

THEODORE DZURA

VS.
LYNN NELSON, STATE LOTTERY COMMISSION,
DEPARTMENT OF REVENUE and
COMMONWEALTH OF PENNSYLVANIA

Robert L. Simmons, Esquire

Nicholas J. Lamberti, Esquire
Jullia A. Sheridan, Esquire

Docket No. 751

CLOSED

JUDICIAL COLEMAN



- April 13, 1981 Complaint and filing fee filed. Amount of claim: \$3,400.00.
- April 17, 1981 Copies of Complaint forwarded to attorney for defendant and Deputy Attorney General.
- May 11, 1981 Request for Production of Documents filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.
- May 22, 1981 Answer and New Matter filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.
- June 1, 1981 Motion for Protective Orders and Response to Plaintiffs' Request for Production of Documents filed by attorney for defendant. Copies forwarded to attorney for plaintiff by attorney for defendant.
- June 21, 1981 Reply to Motion for Protective Order filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.
- June 21, 1981 Motion to Consolidate filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.
- July 31, 1981 The Board rendered an Opinion and made the following Order: "AND NOW, this 31st day of July, 1981, upon consideration of the Petition as filed by counsel for the plaintiff and a review of Pennsylvania Rules of Civil Procedure 213, the request of the plaintiff for consolidation is hereby granted". Copies forwarded to attorney for plaintiff and attorney for defendant.
- August 20, 1981 The Board rendered an Opinion and made the following Order: "AND NOW, this 20th day of August, 1981, the request as set forth by the Plaintiffs in their pleading captioned Request for the Production of Documents and filed on May 11, 1981, is hereby denied. Due to the nature of the proceedings, the Board requests that both counsel for Plaintiffs and Defendant honestly and justly review the request for discovery and the extent thereof and that the Defendant should try to give to the Plaintiffs as much information as possible without destroying the confidentiality and integrity of the selection process and "soul" process as established and maintained by the Lottery Commission. It is further ORDERED that counsel for the Defendant

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August 20, 1981
(Cont'd.)
contact this Board and make arrangements for a convenient time wherein this Board or a designated representative of the Board can review those documents and procedures that are the subject of the Motion to Produce as filed by the Plaintiffs and the Protective Order as filed by the Defendant." Copies of Opinion and Order forwarded to attorney for plaintiff and attorney for defendant.

August 31, 1981
Request for Admission as well as Answer to New Matter filed by attorney for Plaintiff. Copies forwarded to attorney for defendant by attorney for plaintiff.

September 9, 1981
Review of videotapes concerning a foul procedure set for September 25, 1981, at 10 a.m. at the State Lotteries' Conference Room.

September 23, 1981
Review of videotapes concerning a foul procedure set for September 25, 1981 cancelled.

October 20, 1981
Admissions filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

October 21, 1981
Review of videotapes concerning a foul procedure set for October 28, 1981, at 1:00 p.m. at Lottery Headquarters at Middletown, Pennsylvania.

October 27, 1981
Review of videotapes concerning a foul procedure set for October 28, 1981 cancelled.

October 27, 1981
Review of videotapes concerning a foul procedure set for November 10, 1981, at 1:00 p.m. at Lottery Headquarters at Middletown, Pennsylvania.

November 10, 1981
Review of videotapes concerning a foul procedure held at Lottery Headquarters, Middletown, Pennsylvania.

November 16, 1981
In Camera Review of "The Big Four" Weekly Drawing Procedures filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

December 15, 1981
The Board rendered an Opinion and made the following Order: "AND NOW, this 15th day of December, 1981, after due consideration of the Plaintiff's request for discovery and the Defendant's Motion for Protective Orders, it is hereby ORDERED that the

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FORM 30-FR

December 15, 1981
(Cont'd.)

Defendant's Motion is granted and the discovery requested by the Plaintiffs in regard to the "BIG 4 WEEKLY DRAWING" procedures is limited to those portions of pages 8, 9 and 10 of the said procedures which are Exhibit D-4 of Defendant's Answer. Copies forwarded to attorney for plaintiff and attorney for defendant.

June 21, 1982

Motion for Partial Summary Judgment as well as Praecipe for Hearing filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

July 26, 1982

Plaintiff's Memorandum of Law in Support of Motion for Partial Summary Judgment filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

July 27, 1982

Opposing Affidavit and Brief filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

August 5, 1982

The Board rendered an Opinion and made the following Order: "AND NOW, this 5th day of August, 1982, Plaintiff's Motion for Summary Judgment is hereby DENIED." Copies forwarded to attorney for plaintiff and attorney for defendant.

September 3, 1982

Letter received from attorney for defendant relative to site view scheduled for September 15, 1982, at 5:50 P.M.

September 8, 1982

Hearing scheduled for October 19 through 22, 1982, if necessary, in Board's Court Room at 10 a.m.

September 16, 1982

Site view of Big 4 drawing attended by Board and Executive Secretary.

October 18, 1982

Plaintiff's Prehearing Statement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 19, 1982

Hearing held in Board's Court Room at 10 a.m. Case completed.

October 28, 1982

Testimony of hearing held October 19, 1982 filed.

November 1, 1982

Copy of testimony of hearing held October 19, 1982 forwarded to attorney for defendant.

Robert L. Simmons, Esquire
~~Nicholas J. Lambert, Esquire~~
Jullia A. Sheridan, Esquire

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- December 1, 1982 Proposed Findings of Fact and Conclusions of Law filed by attorney for plaintiff.
Copy forwarded to attorney for defendant by attorney for plaintiff.
- December 3, 1982 Claimant's Memorandum of Law in Support of Their Findings of Fact and Conclusions of Law filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.
- December 28, 1982 Suggested Findings of Fact, Suggested Conclusions of Law and Memorandum of Law filed by defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.
- February 4, 1983 Petition for Permission to File Supplemental Pleadings filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.
- February 23, 1983 Answer to Petition for Permission to File Supplemental Pleadings as well as Supplemental Findings of Fact and Conclusions of Law (attached) filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.
- February 23, 1983 The Board rendered an Opinion and made the following Order: "AND NOW, this 23rd day of February, 1983, upon review of Claimant's Petition, filed through their attorney, Robert L. Simmons, Esquire, same is allowed and the Claimants' Supplemental Findings of Fact and Conclusions of Law are hereby accepted by the Board and shall be made part of the official records of this case. The Commonwealth if it deems necessary shall be granted twenty (20) days from the date of this Order to file such responsive pleading as it deems meet."
- February 24, 1983 Copies of Opinion and Order dated February 23, 1983 forwarded to attorney for plaintiff and attorney for defendant.
- February 27, 1984 Petition to Open the Record and for Subpoenas filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.
- March 1, 1984 Withdrawal of Appearance of Nicholas J. Lambert, Esquire and Entry of Appearance of Jullia A. Sheridan, Esquire, filed.
- March 13, 1984 Answer to Petition to Open the Record and for Subpoena filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

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March 16, 1984

The Board made the following Order: "Under date of March 7, 1984, docketed with this Board is a Withdrawal and Entry of Appearance executed by Nicholas J. Lamberti, Esquire and Jullia A. Sheridan, Esquire, requesting that Nicholas J. Lamberti, Esquire withdraw as counsel for Defendant, Commonwealth of Pennsylvania, Department of Revenue and that a future correspondence and pleadings regarding the matter be sent to Jullia A. Sheridan, Esquire, Commonwealth of Pennsylvania, Department of Revenue, P.O. Box 1874, Harrisburg, PA 17105. It is therefore ORDERED that the record reflect the change in counsel representation. Dated: March 16, 1984." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

May 2, 1984

The Board rendered an Opinion and made the following Order: "AND NOW, this 2nd day of May, 1984, upon consideration of the Claimant's Petition to Open and For Subpoenas, together with Defendant's Answer thereto, it is hereby ORDERED that the record be reopened for further testimony and that subpoenas be issued as requested by the Claimant upon James Scheiner, Secretary of Revenue, Lynn Nelson, Executive Director of the Bureau of State Lotteries and such other persons as is deemed meet for their appearance at a hearing to be set by further Order of the Board." Copies forwarded to attorney for Plaintiff and attorney for defendant.

June 15, 1984

Praeipice for Hearing filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. (unsigned)

June 21, 1984

Praeipice for Hearing filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff (signed). Same document as filed June 15, 1984.

August 24, 1984

Hearing scheduled for October 10, through October 11, 1984, if necessary, in the Board's Court Room at 10 a.m.

October 5, 1984

Affidavits of Service (certifying service for Subpoenas to Lynn Nelson and Robert K. Bloom) filed by attorney for Plaintiff.

October 10, 1984

Hearing held in Board's Court Room at 10 a.m. Case completed.

October 26, 1984

Testimony of hearing held October 10, 1984 filed.

OVER

THEODORE DZURA
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October 29, 1984 Copy of testimony of hearing held October 10, 1984 forwarded to attorney for Defendant.

October 31, 1984 Corrected copy of first page of testimony of hearing held October 10, 1984 filed by Mohrbach & Marshal, Inc. Copy forwarded to attorney for Defendant.

November 23, 1984 Claimant's Supplemental Proposed Findings of Fact and Conclusions of Law filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

May 31, 1985 Defendants' Second Supplemental Suggested Findings of Fact, Conclusions of Law and Memorandum of Law filed by attorney for Defendants. Copy forwarded to attorney for Plaintiff by attorney for Defendants.

July 5, 1985 The Board rendered an Opinion and made the following Order: "AND NOW, this 5th day of July, 1985, the Board of Claims finds in favor of the Plaintiffs, Margaret Rederer, Elmer Blake and Theodore Dzura, and against the Defendants, Lynn Nelson, State Lottery Commission and Commonwealth of Pennsylvania, Department of Revenue, as follows: For Plaintiff, Margaret Rederer (\$2,700.00) For Plaintiff, Elmer Blake (\$11,000.00) For Plaintiff, Theodore Dzura (\$5,400.00) together with interest on each award at the legal rate of six percent (6%) per annum from March 14, 1981. Each party to bear its own costs."

July 8, 1985 Copies of Opinion and Order dated July 5, 1985 forwarded to attorney for plaintiff and attorney for defendant.

August 26, 1985 Petition for Review received from Commonwealth Court. (No. 2154 C.D. 1985).

August 29, 1985 Copy of Petition for Review as filed in Commonwealth Court filed by attorney for Defendant.

September 26, 1985 File transmitted to Commonwealth Court.

August 21, 1986 Copy of Opinion and Order received from Commonwealth Court. Order as follows: "AND NOW, August 15, 1986, the order of the Board of Claims, dated July 5, 1985, is hereby affirmed."

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Robert L. Simmons, Esquire

Jillia A. Sheridan, Esquire

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October 22, 1986 File returned from Commonwealth Court.