

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

BARBARA HOSTERMAN, :
Plaintiff : No. 06-02202
vs. :
: CIVIL ACTION – LAW
: Medical Professional Liability Action
JERSEY SHORE HOSPITAL, :
Defendant : Plaintiff's Motion for Summary Judgment

BARBARA HOSTERMAN, : No. 06-02614
Plaintiff :
vs. : CIVIL ACTION - LAW
: Medical Professional Liability Action
STEVEN KATZ, D.O., : Plaintiff's Motion for Summary Judgment

ORDER

AND NOW, this ___ day of December 2007, the Court DENIES Plaintiff's Motion for Summary Judgment. Plaintiff relies on the case of *Quinby v. Plumsteadville Family Practice, Inc.*, 589 Pa. 183, 907 A.2d 1061 (Pa. 2006) for the proposition that in certain cases involving res ipsa loquitor the inference may be so strong that the inference must be drawn. Plaintiff contends this retained sponge case is such a case and, therefore, summary judgment must be granted in her favor. While *Quinby* discusses situations where the Court makes the determination as a matter of law and removes the issue from the jury, *Quinby* contemplates this being done in the context of a directed verdict, not summary judgment. *See*, 589 Pa. at 207-208, 907 A.2d at 1075. Therefore, although Plaintiff may have a strong case for liability against Defendants, the Court does not believe it can grant summary judgment to Plaintiff.

By The Court,

Kenneth D. Brown,
President Judge

cc: David Bahl, Esquire/Brian Bluth, Esquire
Terry Hyman, Esquire
Schmidt Kramer, PC
209 State Street
Harrisburg, PA 17101
Craig Stone, Esquire
Marshall Dennehey Warner Coleman & Goggin
4200 Crums Mill Road, Suite B
Harrisburg, PA 17112
Gary Weber, Esquire (Lycoming Reporter)