

Docket Number: 1733

PENNSYLVANIA INSTITUTIONAL HEALTH SERVICES, INC.

Joshua D. Lock, Esquire
~~William J. Fulton, Esquire~~

VS.
CLOSED
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

~~Cheryl Young, Chief Counsel~~
William E. Fairall, Jr., Assistant Counsel

VS.

~~*ATS MEDICAL SERVICES, INC. d/b/a MEDIQ MOBILE X-RAY AND EKG~~
~~Intervenor~~

~~Clarke DeVere, Esquire~~

July 6, 1993

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$5,476,411.96

July 14, 1993

Copies of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General.
ANSWER DUE FROM DEFENDANT AUGUST 14, 1993.

July 22, 1993

Acceptance of Service of Claim received from Chief Deputy Attorney general. Receipt of same acknowledged by Chief Deputy Attorney General July 19, 1993.

September 24, 1993

Respondents' Answer to Petition, Statement of Claim, New Matter and Counterclaim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 19, 1993

Response to Claimant's Praecipe for Entry of Default Judgment and Motion in the Nature of a Petition to Open Judgment filed by attorney for Defendant. Copy forwarded to attorneys for Plaintiff by attorney for Defendant.

October 28, 1993

Claimant's Reply to Respondent's New Matter and Counterclaim filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

November 8, 1993

Motion To Strike Order Of Court or, in The Alternative, For Reconsideration Thereof Or, In The Alternative, For Certification For Interlocutory Review filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

November 22, 1993

Praecipe for withdrawal of Appearance of William J. Fulton, Esquire on behalf of Plaintiff. Copy forwarded to attorney for Defendant by attorney for Defendant.

December 3, 1993

The Board rendered an Opinion and made the following Order: "AND NOW, this 3rd day of December, 1993, upon consideration of the Plaintiff's Motion for Certification for Interlocutory Review, said request is GRANTED. The Board is of the opinion that its Order of Court, dismissing plaintiff's request for entry of default judgment as moot because of its acquiescence in a Board directive to file an Answer to Defendant's New Matter and Counterclaim, involves a controlling question of law as to which there is substantial grounds for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of this matter and represents an issue that should be addressed by an Appellate Court in accordance with Pa. R.A.P. 1311 and 42 Pa. C.S.A. §702(B). Accordingly, the Order of Court of the Board of Claims, dated November 3, 1993, is AMENDED so as to qualify that Order of Court for an interlocutory appeal. All proceedings against the above-captioned Defendant are stayed, pending a determination by the Commonwealth Court of Pennsylvania whether or not it will accept an appeal from this interlocutory order. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

January 4, 1994

Petition for Permission to Appeal filed by Commonwealth Court [1 C.D. 1994] received from attorney for Plaintiff. Copy forwarded to attorney for defendant by attorney for Plaintiff.

January 10, 1994

Acceptance of Service of Claim received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 6, 1994.

January 26, 1994

Respondent's Brief In Opposition To Petitioner's Request For Permission To Appeal The Board Of Claims Interlocutory Order Of December 3, 1993 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 17, 1994

Copy of Petitioner's Response to Order of February 2, 1994 as filed in Commonwealth Court filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 23, 1994

Copy of Respondent's Petition for special Relief in the Nature of A Motion To Strike as filed in Commonwealth Court by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 8, 1994

Opinion and Order rendered by Commonwealth Court in re: “AND NOW, this 31st day of August, 1994, the Order of the Board of Claims is reversed and the case is remanded to the Board for proceedings not inconsistent with this Opinion.”

December 19, 1994

Petition for Intervention filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 30, 1994

CLOSED

The Board rendered an Opinion and made the following Order: “AND NOW, this 30th day of December, 1994, upon consideration of the Petition for Intervention filed by Intervenor, A.T.S. Medical Services, Inc., d/b/a MedIQ Mobile X-ray & Ekg, Rule entered upon the Claimant, Pennsylvania Institutional Health Services, Inc., and the Respondent, Commonwealth of Pennsylvania, Department of Corrections, to show cause, if any they have, why the relief requested in said Petition should not be granted. Rule Returnable thirty (30) days from service. All proceedings to stay meanwhile.” Copy forwarded to all attorneys of record.

December 30, 1994

The Board rendered an Opinion and made the following Order: “AND NOW, this 30th day of December 1994, the parties are ordered to appear before the Board of Claims on January 30, 1995, and be prepared to present testimony as to why the Board should enter Default Judgment in favor of the plaintiff, Pennsylvania Institutional Health Services, Inc., and the Defendant, Commonwealth of Pennsylvania, Department of Corrections Objection thereto and/or, Defendant’s Motion to Open Default Judgment. The testimony presented should be in accordance with the directive of the Commonwealth Court. The location and time of this hearing will be determined at a later date.” Copy forwarded to attorney for Plaintiff and attorney for Defendant.

January 5, 1995

Affidavit of Service filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 30, 1995

Answer of Pennsylvania Institutional Health Services, Inc. to Petition for Intervention submitted by A.T.S. Medical Services, Inc., d/b/a MEDIQ Mobile X-ray and Ekg filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant and attorney for A.T.S. Medical Services, Inc. d/b/a MEDIQ Mobile X-ray and Ekg.

January 30, 1995

Claimant's Memorandum of Law in Support of its Request for Default Judgment and in Opposition to the Petition to Open Judgement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 3, 1995

Answer of Commonwealth of Pennsylvania, Department of Corrections to the Petition for Intervention of A.T.S. Medical Services, Inc., d/b/a MEDIQ Mobile X-ray and Ekg filed by attorney for Defendant. Copy forwarded to attorney for A.T.S. Medical Services, Inc. and attorney for Plaintiff by attorney for Defendant.

February 9, 1995

Respondent's Memorandum of Law in Opposition to Claimant's Request for Default Judgment and in Support of its Petition to Strike and Open Judgment filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 10, 1995

Claimant's Reply to the Memorandum of Law filed on behalf of the Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 15, 1995

Testimony of pre-trial conference held January 30, 1995 filed.

February 16, 1995

Respondent's Reply Memorandum to Claimant's Reply dated February 10, 1995 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 17, 1995

Copy of testimony of pretrial conference held January 30, 1995 forwarded to attorney for Defendant.

May 11, 1995

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 11th day of May, 1995, the Motion of the Defendant, Department of Correction, to Open Judgement is hereby **GRANTED** and the Judgment is open. The parties are directed to continue with their discovery and this case will be listed for trial within the immediate unforeseeable future." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 11, 1995

The Board rendered an Opinion and made the following Order; “AND NOW, this 11th day of May, 1995, the Motion for Default Judgment filed by the Plaintiff, Pennsylvania Institutional Health Services, Inc., is hereby GRANTED. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 24, 1995

Acceptance of Service of two opinions and Orders dated May 11, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 15, 1995.

June 1, 1995

Motion of Claimant, Pennsylvania Institutional Health Services, Inc. Requesting Amendment of Order and Certification for Interlocutory Review filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 7, 1995

Response of Respondent, Commonwealth of Pennsylvania, Department of Corrections to Claimant's Motion Requesting Amendment of Order and Certification for Interlocutory Review filed by Attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 7, 1995

Brief in Opposition to Claimant's Request to Amend and Certify the Board's Order of May 11, 1995. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 25, 1995

The Board rendered an Opinion and made the following Order: “AND NOW, this 25th day of July, 1995, the Motion of the Claimant, Pennsylvania Institutional Health Services, Inc. requesting Amendment of Order and Certification of Interlocutory Review is DENIED. The parties are directed to proceed with due haste to place this matter in apposition where hearings may be scheduled and the parties have their day in court.” Copy forwarded to attorney for Plaintiff and attorney for Defendant.

July 25, 1995

The Board rendered an Opinion and made the following Order: “AND NOW, this 25th day of July, 1995, the Petition of the Intervenor is hereby GRANTED and ATS Medical Services Inc.

d/b/a MEDIQ Mobile X-ray & Ekg. will be allowed to file the appropriate pleadings to intervene in this matter. Said pleadings will be filed within thirty (30) days of the exit date of this Order." Copy forwarded to attorney for Plaintiff, attorney for Defendant and attorney for Intervenor.

August 1, 1995

Acceptance of Service of two Opinions and Orders dated July 25, 1995 received from attorney for Intervenor. Receipt of same acknowledged by attorney for Intervenor July.

August 16, 1995

Acceptance of Service of two Opinions and Orders dated July 25, 1995, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 2, 1995.

August 23, 1995

Statement of Claim filed by attorney for Intervenor, ATS Medical Services, Inc. d/b/a MEDIQ Mobile X-ray & Ekg. Copy forwarded to attorney for Plaintiff and Defendant by attorney for Intervenor.

September 7, 1995

Acceptance of Service of Statement of Claim dated August 29, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 30, 1995.

September 8, 1995

Acceptance of Statement of Claim dated August 29, 1995 received from chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General September 5, 1995.

September 15, 1995

Affidavit of Service of Statement of Claim filed by attorney for Additional Defendant. Copy forwarded to Chief Deputy Attorney General, attorney for Plaintiff and attorney for defendant by attorney for Intervenor by Certified Mail, Return Receipt Requested.

November 2, 1995

Claimant's Preliminary objections to the Statement of Claim filed by Intervenor, ATS Medical Services, Inc., d/b/a MEDIQ Mobile X-ray & Ekg filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant and attorney for Intervenor by attorney for Plaintiff.

November 3, 1995

Answer of the Commonwealth of Pennsylvania, Department of Corrections to the Statement of Claim of ATS Medical Services, Inc. and New Matter filed by attorney for Defendant. Copy

forwarded to attorney for Plaintiff and attorney for Additional Defendant by attorney for Defendant.

November 7, 1995

Intervenor ATS Medical Services, Inc. Preliminary Objections to the Claimant's Preliminary Objections to Intervenor's Statement of claim filed by attorney for Intervenor. Copy forwarded to attorney for Plaintiff and attorney for Defendant by attorney for Intervenor.

CLOSED
December 5, 1995
Intervenor's Brief in Support of Claimant's Preliminary Objections to the Claimant's Preliminary Objections to Intervenor's Statement of claim filed by attorney for Intervenor. Copy forwarded to attorney for Plaintiff and attorney for Defendant by attorney for Intervenor.
December 28, 1995

Brief in Support of Claimant's Preliminary Objections to the Statement of Claim filed by Intervenor, ATS Medical Services, Inc., d/b/a MEDIQ Mobile X-ray and EKG filed by Intervenor. Copy forwarded to attorney for Plaintiff and attorney for Defendant by attorney for Intervenor.

January 16, 1996

Intervenor's Brief in Opposition to Claimant's Preliminary Objections to Intervenor's Statement of Claim filed by intervenor. Copy forwarded to all parties of record by attorney for Intervenor.

February 16, 1996

The Board rendered an Opinion and made the following Order: 'AND NOW, this 26th day of February, 1996, the Preliminary Objections as filed by the Claimant, Pennsylvania Institutional health Services, Inc., are hereby DENIED. The Preliminary Objections as filed by the Intervenor, ATS Medical Services, Inc., d/b/a MEDIQ Mobile X-ray and EKG are now held MOOT. The Claimant is given thirty (30) days from the exit date of this Order to filed appropriate pleadings.' Copies forwarded to attorney for Plaintiff, attorney for Defendant and attorney for Intervenor.

March 4, 1996

Acceptance of service of Opinion and Order dated February 26, 1996 received from attorney for Intervenor. Receipt of same acknowledged by attorney for Intervenor March 1, 1996.

March 25, 1996

Settlement Conference scheduled before the Board of Claims for April 1, 1996, in Board's Courtroom No. 1, 6th Floor, Fulton Building, 200 North Third Street, Harrisburg, PA, commencing at 10 a.m.

April 1, 1996

Settlement Conference held in Board's Courtroom No. 1, 6th floor, Fulton Bank Building, Harrisburg, PA commencing at 9:30 a.m. Awaiting testimony.

May 8, 1996

Petition for Approval of Settlement & Appropriation of Funds from Defendant, Rule to Show Cause and Proposed Order filed by attorney for Intervenor. Copy forwarded to attorney for Plaintiff and attorney for Defendant by attorney for Intervenor.

July 15, 1996

The Board rendered an Opinion and made the following Order: AND NOW, this 15th day of July, 1996, upon consideration of ATS Medical Services, Inc. d/b/a MEDIQ Mobile X-Ray and EKG's Petition for Approval of Settlement and Appropriation of Funds from Commonwealth of Pennsylvania, Department of Corrections to ATS Medical Services, Inc. d/b/a MEDIQ Mobile X-Ray and EKG, it is hereby ordered that: 1. A Rule is issued upon Claimant, Pennsylvania Institutional Health Services, Inc. and Respondent, Commonwealth of Pennsylvania, Department of Corrections, to show cause why the Petitioner is not entitled to the relief requested; 2. The Claimant and Respondent shall file an answer to the Petition within thirty (30) days from the date of this Rule to Show Cause; 3. The Petition shall be decided under Pa. R.C.P. 206.7 or other rules as the Board may prescribe; 4. all proceedings between Intervenor and Claimant and Respondent shall be stayed until a decision on the Petition; and 5. Notice of the entry of this Order shall be provided to all parties by the Intervenor." Copy forwarded to attorney for Plaintiff, attorney for Defendant and attorney for Intervenor.

July 23, 1996

Acceptance of Service of Opinion and Order dated July 15, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 22, 1996.

August 14, 1996

Claimant's Answer and New Matter to Intervenor's Petition for Approval of Settlement and Appropriation of Funds from Commonwealth of Pennsylvania, Department of Corrections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant and attorney for Intervenor by attorney for Plaintiff.

August 15, 1996

Letter forwarded to attorney for Intervenor directing Intervenor to file a Response to Plaintiff's New Matter. Response due **September 16, 1996.**

September 12, 1996

Intervenor's Reply to New Matter of Claimant's to Intervenor's Petition for Approval of Settlement and Appropriation of Funds from Commonwealth of Pennsylvania, Department of Corrections to ATS Medical Services, Inc., d/b/a MEDIQ Mobile X-Ray and EKG filed by attorney for Intervenor. Copy forwarded to attorney for Plaintiff and attorney for Defendant by attorney for Intervenor.

October 25, 1996

Acceptance of Service of Opinion and Order dated October 18, 1996 received from attorney for Additional Defendant. Receipt of same acknowledged by attorney for Additional Defendant October 24, 1996.

March 24, 1997

Praecipe to Discontinue Intervention Action filed by attorney for Intervenor. Copy forwarded to all parties of record by attorney for Intervenor.

***April 24, 1997**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 24th day of April, 1997, it is **ORDERED** and **DECREED** that the action filed by Intervenor, ATS Medical Services, Inc. d/b/a Mediq Mobile X-Ray and EKG, is hereby '**DISCONTINUED WITH PREJUDICE.**'"

April 30, 1997

Acceptance of Service of Opinion and Order dated April 24, 1997 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 28, 1997.

May 5, 1997

Acceptance of Service of Opinion and Order dated April 24, 1997 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 28, 1997.

June 17, 1997

Letter forwarded to parties requesting status. Response due from parties July 17, 1997.

July 17, 1997

Status letter filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 20, 1997

Letter forwarded to parties requesting status. Response due from parties December 22, 1997.

December 22, 1997

Praeipie to Discontinue filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 8, 1998

CLOSED
The Board rendered the following Order: "AND NOW, this 8th day of January, 1998, upon receipt of a Praeipie to Withdraw Claim, requesting that the above captioned matter be marked 'discontinued and ended', executed by Joshua D. Long Esquire, on behalf of Plaintiff, Pennsylvania Institutional Health Services, Inc., and docketed with this Board under date of December 22, 1997, it is **ORDERED** and **DIRECTED** that said case be marked 'discontinued and ended with prejudice'." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

January 9, 1998

Acceptance of Service of Order dated January 8, 1998 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 12, 1998.

January 13, 1998

Acceptance of Service Order dated January 8, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 12, 1998.

CLOSED