;
- (E) With blood pressure 102 over 50 dropping to 80 over 48, responding to IV fluids, *failure to realize the patient was, indeed, septic requiring admission and intravenous antibiotics*;
- (F) With respiratory rate 28 at discharge, *failure to recognize significant sepsis by definitions readily available in the literature and failure to do a more thorough exam, admit the patient, and administer intravenous antibiotics*;

- (G) In a patient in moderate distress with the above findings, *failure to consider this further evidence of sepsis and do a thorough evaluation and admission;*
- (H) With a white blood cell count of 18,600 with a left shift, *failure to recognize sepsis criteria were met and the patient required admission and intravenous antibiotics;*
- (I) With a BUN of 49 and creatinine of 2.4, *failure to recognize volume depletion and another reason to admit the patient for intravenous fluid administration;*
- (J) With a urinalysis showing evidence of infection in the face of prostate enlargement and diminished ability to void, *failure to examine the prostate and consider the infectious process significant enough to require admission and intravenous antibiotics in the face of the previously-described findings of sepsis.*
- (K) *Failure to properly and adequately treat Plaintiff's condition as otherwise set forth in this Complaint.*
- (L) *Failure to properly and adequately treat Plaintiff's condition as as discovery may reveal, by Plaintiffs filing a motion to amend the pleadings, pursuant to Pa. R.C.P. 1033, in order to amplify the factual background of the underlying averments—and not to constitute a new cause of action.*⁴²

179. *Degree of Risk:* To a reasonable degree of medical certainty, the acts of Defendant were unwarranted departures from generally accepted standards of medical practice—including all liability-producing conduct arising from the rendition of professional medical services—and such deviations were substantial contributing factors resulting in increased risk of harm and causing actual injury to Decedent, Mr. Lockett.

⁴² See *Johnson v. Patel*, 19 Pa. D. & C.4th 305 (Lack. Cty. 1993), which provides, in relevant part: "In a medical malpractice case, a defendant not only has at least equal awareness of the facts but is likely to have superior knowledge and understanding of the significance of what actually transpired. ... [S]ince further elucidation may be obtained through the process of discovery ... plaintiffs may then amend their complaint accordingly." *Id.* at 309 (internal citation omitted).

180. *Damages*: Plaintiff is therefore entitled to all damages available under the application provisions of the MCARE Act, which specifically provides that: "a person who has sustained injury or death as a result of medical negligence by a health care provider must be afforded a prompt determination and fair compensation." 42 Pa.C.S. § 1303.102 (4).

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT II—RESPONDEAT SUPERIOR

LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 180 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

181. This Count asserts a cause of action sounding in professional medical negligence predicated on an agency theory of *respondeat superior*.
182. Pennsylvania courts look at several factors in determining whether a doctor or nurse was an actual agent of a hospital, including whether the doctor: (1) maintained an office, (2) earned a salary, (3) held a supervisory position, or (4) had administrative responsibilities at the defendant hospital.⁴³
183. Instantly, upon information and belief, Dr. Clark: (1) maintained an office, and (2) earned a salary at Defendant, Clearfield Hospital.

⁴³ See *Simmons v. Saint Clair Mem. Hosp.*, 332 Pa. Super. 444, 452; 481 A.2d 870, 874 (1984).

184. Moreover, upon information and belief, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N.: (1) each maintained an office, and (2) each earned a salary at Defendant, Clearfield Hospital.
185. Therefore, Defendant, Clearfield Hospital, is liable, under a theory of actual agency, for the alleged negligence of its actual agent, Dr. Clark, as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in the Counts above.
186. Furthermore, Defendant, Clearfield Hospital, is also liable, under a theory of actual agency, for the alleged negligence of its actual agents, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in the previous Counts, *supra*.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT III—RESPONDEAT SUPERIOR

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 186 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

187. This Count realleges the corresponding facts as set forth in the "Statement of Facts Common to All Counts," and reasserts the same legal theory as predicated in the previous count ("Count II"), *supra*, and thereby asserts the very same allegations against Clearfield Area Health Services as against its subsidiary, Clearfield Hospital.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT IV—OSTENSIBLE AGENCY

LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 187 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

188. Alternatively, this Count asserts a cause of action sounding in professional medical negligence predicated on an agency theory of ostensible agency.
189. In Pennsylvania, an independent contractor doctor or nurse can be an ostensible agent of a hospital if: (1) the patient looks to the hospital for care, not to the individual physician and/or nurse; and (2) the hospital holds the doctor and/or nurse out as its employee.⁴⁴
190. Instantly, Decedent, Mr. Lockett “looked to” Clearfield Hospital for care and the hospital “held out” its ostensible agent, Dr. Clark, as its employee.
191. Moreover, Mr. Lockett also “looked to” Clearfield Hospital for care and the hospital likewise “held out” its ostensible agents, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as its employees.
192. Therefore, Defendant is liable for the negligence of its independent contractor doctors and nurses based on the theory of ostensible agency, and specifically, for the alleged negligence of its ostensible agents, Dr. Clark and nurses Linda

⁴⁴

Simmons v. Saint Clair Mem. Hosp., 332 Pa. Super. at 452; 481 A.2d at 874 (citing *Caplan v. Divine Providence Hosp.*, 287 Pa. Super. 364, 368–370; 430 A.2d 647, 649–650 (1980) (establishing the doctrine of ostensible agency under Pennsylvania law) (adopting of *Restatement (Second) of Torts* § 429)).

Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in the previous Counts, *supra*.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT V—OSTENSIBLE AGENCY

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 192 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

193. This Count realleges the corresponding facts as set forth in the "Statement of Facts Common to All Counts," and reasserts the same legal theory as predicated in the previous count ("Count IV"), *supra*, and thereby asserts the very same allegations against very same allegations against Clearfield Area Health Services as against its subsidiary, Clearfield Hospital.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT VI—CORPORATE NEGLIGENCE
LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 193 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

194. This Count asserts a cause of action sounding in professional medical negligence predicated on an agency theory of corporate negligence.
195. The Supreme Court of Pennsylvania has held that a defendant hospital can be directly liable for negligence that occurs within its walls.⁴⁵
196. Under Pennsylvania law, a hospital owes a patient the following four duties ("*Thompson* duties"):
- (1) to use reasonable care in the maintenance of safe and adequate facilities and equipment;
 - (2) to select and retain only competent physicians;
 - (3) to oversee all persons who practice medicine within its walls as to patient care; and
 - (4) to formulate, adopt and enforce adequate rules and policies to ensure quality care for the patients.⁴⁶
197. Under the theory of corporate negligence, a hospital is directly liable, as opposed to vicariously liable, for its own negligent acts due to a systemic failure to uphold any the above-cited *Thompson* duties; therefore, the duty to uphold the proper standard of care runs directly from the hospital to the patient.⁴⁷

⁴⁵ See *Thompson v. Nason Hosp.*, 527 Pa. 330; 591 A.2d 703, 708 (Pa. 1991).

⁴⁶ *Thompson*, 591 A.2d at 707.

⁴⁷ *Moser v. Heistand*, 545 Pa. 554; 681 A.2d 1322, 1325 (Pa. 1996). "A cause of action for corporate negligence arises from the policies, actions or inaction of the institution itself rather than the specific acts of individual hospital employees." *Rauch v. Mike-Mayer*, 2001 PA Super 270; 783 A.2d 815, 827 (Pa. Super. 2001).

198. In order to present a *prima facie* case of corporate negligence, a plaintiff must introduce evidence that: (1) the hospital breached one of the four recognized duties of care; (2) the hospital had actual or constructive notice of the defects or procedures that created the harm; and (3) the conduct was a substantial factor in causing the harm.⁴⁸
199. In presenting this evidence, unless the hospital's negligence is obvious, an expert witness is required to establish prongs one and three.⁴⁹
200. *First Prong—Thompson Duty Breaches:* Defendant breached the third and fourth *Thompson* duties, i.e., the duty to oversee all persons who practice medicine within its walls as to patient care; and the duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for the patients.
201. As to the third *Thompson* duty, Defendant failed to adequately oversee all persons who practice medicine within its walls as to patient care through lack of proper supervision of nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., with respect to the alleged negligent treatment of its patient, Mr. Lockett, particularly as to the unsafe position that he was placed in subsequent to discharge, as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in the previous Counts, *supra*, in light of the following deviations from the standard of nursing care, to wit:
202. On these factual predicates, Defendants, with respect to this alleged nursing negligence, therefore failed to adhere to the application standards of care, and

⁴⁸ See *Thompson*, 591 A.2d at 707–708.

⁴⁹ *Welsh v. Bulger*, 548 Pa. 504; 698 A.2d 581, 585–586 (Pa. 1997) (stating that it is "not necessary for the expert's report to contain 'magic words' or to set forth their opinions in any specific manner.")

failed to exercise reasonable care in the treatment of the Decedent in the following particulars, to wit:

- (A) *Failure to diagnose and treat the Decedent's urosepsis.*
- (B) *Failure to assess the Decedent's return of ongoing weakness.*
- (C) *Failure to check the Decedent's vital signs to determine if his severe weakness was due again to a drop in blood pressure.*
- (D) *Failure to notify the emergency department physician of the patient's condition or a change in that condition; that is failure to report Mr. Lockett's severe weakness and progressive worsening condition to Dr. Clark for re-evaluation, as noted by his inability to get into the family vehicle; Defendants' failure to report this deterioration to Dr. Clark led directly to Mr. Lockett's discharge, without further evaluation, to his home, where he died on arrival due to inadequate treatment.*
- (E) *Failure to place Decedent in a safe position after discharge, when Mr. Lockett was placed into the family vehicle unsafely and in a compromised position that predisposed him to thereby increasing risk of positional asphyxia and/or other complications.*
- (F) *Failure to optimize Decedent's respiratory compensation to metabolic acidosis by placing Decedent in a prone position, thus compromising Mr. Lockett's ability to compensate for increasing metabolic acidosis during his ride home, and thereby causing increasing hypoxemia, and progressive hypotension.*
- (G) *Failure to properly and adequately treat Plaintiff's condition as otherwise set forth in this Complaint.*
- (H) *Failure to properly and adequately treat Plaintiff's condition as as discovery may reveal, by Plaintiffs filing a motion to amend the pleadings, pur-*

suant to Pa. R.C.P. 1033, in order to amplify the factual background of the underlying averments—and not to constitute a new cause of action.⁵⁰

203. As to the fourth *Thompson* duty, Defendant was under a duty to follow the protocols pertaining to the diagnosis and treatment of urosepsis and prostatitis, as outlined above, yet failed to do so.
204. *Second Prong—Hospital’s Constructive Notice:* A court may properly charge a hospital with constructive notice when it “should have known” of the patient’s condition; moreover, “constructive notice must be imposed when the failure to receive actual notice is caused by the absence of supervision.”⁵¹
205. Here, constructive notice must be imposed upon Defendant when the failure to receive actual notice is caused by the absence of supervision.
206. *Third Prong—Substantial Causal Factor:* In the case at bar, Defendant’s breach of its third and fourth *Thompson* duties (i.e. of a hospital’s duties of proper oversight and of formulating/following proper protocols), resulted in Mr. Lockett’s progressive urosepsis that culminated in his otherwise preventable death.
207. Defendant’s breach of its duties of proper oversight and proper protocols was therefore a substantial factor in causing the harms that Mr. Lockett sustained.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

⁵⁰ See *Johnson v. Patel*, 19 Pa. D. & C.4th 305 (Lack. Cty. 1993), which provides, in relevant part: “In a medical malpractice case, a defendant not only has at least equal awareness of the facts but is likely to have superior knowledge and understanding of the significance of what actually transpired. ... [S]ince further elucidation may be obtained through the process of discovery ... plaintiffs may then amend their complaint accordingly.” *Id.* at 309 (internal citation omitted).

⁵¹ *Rauch v. Mike-Mayer*, 2001 PA Super 270; 783 A.2d 815, 828 (Pa. Super. 2001).

COUNT VII—CORPORATE NEGLIGENCE

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 207 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

208. This Count realleges the corresponding facts as set forth in the "Statement of Facts Common to All Counts," and reasserts the same legal theory as predicated in the previous count ("Count VI"), *supra*, and thereby asserts the very same allegations against very same allegations against Clearfield Area Health Services as against its subsidiary, Clearfield Hospital.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT VIII—WRONGFUL DEATH

LINDA LOCKETT v. GORDON P. CLARK, M.D.

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 208 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

209. This Count asserts a wrongful death action brought against this Defendant pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S. §8301 and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.

210. This wrongful death action is predicated on the underlying professional medical negligence of Defendant, Gordon P. Clark, as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in Count I, *supra*.

211. Plaintiff, Linda Lockett, as the Personal Representative of the Estate of Gilbert W. Lockett, brings this action on her own behalf and on behalf of all other persons entitled to recover damages for the wrongful death of Gilbert W. Lockett, pursuant to the provisions of 42 PA. C.S. § 8301-8302.
212. The following persons are or may be entitled by law to recover for the wrongful death of Gilbert W. Lockett:
- (a) Linda Lockett (wife) of Clearfield County, at 1946 Barrett Road, Woodland, Pennsylvania 16881.
 - (b) Timothy Lockett (son), of Clearfield County, at 528 Pifer Street, DuBois, Pennsylvania 15801.
213. During his lifetime, Gilbert W. Lockett, did not commence any action to recover damages for the injuries which caused his death and no other actions have been filed to recover damages for the wrongful death of Gilbert W. Lockett.
214. By reason of the death of Plaintiff's Decedent, his survivors have suffered pecuniary loss, including, but not limited to funeral expenses, medical bills and loss of earnings, to their great detriment and loss.
215. As further damages resulting from the death of Plaintiff's Decedent, Gilbert W. Lockett, his survivors have suffered in the past, and will for an indefinite time into the future, suffer the loss of support and services which the Decedent would have continued to provide, but for his untimely death.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT IX—WRONGFUL DEATH

LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 215 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

216. This Count asserts a wrongful death action brought against this Defendant pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S. §8301 and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.
217. This wrongful death action is predicated on the underlying allegations of professional medical negligence (by *respondeat superior* and/or ostensible agency theories of liability), as well as on corporate negligence and survival actions, of Defendant, Clearfield Hospital, as set forth in the “Statement of Facts Common to All Counts” and as further pleaded in the respective Counts that plead these particular causes of action, *supra*.
218. Plaintiff, Linda Lockett, as the Personal Representative of the Estate of Gilbert W. Lockett, brings this action on her own behalf and on behalf of all other persons entitled to recover damages for the wrongful death of Gilbert W. Lockett, pursuant to the provisions of 42 PA. C.S. § 8301–8302.
219. The following persons are or may be entitled by law to recover for the wrongful death of Gilbert W. Lockett:
- (a) Linda Lockett (wife) of Clearfield County, at 1946 Barrett Road, Woodland, Pennsylvania 16881.
 - (b) Timothy Lockett (son), of Clearfield County, at 528 Pifer Street, DuBois, Pennsylvania 15801.

220. During his lifetime, Gilbert W. Lockett, did not commence any action to recover damages for the injuries which caused his death and no other actions have been filed to recover damages for the wrongful death of Gilbert W. Lockett.
221. By reason of the death of Plaintiff's Decedent, his survivors have suffered pecuniary loss, including, but not limited to funeral expenses, medical bills and loss of earnings, to their great detriment and loss.
222. As further damages resulting from the death of Plaintiff's Decedent, Gilbert W. Lockett, his survivors have suffered in the past, and will for an indefinite time into the future, suffer the loss of support and services which the Decedent would have continued to provide, but for his untimely death.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT X—WRONGFUL DEATH

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 222 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

223. This Count asserts a wrongful death action brought against this Defendant pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S. §8301 and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.
224. This wrongful death action is predicated on the underlying allegations of professional medical negligence (by *respondeat superior* and/or ostensible agency theories of liability), as well as on corporate negligence and survival actions, of Defendant, Clearfield Area Health Services, as set forth in the "Statement of

Facts Common to All Counts” and as further pleaded in the respective Counts that plead these particular causes of action, *supra*.

225. Plaintiff, Linda Lockett, as the Personal Representative of the Estate of Gilbert W. Lockett, brings this action on her own behalf and on behalf of all other persons entitled to recover damages for the wrongful death of Gilbert W. Lockett, pursuant to the provisions of 42 PA. C.S. § 8301–8302.
226. The following persons are or may be entitled by law to recover for the wrongful death of Gilbert W. Lockett:
 - (a) Linda Lockett (wife) of Clearfield County, at 1946 Barrett Road, Woodland, Pennsylvania 16881.
 - (b) Timothy Lockett (son), of Clearfield County, at 528 Pifer Street, DuBois, Pennsylvania 15801.
227. During his lifetime, Gilbert W. Lockett, did not commence any action to recover damages for the injuries which caused his death and no other actions have been filed to recover damages for the wrongful death of Gilbert W. Lockett.
228. By reason of the death of Plaintiff’s Decedent, his survivors have suffered pecuniary loss, including, but not limited to funeral expenses, medical bills and loss of earnings, to their great detriment and loss.
229. As further damages resulting from the death of Plaintiff’s Decedent, Gilbert W. Lockett, his survivors have suffered in the past, and will for an indefinite time into the future, suffer the loss of support and services which the Decedent would have continued to provide, but for his untimely death.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT XI—SURVIVAL ACTION

LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 229 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

230. This Count asserts a survival action brought against each Defendant under, and by virtue of, the laws of the Commonwealth of Pennsylvania, pursuant to 20 Pa. C.S. § 3373, pursuant also to the Survival Act, 42 Pa. C.S. § 8302, and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.

231. As a result of the aforementioned negligent and otherwise wrongful acts by Defendant, Plaintiff, Linda Lockett, Personal Representative of the Estate of Gilbert W. Lockett, seeks damages pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which include, *inter alia*:

- (a) Physical and mental pain, suffering and inconvenience that Decedent, Gilbert W. Lockett, endured from the moment of his injury to the moment of death;
- (b) Hospital and medical expenses incurred on his behalf;
- (c) Such other losses and damages as are recoverable by law or statute.

WHEREFORE, Plaintiff demands judgment against this Defendant for damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT XII—SURVIVAL ACTION

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 231 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

232. This Count asserts a survival action brought against each Defendant under, and by virtue of, the laws of the Commonwealth of Pennsylvania, pursuant to 20 Pa. C.S. § 3373, pursuant also to the Survival Act, 42 Pa. C.S. § 8302, and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.

233. As a result of the aforementioned negligent and otherwise wrongful acts by Defendant, Plaintiff, Linda Lockett, Personal Representative of the Estate of Gilbert W. Lockett, seeks damages pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which include, *inter alia*:

- (a) Physical and mental pain, suffering and inconvenience that Decedent, Gilbert W. Lockett, endured from the moment of his injury to the moment of death;
- (b) Hospital and medical expenses incurred on his behalf;
- (c) Such other losses and damages as are recoverable by law or statute.

WHEREFORE, Plaintiff demands judgment against this Defendant for damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT XIII—SURVIVAL ACTION

LINDA LOCKETT v. GORDON P. CLARK, M.D.

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 233 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

234. This Count asserts a survival action brought against each Defendant under, and by virtue of, the laws of the Commonwealth of Pennsylvania, pursuant to 20 Pa. C.S. § 3373, pursuant also to the Survival Act, 42 Pa. C.S. § 8302, and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.

235. As a result of the aforementioned negligent and otherwise wrongful acts by Defendant, Plaintiff, Linda Lockett, Personal Representative of the Estate of Gilbert W. Lockett, seeks damages pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which include, *inter alia*:

- (a) Physical and mental pain, suffering and inconvenience that Decedent, Gilbert W. Lockett, endured from the moment of his injury to the moment of death;
- (b) Hospital and medical expenses incurred on his behalf;
- (c) Such other losses and damages as are recoverable by law or statute.

WHEREFORE, Plaintiff demands judgment against this Defendant for damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT XIV—LOSS OF CONSORTIUM

LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 235 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

236. Plaintiff, Linda Lockett, is the spouse of Decedent, Gilbert W. Lockett.

237. As a direct and proximate result of the injuries to Decedent, proximately caused by the Defendant named herein, Plaintiff, Linda Lockett, has been deprived of the loss of companionship, comfort, conjugal affection, society, services and support of her husband, Gilbert W. Lockett, and those other pleasures and rights growing under the marriage relationship known as consortium.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT XV—LOSS OF CONSORTIUM

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 237 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

238. Plaintiff, Linda Lockett, is the spouse of Decedent, Gilbert W. Lockett.

239. As a direct and proximate result of the injuries to Decedent, proximately caused by the Defendant named herein, Plaintiff, Linda Lockett, has been deprived of the loss of companionship, comfort, conjugal affection, society, services and support of her husband, Gilbert W. Lockett, and those other pleasures and rights growing under the marriage relationship known as consortium.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT XVI—LOSS OF CONSORTIUM

LINDA LOCKETT v. GORDON P. CLARK, M.D.

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 239 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

240. Plaintiff, Linda Lockett, is the spouse of Decedent, Gilbert W. Lockett.

241. As a direct and proximate result of the injuries to Decedent, proximately caused by the Defendant named herein, Plaintiff, Linda Lockett, has been deprived of the loss of companionship, comfort, conjugal affection, society, services and support of her husband, Gilbert W. Lockett, and those other pleasures and rights growing under the marriage relationship known as consortium.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

JURY TRIAL DEMANDED

Decedent hereby demand a trial by jury on all issues so triable, as provided by law with respect to all issues of fact in the above-styled action.

Respectfully,
PRIBANIC & PRIBANIC, L.L.C.

By: _____

Victor H. Pribanic

1735 Lincoln Way
White Oak, PA 15131
(412) 672-5444
Counsel for Plaintiff,
Linda Lockett.

LINDA LOCKETT, *Individually and as Personal Representative of the Estate of*
GILBERT W. LOCKETT, Plaintiff *v.* **CLEARFIELD HOSPITAL, CLEARFIELD**
AREA HEALTH SERVICES, and **GORDON P. CLARK, M.D.**, Defendants.

Civil Division, Case No. _____

VERIFICATION TO COMPLAINT

Plaintiff verifies that she is the Plaintiff in the foregoing action; that the foregoing Complaint is based upon information which she has furnished to her counsel and information which has been gathered by her counsel in the preparation of the lawsuit. The language of the Complaint is that of counsel and not of Plaintiff. Plaintiff has read the Complaint and to the extent that the Complaint is based upon information which she has given to her counsel, it is true and correct to the best of her knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, Plaintiff has relied upon counsel in making this Affidavit. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

By:


Linda Lockett

Date:

8-11-2008

LINDA LOCKETT, *Individually and as Personal Representative of the Estate of*
GILBERT W. LOCKETT, *Plaintiff v.* **CLEARFIELD HOSPITAL, CLEARFIELD AREA**
HEALTH SERVICES, *and* **GORDON P. CLARK, M.D.**, *Defendants.*

Civil Division, Case No. _____

CERTIFICATE OF MERIT

as to

CLEARFIELD HOSPITAL

I, **Victor H. Pribanic**, certify that:

- ☐ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this Defendant in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(1));

AND/OR

- ☐ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(2));

OR

- ☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against this Defendant (1042.3(a)(3));

OR

- ☒ claims are raised under both subdivisions 1042.3(a)(1) and 1042.3(a)(2).

By:

Victor H. Pribanic

Date:

9.4.08

LINDA LOCKETT, *Individually and as Personal Representative of the Estate of*
GILBERT W. LOCKETT, *Plaintiff v.* **CLEARFIELD HOSPITAL, CLEARFIELD AREA**
HEALTH SERVICES, *and* **GORDON P. CLARK, M.D.**, *Defendants.*

Civil Division, Case No. _____

CERTIFICATE OF MERIT

as to

WEST PENN CLEARFIELD HEALTH SYSTEM

I, **Victor H. Pribanic**, certify that:

- ☐ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this Defendant in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(1));

AND/OR

- ☐ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(2));

OR

- ☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against this Defendant (1042.3(a)(3));

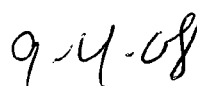
OR

- ☒ claims are raised under both subdivisions 1042.3(a)(1) and 1042.3(a)(2).

By:


Victor H. Pribanic

Date:


9-4-08

LINDA LOCKETT, *Individually and as Personal Representative of the Estate of*
GILBERT W. LOCKETT, *Plaintiff v. CLEARFIELD HOSPITAL, CLEARFIELD AREA*
HEALTH SERVICES, and GORDON P. CLARK, M.D., *Defendants.*

Civil Division, Case No. _____

CERTIFICATE OF MERIT

as to

GORDON P. CLARK, M.D.

I, **Victor H. Pribanic**, certify that:

☒ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this Defendant in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(1));

AND/OR

☐ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(2));

OR

☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against this Defendant (1042.3(a)(3));

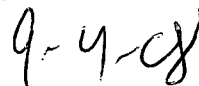
OR

☐ claims are raised under both subdivisions 1042.3(a)(1) and 1042.3(a)(2).

By:


Victor H. Pribanic

Date:


9-4-08

DEFENDANTS' ADDRESSES

CLEARFIELD HOSPITAL

809 Turnpike Ave (P. O. Box 992)
Clearfield, Pennsylvania 16830

CLEARFIELD AREA HEALTH SERVICES

809 Turnpike Ave (P. O. Box 992)
Clearfield, Pennsylvania 16830

GORDON P. CLARK, M.D.

809 Turnpike Ave (P. O. Box 992)
Clearfield, Pennsylvania 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1691-CD

LINDA LOCKETT ind. & as personal rep. of the Estate of GILBERT W. LOCKETT

vs

SERVICE # 1 OF 3

CLEARFIELD HOSPITAL, CLEARFIELD AREA HEALTH SERVICES and GORDON P. CLARK, M.D.

COMPLAINT

SERVE BY: 10/07/2008

HEARING:

PAGE: 104619

DEFENDANT: CLEARFIELD HOSPITAL
ADDRESS: 809 TURNPIKE AVE. (PO BOX 992)
CLEARFIELD, PA 16830

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT

ATTEMPTS

FILED

03:20 pm
SEP 11 2008

William A. Shaw

Prothonotary/Clerk of Courts

OCCUPIED

SHERIFF'S RETURN

NOW, this 11th day of Sept 2008 AT 12:53 AM / PM SERVED THE WITHIN

COMPLAINT ON CLEARFIELD HOSPITAL, DEFENDANT

BY HANDING TO Theresa Tolachek - Beveridge, Adm Asst.

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED 809 TURNPIKE AVE. CLFD

NOW _____ AT _____ AM / PM POSTED THE WITHIN

COMPLAINT FOR CLEARFIELD HOSPITAL

AT (ADDRESS) _____

NOW _____ AT _____ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF NOT FOUND AS TO CLEARFIELD HOSPITAL

REASON UNABLE TO LOCATE _____

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY: Dep George F. DeHaven
Deputy Signature

Dep GEORGE F. DeHaven
Print Deputy Name

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1691-CD

LINDA LOCKETT ind. & as personal rep. of the Estate of GILBERT W. LOCKETT

vs

SERVICE # 3 OF 3

CLEARFIELD HOSPITAL, CLEARFIELD AREA HEALTH SERVICES and GORDON P. CLARK, M.D.

COMPLAINT

SERVE BY: 10/07/2008

HEARING:

PAGE: 104619

DEFENDANT:

GORDON P. CLARK, M.D.

ADDRESS:

809 TURNPIKE AVE. (PO BOX 992

CLEARFIELD, PA 16830

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

ATTEMPTS

FILED

013:20 cm
SEP 11 2008

William A. Shaw
Prothonotary/Clerk of Courts

SHERIFF'S RETURN

NOW, This 11th day of Sept 2008 AT 12:53 AM / PM **SERVED** THE WITHIN

COMPLAINT ON GORDON P. CLARK, M.D., DEFENDANT

BY HANDING TO Theresa Polache K-Beveridge, Adm. Asst.

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED 809 Turnpike Ave CLFD

NOW _____ AT _____ AM / PM **POSTED** THE WITHIN

COMPLAINT FOR GORDON P. CLARK, M.D.

AT (ADDRESS) _____

NOW _____ AT _____ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO GORDON P. CLARK, M.D.

REASON UNABLE TO LOCATE _____

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY: Rep. George F. DeHaven
Deputy Signature

Rep. George F. DeHaven
Print Deputy Name

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1691-CD

LINDA LOCKETT ind. & as personal rep. of the Estate of GILBERT W. LOCKETT

vs

SERVICE # 2 OF 3

CLEARFIELD HOSPITAL, CLEARFIELD AREA HEALTH SERVICES and GORDON P. CLARK, M.D.

COMPLAINT

SERVE BY: 10/07/2008

HEARING:

PAGE: 104619

DEFENDANT: CLEARFIELD AREA HEALTH SERVICES

ADDRESS: 809 TURNPIKE AVE., (PO BOX 992)

CLEARFIELD, PA 16830

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

ATTEMPTS

FILED

09/30/2008
SEP 11 2008

William A. Shaw
Prothonotary/Clerk of Courts

SHERIFF'S RETURN

NOW, This 11th day of Sept. 2008 AT 12:53 AM / PM **SERVED** THE WITHIN

COMPLAINT ON CLEARFIELD AREA HEALTH SERVICES DEFENDANT

BY HANDING TO Theresa Pollock - Riveridge, Adm Asst.

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED 809 TURNPIKE AVE. CLFD.

NOW _____ AT _____ AM / PM **POSTED** THE WITHIN

COMPLAINT FOR CLEARFIELD AREA HEALTH SERVICES

AT (ADDRESS) _____

NOW _____ AT _____ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO CLEARFIELD AREA HEALTH SERVICES

REASON UNABLE TO LOCATE _____

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY: Dep. George F. DeHaven

Deputy Signature

Dep. GEORGE F. DeHaven

Print Deputy Name

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

: ISSUE:

: Praecept for Appearance

: Filed on behalf of Defendants:

: CLEARFIELD HOSPITAL, CLEARFIELD

: AREA HEALTH SERVICES, and

: GORDON P. CLARK, M.D.

: Counsel of Record:

: FRANK J. HARTYE, ESQUIRE

: PA. ID. No. 25568

: McIntyre, Hartye & Schmitt

: P.O. Box 533

: Hollidaysburg, PA 16648

: 8144/696-3581

: JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 22nd day of
September, 2008.



Attorney for Defendants

FILED
0110:5064
SEP 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

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: JURY TRIAL DEMANDED

PRAECIPE FOR APPEARANCE

TO: PROTHONOTARY

Enter my Appearance on behalf of defendants, CLEARFIELD HOSPITAL,
CLEARFIELD AREA HEALTH SERVICES, and GORDON P. CLARK, M.D.

Papers may be served at the address set forth below.



Attorneys for Defendants
Clearfield Hospital, Clearfield
Area Health Services, and Gordon
P. Clark, M.D.

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

Date: September 22, 2008

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

No. 08-1691-CD

ISSUE:
**PRELIMINARY OBJECTIONS TO
PLAINTIFF'S COMPLAINT**

Filed on behalf of Defendants:
CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.

Counsel of Record:
FRANK J. HARTYE, ESQUIRE
PA. ID. No. 25568
McIntyre, Hartye & Schmitt
P.O. Box 533
Hollidaysburg, PA 16648
8144/696-3581

JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 25th day of
September, 2008.


Attorney for Named Defendants

5
FILED No CC.
m/12:15 Lm
SEP 29 2008
William A. Shaw
Prothonotary/Clerk of Courts

: No. 08-1691-CD

• **•**

• **2004**

: JURY TRIAL DEMANDED

AND NOW, come the Defendants, CLEARFIELD HOSPITAL, CLEARFIELD AREA HEALTH SERVICES and GORDON P. CLARK, M.D., by and through their attorneys, McINTYRE, HARTYE & SCHMITT, and file the following Preliminary Objections to Plaintiff's Complaint:

1. Plaintiff initiated the within action by filing a Complaint alleging medical negligence.
2. Plaintiff attempts to set forth a cause of action under the Wrongful Death and Survival Acts in Counts VIII, IX, X, XI, XII, and XIII. The wrongful death statute provides compensation for pecuniary value of services, society and comfort the decedent would have given to his wife.
3. In addition to the wrongful death and survival action, plaintiff has also filed separate counts for loss of consortium. They are Counts XIV, XV and XVI of plaintiff's Complaint. There is no separate recognized cause of action for loss of consortium relating to a wrongful death and survival action. See Linebaugh v. Lehr, 505 A.2d 303 (1986).

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

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: JURY TRIAL DEMANDED

PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT

AND NOW, come the Defendants, CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES and GORDON P. CLARK, M.D., by and through their
attorneys, McINTYRE, HARTYE & SCHMITT, and file the following Preliminary
Objections to Plaintiff's Complaint:

1. Plaintiff initiated the within action by filing a Complaint alleging medical negligence.
2. Plaintiff attempts to set forth a cause of action under the Wrongful Death and Survival Acts in Counts VIII, IX, X, XI, XII, and XIII. The wrongful death statute provides compensation for pecuniary value of services, society and comfort the decedent would have given to his wife.
3. In addition to the wrongful death and survival action, plaintiff has also filed separate counts for loss of consortium. They are Counts XIV, XV and XVI of plaintiff's Complaint. There is no separate recognized cause of action for loss of consortium relating to a wrongful death and survival action. See **Linebaugh v. Lehr**, 505 A.2d 303 (1986).

WHEREFORE, the Defendants request this Honorable Court to strike Counts XIV, XV and XVI of plaintiff's Complaint.

MOTION TO STRIKE/MOTION FOR MORE SPECIFIC COMPLAINT

4. Paragraph 146 (L) of plaintiff's Complaint alleges that Dr. Clark failed to properly and adequately treat plaintiff's condition as discovery may reveal. The same allegation is repeated at paragraph 174 (H), 178 (L) and 202 (H). In a similar fashion, paragraphs 174 (G) and 202 (G) allege negligence for failing to "properly and adequately treat plaintiff's condition as otherwise set forth in this Complaint". All of the aforementioned are boilerplate allegations of negligence and are improper pursuant to **Connor vs. Allegheny General Hospital**, 461 A.2d 600 (Pa. 1983).

WHEREFORE, the Defendants request this Honorable Court to strike the aforementioned paragraphs or more specifically set forth the negligence alleged.

MOTION TO STRIKE

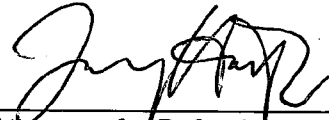
5. Defendant incorporates by reference the previous paragraphs of the within Preliminary Objections as though the same were set forth herein at length.

6. Paragraph 174 (A) and 202 (A) allege that the nursing staff failed "to diagnose and treat decedent's urosepsis". These paragraphs fail to set forth a cause of action upon which relief can be granted. Nurses in Pennsylvania, pursuant to the Nurse Practice Act referred to specifically in plaintiff's Complaint, are not allowed to make a medical diagnosis or provide medical treatment. In a similar fashion, plaintiff alleges in paragraphs 137 and 144 that the nursing staff failed to diagnose and treat the decedent's urosepsis. For a nurse to make a medical diagnosis and order medical treatment would be a violation of the Nurse Practice Act.

WHEREFORE, the Defendants request this Honorable Court to strike the
aforementioned paragraphs.

Respectfully submitted,

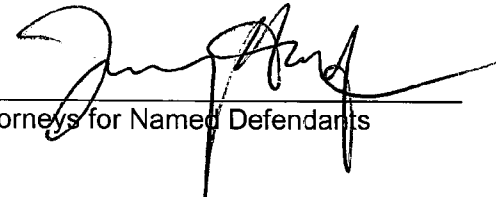
McINTYRE, HARTYE & SCHMITT

By 
Attorneys for Defendants

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

TO: PLAINTIFF

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


Attorneys for Named Defendants

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FILED 30c
013:29/30c Amy Hasty
OCT 08 2008
William A. Shaw
Prothonotary/Clerk of Courts

FILED

OCT 08 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/8/08

- ☒ 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

LINDA LOCKETT,
*Individually, and as Personal
Representative of the Estate of*
GILBERT W. LOCKETT,
Plaintiff,

v.

**CLEARFIELD HOSPITAL,
CLEARFIELD AREA HEALTH
SERVICES,**

and

GORDON P. CLARK, M.D.,
Defendants.

JURY TRIAL DEMANDED

CIVIL DIVISION

**CIVIL ACTION
MEDICAL PROFESSIONAL
LIABILITY ACTION**

Case No. 08 – 1691 – CD

AMENDED COMPLAINT

Filed on behalf of Plaintiff:
LINDA LOCKETT.

Counsels of Record for this Party:

Victor Hunter Pribanic

Pa. I.D. No.: 30785

Sherie Lynn Painter

Pa. I.D. No.: 92820

Dr. Christopher Buck

Pa. I.D. No.: 205265

PRIBANIC & PRIBANIC, L.L.C.

1735 Lincoln Way

White Oak, PA 15131

(412) 672-5444

CB

FILED ^{NO} _{cc}
NOV 07 2008 (60)

William A. Shaw
Prothonotary/Clerk of Courts

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CIVIL DIVISION

**CIVIL ACTION
MEDICAL PROFESSIONAL
LIABILITY ACTION**

Case No. 08 - 1691 - CD

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an 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 Decedent. 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.**

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

Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641, ext. 51

Lawyer Referral Service
Pennsylvania Lawyer Referral Service
(800) 692-7375

IN THE COURT OF COMMON PLEAS
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CIVIL DIVISION

CIVIL ACTION
MEDICAL PROFESSIONAL
LIABILITY ACTION

Case No. 08 – 1691 – CD

AMENDED COMPLAINT

NOW COMES Plaintiff, **LINDA LOCKETT**, by and through her counsels—Victor H. Pribanic, Sherie Lynn Painter, and Dr. Christopher Buck—and, in support of this medical professional liability action against Defendants, avers as follows:

PLAINTIFF

1. **Linda Lockett:** Plaintiff, Linda Lockett (“Mrs. Lockett”) is a citizen of the Commonwealth of Pennsylvania, and currently resides in Clearfield County.
2. Mrs. Lockett was appointed Personal Representative of the Estate of Gilbert W. Lockett (“Mr. Lockett”; “Decedent”), by the Register of Wills of Clearfield County.

DEFENDANTS

3. **Clearfield Hospital:** Defendant, Clearfield Hospital ("Clearfield Hospital"), is a professional corporation incorporated in the Commonwealth of Pennsylvania, and is engaged in the operation of a hospital facility located in Clearfield County, with its principal place of operations located in Clearfield, Pennsylvania.
4. Pursuant to Rule 1006(a) of the Pennsylvania Rules of Civil Procedure, this action is brought in Clearfield County, in which the cause of action arose and where Defendants may be served.¹
5. At all relevant times, Defendant, Clearfield Hospital, expressly and implicitly represented to the general public that those who treated Decedent, Gilbert W. Lockett, practiced medicine in a skilled and proper manner and possessed the degree of professional learning, skill and ability ordinarily possessed by other physicians who are engaged in the practice of medicine in the same or similar communities.
6. At all relevant times, Defendant, Clearfield Hospital, was charged with the professional responsibility of rendering proper care and treatment to Decedent, Gilbert W. Lockett, and of assuring that proper medical care and attention were provided during all periods of time during which Mr. Lockett remained under said Defendant's protocol, care and treatment.

¹ Rule 1006(a) of the *Pennsylvania Rules of Civil Procedure* provides that "an action against an individual may be brought in and only in a county in which the individual may be served or in which the cause of action arose or where a transaction or occurrence took place out of which the cause of action arose or in any other county authorized by law."

7. At all relevant times, each and every physician, each and every nurse, as well as each and every other medical professional who treated Decedent, Gilbert W. Lockett, was acting as an agent, ostensible agent, servant and/or employee of Defendant, Clearfield Hospital; that each said medical professional operated within the scope of his or her agency and respective duties when delivering all medical care referenced herein; and, having been duly charged with the professional responsibility of rendering proper care and treatment to Mr. Lockett, each acted under a duty of care in maintaining all medical professional standards to which each said medical professional was trained and to which he or she thereby subscribed, in order to assure that proper medical care and attention were provided, at all relevant times, while Mr. Lockett remained under said Defendant's protocol, care and treatment.
8. Among the agents, servants and employees of Clearfield Hospital were Defendant, Gordon P. Clark, M.D., who examined and treated Mr. Lockett, and nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as well as those physicians, residents, registered nurses, nurse practitioners, licensed practical nurses, respiratory therapists, laboratory technicians and/or other non-physician healthcare professionals and personnel of Defendant, Clearfield Hospital, and its actual, apparent and/or ostensible agents and employees, who were substantially involved in the medical diagnosis, care and treatment of Mr. Lockett.
9. Defendant, Clearfield Hospital, is responsible for all of its actual, apparent and/or ostensible agents or employees who rendered any medical and/or nursing care and treatment to Decedent while he was a patient under Clearfield Hospital's care, protocols and treatment.

10. **Clearfield Area Health Services:** Defendant, Clearfield Area Health Services ("CAHS"), is a professional corporation incorporated in the Commonwealth of Pennsylvania, and is engaged in the operation, *inter alia*, of a hospital facility—Clearfield Hospital—located in Clearfield County, with its principal place of operations located in Clearfield, Pennsylvania.
11. Pursuant to Rule 1006(a) of the Pennsylvania Rules of Civil Procedure, this action is brought in Clearfield County, in which the cause of action arose and where Defendants may be served.
12. At all relevant times, Defendant, CAHS, expressly and implicitly represented to the general public that those who treated Decedent, Gilbert W. Lockett, practiced medicine in a skilled and proper manner and possessed the degree of professional learning, skill and ability ordinarily possessed by other physicians who are engaged in the practice of medicine in the same or similar communities.
13. At all relevant times, Defendant, CAHS, was charged with the professional responsibility of rendering proper care and treatment to Mr. Lockett and of assuring that proper medical care and attention were provided during all periods of time during which Mr. Lockett remained under said Defendant's protocol, care and treatment.
14. At all relevant times, each and every physician, each and every nurse, as well as each and every other medical professional who treated Decedent, Gilbert W. Lockett, was acting as an agent, ostensible agent, servant and/or employee of Defendant, Clearfield Area Health Services; that each said medical professional operated within the scope of his or her agency and respective duties when delivering all medical care referenced herein; and, having been duly charged with

the professional responsibility of rendering proper care and treatment to Mr. Lockett, each acted under a duty of care in maintaining all medical professional standards to which each said medical professional was trained and to which he or she thereby subscribed, in order to assure that proper medical care and attention were provided, at all relevant times, while Mr. Lockett remained under said Defendant's protocol, care and treatment.

15. Among the agents, servants and employees of CAHS were Defendant, Gordon P. Clark, M.D., who examined and treated Mr. Lockett, and nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as well as those physicians, residents, registered nurses, nurse practitioners, licensed practical nurses, respiratory therapists, laboratory technicians and/or other non-physician health-care professionals and personnel of Defendant, CAHS, and its actual, apparent and/or ostensible agents and employees, who were substantially involved in the medical diagnosis, care and treatment of Mr. Lockett.
16. Defendant, CAHS, is responsible for all of its actual, apparent and/or ostensible agents or employees who rendered any medical and/or nursing care and treatment to Decedent while he was a patient under CAHS's care, protocols and treatment.
17. **Gordon P. Clark, M.D.:** Defendant, Gordon P. Clark, M.D. ("Dr. Clark"), is a physician licensed to practice medicine in the Commonwealth of Pennsylvania, is affiliated with and is an employee of Clearfield Hospital and Clearfield Area Health Services, and maintains an office located in Clearfield County, in , Clearfield, Pennsylvania.
18. At all relevant times, Dr. Clark was acting as an agent, ostensible agent, servant and/or employee of Defendants, Clearfield Hospital and Clearfield Area Health

Services; that Dr. Clark operated within the scope of his agency and respective duties when delivering all medical care referenced herein; and, having been duly charged with the professional responsibility of rendering proper care and treatment to Mr. Lockett, Dr. Clark acted under a duty of care in maintaining all medical professional standards which he was trained to uphold and to which he thereby subscribed, in order to assure that proper medical care and attention were provided, at all relevant times, while Mr. Lockett remained under said Defendant's protocol, care and treatment.

STATEMENT OF FACTS COMMON TO ALL COUNTS

Summary of the Case

19. This is a case of failure to diagnose urosepsis and of nursing negligence that enhanced Mr. Lockett's death on March 16, 2007.
20. Mr. Gilbert Willis Lockett was a 70-year-old man who resided at 1946 Barrett Road, Woodland, PA 16881.²
21. Mr. Lockett died on Friday, March 16, 2007, at 3:39 AM.³

First Visit to Emergency Department

22. On March 15, 2007, at 18:37, Mr. Gilbert Lockett, accompanied by his wife, Mrs. Lockett and son, Timothy Lockett, arrived at Clearfield Hospital by stretcher via ambulance from his private home.⁴
23. Mr. Lockett presented at the Emergency Room of Clearfield Hospital, complaining of a burning pain of his urinary tract, along with complaints of nausea and

² Harry Kamerow, M.D., *Autopsy Pathology Report*, Mount Nittany Medical Center (State College, PA), 03-17-07.

³ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁴ Harry Kamerow, M.D., *Autopsy Pathology Report*.

increasing weakness:⁵ “I’ve been nauseous and getting weaker. Yesterday I fell from being weak.”

24. Mr. Lockett’s general state of health was described: “The patient appears in fair general health.”
25. Mr. Lockett was a non-smoker, and was negative for alcohol use or drug use.
26. As for his mental status, Mr. Lockett was awake and alert; he was oriented, speaking coherently.
27. Mr. Lockett’s past medical history includes: Enlarged prostate, arthritis, previous cardiac catheterization, and prostate surgery.⁶
28. The patient had a “photovaporization-laser prostate” procedure at Clearfield Hospital 1/10/2005.⁷
29. Mr. Lockett has had urinary incontinence ever since laser surgery.
30. Mr. Lockett was unable to bend very well, due to advanced arthritis.
31. Mr. Lockett had a 2–3 day history of progressive weakness and fever.
32. Over the previous two days, Mr. Lockett had experienced nausea, vomiting and abdominal pain, along with some diarrhea.
33. During the previous 24 hours, Mr. Lockett was cold and clammy, and chilly.
34. Earlier that day, on March 15, 2007, Mr. Lockett’s family noticed that Mr. Lockett’s urine was extremely dark and foul-smelling.
35. Moreover, Mr. Lockett had some dysuria, pyuria, and hematuria.
36. Mr. Lockett denied that having chest pain, dyspnea, cough, or hemoptysis.
37. While Mr. Lockett had no palpitations, he was light-headed, although he had no syncope.

⁵ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁶ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁷ Harry Kamerow, M.D., *Autopsy Pathology Report*.

38. The nursing assessment in the Emergency Room of Clearfield Hospital on March 15, 2007, indicates "burning pain" of the urinary tract.⁸
39. The patient's vital signs at 21:26 hours on March 15, 2007 included a mild elevation in temperature at 37.7 degrees Centigrade, pulse of 100, respiratory rate of 18, systolic pressure of 116 and diastolic pressure of 43.⁹
40. The physician's note indicates "a chronically ill, obese, in moderate distress" patient.¹⁰
41. Mr. Lockett's family was at his bedside.
42. Mr. Lockett was found to be dozing off and on.
43. Medications noted included Bumetanide at 1 mg PO qd, aspirin at 325 mg PO qd, and Tylenol for arthritis.¹¹
44. At 19:36, Mr. Lockett was sent to the Imaging Department for a CT, and was taken to radiology by stretcher.
45. At 21:23, urine was collected and sent to the the lab for analysis.
46. The patient had a CBC which reveals leukocytosis at 18.6, anemia with a hematocrit of 33.6%, and thrombocytopenia with a platelet count of 100.¹²
47. The CBC does not appear to include a differential.¹³
48. A basic metabolic panel revealed mild elevation of the glucose at 133 mg/dL, elevation of the BUN in and 49 mg/dL, and elevation of the creatinine at 2.4 mg/dL.¹⁴

⁸ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁰ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹¹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹² Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹³ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁴ Harry Kamerow, M.D., *Autopsy Pathology Report*.

49. Urinalysis revealed leukocyte esterase A, moderate amounts of blood, protein and 100 mg/dL, 5-10 red blood cells per high-power field, a greater than 100 white blood cells per high-power field.¹⁵
50. Interestingly, 2+ bacteria were noted in the high power field.¹⁶
51. The patient was diagnosed with a urinary tract infection and dehydration.¹⁷
52. The patient was treated with 1 gram of Rocephin intravenously at 22:06 hours at March 15, 2007.¹⁸
53. The patient was also treated with intravenous fluids, to include 500 cc of normal saline as a bolus.¹⁹
54. A CT scan of the head/brain without contrast was obtained.²⁰
55. The patient was given a prescription for Ciprofloxacin at 500 mg PO bid.²¹
56. Moreover, a progress note was entered by Dr. Clark at 05:32 (a late entry) stating that Mr. Lockett was ambulating well with a walker, felt much better, said that he was well enough to go home, and no longer had abdominal pain, dysuria or rectal pain:

PROGRESS NOTES

Symptoms have resolved. The patient's diagnosis, condition, and treatment were explained to the patient/representative. The patient/representative expressed understanding. Patient is feeling much better. Outpatient trial indicated with instructions to return if condition worsens. Patient is ready to go home.

¹⁵ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁶ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁷ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁸ Harry Kamerow, M.D., *Autopsy Pathology Report*.

¹⁹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁰ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²¹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

Progress Note: Patient is ambulating well with a walker and states he feels much better than he did when he came to the ED. States he feels well enough to go home, and no longer has abdominal pain, dysuria, or rectal pain.²²

- 57. Mr. Lockett was discharged with a diagnosis of dehydration and urinary tract infection.
- 58. Dr. Clark talked with the family prior to discharge.
- 59. Mr. Lockett reportedly stated he felt much improved, and was able to ambulate with a walker.
- 60. A nursing note states the patient was "discharged to home in good condition via wheelchair accompanied by family member and spouse."²³
- 61. Further review of the medical records indicates there was some difficulty in placing the patient into his car.²⁴
- 62. The patient was discharged from the Emergency Department of Clearfield Hospital at 2:00 AM on March 16, 2007;²⁵ however, an ambulance was not available to take Mr. Lockett at that time.

Attempts to Place Mr. Lockett in his Vehicle

- 63. Upon discharge, Mr. Lockett was placed in the family's Ford Explorer in such a position as to compromise his ability to freely breathe, under the following facts:
- 64. In reviewing the medical record, it is noted that late entries were added by the nursing staff and Dr. Clark.

²² Gordon P. Clark, M.D., *Progress Notes*, Clearfield Hospital, 03-16-07 (dictated 01:59, entered at 05:32).

²³ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁴ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁵ Harry Kamerow, M.D., *Autopsy Pathology Report*.

65. A late entry was added at 03:30 by Linda L. Blake, RN (this is the same time that Mr. Lockett returned to the ED in cardiac arrest) that, at 01:45, Mr. Lockett was out of bed with assistance and was able to ambulate with a walker, and that the patient was "unable to bend very well due to arthritis."
66. Additionally, a late note entered at 06:15 by Linda L. Blake, R.N., described the details of how Mr. Lockett was assisted into the car:
- Pt's wife took him out to the car via wheelchair at 0205. Nursing was called out to the car because the family could not get the patient into the car. LuAnn Dixon RN, Gwen Thomas RN, Linda Blake RN went out to help the family get the patient in the car. When we got out there pt was facing the inside of car[;] he was attempting to crawl into the car and lay face down for the ride home. We got him up and turned him around to sit down and get into the car. Pt was unable to bend to get his head into the car. ... The son then came to help us pull him into the back seat on his stomach, but there was not enough room for his feet. It was then suggested to put down the rear seat and to use the slider from the ED to get him into the back of the car. After we got him into the back of the vehicle[,] he was partially lying on his left side. The blanket was smoothed away from his face and a folded blanket was placed under his forehead to prevent his head and face from coming in contact with the car. ... When we finally got him in and positioned and covered [him,] both her and his son were laughing and thanking us for our help as they could never [have] got him into the car without us.
67. According to Mrs. Lockett, however, the three nurses were "hell bent" on getting the Mr. Lockett into the Ford Explorer.
68. Contrary to the nurse's note, however, this 285-lb man, with a very corpulent belly, was actually placed on his stomach, face down; that is, Mr. Lockett was not "partially lying on his left side."

69. Upon information and belief, after Mr. Lockett complained, in words to this effect, "I can't breathe!", the nurses placed a blanket "under his forehead" (exactly as the nurse's report states regarding this fact).

70. The following is Timothy Lockett's eyewitness account, dated May 2, 2008:

March 15, 2007[.] My father went to [the] hospital by ambulance. He then was released March 16, 2007 about 2:30 PM [AM]. At this time he was in a wheelchair[.] So I took him to the Explorer where he was to [too] weak and could not bend to get into [the] Explorer. I went to get a nurse and she could not get him in, then she got another nurse and they could not get him in. At this an off-duty nurse came to help. So they put a blanket around him, under his arms to drag him face down across the back seat, but his feet stuck out and [the nurses] could not shut [the] door. Then they come [came] up with the idea to fold down seats and put him in with a flex board face down into the back of [the] Explorer. I asked if he could stay at [the] hospital[.] [B]ut they said ["We can get him in."] He could only bend a little at the waist so [the nurse] got him face down and pulled & pushed him into [the] back of [the] Explorer. Then they had to get another blanket to hold his head up so he could breathe. Then within a 10 min ride home and [after I] pulled [the] flex board to get half of his body out[,] he died.

P.S. At first I did try to help [the] nurses to get him into [the] Explorer. But when they put him into the back, I said to them, ["I will never get him out,"] time and time again. They said,["Y]es you will[,] because you can pull him on the flex board.["]

71. An additional late note, entered at 08:02 by Linda L. Blake, R.N., documented that, at 03:30, "a member of the ambulance crew stated that the family stated the patient told them he was sick and when would they be home. The family stated that he said this a couple of times on the way home."

72. The following is Mrs. Lockett's eyewitness account, dated May 2, 2008:

March 15, 2007: [A]rrived at Clearfield Hospital (by ambulance) emergency room around 6:00 PM. Gib [Decedent, Gilbert Lockett] was in the hallway until 11:00 PM. Dr [Dr. Clark] said he could go home at about 2:30 AM if he could walk. He walked a few steps (with a walker) and Dr. Clark sent him home. We took Gib in a wheelchair to the SUV. [W]e could not get in. My son (Tim) went back in the hospital and asked for a[n] ambulance to take him home. Nurses said [the] ambulance would not take him home.

Three nurses came out[,] put Gib in the back seat on his stomach[.] [H]is feet hung out. My [son] said[, "H]ow will I get him out when we get home[?"] (One nurse went back in and got a white flex board.[)]) They told my son to open [the] back of [the] Explorer[,] put seats down. One nurse got in front of the car [and] she pulled & two [others] pushed Gib in on his stomach[. T]his took a half hour & [or] 45 min's (280 pounds). On the way home[,] Gib felt sick in stomach. About 10 minute[s] to get home. As we pulled him out, and pressure came off stomach[,] he died.

My son did CPR (I called 911) until emergency people arrived. We knew he was dead the second he collapsed.

We went back to [the] hospital. [W]e told Dr. Clark what the nurses did. [H]e couldn't believe it. He had my son bring car around to [hospital] entrance and show how they put Gib in [the] car.

A little later[,] Dr. Clark said we might be right [that] it might have been position [causing death].

Dr. Clark said if he knew Gib could not get in [the] car[,] he would not have sent him home.

Poor communicating between Dr. and nurse at discharge. Dr. did not know Gib couldn't get in car[/]SUV.

Gib at not deserve to be treated this way!!

73. The patient, Mr. Gilbert Lockett, apparently arrived home in "full arrest."

74. The patient returned to the Emergency Department of Clearfield Hospital a possible unresponsive, intubated, and receiving CPR at 03:41 hours on March 16, 2007.²⁶

Second Visit to Emergency Department

75. The EMS report states as follows:

History Present Illness

Patient was returning home after being discharged from Clearfield Hospital's ER. He had was [been] seen for generalized weakness and illness. As they were getting out of the vehicle in the garage the patient went unresponsive.

[02:47] Dispatched by Clearfield County 911 for a person in cardiac arrest. Family members were receiving CPR instructions from 911 dispatcher.

[02:57] Arrived at patient's side with one member and QRS performing CPR and using a BVM to assist with respirations. ALS assessments by D. Kaiser: Patient in cardiac arrest. The rest of the complete survey was deferred for treatment.

76. At 3:03 a.m. Mr. Lockett was transported by EMS back to Clearfield Hospital.
77. At 3:30 AM, on March 16, 2007, Mr. Lockett arrived at Clearfield Hospital.
78. When Mr. Lockett arrived back at the hospital, he was in asystole.
79. Careful review of the medical record from the Emergency Department of Clearfield Hospital dated March 16, 2007, 03:41 hours, indicates the patient complained that he was "getting sick" on the drive home from the hospital after discharge at 02:00 hours on March 16, 2007.²⁷
80. ACLS protocol was followed but a normal cardiac rhythm was not obtained.²⁸

²⁶ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁷ Harry Kamerow, M.D., *Autopsy Pathology Report*.

²⁸ Harry Kamerow, M.D., *Autopsy Pathology Report*.

81. The nurse notes that the patient had a recent coronary catheterization which was quote completely normal."²⁹
82. Mr. Lockett was cyanotic and unresponsive.
83. At 3:39 AM, resuscitation efforts were terminated.
84. Mr. Lockett was pronounced dead by Dr. Clark at 3:39 AM. March 16, 2007.³⁰
85. The family was notified of Mr. Lockett's death.
86. Time of notification was 3:40 AM.
87. The diagnosis was cardiac arrest.
88. However, the autopsy cause of death was urosepsis.³¹
89. The family was not able to have contacts with Mr. Lockett due to the scene not being cleared by law enforcement.
90. The body was taken to the morgue at approximately 6:30 PM on Friday, March 16, 2007.
91. Mr. Gilbert Willis Lockett died as a result of urosepsis.³²
92. This determination rules out cardiac arrest as the cause of death, as previously thought as the time of Mr. Lockett's death: "CLINICAL DIAGNOSIS: Rule out myocardial infarction."³³
93. The autopsy report discloses the following physical characteristics of the Decedent:

FINAL ANATOMIC DIAGNOSES

- (1) Acute, necrotizing prostatitis with abscess formation, 100 grams.

²⁹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁰ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³¹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³² Harry Kamerow, M.D., *Autopsy Pathology Report*.

³³ Harry Kamerow, M.D., *Autopsy Pathology Report*.

- (2) *Bacteroides uniformis*, *Bacteroides thetaiotaomicron*, and *Candida glabrata* are present in a postmortem blood culture.
 - (3) Cystitis, mild, chronic/active.
 - (4) Interstitial nephritis, mild, focal, bilateral.
 - (5) Arteriosclerosis, renal, bilateral, mild.
 - (6) Cardiomegaly, 650 grams.
 - (7) Arteriosclerosis coronary artery disease, mild to focally moderate, resulting in 40% occlusion of the distal portion of the left anterior descending coronary artery and 60% occlusion of the distal portion of the right coronary artery.
 - (8) Aortic arteriosclerosis, distal, mild.
 - (9) Pulmonary congestion, moderate, bilateral.
 - (10) Pulmonary edema, mild, bilateral.
 - (11) Congestive splenomegaly, 300 grams.³⁴
94. Gross examination in this case revealed a 100 gram, boggy prostate with purulent material easily noted on sectioning.³⁵
95. Microscopic examination of the prostate gland reveals severe, acute prostatitis with multiple foci of abscess formation.³⁶
96. In fact, gross examination reveals the purulent material from the prostatic gland has transgressed prostatic capsule and involves the soft tissue of the pelvis adjacent to the prostate gland.³⁷
97. Microscopic examination clearly reveals purulent material with fibroadipose tissue outside of the prosthetic capsule.³⁸

³⁴ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁵ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁶ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁷ Harry Kamerow, M.D., *Autopsy Pathology Report*.

³⁸ Harry Kamerow, M.D., *Autopsy Pathology Report*.

98. A postmortem blood culture was obtained in a sterile manner from the aorta.³⁹
99. This postmortem blood culture reveals the presence of three organisms commonly seen in urosepsis.⁴⁰
100. *Bacteroides uniformis* and *Bacteroides thetaiotaomicron* were formerly classified within the *Bacteroides fragilis* group.⁴¹
101. As such, it should be noted that in one study the predominant anaerobe recovered in suppurative genitourinary infections was *Bacteroides* species.
102. In addition, *Bacteroides fragilis* are often seen in anaerobic bacteremia.
103. Finally *Candida glabrata* is not an uncommon pathogen in urinary tract infections.
104. Thus, the gross examination in this case, the microscopic examination in this case, and the blood culture results all indicate urosepsis.
105. Postmortem toxicologic analysis of this patient's blood, chain of custody intact.
106. This postmortem toxicologic analysis simply reveals acetaminophen at 22.7 mg/L, a therapeutic level.

PHYSICIAN MALPRACTICE ANALYSIS

107. Acute prostatitis presents as an acute urinary tract infection in men.
108. An elderly patient, with a chief complaint of generalized weakness, and who is described, by the emergency physician himself, as being in "moderate distress" and dehydrated, and who demonstrates a fever, elevation of white blood cell count with a shift, and a complaint of "burning" while voiding, especially in the context of a history of prostate problems, including hypertrophy, are all "red flags" that this is a patient who may very well be seriously ill.

³⁹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁴⁰ Harry Kamerow, M.D., *Autopsy Pathology Report*.

⁴¹ Harry Kamerow, M.D., *Autopsy Pathology Report*.

109. A simple urinary tract infection, moreover, should not cause constitutional symptoms such as generalized weakness, lethargy, fever, elevated white blood cell count, or dehydration.
110. Males, because of the longer urethra, do not have frequent urinary tract infections unless there is some form of obstruction.
111. Therefore, with men, the standard of care requires that the first urinary tract infection have a work up.
112. The minimal tests include a rectal digital prostate examination and a post voiding residual urine measurement.
113. In patients with reduced renal function, an ultrasound of the kidneys and bladder or other examination for a urinary tract obstruction is indicated.
114. A simple urinary tract infection, moreover, should not cause constitutional symptoms such as generalized weakness, lethargy, fever, elevated white blood cell count, or dehydration.
115. Dr. Clark failed to investigate the reason for a new urinary tract infection and diagnosed a simple urinary tract infection which was actually a complex urinary infection with an abscess and sepsis.
116. The fact that Mr. Lockett's blood pressure dropped during his first visit is important, as it adds to the number of symptoms placing him clearly in the category of sepsis, as does the final measured respiratory rate.
117. *Sepsis*, *severe sepsis*, and *septic shock* are terms used to describe the body's systemic responses to infection.
118. Lacking precise biochemical characterization of the syndromes or a certain understanding of their causation, experts have defined them by applying clinical and laboratory findings to a likely framework of pathogenesis.

119. One widely used set of definitions (vide infra) was developed by a consensus committee of American experts in 1992.
120. These experts assumed that even the early systemic responses to infection, such as tachycardia, leukocytosis, and fever, are inflammatory, and they used them to define a systemic inflammatory response syndrome (SIRS) .
121. SIRS as an abnormal generalized inflammatory reaction in organs remote from the initial insult.
122. When it occurs in a patient with proven or suspected infection, experts recommend that SIRS be called "sepsis."
123. If sepsis is associated with hypotension or with dysfunction of organs distant from the site of infection, it becomes "severe sepsis."
124. "Septic shock" is sepsis-associated hypotension that is associated with lactic acidosis or organ hypoperfusion and cannot be reversed by the administration of intravenous fluids.
125. Mr. Lockett, on presentation to the emergency department, demonstrated a fever, elevation of white blood cell count with a left shift, a pulse rate greater than 90, and hypotension that responded to fluid resuscitation.
126. He had evidence of organ dysfunction away from the infected source in lethargy, weakness and renal dysfunction.
127. Therefore Mr. Lockett presented with severe sepsis and not just a simple urinary tract infection with dehydration.
128. Both dehydration and sepsis can result in hypotension that will respond to fluid replacement.
129. The key difference is that in dehydration, the BUN goes up faster than the serum creatinine.

130. Mr. Lockett's BUN was 49 mg/dl roughly 2 times the upper limit of normal, and the creatinine was 2.4 also roughly 2 times normal.
131. These values represent renal dysfunction, not just some dehydration.
132. Dr. Clark diagnosed dehydration and missed the diagnosis of severe sepsis.
133. Key to the successful treatment of sepsis, besides adequate intravenous antibiotics, is to control the source.
134. Abscesses need to be drained and any obstruction has to be alleviated or bypassed.
135. Had Dr. Clark performed a rectal exam, the anticipated exquisite tenderness from Mr. Lockett's prostate abscess would necessitate admitting this patient in the hospital for further evaluation and treatment.
136. Other indications for prompt admission treatment are severe sepsis, renal insufficiency, lethargy and severe weakness demonstrated by the inordinate difficulty for the hospital staff to place Mr. Lockett in the family's Ford Explorer.
137. In fine, Dr. Clark, in the Clearfield Hospital Emergency Department on March 15, 2007, failed to diagnose and treat the Decedent's urosepsis.
138. Dr. Clark failed to perform a digital examination of decedent's prostate, as mandated by decedent's known history of prostatic surgery and as mandated by the standard of care formulated by the fact this was a new urinary tract infection.
139. Further work up was clearly indicated to determine the source of the sepsis specifically in a male with a new urinary tract infection, the need to rule out an obstruction or abscess.
140. Dr. Clark failed to exercise sound judgment in deciding to manage Mr. Lockett as an outpatient.

141. Anyone who is hypovolemic from sepsis and or dehydration will feel better after rehydration.
142. Also the ability to walk a few steps with a walker did not demonstrate the strength and stamina to be managed as an outpatient.
143. Subsequently, this manifested itself in his inability to get into the family car.
144. Dr. Clark, in the Clearfield Hospital Emergency Department on March 15, 2007, failed to diagnose and treat the Decedent's urosepsis.
145. On these factual predicates, Defendants, with respect to this alleged medical professional negligence, therefore failed to adhere to the application standards of care, and failed to exercise reasonable care in the treatment of the Decedent.
146. The standard of care owed to a patient by a reasonable and prudent emergency physician was violated in the following ways, in order of their occurrence as best as can be reconstructed from the records, the particulars of which are as follows, to wit:
 - (A) With a 2-3 day history of progressive weakness in a 70 year-old man, *failure to search for a possible significant cause including sepsis;*
 - (B) With extremely dark and foul smelling urine, *failure to consider a significant urinary tract infection requiring further investigation and possible admission and intravenous antibiotics;*
 - (C) With nausea, vomiting and abdominal pain, *failure to consider a significant systemic infection requiring admission for intravenous antibiotics;*
 - (D) In a patient who was cold, clammy and chilly for 24 hours, *failure to consider sepsis and rule it out or admit the patient;*
 - (E) With blood pressure 102 over 50 dropping to 80 over 48, responding to IV fluids, *failure to realize the patient was, indeed, septic requiring admission and intravenous antibiotics;*

- (F) With respiratory rate 28 at discharge, *failure to recognize significant sepsis by definitions readily available in the literature and failure to do a more thorough exam, admit the patient, and administer intravenous antibiotics;*
- (G) In a patient in moderate distress with the above findings, *failure to consider this further evidence of sepsis and do a thorough evaluation and admission;*
- (H) With a white blood cell count of 18,600 with a left shift, *failure to recognize sepsis criteria were met and the patient required admission and intravenous antibiotics;*
- (I) With a BUN of 49 and creatinine of 2.4, *failure to recognize volume depletion and another reason to admit the patient for intravenous fluid administration;*
- (J) With a urinalysis showing evidence of infection in the face of prostate enlargement and diminished ability to void, *failure to examine the prostate and consider the infectious process significant enough to require admission and intravenous antibiotics in the face of the previously-described findings of sepsis.*
- (K) *Failure to properly and adequately treat Plaintiff's condition as otherwise set forth in this Complaint.*

147. These failures resulted in Mr. Lockett's loss of a chance to have treatment at a time when such treatment could have prevented his premature death and the suffering which led up to it.

NURSING NEGLIGENCE ANALYSIS

148. Under Pennsylvania law, professional nursing is governed by the Professional Nursing Law, Act of May 22, 1951, P.L. 317, as amended, 63 P.S. § 211 et seq., and its Regulations, 49 Pa. Code, ch. 21, as well as the *Practical Nurse Law*, Act of March 2, 1956, P.L. (1955), 63 P.S. § 655 et seq.

149. Title 49 of the Pennsylvania Code regulates Professional and Vocational Standards, with Chapter 21 addressing professional standards of nursing.
150. The Pennsylvania Code sections relating to nursing, 49 Pa.Code, ch. 21, has established the following general responsibilities of registered nurses practicing in the Commonwealth of Pennsylvania:

RESPONSIBILITIES OF THE REGISTERED NURSE

49 Pa. Code § 21.11 (2007)

§ 21.11. General functions

- (a) The registered nurse assesses human responses and plans, implements and evaluates nursing care for individuals or families for whom the nurse is responsible. In carrying out this responsibility, the nurse performs all of the following functions:
 - (1) Collects complete and ongoing data to determine nursing care needs.
 - (2) Analyzes the health status of the individuals and families and compares the data with the norm when possible in determining nursing care needs.
 - (3) Identifies goals and plans for nursing care.
 - (4) Carries out nursing care actions which promote, maintain and restore the well-being of individuals.
 - (5) Involves individuals and their families in their health promotion, maintenance and restoration.
 - (6) Evaluates the effectiveness of the quality of nursing care provided.
- (b) The registered nurse is fully responsible for all actions as a licensed nurse and is accountable to clients for the quality of care delivered.
- (c) The registered nurse may not engage in areas of highly specialized practice without adequate knowledge of and skills in the practice areas involved.

(d) The Board recognizes standards of practice and professional codes of behavior, as developed by appropriate nursing associations, as the criteria for assuring safe and effective practice.

151. These are statutorily-imposed duties under Pennsylvania law.
152. At all relevant times, Decedent, Mr. Lockett, was a patient of Defendants, Clearfield Hospital and Clearfield Area Health Services, and their actual, apparent and/or ostensible agents and employees, each and all, owed to Decedent the duty to exercise the degree of care and skill required by like physicians, residents, registered nurses, nurse practitioners, licensed practical nurses, respiratory therapists, laboratory technicians and/or other non-physician healthcare professionals and personnel in general under similar conditions and like surrounding circumstances as presented herein in their medical diagnosis, nursing diagnosis, care and treatment of Mr. Lockett.
153. At all relevant times, during the period of his stay at Defendants, Clearfield Hospital and Clearfield Area Health Services, Decedent, Mr. Lockett, submitted himself to the care and custody of Defendants, who undertook to diagnose and treat his condition.
154. Nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., upon information and belief and at all times relevant to this litigation, were employed by Defendants, Clearfield Hospital and Clearfield Area Health Services.
155. At all relevant times, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., were acting as agents, ostensible agents, servants and/or employees of Defendants, Clearfield Hospital and Clearfield Area Health Services.
156. At all relevant times, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., had a duty to provide a level of nursing care consistent with basic standards.

157. Pennsylvania's *Professional Nursing Law*, 63 P.S. § 211 et seq., prohibits nurses from doing anything that might compromise a patient's safety.
158. The nursing staff of the emergency department of Clearfield Hospital had a duty and responsibility to assure Mr. Lockett's safety and well-being upon discharge from the emergency department.
159. The family recruited the nursing staff to the parking lot to assist and the nursing staff at Clearfield Hospital Emergency Department failed to assess the return of ongoing weakness.
160. The nursing staff at Clearfield Hospital Emergency Department failed to check his vital signs to determine if his severe weakness was due again to a drop in blood pressure.
161. The nursing staff at Clearfield Hospital Emergency Department failed to report Mr. Lockett's condition to Dr. Clark for re-evaluation.
162. A reasonable and prudent registered nurse would have utilized a degree of skill, care and judgment in assessing and re-evaluating the plan to discharge Mr. Lockett in a safe manner.
163. The nursing staff of the emergency department of Clearfield Hospital had a duty and responsibility to meet the nursing standard of care by notifying the emergency department physician of the patient's condition or a change in that condition.
164. A reasonable and prudent registered nurse, using the same degree of skill, care and judgment, would have notified the physician of Mr. Lockett's poor condition upon discharge so that an alternative plan could have been implemented to assure his safety.

165. A deviation of this standard of care occurred when the emergency department nurses failed to notify Dr. Clark of Mr. Lockett's severe weakness and progressive worsening condition as noted by his inability to get into the family vehicle.
166. But for the lack of professional nursing responsibility in the discharge of Mr. Lockett in the family vehicle and lack of notification to Dr. Clark of Mr. Lockett's condition, Mr. Lockett's death could have been prevented.
167. At all relevant times, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., owed a duty of care to Decedent, Mr. Lockett, upon his discharge, to properly and safely position Mr. Lockett in the vehicle that would transport him to his home.
168. A deviation in this standard of care occurred when Mr. Lockett was placed into the family vehicle unsafely and in a compromised position that predisposed him to complications.
169. Within a reasonable degree of nursing certainty, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., did not meet this standard of care when caring for Mr. Lockett.
170. In addition, the respiratory compensation to a metabolic acidosis would be an increase in respiratory rate, in an attempt to increase carbon dioxide elimination and normalizing the acidotic pH caused by the metabolic acidosis.
171. Being placed in this prone position, Mr. Lockett's respiratory compensation to a metabolic acidosis during his ride home was compromised, causing increasing hypoxemia, and progressive hypotension.
172. Within a reasonable degree of medical certainty, placing Mr. Lockett in the back of the Ford Explorer in a prone position, face downward, substantially limited Mr. Lockett's chest excursion, and, with the patient's head and face "cushioned"

with blankets, inhibited the patient's ability to hyperventilate and eliminate carbon dioxide.

173. To a reasonable degree of medical certainty, the acts of the three nurses deviated from acceptable medical standards, and such deviation was a substantial factor in causing harm to the Decedent. .

174. On these factual predicates, Defendants, with respect to this alleged nursing negligence, therefore failed to adhere to the application standards of care, and failed to exercise reasonable care in the treatment of the Decedent in the following particulars, to wit:

- (A) *Failure to assess the Decedent's return of ongoing weakness.*
- (B) *Failure to check the Decedent's vital signs to determine if his severe weakness was due again to a drop in blood pressure.*
- (C) *Failure to notify the emergency department physician of the patient's condition or a change in that condition; that is failure to report Mr. Lockett's severe weakness and progressive worsening condition to Dr. Clark for re-evaluation, as noted by his inability to get into the family vehicle; Defendants' failure to report this deterioration to Dr. Clark led directly to Mr. Lockett's discharge, without further evaluation, to his home, where he died on arrival due to inadequate treatment.*
- (D) *Failure to place Decedent in a safe position after discharge, when Mr. Lockett was placed into the family vehicle unsafely and in a compromised position that predisposed him to thereby increasing risk of positional asphyxia and/or other complications.*
- (E) *Failure to optimize Decedent's respiratory compensation to metabolic acidosis by placing Decedent in a prone position, thus compromising Mr. Lockett's ability to compensate for increasing metabolic acidosis during his ride home, and thereby causing increasing hypoxemia, and progressive hypotension.*

175. Pursuant to Pa. R.C.P. 1020(c), each of the foregoing allegations of deviations from the standard of care is pleaded in the alternative.
176. To a reasonable degree of medical certainty, the acts of Defendants were unwarranted departures from generally accepted standards of medical practice—including all liability-producing conduct arising from the rendition of professional medical services—and such deviations were substantial contributing factors resulting in increased risk of harm and causing actual injury to Decedent, Mr. Lockett.

COUNT I—PROFESSIONAL MEDICAL NEGLIGENCE

LINDA LOCKETT v. GORDON P. CLARK, M.D.

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 176 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

177. *Duty*: Defendant was under a medical professional duty to adhere, at minimum, to the relevant, prevailing medical professional standards of care.
178. *Deviations*: On the basis of the factual predicates and deviations analysis provided in the *Statement of Facts Common to All Counts, supra*, Defendant failed to adhere to the standards of care, and failed to exercise reasonable care in the treatment of the Decedent in the following particulars, to wit:
- (A) With a 2–3 day history of progressive weakness in a 70 year-old man, *failure to search for a possible significant cause including sepsis*;
 - (B) With extremely dark and foul smelling urine, *failure to consider a significant urinary tract infection requiring further investigation and possible admission and intravenous antibiotics*;

- (C) With nausea, vomiting and abdominal pain, *failure to consider a significant systemic infection requiring admission for intravenous antibiotics;*
- (D) In a patient who was cold, clammy and chilly for 24 hours, *failure to consider sepsis and rule it out or admit the patient;*
- (E) With blood pressure 102 over 50 dropping to 80 over 48, responding to IV fluids, *failure to realize the patient was, indeed, septic requiring admission and intravenous antibiotics;*
- (F) With respiratory rate 28 at discharge, *failure to recognize significant sepsis by definitions readily available in the literature and failure to do a more thorough exam, admit the patient, and administer intravenous antibiotics;*
- (G) In a patient in moderate distress with the above findings, *failure to consider this further evidence of sepsis and do a thorough evaluation and admission;*
- (H) With a white blood cell count of 18,600 with a left shift, *failure to recognize sepsis criteria were met and the patient required admission and intravenous antibiotics;*
- (I) With a BUN of 49 and creatinine of 2.4, *failure to recognize volume depletion and another reason to admit the patient for intravenous fluid administration;*
- (J) With a urinalysis showing evidence of infection in the face of prostate enlargement and diminished ability to void, *failure to examine the prostate and consider the infectious process significant enough to require admission and intravenous antibiotics in the face of the previously-described findings of sepsis.*
- (K) *Failure to properly and adequately treat Plaintiff's condition as otherwise set forth in this Complaint.*

179. *Degree of Risk:* To a reasonable degree of medical certainty, the acts of Defendant were unwarranted departures from generally accepted standards of medical practice—including all liability-producing conduct arising from the rendition of professional medical services—and such deviations were substantial contrib-

uting factors resulting in increased risk of harm and causing actual injury to Decedent, Mr. Lockett.

180. *Damages:* Plaintiff is therefore entitled to all damages available under the application provisions of the MCARE Act, which specifically provides that: “a person who has sustained injury or death as a result of medical negligence by a health care provider must be afforded a prompt determination and fair compensation.” 42 Pa.C.S. § 1303.102 (4).

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT II—RESPONDEAT SUPERIOR

LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 180 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

181. This Count asserts a cause of action sounding in professional medical negligence predicated on an agency theory of *respondeat superior*.
182. Pennsylvania courts look at several factors in determining whether a doctor or nurse was an actual agent of a hospital, including whether the doctor: (1) maintained an office, (2) earned a salary, (3) held a supervisory position, or (4) had administrative responsibilities at the defendant hospital.⁴²
183. Instantly, upon information and belief, Dr. Clark: (1) maintained an office, and (2) earned a salary at Defendant, Clearfield Hospital.

⁴² See *Simmons v. Saint Clair Mem. Hosp.*, 332 Pa. Super. 444, 452; 481 A.2d 870, 874 (1984).

184. Moreover, upon information and belief, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N.: (1) each maintained an office, and (2) each earned a salary at Defendant, Clearfield Hospital.
185. Therefore, Defendant, Clearfield Hospital, is liable, under a theory of actual agency, for the alleged negligence of its actual agent, Dr. Clark, as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in the Counts above.
186. Furthermore, Defendant, Clearfield Hospital, is also liable, under a theory of actual agency, for the alleged negligence of its actual agents, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in the previous Counts, *supra*.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT III—RESPONDEAT SUPERIOR

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 186 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

187. This Count realleges the corresponding facts as set forth in the "Statement of Facts Common to All Counts," and reasserts the same legal theory as predicated in the previous count ("Count II"), *supra*, and thereby asserts the very same allegations against Clearfield Area Health Services as against its subsidiary, Clearfield Hospital.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT IV—OSTENSIBLE AGENCY

LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 187 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

188. Alternatively, this Count asserts a cause of action sounding in professional medical negligence predicated on an agency theory of ostensible agency.
189. In Pennsylvania, an independent contractor doctor or nurse can be an ostensible agent of a hospital if: (1) the patient looks to the hospital for care, not to the individual physician and/or nurse; and (2) the hospital holds the doctor and/or nurse out as its employee.⁴³
190. Instantly, Decedent, Mr. Lockett “looked to” Clearfield Hospital for care and the hospital “held out” its ostensible agent, Dr. Clark, as its employee.
191. Moreover, Mr. Lockett also “looked to” Clearfield Hospital for care and the hospital likewise “held out” its ostensible agents, nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as its employees.
192. Therefore, Defendant is liable for the negligence of its independent contractor doctors and nurses based on the theory of ostensible agency, and specifically, for the alleged negligence of its ostensible agents, Dr. Clark and nurses Linda

⁴³ *Simmons v. Saint Clair Mem. Hosp.*, 332 Pa. Super. at 452; 481 A.2d at 874 (citing *Caplan v. Divine Providence Hosp.*, 287 Pa. Super. 364, 368–370; 430 A.2d 647, 649–650 (1980) (establishing the doctrine of ostensible agency under Pennsylvania law) (adopting of *Restatement (Second) of Torts* § 429)).

Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in the previous Counts, *supra*.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT V—OSTENSIBLE AGENCY

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 192 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

193. This Count realleges the corresponding facts as set forth in the "Statement of Facts Common to All Counts," and reasserts the same legal theory as predicated in the previous count ("Count IV"), *supra*, and thereby asserts the very same allegations against very same allegations against Clearfield Area Health Services as against its subsidiary, Clearfield Hospital.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT VI—CORPORATE NEGLIGENCE
LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 193 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

194. This Count asserts a cause of action sounding in professional medical negligence predicated on an agency theory of corporate negligence.

195. The Supreme Court of Pennsylvania has held that a defendant hospital can be directly liable for negligence that occurs within its walls.⁴⁴

196. Under Pennsylvania law, a hospital owes a patient the following four duties (*Thompson* duties):

- (1) to use reasonable care in the maintenance of safe and adequate facilities and equipment;
- (2) to select and retain only competent physicians;
- (3) to oversee all persons who practice medicine within its walls as to patient care; and
- (4) to formulate, adopt and enforce adequate rules and policies to ensure quality care for the patients.⁴⁵

197. Under the theory of corporate negligence, a hospital is directly liable, as opposed to vicariously liable, for its own negligent acts due to a systemic failure to uphold any the above-cited *Thompson* duties; therefore, the duty to uphold the proper standard of care runs directly from the hospital to the patient.⁴⁶

⁴⁴ See *Thompson v. Nason Hosp.*, 527 Pa. 330; 591 A.2d 703, 708 (Pa. 1991).

⁴⁵ *Thompson*, 591 A.2d at 707.

⁴⁶ *Moser v. Heistand*, 545 Pa. 554; 681 A.2d 1322, 1325 (Pa. 1996). "A cause of action for corporate negligence arises from the policies, actions or inaction of the institution itself rather than the specific acts of individual hospital employees." *Rauch v. Mike-Mayer*, 2001 PA Super 270; 783 A.2d 815, 827 (Pa. Super. 2001).

198. In order to present a *prima facie* case of corporate negligence, a plaintiff must introduce evidence that: (1) the hospital breached one of the four recognized duties of care; (2) the hospital had actual or constructive notice of the defects or procedures that created the harm; and (3) the conduct was a substantial factor in causing the harm.⁴⁷
199. In presenting this evidence, unless the hospital's negligence is obvious, an expert witness is required to establish prongs one and three.⁴⁸
200. *First Prong—Thompson Duty Breaches:* Defendant breached the third and fourth *Thompson* duties, i.e., the duty to oversee all persons who practice medicine within its walls as to patient care; and the duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for the patients.
201. As to the third *Thompson* duty, Defendant failed to adequately oversee all persons who practice medicine within its walls as to patient care through lack of proper supervision of nurses Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N., with respect to the alleged negligent treatment of its patient, Mr. Lockett, particularly as to the unsafe position that he was placed in subsequent to discharge, as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in the previous Counts, *supra*, in light of the following deviations from the standard of nursing care, to wit:
202. On these factual predicates, Defendants, with respect to this alleged nursing negligence, therefore failed to adhere to the application standards of care, and

⁴⁷ See *Thompson*, 591 A.2d at 707–708.

⁴⁸ *Welsh v. Bulger*, 548 Pa. 504; 698 A.2d 581, 585–586 (Pa. 1997) (stating that it is "not necessary for the expert's report to contain 'magic words' or to set forth their opinions in any specific manner.")

failed to exercise reasonable care in the treatment of the Decedent in the following particulars, to wit:

- (A) *Failure to assess the Decedent's return of ongoing weakness.*
- (B) *Failure to check the Decedent's vital signs to determine if his severe weakness was due again to a drop in blood pressure.*
- (C) *Failure to notify the emergency department physician of the patient's condition or a change in that condition; that is failure to report Mr. Lockett's severe weakness and progressive worsening condition to Dr. Clark for re-evaluation, as noted by his inability to get into the family vehicle; Defendants' failure to report this deterioration to Dr. Clark led directly to Mr. Lockett's discharge, without further evaluation, to his home, where he died on arrival due to inadequate treatment.*
- (D) *Failure to place Decedent in a safe position after discharge, when Mr. Lockett was placed into the family vehicle unsafely and in a compromised position that predisposed him to thereby increasing risk of positional asphyxia and/or other complications.*
- (E) *Failure to optimize Decedent's respiratory compensation to metabolic acidosis by placing Decedent in a prone position, thus compromising Mr. Lockett's ability to compensate for increasing metabolic acidosis during his ride home, and thereby causing increasing hypoxemia, and progressive hypotension.*

203. As to the fourth *Thompson* duty, Defendant was under a duty to follow the protocols pertaining to the diagnosis and treatment of urosepsis and prostatitis, as outlined above, yet failed to do so.

204. *Second Prong—Hospital's Constructive Notice:* A court may properly charge a hospital with constructive notice when it "should have known" of the patient's condition; moreover, "constructive notice must be imposed when the failure to receive actual notice is caused by the absence of supervision."⁴⁹

⁴⁹ *Rauch v. Mike-Mayer*, 2001 PA Super 270; 783 A.2d 815, 828 (Pa. Super. 2001).

205. Here, constructive notice must be imposed upon Defendant when the failure to receive actual notice is caused by the absence of supervision.

206. *Third Prong—Substantial Causal Factor.* In the case at bar, Defendant's breach of its third and fourth *Thompson* duties (i.e. of a hospital's duties of proper oversight and of formulating/following proper protocols), resulted in Mr. Lockett's progressive urosepsis that culminated in his otherwise preventable death.

207. Defendant's breach of its duties of proper oversight and proper protocols was therefore a substantial factor in causing the harms that Mr. Lockett sustained.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT VII—CORPORATE NEGLIGENCE

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 207 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

208. This Count realleges the corresponding facts as set forth in the "Statement of Facts Common to All Counts," and reasserts the same legal theory as predicated in the previous count ("Count VI"), *supra*, and thereby asserts the very same allegations against very same allegations against Clearfield Area Health Services as against its subsidiary, Clearfield Hospital.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT VIII—WRONGFUL DEATH

LINDA LOCKETT v. GORDON P. CLARK, M.D.

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 208 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

209. This Count asserts a wrongful death action brought against this Defendant pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S. §8301 and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.

210. This wrongful death action is predicated on the underlying professional medical negligence of Defendant, Gordon P. Clark, as set forth in the "Statement of Facts Common to All Counts" and as further pleaded in Count I, *supra*.

211. Plaintiff, Linda Lockett, as the Personal Representative of the Estate of Gilbert W. Lockett, brings this action on her own behalf and on behalf of all other persons entitled to recover damages for the wrongful death of Gilbert W. Lockett, pursuant to the provisions of 42 PA. C.S. § 8301-8302.
212. The following persons are or may be entitled by law to recover for the wrongful death of Gilbert W. Lockett:
- (a) Linda Lockett (wife) of Clearfield County, at 1946 Barrett Road, Woodland, Pennsylvania 16881.
 - (b) Timothy Lockett (son), of Clearfield County, at 528 Pifer Street, DuBois, Pennsylvania 15801.
213. During his lifetime, Gilbert W. Lockett, did not commence any action to recover damages for the injuries which caused his death and no other actions have been filed to recover damages for the wrongful death of Gilbert W. Lockett.
214. By reason of the death of Plaintiff's Decedent, his survivors have suffered pecuniary loss, including, but not limited to funeral expenses, medical bills and loss of earnings, to their great detriment and loss.
215. As further damages resulting from the death of Plaintiff's Decedent, Gilbert W. Lockett, his survivors have suffered in the past, and will for an indefinite time into the future, suffer the loss of support and services which the Decedent would have continued to provide, but for his untimely death.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT IX—WRONGFUL DEATH

LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 215 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

216. This Count asserts a wrongful death action brought against this Defendant pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S. §8301 and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.

217. This wrongful death action is predicated on the underlying allegations of professional medical negligence (by *respondeat superior* and/or ostensible agency theories of liability), as well as on corporate negligence and survival actions, of Defendant, Clearfield Hospital, as set forth in the “Statement of Facts Common to All Counts” and as further pleaded in the respective Counts that plead these particular causes of action, *supra*.

218. Plaintiff, Linda Lockett, as the Personal Representative of the Estate of Gilbert W. Lockett, brings this action on her own behalf and on behalf of all other persons entitled to recover damages for the wrongful death of Gilbert W. Lockett, pursuant to the provisions of 42 PA. C.S. § 8301–8302.

219. The following persons are or may be entitled by law to recover for the wrongful death of Gilbert W. Lockett:

- (a) Linda Lockett (wife) of Clearfield County, at 1946 Barrett Road, Woodland, Pennsylvania 16881.
- (b) Timothy Lockett (son), of Clearfield County, at 528 Pifer Street, DuBois, Pennsylvania 15801.

220. During his lifetime, Gilbert W. Lockett, did not commence any action to recover damages for the injuries which caused his death and no other actions have been filed to recover damages for the wrongful death of Gilbert W. Lockett.
221. By reason of the death of Plaintiff's Decedent, his survivors have suffered pecuniary loss, including, but not limited to funeral expenses, medical bills and loss of earnings, to their great detriment and loss.
222. As further damages resulting from the death of Plaintiff's Decedent, Gilbert W. Lockett, his survivors have suffered in the past, and will for an indefinite time into the future, suffer the loss of support and services which the Decedent would have continued to provide, but for his untimely death.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT X—WRONGFUL DEATH

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 222 of this Complaint, with equal force and effect as though fully set forth herein, and further avers that:

223. This Count asserts a wrongful death action brought against this Defendant pursuant to the Pennsylvania Wrongful Death Act, 42 Pa. C.S. §8301 and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.
224. This wrongful death action is predicated on the underlying allegations of professional medical negligence (by *respondeat superior* and/or ostensible agency theories of liability), as well as on corporate negligence and survival actions, of Defendant, Clearfield Area Health Services, as set forth in the "Statement of

Facts Common to All Counts” and as further pleaded in the respective Counts that plead these particular causes of action, *supra*.

225. Plaintiff, Linda Lockett, as the Personal Representative of the Estate of Gilbert W. Lockett, brings this action on her own behalf and on behalf of all other persons entitled to recover damages for the wrongful death of Gilbert W. Lockett, pursuant to the provisions of 42 PA. C.S. § 8301–8302.
226. The following persons are or may be entitled by law to recover for the wrongful death of Gilbert W. Lockett:
 - (a) Linda Lockett (wife) of Clearfield County, at 1946 Barrett Road, Woodland, Pennsylvania 16881.
 - (b) Timothy Lockett (son), of Clearfield County, at 528 Pifer Street, DuBois, Pennsylvania 15801.
227. During his lifetime, Gilbert W. Lockett, did not commence any action to recover damages for the injuries which caused his death and no other actions have been filed to recover damages for the wrongful death of Gilbert W. Lockett.
228. By reason of the death of Plaintiff’s Decedent, his survivors have suffered pecuniary loss, including, but not limited to funeral expenses, medical bills and loss of earnings, to their great detriment and loss.
229. As further damages resulting from the death of Plaintiff’s Decedent, Gilbert W. Lockett, his survivors have suffered in the past, and will for an indefinite time into the future, suffer the loss of support and services which the Decedent would have continued to provide, but for his untimely death.

WHEREFORE, Plaintiff demands judgment against Defendant for damages in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT XI—SURVIVAL ACTION

LINDA LOCKETT v. CLEARFIELD HOSPITAL

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 229 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

230. This Count asserts a survival action brought against each Defendant under, and by virtue of, the laws of the Commonwealth of Pennsylvania, pursuant to 20 Pa. C.S. § 3373, pursuant also to the Survival Act, 42 Pa. C.S. § 8302, and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.

231. As a result of the aforementioned negligent and otherwise wrongful acts by Defendant, Plaintiff, Linda Lockett, Personal Representative of the Estate of Gilbert W. Lockett, seeks damages pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which include, *inter alia*:

- (a) Physical and mental pain, suffering and inconvenience that Decedent, Gilbert W. Lockett, endured from the moment of his injury to the moment of death;
- (b) Hospital and medical expenses incurred on his behalf;
- (c) Such other losses and damages as are recoverable by law or statute.

WHEREFORE, Plaintiff demands judgment against this Defendant for damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT XII—SURVIVAL ACTION

LINDA LOCKETT v. CLEARFIELD AREA HEALTH SERVICES

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 231 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

232. This Count asserts a survival action brought against each Defendant under, and by virtue of, the laws of the Commonwealth of Pennsylvania, pursuant to 20 Pa. C.S. § 3373, pursuant also to the Survival Act, 42 Pa. C.S. § 8302, and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.

233. As a result of the aforementioned negligent and otherwise wrongful acts by Defendant, Plaintiff, Linda Lockett, Personal Representative of the Estate of Gilbert W. Lockett, seeks damages pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which include, *inter alia*:

- (a) Physical and mental pain, suffering and inconvenience that Decedent, Gilbert W. Lockett, endured from the moment of his injury to the moment of death;
- (b) Hospital and medical expenses incurred on his behalf;
- (c) Such other losses and damages as are recoverable by law or statute.

WHEREFORE, Plaintiff demands judgment against this Defendant for damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

COUNT XIII—SURVIVAL ACTION

LINDA LOCKETT v. GORDON P. CLARK, M.D.

Plaintiff incorporates, by reference, the averments set forth in Paragraphs 1 through 233 of this Complaint, with equal force and effect as though fully set forth herein, and further aver that:

234. This Count asserts a survival action brought against each Defendant under, and by virtue of, the laws of the Commonwealth of Pennsylvania, pursuant to 20 Pa. C.S. § 3373, pursuant also to the Survival Act, 42 Pa. C.S. § 8302, and pursuant to Rule 2201, et seq., of the Pennsylvania Rules of Civil Procedure.

235. As a result of the aforementioned negligent and otherwise wrongful acts by Defendant, Plaintiff, Linda Lockett, Personal Representative of the Estate of Gilbert W. Lockett, seeks damages pursuant to the provisions of 20 Pa. C.S. § 3373 and 42 Pa. C.S. § 8302 which include, *inter alia*:

- (a) Physical and mental pain, suffering and inconvenience that Decedent, Gilbert W. Lockett, endured from the moment of his injury to the moment of death;
- (b) Hospital and medical expenses incurred on his behalf;
- (c) Such other losses and damages as are recoverable by law or statute.

WHEREFORE, Plaintiff demands judgment against this Defendant for damages in an amount in excess of the jurisdiction of the Board of Arbitrators of this Court.

JURY TRIAL DEMANDED

Plaintiffs hereby demands a trial by jury on all issues so triable, as provided by law with respect to all issues of fact in the above-styled action.

Respectfully,
PRIBANIC & PRIBANIC, L.L.C.

By:



Victor H. Pribanic

1735 Lincoln Way

White Oak, PA 15131

(412) 672-5444

Counsel for Plaintiff,

Linda Lockett.


LINDA LOCKETT, *Individually and as Personal Representative of the Estate of*
GILBERT W. LOCKETT, *Plaintiff v.* **CLEARFIELD HOSPITAL, CLEARFIELD**
AREA HEALTH SERVICES, and **GORDON P. CLARK, M.D.**, *Defendants.*

Civil Division, Case No. _____

VERIFICATION TO COMPLAINT

Plaintiff verifies that she is the Plaintiff in the foregoing action; that the foregoing Complaint is based upon information which she has furnished to her counsel and information which has been gathered by her counsel in the preparation of the lawsuit. The language of the Complaint is that of counsel and not of Plaintiff. Plaintiff has read the Complaint and to the extent that the Complaint is based upon information which she has given to her counsel, it is true and correct to the best of her knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, Plaintiff has relied upon counsel in making this Affidavit. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

By:


Linda Lockett

Date:

10 - 23 - 2008

LINDA LOCKETT, *Individually and as Personal Representative of the Estate of*
GILBERT W. LOCKETT, *Plaintiff v.* **CLEARFIELD HOSPITAL, CLEARFIELD AREA**
HEALTH SERVICES, and **GORDON P. CLARK, M.D.**, *Defendants.*

Civil Division, Case No. 08 - 1691 - CD

CERTIFICATE OF MERIT

as to

CLEARFIELD HOSPITAL

I, **Victor H. Pribanic**, certify that:

☐ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this Defendant in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(1));

AND/OR

☐ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(2));

OR

☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against this Defendant (1042.3(a)(3));

OR

☒ claims are raised under both subdivisions 1042.3(a)(1) and 1042.3(a)(2).

By:


Victor H. Pribanic

Date:

11.2.08

LINDA LOCKETT, Individually and as Personal Representative of the Estate of
GILBERT W. LOCKETT, Plaintiff v. **CLEARFIELD HOSPITAL, CLEARFIELD AREA
HEALTH SERVICES**, and **GORDON P. CLARK, M.D.**, Defendants.

Civil Division, Case No. 08 - 1691 - CD

CERTIFICATE OF MERIT

as to

~~WEST PENN CLEARFIELD HEALTH SYSTEM~~

**CLEARFIELD AREA HEALTH
SERVICES**
(C.B.)

I, **Victor H. Pribanic**, certify that:

- ☐ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this Defendant in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(1));

AND/OR

- ☐ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(2));

OR

- ☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against this Defendant (1042.3(a)(3));

OR

- ☒ claims are raised under both subdivisions 1042.3(a)(1) and 1042.3(a)(2).

By:


Victor H. Pribanic

Date:

11-2-08

LINDA LOCKETT, *Individually and as Personal Representative of the Estate of*
GILBERT W. LOCKETT, *Plaintiff v.* **CLEARFIELD HOSPITAL, CLEARFIELD AREA**
HEALTH SERVICES, *and* **GORDON P. CLARK, M.D.**, *Defendants.*

Civil Division, Case No. 08 - 1691 - CD

CERTIFICATE OF MERIT

as to

GORDON P. CLARK, M.D.

I, **Victor H. Pribanic**, certify that:

- ☒ an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by this Defendant in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(1));

AND/OR

- ☐ the claim that this Defendant deviated from an acceptable professional standard is based solely on allegations that other licensed professionals for whom this Defendant is responsible deviated from an acceptable professional standard and an appropriate licensed professional has supplied a written statement to the undersigned that there is a basis to conclude that the care, skill or knowledge exercised or exhibited by the other licensed professionals in the treatment, practice or work that is the subject of the Complaint, fell outside acceptable professional standards and that such conduct was a cause in bringing about the harm (1042.3(a)(2));

OR

- ☐ expert testimony of an appropriate licensed professional is unnecessary for prosecution of the claim against this Defendant (1042.3(a)(3));

OR

- ☐ claims are raised under both subdivisions 1042.3(a)(1) and 1042.3(a)(2).

By:


Victor H. Pribanic

Date:

11-2-08

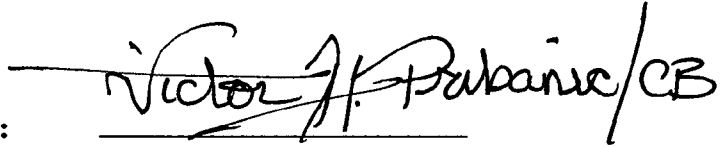
CERTIFICATE OF SERVICE

On this **5th** day of **November** 2008, I hereby certify that a true and correct copy of the foregoing **Complaint** has been served on the Party(ies) listed below, by way of:

United States mail, first-class, postage prepaid:

Frank J. Hartye, Esquire
McIntyre, Hartye & Schmitt
P. O. Box 533
Hollidaysburg, PA 16648
814.696.3581
814.696.9399 Fax
fhartye@mhslawoffice.com

By:

A handwritten signature in black ink, reading "Victor H. Pribanic" followed by the initials "CB" in a large, stylized script. The signature is written over a horizontal line.

Victor H. Pribanic

Counsel for Plaintiff

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

FILED

DEC 09 2008

M 12:45/

William A. Shaw

Prothonotary/Clerk of Courts

5 No C/L

: ISSUE:

: Answer and New Matter to
: Plaintiff's Complaint

: Filed on behalf of Defendants:

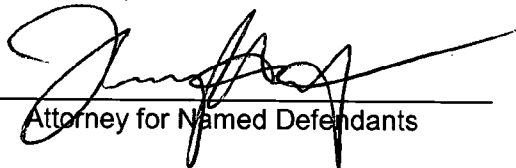
: CLEARFIELD HOSPITAL, CLEARFIELD
: AREA HEALTH SERVICES, and
: GORDON P. CLARK, M.D.

: Counsel of Record:

: FRANK J. HARTYE, ESQUIRE
: PA. ID. No. 25568
: McIntyre, Hartye & Schmitt
: P.O. Box 533
: Hollidaysburg, PA 16648
: 8144/696-3581

: JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 8th day of
December, 2008.



Attorney for Named Defendants

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

VS.

Defendants.

.....

ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT

1.-2. It is admitted that Linda Lockett is the plaintiff. As to the remaining
ions, after reasonable investigation defendants are without sufficient knowledge or
ation as to the truth of the same and therefore they are denied as stated.

4. Admitted that this lawsuit was filed in Clearfield County.

5. The allegations contained in Paragraph No. 5 are overly broad and therefore they are denied as stated.

6. The allegations contained in Paragraph No. 6 set forth conclusions of law, are overly broad and are therefore denied as stated.

7.-9. The allegations contained in Paragraph Nos. 7 through 9 are admitted in part and denied in part. It is admitted that Gordon P. Clark, M.D., Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N. were employees of Clearfield Hospital and were acting in the course and scope of their employment. The remaining allegations concerning unidentified physicians, nurses, and other medical care providers are denied in that they are overly broad and do not identify any other individual medical care providers. Therefore the remaining allegations in Paragraph Nos. 7 through 9 are denied as stated.

10.-16. The allegations contained in Paragraph Nos. 10 through 16 are denied. It is denied that Clearfield Area Health Services operates Clearfield Hospital or employs the physicians and nurses who provide care at Clearfield Hospital. To the contrary Clearfield Hospital is a subsidiary of Clearfield Area Health Services. Clearfield Hospital and not Clearfield Area Health Services employ Gordon P. Clark, M.D., Linda Blake, R.N., LuAnn Dixon, R.N., and Gwen Thomas, R.N. They were not employees of CAHS.

WHEREFORE, defendant denies all of the allegations contained in Paragraph Nos. 10 through 16.

17. It is admitted that Gordon P. Clark, M.D. is licensed to practice medicine in the Commonwealth of Pennsylvania and was an employee of Clearfield Hospital. The remaining allegations are denied as stated.

18. It is admitted that Dr. Clark was acting as an employee of Clearfield Hospital and was acting within the course and scope of his employment. The remaining allegations are overly broad, are conclusions of law, and are denied as stated.

19. All negligence and liability on behalf of the defendants are denied.

20. The allegations contained in Paragraph No. 20 are true to the best of defendant's knowledge.

21. It is admitted that Mr. Lockett was pronounced dead on March 16, 2007 at 3:39 a.m.

22. It is admitted that on March 15, 2007 at approximately 18:37 that Mr. Gilbert Lockett and his wife arrived at the Clearfield Hospital emergency room by ambulance from his private home.

23. Admitted to the extent that the same is reflected in the patient's emergency department record, denied to the extent that the allegations incompletely reflect the patient's conditions and complaints during the visit.

24. It is admitted that the nurse recorded this statement in the patient's record.

25.-27. Admitted to the extent that the same was recorded in the patient's medical record for that date.

28. The allegations contained in Paragraph No. 28 are true to the best of defendants' knowledge.

29.-37. The allegations contained in Paragraph Nos. 29 through 37 are admitted to the extent that the same are reflected in the patient's medical record and based upon information provided by the patient at that time. They are denied to the extent that they may be inconsistent with or may not fully describe the patient's condition during the emergency department visit.

38. Admitted.

39. Admitted in part and denied in part. It is admitted that the patient had vital signs taken at 21:26 and the complete listing are found in the patient's medical record. In addition the vital signs were recorded numerous times throughout the patient's emergency department visit and therefore the allegations in this paragraph are denied as being incomplete.

40. Admitted that the same was noted by Dr. Clark upon initial exam.

41. Admitted that the family was at bedside from time to time.

42. Admitted.

43. Admitted.

44. Denied as stated. Pursuant to the record the patient was sent to the imaging department at approximately 19:42.

45. Admitted to the extent that the same is reflected in the patient's record.

46.-50. The allegations contained in Paragraph Nos. 46 through 50 are admitted in part and denied in part. It is admitted that lab work was performed and that the results of all lab work is more specifically set forth in the patient's record. The allegations in these Complaints are denied to the extent that they are incomplete and improperly describe the results of the tests.

51. Admitted.

52.-53. Admitted to the extent that the same is reflected in the patient's record, denied to the extent that additional treatments were performed as more specifically set forth in the patient's record.

54. Admitted.

55. Admitted.

56. Admitted to the extent that the same is reflected in the progress notes of Dr. Clark.

57. Admitted.

58. Admitted.

59. Admitted.

60. Admitted.

61. Admitted that Linda Blake, R.N. recorded the family's difficulty in placing the patient in their vehicle.

62. Admitted that the discharge took place at approximately 2:00 a.m. As to the remaining allegation after reasonable investigation defendants are without sufficient knowledge or information as to the truth of the same and therefore they are denied as stated.

63. It is denied that Mr. Lockett was placed in the family's vehicle by the nurses in such a position which compromised his ability to freely breathe.

64. It is admitted that Linda Blake entered a note into the patient's record. The record more specifically sets forth the note and when it was recorded.

65.-66. The allegations in Paragraph Nos. 65 and 66 are admitted to the extent that they are consistent with what is recorded by Nurse Blake and denied to the extent that they are inconsistent.

67.-69. The allegations contained in Paragraph Nos. 67 through 69 are denied.

70. Defendant has no knowledge of any statements made by Timothy Lockett. The statement itself is admitted to the extent that it is consistent with the nursing note and denied to the extent that it is inconsistent with the same. Defendant has no knowledge of what occurred after the vehicle left Clearfield Hospital.

71. Admitted to the extent that the same is reflected in the patient's medical record.

72. Defendant is not aware of any eyewitness statement made by Ms. Lockett. The allegations contained therein are denied to the extent that they are inconsistent from the nurses' summary of what occurred. Answering defendants have no knowledge of what occurred after the family left the hospital grounds.

73. After reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied.

74. Admitted.

75.-76. The EMS report speaks for itself. This report was not prepared by any of the defendants and therefore after reasonable investigation defendants are without sufficient knowledge or information as to the truth of the same and therefore these allegations are denied.

77. Denied as stated. As set forth above the record reflects that the patient arrived at 03:41 a.m.

78. Admitted.

79. It is admitted that this history was given to Dr. Clark upon the patient's return to the emergency department.

80. It is admitted that protocols were followed and that a normal cardiac rhythm was not obtained.

81. It is admitted that this history was given to the nurse.

82. Admitted.

83. Admitted.

84. Admitted.

85. Admitted.

86. Admitted.

87. Admitted.

88. After reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied as stated.

89. Admitted that the same is reflected in the patient's medical record.

90. Admitted.

91. After reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied as stated.

92. Denied.

93.-106. The allegations contained in Paragraph Nos. 93 through 106 relate to an autopsy performed by Harry Kamerow, M.D. and was not prepared by any of the defendants. As a result, after reasonable investigation defendants are without sufficient knowledge or information as to the truth of these averments and therefore they are denied as stated.

107.-147. The allegations contained in Paragraph Nos. 107 through 147 relate to the care and treatment provided by Gordon P. Clark, M.D. These allegations are denied as stated. It is denied that Dr. Clark was negligent or careless in any manner. It is denied that he failed to meet the standard of care applicable to him as an emergency room physician. It is denied that any action or inaction on his part either caused or contributed to the alleged injuries, damages, and death of the decedent, Gilbert Lockett and therefore all the allegations contained in Paragraph Nos. 107 through 147 are denied as stated.

148. The Pennsylvania Professional Nursing Law speaks for itself.
- 149.- 150. The Pennsylvania Code sections speak for themselves.
151. These allegations are conclusions of law and are denied as stated.
152. Denied for the reasons set forth previously.
153. The allegations contained in Paragraph No. 153 are overly broad and are denied as stated.
154. Admitted that the nurses were employed by Clearfield Hospital. Denied that they were employed by Clearfield Area Health Services.
155. Admitted that the nurses were acting in the course and scope of their employment with Clearfield Hospital. Denied as to Clearfield Area Health Services.
- 156.-157. The allegations contained in these paragraphs are conclusions of law and are overly broad and therefore are denied as stated.
158. Denied as stated.
159. It is admitted that the family recruited the nursing staff in the parking lot to assist them. The remaining allegations are denied.
160. It is denied that Mr. Lockett complained of severe weakness at that time.
161. It is denied that Mr. Lockett's condition changed since he had left the emergency department.
162. The patient had been discharged and his condition had not changed. These allegations are denied.
163. Denied. Denied that there was a change in the patient's condition.
164. Denied. It is denied that Mr. Lockett was in poor condition upon discharge.

165.-176. The allegations contained in Paragraph Nos. 165 through 176 allege a deviation of the standard of care relative to the nursing care provided in this case. All such allegations are denied. It is denied that Clearfield Hospital or any of its nurses were negligent or careless in any manner. It is further denied that any action or inaction by the nurses either caused or contributed to the alleged injuries, damages, and death of the decedent Gilbert Lockett. To the contrary, the care provided by the nurses met the standard of care applicable to them and was in all respects proper and prudent under the circumstances then and there existing. As a result all the allegations contained in Paragraph Nos. 165 through 176 are denied as stated and strict proof thereof is demanded.

COUNT I – PROFESSIONAL MEDICAL NEGLIGENCE
LINDA LOCKETT V. GORDON P. CLARK, M.D.

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

177. These allegations are overly broad conclusions of law and are therefore denied as stated.

178. -180. Denied. It is denied that Dr. Clark was negligent or careless in any manner. It is denied that his care deviated from the appropriate standard of care applicable to him as an emergency room physician. It is denied that any action or inaction on his part either caused or contributed to the alleged injuries, damages, and death of Gilbert Lockett and therefore all the allegations contained in Paragraph Nos. 178 through 180 are denied and strict proof thereof is demanded.

WHEREFORE, defendant demands judgment in his favor with costs of suit awarded to defendant.

COUNT II – RESPONDEAT SUPERIOR
LINDA LOCKETT V. CLEARFIELD HOSPITAL

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

181.-182. The allegations contained in Paragraphs No. 181 and 182 are conclusions of law and no further response is required.

183. It is admitted that Dr. Clark was an employee of Clearfield Hospital.

184. It is admitted that Linda Blake, LuAnn Dixon, and Gwen Thomas were employees of Clearfield Hospital.

185-186. It is denied that Clearfield Hospital or any of its agents, servants, or employees were negligent or careless in any manner. It is further denied that any action or inaction on the part of Clearfield Hospital or any of its agents, servants, or employees either caused or contributed to the alleged injuries and damages set forth and therefore all the allegations contained in these paragraphs are denied.

WHEREFORE, CLEARFIELD HOSPITAL demands judgment in its favor with costs of suit awarded to Clearfield Hospital.

COUNT III – RESPONDEAT SUPERIOR
LINDA LOCKETT V. CLEARFIELD AREA HEALTH SERVICES

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

187. It is denied that Clearfield Area Health Services employed any of the health care providers named in plaintiff's Amended Complaint and therefore all allegations are denied.

WHEREFORE, CLEARFIELD AREA HEALTH SERVICES demands judgment in its favor with costs of suit awarded to defendant.

COUNT IV – OSTENSIBLE AGENCY
LINDA LOCKETT V. CLEARFIELD HOSPITAL

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

188.-192. Clearfield Hospital has admitted that Dr. Clark and the nurses were actual employees. As a result all allegations contained in Paragraph Nos. 188 through 192 are denied as stated. All liability on behalf of Dr. Clark and the nurses are denied.

WHEREFORE, defendant demands judgment in its favor with costs of suit awarded to defendant.

COUNT V – OSTENSIBLE AGENCY
LINDA LOCKETT V. CLEARFIELD AREA HEALTH SERVICES

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

193. It is denied that Dr. Clark or the nurses were ostensible agents of Clearfield Area Health Services and therefore all the allegations in this paragraph are denied.

WHEREFORE, defendant demands judgment in its favor with costs of suit awarded to defendant.

COUNT VI – CORPORATE NEGLIGENCE
LINDA LOCKETT V. CLEARFIELD HOSPITAL

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

194. This paragraph misstates the law in Pennsylvania and is denied.

195.-200. The allegations contained in Paragraph Nos. 195 through 200 attempt to set forth the current law concerning corporate liability in Pennsylvania. These

allegations are overly broad and are denied as stated. It is admitted that expert testimony is required in this case.

201. It is denied that Clearfield Hospital was negligent or careless in any manner and therefore all the allegations contained in Paragraph No. 201 are specifically denied.

202. Denied. It is denied that Clearfield Hospital was negligent or careless in any manner and therefore all the allegations in this paragraph and the subparagraphs thereof are specifically denied.

203. It is denied that Clearfield Hospital was negligent or careless under the alleged theory of corporate liability.

204.-205. It is denied that the hospital had constructive notice which is required for plaintiff to prove corporate liability. All liability in this case is denied.

206.-207. It is denied that Clearfield Hospital was negligent or careless in any manner. It is further denied that any action or inaction on the part of Clearfield Hospital either caused or contributed to the alleged injuries, damages, and death of the decedent and therefore all the allegations contained in Paragraphs No. 206 and 207 are denied and strict proof thereof is demanded.

WHEREFORE, CLEARFIELD HOSPITAL demands judgment in its favor with costs of suit awarded to defendant.

COUNT VII – CORPORATE NEGLIGENCE
LINDA LOCKETT V. CLEARFIELD AREA HEALTH SERVICES

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

208. All allegations of corporate negligence against Clearfield Area Health Services are denied for the reasons previously set forth and which are incorporated herein by reference.

WHEREFORE, defendant demands judgment in its favor with costs of suit awarded to defendant.

COUNT VIII – WRONGFUL DEATH
LINDA LOCKETT V. GORDON P. CLARK, M.D.

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

209. The allegations contained in Paragraph No. 209 are a conclusion of law and no further response is required.

210. It is denied that Dr. Clark was negligent or careless in any manner. It is further denied that any action or inaction on the part of Dr. Clark either caused or contributed to the alleged injuries, damages, and death of Gilbert Lockett and therefore all the allegations contained in Paragraph No. 210 and the paragraphs incorporated therein are denied.

211.-215. All liability and damages are denied. As to the specific allegations of damages in this case, after reasonable investigation, defendant is without sufficient knowledge or information as to the truth of these averments and therefore they are denied.

WHEREFORE, defendant demands judgment in his favor with costs of suit awarded to defendant.

COUNT IX – WRONGFUL DEATH
LINDA LOCKETT V. CLEARFIELD HOSPITAL

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

216. This paragraph contains conclusions of law and no further response is required.

217. Denied. All liability is denied. It is denied that Clearfield Hospital or any of its agents, servants, or employees were negligent or careless in any manner

and therefore all the allegations contained in this paragraph and those incorporated therein are denied.

218.-222. All liability is denied. As to specific damages alleged, after reasonable investigation defendant is without sufficient knowledge or information as to the truth of those averments and therefore they are denied as stated.

WHEREFORE, defendant demands judgment in its favor with costs of suit awarded to defendant.

COUNT X – WRONGFUL DEATH
LINDA LOCKETT V. CLEARFIELD AREA HEALTH SERVICES

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

223. The allegations contained in Paragraph No. 223 are conclusions of law and no further response is required.

224. Denied. All liability is denied. It is denied that Clearfield Area Health Services provided any medical care in this case for the reasons previously set forth and which are incorporated herein by reference. Therefore all the allegations contained in this paragraph are denied.

225.-229. All liability on behalf of Clearfield Area Health Services is denied. As to the specific damages alleged, after reasonable investigation defendant is without sufficient knowledge or information as to the truth of these averments and therefore they are denied as stated.

WHEREFORE, defendant demands judgment in its favor with costs of suit awarded to defendant.

COUNT XI – SURVIVAL ACTION
LINDA LOCKETT V. CLEARFIELD HOSPITAL

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

230. The allegations contained in Paragraph No. 230 are conclusions of law and no further response is required.

231. It is denied that Clearfield Hospital or any of its agents, servants, or employees were negligent or careless in any manner. It is denied that any action or inaction on the part of Clearfield Hospital or any of its agents, servants, or employees either caused or contributed to the alleged injuries and damages set forth and therefore all the allegations contained in this paragraph are denied.

WHEREFORE, defendant demands judgment in its favor with costs of suit awarded to defendant.

COUNT XII – SURVIVAL ACTION
LINDA LOCKETT V. CLEARFIELD AREA HEALTH SERVICES

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

232. The allegations in this paragraph are conclusions of law and no further response is required.

233. All liability on behalf of Clearfield Area Health Services is denied for the reasons previously set forth and therefore all the allegations in this paragraph are denied.

WHEREFORE, defendant demands judgment in its favor with costs of suit awarded to defendant.

COUNT XIII – SURVIVAL ACTION
LINDA LOCKETT V. GORDON P. CLARK, M.D.

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

234. The allegations contained in Paragraph No. 234 are conclusions of law and no further response is required.

235. It is denied that Gordon P. Clark, M.D. was negligent or careless or otherwise committed wrongful acts or breached the standard of care applicable to him as an emergency room physician. It is denied that any action or inaction on his part either caused or contributed to the alleged injuries, damages, and death of Gilbert Lockett. As a result all the allegations contained in Paragraph No. 235 are denied.

WHEREFORE, defendant demands judgment in his favor with costs of suit awarded to defendant.

NEW MATTER

By way of further and more complete answer defendant avers the following New Matter.

236. Plaintiff's Amended Complaint fails to set forth a cause of action upon which relief can be granted and therefore plaintiff's cause of action should be dismissed.

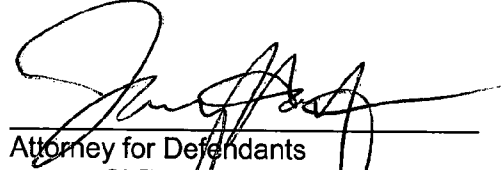
237. All injuries and damages suffered by the plaintiff were the direct, sole, and proximate result of preexisting medical conditions and not a result of a violation of the standard of care.

238. Defendant hereby pleads all bars, rights, and limitations pursuant to the Health Care Services Malpractice Act, 40 P.S. Section 1301.103 et seq., and the Medical Care Availability and Reduction of Error (MCARE) Act, 40 P.S. 1300, et seq., and the Pennsylvania Rules of Civil Procedure.

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

Respectfully Submitted,

MCINTYRE, HARTYE & SCHMITT



Attorney for Defendants

CLEARFIELD HOSPITAL,
CLEARFIELD AREA HEALTH
SERVICES, and GORDON P.
CLARK, M.D.

FRANK J. HARTYE, ESQUIRE

PA. I.D. No. 25568

P.O. Box 533

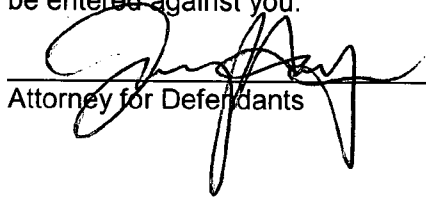
Hollidaysburg, PA 16648

814/696-3581

Notice to Plead

To: Plaintiff

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



Attorney for Defendants

CHT 077 MH

VERIFICATION

I, **Jon Steen, Vice President of Human Resources of Clearfield Hospital** do hereby verify that I have read the foregoing **Answer and New Matter to Plaintiff's Amended Complaint**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

CLEARFIELD HOSPITAL



Jon Steen
Vice President of Human Resources

Date: _____

11/21/08

CHT 077 MH

VERIFICATION

I, David McConnell of Clearfield Area Health Services do hereby verify that I have read the foregoing **Answer and New Matter to Plaintiff's Amended Complaint**. The statements therein are correct to the best of my personal knowledge or information and belief.

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

CLEARFIELD AREA HEALTH SERVICES

David McConnell

Date: 11/24/08

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

FILED

DEC 09 2008

m/12:45/

William A. Shaw

Prothonotary/Clerk of Courts

m. c/c @10

: ISSUE:

: Notice of Service of Interrogatories and
: Request for Production of Documents
: Directed to Plaintiff Dated
: December 8, 2008

: Filed on behalf of Defendants:

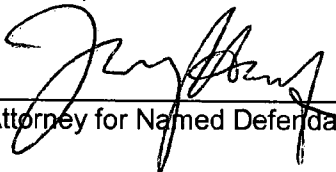
: CLEARFIELD HOSPITAL, CLEARFIELD
: AREA HEALTH SERVICES, and
: GORDON P. CLARK, M.D.

: Counsel of Record:

: FRANK J. HARTYE, ESQUIRE
: PA. ID. No. 25568
: McIntyre, Hartye & Schmitt
: P.O. Box 533
: Hollidaysburg, PA 16648
: 8144/696-3581

: JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 8th day of
December, 2008.


Attorney for Named Defendants

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA LOCKETT, individually, and as
Personal Representative of the Estate of
GILBERT W. LOCKETT,

Plaintiff,

v.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES and GORDON
P. CLARK, M.D.

Defendants.

CIVIL DIVISION

CASE NO.: 08 – 1691 - CD

**PLAINTIFF'S REPLY TO
DEFENDANTS' NEW MATTER**

Code: 007

Filed on behalf of Plaintiff: LINDA
LOCKETT, individually, and as Personal
Representative of the Estate of GILBERT W.
LOCKETT

Counsel of Record for this Party:

Victor H. Pribanic, Esquire
Pa. I.D. No.: 30785

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

FILED

DEC 18 2008

William A. Shaw
Prothonotary/Clerk of Courts

icc
M/12:54 PM
Victor H. Pribanic
(610)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA LOCKETT, individually, and as)	CIVIL DIVISION
Personal Representative of the Estate of)	
GILBERT W. LOCKETT,)	
)	CASE NO.: 08 – 1691 - CD
Plaintiff,)	
)	
v.)	
)	
CLEARFIELD HOSPITAL, CLEARFIELD)	
AREA HEALTH SERVICES and GORDON)	
P. CLARK, M.D.,)	
)	
Defendants.)	

PLAINTIFF'S REPLY TO DEFENDANTS' NEW MATTER

AND NOW, comes the Plaintiff, LINDA LOCKETT, individually, and as Personal Representative of the Estate of GILBERT W. LOCKETT, by her counsel, Victor H. Pribanic and the law firm of Pribanic & Pribanic, L.L.C., and files the within Reply to New Matter asserted on behalf of Defendants, Clearfield Hospital, Clearfield Area Health Services and Gordon P. Clark, M.D., and in support thereof avers as follows:

1. The averments of Defendants' New Matter are denied.
2. Strict proof to the contrary is demanded at the time of trial.

WHEREFORE, Plaintiff, LINDA LOCKETT, individually, and as Personal Representative of the Estate of GILBERT W. LOCKETT, respectfully requests that she be afforded the relief sought in the Complaint filed in the captioned action.

Respectfully submitted,

PRIBANIC & PRIBANIC, L.L.C.

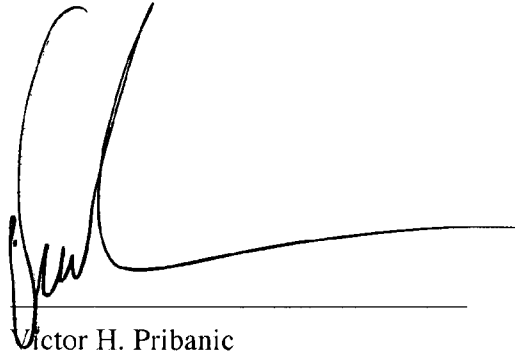
By: 

Victor H. Pribanic
Counsel for Plaintiff, LINDA LOCKETT,
individually, and as Personal Representative
of the Estate of GILBERT W. LOCKETT

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing has been served this 16th day of December, 2008, via first class United States mail, postage prepaid, upon the following counsel of record:

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



A handwritten signature in black ink, appearing to read 'Victor H. Pribanic', is written over a horizontal line. The signature is stylized with a large, looping initial 'V' and a long, sweeping horizontal stroke extending to the right.

Victor H. Pribanic

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104619
NO: 08-1691-CD
SERVICE # 4 OF 4
COMPLAINT

PLAINTIFF: LINDA LOCKETT ind. & as personal rep. of the Estate of GILBERT W. LOCKETT
vs.

DEFENDANT: CLEARFIELD HOSPITAL, CLEARFIELD AREA HEALTH SERVICES and GORDON P. CLARK, M.D.

SHERIFF RETURN

NOW, September 22, 2008, SHERIFF OF VENANGO COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON GORDON P. CLARK, M.D.

NOW, September 29, 2008 AT 10:20 AM SERVED THE WITHIN COMPLAINT ON GORDON P. CLARK, M.D,
DEFENDANT. THE RETURN OF VENANGO COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

5
FILED
013:45Lm
JAN 08 2009
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104619
NO: 08-1691-CD
SERVICES 4
COMPLAINT

PLAINTIFF: LINDA LOCKETT ind. & as personal rep. of the Estate of GILBERT W. LOCKETT

vs.

DEFENDANT: CLEARFIELD HOSPITAL, CLEARFIELD AREA HEALTH SERVICES and GORDON P. CLARK, M.D.

SHERIFF RETURN


RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PRIBANIC	3342	30.00
SHERIFF HAWKINS	PRIBANIC	3342	44.00
VENANGO CO.	PRIBANIC	3352	42.00

Sworn to Before Me This

_____ Day of _____ 2009

So Answers,



Chester A. Hawkins
Sheriff

AFFIDAVIT OF SERVICE
VENANGO COUNTY SHERIFF'S OFFICE

Docket No. 08-1691-CD
(CLEARFIELD CO.)

LINDA LOCKETT, ET AL
Plaintiff

VS

CLEARFIELD HOSPITAL, ET AL
Defendant

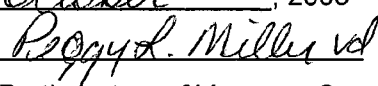
And now, **08OCT08**, before me the undersigned authority, personally appeared **RYAN WILLIAMS, DEPUTY SHERIFF** who being duly sworn according to law, deposes and says that on the 29TH day of **SEPTEMBER, 2008** at **1020 Hours** he served the within **COMPLAINT IN CIVIL ACTION** upon the defendant **GORDON P. CLARK, MD** by handing one true and certified copy of the said documents to **JOYCE CLARK, ADULT IN CHARGE/WIFE (REFUSED TO SIGN FOR IT)** located at **108 REED STREET, OIL CITY, PA 16301** place of **RESIDENCE** thereby by making known to **HER** the contents thereof.

Venango County Sheriff's Costs: \$42.00



RYAN WILLIAMS, DEPUTY SHERIFF

Gene Price, Sheriff of Venango County

Sworn to and subscribed before
me this 8th day of
October, 2008


Prothonotary of Venango County

Peggy L. Miller, Prothonotary
Franklin, Venango County, PA
My Commission Expires Jan. 2, 2012

ICC Amy Hartze

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

LINDA LOCKETT, individually, and	:	No. 08-1691-CD
as Personal Representative of the	:	
Estate of GILBERT W. LOCKETT,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
CLEARFIELD HOSPITAL, CLEARFIELD	:	
AREA HEALTH SERVICES, and	:	
GORDON P. CLARK, M.D.,	:	
	:	
Defendants.	:	JURY TRIAL DEMANDED

MOTION TO COMPEL DISCOVERY RESPONSES

AND NOW, come the Defendants, CLEARFIELD HOSPITAL, CLEARFIELD AREA HEALTH SERVICES and GORDON P. CLARK, M.D., by and through their attorneys, McINTYRE, HARTYE & SCHMITT, and file the following Motion to Compel.

1. Plaintiff filed a Complaint in September 2008 against the defendants.
2. Defendants filed Preliminary Objections, an Amended Complaint was filed in November 2008 and an Answer was filed on behalf of the defendants.
3. On December 8, 2008, defendants served Interrogatories and Request for Production of Documents upon the plaintiff.
4. On February 23, 2009, defendants granted an extension of 45 days in order for plaintiff to respond to discovery (deadline of April 10, 2009).
5. By letter dated April 29, 2009, defendants once again requested responses to discovery. To date, no discovery responses have been filed.
6. Pennsylvania Rule of Civil Procedure 4006 provides that answers shall be filed within thirty (30) days after service. Likewise, Pennsylvania Rule of Civil Procedure

4009.12 provides that responses to Request for Production of Documents shall be filed within thirty (30) days of service.

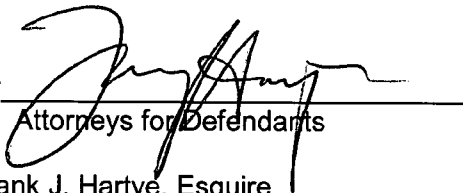
7. It has been more than six (6) months since Interrogatories and Request for Production of Documents have been served upon the plaintiff and no responses have been forthcoming.

8. Defendants request this Honorable Court to order the plaintiff to file full and complete Answers to Interrogatories and Responses to Request for Production of Documents within twenty (20) days of the date of the Court's Order.

Respectfully submitted,

McINTYRE, HARTYE & SCHMITT

By

A handwritten signature in black ink, appearing to read "Frank J. Hartye", is written over a horizontal line. Below the line, the text "Attorneys for Defendants" is printed.

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



McIntyre, Hartye & Schmitt
LAW OFFICES

February 23, 2009

Our Reference: CHT 077 MH

Christopher Buck, Esquire
Pribanic & Pribanic
1735 Lincoln Way
White Oak, PA 15131

Re: Linda Lockett, individually and as personal representative of the Estate of Gilbert W. Lockett v. Clearfield Hospital, Clearfield Area Health Services, and Gordon P. Clark, M.D.
No. 08 – 1691 – CD
Clearfield County

Dear Mr. Buck

This will confirm an extension of 45 days (April 10, 2009) in order to file responses to discovery.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Hartye", written over a horizontal line.

Frank J. Hartye

FJH:slh



McIntyre, Hartye & Schmitt
LAW OFFICES

April 29, 2009

Our Reference: CHT 077 MH

Christopher Buck, Esquire
Pribanic & Pribanic
1735 Lincoln Way
White Oak, PA 15131

Re: Linda Lockett, individually and as personal representative of the Estate of Gilbert W. Lockett v. Clearfield Hospital, Clearfield Area Health Services, and Gordon P. Clark, M.D.
No. 08 – 1691 – CD
Clearfield County

Dear Mr. Buck

You were granted an extension of time until April 10 in order to file discovery requests. The discovery requests were initially filed in December.

In addition you were going to obtain and forward a copy of records from Dr. Sheldon Rosenthal but those have not been forthcoming either. Could you please file your responses as soon as possible so that I can avoid filing a Motion to Compel.

Thank you for your attention to these matters.

Sincerely,

Frank J. Hartye
Frank J. Hartye

FJH/eh

J.

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

VS.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

: JURY TRIAL DEMANDED


RULE RETURNABLE

AND NOW, this 1 day of June, 2009, a Rule is hereby granted to show cause why the Motion to Compel Discovery Responses filed on behalf of the Defendants should not be granted.

This Rule is returnable on the 22nd day of July, 2009, at 3:00 a.m. (p.m) in Courtroom No. 1.

BY THE COURT:

BY THE COURT:


_____ J.

5 FILED 2cc
JUN 13 2009
Atty Harty
William A. Shaw
Prothonotary/Clerk of Courts

FILED

JUN 04 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/14/09

☒ You are responsible for serving all appropriate parties.

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

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

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

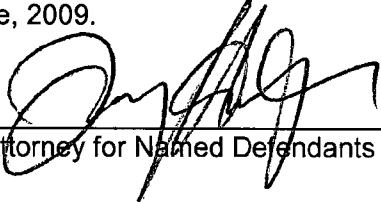
: ISSUE:
: CERTIFICATE OF SERVICE OF
: RULE RETURNABLE AS TO
: MOTION TO COMPEL DISCOVERY
: RESPONSES

: Filed on behalf of Defendants:
: CLEARFIELD HOSPITAL, CLEARFIELD
: AREA HEALTH SERVICES, and
: GORDON P. CLARK, M.D.

: Counsel of Record:
: FRANK J. HARTYE, ESQUIRE
: PA. ID. No. 25568
: McIntyre, Hartye & Schmitt
: P.O. Box 533
: Hollidaysburg, PA 16648
: 8144/696-3581

: JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 5th day of
June, 2009.



Attorney for Named Defendants

FILED *NCC*
11:27 AM
JUN 08 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

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: JURY TRIAL DEMANDED


CERTIFICATE OF SERVICE OF RULE RETURNABLE

TO: PROTHONOTARY

You are hereby notified that on the 5th day of **June, 2009**, Defendants served a
Rule Returnable as to Motion to Compel Discovery Responses upon the Plaintiff, by
mailing a copy of same via First Class Mail, postage prepaid, addressed to Plaintiff's
Counsel:

Christopher Buck, Esquire
Pribanic & Pribanic
1735 Lincoln Way
White Oak, PA 15131

McINTYRE, HARTYE & SCHMITT


Attorneys for Defendants

FRANK J. HARTYE, ESQUIRE
PA I.D. #25568
P.O. Box 533
Hollidaysburg, PA 16648-0533
(814) 696-3581

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

FILED

OCT 05 2009

5 m/12-30/09
William A. Shaw
Prothonotary/Clerk of Courts

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

: ISSUE:

: NOTICE OF SERVICE OF ANSWERS TO
: PLAINTIFF'S FIRST SET OF
: INTERROGATORIES DIRECTED TO
: DEFENDANT, CLEARFIELD HOSPITAL

: Filed on behalf of Defendants:

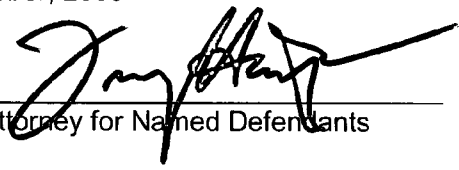
: CLEARFIELD HOSPITAL, CLEARFIELD
: AREA HEALTH SERVICES, and
: GORDON P. CLARK, M.D.

: Counsel of Record:

: FRANK J. HARTYE, ESQUIRE
: PA. ID. No. 25568
: McIntyre, Hartye & Schmitt
: P.O. Box 533
: Hollidaysburg, PA 16648
: 8144/696-3581

: JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 2nd day of
October, 2009



Attorney for Named Defendants

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

William A. Shaw
Prothonotary/Clerk of Courts

OCT 05 2009

FILED

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

: ISSUE:

: NOTICE OF DEPOSITIONS

: Filed on behalf of Defendants:

: CLEARFIELD HOSPITAL, CLEARFIELD

: AREA HEALTH SERVICES, and

: GORDON P. CLARK, M.D.

: Counsel of Record:

: FRANK J. HARTYE, ESQUIRE

: PA. ID. No. 25568

: McIntyre, Hartye, Schmitt & Sosnowski

: P.O. Box 533

: Hollidaysburg, PA 16648

: 8144/696-3581

: JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 2nd day of
February, 2010.


Attorney for Named Defendants

FILED NO
M10-3161 CC
FEB 03 2010
William A. Shaw
Prothonotary/Clerk of Courts

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

LINDA LOCKETT, individually, and	:	No. 08-1691-CD
as Personal Representative of the	:	
Estate of GILBERT W. LOCKETT,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
CLEARFIELD HOSPITAL, CLEARFIELD	:	
AREA HEALTH SERVICES, and	:	
GORDON P. CLARK, M.D.,	:	
	:	
Defendants.	:	JURY TRIAL DEMANDED

NOTICE OF DEPOSITIONS

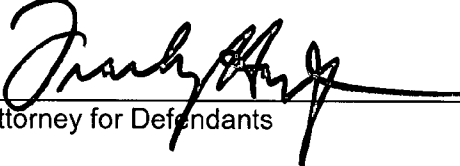
TO: Christopher Buck, Esquire
Pribanic & Pribanic
1735 Lincoln Way
White Oak, PA 15131

Please take notice that the depositions of **PLAINTIFF, LINDA LOCKETT and SON, TIMOTHY J. LOCKETT** shall be taken upon oral examination by an official Court Reporter at the offices of **McINTYRE, HARTYE, SCHMITT & SOSNOWSKI, 1816 Plank Road, Duncansville, PA (Across from the Hollidaysburg Veteran's Home)** on the **18th day of February, 2010**, commencing at **11:00 a.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, HARTYE, SCHMITT &
SOSNOWSKI


Attorney for Defendants

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

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

:
: ISSUE:
: NOTICE OF SERVICE OF ANSWERS
: TO PLAINTIFF'S FIRST SET OF
: DISCOVERY REQUESTS DIRECTED
: TO GORDON P. CLARK, M.D.

:
: Filed on behalf of Defendants:
: CLEARFIELD HOSPITAL, CLEARFIELD
: AREA HEALTH SERVICES, and
: GORDON P. CLARK, M.D.

:
: Counsel of Record:
: FRANK J. HARTYE, ESQUIRE
: PA. ID. No. 25568
: McIntyre, Hartye, Schmitt & Sosnowski
: P.O. Box 533
: Hollidaysburg, PA 16648
: 8144/696-3581

: JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 1st day of
February, 2010.



Attorney for Named Defendants

FILED NO
m110:313N CC
FEB 03 2010
William A. Shaw
Prothonotary/Clerk of Courts

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

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

: ISSUE:

: NOTICE OF DEPOSITION

: OF HARRY KAMEROW, M.D.

: Filed on behalf of Defendants:

: CLEARFIELD HOSPITAL, CLEARFIELD

: AREA HEALTH SERVICES, and

: GORDON P. CLARK, M.D.

: Counsel of Record:

: FRANK J. HARTYE, ESQUIRE

: PA. ID. No. 25568

: McIntyre, Hartye, Schmitt & Sosnowski

: P.O. Box 533

: Hollidaysburg, PA 16648

: 8144/696-3581

: JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 2nd day of
February, 2010.


Attorney for Named Defendants

FILED

no cc
m103184
FEB 03 2010

5
William A. Shaw
Prothonotary/Clerk of Courts (60)

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

VS.

Defendants.

: JURY TRIAL DEMANDED

TO: Harry Kamerow, MD
220 Mount Pleasant Drive
Boalsburg, PA 16827

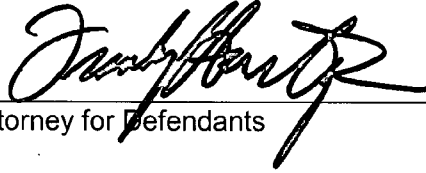
Please take notice that the depositions of **HARRY KAMEROW, M.D.** shall be taken upon oral examination by an official Court Reporter at the offices of **Mount Nittany Medical Center, 1800 E. Park Avenue, State College, PA 16803** on the 5th day of **March, 2010**, commencing at **1:00 p.m.**

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, HARTYE, SCHMITT &
SOSNOWSKI

A handwritten signature in black ink, appearing to read "Frank J. Hartye", written over a horizontal line.

Attorney for Defendants

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

COMMONWEALTH OF PENNSYLVANIA
CLEARFIELD COUNTY

Linda Lockett, Indv. and as personal
representative of the Estate of
Gilbert W. Lockett
Plaintiff(s)

Vs.

Clearfield Hospital,
Clearfield Area Health Services
and Gordon P. Clark MD
Defendant(s)

No. 2008-01691-CD

DUCES TECUM

SUBPOENA TO ATTEND AND TESTIFY

TO: Harry Kamerow, MD
220 Mount Pleasant Drive
Boalsburg, PA 16827

1. You are ordered by the Court to come to Mount Nittany Medical Center, 1800
E. Park Avenue, State College, PA

(Specify Courtroom or other place)

at Centre County, Pennsylvania, on March 5, 2010 at 1:00
o'clock, P.M., to testify on behalf of Defendants, Clearfield Hospital,
Clearfield Area Health Services and Gordon P. Clark, MD in the above
case, and to remain until excused.

2. And bring with you the following: Any and all records, reports, and information
relative to the autopsy performed on March 17, 2007 of Gilbert Willis
Lockett. Case #07-35-A.

If you fail to attend or to produce the documents or things required by this subpoena, you may be
subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including
but not limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH P.A.R.C.P. No. 234.2(a)

NAME: Frank J. Hartye, Esq.
ADDRESS: P.O. Box 533
Hollidaysburg, PA 16648
TELEPHONE: 814/696-3581
SUPREME COURT ID # 25568

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

Deputy

DATE: Friday, January 29, 2010
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan, 2014
Clearfield Co., Clearfield, PA

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in
connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with P.A.R.C.P. No.
234.1. If a subpoena for production of documents, records or things is desired, complete Paragraph 2.

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

No. 08-1691-CD

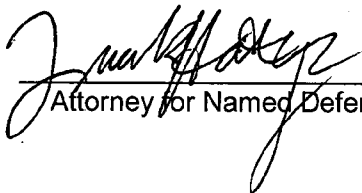
ISSUE:
NOTICE OF DEPOSITIONS

Filed on behalf of Defendants:
CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.

Counsel of Record:
FRANK J. HARTYE, ESQUIRE
PA. ID. No. 25568
McIntyre, Hartye, Schmitt & Sosnowski
P.O. Box 533
Hollidaysburg, PA 16648
8144/696-3581

JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 2nd day of
March, 2010.

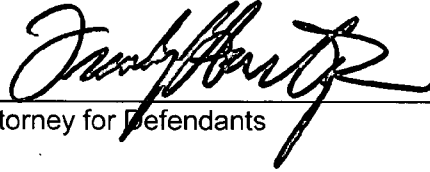

Attorney for Named Defendants

⁵ FILED NO
MAR 03 2010 CC
William A. Shaw
Prothonotary/Clerk of Courts

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

McINTYRE, HARTYE, SCHMITT &
SOSNOWSKI

A handwritten signature in black ink, appearing to read 'Frank J. Hartye', written over a horizontal line.

Attorney for Defendants

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

COMMONWEALTH OF PENNSYLVANIA
CLEARFIELD COUNTY

Linda Lockett, Indv. and as personal
representative of the Estate of
Gilbert W. Lockett
Plaintiff(s)

Vs.

Clearfield Hospital,
Clearfield Area Health Services
and Gordon P. Clark MD
Defendant(s)

No. 2008-01691-CD

DUCES TECUM

SUBPOENA TO ATTEND AND TESTIFY

TO: Harry Kamerow, MD
220 Mount Pleasant Drive
Boalsburg, PA 16827

1. You are ordered by the Court to come to Mount Nittany Medical Center, 1800
E. Park Avenue, State College, PA

(Specify Courtroom or other place)

at Centre County, Pennsylvania, on March 5, 2010 at 1:00
o'clock, PM., to testify on behalf of Defendants, Clearfield Hospital,
Clearfield Area Health Services and Gordon P. Clark, MD in the above
case, and to remain until excused.

2. And bring with you the following: Any and all records, reports, and information
relative to the autopsy performed on March 17, 2007 of Gilbert Willis
Lockett. Case #07-35-A.

If you fail to attend or to produce the documents or things required by this subpoena, you may be
subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including
but not limited to costs, attorney fees and imprisonment.

ISSUED BY A PARTY/COUNSEL IN COMPLIANCE WITH P.A.R.C.P. No. 234.2(a)

NAME: Frank J. Hartye, Esq.
ADDRESS: P.O. Box 533
Hollidaysburg, PA 16648
TELEPHONE: 814/696-3581
SUPREME COURT ID # 25568

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division


~~Deputy~~

DATE: Friday, January 29, 2010
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan, 2014
Clearfield Co., Clearfield, PA

OFFICIAL NOTE: This form of subpoena shall be used whenever a subpoena is issuable, including hearings in
connection with depositions and before arbitrators, masters, commissioners, etc. in compliance with P.A.R.C.P. No.
234.1. If a subpoena for production of documents, records or things is desired, complete Paragraph 2.

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

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

Plaintiff,

vs.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

: No. 08-1691-CD

: ISSUE:

: NOTICE OF DEPOSITIONS

: Filed on behalf of Defendants:

: CLEARFIELD HOSPITAL, CLEARFIELD

: AREA HEALTH SERVICES, and

: GORDON P. CLARK, M.D.

: Counsel of Record:

: FRANK J. HARTYE, ESQUIRE

: PA. ID. No. 25568

: McIntyre, Hartye, Schmitt & Sosnowski

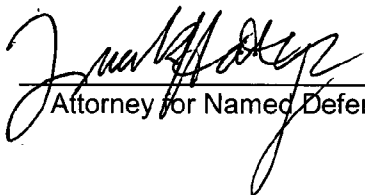
: P.O. Box 533

: Hollidaysburg, PA 16648

: 8144/696-3581

: JURY TRIAL DEMANDED

I hereby certify that a true and correct
copy of the within was mailed to all
counsel of record this 2nd day of
March, 2010.




Attorney for Named Defendants

⁵ FILED no
MAR 03 2010 cc
William A. Shaw
Prothonotary/Clerk of Courts

The scope of said deposition testimony will include inquiry into all facts concerning the happening of the incident complained of and all other matters relevant to the issues raised in the case.

You are invited to attend and participate.

**McINTYRE, HARTYE, SCHMITT &
SOSNOWSKI**



Attorney for Defendants

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

ORIGINAL

FILED

JAN 11 2011

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Case No. 08 - 1691 - CD

The Hon. Fredric J. Ammerman,
President Judge

LINDA LOCKETT,
*Individually, and as Personal
Representative of the Estate of*
GILBERT W. LOCKETT,
Plaintiff,

v.

CLEARFIELD HOSPITAL,
**CLEARFIELD AREA HEALTH
SERVICES,**
and
GORDON P. CLARK, M.D.,
Defendants.

JURY TRIAL DEMANDED

**PETITION TO APPROVE
SETTLEMENT OF
WRONGFUL DEATH AND
SURVIVAL ACTIONS**

Filed on behalf of Plaintiff:
Linda Lockett.

Counsel of Record for this Party:
Victor Hunter Pribanic
Pa. I.D. No.: 30785
Christopher Buck, Ph.D.
Pa. I.D. No.: 205265

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131
(412) 672-5444

BUCK

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA LOCKETT,
*Individually, and as Personal
Representative of the Estate of*
GILBERT W. LOCKETT,
Plaintiff,

v.

**CLEARFIELD HOSPITAL,
CLEARFIELD AREA HEALTH
SERVICES,**
and
GORDON P. CLARK, M.D.,
Defendants.

CIVIL DIVISION

Case No. 08 - 1691 - CD

The Hon. Fredric J. Ammerman,
President Judge

PETITION TO APPROVE
SETTLEMENT OF
WRONGFUL DEATH AND
SURVIVAL ACTIONS

PETITION TO APPROVE SETTLEMENT
OF WRONGFUL DEATH AND SURVIVAL ACTIONS

NOW COMES Plaintiff/Petitioner, **LINDA LOCKETT**, Personal Representative of the Estate of Gilbert W. Lockett, Deceased, by and through her counsel—Victor H. Pribanic and Dr. Christopher Buck of Pribanic & Pribanic, LLC—and hereby files this Petition pursuant to 20 Pa.C.S. § 3323(b)¹ averring, in support thereof, as follows:

1. Petitioner is Linda Lockett, appointed Personal Representative/Executrix of the Estate of Gilbert W. Lockett, Deceased, by the Register of Wills of Clearfield County

¹ 20 Pa.C.S. § 3323(b) ("Compromise of controversies"). See *Schuster v. Reeves*, 589 A.2d 731, 734 (Pa. Super. 1991) (court approval is required for settlements involving a survival action).

on April 26, 2007, and has ever since been, and now is, the appointed, qualified, and acting Executrix/Personal Representative of the Estate; a copy of the Short Certificate-Letters Testamentary is attached hereto and marked as "Exhibit A."

2. The Deceased died on March 16, 2007, as a result of the medical professional negligence alleged in the Complaint that is the basis of this wrongful death/survival action.
3. Defendants contest the action, but have agreed to amicably resolve this case in the present value sum of Three Hundred and Fifty Thousand Dollars (\$350,000.00), pursuant to the terms and conditions of the Release attached hereto and marked as "Exhibit B."
4. This sum is now proposed for approval by this Honorable Court, in the following particulars.
5. Decedent did leave a Will, bequeathing all of his estate to his widowed wife, Linda M. Lockett.
6. The Pennsylvania Department of Public Welfare is not known to have a Medicaid claim or a lien against Petitioner or the Estate or the wrongful death beneficiary.
7. Petitioner is aware of an anticipated Medicare lien for policy no. 186281035A ("Billed N25 \$1,704.37") in regard to medical bills paid to medical providers as a result of the March 16, 2007 incident; a copy of the Clearfield Hospital medical bills is attached hereto and marked as "Exhibit C."
8. Counsel is of the professional opinion that the proposed settlement is reasonable as his survivors, Linda Lockett and Timothy Lockett, their son, have suffered in the past, and, for an indefinite time into the future, will suffer the loss of support and

services which the Deceased would have continued to provide, but for his untimely death.

9. Petitioner is also of the opinion that the proposed settlement is reasonable.
10. Petitioner signed a Power of Attorney agreeing to pay counsel a 40% contingency fee; Petitioner also agreed to reimburse counsel for all costs associated with this lawsuit.
11. Fees for the prosecution of this matter were earned by counsel in performance, *inter alia*, of the following: ordering and receiving all necessary medical records; researching, preparing and filing the Complaint; obtaining expert opinion and reports in support of this action; contacting witnesses; engaging in discovery; conducting and attending several depositions; and by negotiating the proposed settlement with defense counsel, who represented and acted on the authority of the instant Defendants.
12. Accordingly, Petitioner asks that this Court approve payment of attorney fees in the amount of \$140,000.00, fees that Petitioner believes are reasonable and fair under the circumstances.
13. Plaintiff's attorneys have advanced costs of litigation in the amount of \$20,150.46, which are itemized as follows:

Client	Lockett, Gilbert	BALANCE	19,450.46
File#	7031		

Date	Description	Check#	Expense
	File Opening Fee		50.00
4/26/08	John Tafuri, M.D. - Retainer for review of medical records	6885	300.00
5/17/08	John C. Schaefer, M.D. - Retainer for review of records	6999	1,000.00
6/02/08	McLean Publishing Company - Estate Advertisement	7070	50.55

6/14/08	Clearfield County Legal Journal - Estate Advertisement	7099	32.00
7/12/08	Michelle Cannon, BSN, RN, CRNI - Retainer for review of records	7172	500.00
7/12/08	Joanne Mullin, RN, BSN - Retainer for review of medical records	7173	500.00
7/12/08	McLean Publishing Company - Balance due for Estate Advertisement	7174	86.10
8/03/08	John C. Schaefer, M.D. - Balance due for review of records, complaint and phone conference and drafts and revisions of report	7258	3,550.00
8/03/08	Rieback Medical Legal Consultants - Retainer for review of medical records	7259	1,125.00
8/16/08	John C. Schaefer, M.D. - Review and revision of report and review of e-mail and final complaint	7338	875.00
11/6/08	Rieback Medical-Legal Consultants - Redo report, revise complaint, correspondence, final report	7685	562.50
12/13/08	Joseph Ross Yates, M.D., FACEP - Review of materials, research, conference and report	7857	562.50
1/24/09	John C. Schaefer, M.D. - Interrogatory questions and answers	7983	1,250.00
2/14/09	Sheldon P. Rosenthal, M.D. - Records	8120	35.76
12/5/09	Wawrzyniak Reporting - Video of Linda Blake, R.N. Deposition	9176	295.00
	Video of Gordon P. Clark, M.D. Deposition	9176	295.00
	Transcript of Blake's Deposition	9176	336.00
	Transcript of Clark's Deposition	9176	342.00
1/09/10	John C. Schaefer, M.D. - Review of Interrogatories, deposition transcripts, e-mails, modify report	9336	3,375.00
2/05/10	Mehboob Chaudhry - Review of records and report	9429	1,706.50
3/22/10	Clearfield E.M.S., Inc. - Records	9610	20.00
4/05/10	James P. Davidson, D.O. - Special reports or forms	9670	25.00
4/10/10	ASAP Court Reporting - Transcripts of Linda Lockett, Timothy Lockett and Harry Kamerow, M.D. Depositions	9688	630.35
5/29/10	Christopher Buck, Ph.D. - Travel expenses for attendance at deposition	9805	49.01
6/05/10	Wawrzyniak Reporting - Video of Luann Dixon, R.N. Deposition	9820	295.00
7/12/10	Wawrzyniak Reporting - Transcript of Dixon Deposition	1006	183.00
10/17/10	Mehboob K. Chaudhry, M.D. - Review of additional records	1383	375.00
	Christopher Buck, Ph.D. - Travel expenses for attendance at depositions on October 28, 2009, November 3, 2009 and March 5th and 8th, 2010		183.19

Photocopies, postage, telephone, UPS	650.00
Court Costs	211.00
Joanne Mullin, RN, BSN - Review of medical records, expert report, interrogatories, review of depositions, addendum to expert report	700.00

14. The net proceeds for the beneficiary of Gilbert W. Lockett are accounted as follows:
- | | |
|-----------------------------------|------------------------------------|
| Proposed Settlement: | \$350,000.00 |
| Less <i>Total Attorney Fees</i> : | \$140,000.00 (40% of \$350,000.00) |
| Less <i>Total Costs</i> : | \$20,150.46 |
| Less <i>Total Liens</i> : | \$1,704.37 |
| Total net proceeds: | \$188,145.17 |
15. Petitioner requests allocation of the net proceeds of the settlement (after deduction of costs, liens and attorney's fees) as follows:
- a. Wrongful Death Claim: \$188,145.17 (100%)
 - b. Survival Claim: \$0.00 (0%)
16. The reason for the requested allocation is that Gilbert W. Lockett evidently experienced appreciably little, if any, pain and suffering through his death, having evidently died sometime after his discharge (2:00 AM) and actual departure from Clearfield Hospital (at approximately 2:30 AM) on March 16, 2007 and his arrival home at or shortly before 02:47 AM (time of dispatch by Clearfield County 911), although Mr. Lockett was pronounced dead by Dr. Clark at 3:39 AM, during which time Mr. Lockett was unconscious during the interval between shortly before 02:47 AM and 3:39 AM as the fixed time of death, leaving approximately 15 minutes of being conscious prior to becoming unconsciousness in the course of his demise.
17. On November 22, 2010, the Pennsylvania Department of Revenue, Inheritance Tax Division, reviewed and approved the instant Petition for Approval of Settlement and

Distribution of Wrongful Death and Survival Action; a copy of the approval letter is attached hereto and marked as "Exhibit D."

18. Petitioner, Linda Lockett, represented by counsel, fully understands the terms of and conditions of the proposed settlement and believes the settlement to be in the best interest of the Estate; attached hereto is the signed verification by Linda Lockett, attached to the within Petition.
19. Petitioner, Linda Lockett, Personal Representative of the Estate of Gilbert W. Lockett, hereby declares that the averments of this Petition have been completely read and are fully understood by her and, subject to this Court's approval, are accepted by her for the purpose of making a full and complete compromise agreement and settlement of any and all claims arising from this incident.

WHEREFORE, Petitioner respectfully requests that this Honorable Court enter an Order approving the Settlement and Distribution of the decedent's Wrongful Death and Survival claim, as outlined in the attached proposed Order of Court.

By: /s/ *Christopher G. Buck*

Christopher Buck, Ph.D.
Associate Attorney

Victor H. Pribanic,
Lead Attorney
1735 Lincoln Way
White Oak, PA 15131
(412) 672-5444
Counsel for Plaintiff

VERIFICATION

I hereby verify that I am a Plaintiff in the foregoing action. I also acknowledge that I have read the foregoing document(s) submitted by counsel on my behalf. To the extent that the foregoing is based upon information that I have given to my attorney, the facts stated therein are true and correct to the best of my knowledge, information and belief. To the extent that the foregoing is that of counsel, Plaintiff has relied upon counsel. The language of the foregoing document(s) is that of counsel and not necessarily my own. I understand that any false statements herein are made subject to penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

By:


Linda Lockett

10-29-10
Date

CERTIFICATE OF SERVICE

On this 2nd day of December 2010, I hereby certify that a true and correct copy of the foregoing document has been served on the Party(ies) listed below, by way of:

UNITED STATES MAIL, FIRST-CLASS, POSTAGE PREPAID,
WITH COURTESY COPY SENT BY EMAIL (12/02/2010):

Frank J. Hartye, Esquire
McIntyre, Hartye & Schmitt
P. O. Box 533
Hollidaysburg, PA 16648
T: 814.696.3581
F: 814.696.9399
E: fhartye@mhslawoffice.com

PRIBANIC & PRIBANIC, L.L.C.

By: /s/ *Christopher G. Buck*

Christopher Buck, Ph.D.
Counsel for Plaintiff

EXHIBIT A

SHORT CERTIFICATE – LETTERS TESTAMENTARY

Certificate of Appointment of Executrix

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

} ss:

The undersigned, Register for the Probate of Wills and granting Letters of Administration in and for the County of Clearfield, in the Commonwealth of Pennsylvania.

DO HEREBY CERTIFY and made known, that on the 26th day of April, 2007, LETTERS TESTAMENTARY on the estate of GILBERT W LOCKETT, deceased, were granted to Linda M. Lockett, Executrix , named in the will, she having first been qualified well and truly to administer the same. I further certify that said letters are in full force and effect at the present time, and entitled to full faith and credit.

Date of Death: March 16, 2007
File #: 1707-0239
Social Security No.: 186-28-1035

Given under my hand and seal of office this 26th
day of April in the year of our Lord, 2007



Register of Wills

MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 2008

EXHIBIT B

GENERAL RELEASE OF ALL CLAIMS

FOR AND IN CONSIDERATION OF the sum of **Three Hundred and Fifty Thousand Dollars, (\$350,000.00)**, **Linda Lockett**, as Personal Representative of the Estate of **Gilbert W. Lockett**, and on her own behalf, the undersigned Releasor, an individual, being of lawful age and residing in the Commonwealth of Pennsylvania, does hereby, and for all heirs, executors, administrators, successors and assigns, directors and employees, release, acquit and forever discharge **Clearfield Hospital, Clearfield Area Health Services, and Gordon P. Clark M.D. and CHART RRG** (the Releasee), and any and all affiliates and subsidiaries, as well as their agents, servants, heirs, executors, administrators, successors and assigns and all other persons, firms, corporations, associations or partnerships, or any other entity connected therewith, of and from any and all past, present or future claims, actions, causes of action, demands, suits, debts, dues, sums of money, rights, damages, costs, loss of service, obligations, expenses, including medical bills and/or insurance co-payments and/or compensation, of any nature whatsoever, in law or equity, which the undersigned on account of, or any way growing out of, any and all known or unknown, foreseen or unforeseen, injuries and/or damages and the consequences resulting from, or to result from, the incident, casualty or event which occurred on or about **March 15-16, 2007**, which has resulted in a claim being brought and captioned in the Court of Common Pleas of Clearfield County, PA. No.2008-1691 CD, by the undersigned and against the parties being released hereunder.

The undersigned Releasor acknowledges and agrees that the release and discharge as set forth above is a General Release. The undersigned Releasor, on her own behalf and on behalf of her heirs and assigns, expressly waives, assumes the risk and holds the Releasor and any and all affiliates and subsidiaries harmless and indemnifies the Releasee and any and all affiliates and subsidiaries, from and against any and all claims for damages whatsoever, which exist as of this date and/or which may exist in the future, but of which the undersigned Releasor does not know or suspect to exist, whether through ignorance, oversight, error or negligence, or otherwise, and which, if known, would materially affect the undersigned Releasor's decision to enter into this General Release.

The undersigned Releasor further agrees that she has accepted payment of the sums as specified herein as a complete compromise of matters involving the disputed issues of law and fact. It is understood and agreed to by the parties that this settlement is a compromise of a doubtful and disputed claim, and the payment is not to be construed as an admission of liability on the part of the Releasee and any and all affiliates and subsidiaries.

Plaintiff agrees to investigate and assume any responsibility and/or liability to pay any current Medicare liens or other liens that may be related to the injury in question. Further, plaintiff and/or her estate agree to pay any future Medicare liens or other liens that may arise that are determined to be related to this injury. In the event that plaintiff and/or her estate fails to satisfy the outstanding

(3)

Medicare liens or other liens, then plaintiff's counsel agrees to assume responsibility for payment of any and all outstanding and future Medicare liens or other liens that are determined to be related to this injury.

Plaintiff agrees to indemnify and/or hold harmless defendant for any loss of Medicare benefits or for any recovery the Centers for Medicare and Medicaid services may pursue. Plaintiff further agrees to waive any and all potential/future claims against defendant that may arise under the Medicare Secondary Payor Statute, 42 USC 1395y et al.

It is further understood and agreed and made part hereof, that neither the Releasor, her attorneys or other representatives, will in any way publicize, in any news or communications media, including but not limited to newspapers, magazines, radio or television, the facts or terms and conditions of this settlement. All parties to this agreement expressly agree to decline comment on any aspect of this settlement to any member of the news media. This paragraph is intended to become part of the consideration for settlement of this claim.

If this settlement is ever determined by any court to be without effect because some necessary court approval was not obtained, or if the released parties are subjected to further legal action or claim which could not have been instituted or presented had proper court approval been obtained by plaintiff, then plaintiff will indemnify the released parties any for future loss, cost or expense including but not limited to reasonable attorney's fees for defending, litigating and settling any such claims or action, and for any judgment resulting from any such action or claim.

This General Release contains the entire agreement between the undersigned Releasor and the Releasee, and any and all affiliates and subsidiaries, with regard to matters set forth herein and shall be binding upon and inure to the benefit of the executors, administrators, trustees, personal representatives, heirs, successors and assigns of each.

The undersigned Releasor further acknowledges that no additional promise or agreement has been made as consideration for this General Release and that the signing thereof has not been induced by any representatives of the parties release of or by anyone on their behalf, concerning the nature, extent or duration of the losses sustained or any matter whatsoever.

THE UNDERSIGNED HAS CAREFULLY READ THIS GENERAL RELEASE, FULLY UNDERSTANDS ITS TERMS, AND SIGNS THIS RELEASE AS THEIR FREE AND VOLUNTARY ACT.

Linda Lockett
Linda Lockett Personal Representative
of the Estate of Gilbert W. Lockett,
and individually on her own behalf.

10/01/10
Date

In witness whereof, the undersigned Linda Lockett, has hereby executed this General Release before me personally this 1st day of October, 2010.

Subscribed and sworn to before me

on 10/01, 2010

Notary Public, Mary A. Keller County of Clearfield

My Commission Expires: 4/07/2014

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Mary A. Keller, Notary Public

Sandy Twp., Clearfield County

My Commission Expires April 7, 2014

Member, Pennsylvania Association of Notaries

EXHIBIT C

A			CLEARFIELD HOSPITAL		P.O. BOX 992		16830-0992		PAGE NO. 1
TYPE OF BILL	DATE OF BILL	DATE OF PREV. BILL	CLEARFIELD, PA.		814 765-5341				HOSP. NO.
CYCLE	03/24/07		FEI # 250979346						0066
OUTP.									

M	E	PATIENT NAME	PATIENT NUMBER	SEX	AGE	ADMISSION DATE	DISCHARGE DATE	DAYS
		LOCKETT, GILBERT WILLIS	55521439	M		03/16/07		

GUARANTOR NAME AND ADDRESS	GILBERT W LOCKETT 1946 BARRETT ROAD WOODLAND PA 16881	C.O.D.	INSURANCE COMPANY NAME	GROUP NUMBER	POLICY NUMBER
		1	MED PART B OP N25		186281035A
		2	AARP		09482888311
			CLARK GORDON P		

AMOUNT OF PAYMENT	\$
-------------------	----

DATE OF SERVICE	DESCRIPTION OF HOSPITAL SERVICES	SERVICE CODE	TOTAL CHARGES	EST. COVERAGE INS.CO. NO. 1	EST. COVERAGE INS.CO. NO. 2	EST. COVERAGE INS.CO. NO. 3	EST. COVERAGE INS.CO. NO. 4	PATIENT AMOUNT
DETAIL OF CURRENT CHARGES, PAYMENTS AND ADJUSTMENTS								
03/16	001CARDIOPUL RES	43600790	724.00	724.00				
03/16	001NSS 1000 ML	37710464	38.00	38.00				
03/16	001IV PUMP SET A	37510120	11.10	11.10				
03/16	001TUBING CONNEC	37510146	3.40	3.40				
03/16	001SUCTION CATHE	37510815	3.40	3.40				
03/16	001JELCO IV	37510864	5.40	5.40				
03/16	001TUBE ENDOTRAC	37511268	11.10	11.10				
03/16	001ELECTRODE 5PK	37512019	3.40	3.40				
03/16	001ELECTRODE 5PK	37512019	3.40	3.40				
03/16	002YANKAUR SUCT	37514536	6.80	6.80				
03/16	001INTUBATING ST	37516606	14.50	14.50				
03/16	001IV SECUREMENT	37518859	11.15	11.15				
03/16	001FACILITY FEE	37810033	384.00	384.00				
03/16	001LEVEL 4 EXAM	47910039	225.00	225.00				
03/16	003EPINEPHRINE 0	43106905	22.77	22.77				
03/16	003ATROPINE ABBO	43116086	23.67	23.67				
03/16	001EPIPEN 0.3MG	43118231	169.95	169.95				
BALANCE FORWARD			0.00					
SUMMARY OF CURRENT CHARGES								
E/R FEE			384.00	384.00				
E/R PHYSICIAN FEE			225.00	225.00				
PHARMACY			38.00	38.00				
MED & SURG SUPPLY			73.65	73.65				
INHALATION THERAPY			724.00	724.00				
RX INJECTION			216.39	216.39				
SUB-TOTAL OF CURR. CHARGES			1661.04	1661.04				

TOTALS			1661.04	1661.04				
PATIENT NUMBER	PLEASE REFER TO PATIENT NUMBER ON ALL INQUIRIES AND CORRESPONDENCE.	ADDITIONAL PATIENT BILLING MAY BE NECESSARY FOR ANY CHARGES NOT POSTED WHEN THIS STATEMENT WAS PREPARED. OR IF INSURANCE CARRIERS DO NOT PAY ANY PART OF THE AMOUNTS SHOWN UNDER ESTIMATED INSURANCE COVERAGE.			PAY THIS AMOUNT		0.00	

CLEARFIELD HOSPITAL
CLEARFIELD, PA.

U5A

000055521439 N25U05A

APPROVED OMR NO. 093R-0775

1 CLEARFIELD HOSPITAL P O BOX 992 CLEARFIELD PA 16830 099 814 765 5341			2			3 PATIENT CONTROL NO. 55521439			4 TYPE OF BILL 131		
5 F.B. TAX NO. 250979346			6 STATEMENT OF SERVICES 031607			7 COV E 031607			8 N-C D 031607		
9 C-1 E 031607			10 L-R 031607			11					
12 PATIENT NAME LOCKETT GILBERT WILLIS						13 PATIENT ADDRESS 1946 BARRETT ROAD WOODLAND PA 16881					
14 BIRTHDATE 10311936			15 SEX M			16 M 031607			17 DATE 03 2 7		
18 MEDICAL RECORD NO. 149042			19			20			21		
22			23			24			25		
26			27			28			29		
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98			99			100			101		

UB-92 HCFA-1450

PAYER COPY

I CERTIFY THE CERTIFICATIONS ON THE REVERSE APPLY TO THIS BILL AND AM MADE A PARTY HERETO.

MEDICARE PART B OP

APPROVED OMB-0938-0006

HEALTH INSURANCE CLAIM FORM

<input type="checkbox"/> PICA 1. MEDICARE <input checked="" type="checkbox"/> MEDICAID <input type="checkbox"/> CHAMPUS <input type="checkbox"/> CHAMPVA <input type="checkbox"/> GROUP HEALTH PLAN <input type="checkbox"/> FECA <input type="checkbox"/> LUNG <input type="checkbox"/> OTHER <input type="checkbox"/> (Medicare #) (Medicaid #) (Sponsor's SSN) (VA File) (SSN or ID) (SSN) (ID)		1a. INSURED'S I.D. NUMBER (FOR PROGRAM IN ITEM 1) 186281035A	
2. PATIENT'S NAME (Last Name, First Name) LOCKETT GILBERT W		3. PATIENT'S BIRTH DATE SEX 10 31 1936 M <input checked="" type="checkbox"/> F <input type="checkbox"/>	
5. PATIENT'S ADDRESS (No., Street) 1946 BARRETT ROAD CITY: WOODLAND STATE: PA ZIP CODE: 16881 TELEPHONE (Include Area Code): ()		4. INSURED'S NAME (Last Name, First Name, Middle Initial) LOCKETT GILBERT W 7. INSURED'S ADDRESS (No., Street) 1946 BARRETT ROAD CITY: WOODLAND STATE: PA ZIP CODE: 16881 TELEPHONE (INCLUDE AREA CODE): ()	
9. OTHER INSURED'S NAME (Last Name, First Name, MI) a. OTHER INSURED'S POLICY OR GROUP b. OTHER INSURED'S DATE OF BIRTH SEX MM DD YY M <input type="checkbox"/> F <input type="checkbox"/> c. EMPLOYER'S NAME OR SCHOOL NAME d. INSURANCE PLAN NAME OR PROGRAM NAME		10. IS PATIENT'S CONDITION RELATED TO a. EMPLOYMENT ? (CURRENT OR) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO b. AUTO ACCIDENT? PLACE(STATE) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO c. OTHER ACCIDENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO 10d. RESERVED FOR LOCAL USE	
12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below. SIGNED SIGNATURE ON FILE DATE		11. INSURED'S POLICY GROUP OR FECA NUMBER a. INSURED'S DATE OF BIRTH SEX 10 31 1936 M <input checked="" type="checkbox"/> F <input type="checkbox"/> b. EMPLOYER'S NAME OR SCHOOL NAME c. INSURANCE PLAN NAME OR PROGRAM NAME MEDICARE PART B OP d. IS THERE ANOTHER HEALTH BENEFIT PLAN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO // yes, return to and complete item 9 a-d.	
14. DATE OF CURRENT ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY (LMP) MM DD YY 17. NAME OF REFERRING PHYSICIAN OR OTHER SOURCE SHAW MARK		15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS GIVE FIRST DATE MM DD YY C33969 17a. I.D. NUMBER OF REFERRING PHYSICIAN C33969	
19. RESERVED FOR LOCAL USE		16. DATES PATIENT UNABLE TO WORK IN CURRENT FROM MM DD YY TO MM DD YY 18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY	
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY. (RELATE ITEMS 1,2,3 OR 4 TO ITEM 24E BY LINE) 1. 4275 2.		20. OUTSIDE LAB? \$ CHARGES <input type="checkbox"/> YES <input type="checkbox"/> NO 22. MEDICAID RESUBMISSION CODE ORIGINAL REF. NO. 23. PRIOR AUTHORIZATION NUMBER	
24. A DATE(S) OF SERVICE From To B Place of Service C Type of Service D PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) CPT/HCPC MODIFIER E DIAGNOSIS CODE F \$ CHARGES G DAYS OR UNITS H EPSDT Family Plan I ENG J COB K RESERVED FOR LOCAL USE 03 16 07 03 16 07 23 99284 Q6 4275 225 00 1			
25. FEDERAL TAX I.D. 250979346 SSN EIN <input checked="" type="checkbox"/> <input type="checkbox"/>		26. PATIENT'S ACCOUNT NO. 55521439 27. ACCEPT ASSIGNMENT? (For govt. claims, see back) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill and are made a part thereof.) SHAW MARK 428928GUZ 03 26 2007 SIGNED DATE		32. NAME AND ADDRESS OF FACILITY WHERE SERVICES WERE RENDERED (If other than home or office) CLEARFIELD HOSPITAL 809 TURNPIKE AVENUE CLEARFIELD PA 16830	
		33. PHYSICIAN'S, SUPPLIER'S BILLING NAME, ADDRESS, ZIP CODE & PHONE # CLEARFIELD HOSPITAL PO BOX 992 CLEARFIELD PA 168300992 PIN# 400673 GRP#	

(APPROVED BY AMA COUNCIL ON MEDICAL SERVICE 8/88)

PLEASE PRINT OR TYPE

PAGE 001

Form HCFA-1500 (12-98) 3
Form OWCP-1500 Form RRB-1500

PT NAME PATIENT NO PT FC REP RC REASON PRODUCED HOSP PAGE
 OCKETT ,GILBERT WILLIS 5552143-9 E M 000 ZERO BL 05/04/07 U05A 0001
 DM 03/16/07 MR# 149042 BD 10/31/36 SEX M SS# 186-28-1035 DISP 7N
 SCH NONE DR CLARK GORDON P MAR ST MARRIED

UARRANTOR# 186281035 PH1 814 857-7892 PH2
 ILBERT W LOCKETT
 946 BARRETT ROAD
 OODLAND PA 16881

MP NAME NONE

PHONE

CONTACT

BL	03/24/07	CR	CA	DIST	000	STMTS	1	ST	CD	CTRCT	AMT	0.00	PER
		ROOM & BED		PHARMACY		M&S AND MISC				LABORATORY			
		0.00		254.39		73.65				0.00			
MAGING		OPRM-DEL-ANESTH		CARDIOPULMONARY		ER/ER		PHY	CLC		PT, OT & SP		
		0.00		0.00		724.00				609.00		0.00	

1	UNBL	0.00	I2	UNBL	0.00	I3	UNBL	0.00	I4	UNBL	0.00
	PT UNBL	0.00	TOT	CHGS	UNBILLED			0.00	CURRENT	BALANCE	
	PT CURR BALANCE									0.00	
1	N25	MED PART B OP N25		186281035A						0.00	
2	I37	AARP		09482888311						0.00	
3										0.00	
4										0.00	
TOT CURR ACCOUNT BAL:											0.00

OSTDATE	SVC	DATE	SVC	CD	DESCRIPTION	AMOUNT	BALANCE
3/16/07	BF				BALANCE FORWARD	0.00	0.00
3/18/07	03/16/07	3751012			IV PUMP SET ABBOTT	11.10	11.10
3/18/07	03/16/07	3751014			TUBING CONNECT	3.40	14.50
3/18/07	03/16/07	3751081			SUCTION CATHETER W/VO GLOV	3.40	17.90
3/18/07	03/16/07	3751086			JELCO IV	5.40	23.30
3/18/07	03/16/07	3751126			TUBE ENDOTRACHEAL	11.10	34.40
3/18/07	03/16/07	3751201			ELECTRODE 5PK	3.40	37.80
3/18/07	03/16/07	3751201			ELECTRODE 5PK	3.40	41.20
3/18/07	03/16/07	3751453			YANKAUR SUCT TIP	6.80	48.00
3/18/07	03/16/07	3751660			INTUBATING STYLET	14.50	62.50
3/18/07	03/16/07	3751885			IV SECUREMENT SET	11.15	73.65
3/18/07	03/16/07	3771046			NSS 1000 ML	38.00	111.65
3/24/07	03/16/07	3781003			FACILITY FEE - LEVEL 5	384.00	495.65
3/18/07	03/16/07	4310690			EPINEPHRINE 0.1MG	22.77	518.42
3/18/07	03/16/07	4311608			ATROPINE ABBOJECT	23.67	542.09
3/18/07	03/16/07	4311823			EPIPEN 0.3MG AUTO	169.95	712.04
3/18/07	03/16/07	4360079			CARDIOPUL RESUSCITATION	724.00	1,436.04
3/24/07	03/16/07	4791003			LEVEL 4 EXAM	225.00	1,661.04
3/18/07	03/18/07	**			DOCTOR NUMBER 01174		
3/18/07	03/18/07	**			SOCIAL SECURITY NUMBER 000000000		
3/18/07	03/18/07	**			MED RECORD NO		
3/18/07	03/18/07	**			FIN. CLASS M		
3/18/07	03/18/07	**			GUAR NAME ADDR		
3/18/07	03/18/07	**			PT PHONE NO. 000-0000		

PT NAME	PATIENT NO	PT FC	REP	RC	REASON	PRODUCED	HOSP	PAGE
JOCKETT, GILBERT WILLIS	5552143-9	E	M	000	ZERO BL	05/04/07	U05A	LAST
POSTDATE	SVC DATE	SVC CD	DESCRIPTION	AMOUNT	BALANCE			
03/20/07	03/20/07	**	FIN. CLASS M					
03/24/07	03/24/07	**	PATIENT DECEASED					
03/24/07	03/24/07	**	BILLED PAT	0.00				
03/24/07	03/24/07	**	BILLED N25	1,661.04				
03/24/07	03/24/07	**	BILLED I37	0.00				
04/09/07	04/09/07	*	DEDUCT. \$0.00 COINS. \$110.75					
04/09/07	04/09/07	*	MCA CRN=20708502837401					
04/09/07	04/09/07	*	MCA CLAIM STS 1					
04/09/07	04/09/07	*	MCA REASON CODE=97 AMT=	\$328.04				
04/09/07	04/09/07	*	MCA REASON CODE=45 AMT=	\$675.38				
04/09/07	04/09/07	*	MCA ICN = 000000580					
04/09/07	04/09/07	**	BAL XFER N25 TO I37 TRACKING ID 10369					
04/09/07	04/09/07	0000097	PMT INCL W/OTHER SVC/PROC	0.00	1,661.04			
04/09/07	04/09/07	0011219	PAYMENT MEDICARE	321.87- <i>pyrd</i>	1,339.17			
04/09/07	04/09/07	0052009	ADJUSTMENT MEDICARE	1,003.42- <i>pyrd</i>	335.75			
04/09/07	04/09/07	0066666	TRANSFER PATIENT TO INSURA	335.75-	0.00			
04/09/07	04/09/07	0066666	TRANSFER PATIENT TO INSURA	335.75	335.75			
04/10/07	04/10/07	*	PKM BILLED AARP					
04/10/07	04/10/07	0011200	PART B/\$21.49 COINS	85.98- <i>pyrd</i>	249.77			
04/10/07	04/10/07	0052050	ADJUSTMENT MEDICARE 1500	117.53- <i>Adjust</i>	132.24			
04/10/07	04/10/07	0055555	TRANSFER INSURANCE TO INS	203.51	335.75			
04/10/07	04/10/07	0055555	TRANSFER INSURANCE TO INS	203.51-	132.24			
04/19/07	04/19/07	*	-LOUISE - AARP NEEDS BLD FOR THE	110.75	042007			
04/19/07	04/19/07	*	CO-INS (MLR)					
04/19/07	04/19/07	0011229	UNITED HEALTHCARE/AARP	21.49- <i>pyrd</i>	110.75			
05/01/07	05/01/07	0011229	UNITED HEALTHCARE/AARP	110.75- <i>pyrd</i>	0.00			

TYPE OF BILL	DATE OF BILL	DATE OF PREV. BILL
CYCLE	03/23/07	
OUTP.		

CLEARFIELD HOSPITAL
P.O. BOX 992
CLEARFIELD, PA.
814 765-5341
FEE # 250979346

16830-0992

PAGE NO.
1
HOSP. NO.
0066

M	E	PATIENT NAME	PATIENT NUMBER	SEX	AGE	ADMISSION DATE	DISCHARGE DATE	DAYS
		LOCKETT, GILBERT WILLIS	55520332	M		03/15/07		

GUARANTOR NAME AND ADDRESS	GILBERT W LOCKETT 1946 BARRETT ROAD WOODLAND PA 16881	INSURANCE COMPANY NAME	GROUP NUMBER	POLICY NUMBER
		1 MED PART B OP N25		186281035A
		2 AARP		09482888311
DESANTIS JAMES P				

AMOUNT OF PAYMENT	\$
-------------------	----

DATE OF SERVICE	DESCRIPTION OF HOSPITAL SERVICES	SERVICE CODE	TOTAL CHARGES	EST. COVERAGE INS.CO. NO. 1	EST. COVERAGE INS.CO. NO. 2	EST. COVERAGE INS.CO. NO. 3	EST. COVERAGE INS.CO. NO. 4	PATIENT AMOUNT
DETAIL OF CURRENT CHARGES, PAYMENTS AND ADJUSTMENTS								
03/15	003TYLENOL EX-ST	43104033						
03/15	001NSS 100 ML	37710324	28.00	28.00				
03/15	001NSS 1000 ML	37710464	38.00	38.00				
03/15	001NSS 1000 ML	37710464	38.00	38.00				
03/15	001IV PUMP SET A	37510120	11.10	11.10				
03/15	001SPONGE 2 X 2	37515426	3.40	3.40				
03/15	001FACILITY FEE	37810025	330.00	330.00				
03/15	001LEVEL 4 EXAM	47910039	225.00	225.00				
03/15	001VENI/CAP SPEC	40290009	8.00	8.00				
03/15	001BASIC METABOL	40212565	30.00	30.00				
03/15	001CBC WITH MANU	40221566	28.00	28.00				
03/15	001COMP CBC MANU	40221657	8.00	8.00				
03/15	001ROCEPHIN 1GM	43100890	66.87	66.87				
03/15	001OXYGEN PER DA	43600048	44.00	44.00				
03/15	001CT HEAD/BRAIN	42200089	685.00	685.00				
03/15	001GRAM NEG ID	40231367	25.00	25.00				
03/15	001CULTURE-URINE	40231573	50.00	50.00				
03/15	001SENS GRAM NEG	40231672	58.00	58.00				
03/15	001AUTOMATED U/A	40200123	28.00	28.00				
	BALANCE FORWARD		0.00					
SUMMARY OF CURRENT CHARGES								
	E/R FEE		330.00	330.00				
	E/R PHYSICIAN FEE		225.00	225.00				
	PHARMACY		104.00	104.00				
	LABORATORY		235.00	235.00				
	MED & SURG SUPPLY		14.50	14.50				
	RX INJECTION		66.87	66.87				
	OXYGEN		44.00	44.00				
	CT SCAN HEAD		685.00	685.00				

PATIENT NUMBER	PLEASE REFER TO PATIENT NUMBER ON ALL INQUIRIES AND CORRESPONDENCE.	ADDITIONAL PATIENT BILLING MAY BE NECESSARY FOR ANY CHARGES NOT POSTED WHEN THIS STATEMENT WAS PREPARED. OR IF INSURANCE CARRIERS DO NOT PAY ANY PART OF THE AMOUNTS SHOWN UNDER ESTIMATED INSURANCE COVERAGE.
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000055520332 N25U05A		APPROVED OMR NO. 0838-0776					
CLEARFIELD HOSPITAL P O BOX 992 CLEARFIELD PA 16830 099 814 765 5341		3 PATIENT CONTROL NO. 55520332					
5 FED. TAX NO. 250979346		STATEMENT FROM 031507 031507					
12 PATIENT NAME LOCKETT GILBERT WILLIS		13 PATIENT ADDRESS 1946 BARRETT ROAD WOODLAND PA 16881					
14 BIRTHDATE 10311936 M M 031507 18 2 7		23 MEDICAL RECORD NO. 01 149042					
32 OCCURRENCE CODE 11 031507		37 A B C					
36 GILBERT W LOCKETT 1946 BARRETT ROAD WOODLAND PA 16881		39 VALUE CODES AMOUNT 40 VALUE CODES AMOUNT 41 VALUE CODES AMOUNT					
42 REV. CD	43 DESCRIPTION	44 HCPCS/RATES	45 SERV. DATE	46 SERV. UNITS	47 TOTAL CHARGES	48 NON-COV'D CHRG	49
1	258 IV SOLUTIONS		031507	3	10400		
2	270 MED-SUR SUPPLIES		031507	1	4400		
3	271 NON-STER SUPPLY		031507	1	1110		
4	272 STERILE SUPPLY		031507	1	340		
5	300 LABORATORY	36415	031507	1	800		
6	301 LAB/CHEMISTRY	80048	031507	1	3000		
7	305 LAB/HEMATOLOGY	85007	031507	1	800		
8	305 LAB/HEMATOLOGY	85027	031507	1	2800		
9	306 LAB/BACT-MICRO	87077	031507	1	2500		
10	306 LAB/BACT-MICRO	87086	031507	1	5000		
11	306 LAB/BACT-MICRO	87186	031507	1	5800		
12	307 LAB/UROLOGY	81001	031507	1	2800		
13	350 CT SCAN	70450	031507	1	68500		
14	450 EMERG ROOM	99284	031507	1	33000		
15	636 DRUG/DETAIL CODE	J0696	031507	4	6687		
17	001 TOTAL CHARGES				147937		
50 PAYER A MEDICARE B AARP		51 PROVIDER NO. 390052 250979346		54 PRIOR PAYMENTS Y Y Y Y		55 EST. AMOUNT DUE 147937	
57 000055520332 N25U05A DUE FROM PATIENT							
58 INSURED'S NAME A LOCKETT GILBERT W B LOCKETT GILBERT W		59 P. REL 18 18		60 CERT. - SSN - MIC. - ID NO. 186281035A 09482888311		61 GROUP NAME MEDICARE AARP	
62 INSURANCE GROUP NO.							
63 TREATMENT AUTHORIZATION CODES A B C		64 ESC NONE NONE		65 EMPLOYER NAME 66 EMPLOYER LOCATION			
67 PRIN. DIAG. CD 5990		68 CODE 27651		69 CODE 78079		70 CODE	
71 CODE		72 CODE		73 CODE		74 CODE	
75 ADX DIAG. CD 78079		76 E-CODE		78			
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APPROVED OMB-0938-0008

PICA ☐

1. MEDICARE <input type="checkbox"/> PICA <input type="checkbox"/>		MEDICAID <input type="checkbox"/> CHAMPUS <input type="checkbox"/> CHAMPVA <input type="checkbox"/>		GROUP HEALTH PLAN <input type="checkbox"/> FECA <input type="checkbox"/> BIK LUNG <input type="checkbox"/> OTHER <input type="checkbox"/>		1a. INSURED'S I.D. NUMBER (FOR PROGRAM IN ITEM 1)	
2. PATIENT'S NAME (Last Name, First Name, Middle Initial) LOCKETT GILBERT W		3. PATIENT'S BIRTH DATE 10 31 1936		SEX M <input checked="" type="checkbox"/> F <input type="checkbox"/>		4. INSURED'S NAME (Last Name, First Name, Middle Initial) LOCKETT GILBERT W	
5. PATIENT'S ADDRESS (No., Street) 1946 BARRETT ROAD		6. PATIENT RELATIONSHIP TO INSURED Self <input checked="" type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Other <input type="checkbox"/>		7. INSURED'S ADDRESS (No., Street) 1946 BARRETT ROAD		8. INSURED'S CITY WOODLAND	
CITY WOODLAND		STATE PA		9. INSURED'S CITY WOODLAND		STATE PA	
ZIP CODE 16881		TELEPHONE (Include Area Code) ()		10. INSURED'S ZIP CODE 16881		TELEPHONE (INCLUDE AREA CODE) ()	
9. OTHER INSURED'S NAME (Last Name, First Name, MI)		10. IS PATIENT'S CONDITION RELATED TO		11. INSURED'S POLICY GROUP OR FECA NUMBER			
a. OTHER INSURED'S POLICY OR GROUP		a. EMPLOYMENT ? (CURRENT OR <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		a. INSURED'S DATE OF BIRTH 10 31 1936			
b. OTHER INSURED'S DATE OF BIRTH MM DD YY M <input type="checkbox"/> F <input type="checkbox"/>		b. AUTO ACCIDENT? PLACE (State) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		b. EMPLOYER'S NAME OR SCHOOL NAME			
c. EMPLOYER'S NAME OR SCHOOL NAME		c. OTHER ACCIDENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		c. INSURANCE PLAN NAME OR PROGRAM NAME MEDICARE PART B OP			
d. INSURANCE PLAN NAME OR PROGRAM NAME		10d. RESERVED FOR LOCAL USE		d. IS THERE ANOTHER HEALTH BENEFIT PLAN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO // yes, return to and complete item 9 a-d.			
12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below. SIGNED SIGNATURE ON FILE DATE				13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below. SIGNED SIGNATURE ON FILE			
14. DATE OF CURRENT ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY (LMP) MM DD YY		15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS GIVE FIRST DATE MM DD YY		16. DATES PATIENT UNABLE TO WORK IN CURRENT FROM MM DD YY TO MM DD YY			
17. NAME OF REFERRING PHYSICIAN OR OTHER SOURCE SHAW MARK		17a. I.D. NUMBER OF REFERRING PHYSICIAN C33969		18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY			
19. RESERVED FOR LOCAL USE		20. OUTSIDE LAB? \$ CHARGES <input type="checkbox"/> YES <input type="checkbox"/> NO		21. MEDICAID RESUBMISSION CODE ORIGINAL REF. NO.			
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY. (RELATE ITEMS 1,2,3 OR 4 TO ITEM 24E BY LINE) 1. 5990 2. 27651 3. 178079 4. 11		22. PRIOR AUTHORIZATION NUMBER		23. FEDERAL TAX I.D. 250979346			
24. A DATE(S) OF SERVICE From DD YY To DD YY		B Place of Service		C Type of Service		D PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) CPT/HCPC MODIFIER	
E DIAGNOSIS CODE		F \$ CHARGES		G DAYS OR WEEKS		H EPSDT Family Plan	
I EMG		J COB		K RESERVED FOR LOCAL USE			
25. FEDERAL TAX I.D. 250979346		26. PATIENT'S ACCOUNT NO. 5520332		27. ACCEPT ASSIGNMENT? (For govt. claims, see back) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		28. TOTAL CHARGE \$ 225.00	
29. AMOUNT PAID \$		30. BALANCE DUE \$ 225.00		31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse of this bill are made a part thereof.) SHAW MARK 428928GUZ 03 26 2007			
32. NAME AND ADDRESS OF FACILITY WHERE SERVICES WERE RENDERED (If other than home or office) CLEARFIELD HOSPITAL 809 TURNPIKE AVENUE CLEARFIELD PA 16830		33. PHYSICIAN'S, SUPPLIER'S BILLING NAME, ADDRESS, ZIP CODE & PHONE # CLEARFIELD HOSPITAL PO BOX 992 CLEARFIELD PA 168300992 PI# 400673					
SIGNED DATE		GRP#					

PLEASE PRINT OR TYPE

~~PAGE 001~~

Form HOPA-1500 (12-99) 3
Form OWCP-1500 Form RRB-1500

PT NAME PATIENT NO PT FC REP RC REASON PRODUCED HOSP PAGE
 LOCKETT, GILBERT WILLIS 5552033-2 E M 000 ZERO BL 05/04/07 U05A 0001
 ADM 03/15/07 MR# 149042 BD 10/31/36 SEX M SS# 186-28-1035 DISP HR
 OSCH NONE DR DESANTIS JAMES P MAR ST MARRIED

GUARANTOR# 186281035 PH1 814 857-7892 PH2
 GILBERT W LOCKETT
 1946 BARRETT ROAD
 WOODLAND PA 16881

EMP NAME NONE PHONE

CONTACT

FBL 03/23/07 CR CA DIST 000 STMTS 1 ST CD CTRCT AMT 0.00 PER
 ROOM & BED PHARMACY M&S AND MISC LABORATORY
 0.00 170.87 14.50 235.00
 IMAGING OPRM-DEL-ANESTH CARDIOPULMONARY ER/ER PHY CLC PT, OT & SP
 685.00 0.00 44.00 555.00 0.00

1 UNBL 0.00 12 UNBL 0.00 13 UNBL 0.00 14 UNBL 0.00
 PT UNBL 0.00 TOT CHGS UNBILLED 0.00 CURRENT BALANCE
 PT CURR BALANCE 0.00
 1 N25 MED PART B OP N25 186281035A 0.00
 2 I37 AARP 09482888311 0.00
 3 0.00
 4 0.00
 TOT CURR ACCOUNT BAL: 0.00

POSTDATE	SVC DATE	SVC CD	DESCRIPTION	AMOUNT	BALANCE
03/15/07	BF		BALANCE FORWARD	0.00	0.00
03/17/07	03/15/07	3751012	IV PUMP SET ABBOTT	11.10	11.10
03/17/07	03/15/07	3751542	SPONGE 2 X 2	3.40	14.50
03/17/07	03/15/07	3771032	NSS 100 ML	28.00	42.50
03/17/07	03/15/07	3771046	NSS 1000 ML	38.00	80.50
03/17/07	03/15/07	3771046	NSS 1000 ML	38.00	118.50
03/23/07	03/15/07	3781002	FACILITY FEE - LEVEL 4	330.00	448.50
03/17/07	03/15/07	4020012	AUTOMATED U/A W/MICROSCOPY	28.00	476.50
03/17/07	03/15/07	4021256	BASIC METABOLIC PANEL	30.00	506.50
03/17/07	03/15/07	4022156	CBC WITH MANUAL DIFF	28.00	534.50
03/17/07	03/15/07	4022165	COMP CBC MANUAL DIFF V	8.00	542.50
03/17/07	03/15/07	4023136	GRAM NEG ID	25.00	567.50
03/17/07	03/15/07	4023157	CULTURE-URINE	50.00	617.50
03/17/07	03/15/07	4023167	SENS GRAM NEG	58.00	675.50
03/17/07	03/15/07	4029000	VENI/CAP SPEC COLLECTION	8.00	683.50
03/17/07	03/15/07	4220008	CT HEAD/BRAIN W/O CONTRAST	685.00	1,368.50
03/17/07	03/15/07	4310089	ROCEPHIN 1GM ADD	66.87	1,435.37
03/17/07	03/15/07	4310403	TYLENOL EX-STR 50	0.00	1,435.37
03/17/07	03/15/07	4360004	OXYGEN PER DAY	44.00	1,479.37
03/23/07	03/15/07	4791003	LEVEL 4 EXAM	225.00	1,704.37
03/17/07	03/17/07	**	DOCTOR NUMBER 01174		
03/17/07	03/17/07	**	SOCIAL SECURITY NUMBER 000000000		
03/17/07	03/17/07	**	MED RECORD NO		
03/17/07	03/17/07	**	FIN. CLASS M		

PT NAME	PATIENT NO	PT	FC	REP	RC	REASON	PRODUCED	HOSP	PAGE
LOCKETT, GILBERT WILLIS	5552033-2	E	M	000	ZERO	BL	05/04/07	U05A	LAST
POSTDATE	SVC	DATE	SVC	CD	DESCRIPTION	AMOUNT	BALANCE		
03/17/07	03/17/07	**			GUAR NAME ADDR				
03/17/07	03/17/07	**			PT PHONE NO.	000-0000			
03/20/07	03/20/07	**			FIN. CLASS	M			
03/23/07	03/23/07	**			BILLED PAT		0.00		
03/23/07	03/23/07	**			BILLED N25		1,704.37		
03/23/07	03/23/07	**			BILLED I37		0.00		
04/09/07	04/09/07	*			DEDUCT.	\$0.00	COINS.	\$112.88	
04/09/07	04/09/07	*			MCA CRN=20708502837301				
04/09/07	04/09/07	*			MCA CLAIM STS 1				
04/09/07	04/09/07	*			MCA REASON CODE=97	AMT=	\$229.37		
04/09/07	04/09/07	*			MCA REASON CODE=42	AMT=	\$169.56		
04/09/07	04/09/07	*			MCA REASON CODE=45	AMT=	\$650.11		
04/09/07	04/09/07	*			MCA ICN = 000000580				
04/09/07	04/09/07	**			BAL XFER N25 TO I37 TRACKING ID 10369				
04/09/07	04/09/07	0000097			PMT INCL W/OTHER SVC/PROC	0.00		1,704.37	
04/09/07	04/09/07	0011219			PAYMENT MEDICARE	317.45-		1,386.92	
04/09/07	04/09/07	0052009			ADJUSTMENT MEDICARE	1,049.04-		337.88	
04/09/07	04/09/07	0066666			TRANSFER PATIENT TO INSURA	337.88-		0.00	
04/09/07	04/09/07	Q066666			TRANSFER PATIENT TO INSURA	337.88		337.88	
04/10/07	04/10/07	*			PKM BILLED AARP				
04/10/07	04/10/07	0011200			PART B/\$21.49 COINS	85.98-		251.90	
04/10/07	04/10/07	0052050			ADJUSTMENT MEDICARE 1500	117.53-		134.37	
04/10/07	04/10/07	0055555			TRANSFER INSURANCE TO INS	203.51		337.88	
04/10/07	04/10/07	0055555			TRANSFER INSURANCE TO INS	203.51-		134.37	
04/19/07	04/19/07	*			-LOUISE - AARP NEEDS BLD FOR THE	112.88		042007	
04/19/07	04/19/07	*			CO-INS (MLR)				
04/19/07	04/19/07	0011229			UNITED HEALTHCARE/AARP	21.49-		112.88	
05/01/07	05/01/07	0011229			UNITED HEALTHCARE/AARP	112.88-		0.00	

EXHIBIT D



pennsylvania
DEPARTMENT OF REVENUE

November 22, 2010

Christopher G. Buck
Pribanic & Pribanic, LLC
1735 Lincoln Way
White Oak, PA 15131

Re: Estate of Gilbert W. Lockett
File Number 1707-0239
Court of Common Pleas Clearfield County

Dear Mr. Buck,

The Department of Revenue received the Petition for Approval of Settlement Claim to be filed on behalf of the above-referenced Estate in regard to a wrongful death and survival action. It was forwarded to this Bureau for the Commonwealth's approval of the allocation of the proceeds paid to settle the actions.

Pursuant to the Petition, the decedent died as a result of medical negligence. The sole heir to decedent's estate is his spouse. Therefore, any proceeds paid to settle the survival action would pass to decedent's spouse and would be subject to a zero percent inheritance tax rate. 72 P.S. §9116(a)(1.1)(ii). Accordingly, regardless of the allocation of the subject proceeds, there would be no inheritance tax consequences.

Please be advised that based upon these facts and for inheritance tax purposes only, this Department has no objection to the proposed allocation of the net proceeds of this action, \$188,145.17 to the wrongful death claim and \$0 to the survival claim. Proceeds of a survival action are an asset included in the decedent's estate and, although subject to the imposition of a zero percent inheritance tax rate in this instance, they must be reported on decedent's Pennsylvania inheritance tax return. 42 Pa.C.S.A. § 8302; 72 P.S. § 9106, 9107. Costs and fees must be deducted in the same percentages as the proceeds are allocated. In re Estate of Merryman, 669 A.2d 1059 (Pa. Cmwlth. 1995).

I trust that this letter is a sufficient representation of the Department's position on this matter. As the Department has no objections to the Petition, an attorney from the Department of Revenue will not be attending the hearing regarding it. Please contact me if you or the Court has any questions or requires anything additional from this Bureau.

Sincerely,

Shannon E. Baker

Trust Valuation Specialist
Inheritance Tax Division



pennsylvania

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Sincerely,

Shannon E. Baker
Trust Valuation Specialist
Inheritance Tax Division

LINDA LOCKETT, individually, and
as Personal Representative of the
Estate of GILBERT W. LOCKETT,

VS.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES, and
GORDON P. CLARK, M.D.,

Defendants.

.....

JURY TRIAL DEMANDED

9 JAN 11 2011

William A. Shaw
Prothonotary/Clerk of Courts

1 cont. 40

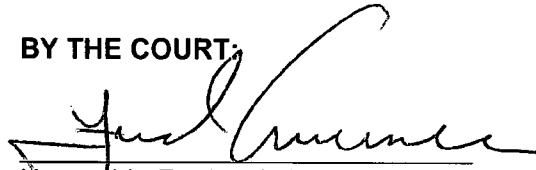
Atty Reason

AND NOW, upon consideration of the foregoing Petition and all matters of record, it is hereby ORDERED, ADJUDGED AND DECREED that the present value sum of \$350,000 is approved as settlement of this matter. Further, allocation of 100% of the settlement of this claim is subject to the Wrongful Death Statute pursuant to provisions of 42 Pa. C.S. §8301. Settlement distribution is directed as follows:

1. The *General Release of All Claims* shall be executed, on behalf of the Estate of Gilbert W. Lockett, by Linda Lockett, Personal Representative of the Estate.
2. Attorneys' fees in the amount of \$140,000 are approved as reasonable and fair and shall be paid to Pribanic & Pribanic, LLC, Attorneys for the Petitioner, for the prosecution of this matter.
3. The sum of \$20,150.46 shall be paid to Pribanic & Pribanic, LLC, Attorneys for the Petitioner, for reimbursement of costs expended, as said costs were reasonable and necessary for the advancement of this case.
4. The sum of \$1,704.37 shall be held in escrow until the outstanding Medicare lien is settled and paid to the Centers for Medicare and Medicaid Services; any portion of the \$1,704.37 released from the lien shall be distributed to Linda Lockett, the wife of the deceased and sole beneficiary of the Estate of Gilbert W. Lockett.

5. The sum of \$188,145.17 shall be paid pursuant to the Wrongful Death Statute to Linda Lockett, the surviving spouse of Gilbert W. Lockett.
6. Counsel for Petitioner shall promptly settle and discontinue the Clearfield County Civil Docket upon approval of the proposed settlement in accordance with the terms of this Order of Court as full and final satisfaction of the Wrongful Death/Survival Claims in this matter.

BY THE COURT:

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

Honorable Fredric J. Ammerman,
President Judge

1/10/11

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA LOCKETT, individually, and as
Personal Representative of the Estate
GILBERT W. LOCKETT

Plaintiff,

v.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES and GORDON
P. CLARK, M.D.

Defendants.

CIVIL DIVISION

CASE NO.: 08-1691-CD

**PRAECIPE TO SETTLE AND
DISCONTINUE**

Code: 007

Filed on behalf of Plaintiffs:

Counsel of Record for this Party:

Christopher G. Buck, Esquire
Pa. I.D. No.: 205265

PRIBANIC & PRIBANIC, L.L.C.
1735 Lincoln Way
White Oak, PA 15131

(412) 672-5444

GRD

FILED NO CC
m/10:29/01
MAR 31 2011

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LINDA LOCKETT, individually, and as a
Personal Representative of the Estate of
GILBERT W. LOCKETT

Plaintiff,

v.

CLEARFIELD HOSPITAL, CLEARFIELD
AREA HEALTH SERVICES and GORDON
P. CLARK, M.D.

Defendants.

) CIVIL DIVISION

) CASE NO.: 08-1691-CD

PRAECIPE TO SETTLE AND DISCONTINUE

To The Prothonotary:

Kindly Settle and Discontinue the above-captioned matter.

Respectfully submitted,

PRIBANIC & PRIBANIC, L.L.C.

By:

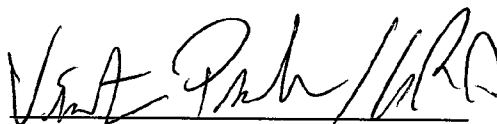


Victor H. Pribanic
Counsel for Plaintiff, Linda Lockett,
Individually, and as a Personal
Representative of the Estate of Gilbert W.
Lockett

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing has been served this 29th day of March, 2011, via first class United States mail, postage prepaid, upon the following counsel of record:

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

A handwritten signature in dark ink, appearing to read "V. H. Pribanic", is written over a horizontal line.

Victor H. Pribanic