

Docket Number: 1740

COOPER INDUSTRIES, INC.

P. Brennan Hart, Esquire
George N. Stewart, Esquire
Mark T. Caloyer, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
STATE SYSTEM OF HIGHER EDUCATION,
INDIANA UNIVERSITY OF PENNSYLVANIA**

~~Wayne S. Melnick, Deputy Chief Counsel for Litigation~~

~~Kathryn L. Simpson, Esquire~~

Thomas J. Madigan, Esquire

Christopher A. Coppola, Esquire

Cohen & Grigsby

11 Stanwix Street

Suite 15

Pittsburgh, PA 15222-1312

c l o s e d

August 17, 1993

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$1,000,000.

August 23, 1993

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

August 23, 1993

Order of Court forwarded to attorney for Plaintiff, with copy to attorney for Defendant, requesting additional information (Verification).

August 23, 1993

Amended Claim (Verification) filed by attorney for Plaintiff.

August 26, 1993

Acceptance of service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 25, 1993.

August 30, 1993

Copy of Amended Claim (Verification) forwarded to attorney for Defendant and Chief Deputy Attorney General.

September 2, 1993

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 31, 1993.

September 9, 1993

Acceptance of Service of Amended Claim (Verification) received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 2, 1993.

September 10, 1993

Acceptance of Service of Amended Claim (Verification) received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General September 8, 1993.

October 4, 1993

Response to Claim, requesting that the matter be stayed pending the decision from the Court of Common Pleas of Indiana County, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 4, 1993

Praecipe for Entry of Appearance of Kathryn L. Simpson, Esquire, on behalf of Defendant, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 2, 1994

Exhibits II and III, which were inadvertently omitted from the Statement of Claim filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 11, 1994

Copy of Exhibits II and III, which were inadvertently omitted from the Statement of Claim, forwarded to Chief Deputy Attorney General.

May 17, 1994

Acceptance of Service of Exhibits II and III received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General May 16, 1994.

June 3, 1994

Answer and New Matter to Statement of Claim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 21, 1994

Notice of Service of 1st Set of Interrogatories Directed to Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 9, 1994

Notice of Service of Interrogatories Directed to Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 6, 1996

Courtesy Copy of Response to Emergency Motion for Protective Order, as filed in Indiana County Court of Common Pleas, filed by attorney for Plaintiff.

November 22, 1996

Notice of Withdrawal/Substitution of Appearance filed by George N. Stewart, Esquire, attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 2, 1997

Letter forwarded to parties requesting status report. Status Report due on or before July 2, 1997.

June 9, 1997

Status letter received from attorney for Plaintiff advising that some depositions will be completed during the summer months. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 12, 1997

Letter forwarded to parties requesting status. Response due from parties January 12, 1998.

January 12, 1998

Letter/Status Report received from Plaintiff advising that the parties have been attempting to schedule various depositions but because of a pending Motion for Summary Judgment in the parallel action in the Court of Common Pleas of Indiana County, they have held same off. The argument of the Motion is scheduled for 1/27/98. Scheduling of depositions are pending the resolution of the Motion

August 11, 1999

Letter forwarded to parties requesting a status report. Status Report due on or before **September 10, 1999**.

September 8, 1999

Letter/Status Report received from Plaintiff advising that they have scheduled depositions of witnesses for October 26, 1999 and that responses to their Requests for Admissions, Interrogatories and Requests for Production of Documents are due from Defendant prior to the scheduled depositions.

October 21, 1999

Entry of Appearance of Wayne S. Melnick, Deputy Chief Counsel of Litigation, on behalf of Defendant, Indiana University, filed by attorney for Defendant, Indiana University.

October 28, 1999

October 22, 1999

Withdrawal of Appearance of Kathryn L. Simpson, Esquire, on behalf of Defendant, filed by attorney for Defendant. Copy forwarded to attorneys for Plaintiff by attorney for Defendant.

March 14, 2000

Letter forwarded to parties requesting a Status Report. Status Report due on or before **April 13, 2000**.

April 12, 2000

Letter received, via facsimile, from attorney for Plaintiff advising that Defendant has failed to file answers to any of Plaintiff's discovery requests and depositions have not yet been rescheduled. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 12, 2000

Motion to Compel and Proposed Order filed, via facsimile, by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 14, 2000

Motion to Compel and Proposed Order filed, via U.S. Mail, by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 14, 2000

Letter received from attorney for Defendant advising that the law office of Cohen & Grigsby has been retained to represent

Defendant and advising that they will be filing a response to Plaintiff's Motion to Compel Discovery.

May 3, 2000

Notice of Appearance of Thomas J. Madigan, Esquire and Christopher A. Coppola, Esquire, (The Law Firm of: Cohen & Grigsby), filed by attorneys for Defendant. Copy forwarded to attorney for Plaintiff by attorneys for Defendant.

August 14, 2000

The Board rendered an Opinion and made the following Order: **AND NOW**, this 14th day of August, 2000, upon consideration of Plaintiff's Motion to Compel and considering Defendant's failure to respond to discovery requests which have been properly served upon the Defendant, the following is **ORDERED**: 1) A Rule is issued upon the Defendant to show cause why the Plaintiff is not entitled to the relief requested in its Motion to Compel which was lodged in the Board of Claims and served upon counsel for Defendant on April 12, 2000. (2) The Rule is returnable within twenty (20) days from the exit date of this Order. (3) The Rule shall be decided under Pa.R.C.P. No. 206.7. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 18, 2000

Acceptance of Service of Opinion and Order dated August 14, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 16, 2000.

August 25, 2000

Acceptance of Service of Opinion and Order dated August 14, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 22, 2000.

August 18, 2000

Letter/Response to Rule to Show Cause, received from attorney for Plaintiff advising that Defendant responded to Plaintiff's

discovery requests, therefore, Plaintiff's Motion to Compel is considered moot.

September 21, 2000

The Board rendered the following Order: "**AND NOW**, this 21st day of September, 2000, upon receipt of verification that Defendant, Commonwealth of Pennsylvania, State System of Higher Education, Indiana University of Pennsylvania, has in fact responded to Plaintiff's, Cooper Industries, Inc., discovery requests, thereby making moot the Plaintiff's Motion to Compel and the Board of Claims' Order for Rule to Show Cause, we issue the following: (1) The Motion to Compel is **DISMISSED**; (2) The Board of Claims' Order dated August 14, 2000 is hereby **RESCINDED**.

It is so **ORDERED**." Copy forwarded to attorneys for Plaintiff and attorney for attorney for Defendant.

September 28, 2000

Acceptance of Service of Order dated September 21, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 26, 2000.

April 23, 2001

Letter forwarded to parties requesting a Status Report. Status Report due on or before **May 23, 2001**.

May 21, 2001

Letter/Status Report received from Plaintiff advising that the deposition of Edward Resesky, Mark Galetka and Paul Pettit are scheduled to be taken on June 19, 2001 and the deposition of Robert Marks is scheduled to take place on June 26, 2001.

December 6, 2001

Letter forwarded to parties requesting a Status Report. Status Report due on or before **January 7, 2001**.

January 8, 2002

Letter received from Plaintiff advising that some depositions have taken place since the last status report and that the parties have exchanged written discovery, which is not yet completed.

January 9, 2002

Letter received from Defendant advising that Plaintiff has just

advised that documents are available for inspection and Defendant expects to review same before the end of January and also advises that further discovery is necessary.

January 13, 2003

Letter forwarded to parties requesting a Status Report. Status Report due on or before **February 12, 2003**.

February 11, 2003

Letter received from attorney for Plaintiff advising that Plaintiff has conducted document inspection in Texas and is attempting to locate former interim President of IUP to take his deposition.

February 19, 2003

Copy of letter, directed to Plaintiff from Defendant, received from attorney for Defendant, advising that they object to ex parte communication between Plaintiff and IUP former President Dr. Fugit and advises that if Plaintiff would like to take Dr. Fugit's deposition, scheduling of same should be done through Defendant.

November 26, 2003

Board issued letter to parties requesting a Status Report. Status Report due on or before December 26, 2003.

December 26, 2003

Plaintiff filed a status report via fax and on December 29, 2003 by U.S. Mail, advising that they would like to take the deposition of former interim President of IUP, Dr. Fugit and believes thereafter they will be ready to move the matter to final resolution. Copy forwarded to Defendant.

December 29, 2003

Defendant filed a status report (via fax) advising that the parties are in discovery.

June 18, 2004

Board issued letter to Plaintiff, with copy to Defendant, requesting current status of this matter and/or whether or not Plaintiff is still interested in moving this matter to hearing.

July 22, 2004

Board issued letter to Plaintiff, with copy to Defendant, requesting Plaintiff to advise the Board as to the current status of this matter.

September 14, 2004

Board issued Opinion and Order. Order as follows: **"AND NOW,** this 14th day of September, 2004, a Rule to Show Cause is issued upon Plaintiff, Cooper Industries, Inc., wherein it is **DIRECTED** that Plaintiff advise the Board, within thirty (30) days from the exit date of this Order, as to whether or not Plaintiff wishes to pursue this matter. In the event the Board does not

receive a response to this Rule, said Rule to Show Cause shall become absolute and the case shall be marked 'settled, discontinued and ended with prejudice'." Copy forwarded to Plaintiff and Defendant.

September 23, 2004

Plaintiff filed status letter advising that Defendant had requested and Plaintiff has agreed to mediation of this case and a companion case in Indiana County and same will take place prior to the end of the year. Copy forwarded to Defendant.

September 23, 2004

Plaintiff filed Acceptance of Service of Opinion and Order dated September 14, 2004. Receipt of same acknowledged September 16, 2004.

September 24, 2004

Defendant filed Acceptance of Service of Opinion and Order dated September 14, 2004. Receipt of same acknowledged September 17, 2004.

April 4, 2005

Plaintiff filed letter advising of change in law firms and advising that the mediation previously discussed has been postponed and Plaintiff will advise of the new mediation date when on is agreed on by the parties. Copy forwarded to Defendant.

January 30, 2006

Plaintiff filed Praecipe for Withdrawal of Claim. Copy forwarded to Defendant.

February 2, 2006

Board issued an Order. Order as follows: **AND NOW**, this 2nd day of February, 2006, upon receipt of a Praecipe For Withdrawal of Claim executed by P. Brennan Hart, Esquire, on behalf of Plaintiff, Cooper Industries, requesting that the Board "Kindly

issue an Order permitting the withdrawal of the above claim, as the parties to this action have settled the matter." docketed with this Board under date of January 30, 2005, it is **ORDERED** and **DECREED** that the above-captioned matter be marked "settled, discontinued and ended with prejudice." Copy forwarded to all parties of record.

February 21, 2006

Defendant filed Acceptance of Service of Order dated February 2, 2006. Receipt of same acknowledged by Defendant February 16, 2006.

February 24, 2006

Plaintiff filed an Acceptance of Service of Order dated February 2, 2006. Receipt of same acknowledged by Plaintiff February 8, 2006.

C L O S E D