

Docket Number: 4267

THE CITIZENS OF LEHIGH COUNTY, PENNSYLVANIA, LEHIGH COUNTY, PA
AND THE OFFICE OF THE LEHIGH COUNTY DISTRICT ATTORNEY

Donald E. Haviland, Jr., Esquire
William H. Platt, II, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA,
by and through
THE OFFICE OF ATTORNEY GENERAL

James A. Donahue, III, First Deputy Attorney General
Christine C. Einerson, Deputy Attorney General
Nicole R. Ditomo, Chief Deputy Attorney General

June 10, 2024

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: \$5,700,000.00+.

June 12, 2024

Board issued Acknowledgment letter requesting response from Defendant and forwarding a copy of the Claim to Attorney General.

June 24, 2024

Attorney General filed acknowledgment of statement of claim form. Receipt of same acknowledged June 18, 2024.

July 11, 2024

Defendant filed Preliminary Objections and Brief in Support as well as proposed order.

July 15, 2024

Board forwarded letter to Plaintiff, with copy to Defendant, advising of rules for filing response.

August 12, 2024

Plaintiff filed Petitioners' Response to Preliminary Objections and Brief in Support.

September 25, 2024

Board rendered Order. Order as follows: "**AND NOW**, this 25th day of September, 2024, upon consideration of the preliminary objections and supporting brief filed by Respondent on July 11, 2024, and the response and brief in opposition filed by Claimant on August 12, 2024, and to assist the Board in resolving the preliminary objections, pursuant to Pa. R.C.P. 1028(c)(2), it is hereby **ORDERED** as follows: 1. Within 30 days of the date of this Order, Claimant is directed to file with the Board and serve a copy on Respondent that portion of the record of the Commonwealth Court that concerns Claimant's petition to intervene in the consolidated matters docketed at 243 M.D. 2022, (which Claimant refers to as the J&J

Action), and 244 M.D. 2022, (which Claimant refers to as the Distributor Action). These records should include the Commonwealth Court's order disposing of the petition to intervene, any opinion or decision issued by the Commonwealth Court, and the pleadings and briefs submitted to the Commonwealth Court by the parties in connection with Claimant's petition to intervene. 2. Within 30 days of the date of this Order, Claimant shall further file a statement with the Board and serve a copy on Respondent that avers a.) the date when the claim accrued, in accordance with Darien Capital Mgmt., Inc. v. Public Sch. Employees' Retirement Syst., 700 A.2d 395 (Pa. 1997), and b.) Claimant's actions, if any, to comply with 62 Pa. C.S. § 1712.1. 3. Within 30 days after being served with the above, Respondent may a.) supplement the Commonwealth Court record as needed to ensure that the requested portion of the record is complete, and b.) answer the statement submitted by Claimant in response to item 2 above." Copy forwarded to all parties of record.

October 16, 2024

Defendant filed acceptance of service of Order dated September 25, 2024. Receipt of same acknowledged October 11, 2024.

October 25, 2024

Plaintiff filed its statement as to Commonwealth Court Proceedings and its statement as to claim accrual and compliance with 62 Pa. C.S. § 1712.1.

January 8, 2025

Board rendered an Order. Order as follows: "**AND NOW**, this 8th day of January, 2025, it is hereby **ORDERED** that an oral argument on Defendant's Preliminary Objections shall be held on Wednesday, February 12, 2025 at 200 North Third Street, 6th Floor, Harrisburg, Pennsylvania 17101 commencing at 1:00 P.M." Copy forwarded to Plaintiff and Defendant.

February 19, 2025

Board rendered an Order. Order as follows: "**AND NOW**, this 19th day of February, 2025, it is hereby **ORDERED** that the oral argument on Defendant's Preliminary Objections originally scheduled for February 12, 2025, is hereby rescheduled to Wednesday, March 19, 2025 at 200 North Third Street, 6th Floor, Harrisburg, Pennsylvania 17101 commencing at 1:00 P.M." Copy forwarded to Plaintiff and Defendant.

March 19, 2025

Board oral argument held in Board's Courtroom, 6th Floor, Fulton Bank Building, Harrisburg, Pa.

March 27, 2025

Testimony of oral argument held March 19, 2025 filed. Board issued letter forwarding a copy of testimony to attorney for Defendant. Last day of testimony.

June 4, 2025

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 4th day of June, 2025, upon consideration of Respondent's Preliminary Objections and Brief in Support; Claimant's Response to the Preliminary Objections, Brief in Opposition, and Statement as to Claim Accrual, and Statement as to Commonwealth Court Proceedings; and after oral argument held on March 19, 2025, for the reasons set forth in the opinion above, it is hereby **ORDERED** as follows: 1. Respondent's Preliminary Objection I is **OVERRULED**. 2. Respondent's Preliminary Objection II is **OVERRULED**. 3. Respondent's Preliminary Objection III is **SUSTAINED**. The Statement of Claim is **DISMISSED** without prejudice to file a new Statement of Claim if and when appropriate." Copy forwarded to all parties of record.

June 9, 2025

Defendant filed acceptance of service of Opinion and Order dated June 4, 2025. Receipt of same acknowledged June 6, 2025.

June 12, 2025

Plaintiff filed acceptance of service of Opinion and Order dated June 4, 2025. Receipt of same acknowledged June 9, 2025.
