

Supplement to AudioBook - Appendices from Print and Kindle Versions

Appendix A: Master's Report

Appendix B: Amended Bill of Particulars

Appendix C: Summary of Golden Living Court Decision

Appendix D: Private Attorneys and Nursing Homes

Appendix E: Remaining Questions for HHS and CMS

Appendix F: Examples of Supplemental Documents such as Audit Reports, a Task Force Report, and Lawsuit Briefs and Decisions
Available at [**https://www.wbeerman.com**](https://www.wbeerman.com)

Appendix A: Master's Report

IN THE COURT OF COMMON PLEAS,
ALLEGHENY COUNTY, PENNA.

MASTER'S REPORT

DANIEL T. ZAMOS, ESQ

Mary R. Beerman, Plaintiff

Vs

William Beerman, Defendant,

In Divorce

DANIEL T. ZAMOS, ESQ., the Master appointed by the Court to take testimony of witnesses in the forgoing case and return the same together with report thereon, respectfully represents:

That pursuant to his appointment on January 23, 1969, the Master sat March 14, 1969, at 10:00 A.M., E.D.S.T, in the Court of Common Pleas of Allegheny County as the time and place of trial. Notice was given to [REDACTED], ESQ., counsel for the plaintiff, and DENNIS C. HARRINGTON, ESQ., counsel for the defendant. Trial commenced at the time appointed and was concluded at 4:30 P.M. the same day.

Appendix A: Master's Report

I

SERVICE OF PROCESS

The complaint in this matter was filed on July 30, 1968, and a copy of the complaint together with Notice of Suit was served on the defendant personally on August 15, 1968.

II

GROUND FOR DIVORCE

1. Indignities

III

FINDINGS OF FACT

1. MARRIAGE: The parties were married May 21, 1947, in Allentown, Pennsylvania [Allentown is a neighborhood of Pittsburgh].

2. RESIDENCE AND JURISDICTION:

At the beginning of their marriage, the parties lived on Agnew Road, Baldwin Township. In September, 1950, the parties moved to a home they were buying at 1441 Washington Boulevard, Port Vue, Allegheny County, Pennsylvania, where they remained until their separation which precipitated their divorce action on June 23, 1968.

The plaintiff now lives at 1434 Tolma Avenue, Pittsburgh, Pennsylvania, with her parents. The defendant's current address was not determined by the testimony.

3. AGE AND OCCUPATION

The plaintiff is 44 years of age. She was not employed during the course of the marriage. The defendant's age was not brought out during the testimony though he apparently was approximately the same age as the plaintiff. Though he worked various jobs from time to time, the defendant was primarily employed as a steelworker during the marriage.

Appendix A: Master's Report

4. CHILDREN

Two children were born of the marriage: William John, 20, and Regina, 11.

5. FINDINGS ON MERIT AND DISCUSSION

1. The parties were married on May 21, 1947.
2. At the time of the marriage the defendant was employed at one of the local steel mills. The plaintiff was not employed.
3. The parties first lived together in an apartment rented from one [REDACTED], a long-time friend of the defendant's. They lived there until they purchased a home which they now own in 1950, and in which the defendant is now residing; the plaintiff having left their common residence around July 27, 1968, after their estrangement became complete.

PLAINTIFF'S TESTIMONY

The chief complaint of the plaintiff is centered about:

- a) The defendant's alleged infidelity and/or "improper" behavior with other women.
- b) The defendant's failure to properly support the plaintiff and children.
- c) Differences concerning the raising of their children.

A. ALLEGED INFIDELITIES OF THE DEFENDANT

1. The complaints concerning "other women" in the defendant's life centered about four specifically named women: Mrs. [REDACTED], Mrs. [REDACTED], Mrs. [REDACTED], and a woman named [REDACTED].

2. The plaintiff testified that the parties quarreled about every two months concerning other women (N. T. p.7). That during one of their arguments over "girlfriends," she threw a cup of coffee at him and he struck her (N.T. p. 13). She said that the

Appendix A: Master's Report

defendant would cause incidents that provoked the quarrels (N.T. p. 36).

3. The plaintiff testified that the defendant admitted sitting in a parked car with "[REDACTED]," a fellow employee from Capital TV where the defendant worked on a second job, and that he was told to move by the police (N.T. pp. 19, 20).

4. She testified that the defendant often visited Mrs. [REDACTED], the wife of their former landlord in the absence of her ([REDACTED]'s) husband (N.T. p. 20, 21, 22).

5. The plaintiff related that she was embarrassed and "went into a fit" by the defendant's dancing with one Mrs. [REDACTED], a mutual acquaintance, though the dancing was done in her (the plaintiff's) presence and that of Mrs. [REDACTED]'s husband (N.T. pp 23, 24, 25). She said that this happened on four or five occasions. The plaintiff, however, admitted to being jealous (N.T. p. 24).

6. Finally, the plaintiff contended that the defendant frequently was in the company of one Mrs. [REDACTED] on Sunday mornings after taking his boy to church (N. T. p. 27). She testified that her husband admitted "he was seeing this woman" (N. T. p. 28).

B. FAILURE TO PROPERLY SUPPORT PLAINTIFF AND CHILDREN

1. The plaintiff stated that on their return from their honeymoon the defendant informed her that his plant had shut down for a two-week period and that they had to move in with her parents for three weeks (N.T. p. 5). That her parents had to support them (N.T. p.5).

2. That from payday to payday they would run short of money and have to borrow from her parents, that this was embarrassing to her, and that it continued for seventeen years (N.T. p. 6)

3. She stated that the defendant lacked seniority where he worked and was often laid off because of this and frequent strikes (N.T. p. 11).

Appendix A: Master's Report

4. But the plaintiff also complained that the defendant sometimes worked two jobs and that at one time worked eighteen hours a day, seven nights a week (N.T. p. 46)

C. DIFFERENCES IN CHILD RAISING.

1. The only testimony given by the plaintiff in this regard was vague and general. She stated that the defendant did not believe in reprimanding a child excessively and that they quarreled frequently about this. (N.T. p. 11)

CROSS EXAMINATION OF THE PLAINTIFF ON:

A. ALLEGED INFIDELITIES:

1. The plaintiff conceded that the worst thing she ever saw her husband do with [REDACTED] was to dance with her in her presence and that of Mrs. [REDACTED]'s husband (N.T. pp. 76, 77). That she constantly reminded him of this (N. T. p. 75). But that he had no improper relationship with any woman for the last fifteen years of their marriage (N. T. p. 75). She admitted that all of the defendant's alleged improprieties with [REDACTED] occurred in her presence (N. T. p. 103)

2. The plaintiff admitted that all the defendant ever told her about his behavior with [REDACTED] was that he visited her and nothing more (N. T. p. 102).

3. Much of what the plaintiff accused the defendant was based on hearsay from a Mrs. [REDACTED] and from neighbors (N. T. pp. 94, 98). She made repeated accusations, nevertheless (N. T. pp. 92, 93, 94).

B. FAILURE TO SUPPORT

1. The plaintiff agreed that the defendant never quit a job to "loaf" (N. T. p. 58). That he worked overtime, took extra jobs, one at a gasoline station where he worked 800 hours in

Appendix A: Master's Report

one year and always brought his money home (N.T. p. 59). She admitted that she handled all the money (N. T. p. 60). That he later provided the family with two cars, one for her use (N. T. p. 61). That he did all the shopping for the last twelve years of their marriage (N. T. p. 85). That he had no outside social life and spent most of his time working (N.T. p. 88). That only once while they were living together did they have to go on public assistance because the defendant was laid off from work. That this was embarrassing to her and that she never let him forget it (N. T. pp. 70, 71, 72).

C. DIFFERENCES REGARDING CHILD RAISING

1. The plaintiff admitted that the defendant ... showered a father's attention to his children N. T. pp. 70, 71, 72).

OTHER WITNESSES FOR PLAINTIFF

1. The plaintiff called a Mrs. [REDACTED] as her witness, but Mrs. [REDACTED]'s testimony produced little, if anything, of probative value to the case.

2. She then called her mother, Mrs. John A. Fisher, who stated that the couple had borrowed money from her occasionally and that she bought clothes for her grandchildren (N.T. pp. 110, 111). She stated that she became aware of the parties' quarrels only during the last eight months of the marriage (N. T. p. 111).

3. Mr. John Fisher, the plaintiff's father, testified that the plaintiff complained of having to borrow money from him so often (N. T. p. 115). But that he never observed any misconduct on the part of her husband (N.T. p 117).

DEFENDANT'S CASE

1. The first witness called by the defendant was Mrs. [REDACTED]. She stated that she lived about [REDACTED] from the Beermans (N.T. p. 122). That she was never in (Mr.) Beerman's

Appendix A: Master's Report

company alone. That the only time she was in the Beerman home was to register them to vote and that she had seen Mr. Beerman only three or four times in eighteen years and had no idea what gave rise to Mrs. Beerman's accusations.

2. Her husband also testified that he could not account for Mrs. Beerman's accusations concerning his wife. That his wife did take their children to Mass on Sundays, come back home and return later to pick them up and that she would have no opportunity to go riding with him or visit Mr. Beerman (N. T. pp. 128, 129).

DEFENDANT'S TESTIMONY

1. The defendant testified that [REDACTED] was a lifelong friend of his; that he and his wife lived in the [REDACTED] home for a short period of time; that there was never any estrangement between them, and that they continued to be friends after he and his wife moved from their home (N. T. pp. 134, 135). He said that the plaintiff referred to his relationship with Mrs. [REDACTED] during the entire period of their marriage (N. T. pp. 137, 138). That she made accusations concerning infidelities in front of the children (N. T. p. 141). He denied that there was anything between him and Mrs. [REDACTED] or any other woman (N. T. pp. 135, 136, 137).

2. The defendant testified that the plaintiff finally quit talking to him, refused to make meals for the family, and would throw dishes into the garbage can. She told the defendant that she hated his guts and that all she wanted was "to get the hell out of this place," meaning their home (N. T. p. 149).

3. The defendant related the circumstances leading to the plaintiff's leaving their common domicile on July 27, 1968 (N. T. pp. 151, 152).

CONCLUSION

The plaintiff obviously was a high-strung, highly nervous individual who suffered some sort of physical affliction which was not fully determined. She was highly sensitive to the defendant's connection to any woman and showed extreme jealousy. The

Appendix A: Master's Report

incidents related by her concerning other women were trivial, at best, and would hardly have affected the sensibilities of the average wife. She was highly embarrassed over minor financial matters without just cause. Rather than overlook these minor annoyances, she constantly referred to them during the entire marriage even though the causes had been removed more than fifteen years prior to the couple's separation. She failed to completely substantiate that the defendant's behavior with other women was out of the ordinary.

Though the plaintiff complained that the defendant did not properly provide for her and her family, she failed to prove this. The defendant was gainfully employed throughout most of the marriage, more often than not, working two jobs. He gave her his pay and she handled the money. They were able to buy a home of their own and own two cars during most of their married life.

It is the conclusion of the Master, therefore, that the plaintiff failed in her proof that the defendant subjected her to such indignities as would entitle her to a divorce.

CONCLUSION OF LAW

1. The plaintiff and defendant contracted a legal marriage which still exists.
2. The Court has jurisdiction over both parties and subject matter.
3. There has been no fraud or collusion between the parties.
4. The plaintiff is not entitled to a divorce on the grounds of indignities.

Notices of the intention to file the report of the Master, a copy of which is attached hereto, have been forwarded to counsel of record of both parties.

Appendix A: Master's Report

RECOMMENDATION

In accordance with the Finding of Fact and Conclusions of Law, the Master respectfully recommends that a Divorce from Bed and Board be denied.

DANIEL T. ZAMOS
Master

Appendix B: Amended Bill of Particulars

IN THE COURT OF COMMON PLEAS OF ALLEGHENY
COUNTY, PENNSYLVANIA

FAMILY DIVISION

MARY R. BEERMAN, Plaintiff

WILLIAM BEERMAN, Defendant

AMENDED BILL OF PARTICULARS

AND NOW comes the plaintiff, Mary R. Beerman, and herewith Amends the Bill of Particulars in this matter and substitutes the following in place thereof:

1. Immediately after the marriage of the Plaintiff and Defendant on May 21, 1947, the Plaintiff and Defendant were forced to live with the Plaintiff's parents for two or three weeks and Plaintiff was continually forced to accept charity from her parents and family, for the next 17 years.

Appendix B: Amended Bill of Particulars

2. The Plaintiff and the Defendant engaged in quarrels and arguments continuously during the course of their marriage concerning such subjects as: his running around with other women, the raising of their son, his refusal to seek work when he was unemployed.

3. The Defendant on numerous occasions threatened the Plaintiff with physical and/or bodily harm to her person, making menacing gestures and intimidating remarks, causing the Plaintiff to be in fear and a constant state of tension and anxiety concerning the possibilities of these threats being consummated into acts by the Defendant.

4. In 1950, the parties were forced to move from their place of residence on Agnew Road, Baldwin Township, Pennsylvania, by their landlord, [REDACTED], because the landlord accused the Defendant of making illicit advances toward his wife, [REDACTED], all of which the defendant boasted about in public.

5. In 1953 and the year following, the Defendant was employed as a television salesman with Capital TV and remained out for unreasonable lengths of time and at hours of the early morning on the pretext of working. During this employment the Defendant admitted to the Plaintiff that he had been keeping company with a woman named [REDACTED] and cited one example of being with her when the police forced them to move from an alley in which they were parked.

6. In 1956 six years after the Plaintiff and Defendant were forced to move from their place of residence in Baldwin, Plaintiff received a telephone call from her former landlord's wife, [REDACTED], and [REDACTED] informed the plaintiff that Defendant had just left her company, and that she could begin to prepare his dinner. The

Appendix B: Amended Bill of Particulars

defendant admitted visiting her periodically, in her husband's absence.

7. During the years 1954 and 1955 the Defendant did keep company with a woman named [REDACTED], a neighbor of the parties, who would come to the residence of the parties on numerous occasions, clothed in her pajamas and ask to dance with the Defendant, and the Defendant condoned and encouraged such conduct in the presence of the Plaintiff.

8. In 1957, when the Plaintiff was pregnant with the daughter of the parties, the Defendant began to keep company with a woman named [REDACTED], meeting with her at various times when he was, to the Plaintiff's knowledge, supposed to be in church with their son.

9. In September and October of 1963, the Plaintiff was confined to McKeesport Hospital for a female operation and the third day following the operation Defendant visited the Plaintiff and wanted sexual intercourse.

10. During Plaintiff's confinement in McKeesport Hospital during April, 1966, Defendant purposely and maliciously frustrated and upset the Plaintiff by informing the Plaintiff during visiting hours that:

- a. Plaintiff's daughter had appendicitis but the Defendant had not taken her to the hospital, or called a doctor;
- b. Defendant had sold Plaintiff's and Defendant's home;
- c. The Defendant had quit his job and as a result they had no money;
- d. All of the above statements were untrue.

Appendix B: Amended Bill of Particulars

11. During the Plaintiff's confinement in McKeesport Hospital in April 1966, the Defendant's visits had an upsetting effect upon the Plaintiff because of the instances described in No. 10, and as a result the nurse suggested that the Plaintiff should inform her husband not to visit her any more.

12. For a period of approximately three years prior to April 1966, the Defendant had knowledge of the Plaintiff's weakened physical condition and maliciously complained that she was lazy.

13. In April of 1966, the Defendant was informed by the Plaintiff's doctor, James Harris, M.D., that the Plaintiff was suffering from Addison's disease and that she was not to be upset or frustrated unnecessarily and Defendant failed and refused to accept this advice and to the contrary, caused emotional disturbances to the Plaintiff.

14. For a great number of years the Defendant has threatened to throw the Plaintiff out of their home or leave himself and not allow her to have the children.

15. During each of the five occasions on which the Plaintiff was hospitalized, for various reasons including child birth, the Defendant failed to render to the Plaintiff the proper attention, sympathy and understanding of her physical problems.

16. During the entire course of their married life, the Defendant demanded [this nonmaterial allegation was withheld from the book to avoid offending some readers].

17. The Defendant never exhibited to the Plaintiff any compassion or consideration concerning the physical condition from which she suffered, and refused and failed to render to her any comfort or support.

Appendix B: Amended Bill of Particulars

18. The Defendant, throughout the entire course of the marriage to the parties, caused the Plaintiff to be embarrassed and humiliated in front of other people.

19. The Defendant, throughout the entire course of the marriage of the parties, lied to the Plaintiff and deceived her in a great many ways.

20. From June 23, 1968 until January 21, 1969, the Defendant failed and refused to provide the Plaintiff with the financial means and resources to maintain herself and their daughter, in spite of the fact that the Defendant was fully employed and working two jobs for a period of 18 hours per day.

21. That the Defendant, by his failure and refusal to support and maintain the Plaintiff and his child since the parties have been separated in July, 1968, has caused the Plaintiff to become a public charge for her support and maintenance through the Department of Public Welfare of the Commonwealth of Pennsylvania, and caused the Plaintiff to accept gifts of charity in the form of clothing for their child, in order for her to return to school, in the fall of 1968, all of which has been the source of great embarrassment and humiliation to the Plaintiff.

22. On or about July 10, 1968, the Defendant refused to speak with the Plaintiff or discuss anything with her and has continued to feel (sic) and refuse to communicate with her. At said time he informed the Plaintiff he wished to live separate and apart from her and that he did not desire to live with her any longer and he desired to live alone or to “go find himself a nice whore.”

23. On or about July 17, 1968, the Defendant advised the Plaintiff that he would no longer be responsible

Appendix B: Amended Bill of Particulars

for her support and maintenance and/or any of their common expenses or the support of their children and at said time berated, screamed, and cursed the Plaintiff, that he would “come and go as he pleased” and that if she, the Plaintiff, did not like it she could “get out,” that he had no further use for her and he did not need her any longer.

24. On July 25, 1968, the Defendant demanded that the Plaintiff leave their common domicile and find a separate place to reside and provided her with the sum of \$100.00 to leave.

25. Following the departure of the Plaintiff from the common domicile of the parties, the Defendant made the following false and malicious accusations and statements concerning the Plaintiff: (1) that the Plaintiff did not keep a clean and proper house, (2) that the Plaintiff neglected the children of the parties, (3) that the Plaintiff withdrew all of the funds of the parties from their joint account without the knowledge and consent of the Defendant, (4) that, in August, 1966, the Defendant went to the Plaintiff “on hands and knees” and promised not to resume marital relations with the Plaintiff and that they had been living that way ever since, (5) that the Plaintiff refused to permit the Defendant visitation rights with their daughter, all of which statements were untrue.


Attorney for Plaintiff

Appendix C: Summary of Golden Living Court Decision

The entire decision and the dissenting opinion by Judge Renee Cohn Jubelirer are available on my website:

<https://www.wbeerman.com>.

The Pennsylvania attorney general's lawsuit accused Golden Living of (1) violations of the Unfair Trade Practices and Consumer Protection Law (UTPCPL), (2) breach of contract, and (3) unjust enrichment.

Regarding the UTPCPL, the court ruled in its 48-page decision that Golden Living did not make false advertising claims for the services it provided, but rather only engaged in "puffery," which it said is not a violation of the UTPCPL. The court said puffery, an exaggeration or overstatement expressed in broad, vague, and commendatory language, is meant to be considered as the seller's opinion only, and is to be discounted as such by the buyer. The court also said the attorney general's complaint was not sufficiently specific and detailed. In addition, the court ruled that the state was legally prohibited from seeking restoration under the UTPCPL.

Regarding the breach of contract issue, the court ruled that the state's relationship with Golden Living "was not contractual in nature," and was based on enrollment forms rather than contracts.

Regarding whether Golden Living was subject to laws about unjust enrichment, the court ruled that the state

Appendix C: Summary of Golden Living Decision

legislature provided other specific alternative remedies regarding billing disputes.

In a five-page opinion, Judge Renee Cohn Jubelirer dissented with parts of the court's decision, saying that a "catch all" provision in the UTPCPL eliminates the need to prove false claims were made in advertisements. Rather, she said, a section of the law gives plaintiffs a cause of action to remedy "any . . . fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding." Jubelirer said, "I would therefore not dismiss this claim . . . insofar as it alleges deceptive conduct involving bills and care plans which could directly impact [ongoing] purchasing decisions."

She also said the Court based part of its decision on an argument not raised by Golden Living: that the attorney general had not attached copies of evidence to the complaint. Because the issue was not raised prior to the decision, the attorney general had no opportunity to respond, or explain why not, she said.

Appendix D: Private Attorneys and Nursing Homes

Although this book focused on broad-scope litigation regarding chains of nursing homes by state attorneys general (AGs), I wanted to mention that private attorneys and law firms put together effective lawsuits on behalf of single clients using some of the same tactics as the AGs.

One such private attorney who I encountered in my research is Melanie Bossie of Scottsdale, AZ, with whom I have no business or personal ties. She took issue with my comment that it can be hard to find an attorney to take a nursing home injury case because elderly people do not have long-term earnings potential and long life expectancies, and therefore, their cases are not seen as having much value, or potential for large settlements or awards.

Ms. Bossie pointed out that her firm has had success on behalf of nursing home residents who were in their nineties.

“Juries look at the conduct of the nursing home,” rather than the age of the nursing home resident, she said. Private attorneys can bring in testimony from nursing home employees, results of inspections by oversight agencies, and testimony from nursing home industry experts.

In one case handled by Bossie’s firm, Wilkes & McHugh, which operates in multiple states, a jury awarded a \$1.6 million compensatory damage verdict on behalf of a 90-year-old nursing home resident from Arkansas. Four former nursing home employees testified that the home was understaffed to the point that employees could not carry out

Appendix D: Private Attorneys and Nursing Homes

their duties in a timely fashion.

In another Arkansas case, involving a 93-year-old nursing home resident, presentation of the results of two surveys/inspections conducted by the government Office of Long Term Care “inflamed the jury,” according to defense lawyers. The inspection results, along with other evidence, led the jury to award \$63 million in punitive damages to the resident’s family. It was the largest such award in Arkansas history by far. The amount “shocked the court’s conscience” and the courts reduced the award by two-thirds – to \$21 million.

Ms. Bossie had 53 nursing home cases in litigation and 45 in pre-suit stage in New Mexico when I spoke with her in May 2017. She said she has 18 years of experience in nursing home litigation and 8 years as a prosecutor. The defendants’ attorneys “know I am willing to take the case to trial,” she said, and 90-95 percent of her cases end up with a successful resolution, she said.

Wilkes & McHugh has represented thousands of families in nursing home cases since 1985. “Initially,” said a W&M spokesperson, “although many cases of nursing home abuse and neglect were documented, very few firms would challenge nursing home corporations when they provided bad care.”

“Because nursing home abuse and neglect claims often involve the same companies we’ve faced time and time again, we don’t have to spend the time and resources it takes to learn what many other attorneys are discovering for the first time.”

Appendix E: Remaining Questions for HHS and CMS

I received mixed responses to questions I submitted to the Centers for Medicare and Medicaid Services (CMS), and to the Department of Health and Human Services (HHS). I received some courteous, timely, and helpful responses during the course of my research from the director of the CMS Center for Clinical Standards and Quality/Survey and Certification Group (SCG); an administrative specialist in the SCG; and the director of the SCG Division of Nursing Homes. I appreciate the time and effort spent on developing those responses; I know the officials are busy. However, some questions that were referred into the Freedom of Information Act system and to CMS regional offices took 8 months to produce a reply, some of the responses were inadequate, or no response was forthcoming in some cases.

In June 2017, just before this book was published, after reflecting on the book's overall contents, I submitted five questions to CMS and to the HHS deputy assistant secretary for public affairs for health care. I received a brief response to the first four questions from SCG, but no reply from the deputy assistant secretary.

In the introduction for the questions for CMS, I said: "Although for questions 1-4 below, the book as currently drafted does not directly correlate problems at the state level with CMS oversight, some readers are likely to wonder about CMS's role and responsibility with regard to these problems. So, would CMS like to respond to the questions below?"

The reply from SCG was: "Our only comment at this time is that we continue to work with all states on their

Appendix E: Remaining Questions for HHS and CMS

oversight and performance in nursing home surveys. We're not in a position to comment on generalized or speculative perceptions related to that oversight activity.”

The questions follow.

1. Enforcement actions in Pennsylvania dropped from a high of 171 in 2003 to only two in 2012, and then went back up slightly to 14 in 2013, 20 in 2014, and, under a new secretary of health, to 52 in 2015. Should a state's apparent virtual cessation of enforcement actions for a year (2012) and a general substantial reduction over a decade trigger a response from CMS, as an oversight agency? Did CMS notice the drastic drop in enforcement actions, and take any action in response? Pennsylvania also ceased to accept anonymous complaints for 3 years, beginning in July 2012, which, according to the state auditor general, was contrary to CMS [policy]. Does the decrease in enforcement actions in Pennsylvania reflect on CMS's performance in its oversight role?

2. State attorney general lawsuits allege unsatisfactory conditions in [some] nursing homes, staffing shortfalls ranging as high as 70 percent of staffing needed, and multiple instances of nursing homes knowing in advance when inspectors are coming for unannounced inspections. A Pennsylvania newspaper series entitled “Failing the Frail” (Page 197 of the draft book) said the state DOH downplayed the severity of nursing home fatality cases. Do these circumstances reflect on CMS's performance in its oversight role?

3. A GAO report (GAO-16-33) showed consumer complaints were up 21 percent while serious deficiency citations by oversight agencies were down 41 percent. Does this reflect on CMS's performance in its oversight role?

Appendix E: Remaining Questions for HHS and CMS

4. Data in some CMS reports is a year old or older. The 2015 Nursing Home Data Compendium, which contained data for 2014, was released on March 25, 2016. The 2016 Data Compendium, which presumably will contain data from 2015, is not out as of mid-June 2017. Implementation of the 2010 Affordable Care Act's requirements for reporting of nursing home staffing levels had not fully occurred as of mid-2016. Is CMS sufficiently current in its oversight work?

5. The Secretary of the Department of Health and Human Services, a physician who in the 2015-2016 congressional election cycle received \$459,393 in campaign contributions from the health sector, wants to restrict lawsuit awards against the health providers. How much consideration was given to the effect of such restraints on persons injured by health providers and on the quality of health care provided to consumers if the potential consequences to providers for negligence are limited?

In my email to the HHS deputy assistant secretary, I wrote: "I think the matters addressed in the questions deserve more attention, and I believe they are sufficiently important to millions of Americans to merit attention at the HHS Secretariat level. For example, are there restraints on CMS's ability to oversee state oversight agencies effectively, and if so, why not address those restraints?"

I will post any further replies I receive on my website at <https://www.wbeerman.com>

Appendix F: Examples of Supplemental Documents

Available at

<https://www.wbeerman.com>

Court Documents

Case	Court	Document	Date	Status
New Mexico Attorney General vs Preferred Care, Inc. and Cathedral Rock Corporation	New Mexico First District Court, Santa Fe	Amended Complaint	April 1, 2015	Ongoing; Trial set for 2018
Pennsylvania Attorney General vs Golden Living	Pennsylvania Commonwealth Court	Amended Complaint	September 8, 2015	Pending Appeal as of May 2017
Pennsylvania Attorney General vs Reliant Senior Care Holdings	Pennsylvania Commonwealth Court	Complaint, Order for Final Judgment by Consent, and Attorney Fee Approval	October 3, 2016	Settled October 2016
Pennsylvania Attorney General vs Grane Healthcare	Pennsylvania Commonwealth Court	Complaint and Petition for Injunctive Relief	November 3, 2016	Withdrawn as of May 2017
Pennsylvania Attorney General vs Golden Living	Pennsylvania Commonwealth Court	Decision and Dissenting Opinion	March 22, 2017	Pending Appeal as of May 2017

Other Documents

Nursing Home Quality Improvement Task Force Report, Pennsylvania Department of Health, Dr. Karen H. Murphy, Secretary, September 22, 2016

Performance Audit Report, Pennsylvania Department of Health (On Nursing Home Oversight), Department of the Auditor General, Eugene A. DePasquale, Auditor General, July 2016

Audit Report -- ***NURSING HOME QUALITY: CMS Should Continue to Improve Data and Oversight***, GAO 16-33, Government Accountability Office, October 2015

Audit Report – ***NURSING HOMES: Consumers Could Benefit from Improvements to the Nursing Home Compare Website and Five-Star Quality Rating System***, GAO 17-61, Government Accountability Office, November 2016