

Docket Number: 3638

W. G. Tomko, Inc.

~~Paul G. Walker, Jr., Esquire~~  
Renee Colbert, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES

~~Trent Harrover, Esquire~~  
~~Stephen J. Buser, Assistant Counsel~~  
~~\*Alice M. ... Assistant Counsel~~  
David L. Nariewicz, Assistant Chief Counsel

**May 30, 2003**

Plaintiff filed Claim and filing fee. Amount of Claim:  
\$14,532.00+.

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**June 4, 2003**

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

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**June 12, 2003**

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

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**June 16, 2003**

Defendant filed Acceptance of Service of Claim dated June 4,  
2003. Receipt of same acknowledged June 9, 2003.

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**July 1, 2003**

Defendant filed Answer and New Matter.

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**July 14, 2003**

Plaintiff filed Answer to New Matter.

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**July 17, 2003**

Board issued letter directing the parties to commence with  
discovery.

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**January 29, 2004**

Board forwarded letter requesting status from parties.

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**\*February 27, 2004**

Defendant filed Praecipe to withdraw Stephen J. Busterna and  
enter Alice Miller on behalf of Defendant.

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**March 1, 2004**

Defendant filed letter advising that Defendant plans to commence  
discovery within 45 days.

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**March 3, 2004**

Plaintiff filed letter advising that no discovery has been  
requested and Plaintiff is prepared to proceed to trial.

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**May 10, 2004**

Defendant filed Motion for Consolidation and Brief in Support.

**May 10, 2004**

Defendant filed Motion for Severance (Bifurcation) of Liability and Damages.

**June 22, 2004**

Defendant filed status letter advising that Defendant feels since Plaintiff has not responded to their Motion for Consolidation and Motion for Severance that they have no objection and further outlining Defendant's perspective on their need to have these cases consolidated.

**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 serviced 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: 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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**February 10, 2005**

Defendant filed Motion for Partial Summary Judgment, Brief in Support of Motion and Proposed Order.

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**February 10, 2005**

Defendant filed Petition for Interpleader, Memorandum of Law in Support and Proposed Order.

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**August 2, 2005**

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 2nd day of August, 2005, upon consideration of Defendant's, Commonwealth of Pennsylvania, Department of General Services' Motion for Partial Summary Judgment on Damages and its Petition for Interpleader, and the Briefs in Support thereof, it is hereby **ORDERED** and **DECREED** that the Motion is **DENIED** and the Petition is **DISMISSED**." Copy forwarded to Plaintiff and Defendant.

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**August 8, 2005**

Defendant filed Acceptance of Service of Opinion and Order dated August 2, 2005. Receipt of same acknowledged August 8, 2005.

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**August 3, 2006**

Board forwarded letter to parties requesting a status report.

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**September 5, 2006**

Defendant filed status report requesting that due to ongoing discussions to resolve outstanding issues and claims, the Board hold these matters in abeyance through October 31, 2006.

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**September 5, 2006**

Plaintiff filed a praecipe for appearance of Renee Colbert, Esquire on behalf of Plaintiff.

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**September 5, 2006**

Plaintiff filed status report advising that the parties are currently negotiating an attempt to resolve this claim.

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**September 7, 2006**

Plaintiff filed Praecipe for Appearance of Renee Colbert, Esquire on behalf of Plaintiff.

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**September 7, 2006**

Plaintiff filed a status report advising that they are currently negotiating an attempt to resolve this claim along with other pending claims. It is anticipated that this claim will be resolved before the end of 2006. Plaintiff request that the Board take no further action unless an agreement is not reached.

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**April 23, 2007**

Plaintiff filed status report advising that the parties' settlement negotiations failed to reach an amicable resolution and that Plaintiff will proceed with discovery.

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**April 23, 2007**

Plaintiff filed Notice of Service of First Set of Expert Interrogatories Directed to Defendant.

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**April 23, 2007**

Plaintiff filed Notice of Service of First Set of Interrogatories Directed to Defendant.

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**April 23, 2007**

Plaintiff filed Notice of Service of First Request for Production of Documents.

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**June 19, 2008**

Plaintiff filed Praecipe to Discontinue.

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**June 30, 2008**

Board rendered Praecipe Order. Order as follows: "**AND NOW**, this 30<sup>th</sup> day of June, 2008, upon receipt of a praecipe executed by Renee Colbert, J.D., Esquire, on behalf of Plaintiff, W.G. Tomko, Inc., requesting that the Board mark its claim in the above-captioned docket settled and discontinued, docketed with this Board under date of June 19, 2008, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

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**July 2, 2008**

Defendant filed Acceptance of Service of Order dated June 30, 2008. Receipt of same acknowledged July 1, 2008.

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**July 9, 2008**

Plaintiff filed Acceptance of Service of Order dated June 30, 2008. Receipt of same acknowledged July 7, 2008.

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