

Docket Number: 3653

HARRIS MASONRY, INC.

David Raves, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

~~Trent Hargrove, Chief Counsel~~
~~Elizabeth A. O'Reilly, Assistant Counsel~~
David L. Narkiewicz, Assistant Chief Counsel

July 31, 2003

Plaintiff filed Claim and filing fee. AMOUNT OF CLAIM: \$550,262.00].

July 31, 2003

Board advised, per telephone conversation, Plaintiff of filing deficiency: need proof of mailing to Defendant. Faxed notice of deficiency to Plaintiff.

August 4, 2003

Plaintiff filed (via fax) proof of mailing Claim to Defendant. ACCEPTED FOR FURTHER PROCESSING.

August 6, 2003

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

August 12, 2003

Chief Deputy Attorney General filed Acknowledgment Form for Claim. Receipt of Same acknowledged by Chief Deputy Attorney General August 7, 2003.

September 2, 2003

Defendant filed Answer With New Matter and Counterclaim. Copy forwarded to Plaintiff.

September 26, 2003

Plaintiff filed Reply to New Matter, Answer to Counterclaim and New Matter. Copy forwarded to Defendant.

November 3, 2003

Defendant filed Commonwealth's Counter-Reply to New Matter. Copy forwarded to Plaintiff.

April 5, 2004

Plaintiff Harris Masonry, Inc.'s Motion to Compel Discovery Responses. **Copy forwarded to Defendant.**

April 12, 2004

Plaintiff filed Motion for Leave to file an Amended Complaint

and Brief in Support. **Copy forwarded to Defendant.**

May 11, 2004

Defendant filed Commonwealth's Reply to Plaintiff's Motion for Leave to Amend Complaint and Opposing Brief. Copy forwarded to Plaintiff.

May 11, 2004

Defendant filed Notice of Service of Commonwealth's Answers to Plaintiff's Request for Production of Documents. Copy forwarded to Plaintiff.

May 20, 2004

Defendant filed Notice of Service of Commonwealth's Answers to Plaintiff's Interrogatories. Copy forwarded to Plaintiff.

July 30, 2004

Board issued Opinion and Order. Order as follows: **AND NOW**, this 30th day of July, 2004, it is **ORDERED** and **DECREED** that Harris Masonry, Inc.'s Motion to file an Amended Claim is **GRANTED**. The Commonwealth of Pennsylvania, Department of General Services, is ordered to respond to Plaintiff's Amended Claim within thirty (30) days from the exit date of this Order. Copy forwarded to Plaintiff and Defendant.

August 9, 2004

Plaintiff filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by attorney for Plaintiff August 2, 2004.

August 30, 2004

DGS' Answer with New Matter and Counterclaim to Harris' Amended Complaint. Copy forwarded to Plaintiff.

August 30, 2004

Defendant filed an Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Defendant August 9, 2004.

September 29, 2004

Plaintiff filed Reply to New Matter, Answer to Counterclaim and New Matter to Harris' Amended Complaint. Copy forwarded to

Defendant.

September 29, 2004

Board issued letter to parties to proceed with discovery.

December 21, 2004

Plaintiff filed letter requesting copies of check marked documents from the docket sheet. Forwarded copies 12-27-04.

December 27, 2004

Board issued letter to Plaintiff granting their request for documents in the above-captioned case.

June 21, 2005

Defendant filed Withdraw of Appearance of Elizabeth A. O'Reilly, Assistant Counsel as well as Entry of Appearance of David L. Narkiewicz, Assistant Chief Counsel on behalf of Defendant. Copy for forwarded to Plaintiff.

July 5, 2005

Defendant filed a letter requesting the Board to consolidate 18 cases before the Board regarding the Fayette SCI litigation.

July 11, 2005

Board forwarded letter to parties advising that the Board wishes to schedule a conference.

July 18, 2005

Board rendered an Order. Order as follows: "**AND NOW**, this 18^h day of July, 2005, in order to expedite disposition of the multiple claims arising out of the construction of the Fayette State Correctional Institution, it is **ORDERED** that a status conference shall be held on July 27, 2005, at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101 commencing at 2:00 p.m. Any party may participate by teleconference provided that a party wishing so to participate contacts the Board at least five (5) days prior to the conference and places the teleconference call as the Board directs." Copy forwarded to Plaintiff and Defendant.

July 20, 2005

Defendant filed Acceptance of Service of Order dated July 18, 2005. Receipt of same acknowledged July 19, 2005.

July 22, 2005

Plaintiff filed (via fax) letter advising that Plaintiff has sent up a conference call through AT&T for the July 27, 2005 status conference scheduled and included instructions for other parties to participate in that conference call. Copy forwarded to all parties scheduled for the July 27, 2005 status conference.

July 25, 2005

Plaintiff filed (via U.S. Mail) letter advising that Plaintiff has sent up a conference call through AT&T for the July 27, 2005 status conference scheduled and included instructions for other parties to participate in that conference call. Copy forwarded to all parties scheduled for the July 27, 2005 status conference.

July 27, 2005

Board held status conference at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101 commencing at 2:00 p.m.

August 3, 2005

Board forwarded letter to parties requesting comments regarding

case management and scheduling.

August 16, 2005

Defendant filed letter with Defendant's comments regarding case management and scheduling.

August 17, 2005

Plaintiff filed Harris Masonry's Reply to Issues Raised at Status Conference. Copy forwarded to all parties of record.

November 16, 2005

(ALL) Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 16th day of November, 2005, for the reasons stated above, the current consolidation of cases under Docket No. 3464 will stand as is, and the Board will not consolidate further the above-captioned cases either for the purpose of discovery or hearing, nor will it bifurcate hearings for the purpose of liability and damages. We will reserve the decision on whether or not to further consolidate one or more of these cases for the purpose of judgment for the reasons stated, and may reconsider same at a later date upon motion of one or more of the parties.

Finally, it is **ORDERED** and **DECREED** that the following unified discovery schedule and status conference is set for each of the above-captioned cases: Last day for plaintiffs to provide expert reports to defendant and to file same with the Board - June 30, 2006; Last day for defendant to provide its expert reports to plaintiffs and additional defendants and to file same with the Board - August 15, 2006; Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board - September 15, 2006; Completion of all depositions and other discovery - October 15, 2006; Status conference for all cases in Board of Claims' Courtroom No. 1 beginning at 1:00 p.m. - October 25, 2006." Copy forwarded to all parties of record.

November 21, 2005

Defendant filed Acceptance of Service of Opinion and Order dated

November 16, 2005. Receipt of same acknowledged November 18, 2005.

November 23, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated November 16, 2005. Receipt of same acknowledged November 18, 2005.

March 9, 2006

Defendant filed courtesy copy of letter addressed to all Plaintiff counsel in the Fayette County cases regarding the requests for electronic files.

May 2, 2006

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 2nd day of May, 2006, it is **ORDERED** and **DECREED** that the following modified unified discovery schedule and status conference is set for each of the above-captioned cases: Last day for plaintiffs to provide expert reports to defendant and to file same with the Board - July 31, 2006; Last day for defendant to provide its expert reports to plaintiffs and additional defendants and to file same with the Board - September 15, 2006; Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board - October 15, 2006; Completion of all depositions and other discovery - October 15, 2006; Status conference for all cases in Board of Claims' Courtroom No. 1 beginning at 1:00 p.m. - October 25, 2006." Copy forwarded to all parties of record.

May 9, 2006

Defendant filed Acceptance of Service of Opinion and Order dated May 2, 2006. Receipt of same acknowledged May 3, 2006.

May 10, 2006

Plaintiff filed Acceptance of Service of Opinion and Order dated May 2, 2006. Receipt of same acknowledged by Plaintiff May 5, 2006.

July 21, 2006

Airport Industrial Park filed Motion for Additional Time to Obtain, Serve and File Expert's Report. Copy forwarded to all parties of record.

July 25, 2006

Board rendered opinion and order. Order as follows: **"AND NOW,** this 25th day of July, 2006, it is **ORDERED** and **DECREED** that the following modified unified discovery schedule and status conference is set for each of the above-captioned cases: Last day for plaintiffs to provide expert reports to defendant and to file same with the Board October 15, 2006 Last day for defendant to provide its expert reports to plaintiffs and additional defendants and to file same with the Board December 15, 2006 Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board January 15, 2007 Completion of all depositions and other discovery January 15, 2007 Status conference for all cases in Board of Claims' Courtroom No. 1 beginning at 10:00 a.m. January 25, 2007." Copy forwarded to plaintiff and defendant.

August 3, 2006

Board issued Opinion and Order. Order as follows: **AND NOW,** this 3rd day of August, 2006, the motions for reconsideration and/or severance are **DENIED**. Copies forwarded to all parties of record.

August 11, 2006

Plaintiff filed Acceptance of Service of Opinion and Order dated August 3, 2006. Receipt of same acknowledged August 7, 2006.

August 11, 2006

Defendant filed Acceptance of Service of Opinion and Order dated August 3, 2006. Receipt of same acknowledged August 8, 2006.

October 16, 2006

Plaintiff filed Harris Masonry's Expert Report. Copy forwarded

to Defendant.

December 13, 2006

(ALL) Defendant filed (via fax) letter requesting the Board stay the Fayette county matters for sixty days.

December 14, 2006

Board rendered an Order. Order as follows: "**AND NOW**, this 14th day of December, 2006, it is **ORDERED** and **DECREED** that pursuant to Defendant's letter request dated December 13, 2006, an immediate stay is entered in all captioned cases as of today for sixty days. All current case deadlines are extended sixty days and the status conference will be rescheduled. The new deadlines are as follows:

Last day for defendant to provide its expert reports to plaintiffs and additional defendants and to file same with the Board February 12, 2007; Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board March 12, 2007; Completion of all depositions and other discovery March 12, 2007." Copy forwarded to all parties of record.

December 18, 2006

Defendant filed Acceptance of Service of Order dated December 14, 2006. Receipt of same acknowledged December 15, 2006.

December 20, 2006

Defendant filed Acceptance of Service of Order dated December 14, 2006. Receipt of same acknowledged December 19, 2006.

December 20, 2006

Plaintiff filed Acceptance of Service of Order dated December 14, 2006. Receipt of same acknowledged December 18, 2006.

February 15, 2007

(ALL) Defendant filed letter requesting that the Board extend the discovery deadline until May 11, 2007.

February 16, 2007

Board rendered Amended Order. Order as follows: "**AND NOW**, this 16th day of February, 2007, it is **ORDERED** and **DECREED** that pursuant to letter requests dated February 12, 2007, from Amthor Steel and February 15, 2007, from DGS and Airport Industrial Park, all current case deadlines are extended as outlined below.

This is the last discovery extension that will be granted by this Board. The final revised deadlines are as follows: Last day for defendant to provide its expert reports to plaintiffs and additional defendants and to file same with the Board, March 12, 2007; Last day for any/all expert rebuttal reports by any party to be exchanged and filed with the Board, April 30, 2007; Completion of all depositions and other discovery, May 11, 2007; Additionally, counsel for the remaining parties are to advise the Board in writing of any days or times they cannot be available for a status conference during the week of June 18-22, 2007, within 10 days of the exit date of this Order." Copy forwarded to all parties of record.

February 20, 2007

Plaintiff filed letter advising that they join Amthor Steel's request for an extension of the discovery and rebuttal reports deadline. Copy forwarded to all parties of record.

February 26, 2007

Plaintiff filed Acceptance of Service of Amended Order dated February 16, 2007. Receipt of same acknowledged by Plaintiff February 22, 2007.

March 12, 2007

Board rendered Order. Order as follows: "AND NOW, this 12th day of March, 2007, it is **ORDERED** and **DECREED** that a status conference to discuss a timetable for hearings and case management issues will be held at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101 on June 20, 2007 at 1:00 p.m. Any party may participate by teleconference provided that a party wishing to do so contacts the Board for instructions at least seven days prior to the conference and places the teleconference call as the Board directs." Copy forwarded to all parties of record.

March 16, 2007

(ALL) Harris Masonry filed Acceptance of Service of Order dated March 12, 2007. Receipt of same acknowledged March 14, 2007.

April 27, 2007

Airport filed (via fax) Emergency Motion to Allow Counsel for All Parties to Attend and Participate in Deposition of DGS's Expert, Or, Alternatively, to Quash Deposition. Copy forwarded to all parties of record.

April 30, 2007

Defendant filed (via fax) Response to Emergency Motion to Allow Counsel for All Parties to Attend and Participate in Deposition of DGS's Expert, Or, Alternatively, to Quash Deposition. Copy forwarded to all parties of record.

April 30, 2007

Defendant filed (via U.S. mail) Response to Emergency Motion to Allow Counsel for All Parties to Attend and Participate in Deposition of DGS's Expert, Or, Alternatively, to Quash Deposition. Copy forwarded to all parties of record.

April 30, 2007

Airport filed (via U.S. mail) Emergency Motion to Allow Counsel for All Parties to Attend and Participate in Deposition of DGS's Expert, Or, Alternatively, to Quash Deposition. Copy forwarded to all parties of record.

April 30, 2007

Board rendered an Order. Order as follows: "**AND NOW**, this 30th day of April, 2007, the emergency motion of Airport Industrial Park, Inc., d/b/a PEC Contracting Engineers, to allow counsel for all parties to attend and participate in deposition of DGS's expert on the morning of April 30, 2007, or alternatively, to quash deposition, is hereby **DENIED**. The motion is not properly filed and is also **MOOT**. This Order is issued without prejudice to a subsequent motion of any party seeking deposition of another's expert for cause shown pursuant to the Pennsylvania Rules of Civil Procedure." Copy forwarded to all parties of record.

May 7, 2007

Plaintiff filed Acceptance of Service of Order dated April 30, 2007. Receipt of same acknowledged May 2, 2007.

May 11, 2007

Defendant filed letter advising parties have signed a settlement agreement but agreement is still being executed by Defendant. Copy forwarded to all parties of record.

June 7, 2007

Plaintiff filed Praecipe to Settle and Discontinue. Copy forwarded to Defendant.

June 11, 2007

Board rendered Order. Order as follows: "**AND NOW**, this 11th day of June, 2007, upon receipt of a praecipe executed by David Raves, Esquire, on behalf of Plaintiff, Harris Masonry, Inc. and

David L. Narkiewicz, Esquire, on behalf of Defendant, Commonwealth of Pennsylvania, Department of General Services, jointly requesting that the Board mark the docket on this matter as settled and discontinued as to all claims and counterclaims between the parties under date of June 7, 2007, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended, with prejudice." Copy forwarded to Plaintiff and Defendant.

June 14, 2007

Defendant filed Acceptance of Service of Order dated June 11, 2007. Receipt of same acknowledged June 13, 2007.

June 15, 2007

Plaintiff filed Acceptance of Service of Order dated June 11, 2007. Receipt of same acknowledged June 13, 2007.