

Docket Number: 3534

CARMEN PALIOTTA CONTRACTING, INC.

Kevin L. Barley, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Andrew S. Gordon, Chief Counsel~~
Gerald R. Schultz, Assistant Counsel

August 14, 2002

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$340,000.00

August 22, 2002

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. **ANSWER DUE FROM DEFENDANT SEPTEMBER 23, 2002.**

August 29, 2002

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 22, 2002.

September 25, 2002

Defendant's Preliminary Objections as well as Brief in Support filed. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff November 4, 2002.

October 31, 2002

Plaintiff's Response in Opposition to Defendant's Preliminary Objections and Brief in Support filed. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 14, 2002

The Board rendered an Opinion and made the following Order: **AND NOW**, this 14th day of November, 2002, after review of the Briefs and Pleadings, it is hereby **ORDERED** and **DECREED** that the Preliminary Objections of the Defendant, Commonwealth of Pennsylvania, Department of Transportation, to the Complaint of the Plaintiff, Carmen Paliotta Contracting, Inc., are **DENIED** and **DISMISSED**. Defendant, Commonwealth of Pennsylvania, Department of Transportation, shall file an Answer within thirty (30) days of the exit date of this Order.@ Copy forwarded to attorney for Plaintiff and attorney for Defendant.

January 10, 2003

Defendant's Answer and New Matter filed. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff February 13, 2003.

February 14, 2003

Plaintiff filed Reply to New Matter. Copy forwarded to Defendant.

February 21, 2003

Board forwarded letter directing parties to commence with discovery.

October 27, 2003

Plaintiff filed letter-type status report via facsimile advising that the parties are conducting discovery. Plaintiff further advises that Defendant has reviewed and joins in this status report. Copy forwarded to Defendant.

October 29, 2003

Plaintiff filed letter-type status report via U.S. Mail advising that the parties are conducting discovery. Plaintiff further advises that Defendant has reviewed and joins in this status report. Copy forwarded to Defendant.

November 5, 2003

Defendant filed letter-type certificate of service of Department's First Request for the Production of Documents unto Plaintiff.

November 12, 2003

Defendant filed Answers to First Set of Interrogatories and Interrogatories directed to Plaintiff (First Set).

November 18, 2003

Defendant's Petition for Extension of time to Join Additional Defendant and Brief in Support. Copy forwarded to Plaintiff.

December 10, 2003

Defendant filed Amended First Request for the Production of Documents.

December 18, 2003

Plaintiff's Response to Petition for Extension of Time to Join Additional Defendant as well as Brief in Support filed via facsimile. Copy forwarded to Defendant.

December 19, 2003

Plaintiff's Response to Petition for Extension of Time to Join Additional Defendant as well as Brief in Support filed via U.S. Mail. Copy forwarded to Defendant.

January 28, 2004

Board rendered Opinion and Order. Order as follows: **AND NOW**, this 28th day of January, 2004, it is **ORDERED** and **DECREED** that Defendant's Petition for Extension of Time to Join Additional Defendant is **DENIED**.@ Copy forwarded to Plaintiff and Defendant.

February 26, 2004

Plaintiff filed Subpoena to Produce Documents and Things For Discovery Pursuant to Rule 4009.22.

March 29, 2004

Plaintiff filed Certificate Prerequisite to Service of Subpoena Pursuant to Rule 4009.22.

May 28, 2004

Defendant filed Prerequisite to Service of Subpoena pursuant to Rule 4009.22.

August 16, 2004

Plaintiff filed letter advising that the parties are nearing completion of discovery and request the Board to issue a pre-hearing order and schedule this matter for hearing.

August 24, 2004

Board rendered the following Scheduling Order. Order as follows: **AND NOW**, this 24th day of August, 2004, it is hereby **ORDERED** and **DECREED** as follows: 1. All depositions and discovery shall be completed by November 1, 2004, Pre-Trial Statements of both parties shall be filed with the Board and served upon one another no later than November 8, 2004; A Pre-

Trial Conference is scheduled for Monday, November 15, 2004 at 10:00 am. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; The last day for filing Pre-Trial Motions is November 19, 2004; and This matter is set for hearing before the Board beginning on Tuesday, January 11, 2005 through Friday, January 14, 2005 and Tuesday, January 18, 2005 through Friday, January 21, 2005, as necessary. Said hearing shall be held at 200

August 24, 2004 (Continued)

North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101 commencing at 9:30 am." Copy forwarded to Plaintiff and Defendant.

November 5, 2004

Plaintiff filed letter requesting an extension until November 10, 2004 in which to file Plaintiff's Expert Reports.

November 8, 2004

Defendant filed Pre-Hearing Memorandum. Copy forwarded to Plaintiff.

November 9, 2004

Plaintiff filed Pre-Hearing Memorandum. Copy forwarded to Defendant.

November 10, 2004

Plaintiff filed Attachment to original Pre-Hearing Memorandum filed on November 9, 2004.

November 19, 2004

Defendant filed letter advising he forwarded a photocopy of the District 11-0 documents to Plaintiff.

November 22, 2004

Defendant filed Statement Regarding the Statement of the Facts and Opinions to which Defendant Experts are to Testify and Summary of Grounds for Opinions. Copy forwarded to Plaintiff.

December 6, 2004

Plaintiff filed Stipulation of the Facts executed by Plaintiff and Defendant.

January 7, 2005

Plaintiff filed Motion to Amend Complaint. Copy forwarded to Defendant.

January 10, 2005

Defendant filed Response in Opposition to Plaintiff's Motion for Leave to Amend Complaint. Copy forwarded to Plaintiff.

January 11, 2005

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA.

January 12, 2005

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA. CASE COMPLETED.

February 7, 2005

Testimony of hearing held January 11 & 12, 2005.

February 8, 2005

Board forwarded copy of testimony of hearing held January 11 & 12, 2005 to Defendant.

March 25, 2005

Plaintiff filed Findings of Fact, Conclusions of Law and Brief. Copy forwarded to Defendant.

March 25, 2005

Defendant filed Findings of Fact, Conclusions of Law and Brief. Copy forwarded to Plaintiff.

August 3, 2005

Board rendered the following Order: **"AND NOW**, this 3rd day of August, 2005, **IT IS ORDERED** and **DECREED** that judgment be entered in favor of Plaintiff, Carmen Paliotta Contracting, Inc., and against Defendant, Commonwealth of Pennsylvania, Department of Transportation, in the sum of Three Hundred Thirty-Two Thousand Five Hundred and Twenty-Seven Dollars (\$332,527), composed of \$140,000 for liquidated damage rebate; \$137,894 for extra costs and \$54,633 in pre-judgment interest. Additionally, Plaintiff is awarded post-judgment interest on the total judgment award at the rate of six percent (6%) per year until paid in full. **IT IS FURTHER ORDERED** that each party will bear its own costs and attorneys' fees." Copy forwarded to Plaintiff and Defendant.

August 12, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated August 3, 2005. Receipt of same acknowledged by Plaintiff August 9, 2005.