

Docket Number: 3552  
CONSOLIDATED WITH 3674, 3670, 3683, 3669, 3676, 3617, 3675

**C&M CONTRACTING, INC.**

~~William D. Clifford, Esquire~~  
Roy S. Cohen, Esquire  
John A. Greenhall, Esquire  
Douglas E. Burry, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES**

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

**\* October 2, 2002**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$606,553.20+

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**October 4, 2002**

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT NOVEMBER 4, 2002.

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**October 10, 2002**

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General October 7, 2002.

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**October 18, 2002**

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 11, 2002.

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**November 5, 2002**

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

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**December 4, 2002**

Reply to New Matter filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**February 26, 2003**

Praecipe to Withdraw Appearance of Jose E. Morales, Assistant Counsel as well as to Enter Appearance of Stephen J. Busterna, Assistant Counsel, on behalf of Defendant, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**April 24, 2003**

Notice of Service of Plaintiff's First Request for Production of Documents Directed to Defendant filed by Plaintiff.

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**June 6, 2003**

Defendant filed Notice of Service of Defendant=s Response to Plaintiff=s Request for Production of Documents.

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**\* December 10, 2003**

Plaintiff filed Consent to File Amended Complaint, executed by both parties, Amended Claim and proof of mailing. Amount of Claim: \$2,146,682.11+.

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**December 18, 2003**

Board issued Acknowledgment letter and forwarded copy of Amended Claim to Attorney General.

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**December 19, 2003**

Defendant filed Notices of Intent to Serve Subpoenas.

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**December 26, 2003**

Attorney General filed Acknowledgement Form of Amended Complaint. Receipt of same acknowledged December 22, 2003.

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**January 7, 2004**

Defendant filed Answer to Amended Complaint with New Matter and Counterclaim. Copy forwarded to Plaintiff.

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**January 29, 2004**

Defendant filed Praecipe to Withdraw Appearance of Stephen J. Busterna, Assistant Counsel and Praecipe to Enter Appearance of David L. Narkiewicz, Deputy General Counsel, on behalf of Defendant. Copy forwarded to Plaintiff.

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**February 5, 2004**

Plaintiff filed Praecipe to Withdraw Appearance of William D. Clifford, Esquire, as well as Entry of Appearance of Roy S. Cohen, Esquire and John A. Greenhall, Esquire, on behalf of Plaintiff. Copy forwarded to Defendant.

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**February 19, 2004**

Plaintiff filed Praecipe for Entry of Appearance of Roy S. Cohen, Esquire, John A. Greenhall, Esquire and Douglas E. Burry, Esquire on behalf of Plaintiff. Copy forwarded to Defendant.

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**February 23, 2004**

Plaintiff filed a Motion for an Expedited Review, Brief in Support of Motion for an Expedited Review and Proposed Order. Copy forwarded to Defendant.`

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**March 2, 2004**

Plaintiff filed Reply to New Matter and Counterclaim as well as New Matter to Counterclaim. Copy forwarded to Defendant.

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**March 15, 2004**

Defendant filed Motion to Disqualify the Law Firm of Cohen, Seglias, Pallas, Greenhall & Furman, PC As Counsel for claimants C&M Contracting, Inc., Kirby Electric, Inc., Lighthouse Electric, Co., Inc., W.G. Tomko, Inc. And Oldcastle Precast Modular Group and Memorandum in Support thereof. Copy forwarded to Plaintiff.

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**March 22, 2004**

Defendant filed Reply to Motion for an Expedited Review as well as Brief Opposing Claimant=s Motion for Expedited Review. Copy forwarded to Plaintiff.

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**March 22, 2004**

Plaintiff filed Opposition to the Defendants= Request for Stay of Proceedings. Copy forwarded to Defendant.

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**March 22, 2004**

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

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**March 23, 2004**

Board issued Opinion and Order. Order as follows: **AAND NOW**, this 23rd day of March, 2004, it is hereby **ORDERED** and **DECREED** that Defendant=s Request for an immediate Stay of Proceedings is **DENIED**.≡ Copy forwarded to Plaintiff and Defendant by facsimile and U.S. Mail.

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**March 30, 2004**

Defendant filed Acceptance of Service of Opinion and Order dated March 23, 2004,. Receipt of same acknowledged March 24, 2004.

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**April 9, 2004**

Plaintiff filed Motion to Compel Production of Documents and Proposed Order. Copy forwarded to Defendant.

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**April 15, 2004**

Board rendered Opinion and Order. Order as follows: **AAND NOW**, this 15th day of April, 2004, a status conference shall be held at 1:00 p.m. on Wednesday, May 5, 2004, at 200 North Third Street, 7th Floor, Harrisburg, Pennsylvania. Plaintiff=s Motion for Expedited Review at docket numbers 3552, 3670, 3674 and 3683 will be addressed at that time.≡ Copy forwarded to Plaintiff and Defendant.

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**April 19, 2004**

Plaintiff filed Response to Defendant=s Motion to Disqualify and Brief. Copy forwarded to Defendant.

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**April 27, 2004**

Defendant filed Acceptance of Service of Opinion and Order dated April 15, 2004. Receipt of same acknowledged April 26, 2004.

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**May 10, 2004**

Defendant filed Motion for Consolidation and Brief in Support. Copy forwarded to Plaintiff.

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**May 10, 2004**

Defendant filed Motion for Severance (Bifurcation) of Liability and Damages. Copy forwarded to Plaintiff.

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**May 12, 2004**

Board rendered the following Opinion and Order. Order as follows: APlaintiff=s Motion for Expedited Review is **GRANTED**. The parties shall adhere strictly to the following schedule: **AND NOW**, this 12th day of May, 2004, it is hereby **ORDERED** and **DECREED** as follows: 1. All document production shall be completed by July 20, 2004; 2. All expert reports intended for presentation at hearing shall be provided to the opposing party by September 15, 2004; All depositions shall be completed by November 30, 2004; 4. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than December 30, 2004; 5. A pre-trial conference is scheduled for Monday, January 10, 2005, at 10:00 a.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 6. The last day for filing pre-trial motions is Monday, January 17, 2005; and 7. This matter is set for hearing beginning on Monday, March 28, 2005, and running through Friday, April 1, 2005, as necessary. Said hearing

shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m." Copy forwarded to Plaintiff and Defendant.

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**May 14, 2004**

Board rendered the following Opinion and Order. Order as follows: **AAND NOW**, this 14th day of May, 2004, upon consideration of Plaintiff=s Motion to Compel Discovery directed to Defendant, it is hereby **ORDERED** and **DECREED** that said Motion is **GRANTED**. Defendant shall produce all documents in response to Plaintiff=s Request for Production of Documents within thirty (30) days of the exit date of this Order.≡ Copy forwarded to Plaintiff and Defendant.

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**June 4, 2004**

Plaintiff filed letter sent to Defendant outlining the remaining discovery which needs completed.

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**June 11, 2004**

Plaintiff filed Response to Defendant=s Motion for Severance (Bifurcation) and Brief in Support. Copy forwarded to Defendant.

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**June 11, 2004**

Plaintiff filed Response to Defendant=s Motion for Consolidation. Copy forwarded to Defendant.

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**June 23, 2004**

Board rendered Opinion and Order. Order as follows: **AAND NOW**, this 23rd day of June, 2004, it is **DIRECTED** that claimant=s attorney provide to claimant the following items for review: 1) Respondent=s Brief in Support of its Motion to Disqualify, and 2) this Opinion and Order. Claimant=s attorney is also **DIRECTED** to discuss with claimant potential conflicts that may arise in the context of settlement possibilities, including the possibility that settlement offers may be made to claimant or other claimants represented by claimant=s attorney in exchange for acts or omissions that may be advantageous to one and adverse to another. Such discussion should include identification of possible settlement scenarios, their ramifications and possible resolutions. Should claimant still wish to waive the conflicts in this matter following such additional disclosure, it shall file with this Board, within twenty (20) days of the exit day of this Order, an affidavit and waiver similar to the one initially filed, supplemented with confirmation that claimant has read the materials ordered to be provided to it and

engaged in the additional discussion required by this Order. Upon receipt of same, or the expiration of the twenty (20) day period, this Board will then issue its decision on Respondent=s motion to disqualify. Copy forwarded to Plaintiff and Defendant.

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**June 28, 2004**

Board rendered Opinion and Order. Order as follows: **AAND NOW**, this 28th day of June, 2004, in the interests of case management and judicial economy, the cases originally docketed at 3552, 3617, 3675, 3683, 3674, 3669, 3670 and 3676 shall be consolidated for the purposes of discovery and decision under docket number 3552, C & M Contracting vs. 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 shall be held for each old docket number. For the purposes of clarity, the parties shall observe the following conventions: 1) All subsequent filing 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 action(s), e.g. (Old Docket No. 3617 B Old Castle), or (Old Docket No. 3676 B Tomko), 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)=. Defendant=s Motion for Severance of Liability and Damages in docket number 3552, 3573, 3679, 3638, 3617, 3675, 3683, 3674, 3669, 3670 and 3676 is hereby **DENIED**. The eight (8) consolidated cases shall proceed on an expedited basis pursuant to the following schedule: 1. All document production shall be completed by July 30, 2004; 2. All expert reports intended for presentation at hearing shall be provided to the opposing party by September 15, 2004; 3. All depositions shall be completed by November 30, 2004; 4. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than December 30, 2004; 5. A pre-trial conference is scheduled for Monday, January 10, 2004, at 10:00 a.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 6. The last day for filing pre-trial motions is Monday, January 17, 2005; 7. Hearings:

**June 28, 2004 (continued page two)**

Lighthouse Electric Company, Inc. (Old docket No. 3670), is set for hearing beginning on Monday, March 7 through Friday, March 18, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; Kirby Electric, Inc. (Old docket No. 3674), is set for hearing beginning on Monday, March 21 through Friday, March 25, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; C&M Contracting (Old docket No. 3552), is set for hearing beginning on Monday, March 28 through Friday, April 2, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; W.G. Tomko, Incorporated (Old docket No. 3683), is set for hearing beginning on Monday, April 4 through Friday, April 8, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; W.G. Tomko, Incorporated (Old docket No. 3669), is set for hearing beginning on Monday, April 11 through Friday, April 15, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; W.G. Tomko, Incorporated (Old docket No. 3676), is set for hearing beginning on Monday, April 18 through Friday, April 22, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; Oldcastle Precast Modular Group (Old docket No. 3617), is set for hearing beginning on Monday, April 25 through Friday, April 29, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; W.G. Tomko, Incorporated (Old docket No. 3675), is set for hearing beginning on Monday, May 2 through Friday, May 6, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101, commencing at 9:30 a.m. Docket numbers 3679 - Miller, 3673 - Pro Spec, and 3638 - Tomko, shall proceed as individual, separate cases and Defendant=s Motion to Consolidate with respect to these cases, is hereby **DENIED**. Defendant=s Motion for Severance in these cases is also hereby **DENIED**.≡ Copy forwarded to Plaintiff and Defendant.

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**June 28, 2004**

Plaintiff filed Acceptance of Service of Opinion and Order dated June 23, 2004. Receipt of same acknowledged by Plaintiff June 24, 2004.

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**June 28, 2004**

Defendant filed Acceptance of Service of Opinion and Order dated June 23, 2004. Receipt of same acknowledged by Defendant June 28, 2004.

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**July 13, 2004**

(OLD DOCKET NOS. 3683, 3669, 3676) Plaintiff filed waivers signed by their client with regard to potential conflicts that could arise in the context of settlement in accordance with Board=s Order of June 23, 2004.

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**July 21, 2004**

(OLD DOCKET NOS. 3552, 3617, 3683, 3674, 3669, 3670, 3676) Board rendered Opinion and Order. Order as follows: **AAND NOW**, this 21st day of July, 2004, Defendant=s Motion of March 15, 2004, to Disqualify the law firm of Cohen, Seglias, Greenhall and Furman as counsel for Plaintiffs C&M Contracting, Inc. (Consolidated Docket No. 3552), Kirby Electric, Inc. (Old Docket No. 3674), Lighthouse Electric Company, Inc. (Old Docket No. 3670), W.G. Tomko, Inc. (Old Docket Nos. 3676, 3669, 3683) and Oldcastle Precast Modular Group (Old Docket No. 3617) is hereby **DENIED.**≡ Copy forwarded to Plaintiff and Defendant.

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**July 28, 2004**

(OLD DOCKET NO. 3670) Plaintiff filed Certificate Prerequisite to Service of Subpoena.

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**August 16, 2004**

(OLD DOCKET NOS. 3552, 3617, 3683, 3669, 3670, 3676) Plaintiff filed Notice of Service of three (3) subpoenas. Copy forwarded to Defendant.

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**September 2, 2004**

(ALL) Defendant filed letter requesting an extension of time until October 30, 2004, for all parties, in which to file expert reports. Copy forwarded to all parties.

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**September 8, 2004**

(ALL) Plaintiff filed letter, via facsimile, objecting to Defendant's letter/request for an extension of time until October 30, 2004 for all parties to file their expert reports. Copy forwarded to all parties.

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**September 10, 2004**

(ALL) Board rendered the following Opinion and Amended Scheduling Order. Order as follows: "AND NOW, this 10<sup>th</sup> day of September, 2004, it is **ORDERED** and **DECREED** that numbered paragraph 2 of the Scheduling Order entered by the Board on June 28, 2004, in this matter shall be amended as follows: the date of September 15, 2004, shall be deleted and October 1, 2004, inserted in its place." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**September 22, 2004**

(OLD DOCKET NO. 3675) Plaintiff filed Acceptance of Service of Opinion and Order dated September 10, 2004. Receipt of same acknowledged by Plaintiff September 17, 2004.

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**October 8, 2004**

(OLD DOCKET NO. 3675) Plaintiff filed Motion in Limine/Motion to Strike. Copy forwarded to Defendant.

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**October 20, 2004**

(OLD DOCKET NO. 3493) Plaintiff filed Certificate of Service of Plaintiff's responses to Defendant's Interrogatories and Request for Production of Documents.

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**November 22, 2004**

(OLD DOCKET NO. 3675) Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 22nd day of November, 2004, upon Plaintiff's Motion In Limine/Motion to Strike, it is **ORDERED** and **DECREED** that Defendant shall submit any expert reports to Plaintiff within ten (10) days of the exit date of this Order or subject itself to appropriate sanctions upon further application to the Board.

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**December 20, 2004**

(OLD DOCKET NOS. 3552, 3617, 3683, 3669, 3670, 3676) Plaintiff filed Motion to Compel Discovery and Brief in Support. Copy forwarded to all parties of record.

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**December 30, 2004**

(OLD DOCKET NO. 3669)Plaintiff filed Pre-trial statement. Copy forwarded to Defendant.

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**December 30, 2004**

(OLD DOCKET NO. 3683)Plaintiff filed Pre-trial statement. Copy forwarded to Defendant.

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**December 30, 2004**

(OLD DOCKET NO. 3675)Plaintiff filed Pre-trial statement. Copy forwarded to Defendant.

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**December 30, 2004**

(OLD DOCKET NO. 3552)Plaintiff filed Pre-trial statement. Copy forwarded to Defendant.

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**December 30, 2004**

(OLD DOCKET NO. 3670)Plaintiff filed Pre-trial statement. Copy forwarded to Defendant.

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**December 30, 2004**

(OLD DOCKET NO. 3617)Plaintiff filed Pre-trial statement. Copy forwarded to Defendant.

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**December 30, 2004**

(ALL) Defendant filed Pre-trial statement. Copy forwarded to Plaintiff.

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**January 5, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed letter advising that Charles W. Robinson, Esquire is taking over the matter in Docket No. 3674 and no Cohen, Seglias, Pallas, Greenhall & Furman, P.C.

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**January 5, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Discovery Agreement executed by Plaintiff and Defendant.

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**January 6, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed via facsimile Pre-Hearing Memorandum of Claimant Kirby Electric.

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**January 7, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed via U.S. Mail Pre-Hearing Memorandum of Claimant Kirby Electric.

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**January 7, 2005**

(OLD DOCKET NOS. 3670, 3552, 3683, 3669, 3676, 3617) Plaintiff's filed letter-type Motion for Sanctions. Copy forwarded to Defendant.

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**January 10, 2005**

OLD DOCKET NO. 3674) Plaintiff filed Supplement Pre-Hearing Memorandum of Claimant Kirby Electric including pass through claim of W.G. Tomko.

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**January 11, 2005**

(ALL) Board issued Opinion and Order. Order as follows: "AND NOW, this 11<sup>th</sup> day of January, 2005, it is hereby ORDERED and DECREED that the Scheduling Order previously issued in this matter shall be amended and additional matters addressed as follows: 1. All outstanding discovery shall be completed and delivered to the

respective parties by January 20, 2005; 2. All depositions of Merle Ryan and any newly discovered witnesses shall be held and completed by January 28, 2005; 3. Amended pre-trial statements, if necessary, shall be filed with the Board by February 4, 2005. Amendments to pre-trial statements previously submitted should include all matters discussed and agreed to by counsel for the parties at the pre-trial conference, including final expert reports and specific identification of witnesses and exhibits; 4. The last day for filing pre-trial motions with the Board shall be February 9, 2005; 5. The last day to respond to pre-trial motions shall be February 16, 2005; 6. Joint stipulations of the parties shall be filed at least seven (7) days prior to the beginning of the respective hearing; 7. Notwithstanding the above, the expert reports in the Kirby case (Old Docket No. 3674) shall be exchanged and filed with the Board by February 15, 2005; 8. Defendant is hereby ordered to produce any and all minutes or notes of Messrs. Oberlander, Corbit, Raymond, Ryan and Wood, taken or possessed by any of them regarding the monthly meetings with Mr. Ryan, or in the alternative, produce a sworn statement confirming that none were ever taken or explaining why such minutes/notes no longer exist by January 20, 2005; 9. Each Plaintiff represented by the Cohen law firm shall produce the handwritten logs of its project foremen for this project and any and all photos of the project that exist beyond those previously produced or, in the alternative, produce a sworn statement from each of the foremen that no such logs ever existed, or explaining why such logs no longer exist and a similar sworn statement regarding (photos by January 20, 2005; 10. Plaintiffs shall produce to Defendant, in addition to Plaintiffs' expert reports, the original material that formed the basis for the report and the interim calculations leading to the final report by January 20, 2005; and 11. Defendant shall produce to the Board for in camera inspection the originals and proposed redacted versions of Derek Oberlander's notes from the claim hearings in which he participated and his written responses to Plaintiffs' claims by Friday, January 14, 2005. It is so ORDERED." Copy forwarded to all parties via facsimile and U.S. Mail.

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**January 16, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed status letter requesting a meeting to discuss cases.

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**January 19, 2005**

(ALL) Defendant filed in-camera originals.

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**January 20, 2005**

(ALL) Defendant filed verification.

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**January 22, 2005**

(OLD DOCKET NOS. 3670, 3683, 3669, 3676, 3617, 3552) Plaintiff filed letter advising that they do not feel a meeting should be held to discuss the cases.

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**January 24, 2005**

(ALL) Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 24th day of January, 2005, Defendant having produced to the Board for in camera inspection, originals and copies of Derek Oberlander's notes according to paragraph 11 of the Order of the Board dated January 11, 2005, it is **ORDERED** and **DECREED** that Defendant forward all such documentation to Plaintiff except as determined by this Opinion to be privileged on or before January 26, 2005." Copy forwarded to Plaintiff and Defendant.

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**January 26, 2005**

(OLD DOCKET NO. 3675) Plaintiff filed Amended Pre-Trial Memorandum.

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**January 31, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Acceptance of Service of Opinion and Order dated January 24, 2005. Receipt of same acknowledged by Plaintiff January 27, 2005.

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**January 31, 2005**

(OLD DOCKET NO. 3670) Plaintiff filed Affidavit of Ronald A. Hertzler.

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**January 31, 2005**

(OLD DOCKET NOS. 3670, 3552, 3683, 3676, 3669, 3617) Plaintiff filed Affidavits of Paul G. Walker, Jr., Esquire and John J. Fleming.

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**February 1, 2005**

(ALL) Board rendered the following Amended Scheduling Order: **"AND NOW**, this 1<sup>st</sup> day of February, 2005, the Board's Scheduling Order of June 28, 2004, is hereby modified in part as follows: Kirby Electric, Inc., (Old docket No. 3674), is set for hearing beginning on Monday, March 28 through Friday, April 1, 2005, as necessary. Said hearing shall be held at 200 North third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; C&M Contracting, (Old docket No. 3552), is set for hearing beginning on Monday, April 4 through Friday, April 8, 2005, as necessary. Said hearing shall be held at 200 North third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; W.G. Tomko, Inc., (Old docket No. 3683), is set for hearing beginning on Monday, April 11 through Friday, April 15, 2005, as necessary. Said hearing shall be held at 200 North third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; W.G. Tomko, Inc., (Old docket No. 3669), is set for hearing beginning on Monday, April 18 through Friday, April 22, 2005, as necessary. Said hearing shall be held at 200 North third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; W.G. Tomko, Inc., (Old docket No. 3676), is set for hearing beginning on Monday, April 25 through Friday, April 29, 2005, as necessary. Said hearing shall be held at 200 North third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; Oldcastle Precast Modular Group, (Old docket No. 3617), is set for hearing beginning on Monday, May 2 through Friday, May 6, 2005, as necessary. Said hearing shall be held at 200 North third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m.; and McGregor Industries, Inc., (Old docket No. 3675), is set for hearing beginning on Monday, May 9 through Friday, May 13, 2005, as necessary. Said hearing shall be held at 200 North third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m." Copy forwarded to all parties of record.

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**February 2, 2005**

(OLD DOCKET NO. 3617) Plaintiff filed Affidavit of Daniel Nyce.

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**February 4, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Revised Pre-Hearing Memorandum. Copy forwarded to Defendant.

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**February 4, 2005**

(OLD DOCKET NO. 3683) Plaintiff filed Revised Pre-Trial Memorandum.

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**February 4, 2005**

(OLD DOCKET NO. 3552) Plaintiff filed Revised Pre-Trial Memorandum.

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**February 4, 2005**

(OLD DOCKET NO. 3617) Plaintiff filed Revised Pre-Trial Memorandum.

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**February 4, 2005**

(ALL) Defendant filed Amended Consolidated Pre-Trial Statement.

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**February 4, 2005**

(OLD DOCKET NO. 3669) Plaintiff filed Revised Pre-Trial Memorandum.

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**February 4, 2005**

(OLD DOCKET NO. 3670) Plaintiff filed Revised Pre-Trial Memorandum.

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**February 9, 2005**

(OLD DOCKET NO. 3670) Plaintiff filed Motion in Limine to Preclude the Introduction of Expert Testimony Regarding Defendant's Counterclaim and the Expert Opinion of McDonough Bolyard Peck as well as Plaintiff's Motion for Summary Judgment on Defendant's Counterclaim, Memorandum of Law in Support of Plaintiff's Motion In Limine and Motion for Summary Judgement on Defendant's Counterclaim, and Proposed Order. Copy forwarded to all parties.

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**February 9, 2005**

(OLD DOCKET NO. 3617) Plaintiff filed Motion in Limine to Preclude the Expert Opinion of McDonough Bolyard Peck, Memorandum in Support of Motion in Limine, as well as Proposed Order. Copy forwarded to all parties.

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**February 9, 2005**

(OLD DOCKET NO. 3552) Plaintiff filed Motion in Limine to Preclude the Introduction of Expert Testimony Regarding Defendant's Counterclaim and the Expert Opinion of McDonough Bolyard Peck as well as Plaintiff's Motion for Summary Judgment on Counts II and III of Defendant's Counterclaim, Memorandum of Law in Support thereof, and Proposed Order. Copy forwarded to all parties.

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**February 9, 2005**

(OLD DOCKET NO. 3683) Plaintiff filed Motions in Limine to Preclude the Introduction of Expert Testimony Regarding Defendant's Counterclaim and the Expert Opinion of McDonough Bolyard Peck, Memorandum of Law in Support thereof, and Proposed Order. Copy forwarded to all parties.

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**February 9, 2005**

(OLD DOCKET NO. 3669) Plaintiff filed Motions in Limine to Preclude the Introduction of Expert Testimony Regarding Defendant's Counterclaim and the Expert Opinion of McDounough Bolyard Peck, Memorandum in Support thereof, and Proposed Order. Copy forwarded to all parties.

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**February 10, 2005**

(ALL) Defendant filed Petition for Interpleader, Memorandum of Law in Support of Petition and Proposed Order. Copy forwarded to all parties.

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**February 10, 2005**

(ALL) Defendant filed Motion to Exclude Claims and Proposed Order. Copy forwarded to all parties.

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**February 10, 2005**

(ALL) Defendant filed Motion for Partial Summary Judgment on Damages, Brief in Support of Motion and Proposed Order. Copy forwarded to all parties.

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**February 10, 2005**

(OLD DOCKET NO. 3675) Plaintiff filed Exhibit B to be attached to Plaintiff's Amended Pre-Trial Memorandum.

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**February 14, 2005**

(ALL) Verifications of Derek Oberlander, Richard Corbett and Robert Raymond, relative to minutes or notes taken or possessed with regard to monthly meetings with Mr. Ryan, filed by Defendant.

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**February 15, 2005**

(OLD DOCKET NO. 3674) Defendant filed Expert Witness Reports in Kirby case.

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**February 16, 2005**

(OLD DOCKET NO. 3674) Duggan & Rhodes Expert Report by facsimile.

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**February 16, 2005**

(OLD DOCKET NO. 3674) Duggan & Rhodes Expert Report by U.S. Mail.

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**February 16, 2005**

(OLD DOCKET NO. 3552) Defendant, Department of General Services of the Commonwealth of Pennsylvania's, Answer to Plaintiff, C&M Contracting, Inc.'s Motions in Limine and for Summary Judgment on Defendant's Counterclaim II and III.

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**February 16, 2005**

(OLD DOCKET NO. 3683) Defendant, Department of General Services of the Commonwealth of Pennsylvania's, Answer to Plaintiff, W.G. Tomko, Inc.'s Motions in Limine.

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**February 16, 2005**

(OLD DOCKET NO. 3617) Defendant, Department of General Services of the Commonwealth of Pennsylvania's, Answer to Plaintiff, Oldcastle Modular Precast Group's, Motions in Limine.

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**February 16, 2005**

(OLD DOCKET NO. 3670) Defendant, Department of General Services of the Commonwealth of Pennsylvania's, Answer to Plaintiff, Lighthouse Electric Company, Inc.'s, Motions in Limine and for Summary Judgment on Defendant's Counterclaim.

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**February 16, 2005**

(OLD DOCKET NO. 3669) Defendant, Department of General Services of the Commonwealth of Pennsylvania's, Answer to Plaintiff, W.G. Tomko, Inc.'s, Motions in Limine and for Summary Judgment on Defendant's Counterclaim II.

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**February 16, 2005**

(OLD DOCKET NOS. 3617, 3669, 3670, 3676, 3683) Claimants' Response to Defendant's Petition for Interpleader.

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**February 16, 2005**

(OLD DOCKET NOS. 3670, 3552, 3683, 3669, 3676, 3617) Claimants Motion in Response to Defendant's Motion for Partial Summary Judgment on Damages.

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**February 16, 2005**

(OLD DOCKET NOS. 3670, 3683, 3669, 3676, 3617) Claimants' Response to Defendant's Motion to Exclude Claims.

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**February 17, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Supplemental Pre-Hearing Memorandum and Expert Report.

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**February 18, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Answer to Commonwealth's Motion for Partial Summary Judgment on Damages. Copy forwarded to Defendant.

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**February 18, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Motion in Limine to Exclude Commonwealth's Defenses and Counterclaims and/or its Expert Reports and/or for an Order Allowing Kirby to Introduce Evidence and Cross

Examine McDonough Bolyard Peck relative to mediation and incorporated Brief. Copy forwarded to Defendant.

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**February 18, 2005**

(ALL) Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 18<sup>th</sup> day of February, 2005, the motion for partial summary judgment for damages, the motion to exclude claims and the petition for interpleader, all filed by the defendant herein, Department of General Services, on February 10, 2005, respecting the eight matters to be heard in this consolidated case are hereby **DENIED** as untimely filed." Copy forwarded to Plaintiffs and Defendant.

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**February 22, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Supplement to Plaintiff Kirby Electric's Motion in Limine to Exclude Commonwealth's Defenses and Counterclaims, and/or Its Expert Reports and/or for an Order Allowing Kirby to Introduce Evidence and Cross Examine McDonough Bolyard Peck Relative to Mediation. Copy forwarded to all parties of record.

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**February 22, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed letter advising that Attorney Robinson would be happy to meet with the Board to discuss how to proceed with these cases.

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**February 22, 2005**

(OLD DOCKET NOS. 3670, 3683, 3669, 3676, 3617) Plaintiff filed letter advising that Plaintiff does not feel a meeting is necessary at this time.

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**February 23, 2005**

(ALL) Defendant filed letter advising that Defendant feels a live conference or teleconference would be beneficial and further outlines his reasoning why a conference would be beneficial.

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**February 24, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Acceptance of Service of Opinion and Order dated February 18, 2005 filed. Receipt of same acknowledged by Plaintiff February 22, 2005.

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**February 25, 2005**

(ALL) Defendant filed Motion for Reconsideration or Motions in the Alternative. Copy forwarded to Plaintiffs.

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**February 28, 2005**

(OLD DOCKET NOS. 3552, 3617, 3669, 3670, 3683) Board rendered the following Opinion and Order. Order as follows: **"AND NOW**, this 28<sup>th</sup> day of February, 2005, it is hereby **ORDERED** and **DECREED** that Plaintiffs' Motion in Limine in Old Docket Nos. 3552, 3617, 3669, 3670 and 3683, seeking to exclude Defendant's expert testimony with respect to Defendant's counterclaims is hereby **GRANTED**. Plaintiff's Motion for Partial Summary Judgment on Defendant's Counterclaims for lack of expert testimony to support such claims in Old Docket Nos. 3552 and 3670 is hereby **DENIED**. Plaintiff's Motion in Limine in Old Docket Nos. 3552, 3617, 3670, 3669 and 3683 seeking to exclude expert testimony of Defendant with respect to Plaintiffs' claims is hereby **DENIED**." Copy forwarded to all parties of record.

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**February 28, 2005**

(OLD DOCKET NO. 3674) Board rendered the following Opinion and Order. Order as follows: **"AND NOW**, this 28th day of February, 2005, it is hereby **ORDERED** and **DECREED** that Plaintiff, Kirby Electric, Inc.'s Answer to the Commonwealth's Motion for Partial Summary Judgment on damages shall not be considered by the Board. The Plaintiffs' Motions referred to in this Opinion are hereby **DENIED** as untimely." Copy forwarded to all parties of record.

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**February 28, 2005**

(ALL) Defendant filed Notice of change of address and change of job title.

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**February 28, 2005**

(OLD DOCKET NO. 3670) Plaintiff filed letter outlining the stipulated facts prior to the hearing in the matter.

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**February 28, 2005**

(OLD DOCKET NO. 3675) Plaintiff filed Acceptance of Service of Opinion and Order dated February 18, 2005. Receipt of same acknowledged by Plaintiff February 20, 2005.

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**March 1, 2005**

(OLD DOCKET NO. 3674) Plaintiff's Response to Commonwealth's Motion for Reconsideration or Motions in the Alternative.

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**March 1, 2005**

(ALL) Defendant filed letter advising that they are withdrawing the first and second part of their Motion for Reconsideration of the Board's Order of February 18, 2005 and further asks the Board to stringently interpret its court ordered filing dates against Kirby Electric.

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**March 2, 2005**

(OLD DOCKET NO. 3617) Plaintiff filed letter requesting to reschedule the hearing in this matter due a conflict.

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**March 2, 2005**

(OLD DOCKET NO. 3670) Plaintiff filed letter outlining the stipulated facts prior to the hearing in the matter.

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**March 3, 2005**

(OLD DOCKET NO. 3674) Claimant's Supplemental Response and Opposition to Commonwealth's Motion to Strike Kirby's Expert Report, Motion to Strike Kirby's Motion in Limine and For Summary Judgment Against Kirby for Failure to Prosecute.

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**March 3, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed letter-type Supplemental Letter Brief.

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**March 3, 2005**

(OLD DOCKET NO. 3674) Board rendered the following Opinion and Order. Order as follows: "**AND NOW**, this 3<sup>rd</sup> day of March, 2005, it is hereby **ORDERED** and **DECREED** that Defendant's Motion to Strike Plaintiff Kirby's Expert Report; Kirby's Supplemental Pre-Hearing Memorandum; and for Summary Judgment against Plaintiff Kirby is hereby **DENIED**." Copy forwarded to Plaintiffs and Defendant.

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**March 3, 2005**

(ALL) Defendant filed letter as a follow-up to Defendant's Motion for Reconsideration or Motions in the Alternative advising that Defendant is withdrawing the first and second part of their Motion.

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**March 4, 2005**

(OLD DOCKET NO. 3670) Plaintiff filed letter requesting to amend its Pre-Hearing Memorandum to add Exhibit 399.

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**March 2, 2005**

Plaintiff filed Acceptance of Service of Opinion and Order dated February 18, 2005. Receipt of same acknowledged by Plaintiff March 28, 2005.

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**March 4, 2005**

Plaintiff filed Acceptance of Service of Opinion and Order dated February 28, 2005. Receipt of same acknowledged by Plaintiff March 2, 2005.

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**March 7, 2005**

(OLD DOCKET NO. 3670) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**March 8, 2005**

(OLD DOCKET NO. 3670) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**March 9, 2005**

(OLD DOCKET NO. 3670) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**March 10, 2005**

(OLD DOCKET NO. 3670) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**March 10, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated February 18, 2005 filed. Receipt of same acknowledged by Defendant March 7, 2005.

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**March 10, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated February 28, 2005 filed. Receipt of same acknowledged by Defendant March 7, 2005.

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**March 10, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated February 28, 2005 filed. Receipt of same acknowledged by Defendant March 7, 2005.

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**March 10, 2005**

Plaintiff (Theodore Adler, Esquire) filed Acceptance of Service of Opinion and Order dated March 2, 2005 filed. Receipt of same acknowledged by Defendant March 7, 2005.

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**March 10, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated March 3, 2005 filed. Receipt of same acknowledged by Defendant March 7, 2005.

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**March 10, 2005**

Defendant filed Acceptance of Service of testimony for hearing held March 7-11, 14, 15, 17, 2005 filed. Receipt of same acknowledged by Defendant March 24, 2005.

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**March 11, 2005**

(OLD DOCKET NO. 3670) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**March 14, 2005**

(OLD DOCKET NO. 3670) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**March 15, 2005**

(OLD DOCKET NO. 3670) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**March 17, 2005**

(OLD DOCKET NO. 3670) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m. CASE COMPLETED

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**March 16, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Second Supplemental Pre-Hearing Memorandum.

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**March 17, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Third Supplemental Pre-Hearing Memorandum.

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**March 23, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Hearing Brief.

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**March 24, 2005**

(OLD DOCKET NO. 3674) Testimony of hearing held March 7-11, 14, 15, 17, 2005 filed. Copy forwarded to attorney for Defendant.

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**March 25, 2005**

(OLD DOCKET NOS. 3617, 3669, 3676) Plaintiff filed letter outlining a change of order for the hearings as noted: Oldcastle #3617 originally scheduled for May 2-6, 2005 will be changed to April 18-22, 2005; Tomko #3669 originally scheduled for April 18-22, 2005 will be changed to April 25-29, 2005; and Tomko #3676 originally scheduled for April 25-29, 2005 will be changed to May 2-6, 2005.

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**March 28, 2005**

(OLD DOCKET NO. 3552) Plaintiff filed Stipulation of Facts.

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**March 29, 2005**

(OLD DOCKET NOS. 3617, 3669, 3676) Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 29<sup>th</sup> day of March, 2005, it is hereby **ORDERED** and **DECREED** that the Scheduling Order previously issued by the Board on January 11, 2005, and amended on February 1, 2005, shall be further amended as follows: Oldcastle Precast Modular Group hearing (old docket no. 3617) previously scheduled to begin on Monday, May 2, 2005 shall now be scheduled to commence at 9:30 a.m. on Monday, April 18 through Friday, April 22, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101; W.G. Tomko, Inc. hearing (old docket no. 3669) previously scheduled for April 18-22, 2005 is set for hearing beginning on Monday, April 25 through Friday, April 29, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101 commencing at 9:30 a.m. and W.G. Tomko, Inc. (old docket no. 3676) previously scheduled for April 25-29, 2005 is set for hearing beginning on Monday, May 2, 2005 through Friday, May 6, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101

commencing at 9:30 a.m. All other matters as ordered in the Board's Order of February 1, 2005, shall remain unchanged." Copy forwarded to all parties of record.

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**March 28, 2005**

(OLD DOCKET NO. 3674) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**March 29, 2005**

(OLD DOCKET NO. 3674) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 8:00 a.m.

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**March 30, 2005**

(OLD DOCKET NO. 3674) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**March 31, 2005**

(OLD DOCKET NO. 3674) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**April 1, 2005**

(OLD DOCKET NO. 3674) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 8:00 a.m. Additional dates to be scheduled.

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**April 1, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated March 28, 2005. Receipt of same acknowledged by Defendant March 31, 2005.

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**April 4, 2005**

(OLD DOCKET NO. 3552) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:00 a.m.

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**April 5, 2005**

(OLD DOCKET NO. 3552) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 8:00 a.m.

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**April 6, 2005**

Plaintiff filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Plaintiff March 31, 2005.

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**April 6, 2005**

(OLD DOCKET NO. 3552) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 8:00 a.m.

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**April 7, 2005**

(OLD DOCKET NO. 3552) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 8:00 a.m.

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**April 8, 2005**

(OLD DOCKET NO. 3552) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 8:00 a.m. CASE COMPLETED.

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**April 11, 2005**

(OLD DOCKET NO. 3683) Plaintiff filed transcript of Claim Hearing of September 18, 2003.

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**April 11, 2005**

(OLD DOCKET NO. 3683) Defendant filed Motion to Preclude Testimony of Daniel White.

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**April 11, 2005**

(OLD DOCKET NO. 3683) Plaintiff filed Memorandum of Law in Response to DGS's Motions to Preclude the Testimony of Dan White.

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**April 11, 2005**

(OLD DOCKET NO. 3683) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 12, 2005**

(OLD DOCKET NO. 3683) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 13, 2005**

(OLD DOCKET NO. 3683) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 14, 2005**

(OLD DOCKET NO. 3683) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 15, 2005**

(OLD DOCKET NO. 3683) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m. **CASE COMPLETED.**

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**April 15, 2005**

(DOCKET NO. 3679) Plaintiff filed Brief in Support of Preliminary Objections in Commonwealth Court.

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**April 18, 2005**

(ALL) Board filed Brief in Support of Preliminary Objections in Commonwealth Court.

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**April 18, 2005**

(OLD DOCKET NO. 3617) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 19, 2005**

(OLD DOCKET NO. 3617) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 20, 2005**

(OLD DOCKET NO. 3617) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 21, 2005**

(OLD DOCKET NO. 3617) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m. **CASE COMPLETED.**

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**April 25, 2005**

(OLD DOCKET NO. 3669) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 26, 2005**

(OLD DOCKET NO. 3669) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 27, 2005**

(OLD DOCKET NO. 3669) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**April 28, 2005**

(OLD DOCKET NO. 3669) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m. **CASE COMPLETED**

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**May 2, 2005**

(OLD DOCKET NO. 3676) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**May 3, 2005**

(OLD DOCKET NO. 3676) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**May 4, 2005**

(OLD DOCKET NO. 3676) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**May 5, 2005**

(OLD DOCKET NO. 3676) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m. **CASE COMPLETED.**

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**May 5, 2005**

(OLD DOCKET NO. 3674) Board rendered the following Opinion and Supplemental Scheduling Order. Order as follows: **"AND NOW**, this 5th day of May, 2004, it is hereby **ORDERED** and **DECREED** as follows: The hearing continued in this matter shall occur on Wednesday, May 18, 2005 and running through Thursday, May 19, 2005, as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6<sup>th</sup> Floor, Harrisburg, PA 17101, commencing at 9:30 a.m." Copy forwarded to Plaintiff and Defendant.

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**May 6, 2005**

(OLD DOCKET NO. 3674) Testimony of hearing held March 28, 2005 filed. Copy forwarded to attorney for Defendant.

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**May 6, 2005**

(OLD DOCKET NOS. 3670, 3552, 3683, 3617, 3669, 3676, 3675) Plaintiff filed letter requesting the Court to schedule a date when all counsel who have tried cases in this consolidated matter can meet to discuss a post trial briefing schedule as well as the scheduling of a hearing to address counsel fee issues.

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**May 9, 2005**

(OLD DOCKET NO. 3675) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30a.m.

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**May 10, 2005**

(OLD DOCKET NO. 3675) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30a.m.

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**May 11, 2005**

(OLD DOCKET NO. 3675) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m. **CASE COMPLETED.**

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**May 13, 2005**

Defendant filed Acceptance of Service of testimony of hearing held March 28, 2005 received from Defendant. Receipt of same acknowledged by Defendant May 12, 2005.

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**May 18, 2005**

(OLD DOCKET NO. 3674) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 9:30 a.m.

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**May 19, 2005**

(OLD DOCKET NO. 3674) Hearing held in Board's Courtroom No. 1, 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 8:30 a.m. **CASE COMPLETED.**

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**May 23, 2005**

(ALL) Board rendered the following Scheduling Order. Order: "AND NOW, this 23<sup>rd</sup> day of May, 2005, it is hereby ORDERED that a conference for the purpose of discussing the post-trial briefing schedule shall be held on Friday, May 27, 2005, 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. The conference may be attended via telephone if prior arrangements are made with Board staff." Copy forwarded to all parties of record by U.S. Mail and facsimile.

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**May 23, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed letter via facsimile advising that he would like to attend the post-hearing conference by telephone.

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**May 25, 2005**

Plaintiff (Theodore A. Adler, Esquire) filed via facsimile Acceptance of Service of Scheduling Order dated May 23, 2005. Receipt of same acknowledged by Plaintiff May 24, 2005.

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**June 8, 2005**

(OLD DOCKET NO. 3670, 3683, 3669, 3676, 3617) Plaintiff filed (via fax) letter advising that they believe Plaintiff can file their Findings of Fact and Conclusions of Law by August 31, 2005, provided that the court reporters get final copies of all transcripts to them no later than July 31, 2005.

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**June 8, 2005**

(OLD DOCKET NO. 3552) Testimony of hearing held April 4, 2005 through April 8, 2005 filed.

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**June 9, 2005**

(ALL) Board forwarded letter advising that the Board will be issuing a scheduling order for briefs in this matter when we receive the stipulation regarding pooling of the evidentiary record signed by all parties of record.

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**June 22, 2005**

(ALL) Plaintiff filed Stipulation Incorporating Testimony filed by all attorneys of record.

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**June 21, 2005**

(OLD DOCKET NO. 3683) Testimony of hearing held April 11-15, 2005 filed.

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**June 23, 2005**

(OLD DOCKET NO. 3683) Testimony of hearing held April 11-15, 2005 forwarded to Defendant.

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**June 24, 2005**

(ALL) Board rendered the following Order: "On May 27, 2005, a post-trial conference was held at the Board of Claims to discuss the briefing schedule for this consolidated case. At this time, attorneys for all parties also discussed a mutual desire to utilize all the testimony and evidence presented in all eight hearings in toto as the evidentiary record for each of the eight hearings in the consolidated case. On June 22, 2005, the Board of Claims received a stipulation to this effect signed by attorneys for all the parties. Accordingly, the Board issues the following Order: 1. Pursuant to stipulation filed June 22, 2005, signed by the attorneys for all the parties of record in this consolidated case, all testimony and evidence introduced in the eight hearings held in this matter are incorporated in toto to serve as the evidentiary record for each of the eight hearings corresponding to the eight original cases consolidated herein under docket no. 3552. 2. Each of the eight original cases consolidated herein shall be briefed separately. Each brief shall consist of: proposed findings of fact (with specific references to applicable stipulations, transcript pages and/or exhibit numbers) and conclusions of law; a legal brief addressing all relevant legal issues raised by the party's arguments; and a set of stipulated facts agreed to between the particular Plaintiff and Defendant to be applied only to the

individual case being briefed (i.e. not to all of the consolidated cases). 3. Each Plaintiff shall file its initial brief (complete) within forty-five (45) days of the date of the Board of Claims' letter informing Plaintiffs of the availability of the last installment on the complete transcript of the consolidated case. 4. Defendant shall file separate response briefs for each of the eight original cases within forty-five (45) days of its receipt of the last initial brief filed by any of the Plaintiffs. 5. Each Plaintiff shall then have fifteen (15) days from its receipt of Defendant's response brief to file a separate reply brief. 6. No further briefing should be submitted.

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**June 29, 2005**

(OLD DOCKET NO. 3617) Testimony of hearing held April 18-21, 2005 filed.

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**July 6, 2005**

(OLD DOCKET NO. 3617) Testimony of hearing held April 18-21, 2005 forwarded to Defendant.

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**July 14, 2005**

(OLD DOCKET NO. 3669) Testimony of hearing held April 25-28, 2005 filed.

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**July 15, 2005**

(OLD DOCKET NO. 3669) Testimony of hearing held April 25-29, 2005 forwarded to Defendant.

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**July 8, 2005**

(OLD DOCKET NO. 3617) Defendant filed Acceptance of Service of testimony for hearing held April 18-22, 2005 dated July 6, 2005. Receipt of same acknowledged by Defendant July 8, 2005.

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**July 20, 2005**

(OLD DOCKET NO. 3669) Defendant filed Acceptance of Service of testimony for hearing held April 25-29, 2005 dated July 15, 2005. Receipt of same acknowledged by Defendant July 19, 2005.

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**August 4, 2005**

(OLD DOCKET NO. 3676) Testimony of hearing held April 25-28, 2005 filed.

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**August 5, 2005**

(OLD DOCKET NO. 3676) Testimony of hearing held April 25-29, 2005 forwarded to Defendant.

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**August 9, 2005**

(ALL) Defendant filed letter advising that the parties are having difficulty in obtaining copies of the electronic transcripts that will be needed to prepare their Findings of Fact, Conclusions of Law and Briefs from the Court Reporter.

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**August 11, 2005**

Defendant filed Acceptance of Service of testimony of hearing held May 2-5, 2005 dated August 5, 2005. Receipt of same acknowledged by Defendant August 10, 2005.

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**August 17, 2005**

Commonwealth Court rendered the following Opinion and Order. Order as follows: **"AND NOW**, this 16<sup>th</sup> day of August, 2005, the Court sustains the preliminary objections filed by the Board of Claims and Respondent Contractors raising this Court's lack of original subject matter jurisdiction, and it hereby dismisses the petition for review in the nature of a complaint for declaratory judgment filed by the Department of General Services."

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**August 19, 2005**

(OLD DOCKET NO. 3675) Testimony of hearing held May 9-11, 2005 filed.

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**August 22, 2005**

(OLD DOCKET NO. 3675) Testimony of hearing held May 9-11, 2005 forwarded to Defendant.

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**September 1, 2005**

(OLD DOCKET NO. 3674) Testimony of hearing held March 29 - April 1, 2005 filed.

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**September 8, 2005**

(OLD DOCKET NO. 3674) Testimony of hearing held May 18-19, 2005 filed.

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**September 30, 2005**

(OLD DOCKET NO. 3675) Plaintiff filed letter advising that due to the unavailability of the Lighthouse exhibits, they will not be able to comply with the Board's Briefing schedule of October 27, 2005.

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**October 5, 2005**

(OLD DOCKET NOS. 3670, 3552, 3683, 3669, 3676, 3617) Plaintiff filed letter outlining the exhibits and their availability to Plaintiff, McGregor to view the exhibits they have in their possession.

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**October 19, 2005**

(ALL) Defendant filed letter requesting an extension of time for all Plaintiff's Post-Trial Briefs until November 15, 2005, Defendant's Post-Trial Briefs until January 13, 2006 and Plaintiff's Reply Brief on January 30, 2006.

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**October 20, 2005**

(ALL) Board rendered the following Order: "Pursuant to letter of October 18, 2005, counsel for Defendant, on behalf of and with agreement from all parties to this consolidated case, has requested the Board to extend the time for filing proposed findings of fact, conclusions of law and accompanying legal briefs in this matter. Accordingly, the Board's Order of June 24, 2005, is modified as follows: 1. Each Plaintiff shall file its initial brief (complete) by no later than November 14 2005. 2. Defendant shall file separate response briefs for each of the eight original cases by no later than January 13, 2006. 3. Each Plaintiff shall have until January 30, 2006 to file a separate reply brief. All other aspects of the Board's June 24, 2005, Order shall remain in place."

Copy forwarded to all parties of record.

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**October 25, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated October 20, 2005. Receipt of same acknowledged October 25, 2005.

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**October 26, 2005**

Charles W. Robinson, Esquire filed Acceptance of Service of Opinion and Order dated October 20, 2005. Receipt of same acknowledged October 24, 2005.

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**October 26, 2005**

Theodore A. Adler, Esquire filed Acceptance of Service of Opinion and Order dated October 20, 2005. Receipt of same acknowledged October 24, 2005.

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**October 31, 2005**

Plaintiff filed Acceptance of Service of Opinion and Order dated October 20, 2005. Receipt of same acknowledged October 24, 2005.

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**November 14, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Findings of Fact, Conclusions of Law and Post-hearing Brief. Copy forwarded to Defendant.

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**November 14, 2005**

(OLD DOCKET NO. 3675) Plaintiff filed Proposed Findings of Fact, and Conclusions of Law and Supporting Brief. Copy forwarded to Defendant.

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**November 14, 2005**

(OLD DOCKET NO. 3674) Plaintiff filed Proposed Findings of Fact, Conclusions of Law for Pass-Through Contract. Copy forwarded to Defendant.

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**November 14, 2005**

(OLD DOCKET NOS. 3669, 3676, 3617, 3670, 3552, 3683) Plaintiff filed letter advising they were unable to agree upon change orders Lighthouse had been paid and remained outstanding but had not received any response from Defendant to Plaintiff's request. Copy forwarded to all parties of record.

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**November 14, 2005**

(OLD DOCKET NOS. 3669, 3676, 3617, 3670, 3552, 3683) Plaintiff filed Proposed Findings of Fact, Conclusions of Law and Memorandum of law re: Duty to Coordinate Multi-Prime Contractor Projects and Memorandum of Law in Support of Claimant's Request for Counsel Fees and Penalties. Copy forwarded to Defendant.

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**December 23, 2005**

(ALL) Defendant filed letter requesting a thirty-day extension of time until February 13, 2006 in which to file Defendant's Findings of Fact, Conclusions of Law and Brief.

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**December 27, 2005**

(3670, 3552, 3683, 3669, 3676, 3617) Plaintiff filed letter via facsimile opposing Defendant's request for an extension of time in which to file Defendant's Findings of Fact, Conclusions of Law and Brief.

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**December 28, 2005**

(ALL) Board rendered and Opinion and Order. Order as follows: **"AND NOW,** this 28<sup>th</sup> day of December, 2005, the Board's Modified Scheduling Order of October 21, 2005, is amended as follows: 1. Defendant shall file separate response briefs for each of the eight original cases by no later than February 13, 2006. 2. Each Plaintiff shall file its separate reply brief by no later than March 15, 2006. All other aspects of the extant scheduling orders shall remain in place." Copy forwarded to all parties of record.

**December 27, 2005**

(3670, 3552, 3683, 3669, 3676, 3617) Plaintiff filed letter via U.S. Mail opposing Defendant's request for an extension of time in which to file Defendant's Findings of Fact, Conclusions of Law and Brief.

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**January 5, 2006**

(OLD DOCKET NO. 3674) Plaintiff filed Acceptance of Service of Scheduling Order dated December 28, 2005. Receipt of same acknowledged January 3, 2006.

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**January 12, 2006**

(OLD DOCKET NO. 3675) Plaintiff filed Acceptance of Service of Scheduling Order dated December 28, 2005. Receipt of same acknowledged January 3, 2006.

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**February 13, 2006**

(OLD DOCKET NO. 3552) Defendant filed Proposed Findings of Fact in the C&M Trial. Copy forwarded to all parties of record.

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**February 13, 2006**

(OLD DOCKET NO. 3674) Defendant filed Proposed Findings of Fact in the Tomko Site Pass Through Claim by Kirby and Proposed Conclusions of Law. Copy forwarded to all parties of record.

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**February 13, 2006**

(OLD DOCKET NO. 3617) Defendant filed Proposed Findings of Fact in the Oldcastle Trial and Conclusions of Law. Copy forwarded to all parties of record.

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**February 13, 2006**

(OLD DOCKET NO. 3669) Defendant filed Proposed Findings of Fact in the Tomko Site Trial and Conclusions of Law. Copy forwarded to all parties of record.

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**February 13, 2006**

(OLD DOCKET NO. 3670) Defendant filed Proposed Findings of Fact in the Lighthouse Trial and Conclusions of Law. Copy forwarded to all parties of record.

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**February 13, 2006**

(OLD DOCKET NO. 3674) Defendant filed Proposed Findings of Fact in the Kirby Electric Trial and Conclusions of Law. Copy forwarded to all parties of record.

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**February 13, 2006**

(OLD DOCKET NO. 3675) Defendant filed Proposed Findings of Fact in the McGregor Trial and Conclusions of Law. Copy forwarded to all parties of record.

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**February 13, 2006**

(OLD DOCKET NO. 3676) Defendant filed Proposed Findings of Fact in Tomko Plumbing Trial and Conclusions of Law. Copy forwarded to all parties of record.

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**February 13, 2006**

(OLD DOCKET NO. 3683) Defendant filed Proposed Findings of Fact in the Tomko HVAC Trial and Conclusions of Law. Copy forwarded to all parties of record.

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**February 13, 2006**

(ALL) Defendant filed Memorandum of Law. Copy forwarded to all parties of record.

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**February 13, 2006**

(ALL) Defendant filed Common Proposed Findings of Fact to all Trials. Copy forwarded to all parties of record.

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**February 13, 2006**

(ALL) Defendant filed Common Proposed Conclusions of Law to all Trials. Copy forwarded to all parties of record.

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**February 14, 2006**

(OLD DOCKET NO. 3552) Defendant filed Proposed Conclusions of Law in the C&M Trial. Copy forwarded to all parties of record.

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**March 15, 2006**

(OLD DOCKET NO. 3675) Plaintiff filed Legal Brief in Response to Memorandum of Law filed by Defendant. Copy forwarded to all parties of record.

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**March 15, 2006**

(OLD DOCKET NO. 3674) Plaintiff Reply to Defendant's Memorandum of Law. Copy forwarded to all parties of record.

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**March 15, 2006**

(OLD DOCKET NO. 3683) Response of W.G. Tomko, Inc. (HVAC) to the Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of the Department of General Services. Copy forwarded to Plaintiff.

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**March 15, 2006**

(OLD DOCKET NO. 3676) Response of W.G. Tomko, Inc. (Plumbing Claim) to the Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of the Department of General Services. Copy forwarded to Plaintiff.

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**March 15, 2006**

(OLD DOCKET NO. 3669) Response of W.G. Tomko, Inc. (Site Utilities Claim) to the Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of the Department of General Services. Copy forwarded to Plaintiff.

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**March 15, 2006**

(OLD DOCKET NO. 3670) Response of Lighthouse Electric Company, Inc. to the Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of the Department of General Services. Copy forwarded to Plaintiff.

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**March 15, 2006**

(OLD DOCKET NO. 3674) Response of W.G. Tomko, Inc. (Kirby Pass Through Claim) to the Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of the Department of General Services. Copy forwarded to Plaintiff.

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**March 15, 2006**

(OLD DOCKET NO. 3552) Response of C&M Contracting, Inc. to the Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of the Department of General Services. Copy forwarded to Plaintiff.

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**March 15, 2006**

(OLD DOCKET NO. 3617) Response of Oldcastle Precast Modular Group to the Proposed Findings of Fact, Conclusions of Law and Legal Memorandum of the Department of General Services. Copy forwarded to Plaintiff.

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**March 15, 2006**

(OLD DOCKET NOS. 3670, 3552, 3683, 3617, 3669, 3676) Response of Lighthouse Electric Company, Inc., W.G. Tomko, Inc., C&M Contracting, Inc. and Oldcastle Precast Modular Group, to the Common Conclusions of Law submitted by the Department of General Services. Copy forwarded to Plaintiff.

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**March 15, 2006**

(OLD DOCKET NOS. 3670, 3552, 3683, 3617, 3669, 3676) Claimants' Reply Memorandum of Law to Issue Raised by the Respondent's Post Trial Memorandum of Law. Copy forwarded to Plaintiff.

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**October 5, 2006**

(OLD DOCKET NO. 3674) Plaintiff filed (via fax) letter advising that there is a pending settlement agreement between Plaintiff and DGS and requesting that the Board stay the issuance of any order regarding Kirby's claims.

**October 6, 2006**

Board forwarded letter addressed to Kirby, with copy to all parties, requesting clarification as to Kirby's pass-through claim and whether any of the other parties were contemplating settlement.

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**October 6, 2006**

(OLD DOCKET NOS. 3552, 3617, 3670) Plaintiff filed (via fax) letter advising that there is a pending settlement agreement between Plaintiffs and DGS and requesting that the Board stay the issuance of any order regarding Lighthouse, C&M and Oldcastle's claims.

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**October 6, 2006**

(OLD DOCKET NO. 3674) Plaintiff filed (via fax) letter advising that Tomko's pass-through claim is not included in the settlement between Kirby and DGS.

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**October 10, 2006**

(OLD DOCKET NO. 3674) Plaintiff filed (via U.S. Mail) letter advising that there is a pending settlement agreement between Plaintiff and DGS and requesting that the Board stay the issuance of any order regarding Kirby's claims.

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**October 10, 2006**

(OLD DOCKET NO. 3675) Plaintiff filed (via fax) letter in response to Board's October 6, 2006 letter advising that settlement is not imminent with respect to McGregor although there have been settlement discussions.

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**October 10, 2006**

(OLD DOCKET NOS. 3552, 3617, 3670) Plaintiff filed (via fax) letter in response to McGregor's letter of October 10, 2006 regarding settlement.

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**October 12, 2006**

(OLD DOCKET NO. 3675) Plaintiff filed (via U.S. mail) letter in response to Board's October 6, 2006 letter advising that settlement is not imminent with respect to McGregor although there have been settlement discussions.

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**October 13, 2006**

(ALL) Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 13<sup>th</sup> day of October, 2006, pursuant to the request of plaintiffs Kirby Electric, Inc.; Lighthouse Electric Company, Inc.; C&M Contracting, Inc.; and Oldcastle Precast Modular Group for a stay in the issuance of any order regarding their claims against the Department of General Services, and pursuant to the representation of counsel for these plaintiffs that the stay is sought jointly by both plaintiffs and defendants pending the outcome of settlement agreements and/or negotiations, it is **ORDERED** and **DECREED** that the actions on the claims of Lighthouse, C&M, Oldcastle and Kirby (excepting the W. G. Tomko, Inc. pass-through claim presented by Kirby) are hereby **STAYED**. Counsel for Kirby, Lighthouse, C&M and Oldcastle are directed to notify the Board promptly of the outcome of the settlement activities in each of these cases." Copy forwarded to all parties of record.

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**October 16, 2006**

(OLD DOCKET NOS. 3552, 3617, 3670) Plaintiff filed (via U.S. mail) letter in response to McGregor's letter of October 10, 2006 regarding settlement.

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**October 18, 2006**

(OLD DOCKET NO. 3674) Plaintiff filed Acceptance of Service of Opinion and Order dated October 13, 2006. Receipt of same acknowledged October 16, 2006.

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**October 19, 2006**

(OLD DOCKET NO. 3675) Plaintiff filed Acceptance of Service of Opinion and Order dated October 13, 2006. Receipt of same acknowledged October 16, 2006.

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**October 25, 2006**

(OLD DOCKET NO. 3552) Plaintiff filed Acceptance of Service of Opinion and Order dated October 13, 2006. Receipt of same acknowledged October 19, 2006.

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**November 1, 2006**

Defendant filed Acceptance of Service of Opinion and Order dated October 13, 2006. Receipt of same acknowledged October 31, 2006.

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**November 13, 2006**

(OLD DOCKET NO. 3676) Plaintiff filed Praecipe for Appearance entering appearance of Renee Colbert, Esquire, on behalf of Plaintiff (W.G. Tomko). Copy forwarded to Defendant.

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**November 13, 2006**

(OLD DOCKET NO. 3683) Plaintiff filed Praecipe for Appearance entering appearance of Renee Colbert, Esquire, on behalf of Plaintiff (W.G. Tomko). Copy forwarded to Defendant.

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**November 13, 2006**

(OLD DOCKET NO. 3669) Plaintiff filed Praecipe for Appearance entering appearance of Renee Colbert, Esquire, on behalf of Plaintiff (W.G. Tomko). Copy forwarded to Defendant.

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**November 13, 2006**

(OLD DOCKET NO. 3674) W.G. Tomko filed Praecipe for Appearance entering appearance of Renee Colbert, Esquire, on behalf of W.G. Tomko (pass-through portion of Kirby's claim). Copy forwarded to Defendant.

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**February 2, 2007**

(OLD DOCKET NO. 3670) Plaintiff filed Praecipe to Settle, Discontinue and End. Copy forwarded to Defendant.

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**February 2, 2007**

(OLD DOCKET NO. 3617) Plaintiff filed Praecipe to Settle, Discontinue and End. Copy forwarded to Defendant.

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**February 2, 2007**

(OLD DOCKET NO. 3552) Plaintiff filed Praecipe to Settle, Discontinue and End. Copy forwarded to Defendant.

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**February 5, 2007**

(OLD DOCKET NO. 3674) Plaintiff filed Praecipe to Settle and Discontinue. Copy forwarded to all parties of record.

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**February 8, 2007**

(OLD DOCKET NO. 3670) Plaintiff filed Praecipe to Settle and Discontinue. Copy forwarded to all parties of record.

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**February 8, 2007**

(OLD DOCKET NO. 3617) Plaintiff filed Praecipe to Settle and Discontinue. Copy forwarded to all parties of record.

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**February 8, 2007**

(OLD DOCKET NO. 3552) Plaintiff filed Praecipe to Settle and Discontinue. Copy forwarded to all parties of record.

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**February 9, 2007**

(OLD DOCKET NO. 3674) Plaintiff filed Praecipe to Settle and Discontinue. Copy forwarded to all parties of record.

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**February 12, 2007**

(OLD DOCKET NO. 3552) Board rendered an Order. Order as follows: **"AND NOW**, this 12<sup>th</sup> day of February, 2007, upon receipt of a Praecipe executed by Wendy F. Klein Keane, Esquire, on behalf of Plaintiff, C&M Contracting, Inc., requesting that the Board mark this case settled and discontinued with respect to C&M Contracting, Inc.'s claim against DGS only and not to any of W.G. Tomko Inc.'s cases, including Tomko's pass through claim, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled and discontinued with prejudice with respect to C&M Contracting, Inc.'s claim against DGS only." Copy forwarded to all parties of record.

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**February 12, 2007**

(OLD DOCKET NO. 3617) Board rendered an Order. Order as follows: **"AND NOW**, this 12<sup>th</sup> day of February, 2007, upon receipt of a Praecipe executed by Wendy F. Klein Keane, Esquire, on behalf of Plaintiff, Oldcastle Precast Modular Group, requesting that the Board mark this case settled and discontinued with respect to Oldcastle Precast Modular Group's claim against DGS only and not to any of W.G. Tomko Inc.'s cases, including Tomko's pass through claim, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled and discontinued with prejudice with respect to Oldcastle Precast Modular Group's claim against DGS only." Copy forwarded to all parties of record.

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**February 12, 2007**

(OLD DOCKET NO. 3675) Plaintiff filed Motion to Dismiss All Claims, Setoffs, and Counterclaims of the Commonwealth of Pennsylvania, Department of General Services and Proposed Order. Copy forwarded to all parties of record.

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**February 12, 2007**

(OLD DOCKET NO. 3675) Board forwarded letter to McGregor requesting brief in support of its Motion to Dismiss.

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**February 12, 2007**

(OLD DOCKET NO. 3675) Board forwarded letter to Defendant requesting response to Motion to Dismiss.

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**February 16, 2007**

(OLD DOCKET NO. 3552) Defendant filed Acceptance of Service of Order dated February 12, 2007. Receipt of same acknowledged February 15, 2007.

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**February 16, 2007**

(OLD DOCKET NO. 3617) Defendant filed Acceptance of Service of Order dated February 12, 2007. Receipt of same acknowledged February 15, 2007.

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**February 20, 2007**

(OLD DOCKET NO. 3552) Kirby filed Acceptance of Service of Order dated February 12, 2007. Receipt of same acknowledged February 15, 2007.

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**February 20, 2007**

(OLD DOCKET NO. 3617) Kirby filed Acceptance of Service of Order dated February 12, 2007. Receipt of same acknowledged February 15, 2007.

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**February 20, 2007**

(OLD DOCKET NO. 3675) McGregor filed (via fax) a letter advising that a settlement has been reached between McGregor and DGS and requesting the Board stay all proceedings pending the exchange of settlement documents.

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**February 22, 2007**

(OLD DOCKET NO. 3675) Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 22<sup>nd</sup> day of February, 2007, pursuant to plaintiff's representation that the parties have reached a settlement and its request for a stay of proceedings regarding the claim of McGregor Industries, Inc. against the Department of General Services pending the execution of settlement documents, it is **ORDERED** and **DECREED** that the actions on the claim of McGregor Industries, Inc. are hereby **STAYED**. The plaintiff is directed to notify the Board promptly upon execution of any such documents." Copy forwarded to all parties of record.

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**February 22, 2007**

(OLD DOCKET NO. 3670) Defendant filed letter advising that as part of the settlement negotiated with Lighthouse, DGS is dismissing its counterclaim against Lighthouse.

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**February 22, 2007**

(OLD DOCKET NO. 3674) Defendant filed letter advising that as part of the settlement negotiated with Kirby, DGS is dismissing its counterclaim against Kirby.

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**February 23, 2007**

(OLD DOCKET NO. 3670) Board rendered an Order. Order as follows:  
"AND NOW, this 23<sup>rd</sup> day of February, 2007, upon receipt of a Praecipe executed by Wendy F. Klein Keane, Esquire, on behalf of Plaintiff, Lighthouse Electric Co., Inc., requesting that the Board mark this case settled and discontinued with respect to Lighthouse Electric Co., Inc.'s claim against DGS only and not to any of W.G. Tomko Inc.'s cases, including Tomko's pass through claim, and a letter of February 21, 2007, filed by Defendant, Commonwealth of Pennsylvania, Department of General Services notifying the Board that as part of the settlement negotiated with Lighthouse Electric Co., Inc., Defendant is dismissing its counterclaim against Lighthouse Electric Co., Inc., it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled and discontinued with prejudice with respect to Lighthouse Electric Co., Inc.'s claim against DGS and DGS's counterclaim against Lighthouse Electric Co., Inc." Copy forwarded to all parties of record.

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**February 23, 2007**

(OLD DOCKET NO. 3674) Board rendered an Order. Order as follows:  
"AND NOW, this 23<sup>rd</sup> day of February, 2007, upon receipt of a Praecipe executed by Charles W. Robinson, Esquire, on behalf of Plaintiff, Kirby Electric, Inc., requesting that the Board mark this case settled and discontinued with respect to Kirby Electric, Inc.'s claim against DGS only and not to any of W.G. Tomko Inc.'s cases, including Tomko's pass through claim, and a letter of February 21, 2007, filed by Defendant, Commonwealth of Pennsylvania, Department of General Services notifying the Board that as part of the settlement negotiated with Kirby Electric, Inc., Defendant is dismissing its counterclaim against Kirby

Electric, Inc., it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled and discontinued with prejudice with respect to Kirby Electric, Inc.'s claim against DGS and DGS's counterclaim against Kirby Electric, Inc." Copy forwarded to all parties of record.

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**February 23, 2007**

(OLD DOCKET NO. 3675) McGregor filed (via U.S. Mail) a letter advising that a settlement has been reached between McGregor and DGS and requesting the Board stay all proceedings pending the exchange of settlement documents.

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**February 26, 2007**

(OLD DOCKET NO. 3552) McGregor filed Acceptance of Service of Order dated February 12, 2007. Receipt of same acknowledged February 23, 2007.

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**February 26, 2007**

(OLD DOCKET NO. 3617) McGregor filed Acceptance of Service of Order dated February 12, 2007. Receipt of same acknowledged February 23, 2007.

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**February 27, 2007**

(OLD DOCKET NO. 3675) Defendant filed Acceptance of Service of Opinion and Order dated February 22, 2007. Receipt of same acknowledged February 26, 2007.

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**February 28, 2007**

(OLD DOCKET NO. 3674) Defendant filed Acceptance of Service of Opinion and Order dated February 23, 2007. Receipt of same acknowledged February 27, 2007.

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**February 28, 2007**

(OLD DOCKET NO. 3670) Defendant filed Acceptance of Service of Opinion and Order dated February 23, 2007. Receipt of same acknowledged February 27, 2007.

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**March 1, 2007**

(OLD DOCKET NO. 3670) Kirby filed Acceptance of Service of Opinion and Order dated February 23, 2007. Receipt of same acknowledged February 26, 2007.

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**March 1, 2007**

(OLD DOCKET NO. 3670) McGregor filed Acceptance of Service of Opinion and Order dated February 23, 2007. Receipt of same acknowledged February 27, 2007.

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**March 1, 2007**

(OLD DOCKET NO. 3674) Kirby filed Acceptance of Service of Opinion and Order dated February 23, 2007. Receipt of same acknowledged February 26, 2007.

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**March 1, 2007**

(OLD DOCKET NO. 3674) McGregor filed Acceptance of Service of Opinion and Order dated February 23, 2007. Receipt of same acknowledged February 27, 2007.

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**March 1, 2007**

(OLD DOCKET NO. 3675) Kirby filed Acceptance of Service of Opinion and Order dated February 22, 2007. Receipt of same acknowledged February 26, 2007.

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**March 1, 2007**

(OLD DOCKET NO. 3675) McGregor filed Acceptance of Service of Opinion and Order dated February 22, 2007. Receipt of same acknowledged February 26, 2007.

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**March 9, 2007**

(OLD DOCKET NO. 3675) C&M filed Acceptance of Service of Opinion and Order dated February 22, 2007. Receipt of same acknowledged March 4, 2007.

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**May 18, 2007**

(OLD DOCKET NOS. 3669, 3676, 3683, 3674) Tomko filed letter advising that the parties were unable to amicably resolve their differences regarding these cases and await the Board's verdict in these matters.

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**May 24, 2007**

(OLD DOCKET NO. 3675) Board forwarded letter to parties requesting confirmation of settlement and a praecipe to discontinue.

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**June 5, 2007**

Board issued letter to parties to confirm final total amount that was paid to W.G. Tomko, Inc. pursuant to the plumbing contract with DGS. If both parties can stipulate to the amount, a stipulation signed by both parties must be filed to supplement the record.

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**June 11, 2007**

(ALL) Plaintiff filed letter (via fax) confirming the final total amount that was paid to W.G. Tomko as requested by the Board.

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**June 13, 2007**

(ALL) Plaintiff filed letter (via u.s. mail) confirming the final total amount that was paid to W.G. Tomko as requested by the Board.

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**June 15, 2007**

(ALL) Defendant filed letter confirming the final total amount that was paid to W.G. Tomko as requested by the Board.

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**September 18, 2007**

(OLD DOCKET NO. 3675) McGregor filed Motion to Enforce Settlement Agreement. Copy forwarded to Defendant.

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**September 20, 2007**

(OLD DOCKET NO. 3675) Board forwarded letter to Plaintiff, with copy to Defendant, requesting brief in support of Motion to Enforce Settlement Agreement.

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**September 20, 2007**

(OLD DOCKET NO. 3675) Board forwarded letter to Defendant, with copy to Plaintiff, requesting response to Motion to Enforce Settlement Agreement.

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**September 20, 2007**

(OLD DOCKET NO. 3669, 3676, 3683, 3674) W.G. Tomko transmitted a letter advising that the parties have reached an agreement in principal.

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**September 20, 2007**

(OLD DOCKET NO. 3669, 3676, 3683, 3674) Defendant filed a letter advising that the parties have reached a settlement, but that Defendant finds it necessary to receive the Board's decision in this matter.

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**September 21, 2007**

(ALL) Board forwarded letter to parties scheduling a status conference for September 27, 2007 at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania commencing at 10:00 a.m.

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**September 21, 2007**

(ALL) Plaintiff transmitted letter advising that Plaintiff will participate via telephone for the status conference scheduled for September 27, 2007.

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**September 24, 2007**

(ALL) Plaintiff filed letter advising that Plaintiff will participate via telephone for the status conference scheduled for September 27, 2007.

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**September 27, 2007**

(ALL) Status conference held at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania commencing at 10:00 a.m.

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**September 28, 2007**

(OLD DOCKET NO. 3675) McGregor filed Brief in Support of Motion to Enforce Settlement Agreement. Copy forwarded to Defendant.

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**November 9, 2007**

(OLD DOCKET NO. 3675) Defendant filed Answer and New Matter to Motion to Enforce Settlement Agreement and Brief in Support.

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**November 13, 2007**

(OLD DOCKET NO. 3675) Plaintiff filed letter advising that Defendant has not responded to Plaintiff's motion and requesting the Board rule on said motion.

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**November 13, 2007**

(OLD DOCKET NO. 3675) Defendant filed Praecipe to Attach Exhibit F to Its Answer and New Matter to Motion to Enforcement Settlement.

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**November 16, 2007**

(OLD DOCKET NO. 3675) Plaintiff filed Reply to New Matter to Motion to Enforce Settlement Agreement. Copy forwarded to Defendant.

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**November 27, 2007**

(OLD DOCKET NO. 3675) Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 27<sup>th</sup> day of November, 2007, McGregor Industries, Inc.'s Motion to Enforce Settlement Agreement is **DENIED**." Copy forwarded to all parties of record.

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**November 30, 2007**

(OLD DOCKET NO. 3675) Defendant filed Acceptance of Service of Opinion and Order dated November 27, 2007. Receipt of same acknowledged November 29, 2007.

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**December 3, 2007**

(OLD DOCKET NO. 3675) McGregor filed Acceptance of Service of Opinion and Order dated November 27, 2007. Receipt of same acknowledged November 30, 2007.

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**January 11, 2008**

(Old DOCKET NO. 3675) Plaintiff filed letter advising that in view of the Board's Order finding that the Settlement Agreement entered into by DGS and Plaintiff is not enforceable, Plaintiff is requesting that the Board release its Opinion and Order in this litigation.

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**January 24, 2008**

(Old DOCKET NO. 3675) Board rendered Order. Order as follows: "**AND NOW**, this 24th day of January, 2008, in anticipation of issuing its final order in the consolidated case of C&M Contracting, Inc. vs. Commonwealth of Pennsylvania, Department of General Services, the Board hereby directs counsel for Plaintiff, McGregor Industries, Inc., to provide an itemized list of those costs and reasonable attorney's fees which McGregor claims in connection with the litigation of this case. This itemization shall separately identify and detail attorney's fees, but may also include all other reasonable costs incurred, including the cost of experts, travel cost (for witnesses, attorneys, consultants, etc.), copying and duplication costs and the like relating to its claim. These itemizations shall be submitted to the Board within 20 days of the exit date of this Order. The Commonwealth of Pennsylvania, Department of General Services shall then have 20 days from the submission of such itemized lists of costs and fees to respond. In the event DGS contests any of the costs or fees and the parties are unable to stipulate to agreed upon amounts within 40 days from the exit date of this Order, the Board will hold an evidentiary hearing on same prior to issuance of its final order in this matter." Copy forwarded to all parties of record.

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**January 28, 2008**

(Old DOCKET NO. 3675) Defendant filed Acceptance of Service of Opinion and Order dated January 24, 2008. Receipt of same acknowledged January 25, 2008.

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**February 4, 2008**

(Old DOCKET NO. 3675) Plaintiff filed Acceptance of Service of Order dated January 24, 2008. Receipt of same acknowledged by Plaintiff January 28, 2008.



**February 15, 2008**

(Old DOCKET NO. 3675) McGregor transmitted via fax letter advising that parties have reached a settlement and will advise the Board when the check is received.

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**February 19, 2008**

(Old DOCKET NO. 3675) McGregor filed letter advising that parties have reached a settlement and will advise the Board when the check is received.

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**April 17, 2008**

(Old DOCKET NO. 3675) McGregor filed Praecipe to Mark Action Settled, Discontinued and Ended.

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**April 18, 2008**

(Old DOCKET NO. 3675) Board rendered an Order. Order as follows: **"AND NOW**, this 18<sup>th</sup> day of April, 2008, upon receipt of a Praecipe executed by Theodore A. Adler, Esquire, on behalf of Plaintiff, McGregor Industries, Inc., and David L. Narkiewicz, Esquire, on behalf of Defendant, Commonwealth of Pennsylvania, Department of General Services, requesting that the Board mark the claims and counterclaims set forth in the above captioned matter settled, discontinued and ended with regard to McGregor Industries, Inc., and the Commonwealth of Pennsylvania, Department of General Services, it is hereby **ORDERED** and **DECREED** that the above captioned matter is marked settled, discontinued and ended with prejudice with regard to the claims and counterclaims between McGregor Industries, Inc., and the Commonwealth of Pennsylvania, Department of General Services." Copy forwarded to all parties of record.

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**April 23, 2008**

(Old DOCKET NO. 3675) Defendant filed Acceptance of Service of Order dated April 18, 2008. Receipt of same acknowledged April 21, 2008.

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**April 25, 2008**

(Old DOCKET NO. 3675) Plaintiff filed Acceptance of Service of Order dated April 18, 2008. Receipt of same acknowledged April 24, 2008.

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**May 16, 2008**

Board forwarded letter to parties (Tomko and Defendant) requesting a status as to the settlement agreement.

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**May 29, 2008**

(OLD DOCKET NOS. 3669, 3676, 3683, 3674) Defendant filed letter advising that the settlement agreement has been signed by all parties except the Comptroller and that the check will be forwarded to Plaintiff as soon as comptroller signs the agreement.

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**June 2, 2008**

(OLD DOCKET NOS. 3669, 3676, 3683, 3674) Tomko filed letter advising that the settlement agreement has been signed by all parties except the Comptroller and the appropriate closing papers will be filed as soon as Tomko received the settlement check.

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**June 19, 2008**

(OLD DOCKET NO. 3683) Tomko filed praecipe to discontinue.

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**June 19, 2008**

(OLD DOCKET NO. 3669) Tomko filed praecipe to discontinue.

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**June 19, 2008**

(OLD DOCKET NO. 3676) Tomko filed praecipe to discontinue.

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**June 19, 2008**

(OLD DOCKET NO. 3674) Tomko filed praecipe to discontinue with regard to Tomko's pass through claim.

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**June 27, 2008**

(OLD DOCKET NOS. 3669, 3676, 3683, 3674 (Tomko Pass Through)) Board forwarded letter to Defendant, with copy to Plaintiff, requesting a praecipe to dismiss its counterclaims.

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**July 1, 2008**

(OLD DOCKET NOS. 3669, 3676, 3683, 3674 (Tomko Pass Through)) Defendant filed praecipe to dismiss counterclaims against W.G. Tomko).

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**July 2, 2008**

Board rendered an Order. Order as follows: **"AND NOW**, this 2<sup>nd</sup> day of July, 2008, upon receipt of praecipes executed by Renee Colbert, Esquire, on behalf of W.G. Tomko, Inc. ("Tomko"), requesting that the Board mark the above-captioned cases discontinued and settled with respect to Tomko's claims against Commonwealth of Pennsylvania, Department of General Services ("DGS"), including Tomko's claim through Kirby Electric, Inc., docketed with this Board under date of June 19, 2008, and receipt of a praecipe executed by David L. Narkiewicz, Assistant Chief Counsel, on behalf of DGS requesting that the Board mark DGS's counterclaims against Tomko dismissed, under docket date of July 1, 2008, it is **ORDERED** and **DIRECTED** that the above-captioned matters be marked settled, discontinued and ended with prejudice as to all claims between (and on behalf of) Tomko and DGS." Copy forwarded to all parties of record.

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**July 8, 2008**

Defendant filed Acceptance of Service of Order dated July 2, 2008. Receipt of same acknowledged July 7, 2008.

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**July 21, 2008**

W.G. Tomko filed Acceptance of Service of Order dated July 2, 2008. Receipt of same acknowledged July 17, 2008.

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