

Docket Number: 1435

SCHNABEL ASSOCIATES, INC.

Henry J. Costa, Jr., Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

~~Michael J. Daley, Chief Counsel~~
~~**James J. Haggerty, General Counsel~~
Elizabeth A. O'Reilly, Assistant Counsel

and

**COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF LABOR AND INDUSTRY,
BUREAU OF EMPLOYER TAX OPERATIONS**

~~Stuart M. Bliwas, Assistant Counsel~~
Arthur Selikoff, Assistant Counsel

***May 8, 1990**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$1,100,000.00+.

May 11, 1990

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General.

May 16, 1990

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 15, 1990.

May 21, 1990

Acceptance of Service of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General May 14, 1990.

****May 21, 1990**

Assignment of Counsel directed by Office of Attorney General.

June 8, 1990

Preliminary Objections to Plaintiff's Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 2, 1990

Claimant's Reply to Respondent's Preliminary Objections and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 12, 1990

Department's Brief in Support of Preliminary Objections to Plaintiff's Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 6, 1990

Claimant's Brief Contra Respondent's Brief in Support of Preliminary Objections to Claimant's Complaint filed by attorney for Plaintiff.

Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 9, 1990

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 9th day of October, 1990, the Preliminary Objections as filed by the Respondent are granted and the Claimant is **DIRECTED** to file a more specific Complaint. Said pleadings shall be in accordance with Pennsylvania Rules of Civil Procedure. The Claimant is given thirty (30) days from the date of this Order to file its Amended Complaint." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 15, 1990

Acceptance of Service of Opinion and Order dated October 11, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 11, 1990.

November 19, 1990

Amended Complaint filed by attorney for Plaintiff. Amount of Amended Complaint: \$1,704,683.95+.

November 21, 1990

Copies of Amended Complaint forwarded to attorney for Defendant and Chief Deputy Attorney General.

November 26, 1990

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 23, 1990.

November 27, 1990

Acceptance of Service of Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General November 23, 1990.

December 31, 1990

Defendant's Answer to Plaintiff's Amended Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 22, 1991

Plaintiff's First Request for Production of Documents Addressed to Defendant and Plaintiff's Interrogatories Addressed to Defendant

filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 3, 1991

Amended Request for Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 12, 1991

Plaintiff's Motion to Compel Defendant to File Answers to Interrogatories Pursuant to Pa. R.C.P. 4005 and 4019, as well as Proposed Order, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

CLOSED

The Board rendered an Opinion and made the following Order: "AND NOW, this 7th day of February, 1992, it is ORDERED and DECREED that the Motion to Compel Defendant to file Answers to Interrogatories filed on behalf of the Plaintiff, is hereby DISMISSED as being MOOT." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

February 13, 1992

Acceptance of Service of Opinion and Order dated February 7, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 11, 1992.

February 25, 1992

Acceptance of Service of Opinion and Order dated February 7, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 17, 1992.

April 16, 1992

Interrogatories of Defendant, Commonwealth of Pennsylvania, Department of General Services to Plaintiff, Schnabel Associates, Inc. (First Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 1, 1992

Hearing scheduled from October 6, 7, 8, 9, 1992, October 13, 14, 15, 16, 1992, October 20, 21, 22, 23, and October 27, 28, 29, 30, 1992, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

July 2, 1992

Motion to Compel Answer to Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 2, 1992

Defendant's Request for Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 2, 1992

Plaintiff's Answers and Objections to Interrogatories of Defendant, Commonwealth of Pennsylvania, Department of General Services to Plaintiff, Schnabel Associates, Inc. (First Set) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 29, 1992

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 29th day of July, 1992, it is **DIRECTED** that the Motion to Compel Answer to Interrogatories as filed by Defendant, Commonwealth of Pennsylvania, Department of General Services, is hereby rendered **MOOT**." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

July 30, 1992

Interrogatories of Defendant, Commonwealth of Pennsylvania, Department of General Services to Plaintiff, Schnabel Associates, Inc. (Second Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 10, 1992

Acceptance of Service of Opinion and Order dated July 29, 1992

received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 5, 1992.

August 31, 1992

Request for Production of Documents Addressed to Plaintiff filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 11, 1992

Answers and Objections of Schnabel Associates, Inc. to Interrogatories of Defendant, Commonwealth of Pennsylvania, Department of General Services to Plaintiff, Schnabel Associates, Inc. (Second Set) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

Plaintiff's Supplemental Answer to First Set of Interrogatories of Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 11, 1992

Motion for Sanctions for Refusal to Produce Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 18, 1992

Commonwealth's Motion to Impose Sanctions on Plaintiff for Failure to Serve Sufficient Answers Pursuant to PA R.C.P. 4019 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 25, 1992

Petition for Intervention filed by attorney for Department of Labor and Industry, Bureau of Employer Tax Operations. Copy forwarded to attorney for Plaintiff and attorney for Defendant by attorney for Department of Labor & Industry, Bureau of Employer Tax Operations.

September 25, 1992

Proposed Order as well as Plaintiff's Response to Defendant's Motion for Sanctions for Failure to Produce Documents filed by attorney

for Plaintiff, via Fax. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 25, 1992

Proposed Order as well as Schnabel's Response to Commonwealth's Motion to Impose Sanctions on Plaintiff for Failure to Serve Sufficient Answers Pursuant to Pa. R.C.P. 4019 filed by attorney for Plaintiff, via fax. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

September 28, 1992

Proposed Order as well as Plaintiff's Response to Defendant's Motion for Sanctions for Failure to Produce Documents filed by attorney for Plaintiff via Mail. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

CLOSED

September 28, 1992

Proposed Order as well as Schnabel's Response to Commonwealth's Motion to Impose Sanctions on Plaintiff or Failure to Serve Sufficient Answers Pursuant to Pa. R.C.P. 4019 filed by attorney for Plaintiff, via mail. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

****September 30, 1992**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 30th day of September, 1992, it is **ORDERED** and **DECREED** that the Petition to Intervene as filed by the Commonwealth of Pennsylvania, Department of Labor and Industry, Bureau of Employer Tax Operations by, and is hereby, **GRANTED**. The caption of the matter shall read as follows: Schnabel Associates, Inc. vs. Commonwealth of Pennsylvania, Department of General Services and Commonwealth of Pennsylvania, Department of Labor & Industry, Bureau of Employer Tax Operations Intervenor." Copy forwarded to attorney for Plaintiff and attorney for Defendant and attorney for Intervenor.

October 2, 1992

Defendant's Supplemental Answers to Plaintiff's Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 2, 1992

Response of Schnabel Associates, Inc. to the Commonwealth of Pennsylvania, Department of General Services's Request for Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 2, 1992

The Board made the following Order: "The instant matter, requesting a sum in excess of One Million Dollars, was filed on May 8, 1990.

After numerous pre-trial motions, the matter per the advice of each of the attorneys, appeared to be ready for a hearing on the merits.

Pursuant thereto, under date of July 1, 1992, a hearing on the merits was scheduled for October 6, through October 30, 1992, in Courtroom No. 1, before the full Board of Claims. However, on July 2, 1992, on behalf of the Commonwealth, was filed

October 2, 1992 continued

a Motion to Compel answers to Interrogatories and also a Request for Production of Documents. Shortly thereafter, on July 9, 1992, Plaintiff filed his Answers and Objection to Interrogatories - First Set. There has been a sundry set of motions relative to pre-trial matters interrupting therewith. However, on September 30, 1992, the Board was obligated to grant a Petition to Intervene filed by the Department of Labor and Industry, Bureau of Employer Tax Operations. It is noted that still outstanding, and not dispensed of, as filed on September 11, 1992 by the Commonwealth, is a Motion for Sanctions for Refusal to Produce Documents and on September 18, 1992, a Motion filed on behalf of the Commonwealth to Impose Sanctions on Plaintiff for Failure to Serve Sufficient Answers Pursuant to Pa. R.C.P. 4019. This writer spoke to the attorney representing the Plaintiff, Henry J. Costs, Jr., Esquire, and implored him to get these matters resolved with the attorney for the Commonwealth because under no circumstances will this hearing be continued and if need be, this writer will issue sanctions upon the Plaintiff, which detriment could cause the loss of an award of damages. Under date of September 11, 1992, as hereinbefore mentioned, said Motion for Sanctions for Refusal to Produce Documents were outlined more specifically in typewritten form in the Motion docketed with the Board and served on the Plaintiff. In initial response thereto, under date of September 11, 1992, attorney for Plaintiff served upon the Commonwealth and the Board of Claims a copy of Answers and Objections to Interrogatories of Defendant. On September 18, 1992, served on the attorney for the Plaintiff, copy of which was filed with the Board of Claims, outlined as the basis for imposition of sanctions are objections to Interrogatory #24, Exhibit A attached thereto, and a chart labeled "Damages Summary" as it relates to "Field

Office Overhead" referring again to Interrogatory #24 and response to Interrogatory #3, also which relates to Field Office Overhead and alleges mathematical errors and calculations. The Commonwealth on summary and in concise statements in its Wherefore Clause in support of its imposition of sanctions sets forth that it is the Commonwealth's belief that Plaintiff failed to serve sufficient answers to Interrogatories as follows: (a) . . . (b) prohibit Plaintiff from introducing any evidence at the trial of this case in support of its claim for: (i) \$184,620.00 - Additional Field
October 2, 1992 (continued)

Office Overhead, (ii) \$55,290.00 - Demolition/Excavation, (iii) \$533,113.00 - Concrete, (iv) \$378,155.00 - Masonry, (v) \$61,318.00 - Hollow Metal Joists. My direction was that attorney for Plaintiff was to sit down with the Commonwealth's attorney and straighten out the alleged redundancy. That to be done on or before Monday regardless of what hour or what cost or sanctions may have to be imposed. As the response to request No. 2 there is objection again, reason being that the matter is not reasonably calculated to lead to the discovery of admissible evidence. That also is contrary with my directions that the Board of Claims will determine what is admissible evidence. Request No. 3, which relates to production of documents No. 3 as set forth in the response and again it is stated by attorney for Plaintiff that there is no basis that it reasonably leads to discovery of admissible evidence. This again is contrary to my instructions. Counsel for Plaintiff continues and alleges that there is no relevancy to Request No. 5. This again I point out is a matter which shall be determined by the Board of Claims, not by Plaintiff. As to Request No. 4, counsel sets forth that its Request for Production No 4 is overly broad and burdensome. That is a problem which counsel for the Plaintiff must resolve. The Board directs that the Plaintiff provide what the Commonwealth requests whether or not the matter is relevant. The Board of Claims will render that decision. Previously mentioned herein is Request No. 5 wherein attorney for Plaintiff sets forth: "Without waiving this objection, pursuant to the verbal order of Judge Fred C. Pace on September 29, 1992, those parts of the CPM within Schnabel's possession, custody or control will be produced." This shall be decided by the Board whether or not it is relative. As to Request No. 6, whether or no any photographs or visual recording of the progress construction other than the project photos sent to the Department as required by the contract, attorney for Plaintiff's response is there are none. Testimony to the contrary, as presented by the Commonwealth shall be detrimental to the Plaintiff's Claim. The sanctions in this matter can and might be destructive to the Plaintiff's Claim. It is not with good graces that these objections

are leveled herein. My instructions over the telephone to attorney for Plaintiff were distinct to the effect that documents that are in being must be produces, evidenced orally or in writing, must be rendered relative to the

October 2, 1992 (continued)

Interrogatories of the Plaintiff and that all matters of relevancy will be determined by this writer at the time of trial. I see no excuse for failure to abide by my definite instructions. This hearing shall commence as set forth on Tuesday, October 6, 1992 at 10:00 a.m. Each party to govern themselves accordingly." Copy forwarded via Fax to attorney for Plaintiff.

October 3, 1992

CLOSED
Plaintiff's Supplemental Response to Request for Production of documents of the Commonwealth of Pennsylvania, Department of General Services, Addressed to Schnabel Associates, Inc. received via Fax from attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 5, 1992

Copy of Order dated October 2, 1992 forwarded via Fax to attorney for Defendant and attorney for Intervenor.

October 5, 1992

Copy of Letter Supplemental Response Interrogatory No. 3 of the Interrogatories of Defendant, Commonwealth of Pennsylvania, Department of General Services to Plaintiff - Second Set received via Fax from attorney for Plaintiff.

October 5, 1992

The Board made the following Amended Order: "The instant matter, requesting a sum in excess of One Million Dollars, was filed on May 8, 1990. After numerous pre-trial motions, the matter per the advice of each of the attorneys, appeared to be ready for a hearing on the merits. Pursuant thereto, under date of July 1, 1992, a hearing on the merits was scheduled for October 6, through October 30, 1992, in courtroom No. 1, before the full Board of Claims. However, on July 2, 1992, on behalf of the Commonwealth, was filed a Motion to Compel Answer to Interrogatories and also a Request for Production of Documents. Shortly thereafter, on July 9, 1992, Plaintiff filed his Answers and Objections to Interrogatories - First Set. There has been a sundry set of motions relative to pre-trial matters interrupting therewith. However, on September 30, 1992, the Board was obligated to grant a Petition to Intervene

October 5, 1992 (continued)

filed by the Department of Labor and Industry, Bureau of Employer Tax Operations. It is noted that still outstanding, and not disposed of, as filed on September 11, 1992 by the Commonwealth, is a Motion for Sanctions for Refusal to Produce Documents and on September 18, 1992, a Motion filed on behalf of the Commonwealth to Impose Sanctions on Plaintiff for Failure to Serve Sufficient Answers Pursuant to Pa. R.C.P. 4019. This writer spoke to the attorney representing the Plaintiff, Henry J. Costa, Jr., Esquire, and implored him to get these matters resolved with the attorney for the Commonwealth because under no circumstances will this hearing be continued and if need be, this writer will issue sanctions upon the Plaintiff, which determination could cause the loss of the award of damages. Under date of September 11, 1992, as previously mentioned, said Motion for Sanctions for Refusal to Produce Documents were outlined more specifically in typewritten form in the Motion docketed with the Board and served on the Plaintiff. In initial response thereto, under date of September 14, 1992 attorney for Plaintiff served upon the Commonwealth and the Board of Claims a copy of Answers and Objections to Interrogatories of Defendant. On September 18, 1992, served on the attorney for the Plaintiff, copy of which was filed with the Board of Claims, outlined as the basis for imposition of sanctions are objections to Interrogatory #24, Exhibit A attached thereto, and a chart labeled "Damages Summary" as it relates to "Field Office Overhead" referring again to Interrogatory #24 and response to Interrogatory #3, also which relates to Field Office Overhead and alleges mathematical errors and calculations. The Commonwealth on summary and in concise statement in its Wherefor Clause in support of its imposition of sanctions sets forth that it is the Commonwealth's belief that Plaintiff failed to serve sufficient answers to Interrogatories as follows: (a) . . . (b) prohibit Plaintiff from introducing any evidence at the trial of this case in support of its claim for : (i) \$184,620.00 - Additional Field Office Overhead, (ii) \$55,290.00 - Demolition/Excavation, (iii) \$533,113.00 - Concrete, (iv) \$378,155.00 - Masonry, (v) \$51,318.00 - Hollow Metal Costs. My direction was that attorney for Plaintiff was to sit down with the Commonwealth's attorney and straighten out the alleged redundancy. That is to be done on or before Monday regardless of what hour, or what costs, or sanctions may have to be

October 5, 1992

imposed. As the response to Request No. 2, there is objections again, reason being that the matter is not reasonably calculated to lead to the discovery of admissible evidence. That also is contrary with

my directions that the Board of Claims will determine what is admissible evidence. Request No. 3, which relates to production of documents No. 3 as set forth in the response and again it is stated by attorney for Plaintiff that there is no basis that it reasonably leads to discovery of admissible evidence. This again is contrary to my instructions. Counsel for Plaintiff continues and alleges that there is no relevancy to Request No. 5. This again I point out is a matter which shall be determined by the Board of Claims, not by Plaintiff. As to Request No. 4, counsel sets forth that its Request for Production No. 4 is overly broad and burdensome. That is a problem which counsel for the Plaintiff must resolve. The Board directs that the Plaintiff provide what the Commonwealth requests whether or not the matter is relevant. The Board of Claims will render that decision. Previously mentioned herein is Request No. 5 wherein attorney for Plaintiff sets forth: "Without waiving this objection, pursuant to the verbal order of Judge Fred J. Pace on September 29, 1992, those parts of the CR within Schnabel's possession, custody or control will be produced." This shall be decided by the Board whether or not it is relevant. As to Request No. 6, whether or not any photographs or visual recording of the progress construction other than the project photos sent to the Department as required by the contract, attorney for Plaintiff's response is there are none. Testimony to the contrary, as presented by the Commonwealth shall be detrimental to the Plaintiff's Claim.

It is not with good graces that these objections are leveled herein.

My that documents that are in being must be produced, evidence orally or in writing, must be rendered relative to the Interrogatories of the Plaintiff and that all matters of relevancy will be determined by this writer at the time of trial. I see no excuse for failure to abide by my definite instructions. This hearing shall commence as set forth on Tuesday, October 6, 1992 at 10:00 a.m. Each party to govern themselves accordingly." Copy forwarded via Fax to attorney for Plaintiff, attorney for Defendant and attorney for Intervenor.

October 5, 1992

Plaintiff's Motion to Preclude Witnesses and Exhibits received via Fax and via First Class Mail from attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 6, 1992

Acceptance of Service of Opinion and Order dated September 30, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 5, 1992.

October 6, 1992

Conference held this date in Judge Pace's office, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m.

October 6, 1992

Hearing held this date in Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 11:50 a.m.

October 7, 1992

Plaintiff's Supplemental Response to Request for the Production of Documents of the Commonwealth of Pennsylvania, Department of General Services, Addressed to Schnabel Associates, Inc. received via FIRST CLASS MAIL from attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 7, 1992

Hearing held this date in Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:05 a.m.

October 8, 1992

Hearing held this date in Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m.

October 8, 1992

Acceptance of Service of Opinion and Order dated September 30, 1992, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 1, 1992.

October 9, 1992

Hearing held this date in Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 11:25 a.m.

October 13, 1992

Hearing held this date in Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:45 a.m.

October 14, 1992

Letter of Counsel for Intervenor treated as a Petition to Authorize Interest as found in Section 308 of the Unemployment Compensation law, 43 P.S. §788, and Section 806 of the Fiscal Code, 72 P.S. §806 filed by attorney for Intervenor. Copies forwarded to all counsel

of record by attorney for Intervenor

October 14, 1992

Stipulation of Settlement concerning Count No. 1 of the Amended Complaint filed by parties at time of hearing.

October 14, 1992

Hearing held this date in Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m.

October 15, 1992

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 15th day of October, 1992, it is **ORDERED** and **DECREED** that the Defendant, Commonwealth of Pennsylvania, Department of General Services, is indebted unto the Plaintiff, Spinabel Associates, Inc., the full and true sum of Two Hundred Thirty-Four Thousand Two Hundred Ninety-nine Dollars and Twenty-Three Cents (\$234,299.23), plus interest thereon at the rate of 7.3600 percent per annum from November 14, 1991. It is further **ORDERED** and **DECREED** that the hearing shall continue forthwith as to all factual aspects and legal conclusions of Count Two of the Amended Complaint. Upon receipt of said award, Plaintiff shall forthwith file with the Board a Praecipe that the case be marked closed and ended with prejudice as to Count One solely. Each party to bear its own costs and attorney fees." Copies given to attorney for Plaintiff and attorney for Defendant at time of hearing.

Copy forwarded to attorney for Intervenor.

October 15, 1992

Hearing held this date in Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m.

October 15, 1992

Acceptance of Service of Opinion and Order dated October 15, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 15, 1992.

October 15, 1992

Acceptance of Service of Opinion and Order dated October 15, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 15, 1992.

October 16, 1992

Hearing scheduled for this date in Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, postponed until October 20, 1992.

October 20, 1992

Hearing held this date in Court Room No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:05 a.m.

October 21, 1992

Hearing held this date in Court Room No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:20 a.m.

October 22, 1992

Hearing held this date in Court Room No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:20 a.m.

October 23, 1992

Hearing held this date in Court Room No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:15 a.m.

October 27, 1992

Hearing scheduled this date canceled due to the illness of witness.

October 28, 1992

Hearing held this date in Court Room No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m.

October 29, 1992

Hearing held this date in Court Room No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:15 a.m.

October 30, 1992

Hearing held this date in Court Room No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m. Case continued.

November 3, 1992

Testimony of hearing held October 7 and 8, 1992 filed.

November 5, 1992

Copy of testimony for hearing held October 7 and 8, 1992 forwarded to attorney for Defendant.

November 6, 1992

The Court rendered its determination on the outstanding Motion for Sanctions for Refusal to Produce Documents as filed by the Plaintiff and the Defendant's Motion to impose Sanctions and same became part of the transcribed record.

November 6, 1992

Testimony of hearing held October 9 and 13, 1992 filed.

November 10, 1992

Copy of testimony for hearing held October 9 and 13, 1992 forwarded to attorney for Defendant.

November 10, 1992

Testimony of hearing held October 14 and 15, 1992 filed.

November 13, 1992

Copy of testimony for hearing held October 14 and 15, 1992 forwarded to attorney for Defendant.

November 13, 1992

Acceptance of Service of Testimony for hearing held October 6 and 7, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 9, 1992.

November 18, 1992

Acceptance of Service of Testimony for hearing held October 9 and 13, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 12, 1992.

November 19, 1992

Acceptance of Service of Testimony for hearing held October 14 and 15, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 17, 1992.

November 23, 1992

Testimony of hearing held October 20, 1992 filed.

November 25, 1992

Copy of testimony for hearing held October 20, 1992 forwarded to attorney for Defendant.

CLOSED

Testimony of hearing held October 21, 22, 23, 27, 28, 29 and 30, 1992 filed

Testimony of hearing held October 21, 22, 23, 27, 28, 29 and 30, 1992 forwarded to attorney for Defendant.

January 5, 1993

Acceptance of Service of Testimony for hearing held October 20, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 30, 1992.

January 13, 1993

Hearing scheduled for April 6 through 8, April 13 through 16, as well as April 20 through 23, 1993, if necessary in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 10:00 a.m.

February 9, 1993

Hearing originally scheduled on April 21, 1993 canceled due to Chief Administrative Judge and Senior Counsel attending a Continuing Legal Education Class on Ethical Issues in Pottsville, Pennsylvania.

February 19, 1993

Notice of Appearance of Arthur Selikoff, Assistant Counsel, attorney for Intervenor. Copy forwarded to attorney for Plaintiff and attorney for Defendant

by attorney for Intervenor.

February 19, 1993

Letter filed by attorney for Intervenor accepting the Board of Claims' decision on its part of the action and advising that they will not be attending the hearing.

Copies forwarded to attorney for Plaintiff and attorney for Defendant by attorney for Intervenor.

March 8, 1993

Petition to Enforce Order of Board of Claims filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 2, 1993

Plaintiff's Brief in Support of Its Motion to Enforce Order of Board of Claims filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 5, 1993

Plaintiff's Motion to Preclude Introduction of Exhibits and/or Testimony (In Limine) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 6, 1993

Defendant's Motion to Precluded Introduction or Exhibits and/or Testimony (In Limine) filed by attorney for Plaintiff at time of hearing.

April 6, 1993

Defendant's Response to Plaintiff's Motion to Precluded Introduction of Exhibits and/or Testimony (In Limine) filed by attorney for Defendant. Copy given to attorney for Plaintiff at time of trial.

April 6, 1993

Letter/Response to Petition to Enforce Order of Board of Claims filed by attorney for Defendant on behalf of Department of Revenue at time of hearing.

April 6, 1993

Hearing held this date in Courtroom No. 1, 707 Transportation & Safety

Building, Harrisburg, Pennsylvania, commencing at 10:15 a.m.

April 7, 1993

Hearing held this date in Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:08 a.m.

April 8, 1993

Hearing held this date in Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:15 a.m.

April 13, 1993

Letter filed by attorney for Plaintiff, at time of hearing, advising that Plaintiff has received a check in satisfaction of the settlement reached as to Count I of the Amended Complaint. Copy given to attorney for defendant at time of hearing.

April 13, 1993

Hearing held this date in Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:20 a.m.

April 14, 1993

Hearing held this date in Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

April 15, 1993

Hearing held this date in Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:18 a.m.

April 16, 1993

Hearing held this date in Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m. Case continued until additional hearing dates are established.

April 22, 1993

Hearing scheduled for May 18, 19, 20, and 21 1993, and May 25, 26, 27, and 28, 1993, if necessary, in Board's Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

May 18, 1993

Hearing held this date in courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:20 a.m.

May 19, 1993

Hearing held this date in courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:20 a.m.

May 20, 1993

Hearing held this date in courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:35 a.m.

May 21, 1993

Hearing held this date in courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m. Case continued until May 26, 1993.

May 26, 1993

Hearing held this date in courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:12 a.m.

CLOSED

May 27, 1993

Hearing held this date in courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:20 a.m.

May 28, 1993

Hearing held this date in courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:10 a.m.

May 28, 1993

Testimony for hearing held April 6, 7, and 8, 1993, filed.

June 14, 1993

Copies of testimony for hearing held April 6, 7, and 8, 1993 forwarded to attorney for Defendant.

June 14, 1993

Testimony for hearing held April 13 and 14, 1993, filed.

June 24, 1993

Copy of testimony for hearing held April 13, and 14, 1993 forwarded to attorney for Defendant.

July 1, 1993

Testimony of hearing held April 15 and 16, 1993 filed.

July 6, 1993

Copy of testimony of hearing held April 15 and 16, 1993 forwarded to attorney for Defendant.

July 6, 1993

Acceptance of Service of testimony for hearing held April 6, 7 and 8, 1993 dated June 14, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 15, 1993.

July 6, 1993

Acceptance of Service of testimony for hearing held April 13 and 14, 1993 dated June 24, 1993 received from attorney for Defendant.

Receipt of same acknowledged by attorney for Defendant June 25, 1993.

July 12, 1993

Testimony of hearing held May 18, 19, 20 and 21, 1993 filed.

July 19, 1993

Copy of testimony of hearing held May 18, 19, 20 and 21, 1993 forwarded to attorney for Defendant.

July 19, 1993

Acceptance of Service of testimony for hearing held April 15 and 16, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 19, 1993.

July 19, 1993

Testimony of hearing held May 26, 27, and 28, 1993 filed.

July 27, 1993

Copy of testimony of hearing held May 26, 27, and 28, 1993 forwarded to attorney for Defendant.

August 31, 1993

Acceptance of Service of testimony for hearing held May 26, 27 and 28, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 28, 1993.

August 31, 1993

Acceptance of Service of testimony for hearing held April 13 and 14, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 25, 1993.

October 25, 1993

Claimant's Proposed Findings of Fact, Proposed Conclusions of Law, Argument and Conclusion filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 25, 1993

Claimant's Proposed Finding of Fact, Conclusion of Law and Argument in Opposition to Intervention by Commonwealth of Pennsylvania, Department of Labor and Industry, Bureau of Employer Tax Operations filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant and attorney for Intervenor by attorney for Plaintiff.

November 5, 1993

Acceptance of Service of testimony for hearing held May 18, 19, 20 and 21, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 21, 1993.

November 29, 1993

Proposed Findings of Fact, Proposed Conclusion of Law and Brief in Support Thereof by the Commonwealth of Pennsylvania, Department of General Services filed by attorney for Defendant (Department of General Services). Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 29, 1993

Brief in Support of the Intervention of the Commonwealth of Pennsylvania, Department of Labor and Industry, Bureau of Employer Tax Operations filed by attorney for Defendant (Department of General Services). Copy forwarded to attorney for Plaintiff and attorney for Defendant (Department of Labor & Industry) by attorney for Defendant (Department of General Services).

December 20, 1993

Brief of the Commonwealth of Pennsylvania, Department of Labor & Industry, Bureau of Employer Tax Operations filed by attorney for Defendant (Department of Labor & Industry). Copy forwarded to attorney for Plaintiff by attorney for Defendant (Department of General Services) by attorney for Defendant (Department of Labor & Industry).

February 14, 1994

Claimant's Reply Brief in Opposition to Respondent's Proposed Findings of Fact, Conclusions of Law and Brief and Claimant's Reply Memorandum of Law in Opposition to Intervention by Commonwealth of Pennsylvania, Department of Labor & Industry, Bureau of Employer Tax Operations filed by attorney for Plaintiff. Copy forwarded to attorneys for Defendants by attorney for Plaintiff.

August 23, 1994

Acceptance of Service of testimony for hearing held October 21, 22, 23, 27, 28, 29 and 30, 1992 received from attorney for Defendant.

Receipt of same acknowledged by attorney for Defendant December 14, 1992.

April 18, 1995

Acceptance of Service of Final Opinion and Order dated April 11, 1995, received from attorney for Defendant (Department of Labor & Industry). Receipt of same acknowledged by attorney for Defendant April 14, 1995.

April 24, 1995

Acceptance of Service of Opinion and Order dated April 11, 1995 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 21, 1995.

May 20, 1996
Petition for Post-Hearing Relief filed by attorney for Plaintiff. Copies forwarded to all parties of record by attorney for Plaintiff.

July 1, 1996

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 1st day of July, 1996 it is **ORDERED** and **DECREED** that the Petition for Post-Hearing Relief is hereby **DENIED**." Copies forwarded to all parties of record.

July 5, 1996

Acceptance of Service of Opinion and Order dated July 1, 1996 received from attorney for Intervenor. Receipt of same acknowledged by attorney for Intervenor July 2, 1996.

August 15, 1996

Acceptance of Service of Opinion and Order dated July 1, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 2, 1996.

March 10, 1997

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 10th day of March, 1997, a Rule to Show Cause is issued upon Plaintiff, Schnabel Associates, Inc., and Intervenor, Department of Labor and Industry, Bureau of Employer Tax Operations, wherein it is **DIRECTED** that Plaintiff and Intervenor advise the Board within thirty (30) days of this Order whether or not Plaintiff and/or Intervenor have received the sum of money awarded or other justifiable response. This Rule shall become absolute and the case shall be marked closed and settled with prejudice in the event the Board does not receive responses to said Rule." Copies forwarded to all parties

of record.

March 17, 1997

Acceptance of Service of Opinion and Order dated March 10, 1997 received from attorney for Intervenor. Receipt of same acknowledged by attorney for Intervenor March 12, 1997.

March 17, 1997

Letter received from attorney for Intervenor advising that Plaintiff and Intervenor have received payment.

April 11, 1997

Acceptance of Service of Opinion and Order dated March 10, 1997 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 12, 1997.

June 13, 1997

Letter/Praecipe filed by attorney for Plaintiff advising that Plaintiff has received payment.

June 13, 1997

The Board made the following Order: **"AND NOW**, this 13th day of June, 1997, upon receipt of Letter/Praecipe filed on March 17, 1997 by Arthur R. Selikoff, Assistant Counsel, on behalf of Department of Labor and Industry, Bureau of Employer Tax Operations, and receipt of Letter/Praecipe filed on June 5, 1997 by Henry J. Costa,
June 13, 1997 (continued)

Esquire, on behalf of Schnabel Associates, Inc. it is **ORDERED** and **DIRECTED** that said case be marked 'closed and settled with prejudice.'" Copies forwarded to all parties of record.

June 23, 1997

Acceptance of Service of Order dated June 13, 1997 received from attorney for Defendant (L & I). Receipt of same acknowledged by attorney for Defendant June 18, 1997.

June 23, 1997

Acceptance of Service of Order dated June 13, 1997 received from attorney for Defendant (DGS). Receipt of same acknowledged by attorney for Defendant June 16, 1997.