

Docket Number: 2098

HAZLETON AREA SCHOOL DISTRICT

Conrad A. Falvello, Esquire
Nina J. Falvello, Esquire
Edward L. Brady, Esquire

CLOSED
VS.
COMMONWEALTH OF PENNSYLVANIA
STATE PUBLIC SCHOOL BUILDING AUTH. et.al.

Jose E. Morales, Esquire

VS.

ROBERT A. BOSAK, et al.
(Additional Defendants)
Kevin B. Watson, Esquire

LAMBERT & INTRERI

Thomas, Thomas, Armstrong & Niesen

February 6, 1996

By Order of the Commonwealth Court, case filed, ORDER as follows:
AND NOW, this 6th day of February, 1996, it is hereby ordered:
1. Paragraph 3 of the order of the Court of Common Pleas of Luzerne County, dated January 27, 1995, at No. 3868-C of 1994, which denied the preliminary objection filed by the State Public School Building Authority, is reversed. 2. Count V of the complaint filed by the Hazleton Area School District is severed and is transferred to the Board of Claims. 3. The Court of Common Pleas of Luzerne County shall certify the record, with respect to count 5 of the complaint, to the Board of Claims on or before March 18, 1996. Jurisdiction is relinquished.

THE FOLLOWING FILED IN COMMONWEALTH COURT

March 9, 1995

Petition for review/Notice of Appeal Filed.
Petition for permission to appeal 1311.

March 29, 1995

Certificate of Service.

April 12, 1995

Filed-Other Respondent, Hazleton Area School District's brief in opposition to petition for permission to appeal.

April 20, 1995

Order Filed - Pet. petition for permission to appeal & brief of Hazleton Area School District in opposition and proceedings in the trial court are stayed pending disposition of the petition for review. Record due 5/12/95. Silvestri, S.J. (exit 4/21/95).

June 5, 1995

Memorandum and Order - Petition for review filed by authority is Granted. Appeal shall be argued seriatim with the appeals docketed at Nos. 506 & 507 C.D. 1995. Authority to file brief in support of its appeal (15) by 7/10/95. Appellees' briefs due 7/27/95.

Keller, S.J. (order exit 6/6/95)

June 14, 1995

Record Filed.

June 22, 1995

Petitioner/Appellant Designation of Contents and statement of issues to be presented.

June 30, 1995

Notice of Non-Participation on behalf of U.S. Fidelity and Guaranty Co.

July 21, 1995

Petitioner/Appellant's Brief filed

July 21, 1995

Appellant's Reproduced Record Filed. Filed with Appellant's Brief under one cover.

August 1, 1995

Argument scheduled. Thursday, September 14, 1995 in H.A.

August 18, 1995

Respondent/Appellee's Brief Filed for Metropolitan School District by Conrad A. Galvello.

BEFORE THE BOARD OF CLAIMS

February 6, 1996

Opinion Filed. The Common Pleas Court is reversed. Transferred to Bd. of Claims. Jurisdiction is relinquished. (12 pages) Kelly, J.

March 21, 1996

Record Remanded. Original record consolidated with 506CD95, remanded to trial court

March 21, 1996

Filed-Other. Transferred to the Board of Claims, per order dated February 6, 1996.

April 15, 1996

*Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$20,000.00+.

May 1, 1996

Copies of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT May 31, 1996.

May 3, 1996

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 3, 1996.

May 7, 1996

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General May 6, 1996.

CLOSED

May 20, 1996
Preliminary Objections to Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 12, 1996

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

June 25, 1996

Commonwealth of Pennsylvania, Department of General Services' Brief in Support of Preliminary Objections to Complaint and Response to Plaintiff's Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 28, 1996

Complaint to Join Additional Defendants filed by attorney for Defendant. Copies forwarded to attorneys for Plaintiff and attorneys for the Additional Defendants.

July 11, 1996

Hazleton Area School District's Brief in Opposition to State Public School Building Authority's Preliminary Objections and in Support of Hazleton Area's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 2, 1996

Acceptance of Service of Complaint to Join Additional Defendants received by Chief Deputy Attorney General. Receipt of **same acknowledged by Chief Deputy Attorney General 7/31/96.**

August 12, 1996

Affidavit in Support of Claimant's Motion for Summary Judgment as to Respondent's Counterclaim filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 13, 1996

Acceptance of Service of Complaint to Join Additional Defendants received from attorney for Additional Defendants. Receipt of same acknowledged by attorney for Additional Defendant 8/13/96.

August 19, 1996

Acceptance of Service of Complaint to Join Additional Defendants received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 11, 1996

August 21, 1996

Certificate of Service of Plaintiff's First Request for Production of Documents Directed to Original Defendant, State Public School Building Authority (SPSBA) filed by Plaintiff.

September 6, 1996

The Board rendered an Opinion and made the following Order: **AND NOW** this 6th day of September, 1996, the Preliminary Objections of the Defendant, Commonwealth of Pennsylvania, State Public School Building Authority is **Denied**. However, the Plaintiff, Hazleton Area School District is Directed to file an Amended Count V using appropriate language." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

September 9, 1996

The Board rendered an Opinion and made the following Order: AND NOW this 9th day of September, 1996, the request of the Additional Defendant, United States Fidelity and Guaranty Company and Lambert and Intreri, Inc., for an extension of thirty(30) days to file their responsive pleading is hereby GRANTED. The Additional Defendants are ordered to file responsive pleading within thirty(30) days of the date the Plaintiff, Hazleton Area School District, files its Amended Complaint. The responsive pleading of the Additional Defendant may include Preliminary Objections. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

September 13, 1996

Acceptance of Service of Opinion and Order received by attorney for Additional Defendant. Receipt of same acknowledged by attorney for Additional Defendant September 11, 1996.

September 20, 1996

Acceptance of Service of Opinion and Order dated September 9, 1996 received by attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 11, 1996.

September 20, 1996

Acceptance of Service of Opinion and Order dated September 6, 1996 received by attorneys for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 7, 1996.

October 2, 1996

Acceptance of Service of Opinion and Order received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 30, 1996.

October 11, 1996

Amended Complaint Count V filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. Amount of Claim: \$20,000.+

October 17, 1996

Copy of Amended Claim forwarded to Chief Deputy Attorney General.
ANSWER DUE FROM DEFENDANT November 18, 1996.

November 4, 1996

Preliminary Objections of Additional Defendants United States Fidelity & Guaranty Company and Lambert and Intereri, Inc., to Defendant State Public School Building Authority's Complaint to Join Additional Defendants filed by attorney for Additional Defendants.

November 4, 1996

Brief in Support of the Preliminary Objections of Additional Defendants United States Fidelity & Guaranty Company and Lambert and Intereri, Inc. to Defendant State Public School Building Authority's Complaint to Join Additional Defendants filed by attorney for Additional Defendants. Copy forwarded to Plaintiff, Defendant and Additional Defendants by attorney for Additional Defendant.

November 18, 1996
Complaint to Join Additional Defendants filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff.
November 18, 1996

CLOSED

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

November 19, 1996

Letter forwarded to Plaintiff directing them to file Response and Brief. ANSWER DUE December 9, 1996.

December 3, 1996

Acceptance of Service of Complaint to Join Additional Defendants received from attorney for Additional Defendants. Receipt of same acknowledged by attorney for Additional Defendants December 12, 1996.

December 6, 1996

Preliminary Objections of Additional Defendants United States Fidelity and Guaranty Company and Lambert and Intreri, Inc. to Defendant State Public School Building Authority's [Amended] Complaint to Join Additional Defendants filed by attorney for Additional Defendants.

December 6, 1996

Brief in Support of the Preliminary Objections of Additional Defendants United States Fidelity & Guaranty Company and Lambert

and Intreri, Inc. to Defendant State Public School Building Authority's [Amended] Complaint to Join Additional Defendants filed by attorney for Additional Defendants.

December 11, 1996

Acceptance of Service of Complaint to join Additional Defendants filed by attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 1, 1996.

December 16, 1996

Plaintiff's Motion to Amend Complaint and Brief in Support of Plaintiff's Motion to Amend Complaint filed by attorney for Plaintiff.

December 26, 1996

Reply of Hazleton Area School District to New Matter of Original Defendant, State Public School Building Authority filed by attorney for Plaintiff. Copy forwarded to all parties & recorded by attorney for Plaintiff.

January 13, 1997

Certificate of Service of Plaintiff's Set One Interrogatories Addressed to Defendant, State Public School Building Authority filed by Plaintiff. Copy forwarded to Defendant and Additional Defendants by attorney for Plaintiff.

January 17, 1997

Acceptance of Service of Opinion and Order dated September 6, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 9, 1996.

January 31, 1997

Brief of Defendant, State Public School Building Authority in Opposition to Plaintiff's Motion to Amend Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 18, 1997

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

NOW, this 18th day of July, 1997, it is **ORDERED** and **DECREED** that Plaintiff's, Hazleton Area School District, Motion to Amend Complaint is hereby **GRANTED**." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

July 31, 1997

Acceptance of Service of Opinion and Order dated July 18, 1997 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 22, 1997.

July 31, 1997

Acceptance of Service of Opinion and Order dated July 18, 1997 received from attorney for the Additional Defendant. Receipt of same acknowledged by attorney for Additional Defendant July 21, 1997.

August 6, 1997

Acceptance of Service of Opinion and Order dated July 18, 1997 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 22, 1997.

July 21, 1998

Letter forwarded to parties requesting a status. Status due 8/21/98.

July 28, 1998

Letter/Status Report filed by attorney for Plaintiff advising that they are close to completing their pre-trial discovery and request a Pre-Hearing Conference or Pre-Trial Scheduling Order so the parties can complete discovery and move on to a trial date.

October 21, 1998

Copy of letter received from attorney for Plaintiff advising that they are about to conclude discovery in the above matter. Further Plaintiff advises that a final demand will be submitted to Mr. Bosak's attorney in the Luzerne County action and if there is no response the matter will proceed to trial in Luzerne County.

December 22, 1998

Certificate of Service filed by Plaintiff served upon Defendant and Additional Defendants.

May 14, 1999

Praecipe to Change Address of Counsel: R. James Reynolds, Jr., Esquire, Thomas, Armstrong & Niesen, 212 Locust Street, Suite 500, P.O. Box 9500, Hbg, PA 17108-9500 filed by attorney for Defendants.

January 28, 2000

Letter forwarded to parties requesting a status. Now Due 2-28-00.

February 10, 2000

Letter/Status received from Plaintiff advising that they have completed discovery but are awaiting responses from some of the Defendants. Plaintiff is preparing its expert report and request a Pre-Trial Conference Schedule; Pre-Trial Motion schedule and trial date.

February 24, 2000

Letter received from attorney for Additional Defendant (United States Fidelity and Guaranty Company (USF&G)) advising that their P.D.'s are ready for decision. Defendant never responded to the Additional Defendant's P.D.s.

April 4, 2000

Cop. of Plaintiff's letter to Defendant regarding their conversation with Mr. Mac. On the availability for scheduling hearing dates for the year 2001. Plaintiff further advised that if Defendant does not respond by May 5, 2000 they will assume that the 2001 dates are available and will communicate with Mr. Mac. To schedule one of these dates for trial.

April 26, 2000

Letter received from attorney for Additional Defendant advising the Board of his availability for two (2) dates Feb 5 and 12, 2001 for the commencement of trial.

May 2, 2000

The Board rendered an Opinion and made the following Order: **AND NOW**, this 2nd day of May, 2000, it is **ORDERED** and **DECREED** that the

Additional Defendant's, United States Fidelity & Guaranty Company and Lambert and Intreri, Inc., Preliminary Objections to Defendant's State Public School Building Authority, Amended Complaint to Join Additional Defendants shall be **GRANTED**. The State Public School Building Authority's Amended Complaint, attempting to join the United States Fidelity & Guaranty Company and Lambert and Intreri, Inc., shall be **DISMISSED** as to these two Additional Defendants for failure to set a Claim for which relief can be granted. Copy forwarded to attorney for Plaintiff and Defendant.

May 8, 2000

Acceptance of Service of Opinion and Order dated May 2, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 5, 2000.

May 8, 2000

Acceptance of Service of Opinion and Order dated May 2, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 5, 2000.

May 9, 2000

Letter received from attorney for Plaintiff requesting that this matter is ready for trial. Specific dates are addressed in the letter. Certificate of Service of Plaintiff's request for production of documents served upon Additional Defendant.

May 9, 2000

Certificate of Service of Hazelton Area School District's Request for Production of Documents and Other Things Addressed to Lambert & Intreri and USF&G filed by attorney for Plaintiff.

May 12, 2000

Acceptance of Service of Opinion and Order dated May 2, 2000 received from attorney for Additional Defendant. Receipt of same acknowledged by attorney for Additional Defendant May 8, 2000.

June 15, 2000

The Board made the following Order: **"AND NOW**, this 15th day of June 2000, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board beginning on February 12, 2001 through February

16, 2001 and if necessary February 20, 2001 through February 23, 2001. Said hearing shall be held in Courtroom No. 1, 6th Floor, Harrisburg, Pennsylvania, commencing at 9:30 a.m. It is further **ORDERED** and **DECREED** that all discovery be completed no later than January 15, 2001. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

June 23, 2000

Acceptance of Service of Order dated June 15, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff June 19, 2000.

July 5, 2000

Acceptance of Service of Order dated June 15, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 19, 2000.

July 5, 2000

Acceptance of Service of Order and Order dated May 2, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 4, 2000.

November 6, 2000

Letter received from attorney for Plaintiff requesting a pre-trial conference.

November 13, 2000

Letter received from Edward Brady advising that after discussion with counsel for Arc Elec., they request that the Board preside over arbitration in the above-captioned matter.

November 20, 2000

Certificate of Service of Notice of Taking Oral Depositions of Robert E. Lekawa filed by attorney for Plaintiff.

December 4, 2000

Certificate of Service of Notice of Taking Oral Deposition of Russ Daniels filed by attorney for Plaintiff.

December 5, 2000

Certificate of Service of Notice of Taking Oral Deposition of Robert E. Lekawa filed by attorney for Plaintiff.

December 21, 2000

Certificate of Service of Notice of Taking Oral Deposition of Robert Bacon filed by attorney for Plaintiff.

December 26, 2000

Certificate of Service of Plaintiff's Request for Production of Documents Addressed to Defendant filed by attorney for Plaintiff.

January 5, 2001

Letter received from attorney for Add. Def requesting a Pre-trial meeting in January or February.

January 9, 2001

Plaintiff's Motion to Amend Complaint and Brief in Support of Plaintiff's Motion to Amend Complaint. Responses due from all parties 2/9/01.

January 10, 2001

The Board rendered an Opinion and made the following order: **AND NOW**, this 10th day of January 2001, it is **ORDERED** and **DECREED** that Plaintiff's Motion is hereby granted. It is further **ORDERED** and **DECREED** that Plaintiff shall file its Amended Complaint within ten (10) days of the exit date of this Order. Copies forwarded to all counsel.

January 11, 2001

Pre-Trial Statement of Plaintiff, Hazleton Area School District filed by attorney for Plaintiff.

January 12, 2001

State Public School Building Authority's Pre-Trial Statement filed by attorney for Defendant.

January 18, 2001

Praecipe filed by attorney for Additional Defendants to remove names from docket.

January 18, 2001

Acceptance of Service of Opinion and Order dated January 10, 2001 received from attorney for Additional Defendant. Receipt of same acknowledged by attorney for Additional Defendant January 16, 2001.

January 22, 2001

*Amended Complaint filed by attorney for Plaintiff. Amount of Claim:
in excess of \$19,500.00.

January 23, 2001

Certificate of Service of Edward Brady as counsel for Plaintiff.
Copy forwarded to attorney for Defendant and Additional Defendant
by attorney for Plaintiff.

January 31, 2001

Pre-Trial Conference was held today in the Judge's Office.

February 1, 2001

Acceptance of Service of Amended Claim received from Chief Deputy
Attorney General. Receipt of same acknowledged by Chief Deputy
Attorney General January 25, 2001.

February 16, 2001

Hearing held today(case completed).

March 19, 2001

Testimony of hearing held February 16, 2001 filed.

March 23, 2001

Copy of Testimony of hearing held February 16, 2001 forwarded to
attorney for Defendant. **Plaintiff's Findings of Fact, etc due April
11, 2001.**

March 27, 2001

Letter received from attorney for Plaintiff advising that they are
in receipt of the Transcript from the Feb. 16, 2001, hearing.
Pursuant to the Board's Order, Plaintiff confirms that they were
given thirty days from the receipt of the transcript to file their
Findings, etc., and the Defendant has 15 days.

April 18, 2001

Faxed letter received from attorney for Defendant advising that the Plaintiff granted then a two week extension of time in which to file their brief.

April 30, 2001

Letter received from attorney for Plaintiff confirming their agreement to Defendant for a two week extension to file their briefs. Due May 18, 2001.

May 3, 2001

Acceptance of Service of testimony for hearing held February 16, 2001 received from attorney for Defendant. Receipt of acceptance acknowledged by attorney for Defendant March 16, 2001.

May 20, 2001

Proposed Findings of Fact and Conclusions of Law of Plaintiff Hazelton Area School District and Trial Brief of Plaintiff Hazelton Area School District. Copy forwarded to attorney for Defendant and Additional Defendant by attorney for Plaintiff.

May 4, 2001

State Public School Building Authority's Conclusions of Law, and Brief in Support of Findings of Fact and Conclusions of Law. Copy forwarded to attorney for Plaintiff, Defendant and Additional Defendant.

May 15, 2001

Reply Brief of Plaintiff, Hazelton, Area School District filed by attorney for Plaintiff. Copy given to attorney for Defendant and attorneys for Additional Defendant.

May 18, 2001

Faxed letter received from attorney for Defendant advising that Plaintiff granted Defendant a two week extension of time in which to file their brief.

December 28, 2001

The Board rendered an Opinion and made the following Order: "**AND NOW**, 28th day of December, 2001, after hearing, it is **ORDERED** and **DECREED** that Judgment be entered in favor of the Plaintiff, Hazleton Area School District and against the Defendant, State Public School Building Authority in the sum of Three Hundred Twenty-Eight Thousand Three Hundred Sixty-Two Dollars (\$328,362.00). Each party to bear their own costs and attorney's fees." Copy forwarded to all attorneys of record and David J. DeVries, Chief Deputy Attorney General.

January 7, 2002

Acceptance of Service of Opinion and Order dated December 28, 2001, received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 3, 2002.

January 9, 2002

Acceptance of Service of Opinion and Order dated December 28, 2001, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 7, 2002.

January 14, 2002

Acceptance of Service of Opinion and Order dated December 28, 2001 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 2, 2002.
