

Docket Number: 2113-P

BIRCHWOOD NURSING FACILITY

~~Jeffrey W. Bechtel, Esquire~~
~~Louis J. Capozzi, Esquire~~
~~Samuel Fineman, Esquire~~

VS.

CLOSED

~~COMMONWEALTH OF PENNSYLVANIA~~
~~DEPARTMENT OF PUBLIC WELFARE~~

~~John A. Kane, Chief Counsel~~
~~Carol Ulichney, Assistant Counsel~~

May 24, 1996

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$322,153.00+

June 3, 1996

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT JULY 3, 1996.

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.

June 12, 1996

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

July 1, 1996

Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. PLAINTIFF'S REPLY TO NEW MATTER DUE AUGUST 1, 1996

July 30, 1996

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

March 21, 1997

Letter forwarded to parties requesting a status report. STATUS REPORT DUE ON OR BEFORE APRIL 21, 1997.

April 15, 1997

Letter/Status Report received from attorney for Plaintiff advising that no activity or discovery has been taken in this case and advised of some of the proceedings currently happening at DPW's Office of Hearings & Appeals.

August 25, 1997

Letter forwarded to parties requesting a status report. STATUS REPORT DUE ON OR BEFORE SEPTEMBER 24, 1997.

August 25, 1997

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

September 2, 1997

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

September 9, 1997

Praecipe for Withdrawal of Appearance of Latsha, Davis & Yohe, P.C., on behalf of Plaintiff filed by the law firm of Latsha, Davis & Yohe, P.C.

September 24, 1997

Status letter filed by attorney for Defendant advising that the status of this case remain the same.

September 26, 1997

Status letter filed by attorney for Plaintiff requesting that a hearing be scheduled in this matter as it appears that the parties are unable to settle the issues.

November 12, 1997

Panel Hearing (composed of Louis Martin, Esquire and John Sokol, P.E.) scheduled for January 26, 27 & 28, 1998, in Board of Claims' Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, PA, commencing at 9:30 a.m.

December 11, 1997

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

December 15, 1997

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

December 15, 1997

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

December 19, 1997

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

January 23, 1998

Defendant's Proposed Findings of Fact and Supplemental Exhibits filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 26, 1998

Panel Hearing held this date in Board's Courtroom No. 2, Fulton Building, 200 North Third Street, Suite 400, Harrisburg, Pa. Case Settled.

February 13, 1998

Testimony of Panel Hearing held January 26, 1998 filed.

February 24, 1998

Copy of testimony of Panel Hearing held January 26, 1998 forwarded to attorney for Defendant.

February 25, 1998

Letter received from attorney for Defendant advising that the Defendant did not authorize Mr. Capozzi to speak on the Department's behalf at the hearing (settlement put on record) on January 26, 1998. Defendant advises that they do not agree with Mr. Capozzi's description of the terms of the settlement or his statement that the parties will ask the Board to approve the settlement. Defendant is also very disturbed about the off-the-record conversations that apparently took place that day which are not reflected in the transcript. If the parties do not settle, Defendant intends to place on the record their objections to these ex parte communications. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 25, 1998

Acceptance of Service of Order dated February 20, 1998 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 24, 1998.

March 5, 1998

Letter received from attorney for Plaintiff, in response to Defendant's letter filed February 25, 1998, advising that to his knowledge, the settlement placed on the Record before the Board was consistent with the parties January 23, 1998 agreement. Also advises that contrary to Defendant's correspondence describing the settlement as "tentative", Plaintiff understood the parties' to have "shook hands" and to have reached a settlement. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 9, 1998

Letter forwarded to parties advising that if the parties do not reach a settlement of the matter within 30 days, the Board is going to schedule this matter for hearing. Status Report due on or before April 9, 1998.

April 4, 1998

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

April 23, 1998

Letter received from Plaintiff advising that this matter has settled and that Plaintiff will withdraw the claim upon receipt of the additional reimbursement.

April 29, 1998

Letter received from Defendant disagreeing with Plaintiff's letter of April 23, 1998 wherein Plaintiff advised they will withdraw their Claim after receipt of the reimbursement. Defendant advises that the Plaintiff is required to withdraw this matter within 10 days after the Board of Hearing and Appeals Order.

May 15, 1998

Letter received from Plaintiff advising that they believe the parties have reached a final settlement for the above matters and Claimant intends to file a Petition to Withdraw same in the near future. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 20, 1998

Praeipice to Discontinue, Settle and End filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 2, 1998

The Board made the following Order: "**AND NOW**, this 2nd day of September, 1998, upon receipt of a Praecipe to Discontinue, Settle and End, requesting the Board to ". . .mark the above-captioned Claim 'settled', pursuant to a stipulation of settlement. . .", executed by Samuel B. Fineman, Esquire, on behalf of Plaintiff, Birchwood Nursing Center, and docketed with this Board under date of August 20, 1998, it is **ORDERED** and **DIRECTED** that said case be marked settled, discontinued, and ended with prejudice."

September 8, 1998

Acceptance of Service of Order dated September 2, 1998 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 4, 1998.

September 10, 1998

Acceptance of Service of Order dated September 2, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 8, 1998.

CLOSED