

Docket Number: 2083

A & L INC., to the use of BOSS CONSTRUCTION, INC.

Stuart J. Moskovitz, Esquire
Robin M. Hetzell, Project Manager

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

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

CLOSED

March 13, 1996

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$10,000.00+.

March 15, 1996

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 4/17/96.

March 21, 1996

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General March 19, 1996.

March 22, 1996

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 19, 1996.

April 12, 1996

Defendant's Preliminary Objections to Plaintiff's Complaint Pursuant to Pa. R.C.P. 1028 (a) (2) and 1028 (a) (4) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 20, 1996

Brief to Preliminary Objections filed on April 12, 1996, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 17, 1996

Plaintiff's Answer to Preliminary Objections and Brief in Support filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 4, 1996

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 4th day of October, 1996, it is hereby **ORDERED** that the preliminary objections of the defendant, Commonwealth of Pennsylvania, Department of Transportation, to the complaint of plaintiff, A & L, Inc., to the use of Boss Construction, Inc., are **DENIED** on the grounds of Rule 1028(a)(2) of the Pennsylvania Rules of Civil Procedure and **SUSTAINED** on the

grounds of Rules 1028(a)(3) and (4). The complaint is **DISMISSED WITHOUT PREJUDICE**. Plaintiff has thirty (30) days from the exit date of this Order to file an amended complaint." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 18, 1996

Acceptance of Service of Opinion and Order dated October 4, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 16, 1996.

November 4, 1996

Amended Complaint filed by attorney for Plaintiff.

November 8, 1996

Copy of Amended Complaint forwarded to attorney for Defendant and Chief Deputy Attorney General. Response due from Defendant December 8, 1996.

December 11, 1996

Acceptance of Service of Amended Claim dated November 8, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 12, 1996.

December 18, 1996

Answer to Amended Complaint and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff January 23, 1997.

January 14, 1997

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

January 27, 1997

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

February 21, 1997

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

April 9, 1997

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

May 28, 1997

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

December 9, 1997

Letter forwarded to parties requesting status. Response due from parties January 9, 1998.

January 5, 1998

Status letter received from attorney for Plaintiff advising that the parties are commencing with discovery. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 5, 1998

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

January 9, 1998

Status letter received from attorney for Defendant advising that the parties are commencing with discovery. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 18, 1998

Certificate of Service of Defendant's Interrogatories to Plaintiff - Second Set filed by attorney for Defendant.

March 18, 1998

Certificate of Service of Defendant's Interrogatories to Plaintiff-Second Set filed by attorney for Defendant.

July 20, 1998

Letter forwarded to parties requesting status. Response due from parties August 20, 1998.

August 17, 1998

Status letter received from attorney for Defendant advising that the parties are in discovery.

August 24, 1998

Status letter received from attorney for Plaintiff advising that the parties are in discovery.

December 23, 1998

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

December 28, 1998

Letter forwarded to Plaintiff requesting response to Defendant's Motion to Amend New Matter. Response due January 28, 1999.

April 7, 1999

The Board rendered an Opinion and made the following Order: **AND NOW,** this 7th day of April, 1999, upon consideration of Defendant's Motion to Amend New Matter and since Plaintiff has filed no opposition to the Motion, the Motion is hereby **GRANTED.** Copy forwarded to attorney for Plaintiff and attorney for Defendant.

April 19, 1999

Acceptance of Service of Opinion and Order dated April 7, 1999 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 12, 1999.

April 3, 2000

Letter forwarded to parties requesting status. Response due from parties May 3, 2000.

May 9, 2000

Status letter received from attorney for Defendant advising that the parties are in discovery.

March 22, 2001

Letter forwarded to parties requesting a status. Response due from parties April 23, 2001.

April 6, 2001

Status letter received from attorney for Defendant stating that no activity has taken place on this case for a period in excess of two (2) years.

May 9, 2001

The Board rendered an Opinion and made the following Order: **AAND NOW**, this 9th day of May, 2001, a Rule to Show Cause is issued upon Plaintiff, A & L, Inc., to the use of Boss Construction, 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 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=.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 15, 2001

Acceptance of Service of Opinion and Order dated May 9, 2001 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 11, 2001.

June 15, 2001

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

June 20, 2001

Letter received (via fax) from attorney for Plaintiff advising that Plaintiff does wish to pursue this matter and expects to recommence with discovery this summer.

July 11, 2001

Certificate of Service of Defendant's Request for Admissions Directed to Plaintiff (First Set) filed by attorney for Defendant.

September 25, 2001

The Board rendered an Opinion and made the following Order: **AAND**

NOW, this 25th day of September, 2001, because the Board's Order of May 9, 2001, was not received by the Plaintiff and the Plaintiff does wish to pursue this matter, it is **ORDERED** and **DECREED** that the Defendant's letter/motion to have this case be closed, discontinued and ended with prejudice is **DENIED**.

Further, it is **ORDERED** that the Board's May 9, 2001, Order issuing a Rule to Show Cause be deemed **MOOT**.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 2, 2001

Acceptance of Service of Opinion and Order dated September 25, 2001 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 1, 2001.

April 25, 2002

Defendant's Motion for Summary Judgment Pursuant to Pa.R.C.P. 1035(b) and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Plaintiff's Response and Brief in Opposition due 5/30/02.**

May 30, 2002

Response to Defendant's Motion for Summary Judgment and Brief in Support filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 12, 2002

The Board rendered an Opinion made the following Order: **AND NOW**, this 12th day of June, 2002, it is hereby **ORDERED** and **DECREED** that Defendant's Motion for Summary Judgment is hereby **DENIED**.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

January 14, 2003

Letter forwarded to parties requesting a Status Report. Status Report due on or before **February 13, 2003.**

January 23, 2003

Letter received from attorney for Plaintiff advising that preliminary discussions have been held to attempt to solve this matter and Plaintiff is hopeful that the discussions will prove fruitful within the next six months.

February 17, 2003

Letter received from attorney for Defendant advising that the preliminary discussions have been held in an effort to resolve matters pending before the Board.

August 28, 2003

Board forwarded a letter to parties requesting a Status Report.

September 8, 2003

Plaintiff filed a letter advising that it is Plaintiff's attorney's understanding that A & L currently have 3 matters pending before the Board, this claim is by far the smallest, and that the parties are attempting to effectuate a global settlement of all of A & L's outstanding matters. The parties are not pursuing discovery at this time pending the success or failure of these negotiations.

October 14, 2003

Defendant filed a letter advising that Defendant concurs with Plaintiff's counsel that negotiations are ongoing.

June 14, 2004

Board forwarded a letter to parties requesting a Status Report.

July 15, 2004

Defendant filed a status letter advising that the Defendant is ready to proceed with discovery.

May 6, 2005

Plaintiff filed letter-type Praecipe requesting that the Board dismiss their Claim at Docket No. 2083 with prejudice. Copy forwarded to Defendant.

May 20, 2005

Board rendered an Order. Order as follows: "**AND NOW**, this 20th day of May, 2005, upon receipt of a letter executed by Robin M. Hetzell, Project Manager, on behalf of Plaintiff, A & L, Inc., to the use of Boss Construction, Inc., requesting that "the Board of Claims dismiss our Claim No. 2083 against the Department of Transportation with prejudice," docketed with this Board under date of May 6, 2005, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked "ended, discontinued and dismissed with prejudice." Copy forwarded to Plaintiff and Defendant.

May 31, 2005

Defendant filed Acceptance of Service of Order dated May 20, 2005. Receipt of same acknowledged May 26, 2005.

June 6, 2005

Plaintiff filed Acceptance of Service of Order dated May 20, 2005. Receipt of same acknowledged June 2, 2005.
