

NORMAN E. JOHNSON, Plaintiff	: IN THE COURT OF COMMON PLEAS OF : LYCOMING COUNTY, PENNSYLVANIA : : NO. 02-01,253 : : CIVIL ACTION - LAW : : : : MOTION TO DISMISS
vs.	
ANGELA HAAS, M.D.; WILLIAM KEENAN, M.D.; JEFFREY VERZELLA, M.D.; AJAY KOSHEY, M.D.; KIM POORMAN, NURSE; and JOYCE FAIRFAX, NURSE, Defendants	

**Date: November 12, 2002**

**OPINION and ORDER**

The Motion before the Court is Dr. Angela Haas' Motion to Dismiss for Noninvolvement Pursuant to Pa.R.C.P. 1036 filed October 8, 2002. By Order of this Court, dated October 16, 2002, it was directed that any party opposing the averments made in the Affidavit of Noninvolvement respond within thirty days of the order. Upon such a response, any party could file a Rule L206 cover sheet requesting that the Court determine the existence of a *prima facie* case for dismissal. Plaintiff Norman Johnson filed a Response to the Affidavit of Non-Involvement of Angela Haas, M.D. on October 14, 2002. Dr. Haas submitted a Rule L206 cover sheet requesting that the Court make a *prima facie* determination for dismissal.

There does not exist a *prima facie* case for dismissal. In determining whether there exists a *prima facie* case for dismissal the question is "whether any party opposing the motion has produced evidence, which, when considered in a light most favorable to that party, would require the issue of involvement of any party seeking dismissal to be submitted to a jury." *See*, Pa.R.C.P. 1036(e). Viewing Johnson's response in the most favorable light, he has produced evidence that would require a jury to determine the issue of Haas. According to

Johnson's response, he saw a physician on June 22, 2002. When asked, Nurse Poorman stated that it was Dr. Haas who treated Johnson. Johnson could provide a description and identification of the physician that treated him on June 22, 2002 as being Dr. Haas. These alleged facts raise a question as to whether Dr. Haas treated Johnson on June 22, 2002. The resolution of this question is best left to a jury.

**ORDER**

It is hereby ORDERED and DIRECTED that Defendant Haas' Motion for Dismissal upon Affidavit of Noninvolvement is denied.

BY THE COURT:

William S. Kieser, Judge

cc: Robin E. Read, Esquire  
Gary L. Weber, Esquire  
Norman E. Johnson – ES-6785  
SCI Smithfield; P. O. Box 999; Huntingdon, PA 16652  
Judges  
Christian J. Kalas, Esquire  
Gary L. Weber, Esquire (Lycoming Reporter)