

Docket Number: 3408

**MAZZITTI & SULLIVAN COUNSELING SERVICES, INC.**

Steven J. Schiffman, Esquire  
Joseph K. Goldberg, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE**

~~John A. Kane, Chief Counsel~~  
Sherri Glantz Patchen, Senior Assistant Counsel  
Stephen E. Gorka, Assistant Counsel  
Helene Eichenwald Loux, Assistant Counsel

**July 30, 2001**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$123,310.50.

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**August 7, 2001**

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT. **September 7, 2001.**

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**August 14, 2001**

Acceptance of Service of Claim received from attorney for Defendant dated July 30, 2001. Receipt of same acknowledged by attorney for Defendant August 8, 2001.

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**August 14, 2001**

Acceptance of Service of Claim received from Chief Deputy Attorney General July 30, 2001. Receipt of same acknowledged by Chief Deputy Attorney General August 10, 2001.

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**September 6, 2001**

Letter received from Defendant requesting a thirty day extension of time to file its response to Plaintiff's Complaint. Due 10/6/01.

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**October 10, 2001**

Preliminary Objections and Brief of the Department of Public Welfare in Support of Preliminary Objections filed by Defendant. Response due from Plaintiff 11/19/01.

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**October 25, 2001**

Letter received from attorney for Plaintiff requesting an extension of time until November 23, 2001, in which to file their response and Brief.

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**November 26, 2001**

Claimant's Answer to Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**November 26, 2001**

Claimant, Mazzitti & Sullivan Counseling Services= Brief in Opposition to Respondent's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**June 27, 2002**

The Board rendered an Opinion and made the following Order: **AND NOW:** this 27th day of June, 2002, the Preliminary Objections of the Respondent, Commonwealth of Pennsylvania, Department of Public Welfare, are **OVERRULED** and the Respondent is hereby directed to file its Answer to Claimant's Complaint within thirty (30) days from the exit date of this Order. Copy forwarded to attorney for Plaintiff and Defendant.

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**July 2, 2002**

Acceptance of Service of Opinion and Order dated June 27, 2002, received from attorneys for Plaintiff. Receipt of same acknowledged by attorneys June 28, 2002.

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**July 5, 2002**

Acceptance of Service of Opinion and Order dated June 27, 2002, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 1, 2002.

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**July 29, 2002**

Letter received from attorney for Defendant requesting a thirty (30) day extension of time in which to file an Answer to Plaintiff's Claim. **Response due 8/29/02.**

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**August 29, 2002**

Letter received from attorney for Defendant requesting an extension of time until 9/6/02. **REQUEST GRANTED UNTIL 9/6/02.**

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**September 6, 2002**

Respondent, Commonwealth of Pennsylvania, Department of Public Welfare's Answer and New Matter to Claim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Plaintiff's Response due 10/10/02.**

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**September 25, 2002**

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

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**November 6, 2002**

Notice of Service of Claimant's First Set of Interrogatories to Respondent, and the Claimant's First Request for Production of Documents Directed to Respondent filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**December 9, 2002**

Notice of Service of Respondent's Answer and Objection to Claimant's First Set of Interrogatories and Notice of Service of Respondent's Answers and Objections to Claimant's First Set of Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**December 18, 2002**

Notice of Service of Respondent's Answers and Objections to Claimant's First Request for Production of Documents Directed to Respondent filed by attorney for Defendant.

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**April 15, 2003**

Defendant filed Notice of Service of Interrogatories and Request for Production of Documents of the Respondent, Department of Public Welfare, Directed to the Claimant, Mazzitti & Sullivan Services, Inc. Copy served on Plaintiffs by attorney for Defendant.

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**February 24, 2004**

Plaintiff filed a letter requesting to schedule a status

conference so that a discovery cut-off can be set, any outstanding discovery issues resolved, and a hearing date determined.

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**March 25, 2004**

Board issued a Scheduling Order. Order as follows: **AND NOW**, this 25th day of March 2004, it is hereby **ORDERED** and **DECREED** as follows: 1. All depositions and discovery shall be completed by June 7, 2004; 2. Pre-trial statements by both parties shall be filed with the Board and served upon one another no later than July 12, 2004; 3. A pre-trial conference is scheduled for Thursday, July 27, 2004, at 10:00 a.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 4. The last day for filing pre-trial motions is August 2, 2004; and 5. This matter is set for hearing before a panel beginning on Monday, September 27, 2004, and running through Wednesday, September 29, 2004, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m. Copy forwarded to all parties of record.

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**April 4, 2004**

Defendant filed Acceptance of Service of Scheduling Order dated March 25, 2004. Receipt of same acknowledged by Defendant April 4, 2004.

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**April 5, 2004**

Plaintiff filed Acceptance of Service of Scheduling Order dated March 25, 2004. Receipt of same acknowledged by attorney for Plaintiff March 26, 2004.

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**April 7, 2004**

Board issued Corrected Scheduling Order. In paragraph 3 of the Order dated March 25, 2004, the date of July 27, 2004, was indicated as Thursday, when it is Tuesday.

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**April 26, 2004**

Defendant filed Notice of Service of Respondent's Notice of Taking Deposition on Oral Examination of Andrew Sullivan and Charles Mazzitti. Copy forwarded to Plaintiff.

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**April 30, 2004**

Plaintiff filed Notice of Service of Claimant's Request for Admissions. Copy forwarded to all parties of record.

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**May 25, 2004**

Plaintiff faxed letter advising that the parties are engaged in discovery. Due to the ongoing discovery the parties are unable to make the June 7, 2004, deadline imposed by the Scheduling Order. Parties request that the Board revise the Scheduling Order.

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**May 26, 2004**

Plaintiff filed U.S. mail letter with the Board advising that the parties are engaged in discovery and are unable to make the June 7, 2004, deadline imposed by the Scheduling Order. Parties request that the Board revise the Scheduling Order.

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**June 3, 2004**

Defendant filed Notice of Service of Respondent's Answers to Claimant's First Request for Admissions. Copy forwarded to Plaintiffs.

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**June 4, 2004**

Plaintiff filed letter confirming their conversation with Senior Counsel regarding scheduling. Pre-trial statements shall be due no later than July 20, 2004. The remainder of the Scheduling Order issued in the case remains the same. Copy forwarded to Defendant.

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**June 21, 2004**

Plaintiff filed a letter confirming their conversation with Senior Counsel on the Scheduling Order. The discovery deadline will be extended at the convenience of counsel. Pre-trial statements will be filed no later than July 20, 2004.

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**June 22, 2004**

Plaintiff filed Notice of Service of Claimant's Notices of Deposition for Dawn Poppenwimer, David Ehrhart, Cherie Dininni and Dr. Ivonne Achrich. Copy forwarded to Defendant.

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**June 28, 2004**

Defendant filed Notice of Service of Respondent's Notice of Taking Deposition on Oral Examination of Debra A. Good. Copy forwarded to Plaintiffs.

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**July 19, 2004**

Motion and Brief in Support of Motion to Compel Production of Documents filed by attorney for Plaintiff. Copy forwarded to Defendant.

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**July 20, 2004**

Respondent's Pre-Trial Statement filed. Copy forwarded to Plaintiffs.

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**July 20, 2004**

Claimant's Pre-Trial Statement filed. Copy forwarded to Defendant.

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**July 21, 2004**

Letter forwarded to Defendant directing them to respond to Plaintiff's Motion to Compel Production of Documents. Copy forwarded to Plaintiff.

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**July 22, 2004**

Faxed letter from Defendant advising that they are agreeable to producing most of the requested documents and does not object to extending the discovery deadline.

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**July 26, 2004**

U.S. Mail letter received from Defendant relative to Claimant's Motion to Compel Production. Defendant is agreeable to producing most of the requested documents and does not object to extending the discovery deadline for the purpose of document production.

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**August 3, 2004**

Board issued Opinion and Order. Order as follows: **AND NOW**, this 3rd day of August, 2004, the Scheduling Order issued by the Board on March 25, 2004, is revoked and changed as follows: 1. Discovery period is extended to September 27, 2004; 2. By the close of business on October 8, 2004 the parties shall file any and all stipulations which can be established in order to expedite hearing on this matter, and each party shall file an estimate of the time needed to present its side of the case;<sup>1</sup> 3. Pre-Trial motions shall be filed with the Board no later than October 22, 2004; 4. Pre-Trial Statements shall be filed with the Board by December 17, 2004; 5. The hearing on this matter is postponed to a later date to be determined; 6. Defendant is directed to produce the personnel records of Mona Lisa Olvera as requested by Plaintiff; 7. The parties are hereby directed to provide to the Board by the close of business on August 6, 2004, a confidentiality agreement or each parties' proposed protective order for the records sought by Plaintiff respecting medical assistance clients; 8. All documents currently sought by the Plaintiff but refused to be provided by Defendant under the claim of privilege shall be provided to the Board for in camera inspection, (one copy of complete documents and second copy redacted as Defendant would propose) by August 20, 2004. (1.



Any discovery motions shall be filed sufficiently in advance of the close of discovery to allow for a response (in accordance with Board Rules) and decision by the Board to the close of the discovery.) Copy forwarded to Plaintiff and Defendant.

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**August 6, 2004**

Defendant faxed a Stipulation and Protective Order which both parties have agreed to the terms of the confidentiality agreement. Copy forwarded to Plaintiff.

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**August 6, 2004**

Plaintiff filed Acceptance of Service of Opinion and Order dated August 3, 2004. Receipt of same acknowledged by attorney for Plaintiff August 4, 2004.

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**August 9, 2004**

Defendant filed a Stipulation and Protective Order not fully executed. Copy forwarded to Plaintiff.

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**August 9, 2004**

Defendant filed a fully executed Protective Order signed by both parties.

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**August 12, 2004**

Defendant filed Acceptance of Service of Opinion and Order dated August 3, 2004. Receipt of same acknowledged by Defendant August 9, 2004.

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**August 20, 2004**

Defendant filed a copy of privileged documents in original form & redacted form, per Board's Order of August 3, 2004.

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**August 23, 2004**

Plaintiff filed letter advising that Plaintiff is in receipt of Defendant's faxed letter and documents of August 20, 2004, which

was faxed to them unintentionally by Defendant. Plaintiff advises that the documents will be sealed in an envelope and returned to Defendant by mail. The Board has been notified of this disclosure.

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**August 26, 2004**

Defendant filed Notice of Service of Respondent's Second Set of Interrogatories and Request for Production of Documents of the Respondent Directed to the Claimant, Mazzitti & Sullivan Services, Inc., filed by Defendant. Copy forwarded to Plaintiff by Defendant.

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**August 30, 2004**

Plaintiff filed Claimant's Second Set of Interr. to Respondent. Copy forwarded to Defendant.

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**September 10, 2004**

Plaintiff filed Notice of Service of Claimant's Notices of Deposition Duces Tecum for Cheri Dininni. Copy forwarded to Defendant.

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**September 21, 2004**

Plaintiff filed Notice of Service of Answers to Respondent's Second Set of Interrogatories and Production of Documents. Copy forwarded to Defendant.

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**September 22, 2004**

Defendant filed Notice of Taking Deposition on Oral Examination Under Rule 4007.1. Copy forwarded to Plaintiffs.

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**September 23, 2004**

Plaintiff filed (via fax) a letter advising that deposition of a non-party witness is scheduled for October 1, 2004, which is 4 days past the discovery deadline, which is beyond the parties control. Both parties agree to this date and agree that the parties can still comply with the October 8, 2004 date for submitting Stipulations to the Board.

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**September 28, 2004**

Defendant filed Notice of Service of Respondent's Answers and Objections to Claimants Second Set of Interrogatories to Respondent. Copy forwarded to Plaintiffs.

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**September 29, 2004**

Plaintiff filed Notice of Service of a Subpoena and Notice of Deposition for Rose Schultz. Copy forwarded to Defendant.

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**October 12, 2004**

Joint Statement of Stipulations and Estimate of Trial Time filed by Defendant, signed by both parties.

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**October 22, 2004**

Plaintiff filed Proposed Order, Motion in Limine and Brief in Support. Copy forwarded to Defendant.

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**October 25, 2004**

Board issued letter to Defendant directing them to respond to Plaintiff's Motion in Limine. Copy forwarded to Plaintiff.

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**November 2, 2004**

Board issued an Order. Order as follows: **AND NOW**, this 2<sup>nd</sup> day of November, 2004, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board beginning on May 23, 2005 through June 3, 2005,<sup>1</sup> if necessary. Said hearing shall be held in Courtroom No. 1, 6<sup>th</sup> Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. (1. Please note that the Board will be closed on Monday, May 30, 2005, in honor of Memorial Day.) Copy forwarded to Plaintiff and Defendant.

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**November 5, 2004**

Plaintiff filed Acceptance of Service of Order dated November 2, 2004. Receipt of same acknowledged by Plaintiff November 3, 2004.

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**November 5, 2004**

Plaintiff filed Acceptance of Service of Order dated November 2, 2004. Receipt of same acknowledged by Plaintiff November 3, 2004.

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**November 12, 2004**

Defendant filed an Acceptance of Service of Order dated November 2, 2004. Receipt of same acknowledged by attorney for Defendant November 5, 2004.

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**November 22, 2004**

Defendant's letter enclosing Respondent's Answer to Claimant's Motion in Limine and Respondent's Memorandum in Opposition to Claimant's Motion in Limine. Copy forwarded to Plaintiff.

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**November 22, 2004**

Defendant filed Respondent's Answer to Claimant's Motion in

Limine and Respondent's Memorandum in Opposition to Claimant's Motion in Limine. Copy forwarded to Plaintiff.

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**December 3, 2004**

Plaintiff filed a letter advising that it would be more appropriate for Pre-Trial Statements to be filed closer to the time of the hearing. In addition, Claimant's Motion in Limine is currently before the board. Due to this fact, the parties request that the Board reset the filing date for Pre-Trial Statements closer to the May 23, hearing date.

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**December 15, 2004**

Board issued an Opinion and Order. Order as follows: **AND NOW** this 15<sup>th</sup> day of December, 2004, it is hereby **ORDERED** and **DECREED** that the Scheduling Order of August 3, 2004, shall be amended as follows: 1. Pre-trial statements of the parties shall be filed no later than February 22, 2005; 2. The Pre-trial conference is scheduled for Friday, March 4, 2005, at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7<sup>th</sup> Floor, Harrisburg, PA 17101; 3. The last day for filing pre-trial motions is March 14<sup>th</sup>, 2005; 4. All other matters shall remain as presented in prior Orders of the Board. Copy forwarded to all parties.

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**December 17, 2004**

Board issued Opinion and Order. Order as follows: **"AND NOW,** this 17<sup>th</sup> day of December, 2004, upon consideration of Claimant's Motion in Limine, it is hereby **ORDERED, ADJUDGED** and **DECREED** that said Motion is **DENIED.**" Copy forwarded to Plaintiff and Defendant.

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**December 20, 2004**

Acceptance of Service of an Opinion and Order filed by Plaintiff dated December 15, 2004. Receipt of same acknowledged by

Plaintiff December 17, 2004.

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**December 20, 2004**

Acceptance of Service of an Opinion and Order filed by Plaintiff dated December 15, 2004. Receipt of same acknowledged by Plaintiff December 17, 2004.

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**December 21, 2004**

Acceptance of Service of Opinion and Order filed by Plaintiff dated December 17, 2004. Receipt of same acknowledged by Plaintiff December 20, 2004.

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**December 29, 2004**

Defendant filed an Acceptance of Service of Opinion and Order dated December 17, 2004. Receipt of same acknowledged by attorney for Defendant December 23, 2004.

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**December 29, 2004**

Defendant filed an Acceptance of Service of Opinion and Order December 15, 2004. Receipt of same acknowledged by attorney for Defendant December 23, 2004.

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**February 22, 2005**

Defendant filed Respondent's Second Pre-Trial Statement. Copy forwarded to Plaintiffs.

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**February 22, 2005**

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

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**March 4, 2005**

Board issued an Opinion and Order. Order as follows: **AND NOW**, this 4<sup>th</sup> day of March, 2005, it is hereby **ORDERED** and **DECREED** that prior Scheduling Orders shall be amended as follows: 1. Supplements to the pre-trial statements of the parties shall be filled with the Board no later than March 18, 2005; 2. The last day for filing pre-trial motions is March 31, 2005; and 3. All other matters shall remain as presented in prior Orders of the Board. Copy forwarded to all parties of record.

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**March 8, 2005**

Plaintiff filed (Goldberg) Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Plaintiff March 7, 2005.

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**March 8, 2005**

Plaintiff filed (Schiffman) Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Plaintiff March 7, 2005.

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**March 16, 2005**

Plaintiff filed Claimant's Supplement to Pre-Trial Statement. Copy forwarded to Defendants.

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**March 17, 2005**

Defendant filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Defendant March 14, 2005.

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**March 17, 2005**

Defendant filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Defendant March 14, 2005.

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**March 18, 2005**

Defendant filed Respondent's Third Pre-trial Statement. Copy forwarded to all parties of record.

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**April 4, 2005**

Defendant filed a letter relative to Claimant's Supplement to Pre-trial Statement. Copy forwarded to Plaintiffs.

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**April 5, 2005**

Board issued an Order. Order as follows: **AND NOW**, this 5<sup>th</sup> day of April, 2005, this matter is set for a hearing before the Panel beginning on May 23, 2005 through June 2005, if necessary. Said hearing to be held in Courtroom No. 2, 6<sup>th</sup> Floor, Fulton Building, Harrisburg, PA, commencing at 9:30 a.m. Please note that the Board will be closed on Monday, May 30, 2005, in honor of Memorial Day.

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**April 6, 2005**

Plaintiff faxed a letter in response to Defendant's March 31, 2005, letter to the Board. Copy forwarded to Defendant and the other Plaintiff.

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**April 7, 2005**

Plaintiff forwarded a letter via U.S. Mail in response to Defendant's March 31, 2005, letter to the Board. Copy forwarded to Defendant and the other Pl  
Plaintiff.

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**April 11, 2005**

Plaintiff filed Acceptance of Service of Order dated April 5, 2005. Receipt of same acknowledged by Plaintiff April 7, 2005.

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**April 11, 2005**



Plaintiff filed Acceptance of Service of Order dated April 5, 2005. Receipt of same acknowledged by Plaintiff April 7, 2005.

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**April 14, 2005**

Defendant filed Acceptance of Service of Order dated April 5, 2005. Receipt of same acknowledged by Defendant April 13, 2005.

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**April 14, 2005**

Defendant filed Acceptance of Service of Order dated April 5, 2005. Receipt of same acknowledged by Defendant, April 13, 2005.

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**May 23, 2005**

Panel Hearing (R. McLaughlin and Kline) held in Board's Court Room, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.

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**May 24, 2005**

Panel Hearing (R. McLaughlin and Kline) held in Board's Court Room, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.

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**May 25, 2005**

Panel Hearing (R. McLaughlin and Kline) held in Board's Court Room 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.

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**May 26, 2005**

Panel Hearing (R. McLaughlin and Kline) held in Board's Court Room, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m. Case Completed.

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**June 30, 2005**

Testimony of panel hearing held May 23, 2005. Copy forwarded to

attorney for Defendant.

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**June 30, 2005**

Testimony of panel hearing held May 24, 2005. Copy forwarded to attorney for Defendant.

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**July 5, 2005**

Testimony of panel hearing held May 25, 2005 filed. Copy forwarded to attorney for Defendant.

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**July 5, 2005**

Testimony of panel hearing held May 26, 2005 filed. Copy forwarded to attorney for Defendant.

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**August 19, 2005**

Plaintiff filed Proposed Findings of Fact and Conclusions of Law. Copy forwarded to all parties of record.

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**August 19, 2005**

Plaintiff filed Claimant's Post-Trial Brief. Copy forwarded to all parties of record.

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**September 20, 2005**

Defendant filed a letter via fax requesting a one week extension of time in order to file Findings of Fact, Conclusions of Law. Copy forwarded to Plaintiffs.

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**September 21, 2005**

Board issued letter to Defendant with copy to Plaintiff granting extension of time for Defendant to file Findings of Fact, Conclusions of Law and Brief.

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**September 28, 2005**

Defendant filed Respondent's Proposed Findings of Fact and Conclusions of Law and Post-Trial Brief. Copy forwarded to Plaintiffs.

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**October 12, 2005**

Plaintiff filed Claimant's Reply to the Department's Proposed Findings of Fact and Conclusions of Law, and Post-Trial Brief. Copy forwarded to Defendant.

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**December 9, 2005**

Board issued an Opinion and Order. Order as follows: **AND NOW**, this 9<sup>th</sup> day of December, 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 Welfare, Bureau of Hearings and Appeals. Copy forwarded to all parties of record.

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**December 19, 2005**

File transferred to Department of Public Welfare.

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**December 19, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated December 9, 2005. Receipt of same acknowledged by Defendant December 16, 2005.

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**December 20, 2005**

Plaintiff filed Acceptance of Service of Opinion and Order dated December 9, 2005. Receipt of same acknowledged by Plaintiff December 12, 2005.

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**February 2, 2006**

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

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