

Docket Number: 3616

**DICK CORPORATION**

Kenneth W. Lee, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION**

~~Andrew S. Gordon, Chief Counsel~~  
~~Christopher F. Wilson, Assistant Counsel~~  
Jeffrey W. Davis, Assistant Counsel  
Jason M. Wolgemuth, Assistant Counsel

**April 8, 2003**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$3,000,000.00+.

---

**April 11, 2003**

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

---

**April 17, 2003**

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged April 14, 2003.

---

**June 6, 2003**

Defendant filed Answer and New Matter.

---

**June 11, 2003**

Board forwarded letter to Plaintiff requesting response to new matter.

---

**July 22, 2003**

Defendant filed First Amended Answer and New Matter.

---

**July 25, 2003**

Board forwarded letter to Plaintiff requesting response to new matter.

---

**December 2, 2003**

Plaintiff filed Reply to Amended New Matter.

---

**December 3, 2003**

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

---

**June 14, 2004**

Board forwarded letter to parties requesting a Status Report.

---

**July 13, 2004**

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

---

**July 13, 2004**

Defendant filed a status letter advising that the parties are in discovery.

---

**July 15, 2004**

Plaintiff filed (via fax) a status letter advising that the parties are in discovery and that the case can be listed for trial early next year.

---

**July 16, 2004**

Plaintiff filed (via U.S. mail) a status letter advising that the parties are in discovery and that the case can be listed for trial early next year.

---

**July 29, 2004**

Defendant filed Notice of Service of Department=s Second Request for Production of Documents and Department=s Interrogatories Directed to Plaintiff (Second Set).

---

**August 16, 2004**

Defendant filed Notice of Service of Defendant's Interrogatories Directed to Plaintiff (First Set).

---

**November 8, 2004**

Defendant filed Notice of Service of Defendant's Interrogatories Directed to Plaintiff (Third Set).

---

**November 16, 2006**

Board issued letter to parties requesting a status report.

---

**December 18, 2006**

Defendant filed (via facsimile) status report advising Plaintiff has not filed a response to discovery.

---

**December 20, 2006**

Defendant filed (via U.S. Mail) status report advising Plaintiff has not filed a response to discovery.

---

**December 20, 2006**

Plaintiff filed letter (via facsimile) advising that Plaintiff filed a status report under the wrong case. Status report was to be filed in the above case advising that all outstanding discovery requests served by PTC would be answered on or before December 31, 2006. All remaining discovery can be completed on or before June 1, 2007 and after that it can be listed for trial.

---

**December 21, 2006**

Plaintiff filed letter (via U.S. Mail) advising that Plaintiff filed a status report under the wrong case. Status report was to be filed in the above case advising that all outstanding discovery requests served by PTC would be answered on or before December 31, 2006. All remaining discovery can be completed on or before June 1, 2007 and after that it can be listed for trial.

---

**January 2, 2007**

Plaintiff filed Notice of Service of Reply to Defendant's Second Request for Production of Documents as well as Notice of Service of Plaintiff's Answers to Defendant's Interrogatories (1st & 2<sup>nd</sup> Set).

---

**January 17, 2007**

Plaintiff filed Notice of Service of Plaintiff's Answers to Defendant's Interrogatories (Third Set).

---

**January 24, 2008**

Board issued letter to parties requesting a status report.

---

**February 22, 2008**

Defendant filed status letter advising that some discovery has occurred and will continue over the next several months, followed by possible depositions.

---

**February 29, 2008**

Plaintiff transmitted via facsimile a status letter advising that the matter could be ready for trial with a six month notice from the Board of a trial date. Plaintiff intends to file a motion for a status/scheduling conference.

---

**March 3, 2008**

Plaintiff filed a status letter advising that the matter could be ready for trial with a six month notice from the Board of a trial date. Plaintiff intends to file a motion for a status/scheduling conference.

---

**April 9, 2013**

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

---

**May 29, 2013**

Plaintiff filed Notice of Intent to Proceed.

---

**October 20, 2014**

Plaintiff filed praecipe to substitute counsel - enter appearance of Kenneth W. Lee, Esquire and the law firm of Post & Schell and withdraw appearance of Christopher E. Fisher, Esquire and the law firm of Tucker Arensberg, P.C.

---

**October 20, 2014**

Plaintiff filed letter requesting hearing to be scheduled.

---

**October 28, 2014**

Defendant filed a praecipe to substitute counsel- withdraw appearance of Christopher F. Wilson, Assistant Counsel and enter appearance of Jeffrey W. Davis, Assistant Counsel and Jason M. Wolgemuth, Assistant Counsel on behalf of Defendant.

---

**October 28, 2014**

Board scheduled a scheduling conference for Wednesday, November 12, 2014 at 1:00 p.m.

---

**November 12, 2014**

Board held scheduling conference on Wednesday, November 12, 2014 at 1:00 p.m.

**November 13, 2014**

Board rendered Scheduling Order. Order as follows: "AND NOW, this 13<sup>th</sup> day of November, 2014, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to the defendant is August 31, 2015;<sup>1</sup> 2. The last day for defendant's expert report, if any, to be provided to the plaintiff is September 30, 2015;<sup>1</sup> 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by October 31, 2015;<sup>2</sup> 4. The last day for filing pre-trial motions is November 13, 2015;<sup>2</sup> 5. Pre-trial statements of all parties shall be filed with the Board and served upon one another no later than January 5, 2016 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Thursday, January 7, 2016 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 7. This matter is set for hearing beginning on Tuesday, February 16, 2016 and running through Friday, March 4, 2016, or as otherwise necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101. Unless otherwise noted, the first day of all hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m." Copy forwarded to Plaintiff and Defendant.

---

**November 20, 2014**

Plaintiff filed Acceptance of Service of Scheduling Order dated November 13, 2014. Receipt of same acknowledged November 15, 2014.

---

**September 25, 2015**

Defendant filed letter requesting modifications to the Scheduling Order of November 13, 2014.

---

**September 25, 2015**

Board forwarded letter to parties requesting confirmation to modify Scheduling Order.

---

**September 28, 2015**

Defendant filed a letter in response to Board's letter of September 25, 2015, advising that PennDOT is amenable to the changes to the scheduling order stated therein.

---

**September 30, 2015**

Plaintiff filed a letter in response to Board's letter of September 25, 2015, advising that Plaintiff is agreeable with the clarification that Defendant's expert report(s) will be served upon Plaintiff by November 30, 2015.

---

**September 30, 2015**

Board rendered a Revised Scheduling Order. Revised Scheduling Order as follows: **"AND NOW**, this 30<sup>th</sup> day of September, 2015, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to the defendant was August 31, 2015; 2. The last day for defendant's expert report, if any, to be provided to the plaintiff is November 30, 2015; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by December 31, 2015; 4. The last day for filing pre-trial motions is December 31, 2015; 5. Pre-trial statements of all parties shall be filed with the Board and served upon one another no later than February 1, 2016 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Thursday, February 4, 2016 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 7. This matter is set for hearing beginning on Monday, March 7, 2016 and running through Friday, March 25, 2016, or as otherwise necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101. Unless otherwise noted, the first day of all hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m." Copy forwarded to Plaintiff and Defendant.

---

**October 7, 2015**

Defendant filed Acceptance of Service of Revised Scheduling Order dated September 30, 2015. Receipt of same acknowledged October 2, 2015.

---

**October 8, 2015**

Plaintiff filed Acceptance of Service of Revised Scheduling Order dated September 30, 2015. Receipt of same acknowledged October 2, 2015.

**December 22, 2015**

Plaintiff filed a letter requesting the Board revise the current pre-trial schedule.

---

**December 23, 2015**

Board rendered a Second Revised Scheduling Order. Second Revised Scheduling Order as follows: "**AND NOW**, this 23<sup>rd</sup> day of December, 2015, Plaintiff's request is hereby granted in part, and it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to the defendant was August 31, 2015; 2. The last day for defendant's expert report, if any, to be provided to the plaintiff was November 30, 2015; 3. The last day for filing pre-trial motions is January 8, 2016; 4. All discovery, including exchange of any further rebuttal expert reports, shall be completed by January 31, 2016; 5. Pre-trial statements of all parties shall be filed with the Board and served upon one another no later than February 8, 2016 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for February 11, 2016 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 7. This matter is set for hearing beginning on Monday, March 7, 2016 and running through Friday, March 25, 2016, or as otherwise necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101. Unless otherwise noted, the first day of all hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m." Copy forwarded to Plaintiff and Defendant.

---

**December 30, 2015**

Plaintiff filed Acceptance of Service of Second Revised Scheduling Order dated December 23, 2015. Receipt of same acknowledged December 23, 2015.

---

**January 14, 2016**

Board forwarded Notice of Settlement Conference.

---

**February 1, 2016**

Plaintiff filed Prehearing Memorandum of Dick Corporation.

---



**February 2, 2016**

Plaintiff filed Supplemental Prehearing Memorandum of Dick Corporation.

---

**February 8, 2016**

Defendant filed Pre-Trial Statement, Expert Witness Reports for Cost Estimator's Evaluation and Expert Witness Reports for Evaluation of Construction Claim Submission.

---

**February 8, 2016**

Plaintiff filed Second Supplemental Prehearing Memorandum.

---

**February 11, 2016**

Board held pre-trial conference on February 11, 2016.

---

**February 23, 2016**

Plaintiff requested via telephone 9 Subpoenas 234.1 - to attend with duces tecum and 3 Subpoenas 4009.21 - to produce documents.

---

**February 23, 2016**

Board forwarded 9 Subpoenas 234.1 - to attend with duces tecum and 3 Subpoenas 4009.21 - to produce documents dated February 23, 2016 to Plaintiff.

---

**February 23, 2016**

Plaintiff filed a letter requesting 12 Subpoenas.

---

**February 25, 2016**

Plaintiff transmitted via facsimile a letter requesting a joint extension of time until February 29, 2016, in which to file and exchange trial exhibits.

---

**February 25, 2016**

Board forwarded (via Facsimile & U.S. Mail) a letter to parties granting extension of time request.

**February 29, 2016**

Plaintiff filed via U.S. Mail a letter requesting a joint extension of time until February 29, 2016, in which to file and exchange trial exhibits.

---

**March 7, 2016**

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

---

**March 18, 2016**

Testimony of hearing held March 7, 2016 filed. (last day)

---

**March 21, 2016**

Board forwarded copy of testimony to Defendant.

---

**July 14, 2016**

Plaintiff filed Praecipe to Settle and Discontinue.

---

**July 15, 2016**

Board rendered Order. Order as follows: "**AND NOW**, this 15<sup>th</sup> day of July, 2016, upon receipt of a Praecipe executed by Kenneth W. Lee, Esquire, on behalf of Plaintiff, Dick Corporation, requesting that the Board mark the above-captioned matter settled and discontinued, docketed with this Board under date of July 14, 2016, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

---

**July 21, 2016**

Plaintiff filed Acceptance of Service of Order dated July 15, 2016. Receipt of same acknowledged July 18, 2016.

---