

Docket Number: 1652

MEDA M. NIPPLE, t/a MEDA NIPPLE CONVALESCENT HOME

Kenneth A. Wise, Esquire

VS.

**CLOSED**

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE

~~John A. Kane, Chief Counsel~~  
Kathleen Grogan, Assistant Counsel

**July 17, 1992**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$45,411.29+.

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**July 28, 1992**

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General.

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**August 13, 1992**

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 7, 1992.

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**September 14, 1992**

Motion for Default Judgment and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**September 23, 1992**

Second Copy of Complaint filed by attorney for Defendant.

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**September 30, 1992**

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 24, 1992.

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**September 30, 1992**

Respondent's Reply to Claimant's Motion for Default Judgment filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**October 23, 1992**

Answer, New Matter and Counterclaim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**November 4, 1992**

Response to New Matter and Counterclaim filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**January 14, 1993**

The Board rendered the following Order: **"AND NOW**, this 14th day of January, 1993, the Plaintiff's Motion for Default Judgment in the above-captioned case is **DENIED** because the records were corrected after Defendant advised they did not receive a copy of the original Complaint and we reforwarded another copy. Thereafter, under date of October 23, 1992, Defendant filed its Answer, New Matter and Counterclaim. Plaintiff is directed to begin discovery or other proceedings if deemed appropriate. The Respondent will be given equal opportunity to utilize discovery or other proceedings. The Board is to be kept on notice of the progress of the case by status reports which shall be requested by the Board." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**January 19, 1993**

Acceptance of service of Order dated January 14, 1993 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 19, 1993.

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**February 1, 1993**

Acceptance of service of Order dated January 14, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 20, 1993.

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**July 19, 1993**

Eastern Panel Hearing scheduled for September 15, 16, 17, 1993 held this date in Board's Courtroom No. 2, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

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**September 15, 1993**

Hearing held in Board's Courtroom No. 2, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m.

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**September 16, 1993**

Hearing held in Board's Courtroom No. 2, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:05 a.m.

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**September 17, 1993**

Hearing held in Board's Courtroom No. 2, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:05 a.m. Case to be recontinued at a later date.

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**September 28, 1993**

Hearing scheduled for November 17, 18, and 19, 1993 before Eastern Panel, to be held in Board's Courtroom No. 2, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

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**October 13, 1993**

Testimony of hearing held September 15, 16, and 17, 1993 filed.

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**October 28, 1993**

Copy of testimony for hearing held September 15, 16, and 17, 1993 forwarded to attorney for Defendant.

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**November 3, 1993**

Acceptance of Service of Testimony for hearing held September 15, 16, and 17, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 1, 1993.

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**November 17, 1993**

Hearing held in Board's Courtroom No. 2, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m.

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**November 18, 1993**

Hearing held in Board's Courtroom No. 2, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m. Case completed.

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**December 20, 1993**

Testimony of hearing held November 17 and 18, 1993 filed.

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**January 5, 1994**

Copy of testimony for hearing held November 17 and 18, 1993 forwarded to attorney for Defendant.

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**January 10, 1994**

Acceptance of Service of Testimony for hearing held November 17 and 18, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 7, 1994.

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**March 1, 1994**

Motion to Dismiss Claimant's Complaint for Failure to file Brief, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**March 8, 1994**

Claimant's Post Hearing Submission Suggested Findings of Fact With Discussion filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**April 28, 1994**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 28th day of April, 1994, it is **ORDERED** and **DECREED** that the Motion to Dismiss is hereby **DISMISSED** as being **MOOT**. It is further **ORDERED** and **DECREED** that the counsel for the Defendant shall file its Proposed Findings of Fact, Conclusion of Law and Brief in Support thereof, within sixty (60) days of the exit date of this Order."

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**May 10, 1994**

Acceptance of Service of Opinion and Order dated April 28, 1994 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 29, 1994.

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**July 5, 1994**

Respondent's Post Hearing Brief filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**March 2, 1995**

Reply Brief Claimant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**March 2, 1995**

Plaintiff's Suggested Findings of Fact and Conclusions of Law filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**March 6, 1995**

Eastern Panel Report filed.

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**March 10, 1995**

Respondent's Motion to Strike Claimant's Reply Brief Suggested Findings of Fact and Conclusions of Law or in the Alternative a Request to Stay the Accrual of Interest if an Award is issued to the Claimant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**March 14, 1995**

Response of Plaintiff to Respondent's Motion to Strike Claimant's Reply Brief Suggested Findings of Fact and Conclusion of Law or in the Alternative a Request to Stay the Accrual of Interest if an Award is issued to the Claimant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**March 28, 1995**

The Board rendered an Opinion and made the following Order: **"AND NOW, this 28th day of March, 1995, it is ORDERED and DECREED that the Defendant's, Department of Public Welfare, Motion to Strike is, hereby, DENIED and DISMISSED. It is further ORDERED and DECREED that the request to stay the Accrual of Interest be hereby, DISMISSED as being MOOT at this time."**

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**October 5, 1995**

The Board rendered an Opinion and made the following Order: **"AND NOW, this 5th day of October, 1995, the Board of Claims finds that the Defendant, Commonwealth of Pennsylvania, Department of Public Welfare, improperly disallowed the amount of the Plaintiff's, Meda Nipple, t/a Meda Nipple Convalescent Home, salary for fiscal year 1990, the cost of non-prescription drugs issued with an Rx number during fiscal years 1987 to 1990, and Notary expenses. Furthermore, the parties are hereby required to submit documentation in order to quantify the amount of the Plaintiff's salary for fiscal year 1990, and Notary Expenses. The parties shall by stipulation agree to the final value for each of the three cost items referenced above.**

**If the final amounts can not be mutually agreed upon, the parties shall submit the issue to the Board for resolution. Furthermore, the Plaintiff's remaining claims for reimbursement of costs are**

hereby **DENIED**. Each party to bear its own costs and attorney fees."  
Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**October 10, 1995**

Acceptance of Service of Opinion and Order dated October 5, 1995 received from attorney for Defendant (Kathleen Grogan, Assistant Counsel). Receipt of same acknowledged by attorney for Defendant October 6, 1995.

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**October 10, 1995**

Acceptance of Service of Opinion and Order dated October 5, 1995 received from attorney for Defendant (John A. Kane, Chief Counsel). Receipt of same acknowledged by attorney for Defendant October 10, 1995.

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**CLOSED**  
November 17, 1995  
Petition for review filed by Commonwealth Court. [No. 2858 C.A. 1995].

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**CLOSED**  
January 2, 1996  
File transmitted to Commonwealth Court.  
January 17, 1996  
File returned from Commonwealth Court.

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**May 21, 1997**

Letter received from attorney for Plaintiff advising that Commonwealth Court entered a decision in favor of the Plaintiff. Plaintiff also requests a meeting to be scheduled for counsel to discuss the issues.

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**December 16, 1997**

The Board rendered an Opinion and made the following Order **AND NOW**, this 16th day of December, 1997, it is **ORDERED** and **DECREED** that counsel for both parties submit calculations to the Board of Claims as to how much monies may be owned and to whom that money is owned.

It is further **ORDERED** and **DECREED** that the Board shall be supplies with theses calculations no later than thirty(30) days after the exit date of this Opinion. Following the submission of the above referenced calculation each party shall have fifteen (15) days in which to respond to the opponent's calculations. The Board of Claims reserves the right to hold a hearing, if necessary should the Board feel that it cannot accept any or all of the calculations submitted by counsel.

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**December 23, 1997**

Acceptance of Service of Opinion and Order dated December 16, 1997 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 18, 1997.

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**December 29, 1997**

Acceptance of Service of Opinion and Order dated December 16, 1997 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 22, 1997.

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**January 15, 1998**

Plaintiff's Calculation of Claim of Meda M. Nipple t/a Meda Nipple Convalescent Home filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**January 15, 1998**

Meda M. Nipple Convalescent Home Submission of Calculations filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**January 22, 1998**

Letter received from Plaintiff relative to Defendant's submission of calculations submitted 1/15/98.

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**January 30, 1998**

Defendant's Response to Plaintiff's Calculations filed by attorney for Def. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**February 2, 1998**

Letter received from attorney for Plaintiff on the matter of Submission of Costs by parties. Copy forwarded to attorney for Defendant.

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**February 4, 1998**

Letter received from attorney for Plaintiff requesting a settlement conference. Copy forwarded to attorney for Defendant.

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**February 24, 1998**

The Board made the following Order: **AND NOW** the Board, having received the submissions of the parties in which each has set forth its calculations of the amount of Plaintiff's claim, it is **ORDERED** and **DECREED** that:

1) Within fifteen (15) days of the exit date of this Order, Plaintiff shall submit to Defendant its evidence of changes in the private pay rates for 1989 and 1990 so that Defendant's audit staff may review that evidence for purposes of resolving this issue; and

2) Fifteen (15) days after it has submitted its evidence of changes in the private pay rates, Plaintiff shall contact the Board to schedule a settlement conference.

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**February 27, 1998**

Acceptance of Service of Order dated February 24, 1998 received from

attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 26, 1998.

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**March 2, 1998**

Acceptance of Service of Order dated February 24, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 25, 1998.

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**March 5, 1998**

Response to Board Order of February 24, 1998 filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**March 13, 1998**

Response to Board's February 24, 1998 Order and Claimant's March 4, 1998 Submission filed by attorney for Defendant.

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**March 24, 1998**

Stacy Treweek spoke with Kenneth Wise, Plaintiff's counsel and advised that the case was going to settle. Plaintiff's claim = \$41,000, Defendant's Offer (\$44,000). Mr. Wise wants more money and is discussing his new demand with Department of Public Welfare. Hold file until Mr. Wise advises us further.

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**March 27, 1998**

Letter received from attorney for Plaintiff advising that they wish to submit an application for legal costs under the Cost Act.

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**March 13, 2000**

Proposed Order and Motion based on the Stipulation of the parties to mark case discontinued filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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