

Docket Number: 1932-P

**CENTRAL PARK LODGE NURSING AND REHABILITATION CENTER -
BROOMALL**

Louis J. Capozzi, Jr., Esquire
Michael Hynum, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE**

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

May 5, 1995

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$613,956.45+.

May 11, 1995

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

May 18, 1995

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 12, 1995.

May 18, 1995

Acceptance of service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General May 15, 1995.

June 12, 1995

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

***July 3, 1995**

Motion to Amend Claim along with Amended Claim filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. Amount of Amended Claim: UNCHANGED.

July 7, 1995

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

October 2, 1995

The Board rendered an Opinion and made the following Order: **AAND NOW**, this 2nd day of October, 1995, the request of the Plaintiff, Central Park Lodge Nursing and Rehabilitation Center-Broomall, in the nature of a Motion to file an Amended Claim is hereby GRANTED. The Preliminary Objections as filed by the Defendant, Commonwealth of Pennsylvania, Department of Public Welfare, are hereby rendered MOOT. In that the Amended Claim was filed along with the Motion to Amend, the Defendant is directed to file its responsive pleading within thirty (30) days from the

exit date of this Order.@ Copies forwarded to attorney for Plaintiff and attorney for Defendant.

October 2, 1995

Copy of Amended Claim forwarded to Chief Deputy Attorney General.

October 5, 1995

Acceptance of Service of Amended Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 3, 1995.

October 5, 1995

Acceptance of Service of Opinion and Order dated October 2, 1995 received from attorneys for Plaintiff. Receipt of same acknowledged by attorneys for Plaintiff October 4, 1995.

October 10, 1995

Acceptance of Service of Amended Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General October 4, 1995.

October 16, 1995

Acceptance of Service of Opinion and Order dated October 2, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 11, 1995.

November 1, 1995

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

November 22, 1995

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

December 4, 1995

Defendant's Brief in Support of Preliminary Objections to Plaintiff's Amended Claim filed by attorney for Defendant. Copy

forwarded to attorney for Plaintiff by attorney for Defendant.

December 22, 1995

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

February 29, 1996

The Board rendered an Opinion and made the following Order: **AND NOW**, this 29th day of February, 1996, the Preliminary Objections as filed by the Defendant, Commonwealth of Pennsylvania, Department of Public Welfare, are hereby **OVERRULED**. The Defendant is directed to file its responsive pleadings within thirty (30) days of the exit date of this Order. Copies forwarded to attorneys for Plaintiff and attorney for Defendant.

March 6, 1996

Acceptance of service of Opinion and Order dated February 29, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 4, 1996.

March 25, 1996

Acceptance of Service of Opinion and Order dated February 29, 1996 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff March 1, 1996.

March 29, 1996

Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Reply due from Plaintiff 5/3/96.**

May 6, 1996

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

May 8, 1996

Letter forwarded to parties directing them to proceed with discovery.

April 15, 1997

Letter forwarded to parties requesting status report. Status Report due on or before May 15, 1997.

May 20, 1997

Letter forwarded to parties requesting status report. Status Report due on or before June 19, 1997. Rule to Show Cause to be issued upon failure to file said status report.

May 27, 1997

Letter received from Plaintiff advising that since many of the issues involved in this claim have already been settled during negotiations regarding previous appeals, they expect that this claim can be resolved once the prior fiscal periods are settled.

May 27, 1997

Letter received from Defendant advising that Defendant is unsure of what is going on due to Plaintiff's lack of submitting position papers to Defendant.

June 19, 1997

Letter/Status Report received from attorney for Plaintiff advising that since many of the issues involved in this claim have already been settled during negotiations regarding previous appeals, they expect that this claim can be resolved once the prior fiscal periods are settled.

August 25, 1997

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

September 3, 1997

Withdraw of Appearance of Latsha, Davis & Yohe, filed by previous attorney for Plaintiff. Copy forwarded to current attorney for Plaintiff and attorney for Defendant.

January 13, 1998

Letter forwarded to parties requesting a Status Report. **Status Report due on or before February 12, 1998.**

February 5, 1998

Letter/Status Report received from Defendant advising that there has been no recent activity in this matter. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 19, 1998

Letter/Status Report received from attorney for Plaintiff advising that once the issues for the audit periods ending 12/31/86 - 12/31/90 are settled, they will be forwarding to Defendant a position paper and stipulation of settlement for this matter. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 14, 1998

Letter forwarded to parties requesting a status report. Status Report due on or before **May 14, 1998**.

May 18, 1998

Letter/Status Report received from Plaintiff advising that since DPW has not responded to the settlement proposal that Plaintiff forwarded to them, they request that this matter be scheduled for trial.

July 14, 1998

Hearing scheduled for March 8, 9, 10, 11 and 12, 1999, in Board's Courtroom No. 1, 6th Floor, Fulton Building, Harrisburg, PA commencing at 9:30 a.m.

July 16, 1998

Letter/Status Report received from Defendant advising that the focus of the parties' dealings has been on appeals involving earlier periods and have focused primarily on settlement, thus DPW has not propounded all of the discovery requests it will require, nor has it received responses to those already propounded.

August 4, 1998

Notice of Service of Respondent's Request for Production of Documents & Interrogatories upon Plaintiff filed by attorney for Defendant.

August 19, 1998

Notice of Service of DPW's 1st Set of Interrogatories and Request for Production of Documents filed by attorney for Defendant.

September 2, 1998

Notice of Deposition filed by attorney for Defendant.

September 3, 1998

Motion to Consolidate as well as Brief in Support of Claimant's Motion to Consolidate filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 2, 1998

Response in Opposition to Claimant's Motion to Consolidate as well as Brief in Support of Response in Opposition to Claimant's Motion to Consolidate filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 9, 1998

The Board rendered an Opinion and made the following Order: **AND NOW** this 9th day of November, 1998 upon consideration of Plaintiff's motion to consolidate Docket Nos. 1932, 1977, 2259, 2419, 2541, 2552, and 2648, and Defendant's opposition thereto, it is hereby **ORDERED** that: 1) the motion to consolidate is **DENIED IN PART** and Docket No. 1932 will not be consolidated with any other claim; and 2) the motion to consolidate will be **GRANTED IN PART** and Docket Nos. 1977, 2259, 2419, 2541, 2552, and 2648 will be consolidated for hearing. It is further **ORDERED** that all discovery in these claims be completed within six months of the exit date of this Order. Copies forwarded to attorney for Plaintiff and attorney for Defendant.

November 17, 1998

Notice of Service of Request for Production of Documents filed by attorney for Plaintiff.

November 18, 1998

Acceptance of Service of Opinion and Order dated November 9, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 13, 1998.

November 18, 1998

Acceptance of Service of Opinion and order dated November 9, 1998 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 16, 1998.

December 4, 1998

Entry of Appearance of Jason W. Manne, Assistant Counsel, on behalf of Defendant, filed by attorney for Defendant.

December 7, 1998

Notice of Service of Defendant's Second Request for Production of Documents and Second Set of Interrogatories filed by attorney for Defendant.

December 9, 1998

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

December 10, 1998

DPW's Motion to Exceed Interrogatory Limit as well as DPW's Brief in Support of Motion to Exceed Interrogatory Limit filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 21, 1998

Notice of Service of Defendant's Response to Claimant's 1st Document Request filed by attorney for Defendant.

December 22, 1998

Notice of Service of Claimant's Response to Respondent's 2nd Request for Production of Documents and Second Set of Interrogatories filed by Plaintiff.

December 31, 1998

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

December 31, 1998

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

January 5, 1999

Claimant's Response to Respondent's Motion to Exceed Interrogatory Limit in the Form of a Motion for a Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for

Defendant by attorney for Plaintiff.

January 5, 1999

Claimant's Response to Respondent's First Motion to Compel Discovery in the Form of a Motion for a Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 6, 1999

Letter/Request for a Status Conference filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 6, 1999

DPW's Fourth Motion to Compel Discovery (Expert Interrogatory) as well as DPW's Brief in Support of Fourth Motion to Compel Discovery (Expert Interrogatory) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 7, 1999

Claimant's Response to Respondent's Second Motion to Compel Discovery in the Form of a Motion for a Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 11, 1999

DPW's Reply Brief in Support of First Motion to Compel Discovery and in Opposition to Cross-Motion for Protective Order (Loan Documents and Financial Statements) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 11, 1999

DPW's Reply Brief in Support of Second Motion to Compel Discovery and in Opposition to Cross-Motion for Protective Order (Production of Documents) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 20, 1999

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

January 27, 1999

Claimant's Motion to Preclude Respondent, DPW, from Reopening Claimant's Audits for FYE's 6/30/91 and 6/30/92 as well as Claimant's Brief in Support of a Motion to Preclude DPW from Reopening Audits for FYE's 6/30/91 and 6/30/92 filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 4, 1999

Motion to Continue Trial, as well as DPW's Brief in Support of Motion to Continue Trial filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 5, 1999

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

February 8, 1999

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

February 8, 1999

DPW's First Motion in Limine as well as DPW's Brief in Support of First Motion in Limine filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 8, 1999

Claimant's Response to Respondent's Third Motion to Compel Discovery (Interrogatory Issues) in the Form of a Motion for a Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 8, 1999

Claimant's Response to Respondent's Fourth Motion to Compel Discovery (Expert Interrogatory) in the Form of a Motion for a Protective Order as well as Claimant's Brief in Support of a

Protective Order Against Respondent's Forth Motion to Compel Discovery (Expert Interrogatory) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 11, 1999

Status Report on Discovery Issues filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 12, 1999

DPW's Reply Brief in Support of Third Motion to Compel Discovery and in Opposition to Cross-Motion for Protective Order (Interrogatories) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 12, 1999

DPW's Reply Brief in Support of Fourth Motion to Compel Discovery and in Opposition to Cross-Motion for Protective Order (Expert Interrogatory) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 17, 1999

Notice of Service of Claimant's Response to Respondent's Third Request for Production of Documents filed by attorney for Plaintiff.

February 18, 1999

DPW's Supplemental Brief in Support of Motion to Continue Trial filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 19, 1999

Claimant's Response to Respondent's Motion to Continue Trial as well as Claimant's Brief in Response to Respondent's Motion to Continue Trial filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 19, 1999

Claimant's Response to Respondent's First Motion in Limine as well as Claimant's Brief in Response to Respondent's First Motion in

Limine filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 22, 1999

DPW's Brief in Opposition to Claimant's Motion to Preclude DPW From Reopening Claimant's Audits for FYE 6/30/91 and 6/30/92 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 22, 1999

Five Day Notice of Claimant's intention to submit an Amended Prehearing Statement, along with copies of the proposed Amended Prehearing Statement, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 23, 1999

Claimant's Reply Brief in Response to DPW's Brief in Opposition to Claimant's Motion to Preclude DPW from Reopening Claimant's Audits filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 24, 1999

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

February 25, 1999

DPW's Reply Brief in Support of Motion to Continue Trial, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 26, 1999

The Board rendered an Opinion and made the following Order: **AND NOW**, this 26th day of February, 1999, after review of the Motions, Briefs and Pleadings in this case, it is hereby **ORDERED** and **DECREED** that Claimant, Central Park Lodge Nursing and Rehabilitation Center - Broomall, provide to Defendant, Commonwealth of Pennsylvania, Department of Public Welfare, the following documents and/or answers within twenty (20) days of the date of the Order or suffer further sanctions of the Board:

1. All documents requested in Questions 4, 5, and 6 in the Motion for Production that was served upon Claimant by Defendant on or about July 31, 1998. 2. All answers to Interrogatories 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, in the Interrogatories that were served upon Claimant by Defendant on or about December 15, 1998.

3. All documents requested in Questions 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 in the Motion for Production that were served upon Claimant by Defendant on or about December 15, 1998. The Board further **ORDERS** that the Defendant, Department of Public Welfare, be permitted to propound up to one hundred twenty (120)

interrogatories upon Claimant, related to the 25 audit adjustments at issue in Docket No. 1932-P. Said interrogatories shall be served within ten (10) days from the exit date of this Order.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

February 26, 1999

Board Hearing originally scheduled for March 8, 9, 10, 11 & 12, 1999 **canceled**. Same to be rescheduled after discovery is complete.

February 26, 1999

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

March 1, 1999

Motion to Quash Subpoena Re: Richard Keiser and Brief in Support of Motion to Quash Subpoena Re: Richard Keiser filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 4, 1999

Objection to Amended Pre-Hearing Statement filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 10, 1999

Letter/Request for a Status Conference Pursuant to Board of Claims Rule 501 (a) (iii) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 10, 1999

Withdrawal of Motion to Quash Subpoena filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 12, 1999

Acceptance of Service of Opinion and Order dated February 26, 1999 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff March 11, 1999.

March 18, 1999

Notice of Service of Documents (as requested in Board's Order of 2/26/99) filed by attorney for Plaintiff.

March 19, 1999

Letter/Response to Request for Status Conference filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 22, 1999

Supplemental Response to Request for Status Conference filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 26, 1999

Updated Status Report on Discovery Issues filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 30, 1999

The Board rendered an Opinion and made the following Order: **AND NOW**, this 30th day of March, 1999, the request of the Plaintiff, Central Park Lodge Nursing and Rehabilitation Center - Broomall, for a Status Conference, pursuant to Board of Claims Rule 501(a)(iii) is hereby **DENIED**. The Motion of the Defendant, Commonwealth of Pennsylvania, Department of Public Welfare, to Quash a Subpoena issued by Plaintiff to Richard Keiser is hereby withdrawn without prejudice.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

April 26, 1999

Acceptance of Service of Opinion and Order dated March 30, 1999 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 23, 1999.

October 29, 1999

Letter forwarded to parties requesting a status report. Status Report due on or before **November 29, 1999**.

November 3, 1999

Letter receivedd from Plaintiff advising that they submitted a settlement proposal to Defendant on October 26, 1999 and will continue to seek settlement negotiations with Defendant and will continue discovery efforts.

March 30, 2000

Letter/Status Report received from attorney for Plaintiff advising that the parties are attempting to complete a global settlement of several pending BOC cases and Claimant submitted a settlement proposal on May 27, 1999 and September 3, 1999, which was supplemented, and they are awaiting a response to same from Defendant.

October 2, 2000

Letter forwarded to parties requesting a Status Report. Status Report due on or before **November 1, 2000**.

October 24, 2000

Letter received from attorney for Plaintiff advising that the parties are in the midst of settlement negotiations and it is hoped that they will reach a fair and equitable settlement of all outstanding issues in this matter.

May 14, 2001

Letter forwarded to parties requesting a Status Report. Status Report due on or before **June 13, 2001**.

June 15, 2001

Letter received from attorney for Plaintiff advising that the parties are in the midst of settlement negotiations and it is hoped that they will reach a fair and equitable settlement of all outstanding issues in this matter.

January 17, 2002

Letter forwarded to parties requesting a Status Report. Status Report due on or before **February 19, 2002**.

February 19, 2002

Letter received from attorney for Plaintiff advising that they intend to continue with settlement negotiations with Defendant and that it is hoped that a fair and equitable settlement of all outstanding issues will be reached.

August 28, 2002

Letter forwarded to parties requesting a Status Report. Status

Report due on or before **September 27, 2002.**

October 4, 2002

Letter received from attorney for Plaintiff advising that they intend to continue settlement negotiations with Defendant and that it is hoped that a fair and equitable settlement of all outstanding issues in the matter will be reached.

September 27, 2005

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 27th day of September, 2005, it is **ORDERED** and **DECREED** that pursuant to 42 Pa. C.S.A. §5103(a) and Pa. R.C.P. 213(f), this matter and the record thereof is **TRANSFERRED** to the Department of Public Welfare, Bureau of Hearings and Appeals." Copy forwarded to Plaintiff and Defendant.

October 3, 2005

Board transferred file to Department of Public Welfare, Bureau of Hearing and Appeals.

October 17, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated September 27, 2005. Receipt of same acknowledged October 11, 2005.
