

THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 02-2270

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DWIGHT E. HAND, M.D.,

Appellant,

v.

THE AMERICAN BOARD OF SURGERY, INC.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

(D.C. Civil No. 01-cv-02172)

District Judge: The Honorable William H. Yohn, Jr.

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Submitted Under Third Circuit LAR 34.1(a)  
December 16, 2002

BEFORE: NYGAARD, ALITO, and McKEE, Circuit Judges.

(Filed: December 30, 2002)

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OPINION OF THE COURT

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NYGAARD, Circuit Judge.

Appellant, Dwight E. Hand, M.D., appeals from an order of the District Court which granted summary judgment in favor of the American Board of Surgery, Inc. Appellant alleges as error the issues listed in paragraph I, taken verbatim from his brief. Because we conclude that the District Court did not err, we will affirm.

I.

The allegations of error asserted by appellant are as follows:

1. Whether the District Court erred as a matter of law in granting Appellee's motion for summary judgment and later denying Appellant's motion for reconsideration for Appellant's breach of contract action.

2. Whether the District Court erred in concluding no genuine issue of material fact existed concerning the substance of the Appellant's examination and his responses therein.

3. Whether the District Court erred in concluding that Appellee's destruction of its notes and tapes from the Appellant's examination did not constitute a breach of the Appellant's contract.

4. Whether the District Court erred in concluding that the Appellee did not breach its contract with the Appellant when it failed to follow its own appeal procedure in Appellant's challenge to the outcome of his

examination.

II.

The facts and procedural history of this case are well known to the parties and the court, and it is not necessary that we restate them here. The reasons why we write an opinion of the court are threefold: to instruct the District Court, to educate and inform the attorneys and parties, and to explain our decision. We use a not-precedential opinion in cases such as this, in which a precedential opinion is rendered unnecessary because the opinion has no institutional or precedential value. See United States Court of Appeals for the Third Circuit, Internal Operating Procedure (I.O.P.) 5.3. Under the usual circumstances when we affirm by not-precedential opinion and judgment, we briefly set forth the reasons supporting the court's decision. In this case, however, we have concluded that neither a full memorandum explanation nor a precedential opinion is indicated because of the very extensive and thorough opinions filed by Judge Yohn of the District Court. Judge Yohn's opinions adequately explain and fully support their orders and refute the Appellant's allegations of error. Hence, we believe it wholly unnecessary to further opine, or offer additional explanations and reasons to those given by the District Court, why we will affirm. It is a sufficient explanation to say that, essentially for the reasons given by the District Court in its opinion filed February 14, 2002, and again in its opinion filed April 24, 2002, we will affirm.

III.

In sum, for the foregoing reasons, we will affirm the order of the District Court filed February 14, 2002 and the order of the District Court filed April 24, 2002.

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TO THE CLERK:

Please file the foregoing opinion.

Circuit Judge

/s/ Richard L. Nygaard