

CHRISTINE T. IRWIN, Administratrix of the
Estate of Thomas W. Irwin, late of Gallitzin,
Cambria County, Penna., deceased
VS.

T. Dean Lower, Esquire

Docket No. 712

CLOSED

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF REVENUE

Bureau of State Lotteries

Nicholas J. Lamberti, Esquire

MADE IN U.S.A.

October 15, 1980 Complaint and filing fee filed. Amount of claim: \$18,194.884.

October 16, 1980 Copies of Complaint forwarded to attorney for defendant and Deputy Attorney General.

November 14, 1980 Preliminary Objections filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

December 11, 1980 Request for Extension of Time filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

January 21, 1981 Answer and New Matter to Preliminary Objections and Memorandum of Law filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

February 5, 1981 The Board rendered an Opinion and made the following Order: "AND NOW, this 5th day of February, 1981, the Defendant is granted an additional twenty (20) days from the date of this Order to file a Memorandum of Law in support of the Preliminary Objections. If this Memorandum is not filed in accordance with this Order, the matter will be determined by this Board in absence of Briefs." Copies forwarded to attorney for plaintiff and attorney for defendant. (By correspondence dated Jan. 26, 1981, Defendant requested extension.)

Feb. 13, 1981 Memorandum of Law in Support of Preliminary Objections filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

March 16, 1981 Rebuttal Memorandum filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

July 5, 1981 The Board rendered an Opinion and made the following Order: "AND NOW, this 15th day of July, 1981, the Demurrer of the Defendant to the assumpsit claim of the Plaintiff is hereby denied. The Demurrer of the Defendant to the tort liability of the Commonwealth of Pennsylvania is hereby granted. This Board will entertain no testimony pertaining to the damages of the Plaintiff based upon cost and expenses, interest and/or detention damages resulting from anxiety, distress, pain, suffering, mental anguish, privation, inconvenience, punitive or exemplary damages." Copies of Opinion and Order forwarded to attorney for plaintiff and attorney for defendant.

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CHRISTINE T. IRWIN, Adm. of the Estate of Thomas W. Irwin, late of Calitzin, Cambria County, Pa., deceased

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
Bureau of Sales Lotteries

Nicholas J. Lambert, Esquire

CLOSED

- October 28, 1981 Answer and New Matter filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.
- November 2, 1981 Preliminary Objections filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.
- November 30, 1981 Claimant's Memorandum of Law on Preliminary Objections to Defendant's Answer filed by attorney for claimant. Copy forwarded to attorney for defendant by attorney for claimant.
- December 17, 1981 Defendant's Memorandum of Law in Support of Defendant's Answer filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.
- December 21, 1981 The Board rendered an Opinion and made the following Order: "AND NOW, this 21st day of December, 1981, the request of the Plaintiff in the nature of Preliminary Objections requesting more specific pleadings is hereby granted, and the Defendant is DIRECTED to file an Answer to paragraphs No. 9, 10, 11, 12, 13, 15 and 22 of the Plaintiff's Complaint." Copies forwarded to attorney for plaintiff and attorney for defendant.
- January 7, 1982 Hearing scheduled for March 23, 1982 through March 26, 1982 if necessary, in Board's Court Room at 10 a.m.
- January 21, 1982 Answer filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.
- January 28, 1982 Amended Paragraph 16 of Statement of Claim filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.
- February 17, 1982 Answer filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.
- February 26, 1982 Claimant's Reply to Defendant's Reply to New Matter filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.
- March 23, 1982 Hearing held in Board's Court Room at 10 a.m.

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T. Dean Lowe, Esquire

CHRISTINE T. IRWIN, Admx, of the Estate of Thomas W. Irwin, late of Gallitzin, Cambria County, Pa., deceased

VS. Nicholas J. Lamberti, Esquire
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE

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March 24, 1982 Hearing held in Board's Court Room at 10 a.m. Case completed.

April 12, 1982 Testimony of hearing held March 23 and 24, 1982 filed.

April 16, 1982 Copies of testimony of hearing held March 23 and 24, 1982 forwarded to attorney for defendant.

May 10, 1982 Findings of Fact, Conclusions of Law and Brief filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

May 10, 1982 Certified copy of transcript of the testimony filed by attorney for plaintiff.

May 21, 1982 Proposed Findings of Fact, Proposed Conclusions of Law and Memorandum of Law filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

February 22, 1983 The Board rendered an Opinion and made the following Order: "AND NOW, this 22nd day of February 1983, we find in favor of the Plaintiff, Christine C. Irwin, Administratrix of the Estate of Thomas W. Irwin, late of Gallitzin, Cambria County, Pennsylvania and against the Defendant, Commonwealth of Pennsylvania, Department of Revenue, Bureau of State Lotteries in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00) representing reasonable counsel fees incurred by Thomas W. Irwin, together with interest at the legal rate of six (6%) per cent per annum beginning October 15, 1980. The request of the Plaintiff, Christine T. Irwin, et al., for the sum of Ten Thousand Dollars (\$10,000.00) is DENIED. However, the Defendant, Commonwealth of Pennsylvania, Department of Revenue, Bureau of State Lotteries is directed to pay to the Plaintiff, Christine T. Irwin, et al., the sum of One Dollar (\$1.00) on a new Lottery ticket. All other claims of Pennsylvania are DENIED. Each party to bear their own costs." Dissenting Opinion by Ms. Boyd attached to foregoing Opinion and Order.

February 23, 1983 Copies of Opinion and Order dated February 22, 1983 forwarded to attorney for plaintiff and attorney for defendant.

February 25, 1983 Supplemental Opinion rendered by Judge Pace.

February 28, 1983 Copies of Supplemental Opinion dated February 25, 1983 forwarded to attorney for plaintiff and attorney for defendant.

CLOSED

T. Dean Lower, Esquire -continued-

CHRISTINE T. IRWIN, Adm., of the
Estate of Thomas W. Irwin, late of
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VS.
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF REVENUE,
Bureau of State Lotteries

Nicholas J. Lamberti, Esquire

March 25, 1983 Copy of Petition for Review as filed in Commonwealth Court received from attorney for

defendant.

March 28, 1983 Petition for Review received from Commonwealth Court. (No. 785 C, D. 1983)

April 5, 1983 File transferred to Commonwealth Court.

August 20, 1984 Copy of Opinion and Order received from Commonwealth Court. Order as follows: AND
NOW, this 4th day of May, 1984, the order of the Board of Claims dated 21 February
1983, insofar as it awards counsel fees with interest and the sum of one dollar or a
new lottery ticket, is reversed. In all other respects, it is affirmed.

October 9, 1984 Received file from Commonwealth Court.