

Docket Number: 3740

DON E. BOWER, INC.

James W. Kutz, Esquire
Kandice Giurintano, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Andrew S. Gordon, Chief Counsel~~
Stephen S. Stokwitz, Assistant Counsel

CLOSED

December 10, 2004

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: Not Specified

December 15, 2004

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

December 22, 2004

Chief Deputy Attorney General filed Acknowledgement Form of Claim. Receipt of same acknowledged December 20, 2004.

December 30, 2004

Plaintiff filed Notices to Take Deposition of: Jim Yee; PennDOT designee from Materials Testing Division; Steve Myers; Wayne Frey; Kerry Drake; and James Kendter.

January 10, 2005

Defendant filed Preliminary Objections to Plaintiff's Complaint and Brief in Support of Preliminary Objections. Copy forwarded to Plaintiff.

January 10, 2005

Defendant filed Motion and Supporting Argument for Protective Order. Copy forwarded to Plaintiff.

January 11, 2005

Plaintiff filed Notice to Take Deposition Duces Tecum of James Kendter, Kerry Drake, Wayne Frey, Joseph Cribben, Steve Myers, Angela Howelland Jim Yee.

February 10, 2005

Plaintiff filed letter advising that the parties have reached an agreement regarding Defendant's Motion for Protective Order and advising there is no need for the Board to rule on the Motion and further advising the parties have agreed to give Plaintiff until March 11, 2005 in which to respond to Defendant's Preliminary Objections. Copy forwarded to Defendant.

February 17, 2005

Board issued Opinion and Order. Order as follows: **"AND NOW**, this 17th day of February, 2005, it is hereby **ORDERED** and **DECREED** that Defendant's Motion and Supporting Argument for Protective Order is hereby **DISMISSED** as **MOOT**. This dismissal is without prejudice, and Defendant may re-file its Motion and Supporting Argument for Protective Order after adjudication by this Board on Defendant's Preliminary Objections to Plaintiff's Complaint if the depositions that are the subject of Defendant's current motion are still at issue. It is further **ORDERED** and **DECREED** that Plaintiff shall file its response to Defendant's Preliminary Objections on or before March 11, 2005." Copy forwarded to Plaintiff and Defendant.

February 28, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated February 17, 2005. Receipt of same acknowledged February 22, 2005.

March 11, 2005

Plaintiff filed Brief in Opposition to Defendant's Preliminary Objections. Copy forwarded to Defendant.

May 3, 2005

Board issued Opinion and Order. Order as follows: **"AND NOW**, this 3rd day of May, 2005, upon consideration of Defendant's preliminary objections to Plaintiff's claim, it is **ORDERED** and **DECREED** that the preliminary objections are overruled with leave of Defendant to file a responsive pleading to Plaintiff's claim within twenty (20) days of the exit date of this Order." Copy

forwarded to Plaintiff and Defendant.

May 10, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated May 3, 2005. Receipt of same acknowledged May 9, 2005.

May 23, 2005

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

June 13, 2005

Plaintiff filed Reply to New Matter. Copy forwarded to Defendant.

August 31, 2005

Plaintiff filed Praecipe to Discontinue. Copy forwarded to Defendant.

September 7, 2005

Board rendered an Order. Order as follows: "**AND NOW**, this 7th day of September, 2005, upon receipt of a Praecipe to Discontinue, executed by James W. Kutz, Esquire, attorney for Plaintiff, requesting that the Board "Kindly mark the above action settled and discontinued with prejudice." and docketed with this Board under date of August 31, 2005, it is **ORDERED** and **DECREED** that said case be marked 'settled and discontinued with prejudice'." Copy forwarded to Plaintiff and Defendant.

September 9, 2005

Plaintiff filed Acceptance of Service of Order dated September 7, 2005. Receipt of same acknowledged September 8, 2005.
