

Docket Number: 3569

PADULA & SONS, INC.

David J. Gromelski, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Andrew S. Gordon, Chief Counsel~~
~~Christopher F. Wilson, Assistant Counsel~~

VS.

E. KOSKOWSKI TOWING AND REPAIR

*Thomas E. Brenner, Esquire

December 19, 2002

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$300.00+

January 28, 2003

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. **ANSWER DUE FROM DEFENDANT FEBRUARY 28, 2003.**

February 4, 2003

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 30, 2003.

February 28, 2003

Preliminary Objections as well as Brief in Support filed by Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Response due from Plaintiff April 7, 2003.**

March 17, 2003

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

May 8, 2003

Board issued Opinion and Order. Order as follows: **AND NOW**, this 9th day of May, 2003, the Preliminary Objections of the Defendant, Commonwealth of Pennsylvania, Department of Transportation, to Plaintiff's Complaint are hereby **GRANTED** and the Plaintiff, Padula & Sons, Inc., is **ORDERED** to file a more specific Complaint within twenty (20) days from the exit date of this Order. Copies forwarded to Plaintiff and Defendant.

May 14, 2003

Plaintiff filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Plaintiff May 12, 2003.

May 15, 2003

Defendant filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Defendant May 13, 2003.

May 28, 2003

Plaintiff filed Amended Complaint. Copy forwarded to Defendant.

June 4, 2003

Board forwarded copy of Amended Complaint to Defendant and Chief Deputy Attorney General. Response due from Defendant July 7, 2003.

June 13, 2003

Chief Deputy Attorney General filed Acceptance of Service of Amended Claim dated June 4, 2003. Receipt of same acknowledged by Chief Deputy Attorney General June 9, 2003.

June 20, 2003

Defendant filed Answer and New Matter. Copy forwarded to Plaintiff. Response due July 10, 2003.

***July 2, 2003**

Defendant filed Complaint Against Additional Defendant.

July 9, 2003

Board forwarded Complaint to Join Additional Defendant, to Plaintiff, E. Kozlowski Towing and Repair and Chief Deputy Attorney General. **Response due from Additional Defendant July 29, 2003.**

July 10, 2003

Plaintiff's Reply to Defendant's New Matter to Plaintiff's First Amended Complaint. Copy forwarded to Defendant.

***July 17, 2003**

Additional Defendant filed Entry of Appearance of Thomas E. Brenner, Esquire.

July 21, 2003

Plaintiff filed Acceptance of Service of Complaint to Join Additional Defendant. Receipt of same acknowledged July 14, 2003.

August 13, 2003

Additional Defendant filed Reply of Defendant E. Kozlowski

Towing and Repair. Copy forwarded to Plaintiff and Defendant.
August 14, 2003

Board forwarded letter directing parties to commence with discovery.

November 25, 2003

Defendant (DOT) filed Notice of Service of First Request for Production of Documents. Copy forwarded to Plaintiff and Additional Defendant (Kozlowski).

November 26, 2003

Defendant (DOT) filed Notice of Service of Request for Admissions directed to Plaintiff (First Set).

June 30, 2004

Plaintiff filed letter requesting a status tele-conference be scheduled to discuss the establishment of discovery deadlines and a date for hearing.

July 14, 2004

Defendant filed Notice of Service of Defendant's Second Request for Production of Documents.

August 24, 2004

Defendant filed Notice of Service of Defendant's First Request for the Production of Documents directed to E. Kozlowski Towing & Repair.

August 27, 2004

Plaintiff filed letter advising that they have fully complied with Defendant's second set of discovery requests and further requests that a tele-conference be scheduled in order to discuss the establishment of a date for hearing in this matter.

September 7, 2004

Board rendered the following Scheduling Order. Order as follows: "**AND NOW**, this 7th day of September, 2004, it is hereby **ORDERED** and **DECREED** as follows: All depositions and discovery

shall be completed by November 8, 2004*; Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than November 30, 2004;A pre-trial conference is scheduled for Monday, December 20, 2004, at 10:00 a.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101;The last day for filing pre-trial motions is Friday, January 7, 2005*; and This matter is set for hearing

September 7, 2004(Cont'd)

beginning on Wednesday, February 23, 2005, and running through Friday, February 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." Copy forwarded to Plaintiff and Defendants.

September 16, 2004

Defendant filed letter which was forwarded to Plaintiff and Additional Defendant requesting names of the parties present from their organizations at the time of the incident so depositions can be scheduled.

September 21, 2004

Additional Defendant (Kozlowski) filed Acceptance of Service of Scheduling Order dated September 7, 2004. Receipt of same acknowledged by Additional Defendant September 9, 2004.

September 21, 2004

Additional Defendant (Kozlowski) filed letter advising that original counsel will be out of the country at the time of the pre-trial conference and requests permission to have alternate counsel from his law firm represent him at the pre-trial conference.

October 7, 2004

Defendant filed copy of letter as forwarded to Plaintiff advising that while Defendant has no objection to another counselor attending the pre-trial he would have no objection to rescheduling the pre-trial in order to accommodate Mr. Brenner as well as advising Plaintiff that there is outstanding

discovery that needs addressed.

November 24, 2004

Additional Defendant, Kozlowski, filed Pre-Trial Statement. Copy forwarded to Plaintiff and Defendant.

November 30, 2004

Plaintiff filed Pre-Trial Statement. Copy forwarded to Defendant and Additional Defendant.

November 30, 2004

Defendant filed Pre-Trial Statement. Copy forwarded to Plaintiff and Additional Defendant.

January 20, 2005

Defendant filed Amended Pre-Trial Statement. Copy forwarded to Plaintiff and Additional Defendant.

January 20, 2005

Plaintiff, Defendant and Additional Defendant filed Stipulation of Facts and Exhibits.

February 23, 2005

Panel hearing held in Board's Courtroom No. 2, 200 North Third Street, Suite 700, Harrisburg, PA 17101. Case completed.

March 16, 2005

Testimony of panel hearing held February 23, 2005.

March 17, 2005

Board forwarded copy of testimony of panel hearing held February 23, 2005 to Defendant.

March 25, 2005

Defendant filed Acceptance of Service of testimony of hearing held February 23, 2003 filed. Receipt of same acknowledged by Defendant March 22, 2005.

April 27, 2005

Plaintiff filed letter requesting an extension of time until May 8, 2005 in which to file Plaintiff's Findings of Fact, Conclusions of Law and Brief.

April 28, 2005

Defendant telephone call advising that Defendant verbally requests the same extension of time as Plaintiff until May 8, 2005 in which to file Defendant's Findings of Fact, Conclusions of Law and Brief.

April 28, 2005

Additional Defendant filed Memorandum of Law and Proposed Findings of Fact. Copy forwarded to Plaintiff and Defendant.

April 29, 2005

Board forwarded letter granting Plaintiff and Defendant an extension of time until May 8, 2005 in which to file Plaintiff and Defendant's Findings of Fact, Conclusions of Law and Brief.

May 2, 2005

Plaintiff filed Post Hearing Brief. Copy forwarded to Defendant and Additional Defendant.

May 6, 2005

Defendant filed Proposed Findings of Fact, Conclusions of Law

and Brief in Support. Copy forwarded to Plaintiff and Additional Defendant.

June 20, 2005

Panel Members Giles & Kambic filed Panel Report.

September 30, 2005

Board rendered Opinion and Order. Order as follows: "AND NOW, this 30th day of September, 2005, it is **ORDERED** and **DECREED** that judgment be entered in favor of Plaintiff, Padula & Sons, Inc., and against Defendant, Commonwealth of Pennsylvania, Department of Transportation, in the sum of Thirty-Two Thousand Seven Hundred and Twenty-Four Dollars (\$32,724.00) which is the sum of the following: \$11,770.00 for damages to backhoe no. 2. \$ 4,460.00 for rental charges due for backhoe no. 1. \$11,760.00 for rental charges due for backhoe no. 2. \$ 4,734.00 for pre-judgment interest. **IT IS FURTHER ORDERED** that Plaintiff is awarded post-judgment interest on the total judgment award of \$32,724.00 at the rate of six percent (6%) per year from the exit date of this Order until the judgment is paid in full. **IT IS FURTHER ORDERED** that the claim filed by Defendant, Commonwealth of Pennsylvania, Department of Transportation, against Additional Defendant, E. Kozlowski Towing and Repair, is **DENIED**. **IT IS FURTHER ORDERED** that each party will bear its own costs and attorneys' fees." Copy forwarded to Plaintiff, Defendant, Additional Defendant and Attorney General.

October 4, 2005

Additional Defendant filed Acceptance of Service of Opinion and Order dated September 30, 2005. Receipt of same acknowledged October 3, 2005.

October 6, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated September 30, 2005. Receipt of same acknowledged October 3, 2005.

October 7, 2005

Attorney General filed Acceptance of Service of Opinion and Order dated September 30, 2005. Receipt of same acknowledged October 5, 2005.

October 31, 2005

Defendant filed copy of Petition for Review filed in Commonwealth Court.

November 1, 2005

Commonwealth Court filed Petition for Review. [No. 2197 CD 2005]

November 30, 2005

Board transferred to Commonwealth Court. [No. 2197 CD 2005]

August 14, 2006

Commonwealth Court rendered Opinion and Order. Order as follows: "AND NOW, this 14th day of August, 2006, the order of the Board of Claims, dated September 30, 2005 at Docket No. 3569, is AFFIRMED."

October 13, 2006

Commonwealth Court returned file.
