

Docket Number: 3285

POST CONSTRUCTION COMPANY, INC

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

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Andrew S. Gordon, Chief Counsel
Jeffrey W. Davis, Assistant Counsel

CLOSED

September 11, 2000

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$22,100.00+.

September 22, 2000

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 10/23/00.

September 27, 2000

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General September 25, 2000.

February 28, 2001

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

March 1, 2001

Letter forwarded to Plaintiff requesting response to Defendant's New Matter. Response due from Plaintiff April 2, 2001.

March 5, 2001

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

March 6, 2001

Letter forwarded to parties directing parties to commence with discovery.

April 18, 2001

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

May 14, 2001

Letter received via facsimile setting forth the discovery briefing schedule between the parties.

May 14, 2001

Status letter received from attorney for Plaintiff outlining his objections to the Defendant's discovery issues and advising that

he does not feel Defendant should be granted an extension of time.

May 15, 2001

Status letter received from attorney for Defendant advising he will require an extension of time until June 13, 2001 in which to complete reponses to Plaintiff's discovery requests.

May 18, 2001

Letter received from attorney for Defendant requesting a 30-day extension of time in which to respond to Plaintiff's Interrogatories and Request for Production of Documents.

May 22, 2001

Letter forwarded to attorney for Defendant granting Defendant's request for a 30-day extension of time in which to respond to Plaintiff's Interrogatories and Request for Production of Documents.

October 4, 2001

Letter forwarded to parties requesting status. Response due from parties November 5, 2001.

November 5, 2001

Status letter received from attorney for Plaintiff advising that the parties are in discovery.

November 7, 2001

Status letter received from attorney for Plaintiff advising that the parties are conducting discovery.

May 15, 2002

Letter forwarded to parties requesting status. Response due from parties June 17, 2002.

July 1, 2002

Status letter received from attorney for Plaintiff advising that the parties are engaged in discovery and document production.

October 24, 2002

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

behalf of Plaintiff.

January 9, 2003

Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 filed by attorney for Defendant.

January 16, 2003

Defendant's Motion to Compel Plaintiff's Production of Documents and Answers to Interrogatories Pursuant to Pa. R.C.P. 4019 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff 2/18/03.

February 5, 2003

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

February 27, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 27th day of February, 2003, the Motion of the Commonwealth of Pennsylvania, Department of Transportation is hereby **DISMISSED** as **MOOT.** Copy forwarded to attorneys for Plaintiff and attorney for Defendant.

December 4, 2003

Defendant filed letter via fax advising that Plaintiff has unfinished discovery but that both parties agree this case can be set 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: **AND 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 15, 2004

Defendant filed Motion for Summary Judgment and Brief in Support. Copy forwarded to Plaintiff.

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.