

Docket Number: 3253

POST CONSTRUCTION COMPANY

Joseph H. Bucci, Esquire
Suzanne L. DeWalt, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

~~John A. Kane, Chief Counsel~~
~~Jeffrey W. Davis, Assistant Counsel~~

CLOSED

May 25, 2000

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: Unknown.

***June 5, 2000**

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

June 8, 2000

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General June 6, 2000.

July 7, 2000

Status letter received from attorney for Defendant advising that Plaintiff intends to file an Amended Complaint therefore Defendant wishes an extension of time until August 7, 2000 to allow Plaintiff to do so.

July 10, 2000

Letter forwarded to attorney for Defendant granting Defendant's request for an extension of time until August 7, 2000 in which to allow Plaintiff to file an Amended Complaint.

***October 10, 2000**

Amended Complaint filed by attorney for Plaintiff. Amount of Claim: Unchanged.

October 12, 2000

Amended Complaint forwarded to attorney for Defendant and Chief Deputy Attorney General.

October 18, 2000

Acceptance of Service of Amended Claim dated October 12, 2000 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General October 13, 2000.

January 24, 2001

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

April 12, 2001

Plaintiff's Notice of Service of First Set of Interrogatories Directed to Defendant as well as First Request for Production of Documents Directed to Defendant filed by attorney for Plaintiff.

May 16, 2001

Motion to Withdraw Mistakenly filed pleading (Answer with New Matter) and replace with correct pleading filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 18, 2001

The Board rendered an Opinion and made the following Order: **AND NOW**, this 18th day of July, 2001, upon consideration of Defendant's Motion to Withdraw Mistakenly Filed Pleading And Replace With Correct Pleading; it is hereby **ORDERED** that the Motion is **GRANTED** and the attached Answer and New Matter are accepted for filing. Further, it is **ORDERED** that within twenty (20) days of the exit date of this Order the Defendant shall serve the Plaintiff with its Answer to New Matter.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 15, 2001

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

March 8, 2002

Letter forwarded to parties requesting status. Response due from parties April 8, 2002.

April 4, 2002

Status letter received from attorney for Defendant advising that the parties are in discovery and upon completion of same, the parties will move to set a hearing in this matter.

April 5, 2002

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

October 8, 2002

Letter forwarded to parties requesting status. Response due from parties November 12, 2002.

October 17, 2002

Status letter received from attorney for Defendant advising that the parties are currently engaged in discovery.

October 24, 2002

Entry of Appearance of Suzanne L. DeWalt, Esquire filed on behalf of Plaintiff.

October 24, 2002

Status letter received from attorney for Plaintiff advising that discovery is ongoing, Plaintiff anticipates filing a Motion for Summary Judgment, Plaintiff's requests the Board to file a discovery deadline, as well as, a deadline for the filing of pre-trial motions and further Plaintiff advised that if this case cannot be disposed of on summary judgment, the case should be ready for hearing by March, 2003.

July 30, 2003

Defendant filed Certificate Prerequisite to Service of Subpoenas Pursuant to Rule 4009.22 unto Utility Metals, John F. Gibson, Inc. and Titusville Fabricators, Inc.

September 18, 2003

Defendant filed Certificate Prerequisite to Service of Subpoena Pursuant to Rule 4009.22 unto Suzanne L. DeWalt, Esquire.

December 4, 2003

Defendant filed letter advising that the parties have completed discovery and that the case is ready for trial.

December 5, 2003

Defendant filed letter via U.S. Mail advising that Plaintiff has unfinished discovery but that both parties agree this case can be set for trial.

May 5, 2004

Plaintiff filed letter advising that they are available for hearing the week of July 26, 2004.

May 17, 2004

Board rendered the following Scheduling Order. Order as follows: **AAND NOW**, this 17th day of May, 2004, it is hereby **ORDERED** and **DECREED** as follows: 1. Pursuant to the parties informing the Board of the completion of discovery, discovery shall be completed by the exit date of this Order; 2. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than June 4, 2004; 3. A pre-trial conference is scheduled for Friday, June 11, 2004, at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building 7th Floor, Harrisburg, PA 17101, said conference may be held by telephone conference upon request of the parties; 4. The last day for filing pre-trial motions is June 15, 2004; and 5. This matter is set for hearing before a panel beginning on Wednesday, July 28 2004, and running through Friday, July 30, 2003, as necessary. Said hearing shall be held at the St. Joseph's Center, 2900 Seminary Drive, Greensburg, PA 15601 commencing at 9:30 a.m.@ Copy forwarded to Plaintiff and Defendant.

June 2, 2004

Plaintiff filed, via facsimile, a letter requesting they be allowed to attend the Pre-Trial Conference, scheduled for June 11, 2004, via telephone. Copy forwarded to Defendant.

June 2, 2004

Plaintiff filed Acceptance of Service of Scheduling Order. Reciept of same acknowledged June 2, 2004.

June 4, 2004

Board issued letter to Plaintiff granting Plaintiff's request to be allowed to attend the Pre-Trial Conference, scheduled for June 11, 2004, via telephone. Copy forwarded to Defendant.

June 4, 2004

Plaintiff filed Pre-Trial Statement. Copy forwarded to

Defendant.

June 4, 2004

Defendant filed Pre-Trial Statement. Copy forwarded to Plaintiff.

June 9, 2004

Defendant's Supplement to original Pre-Trial Statement filed under docket date of June 4, 2004.

June 17, 2004

Board rendered Pre-Hearing Order. Order as follows: **AND NOW**, this 17th day of June, 2004, pursuant to agreement of the parties reached at the pre-trial conference, it is hereby **ORDERED** and **DECREED** as follows: 1. Stipulations agreed to by the parties shall be filed with the Board by July 2, 2004; The two cases scheduled for hearing on July 28, 2004 through July 30, 2004, shall be tried separately. The cast at Docket No. 3285 shall be heard first, and the cast at Docket No. 3253 shall be heard second; Plaintiff is directed to provide Defendant with a copy of the Assignment of Claims dated May 24, 2004 from Marsolino Construction Company, Inc. To Post by no later than June 21, 2004; and In light of the above noted assignment of claims and its appearance late in these proceedings, Defendant shall be allowed at hearing to present argument and evidence in defense of Plaintiff's assertion of a claim in this matter as an assignee of Marsolino Construction Company, Inc.® Copy forwarded to Plaintiff and Defendant.

July 2, 2004

Plaintiff filed status letter advising that the parties have stipulated to the authenticity of all exhibits and that neither party has identified any expert witness for trial.

July 13, 2004

Plaintiff faxed letter advising that the parties have been able to settle this matter in principle and anticipates discontinuing the matter once an appropriate agreement is executed. Advises Plaintiff will not be responding to Defendant's Motion for Summary Judgment and anticipates being able to release the July 28 - 30, 2004 trial dates in the near future.

July 23, 2004

Board rendered Opinion and Order. Order as follows: **AND NOW**, this 23rd day of July, 2004, the hearing in these matters scheduled to be conducted on July 28, 2004 through July 30, 2004, is cancelled.@ Copy forwarded to Plaintiff and Defendant.

July 23, 2004

Plaintiff filed letter advising that the Board can release the hearing dates in the matter as the parties negotiate mutually-acceptable settlement agreements.

November 6, 2004

Board forwarded letter requesting status from the parties.

November 16, 2004

Plaintiff filed Praecipe to Discontinue. Copy forwarded to Defendant.

November 19, 2004

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 19th day of November, 2004, upon receipt of a praecipe to discontinue action filed by Suzanne L. DeWalt, Esquire, docketed with this Board under date of November 16, 2004, it is **ORDERED** and **DIRECTED** that said case be marked 'closed, discontinued and ended with prejudice.'" Copy forwarded to Plaintiff and Defendant.

December 1, 2004

Plaintiff filed Acceptance of Service of Opinion and Order dated November 19, 2004. Receipt of same acknowledged by Plaintiff November 29, 2004.