

Docket Number: 3237

JOSEPH J. SWIFT, JR. AND SHARON SWIFT, HIS WIFE, d/b/a SWIFT  
FENCE COMPANY

Gerald J. Butler, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES AND DEPARTMENT OF PUBLIC WELFARE

~~Gregory C. Santoro, Chief Counsel~~  
and

~~John A. Kane, Chief Counsel~~  
~~Jose E. Morales, Assistant Counsel~~  
~~Stephen J. Buschena, Assistant Counsel~~  
~~\*Alice Miller, Assistant Counsel~~  
~~\*\*Michael C. Barrett, Senior Counsel~~  
~~Tanya L. Leshko, Senior Counsel~~  
~~(Counsel for DGS & DPW)~~

**April 24, 2000**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$69,945.95.

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**May 3, 2000**

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 6/2/00.

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**May 10, 2000**

Acceptance of Service of Claim received from attorney for Defendant (DPW). Receipt of same acknowledged by attorney for Defendant May 4, 2000.

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**May 11, 2000**

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General May 4, 2000.

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**May 22, 2000**

Acceptance of Service of Claim received from attorney for Defendant (DGS). Receipt of same acknowledged by attorney for Defendant May 12, 2000.

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**June 1, 2000**

Preliminary Objections and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff July 5, 2000.

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**July 3, 2000**

Plaintiffs' Answer and New Matter to Defendants' Preliminary Objections to Plaintiffs' Complaint and Brief in Support filed by attorney for Plaintiff. Response to New Matter due August 21, 2000.

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**July 11, 2000**

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 7, 2000.

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**October 2, 2000**

Letter forwarded to parties requesting status. Response due from parties November 2, 2000.

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**February 21, 2001**

The Board rendered an Opinion and made the following Order: **AAND NOW**, this 21st day of February, 2001, it is **ORDERED** and **DECREED** that the Defendants', Commonwealth of Pennsylvania, Department of General Service and Department of Public Welfare, Preliminary Objections to Plaintiffs' Complaint are **DENIED**. The Defendants are hereby **ORDERED** to file a timely Answer to Plaintiffs' Complaint.@ Copy forwarded to attorney for Defendant and attorney for Plaintiff.

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**February 27, 2001**

Acceptance of Service of Opinion and Order received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 22, 2001.

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**March 23, 2001**

Answer with New Matter filed by attorney for Defendants. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff April 26, 2001.

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**April 25, 2001**

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

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**October 25, 2001**

Letter forwarded to parties requesting status. Response due from parties November 26, 2001.

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**November 21, 2001**

Notice of Service of Plaintiffs= Request for Production of Documents, Request for Admissions as well as Interrogatories to Defendant filed by attorney for Plaintiff.

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**March 18, 2002**

Status letter received from attorney for Plaintiff advising that discovery is completed and further requesting a hearing be set.

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**April 1, 2002**

Certificate of Service of Defendant's Request for Production of Documents and Interrogatories, First Set, served upon Plaintiff filed by attorney for Defendant.

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**November 8, 2002**

Letter forwarded to attorney for Plaintiff requesting a status as to listing this matter for trial. Response due December 9, 2002.

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**October 1, 2003**

Board rendered Rule to Show Cause. Order as follows: **AND NOW**, this 1st day of October, 2003, a Rule to Show Cause is issued upon Plaintiff, Joseph J. Swift, Jr., and Sharon Swift, his wife, d/b/a Swift Fence Company, wherein it is **DIRECTED** that Plaintiff advise the Board, within thirty (30) days from the exit date of this Order, as to whether or not Plaintiff wishes to pursue the above-captioned matter and propose trial dates for same. In the event the Board does not receive a response to this Rule, within said thirty (30) days, this Rule to Show Cause shall become absolute, and the case shall be marked "closed, discontinued and ended with prejudice".@ Copy forwarded to Plaintiff and Defendant.

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**October 22, 2003**

Plaintiff filed letter advising that Plaintiff does wish to pursue this matter and are available for trial at the Board's discretion during January and February of 2004.

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**\*February 4, 2004**

Defendant filed Praecipe to withdraw the appearance of Stephen J. Busterna and Enter the Appearance of Alice Miller on behalf of Defendant.

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**August 12, 2004**

Board forwarded letter to parties requesting status.

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**September 14, 2004**

Plaintiff filed letter advising that Plaintiff Joseph J. Swift, Jr., died prematurely and further advising that Sharon Swift is available for trial anytime during the month of October, November 17-30, December 3-10 and January 10-31 and anytime during the month of February.

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**January 19, 2005**

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 19th day of January, 2005, it is hereby **ORDERED** and **DECREED** as follows: All depositions and discovery shall be completed by March 7, 2005\*; Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than March 18, 2005; A pre-trial conference, if necessary, is scheduled for Wednesday, March 30, 2005, at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7<sup>th</sup> Floor, Harrisburg, PA 17101; 4. The last day for filing pre-trial motions is Monday, April 4, 2005\*; 5. The last day for filing responses to pre-trial motions is Monday, April 18, 2005; and This matter is set for panel hearing beginning on Wednesday, May 18, 2005, and continuing, if necessary, through Friday, May 20, 2005. Said hearing shall be held at 200 North Third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m." Copy forwarded to Plaintiff and Defendant.

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**March 18, 2005**

Plaintiff filed pre-hearing Memorandum. Copy forwarded to Defendant.

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**March 18, 2005**

Defendant filed pre-hearing Memorandum and further advising that the parties have not stipulated to any of the facts. Copy forwarded to Plaintiff.

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**\*\*March 21, 2005**

Defendant filed Withdrawal of Appearance of Alice Miller and Entry of Appearances of Michael C. Barrett, Senior Counsel and Tanya C. Leshko, Senior Counsel on behalf of Defendants, DGS and DPW.

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**May 17, 2005**

Board canceled Panel Hearing which was scheduled for May 18-20, 2005 per Plaintiff's request. **CASE SETTLED.**

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**May 18, 2005**

Board forwarded letter to parties acknowledging settlement and requesting Plaintiff to file a Praecipe to Settle, Discontinue and End upon consummation of Settlement.

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**September 21, 2005**

Plaintiff filed Praecipe to Settle, Discontinue, and End. Copy forwarded to Defendant.

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**September 23, 2005**

Board rendered Opinion and Order. Order as follows: **AND NOW**, this 23rd day of September, 2005, upon receipt of a Praecipe to Settle, Discontinue and End, executed by Gerald J. Butler, Esquire, on behalf of Plaintiff, Joseph J. Swift, Jr. and Sharon Swift, his wife, d/b/a Swift Fence Company, requesting that the Board "Kindly mark the above matter settled, discontinued and ended." docketed with this Board under date of September 21, 2005, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked "settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

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**September 28, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated September 23, 2005. Receipt of same acknowledged September 27, 2005.

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**October 7, 2005**

Plaintiff filed Acceptance of Service of Opinion and Order dated September 23, 2005. Receipt of same acknowledged September 26, 2005.

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