

Docket Number: 3731

LEEWARD CONSTRUCTION, INC.

James W. Kutz, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION

Jeffrey W. Davis, Assistant Counsel
Andrew S. Gordon, Chief Counsel

CLOSED

October 20, 2004

Plaintiff filed Claim, filing fee and proof of mailing. Amount of Claim: \$686,021.25+.

October 22, 2004

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

October 29, 2004

Chief Deputy Attorney General filed Acceptance of Service of Claim. Receipt of same acknowledged by Chief Deputy Attorney General October 26, 2004.

December 21, 2004

Defendant filed an Answer With New Matter.

January 27, 2005

Plaintiff filed a Reply to New Matter.

January 28, 2005

Board forwarded letter to parties directing them to commence with discovery.

May 4, 2006

Board issued Subpoenas to Plaintiff.

May 24, 2006

Board issued letter to parties requesting a status report.

May 31, 2006

Defendant filed a letter advising that discovery is not yet complete. Once responses to written discovery are received Defendant anticipates conducting several dispositions.

May 8 2009

Plaintiff requested (3) subpoenas to attend and testify (with duces tecum) Pursuant to Rule 234.1.

May 8, 2009

Plaintiff requested (3) subpoenas to produce documents or things for discovery, pursuant to Rule 4009.22.

May 11, 2009

Plaintiff filed letter advising that it anticipates over the next several months discovery will be complete. Plaintiff requests the Board issue a scheduling order which establishes a discovery deadline and sets this matter for trial late in 2009.

May 11, 2009

Board forwarded (234.1 - to attend with duces tecum and 4009.22 - to produce documents subpoena(s) dated May 11, 2009 to Plaintiff.

May 13, 2009

Board issued proposed scheduling order to parties.

May 28, 2009

Defendant filed Proposed Scheduling Order.

June 5, 2009

Plaintiff filed Proposed Scheduling Order.

June 10, 2009

Board issued Order. Scheduling Order as follows: **"AND NOW**, this 10th day of June, 2009, 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 December 15, 2009; 2. The last day for defendant=s expert report, if any, to be provided to plaintiff is January 15, 2010; 3. All discovery, including exchange of expert rebuttal reports, shall be completed by February 5, 2010; 4. The last day for filing pre-trial motions is February 19, 2010; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than March 22, 2010 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Wednesday, March 31, 2010 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, May 10, 2010 and running through Friday, May 21, 2010, or as 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 hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m." Copy forwarded to Plaintiff and Defendant.

March 22, 2010

Defendant filed Pre-trial Statement.

March 22, 2010

Plaintiff filed Pre-trial Statement.

March 31, 2010

Board pre-trial conference held at 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 1:00 p.m.

March 31, 2010

Board issued Order. Scheduling Order as follows: "**AND NOW**, this 31st day of March, 2010 pursuant to discussion at pre-trial conference in this matter, hearing in this case is now rescheduled to begin on Monday, May 17, 2010, and to run through Friday, May 28, 2010, or as necessary. Said hearing shall be held at 200 North 3rd Street, Fulton Building, 6th Floor, Harrisburg, Pennsylvania 17101. The first day of hearing begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m. unless otherwise noted. Copy forwarded to Plaintiff and Defendant.

May 11, 2010

Plaintiff filed letter advising that the case has been tentatively settled.

May 14, 2010

Board issued Order. Order as follows: **AND NOW**, this 14th day of May, 2010, upon receipt of a letter executed by James W. Kutz, Esquire, on behalf of Plaintiff, Leeward Construction, Inc., advising that the case has been tentatively settled, the hearing scheduled to begin May 17, 2010 is hereby postponed until such time as it is rescheduled by this Board or the parties file a Praeceptum to settle, discontinue and end this matter. Copy forwarded to Plaintiff and Defendant.

May 18, 2011

Board forwarded letter to Plaintiff, with copy to Defendant, requesting Plaintiff file a praecipe to close and discontinue the case if the matter has been concluded or advise the Board if the case should still be considered active.

May 23, 2011

Plaintiff filed letter advising that the above-referenced case will not be resolved until payment is forthcoming. The Board should still consider the case to be an active case. Plaintiff will advise whether or not payment has been received.

September 19, 2011

Plaintiff filed Praecipe to Discontinue.

September 20, 2011

The Board rendered the following Order: "**AND NOW**, this 20th day of September, 2011, upon receipt of a Praecipe executed by James W. Kutz, Esquire, on behalf of Plaintiff, Leeward Construction, Inc., requesting that the Board mark the above-captioned matter settled, discontinued and ended, docketed with this Board under date of September 19, 2011, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.