

**\*(CONSOLIDATED INTO DOCKET NO. 3464)**

**Old Docket Number: 3493**

**W.G. TOMKO INCORPORATED CONTRACTORS**

~~Clyde Rombach, Jr., Vice President~~  
~~Jason A. Copley, Esquire~~  
~~Lisa M. Wampler, Esquire~~  
~~Renee Colbert, Esquire~~

VS.

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES**

~~Gregory C. Santoro, Chief Counsel~~  
~~Jose E. Morales, Assistant Counsel~~  
~~David L. Narkiewicz, Assistant Chief Counsel~~

VS.

**\*Airport Industrial Park, d/b/a  
PEC Contracting Engineers**

~~Thomas E. Weiers, Jr., Esquire~~  
~~Richard J. Saxe, Jr., Esquire~~  
~~Samuel Reynolds, Esquire~~

**May 6, 2002**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$36,363.95+

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**May 9, 2002**

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. **ANSWER DUE FROM DEFENDANT JUNE 9, 2002.**

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**May 14, 2002**

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 10, 2002.

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**May 15, 2002**

Acceptance of Service of Claim received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 10, 2002.

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**May 16, 2002**

Preliminary Objections to Plaintiffs= Complaint as well as a Brief in Support filed Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff June 17, 2002.

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**June 14, 2002**

Amended Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**August 1, 2002**

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

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**\*August 9, 2002**

Complaint to Join Additional Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Additional Defendant September 13, 2002.

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**August 19, 2002**

Acceptance of Service of Complaint to Joint Additional Defendant filed by Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 14, 2002.

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**August 26, 2002**

Acceptance of Service of a Complaint to Join Additional Defendant dated August 13, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 22, 2002.

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**August 28, 2002**

Reply of Claimant, W.G. Tomko, Inc. to New Matter of Defendant, Commonwealth of Pennsylvania, Department of General Services filed. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**September 6, 2002**

The Board rendered an Opinion and made the following Order: **AAND NOW**, this **6th** day of September, 2002, upon consideration of the Respondent=s, Commonwealth of Pennsylvania, Department of General Services, Preliminary Objections to Claimant=s Claim filed pursuant to Pennsylvania Rule of Civil Procedure 1028(c)(1) and its Answer with New Matter, it is **ORDERED** and **DECREED** that the Preliminary Objections to the original pleading shall be deemed **MOOT**. Furthermore, Claimant is directed to file its response to the Respondent=s New Matter within thirty (30) days from the exit date of this Order.≡ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**September 12, 2002**

Letter received from attorney for Additional Defendant entering the appearance of the law firm of Fluke, Weiers PC on behalf of Additional Defendant. Copy forwarded to all parties of record.

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**September 12, 2002**

Acceptance of Service of Complaint to Join Additional Defendant filed by attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 10, 2002.

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**September 23, 2002**

Acceptance of Service of Opinion and Order dated September 6, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 18, 2002.

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**September 24, 2002**

Commonwealth of Pennsylvania, Department of General Services=  
Motion for Joint Discovery and Trial and Brief in Support (filed in  
docket number 3464) by attorney for Defendant. Copy forwarded to  
all parties of record. **Response due 10/25/02.**

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**October 15, 2002**

Answer, New Matter and Counterclaim to Complaint to Join Additional Defendant (sic - crossclaim against Tomko) filed by attorney for Additional Defendant. Copy forwarded to Plaintiff and Defendant by attorney for Additional Defendant. Response due from Plaintiff and Defendant November 15, 2002.

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**October 30, 2002**

Commonwealth=s Reply to Additional Defendant=s New Matter and Counterclaim (sic - crossclaim) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff and attorney for Additional Defendant by attorney for Defendant.

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**October 31, 2002**

Acceptance of Service of Opinion and Order dated September 6, 2002 received from attorney for Defendant(DGS). Receipt of same acknowledged by attorney for Defendant September 9, 2002.

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**November 21, 2002**

The Board rendered the following Order: **AAND NOW**, this 21st day of November, 2002, upon Motion of Respondent, Commonwealth of Pennsylvania, Department of General Services, for consolidation and no response having been received from Claimant, it is hereby **ORDERED** and **DECREED** that the matter be consolidated for discovery and trial with the following docketed matters 3464, 3466, 3469, 3483 and 3494.≡ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**November 25, 2002**

Courtesy letter which Plaintiff forwarded to Defendant confirming the two week extension of time Defendant granted Plaintiff in which to file Plaintiff=s response to Defendant=s New Matter and Counterclaim.

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**December 2, 2002**

Acceptance of Service of Order dated November 21, 2002 received from attorney for Additional Defendant. Receipt of same acknowledged by attorney for Additional Defendant November 26, 2002.

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**December 3, 2002**

Acceptance of Service of Order dated November 21, 2002 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 22, 2002.

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**December 4, 2002**

Reply of Claimant, W.G. Tomko, Inc., to New Matter and Counterclaim of Additional Defendant (sic - crossclaim), PEC Contracting Engineers filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant and Additional Defendant by attorney for Plaintiff.

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**December 9, 2002**

Acceptance of Service of Order dated December 9, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 3, 2002.

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**February 11, 2003**

(ALL) The Board rendered the following Amended Order: **AAND NOW**, this 11th day of February, 2003, the Board, sue sponte, hereby amends its Order of the 21st of November, 2002, wherein the Board consolidated for discovery and trial docketed matters 3464, 3466, 3469, 3483, 3493 and 3494. It is further **ORDERED** that all documents and/or pleadings filed herein, shall be filed and docketed to Docket Number 3464. It is so **ORDERED**.≡ Copy forwarded to all parties of record.

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**February 13, 2003**

(ALL) Defendant filed Acceptance of Service of Amended Order dated February 11, 2003. Receipt of same acknowledged by attorney for Defendant February 12, 2003.

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**February 21, 2003**

(ALL) Plaintiff (Old 3493 - Tomko) filed Acceptance of Service of Amended Order dated February 11, 2003. Receipt of same acknowledged February 19, 2003.

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**February 21, 2003**

(ALL) Plaintiff (Old 3464 & 3469 - Airport) filed Acceptance of Service of Amended Order dated February 11, 2003. Receipt of same acknowledged February 18, 2003.

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**March 3, 2003**

(ALL) Plaintiff (Old 3466 - Tri-City) filed Acceptance of Service of Amended Order dated February 11, 2003. Receipt of same acknowledged February 25, 2003.

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**March 10, 2003**

(ALL) Plaintiff (Old 3483 - Merit) filed Acceptance of Service of Amended Order dated February 11, 2003. Receipt of same acknowledged March 7, 2003.

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**April 7, 2003**

(Old 3493 - Tomko) Plaintiff filed Reply of W.G. Tomko, Inc. to Answer and New Matter to Complaint to Join Additional Defendant. Copy forwarded to ALL parties of record.

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**April 11, 2003**

(ALL) Plaintiff (Old 3464 - Airport) filed a Motion to Schedule Hearing Date. Copy forwarded to ALL parties of record.

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**April 28, 2003**

(ALL) Tomko filed Reply of W.G. Tomko, Inc. to the Motion of Airport Industrial Park, d/b/a PEC Contracting Engineers= Motion to Schedule Hearing Date. Copy forwarded to ALL parties of record.

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**May 8, 2003**

(ALL) Defendant filed Reply to Plaintiff=s Motion to Schedule a Hearing and Brief Opposing Plaintiff=s Motion to Schedule a Trial. Copy forwarded to ALL parties.

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**May 12, 2003**

(ALL) Tri-City filed a Reply to the Motion of Airport Industrial Park, d/b/a PEC Contracting Engineers= Motion to Schedule a Hearing Date. Copy forwarded to ALL parties.

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**January 14, 2004**

(ALL) Board rendered an Opinion and Order. Order as follows: **AAND NOW**, this 14th day of January, 2004, counsel for parties shall make themselves available for an organizational teleconference at 10:00 a.m. on January 30, 2004. Specific instructions with respect to the administration of the teleconference shall be provided by Board staff subsequently.≡ Copy forwarded to ALL parties of record.

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**January 22, 2004**

(ALL) Tomko filed Acceptance of Service of Opinion and Order dated January 14, 2004. Receipt of same acknowledged January 16, 2004.

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**January 26, 2004**

(ALL) Airport filed Acceptance of Service of Opinion and Order dated January 14, 2004. Receipt of same acknowledged January 20, 2004.

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**February 13, 2004**

(ALL) Board rendered a Second Amended Consolidation Order: **AAND NOW**, this 13th day of February, 2004, the Board, sua sponte, hereby amends its Order of the 21st of November, 2002, and the 11th of February, 2003, wherein the Board consolidated for discovery and trial docketed matters 3464, 3466, 3469, 3483, 3493 and 3494 under consolidated Docket Number 3464. In the interest of improving the management of this consolidated case and furthering judicial economy, the November 21, 2002 Order, and the February 11, 2003 Order, are amended as follows: The cases originally docketed at 3464, 3466, 3469, 3483, 3493, and 3494 are to remain consolidated for the purpose of discovery and decision under Docket No. 3464, Airport Industrial Park, Inc., d/b/a PEC Contracting Engineers v. Commonwealth of Pennsylvania, Department of General Services. The respective pleadings in the individual actions consolidated hereby shall remain as the respective pleadings in the consolidated action, and separate findings shall be entered with regard to each original docketed action, (hereinafter referred to as AOld Docket No.≡), provided, however, that a single, unified judgment shall be entered for the consolidated case as a whole. Additionally, for the sake of case management, a separate hearing will be held for each Old Docket No., with the exception that Old Docket Nos. 3464, 3469 and 3466 shall be consolidated for hearing. For the purpose of clarity, the parties shall observe the following conventions: 1) ALL subsequent filings shall utilize the consolidated Case Caption and Docket Number; 2) ALL subsequent filings that relate only to activities in one or more (but not ALL) of the originally separate actions shall, in addition, display in parentheses in the caption a reference to the old docket number(s) and Plaintiff=s name in the original actions(s), e.g. (Old Docket No. 3483 - Merit), or (Old Docket No. 3464 - Airport), or (Old Docket Nos. 3464, 3469, and 3466 - Airport, Airport, Tri-City), as the case may be; and 3) ALL subsequent filings that relate to activities in ALL of the originally separate cases shall, in addition, display in the



caption the parenthetical notation A(ALL)≡. Copy forwarded to ALL parties of record.

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**February 23, 2004**

(ALL) Merit filed Acceptance of Service of Second Amended Consolidation Order dated February 13, 2004. Receipt of same acknowledged February 19, 2004.

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**February 25, 2004**

(ALL) Tomko filed Acceptance of Service of Second Amended Consolidation Order dated February 13, 2004. Receipt of same acknowledged February 20, 2004.

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**March 17, 2004**

(ALL) Tri-City filed Acceptance of Service of Second Amended Consolidation Order dated February 13, 2004. Receipt of same acknowledged March 15, 2004.

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**July 19, 2004**

(Old 3493 - Tomko) Defendant filed Certificate of Service of Department's Interrogatories served on Tomko.

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**October 20, 2004**

(Old 3493 - Tomko) Plaintiff filed Certificate of Service of Plaintiff's responses to Defendant's Interrogatories and Request for Production of Documents.

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**June 17, 2005**

(Old 3493 - Tomko) Defendant filed Praecipe to enter appearance of David L. Narkiewicz, Assistant Chief Counsel, on behalf of Defendant. Copy forwarded to Plaintiff.

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**June 22, 2004**

(Old 3493 - Tomko) Plaintiff filed letter advising that Plaintiff is awaiting the scheduling of a status conference.

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**June 29, 2005**

(ALL) Board rendered an Order. Order as follows: "**AND NOW**, this 29<sup>th</sup> day of June, 2005, pursuant to the request of New Enterprise Stone & Lime, Co., Inc., one of the plaintiffs in this consolidated case, it is **ORDERED** that a status conference shall be held on July

7, 2005, at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101, commencing at 2:00 p.m. Any party may participate by teleconference provided that a party wishing so to participate contacts the Board at least seven (7) days prior to the conference and places the teleconference call as the Board directs." Copy forwarded to all parties of record.

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**July 5, 2005**

(ALL) Defendant filed Acceptance of Service of Order dated June 29, 2005. Receipt of same acknowledged June 30, 2005.

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**July 5, 2005**

(ALL) Defendant filed a letter requesting the Board to consolidate 18 cases before the Board regarding the Fayette SCI litigation.

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**July 7, 2005**

(ALL) Board held status conference at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101 commencing at 2:00 p.m.

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**July 11, 2005**

(ALL) Plaintiff (Old 3464 & 3469 - Airport) filed Petition by Airport Industrial Park, Inc., d/b/a PEC Contracting Engineers' Counsel to Withdraw Appearance and Proposed Order. Copy forwarded to all parties of record.

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**August 3, 2005**

Board forwarded letter to parties requesting comments regarding case management and scheduling.

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**August 16, 2005**

(ALL) Defendant filed letter with Defendant's comments regarding case management and scheduling.

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**November 16, 2005**

(ALL) Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 16<sup>th</sup> day of November, 2005, for the reasons stated above, the current consolidation of cases under Docket No. 3464 will stand as is, and the Board will not consolidate further the above-captioned cases either for the purpose of discovery or hearing, nor will it bifurcate hearings for the purpose of liability and

damages. We will reserve the decision on whether or not to further consolidate one or more of these cases for the purpose of judgment for the reasons stated, and may reconsider same at a later date upon motion of one or more of the parties. Finally, it is **ORDERED** and **DECREED** that the following unified discovery schedule and status conference is set for each of the above-captioned cases: Last day for plaintiffs to provide expert reports to defendant and to file same with the Board - June 30, 2006; Last day for defendant to provide its expert reports to plaintiffs and additional defendants and to file same with the Board - August 15, 2006; Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board - September 15, 2006; Completion of all depositions and other discovery - October 15, 2006; Status conference for all cases in Board of Claims' Courtroom No. 1 beginning at 1:00 p.m. - October 25, 2006." Copy forwarded to all parties of record.

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**November 21, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated November 16, 2005. Receipt of same acknowledged November 18, 2005.

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**November 28, 2005**

Plaintiff filed Acceptance of Service of Opinion and Order dated November 16, 2005. Receipt of same acknowledged November 22, 2005.

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**March 9, 2006**

(ALL) Defendant filed courtesy copy of letter addressed to all Plaintiff counsel in the Fayette County cases regarding the requests for electronic files.

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**March 15, 2006**

(ALL) Department of Treasury, Internal Revenue Service filed a Notice of Levy against Airport Industrial Park, d/b/a PEC Contracting Engineers.

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**May 2, 2006**

(ALL) Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 2<sup>nd</sup> day of May, 2006, it is **ORDERED** and **DECREED** that the following modified unified discovery schedule and status conference is set for each of the above-captioned cases: Last day for plaintiffs to provide expert reports to defendant and to file same with the Board - July 31, 2006; Last day for defendant to provide

its expert reports to plaintiffs and additional defendants and to file same with the Board - September 15, 2006; Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board - October 15, 2006; Completion of all depositions and other discovery - October 15, 2006; Status conference for all cases in Board of Claims' Courtroom No. 1 beginning at 1:00 p.m. - October 25, 2006." Copy forwarded to all parties of record.

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**May 9, 2006**

(ALL) Defendant filed Acceptance of Service of Opinion and Order dated May 2, 2006. Receipt of same acknowledged May 3, 2006.

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**July 21, 2006**

(ALL) Plaintiff filed Motion for Additional Time to Obtain, Serve and File Expert's Report. Copy forwarded to all parties of record.

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**July 21, 2006**

(ALL) Airport filed (via fax) Praecipe to Enter Appearance of Samuel F. Reynolds, Jr., Esquire, on behalf of Airport.

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**July 25, 2006**

Board rendered opinion and order. Order as follows: **"AND NOW**, this 25th day of July, 2006, it is **ORDERED** and **DECREED** that the following modified unified discovery schedule and status conference is set for each of the above-captioned cases: Last day for plaintiffs to provide expert reports to defendant and to file same with the Board October 15, 2006 Last day for defendant to provide its expert reports to plaintiffs and additional defendants and to file same with the Board December 15, 2006 Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board January 15, 2007 Completion of all depositions and other discovery January 15, 2007 Status conference for all cases in Board of Claims' Courtroom No. 1 beginning at 10:00 a.m. January 25, 2007." Copy forwarded to plaintiff and defendant.

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**July 31, 2006**

(ALL) Additional Defendant Airport filed Acceptance of Service of Opinion and Order dated July 25, 2006. Receipt of same

acknowledged July 27, 2006.

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**August 3, 2006**

Board issued Opinion and Order. Order as follows: "**AND NOW**, this 3<sup>rd</sup> day of August, 2006, the motions for reconsideration and/or severance are **DENIED.**" Copies forwarded to all parties of record.

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**August 4, 2006**

Defendant filed Acceptance of Service of Opinion and Order dated July 25, 2006. Receipt of same acknowledged July 27, 2006.

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**September 8, 2006**

Plaintiff filed praecipe for appearance entering appearance of Renee Colbert, Esquire, on behalf of Plaintiff. Copy forwarded to all parties of record.

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**October 16, 2006**

(ALL) Plaintiff filed (via fax) Expert Report of John Hays. Copy forwarded to all parties of record.

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**November 13, 2006**

Plaintiff filed status report advising that Plaintiff anticipates mediation will take place and this claim will be resolved before the end of the 2006 calendar year.

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**December 13, 2006**

(ALL) Defendant filed (via fax) letter requesting the Board stay the Fayette county matters for sixty days.

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**December 14, 2006**

(ALL) Board rendered an Order. Order as follows: "**AND NOW**, this 14th day of December, 2006, it is **ORDERED** and **DECREED** that pursuant to Defendant's letter request dated December 13, 2006, an immediate stay is entered in all captioned cases as of today for sixty days. All current case deadlines are extended sixty days and the status conference will be rescheduled. The new deadlines are as follows: Last day for defendant to provide its expert reports to plaintiffs

and additional defendants and to file same with the Board February 12, 2007; Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board March 12, 2007; Completion of all depositions and other discovery March 12, 2007." Copy forwarded to all parties of record.

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**December 18, 2006**

(ALL) Defendant filed Acceptance of Service of Order dated December 14, 2006. Receipt of same acknowledged December 15, 2006.

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**December 20, 2006**

(ALL) Defendant filed Acceptance of Service of Order dated December 14, 2006. Receipt of same acknowledged December 19, 2006.

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**February 15, 2007**

(ALL) Airport filed letter (via fax) advising that Airport joins the request of Amthor Steel for an extension of the discovery and rebuttal reports deadline.

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**February 15, 2007**

(ALL) Defendant filed letter requesting that the Board extend the discovery deadline until May 11, 2007.

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**February 16, 2007**

Board rendered Amended Order. Order as follows: **"AND NOW**, this 16<sup>th</sup> day of February, 2007, it is **ORDERED** and **DECREED** that pursuant to letter requests dated February 12, 2007, from Amthor Steel and February 15, 2007, from DGS and Airport Industrial Park, all current case deadlines are extended as outlined below. This is the last discovery extension that will be granted by this Board. The final revised deadlines are as follows: Last day for defendant to provide its expert reports to plaintiffs and additional defendants and to file same with the Board, March 12, 2007; Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board, April 30, 2007; Completion of all depositions and other discovery, May 11, 2007; Additionally, counsel for the remaining parties are to advise the Board in writing of any days or times they cannot be available for a status conference during the week of June 18-22, 2007, within 10 days of the exit date of this Order." Copy forwarded to all parties of record.

**March 12, 2007**

Board rendered Order. Order as follows: "AND NOW, this 12<sup>th</sup> day of March, 2007, it is **ORDERED** and **DECREED** that a status conference to discuss a timetable for hearings and case management issues will be held at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101 on June 20, 2007 at 1:00 p.m. Any party may participate by teleconference provided that a party wishing to do so contacts the Board for instructions at least seven days prior to the conference and places the teleconference call as the Board directs." Copy forwarded to all parties of record.

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**April 27, 2007**

(ALL) Airport filed (via fax) Emergency Motion to Allow Counsel for All Parties to Attend and Participate in Deposition of DGS's Expert, Or, Alternatively, to Quash Deposition. Copy forwarded to all parties of record.

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**April 30, 2007**

(ALL) Defendant filed (via fax) Response to Emergency Motion to Allow Counsel for All Parties to Attend and Participate in Deposition of DGS's Expert, Or, Alternatively, to Quash Deposition. Copy forwarded to all parties of record.

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**April 30, 2007**

(ALL) Defendant filed (via U.S. mail) Response to Emergency Motion to Allow Counsel for All Parties to Attend and Participate in Deposition of DGS's Expert, Or, Alternatively, to Quash Deposition. Copy forwarded to all parties of record.

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**April 30, 2007**

(ALL) Airport filed (via U.S. mail) Emergency Motion to Allow Counsel for All Parties to Attend and Participate in Deposition of DGS's Expert, Or, Alternatively, to Quash Deposition. Copy forwarded to all parties of record.

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**April 30, 2007**

(ALL) Board rendered an Order. Order as follows: "**AND NOW**, this 30<sup>th</sup> day of April, 2007, the emergency motion of Airport Industrial Park, Inc., d/b/a PEC Contracting Engineers, to allow counsel for all parties to attend and participate in deposition of DGS's expert on the morning of April 30, 2007, or alternatively, to quash deposition, is hereby **DENIED**. The motion is not properly filed and is also **MOOT**. This Order is issued without prejudice to a subsequent motion of any party seeking deposition of another's expert for cause shown pursuant to the Pennsylvania Rules of Civil Procedure." Copy forwarded to all parties of record.

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**April 30, 2007**

(ALL) Airport filed (via fax) the Rebuttal Expert Report of John Hays dated April 29, 2007. Copy forwarded to all parties of record.

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**June 21, 2007**

(Old 3493 W.G. Tomko, Inc.) Plaintiff filed Praecipe to Withdraw Appearances of Jason A. Copely, Esquire and Lisa M. Wampler and the law firm of Cohen, Seglias, Pallas, Greenhall & Furman as counsel for Plaintiff. Copy forwarded to all parties of record.

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**June 28, 2007**

(ALL) Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 28<sup>th</sup> day of June, 2007, it is hereby **ORDERED** and **DECREED** that the Remaining Cases are hereby consolidated for all purposes, including discovery, hearing and decision, under Docket No. 3464; that the parties to the Remaining Cases are directed to observe the filing conventions set forth in this opinion; that counsel for those claims identified above as pending settlement are directed to file appropriate requests to close these cases or to inform the Board of the need to join said case to this consolidated matter within 45 days of the exit date of this order; and that the Remaining Cases shall proceed according to the following schedule: 1. All discovery shall be completed by October 31, 2007<sup>2</sup>; 2. The



last day for filing pre-trial motions is November 30, 2007<sup>2</sup>; 3. Pre-trial statements of all parties shall be filed with the Board and served upon one another no later than December 31, 2007 (See BOC R.P. 501(b) and (c)); 4. A pre-trial conference will be held on January 17, 2008, at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7<sup>th</sup> Floor, Harrisburg, PA 17101; 5. Hearing dates for the consolidated case will be as follows: Part I March 3, 2008 - March 14, 2008 Part II March 24, 2008 - March 28, 2008 Part III A April 7, 2008 - April 18, 2008 Part III B April 28, 2008 - May 9, 2008 Part IV May 19, 2008 - May 23, 2008 Part V May 27, 2008 - May 30, 2008 Part VI June 9, 2008 - June 13, 2008 6. All testimony, documents, exhibits or other materials admitted into evidence during any portion of the hearings shall be considered as the evidential record for each and all of the claims remaining in this consolidated case. However, in order to maximize the efficiency of these hearings, the Board directs the parties to focus on the specific topics identified below during the following segments of the hearing: Part I PEC claims against DGS and DGS defense of same Part II Tomko claims against DGS and DGS defense of same Part III A&B DGS claims against PEC and PEC defense of same Part IV DGS claims against Penn Transportation and Penn Transportation's defense of same Part V Pro-Spec's claims against DGS and DGS defense of same Part VI Limbach's claims against DGS and DGS defense of same." Copy forwarded to all parties of record.

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**June 19, 2008**

W.G. Tomko, filed Praecipe to Discontinue all liens, complaints, counterclaims or crossclaims as to and only between W.G. Tomko, Inc. and DGS.

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**July 2, 2008**

Board rendered Praecipe Order. Order as follows: "**AND NOW**, this 2<sup>nd</sup> day of July, 2008, upon receipt of a praecipe executed by Renee Colbert, J.D., Esquire, on behalf of Plaintiff, W.G. Tomko, Inc., requesting that the Board mark its claims in the above-captioned matter settled and discontinued, docketed with this Board under date of June 30, 2008, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice regarding the claims of W.G. Tomko, Inc. against DGS only. The actions by DGS against Airport Industrial Park, Inc., d/b/a PEC Contracting Engineers and Airport Industrial Park, Inc., d/b/a PEC Contracting Engineers against W.G. Tomko, Inc. will continue in the above-captioned matter." Copy forwarded to all

parties of record.

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