

Docket Number: 3371

DORE & ASSOCIATES CONTRACTING, INC.

~~Edward M. Dore, Secretary~~
Stephen J. Laidhold, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

~~Gregory C. Santoro, Chief Counsel~~
~~Elizabeth A. O'Reilly, Assistant Counsel~~
Michael C. Barrett, Senior Counsel

CLOSED

***February 23, 2001**

Claim and filing fee filed by Plaintiff. Amount of Claim: Unspecified.

February 26, 2001

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. **Answer Due from Defendant March 28, 2001.**

March 1, 2001

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General February 27, 2001.

March 2, 2001

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 27, 2001.

March 23, 2001

Preliminary Objections to Plaintiff's Complaint and Brief in Support of Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Plaintiff's Response/Brief due on or before **April 23, 2001.**

***April 11, 2001**

Amended Complaint filed by attorney for Plaintiff. Amount of Claim: \$239,920.00. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 26, 2001

The Board rendered the following Order: **AND NOW**, this 26th day of April, 2001, Plaintiff, Dore & Associates Contracting, Inc., having filed an Amended Complaint on April 11, 2001, the Preliminary Objections filed by the Defendant, Commonwealth of Pennsylvania, Department of General Services, on March 23, 2001 are hereby declared **MOOT**. Defendant is to file its response to the Amended Complaint.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

April 26, 2001

Copy of Amended Complaint forwarded to attorney for Defendant and Chief Deputy Attorney General. **Response due from Defendant May 26, 2001.**

May 6, 2001

Acceptance of Service of Order dated April 26, 2001 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 1, 2001.

May 4, 2001

Acceptance of Service of Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General April 27, 2001.

May 4, 2001

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 30, 2001.

May 4, 2001

Acceptance of Service of Order dated April 26, 2001 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 30, 2001.

May 25, 2001

Answer to Amended Complaint with New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Response due from Plaintiff July 2, 2001.**

June 25, 2001

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

January 3, 2002

Letter forwarded to parties requesting a Status Report. Status Report due on or before **2/4/02.**

February 1, 2002

Status letter received from attorney for Plaintiff advising that

the parties are completing discovery.

February 1, 2002

Status letter received (via fax) from attorney for Plaintiff advising that the responses to discovery have been insufficient and Plaintiff requests an additional 90 days to complete discovery so that Plaintiff can file a Motion to Compel.

February 4, 2002

Status letter received (via U.S. Mail) from attorney for Plaintiff advising that the responses to discovery have been insufficient and Plaintiff requests an additional 90 days to complete discovery so that Plaintiff can file a Motion to Compel.

August 6, 2002

Letter forwarded to parties requesting a Status Report. Status Report due on **September 5, 2002**.

September 6, 2002

Letter/Status Report received from attorney for Defendant advising that there are only two issues remaining in the case and that DGS has all the documents necessary to proceed to trial, which could be scheduled for early 2003.

March 19, 2003

Letter forwarded to parties requesting a Status Report. Status Report due on or before **April 18, 2003**.

May 30, 2003

Board rendered Opinion and Order. Order as follows: **AAND NOW**, this 30th day of May, 2003, a Rule to Show Cause is issued upon Plaintiff, Dore & Associates Contracting, Inc., 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. In the event the Board does not receive a response to this Rule, said Rule to Show Cause shall become absolute and the case shall be marked xclosed, discontinued and ended with prejudice=.@ Copy forwarded to Plaintiff and Defendant.

June 4, 2003

Defendant filed Acceptance of Service of Opinion and Order dated
May 30, 2003. Receipt of same acknowledged June 2, 2003.

June 24, 2003

Plaintiff filed Acceptance of Service of Opinion and Order dated May 30, 2003. Receipt of same acknowledged June 2, 2003.

June 24, 2003

Plaintiff filed Claimant's Response to Rule to Show Cause advising that Dore has not been able to actively pursue the finalization of the discovery in this matter which is necessary to be completed before this matter can come to hearing.

July 10, 2003

Plaintiff filed a letter advising that Plaintiff does wish to proceed with this action and requests an additional ninety days for discovery.

February 5, 2004

Board issued letter to parties requesting a status report.

February 19, 2004

Defendant filed Motion for Judgment of Non Pros and Brief in Support. Copy forwarded to Plaintiff.

February 27, 2004

Plaintiff filed letter advising that they have not yet received from Defendant a copy of its Motion for Judgment of Non Pros nor its Brief in Support. Copy forwarded to Defendant.

March 3, 2004

Defendant filed (via facsimile) letter advising that Defendant inadvertently forwarded its Motion for Judgment of Non Pros to Plaintiff's previous address and that Defendant was reforwarding same to Plaintiff's current address. Defendant also advised that due to this misunderstanding, Defendant advises that Plaintiff will have additional time in which to respond.

March 3, 2004

Plaintiff filed (via facsimile) letter advising that they have now received Defendant's Motion for Judgment of Non Pros and supporting Brief and advise that due to the delay, Plaintiff's response to same will be due on/or before April 2, 2004.

March 5, 2004

Plaintiff filed (via facsimile) letter advising that they have now received Defendant's Motion for Judgment of Non Pros and supporting Brief and advise that due to the delay, Plaintiff's response to same will be due on/or before April 2, 2004.

March 19, 2004

Plaintiff filed Answer to Defendant's Motion for Judgment of Non Pros and Brief in Opposition. Copy forwarded to Defendant.

April 16, 2004

Board rendered an Opinion and Order. Order as follows: **AND NOW**, this 16th day of April, 2004, it is **ORDERED** and **DECREED** that Defendant's Motion for Judgment of Non Pros is **DENIED**. It is further **ORDERED** that each party submit a proposed schedule for the items noted above within 20 days of the exit date of this Order.@ Copy forwarded to Plaintiff and Defendant.

April 21, 2004

Plaintiff filed Acceptance of Service of Opinion and Order dated April 16, 2004. Receipt of same acknowledged April 19, 2004.

April 22, 2004

Defendant filed Acceptance of Service of Opinion and Order dated April 16, 2004. Receipt of same acknowledged April 19, 2004.

May 3, 2004

Plaintiff filed (via fax) Plaintiff's Submission of Proposed Litigation Schedule. Copy forwarded to Defendant.

May 3, 2004

Plaintiff filed (via U.S. Mail) Plaintiff's Submission of Proposed Litigation Schedule. Copy forwarded to Defendant.

May 11, 2004

Defendant filed a letter advising of Defendant's proposed litigation schedule.

May 18, 2004

Defendant filed a letter advising that Defendant intends to file a Motion for Summary Judgement and believes scheduling a trial for October would benefit the parties.

June 25, 2004

Plaintiff filed (via fax) a letter advising that it will be necessary to extend the discovery and pretrial deadlines because Plaintiff has been unable to review Defendant's documents.

June 28, 2004

Plaintiff filed (via U.S. mail) a letter advising that it will be necessary to extend the discovery and pretrial deadlines because Plaintiff has been unable to review Defendant's documents.

July 1, 2004

Defendant filed a letter addressed to Plaintiff advising that Defendant is willing to produce documents.

July 2, 2004

Plaintiff filed (via fax) a letter advising that Defendant's letter and Plaintiff's Motion to Compel crossed in the mail and requests that the Board place Plaintiff's Motion on hold pending the actual production of documents on July 13, 2004.

July 6, 2004

Plaintiff filed Motion to Compel Production of Documents and for Extension of Time for the Completion of Discovery and Pretrial Procedure and Proposed Order. Copy forwarded to Defendant.

July 22, 2004

Board rendered an Order. Order as follows: **AND NOW**, this 22nd day of July, 2004, it is hereby **ORDERED** and **DECREED** as follows:

1. All depositions and discovery shall be completed by August 31, 2004;
2. Pre-Trial Statements of both parties shall be filed with the Board and served upon one another no later than September 3, 2004;
3. A Pre-Trial Conference is scheduled for September 8, 2004, at 1:00 p.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 September 17, 2004; and 5. This matter is set for hearing before a panel beginning on Wednesday, November 3, 2004 and running through Friday, November 5, 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 Plaintiff and Defendant.

August 5, 2004

Plaintiff filed (via fax) a letter advising that he is having problems with Defendant not returning Plaintiff's phone messages and has still not received the documents that were to be produced.

August 9, 2004

Plaintiff filed (via U.S. Mail) a letter advising that he is having problems with Defendant not returning Plaintiff's phone messages and has still not received the documents that were to be produced.

August 10, 2004

Defendant filed Acceptance of Service of Scheduling Order dated July 22, 2004. Receipt of same acknowledged July 26, 2004.

August 16, 2004

Plaintiff filed letter (via fax) advising that Plaintiff will attend the pretrial conference scheduled for September 8, 2004 at 1 pm by telephone.

August 16, 2004

Plaintiff filed letter (via fax) addressed to Defendant advising that Plaintiff was in receipt of some of the documents and is still in need of a copy of the Plan.

August 18, 2004

Plaintiff filed letter (via U.S. Mail) addressed to Defendant advising that Plaintiff was in receipt of some of the documents and is still in need of a copy of the Plan.

August 18, 2004

Defendant filed letter addressed to Plaintiff advising that pursuant to Pa. R.C.P. 4009.12 Defendant will not be producing the manhole drawing.

August 18, 2004

Defendant filed Motion to Compel Discovery and Brief in Support. Copy forwarded to Plaintiff.

August 25, 2004

Board rendered an Opinion and Order. Order as follows: ~~AND NOW~~, this 25th day of August, 2004, it is **ORDERED** and **DECREED** that Plaintiff's Motion to Compel Production of Documents and for an Extension of Time for the Completion of Discovery and Pretrial Procedure is **MOOT** and therefore shall be **DENIED** with the following exception. The Board further **ORDERS** and **DECREES** that the Commonwealth of Pennsylvania, Department of General Services shall produce to the Plaintiff the Manhole Plan so requested by Plaintiff by no later than August 31, 2004.@ Copy forwarded (via fax and U.S. Mail) to Plaintiff and Defendant.

August 26, 2004

Plaintiff filed Acceptance of Service (via fax) of Opinion and Order dated August 25, 2004. Receipt of same acknowledged August 26, 2004.

August 26, 2004

Plaintiff filed (via fax) Response to Defendant's Motion to Compel Discovery. Copy forwarded to Defendant.

August 27, 2004

Plaintiff filed Acceptance of Service (via U.S. Mail) of Opinion and Order dated August 25, 2004. Receipt of same acknowledged August 26, 2004.

August 27, 2004

Plaintiff filed (via U.S. Mail) Response to Defendant's Motion to Compel Discovery. Copy forwarded to Defendant.

August 27, 2004

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

August 30, 2004

Defendant filed Acceptance of Service of Opinion and Order dated August 30, 2004. Receipt of same acknowledged August 26, 2004.

August 31, 2004

Defendant filed, via facsimile, drawing identifying the location of two manholes (U21 and U45) at issue pursuant to Board Order of August 25, 2004. Copy forwarded to Plaintiff.

September 2, 2004

Plaintiff filed Pre-Trial Statement, via facsimile. Copy forwarded to Defendant.

September 3, 2004

Board issued Opinion and Order. Order as follows: "**AND NOW**, this 3rd day of September, 2004, it is **ORDERED** and **DECREED** that the Commonwealth of Pennsylvania, Department of General Services' Motion to Compel Discovery is **GRANTED** in part and denied in part. The Board **ORDERS** and **DECREES** that Dore & Associates Contracting, Inc., shall provide full and complete answers to the Interrogatories and responses to the Request for Production of Documents by no later than September 15, 2004. It is further **ORDERED** and **DECREED** that the part of the Motion requesting that Dore be precluded from disputing any of the issues raised in DGS' New Matter and that judgment be entered entitling DGS to withhold \$86,018.18 from Dore's contract is **DENIED**." Copy forwarded to Plaintiff and Defendant.

September 3, 2004

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

September 7, 2004

Plaintiff filed Pre-Trial Statement (via U.S. Mail). Copy forwarded to Defendant.

September 10, 2004

Plaintiff filed (via fax) Notice that Plaintiff served Defendant

with the Supplemental Answers to Interrogatories and Request for
Production of Documents, per Board's Order of September 3, 2004.

September 13, 2004

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 13th day of September, 2004, it is hereby **ORDERED** and **DECREED** as follows. Paragraph 5 of the Board's Order of July 22, 2004, is deleted and replaced as follows: This matter is set for hearing before a panel beginning on Wednesday, November 3, 2004 and running through Friday, November 5, 2004, as necessary. Said hearing shall be held at the Western Pennsylvania Courtroom of the Board of Claims, St. Joseph's Center, 2900 Seminary Drive, Greensburg, Pennsylvania, commencing at 9:30 a.m." Copy forwarded to Plaintiff and Defendant.

September 14, 2004

Plaintiff filed (via fax) Plaintiff's consent to granting partial summary judgment in favor of the Defendant. Copy forwarded to Defendant.

September 15, 2004

Plaintiff filed (via U.S. mail) Notice that Plaintiff served Defendant with the Supplemental Answers to Interrogatories and Request for Production of Documents, per Board's Order of September 3, 2004.

September 16, 2004

Plaintiff filed (via U.S. mail) Plaintiff's consent to granting partial summary judgment in favor of the Defendant. Copy forwarded to Defendant.

September 21, 2004

Plaintiff filed Acceptance of Service of Opinion and Order dated September 13, 2004. Receipt of same acknowledged September 17, 2004.

October 1, 2004

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 1st day of October, 2004, after due consideration of the Motion for Partial Summary Judgment filed by the Defendant,

Commonwealth of Pennsylvania, Department of General Services (DGS) and of the Consent to Granting Partial Summary Judgment in Favor of the Commonwealth of Pennsylvania, Department of General Services, filed by Plaintiff, Dore and Associates Contracting, Inc., (Dore), the Defendant's motion is hereby **GRANTED**. Judgment is entered in favor of the Defendant, Commonwealth of Pennsylvania, Department of General Services on the four issues below: 1. The payment from DGS to Dore subsequent to the filing of the original complaint reduces the total amount of damages sought by Dore in the amount of \$153,838.82. 2. DGS is entitled to deduct the \$4,800.00 payment that it made to Ionadi from Dore's contract. 3. DGS is entitled to deduct \$792.16, the subject of Change Order No. 02-007, from Dore's contract. 4. DGS is entitled to deduct \$869.74, the subject matter of Change Order No. 03-003, from Dore's contract. All remaining issues will be addressed at the hearing scheduled for this matter." Copy forwarded to Plaintiff and Defendant.

October 1, 2004

Plaintiff and Defendant filed Stipulation of Facts.

October 13, 2004

Plaintiff filed Acceptance of Service of Opinion and Order dated October 1, 2004. Receipt of same acknowledged October 11, 2004.

November 2, 2004

Defendant filed Acceptance of Service of Opinion and Order dated September 3, 2004. Receipt of same acknowledged September 14, 2004.

November 2, 2004

Defendant filed Acceptance of Service of Opinion and Order dated October 1, 2004. Receipt of same acknowledged October 4, 2004.

November 3, 2004

Panel hearing (Bresnahan/McLaughlin) held at St. Joseph's Center, 2900 Seminary Drive, Greensburg, Pennsylvania, commencing at 9:30 a.m. Case complete.

November 5, 2004

Defendant filed Acceptance of Service of Opinion and Order dated September 13, 2004. Receipt of same acknowledged September 14, 2004.

November 8, 2004

Plaintiff filed a courtesy copy of a letter addressed to Defendant confirming that during the hearing, a settlement was agreed upon for payment of \$25,000.00.

December 3, 2004

Testimony of Panel Hearing held November 3, 2004 filed.

December 17, 2004

Board forwarded copy of testimony of panel hearing held November 3, 2004 to Defendant.

December 22, 2004

Plaintiff filed (via fax) a letter requesting the Board's assistance in having this case promptly resolved since a Settlement Agreement was signed by Plaintiff and Plaintiff is still awaiting its funds.

December 23, 2004

Defendant filed Acceptance of Service of Testimony of Hearing held November 3, 2004. Receipt of same acknowledged December 21, 2004.

December 27, 2004

Plaintiff filed (via U.S. mail) a letter requesting the Board's assistance in having this case promptly resolved since a Settlement Agreement was signed by Plaintiff and Plaintiff is still awaiting its funds.

February 1, 2005

Plaintiff filed Motion to Enforce Settlement and for Sanctions

and Proposed Order. Copy forwarded to Defendant.

February 16, 2005

Defendant filed Praecipe to withdraw appearance of Elizabeth A. O'Reilly and enter appearance of Michael C. Barrett, Senior Counsel, on behalf of Defendant.

March 15, 2005

Plaintiff filed Praecipe to Settle, Discontinue and End.

March 17, 2005

Board rendered an Order. Order as follows: "**AND NOW**, this 17th day of March, 2005, upon receipt of a Praecipe to Settle, Discontinue and End, requesting the Board to 'Kindly mark the above matter settled, discontinued and ended.', executed by Stephen J. Laidhold, Esquire, attorney for Plaintiff, and docketed with this Board under date of March 15, 2005, it is **ORDERED** and **DIRECTED** that said case be marked 'settled, discontinued and ended with prejudice'." Copy forwarded to Plaintiff and Defendant.

March 21, 2005

Defendant filed Acceptance of Service of Order dated March 17, 2005. Receipt of same acknowledged March 18, 2005.

March 24, 2005

Plaintiff filed Acceptance of Service of Order dated March 17, 2005. Receipt of same acknowledged March 21, 2005.
