

Docket Number: 2505

W. G. TOMKO & SON, INC.

Robert A. King, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

~~Gregory C. Santoro, Chief Counsel~~
~~Jose Morales, Assistant Counsel~~

VS.

~~*L. D. ASTORINO & ASSOCIATES, LTD.~~
~~Joella M. Szabo, Esquire~~

September 16, 1997

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$863,643.00.

September 18, 1997

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. **ANSWER DUE FROM DEFENDANT 10/20/97.**

September 23, 1997

Acceptance of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General September 18, 1997.

Acceptance of Service of Claim received from attorney for Defendant (D/S). Receipt of same acknowledged by attorney for Defendant September 24, 1997.

October 27, 1997

Letter received from attorney for Defendant confirming an extension of time for 30-days for Defendant to respond to Plaintiff's Claim which was agreed upon between the parties.

October 31, 1997

Answer with New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff December 8, 1997.

***November 3, 1997**

Complaint to Join Additional Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff and Additional Defendant by attorney for Defendant.

November 7, 1997

Copy of Complaint to Join Additional Defendant forwarded to Additional Defendant and attorney for Plaintiff. Response due from Additional Defendant December 8, 1997.

November 12, 1997

Acceptance of Service of Complaint to Join Additional Defendant received from Additional Defendant. Receipt of same acknowledged by Additional Defendant November 10, 1997.

November 14, 1997

Response to New Matter of Commonwealth of Pennsylvania, Department of General Services filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 27, 1998

Motion for Summary Judgment on Liability, Memorandum of Law in Support and Appendix filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. Response due from parties March 25, 1998.

February 23, 1998

Plaintiff's Answer and New Matter filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. Response due from parties March 25, 1998.

February 23, 1998

Response of L. D. Astorino & Associates, LTD., to the Motion for Summary Judgment on Liability, Additional Defendant L. D. Astorino's Cross Motion for Summary Judgment and Memorandum of Law in Support of Additional Defendant L. D. Astorino's Response to Plaintiff's Motion for Summary Judgment on Liability and in Support of Additional Defendant L. D. Astorino's Cross Motion for Summary Judgment filed by attorney for Additional Defendant. Copy forwarded to attorney for Plaintiff and attorney for Defendant by attorney for Additional Defendant. Response due from parties March 25, 1998.

March 13, 1998

Response to New Matter of Additional Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant and Additional Defendant by attorney for Plaintiff.

March 23, 1998

Commonwealth's Brief Opposing Plaintiff's Motion for Summary Judgment and Additional Defendant's Cross Motion for Summary Judgment filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff and attorney for Additional Defendant by attorney for Defendant.

March 23, 1998

Commonwealth's Response to Additional Defendant, L. D. Astorino & Associates, Ltd.'s Cross Motion for Summary Judgment filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff and attorney for Additional Defendant by attorney for Defendant.

March 23, 1998

Commonwealth's Response to Tomko's Motion for Summary Judgment filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff and attorney for Additional Defendant by attorney for Defendant.

March 23, 1998

Commonwealth's Reply to New Matter of L.D. Astorino & Associates filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff and attorney for Additional Defendant by attorney for Defendant.

March 25, 1998

Reply Memorandum of Law in Support of Tomko's Motion for Summary Judgment on Liability and in Opposition to Astorino's Cross Motion for Summary Judgment filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant and attorney for Additional Defendant by attorney for Plaintiff.

April 10, 1998

Reply Brief in Support of Motion for Summary Judgment on Liability filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant and attorney for Additional Defendant by attorney for Plaintiff.

April 20, 1998

Letter received from attorney for Plaintiff requesting a date be set for oral arguments.

April 21, 1998

Letter forwarded to attorney for Plaintiff advising that the Board will rule on the briefs filed and further that there will be no oral arguments set.

October 21, 1998

Letter forwarded to attorney for parties requesting status. Response due from parties November 23, 1998.

October 21, 1998

Stipulation of Dismissal filed on behalf of Additional Defendant L. D. Astorino & Associates, Inc. executed by all parties of record.

October 23, 1998

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

***November 19, 1998**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 19th day of November, 1998, upon consideration of plaintiff's motion for summary judgment and defendant's response thereto, plaintiff's motion is **GRANTED** on the issue of liability for extra-contractual work for the plaintiff's furnishing and installing of plumbing fixture in the precast concrete cells. Plaintiff's motion is **DENIED** on the issue of liability for extra-contractual work for furnishing and installing plumbing accessories. Plaintiff's motion is **GRANTED** on the issue of liability for extra-contractual work for performing plumbing rough-in work in the precast cells. **FURTHER**, upon consideration of the cross motion for summary judgment made by L.D. Astorino & Associates, Inc. ("Astorino"), the cross motion is **DENIED** as moot since Astorino has now been dismissed from the action." Copy forwarded to attorney for Plaintiff, attorney for Defendant and attorney for Additional Defendant.

November 24, 1998

Acceptance of Service of Opinion and Order dated November 19, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 20, 1998.

November 25, 1998

Acceptance of Service of Opinion and Order dated November 19, 1998 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 23, 1998.

December 9, 1998

Acceptance of Service of Opinion and Order dated December 9, 1998 received from attorney for Additional Defendant. Receipt of same acknowledged by attorney for Additional Defendant November 30, 1998.

December 9, 1998

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

December 11, 1998

Letter forwarded to Plaintiff directing Plaintiff to file their response to Plaintiff's New Matter. Response due January 11, 1999.

January 20, 1999

Joint Status Report filed by attorney for Plaintiff and attorney for Defendant advising that the parties are conducting settlement negotiations.

March 29, 1999

Notice of Settlement and Request to Discontinue filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 16, 1999

The Board rendered an Opinion and made the following Order: **AND NOW**, this 16th day of September, 1999, it is **ORDERED** and **DECREED** that the herein mentioned Notice of Settlement and a Request for Discontinuance filed by counsel for Plaintiff, W.G. Tomko & Son, Inc. is hereby **GRANTED** and this case shall be marked 'settled, discontinued and ended with prejudice.'" Copy forwarded to attorney for Plaintiff and attorney for Defendant.

September 22, 1999

Acceptance of Service of Opinion and Order dated September 16, 1999 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 17, 1999.

September 22, 1999

Acceptance of Service of Opinion and Order dated September 14, 1999 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 20, 1999.