

Docket Number: 3359

TRAFFIC LINES INC.

~~John L. Heaton, Esquire~~
*Victor P. Stabile, Esquire
*Mark E. Gottlieb, Esquire

VS.
CLOSED
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Andrew S. Gordon, Chief Counsel~~
Robert T. Kuntz, Assistant Counsel
~~Stephen S. Stokwitz, Assistant Counsel~~

January 29, 2001

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim:\$663,820.14+

January 31, 2001

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

February 13, 2001

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General February 1, 2001.

CLOSED

March 15, 2001

Letter received from attorney for Defendant requesting an extension of time until March 20, 2001 in which to file Defendant's response to Plaintiff's Claim.

March 15, 2001

Letter forwarded to Defendant granting Defendant's request for an extension of time until March 20, 2001 in which to file Defendant's response to Plaintiff's Claim. Response due March 20, 2001.

March 20, 2001

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

March 20, 2001

Letter forwarded to parties directing parties to commence with discovery.

July 26, 2001

Department's Certificate of Service of Answers and Objections to Plaintiff's Request for Production of Documents filed by attorney for Defendant.

September 28, 2001

Status letter which was forwarded to attorney for Plaintiff by attorney for Defendant outlining the parties discovery schedule.

February 4, 2002

Notice of Service of Defendant's Answers to Plaintiff's First Set of Interrogatories filed by attorney for Defendant.

February 19, 2002

Notice of Service of Department's First Set of Interrogatories filed by attorney for Defendant.

April 12, 2002

Notice of Service of Defendant's Answers to Plaintiff's Second Set of Interrogatories filed by attorney for Defendant.

August 21, 2002

Notice of Service of Defendant's Answers to Plaintiff's Third Set of Interrogatories filed by attorney for Defendant.

CLOSED

Letter received via fax advising that Plaintiff and Defendant have agreed upon two weeks which both sides will be available for trial. Plaintiff and Defendant advised that they feel it will be possible 8-9 days in which to try this case.

November 5, 2002

Board rendered an Opinion and Order. Order as follows: **"AND NOW,** this 5th day of November, 2002, it is **ORDERED** and **DECREED** that this matter is set for hearing before the Board beginning on January 21, 2003 through January 29, 2003, if necessary. Said hearing shall be held in Courtroom No. 1, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. It is further **ORDERED** and **DECREED** that all discovery be completed no later than forty-five days prior to the commencement of the trial." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

November 8, 2002

Acceptance of Service of Order dated November 5, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 7, 2002.

December 2, 2002

Acceptance of Service of Order dated November 5, 2002 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 8, 2002.

December 9, 2002

Notice of Service of Department's Expert Report and supporting discovery material filed by attorney for Defendant.

December 23, 2002

Plaintiff's Pre-Trial Statement filed.

December 23, 2002

Defendant's Pre-Trial Statement filed.

January 3, 2003

Entry of Appearance of Stephen S. Stokwitz as co-counsel filed on behalf of Defendant.

January 6, 2003

Letter forwarded to attorney for Plaintiff and attorney for Defendant advising that the hearing will be held on January 21, 2003. It will begin on January 21, 2003 in Courtroom No. 1, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 1:30 p.m.

January 9, 2003

Plaintiff's Supplement to Pre-Trial Statement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 14, 2003

Defendant's Motion to Amend Pleadings as well as Amended Answer, New Matter and Counterclaim filed. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 15, 2003

Letter received from attorney for Plaintiff via fax advising that they intend to be filing their answer to Defendant's Motion to Amend Pleadings as well as Amended Answer, New Matter and Counterclaim by Friday, January 17, 2003.

January 17, 2003

Plaintiff's Answer to Defendant's Motion to Amend Pleading filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 17, 2003

Notice to Plead filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 22, 2003

Hearing held in Board's Court Room No. 1. Defendant's Motion to Amend Pleadings was argued and granted by the Board at hearing. Plaintiff was directed to file a response to amended pleadings within twenty (20) days from the date of hearing. Discovery was reopened. Case Continued to a later date to be announced. Plaintiff moved to allow trial depositions be taken of five (5) crew chiefs and Raymond Sargeant and to have costs of same assessed against Defendant. Defendant objected to proceedings with trial depositions and with assessment of costs against Defendant. The Board ordered the parties to submit briefs on the motion within twenty (20) days.

January 24, 2003

Plaintiff's Preliminary Objections to Defendant's Amended Answer, New Matter and Counterclaim as well as Brief in Support filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. Response due from Defendant February 20, 2003.

January 28, 2003

Testimony of hearing held January 22, 2003 filed.

January 28, 2003

Copy of testimony of hearing held January 22, 2003 forwarded to attorney for Defendant.

January 31, 2003

Letter received from attorney for Defendant preserving the clarity of the record regarding the issue of pre-trial motions and responsive briefs.

January 31, 2003

Acceptance of Service of testimony for hearing held January 22, 2003 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 28, 2003.

February 7, 2003

Plaintiff's Motion for Testimony by way of Trial Deposition and Brief in Support thereof filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 11, 2003

Defendant's Brief in Opposition to Plaintiff's Oral Motions for Trial Depositions and Expenses filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Plaintiff.

February 12, 2003

Letter forwarded to attorney for Defendant advising that the Board will not accept the Defendant's Brief filed on February 11, 2003 as a Response to Plaintiff's Written Motion for Trial Depositions and directing Defendant to file their Response within thirty (30) days from receipt of Plaintiff's Preliminary Objections. Response due February 24, 2003.

February 27, 2003

Defendant's Answer to Plaintiff's Preliminary Objections to Defendant's Amended Answer, New Matter and Counter-Claim as well as a Defendant's Second Amended Answer, New Matter and Counter-Claim filed. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff 3/10/03.

March 10, 2003

Defendant's Response to Plaintiff's Motion for Testimony By Way of Trial Depositions For Its Five Crew Chiefs and for Costs, Including Attorneys' Fees, Associates with the Trial Depositions as well as Brief in Support filed.

March 12, 2003

Letter received via facsimile from attorney for Plaintiff requesting an extension of time until April 2, 2003 in which to respond to Defendant's Second Amended Answer, New Matter and Counterclaim.

March 18, 2003

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 18th day of March, 2003, upon consideration of the Plaintiff's, Traffic Lines, Inc., Preliminary Objections to Defendant's, Commonwealth of Pennsylvania, Department of Transportation, Amended Answer, New Matter, and Counterclaim; Defendant's Answer to Plaintiff's Preliminary Objections as well as a Second Amended Answer, New Matter, and Counterclaim; and the March 6, 2003, request from the Plaintiff for clarification; it is **ORDERED** and **DECREED** that the Preliminary Objections to the

March 18, 2003 (Con.'t)

Defendant's Amended Answer, New Matter, and Counterclaim shall be **DISMISSED** as **MOOT**." Copy forwarded to attorney for Plaintiff and attorneys for Defendant.

March 24, 2003

Acceptance of Service of Opinion and Order dated March 18, 2003 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff March 21, 2003.

March 18, 2003

Acceptance of Service of Opinion and Order dated March 18, 2003 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 24, 2003.

April 1, 2003

The Board rendered an Opinion and made the following Order: "And NOW, this 1st day of April, 2003, upon consideration of Plaintiff's Motion for Testimony by Way of Trial Deposition, it is **ORDERED** and **DECREED** that Plaintiff's Oral Motion made on January 22, 2003, is **DISMISSED** as **MOOT** and Plaintiff's written Motion is **DENIED**. Plaintiff's request for delay costs is reserved until the time of final decision on the case." Copy forwarded to attorney for Plaintiff and attorneys for Defendant.

April 2, 2003

Plaintiff's Preliminary Objections to Defendant's Second Amended Answer, New Matter and Counterclaim as well as Brief in Support filed. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 4, 2003

Acceptance of Service of Opinion and Order dated April 1, 2003 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 3, 2003.

April 9, 2003

Acceptance of Service of Opinion and Order dated April 1, 2003 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant (Stokwitz) April 7, 2003.

April 15, 2003

Letter received from attorney for Plaintiff which he forwarded to

counsel for Defendant outlining Plaintiff's proposed hearing schedule.

April 21, 2003

Letter received from attorney for Defendant wherein Defendant agrees with the Plaintiff's April 14, 2003 request to postpone the trial in this matter until January of 2004 and further advises should any damages be awarded to Plaintiff, that no interest will be paid to Plaintiff for the lapsed time period between the date of Plaintiff's request until the first day of trial.

April 22, 2003

Letter received by fax from attorney for Plaintiff advising that Plaintiff agrees the dates they proposed are fine with Defendant and Defendant has not indicated otherwise as well as indicating that Plaintiff will not wait any future claim it may have to interest in order to get Defendant's conference to a trial date.

April 23, 2003

The Board rendered the following Scheduling Order: "**AND NOW**, this day of April, 2003, it is hereby **ORDERED** and **DECREED** as follows: 1. All depositions and discovery shall be completed by September 5, 2003; 2. Pre-Trial Statements of both parties shall be filed with the Board and served upon one another no later than October 20, 2003; 3. A Pre-Trial Conference is scheduled for Thursday, November 20, 2003 at 10:00 a.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 4. The last day for filing Pre-Trial Motions is December 1, 2003; and 5. This matter is set for hearing before the Board beginning on Tuesday, January 20, 2004 and running through Friday, January 30, 2004, as necessary. Said hearing shall be held at 200 North Third

Street, Fulton Building, 6th Floor, Harrisburg, PA 17101 commencing at 9:30 a.m." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

April 28, 2003

Acceptance of Service of Scheduling Order dated April 23, 2003 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 25, 2003.

May 2, 2003

Defendant's Response to the Plaintiff's Preliminary Objections to

Defendant's Second Amended Answer, New Matter and Counter-Claim and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Plaintiff.

June 18, 2003

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 18th day of June, 2003, it is hereby **ORDERED** and **DECREED** that Plaintiff's Preliminary Objections to Defendant's Second Amended Answer, New Matter and Counterclaim in the form of a demurrer or failure to state a cause of action upon which relief can be granted is **DISMISSED**. Plaintiff's Preliminary Objection requesting more specificity is **SUSTAINED** with leave of Defendant to file a more specific pleading within twenty (20) days from the exit date of this Order." Copy forwarded to Plaintiff and Defendant.

June 20, 2003

Plaintiff filed Acceptance of Service of Opinion and Order dated June 18, 2003. Receipt of same acknowledged by Plaintiff June 20, 2003.

June 24, 2003

Defendant filed Acceptance of Service of Opinion and Order dated June 18, 2003. Receipt of same acknowledged by Defendant June 23, 2003.

July 8, 2003

Defendant filed Third Amended Answer, New Matter and Counterclaim. Copy forwarded to Plaintiff. Response due from Plaintiff July 28, 2003.

July 18, 2003

Plaintiff's Answer to New Matter and Counter-Claim filed with Third Amended Answer filed. Copy forwarded to Defendant.

August 11, 2003

Plaintiff filed Motion for Leave to Exceed Interrogatory Limit Contained in Board of Claims Rule 403 or, in the Alternative, to Extend Discovery Deadline for Three Additional Depositions as well as Brief in Support.

August 13, 2003

Defendant filed letter via fax advising that Defendant will be

responding to the Plaintiff's Motion for Leave to Exceed Interrogatory Limit Contained in Board of Claims Rule 403 or, in the Alternative, to Extend Discovery Deadline for Three Additional Depositions within the time permitted by BOC Rule 301(b).

August 14, 2003

Defendant filed letter via U.S. Mail advising that Defendant will be responding to the Plaintiff's Motion for Leave to Exceed Interrogatory Limit Contained in Board of Claims Rule 403 or, in the Alternative, to Extend Discovery Deadline for Three Additional Depositions within the time permitted by BOC Rule 301(b).

August 18, 2003

Plaintiff filed Notice of Service of Answers to DO's Second Set of Interrogatories.

September 2, 2003

Defendant filed Response to Plaintiff's Motion for Leave to Exceed Interrogatory Limit of Rule 403, or in the Alternative to Extend the Discovery Deadline for Additional Depositions as well as Supporting Brief.

September 12, 2003

Board rendered an Opinion and Order. Order as follows: **"AND NOW,** this 12th day of September, 2003, it is hereby **ORDERED** and **DECREED** that Plaintiff's Motion for Leave to Exceed the Interrogatory Limit of Rule 403, to include the 33 interrogatories to Defendant now outstanding, is **GRANTED** and that the discovery deadline is extended until September 26, 2003 to allow Defendant to respond within this time period. All other dates contained in the Scheduling Order of April 23, 2003, which is incorporated hereto, and made a part hereof, remain in effect." Copy forwarded to Plaintiff and Defendant.

September 16, 2003

Plaintiff filed Acceptance of Service of Opinion and Order dated September 12, 2003. Receipt of same acknowledged September 15, 2003.

September 16, 2003

Defendant filed Praecipe for Withdrawal of Assistant Counsel, Stephen S. Stokwitz. Copy forwarded to Plaintiff.

September 23, 2003

Defendant filed Acceptance of Service of Opinion and order dated September 12, 2003. Receipt of same acknowledged September 17, 2003.

***September 29, 2003**

Plaintiff filed Withdrawal of Appearance of John L. Heaton, Esquire and Entry of Appearances of Victor P. Stabile, Esquire and Mark E. Gottlieb, Esquire as co-counsel filed on behalf of Plaintiff.

September 29, 2003

Defendant filed Notice of Service of Defendant's Answers to Plaintiff's Fourth Set of Interrogatories.

CLOSED

October 1, 2003

Board rendered the following Order. Order as follows: "AND NOW, this 1st day of October, 2003, upon receipt of a Precept for withdrawal of Assistant Counsel under docket date of September 16, 2003, it is hereby **ORDERED** and **DECREED** that the appearance of Stephen S. Stokwitz, Esquire is **WITHDRAWN** as Assistant Counsel on behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation, in the above-captioned matter." Copy forwarded to Plaintiff and Defendant.

October 7, 2003

Defendant filed Acceptance of Service of Opinion and Order dated October 1, 2003. Receipt of same acknowledged October 3, 2003.

October 20, 2003

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

October 20, 2003

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

November 24, 2003

Defendant filed Revised Witness List. Copy forwarded to Plaintiff.

December 4, 2003

Plaintiff filed letter advising that the parties have reached a settlement and anticipate signing of a Release and mutual withdrawal of the claim within the next two weeks. Plaintiff further requests that the parties be relieved from filing Pre-Trial Motions.

January 7, 2003

Plaintiff filed letter via fax advising that the trial dates in this matter can be cancelled due to settlement between the parties.

January 9, 2004

Board rendered the following Order. Order as follows: "**AND NOW**, this 9th day of January, 2004, it is **ORDERED** and **DECREED** that the hearing in this matter, scheduled for January 20-23 and 26-30, 2004, is hereby cancelled due to Plaintiff's, Traffic Lines, Inc., letter to the Board dated January 7, 2004, advising that the parties have reached a settlement and would be executing a Settlement Agreement. Plaintiff is hereby **DIRECTED** to file an appropriate praecipe as soon as the Settlement has been consummated so that this matter may be closed on the Board of Claims record." Copy forwarded to Plaintiff and Defendant.

January 14, 2004

Plaintiff filed letter advising that the parties have reached a settlement and are in the process of finalizing a settlement document. As soon as all documents have been finalized, the parties will properly move to discontinue this action before the Board.

January 13, 2004

Defendant filed Acceptance of Service of Order. Receipt of same acknowledged by Defendant January 9, 2004.

April 6, 2004

Plaintiff filed Praecipe to Discontinue Action. Copy forwarded to Defendant.

April 12, 2004

Board rendered Order. Order as follows: "**AND NOW**, this 13th day of April, 2004, upon receipt of a Praecipe to Discontinue Action Pursuant to Board Rule 4051 advising "Please discontinue the action in the above-captioned matter in accordance with Board Rule 4051 and mark it settled." filed by Victor P. Stabile, Esquire, attorney

for Plaintiff, docketed with this Board under date of April 6, 2004, it is **ORDERED** and **DIRECTED** that said case be marked 'closed, discontinued and ended with prejudice.'" Copy forwarded to Plaintiff and Defendant.

April 20, 2004

Defendant filed Acceptance of Service of Order dated April 12, 2004. Receipt of same acknowledged April 16, 2004.

CLOSED