

Docket Number: 3704

DONALD A. PUSEY, INC.

Edward Seglias, Esquire
Lucy H. Halatyn, Esquire
Timothy J. Woolford, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

~~Trent Hargrove, Chief Counsel~~
~~Alice Miller, Assistant Counsel~~

*Tanya C. Lesko, Senior Counsel
**David L. Narkiewicz, Assistant Counsel(co-counsel)

April 13, 2004

Plaintiff filed Claim and filing fee. Amount of Claim:
\$1,022,057.11

April 13, 2004

Board called Plaintiff advising of filing deficiency: Proof of Mailing. Faxed Notice of deficiency to Plaintiff.

April 14, 2004

Plaintiff filed proof of mailing Claim to Defendant. **ACCEPTED FOR FURTHER PROCESSING.**

April 15, 2004

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

April 23, 2004

Chief Deputy filed Acceptance of Service of Claim. Receipt of same acknowledged April 20, 2004.

May 12, 2004

Defendant filed Answer. Copy forwarded to Plaintiff.

August 16, 2004

Plaintiff filed Certificate Prerequisite to Service of a Subpoena pursuant to Rule 4009.22.

September 21, 2004

Plaintiff filed Motion to Compel Full and Complete Answers to Interrogatories. Copy forwarded to Defendant.

November 10, 2004

Board rendered Opinion and Order. Order as follows: **"AND NOW,** this 10th day of November, 2004, it is **ORDERED** and **DECREED** that Plaintiff's Motion to Compel Full and Complete Answers to Interrogatories is **GRANTED** as it relates to interrogatories 2, 8, 10, 11, 14, 15(c), 24, 35, 39, 40, 41, 42, 49, 50, 52 and 55. Defendant shall have twenty (20) days from the exit date of this Order to comply." Copy forwarded to Plaintiff and Defendant.

December 6, 2004

Defendant filed Acceptance of Service of Opinion and Order dated November 10, 2004. Receipt of same acknowledged by Defendant November 20, 2004.

February 10, 2005

Plaintiff filed letter requesting a status conference as well as a hearing be scheduled.

March 11, 2005

Plaintiff filed Notice of Service of Notice of Deposition unto Daniel H. Weinzierl.

***March 17, 2005**

Defendant filed withdrawal of appearance of Alice Miller, Assistant Counsel and entry of appearance of Tanya C. Leshko, Chief Counsel.

March 24, 2005

Plaintiff filed Notice of Service for the Amended Notice of Deposition of Daniel H. Weinzierl.

April 27, 2005

Defendant filed Motion for Joint Discovery and Brief in Support. Copy forwarded to Plaintiff.

April 27, 2005

Defendant filed Motion for Permission to Join Wohlsen Construction Company as an Additional Defendant and Brief in Support. Copy forwarded to Plaintiff.

April 29, 2005

Corrected copy of Defendant filed Motion for Joint Discovery and Brief in Support. Copy forwarded to Plaintiff.

April 29, 2005

Corrected copy of Defendant filed Motion for Permission to Join Wohlsen Construction Company as an Additional Defendant and Brief in Support. Copy forwarded to Plaintiff.

****May 4, 2005**

Defendant filed Entry of Appearance of David Narkiewicz as co-counsel on behalf of Defendant.

June 6, 2005

Wohlsen filed Response to Defendant's Motion for Permission to Join Claimant as an Additional Defendant as well as Brief in Support.

June 23, 2005

Plaintiff filed letter-type response to Plaintiff's Motion for Joint Discovery and Motion for Permission to Join Wohlsen Construction as an Additional Defendant.

July 15, 2005

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 15th day of July, 2005, upon consideration of the Commonwealth of Pennsylvania, Department of General Services' Motion for Joint Discovery and Supporting Brief, it is **ORDERED** that said Motion is **DENIED**." Copy forwarded to Plaintiff and Defendant.

July 15, 2005

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 15th day of July, 2005, upon consideration of Respondent's, Commonwealth of Pennsylvania, Department of General Services' Motion for Permission to Join Wohlsen Construction Company as an Additional Defendant and the

memorandum of law in support thereof, and the responses thereto, it is hereby **ORDERED** that said Motion is **DENIED.**" Copy forwarded to Plaintiff and Defendant.

July 20, 2005

Defendant filed Acceptance of Service of Opinion and Order dated July 15, 2005. Receipt of same acknowledged July 19, 2005.

July 20, 2005

Defendant filed Acceptance of Service of Opinion and Order dated July 15, 2005. Receipt of same acknowledged July 19, 2005.

July 20, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated July 15, 2005. Receipt of same acknowledged July 18, 2005.

July 20, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated July 15, 2005. Receipt of same acknowledged July 18, 2005.

November 14, 2005

Plaintiff filed a letter requesting the Board to schedule a status conference, as well as, a trial.

November 28, 2005

Plaintiff filed Entry of Appearance of Lucy H. Halatyn, Esquire as co-counsel on behalf of Plaintiff.

December 12, 2005

Plaintiff filed Proposed Scheduling Order. Copy forwarded to attorney for Defendant.

December 12, 2005

Defendant filed letter-type Proposed Scheduling Order. Copy forwarded to attorney for Plaintiff.

December 19, 2005

Board rendered a Scheduling Order. Order as follows: **"AND NOW**, this 19th day of December, 2005, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant is March 29, 2006; 2. The last day for defendant's expert report, if any, to be provided to plaintiff is April 28, 2006; 3. All depositions, including exchange of expert rebuttal reports shall be completed by June 16, 2006; 4. The last day for filing Pre-Trial Motions is July 24, 2006; 5. Pre-Trial Statements of both parties shall be filed with the Board and served upon one another no later than August 23, 2006 (Please note BOC R.P. 501(b) and (c)(3)); 6. A Pre-Trial Conference is scheduled for Wednesday, September 6, 2006, at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; and 7. This matter is set for hearing beginning on October 16, 2006 and running through October 20, 2006, 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 Defendant.

December 27, 2005

Defendant filed Acceptance of Service of Scheduling Order dated December 19, 2005. Receipt of same acknowledged by Defendant December 22, 2005.

December 30, 2005

Plaintiff filed Acceptance of Service of Scheduling Order dated December 19, 2005. Receipt of same acknowledged by Plaintiff December 30, 2005.

January 4, 2006

Plaintiff filed Acceptance of Service of Scheduling Order dated December 19, 2005. Receipt of same acknowledged January 3, 2006.

March 14, 2006

Defendant filed Certificate of Service of Notice of Deposition Ducas Tecum of Designated Representatives of Donald A. Pusey, Inc.

March 17, 2006

Defendant filed Notice of Service of Interrogatories and Request for Production of Documents. Copy forwarded to Plaintiff.

March 30, 2006

Defendant filed (via fax) letter addressed to Plaintiff responding to Plaintiff's request for an extension of time of 45 days to file an expert report and regarding the possibility of modifying the scheduling order.

March 30, 2006

Board forwarded letter to parties advising that if the parties wish to modify dates in the scheduling order they may submit same, showing a good cause for the change.

April 3, 2006

Defendant filed (via U.S. mail) letter addressed to Plaintiff responding to Plaintiff's request for an extension of time of 45 days to file an expert report and regarding the possibility of modifying the scheduling order.

May 4, 2006

Plaintiff filed letter (via fax) requesting the Board modify the scheduling order with a proposed modification.

May 5, 2006

Board rendered a Modified Scheduling Order. Order as follows: **"AND NOW**, this 5th day of May, 2006, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant is May 5, 2006; 2.

The last day for defendant's expert report, if any, to be provided to plaintiff is July 10, 2006; 3. All discovery shall be completed by July 10, 2006; 4. The last day for filing Pre-Trial Motions is July 24, 2006; 5. Pre-Trial Statements of both parties shall be filed with the Board and served upon one another no later than August 23, 2006 (Please note BOC R.P. 501(b) and (c)(3)); 6. A Pre-Trial Conference is scheduled for Wednesday, September 6, 2006, at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; and 7. This matter is set for hearing beginning on October 16, 2006 and running through October 20, 2006, 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 Defendant.

May 5, 2006

Plaintiff filed letter (via U.S. mail) requesting the Board modify the scheduling order with a proposed modification.

May 9, 2006

Defendant filed Motion to Compel Full and Complete Answers to Interrogatories and Memorandum of Law in Support. [09A060806D]

May 10, 2006

Defendant filed Acceptance of Service of Order dated May 5, 2006. Receipt of same acknowledged May 9, 2006.

May 11, 2006

Plaintiff filed Acceptance of Service of Order dated May 5, 2006. Receipt of same acknowledged May 9, 2006.

May 17, 2006

Defendant filed Motion to Exclude Expert Report of Donald A. Pusey, Inc., or Impose Alternative Sanctions, Brief in Support and Proposed Order. Copy forwarded to Plaintiff.

June 2, 2006

Plaintiff filed Entry of Appearance of Timothy J. Woolford, Esquire on behalf of Plaintiff.

June 8, 2006

Plaintiff filed Response to Motion to Compel Further Answers to Interrogatories and Memorandum in Opposition. Copy forwarded to Defendant.

June 9, 2006

Defendant filed a letter withdrawing its Motion to Exclude Expert Report of Donald A. Pusey, Inc., or Impose Alternative Sanctions.

July 7, 2006

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 7th day of July, 2006, it is **ORDERED** and **DECREED** that Defendant's motion to compel full and complete answers to interrogatories is **GRANTED**. Plaintiff is required to provide full and complete answers to interrogatories numbered 2, 3, 4, 5, 6, 7, 8, 9, 12, (first), 12 (second), 14 and 17. Plaintiff shall have 10 days from the exit date of this order to comply." Copy forwarded to Plaintiff and Defendant.

July 12, 2006

Defendant filed Acceptance of Service of Opinion and Order dated July 7, 2006. Receipt of same acknowledged July 7, 2006.

July 13, 2006

Defendant filed Acceptance of Service of Opinion and Order dated

July 7, 2006. Receipt of same acknowledged July 10, 2006.

July 17, 2006

Plaintiff filed Acceptance of Service of Opinion and Order dated July 7, 2006. Receipt of same acknowledged July 11, 2006.

July 17, 2006

Plaintiff filed a letter advising that the parties agreed to an extension until July 25, 2006, for Plaintiff to serve its further interrogatory answers which were originally required to be served by July 17, 2006.

August 23, 2006

Plaintiff filed Pretrial Statement. Copy forwarded to Defendant.

August 23, 2006

Defendant filed Pretrial Statement. Copy forwarded to Plaintiff.

August 29, 2006

Defendant filed letter to make a correction to Defendant's pretrial statement in which it identified Richard Zimmerman as a witness when it should not have, and should have identified Harry Sieg as a possible witness.

September 5, 2006

Plaintiff filed (via fax) letter advising of the addition of George D. Boyer & Sons, Inc. as a trial witness to Plaintiff's witness list.

September 6, 2006

Pre-trial conference held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101.

September 6, 2006

Defendant filed revised pre-trial statement. Copy forwarded to Plaintiff.

September 21, 2006

Plaintiff filed Rebuttal Report prepared by VSM, Inc.

October 4, 2006

Defendant filed Motion to Exclude Expert Report, Memorandum of Law in Support and Proposed Order. Copy forwarded to Plaintiff.

October 5, 2006

Board forwarded letter to Plaintiff requesting a response to Defendant's Motion to Exclude Expert Report by October 11, 2006.

October 10, 2006

Plaintiff filed letter requesting Board postpone trial scheduled for October 18, 2006 at 9:30 a.m. until October 18, 2006 at 1:30 p.m. Copy forwarded to Defendant.

October 11, 2006

Plaintiff filed Memorandum of Law in Opposition to Motion to Exclude Expert Report and Proposed Order. Copy forwarded to Defendant.

October 13, 2006

Plaintiff filed Motion in Limine to Exclude Expert Report and Testimony of Construction Dispute Resolution & Support Services, Inc. Copy forwarded to Defendant.

October 16, 2006

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:30 a.m.

October 17, 2006

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:30 a.m.

October 18, 2006

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 1:30 p.m.

October 19, 2006

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:30 a.m.

October 20, 2006

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:30 a.m. Case continued.

October 23, 2006

Plaintiff filed letter (via facsimile) requesting that hearing be continued until November 9, 2006 and November 10, 2006. Copy forwarded to Defendant.

October 25, 2006

Plaintiff filed letter (via U.S. Mail) requesting that hearing be continued until November 9, 2006 and November 10, 2006. Copy forwarded to Defendant.

November 3, 2006

Board rendered Order. Order as follows: "**AND NOW**, this 3rd day of November, 2006, it is hereby **ORDERED** and **DECREED** that the hearing in this matter that began on October 16, 2006 and ran through October 20, 2006 but was not completed, is continued to November 20, 2006 through November 21, 2006, as necessary. Said hearing shall be held at 200 North Third Street, Fulton

Building, 6th Floor, Harrisburg, PA 17101, Courtroom No. 1, beginning at 9:00 a.m." Copy forwarded to Plaintiff and Defendant.

November 9, 2006

Plaintiff filed Acceptance of Service of Order dated November 3, 2006. Receipt of same acknowledged November 6, 2006.

November 9, 2006

Defendant filed Acceptance of Service of Order dated November 3, 2006. Receipt of same acknowledged November 8, 2006.

November 20, 2006

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

November 21, 2006

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

November 27, 2006

Testimony of hearing held October 16-20, 2006 filed.

December 20, 2006

Testimony of hearing held November 20-21, 2006 filed. Copy forwarded to attorney for Defendant.

January 6, 2007

Defendant filed Acceptance of Service of Testimony dated December 28, 2006. Receipt of same acknowledged January 3, 2006.

January 19, 2007

Plaintiff filed a letter requesting an extension of time until March 29, 2007, in which to file Plaintiff's Findings of Fact and Conclusions of Law.

January 19, 2007

Defendant filed (via fax) in response to Plaintiff's letter of January 18, 2007, requesting that if Plaintiff be granted an extension until March 29, 2007, that Defendant be granted an extension until May 31, 2007 to file its Findings of Fact and Conclusions of Law.

January 19, 2007

Board forwarded letter to parties granting extension of time to file Proposed Findings of Fact and Conclusions of Law.

March 29, 2007

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

June 1, 2007

Defendant filed letter advising that a settlement agreement has been signed and is being circulated for signatures and when the settlement check is sent they will send a praecipe to settle, discontinue and end.

August 2, 2007

Board forwarded letter to parties requesting a praecipe to discontinue.

August 20, 2007

Plaintiff filed letter advising that payment has not been received pursuant to terms of the Settlement Agreement. Upon receipt of payment a Praecipe to Discontinue will be filed.

August 24, 2007

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

August 28, 2007

Board rendered Order. Order as follows: "**AND NOW**, this 28th day of August, 2007, upon receipt of a praecipe executed by Edward Seglias, Esquire, on behalf of Plaintiff, Donald A. Pusey, Inc., requesting the Board to mark the above matter settled, discontinued and ended with prejudice, docketed with this Board under date of August 24, 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.

August 30, 2007

Defendant filed Acceptance of Service of Order dated August 28, 2007. Receipt of same acknowledged August 29, 2007.

September 6, 2007

Plaintiff filed Acceptance of Service of Order dated August 28, 2007. Receipt of same acknowledged September 4, 2007.
