

Docket Number: 3940

KATIE TRAN

James Neil Gross, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA,  
STATE SYSTEM OF HIGHER EDUCATION,  
West Chester University

~~Jeffrey Cooper, Chief Counsel~~  
~~Michael S. P. Esquire~~

**May 13, 2008**

By Order of the Commonwealth Court, case filed, Order as follows:  
"AND NOW, this 5<sup>th</sup> day of May, 2008, the above captioned action was originally filed in the Court of Common Pleas of Chester County (trial court). The civil complaint alleged that Katie Tran (Petitioner) was a student in the Bachelor of Science registered nurse program West Chest University (University). The complaint further averred that the University's undergraduate student handbook, sanctioned by the University's Department of Nursing, constituted a bilateral contract under which Petitioner and the University were bound. The complaint asserted that the University breached the contract and sought compensatory damages. The University filed preliminary objections alleging, inter alia, that the trial court lacked jurisdiction because the case involved a breach of contract action naming a Commonwealth entity, the University, as defendant. The preliminary objections averred that the Board of Claims had exclusive jurisdiction over the action. By order dated April 15, 2008, the trial court sustained the preliminary objections to jurisdiction and transferred the action to this Court. Based on our review of the pleadings, it is apparent that this Court does not have jurisdiction over the matter. Pursuant to Section 761 (a)(1)(iv) of the Judicial Code, 42 Pa. C.S. §761(a)(1)(iv), "actions or proceedings conducted pursuant to the Act of May 20, 1937 (P.L. 728, No. 193), referred to as the Board of Claims Act" are excepted from this Court's original jurisdiction. By Act of December 3, 2002, P.L. 1147, the Board of Claims Act was repealed and new legislation continuing the Board of Claims is now found at 62 Pa. C.S. §§1721-1726. The provision for exception to the Commonwealth Court's original jurisdiction has not, however, been amended. Presently, Section 1724 of Title 62 addresses the Board of Claim's jurisdiction. As nothing in the new status or case law interpreting it suggests an intent to change the basic principle that the Board of Claims has exclusive jurisdiction over contractual claims against the Commonwealth government, we are constrained to transfer this action. Accordingly, this 5<sup>th</sup> day of May, 2008, this action is hereby transferred to the Board of Claims pursuant to 42 Pa. C.S. §5103(d).

**THE FOLLOWING FILED IN COMMONWEALTH COURT**

**April 29, 2008**

Petition for Review/Notice of Appeal Filed.

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**April 29, 2008**

Complaint Filed - Civil Action.

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**April 29, 2008**

Praecipe for Determination filed by Plaintiff.

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**April 29, 2008**

Entry of Appearance filed by Defendant.

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**April 29, 2008**

Pre-Arbitration Memorandum filed by Plaintiff/Defendant.

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**April 29, 2008**

Pre-Arbitration Memorandum filed by Defendant.

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**April 29, 2008**

County of Chester - Office of the Sheriff.

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**April 29, 2008**

Proposed Order, Preliminary Objections of Defendant West Chester University to Plaintiff's Complaint

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**May 5, 2008**

Transfer - Memorandum and Order

This matter is transferred to the Board of Claims.

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**May 30, 2008**

Transfer to Tribunal - Board of Claims

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**BEFORE THE BOARD OF CLAIMS**

**May 5, 2008**

Commonwealth Court transferred record.

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**June 2, 2008**

Board of Claims received file from Commonwealth Court. Amount of Claim: \$50,000.

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**June 4, 2008**

Board issued letter to Plaintiff requesting Restated Claim, proof of mailing and filing fee.

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**June 12, 2008**

Defendant filed Entry of Appearance of Michael S. Ferguson, Esquire.

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**June 30, 2008**

Plaintiff filed Claim, proof mailing and filing fee. Amount of Claim: Unknown.

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**July 1, 2008**

Board issued Acknowledgment letter and forwarded a copy of Claim to Attorney General.

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**July 9, 2008**

Chief Deputy Attorney General filed an Acceptance of Service of Claim. Receipt of same acknowledged by Chief Deputy Attorney General July 7, 2008.

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**July 21, 2008**

Defendant filed Preliminary Objections and Brief in Support.

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**July 22, 2008**

Board forwarded letter to Plaintiff requesting response/brief.

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**August 20, 2008**

Plaintiff filed Responses to Preliminary Objections of Defendant, West Chester University and Responsive Brief.

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**September 3, 2008**

Board issued an Opinion and Order. Order as follows: **AND NOW**, this 3<sup>rd</sup> day of September, 2008, it is **ORDERED** and **DECREED** that the University's preliminary objection that the Board lacks subject-matter jurisdiction under 62 Pa.C.S. § 1724 is **GRANTED**. Tran's claim against Defendant, Commonwealth of Pennsylvania, State System of Higher Education, West Chester University, is hereby **DISMISSED** with prejudice. Copy forwarded to Plaintiff and Defendant.

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**September 10, 2008**

Defendant filed Acceptance of Service of Opinion and Order dated September 3, 2008. Receipt of same acknowledged by Defendant September 5, 2008.

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**September 15, 2008**

Plaintiff filed Acceptance of Service of Opinion and Order dated September 3, 2008. Receipt of same acknowledged by Plaintiff September 6, 2008.

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**October 6, 2008**

Plaintiff filed copy of Petition for Review(Appellate Jurisdiction) as filed in Commonwealth Court of Pennsylvania (Philadelphia).

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**October 7, 2008**

Commonwealth Court issued Petition for Review (No. 1912 C.D. 2008)

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**October 9, 2008**

Board filed certified list comprising the record from the Board of Claims to Commonwealth Court.

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**October 10, 2008**

Board forwarded file to Commonwealth Court.

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**October 20, 2008**

Plaintiff filed Docketing Statement Petition for Review as filed in Commonwealth Court.

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**February 23, 2009**

Commonwealth Court filed an Order. Order: **NOW**, February 19, 2009, upon consideration of petitioner's unopposed motion for continuation of oral argument, the motion is granted. Argument in the above matter, currently scheduled for February 23, 2009, on the February 2009 Argument List at Philadelphia, is continued to the next argument list at Philadelphia.

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**December 2, 2009**

Commonwealth Court filed an Order. Order: **NOW**, December 2, 2009, the order of the Board of Claims in the above-captioned matter is hereby **AFFIRMED**. Additionally, to the extent that Katie Tran's (Petitioner) Petition for Review requests this Court to exercise original jurisdiction over this matter, the Petition is **DISMISSED** for lack of jurisdiction.