

LEONARD H. SHAPIRO, M. D.
VS.

Richard C. Senker, Esquire

Docket No. 726

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF PUBLIC WELFARE

CLOSED

~~XXXXXXXXXXXXXXXXXXXX~~
Richard C. Barton, Esquire

MULTIPLE COPIES



January 12, 1981 Complaint and filing fee filed. Amount of claim: \$11,700.00.

January 14, 1981 Copies of Complaint forwarded to attorney for defendant and Deputy Attorney General.

January 22, 1981 Preliminary Objections and Memorandum of Law in support filed by attorney for defendant. Copies forwarded to attorney for plaintiff by attorney for defendant.

Feb. 18, 1981 Answers to Preliminary Objections and Memorandum in support filed by attorney for plaintiff. Copies forwarded to attorney for defendant by attorney for plaintiff.

January 2, 1982 Supplemental Memorandum in Support of Respondent's Preliminary Objections as well as Motion to File Supplemental Brief filed on behalf of attorney for defendant. Copies forwarded to attorney for plaintiff by attorney for defendant.

February 2, 1982 The Board rendered an Opinion and made the following Orders: "AND NOW, this 2nd day of February, 1982, Defendant's Preliminary Objection asserting the untimely filing of Plaintiff's claim for services rendered for therapeutic abortions is sustained; except for the forty (40) cases wherein the Defendant claims an inability to locate records covering same, and the six (6) cases never specifically dealt with, i.e., never specifically rejected. The Preliminary Objection to the above mentioned forty-six (46) cases is overruled. Defendant's Preliminary Objection to Plaintiff's claim for recoupment of the Department's set-off of \$3,960.00 is sustained for being untimely filed. Defendant's Preliminary Objection asserting the claim for interest is barred by law and overruled. Defendant is DIRECTED to file an Answer to Plaintiff's Complaint, consistent with the Order within thirty (30) days from the date hereof. ORDER RELATIVE TO MOTION TO FILE SUPPLEMENTAL BRIEF After this Opinion and Order was determined by the Board of Claims, the Commonwealth of Pennsylvania, under date of January 12, 1982, filed a "Motion To File Supplemental Brief." AND NOW, this 2nd day of February, 1982, upon consideration of same, it is ORDERED that the Motion is denied for reason that said Motion is filed too late. And, further, that nowhere in the original Preliminary Objections or in the Motion now filed is there sought a dismissal of the claim for failure to exhaust administrative remedies." Copies forwarded to attorney for plaintiff and attorney for defendant.

MADE IN U.S.A.

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Docket No. 726

CLOSED

February 5, 1982 ^{and new matter} Answer/Filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

February 19, 1982 Interrogatories (First Set) filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

February 24, 1982 Hearing scheduled for March 31, April 1 and if necessary April 1, 1982, before Eastern District. to be held in Pottsville City Hall Council Chambers, 401 North Center Street, Pottsville, Pennsylvania, commencing at 10 a.m.

March 31, 1982 Hearing held in Pottsville City Hall Council Chambers, Eastern District, commencing at 10 a.m. Case completed.

April 21, 1982 Testimony of hearing held March 31, 1982 filed.

April 30, 1982 Copies of testimony of hearing held March 31, 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.

June 1, 1982 Findings of Fact, Conclusions of Law and Brief filed by attorney for defendant. Copies forwarded to attorney for plaintiff by attorney for defendant.

June 15, 1982 The Board rendered an opinion and made the following order: "AND NOW, this 15th day of June 1983, an award is made in favor of the Plaintiff, Leonard H. Shapiro, M.D. and against the Defendant, Commonwealth of Pennsylvania, Department of Public Welfare, in the amount of \$2,000.00 together with interest at the legal rate of six (6%) percent per annum, beginning June 2, 1980. Each party to bear their own costs." Copies forwarded to attorney for plaintiff and attorney for defendant.

July 1, 1982 Copy of Petition for Review as filed in Commonwealth Court filed by attorney for defendant.

July 6, 1982 Petition for Review received from Commonwealth Court. (No. 732 C. D., 1983)

OVER

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-continued-

Docket No. 726

CLOSED

July 15, 1983 Copy of Application for Relief as filed in Commonwealth Court received from attorney for defendant.

July 21, 1983 Board's Request for Extension of Time Within Which to File a Preliminary Response to Application for Relief filed in Commonwealth Court. Copies forwarded to Mr. Baron and Mr. Senker.

July 22, 1983 File transmitted to Commonwealth Court.

July 25, 1983 Order received from Commonwealth Court as follows: "NOW, July 22, 1983, upon consideration of the request of the Board of Claims for an extension time within which to file a preliminary response to application for relief, said request is granted and the answer of the Board of Claims to the application for relief shall be filed and served on or before August 22, 1983."

August 22, 1983 Proposed Order for Extension of Time filed in Commonwealth Court by Board of Claims.

August 23, 1983 Preliminary Objections and Memorandum of Law filed by Board of Claims in Commonwealth Court. Copies forwarded to Mr. Baron and Mr. Senker by Board of Claims.

August 26, 1983 Copy of Order received from Commonwealth Court. Order as follows: "AND NOW, this 23rd day of August, 1983, an extension of time is granted to the Board of Claims until Tuesday, August 23, 1983, in which to file a responsive pleading to Appellant's Application for Relief."

August 26, 1983 Copy of Order received from Commonwealth Court. Order as follows: "NOW, August 25, 1983, upon consideration of petitioner's application for relief and the preliminary objections thereof of the Board of Claims, argument thereon is hereby fixed for September 6, 1983, at 10:00 a.m., in Courtroom Number Two, Fifth Floor, South Office Building, Harrisburg, Pennsylvania."

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Docket No. 726

-continued-

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September 9, 1983. Opinion and Order received from Commonwealth Court. Order as follows: "It is ordered that the preliminary objections filed by the Board of Claims be, and they are hereby, dismissed. It is ordered that the application for relief filed by the Department of Public Welfare be denied. Date: September 8, 1983".

September 19, 1983. Copies of Notice of Appeal to Supreme Court as well as Application for Review and Reconsideration as filed in Commonwealth Court received from attorney for defendant.

September 23, 1983. Order received from Commonwealth Court dated September 22, 1983. Order as follows: "The application of the Department of Public Welfare (DPW) for review and reconsideration of the order of this Court dated September 8, 1983 which denied DPW's application for special relief, is granted. The Chief Clerk is ordered to list DPW's application for special relief for argument on Wednesday, November 16, 1983, at the foot of the list of cases to be heard that day by a panel of Judges sitting in Court Room No. 2, Fifth Floor, South Office Building, Harrisburg, PA. The parties shall file ten (10) additional copies of their briefs within thirty (30) days of the date of this order. The application of DPW for a stay of the said order dated September 8, 1983, is granted."

September 29, 1983. 10 additional copies of Preliminary Objections, Memorandum of Law and Corrected Memorandum of Law filed by the Board as per Order of September 22, 1983, in Commonwealth Court.

October 11, 1983. Copy of Praecipe to Strike Notice of Appeal as filed in Supreme Court received from Mr. Baron.

Baron

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Docket No. 726

CLOSED

- February 10, 1984 Preliminary Opinion received from Commonwealth Court. Order as follows: "The order of this Court entered in the within matter on September 8, 1983, is vacated. The application for relief filed by the Department of Public Welfare is hereby granted and the Board of Claims is ordered to grant public access to the recommendation of the Hearing Panel of the Eastern District in the above-captioned matter. It is further ordered, pursuant to Pa. R. A. P. 1951(b), that the Board of Claims certify the Hearing Panel's recommendation to this Court for inclusion in the official record within thirty (30) days from the date of this order. The Preliminary Objections filed by the Board of Claims are dismissed as improvidently filed." Order dated 2/8/84.
- February 21, 1984 Certification with Hearing Panel Report forwarded to Commonwealth Court by Board. Copies of same forwarded to all counsel of record by Board.
- February 23, 1984 Order received from Commonwealth Court as follows: "NOW, February 21, 1984, upon consideration of the application of the Department of Public Welfare for an extension of time to file its brief, said motion is granted and the Department of Public Welfare shall file its brief thirty (30) days after the date on which the Board of Claims certifies the record pursuant to the Order of this Court dated February 8, 1984."
- February 28, 1985 Copy of Order received from Commonwealth Court. Order as follows: "NOW, February 26, 1985 upon consideration of petitioner's motion to schedule this matter for oral argument by petitioner alone, and no opposition having been filed thereto, and it appearing that respondent's brief was due April of 1984, and has yet to be filed, said motion is hereby granted. Pa. R.A.P. 2188. The Chief Clerk is hereby directed to list this case for argument by petitioner alone during the next available argument list in Harrisburg."
- August 12, 1985 Order received from Commonwealth Court as follows: "The Petition for Relief filed by the Department of Public Welfare on May 6, 1985 is granted. It is ordered that the record in this case, because of its unique factual background, shall be sealed."
- August 13, 1985 Order received from Commonwealth Court as follows: "The order of the Board of Claims, dated June 15, 1983, awarding Dr. Leonard H. Shapiro the sum of \$2,000.00 together with interest at 6% per annum from June 2, 1980, is hereby reversed."

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August 26, 1985 Copy of Order received from Commonwealth Court. Order as follows: "NOW, August 21, 1985, petitioner having filed an application for reargument, respondent, pursuant to Pa. R.A.P. 2545, shall file an answer (original and eleven (11) copies) to said application for reargument, which answer shall be filed and served on or before September 3, 1985. Said answer shall be filed in the office of the Chief Clerk in Harrisburg."
October 29, 1985 Order received from Commonwealth Court. Order as follows: "NOW, October 25, 1985, having considered petitioner's application for reargument and respondent's answer thereto, said application is hereby denied."

January 27, 1986 File returned from Commonwealth Court.