

Docket Number: 2939

CLIF-S AUTO SALES INCORPORATED

~~James E. Ellison, Esquire~~
~~J. Bruce Walter, Esquire~~

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR and INDUSTRY,
STATE WORKER-S INSURANCE FUND

~~Roger H. Caffier, Chief Counsel~~
~~Elaine L. Mead, Deputy Chief Counsel~~
~~Lisa A. DeLorenzo, Assistant Counsel~~
Mary T. Fox, Assistant Counsel
James D. Jordan, Assistant Counsel
(Third Floor - Legal)
(100 Lackawanna Ave.)
(Scranton, PA 18503-1939)

*** CLOSED ***

May 26, 1999

By Order of the Commonwealth Court, case filed, Order as follows: **ANOW**, May 26, 1999, upon consideration of respondent's motion to quash, the motion is denied, and this case is transferred to the Board of Claims, 42 Pa. C.S. '5103, on the basis that this Court lacks original jurisdiction. SWIF v. Caparo Real Estate, Inc., 635 A.2d 705 (Pa. Cmwlth. 1993). The Chief Clerk shall certify a photocopy of the docket entries of the above matter and the record to the Chairman of the Board of Claims.@

THE FOLLOWING FILED IN COMMONWEALTH COURT

March 31, 1999

Petition for Review/Notice of Appeal Filed.

March 31, 1999

Certificate of Service.

April 6, 1999

Notices Exit.

April 19, 1999

Filed - Other: Docketing statement filed by James Ellison

May 5, 1999

Motion to Quash Appeal for lack of subject matter jurisdiction

May 5, 1999

Memorandum of Law in support of respondent's motion to quash appeal for lack of subject matter jurisdiction.

May 5, 1999

Amended Petition for review filed by petitioner.

May 7, 1999

Order Filed: The requirement to certify the record is stayed. Respondent shall certify the record to this court within 20 days of this court's disposition of respondent's motion to quash, if the motion is denied. Friedman, J. (order exit 5/10/99)

May 19, 1999

Filed-Other : Application to strike petitioners amended petition for review.

May 26, 1999

Order Filed: This case is transferred to the Bd. of Claims on basis that this court lacks original jurisdiction. Jiuliante, S.J. (order exit 5/26/99)

June 16, 1999

Filed - Other: Transferred to the Board of Claims per order dated May 26, 1999

BEFORE THE BOARD OF CLAIMS

May 26, 1999

Record transferred from Commonwealth Court.

June 17, 1999

File received from Commonwealth Court. Amount of Claim: \$Unknown

June 22, 1999

Letter forwarded to Plaintiff requesting additional copies of complaint and filing fee.

June 29, 1999

Additional copies of Complaint and filing fee filed by attorney for Plaintiff.

July 8, 1999

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

July 13, 1999

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 12, 1999.

July 14, 1999

Praecipe for Appearance of Lisa A. DeLorenzo, Assistant Counsel, on behalf of Defendant, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 15, 1999

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General July 12, 1999.

August 9, 1999

SWIF's Preliminary Objections to Plaintiff's Amended Petition for Review, Brief in Support of the Commonwealth of Pennsylvania, Department of Labor and Industry, State Worker's Insurance Fund's Preliminary Objections to Plaintiff's Amended Petition for Review, as well as three (3) Proposed Orders, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 8, 1999

Letter/Request for a 30 day extension of time for Plaintiff to file its Response to Defendant's Preliminary Objections and Brief in Support of same filed by Plaintiff.

September 10, 1999

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, granting Plaintiff's request for a 30 day extension of time in which to file Plaintiff's Response to Defendant's Preliminary Objections and Brief in Support thereof.

Plaintiff's Response and Brief to Defendant's Preliminary Objections now due on or before October 8, 1999.

September 28, 1999

Letter/Request for a 10 day extension of time for Plaintiff to file its response and supporting brief to Defendant's Preliminary Objections filed by Plaintiff.

September 30, 1999

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, granting Plaintiff's request for a 10 day extension of time in which to file Plaintiff's Response to Defendant's Preliminary Objections and Brief in Support thereof.

Plaintiff=s Response and Brief to Defendant=s Preliminary Objections now due on or before October 18, 1999.

October 19, 1999

Plaintiff=s Brief in Opposition to Defendant=s Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 14, 2000

The Board rendered an Opinion and made the following Order: **AAND NOW**, this 14th day of January, 2000, upon consideration of the preliminary objections filed by the defendant and opposed by the plaintiff, **IT IS HEREBY ORDERED** that the preliminary objections are **OVERRULED**. Defendant is **ORDERED** to file a response to the amended petition within thirty (30) days of the exit date of this Order.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

January 20, 2000

Acceptance of Service of Opinion and Order dated January 14, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 18, 2000.

February 14, 2000

Praecipe for Appearance of Mary T. Fox, Assistant Counsel and James D. Jordan, Assistant Counsel, on behalf of Defendant, filed by attorneys for Defendant.

February 14, 2000

Answer with New Matter and Counterclaim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Plaintiff=s Reply due March 15, 2000.**

March 17, 2000

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

April 27, 2000

Notice of Service of Defendant=s Request for Production of Documents filed by attorney for Defendant.

May 23, 2000

Notice of Service of Plaintiff's Response and Objections to Defendant's Request for Production of Documents filed by attorney for Plaintiff.

June 9, 2000

Defendant's Motion to Compel Discovery as well as Brief in Support and Proposed Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 10, 2000

Letter received from attorney for Plaintiff requesting a 30-day extension of time in which to file its Brief in Opposition to Respondent's Motion to Compel. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 10, 2000

Notice of Service of Defendant's Request for Admissions filed by attorney for Defendant.

July 11, 2000

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, granting Plaintiff's request for a 30-day extension of time in which to file its Brief in Opposition to Respondent's Motion to Compel. **Plaintiff's Brief in Opposition now due on or before August 10, 2000.**

August 7, 2000

Notice of Service of Plaintiff's Responses to Defendant's Request for Admissions filed by attorney for Plaintiff.

August 10, 2000

Plaintiff's Brief in Opposition to Defendant's Motion to Compel Discovery Responses filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 18, 2000

Reply Brief in Support of Motion to Compel Discovery Responses filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 5, 2000

Objections to Responses to Requests for Admission, Brief in Support of Objections to Responses to Requests for Admission, and Proposed Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 3, 2000

Letter received, via facsimile, from attorney for Plaintiff requesting a thirty (30) day extension of time to file Plaintiff's Response to Defendant's Objections to Responses to Requests for Admissions. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 5, 2000

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, granting Plaintiff's request for a thirty (30) day extension of time to file Plaintiff's Response to Defendant's Objections to Responses to Requests for Admissions. **Plaintiff's Response now due on or before November 6, 2000.**

November 7, 2000

Letter received from attorney for Plaintiff requesting a thirty (30) day extension of time for Plaintiff to file its Response to SWIF's Objections to Responses to Requests for Admissions filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 8, 2000

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, granting its request for a thirty (30) day extension of time for Plaintiff to file its Response to SWIF's Objections to Responses to Requests for Admissions - now due on or before **December 6, 2000.**

December 6, 2000

Letter received from attorney for Plaintiff requesting a thirty (30) day extension of time in which to file Plaintiff's Response to SWIF's Objections to Responses to Requests for Admissions. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 7, 2000

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, granting Defendant's request for a thirty (30) day extension of time in which to file Plaintiff's Response to SWIF's Objections to Responses to Requests for Admissions - now due on or before **January 8, 2001.**

January 9, 2001

Preliminary Objections of Plaintiff, Clif's Auto Sales, Incorporated, to Defendant's Objections to Responses to Requests for Admission as well as Brief in Support of Preliminary Objections in Response to Defendant's Objections to Responses to Requests for Admissions filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 22, 2001

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

December 19, 2001

Letter received from Defendant advising that there has been no agreement relative to the discovery disputes and requests that the Board dispose of the Motion to Compel and Objections on the merits.

January 7, 2002

Letter received from Plaintiff advising that they believe that it would be appropriate for the Board to resolve the outstanding disputes in due course.

April 2, 2002

The Board rendered an Opinion and made the following Order: **AND NOW**, this 2nd day of April, 2002, after due deliberation and consideration of Defendant's Request for Admissions, Plaintiff's Answers and Defendant's Objections and Motion to Compel, it is hereby **ORDERED** that all issues of discovery in the present case shall be determined by the Board of Claims at a Pre-Trial Conference or at a time designated by the Board prior to trial on the merits of this case.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

April 4, 2002

Acceptance of Service of Opinion and Order dated April 2, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 3, 2002.

October 25, 2002

Letter forwarded to parties requesting a Status Report. Status
Report due on or before November 25, 2002.

November 22, 2002

Letter received from Defendant advising that they intend to depose Messrs. Gowing and Walter and are planning to retain an insurance risk management expert if written and oral evidence warrants such action, and further advises that he and counsel for Plaintiff agree that a status conference with you about outstanding and contemplated discovery may increase the progress of this case toward disposition. Requests a conference in January, 2003.

February 19, 2003

Copy of letter, directed to Plaintiff from Defendant, received from Defendant, inquiring as to information relative to Clif's Auto Sales retaining new counsel so this matter can be scheduled for a pre-trial conference.

February 21, 2003

Copy of letter, directed to Defendant from Plaintiff, advising Defendant that he has no further information regarding new counsel for Clif's Auto Sales; however will attempt to follow-up with Clif's to speed this process along.

September 29, 2004

Board issued letter to Plaintiff, with copy to Defendant, requesting status of representation of Clif's Auto Sales.

October 6, 2004

Plaintiff filed Praecipe to Withdraw Appearance. Copy forwarded to Defendant.

October 12, 2004

Defendant filed Status letter advising that currently pending before the Board are Defendant's Motion to Compel Discovery responses, Objections to Clif's responses to request for admissions and Clif's Preliminary Objections to SWIF's Objections.

October 12, 2004

Letter forwarded to Plaintiff advising Plaintiff to retain new counsel and have them enter their appearance with the Board.

October 20, 2004

Letter of October 12, 2004, which was issued to Plaintiff by this Board, requesting information on new counsel, returned to sender from U.S. Post Office - Attempted - Not Known, Unable to Forward.

January 13, 2005

Board issued Opinion and Order. Order as follows: "**AND NOW**, this 13th day of January, 2005, a Rule to Show Cause is issued upon Plaintiff, Clif's Auto Sales Incorporated, 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 this matter. In the event the Board does not receive a response to this Rule from Plaintiff or an objection from Defendant within said thirty (30) days, this Rule to Show Cause shall become absolute and the case shall be marked 'discontinued and ended with prejudice'." Copy forwarded to Plaintiff and Defendant.

March 8, 2005

Board issued Opinion and Order. Order as follows: "**AND NOW**, this 5th day of March, 2005, this Order is issued as a result of the failure of Plaintiff, Clif's Auto Sales, Inc., to advise this Board, within thirty (30) days from January 13, 2005, as to whether or not Plaintiff wished to pursue this matter. Therefore, it is **DIRECTED** that the Rule of January 13, 2005, be made **ABSOLUTE** and the record be marked 'discontinued and ended with prejudice'." Copy forwarded to Plaintiff and Defendant.
