

Docket Number: 3793

MIDASCO, INC

Kenneth L. Sable, Esquire
Thomas L. Isenberg, Jr., Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION

~~John Robinson, Chief Counsel~~
Robert T. Kunz, Assistant Counsel

CLOSED

September 12, 2005

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: Amount of Initial Claim \$485,550.00+.

September 13, 2005

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

September 21, 2005

Chief Deputy Attorney General filed an Acknowledgement of Claim Form. Receipt of same acknowledged by Chief Deputy Attorney General September 16, 2005.

October 7, 2005

Defendant filed a letter advising that Plaintiff has agreed to extend the due date of the required Answer until November 14, 2005.

October 24, 2005

Defendant filed a letter advising that Plaintiff has agreed to extend the due date of the required Answer in the above captioned matter until December 14, 2005.

December 13, 2005

Defendant filed letter via fax advising that Plaintiff has agreed to extend the due date for their Answer until December 21, 2005.

December 21, 2005

Defendant filed Answer and New Matter.

January 12, 2006

Plaintiff filed Proposed Order, Preliminary Objections to Defendant's Answer With New Matter and Brief in Support.

February 13, 2006

Defendant transmitted via fax a letter advising the Board that Plaintiff has agreed to an extension of time until February 17, 2006 in which to allow Defendant to file its response to Plaintiff's Preliminary Objections.

February 14, 2006

Defendant filed a letter advising the Board that Plaintiff has agreed to an extension of time until February 17, 2006 in which to allow Defendant to file its response to Plaintiff's Preliminary Objections.

February 14, 2006

Defendant filed Commonwealth of Pennsylvania, Department of Transportation's Response to Plaintiff's Preliminary Objections to New Matter and Brief in Opposition to Plaintiff's Preliminary Objections.

February 27, 2006

Plaintiff filed letter requesting that the above-referenced matter be scheduled for oral argument so as to permit the parties to present their position and provide the Board an opportunity to make inquiries concerning the same.

March 14, 2006

Board issued an Opinion and Order. Order as follows: **AND NOW**, this 14th day of March, 2006, it is **ORDERED** and **DECREED** that the preliminary objection regarding lack of specificity filed by Plaintiff, Midasco, Inc., is **GRANTED IN PART** and **DENIED IN PART**. The preliminary objection is **GRANTED** with respect to the phrase "including inter alia" in paragraph 106 of the new matter filed by the Defendant, Department of Transportation and that phrase is therefore **STRICKEN**. The preliminary objection in all other respects is **DENIED**. The Defendant is granted leave to plead additional new matter explicitly stating any other

affirmative defenses if done within twenty days from the exit date of this Order. Absent the filing of additional new matter, the defendant shall not be considered to have raised any affirmative defenses other than accord and satisfaction, estoppel, laches, statute of limitations, and/or waiver and payment. Copy forwarded to all parties of record.

March 16, 2006

Defendant filed Acceptance of Service of Opinion and Order dated March 14, 2006. Receipt of same acknowledged by Defendant March 15, 2006.

March 16, 2006

Plaintiff filed Acceptance of Service of Opinion and Order dated March 14, 2006. Receipt of same acknowledged by Plaintiff March 15, 2006.

May 4, 2006

Plaintiff filed Reply to New Matter.

January 18, 2007

Defendant filed letter requesting extension to respond to Plaintiff's discovery requests until March 23, 2007. Plaintiff's counsel has agreed to the extension.

January 19, 2007

Board issued letter to Defendant, with copy to Plaintiff granting extension of time for Defendant to file Response to Plaintiff's Discovery Requests.

June 5, 2007

Board issued letter to parties requesting a status report.

June 11, 2007

Plaintiff filed status letter advising that the parties are in serious settlement negotiations and hope to reach an amicable resolution. They request this matter remain open and pending

upon the docket.

January 4, 2008

Plaintiff filed Praecipe to Settle and Discontinue.

January 8, 2008

Board issued Order. Order as follows: **"AND NOW**, this 8th day of January, 2008, upon receipt of a Praecipe executed by Thomas L. Isenberg, Jr., Esquire, on behalf of Midasco, Inc., requesting that the Board mark the above-captioned matter settled and discontinued, docketed with this Board under date of January 4, 2008, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

January 10, 2008

Defendant filed Acceptance of Service of Order dated January 8, 2008. Receipt of same acknowledged by Defendant January 9, 2008.

January 11, 2008

Plaintiff filed Acceptance of Service of Order dated January 8, 2008. Receipt of same acknowledged by Plaintiff January 9, 2008.
