

Docket Number: 3789
(OLD DOCKET NO. 3815)

NEW FOUNDATIONS, INC

Daniel F. Schranghamer, Esquire
Mark D. Schwartz, Esquire (Co-counsel)

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES**

Trent Hargrove, Chief Counsel
Tanya C. Lesko, Senior Counsel
David L. Narkiewicz, Assistant Chief Counsel

September 6, 2005

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: \$575,000+.

September 7, 2005

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

September 15, 2005

Chief Deputy Attorney General filed an acknowledgement form. Receipt of same acknowledged September 12, 2005.

October 3, 2005

Defendant filed Proposed Order, Preliminary Objections to Plaintiff's Complaint. [06A040606D]

October 3, 2005

Defendant filed Respondent Department of General Services' Memorandum of Law in Support of its Preliminary Objections

***November 10, 2005**

Defendant filed a letter (via fax) referencing two cases (Firetree and New Foundation) which were transferred to the Board from Commonwealth Court (Firetree - 165MD2005 and New Foundation - 431MD2005).

***November 16, 2005**

Board forwarded letter to Defendant, with copy to Plaintiff, advising that the Board had not received the transferred cases and that some administrative matters must first be resolved.

November 22, 2005

Plaintiff filed Notice of Service to take Oral Depositions.

November 23, 2005

Defendant filed Notice of Service of Revised Notice to Take Oral Deposition of Governor Rendell, Secretary Creedon, Mr. Swartz and Mr. Wheeler.

November 23, 2005

Defendant filed letter via facsimile outlining the pending matters in this case as well as request a stay.

November 23, 2005

Defendant filed letter via U.S. Mail outlining the pending matters in this case as well as request a stay.

November 28, 2005

Plaintiff filed Notice of Service of Oral Documents.

November 29, 2005

Board issued an Opinion and Order. Order as follows: "**AND NOW**, this 29th day of November, 2005, after review of Defendant's Preliminary Objections and Memorandum in Support thereof, it is hereby **ORDERED** and **DECREED** that Defendant's request for a stay of proceedings is **GRANTED**. This matter is stayed indefinitely pending developments in the Commonwealth Court case at Docket No. 431 MD 2005." Copy forwarded to all parties of record.

November 30, 2005

Plaintiff filed Response to Respondent's Preliminary Objections and Memorandum of Law in Opposition to Respondent's Preliminary Objections.

December 6, 2005

Plaintiff filed Acceptance of Service of an Opinion and Order dated November 29, 2005. Receipt of same acknowledged December 1, 2005.

December 6, 2005

Defendant filed Acceptance of Service of Opinion and Order dated November 29, 2005. Receipt of same acknowledged December 5, 2005.

January 12, 2006

Board forwarded letter to parties advising that no actions will be taken until restated claims are filed in Docket Nos. 3813 and 3815.

March 20, 2006

Plaintiff filed Motion to Lift Stay, Memorandum of Law in Support and Proposed Order. [06A040606D]

March 21, 2006

Board forwarded letter to parties requesting an updated status relative to the Plaintiff's letter requesting the stay be lifted and the Board's request to consolidate Docket Nos. 3789 and 3815.

March 28, 2006

Plaintiff filed letter advising that Plaintiff does not oppose consolidating the claims pending at Docket Nos. 3789 and 3815.

March 31, 2006

Defendant filed (via fax) letter advising that Defendant agrees that the cases (3789 & 3815) should be consolidated.

April 21, 2006

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 21st day of April, 2006, it is **ORDERED** and **DECREED** that the motion to lift stay which has been filed by New Foundations, Inc. is **GRANTED**. The stay which had previously been placed on this case by Order dated November 29, 2005, shall be lifted and the parties shall proceed with the pleadings. Commonwealth of Pennsylvania, Department of General Services shall have 20 days after the exit date of this Order to file a response to the statement of claim which was filed by New Foundations, Inc. on September 6, 2005." Copy forwarded to Plaintiff and Defendant.

April 26, 2006

Defendant filed Acceptance of Service of Opinion and Order dated April 21, 2006. Receipt of same acknowledged April 25, 2006.

May 1, 2006

Plaintiff filed Acceptance of Service of Opinion and Order dated April 21, 2006. Receipt of same acknowledged April 24, 2006.

September 1, 2006

Defendant filed Answer and New Matter.

September 18, 2006

Plaintiff filed Notice of Service of Notice to Take Oral Deposition of Bradley J. Swartz and David Narkiewicz.

September 20, 2006

Plaintiff filed Answer to New Matter.

September 21, 2006

Defendant filed letter requesting a protective order regarding Defendant's attorney being deposed by Plaintiff.

September 21, 2006

Board forwarded letter to parties noting deposition objected to by Defendant has been postponed and instructing Defendant to file and brief formal motion for protective order if issue is not resolved.

September 21, 2006

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

September 24, 2007

Board forwarded letter to parties requesting status report.

October 18, 2007

Defendant filed status letter advising that the parties are in discovery and requesting that Docket Nos. 3789, 3815 and 3813 are consolidated.

October 23, 2007

Plaintiff filed status letter advising that the parties are engaged in discovery and that Plaintiff would not oppose to having both New Foundations' actions consolidated (3789 & 3815).

November 1, 2007

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 1st day of November, 2007, upon the request of the parties to consolidate the actions docketed at numbers 3789 and 3815 (New Foundations) and 3813 (Firetree), the request is **GRANTED** with regard to Docket Nos. 3789 and 3815. These two claims filed by New Foundations against the Commonwealth of Pennsylvania, Department of General Services are hereby consolidated for all purposes under Docket No. 3789. The request to consolidate Firetree's claim docketed at number 3815 is hereby **DENIED**." Copy forwarded to Plaintiff and Defendant.

November 5, 2007

Defendant filed Acceptance of Service of Opinion and Order dated November 1, 2007. Receipt of same acknowledged November 2, 2007.

November 5, 2007

Plaintiff filed Acceptance of Service of Opinion and Order dated November 1, 2007. Receipt of same acknowledged November 2, 2007.

November 6, 2007

Board rendered an Order. Order as follows: **"AND NOW**, this 6th day of November, 2007, the last sentence of the Board's Opinion and Order dated November 1, 2007 is corrected to read as follows: "The request to consolidate Firetree's claim docketed at number 3813 is hereby **DENIED**." The November 1, 2007 Order granting the consolidation of docket numbers 3789 and 3815 (New Foundations) remains in effect." Copy forwarded to Plaintiff and Defendant.

November 8, 2007

Defendant filed Acceptance of Service of Corrective Order dated November 6, 2007. Receipt of same acknowledged November 7, 2007.

November 9, 2007

Plaintiff filed Acceptance of Service of Corrective Order dated November 6, 2007. Receipt of same acknowledged November 7, 2007.

November 26, 2007

(Old 3815) Plaintiff filed Motion for Partial Summary Judgment on the Issue of Liability for Monetary Damages, Memorandum of Law in Support and Proposed Order. [01A122607D]

November 26, 2007

Plaintiff filed entry of appearance of Mark D. Schwartz, Esquire, on behalf of Plaintiff.

December 21, 2007

(Old 3815) Defendant filed Answer to Plaintiff's Motion for Partial Summary Judgment on the Issue of Liability for Monetary Damages and Brief in Support.

December 26, 2007

(Old 3815) Plaintiff filed Motion for Contempt, Memorandum of Law in Support and Proposed Order. [01A012808D]

January 24, 2008

Board rendered an Opinion and Order. Order as follows: **AND NOW**, this 24th day of January, 2008, upon consideration of the Motion by New Foundations, Inc., for partial summary judgment on the issue of liability for monetary damages and the response thereto of Commonwealth of Pennsylvania, Department of General Services, it is **ORDERED** and **DECREED** that the motion is hereby **DENIED**. Copy forwarded to Plaintiff and Defendant.

January 25, 2008

Defendant filed Answer to Motion for Contempt and Brief.

January 30, 2008

Defendant filed Acceptance of Service of Opinion and Order dated January 24, 2008. Receipt of same acknowledged by Defendant January 28, 2008.

January 30, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated January 24, 2008. Receipt of same acknowledged by Plaintiff January 28, 2008.

February 7, 2008

Board issued an Opinion and Order. Order as follows: **"AND NOW**, this 7th day of February, 2008, upon consideration of the motion for contempt filed by New Foundations, Inc. and the response thereto by Commonwealth of Pennsylvania, Department of General Services, it is **ORDERED** that the motion is **DENIED**. The parties are directed to cooperate in accomplishing the exchange of documents and deposition of Mr. Wheeler." Copies forwarded to Plaintiff and Defendant.

February 11, 2008

Defendant filed Acceptance of Opinion and Order dated February 7, 2008. Receipt of same acknowledged by Defendant February 8, 2008.

February 13, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated February 7, 2008. Receipt of same acknowledged by Plaintiff February 8, 2008.

March 7, 2008

Defendant filed Motion for Summary Judgment, Brief in Support and Proposed Order. [07A040708D]

April 4, 2008

Plaintiff filed Answer to Motion for Summary Judgment, Memorandum of Law in Support and Proposed Order.

April 24, 2008

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 24th day of April, 2008, upon consideration of the motion by Commonwealth of Pennsylvania, Department of General Services, for summary judgment on New Foundations' claims in this consolidated matter at Docket Number 3789, and the response thereto by New Foundations, it is **ORDERED** and **DECREED** that the motion is hereby **DENIED** in part and **GRANTED** in part. DGS' motion is **GRANTED** and summary judgment entered in favor of DGS only as to New Foundations' claims raised in its First Amended Statement of Claim related to the alleged oral settlement agreements - the April Settlement Agreement and the Creedon Agreement. These claims shall be dismissed with prejudice for the reasons stated in this opinion. No other claims raised in New Foundations' First Amended Statement of Claim shall be affected by this order." Copy forwarded to Plaintiff and Defendant.

April 29, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated April 24, 2008. Receipt of same acknowledged April 28, 2008.

April 29, 2008

Defendant filed Acceptance of Service of Opinion and Order dated April 24, 2008. Receipt of same acknowledged April 28, 2008.

May 16, 2008

Plaintiff filed Motion for Reconsideration of Board's Order of April 24, 2008, Memorandum of Law and Proposed Order.

May 20, 2008

Plaintiff filed (with correct caption) Motion for Reconsideration of Board's Order of April 24, 2008, Memorandum of Law and Proposed Order.

May 22, 2008

Board rendered an Opinion and Order. Order as follows: **"AND NOW,** this 22nd date of May, 2008, for the reasons stated herein and in our Order of April 24, 2008, Plaintiff's motion for reconsideration is hereby **DENIED."** Copy forwarded to Plaintiff and Defendant.

May 22, 2008

Defendant transmitted via facsimile Acceptance of Service of Opinion and Order dated May 22, 2008. Receipt of same acknowledged May 22, 2008.

May 23, 2008

Defendant filed Acceptance of Service of Opinion and Order dated May 22, 2008. Receipt of same acknowledged May 22, 2008.

May 27, 2008

Defendant filed Acceptance of Service of Opinion and Order dated May 23, 2008. Receipt of same acknowledged May 23, 2008.

February 9, 2011

Plaintiff filed Praecipe to Settle, Discontinue and End.

February 9, 2011

Board rendered an Order. Order as follows: "**AND NOW**, this 9th day of February, 2011, upon receipt of a Praecipe executed by Maria Casey, Esquire, on behalf of Plaintiff, New Foundations, Inc., requesting that the Board mark the above-captioned matter settled, discontinued and ended with prejudice, docketed with this Board under date of February 9, 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.

February 11, 2011

Defendant filed Acceptance of Service of Order dated February 9, 2011. Receipt of same acknowledged February 10, 2011.

February 14, 2011

Plaintiff filed Acceptance of Service of Order dated February 9, 2011. Receipt of same acknowledged February 10, 2011.
