

Docket Number: 2279

\*(CONSOLIDATED WITH NO. 2281)\*

THE CUMBERLAND COUNTY NURSING HOME

~~Louis J. Capozzi, Jr., Esquire~~

~~Daniel Natirboff, Esquire~~

~~Jeffrey W. Bechtel, Esquire~~

~~John N. Kennedy, Esquire~~

~~Kimber Latsha, Esquire~~

~~\*\*David C. Marshall, Esquire~~

# CLOSED

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF PUBLIC WELFARE

~~John A. Kane, Chief Counsel~~

Cynthia White Williams, Assistant Counsel

**October 18, 1996**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$300.00+.

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**October 30, 1996**

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. **ANSWER DUE FROM DEFENDANT 12/2/96.**

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**November 5, 1996**

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 31, 1996.

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**CLOSED**

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

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**December 3, 1996**

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

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**December 18, 1996**

Letter forwarded to parties directing them to proceed with discovery.

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**June 13, 1997**

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

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**October 27, 1997**

Defendant's Motion to Dismiss (for failure to file a timely claim) and Memorandum of Law in Support of Motion to Dismiss filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**November 24, 1997**

Claimant's Answer to Defendant's Motion to Dismiss and Brief in Support of Claimant's Answer filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**January 5, 1998**

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

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**January 6, 1998**

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 6th day of January, 1998, this Board has considered the Defendant's Motion to Dismiss which was made on the grounds that the Board lack jurisdiction to hear this matter because the statute of limitation expired prior to the filing of the action. The Board finds that the statute had not expired and the Motion to Dismiss is **DENIED.**" Copies forwarded to attorney for Plaintiff and attorney for Defendant.

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**January 9, 1998**

Acceptance of Service of Opinion and Order dated January 6, 1998 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 8, 1998.

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**January 12, 1998**

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

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**June 12, 1998**

Letter/Status Report received from Plaintiff advising that they have prepared a settlement proposal in the form of a position paper settling this matter and Board Docket Nos. 2281 and 2537 and anticipate dispatching the settlement offer to Defendant the week of June 15, 1998.

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**December 15, 1998**

Letter forwarded to parties requesting a Status Report. Status Report due on or before January 14, 1999.

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**January 7, 1999**

Letter/Status Report received from attorney for Plaintiff advising that Defendant is now in receipt of Plaintiff's settlement offer/position paper and has requested additional time to have the document reviewed by the Auditor General's Office. It is Plaintiff's intention to notify the Board as soon as the parties reach an agreement and if they are unable to reach an agreement, they will notify the Board promptly so a hearing can be scheduled. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**August 10, 1999**

Letter forwarded to parties requesting a status report. Status Report due on or before September 9, 1999.

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**September 9, 1999**

Letter/Status Report received from Plaintiff advising that the parties have been unable to reach a settlement agreement. Once Plaintiff responds to Defendant's pending Document Request (anticipated this week), discovery will be complete and Plaintiff will notify the Board that this matter is ready to be scheduled for hearing.

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**November 5, 1999**

Motion to Consolidate (Docket Nos. 2279, 2281 & 2537); Brief in Support of Claimant's Motion to Consolidate Claims and Proposed Order, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**December 8, 1999**

DPW's Response to Motion to Consolidate filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**December 21, 1999**

Letter (in response to Defendant Response to Plaintiff's Motion to Consolidate Case Nos. 2279, 2281 & 2537) received from attorney for Plaintiff requesting that if Defendant feels that the issues in No. 2537 differ from Nos. 2279 and 2281, Plaintiff requests that numbers 2279 and 2281 be consolidated and scheduled for trial; as well as requests that number 2537 be scheduled for trial as well, separately.

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**January 3, 2000**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 3rd day of February, 2000, upon consideration of Claimant's Motion to Consolidate, Defendant's response and the various correspondence cited in the above Opinion, it is **ORDERED, ADJUDGED** and **DECREED** that Claimant's Motion to Consolidate Docket Nos. 2279 and 2281 is hereby **GRANTED**. Claimant's Motion to Consolidate Docket No. 2537 with the above two (2) docket numbers is **DENIED**. Senior Counsel for the Board of Claims will be in contact with counsel in the near future in order to schedule respective hearings in these matters. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

**CLOSED**  
February 7, 2000  
Acceptance of Service of Opinion and Order dated February 3, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 4, 2000.  
February 11, 2000

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

**February 14, 2000**

Acceptance of Service of Opinion and Order dated January 3, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 7, 2000.

**March 2, 2000**

The Board made the following Order: "**AND NOW**, this 2nd day of March, 2000, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board's Panel, composed of Frederick D. Giles, Esquire, Panel Attorney, and James B. Wilson, P.E., Engineer Member, beginning on May 30, 2000 through June 1, 2000, if necessary. Said hearing shall be held in Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, and will commence at 9:30 a.m. It is further **ORDERED** and **DECREED** that all discovery be completed no later than forty-five (45) days prior to the commencement of the trial." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

**March 9, 2000**

Acceptance of Service of Order dated March 2, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 7, 2000.

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**April 7, 2000**

Panel Hearing (Giles and Wilson) originally scheduled for May 30, 31 and June 1, 2000 **rescheduled** for May 31, June 1 and June 2, 2000, in Board's Courtroom No. 2, 6th Floor, Fulton Bank Building, Harrisburg, PA, commencing at 9:30 a.m.

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**\*\*April 6, 2000**

Principle for Entry of Appearance of David L. Marshall, Esquire filed on behalf of Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**April 7, 2000**

Letter received from attorney for Plaintiff requesting a thirty (30) day extension of time to respond to Defendant's outstanding discovery request.

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**April 24, 2000**

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, granting them until **May 17, 2000** to respond to Defendant's outstanding discovery request.

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**April 28, 2000**

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

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**April 28, 2000**

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

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**May 24, 2000**

Letter received from Plaintiff advising that the parties have reached a tentative settlement of these issues and are currently in the process of drafting a Stipulation of Settlement memorializing the agreements reached. Requests a continuance of the hearing of 45 days.

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**May 26, 2000**

Panel Hearing (Giles/Wilson) scheduled for May 31, June 1 and 2, 2000 **canceled**, per Plaintiff's letter received May 24, 2000 advising that the parties have reached a tentative settlement.

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**October 2, 2000**

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

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**November 3, 2000**

Letter/Status Report received from attorney for Plaintiff advising that the parties have prepared a draft Stipulation of Settlement that Client is currently reviewing and hopes to complete soon.

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**November 27, 2000**

Praecipe to Withdraw With Prejudice filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**December 1, 2000**

The Board made the following Order: "**AND NOW**, this 1st day of December, 2000, upon receipt of a Praecipe to Withdraw With Prejudice, requesting the Board to 'mark the above-captioned appeals as Withdrawn, Discontinued and Ended With Prejudice', executed by David C. Marshall, Esquire and Kimber L. Latsha, Esquire, on behalf of Plaintiff, The Cumberland County Nursing Home, and docketed with this Board under date of November 27, 2000, it is **ORDERED** and **DIRECTED** that said cases be marked 'withdrawn, discontinued and ended with prejudice'." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**December 5, 2000**

Acceptance of Service of Order dated December 1, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 4, 2000.

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**December 7, 2000**

Acceptance of Service of Order dated December 1, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 4, 2000.

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