

Docket Number: 3563

WRECKERS INTERNATIONAL, INC. d/b/a SCHLIER'S TOWING AND SERVICE
CTR., BODY SHOP BY JIM SCHLIER, SCHLIER'S 24-HOUR TOWING, and
SCHLIER'S TOWING AND THRUWAY GARAGE

~~Joseph M. Toddy, Esquire~~
~~*Kenneth M. Rodgers, Esquire~~
~~Michael P. McGovern, Esquire (Pro Hac Vice)~~
~~**Michael T. Sweeney, Esquire~~

VS.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE POLICE

~~Barbara Christen, Chief Counsel~~
~~Daniel McGuire, Assistant Counsel~~
~~Tara L. Patterson, Assistant Counsel~~
~~R.H. Haver Jr., Assistant Counsel~~

November 15, 2002

Plaintiff filed Claim and filing fee. Amount of Claim: \$472,482.02

November 20, 2002

Board forwarded copy of Claim to attorney for Defendant and Chief Deputy Attorney General.

December 2, 2003

Chief Deputy Attorney General filed an Acceptance of Service. Receipt of same acknowledged November 22, 2002.

January 3, 2003

Defendant filed letter requesting a 30-day extension of time in which to file response to Plaintiff's Claim.

January 6, 2003

Board issued letter to Defendant, with copy to Plaintiff, granting Defendant's request for an extension of time in which to file Defendant's response to Plaintiff's Claim.

January 7, 2003

Defendant filed Entry of Appearance of Daniel McQuire, filed on behalf of Defendant.

January 7, 2003

Defendant filed letter via fax requesting a 30-day extension of time in which to file Defendant's Response to Plaintiff's Claim.

January 7, 2003

Defendant filed Acceptance of Service of Claim. Receipt of same acknowledged January 3, 2003.

February 6, 2003

Defendant filed Preliminary Objections as well as Brief in Support.

March 13, 2003

Plaintiff filed Motion for Special Admission of Michael McGovern, Esquire, Memorandum in Support of Motion and Proposed Order filed.

March 13, 2003

Plaintiff filed Memorandum in Response to Defendant's Preliminary Objections, Notice of Intended Application for Leave to File First Amended Statement of Claim and First Amended Statement of Claim filed.

March 24, 2003

Board issued Order: "**AND NOW**, this 24th day of March, 2003, upon consideration of plaintiff's motion for leave to file its first amended claim pursuant to Board of Claims Rule 206(b), filed on March 13, 2003, along with the first amended claim, the motion is hereby **GRANTED** and plaintiff's first amended claim is hereby accepted and made part of the record. Service of plaintiff's first amended claim on Defendant is being initiated on this date and a responsive pleading will be due from Defendant within twenty (20) days from the date of such service. Further, the preliminary objections filed by defendant to the complaint are now moot and are **DISMISSED** on that ground." Copy forwarded to Plaintiff and Defendant.

March 24, 2003

Amended Claim served on Defendant and Chief Deputy Attorney General.

April 3, 2003

Plaintiff filed Acceptance of Service of Order dated March 24, 2003. Receipt of same acknowledged March 27, 2003.

April 7, 2003

Defendant filed Acceptance of Service of Order dated March 24, 2003. Receipt of same acknowledged April 7, 2003.

April 7, 2003

Defendant filed Motion to Strike Claimant's First Amended Statement of Claim filed.

April 8, 2003

Plaintiff filed Notice of Service of First Set of Interrogatories propounded upon Defendant.

April 8, 2003

Plaintiff filed Notice of Service of First Request to Produce Documents upon Defendant.

April 10, 2003

Defendant filed letter requesting a two-week extension of time in which to file Defendant's Response to the Petition of Plaintiff for Special Admission of Michael McGovern, Esquire as well as an extension of time in which to file Defendant's Brief in Support of their response to the Plaintiff's First Amended Statement of Claim.

April 11, 2003

Board issued letter to Defendant granting request for an extension of time until April 28, 2003, in which to file response to Petition of Plaintiff for Special Admission of Michael McGovern as well as extension of time in which to file Brief in Support of Defendant's Response to the Plaintiff's First Amended Statement of Claim.

April 28, 2002

Defendant filed Brief in Support of Motion to Strike Claimant's First Amended State of Claim filed by Defendant.

April 28, 2003

Defendant filed Response in Opposition to Claimant's Motion for the Special Admission of Michael McGovern as well as Brief in Support filed.

April 29, 2003

Defendant filed Preliminary Objections to Claimant's First Amended Statement of Claim filed.

April 30, 2003

Defendant filed letter via fax requesting an extension of time until May 15, 2003 in which to file Defendant's Brief in Support of their Preliminary Objections.

May 1, 2003

Board issued letter to attorney for Defendant granting Defendant's request for an extension of time until May 15, 2003 in which to file Defendant's Brief in Support of their Preliminary Objections.

May 15, 2003

Plaintiff filed Praecipe to Substitute Verifications to Plaintiffs' First Amended Claim.

May 15, 2003

Plaintiff filed letter requesting extension of time until June 2, 2003 in which to file Plaintiff's Response to Defendant's Motion to Strike the First Amended Complaint.

May 15, 2003

Defendant's Notice of Withdraw of Certain Preliminary Objections filed.

May 15, 2003

Defendant filed Brief in Support of Preliminary Objections to Claimant's First Amended Statement of Claim filed.

May 19, 2003

Plaintiff filed letter (via fax) requesting an extension of time in which to file Plaintiff's Response to Defendant's Opposition to the Special Admission of Michael McGovern, Esquire until May 26, 2003.

May 20, 2003

Defendant filed letter advising that Defendant has no objection to the Plaintiff's request for an extension of time until June 2, 2003, in which to file Plaintiff's Response to Defendant's Motion to Strike the First Amended Complaint

May 21, 2003

Board issued letter granting Plaintiff's request for an extension of time until June 2, 2003 in which to file Plaintiff's Response to Defendant's Motion to Strike the First Amended Complaint.

May 21, 2003

Board issued letter granting Plaintiff's request for an extension of time until May 26, 2003, in which to file Plaintiff's Response to the Defendant's Opposition to the Special Admission of Michael McGovern, Esquire.

May 22, 2003

Plaintiff filed letter advising that Plaintiff requests this case be held in abeyance for fifteen (15) days as Plaintiff counsel just found out he has a conflict of interest representing Plaintiff so that Plaintiff can obtain new counsel.

May 27, 2003

Claimant filed Response to Defendant's Brief in Opposition to Motion for Special Admission of Michael McGovern, Esquire filed.

May 30, 2003

Board issued Opinion and Order. Order as follows: "**AND NOW**, this 30th day of May, 2003, upon receipt of Plaintiff's Praecipe to file a Verification to Plaintiff's First Amended Statement of Claim, it is **ORDERED** and **DECREED** that the verification filed on May 15, 2003, shall be added to the Amended Statement of Claim." Copies forwarded to Plaintiff and Defendant.

May 30, 2003

Board issued letter granting Plaintiff's request to hold case in abeyance for thirty (30) days as Plaintiff counsel just found out he has a conflict of interest representing Plaintiff so that Plaintiff can obtain new counsel.

June 4, 2003

Defendant filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged June 2, 2003.

June 4, 2003

Plaintiff filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged June 2, 2003.

June 25, 2003

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 25th day of June, 2003, in light of this Board's Order of May 30, 2003 accepting Plaintiff's verification, it is hereby **ORDERED** and **DECREED** that Defendant's Motion to Strike Plaintiff's First Amended Statement of Claim is **DENIED** as **MOOT**." Copy forwarded to Plaintiff and Defendant.

July 2, 2003

Defendant filed Acceptance of Service of Opinion and Order dated June 25, 2003. Receipt of same acknowledged June 27, 2003.

July 2, 2003

Plaintiff filed Memorandum in Response to Respondents' Preliminary Objections to Claimant's First Amended Statement of Claim.

July 21, 2003

Plaintiff filed Withdrawal of Appearance of Joseph M. Toddy, Esquire and Entry of Appearance of Kenneth M. Rodgers, Esquire.

July 24, 2003

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 24th day of July, 2003, after review of Plaintiff's Motion for Special Admission of Michael McGovern, Esquire, Defendant's response thereto and Plaintiff's sur-response, it is hereby **ORDERED** that: 1) Effective upon the date of this Order, Michael McGovern, Esquire shall be **ADMITTED** pro hac vice to the bar of the Commonwealth of Pennsylvania under Pennsylvania Bar Admission Rule 301 for the limited purpose of serving as co-counsel on behalf of Plaintiff in this matter; 2) Michael McGovern, Esquire shall abide by all the rules of, and applicable to, practice before this Board, including all attorney disciplinary rules; and 3) Michael McGovern, Esquire shall immediately notify this Board of any matter affecting his standing at the bar of any other court or jurisdiction where he may be admitted to practice." Copy forwarded to Plaintiff and Defendant.

July 30, 2003

Plaintiff (Michael McGovern, Esquire) filed Acceptance of Service of Opinion and Order dated July 24, 2003 filed. Receipt of same acknowledged July 28, 2003.

September 15, 2003

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 15th day of September, 2003, after review of Defendant's Preliminary Objections and Brief in Support thereof, and Plaintiff's Response thereto, it is hereby **ORDERED** and **DECREED** that Defendant's Preliminary Objections are **OVERRULED**. Defendant is to file an Answer within thirty (30) days of the exit date of this Order." Copy forwarded to Plaintiff and Defendant.

September 22, 2003

Plaintiff filed Acceptance of Service of Opinion and Order dated September 15, 2003. Receipt of same acknowledged September 17, 2003.

October 10, 2003

Defendant filed Acceptance of Service of Opinion and Order dated September 15, 2003. Receipt of same acknowledged October 7, 2003.

October 10, 2003

Defendant filed Answer and New Matter.

November 4, 2003

Plaintiff filed Answer to New Matter.

November 6, 2003

Board forwarded letter directing parties to commence with discovery.

August 12, 2004

Board forward letter to parties requesting status.

September 13, 2004

Defendant filed status letter via facsimile advising that Plaintiff has filed a Complaint in the United States District Court and further advising that at this time Plaintiff will not be filing a status report and Defendant requests a 60-day extension of time in which to file their status report.

September 16, 2004

Board forwarded letter to Defendant granting a 90-day extension of time in which to file their status report.

September 17, 2004

Defendant filed status letter via U.S. Mail advising that Plaintiff has filed a Complaint in the United States District Court and further advising that at this time Plaintiff will not be filing a status report and Defendant requests a 60-day extension of time in which to file their status report.

December 16, 2004

Defendant filed Status Report via facsimile advising that this case is delayed by a similar action filed by Plaintiff in the U.S. District Court for the Middle District of PA.

December 23, 2004

Defendant filed Status Report via U.S. Mail advising that this case is delayed by a similar action filed by Plaintiff in the U.S. District Court for the Middle District of PA.

March 8, 2005

Defendant filed Certificate of Service of Defendant's First Request for Production Propounded on Plaintiff and Defendant's First Set of Interrogatories Propounded on Plaintiff.

June 30, 2005

Defendant filed Praecipe to Enter Appearance of Tara L. Patterson, Assistant Counsel on behalf of Defendant.

August 9, 2005

Defendant filed Motion to Compel Claimant to Answer Interrogatories and Request for Production of Documents.

September 12, 2005

Plaintiff filed letter via facsimile advising that they have served the outstanding discovery requests upon Respondent on September 8, 2005.

September 12, 2005

Plaintiff filed letter via U.S. Mail advising that they have served the outstanding discovery requests upon Respondent on September 8, 2005.

September 29, 2005

Board rendered the following Opinion and Order. Order as follows: **"AND NOW**, this 29th day of September, 2005, it is hereby **ORDERED** and **DECREED** that Defendant's Motion to Compel Claimant to Answer Interrogatories and Request for Production of Documents is **GRANTED**.

Plaintiff shall provide Defendant with complete responses to Defendant's outstanding interrogatories and request for production of documents within twenty (20) days from the exit date of this Order without objection. Defendant is **GRANTED** leave to file for sanctions if Plaintiff does not comply with this Order." Copy

forwarded to Plaintiff and Defendant.

October 6, 2005

Defendant filed Acceptance of Service of Opinion and Order dated September 29, 2005. Receipt of same acknowledged October 3, 2005.

October 13, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated September 29, 2005. Receipt of same acknowledged October 6, 2005.

October 24, 2005

Plaintiff filed letter advising that counsel for Plaintiff had moved and did not notify the Board and we sent our Opinion and Order dated September 29, 2005 his old address and therefore, he would not be able to respond to same within the twenty days.

October 24, 2005

Plaintiff filed Amended Notice of Appearance changing his address.

October 25, 2005

Board rendered an Amended Order. Amended Order as follows: "The Board is in receipt of an October 20, 2005, letter from Michael P. McGovern, Esquire respecting dissolution of his prior law firm and relocation of his offices. In light of the foregoing, the Board's Order of September 29, 2005, is amended to require Plaintiff to provide Defendant with complete responses to Defendant's outstanding interrogatories and request for production of documents by no later than November 11, 2005, without objection. All other aspects of the September 29, 2005 Order remain in place. No additional extensions will be granted." Copy forwarded to Plaintiff and Defendant.

October 31, 2005

Defendant filed Acceptance of Service of Opinion and Order dated October 25, 2005. Receipt of same acknowledged October 26, 2005.

November 2, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated October 25, 2005. Receipt of same acknowledged October 31, 2005.

****November 7, 2005**

Plaintiff filed Entry of Appearance of Michael T. Sweeney, Esquire on behalf of Plaintiff.

November 9, 2005

Plaintiff filed letter requesting extension of time until December 7, 2005 in which to respond to Defendant's written discovery.

November 10, 2005

Board forwarded letter granting Plaintiff until December 7, 2005 in which to respond to Defendant's written discovery.

January 9, 2006

Plaintiff filed Withdrawal of Appearance of Kenneth M. Rodgers, Esquire on behalf of Plaintiff.

March 23, 2006

Defendant filed Withdrawal of Appearance of Tara L. Patterson on behalf of Defendant and Entry of Appearance of R.H. Hawn, Jr. on behalf of Defendant.

April 10, 2006

Plaintiff filed a praecipe for Withdrawal of Appearance of Michael P. McGovern, Esquire (Pro Hac Vice) on behalf of Plaintiff.

August 28, 2006

Defendant filed Notice of Service pertaining to Defendants' Requests for Admission under Pennsylvania Rule of Civil Procedure 4014.

September 26, 2006

Plaintiff filed Notice of Service of Plaintiff's Responses to Defendant's Request for Admissions.

December 14, 2006

Defendant filed Motion Challenging the Sufficiency of Claimant's Responses to Requests for Admission under Pa. R. Civ. P. 4014 and Brief. [09A013107D]

December 20, 2006

Defendant filed Notice of Service of a Notice of Deposition and Second Set of Requests for Production of Documents.

January 17, 2007

Plaintiff filed letter (via fax) requesting a two week extension of time in which to file a response to Defendant's Motion Challenging the Sufficiency of Claimant's Responses to Requests for Admission.

January 17, 2007

Plaintiff filed letter (via U.S. mail) requesting a two week extension of time in which to file a response to Defendant's Motion Challenging the Sufficiency of Claimant's Responses to Requests for Admission.

January 31, 2007

Plaintiff filed Response to Defendant's Motion Challenging the Sufficiency of Plaintiff's Responses to Defendant's Rule 4014 Requests for Admissions and Brief in Opposition.

February 22, 2007

Plaintiff filed Notice of Service of Plaintiff's responses to Defendant's request for admissions.

February 26, 2007

Defendant filed (via fax) letter regarding Defendant's Motion Challenging the Sufficiency of Plaintiff's Responses for Admission.

March 1, 2007

Plaintiff filed (via fax) letter and attached exhibits regarding a similar case in the United States District Court for the Middle District of Pennsylvania.

March 13, 2007

The Board rendered an Opinion and Order. Order as follows: **AND NOW**, this 13th day of March, 2007, upon consideration of Defendant's motion challenging the sufficiency of Plaintiff's response to its request for admissions under Pa.R.C.P. 4014, as well as Plaintiff's response thereto, said motion is **GRANTED**. The Plaintiff is **ORDERED** to serve an amended answer to the request for admissions within 40 days from the exit date of this order or suffer appropriate sanctions upon further motion by Defendant. Order forwarded to Plaintiff and Defendant. Copy forwarded to Plaintiff and Defendant.

March 21, 2007

Plaintiff filed Acceptance of Service of Opinion and Order dated March 13, 2007. Receipt of same acknowledged March 16, 2007.

April 23, 2007

Plaintiff filed Notice of Service of Plaintiff's Admissions and Denials.

July 23, 2007

Defendant filed Notice of Service of Defendant's Response to Requests for Admissions.

October 16, 2009

Plaintiff filed Notice of Deposition of State Troopers Greg Miller and Paul Semler.

April 8, 2010

Plaintiff filed discontinuance with prejudice.

April 23, 2010

Board rendered an Order. Order as follows: "**AND NOW**, this 23rd day of April, 2010, upon receipt of a praecipe executed by Cletus P. Lyman, Esquire, on behalf of Plaintiff, Wreckers International, Inc. d/b/a Schlier's Towing and Service Ctr., Body Shop by Jim Schlier, Schlier's 24-Hour Towing, and Schlier's Towing and Thruway Garage, requesting that the Board mark the above-captioned action discontinued with prejudice, docketed with this Board under date of April 8, 2010, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked discontinued with prejudice." Copy forwarded to Plaintiff and Defendant.

April 28, 2010

Plaintiff filed Acceptance of Service of Order dated April 23, 2010. Receipt of same acknowledged April 26, 2010.

April 30, 2010

Defendant filed Acceptance of Service of Order dated April 23, 2010. Receipt of same acknowledged April 27, 2010.
