

Docket Number: 2549

ST. IGNATIUS NURSING HOME

~~Louis J. Capozzi, Jr., Esquire~~
Daniel K. Natirboff, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE**

John A. Kane, Chief Counsel
~~Lesley Smith Oakes, Assistant Counsel~~
Catherine Stewart, Assistant Counsel

December 29, 1997

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$206,496.00+.

January 8, 1998

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 2/8/98.

January 14, 1998

Acceptance of Service of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 9, 1998.

January 14, 1998

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 9, 1998.

February 10, 1998

Letter received from attorney for Defendant requesting an extension of time until 2/20/98 to file a response.

February 20, 1998

Letter received from attorney for Defendant requesting an additional 30 days to file a response.

March 2, 1998

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

April 9, 1998

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

April 15, 1998

Letter forwarded to the parties directing them to proceed with discovery.

September 9, 1999

Motion to Compel Answers to Interrogatories filed by attorney

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

October 14, 1999

Defendant's Response to Motion to Compel Answers to Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 18, 1999

Letter received from attorney for Plaintiff requesting to withdraw Plaintiff's Motion to Compel Answers to Interrogatories.

November 29, 1999

The Board made the following Order: **AND NOW**, this 29th day of November, 1999, upon receiving notice from Defendant, Commonwealth of Pennsylvania, Department of Public Welfare, to withdraw its Motion to Compel Answers to Interrogatories, it is hereby **ORDERED** and **DECREED** that Defendant's Motion is hereby **WITHDRAWN**.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

December 6, 1999

Acceptance of Service of Order dated December 6, 1999 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 2, 1999.

June 2, 2000

Letter forwarded to parties requesting status. Response due from parties July 3, 2000.

July 6, 2000

Status letter received from attorney for Plaintiff advising that the Claimant has proposed an offer of settlement to the Department and as of yet, the Department has not responded. Plaintiff also advises that if settlement negotiations fail. Claimant will request a hearing before the Board.

January 10, 2001

Letter forwarded to parties requesting status. Response due from parties February 12, 2001.

March 5, 2001

Letter forwarded to parties requesting status. Response due from parties April 5, 2001.

April 5, 2001

Status letter received from attorney for Plaintiff advising that the parties are conducting settlement negotiations.

June 18, 2001

June 18, 2001

Status letter received from attorney for Plaintiff advising that the parties have been unable to come to a settlement and Plaintiff requests the Board to set a hearing.

February 20, 2002

Letter received from attorney for Plaintiff advising that the parties are unable to settle and request that a hearing be set.

February 22, 2002

The Board rendered the following Order: **AAND NOW**, this 22nd day of February, 2002, 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 Conrad E. Kambic, P.E., Engineer Member, beginning on April 30, 2002 through May 2, 2002, if necessary. Said hearing shall be held in Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing 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. **Pre-trial statements due April 1, 2002.**

March 4, 2002

Acceptance of Service of Order dated February 22, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 27, 2002.

March 29, 2002

Certificate of Service of Claimant's Response to Respondent's First Request for Production of Documents filed by attorney for

Plaintiff.

April 1, 2002

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

April 2, 2002

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

April 5, 2002

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

April 17, 2002

Motion for a Stay of Hearing filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 23, 2002

Letter received from attorney for Plaintiff advising that they will be filing a response to Defendant's Motion for a Stay of Hearing on/or before April 24, 2002.

April 24, 2002

Letter received from attorney for Plaintiff requesting a 1-day extension of time in which to file their response to the Defendant's Motion for Stay.

April 24, 2002

Certificate of Service of Notice to Produce filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 25, 2002

(2nd) Motion for a Stay of Hearing filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 25, 2002

Motion to Compel Appearance of a Witness for Deposition and Motion for a Continuance of Scheduled Hearing filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 25, 2002

Answer in Opposition to Motion for a Stay of Hearing as well as Brief in Support filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 25, 2002

Notice to Attend to Harold Mann filed by attorney for Plaintiff.

April 25, 2002

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

April 26, 2002

The Board rendered an Opinion and made the following Order: **AND NOW**, this 26th day of April, 2002, it is hereby **ORDERED** and **DECREED** that Defendant's Motion for a Continuance and Request to Compel the Deposition of Sara Talencia is hereby **GRANTED**. Ms. Talencia's deposition is to be scheduled on or before May 15, 2002. The hearing will be rescheduled after confirmation that Ms. Talencia's deposition has taken place. Further, it is hereby **ORDERED** and **DECREED** that Defendant's Motion for a Continuance based upon the Riverstreet issue is hereby **DENIED**.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant via U.S. Mail and facimile.

April 26, 2002

Letter received attorney for Plaintiff that was forwarded to attorney for Defendant scheduling the deposition of Sara Talencio.

April 26, 2002

Letter received via U.S. Mail and facimile from attorney for Plaintiff advising that they are scheduling the deposition of Sara Talencio and further requesting that the Board reschedule

this matter for trial.

May 1, 2002

Letter received from attorney for Plaintiff advising that they have the deposition of Sara Talencio scheduled for May 9, 2002 and therefore request that the Board reschedule this matter for hearing.

May 3, 2002

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

May 2, 2002

Acceptance of Service of Opinion and Order dated April 26, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 30, 2002.

May 2, 2002

Acceptance of Service of Opinion and Order dated April 26, 2002 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 30, 2002.

May 30, 2002

Motion to Dismiss as well as Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff July 1, 2002.

May 30, 2002

Claimant's Third Revised Pre-Hearing Statement filed.

June 19, 2002

Claimant's Answer to Motion to Dismiss, as well as, Brief in Support filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 31, 2002

The Board rendered an Opinion and made the following Order: **AND NOW**, this 31st day of July, 2002, upon consideration of

defendant's motion to dismiss and plaintiff's opposition thereto, **IT IS HEREBY ORDERED** and **DECREED** that the motion is **DENIED**. The Board will proceed to set a new hearing date for adjudication of this matter.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 2, 2002

Letter received from attorney for Plaintiff advising that the deposition of Sara Talencio has been completed and requested that the hearing in the matter be rescheduled.

August 2, 2002

Acceptance of Service of Opinion and Order dated July 31, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff.

August 9, 2002

Acceptance of Service of Opinion and Order dated July 31, 2002 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 7, 2002.

September 6, 2002

The Board rendered the following Order: **AND NOW**, this 6th day of September, 2002, 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 Charles A. Kline, Jr., P.E., Engineer Member, beginning on October 16, 2002 through October 18, 2002, if necessary. Said hearing shall be held in Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing 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.

September 13, 2002

Acceptance of Service of Order dated September 6, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 12, 2002.

September 16, 2002

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

September 20, 2002

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

October 9, 2002

Notice to Attend directed to Harold Mann filed by attorney for Plaintiff.

October 16, 2002

Panel Hearing (Giles/Kline) held in Courtroom No. 2, 200 North Third Street, Suite 600, Harrisburg, Pa commencing at 10:00 a.m.

October 17, 2002

Panel Hearing (Giles/Kline) held in Courtroom No. 2, 200 North Third Street, Suite 600, Harrisburg, Pa commencing at 10:00 a.m.

October 18, 2002

Panel Hearing (Giles/Kline) held in Courtroom No. 2, 200 North Third Street, Suite 600, Harrisburg, Pa commencing at 10:00 a.m. **CASE CONTINUED.**

November 7, 2002

The Board rendered the following Order: **AND NOW**, this 7th day of November 2002, it is **ORDERED** and **DECREED** that this matter is rescheduled for a hearing before the Board's Panel, composed of Frederick D. Giles, Esquire, Panel Attorney, and Charles A. Kline, Jr., P.E., Engineer Member, on December 19, 2002. Said hearing shall be held in Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

November 7, 2002

Acceptance of Service of Order dated November 1, 2002 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 5, 2002.

November 12, 2002

Acceptance of Service of Order dated November 1, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 6, 2002.

November 18, 2002

Acceptance of Service of Order dated November 7, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 14, 2002.

December 6, 2002

Testimony of panel hearing held October 16 & 17, 2002 filed.

December 9, 2002

Copy of testimony of panel hearing held October 16 & 17, 2002 forwarded to attorney for Defendant.

December 16, 2002

Testimony of panel hearing held October 18, 2002 filed. Copy forwarded to attorney for Defendant.

December 19, 2002

Panel Hearing (Giles/Kline) held in Courtroom No. 2, 200 North Third Street, Suite 600, Harrisburg, Pa commencing at 10:00 a.m. **CASE COMPLETED.**

February 12, 2003

Testimony of panel hearing held December 19, 2002.

February 14, 2003

Copy of testimony of panel hearing held December 19, 2002 forwarded to attorney for Defendant.

February 24, 2003

Acceptance of Service of testimony of hearing held December 19, 2002 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 19, 2003.

March 17, 2003

Plaintiff's Post-Hearing Brief and Suggested Findings of Fact and Conclusions of Law filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. Defendant's due April 17, 2003.

April 25, 2003

Defendant, Department of Public Welfare's Post-Trial Brief filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 6, 2003

Claimant filed letter requesting leave of court to request an opportunity to respond to the Post-Trial Brief filed by the Defendant. Claimant advises said reply brief would be filed no later than May 23, 2003.

May 9, 2003

Board verbally granted Claimant's request for an extension of time in which to file a reply brief on May 23, 2003.

May 19, 2003

Defendant filed letter along with copy of Commonwealth Court's decision in related Public Welfare case advising the Commonwealth's Court's decision directly relates to this case.

August 11, 2003

Claimant filed Post-Trial Brief. Copy forwarded to Defendant.

June 3, 2004

Panel Members (Giles & Kline) filed Panel Report.

May 11, 2005

Plaintiff filed letter requesting the Board to issue a ruling in this case as well as schedule a status conference.

May 18, 2005

Plaintiff filed Application for Entry of Judgment in Part.
Copy forwarded to Defendant.

June 16, 2005

Plaintiff filed Praecipe to Enter Order as Unopposed. Copy
forwarded to Defendant.

June 22, 2005

Defendant filed letter via facsimile opposing the entering of an
Order granting Claimant's Application for Entry of Judgment in
Part. Copy forwarded to Plaintiff.

June 23, 2005

Defendant filed letter via U.S. Mail opposing the entering of an
Order granting Claimant's Application for Entry of Judgment in
Part. Copy forwarded to Plaintiff.

June 29, 2005

Board issued Opinion and Order. Order as follows: **"AND NOW,** this 29th day of June, 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.

June 30, 2005

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

July 6, 2005

Plaintiff filed Request for Reconsideration and Amendment of Order of June 29, 2005 in Part. Copy forwarded to Defendant.
