

Docket Number: 3528

THE MOUNTBATTEN SURETY COMPANY, INC.

R. James Reynolds, Jr., Esquire
Marybeth Z. Gaul, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Andrew S. Gordon, Chief Counsel~~
~~Stephen S. Stokwitz, Esquire~~
Jeffrey W. Davis, Assistant Counsel

CLOSED

July 31, 2002

*Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$1,408,527.45+.

August 2, 2002

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 9/2/02.

August 8, 2002

Acceptance of Service of Claim received from Chief Deputy Attorney General dated August 2, 2002. Receipt of same acknowledged by Chief Deputy Attorney General August 5, 2002.

August 23, 2002

Letter/extension of time received from Defendant requesting fifteen (15) days extension of time in which to file a responsive pleading. **RESPONSE DUE 9-18-02.**

September 24, 2002

Preliminary Objections and Brief in Support Thereof By Defendant, Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Defendant.

September 25, 2002

Praecipe to Substitute Verification filed by attorney for Plaintiff.

October 11, 2002

*First Amended Claim filed by attorney for Plaintiff. Amount of Claim: AUnchanged=.

October 17, 2002

Copy of Amended Complaint forwarded to attorney for Defendant and Chief Deputy Attorney General. **Response due from Defendant 11/18/02.**

October 25, 2002

Acceptance of Service of Amended Statement of Claim received from Chief Deputy Attorney General dated October 17, 2002. Receipt of same acknowledged by Chief Deputy Attorney General October 18, 2002.

November 8, 2002

Letter received from attorney for Defendant advising that the parties mutually agree to a thirty day suspension of the November 18, 2002, deadline to and including December 18, 2002, in order for Defendant to file its responsive pleading in the above-referenced matter filed by attorney for Defendant.

December 18, 2002

Answer and New Matter filed by attorney for Defendant.

February 3, 2003

Reply to New Matter filed by attorney for Plaintiff.

February 4, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 4th day of February, 2003, after review of the docket in this matter, it is hereby **ORDERED** and **DECREED** that Defendant=s Preliminary Objections dated September 24, 2002, are denied as **MOOT**. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

February 6, 2003

Acceptance of Service of Opinion and Order dated February 4, 2003, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 5, 2003.

March 24, 2003

Notice of Services of The Mountbatten Surety Company, Inc.=s First Set of Interrogatories Directed to Defendant; First Request for Admissions Directed to Defendant; First Request for Production of Documents Directed to Defendant Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Plaintiff.

March 26, 2003

The Board rendered an Opinion and made the following Order: **AND NOW**, this 26th day of March, 2003, it is **ORDERED** that Plaintiff, HMS Dreadnought, Inc.=s Motion For Leave to Amend Claim and to Join the Mountbatten Surety Company, Inc., as a Plaintiff is **GRANTED**, and leave is given to HMS Dreadnought, Inc., to file an Amended Claim and to join the Mountbatten Surety Company, Inc., as a Plaintiff. Copy forwarded to attorney for Plaintiff and Defendant.

May 21, 2003

Defendant filed Notice of Service of Response to Plaintiff=s First Request for Admissions Directed to Defendant Commonwealth of Pennsylvania, Department of Transportation; Response to Plaintiff=s First Request for Production of Documents Directed to Defendant Commonwealth of Pennsylvania, Department of Transportation; and Response to Plaintiff=s First Set of Interrogatories Directed to Defendant, Commonwealth of Pennsylvania, Department of Transportation.

November 5, 2003

Board issued letter requesting a Status Report.

December 4, 2003

Plaintiff filed letter advising that they are currently in the process of reviewing Defendants documents. It is likely that additional discovery in the nature of depositions will be required.

November 3, 2004

Board issued a letter to parties directing them to file a status report.

December 1, 2004

Plaintiff filed a status letter advising that discovery is on going and this matter is not ready to be scheduled for trial. Defendant concurs with Plaintiff's letter.

January 11, 2006

Board issued letter to parties requesting a status report.

February 8, 2006

Plaintiff filed a letter advising that discovery is ongoing. Therefore, this matter is not ready for hearing.

February 15, 2007

Board issued letter to parties requesting a status report.

March 15, 2007

Plaintiff filed status report advising that ... "currently the parties are engaging in discussions with the intent to resolve this case without further litigation."

November 6, 2007

Defendant filed Praecipe for Entry of Appearance of Jeffrey W. Davis, Assistant Counsel, for the Department of Transportation.

July 18, 2008

Defendant filed Motion for Leave to file Amended Answer With New Matter, Counterclaim and Brief in Support. [06A081808D]

July 21, 2008

Board forwarded letter to Plaintiff requesting response/brief in support.

August 15, 2008

Plaintiff filed Response to Defendant's Motion for Leave to file an Amended Answer With New Matter and Counterclaim.

August 15, 2008

Plaintiff filed Brief in Support of its Response to Defendant's Motion for Leave to File an Amended Answer With New Matter and Counterclaim.

September 5, 2008

The Board rendered an Opinion and made the following Order: **AND NOW**, this 5th day of September, 2008, it is **ORDERED** and **DECREED** that the Commonwealth of Pennsylvania, Department of Transportation's Motion for Leave to File Amended Answer with New Matter and Counterclaim will be held in abeyance at this time. Mountbatten has 30 days from the exit date of this Order to file with the Board, pursuant to Pennsylvania Rule of Civil Procedure 208.4, affidavits or other evidence showing how and why it will be prejudiced by the passage of time from responding to said amendment due to, inter alia, the unavailability of specific witnesses and/or

material determination of witness recollection of pertinent facts. PennDOT shall then have 30 days subsequent to the filing of Mountbatten's materials to respond accordingly. Copy forwarded to Plaintiff and Defendant.

September 12, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated September 5, 2008. Receipt of same acknowledged by Plaintiff September 11, 2008.

October 3, 2008

Plaintiff filed response to the Board's request for additional information regarding Defendant's Motion for Leave to file Amended Answer with New Matter and Counterclaim.

October 6, 2008

Board issued letter to Defendant advising of its receipt to Plaintiff's response to Board's Order dated September 5, 2008. Defendant shall now file its response as set forth in said Order.

October 20, 2008

Plaintiff filed Notice of Service of Plaintiff's Responses to Defendant's Requests for Production of Documents.

November 3, 2008

Defendant filed Memorandum Pursuant to the Board's Order of September 5, 2008.

November 13, 2008

Plaintiff filed Notice of Service of Responses to Defendant's Interrogatories.

December 8, 2008

The Board rendered an Opinion and Order and made the following order: **AND NOW**, this 8th day of December, 2008, it is **ORDERED** and **DECREED** that the Commonwealth of Pennsylvania, Department of Transportation's motion for leave to file amended answer with new matter and counterclaim is **GRANTED**. PennDOT has 30 days from the exit date of this order to file with the Board an amended answer with new matter and counterclaim. Copy forwarded to Plaintiff and Defendant.

December 12, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated December 8, 2008. Receipt of same acknowledged by Plaintiff December 11, 2008.

December 30, 2008

Defendant filed Amended Answer and New Matter with Counterclaim.

January 16, 2009

Plaintiff filed Reply to Defendant's Amended New matter with Counterclaim with New Matter to Counterclaim.

January 21, 2009

Board forwarded letter to Defendant requesting response to Plaintiff's New Matter to Counterclaim.

February 4, 2009

Defendant filed Reply to New Matter to Counterclaim.

February 5, 2009

Board forwarded letter to parties directing parties to commence with discovery.

October 15, 2010

Plaintiff filed Praecipe to Change Address of Counsel.

April 24, 2013

Board forwarded Notice of Proposed Termination of Case for Lack of Activity Pursuant to Pa. Rule of Civil Procedure 230.2 to Plaintiff, with copy to Defendant.

May 9, 2013

Plaintiff filed Praecipe to Discontinue.

May 10, 2013

Board rendered Order. Order as follows: "**AND NOW**, this 10th day of May, 2013, upon receipt of a Praecipe executed by R. James Reynolds, Jr., Esquire, on behalf of Plaintiff, The Mountbatten Surety Company, Inc., requesting that the Board mark the above-captioned matter settled, discontinued and ended, docketed with this Board under date of May 9, 2013, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

May 17, 2013

Plaintiff filed Acceptance of Service of Order dated May 10, 2013. Receipt of same acknowledged May 13, 2013.
