

Docket Number: 3438

MARSICO CORPORATION, in its own name and right, and MARSICO CORPORATION, ex rel., for the use and benefit of PAT IONADI CORPORATION AND COST COMPANY

(ATTORNEYS FOR PLAINTIFFS)

Michael D. Klein, Esquire
Robert J. Blumling, Esquire
K. Bradley Mellor, Esquire
Thomas A. Ferguson, Esquire
William D. Clifford, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
STATE SYSTEM OF HIGHER EDUCATION

(ATTORNEY FOR DEFENDANT)

Thomas J. Madigan, Esquire
Christopher A. Coppola, Esquire
VS.

RDG BUSSARD DIKIS, INC., AND

(ATTORNEY FOR ADDITIONAL DEFENDANT)

Robert J. Ray, Esquire

~~TURNER CONSTRUCTION COMPANY~~

~~(ATTORNEY FOR ADDITIONAL DEFENDANT)~~

~~Mark Nowak, Esquire~~

CLOSED

December 10, 2001

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: Not Stated

December 10, 2001

Supplemental Appendix to Complaint filed by attorney for Plaintiff.

December 12, 2001

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 1/11/02.

December 18, 2001

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General December 13, 2001.

January 4, 2002

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 2, 2002.

January 16, 2002

Praecipe for Entry of Appearance filed on behalf of Thomas J. Madigan, Esquire, as counsel for Defendant. Copy served on attorney for Plaintiff (Marsico - Michael Klein) by attorney for Defendant.

January 16, 2002

Letter received from Plaintiff advising that a responsive pleading was due from Defendant on 1/11/02. Plaintiff granted them an extension of time until 2/1/02.

February 11, 2002

Answer and New Matter filed by attorney for Defendant. Response due from Plaintiff **February 13, 2002.**

February 11, 2002

Complaint to Join Additional Defendants RDG Bussard Dikis, and Turner Construction Company filed by attorney for Defendant.

February 13, 2002

Copies forwarded to attorney for Plaintiff, Additional Defendant and Chief Deputy Attorney General. Response due from Additional Defendant March 13, 2002.

February 22, 2002

Acceptance of Service of Complaint to Join Additional Defendant filed by Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General February 15, 2002.

March 15, 2002

Answer and New Matter of Additional Defendant Turner Construction Company filed by Additional Defendant. Copy forwarded to Plaintiff, Defendant and Chief Deputy Attorney General by attorney for Additional Defendant.

March 27, 2002

Praecipe for Appearance filed by Additional Defendant.(Bussard) Copies forwarded to Plaintiff and Defendant attorneys.

April 9, 2002

Copy of Defendant's faxed letter to Additional Defendant, advising that as per their conversation of April 2, 2002, the Defendant would file their responsive pleading on or before April 17, 2002.

April 17, 2002

Answer, New Matter and New Matter Pursuant to Pa. R.C.P. 2252(d) to Complaint to Join Additional Defendants RDG Bussard Dikis, Inc., and Turner Construction Company filed by attorney for Additional Defendant. (Dikis) Copy served on attorney for Plaintiff, Defendant and Additional Defendant (Turner Construction) by attorney for Additional Defendant (Dikis).

April 24, 2002

Notice of Service of Response to Plaintiff's First Request for Production of Documents Directed to RDG Bussard Dikis, Inc.,

filed by attorney for Additional Defendant. (Dikis)

April 25, 2002

Motion to Compel Production of Documents and Brief in Support filed by attorney for Plaintiff. (Marsico) Copy served on Defendant, and Additional Defendants.

April 26, 2002

Reply to New Matter Pursuant to Pa. R.C.P. 2252(d) to Complaint to Join Additional Defendant RDG Bussard Dikis, Inc., filed by attorney for Additional Defendant.(Turner) Copy served on Plaintiff, Defendant, Chief Deputy Attorney General and Additional Defendant (Bussard Dikis by Additional Defendant (Turner)).

April 29, 2002

Preliminary Objections to Additional Defendant RDG Bussard Dikis, Inc., New Matter Pursuant to PA R.C. P. 2252(D) and Brief in Support of Preliminary Objections to Additional Defendant RDG Bussard Dikis, Inc.'s New Matter filed by attorney for Defendant. Copy served on Plaintiff, and Additional Defendants by attorney for Defendant.(SSHE)

May 9, 2002

Reply to New Matter filed by attorney for Plaintiff. (Marsico) Copy forwarded to all parties of record by attorney for Plaintiff.

May 9, 2002

Reply to New Matter of Turner Construction Company, filed by attorney for Defendant, State System of Higher Education. Copy forwarded to all parties of record by attorney for Defendant, State System of Higher Education.

May 15, 2002

Proposed Order and Response to Marsico Corporation's Motion to Compel and Brief in Support filed by attorney for Additional Defendant (RDG Bussard Dikis, Inc.). Copy forwarded to attorney for Plaintiff, Defendant and Additional Defendant (Turner Const.) by attorney for Additional Defendant (Dikis)

May 24, 2002

Turner Construction Company's Response to Preliminary Objections to Additional Defendant Turner Construction Company's Answer and New Matter and Turner Construction Company's Brief in Opposition to Preliminary Objections of Defendant State System of Higher Education filed by attorney for Additional Defendant (Nowak). Copy forwarded to all parties of record by attorney for Additional Defendant (Nowak)

May 24, 2002

Reply to New Matter of Additional Defendant Turner Construction Company filed by attorney for Additional Defendant (Bussard Dikis). Copy forwarded to all parties of record by attorney for Additional Defendant. (Dikis)

May 28, 2002

Supplemental Brief in Support of Motion to Compel Production of Documents filed by attorney for Plaintiff. (Marsico) Copy forwarded to attorney for Defendant and attorneys for Additional Defendants by attorney for Plaintiff.

May 31, 2002

Letter received from Additional Defendant (Dikis) advising that in reference to Plaintiff's Motion to Compel production of RDG's liability policy, RDG has since produced both its policy and that of Charles Saul. To the extent Plaintiff intends to pursue its request for attorney's fees, RDG maintains its objection that Plaintiff is not entitled to attorney fees for reasons set forth in RDG's Reply to Plaintiff's Motion to Compel. Copy forwarded to attorney for Plaintiff, Defendant and Additional Defendant (Turner) by Additional Defendant (Dikis).

June 3, 2002

Reply to Turner Construction Company's Response to Preliminary Objections to Additional Defendant Turner Construction Company's New Matter filed by attorney for Defendant (SSHE). Copy forwarded to attorney for Plaintiff and attorneys for Additional Defendants by attorney for Defendant.

June 7, 2002

Response to Commonwealth of Pennsylvania, State System of Higher Education's Preliminary Objections to Additional Defendant, RDG's New Matter Pursuant to PA. R.C.P. 2252(d) and Brief in Support filed by attorney for Additional Defendant (RDG Bussard Dikis. Copy forwarded to all parties of record by attorney for Additional Defendant (Dikis).

June 7, 2002

Sur-Reply to Defendant's Reply to Turner Construction Company's Response to Preliminary Objections filed by attorney for Additional Defendant (Turner). Copy forwarded to all parties of record by attorney for Additional Defendant (Turner)

July 25, 2002

The Board rendered an Opinion and made the following Order: **AND NOW**, this 25th day of July, 2002, it is hereby, **ORDERED** and **DECREED** that the Preliminary Objections of Defendant, Commonwealth of Pennsylvania, State System of Higher Education are sustained and Paragraph 52 of Additional Defendant Turner's New Matter is hereby **STRICKEN** with leave to file Amended New Matter within twenty (20) days of the date of Service of this Order.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 1, 2002

Acceptance of Service of Opinion and Order dated July 25, 2002 received from attorney for Additional Defendant. Receipt of same acknowledged by Additional Defendant July 27, 2002.

August 2, 2002

Acceptance of Service of Opinion and Order dated July 25, 2002 received from attorney for Additional Defendant. Receipt of same acknowledged by Additional Defendant July 27, 2002.

August 5, 2002

Acceptance of Service of Opinion and Order dated July 25, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 29, 2002.

August 5, 2002

Acceptance of Service of Opinion and Order dated July 25, 2002 received from attorney for Additional Defendant (RDG Bussard Dikis, Inc.). Receipt of same acknowledged by attorney for Additional Defendant July 30, 2002.

August 8, 2002

Motion to schedule a hearing date and proposed order filed by attorney for Plaintiff. (Marsico) Copy forwarded to all attorneys of record by attorney for Plaintiff.

August 26, 2002

Letter/Status Report received from attorney for Plaintiff advising that their availability date for hearing is March 2003. Copy forwarded to all parties of record by attorney for Plaintiff.

September 11, 2002

The Board made the following Order: **AND NOW**, this 11th day of September, 2002, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board beginning on March 3, 4, 5, 6 and 7, 2003, as well as March 10, 11, 12, 13 and 14, 2003. 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 (45) days prior to the commencement of the trial.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

September 16, 2002

Acceptance of Service of Order dated September 11, 2002 received from attorney for Additional Defendant (Bussard). Receipt of same acknowledged by attorney for Additional Defendant September 13, 2002.

September 19, 2002

Acceptance of Service of Order dated September 11, 2002 received from attorney for Additional Defendant (Turner). Receipt of

same acknowledged by attorney for Additional Defendant September 16, 2002.

September 20, 2002

Acceptance of Service of Order dated September September 11, 2002 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 13, 2002.

September 20, 2002

Acceptance of Service of Order dated September 11, 2002 received from attorneys for Plaintiff. Receipt of same acknowledged by attorneys for Plaintiff September 16, 2002.

November 14, 2002

Notice of Service of RDG Bussard Dikis, Inc.'s Request for Production of Documents and Things Directed to Defendant Commonwealth of Pennsylvania, State System of Higher Education by attorney for Additional Defendant. (Dikis) Copy forwarded to all parties of record by attorney for Additional Defendant (Dikis)

November 14, 2002

Notice of Service of RDG Bussard Dikis, Inc.'s Request for Production of Documents and Things Directed to Plaintiff Marsico Corporation by attorney for Additional Defendant (Dikis). Copy forwarded to all parties of record by attorney for Additional Defendant (Dikis)

November 14, 2002

Notice of Service of RDG Bussard Dikis, Inc.'s Request for Production of Documents and Things Directed to Additional Defendant Turner Construction Company filed by attorney for Additional Defendant (Dikis). Copy forwarded to all parties of record by attorney for Additional Defendant.

November 18, 2002

Notice of Service of Plaintiff's Request for Production of

Documents Directed to Defendant, RDG Bussard Dikis, Inc., and Notice of Service of Plaintiff's First set of Interrogatories Directed to Defendant RDG Bussard Dikis, Inc. filed by attorney for Plaintiff. (Marsico) Copy forwarded to attorney for Defendant and Additional Defendants.

November 22, 2002

Notice of Service of Plaintiff's Request for Production of Documents Directed to Defendant, Turner Construction Company filed by attorney for Plaintiff. (Marsico) Copy forwarded to all parties of record by attorney for Plaintiff.

November 22, 2002

Notice of Service of Plaintiff's First Set of Interrogatories Directed to Defendant, Turner Construction Company filed by attorney for Plaintiff. Copy forwarded to all parties of record by attorney for Plaintiff.

December 16, 2002

Notice of Service of Requests for Admission Directed to Defendant and First Set of Interrogatories and First Request for Production of Documents Directed to Defendant, filed by attorney for Additional Defendant. (Turner) Copies forwarded to attorney for Plaintiff, Chief Deputy Attorney General and attorney for Additional Defendant (Dikis) by attorney for Additional Defendant (Turner).

December 23, 2002

Notice of Service for the following documents: Turner Construction Company's Answers to Plaintiff's First Set of Interrogatories; Response to Plaintiff's Second Request for Production of Documents; Answers to RDG Bussard Dikis, Inc., First Set of Interrogatories and Request for Production of Documents and Response to RDG Bussard Dikis, Inc.'s Request for Production of Documents and Things filed by attorney for Additional Defendant (Nowak). Copy forwarded to all parties of record by attorney for Additional Defendant.

December 30, 2002

Petition for Issuance of A Commission filed by attorney for

Plaintiff. Copy forwarded to all parties of record by attorney for Plaintiff.

December 30, 2002

Notices of Service of Depositions in this matter: Lou Marsico; James Revesz; Herb Carlson; Bruce McDonald; Jack Berthold; and Mark Herron filed by attorney for Additional Defendant. (Dikis) Copy forwarded to all parties of record by attorney for Additional Defendant.

January 13, 2003

Notice of Service of Response to Plaintiff's First Set of Interrogatories Directed to RDG Bussard Dikis, Inc., filed by attorney for Additional Defendant. Copy forwarded to attorney for Plaintiff, Defendant and Additional Defendant (Turner Construction Company) by attorney for Additional Defendant (RDG Bussard Dikis).

January 16, 2003

Motion for Continuance jointly filed by RDG Bussard Dikis, Inc., and Turner Construction Company filed by attorneys for Additional Defendant. Copy forwarded to attorney for Plaintiff and Defendant by attorney for Additional Defendant (Bussard Dikis).

January 22, 2003

Proposed Order, Motion to Dismiss or, in the Alternative, Motion in Limine as well as Brief in Support of Motion to Dismiss or, in the Alternative, Motion in Limine filed by attorneys for Additional Defendant. Forwarded to all parties of record by attorney for Additional Defendant (Turner Construction).

January 27, 2003

Motion to Supplement Motion for Continuance and To Compel Answer to Interrogatories and Responses to Request for Production of Documents and Proposed Orders filed by attorney for Additional Defendant (RDG Bussard Dikis). Copy forwarded to all parties of record by attorney for additional Defendant (Bussard Dikis).

January 27, 2003

Motion to Dismiss Based on Lack of Jurisdiction, Release, and Failure to State a Claim for Which Relief May Be Granted and Brief in Support filed by attorney for Additional Defendant (RDG

Bussard Dikis). Copy forwarded to all parties of record by attorney for Additional Defendant (Bussard Dikis).

February 5, 2003

Brief in Support of Motion for Continuance Jointly filed by RDG Bussard Dikis, Inc., and Turner Construction Company filed by attorney for Additional Defendant (RDG Bussard Dikis). Copy forwarded to all parties of record by attorney for Additional Defendant (Bussard Dikis).

February 5, 2003

Motion to Compel Defendant's Answers to Interrogatories and Responses to Request for Production of Documents filed by attorney for Additional Defendant. Copy forwarded to all parties of record by attorney for Additional Defendant (Bussard Dikis).

February 5, 2003

Brief in Support of Motion to Compel Answers to Interrogatories and Responses to Request for Production of Documents filed by attorney for Additional Defendant. Copy forwarded to all parties of record by attorney for Additional Defendant (Bussard Dikis).

February 5, 2003

Motion to Compel Plaintiffs' and Additional Plaintiff's Expert Report and Brief in Support of Motion to Compel Plaintiffs' and Additional Plaintiff's Expert filed by attorney for Additional Defendant. Copy forwarded to all parties of record by attorney for Additional Defendant (Bussard Dikis).

February 5, 2003

Letter received from attorney for Additional Defendant advising that RDG Bussard Dikis, withdrew their Motion to Compel Plaintiffs' and Additional Plaintiff's Expert Report. Copy forwarded to all parties of record by attorney for Additional Defendant (Bussard Dikis).

February 6, 2003

Faxed Proposed Order, Supplemental Motion to Dismiss or, in the Alternative, Motion in Limine filed by attorney for Additional Defendant (Turner Construction). Copy forwarded to all parties of record by attorney for Additional Defendant.

February 6, 2003

Faxed Supplemental Brief in Support of Motion to Dismiss or, in the Alternative, Motion in Limine filed by attorney for Additional Defendant. Copy forwarded to all parties of record by attorney for Additional Defendant (Turner).

February 6, 2003

Faxed Request for Admissions Directed to Defendant Commonwealth of Pennsylvania, State System of Higher Education filed by attorney for Additional Defendant (Turner Construction). Copy forwarded to all parties of record by attorney for Additional Defendant.

February 7, 2003

U.S. Mail Motion to Compel and for Deemed Admissions filed by attorney for Additional Defendant. Copy forwarded to all parties of record by attorney for Additional Defendant (Turner).

February 7, 2003

U.S. Mail Brief in Support of Motion to Compel and for Deemed Admissions filed by attorney for Additional Defendant. Copy forwarded to all parties of record by attorney for Additional Defendant (Turner).

February 10, 2003

Letter received from attorney for Plaintiff advising that pursuant to their telephone conversation with Mr. Martin to file on or before February 24, 2003, a consolidated Response and supporting Brief in Opposition to (1) the Motion to Dismiss or in the Alternative Motion in Limine and (2) Motion to Dismiss Based on Lack of Jurisdiction. Copy forwarded to all parties of record by attorney for Plaintiff (Marsico).

February 10, 2003

Notice of Service of Plaintiff's Supplemental Answers to Additional Defendant RDG Bussard Dikis, Inc.'s First Set of Interrogatories and Requests for Production of Documents; Plaintiff's Supplemental Responses to Additional Defendant RDG Bussard Dikis, Inc.'s First Set of Interrogatories and Requests for Production of Documents filed by attorney for Plaintiff. Copy forwarded to all parties of record by attorney for Plaintiff (Marsico).

February 10, 2003

Supplemental Motion to Dismiss or, in the Alternative, Motion in Limine and Brief in Support filed by attorney for Additional Defendant (Turner). Copy forwarded to all parties of record by Attorney for Additional Defendant.

February 11, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 11th day of February, 2003, the Defendant, Commonwealth of Pennsylvania, State System of Higher Education, is hereby **ORDERED** to answer the First Set of Interrogatories and produce the documents requested by Additional Defendant, RDG Bussard Dikis, Inc., within ten (10) days from the exit date of this Order.@ Copy forwarded to all parties of record.

February 11, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 11th day of February, 2003, the Defendant, Commonwealth of Pennsylvania, State System of Higher Education, is hereby ordered to answer the First Set of Interrogatories and produce the documents requested by Additional Defendant, Turner Construction Company, within ten (10) days of the exit date of this Order.@ Copy forwarded to all parties of record.

February 11, 2003

Letter received from attorney for Additional Defendant (Robert J. Ray - Bussard Dikis) advising that they have no objection to (Ferguson-Plaintiff) filing their response to the Motion to Dismiss on February 24, 2003. Copy forwarded to all parties of record by Additional Defendant (Bussard Dikis).

February 11, 2003

Letter received from attorney for Plaintiff advising that they could take an additional two weeks to respond to the Joint Motion for Continuance. Copy forwarded to all parties of record by attorney for Plaintiff (Marsico).

February 11, 2003

Letter received from attorney for Additional Defendant (Nowak - Turner Construction) advising that they are not opposed to Plaintiff's request to file an omnibus response to Turner's Motion and supplemental Motion to dismiss RDG Bussard Dikis's Motion to Dismiss. Copy forwarded to all parties of record by Additional Defendant (Turner Construction Company).

February 11, 2003

Supplemental Motion for Continuance filed by attorney for Additional Defendant (Bussard). Copy forwarded to all parties of record by attorney for Additional Defendant.

February 12, 2003

Faxed Supplemental Motion for Continuance filed by attorney for Additional Defendant (RDG Bussard Dikis, Inc.). Copy forwarded to all parties of record by attorney for Additional Defendant.

February 12, 2003

Faxed Brief in Support of Supplemental Motion for Continuance filed by attorney for Additional Defendant (RDG Bussard Dikis, Inc.). Defendant.

February 13, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 13th day of February 2003, Plaintiff shall file with

the Board of Claims, no later than February 24, 2003, its consolidated response and brief in support thereof to the Motion to Dismiss or in the Alternative, Motion in Limine filed by Additional Defendant, Turner Construction Company and the Motion to Dismiss Based on Lack of Jurisdiction, Release, and Failure to State a Claim for which relief may be granted filed by Additional Defendant, RDG Bussard Dikis, Inc. It is so **ORDERED**.

Copy forwarded by attorney for Plaintiff and attorney for Defendant.

February 14, 2003

Supplemental Motion for Continuance and Brief in Support filed by attorney for Additional Defendant (RDG Bussard Dikis). Copy forwarded to all parties of record by attorney for Additional Defendant (RDG Bussard Dikis).

February 14, 2003

Faxed Pre-Hearing Memorandum filed by attorney for Additional Defendant (Turner Construction). Copies forwarded to all parties of record by attorney for Additional Defendant (Turner).

February 19, 2003

Marsico Corporation's Response in Opposition to Additional Defendant RDG Bussard Dikis, Inc. and Turner Construction Company's Motion for Continuance and Brief in Opposition to Additional Defendant filed by attorney for Plaintiff (Horgan.) Copies forwarded to all parties of record by attorney for Plaintiff.

February 19, 2003

Marsico Corporation's Pre-Hearing Memorandum filed by attorney for Plaintiff. Copies forwarded to all parties of record by attorney for Plaintiff (Klein).

February 19, 2003

Additional Defendant RDG Bussard Dikis, Inc., Pre-Hearing Memorandum filed by attorney for Additional Defendant. Copies forwarded to all parties of record by attorney for Additional Defendant (Bussard).

February 19, 2003

Commonwealth of Pennsylvania State System of Higher Education's Pre-Hearing Memorandum filed on behalf of Defendant by attorney for Plaintiff. Copies forwarded to all parties of record by attorney for Plaintiff (Coppula).

February 19, 2003

Pre-Hearing Memorandum filed by attorney for Plaintiff (Cost Company). Copies forwarded to all parties of record by attorney for Plaintiff.

February 19, 2003

Acceptance of Service of Opinion and Order dated February 11, 2003 received from attorney for Defendant (Madigan). Receipt of same acknowledged by attorney for Defendant (Madigan) February 14, 2003.

February 19, 2003

Acceptance of Service of Opinion and Order dated February 11, 2003 received from attorney for Defendant (Madigan). Receipt of same acknowledged by attorney for Defendant (Madigan) February 14, 2003.

February 19, 2003

Acceptance of Service of Opinion and Order dated February 11, 2003 received from attorney for Additional Defendant (Nowak). Receipt of same acknowledged by attorney for Additional Defendant (Nowak) February 14, 2003.

February 19, 2003

Acceptance of Service of Opinion and Order dated February 11, 2003 received from attorney for Additional Defendant (Nowak). Receipt of same acknowledged by attorney for Additional Defendant (Nowak) February 14, 2003.

February 19, 2003

Acceptance of Service of Opinion and Order dated February 13, 2003 received from attorney for Additional Defendant (Nowak). Receipt of same acknowledged by attorney for Additional Defendant (Nowak) February 18, 2003.

February 19, 2003

Acceptance of Service of Opinion and Order dated February 11, 2003 received from attorney for Additional Defendant (Ray). Receipt of same acknowledged by attorney for Additional Defendant (Ray) February 14, 2003.

February 20, 2003

Brief in Reply to Marsico's Brief in Opposition to Motion for Continuance filed by attorney for Additional Defendant (Bussard). Copies forwarded to all parties of record by attorney for Additional Defendant.

February 20, 2003

Pre-Hearing Memorandum filed by attorney for Additional Defendant (Turner Construction Company). Copies forwarded to all parties of record by attorney for Additional Defendant.

February 21, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 24th day of February, 2003, the trial of this case shall be continued to the dates of May 12, 13, 14, 15, 16 and, if necessary, May 19, 20, 21, 22 & 23, 2003. 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 (45) days prior to the commencement of the trial. @ Copy forwarded (via fax & U.S. Mail) to all parties of record.

February 21, 2003

Acceptance of Service of Opinion and Order dated February 13, 2003 received from attorney for Defendant (Madigan). Receipt of same acknowledged by attorney for Defendant (Madigan) February 19, 2003.

February 24, 2003

Additional Defendant RDG Bussard Dikis, Inc.'s Supplemental Pre-Hearing Memorandum filed by attorney for Additional Defendant RDG Bussard Dikis, Inc. Copy forwarded to all parties of record by attorney for Additional Defendant RDG Bussard Dikis, Inc.

February 24, 2003

Commonwealth of Pennsylvania State System of Higher Education's Response to Turner Construction Company's Motion for Deemed Admissions and Brief in Support filed by attorney for Defendant (SSHE). Copies forwarded to all parties of record by attorney for Defendant.

February 24, 2003

Consolidated Response in Opposition to Motions of Additional Defendants RDG Bussard Dikis, Inc., and Turner Construction Company to Dismiss, or, in the Alternative, Motion in Limine and Brief in Opposition to Motions filed by attorney for Plaintiff. (Marsico) Copies forwarded to all parties of record by attorney for Plaintiff.

February 26, 2003

Acceptance of Service of Opinion and Order dated February 21, 2003, received from attorney Additional Defendant (Turner Construction Company). Receipt of same acknowledged by attorney for Additional Defendant February 24, 2003.

February 27, 2003

Acceptance of Service of Opinion and Order dated February 21, 2003, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 25, 2003.

February 28, 2003

Pat Ionadi Corporation's Pre-Hearing Memorandum filed by attorney for Additional Plaintiff (Pat Ionadi). Copies forwarded to all parties of record by attorney for Additional Plaintiff.

March 6, 2003

Reply to Marsico Corporation's Consolidated Response and Consolidated Brief in Opposition to Motions to Dismiss filed by

attorney for Additional Defendant (Turner Construction). Copy forwarded to all parties of record by attorney for Additional Defendant.

March 6, 2003

Reply to Commonwealth of Pennsylvania State System of Higher Education's Response to Turner Construction Company's Motion for Deemed Admissions filed by attorney for Additional Defendant (Turner Construction). Copy forwarded to all parties of record by attorney for Additional Defendant.

March 17, 2003

Commonwealth of Pennsylvania, State System of Higher Education's Objections to Subpoenas Duces Tecum Proposed by RDG Bussard Dikis, Inc., as well as Motion for Protective Order and Brief in Support of Motion for Protective Order, filed by attorney for Defendant (SSHE). Copies forwarded to all parties of record by attorney for Defendant.

March 21, 2003

Supplemental Motion to Compel Marsico Corporation's Answers to Interrogatories and Responses to Request for Production of Documents and Brief in Support of Supplemental Motion to Compel Marsico Corporation's Answers to Interrogatories and Responses to Request for Production of Documents filed by attorney for Additional Defendant (RDG Bussard Dikis). Copy forwarded to all parties of record by attorney for Additional Defendant.

March 21, 2003

Response to Motion for Protective Order and Brief in Support of Response to Motion for Protective Order filed by attorney for Additional Defendant. Copy forwarded to all parties of record by Attorney for Additional Defendant (RDG Bussard Dikis).

March 24, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 24th day of March, 2003, Plaintiff, Marsico Corporation, is hereby **ORDERED** to specifically respond to Additional Defendant's, RDG Bussard Dikis, Inc., Interrogatories Number 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37 and 38 with any and all specific documents including but not limited to

those listed in Marsico's Pre-Trial Memorandum filed with the Board on February 18, 2003. Plaintiff, Marsico shall comply with this Order and provide the specific documents requested no later than March 28, 2003.@ Copy forwarded to all parties of record (Via Fax and U.S. Mail).

March 24, 2003

Acceptance of Service of Opinion and Order dated March 24, 2003, received from attorney for Additional Defendant (RDG Bussard Dikis, Inc.) Receipt of same acknowledged by attorney for Additional Defendant March 24, 2003.

March 26, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 26th day of March, 2003, Additional Defendant, Turner Construction Company's Motion for Deemed Admissions is **DENIED**. The Admissions, which may have been admitted by original Defendant, State System of Higher Education's untimely response, shall be hereby withdrawn, and the Responses to Request for Admissions served on Additional Defendant, Turner, on February 13, 2003 by original Defendant shall be accepted as amended admissions.@ Copy forwarded to all parties of record (Via Fax and U.S. Mail).

March 27, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 27th day of March, 2003, Defendant, Commonwealth of Pennsylvania, State System of Higher Education's Motion for Protective Order is hereby **GRANTED**. Defendant is not required to produce documents dealing with services provided by Peterson Consulting, Inc. nor to testify in deposition regarding this matter. Defendant's Objections to the Subpoenas Duces Tecum proposed by Additional Defendant, RDG Bussard Dikis, Inc. are hereby **SUSTAINED** and no such documents need be produced by Defendant, Commonwealth of Pennsylvania, State System of Higher Education on its expert Peterson Consulting.@ Copy forwarded to all parties of record. (Via Fax and U.S. Mail)

March 27, 2003

The Board rendered an Opinion and made the following Order: ~~AND~~ **NOW**, this 27th day of March, 2003, for the reasons stated above, RDG's Motion to Dismiss is **DENIED**, Turner's Motion to Dismiss is **DENIED**, and Turner's Motion in Limine is **GRANTED IN PART**. Specifically, Turner's Motion in Limine is **GRANTED** to the extent that pass-through damages against it (as assigned by SSHE to Marsico), shall be limited to actual loss incurred by SSHE as a result of Turner's alleged breach of contract, if and when such breach is established. Turner's Motion in Limine is **DENIED** insofar as it requests the Board to set a specific dollar cap on the amount of such damages at this time.@ Copy forwarded to all parties of record. (Via facsimile and U.S. Mail)

March 27, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Additional Defendant (Dikis). Receipt of same acknowledged by attorney for Additional Defendant March 27, 2003.

March 31, 2003

Acceptance of Service of Opinion and Order dated March 24, 2003, received from attorney for Additional Defendant (Turner Construction). Receipt of same acknowledged by Attorney for Additional Defendant March 26, 2003.

March 31, 2003

Acceptance of Service of Opinion and Order dated March 26, 2003, received from attorney for Additional Defendant (Turner Construction). Receipt of same acknowledged by attorney for Additional Defendant March 28, 2003.

April 2, 2003

Notice of Service of Opinion and Order dated March 27, 2003, received from attorney for Additional Defendant (Turner Construction). Receipt of same acknowledged by attorney for Additional Defendant March 31, 2003.

April 2, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Additional Defendant. (Turner

Construction). Receipt of same acknowledged by attorney for Additional Defendant March 31, 2003.

April 2, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Defendant (SSHE). Receipt of same acknowledged by attorney for Defendant March 31, 2003.

April 2, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Defendant (SSHE). Receipt of same acknowledged by attorney for Defendant March 31, 2003.

April 2, 2003

Acceptance of Service of Opinion and Order dated March 26, 2003, received from attorney for Defendant (SSHE). Receipt of same acknowledged by attorney for Defendant March 31, 2003.

April 2, 2003

Acceptance of Service of Opinion and Order dated March 24, 2003, received from attorney for Defendant (SSHE). Receipt of same acknowledged by attorney for Defendant March 31, 2003.

April 3, 2003

Acceptance of Service of Opinion and Order dated March 24, 2003, received from attorney for Plaintiff (Marsico). Receipt of same acknowledged by attorney for Plaintiff March 27, 2003.

April 3, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Plaintiff (Marsico). Receipt of same acknowledged by attorney for Plaintiff April 1, 2003.

April 3, 2003

Acceptance of Service of Opinion and Order dated March 26, 2003, received from attorney for Plaintiff (Marsico). Receipt of same acknowledged by attorney for Plaintiff March 27, 2003.

April 3, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Plaintiff (Marsico). Receipt of same acknowledged by attorney for Plaintiff April 1, 2003.

April 3, 2003

Notice of Service of Plaintiff's Supplemental Answers to Additional Defendant RDG Bussard Dikis, Inc.'s First Set of Interrogatories and Requests for Production of Documents filed by attorney for Plaintiff (Klein). Copies forwarded to all parties of record by attorney for Plaintiff.

April 3, 2003

Motion to Strike Portions of Expert Report of Capital Project Management, Inc., as well as Brief in Support of Motion to Strike Portions of Expert Report of Capital Project Management, Inc., filed by attorney for Plaintiff (Klein) Copies forwarded to all parties of record by attorney for Plaintiff. **Response due from Additional Defendant (Bussard) 5-7-03.**

April 4, 2003

Acceptance of Service of Opinion and Order dated March 26, 2003, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff March 27, 2003.

April 4, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Plaintiff (Marsico). Receipt of same acknowledged by attorney for Plaintiff April 1, 2003.

April 4, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Plaintiff (Marsico). Receipt of same acknowledged by attorney for Plaintiff April 1, 2003.

April 7, 2003

Acceptance of Service of Opinion and Order dated March 26, 2003, received from attorney for Additional Defendant (Dikis). Receipt of same acknowledged by attorney for Additional Defendant March 28, 2003.

April 7, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Additional Defendant (Dikis). Receipt of same acknowledged by attorney for Additional Defendant 31, 2003.

April 7, 2003

Acceptance of Service of Opinion and Order dated March 27, 2003, received from attorney for Additional Defendant (Dikis). Receipt of same acknowledged by attorney for Additional Defendant March 31, 2003.

April 8, 2003

Faxed Commonwealth of Pennsylvania State System of Higher Education's Supplemental Pre-Hearing Memorandum filed by attorney for Defendant (SSHE). Copies forwarded to parties of record by attorney for Defendant.

April 9, 2003

RDG Bussard Dikis, Inc.,s Reply to Plaintiff's Motion to Strike Portions of Expert Report of Capital Project Management, Inc., filed by attorney for Additional Defendant (RDG Bussard Dikis). Copies forwarded to parties of record by attorney for Additional Defendant.

April 10, 2003

U.S. Mail Commonwealth of Pennsylvania State System of Higher Education's Supplemental Pre-Hearing Memorandum filed by attorney for Defendant. Copy forwarded to all parties of record by attorney for Defendant.)SSHE

April 14, 2003

Brief in Support RDG Bussard Dikis, Inc.'s Reply to Plaintiff's Motion to Strike Portions of Expert Report of Capital Project Management Inc., filed by attorney for Additional Defendant (Dikis). Copy forwarded to all parties of record by attorney for Additional Defendant.

April 14, 2003

Motion for Extension to file Pre-Hearing Memorandum and Expert Report and Brief in Support of Motion filed by attorney for Additional Defendant. Copy forwarded to all parties of record by attorney for Additional Defendant.

April 15, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 15th day of April, 2003, it is hereby **ORDERED, DECREED** and **DIRECTED** that the following shall be stricken from the report of Capital Project Management, Inc., submitted on behalf of RDG Bussard Dikis, Inc.: pages 39-41, the statement on page 43 referring to the mediation not being successful, pages 44-54, pages 56-64 and pages 66-74. Copy forwarded to attorney for Plaintiff and Defendant.

April 15, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 15th day of April, 2003, it is **ORDERED** and **DECREED** that the Motion of Additional Defendant RDG Bussard, Inc., for Extension of Time to file Pre-Hearing Memorandum and Expert Report is **GRANTED**. It is further **ORDERED** and **DECREED** that said report shall be filed within twenty (20) days from April 11, 2003. Copy forwarded to attorney for Plaintiff and Defendant.

May 1, 2003

Additional Defendant RDG Bussard Dikis, Inc.'s Supplemental Pre-Hearing Memorandum filed by attorney for Additional Defendant. Copies forwarded to all parties of record by attorney for Additional Defendant (Dikis).

May 1, 2003

Motion in Limine and Brief in Support filed by attorney for Additional Defendant. Copies forwarded to all parties of record by attorney for Additional Defendant (Dikis).

May 8, 2003

Turner Construction Company filed Praecipe to Settle and Discontinue. Copy forwarded to all parties of record.

May 9, 2003

Board issued an Opinion and made the following Order: **AND NOW**, this 9th day of May, 2003, it I **ORDERED** and **DECREED** that the docket be marked settled and discontinued only as to Additional Defendant, Turner Construction Company. It is so **ORDERED**. Copy forwarded to all parties of record.

May 12, 2003

Motion in Limine to strike the Expert Report of James T. Bufano and to Exclude Testimony from James T. Bufano filed by attorney for Plaintiff. Copies forwarded to all parties of Record.

May 12, 2003

Motion to Strike Portions of Expert Report of Capital Project Management, Inc. filed by attorney for Plaintiff. Copies forwarded to all parties of record.

May 12, 2003

Motion to Quash Notice to Attend Directed to Lou Marsico filed by attorney for Plaintiff. Copies forwarded to all parties of record.

May 12, 2003

Motion to Quash Notice to Attend Directed to Corporate Designee of Marsico Corporation filed by attorney for Plaintiff. Copies forwarded to all parties of record.

May 12, 2003

Motion in Limine to Prohibit Testimony of Richard Fultineer filed by attorney for Defendant. Copies forwarded to all parties of record.

May 12, 2003

Acceptance of Service of Opinion and Order dated May 9, 2003, received from attorney for Defendant (Dikis). Receipt of same acknowledged by attorney for Defendant May 12, 2003.

May 12, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:30 a.m.

May 13, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:30 a.m. Hearing continued to May 14, 2003.

May 14, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:30 a.m.

May 14, 2003

Supplemental Brief in Opposition to Motion in Limine of Additional Defendant RDG Bussard Dikis, Inc., filed by attorney for Plaintiff.

Copies forwarded to all parties of record.

May 14, 2003

Supplemental Brief in Support of Motion in Limine filed by attorney for Additional Defendant (Dikis). Copies forwarded to all parties of record.

May 14, 2003

Acceptance of Service of Opinion and Order dated May 9, 2003, received from attorney for Defendant (Turner). Receipt of same acknowledged by attorney for Defendant May 12, 2003.

May 15, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:30 a.m.

May 15, 2003

Acceptance of Service of Opinion and Order dated May 9, 2003, received from attorney for Defendant (SSHE). Receipt of same acknowledged by attorney for Defendant May 13, 2003.

May 16, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:30 a.m.

May 19, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:00 a.m.

May 20, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:00 a.m.

May 21, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:00 a.m.

May 22, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:00 a.m.

May 23, 2003

Board hearing originally scheduled for this date cancelled. Case continued per Order dated May 23, 2003.

May 23, 2003

Board issued Order. Order as follows: **AND NOW**, this 23rd day of May, 2003, upon agreement of counsel for all parties, and as set forth by the Board at hearing on May 21, 2003, it is hereby **ORDERED** and **DECREED** that the above-captioned matter is set for additional hearing dates before the Board beginning Monday, June 9, 2003, and running through Tuesday, June 10, 2003, as well as Monday, August 11, 2003, and running through Thursday, August 14, 2003, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, and will commence at 9:30 a.m. @

May 29, 2003

Additional Defendant (RDG Bussard) filed Acceptance of Service of Order dated May 23, 2003. Receipt of same acknowledged by Additional Defendant May 27, 2003.

May 30, 2003

Defendant filed Acceptance of Service of Order dated May 23, 2003. Receipt of same acknowledged by Defendant May 28, 2003.

June 2, 2003

Plaintiff filed Acceptance of Service of Order dated May 23, 2003. Receipt of same acknowledged by Plaintiff May 30, 2003.

June 9, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:00 a.m.

June 10, 2003

Board hearing held in Board's Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA commencing at 9:00 a.m.

June 12, 2003

Testimony of hearing held May 12, 13, 2003 filed.

June 16, 2003

Testimony of hearing held May 14, 15, 16, and 19, 2003 filed.

June 17, 2003

Board forwarded copy of Testimony of board hearing held May 12 and 13, 2003, to Defendant.

June 19, 2003

Board forwarded copy of Testimony of board hearing held May 14, 15, 15, and 19, 2003, to Defendant.

June 19, 2003

Testimony of hearing held May 20, 21 and 22, 2003 filed.

June 23, 2003

Defendant filed Acceptance of Service of Testimony of hearing held May 12 and 13, 2003 filed.

June 24, 2003

Board forwarded copy of Testimony of board hearing held May 20, 21, and 22, 2003, to Defendant.

June 25, 2003

Defendant filed Testimony of hearing held May 14, 15, 16 and 19, 2003.

July 10, 2003

Defendant filed acceptance of Service of Testimony of hearing held May 20, 21 and 22, 2003.

July 16, 2003

Testimony of hearing held June 9 and 10, 2003 filed.

August 1, 2003

Plaintiff filed a letter confirming their videotape testimony of Tom Madigan and Eric Campbell to take place on August 6, 2003, at 1:30 p.m. Copy forwarded to all parties of record.

August 1, 2003

Additional Defendant attorney (William Clifford) filed a letter relative to teleconference on August 6, 2003, with exhibits that have been admitted into evidence. Copies forwarded to parties of record.

August 4, 2003

Video Conference scheduled for August 6, 2003, at 1:30 p.m., conference Room, Board of Revenue & Finance (Bureau of Motor Vehicles Building).

August 5, 2003

Additional Defendant RDG Bussard Dikis, Inc.'s Second Supplemental Pre-Hearing Memorandum filed by attorney for (RDG Bussard Dikis).

Copy forwarded to Plaintiff and Defendant attorney.

August 5, 2003

Additional Defendant via (fax) filed a letter and documents for use at the teleconference scheduled August 6, 2003. Copy forwarded to attorney for Plaintiff and Defendant.

August 6, 2003

Plaintiff filed Peterson Legal Fee Summary (via fax).

August 6, 2003

Testimony filed for Video Conference held in conference room. Board of Revenue and Finance (Bureau of Motor Vehicles).

August 8, 2003

Plaintiff filed(via fax) Proposed Order of Court, Motion in Limine to Preclude Introduction of Testimony Related to Untimely Demonstrative Exhibits produced by RDG Bussard Dikis, Inc and Brief in Support thereof. Motion to Strike July 31, 2003 Second Revised Expert Report of Capital Project Management, Inc., and Brief in Support. Copy forwarded to Additional Defendant.

August 8, 2003

Attorney for Additional Defendant (RDG) filed (via fax) a Motion for Compulsory Non-Suit and Brief in Support. Copy forwarded to Plaintiff and Defendant.

August 11, 2003

Additional Defendant (Bussard) filed proposed order (via U.S. Mail)a Motion for Compulsory Non-Suit and Brief in Support. Copy forwarded to Plaintiff and Defendant.

August 11, 2003

Plaintiff filed (via U.S. Mail) Motion to Strike July 31, 2003, Second Revised Expert Report of Capital Project Management, Inc. and brief in Support. Copy forwarded to Additional Defendant (Bussard).

August 11, 2003

Plaintiff filed (via U.S. Mail) Motion in Limine to Preclude Introduction of and Testimony related to Untimely Demonstrative Exhibits Produced by RDG Bussard Dikis, Inc., and Brief in Support thereof. Copy forwarded to Additional Defendant (Bussard)

August 11, 2003

Board hearing held in Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA, commencing at 9:30 p.m.

August 12, 2003

Board hearing held in Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA, commencing at 9:30 p.m. Case completed.

August 13, 2003

Board hearing held in Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA, commencing at 9:30 p.m.

August 14, 2003

Board hearing held in Court Room No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA, commencing at 9:30 p.m. Case completed.

August 27, 2003

Plaintiff filed letter advising that their response and Brief in opposition to Additional Defendant's Motion for Compulsory Non-Suit is due September 8, 2003. Plaintiff request a thirty day extension of time. The due date would be October 8, 2003. Copy forwarded to all parties of record.

September 9, 2003

Testimony of video conference held August 6, 2003, filed.

September 12, 2003

Testimony of hearing held August 11, 12, 13, and 14, 2003 filed .

September 17, 2003

Board forwarded a copy of testimony of hearing held August 6, 11, 12, 13, and 14, 2003. Plaintiff and Defendant Findings of Fact, Conclusions of Law due October 17, 2003. Additional Defendant Findings of Fact Conclusions of Law due November 17, 2003.

September 24, 2003

Defendant filed Acceptance of Service of Testimony of hearing held August 6, 11, 12, 13, and 14, 2003. Receipt of same acknowledged by attorney for Defendant August 18, 2003.

October 8, 2003

Plaintiff filed Response in Opposition to Motion of Additional Defendant RDG Bussard Dikis, Inc, for Compulsory NonSuit and Brief in Opposition to Motion of Additional Defendant RDG Bussard Dikis, Inc., for Compulsory NonSuit. Copy forwarded to Additional Defendant and Defendant.

October 17, 2003

Plaintiff's Proposed Findings of Fact and Conclusions of Law and Brief in Support filed. Copy forwarded to Additional Defendant (Dikis) and Defendant.

October 17, 2003

Defendant filed Proposed Findings of Fact and Conclusions of Law and Brief in Support. Copy forwarded to Additional Defendant and Plaintiff.

October 17, 2003

Additional Plaintiff (Pat Ionadi Corporation) filed Proposed Findings of Fact and Conclusions of Law.

October 17, 2003

Additional Plaintiff (Cost Company) filed Proposed Findings of Fact of Cost Company.

November 17, 2003

Additional Defendant (RDG, Bussard Dikis, Inc.) filed Proposed Findings of Fact and Conclusions of Law and Brief in Support. Copy forwarded to Plaintiff and Defendant.

November 17, 2003

Additional Defendant faxed corrected pages for their findings of Fact. Note: Pages 108-114.

March 11, 2004

Board issued Opinion and Order. Order as follows: **AND NOW**, this 11th day of March 2004, upon consideration of the motion for compulsory nonsuit filed by additional defendant RDG Bussard Dikis, Inc. and the opposition to the motion filed by plaintiff Marsico Corporation, **IT IS HEREBY ORDERED** that the motion is **DENIED**. Copies forwarded to all parties of record.

March 17, 2004

Acceptance of Service of Opinion and Order received from Dikis.
Receipt of same acknowledged by Dikis March 15, 2004.

March 23, 2004

Defendant filed an Acceptance of Service of Opinion and Order.
Receipt of same acknowledged by Defendant March 19, 2004.

March 31, 2004

Plaintiff filed Acceptance of Service of Opinion and Order.
Receipt of same acknowledged by Plaintiff March 15, 2004.

August 2, 2004

Board issued an Opinion and Order. Order as follows: **AND NOW,** this 2nd day of August 2004, the Board of Claims hereby finds: 1) in favor of Plaintiff, Marsico Corporation for its own account and against the Defendant, Commonwealth of Pennsylvania, State System of Higher Education in the total amount of \$129,577, comprised of the following: \$104,947 for delay damages; \$7,804 for 10% mark-up on Ionadi's labor inefficiency costs; \$2,998 for 10% mark-up on the running track repairs; \$9,144 for 10% mark-up on the temporary bracing and shoring; \$4,684 for 10% mark-up on Cost's labor inefficiency expenses; 2) In favor of Plaintiff, Marsico Corporation for the use and benefit of Pat Ionadi Corporation and against Defendant, Commonwealth of Pennsylvania, State System of Higher Education, in the total amount of \$266,737, comprised of the following: \$67,280 for delay damages; \$78,040 for labor inefficiencies; \$29,978 for running track repairs; and \$91,439 for the temporary bracing and shoring; 3) In favor of Plaintiff, Marsico Corporation, for the use and benefit of Cost Company, and against Defendant, Commonwealth of Pennsylvania, State System of Higher Education, in the total amount of \$111,515, comprised of \$64,674 for delay damages and \$46,841 for labor inefficiencies; 4) In favor of Defendant, Commonwealth of Pennsylvania, State System of Higher Education, and against Additional Defendant, RDG Bussard Dikis, Inc. In the total amount of \$470,240, comprised of the following: \$236,901 for delay damages; \$137,369 for labor inefficiencies; \$32,976 for running track repairs \$28,264 for reimbursement of amounts paid to RDG Bussard Dikis, Inc. For additional services, and \$34,730 for additional services from Turner Construction Company; 5) Interest is

awarded on each amount of damage at the statutory rate of six percent (6%) per annum from December 15, 1999, the date of substantial completion of the Project, and 6) Each party shall bear its own costs and attorneys fees. Copy forwarded to all parties of record.

August 5, 2004

Defendant (Mulle) filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by attorney for Defendant August 3, 2004.

August 6, 2004

Defendant (SSHE) filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by attorney for Defendant August 4, 2004.

August 9, 2004

Additional (Bussard) Defendant filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by attorney for Defendant August 4, 2004.

August 9, 2004

Plaintiffs filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Plaintiffs August 4, 2004.

September 3, 2004

RDG filed Petition for Review in the Nature of an Appeal of the Commonwealth of Pennsylvania Board of Claims findings of fact, conclusions of law, Opinion and Order dated August 2, 2004. Copies forwarded to all parties of records.

September 8, 2004

Commonwealth Court filed a Notice of filing Petition for Review - Agency for RDG Bussard Dikis, Inc. No. 1874 CD 2004; Docket 3438.

September 17, 2004

Plaintiff filed Cross-Petition for Review in the Nature of an Appeal from the Commonwealth of Pennsylvania Board of Claims' Findings of Fact, Conclusions of Law, Opinion and Order dated August 2, 2004. Copies forwarded to all parties of record.

September 23, 2004

Commonwealth Court filed Notice of Filing for Review.

October 4, 2004

Plaintiff (Marsico) filed Praecipe for Discontinuance. Copy forwarded to all parties of record.

October 5, 2004

Commonwealth Court filed Notice of Discontinuance of Action for Marsico only.

October 15, 2004

CERTIFICATION: This is to certify this 15th day of October, 2004, that this is a true and correct copy of the docket entries in this matter.

December 30, 2004

Commonwealth Court issued an Order. Order as follows: **NOW**, December 29, 2004, petitioner having failed to comply with the Order of Court dated December 2, 2004, the above action is dismissed as of course. Order filed by Deputy Pronothonotary/Chief Clerk.

closed