

Docket Number: 2112-P

**PRESBYTERIAN MEDICAL CENTER OF OAKMONT**

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

VS.

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE**

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

**May 23, 1996**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$287,903.00+.

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**May 28, 1996**

Amended Claim filed by attorney for Plaintiff.

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**June 3, 1996**

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 6/3/96.

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**June 11, 1996**

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General June 6, 1996.

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**June 12, 1996**

Copy of Amended Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. Response due from Defendant July 11, 1996.

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**June 12, 1996**

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 5, 1996.

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**June 13, 1996**

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

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**June 20, 1996**

Acceptance of Service of Amended Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 14, 1996.

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**July 1, 1996**

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

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**July 19, 1996**

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

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**July 31, 1996**

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

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**July 31, 1996**

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

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**July 31, 1996**

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

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**April 7, 1997**

Letter forwarded to parties requesting status. Response due from parties May 7, 1997.

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**April 11, 1997**

Department of Public Welfare's Interrogatories to Claimant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**April 11, 1997**

Status letter filed by attorney for Defendant advising that the parties are presently conducting discovery. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**July 24, 1997**

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

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**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.

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**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.

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**December 9, 1997**

Letter forwarded to parties requesting status. Response due from parties January 9, 1998.

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**January 13, 1998**

2nd letter forwarded to parties requesting status. Response due from parties February 15, 1997.

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**February 13, 1998**

Status letter received from attorney for Plaintiff advising that the parties are in discovery and further that upon completion of same, if no settlement is reached, Plaintiff will request that a hearing be set.

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**July 20, 1998**

Letter forwarded to parties requesting status. Response due from parties August 20, 1998.

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**August 13, 1998**

Status letter received from attorney for Plaintiff advising that the parties are in discovery.

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**October 28, 1998**

Letter forwarded to parties requesting status. Response due from parties November 30, 1998.

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**November 4, 1998**

Status letter received from attorney for Plaintiff advising that the parties are in discovery.

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**November 19, 1998**

Status letter received from attorney for Defendant advising that the parties are still in discovery and will require an additional 180 days to complete same prior to hearing.

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**June 28, 1999**

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

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**August 6, 1999**

The Board made the following Order: **AND 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.

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**July 26, 1999**

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

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**August 12, 1999**

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

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**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.

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**August 16, 1999**

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

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**August 18, 1999**

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

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**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.

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**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.

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**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.

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**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.

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**August 26, 1999**

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

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**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.

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**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.

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**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.

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**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.

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**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.

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**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.

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**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.

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**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.

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**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.

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**August 31, 1999**

Claimants 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.

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**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.

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**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.

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**August 25, 1999**

Notice of Service of Claimant's First Request for Answers to Interrogatories filed by attorney for Plaintiff.

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**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.

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**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.

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**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.

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**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.

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**September 10, 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.

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**September 10, 1999**

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

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**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.

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**September 14, 1999**

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

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**October 7, 1999**

Testimony of Panel Hearing held September 14, 1999 filed.

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**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.**

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**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.

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**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.**

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**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.

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**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.**

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**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.**

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**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.

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**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.**

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**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.

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**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.**

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**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.

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**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.**

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**March 8, 2000**

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

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**March 15, 2000**

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

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**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.**

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**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.

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**May 5, 2000**

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

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**July 12, 2000**

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

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**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.

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**August 7, 2000**

Panel Report filed by Panel Members.

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**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.

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**April 26, 2001**

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

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**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.

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**May 1, 2001**

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

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**May 1, 2001**

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

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**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.

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**May 2, 2001**

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

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**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.

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**May 7, 2001**

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

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**May 14, 2001**

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

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**May 21, 2001**

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

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**June 7, 2001**

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

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**June 11, 2001**

File forwarded to Commonwealth Court.

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**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.

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**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.

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**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.

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**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 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.

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**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.

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**May 15, 2003**

Commonwealth Court rendered Opinion and Order. Order as follows: **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. @

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**July 9, 2003**

Commonwealth Court rendered Opinion and Order. Order as follows: **ANOW**, July 09, 2003 having considered the Presbyterian Medical Center of Oakmont's application for reargument, and Plaintiff's answer, the application is denied

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**December 24, 2003**

Supreme Court rendered Order. Order as follows: **APer 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? @

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**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.

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**July 21, 2005**

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