

Docket Number: 1906

PRESBYTERIAN MEDICAL CENTER OF OAKMONT

~~John DeLorenzo, Esquire~~
~~John N. Kennedy, Esquire~~
Louis J. Capozzi, Jr., Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE**

~~John A. Kane, Chief Counsel~~
Jason W. Manne, Assistant Counsel

March 9, 1995

Claim and filing fee filed by Plaintiff. Amount of Claim: \$174,527.00+.

March 20, 1995

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

March 24, 1995

Acceptance of Service of received from attorney for Chief Deputy Attorney General. Receipt of same acknowledged by attorney for Chief Deputy Attorney General March 21, 1995.

March 28, 1995

Acceptance of Service of the Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 20, 1995.

March 31, 1995

Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 31, 1995

Answer to Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 26, 1995

Plaintiff's Response to Defendant's First Set of Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 2, 1995

Motion to Compel Discovery filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 22, 1995

Brief in Support of Motion to Compel Discovery filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by

attorney for Defendant.

June 2, 1995

Brief in Support of Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 6, 1996

Plaintiff's Brief in Opposition to DPW's Motion to Compel filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 12, 1996

Plaintiff's Brief in Response to Defendant's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 15, 1996

Reply Brief in Support of Defendant's Motion to Compel Discovery filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 19, 1995

Reply Brief in Support of Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 23, 1995

Pre-Trial Conference scheduled for July 26, 1995 in the Judge's Chambers, Fulton Building, 200 North Third Street, Suite 700, Harrisburg, Pennsylvania, commencing at 9:30 a.m.

August 30, 1995

The Board rendered an Opinion and made the following Order: **AND NOW**, this 30th day of August, 1995, The Defendant's Motion in the Nature of Preliminary Objections is **DENIED**. The Defendant's Motion to Compel Discovery as it relates to the four unanswered interrogatories is hereby **GRANTED**. The parties are directed to proceed in accordance with the spirit of the Pre-Trial Conference. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

September 1, 1995

Acceptance of Service of Opinion and Order dated August 30, 1995 received from for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 31, 1995.

September 6, 1995

Acceptance of Service of Opinion and Order dated August 30, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 31, 1995.

October 10, 1995

Plaintiff's Amended Response to Defendant's First Set of Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney Plaintiff.

October 24, 1995

Plaintiff's Request for Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 12, 1996

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

April 25, 1996

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

May 15, 1996

Plaintiff's Response to Defendant's Request for Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 20, 1996

Defendant's Second Request for Production of Documents and Defendant's Second Set of Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by

attorney for Defendant.

June 14, 1996

Plaintiff's Response to Defendant's Second Set of Interrogatories to Claimant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 17, 1997

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

July 24, 1997

Status letter received from attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 5, 1997

Letter forwarded to parties requesting status. Response due from parties September 5, 1997.

September 8, 1997

Entry of Appearance of Louis J. Capozzi, Jr., Esquire filed on behalf of Plaintiff. Copy forwarded to previous counsel for Plaintiff and attorney for Defendant.

September 18, 1997

Withdrawal of Appearance of Kimber L. Latsha on behalf of Latsha, Davis & Yohe, P.C. as attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 10, 1998

Letter forwarded to parties requesting status. Response due from parties April 10, 1998.

April 9, 1998

Status letter received from attorney for Plaintiff advising that the parties are conducting settlement negotiations.

October 1, 1998

Letter forwarded to parties requesting status. Response due from parties November 1, 1998.

November 2, 1998

Status letter received from attorney for Plaintiff advising that the parties are conducting settlement negotiations.

June 28, 1999

Notice of Service of Defendant's Additional Request for Production of Documents filed by attorney for Defendant.

July 26, 1999

Certificate of Service of Plaintiff's Response to Defendant's Additional Request for Production of Documents filed.

August 6, 1999

The Board made the following Order: **AAND NOW**, this 6th day of August, 1999, this matter is hereby set for trial in Greensburg, Pennsylvania beginning on September 14, 1999 and continuing through September 16, 1999, if necessary. It is further **ORDERED** and **DECREED** that all discovery shall be completed on or before September 6, 1999.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 12, 1999

Defendant's First Motion to Compel Discovery and Brief in Support filed. Response due from Plaintiff September 13, 1999.

August 13, 1999

Acceptance of Service of Order received from attorney for Plaintiff dated August 6, 1999. Receipt of same acknowledged by attorney for Plaintiff August 11, 1999.

August 16, 1999

Plaintiff's Pre-Trial Statement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 18, 1999

Defendant's Second Motion to Compel Discovery and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 20, 1999

Defendant's Third Motion to Compel Discovery and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 23, 1999

Claimant's Response to DPW's First Motion to Compel Discovery filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 25, 1999

DPW's Reply Brief in Support of First Motion to Compel Discovery filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 25, 1999

Claimant's First Revised Pre-Hearing Statement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Defendant.

August 26, 1999

Defendant's Pre-Trial Statement filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 26, 1999

Defendant's First Motion in Limine and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 27, 1999

Defendant's Second Motion in Limine and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 27, 1999

Defendant's Reply Brief in Support of First Motion to Compel Discovery filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 30, 1999

The Board rendered the following Order: **AAND NOW**, this 30th day of August, 1999, it is **ORDERED** and **DECREED** that Defendant's, Commonwealth of Pennsylvania, Department of Public Welfare, Second Motion in Limine filed with the Board under docket date of August 27, 1999, is hereby **DENIED**.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 30, 1999

The Board rendered an Opinion and made the following Order: **AAND NOW**, this 30th day of August, 1999, it is **ORDERED** and **DECREED** that Defendant's Motions to Compel are hereby **GRANTED**. It is further **ORDERED** and **DECREED** that counsel for Plaintiff shall provide the information requested in said Motions on or before September 6, 1999.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 30, 1999

The Board rendered an Opinion and made the following Order: **AAND NOW**, this 30th day of August, 1999, it is **ORDERED** and **DECREED** that Defendant's First Motion in Limine is **DENIED**. It is further **ORDERED** and **DECREED** that the Board will not accept any further Motions or Pleadings from the parties prior to the scheduled hearing.

August 30, 1999

DPW's Reply Brief in Support of Third Motion to Compel Discovery

(Expert Interrogatory) and Second Motion in Limine (Expert Testimony) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 30, 1999

Claimant's Response to DPW's Third Motion to Compel Discovery (Expert Interrogatory) and DPW's Second Motion in Limine (Expert Testimony) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 30, 1999

DPW's Motion for Judgment of Non Pros filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 31, 1999

Claimant's Brief in Opposition of DPW's Second Motion to Compel Discovery (Trial Exhibits) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 31, 1999

Claimant's Response to DPW's Second Motion to Compel Discovery (Trial Exhibits) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 1, 1999

DPW's Reply Brief in Support of Third Motion to Compel Discovery (Expert Interrogatory) and Second Motion in Limine (Expert Testimony) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 2, 1999

DPW's Motion for Judgment of Non Pros and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 7, 1999

Claimant's Response to DPW's Motion for Judgment of Non Pros filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 7, 1999

Claimant's Second Revised Pre-Hearing Statement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 8, 1999

DPW's Reply Brief in Support of Motion for Judgment of Non Pros filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 9, 1999

DPW's Motion for Leave to Submit Motion to quash and Motion to Quash Subpoenas and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 10, 1999

DPW's First Amended Pretrial Statement filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 10, 1999

DPW's Reply Brief in Support of Motion for Judgment of Non Pros filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 10, 1999

Claimant's Opposition to DPW's Motion for Leave to Submit Motion to Quash and Motion to Quash Subpoenas filed by attorney for Plaintiff.

September 13, 1999

Claimants' Third Revised Pre-Hearing Statement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 13, 1999

DPW's Brief in Support of Motion for Leave to Submit Motion to Quash and Motion to Quash Subpoenas filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney

for Defendant.

September 14, 1999

Panel Hearing held at St. Joseph's Center, Greensburg, PA commencing at 9:30 a.m. Case Completed.

October 7, 1999

Testimony of Panel Hearing held September 14, 1999 filed.

October 13, 1999

Copy of testimony of Panel Hearing held September 14, 1999 forwarded to attorney for Defendant. **Plaintiff's Findings of Fact, Conclusions of Law and Brief in Support is due 11/12/99.**

November 3, 1999

Letter received from attorney for Plaintiff advising of a miscommunication of the date for which Plaintiff's post hearing briefs are due.

November 4, 1999

Letter forwarded to Plaintiff allowing Plaintiff sixty (60) days rather than thirty (30) days in which to file Plaintiff's post hearing briefs. **Plaintiff's Findings of Fact, Conclusions of Law and Brief in Support is due 12/13/99.**

December 14, 1999

Letter received from attorney for Plaintiff requesting an extension of time until Monday, December 20, 1999 in which to file Plaintiff's post hearing briefs.

December 15, 1999

Letter forwarded to attorney for Plaintiff granting Plaintiff's request until Monday, December 20, 1999 in which to file Plaintiff's post hearing briefs. **Plaintiff's Findings of Fact, Conclusions of Law and Brief in Support is due 12/20/99. Defendant's Findings of Fact, Conclusions of Law and Brief in Support is due 1/20/2000.**

December 27, 1999

Claimant's Post Hearing Brief filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. **Defendant's Findings, etc. due 1/26/00.**

January 24, 2000

Letter received from attorney for Defendant requesting an extension of time until March 9, 2000 in which to file Defendant's Findings of Fact, Conclusions of Law and Brief.

January 25, 2000

Letter forwarded to attorney for Defendant granting Defendant's request for an extension of time until March 9, 2000 in which to file Defendant's Findings of Fact, Conclusions of Law and Brief. **Defendant's Findings, etc. due 3/9/00.**

March 2, 2000

Letter received from attorney for Defendant requesting until April 7, 2000 in which to file Defendant's Findings of Fact, Conclusions of Law and Brief.

March 3, 2000

Letter forwarded to attorney for Defendant granting Defendant's request for an extension of time until April 7, 2000 in which to file Defendant's Findings of Fact, Conclusions of Law and Brief. **Defendant's Findings, etc. due 4/7/00.**

March 8, 2000

Letter in Opposition to Defendant's Request for an Extension filed by attorney for Plaintiff.

March 15, 2000

Letter received via fax explaining Defendant's position in requesting an extension of time.

April 6, 2000

Letter received from attorney for Defendant requesting a second

extension of time until May 8, 2000 in which to file Defendant's Findings of Fact, Conclusions of Law and Brief. **Defendant's Findings, etc. due 5/8/00.**

April 6, 2000

Status letter received from attorney for Plaintiff "Claimant's Continued Opposition to DPW's Third Request for An Extension to File its Brief filed by attorney for Plaintiff.

May 5, 2000

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

July 12, 2000

Claimant's Rebuttal Brief filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 14, 2000

Claimant's Motion for Sanctions and Protective Order as well as Brief in Support filed by Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 7, 2000

Panel Report filed by Panel Members.

April 17, 2001

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 17th day of April, 2001, after hearing and review of the Briefs, it is hereby **ORDERED** and **DECREED** that judgment shall be entered in favor of the Claimants, Presbyterian Medical Center of Oakmont and Presbyterian Medical Center of Oakmont, Pennsylvania, Inc. and against the Defendant, Commonwealth of Pennsylvania, Department of Public Welfare, in the amount of Three Hundred Eleven Thousand Three Hundred Twenty-Four Dollars (\$311,324) plus costs and interest at the rate of six (6%)

percent per annum from the date of this Order. Pre-judgment is also awarded as follows at the legal rate of six (6%) percent per annum: For fiscal year ending 12/31/90 from March 9, 1995 until the exit date of this Order on the sum of \$61,156; For fiscal year ending 12/31/91 from March 9, 1995 until the exit date of this Order on the sum of \$62,815; For fiscal year ending 12/31/92 from September 7, 1994 until the exit date of this Order on the sum of \$73,089; For fiscal year ending 12/31/94 from March 27, 1996 until the exit date of this Order on the sum of \$57,678; and For fiscal year ending 12/31/95 from May 13, 1997 until the exit date of this Order on the sum of \$49,120." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

April 26, 2001

Defendant's Post-Trial Motion filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 30, 2001

Amendment to Paragraph Five of Post-Trial Motion filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 1, 2001

Praecipe for Entry of Judgment filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 1, 2001

Memorandum in Opposition to Praecipe for Judgment filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 1, 2001

Memorandum in Support of Post-Trial Motion filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 2, 2001

Letter received from attorney for Plaintiff advising that since Defendant filed a Brief in Support they now wish to withdraw their Praecipe for Entry of Judgment.

May 2, 2001

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 2nd day of May, 2001, upon due consideration of Defendant's, Commonwealth of Pennsylvania, Department of Public Welfare, Post-Trial Motion and Amendment, the Motion is **DENIED** and the Board's Opinion and Order of April 17, 2001, shall remain intact." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 7, 2001

Praecipe for Entry of Judgment filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 14, 2001

Petition for Review received from attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 21, 2001

Petition for Review received from Commonwealth Court. [No. 1116 CD 2001]

June 7, 2001

Letter received from attorney for Defendant requesting a copy of the Board's Panel Report.

June 11, 2001

File forwarded to Commonwealth Court.

January 22, 2002

Petition for Rule to Show Cause on Settled Issues filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant

by attorney for Plaintiff. Response due from Defendant March 1, 2002.

February 7, 2002

DPW's Response to Petition for Rule to Show Cause on Settled Issues filed by attorney for Defendant executed by all parties of record.

February 19, 2002

Letter with Joint Proposed Order prepared by the parties filed by attorney for Plaintiff to set forth matters resolved by the Partial Stipulation of Settlement.

February 21, 2002

The Board entered the following Order: **AND NOW**, this 21st day of February, 2002, having received the Stipulation of Settlement filed by the parties with respect to the settled issues referred to in our prior Order of April 17, 2001, and pursuant to the terms of that Stipulation of Settlement and to the jointly proposed form of order submitted by the parties to implement their agreement therein, it is hereby ORDERED and DECREED that: 1. After the final determination of the appeal from our prior Orders in this matter currently pending before the Commonwealth Court of Pennsylvania at No. 1116 C.D. 2001, but no later than six months from the date of such final determination, the Claimant may file an application with the Board of Claims pursuant to the provisions of the Stipulation of Settlement relating to the award and determination of the amount of any interest claimed to be due on the principal amount related to the settled issue specified in the Stipulation of Settlement (i.e. \$186,252), the submission and determination of which is deferred by agreement of the parties for disposition by the Board of Claims until that later time. 2. Plaintiff's Petition for a Rule to Show Cause filed January 21, 2002, relating to the settled issues, is dismissed as moot. 3. The parties' dispute as to the settled issues referred to in our prior Order of April 17, 2001 in

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this matter is otherwise closed and ended pursuant to the terms of the parties' Stipulation of Settlement. 4. All other issues in the case are on appeal to the Commonwealth Court of

Pennsylvania.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

February 26, 2002

Acceptance of Service of Order dated February 21, 2002 received from attorney for Plaintiff. Acceptance of Service of Order dated February 25, 2002.

May 15, 2003

Commonwealth Court rendered Opinion and Order. Order as follows: ~~A~~AND NOW, this 15th day of May, 2003, the order of the Board of Claims in the above-captioned case is vacated and the case is dismissed.@

July 9, 2003

Commonwealth Court rendered Opinion and Order. Order as follows: ~~A~~NOW, July 09, 2003 having considered the Prebyterian Medical Center of Oakmont=s application for reargument, and Petitionre=s answer, the application is denied.@

December 24, 2003

Supreme Court rendered Order. Order as follows: ~~A~~Per Curiam, AND NOW, this 22nd day of December, 2003, the Petition for Permission to Appeal is GRANTED, LIMITED to the question: Whether the claims below sounded in contract and were within the subject matter jurisdiction of the Board of Claims, including its jurisdiction over implied or quasi-contract matters, for all periods at issue."

June 22, 2005

Supreme Court rendered Opinion and Order. Order as follows: "The order of the Commonwealth Court is affirmed." Mr. Justice Eaking files a dissenting opinion in which Mr. Justice Baer joins.

July 21, 2005

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Commonwealth Court forwarded file to Department of Public Welfare, Bureau of Hearings and Appeals.