

Docket Number: 1809

ADAMS COUNTY ASPHALT CO.

~~George E. Pallas, Esquire~~

~~Joshua D. Lock, Esquire~~

~~Glenn J. Smith, Esquire~~

~~Wendy Weikal Beauchat, Esquire~~

~~Chadwick C. Bogart, Esquire~~

CLOSED

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF TRANSPORTATION

~~John J. Robinson, Jr., Chief Counsel~~

Jeffrey W. Davis, Assistant Counsel

April 13, 1994

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$1,279,883.80+.

April 15, 1994

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

April 21, 1994

Acceptance of Service of Claim dated April 15, 1994 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General April 19, 1994.

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

August 1, 1994

Answer of Plaintiff, Adams County Asphalt Company to Defendant's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 7, 1995

Answer with New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 3, 1995

The Board rendered an Opinion and made the following Order: "AND NOW, this 3rd day of April, 1995, it is ORDERED and DECREED that the Preliminary Objections which counsel for the Defendant, Commonwealth of Pennsylvania, Department of Transportation, filed on May 16, 1994, are DISMISSED as being moot." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

April 12, 1995

Acceptance of Service of Opinion and Order dated April 3, 1995 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 9, 1995.

April 13, 1995

Acceptance of Service of Opinion and Order dated April 3, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 10, 1995.

December 11, 1996

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

October 20, 1997

Status letter received from attorney for Plaintiff advising that the parties are conducting negotiations.

March 9, 1998

Letter forwarded to parties requesting status. Response due from parties April 7, 1998.

May 11, 1998

Status letter received from attorney for Plaintiff advising that the parties are conducting settlement negotiations and will keep the board notified of their progress filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 23, 1998

Letter forwarded to parties requesting status. Response due from parties December 23, 1998.

February 24, 1999

Letter forwarded to parties requesting status. Response due from parties March 24, 1999.

March 25, 1999

Status letter received from attorney for Plaintiff advising that the parties are conducting settlement negotiations.

January 14, 2000

Letter forwarded to parties requesting status. Response due from parties February 14, 2000.

January 24, 2000

Letter-type withdrawal of counsel, George E. Pallas, filed on behalf of Plaintiff.

January 28, 2000

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 28th day of January, 2000, it is **ORDERED** and **DECREED** that the Board **GRANTS** the request of George E. Pallas, Esquire to withdraw as counsel of record. It is further **ORDERED** and **DECREED** that Plaintiff, Adams County Asphalt Co., shall have new counsel enter an appearance on the record within thirty (30) days of the exit date of this Order." Copy forwarded to all parties of record.

February 9, 2000

Acceptance of Service of Opinion and Order dated January 28, 2000 received from attorney for Plaintiff (George E. Pallas, Esquire).
Receipt of same acknowledged by attorney for Plaintiff (George E. Pallas, Esquire) January 31, 2000.

March 7, 2000

Status letter received from attorney for Defendant advising that Plaintiff has responded to any requests of Defendant since 1996 and if no action from Plaintiff, Defendant will move the Board to dismiss the case for lack of prosecution.

April 17, 2000

Status letter received from attorney for Plaintiff advising that the parties are working on an amicable resolution of this matter.

July 27, 2000

Defendant's Motion to Compel Plaintiff's Production of Documents and Answers to Interrogatories Pursuant to Pa. R.C.P. 4019 filed by attorney for Defendant. Response due from Plaintiff September 1, 2000.

August 24, 2000

Status letter received from attorney for Plaintiff requesting we extend the deadline for Plaintiff to respond to Defendant's Motion to Compel.

August 30, 2000

Letter forwarded to attorney for Plaintiff granting an extension of time until November 24, 2000 in which to respond to Defendant's Motion to Compel Plaintiff's Production of Documents and Answers to Interrogatories.

November 27, 2000

Letter received from attorney for Plaintiff advising that he would be receiving the entire file from Judge Evans of the Dauphin County Court of Common Pleas on November 28, 2000, at which time he will be prepared to comply with the discovery order issued.

March 22, 2001

Letter forwarded to parties requesting a status report. Response due from parties 4/23/01.

April 27, 2001

Status letter received from attorney for Defendant advising that he has been attempting to obtain discovery from the Plaintiff for several years and Joshua Lock, Esquire advised Defendant that he is no longer the attorney for Plaintiff and Defendant will attempt to obtain discovery documents from Plaintiff's new attorney, but if not successful, he will be moving to dismiss the case for lack of prosecution.

August 31, 2001

Letter forwarded to parties requesting a status report. Response due from parties 10/01/01.

October 12, 2001

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 12th day of October, 2001, a Rule to Show Cause is issued upon Plaintiff, Adams County Asphalt Company, 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 the above-captioned 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 "closed, discontinued and ended with prejudice".

October 18, 2001

Praecipe to withdraw appearance of Joshua D. Lock, Esquire, attorney for Plaintiff filed by Joshua D. Lock, Esquire. Copy forwarded to attorney for Defendant by Joshua D. Lock, Esquire.

October 30, 2001

Entry of Appearance of Glenn J. Smith, Esquire, on behalf of Plaintiff filed by attorney for Plaintiff.

October 31, 2001

Answer to Rule to Show Cause filed by attorney for Plaintiff.

November 6, 2001

Certificate of Service of Entry of Appearance and Plaintiff's Answer to Rule to Show Cause filed by attorney for Plaintiff.

June 7, 2002

Letter forwarded to parties requesting Status Report. Status Report due on or before **July 8, 2002**.

July 7, 2002

Letter/Status report received (via fax) from attorney for Plaintiff advising that there are still outstanding discovery requests.

July 8, 2002

Letter/Status Report received (via U.S. Mail) from attorney for Plaintiff advising that there are still outstanding discovery requests.

July 19, 2002

Letter received from attorney for Defendant requesting that the Board dismiss the case with prejudice, or at the very least, grant Defendant's Motion to Compel Discovery that was filed July 27, 2000.

August 23, 2002

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 23rd day of August, 2002, it is hereby **ORDERED** that the Plaintiff, Adams County Asphalt Co., comply with all the discovery requests served upon it by the Commonwealth of Pennsylvania, Department of Transportation, within sixty (60) days of the date hereof, and in the event that the Plaintiff fails to reply to such discovery this case shall be dismissed with prejudice upon motion of the Defendant." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 22, 2002

Letter received from attorney for Plaintiff via facsimile advising that the parties are working together to resolve all outstanding discovery issues and request that the Board take no action per its August 23, 2002 opinion until the counsel have met to resolve this matter.

October 22, 2002

Letter received from attorney for Defendant via facsimile advising that he disagrees with Plaintiff's letter stating that the parties are working together to resolve outstanding discovery and that if the responses to discovery are not received within 60 days of our 8/23/02 Order that Plaintiff will still move for dismissal.

October 24, 2002

Letter received from attorney for Plaintiff via U.S. Mail advising that the parties are working together to resolve all outstanding discovery issues and request that the Board take no action per its August 23, 2002 opinion until the counsel have met to resolve this matter.

October 22, 2002

Letter received from attorney for Defendant via U.S. Mail advising that he disagrees with Plaintiff's letter stating that the parties are working together to resolve outstanding discovery and that if the responses to discovery are not received within 60 days of our 8/23/02 Order that Plaintiff will still move for dismissal.

November 7, 2002

Defendant's Motion to Dismiss As Sanction for Discovery Violation Pursuant to The Board's Order of August 23, 2002 and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Plaintiff's response due 12/12/02.**

February 12, 2003

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 12th day of February, 2003, after due consideration of the pleadings and the failure of Plaintiff to respond to discovery requests of the Defendant as ordered and upon Defendant's Motion to Dismiss, it is hereby **ORDERED** that said motion is **GRANTED** and the matter docketed to No. 1809 is **DISMISSED WITH PREJUDICE** and the docket shall be marked accordingly. **IT IS SO ORDERED.**" Copy forwarded to attorney for Plaintiff and attorney for Defendant.

June 12, 2003

Plaintiff filed an entry of appearance of Chadwick O. Bogar, Esquire on behalf of Plaintiff. Copy forwarded to Defendant.

June 12, 2003

Plaintiff filed Petition to Open and Brief in Support. Copy forwarded to Defendant. Response due from Defendant 7/17/03.

July 7, 2003

Defendant filed Brief for Defendant in Opposition to Plaintiff's "Petition to Open". Copy forwarded to Plaintiff.

July 9, 2003

Plaintiff filed a letter (via fax) in reply to Defendant's Brief in Opposition to Plaintiff's Petition to Open.

July 10, 2003

Plaintiff filed a letter (via U.S. mail) in reply to Defendant's Brief in Opposition to Plaintiff's Petition to Open.

July 10, 2003

Defendant filed a letter in response to Plaintiff's reply to Defendant's Brief in Opposition to Plaintiff's Petition to Open.

July 15, 2003

Plaintiff filed (via fax) a letter requesting the Board to grant Plaintiff's Petition to Open due to the fact that Defendant did not file a response.

July 16, 2003

Defendant filed (via fax) a letter in response to Plaintiff's letter advising that his brief in opposition more than adequately meets the legal arguments raised in Plaintiff's Petition.

July 16, 2003

Defendant filed (via U.S. Mail) a letter in response to Plaintiff's letter advising that his brief in opposition more than adequately meets the legal arguments raised in Plaintiff's Petition.

July 16, 2003

Plaintiff filed (via U.S. Mail) a letter requesting the Board to grant Plaintiff's Petition to Open due to the fact that Defendant did not file a response.

July 16, 2003

Plaintiff filed (via fax) a letter in response to Defendant's letter of July 15, 2003.

July 28, 2003

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 28th day of July, 2003, it is hereby **ORDERED** and **DECREED** that Plaintiff's Petition to Open is **DENIED.**" Copy forwarded to Plaintiff and Defendant.
