

Docket Number: 2070

MECHANICSBURG REHAB SYSTEMS

Richard Oare, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

~~Cheryl G. Young, Chief Counsel~~
~~Raymond W. Dorian, Assistant Counsel~~

January 29, 1996

By Order of the Common Pleas of Cumberland County, Order as follows:
"AND NOW, this 29th day of January, 1996, after careful consideration of Defendant's Preliminary Objections to Plaintiff's Amended Complaint, as well as the briefs and oral arguments presented in the matter, and for the reasons stated in the accompanying opinion, the preliminary objections are **GRANTED** as they relate to Plaintiff's breach of contract claim, to the extent that the claim is transferred to the Board of Claims, and the preliminary objections are **DENIED** as they relate to Plaintiff's fraud claim"

THE FOLLOWING FILED IN THE COURT OF COMMON PLEAS OF CUMBERLAND COUNTY:

July 20, 1994

Complaint - Civil Action.

August 2, 1994

Sheriff's return (Sheriff served Deft. 7/27/94). Sheriff's costs \$23.84 Ed. Atty.

September 19, 1994

Defendant's Preliminary Objections to Plaintiff's Complaint.

September 19, 1994

Praecipe to Default Judgment and Default Judgment Entered. Notice mailed 9/19/94.

October 11, 1994

Plaintiff's Preliminary Objections to Defendant's Preliminary Objections.

October 13, 1994

Motion to Set Aside Entry of Default and Order by Judge Kevin A. Hess. Notice given.

February 22, 1995

Notice of Oral Deposition.

March 1, 1995

Stipulation and Order by Judge J. Wesley Oler, Jr. Default Judgment opened to order - Notice given 3/2/95.

March 22, 1995

Amended Complaint.

April 12, 1995

Defendant's Preliminary Objections to Plaintiff's Amended Complaint.

April 24, 1995

Plaintiff's Motion for Default Judgment with Motion to Compel in the Alternative and Order of Court - Rule issued returnable within 20 Days of Service of Judge J. Wesley Oler, Jr. - Copies mailed 4/25/95.

May 17, 1995

Defendant's Answer to Rule to Show Cause.

May 17, 1995

Defendant's Motion for enlargement of time Notice Pro Fut.

May 17, 1995

Motion to Submit Affidavits in Lieu of Depositions for the Determination of Rule to Show Cause and Motion to Strike Exhibits from Plaintiff's "Motion for Default Judgment with Motion to Compel".

May 25, 1995

Order of Court - Motions of 4/24/95 & 5/17/95 - Conference schedule 7/27/95 9:00 a.m. - by Judge J. Wesley Oler, Jr. Copies mailed 5/25/95.

July 31, 1995

Order of Court - In re Plaintiff's Motion for Default Judgment with Motion to Compel in the Alternative - by Judge J. Wesley Oler, Jr. Copies mailed 7/31/95.

August 18, 1995

Motion for a Stay.

August 18, 1995

Application to Amend Order to Include Statement Specified in PA CS 702 (B).

August 22, 1995

Order of Court - In re Application to Amend Order to Include Statement Specified in PA CS 702(B) - Denied - By Judge J. Wesley Oler, Jr. - Copies mailed 8/22/95.

August 22, 1995

Order of Court - In re Motion for a Stay - Denied - by Judge J. Wesley Oler, Jr. - Copies mailed 8/22/95.

September 14, 1995

Praecipe for Listing Case for Argument by Jill A. Devine, Esquire.

October 10, 1995

Order - Dated 10/4/95 - from Commonwealth Court of PA Petition for Review - Denied.

January 25, 1996

Opinion and Order of Court - Dated 1/25/96 - In re Defendant's Preliminary Objections - Preliminary Objections are granted as they relate to Plaintiff's breach of contract claims to the extent that the claim is transferred to the Board of Claims and the Preliminary Objections are denied as they relate to Plaintiff's fraud claim - by J. Wesley Oler, Jr. - Copies mailed 1/25/96.

January 30, 1996

Amended Order of Court - Dated 1/29/96 - In re Defendant's Preliminary Objections - Preliminary Objections are granted as they relate to Plaintiff's breach of contract claim - Preliminary Objections are denied as they relate to Plaintiff's fraud claim - by J. Wesley Oler, Jr. - Copies mailed 1/30/96.

BEFORE THE BOARD OF CLAIMS:

February 12, 1996

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$68,891.00+.

February 26, 1996

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

March 1, 1996

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General February 28, 1996.

March 25, 1996

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 28, 1996.

March 26, 1996

Proposed Order as well as Defendant's Preliminary Objections to Plaintiff's Complaint and Brief in Support thereof, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 1996

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

August 14, 1996

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 14th day of August, 1996, after reviewing the briefs of the parties, it is hereby **ORDERED** and **DECREED** that Defendant's, Commonwealth of Pennsylvania, Department of Corrections, Preliminary Objections in the nature of a Demurrer raising the statute of limitations is hereby **DISMISSED**." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

February 4, 1997

Panel Hearing scheduled for March 4, 5, & 6, 1997, if necessary, in Board's Courtroom No. 2, Fulton Building, 200 North Third Street, Suite 600, Harrisburg, Pennsylvania, commencing at 9:30 a.m.

February 5, 1997

Plaintiff's Request for Hearing filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 21, 1997

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

February 21, 1997

Motion for Summary Judgment and Memorandum in Support thereof filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 3, 1997

Plaintiff's Motion to Dismiss Defendant's Motion for Summary Judgment and Brief in Opposition thereto filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 4, 1997

Panel Hearing held this date in Board's Courtroom No. 2, Fulton Building, 200 North Third Street, Suite 600, Harrisburg, Pennsylvania, commencing at 9:30 a.m. Case completed.

March 8, 1997

Testimony of hearing held March 4, 1997, filed.

April 3, 1997

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 3rd day of April, 1997, it is **ORDERED** and **DECREED** that Plaintiff's, Mechanicsburg Rehab Systems, Motion to Dismiss Defendant's Motion for Summary Judgment is hereby **DENIED** as being **MOOT** in light of the Panel's oral denial of Defendant's Motion for Summary Judgment." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

April 4, 1997

Testimony of hearing held March 4, 1997, forwarded to attorney for Defendant.

Plaintiff's Findings of Fact, etc. due 5/5/97.

Defendant's Findings of Fact, etc. due 6/4/97.

April 9, 1997

Acceptance of Service of Opinion and Order dated April 3, 1997 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 8, 1997.

April 17, 1997

Acceptance of Service of Opinion and Order dated April 3, 1997 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 16, 1997.

April 17, 1997

Acceptance of Service of Testimony of hearing held March 4, 1997 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 16, 1997.

May 5, 1997

Plaintiff's Supplemental Trial Brief filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 10, 1997

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

July 14, 1997

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

August 5, 1997

Panel Report filed.

March 25, 1998

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 25th day of March, 1998, it is **ORDERED** and **DECREED** that the Defendant, Commonwealth of Pennsylvania, Department of Corrections is indebted unto the Plaintiff, Mechanicsburg Rehab Systems, in the full and true sum of Sixty-Eight Thousand Eight Hundred Ninety-One Dollars and Eighteen Cents (\$68,891.18). Upon receipt of said award Plaintiff shall forthwith file with the Board of Claims a Praecipe requesting that the matter be marked settled, discontinued and ended with prejudice. Each party to bear its own costs and attorneys' fees." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

April 1, 1998

Acceptance of Service of Opinion and Order dated March 25, 1998 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General March 25, 1998.

April 3, 1998

Acceptance of Service of Opinion and Order dated March 25, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 2, 1998.

July 20, 1998

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 20th day of July, 1998, a Rule to Show Cause is issued upon Plaintiff, Mechanicsburg Rehab Systems, where it is **DIRECTED** that Plaintiff advise the Board within thirty (30) days of this Order whether or not Plaintiff has received payment or other justifiable response. This Rule shall be absolute and the case shall be marked closed and settled with prejudice in the event the Board does not receive a response to said Rule." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

August 24, 1998

Acceptance of Service of Opinion and Order dated July 20, 1998, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 21, 1998.

October 6, 1998

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 6th day of October, 1998, this Order is issued as a result of the failure of Plaintiff, Mechanicsburg Rehab Systems, to advise the Board of Claims within thirty (30) days of July 20, 1998, why the case should not be dismissed for failure to advise the Board whether or not Plaintiff has received payment or other justifiable response. It is, therefore, **DIRECTED** that the Rule to Show Cause be made **ABSOLUTE** and the record marked 'closed and settled with prejudice.'" Copies forwarded to attorney for Plaintiff and attorney for Defendant.

October 9, 1998

Acceptance of Service of Opinion and Order dated October 6, 1998, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 7, 1998.
