

Docket Number: 3768

APEX PIPING SYSTEMS, INC.

B. Christopher Lee, Esquire  
Elise E. Walthall, Esquire  
Christopher I. McCabe, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES

Trent Hargrove, Chief Counsel  
Tanya C. Leshko, Senior Counsel

VS.

THE RYAN COMPANY

Robert J. Horn, Esquire  
William D. Auxer, Esquire

**April 25, 2005**

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: 1.8 million +.

---

**April 26, 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 13, 2005**

Defendant filed Praecipe for Entry of Appearance of Tanya C. Leshko, Senior Counsel, on behalf of Defendant.

---

**May 13, 2005**

Defendant filed courtesy copy of letter addressed to Plaintiff acknowledging that Plaintiff has agreed to a 30-day extension of time for Defendant to file an Answer, which will be filed by June 24, 2005.

---

**June 21, 2005**

Defendant filed addressed to Plaintiff confirming that Plaintiff granted Defendant an additional 20 days or before July 14, 2005 to file an answer.

---

**June 22, 2005**

Defendant filed Complaint to Join Additional Defendant. Copy forwarded to Plaintiff and Additional Defendant.

---

**June 24, 2005**

Board issued Acknowledgment letter and forwarded Complaint to Join Additional Defendant to Attorney General.

---

**June 30, 2005**

Attorney General filed Acknowledgment of Complaint to Join Additional Defendant form. Receipt of same acknowledged June

29, 2005.

---

**July 14, 2005**

Defendant filed Praecipe to Add Omitted Exhibits to Complaint. Copy forwarded to Plaintiff.

---

**July 14, 2005**

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

---

**July 20, 2005**

Additional Defendant filed Preliminary Objections and Brief in Support to the Complaint to Join. Copy forwarded to Plaintiff and Defendant. [02A080305D]

---

**July 20, 2005**

Additional Defendant filed Special Entry of Appearance for the sole purpose of filing Preliminary Objections. Copy forwarded to Plaintiff and Defendant.

---

**July 22, 2005**

Board rendered an Order. Order as follows: "**AND NOW**, this 22<sup>nd</sup> day of July, 2005, upon receipt of a Praecipe to Add Omitted Exhibits to Complaint to Join Additional Defendant, executed by Tanya C. Leshko, Senior Counsel, attorney for Defendant, and docketed with this Board under date of July 14, 2005, it is **ORDERED** and **DIRECTED** that the Board shall incorporate the materials filed there under as exhibits to the Complaint to Join Additional Defendant filed on June 22, 2005." Copy forwarded to all parties of record.

---

**July 29, 2005**

Additional Defendant filed a letter advising that The Ryan Company was not properly served with the Complaint to Join and is not a party to the above-referenced action.

---

**July 29, 2005**

Defendant filed Acceptance of Service of Order dated July 22, 2005. Receipt of same acknowledged July 28, 2005.

---

**August 1, 2005**

Plaintiff filed Acceptance of Service of Order dated July 22, 2005. Receipt of same acknowledged July 28, 2005.

---

**August 2, 2005**

Defendant filed Answers to Preliminary Objections of The Ryan Company to the Complaint to Join Additional Defendant and Memorandum of Law in Opposition. Copy forwarded to Plaintiff and Additional Defendant.

---

**August 3, 2005**

Defendant filed Certificate of Service that the Ryan Company was served with a Third Party Complaint.

---

**August 18, 2005**

Additional Defendant filed Praecipe to Withdraw Preliminary Objections. Copy forwarded to Plaintiff and Defendant.

---

**August 24, 2005**

Board rendered an Order. Order as follows: "**AND NOW**, this 24<sup>th</sup> day of August, 2005, upon consideration of the Praecipe to Withdraw Preliminary Objections filed by counsel for Additional Defendant, The Ryan Company, it is **ORDERED** and **DECREED** that the preliminary objections are withdrawn. Additional Defendant shall have twenty (20) days from the exit date of this Order to respond to the Complaint to Join Additional Defendant." Copy forwarded to all parties of record.

---

**August 29, 2005**

Plaintiff filed Acceptance of Service of Order dated August 24, 2005. Receipt of same acknowledged August 26, 2005.

---

**August 30, 2005**

Defendant filed Acceptance of Service of Order dated August 24, 2005. Receipt of same acknowledged August 25, 2005.

---

**August 31, 2005**

Additional Defendant filed Acceptance of Service of Opinion and Order dated August 24, 2005. Receipt of same acknowledged August 26, 2005.

---

**September 13, 2005**

Additional Defendant filed Answer to Complaint to Join with New Matter and Counterclaim. Copy forwarded to all parties of record.

---

**September 30, 2005**

Defendant filed Reply to New Matter and Counterclaim of Additional Defendant and New Matter in Response to Counterclaim. Copy forwarded to all parties of record.

---

**October 14, 2005**

Additional Defendant filed Reply to New Matter in Response to Counterclaim. Copy forwarded to all parties of record.

---

**October 18, 2005**

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

---

**January 30, 2006**

Plaintiff filed Reply to New Matter. Copy forwarded to all parties of record.

---

**March 21, 2006**

Defendant filed (via fax) letter in response to Board's letter requesting scheduling a conference (in Docket No. 3766) advising that Defendant is filing a motion to consolidate The Ryan Company #3766 with Apex Piping Docket No. 3768.

---

**March 21, 2006**

Defendant filed a Motion to Consolidate (with Ryan Company #3766) for Discovery and Trial, Memorandum of Law in Support, and Proposed Order. Copy forwarded to Plaintiff. [05A042406D]

---

**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 27, 2006**

Plaintiff filed Notice of Service of a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.22 was served upon James A. Diamond, Esquire, Jay Bernstein, Esquire and Tanya C. Leshko, Esquire.

---

**April 14, 2006**

Lincoln University filed Motion to Quash Records Subpoena Directed to Lincoln University of the Commonwealth of Pennsylvania and Brief in Support. Copy forwarded to Plaintiff, Defendant and Additional Defendant.

---

**April 21, 2006**

Plaintiff filed Answer to Motion to Consolidate. Copy forwarded to Defendant and Additional Defendant. [05A050106D]

---

**May 1, 2006**

Plaintiff filed Answer to Motion to Quash Records Subpoena Directed to Lincoln University. Copy forwarded to all parties of record.

---

**May 23, 2006**

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 23<sup>rd</sup> day of May, 2006, after review of Defendant's Motion to Consolidate along with Plaintiff's and Additional Defendant's responses thereto, it is hereby **ORDERED** and **DECREED** that Defendant's Motion to Consolidate is hereby **DENIED**. It is further **ORDERED** and **DECREED** that Defendant's counterclaim asserted against Ryan in Docket No. 3766 is hereby consolidated with and into the instant case at Docket No. 3768." Copy forwarded to all parties of record.

---

**May 23, 2006**

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 23<sup>rd</sup> day of May, 2006, upon review of Lincoln University's Motion to Quash and Plaintiff's response thereto, it is hereby **ORDERED** and **DECREED** that the Motion is **DENIED** as it pertains to Items 1 through 6 and 8. The Motion is **GRANTED** as it relates to Item 7. However, Plaintiff is not prohibited from narrowing its scope and requesting specific documents that relate to the budget for, or funding of, temporary power for DGS Project No. 1101-26.2. Copy forwarded to all parties of record.

---

**May 26, 2006**

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

---

**May 26, 2006**

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

---

**June 2, 2006**

Plaintiff filed Acceptance of Service of Opinion and Order dated May 23, 2006. Receipt of same acknowledged May 26, 2006.

---

**June 2, 2006**

Plaintiff filed Acceptance of Service of Opinion and Order dated May 23, 2006. Receipt of same acknowledged May 26, 2006.

---

**July 19, 2006**

Plaintiff filed letter (via facsimile) requesting that a hearing be scheduled and advising that Plaintiff and Defendant are available during the months of March or April, 2007. Copy forwarded to Defendant and Additional Defendant.

---

**July 24, 2006**

Plaintiff filed letter (via us mail) requesting that a hearing be scheduled and advising that Plaintiff and Defendant are available during the months of March or April, 2007. Copy forwarded to Defendant and Additional Defendant.

---

**July 27, 2006**

Additional Defendant, Ryan Company, filed letter in response to Plaintiff's letter dated July 19, 2006, regarding a hearing date. Additional Defendant requests that the Board schedule the hearing in docket 3768 to commence after conclusion of docket 3766.

---

**August 2, 2006**

Board forwarded a letter to parties requesting scheduling information.

---

**August 17, 2006**

Plaintiff filed (via fax) proposed scheduling order.

---

**August 17, 2006**

Additional Defendant filed (via fax) proposed scheduling order.

---

**August 17, 2006**

Defendant filed (via fax) proposed scheduling order.

---

**August 21, 2006**

Additional Defendant filed (via U.S. Mail) proposed scheduling order.

---

**August 30, 2006**

Board rendered an Order. Order as follows: "**AND NOW**, this 30<sup>th</sup> day of August, 2006, it is hereby **ORDERED** and **DECREEED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to all parties is January 23, 2007; 2. The last day for defendant's expert report, if any, to be provided



to all parties is February 23, 2007; 3. The last day for additional defendant's expert report, if any, to be provided to all parties is March 23, 2007; 4. All discovery, including exchange of expert rebuttal reports shall be completed by May 4, 2007\*; 5. The last day for filing pre-trial motions is May 24, 2007\*; 6. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than July 3, 2007 (Please note BOC R.P. 501(b) and (c)(3)); 7. A pre-trial conference is scheduled for Tuesday, July 10, 2007 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 8. This matter is set for hearing beginning on Monday, September 10, 2007, and running through Thursday, September 20, 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. \*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." Copy forwarded to all parties of record.

---

**September 6, 2006**

Defendant filed Acceptance of Service of Scheduling Order dated August 30, 2006. Receipt of same acknowledged September 5, 2006.

---

**September 7, 2006**

Plaintiff filed Acceptance of Service of Scheduling Order dated August 30, 2006. Receipt of same acknowledged September 5, 2006.

---

**September 11, 2006**

The Ryan Company filed Acceptance of Service of Scheduling Order dated August 30, 2006. Receipt of same acknowledged September 5, 2006.

---

**September 22, 2006**

Plaintiff filed Notice of Service of Request for Production of Documents.

---

**November 1, 2006**

Defendant filed Notice of Service of Response to Claimant's

Request for Production of Documents.

---

**February 5, 2007**

Additional Defendant filed letter requesting that the hearing be rescheduled. Plaintiff and Defendant consent to this request. Copy forwarded to Plaintiff and Defendant.

---

**February 7, 2007**

Board rendered Amended Scheduling Order. Order as follows: **"AND NOW**, this 7<sup>th</sup> day of February, 2007, upon the request of Additional Defendant, The Ryan Company, and its counsel's representation that the other parties are in agreement, it is hereby **ORDERED** and **DECREED** that the scheduling order of August 30, 2006 is amended to reschedule the hearing dates as appears below. The remainder of the schedule remains unchanged: 1.

The last day for plaintiff's expert report, if any, to be provided to defendant is January 23, 2007; 2. The last day for defendant's expert report, if any, to be provided to plaintiff is February 23, 2007; 3. The last day for additional defendant's expert report, if any, to be provided to all parties is March 23, 2007; 4. All discovery, including exchange of expert rebuttal reports, shall be completed by May 4, 2007\*; 5. The last day for filing pre-trial motions is May 24, 2007\*; 6. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than July 3, 2007 (Please note BOC R.P. 501(b) and (c)(3)); 7. A pre-trial conference is scheduled for Tuesday, July 10, 2007 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 8. This matter is set for hearing beginning on Monday, September 10, 2007, and continuing on September 11, 17, 18, 19, 20, 24, 25 and 26, 2007, or 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." Copy forwarded to all parties of record.

---

**February 7, 2007**

Plaintiff filed Notice of Service of Objections and Answers to Request for Production of Documents. Copy forwarded to Defendant and Additional Defendant.

---

**February 20, 2007**

The Ryan Company filed Acceptance of Service of Amended Scheduling Order dated February 7, 2007. Receipt of same acknowledged February 15, 2007.

**February 15, 2007**

Plaintiff filed Acceptance of Service of Amended Scheduling Order dated February 7, 2007. Receipt of same acknowledged February 9, 2007.

---

**April 13, 2007**

Plaintiff filed letter advising that Plaintiff has reached a settlement in principle with Defendant and that as soon as the settlement papers are executed and the settlement check is received, a praecipe to settle, discontinue and end will be filed.

---

**August 1, 2007**

Plaintiff and Defendant filed a praecipe to settle, discontinue and end. Copy forwarded to all parties of record.

---

**August 6, 2007**

The Ryan Company filed Praecipe to Settle, Discontinue and End counterclaim. Copy forwarded to Plaintiff and Defendant.

---

**August 7, 2007**

Board rendered Order. Order as follows: "**AND NOW**, this 7<sup>th</sup> day of August, 2007, upon the following praecipes requesting that the Board mark their respective claims in the above-captioned matter settled, discontinued and ended with prejudice received from Plaintiff, Apex Piping Systems, Inc., executed by Christopher McCabe, Esquire, and filed with this Board on August 1, 2007; Third Party Plaintiff, Commonwealth of Pennsylvania, Department of General Services, executed by David Narkiewicz, Assistant Chief Counsel, filed with this Board on August 1, 2007; and Additional Defendant, The Ryan Company, which filed a counterclaim against the Department of General Services, executed by Jay Bernstein, Esquire, filed with the Board on August 6, 2007, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice in its entirety." Copy forwarded to all parties of

record.

---

**August 9, 2007**

Defendant filed Acceptance of Service of Order dated August 7, 2007. Receipt of same acknowledged August 8, 2007.

---

**August 13, 2007**

Plaintiff filed Acceptance of Service of Order dated August 7, 2007. Receipt of same acknowledged August 9, 2007.

---