

Docket Number: 3896

FRANK LILL & SON, INC.

John P. Sieminski, Esquire
Michael J. Cremonese, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE

~~John A. Kane, Chief Counsel~~
Matthew D. Stauffer, Assistant Counsel

May 7, 2007

Plaintiff filed Claim and filing fee. Amount of Claim: \$75,000.00+.

May 7, 2007

Board called Plaintiff advising of filing deficiency: lacks proof of mailing and proper verification. Faxed notice of deficiency to Plaintiff.

May 10, 2007

Plaintiff filed Proof of Mailing and Verification. ACCEPTED FOR FURTHER PROCESSING.

May 11, 2007

Board issued Acknowledgement letter and forwarded copy of Claim to Attorney General.

May 18, 2007

Attorney General filed Acknowledgement of Claim dated May 11, 2007. Receipt of same acknowledged on May 16, 2007.

June 12, 2007

Defendant filed letter to Board stating that they had only received the first page of the claim and does not have sufficient information to file an Answer or otherwise prepare a defense.

June 13, 2007

Board forwarded letter to Plaintiff, with copy to Defendant, instructing Plaintiff to file a complete complaint to Defendant.

June 15, 2007

Plaintiff filed cover letter to the statement of claim that was served on Department of Public Welfare.

July 24, 2007

Defendant filed Preliminary Objections and Memorandum in Support.[03A082107D]

August 20, 2007

Plaintiff filed Response to Defendant's Preliminary Objections and Memorandum in Support of Response.

September 17, 2007

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 17th day of September, 2007, it is hereby **ORDERED** and **DECREED** that the preliminary objections of the Defendant, to the complaint of Plaintiff are hereby **DISMISSED**. Defendant shall file an answer within 30 days from the exit date of this Order." Copy forwarded to Plaintiff and Defendant.

September 24, 2007

Plaintiff filed Acceptance of Service of Opinion and Order dated September 17, 2007. Receipt of same acknowledged September 20, 2007.

October 3, 2007

Defendant filed Acceptance of Service of Opinion and Order dated September 17, 2007. Receipt of same acknowledged October 3, 2007.

October 19, 2007

Defendant filed Answer to Plaintiff's Complaint.

October 22, 2007

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

December 26, 2007

Plaintiff filed Motion for Judgment on the Pleadings and Memorandum of Law in Support. [09A012908D]

January 28, 2008

Defendant filed Motion in Opposition to Plaintiff's Motion for Judgment on the Pleadings and Brief in Support.

January 28, 2008

Defendant filed Application for Leave to Amend an Answer and a proposed Amended Answer.

January 29, 2008

Defendant filed Application for Leave to Amend an Answer and a proposed Second Amended Answer.

February 1, 2008

Board rendered Opinion and Order. Order as follows: "**AND NOW** this 1st day of February, 2008, it is hereby **ORDERED** and **DECREED** that Defendant is granted leave to file its second amended answer with the Board and serve same upon Plaintiff within 10 days of the exit date of this Order. It is further **ORDERED** and **DECREED** that Plaintiff's motion for judgment on the pleadings is hereby **DENIED** as moot, with leave to re-file if and as appropriate." Copy forwarded to Plaintiff and Defendant.

February 4, 2008

Defendant filed Acceptance of Service of Opinion and Order dated February 1, 2008. Receipt of same acknowledged on February 4, 2008.

February 7, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated February 1, 2008. Receipt of same acknowledged on February 5, 2008.

March 5, 2008

Plaintiff filed Motion for Judgment on the Pleadings and Memorandum in Support. [09A042308D]

May 2, 2008

Plaintiff filed letter stating that Defendant had not filed a response within the timeframe allowed and would like the Board to review the Motion for Judgment on the Pleadings as uncontested and grant the Motion.

May 19, 2008

Defendant filed a letter advising that Defendant has not be served with Plaintiff's Motion for Judgment on the Pleadings and requesting the Board compel Plaintiff to serve the motion so that Defendant can prepare a written response.

May 21, 2008

Board forwarded letter to parties granting Defendant a 15 day extension of time to file its response to Plaintiff's motion for judgment on the pleadings.

June 5, 2008

Defendant filed Motion in Opposition to Plaintiff's Motion for Judgment on the Pleadings and Brief in Support.

June 12, 2008

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 12th day of May, 2008, upon consideration of the motion of plaintiff Frank Lill & Son, Inc., for judgment on the pleadings, it is hereby **ORDERED** that the motion is **GRANTED** and final judgment in the amount of \$81,605 (composed of \$75,000 plus pre-judgment interest in the amount of \$6,605) is entered on behalf of plaintiff, Frank Lill & Son, Inc. and against the defendant, Commonwealth of Pennsylvania, Department of Public Welfare. Plaintiff Frank Lill & Son, Inc. is also awarded post-judgment interest on the outstanding judgment at the statutory rate of 6% per annum from the exit date of this Order until the judgment is paid in full. Plaintiff's request for penalty interest and attorney fees is also **GRANTED** for the reasons stated in our opinion, and it is hereby **ORDERED** and **DIRECTED** that plaintiff Frank Lill & Son, Inc. submit to the Board an itemized listing of the attorney fees, costs and a calculation of penalty fee it claims for this matter pursuant to 62 Pa.C.S.A. § 3935. These itemizations shall be submitted to the Board within 20 days of the exit date of

this Order. The Department shall then have 20 days from the submission of such itemized list of attorney fees, costs and penalty calculations to respond. In the event the Department contests any of the fees, costs or penalty calculations and the parties are unable to stipulate to agreed upon amounts within 40 days from the exit date of this Order, the Board will hold an evidentiary hearing on same and issue a supplemental order respecting these fees, costs and penalty awards only.

June 20, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated June 12, 2008. Receipt of same acknowledged June 20, 2008.

June 30, 2008

Plaintiff filed Itemization of Attorney Fees, Costs and Penalty Calculation.

August 22, 2008

Board rendered an Opinion and Order. Order as follows: **"AND NOW,** this 22nd day of August, 2008, it is hereby **ORDERED** and **DECREED** that judgment for an additional amount of \$42,984.15 is awarded to Plaintiff, Frank Lill & Son, Inc. and against Defendant, Commonwealth of Pennsylvania, Department of Public Welfare consisting of \$15,534.00 in attorney fees; \$1,950.15 in costs; and \$25,500.00 in penalty pursuant to 62 Pa.C.S. § 3935." Copy forwarded to Plaintiff and Defendant.

August 26, 2008

Defendant filed Acceptance of Service of Opinion and Order dated August 22, 2008. Receipt of same acknowledged August 26, 2008.

August 28, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated August 22, 2008. Receipt of same acknowledged August 26, 2008.
