

Docket Number: 3734

NEW ENTERPRISE STONE & LIME CO., INC.

Kenneth L. Sable, Esquire
John W. Dornberger, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

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

CLOSED

November 4, 2004

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: \$1,329,787.27+.

November 5, 2004

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

November 16, 2004

Attorney General filed Acknowledgment form of claim. Receipt of same acknowledged November 10, 2004.

December 30, 2004

Plaintiff filed Notice of Service of Plaintiff's First Set of Interrogatories and First Request for Production of Documents.

January 6, 2005

Defendant filed Answer With New Matter.

January 11, 2005

Board forwarded letter to Plaintiff requesting response to New Matter.

January 24, 2005

Defendant filed Objections to Subpoena pursuant to Rule 4009.21.

February 9, 2005

Plaintiff filed Reply of Plaintiff New Enterprise Stone & Lime Co., Inc. to the New Matter of Defendant Commonwealth of Pennsylvania, Department of Transportation.

February 23, 2005

Plaintiff filed Notice of Service of Subpoena Duces Tecum upon Gannett Fleming Inc.

March 1, 2005

Defendant filed Brief in Opposition to Plaintiff's "Response to Objections to Subpoena".

March 16, 2005

Board issued an Opinion and Order. Order: **AND NOW**, this 16th day of March, 2005, the Objections to Subpoena Pursuant to Rule 4009.21 are **OVERRULED**. The parties are instructed to promptly resume the discovery process.

March 23, 2005

Plaintiff filed Notice of Service of Subpoena Duces Tecum upon Gannett Fleming, Inc.

March 23, 2005

Plaintiff filed Acceptance of Service of Opinion and Order. Receipt of same acknowledged by Plaintiff March 21, 2005.

May 24, 2006

Board issued letter to parties requesting a status report.

May 31, 2006

Defendant filed letter advising that discovery is ongoing.

November 8, 2006

Letter forwarded to parties requesting a status report.

December 5, 2006

Plaintiff filed letter via fax advising that discovery is ongoing and, the parties will advise the Board in the spring of 2007 on the status of discovery's completion.

December 6, 2006

Plaintiff filed Plaintiff filed letter via u.s. mail advising that discovery is ongoing and, the parties will advise the Board in the spring of 2007 on the status of discovery's completion.

February 9, 2007

Board issued letter to parties requesting a status report.

March 9, 2007

Plaintiff filed status report advising that discovery is ongoing.

April 29, 2011

Plaintiff filed Motion for pre-hearing status conference.

May 12, 2011

Plaintiff filed a proposed scheduling order.

May 18, 2011

Defendant filed proposed scheduling order.

May 25, 2011

Board rendered an Order. Order as follows: **AND NOW**, this 25th day of May, 2011, pursuant to the request of the Plaintiff, New Enterprise Stone & Lime Co., Inc. for a status conference, it is hereby **ORDERED** that a status conference shall be held on Thursday, June 2, 2011 at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101 commencing at 1:00 p.m., counsel for the parties to be present in person. Copy forwarded to Plaintiff and Defendant.

May 25, 2011

Plaintiff transmitted via fax Acceptance of Service of Order dated May 25, 2011. Receipt of same acknowledged May 25, 2011

June 2, 2011

Status conference held.

June 3, 2011

Board rendered Scheduling Order. Order as follows: "**AND NOW**, this 3rd day of June, 2011, 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 February 1, 2012; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is March 2, 2012; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by March 26, 2012; 4. The last day for filing pre-trial motions is April 2, 2012; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than May 8, 2012 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, May 15, 2012 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, June 18, 2012 and running through Friday, June 29, 2012, 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 all hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m." Copy forwarded to Plaintiff and Defendant.

June 29, 2011

Plaintiff filed Acceptance of Service of Scheduling Order dated June 3, 2011. Receipt of same acknowledged on June 28, 2011.

June 29, 2011

Plaintiff filed letter advising that the parties have reached a settlement agreement in principle.

July 20, 2011

Plaintiff filed letter advising that the parties have reached a resolution of all claims and upon payment will advise the Board.

August 10, 2011

The Board rendered the following Amending Scheduling Order: **"AND NOW**, this 10th day of August, 2011, it is hereby **ORDERED** and **DECREED** that the Revised Scheduling Order issued by this Board on June 3, 2011 is amended as follows: 5.Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than May 3, 2012 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Friday, May 18, 2012 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, June 4, 2012 and running through Friday, June 15, 2012, 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 all hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m. All other times and dates in the June 3, 2011 Order remains unchanged." Copy to Plaintiff and Defendant.

August 18, 2011

Plaintiff filed Acceptance of Service of Amending Scheduling Order dated August 10, 2011. Receipt of same acknowledged August 17, 2011.

August 24, 2011

Board forwarded corrective letter advising pre-trial is on Tuesday, May 8, 2012 and not Friday May 8, 2012.

October 7, 2011

Plaintiff filed Praecipe to Mark Settled, Discontinued, Satisfied and Ended.

October 12, 2011

Board rendered the following Order: "AND NOW, this 12th day of October, 2011, upon receipt of a Praecipe executed by Kenneth L. Sable, Esquire, on behalf of Plaintiff, New Enterprise Stone & Lime Co., Inc., requesting that the Board mark the above-captioned matter settled, discontinued, satisfied and ended, docketed with this Board under date of October 7, 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.

October 19, 2011

Plaintiff filed Acceptance of Service of Order dated October 12, 2011. Receipt of same acknowledged October 14, 2011.