

Docket Number: 1802

L. G. DEFELICE, INC., GENERAL CONTRACTOR AND  
E. SMALIS PAINTING CO., INC., SUBCONTRACTOR

Jack M. Quartararo, Esquire  
Sanford A. Middleman, Esquire

CLOSED VS.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

~~John J. Robinson, Jr., Chief Claims Attorney~~  
Gerald R. Schultz, Assistant Counsel

**March 17, 1994**

Complaint and filing fee filed by attorney for Plaintiffs. Amount of Claim: \$108,254.02.

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**March 25, 1994**

Letter forwarded to attorney for Plaintiffs requesting additional information.

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**March 25, 1994**

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

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**March 29, 1994**

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 28, 1994.

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**March 31, 1994**

Acceptance of Service of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General March 29, 1994.

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**May 3, 1994**

Praecipe for Appearance as well as Verification filed by Sanford A. Middleman, Esquire, attorney for Plaintiff (E. Smalis Painting Co., Inc.), via FAX.

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**May 4, 1994**

Amended Complaint filed by attorney for Plaintiff (E. Smalis Painting Co., Inc.) via FAX.

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**May 6, 1994**

Amended Complaint, Verification, and Praecipe for Appearance filed by Sanford A. Middleman, Esquire, attorney for Plaintiff (E. Smalis Painting Co., Inc.), via Mail.

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**May 10, 1994**

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

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**May 12, 1994**

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 11, 1994.

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**May 25, 1994**

Preliminary Objection on Ground of Insufficient Pleading to Plaintiff's Amended Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**July 14, 1994**

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

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**July 28, 1994**

Brief in Amended Complaint filed by attorney for Plaintiffs. Copy forwarded to attorney for Defendant by attorney for Plaintiffs.

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**August 1, 1994**

Brief in Amended Complaint filed by attorney for Plaintiffs, via Mail. Copy forwarded to attorney for Defendant by attorney for Plaintiffs.

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**August 17, 1994**

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

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**August 23, 1994**

Acceptance of Service of Brief in Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 19, 1994.

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**September 9, 1994**

Defendant's Preliminary Objections to Plaintiff's Brief in Amended Complaint Pursuant to PA. R.C.P. 1028(a)(3) and (a)(4) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiffs by attorney for Defendant.

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**September 19, 1994**

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 19th day of September, 1994, after due consideration of the Preliminary Objections of the Defendant, Commonwealth of Pennsylvania, Department of Transportation, and the Amended Complaint allowed by the Board, it is hereby **ORDERED** that the instant Preliminary Objections filed by Defendant are **DENIED**. The Defendant shall have thirty (30) days from the exit date of this Order to file responsive pleadings." Copies forwarded to attorneys for Plaintiffs and attorney for Defendant.

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**October 4, 1994**

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

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**October 4, 1994**

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

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**October 5, 1994**

Acceptance of Service of Opinion and Order dated September 19, 1994, received from attorney for Plaintiff Jack M. Tartararo Esquire. Receipt of same acknowledged by attorney for Plaintiff September 22, 1994.

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**October 13, 1994**

Acceptance of Service of Opinion and Order dated September 19, 1994 received from attorney for Plaintiff (Sanford A. Middleman, Esquire). Receipt of same acknowledged by attorney for Plaintiff September 22, 1994.

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**March 15, 1995**

Response to Defendant's Preliminary Objections to Plaintiff's Brief in Amended Complaint Pursuant to Pa. R.C.P. 1028(a) (3) and (a) (4) filed by attorney for Plaintiffs. Copy forwarded to attorney for Defendant by attorney for Plaintiffs.

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**May 2, 1995**

The Board rendered an Opinion and made the following Order: "**AND NOW,** this 2nd day of May, 1995, the Preliminary Objections of the Defendant, Commonwealth of Pennsylvania, Department of Transportation, requesting a more specific complaint, are hereby **GRANTED.** The Plaintiff, L. G. Defelice, Inc., General Contractors and E. Smalis Painting Co., Inc., Subcontractor, is directed to file an Amended Complaint not inconsistent with this Opinion." Copies forwarded to attorneys for Plaintiffs and attorney for Defendant.

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**May 4, 1995**

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

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**May 4, 1995**

Defendant's Interrogatories to Plaintiff's First Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiffs by attorney for Defendant.

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**May 8, 1995**

Acceptance of Service of Opinion and Order dated May 2, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 4, 1995.

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**June 9, 1995**

Amended Complaint filed by attorney for Plaintiffs.

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**June 19, 1995**

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

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**June 16, 1995**

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

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**March 26, 1996**

Defendant's Interrogatories Directed to Plaintiff (Second Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**May 15, 1996**

The Board rendered an Opinion and made the following Order: "**AND NOW,** this 15th day of May, 1996, after due consideration of Plaintiffs' Amended Complaint and Defendant's Preliminary Objections, thereto, it is hereby **ORDERED** that Defendant's Preliminary Objections in the nature of a motion to strike and demurrer are **OVERRULED** and **DENIED**. Defendant is directed to file an answer or such other response to Plaintiffs' Amended Complaint, as it deems necessary and proper, within thirty (30) days of the exit date hereof." Copy forwarded to attorney for Plaintiffs and attorney for Defendant.

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**June 27, 1996**

Answer, New Matter and Counterclaim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**August 19, 1996**

Answer to New Matter and Counterclaim filed by attorney for Plaintiff, via Fax. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**August 21, 1996**

Answer to New Matter and Counterclaim filed by attorney for Plaintiff, via mail. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**March 21, 1997**

Defendant's Requests for Admission Directed to Plaintiff (First Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**March 21, 1997**

Motion to Compel Answers to Interrogatories and Production of Documents Pursuant to Pa. R.C.P. 4019(a)(1) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**Brief due from Defendant 5/5/97.**

**Response and Brief due from Plaintiff 5/27/97.**

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**May 2, 1997**

Defendant's Brief in Support of Motion to Compel Answers to Interrogatories and Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**June 2, 1997**

Letter forwarded to attorney for Plaintiff requesting a status report.

**Response due from attorney for Plaintiff 7/2/97.**

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**July 7, 1997**

Motion for Sanctions for Failure to Serve Answers to Interrogatories and to Produce Documents Pursuant to Pa. R.C.P. 4019(c)(3) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**July 10, 1997**

Brief in Support of Motion for Sanctions for Failure to Serve Answers to Interrogatories and to Produce Documents Pursuant to Pa. R.C.P. 4019(a)(1) and 4019(c)(3) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

**Plaintiff's Response and Brief due 7/30/97.**

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**August 20, 1997**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 20th day of August, 1997, it is **ORDERED** and **DECREED** that counsel for Plaintiff, L. G. Defelice, Inc., General Contractor and E. Smalis Painting Co., Inc. Subcontractor, shall file its answers to interrogatories and production of documents requested, or before September 1, 1997. Failure to do so will result in whatever sanctions the Board may impose under the Discovery Rules of Civil Procedure." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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Acceptance of Service of Opinion and Order dated August 20, 1997, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 21, 1997.

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**January 15, 1998**

Letter/Notice of Service of Defendant's Request for Admission filed by attorney for Defendant.

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**January 20, 1998**

Letter/Notice of Service of Defendant's Second Request for the Production of Documents filed by attorney for Defendant.

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**February 19, 1998**

Defendant's Motion for Summary Judgment Pursuant to Pa. R.C.P. 1035.2(1) and Brief in Support thereof filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**May 15, 1998**

Letter/Response to Defendant's Motion for Summary Judgment, filed by attorney for Plaintiff, via fax.

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**May 18, 1998**

Letter/Response to Defendant's Motion for Summary Judgment, filed by attorney for Plaintiff, via mail.

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**November 24, 1998**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 24th day of November, 1998, the Board of Claims after due consideration of the pleadings, submissions of the parties and the Rules of Civil Procedure, orders that the Defendant's, Commonwealth of Pennsylvania, Department of Transportation, Motion for Summary Judgment is **GRANTED** and it is further **ORDERED** by the Board of Claims, sua sponte, that judgment by default is entered against Plaintiff, L. G. Defelice, Inc., General Contractor and E. Smalis Painting Co., Inc., Subcontractor, and in favor of the Defendant. Copies forwarded to attorney for Plaintiff and attorney for Defendant.

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**December 3, 1998**

Acceptance of service of Opinion and Order dated November 24, 1998, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant at November 30, 1998.

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**CLOSED**