

Larry E. Riley, Esq.
GARLINGTON, LOHN & ROBINSON
199 W. Pine, P.O. Box 7909
Missoula, MT 59807
(406) 523-2500

Attorneys for Defendant

MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY

ROB QUIST, and BONNI QUIST,)	Cause No. DV-94-526A
wife,)	
)	PLAINTIFFS' ANSWERS TO
Plaintiffs)	DEFENDANT ROCH R.
)	BOYER, M.D.'S FIRST
vs.)	SET OF INTERROGATORIES
)	TO PLAINTIFF ROB QUIST
ROCH R. BOYER, M.D.,)	
)	
Defendant.)	
_____)	

Plaintiffs herewith object to the number of Interrogatories requested by Defendant Boyer. Pursuant to Rule 33(a), M.R.Civ.P., "Unless otherwise ordered or stipulated, no party may serve on any other party more than 50 interrogatories in the aggregate. Each subpart shall be counted as a separate interrogatory. Additional interrogatories may be submitted for good cause only by leave of court." The Interrogatories submitted to the Plaintiffs clearly exceed 50 in the aggregate and are burdensome and oppressive. Plaintiffs will answer the first 50 interrogatories.

Without waiving the same, Plaintiffs herewith submit their responses to Defendant Roch R. Boyer, M.D.'s First Set of Interrogatories to Plaintiff Rob Quist.

INTERROGATORY NO. 1: Please state:

(a) Your full name.

PLAINTIFFS' ANSWERS TO DEFENDANT
BOYER'S FIRST DISCOVERY REQUESTS



- (b) Your date and place of birth.
- (c) Your present address.
- (d) Your social security number.

ANSWER:

- (a) Robert Ernest Quist
- (b) January 5, 1948. Cutbank, MT
- (c) 581 Riverside Road, Kalispell, MT 59903
- (d) [REDACTED]

INTERROGATORY NO. 2: Are you married at the present time, and if so, state the following:

- (a) Your spouse's full name.
- (b) The date and place of your marriage.
- (c) Whether or not your spouse is now living with you, and if not, when the separation occurred.
- (d) Your spouse's present address.
- (e) If you were previously married, the name and present residence address of each spouse and the dates of commencement and termination of each marriage.
- (f) List the names, addresses and ages of the children by your present and/or former spouse.

ANSWER:

- (a) Bonni Willows Quist
- (b) June 17, 1979. Rocky Point, Flathead Lake, Montana.
- (c) Yes.
- (d) 581 Riverside Road, Kalispell, MT 59903.
- (e) Holly Wreath, address unknown.

July, 1978 or 1979.

- (f) Guthrie Weston Quist, age 13, Halladay Rose Quist, age 9. Address same as Plaintiffs.

INTERROGATORY NO. 3: List your residence addresses for the past ten (10) years, along with the inclusive dates you lived at those addresses.

ANSWER:

- (1) 581 Riverside Road, Kalispell, MT 59901; September 1991 to the present.
- (2) West Willow Street, Louisville, CO 80027; Fall of 1986 to September, 1991.
- (3) Elizabeth, CO. (Plaintiff does not recall exact street address); Fall of 1985 to fall of 1986.

INTERROGATORY NO. 4: Were you employed at the time of the alleged malpractice or at any time during any of the ten (10) years immediately preceding the alleged malpractice?

If so, for each employment, state:

- (a) The name, address and business of the employer.
- (b) The date you commenced work for the employer and the date you terminated work for the employer.
- (c) The reason for terminating the work.
- (d) The position or title you held for the employer.
- (e) A description of your duties for the employer.

(f) Your basic wage or salary during your period of employment.

(g) A description of all additional compensations or benefits you received or were entitled to.

ANSWER: Plaintiff has been self-employed as a song writer and musician for the last 25 years. Please see tax returns from 1988 through 1993, attached hereto as Exhibit 1.

INTERROGATORY NO. 5: Since the date of the alleged malpractice, have you been employed?

If so, for each employment state the following:

(a) The name, address and business of each employer.

(b) The date employment commenced and the date employment terminated for each employer.

(c) The reason for termination for each employer.

(d) Your rate of pay at the time of termination.

(e) Your position or title and duties during that employment.

ANSWER: Same as Interrogatory No. 4.

INTERROGATORY NO. 6: For any period of unemployment you have had in the last ten (10) years, state:

(a) The inclusive dates.

(b) Your address at the time.

(c) The reason for your unemployment.

ANSWER: Plaintiff has been hospitalized on six different occasions all relating to the severed bile duct. Plaintiff has had

to cancel music engagements each time he was hospitalized, and during his recovery periods. Plaintiff has suffered severe financial repercussions as a direct result of the severing of his common bile duct.

INTERROGATORY NO. 7: How many years of formal education have you had and what was the nature of that formal education.

ANSWER: Seventeen years of formal schooling, including primary, secondary, and five years at the University of Montana studying Music and Physical Therapy.

INTERROGATORY NO. 8: Have you received any schooling or training either in connection with employment or on your own? If so, give a description of that schooling and training.

ANSWER: Plaintiff received training in Music throughout his educational years.

INTERROGATORY NO. 9: Have you ever served in the armed forces of the United States. If so, state:

- (a) The branch of service.
- (b) Your serial number.
- (c) The date of commencement and termination of service.
- (d) The highest rank attained.
- (e) The type of discharge received.

ANSWER: No.

INTERROGATORY NO. 10: State in detail and with particularity whether or not you have received any governmental, either state or federal, benefits or payments of any nature in past years. If so, state:

- (a) The nature of such benefits.
- (b) The reason for receiving the same.
- (c) The inclusive dates of receiving the benefits.
- (d) The amounts received.
- (e) The reason for the termination of the benefits.

ANSWER: None.

INTERROGATORY NO. 11: Please state:

(a) Your gross annual earnings for each of the ten (10) calendar years before the date of the alleged malpractice. If only part of a year is included, please specify which months.

(b) Your gross annual earnings for each calendar year since the occurrence of the alleged malpractice. If only part of a year is included, please specify which months.

ANSWER: (a - b): 1987: \$45,966.00. In addition, see tax returns for the years 1988 through 1993, attached hereto as Exhibit 1. Plaintiffs do not have information as to their income for the years 1985 through 1986. Gross income for 1994 was \$136,412.00.

INTERROGATORY NO. 12: Do you have records of your income tax, both state and federal, for the past ten (10) years? If so, please attach a copy of the same to these answers.

If you will not produce a copy of the same without a Motion to Produce, please state:

(a) Who prepared the return.

(b) What name or names are listed as taxpayer on the returns.

(c) Your address at the time the returns were filed.

(d) Where your returns were filed.

(e) What date the returns were filed.

ANSWER: See Exhibit 1, attached, tax returns for the years 1988 through 1993. Plaintiff does not have tax returns for the years 1985 through 1987. Tax returns for 1994 have not been completed. They will be produced to the Defendant upon their completion.

INTERROGATORY NO. 13: As a result of the alleged malpractice which is the basis of this action, do you claim any lost wages or earnings from any source or any employment or lost income from any source? If so, for each employment and for each source state the following:

(a) The name and address of the employer.

(b) Time that was lost in the employment, giving the inclusive dates thereof.

(c) The gross amount of wages or earnings lost.

(d) The net take home pay lost.

(e) State in detail and with particularity what caused the loss.

(f) Give a complete detailed computation of the total lost earnings or wages to date.

ANSWER: (a - f): The Plaintiff is self-employed.

During the time after the malpractice, he lost a substantial amount of time in recovering from injuries that were caused by the malpractice. Because of the nature of the Plaintiff's career, it is difficult to estimate the precise amount of lost income because of his injuries. During the year 1992, the Plaintiff was unable to perform at sixteen engagements that had been previously booked because of his injuries. He further missed an unknown amount of engagements because he was unable to book additional engagements.

In 1992, Plaintiff Rob Quist lost \$32,650.00 because of missed engagements that were booked but he was unable to attend because of hospitalization and illness due to his severed bile duct. He also lost an estimated \$2,500.00 in merchandising for the missed engagements in 1992. Further, he estimates that he has lost \$245,000.00 in wages from 1993 to date as a direct result of his loss of ability to book and hold engagements. The Plaintiff believes that he has suffered a future loss of earning capacity which is not yet fully known. This amount will be the subject of expert testimony.

INTERROGATORY NO. 14: As a result of the injuries sustained in the alleged malpractice which is the basis of this action, are you now unable to perform or restricted in the performance of any duties or activities of your employment? If so, state:

(a) The nature and extent of such disability or restriction.

(b) The manner in which your employment is adversely affected.

(c) Whether such disability or restriction is temporary or permanent.

(d) The estimated future date at which you will be able to resume your normal employment duties and activities.

ANSWER:

(a) Since the initial surgery of April 21, 1992, Plaintiff Rob Quist has suffered dizzy spells, severe chills which require bed rest, lack of energy and stamina so severe as to require immediate bed rest. This condition has seriously impacted Plaintiff's ability to function as a father, husband, and entertainer. The Plaintiff has prematurely aged because of his failing health. He is unable to pursue his career in the manner that is necessary to keep successful in a highly competitive field.

(b) For the past three years, Plaintiff Rob Quist has been unable to perform more than three nights in a row without taking time off to recover his energy and strength. Before the severing of Plaintiff's common bile duct, he was able to work a full day booking shows, rehearse before a show, and give a good, strong, energetic performance. Presently, the Plaintiff now must rest the day of his performance, in order to have the energy to perform. Plaintiff no longer has the energy to devote to the bookings and performances that are essential to the continued success of his music career. He is unable to perform more than

three nights in a row without resting. On the one occasion in 1993 when he attempted an eight day tour, Plaintiff was bedridden for two weeks following the tour because of exhaustion.

Prior to the April 21, 1992 surgery, Plaintiff was able to launch long tours in order to promote and support album releases, but is now unable to do so. He is unable to perform with the energy that he displayed before the surgery, and promoters have been reluctant to rehire him for this reason. Return engagements are the key to the music industry, and prior to the surgery, Plaintiff had no difficulties in being offered return engagements. After the April 21, 1992 surgery, rebookings have dropped considerably.

Plaintiff was unable to release his third album on schedule because of his poor health, and this has also severely impacted his career and income.

Plaintiff has been hospitalized six times in 2 1/2 years in relation to the severing of his common bile duct, and the hospitalizations along with the extended recoveries have devastated Plaintiff's carefully planned career goals. This damage is irreparable as the music industry depends on image, visual appeal, energy, ability to generate product, and promotion through constant touring.

Because of Plaintiff's reduced touring ability and numerous hospitalizations, most of his long time band members left in 1994 to find more stable employment. Dave Griffith, who was the "backbone" of Plaintiff's band, playing piano, electric guitar, steel guitar, saxophone, synthesizer, mandolin, and provided the

high harmonies in vocal arrangements, left Plaintiff's band for more stable employment. Mr. Griffith also helped with Plaintiff's music arrangement, and his departure was a major blow to Plaintiff's organization. Mr. Griffith would not have left the band, but for his concern that his position was in jeopardy because of Plaintiff's ill health and continued hospitalizations. Mr. Gary Snow, Plaintiff's long time bass player, also left the organization because of his concern for his continued employment because of Plaintiff's ill health.

Plaintiff was also forced to sell his Tour Bus because he was unable to afford it with his reduced income.

(c) Plaintiff's condition is most likely permanent. His prognosis is an increased chance of continual procedures and operations to remedy strictures at the anastomosis site, and which can scar shut at any future date - even eight to ten years after the hepaticojejunostomy - and ultimately cause more liver damage. This will further reduce Plaintiff's energy and vitality.

(d) Plaintiff is unlikely to ever regain the vitality and energy that he had previous to the April 21, 1992 surgery, as the condition caused by the severed common bile duct is ongoing, and Plaintiff will continue to suffer ill health.

INTERROGATORY NO. 15: As a result of the injuries sustained in the alleged malpractice which is the basis of this action, are you now unable to perform or restricted in the performance of any duties or activities other than your employment,

including hobbies and recreational activities? If so, state in detail what those restrictions are.

ANSWER: Plaintiff is unable to perform his duties as father and husband to his family as he once did prior to the severing of his common bile duct. The Plaintiff's family has been with him during his numerous hospitalizations, and watched him go through his traumatic home recoveries. His children's grades have suffered, and Plaintiff's son, Guthrie, has had emotional breakdowns in school, confiding to his teachers that he didn't know if his dad was going to live or die. The burden of raising the children has fallen on Plaintiff's wife, and she has the added responsibility of taking care of the children and the Plaintiff. Plaintiff has no energy for disciplining the children, or helping with routine family responsibilities. The Plaintiff has less energy for family outings, or extra curricular participation in school events.

Plaintiff no longer skis, runs, or participates in many of the physically demanding recreational activities he once enjoyed prior to the severing of his common bile duct.

Rob Quist spends all of his energy in an attempt to keep his career going on some level to avoid losing everything, and therefore has no extra energy to devote to his family or himself.

INTERROGATORY NO. 16: Did you have any insurance or any other source which covered any items of wage or income loss incurred as a result of this alleged malpractice: If so, please state:

(a) The name and address of any payors, and policy and claim number.

(b) The name of the insured.

(c) The amounts paid.

(d) The periods of time such claims were paid.

(e) The basis upon which the claim was paid.

(f) The final disposition of the claim.

ANSWER: No.

INTERROGATORY NO. 17: Give a detailed description of the nature, extent and duration of any and all injuries which you allege you sustained as a result of the alleged malpractice which is the basis of this action, and state when you first became aware of the symptoms.

ANSWER: See above Answers to Interrogatories.

INTERROGATORY NO. 18: State when, where and by whom you were first treated for your injuries and/or medical problem.

ANSWER: Assuming this Interrogatory refers to the severed bile duct, initially Plaintiff was treated at the Kalispell Regional Hospital by Dr. Roch Boyer on April 21, 1992, who performed an open cholecystectomy and common bile duct repair over a #10 French T-tube, in an attempt to repair the Plaintiff's common bile duct which he severed during an attempted laparoscopic cholecystectomy.

Plaintiff was then treated by Dr. Michael Hart at the Swedish Medical Center in Seattle, Washington on September 29, 1992.

INTERROGATORY NO. 19: If you have been treated by doctors please state as to each such doctor:

- (a) The name and present address.
- (b) The dates and places where treatment was received.
- (c) The nature and extent of the treatment.
- (d) The date of most recent treatment.
- (e) Whether the treatment is continuing as of this date and, if so, the nature of the continuing treatment.

ANSWER: (a) - (e): See medical records already in possession of Defendant Boyer. They include:

- (1) Dr. Michael Hart, 1221 Madison Street, #1411, Seattle, WA 98104.

Dates of Treatment: 7/10/92, 9/29/92 through 10/10/92, 10/20/94, 11/11/94, 11/14/94.

Nature of Treatment: Hepaticojejunostomy with Roux-n-Y Limb performed because of bile duct stricture.

Date of Most Recent Treatment: 11/14/94

Continuation of Treatment: Dr. Hart continues to treat the Plaintiff regarding potential stone formation at the anastomosis site.

- (2) Dr. Dennis Winkel, 1250 Burns Way, Kalispell, MT.

Dates of Treatment: 4/17/92 through 12/15/94.

Nature of Treatment: Treats the Plaintiff for general failing health, lack of energy, periodic liver tests, abdominal pain, dizzy spells, chills, etc.

Date of Most Recent Treatment: 12/15/94.

Continuation of Treatment: Continues treatment as described above.

- (3) **Dr. Richard C. Wise**, 75 Claremont Street, Kalispell, MT.

Dates of Treatment: 10/17/92

Nature of Treatment: Treated in Emergency Room at Kalispell Regional Hospital for pain and dehydration during recovery from one of Plaintiff's surgeries necessitated by the severing of the common bile duct.

Date of Most Recent Treatment: 10/17/92.

Continuation of Treatment: None.

- (4) **Dr. Jack H. Hirsch**, Seattle Nuclear Medicine, 1229 Madison St., Suite 1150, Seattle, WA.

Dates of Treatment: 10/20/94

Nature of Treatment: Abdominal echogram.

Date of Most Recent Treatment: 10/17/92.

Continuation of Treatment: Return in five months for further testing.

- (5) **Dr. Robert Feldman**, Seattle Radiologists, P.O. Box 24147, Seattle, WA

Dates of Treatment: 11/11/94

Nature of Treatment: Attempted to go through Plaintiff's abdomen to find Roux-en-Y loop and extract gall stone at entrance to his liver.

Date of Most Recent Treatment: 11/11/94

Continuation of Treatment: Unknown.

- (6) Dr. Dudley, Seattle Radiologists, P.O. Box 24147,
Seattle, WA

Dates of Treatment: 11/14/94

Nature of Treatment: Breakage of gall stone.

Date of Most Recent Treatment: 11/14/94

Continuation of Treatment: Unknown.

INTERROGATORY NO. 20: Have you received any treatment or care in any hospitals or other medical centers. If so, state:

(a) The name and address of each hospital or medical center.

(b) State the inclusive dates of your treatment or care rendered there.

ANSWER: (a) - (b):

Swedish Medical Center, P.O. Box 14999, Seattle, WA 98224. Treated 9/29/92 through 11/94.

Kalispell Regional Hospital, 310 Sunnyview Lane, Kalispell, MT 59901. Treated 4/21/92 through 11/21/94.

INTERROGATORY NO. 21: If you are receiving treatment from someone other than a doctor for the alleged injuries you sustained, please state:

(a) The name and address of each person rendering treatment.

(b) That person's professional designation.

(c) The inclusive dates of that treatment.

(d) The place where the treatment was received.

(e) The nature and extent of said examination or treatment.

(f) The date of last treatment.

ANSWER: Not applicable.

INTERROGATORY NO. 22: Regarding your medical treatment and care for the ten (10) years prior to the alleged incident in question, please state the name and address of any physician, hospital or other health care providers seen, the dates of treatment, and the type of treatment received.

ANSWER:

(1) Dr. Richard Pressley, Boulder, CO.

(2) Avista Hospital, 100 Health Park Drive, Louisville,
Co 80027.

These visits were regarding a diskectomy performed on the Plaintiff in August, 1991.

INTERROGATORY NO. 23: In reference to the health care providers referred to in Interrogatory No. 22, please produce a copy of the medical records of all such health care providers, or in the alternative, indicate your willingness to sign medical releases so the Defendant can obtain copies of those records.

ANSWER: Objection. Exceeds scope of allowable discovery. Invades Physician / Patient privilege; privacy.

INTERROGATORY NO. 24: Regarding your medical treatment and care for the years since the alleged incident in question, to the present time, please state the name and address of any physician, hospital or other health care providers seen, the dates of treatment, and the type of treatment received.

ANSWER: See Answer to Interrogatory No. 25.

INTERROGATORY NO. 25: In reference to the health care providers referred to in Interrogatory No. 24, please produce a copy of the medical records of all such health care providers, or in the alternative, indicate your willingness to sign medical releases so Defendant can obtain copies of those records.

ANSWER: See records previously provided through the Montana Medical Legal Panel. In addition, see Exhibit 2, attached, which include recent records from health care providers.

INTERROGATORY NO. 26: Have you fully recovered from the injuries? If not, please state:

(a) The nature and extent of the injuries from which you have not recovered.

(b) State in detail and with particularity how those injuries still affect you.

ANSWER: No. (a) - (b):

Please see Answer to Interrogatory No. 14.

INTERROGATORY NO. 27: Had you ever received injuries of any nature or from any cause before this alleged malpractice? If so, state:

- (a) The date said injuries were sustained.
- (b) The place of the alleged malpractice.
- (c) The nature, extent and duration of the injuries.
- (d) The name and address of any and all other persons involved if said injuries were the result of an alleged malpractice.
- (e) The treatment given for said injuries.
- (f) The names and addresses of any doctors rendering any treatment or examination in connection with said injuries and the dates of said examinations or treatments.
- (g) If you were unable to work as a result of said injuries and, if so, the inclusive dates of your unemployment, along with the name and address of your employer.

ANSWER: No.

INTERROGATORY NO. 28: Since the date of this alleged malpractice, have you received injuries of any nature and from any cause? If so, state:

- (a) The date and place said injuries were sustained.
- (b) The nature, extent and duration of any such injuries.
- (c) The nature, extent and treatment received for said injuries.

(d) The names and addresses of any doctors rendering treatment or examination in connection with said subsequent injuries, including in the answer the dates of said examinations and treatments and the nature of said examinations and treatments.

ANSWER: No.

INTERROGATORY NO. 29: If at the time of the alleged malpractice you had any physical disability, impairment or handicap, state the nature, extent and date of commencement of such disability, impairment or handicap.

ANSWER: Plaintiff has a congenital split kneecap.

INTERROGATORY NO. 30: If a previous injury, disease, illness or condition is claimed to have been aggravated, accelerated or exacerbated by this alleged malpractice, identify:

(a) The previous injury, disease, illness or condition.

(b) The manner has it been aggravated, accelerated or exacerbated.

ANSWER: (a - b): Gallstones. See Answer to Interrogatory No. 14, section (c).

INTERROGATORY NO. 31: Have you had any disabling sicknesses, diseases or operations not explained in answers to the preceding Interrogatories? If so, provide:

(a) A description of said sickness, disease or operation.

(b) The name and address of any doctors who treated you and the name and address of any hospital where you received care of any nature.

ANSWER: No.

INTERROGATORY NO. 32: Have you received any written medical reports concerning the injuries resulting from this alleged malpractice? If so, please attach a copy of all said reports in answer to this Interrogatory.

If you refuse to attach a copy of said reports without a Motion to Produce please identify:

- (a) The person who prepared the report.
- (b) That person's professional designation.
- (c) The date of the report.
- (d) The present custodian of that report.

ANSWER: See Exhibit 2, attached. Further, see medical records previously produced to Defendant by Montana Medical Legal Panel.

INTERROGATORY NO. 33: Give a complete and detailed itemization, by dates and services received, of the exact amount of all expenses incurred by you for treatment by physicians, surgeons, nurses and any other medical personnel as a result of any injuries sustained by you in this alleged malpractice.

ANSWER: See true and accurate copies of medical bills, attached hereto as Exhibit 3.

INTERROGATORY NO. 34: Give a complete and detailed itemization, by dates and services received, of the exact amount of all expenses incurred by you for treatment at any hospitals or medical centers as a result of any injuries sustained by you in this alleged malpractice.

ANSWER: See true and accurate copies of medical bills, attached hereto as Exhibit 3.

INTERROGATORY NO. 35: Itemize all other expenses for medical care or treatment of any kind whatsoever incurred by you for reasons of this alleged malpractice.

ANSWER: See Exhibit 3, attached.

INTERROGATORY NO. 36: Itemize any and all other losses or expenses incurred by you as a result of this alleged malpractice.

ANSWER: See prior Answers to Interrogatories.

1. Cancelled engagements due to Plaintiff's numerous hospitalizations: \$32,650.00.

2. Plaintiff was quite ill during Northwest Fair Buyers Conference in Calgary, Alberta on November 5 - 7, 1992. Plaintiff normally booked at least 15 engagements from his Showcase performances at this annual conference. Because of his illness, Plaintiff did not book any engagements. The average income from a fair engagement is \$3,000.00. Plaintiff conservatively estimates his loss of income for unscheduled bookings during this time at \$45,000.00.

3. Merchandising sales for cancelled and unbooked engagements: Plaintiff averages \$166.00 per engagement in merchandising sales. Plaintiff conservatively estimates this loss at approximately \$4,980.00.

4. Out of pocket expenses: Please see Exhibit 4, attached. This Exhibit will be supplemented as additional information is gathered.

Additionally, Plaintiff will incur future earning capacity loss of which the full amount is not known at this time.

INTERROGATORY NO. 37: Were any of the expenses or special damages you claim covered by any type of insurance? If so, state the names and addresses of all insurance companies involved.

ANSWER: Yes. Some medical expenses were covered by Connecticut General, United Airlines, P.O. Box 3040, Bourbonnais, IL 60914.

INTERROGATORY NO. 38: If you will do so without a Motion to Produce, please attach copies of any and all bills showing any expenses you have incurred with regard to the aforementioned Interrogatories.

ANSWER: See medical bills, attached as Exhibit 3, and out of pocket expenses, attached as Exhibit 4.

INTERROGATORY NO. 39: Prior to the filing of this lawsuit, have you been a party, either a plaintiff or a defendant,

to any other lawsuits. If your answer is in the affirmative, please state:

(a) The captioning of the lawsuit in terms of who was plaintiff and who was defendant.

(b) The date that such lawsuit was initiated.

(c) The title of the court, cause number of the lawsuit and the city and state in which the lawsuit was filed.

(d) The subject matter of the lawsuit, that is to say, what issue, or issues, were involved in a lawsuit.

(e) What the final outcome of the lawsuit was.

ANSWER: Yes. (a - e):

1. Richard Riddle v. Robert E. Quist, T. Stanford Robinson, and Kurt Bergeron, Eleventh Judicial District, Flathead County, Kalispell Montana, Cause No. DV 82-21. The lawsuit commenced on 10/29/81, for amount due. The case is still pending. The last action was taken October 31, 1984.

2. Steve Riddle v. Robert E. Quist, T. Stanford Robinson, Kurt Bergeron, James Casto and Thomas Sawan. Eleventh Judicial District, Flathead County, Kalispell Montana, Cause No. DV 82-20. The lawsuit commenced on 10/29/81, for partnership termination. The case is still pending. The last action was taken October 31, 1984.

3. Dick Rubin v. Robert E. Quist, T. Stanford Robinson, and Kurt Bergeron. Eleventh Judicial District, Flathead County, Kalispell Montana, Cause No. DV 82-21. The lawsuit commenced on 10/29/81, for amount due. The case is still pending. The last action was taken October 31, 1984.

INTERROGATORY NO. 40: Are you aware of any person who may have or claims to have knowledge of the facts of the alleged malpractice which is the basis of this action? If so, state:

(a) The name, address and telephone number of each such person.

(b) The facts, knowledge or information you believe each such person has.

(c) Whether you, your attorneys or anyone who investigated the alleged malpractice on your behalf obtained any statements, written, recorded or summarized, from any such person.

(d) If any such statement was obtained, the date of such statement, its present custodian and whether a copy will be provided without a motion to produce.

ANSWER: (a - d): Objection. Attorney work product. Exceeds the scope of discovery as allowed by M.R.Civ.P. Without waiving the same, witnesses who may have knowledge about this cause of action are as follows:

1. Defendant
2. All hospital personnel who attended to Plaintiff Rob Quist.
3. Plaintiffs
4. Dr. Winkel
5. Plaintiff's treating physicians
6. Plaintiffs' family members.
7. Band members referred to above.
8. Plaintiff's accountant

INTERROGATORY NO. 41: Were any photographs or motion pictures taken of you, any object, any equipment or any other person or procedure involved in this alleged malpractice? If so, state:

- (a) What is shown by each photograph or motion picture.
- (b) The name and address of the photographer.
- (c) The name and address of the person who now has custody of the photographs or pictures.
- (d) If you will produce a copy of said photographs or motion pictures, or make the same available for reproduction, without a Motion to Produce.

ANSWER: Plaintiff has reason to believe that the laparoscopic cholecystectomy performed on April 21, 1992 by Dr. Roch Boyer at the Kalispell Regional Hospital was videotaped. However, the Defendant has been unable to locate said videotape. Plaintiff herewith requests Defendant Boyer to produce any photographs, videotapes, or motion pictures he has in regard to Interrogatory No. 41.

INTERROGATORY NO. 42: Have you ever been convicted of a felony? If so, state:

- (a) What was the original charge made against you?
- (b) What was the charge of which you were convicted?
- (c) Did you plead guilty to the charge or were you convicted after trial?
- (d) What was the name and address of the court where the proceedings took place?

ANSWER: No.

INTERROGATORY NO. 43: State in detail and with particularity, including all facts upon which you base your answer, the reasons why you feel the defendant was negligent in this alleged malpractice.

ANSWER: Objection. Calls for attorney work product, legal conclusion. See Complaint filed.

Without waiving the same, on April 21, 1992, Plaintiff Rob Quist was admitted to the Kalispell Regional Hospital for an elective laparoscopic cholecystectomy because of Plaintiff's complaint of acute right upper quadrant pain and epigastric pain.

Defendant Dr. Roch Boyer performed a laparoscopic cholecystectomy, in which he negligently dissected the common bile duct instead of the cystic duct, as required by appropriate medical care standards for like or similar operations.

Upon Dr. Boyer's discovery that he had cut the wrong duct, the Defendant converted to an open cholecystectomy.

Dr. Boyer attempted an immediate repair of the severed bile duct during the open cholecystectomy procedure. This attempted repair was unsuccessful. Predictably, the duct became severely strictured and the Plaintiff was further hospitalized.

On September 30, 1992, Plaintiff Rob Quist was admitted to the Swedish Hospital Medical Center for a second operation due to a common bile duct stricture secondary to Dr. Boyer's initial surgery.

Plaintiff Rob Quist underwent a Hepaticojejumostomy with Roux-en-Y limb because of the bile duct stricture caused by Defendant Dr. Boyer's inappropriate repair of the severed common bile duct.

Defendant Dr. Boyer breached the applicable standard of medical care, including but not limited to:

- (a) Failing to properly visualize and identify the gallbladder anatomy, and in particular, the gallbladder cystic duct junction.
- (b) Negligently clipping and then severing the common bile duct during the laparoscopic cholecystectomy.
- (c) Failing to use open cholecystectomy at an earlier time when the patient's condition so warranted.
- (d) Failing to perform routine cholangiography.
- (e) Failing to adequately repair the dissection of the common bile duct.
- (f) Failing to immediately refer and transfer patient to a specialist to enable proper repair of the severed common bile duct.

The injuries would not have occurred if ordinary care had been exercised by Defendant Dr. Boyer.

INTERROGATORY NO. 44: Do you have any, or intend to use any, exhibits which you believe support your allegation of malpractice? If so:

- (a) Describe the exhibits.
- (b) When did you learn of the exhibits?
- (c) In whose possession have the exhibits been since the date you learned of them to the present time?

(d) Have there been any changes or modifications made to the exhibits?

(e) Has there been any testing done to the exhibits, and if so, who did that testing? When and where was that testing done and what was the result of that testing?

ANSWER: Objection. Exceeds the scope of allowable discovery under M.R.Civ.P. The exhibit list will be provided according to Montana Rules of Civil Procedure and this Court's Scheduling Order.

INTERROGATORY NO. 45: Do you intend to rely on any text or journals or other written material in support of your allegations of malpractice? If so, state:

(a) The title, date and name of author of all said written material.

(b) The exact numbers of the pages you will rely upon.

(c) What you believe the material referred to in (a) and (b), above, show that support your allegation of malpractice.

ANSWER: Objection. Attorney work product. Exhibits will be exchanged according to Court Order or M.R.Civ.P.

INTERROGATORY NO. 46: At any time while you were under the care of the defendant, did you have any conversations with the defendant, or any other medical personnel, about your care or treatment which you feel or believe supports your claim of the alleged malpractice. If so, state:

(a) The date and place of any said conversations.

(b) The person or persons present when said conversations occurred.

(c) The name of the person or persons to whom you talked or who talked to you.

(d) State in detail and with particularity what was said to you.

(e) State in detail and with particularity what you said.

ANSWER: Please see Answer to Interrogatory No. 47.

INTERROGATORY NO. 47: Have you received any written correspondence or other written information from anyone whom you claim committed malpractice in this case. If so, state:

(a) The date said information was received.

(b) The location or present custodian of said information.

(c) Will you attach a copy of said information to your answers to these Interrogatories without a motion to produce? If so, please attach a copy.

ANSWER: Yes. See Exhibit 5, attached.

INTERROGATORY NO. 48: Was there some injury, accident, illness or other reason why you sought medical attention in the first place? If so, please explain in detail and with particularity what that reason was.

ANSWER: Plaintiff had a gallstone attack while in Reno, Nevada on April 3, 1992. Please see medical records previously produced by the Montana Medical Legal Panel.

INTERROGATORY NO. 49: State the name of any and all expert witnesses you intend to call in this case.

ANSWER: Objection. Exceeds scope of discovery under M.R.Civ. P. Plaintiff will exchange expert witness information in accordance with the Montana Rules of Civil Procedure and this Court's Scheduling Order.

INTERROGATORY NO. 50: State the subject matter upon which each expert is expected to testify.

ANSWER: Objection. See Answer to Interrogatory No. 49.

INTERROGATORY NO. 51: State the substance of the facts and opinions to which each expert is expected to testify.

ANSWER: Objection. See Answer to Interrogatory No. 49.

INTERROGATORY NO. 52: State a summary of the grounds of each opinion of each expert witness.

ANSWER: Objection. See Answer to Interrogatory No. 49.

INTERROGATORY NO. 53: Have you ever filed a claim under any workers' compensation law on account of an industrial or other injury, illness, or disability for which you sought an award of

workers' compensation benefits? If so, state with respect to each such claim:

(a) When, where and against whom such claim was asserted.

(b) Before whom the claim was filed, the date the claim was filed and the claim number.

(c) The nature and extent of the injury, illness, or disability for which claim was made.

(d) The circumstances in which the injury, illness, or disability occurred.

(e) The names and addresses of the physicians examining you in connection with such workers' compensation proceedings.

(f) The amount and date of each award.

(g) If you are still receiving compensation benefits, the aggregate amount of any further payments you expect to receive, indicating whether such payments are weekly, monthly, or otherwise.

(h) If any such claim was disposed of by lump sum settlement or award, the amount of such settlement or award, and the name of the governmental board or agency by whose authority it was made.

ANSWER: No.

DATED this 31st day of May, 1995.

BECK LAW OFFICES



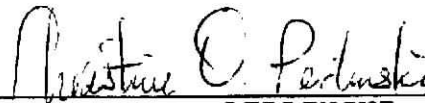
MONTE D. BECK, ESQ.
1700 W. Koch, Suite 2
Bozeman, MT 59715

Attorneys for Plaintiffs

CERTIFICATE OF MAILING

I hereby certify that on this 31 day of May, 1995, a true and accurate copy of the foregoing was mailed postage prepaid, by U.S. Mail, to the following:

Larry E. Riley, Esq.
Garlington, Lohn & Robinson
199 West Pine
P.O. Box 7909
Missoula, Montana 59807-7909



CHRISTINE D. PERLINSKI, Paralegal