

Docket Number: 3766

THE RYAN COMPANY

Robert A. Korn, Esquire
William D. Auxer, Esquire

Joseph C. Kovars, Esquire (Pro Hac Vice)
Jay Bernstein, Esquire (Pro Hac Vice)

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

~~Trent Hargrove, Chief Counsel~~
Tanya C. Leshko, Senior Counsel
David Narkis, Esquire

***April 22, 2005**

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: 1,141,553.+

April 25, 2005

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

May 2, 2005

Chief Deputy Attorney General filed Acknowledgement of Claim Form. Receipt of same acknowledged April 29, 2005.

May 16, 2005

Defendant filed copy of letter, from Defendant directed to Plaintiff, confirming the parties agreement for Defendant to have an extension of time until June 22, 2005, in which to file its responsive pleading to Plaintiff's Claim.

June 6, 2005

Defendant filed Entry of Appearance of Tanya C. Leshko, Esquire, on behalf of Defendant, DGS. Copy forwarded to Plaintiff.

June 21, 2005

Defendant filed copy of letter, from Defendant directed to Plaintiff, confirming the parties agreement for Defendant to have an extension of time until June 29, 2005, in which to file its responsive pleading to Plaintiff's Claim.

June 29, 2005

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

July 1, 2005

Defendant filed the original verification to replace the copy attached to the Defendant's Answer and New Matter.

July 26, 2005

Plaintiff filed Motion for Admission Pro Hac Vice of Joseph C. Kovars and Jay Bernstein. Copy forwarded to Defendant.

July 28, 2005

Plaintiff filed The Ryan Company's Reply to New Matter of Department of General Services. Copy forwarded to Defendant.

August 31, 2005

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 31st day of August, 2005, after review of Plaintiff's Motion for Admission Pro Hac Vice, it is hereby **ORDERED** that: 1) Effective upon the date of this Order, Joseph C. Kovars, Esquire and Jay Bernstein, Esquire, shall be **ADMITTED** pro hac vice to the bar of the Commonwealth of Pennsylvania under Pennsylvania Bar Admission Rule 301 for the limited purpose of serving as co-counsel on behalf of Plaintiff in this matter; 2) Joseph C. Kovars, Esquire and Jay Bernstein, Esquire shall abide by all the rules of, and applicable to, practice before this Board, including all attorney disciplinary rules; and 3) Joseph C. Kovars, Esquire and Jay Bernstein, Esquire shall immediately notify this Board of any matter affecting their standing at the bar of any other court or jurisdiction where they may be admitted to practice." Copy forwarded to Plaintiff and Defendant.

September 7, 2005

Defendant filed Acceptance of Service of Opinion and Order dated August 31, 2005. Receipt of same acknowledged September 6, 2005.

September 12, 2005

Plaintiff filed Acceptance of Service of Opinion and Order dated August 31, 2005. Receipt of same acknowledged September 8, 2005.

September 15, 2005

Plaintiff filed Notice of Service of First Set of Interrogatories and Request for Production of Documents to Defendant.

October 11, 2005

Plaintiff filed Motion for Partial Summary Judgment and Memorandum of Law in Support.

October 12, 2005

Board issued letter to Defendant to file a response and brief to Plaintiff's Motion for Partial Summary Judgment. Copy forwarded to Plaintiff.

October 14, 2005

Defendant filed Certificate of Service of Defendant's Responses to Plaintiff's Request for Production of Documents. Copy forwarded to Plaintiff.

November 10, 2005

Defendant filed a letter confirming that their extension was granted until November 21, 2005, in which to file its response to Motion for Partial Summary Judgment.

November 21, 2005

Defendant filed Proposed Order, Response and Motion in Opposition to Claimant's Motion for Partial Summary Judgment, and Memorandum of Law in Opposition to Plaintiff's Motion for Partial Summary Judgment. Copy forwarded to Plaintiff.

November 29, 2005

Plaintiff filed a letter advising that their intention is to file a reply to Defendant's Motion in Opposition to Plaintiff's Motion for Partial Summary Judgment. Copy forwarded to Defendant.

December 1, 2005

Plaintiff filed a letter advising of their intention to file a response to Defendant's Motion by December 22, 2005.

December 6, 2005

Plaintiff filed via fax a Reply of the Ryan Company to Department of General Services' Response and Motion in Opposition to Claimant's Motion for Partial Summary Judgment. Copy forwarded to Defendant.

December 8, 2005

Plaintiff filed via U.S. mail a Reply of the Ryan Company to Department of General Services' Response and Motion in Opposition to Claimant's Motion for Partial Summary Judgment. Copy forwarded to Defendant.

January 9, 2006

Plaintiff filed Notices of Service of Deposition for John Johnson, Mike Peapos, Jim Watson and Walt Konopka. Copy forwarded to Defendant.

January 26, 2006

Board issued an Opinion and Order. Order as follows: **AND NOW**, this 26th day of January 2006, The Ryan Company's motion for partial summary judgment is hereby **DENIED** and **DISMISSED**. Copy forwarded to all parties of record.

February 1, 2006

Defendant filed Acceptance of Service of Opinion and Order dated January 26, 2006. Receipt of same acknowledged by Defendant January 30, 2006.

February 1, 2006

Plaintiff filed Acceptance of Service of Opinion and Order dated January 26, 2006. Receipt of same acknowledged by Plaintiff January 30, 2006.

February 27, 2006

Plaintiff filed letter requesting that the Board convene a scheduling conference to establish the date and interim milestones for trial.

March 1, 2006

Board issued letter to parties directing them to respond within ten days of receipt of this letter to schedule a conference date.

March 21, 2006

Defendant filed letter (via fax) in response to Board's letter requesting scheduling a conference advising that Defendant is filing a motion to consolidate this case with Apex Piping Docket No. 3768.

March 21, 2006

Defendant filed a Motion to Consolidate (with Apex Piping #3768) for Discovery and Trial, Memorandum of Law in Support, and Proposed Order. Copy forwarded to Plaintiff. [05A042406]

March 21, 2007

Defendant filed Responses of the Department of General Services to the Ryan Company's Second Request for Production of Documents. Copy served on Plaintiff.

March 22, 2006

Board issued letter to Plaintiff to file a response and brief

to Defendant's Motion to Consolidate and Trial. Copy forwarded to Defendant.

March 24, 2006

Defendant filed letter (via U.S. Mail) in response to Board's letter requesting scheduling a conference advising that Defendant is filing a motion to consolidate this case with Apex Piping Docket No. 3768.

March 30, 2006

Plaintiff filed letter requesting that the Board reserve two weeks in September, 2006 for hearing in Docket No. 3766 and if Motion to Consolidate is granted - Docket No. 3768.

March 31, 2006

Board issued letter to Plaintiff advising that a pending motion to consolidate be resolved. Following which the Board will request a proposed schedule from each party for hearing.

April 10, 2006

Plaintiff filed Notice of Service of Responses to Department of General Services' Request for Production of Documents. Copy forwarded to Defendant.

April 20, 2006

Plaintiff filed Ryan Company's Response to, and Opposition to DGS' Motion to Consolidate for Discovery and Trial as well as Memorandum of Law in Opposition. Copy forwarded to Defendant.

May 10, 2006

Plaintiff filed Order Protecting Confidentiality of Information. Defendant signed Order.

May 23, 2006

Board rendered an Opinion and Order. Order as follows: **AND**

NOW, this 23rd day of May, 2006, pursuant to the stipulated Order Protecting Confidentiality of Information, executed by the parties and attached hereto, the Board hereby **ORDERS** and **DECREES** that disclosure of the information described in the attached stipulated order by either party be restricted as described therein; provided that, the Board itself shall not be restricted in any way by said order nor required to treat any documentation or information provided to it as confidential absent a subsequent motion, in camera examination of the material and a favorable ruling by the Board with respect to the specific item for which protection is sought. Copies forwarded to all parties of record.

May 23, 2006

Board rendered an Opinion and Order. Order as follows: **AND NOW**, this 23rd day of May, 2006, after review of Defendant's motion to consolidate, along with a brief in support thereof, and Plaintiff's response and brief, the motion to consolidate is **DENIED**. It is further **ORDERED** and **DECREED** that Defendant's counterclaim, asserted herein via new matter, it is hereby severed from the instant case and consolidated for all purposes with, and into, the case at Docket No. 3768. Copies forwarded to all parties of record.

May 26, 2006

Plaintiff filed a letter via fax to respectfully renew its request to convene a scheduling conference in this matter since Defendant's Motion to Consolidate was denied by the Board's Order of May 23, 2006.

May 26, 2006

Defendant filed an Acceptance of Service of Opinion and Order dated May 23, 2006. Receipt of same acknowledged by Defendant May 25, 2006.

May 26, 2006

Defendant filed an Acceptance of Service of Opinion and Order dated May 23, 2006. Receipt of same acknowledged by Defendant

May 25, 2006.

May 30, 2006

Plaintiff filed an Acceptance of Service of Opinion and Order dated May 23, 2006. Receipt of same acknowledged by Plaintiff May 25, 2006.

May 30, 2006

Plaintiff filed an Acceptance of Service of Opinion and Order dated May 23, 2006. Receipt of same acknowledged by Plaintiff May 25, 2006.

May 30, 2006

Plaintiff filed a letter advising that the Board convene a scheduling conference to establish the trial date and various interim milestones in this matter.

May 31, 2006

Board forwarded letter to parties requesting scheduling information.

June 12, 2006

Plaintiff filed a proposed scheduling order. Copy forwarded to Defendant.

July 10, 2006

Board issued Scheduling Order. Order as follows: **"AND NOW,** this 10th day of July, 2006, it is hereby **ORDERED** and **DECREED** as follows: The last day for plaintiff's expert report, if any, to be provided to defendant is November 8, 2006; The last day for defendant's expert report, if any, to be provided to plaintiff is December 8, 2006; All discovery, including exchange of expert rebuttal reports shall be completed by January 15, 2007*;The last day for filing pre-trial motions is January 29, 2007*;Pre-trial statements of both parties shall be filed with the Board

and served upon one another no later than March 1, 2007 (Please note BOC R.P. 501(b) and (c)(3));A pre-trial conference is scheduled for March 8, 2007 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101;This matter is set for hearing on April 16, 2007 and running through April 25, 2007, 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 all parties of record.

July 14, 2006

Defendant filed Acceptance of Service of Scheduling Order dated July 10, 2006. Receipt of same acknowledged by Defendant July 12, 2006.

July 17, 2006

Plaintiff filed Acceptance of Service of Scheduling Order dated July 10, 2006. Receipt of same acknowledged by Plaintiff July 13, 2006.

October 20, 2006

Plaintiff filed a letter requesting that adjustments be made to the Scheduling Order dated July 10, 2006. Defendant concurs with Plaintiff.

October 23, 2006

Plaintiff filed a letter requesting that adjustments be made to the Scheduling Order dated July 10, 2006. Defendant concurs with Plaintiff.

October 23, 2006

Board issued a Revised Scheduling Order. Order as follows:
"The Board is in receipt of the joint request by Plaintiff and Defendant to modify the Board's July 10, 2006 scheduling order. The Board will modify the scheduling order as requested except for the deadline on pre-trial motions (which will be adjusted

only as indicated). **AND NOW**, this 23rd day of October 2006, it is hereby **ORDERED** and **DECREED** that the Board's initial scheduling order is revised as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant is November 29, 2006; 2. The last day for defendant's expert report, if any, to be provided to plaintiff is January 10, 2007; 3. All discovery, including exchange of expert rebuttal reports, shall be completed by February 9, 2007*; 4. The last day for filing pre-trial motions is extended to February 16, 2007, and opposing party shall have 15 days to respond thereto*; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than March 1, 2007 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for March 8, 2007 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 to begin on April 16, 2007, and to run through April 25, 2007, 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. *All discovery motions shall be filed at least 30 days in advance of the close of discovery to allow for a 15 day response period and decision by the Board prior to the close of the discovery." Copies forwarded to all parties of record.

October 30, 2006

Defendant filed Acceptance of Service of Revised Scheduling Order dated October 23, 2006. Receipt of same acknowledged by Defendant October 27, 2006.

October 30, 2006

Plaintiff filed Acceptance of Service of Revised Scheduling Order dated October 23, 2006. Receipt of same acknowledged by Plaintiff October 27, 2006.

November 8, 2006

Defendant filed Notice of Service of Respondent's Responses to Claimant's Request for Production of Documents. Copy forwarded to Plaintiff.

December 26, 2006

Plaintiff filed Notice of Service of Plaintiff's Request for Production of Documents to Apex Piping Systems, Inc. Copy forwarded to Defendant.

***January 22, 2007**

Plaintiff filed proposed Amendment to Plaintiff's Statement of Claim without consent or leave of Board and requests the Board award \$16,512, plus interests and costs. Copy forwarded Defendant.

February 5, 2007

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

February 12, 2007

Defendant filed Commonwealth of Pennsylvania, Department of General Services' Preliminary Objections to Amendment to Plaintiff's Statement of Claim, and Memorandum of Law in Support. Copy forwarded to Plaintiff.

February 20, 2007

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

March 1, 2007

Plaintiff filed via fax Pre-Hearing Memorandum of the Ryan Company, Inc. and Notice of Service. Copy forwarded to Defendant.

March 1, 2007

Defendant filed Pre-Trial Statement. Copy forwarded to Plaintiff.

March 5, 2007

Plaintiff filed via U.S. mail Pre-Hearing Memorandum of the Ryan Company. Copy forwarded to Defendant.

March 6, 2007

Plaintiff filed letter via fax advising that as local counsel William D. Auxer will not be attending the pre-trial conference on March 8, 2007. The two counsel that are Pro Hac Vice will be attending said conference. Copy forwarded to all parties of record.

March 8, 2007

Plaintiff filed Ryan's Response to DGS's Preliminary Objections to Amendment of Plaintiff's Statement of Claim and Brief in Opposition. Copy forwarded to Defendant.

March 8, 2007

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

March 16, 2007

Board issued an Opinion and Order. Order as follows: "**AND NOW**, this 16th day of March, 2007, it is hereby **ORDERED** that Plaintiff is **DENIED** leave to offer the proposed amendment filed on January 22, 2007, to its Statement of Claim." Copy forwarded to all parties of record.

March 20, 2007

Defendant filed Acceptance of Service of Opinion and Order

dated March 16, 2007. Receipt of same acknowledged by Defendant March 19, 2007.

March 21, 2007

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

March 21, 2007

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

March 22, 2007

Plaintiff filed Acceptance of Service of Opinion and Order dated March 16, 2007. Receipt of same acknowledged March 20, 2007.

March 29, 2007

Plaintiff filed letter via fax advising that the parties have reached a proposed settlement. Copy forwarded to Defendant.

April 2, 2007

Plaintiff filed letter via U.S. mail advising that the parties have reached a proposed settlement. Copy forwarded to Defendant.

April 3, 2007

Board issued letter to parties directing them to file final settlement documents.

August 1, 2007

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

August 3, 2007

Board rendered an Order. Order as follows: "**AND NOW**, this 3rd day of August, 2007, upon receipt of a Praecipe to Settle,

Discontinue and End executed by Jay Bernstein, Esquire, on behalf of Plaintiff, The Ryan Company, requesting the Board to kindly mark the above matter settled, discontinued and ended, docketed with this Board under date of August 1, 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 9, 2007

Plaintiff filed Acceptance of Service of Order dated August 3, 2007. Receipt of same acknowledged August 8, 2007.
