

**\* C L O S E D \***

**\*Consolidated with Docket No. 2850\***

**Docket Number: 2554**

**BALFOUR BEATTY CONSTRUCTION, INC.**

Charles W. Rubendall, II, Esquire

Donald M. Lewis, III, Esquire

\*Sean M. Dillon, Esquire (Co-Counsel)

\*Gregory S. Martin, Esquire (Co-Counsel)

\*\*James E. Moye, Esquire (Co-Counsel)

\*\*\*John C. O'Rourke, Jr., Esquire (Co-Counsel)

and

**NO. 1 CONTRACTING CORPORATION**

(INTERVENOR)

Donna M.J. Clark, Esquire

Kenneth L. Joel, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA**

**DEPARTMENT OF TRANSPORTATION**

~~John J. Robinson, Jr., Chief Claims Attorney~~

Jeffrey W. Davis, Assistant Counsel

Gerald R. Schultz, Assistant Counsel (Co-Counsel)

**January 12, 1998**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: in excess of \$300.00

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**January 15, 1998**

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT FEBRUARY 16, 1998.

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**January 26, 1998**

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 22, 1998.

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**January 27, 1998**

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 21, 1998.

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**January 28, 1998**

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

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**February 13, 1998**

Letter received from attorney for Defendant requesting until March 2, 1998, in which to file its responsive pleading to Plaintiff's Complaint. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**February 18, 1998**

Petitions for Admission, Pro Hac Vice, of Sean M. Dillon, Esquire and Gregory S. Martin, Esquire, and Proposed Orders filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**February 19, 1998**

Letter forwarded to attorney for Defendant, with copy to attorney for Plaintiff, granting request for an extension of time until March 2, 1998, for Defendant to file its responsive pleading to Plaintiff's Complaint.

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**February 24, 1998**

Proposed Order filed by Plaintiff February 18, 1998 rendered by Judge Clipper. Order as follows: **AAND NOW**, this 24th day of February, 1998, upon consideration of Balfour Beatty Construction, Inc.'s petition to admit Sean M. Dillon, Esquire, pro hac vice, it is hereby **ORDERED** that said petition is **GRANTED** and that said attorney is specially admitted to practice before the Board of Claims for all purposes in the above-captioned claim.@ Copies forwarded to attorney for Plaintiff and attorney for Defendant.

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**February 24, 1998**

Proposed Order filed by Plaintiff February 18, 1998 rendered by Judge Clipper. Order as follows: **AAND NOW**, this 24th day of February, 1998, upon consideration of Balfour Beatty Construction, Inc.'s petition to admit Gregory S. Martin, Esquire, pro hac vice, it is hereby **ORDERED** that said petition is **GRANTED** and that said attorney is specially admitted to practice before the Board of Claims for all purposes in the above-captioned claim.@ Copies forwarded to attorney for Plaintiff and attorney for Defendant.

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**February 20, 1998**

Letter received from attorney for Plaintiff (Charles Rubendall, II, Esquire) requesting the Board set a discovery cut-off date of July 1, 1998 and requests a status conference pursuant to Rule 899.501 to facilitate the scheduling and progression of the litigation. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**February 25, 1998**

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, denying Plaintiff's request for a discovery cut-off date of July 1, 1998 as well as his request for a status conference.

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**March 2, 1998**

Answer with New Matter filed by attorney for Defendant. Copy forwarded to attorneys for Plaintiff by attorney for Defendant. Plaintiff's Reply due on or before **April 2, 1998**.

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**February 27, 1998**

Acceptance of Service of Orders (2) dated February 24, 1998  
received from attorney for Plaintiff. Receipt of same  
acknowledged by attorney for Plaintiff February 25, 1998.

**March 3, 1998**

Entry of Appearance of Gerald R. Schultz, Assistant Counsel, on behalf of Defendant, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**April 1, 1998**

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

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**April 14, 1998**

Motion to Compel filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**April 21, 1998**

Notice of Service Re: Notices of Intent to Serve Subpoenas Duces Tecum, filed by attorney for Plaintiff (Rubendall and Lewis).

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**May 8, 1998**

Objections to Subpoena Pursuant to R.C. P. 4009.21 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**May 12, 1998**

The Board rendered an Opinion and ~~AND~~ **NOW**, this 12th day of May, 1998, it is **ORDERED** and **DECREED** that the Defendant's Objections to Subpoena are hereby **DISMISSED**.@ Copies forwarded to attorneys for Plaintiff and attorneys for Defendant.

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**May 12, 1998**

Certificate Prerequisite to Service of Subpoenas Pursuant to Rule 4009.22 filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**May 14, 1998**

Defendant's Response to Motion to Compel Production of Documents filed by attorney for Defendant. Copy forwarded to all attorneys of record by attorney for Defendant.

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**May 15, 1998**

Acceptance of Service of Opinion and Order dated May 12, 1998 received from attorneys for Plaintiff (Rubendall and Lewis). Receipt of same acknowledged by attorneys for Plaintiff May 14,

1998.

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**May 29, 1998**

Notice of Service Re: Answer to Request for Production of Documents filed by attorney for Plaintiff (Rubendall, II).

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**June 18, 1998**

Motion for Stay of Deposition and Memorandum in Support of Motion filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**June 18, 1998**

Motion for a Protective Order and Memorandum in Support of Motion filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**June 19, 1998**

Memorandum in Opposition to Defendant's Motion for Stay of Deposition and Motion for Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**June 22, 1998**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 22nd day of June, 1998, it is **ORDERED** and **DECREED** that the Defendant's Motion for a Stay of Deposition of the Secretary of Transportation, Bradley L. Mallory, is hereby **GRANTED**. Said Motion for a Stay of Deposition shall remain in effect until such time after the Board rules on the merits of the Motion for a Protective Order.® Copies forwarded to attorneys for Plaintiff and attorneys for Defendant.

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**June 24, 1998**

Two (2) Amended Notices of Taking Deposition (Duces Tecum) of Bradley L. Mallory and Barry G. Hoffman, filed by attorney for Plaintiff (Rubendall, II). Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**June 25, 1998**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 25th day of June, 1998, upon consideration of the Motion for Protective Order filed by Defendant Commonwealth of Pennsylvania, Department of Transportation, IT IS HEREBY ORDERED that the Motion is **DENIED**.® Copies forwarded to attorneys for

Plaintiff and attorneys for Defendant.



**June 25, 1998**

Acceptance of Service of Opinion and Order dated June 22, 1998 received from attorneys for Plaintiff (Rubendall and Lewis). Receipt of same acknowledged by attorneys for Plaintiff June 24, 1998.

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**June 26, 1998**

Plaintiff's Motion for Extension of Time for Responding to Defendant's First Set of Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**June 26, 1998**

Letter received from attorney for Plaintiff, via facsimile, advising that the parties have come to an agreement relative to the extension of time of filing Answers to Interrogatories and requests that the Plaintiff's Motion for Extension of Time filed on this same date be withdrawn. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**June 29, 1998**

Acceptance of Service of Opinion and Order dated June 25, 1998 received from attorneys for Plaintiff (Rubendall and Lewis). Receipt of same acknowledged by attorneys for Plaintiff June 26, 1998.

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**July 2, 1998**

Acceptance of Service of Opinion and Order dated June 22, 1998 received from attorneys for Plaintiff (Dillon and Martin). Receipt of same acknowledged by attorneys for Plaintiff June 26, 1998.

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**July 7, 1998**

Acceptance of Service of Opinion and Order dated June 25, 1998 received from attorneys for Defendant. Receipt of same acknowledged by attorneys for Defendant June 29, 1998.

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**July 7, 1998**

Petition to Admit James E. Moye, Esquire, pro hac vice and Proposed Order, filed by attorneys for Plaintiff. Copy forwarded to attorneys for Defendant by attorneys for Plaintiff.

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**July 9, 1998**

The Board rendered an Opinion and made the following Order: **AAND NOW**, this 9th day of July, 1998, it is **ORDERED** and **DECREED** that the Plaintiff's Motion for an Extension of Time in which to respond to the Defendant's First Set of Interrogatories is hereby **DISMISSED** as being **MOOT**.@ Copies forwarded to attorneys for Plaintiff and attorneys for Defendant.

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**\*\*July 9, 1998**

The Board rendered the following Order: **AAND NOW**, this 9th day of July, 1998, upon consideration of Balfour Beatty Construction, Inc.'s Petition to admit James E. Moye, Esquire, pro hac vice, it is hereby **ORDERED** that said Petition is **GRANTED** and that said attorney is specially admitted to practice before the Board of Claims for all purposes in the above-captioned claim.@ Copies forwarded to all attorneys of record.

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**July 10, 1998**

Plaintiff's Motion for Leave to Amend its Statement of Claim, with Amended Verified Statement of Claim attached, filed by attorney for Plaintiff. Copy forwarded to attorneys for Defendant by attorney for Plaintiff.

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**July 13, 1998**

Acceptance of Service of Opinion and Order dated July 9, 1998 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorneys for Plaintiff July 10, 1998.

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**July 13, 1998**

Acceptance of Service of Opinion and Order dated July 9, 1998 received from attorneys for Plaintiff (Dillon & Martin). Receipt of same acknowledged by attorneys for Plaintiff July 10, 1998.

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**July 15, 1998**

Acceptance of Service of Order dated July 9, 1998 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorneys for Plaintiff {undated}.

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**July 17, 1998**

Notice of Service Re: Response to Defendant's First

Interrogatories filed by attorney for Plaintiff (Rubendall & Lewis).

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**July 23, 1998**

Acceptance of Service of Order dated July 9, 1998 received from attorneys for Defendant. Receipt of same acknowledged by attorneys for Defendant July 13, 1998.

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**July 23, 1998**

Acceptance of Service of Order dated July 9, 1998 received from attorneys for Defendant. Receipt of same acknowledged by attorneys for Defendant July 13, 1998.

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**July 24, 1998**

Acceptance of Service of Order dated July 9, 1998 received from attorneys for Plaintiff(Martin & Dillon). Receipt of same acknowledged by attorneys for Plaintiff July 21, 1998.

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**July 24, 1998**

Acceptance of Service of Order dated July 9, 1998 received from attorneys for Plaintiff(Martin & Dillon). Receipt of same acknowledged by attorneys for Plaintiff July 21, 1998.

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**August 19, 1998**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 19th day of August, 1998, it is hereby **ORDERED** and **DECREED** that the Plaintiff's Motion for Leave to Amend its Statement of Claim is hereby **GRANTED**. It is further **ORDERED** and **DECREED** that the Defendant herein shall have thirty (30) days from the exit date of this Order to file its response to the Plaintiff's Amended Verified Statement of Claim, same of which was attached as Exhibit A to Plaintiff's Motion and is now made part of the record.@ Copies forwarded to attorneys for Plaintiff and attorneys for Defendant.

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**August 19, 1998**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 19th day of August, 1998, after due consideration of Plaintiff's Motion to Compel and submissions relative thereto, it is **ORDERED** that said Motion is hereby **DISMISSED** as being **MOOT**.@ Copies forwarded to attorneys for Plaintiff and attorneys for Defendant.

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**August 19, 1998**

Copy of Amended Verified Statement of Claim forwarded to Chief

Deputy Attorney General.

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**August 25, 1998**

Acceptance of Service of Opinions and Orders (2) dated August 19, 1998 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorneys for Plaintiff August 24, 1998.

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**August 25, 1998**

Acceptance of Service of Opinions and Orders (2) dated August 19, 1998 received from attorneys for Defendant. Receipt of same acknowledged by attorneys for Defendant August 20, 1998.

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**August 28, 1998**

Acceptance of Service of Opinions and Orders (2) dated August 19, 1998 received from attorneys for Plaintiff (Martin, Dillon & Moye). Receipt of same acknowledged by attorneys for Plaintiff August 24, 1998.

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**September 25, 1998**

Answer to Amended Verified Statement of Claim with New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**October 22, 1998**

Notice of Service Re: Deposition Notices filed by attorney for Plaintiff.

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**October 26, 1998**

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

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**October 29, 1998**

Praecipe, to substitute original Verification for the facsimile verification, attached to Plaintiff's Reply to Amended New Matter filed by Plaintiff.

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**November 2, 1998**

Notice of Intent to Serve Subpoena Duces Tecum to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 to be served upon No. 1 Contracting Corporation; High Steel Structures, Inc., Marikina Engineers and Construction

Corporation; and Linde Enterprises, Inc., filed by attorney for  
Defendant.

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**November 30, 1998**

Notice of Service of Subpoenas on: 1) Marikina Engineers; 2) Linde Enterprises, Inc.; 3) High Steel Structures, Inc.; and 4) No. 1 Contracting, Inc. , filed by attorney for Defendant.

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**January 7, 1999**

Defendant's Motion to Compel Answers to Interrogatories Pursuant to Pa. R.C.P. 4019 and Brief in Support thereof filed by attorney for Defendant. Copy forwarded to attorneys for Plaintiff by attorney for Defendant.

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**January 22, 1999**

Plaintiff's Motion for Leave to Amend its Amended Statement of Claim, with the Second Amended Verified Statement of Claim attached, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**January 25, 1999**

Praecipe, to substitute Verification of the Second Amended Verified Statement of Claim, filed by attorney for Plaintiff.

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**February 3, 1999**

Defendant's Motion to Compel Production of Documents Pursuant to PA. R.C.P. 4019 as well as Brief in Support of Defendant's Motion to Compel Production of Documents Pursuant to PA. R.C.P. 4019 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**February 10, 1999**

Letter received from attorney for Plaintiff requesting until February 16, 1999, in which to respond to Defendant's Motion to Compel Answers to Interrogatories.

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**February 12, 1999**

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, granting Plaintiff's Request for an extension of time until February 16, 1999 in which to respond to Defendant's Motion to Compel Answers to Interrogatories.

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**February 16, 1999**

Plaintiff's Memorandum in Opposition to Defendant's Motion to Compel Answers to Interrogatories filed by attorney for

Plaintiff. Copy forwarded to attorney for Defendant by attorney  
for Plaintiff.

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**February 26, 1999**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 26th day of February, 1999, it is hereby **ORDERED** and **DIRECTED** that Plaintiff's Motion for Leave to Amend its Amended Statement of Claim is hereby **GRANTED** and the Second Amended Verified Statement of Claim is hereby made part of the record. The Defendant herein, Commonwealth of Pennsylvania, Department of Transportation, is directed to file its responsive pleading to Plaintiff's Second Amended Verified Statement of Claim within thirty (30) days from the exit date of this Order.@ Copy forwarded to attorneys for Plaintiff and attorneys for Defendant.

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**March 1, 1999**

Copy of Second Amended Verified Statement of Claim forwarded to Chief Deputy Attorney General.

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**March 3, 1999**

Plaintiff's Memorandum in Opposition to Defendant's Motion to Compel Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**March 3, 1999**

Acceptance of Service of Opinion and Order dated February 26, 1999 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorneys for Plaintiff March 2, 1999.

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**March 4, 1999**

Acceptance of Service of Second Amended Verified Statement of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General March 2, 1999.

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**March 8, 1999**

Acceptance of Service of Opinion and Order dated February 26, 1999 received from attorneys for Defendant. Receipt of same acknowledged by attorneys for Defendant March 4, 1999.

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**March 11, 1999**

Acceptance of Service of Opinion and Order dated February 26,

1999 received from attorneys for Plaintiff (Martin, Dillon & Moye). Receipt of same acknowledged by attorneys for Plaintiff March 8, 1999.

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**April 1, 1999**

Letter received from attorney for Defendant requesting an extension of time until April 7, 1999 to file a response to Plaintiff's Second Amended Verified Statement of Claim. Letter forwarded to attorneys for Plaintiff by attorney for Defendant.

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**April 5, 1999**

Letter forwarded to attorney for Defendant, with copy to attorney for Plaintiffs, granting request for an extension of time, until April 7, 1999, in which to respond to Plaintiff's Second Amended Verified Statement of Claim.

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**April 6, 1999**

Petition to Intervene filed by attorney for No. 1 Contracting Corporation. Copy forwarded to attorneys for Plaintiff and attorneys for Defendant by attorney for No. 1 Contracting Corporation.

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**April 7, 1999**

Answer to Second Amended Verified Statement of Claim with New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**May 7, 1999**

Balfour Beatty's Reply to Second Amended New Matter filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**May 24, 1999**

Brief in Support of Petition to Intervene filed by attorney for No. 1 Contracting, Inc. Copy forwarded to attorney for Plaintiff and attorney for Defendant, by attorney for No. 1 Contracting, Inc.

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**August 18, 1999**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 18th day of August, 1999, upon Defendant's Motion to Compel Answers to Interrogatories, pursuant to Pennsylvania Rule of Civil Procedure No. 4019, it is hereby **ORDERED** and **DECREED** that the Plaintiff be compelled to file further answers to Interrogatory Nos. 6, and 8 through 12, within thirty (30) days from the exit date of this Order.® Copy forwarded to attorneys

for Plaintiff and attorneys for Defendant.

**August 20, 1999**

Acceptance of Service of Opinion and Order dated August 18, 1999 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorneys for Plaintiff August 19, 1999.

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**August 26, 1999**

Acceptance of Service of Opinion and Order dated August 18, 1999 received from attorneys for Plaintiff (Martin, Dillon & Moye). Receipt of same acknowledged by attorneys for Plaintiff August 23, 1999.

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**September 21, 1999**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 21st day of September, 1999, upon consideration of Defendant's, Commonwealth of Pennsylvania, Department of Transportation, Motion for the Production of Documents, it is hereby **ORDERED** that: 1. Plaintiff produce all index folders requested; 2. Plaintiff produce its monthly cost reports; and 3. Plaintiff need not produce videotapes.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**September 23, 1999**

Acceptance of Service of Opinion and Order dated September 21, 1999 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorneys for Plaintiff September 22, 1999.

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**September 27, 1999**

Notice of Service Re: Supplemental Response to Defendant's First Interrogatories filed by attorneys for Plaintiff.

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**October 4, 1999**

Plaintiff's Motion for Clarification and/or Reconsideration filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**October 13, 1999**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 13th day of October, 1999, it is **ORDERED** and **DECREED** that the Plaintiff~~s~~, Balfour Beatty Construction, Inc., Motion for Clarification and/or Reconsideration, is hereby **GRANTED**. If is further **ORDERED** and **DECREED** that the Plaintiff shall produce monthly cost reports as requested by the Defendant, Commonwealth of Pennsylvania, Department of Transportation. These items shall be presented to the Defendant within thirty (30) days from the exit date of this Order and shall be the object of a mutually agreed upon confidentiality agreement.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**October 18, 1999**

Acceptance of Service of Opinion and Order dated October 13, 1999 received from attorneys for Plaintiff (Rubendall and Lewis). Receipt of same acknowledged by attorneys for Plaintiff October 15, 1999.

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**November 8, 1999**

Acceptance of Service of Opinion and Order dated September 21, 1999 received from attorneys for Plaintiff (Martin, Dillon & Moye). Receipt of same acknowledged by attorneys for Plaintiff November 3, 1999.

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**November 8, 1999**

Acceptance of Service of Opinion and Order dated October 13, 1999 received from attorneys for Plaintiff (Martin, Dillon & Moye). Receipt of same acknowledged by attorneys for Plaintiff October 28, 1999.

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**November 23, 1999**

Plaintiff~~s~~ Motion for Leave to File its Third Amended Statement of Claim, with copy of Third Amended Verified Statement of Claim attached thereto as Exhibit AA@, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**January 11, 2000**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 11th day of January, 2000, for good cause and reasons set forth in No. 1 Contracting Corporation's Petition to Intervene, it is hereby **ORDERED** that No. 1 Contracting Corporation's Petition to Intervene in this litigation is **GRANTED**.@ Copy forwarded to attorneys for Plaintiff, attorneys for Defendant and attorney for Intervenor.

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**January 13, 2000**

Acceptance of Service of Opinion and Order dated January 11, 2000 received from attorneys for Plaintiff (Rubendall and Lewis). Receipt of same acknowledged by attorneys for Plaintiff January 12, 2000.

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**January 14, 2000**

Acceptance of Service of Opinion and Order dated January 11, 2000 received from attorney for Intervenor. Receipt of same acknowledged by attorney for Intervenor January 13, 2000.

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**January 18, 2000**

No. 1 Contracting Corporation's Verified Statement of Claim filed by attorney for Intervenor. Amount of Claim: in excess of \$750,000

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**January 24, 2000**

Copy of No. 1 Contracting Corporation's Verified Statement of Claim forwarded to attorneys for Defendant, attorneys for Plaintiff and Chief Deputy Attorney General. **Response due from Defendant February 23, 2000.**

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**January 25, 2000**

Acceptance of Service of No. 1 Contracting Corporation's Claim received from attorneys for Plaintiff (Rubendall and Lewis). Receipt of same acknowledged by attorneys for Plaintiff January 25, 2000.

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**January 28, 2000**

Acceptance of Service of No. 1 Contracting Corporation's Claim received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General January 26, 2000.

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**February 10, 2000**

Acceptance of Service of No. 1 Contracting Corporation's Claim received from attorneys for Plaintiff (Dillon & Martin). Receipt of same acknowledged by attorneys for Plaintiff February 7, 2000.

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**February 10, 2000**

Acceptance of Service of Opinion and Order dated January 11, 2000 received from attorneys for Plaintiff (Dillon & Martin). Receipt of same acknowledged by attorneys for Plaintiff February 7, 2000.

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**February 23, 2000**

Defendant's Preliminary Objection to Intervenor's Verified Statement of Claim and Brief for Defendant in Support of its Preliminary Objection to Intervenor's Verified Statement of Claim filed by attorney for Defendant. Copy forwarded to all attorneys of record by attorney for Defendant.

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**March 6, 2000**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 6th day of March, 2000, upon consideration of the various pleadings before the Board, for good cause and the reasons set forth in the above Opinion, it is **ORDERED** that the claim of No. 1 Contracting Corporation, formally listed at Docket No. 2850, is hereby consolidated for trial with the claim of Balfour Beatty Construction, Inc. and No. 1 Contracting Corporation as Intervenor, at Docket No. 2554.@ Copy forwarded to all attorneys of record.

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**March 8, 2000**

Acceptance of Service of Opinion and Order dated March 6, 2000 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorneys for Plaintiff March 7, 2000.

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**March 8, 2000**

Acceptance of Service of Opinion and Order dated March 6, 2000 received from attorney for Intervenor. Receipt of same acknowledged by attorney for Intervenor March 7, 2000.

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**March 22, 2000**



No. 1's Response to PennDOT's Preliminary Objections and No. 1's Brief Opposing PennDOT's Preliminary Objections as well as Proposed Order filed by attorney for Intervenor. Copy forwarded to all attorneys of record by attorney for Intervenor.

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**March 31, 2000**

Reply Brief Submitted on Behalf of Defendant in Support of its Preliminary Objections filed by attorney for Defendant. Copy forwarded to all attorneys of record by attorney for Defendant.

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**March 31, 2000**

Acceptance of Service of Opinion and Order dated March 6, 2000 received from attorneys for Plaintiff (Martin & Dillon). Receipt of same acknowledged by attorneys for Plaintiff March 28, 2000.

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**April 13, 2000**

SurReply Brief filed by attorney for Intervenor. Copy forwarded to all attorneys of record by attorney for Intervenor.

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**May 2, 2000**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 2nd day of May, 2000, it is hereby **ORDERED** and **DECREED** that Plaintiff's Motion for Leave to File its Third Amended Statement of Claim is hereby **GRANTED** and the Third Amended Statement of Claim is made part of the record. The Defendant herein, Commonwealth of Pennsylvania, Department of Transportation, is directed to file its responsive pleading to Plaintiff's Third Amended Statement of Claim within thirty (30) days from the exit date of this Order.® Copy forwarded to all attorneys of record.

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**May 3, 2000**

Plaintiff's Motion for Leave to File its Fourth Amended Statement of Claim (Fourth Amended Statement of Claim attached as Exhibit AA®) filed by attorneys for Plaintiff. Copy forwarded to all attorneys of record by attorneys for Plaintiff.

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**May 4, 2000**

Acceptance of Service of Opinion and Order dated May 2, 2000 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorneys for Plaintiff May 3, 2000.

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**May 4, 2000**

Acceptance of Service of Opinion and Order dated May 2, 2000 received from attorney for Intervenor. Receipt of same

acknowledged by attorney for Intervenor May 3, 2000.

**May 9, 2000**

Praecipe to substitute an original verification of Wolfgang F. Langheinrich for the facsimile version that was attached to Plaintiff's Fourth Amended Statement of Claim, filed by attorneys for Plaintiff. Copy forwarded to all attorneys of record by attorneys for Plaintiff.

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**May 10, 2000**

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

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**May 15, 2000**

Acceptance of Service of Opinion and Order dated May 2, 2000 received from attorneys for Plaintiff (Martin & Dillon). Receipt of same acknowledged by attorneys for Plaintiff May 8, 2000.

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**June 6, 2000**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 6th day of June, 2000, it is hereby **ORDERED** and **DECREED** that Plaintiff's Motion for Leave to File its Fourth Amended Statement of Claim is hereby **GRANTED** and the Fourth Amended Statement of Claim is made part of the record. The Defendant herein, Commonwealth of Pennsylvania, Department of Transportation, is directed to file its responsive pleading to Plaintiff's Fourth Amended Statement of Claim within thirty (30) days from the exit date of this Order.® Copy forwarded to all attorneys of record.

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**June 8, 2000**

Acceptance of Service of Opinion and Order dated June 6, 2000 received from Kenneth L. Joel, Esquire. Receipt of same acknowledged by Kenneth L. Joel, Esquire June 7, 2000.

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**June 8, 2000**

Acceptance of Service of Opinion and Order dated June 8, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 7, 2000.

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**June 12, 2000**

Acceptance of Service of Opinion and Order dated June 6, 2000

received from attorney for Defendant. Receipt of same  
acknowledged by attorney for Defendant June 8, 2000.

**June 16, 2000**

Acceptance of Service of Opinion and Order dated June 6, 2000 received from attorneys for Plaintiff (Martin & Dillon). Receipt of same acknowledged by attorney for Plaintiff June 12, 2000.

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**June 22, 2000**

Answer to Fourth Amended Verified Statement of Claim with New Matter and Counterclaim filed by attorney for Defendant. Copy forwarded to all attorneys of record by attorney for Defendant. **Pltf-s Reply due July 27,2000.**

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**July 24, 2000**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 24th day of July, 2000, it is hereby **ORDERED** and **DECREED** that Defendant-s Preliminary Objections to the Claim of Intervenor, No. 1 Contracting Corporation, is hereby **DENIED**. Defendant shall hereby file a response to Intervenor-s Claim no later than thirty (30) days from the exit date of this Order.@ Copy forwarded to all attorneys of record.

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**July 31, 2000**

Copy of letter directed to Defendant, received from Plaintiff (Balfour) confirming the parties= agreement for Balfour to have a two week extension (**until Thursday, Aug. 10, 2000**) in which to file its Reply to Defendant-s New Matter.

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**July 26, 2000**

Acceptance of Service of Opinion and Order dated July 24, 2000 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorneys for Plaintiff July 25, 2000.

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**July 26, 2000**

Acceptance of Service of Opinion and Order dated July 24, 2000 received from attorney for Intervenor. Receipt of same acknowledged by attorney for Intervenor July 25, 2000.

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**August 1, 2000**

Acceptance of Service of Opinion and Order dated July 24, 2000 received from attorney for Defendant (Schultz). Receipt of same acknowledged by attorney for Defendant July 28, 2000.

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**August 7, 2000**

Acceptance of Service of Opinion and Order dated July 31, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 31, 2000.

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**August 10, 2000**

Balfour Beatty Construction, Inc.'s Reply to Defendant's Fourth Amended New Matter and Counterclaim filed by attorney for Plaintiff. Copy forwarded to all attorneys of record by attorney for Plaintiff.

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**August 22, 2000**

Notice of Change of Address of co-counsel for Plaintiff (Sean Dillon, Gregory Martin and James Moyer), filed by attorneys for co-counsel for Plaintiff, Balfour Beatty. Copy forwarded to all attorneys of record by co-counsel for Plaintiff.

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**August 23, 2000**

Answer to (Intervenor's) Verified Statement of Claim with New Matter filed by attorney for Defendant. Copy forwarded to all attorneys of record by attorney for Defendant.

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**September 5, 2000**

Praecipe for Substitution of Verification of Wolfgang F. Langheinrich for the facsimile version that was attached to Plaintiff's Reply to Defendant's Fourth Amended New Matter and Counterclaim, filed by attorneys for Plaintiff. Copy forwarded to all attorneys of record by attorney for Plaintiff.

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**October 18, 2000**

Reply to New Matter filed by attorneys for Intervenor (No. 1 Contracting). Copy forwarded to attorney for Defendant and attorneys for Plaintiff by attorneys for Intervenor.

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**November 1, 2000**

A Stipulation executed by parties, relative to Defendant filing an Amended Answer to Fourth Amended Verified Statement of Claim with New Matter and Counterclaim, as well as the Amended Answer to Fourth Amended Verified Statement of Claim with New Matter and Counterclaim, filed by attorney for Defendant. Copy forwarded to all attorneys of record by attorney for Defendant.

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**February 2, 2001**

Notice of Service Re: Balfour Beatty Construction, Inc.'s Second Request for Production of Documents Directed to Defendant filed by attorney for Plaintiff. Copy forwarded to all attorneys of record by attorney for Plaintiff.

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**March 5, 2001**

Notice of Service Re: Response of Defendant Commonwealth of Pennsylvania, Department of Transportation to Balfour Beatty Construction, Inc.'s Second Request for Production of Documents Directed to Defendant, filed by attorney for Defendant.

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**March 30, 2001**

Notice of Service Re: Plaintiff's Subpoena to Corporate Representative(s) or Designee(s) of Joyce Gibbel Gifts, Inc. filed by Plaintiff.

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**August 2, 2001**

Notice of Service Re: Plaintiff's Response to Defendant's Second Request for Production of Documents filed by attorney for Plaintiff.

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**November 16, 2001**

Motion to Sever S-21775 Tie Back Anchors Claim as well as Brief in Support of Balfour Beatty's Motion to Sever S-21775 Tie-Back Anchors Claim filed by attorneys for Plaintiff. Copy forwarded to all attorney of record by attorney for Plaintiff.

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**December 17, 2001**

Brief in Opposition to Plaintiff's Motion to Sever filed by attorney for Defendant. Copy forwarded to all attorney of record by attorney for Defendant.

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**December 31, 2001**

Letter received from attorney for Plaintiff advising that they did not receive the Department's Opposition to Plaintiff's Motion to Sever until after the Christmas holiday and that if a reply is filed, it will be filed no later than January 11, 2002.

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**January 11, 2002**

Plaintiff's Reply Brief in Support of its Motion to Sever filed by attorneys for Plaintiff. Copy forwarded to all counsel of



record by attorneys for Plaintiff.

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**January 31, 2002**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 31st day of January, 2002, upon consideration of the motion to sever the S-21775 tie-back anchors claim filed by the plaintiff and the briefs filed by plaintiff in support of the motion and the brief filed by the defendant in opposition thereto, **IT IS HEREBY ORDERED** that the motion to sever is **DENIED.**@ Copy forwarded to all parties of record.

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**February 4, 2002**

Acceptance of Service of Opinion and Order dated January 31, 2002 received from attorney for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorney for Plaintiff February 1, 2002.

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**February 4, 2002**

Acceptance of Service of Opinion and Order dated January 31, 2002 received from attorney for Intervenor (Clark & Joel). Receipt of same acknowledged by attorney for Intervenor February 1, 2002.

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**February 7, 2002**

Acceptance of Service of Opinion and Order dated January 31, 2002 received from attorneys for Defendant. Receipt of same acknowledged by attorneys for Defendant February 4, 2002.

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**March 7, 2002**

Acceptance of Service of Opinion and Order dated January 31, 2002 received from attorneys for Plaintiff (Martin, Dillon & Moye). Receipt of same acknowledged by attorneys for Plaintiff March 4, 2002.

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**June 6, 2002**

Plaintiff's Motion for Leave to File its Fifth Amended Statement of Claim, as well Balfour Beatty Construction, Inc.'s Fifth Amended Verified Statement of Claim attached as Exhibit 1, filed by attorney for Plaintiff. Copy forwarded to all parties of record by attorney for Plaintiff. **Response due from Defendant and Intervenor on or before June 27, 2002.**

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**July 22, 2002**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 22nd day of July, 2002, upon review of Plaintiff's Motion for Leave to File its Fifth Amended Statement of Claim and in light of Defendant's lack of response, it is hereby **ORDERED** and **DECREED** that Plaintiff's Motion for Leave to File its Fifth Amended Statement of Claim is **GRANTED** and Plaintiff's Fifth Amended Statement of Claim, as attached as Exhibit A1" to its Motion for Leave to File its Fifth Amended Statement of Claim is hereby made part of the record. Defendant, Commonwealth of Pennsylvania, Department of Transportation, shall file its responsive pleading to Plaintiff's Fifth Amended Statement of Claim within thirty (30) days from the exit date of this Order.®  
Copy forwarded to all attorneys of record.

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**July 23, 2002**

Copy of Plaintiff's Fifth Amended Statement of Claim forwarded to Chief Deputy Attorney General.

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**July 25, 2002**

Acceptance of Service of Opinion and Order dated July 22, 2002 received from attorneys for Plaintiff (Rubendall & Lewis). Receipt of same acknowledged by attorney for Plaintiff July 24, 2002.

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**July 29, 2002**

Acceptance of Service of Opinion and Order dated July 22, 2002 received from attorneys for Plaintiff (Martin, Dillon & Moye). Receipt of same acknowledged by attorneys for Plaintiff July 25, 2002.

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**July 29, 2002**

Acceptance of Service of Plaintiff's Fifth Amended Statement of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General July 25, 2002.

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**July 31, 2002**

Acceptance of Service of Opinion and Order dated July 22, 2002 received from attorneys for Intervenor. Receipt of same acknowledged by attorneys for Intervenor July 29, 2002.

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**August 29, 2002**

Answer to Balfour Beatty Construction Inc.'s Fifth Amended Verified Statement of Claim With New Matter and Counterclaim filed by attorney for Defendant. Copy forwarded to all parties of record by attorney for Defendant. **Reply to New Matter and Counterclaim due from Plaintiff on or before September 30, 2002.**

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**September 30, 2002**

Letter received from attorney for Plaintiff (Donald Lewis, III, Esquire) confirming that Defendant agreed to an extension of time for Plaintiff to file its reply to new matter and counterclaim, until Monday, **October 14, 2002.**

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**October 10, 2002**

Balfour Beatty Construction, Inc.'s Reply to New Matter and Counterclaim in Defendant's Answer to Fifth Amended Statement of Claim filed by attorney for Plaintiff (Balfour). Copy forwarded to all parties of record by attorney for Plaintiff.

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**April 15, 2003**

Letter forwarded to parties requesting a Status Report. Status Report due on or before May 15, 2003.

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**April 22, 2003**

Letter received from attorney for Defendant advising that the parties are proceeding with conducting depositions and currently have depositions scheduled for May 6, 7, 8, 20, 21 and 22, 2003.

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**May 6, 2003**

Plaintiff (Balfour) filed letter/status report advising that discovery has been on-going, further depositions are scheduled for the month of May, and it is anticipated that all discovery and depositions will be completed by the end of this summer. Copy forwarded to parties.

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**June 27, 2003**

Plaintiff filed Notice of Service of Subpoena for Deposition of Rodney Keefer. Copy forwarded to Plaintiff (No. 1 Contracting) and Defendant.

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**July 14, 2003**

Plaintiff filed Motion for Admission Pro Hac Vice of John C.

O'Rourke, Jr., Esquire. Copy forwarded to Plaintiff (No. 1 Contracting) and Defendant.

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**August 6, 2003**

Defendant filed letter advising they do not oppose the Motion for Admission Pro Hac Vice of John C. O'Rourke, Esquire. Copy forwarded to Plaintiffs.

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**\*\*\* October 21, 2003**

Board issued Opinion and Order. Order as follows: ~~AND NOW~~, this 21st day of October, 2003, after review of Plaintiff's Motion for Admission Pro Hac Vice of John C. O'Rourke, Jr., Esquire, and Defendant's response thereto, it is hereby **ORDERED** that: 1) Effective upon the date of this Order, John C. O'Rourke, Jr., Esquire shall be **ADMITTED** pro hac vice to the bar of the Commonwealth of Pennsylvania under Pennsylvania Bar Admission Rule 301 for the limited purpose of serving as co-counsel on behalf of Plaintiff in this matter; 2) John C. O'Rourke, Jr., Esquire shall abide by all the rules of, and applicable to, practice before this Board, including all attorney disciplinary rules; and 3) John C. O'Rourke, Jr., Esquire shall immediately notify this Board of any matter affecting his standing at the bar of any other court or jurisdiction where he may be admitted to practice.@ Copy forwarded to all parties.

**November 3, 2003**

Plaintiff (Martin, Dillon & Moye) filed Acceptance of Service of Opinion and Order dated October 21, 2003. Receipt of same acknowledged October 30, 2003.

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**April 22, 2004**

Board issued letter to parties requesting Status Report. Status Report due on or before May 24, 2004.

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**May 6, 2004**

Plaintiff filed Status Report advising that the parties have agreed to a settlement conference on June 24 and 25, 2004 in an attempt to close the gap in the settlement proposals. Copy forwarded to all parties.

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**May 13, 2004**

Defendant filed letter/status report advising of the parties=

discovery proceedings and advising of the settlement/mediation  
conference scheduled for June 24 and 25, 2004.

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**May 19, 2004**

No. 1 Contracting filed Status Report advising of the parties= discovery proceedings and advising of the settlement/mediation conference scheduled for June 24 and 25, 2004.

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**February 7, 2005**

Plaintiff and No. 1 Contracting filed Praecipe to Discontinue. Copy forwarded to Defendant.

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**February 9, 2005**

Board issued Order. Order as follows: **"AND NOW**, this 9th day of February, 2005, upon receipt of a Praecipe to Discontinue, executed by Donald M. Lewis, Esquire, on behalf of Balfour Beatty Construction, Inc., and by Kenneth L. Joel, Esquire, on behalf of No. 1 Contracting Corporation, requesting that the Board '... mark the docket to reflect that this matter has been settled and discontinued', docketed with this Board under date of February 7, 2005, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked 'settled, discontinued and ended with prejudice'." Copy forwarded to all parties.

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**February 15, 2005**

No. 1 Contracting filed Acceptance of Service of Order dated February 9, 2005. Receipt of same acknowledged February 14, 2005.

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**February 25, 2005**

Plaintiff filed Acceptance of Service of Order dated February 9, 2005. Receipt of same acknowledged February 22, 2005.

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