

Docket Number: 2067

MARIUSZ KWAPIS, IND. & t/a THE SKY CONSTRUCTION COMPANY

Alvin Freiberg, Esquire

VS.

**CLOSED**

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE

~~John A. Kane, Chief Counsel~~

~~Charles E. Anderson, Assistant Counsel~~

Larry Bradenburg, Assistant Counsel

**January 24, 1996**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$27,376.00+.

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**February 12, 1996**

Exhibits which were inadvertently omitted from the Claim, filed by attorney for Plaintiff.

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**February 20, 1996**

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

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**February 26, 1996**

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General February 21, 1996.

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**February 27, 1996**

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 21, 1996.

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**March 21, 1996**

Letter received from Defendant requesting an extension of time until April 4, 1996 to file Defendant's responsive pleading.

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**March 28, 1996**

Letter forwarded to Defendant, with copy to Plaintiff, granting the request for extension of time. **Defendant's Responsive Pleading now due April 4, 1996.**

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**April 4, 1996**

Defendant's Answer and New Matter to Plaintiff's Claim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Reply to New Matter due from Plaintiff May 8, 1996.**

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**April 19, 1996**

Letter received from attorney for Plaintiff advising that he did not receive a copy of Defendant's Answer and New Matter.

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**April 23, 1996**

Corrected Certificate of Service filed by attorney for Defendant reforwarding Defendant's Answer and New Matter unto Plaintiff. Reply to New Matter due from Plaintiff May 23, 1996.

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**May 21, 1996**

Reply to Defendant's New Matter filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**May 23, 1996**

Letter forwarded to parties directing them to proceed with discovery.

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**May 15, 1997**

Letter forwarded to parties requesting a status report.  
Response due from parties 6/16/97.

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**June 27, 1997**

Letter received from attorney for Defendant advising that there has been no activity in the case. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**July 11, 1997**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 11th day of July, 1997, a Rule to Show Cause is issued upon Plaintiff, Mariusz Kwapis, Ind. & t/a The Sky Construction Company, wherein it is **DIRECTED** that Plaintiff advise the Board within thirty (30) days of this Order why this case should not be dismissed from lack of prosecution 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 a response to said Rule." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**July 15, 1997**

Acceptance of Service of Opinion and Order dated July 11, 1997 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 14, 1997.

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**July 25, 1997**

Response to Rule to Show Cause Why Case Should Not Be Dismissed for Lack of Prosecute or Other Justifiable Response filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**October 1, 1997**

Copy of status letter which was forwarded to Defendant received from attorney for Plaintiff.

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**December 4, 1997**

Copy of status letter which was forwarded to Defendant received from attorney for Plaintiff.

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**February 4, 1998**

Status letter received from attorney for Plaintiff requesting a hearing be set for sometime in June, 1998.

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**February 29, 1998**

Status letter received from attorney for Plaintiff requesting that any time in June would be acceptable to Plaintiff.

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**August 24, 1999**

Letter forwarded to parties requesting a status report. Status Report due on or before **September 23, 1999**.

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**September 23, 1999**

Faxed letter received from Plaintiff advising that he had been ill and will be in touch with attorney for the Defendant within the next two days.

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**January 28, 2000**

Letter forwarded to parties requesting a status. Response due from parties February 2, 2000.

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**February 29, 2000**

Status letter received from attorney for Plaintiff (via Fax) advising that the parties are unable to come to settlement and further requesting the Board set same for hearing.

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**March 1, 2000**

Status letter received from attorney for Plaintiff (via U.S. Mail) advising that the parties are unable to come to settlement and further requesting the Board set same for hearing. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**September 14, 2000**

The Board made the following Order: **AND NOW**, this 14th day of September 2000, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board's Panel, composed of Frederick D. Giles, Esquire, Panel Attorney, and Conrad E. Kambic, P.E. Engineer Member, beginning on November 14, 2000 through November 15, 2000, if necessary. Said hearing shall be held in Courtroom No. 2 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. It is further **ORDERED** and **DECREED** that all discovery be completed by October 1, 2000.

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Hearing continued for November 14 & 15, 2000.

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**October 12, 2000**

The Board made the following Order: "**AND NOW**, this 12th day of October, 2000, it is **ORDERED** and **DECREED** that this matter which was set for hearing on November 14, 2000, through November 15, 2000, has been rescheduled. Said case has been rescheduled for a hearing before the Board's Panel, composed of Richard Swartz, Esquire, Panel Attorney and Conrad E. Kambic, P.E., Engineer Member beginning on April 24 & 25, 2001, if necessary. Said hearing shall be held in Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. It is further **ORDERED** and **DECREED** that all discovery herein shall be completed no later than forty-five (45) days prior to April 24, 2001." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**October 17, 2000**

Acceptance of Service of Order dated October 12, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 13, 2000.

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**October 25, 2000**

Acceptance of Service of Order dated October 12, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 16, 2000.

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**April 3, 2001**

Status letter received from attorney for Plaintiff advising that he is unable to ascertain the whereabouts of his client and therefore he requests we continue this case for six (6) months.

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**April 9, 2001**

Status letter received from attorney for Defendant advising that they will be filing a Motion and Brief.

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**April 16, 2001**

Motion to Dismiss Claim as well as Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**April 18, 2001**

Amended Motion to Dismiss Claim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**April 18, 2001**

Status letter received from attorney for Defendant outlining the discovery schedule yet to be completed prior to hearing.

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**April 20, 2001**

The Board rendered the following Opinion and Order: "**AND NOW**, this 20th day of April, 2001, the hearing previously scheduled on this matter for April 24, & 25, 2001, is hereby continued. Plaintiff shall make himself available to Defendant's counsel for deposition on May 15, 2001 at 1:00 p.m. The hearing shall be rescheduled following the scheduled deposition. Defendant's Motion to Dismiss will be addressed following the Plaintiff's scheduled deposition."

Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**April 25, 2001**

Acceptance of Service of Opinion and Order dated April 20, 2001 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 23, 2001.

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**May 2, 2001**

The Board rendered the following Order: **"AND NOW**, this 2nd day of May, 2001, it is **ORDERED** and **DECREED** that this matter is rescheduled for hearing before the Board commencing on July 10, 2001 and continue through July 11, 2001, if necessary. Said hearing shall be held in Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. It is further **ORDERED** and **DECREED** that all discovery herein shall be completed no later than forty-five (45) days prior to July 10, 2001." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

**May 2, 2001**

Acceptance of Service of Order dated May 2, 2001 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 2, 2001.

**June 11, 2001**

Pre-Trial Statement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

**June 13, 2001**

Pre-Trial Statement filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

**June 19, 2001**

The Board rendered the following Order: **"AND NOW**, this 19th day of June, 2001, it is **ORDERED** and **DECREED** that Defendant's, Commonwealth of Pennsylvania, Department of Public Welfare, Motion to Dismiss Claim as well as Brief in Support is rendered MOOT by the filing of a letter from counsel for Plaintiff advising that the parties are ready to proceed to trial on July 10 & 11, 2001." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

**June 19, 2001**

Motion to Dismiss Claim: Failure to File Claim within six months of accrual filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

**July 2, 2001**

Answer to Motion to Dismiss Claim: Failure to File Claim within Six Months of Accrual filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**July 5, 2001**

Acceptance of Service of Opinion and Order dated June 19, 2001 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 25, 2001.

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**July 10, 2001**

Panel Hearing Messrs. Spartz/Gambie held in Board of Claims, 200 North Third Street, Suite 600, Harrisburg PA commencing at 9:30 a.m.  
**CASE DISMISSED**

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**August 10, 2001**

Testimony for hearing held July 10, 2001 filed

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**August 20, 2001**

Copy of testimony for hearing held July 10, 2001 forwarded to attorney for Defendant.

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**August 28, 2001**

Acceptance of Service of Testimony received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 24, 2001.

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**September 27, 2001**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 27th day of September, 2001, it is hereby **ORDERED** and **DECREED** that Defendant's Motion for a Non-Suit/Motion to Dismiss is **GRANTED**.

Plaintiff's Claim is **DISMISSED** with prejudice." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**October 3, 2001**

Acceptance of Service of Opinion and Order dated September 27, 2001 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 1, 2001.

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**October 4, 2001**

Acceptance of Service of Opinion and Order dated September 27, 2001 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 1, 2001.

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**October 29, 2001**

Petition for Review received from Commonwealth Court. [2442 CD 2001] File forwarded to Commonwealth Court.

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**January 4, 2002**

Copy of Plaintiff's Reproduced Record; Petition for Review of the Order of the Commonwealth of Pennsylvania, Board of Claims dated the 27th day of September, 2001, as well as, brief for petitioner filed by attorney for Plaintiff.

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**May 2, 2002**

Order rendered in Commonwealth Court as follows: "NOW, March 22, 2002, the order of the Board of Claims in the above-captioned matter is hereby affirmed."