

Docket Number: 3905

DYNATEST CONSULTING, INC.

James W. Kutz, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

~~Michael Eichardt, Chief Counsel~~
Michael C. Barrett, Senior Counsel

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION

~~Andrew Gordon, Chief Counsel~~
Steven I. Roth, Assistant Counsel

August 24, 2007

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: \$300,000.00+.

August 27, 2007

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

September 4, 2007

Attorney General filed Acknowledgment of Claim form. Receipt of same acknowledged August 30, 2007.

September 24, 2007

Defendants filed Answer to Complaint.

September 25, 2007

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

November 26, 2007

PennDOT filed Notice of Service of PennDOT's response to Plaintiff's First Set of Interrogatories and Request for Production of Documents.

November 28, 2007

DGS filed Notice of Service of DGS's response to Plaintiff's First Set of Interrogatories and Request for Production of Documents.

February 21, 2008

Plaintiff filed Notice of Service of Discovery of Plaintiff's Second Request for Production of Documents Directed to DGS and Plaintiff's Second Request for Production of Documents Directed to PennDOT.

March 19, 2008

PennDOT filed Notice of Service of PennDOT's Responses to Second Request for Production of Documents.

March 21, 2008

PennDOT filed Corrected Notice of Service of PennDOT's Responses to Second Request for Production of Documents.

March 26, 2008

PennDOT filed Notice of Service of First Set of Interrogatories and Production of Documents.

May 22, 2008

Defendant requested subpoenas (234.1 - to attend with duces tecum).

May 22, 2008

Board forwarded subpoenas (234.1 - to attend with duces tecum) dated May 22, 2008 to Defendant.

July 29, 2008

Plaintiff filed Notice of Service of the Answers of Plaintiff to Defendants' First Set of Interrogatories and Production of Documents.

November 3, 2009

Plaintiff filed letter requesting the Board issue a scheduling order.

November 25, 2009

DGS filed a letter containing a proposed Scheduling Order and also states that they have not been provided with documentary discovery and a privilege log that was promised to them from the Plaintiff.

November 25, 2009

PennDOT filed its proposed Scheduling Order.

December 10, 2009

Plaintiff filed proposed scheduling order.

January 8, 2010

Plaintiff filed (via facsimile) a letter advising that Plaintiff has been trying to reach DGS to try to obtain a date for a scheduling conference, and has been unsuccessful.

January 12, 2009

Board rendered an Order. Order as follows: "**AND NOW**, this 12th day of January, 2010, pursuant to the request of the Plaintiff for a scheduling/status conference, it is hereby **ORDERED** that said conference shall be held on January 27, 2010 at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101 commencing at 1:00 P.M. Counsel for each party shall be present in person." Copy forwarded to all parties of record.

January 28, 2010

Board rendered an Order. Order as follows: "**AND NOW**, this 28th day of January, 2010, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant is October 15, 2010; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is November 19, 2010; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by January 14, 2011; 4. The last day for filing pre-trial motions is January 28, 2011; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than March 14, 2011 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for March 23, 2011 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 beginning on April 18, 2011 and running through April 21, 2011, or as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101. Unless otherwise noted, the first day of all hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m." Copy forwarded to Plaintiff and Defendants.

February 1, 2010

DGS filed Acceptance of Service of Scheduling Order dated January 28, 2010. Receipt of same acknowledged January 29, 2010.

February 8, 2010

Plaintiff filed Acceptance of Service of Scheduling Order dated January 28, 2010. Receipt of same acknowledged February 4, 2010.

February 24, 2011

Plaintiff filed a letter, signed by both parties, requesting that the hearing be continued and rescheduled to a later date.

February 25, 2011

Board rendered a Revised Scheduling Order. Revised Scheduling Order as follows: **"AND NOW**, this 25th day of February, 2011, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant is April 15, 2011; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is May 20, 2011; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by July 15, 2011; 4. The last day for filing pre-trial motions is July 25, 2011; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than September 14, 2011 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for September 21, 2011 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 beginning on October 24, 2011 and running through October 28, 2011, or as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101. Unless otherwise noted, the first day of all hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m." Copy forwarded to all parties of record.

March 1, 2011

DGS filed Acceptance of Service of Order dated February 25, 2011. Receipt of same acknowledged February 28, 2011.

March 7, 2011

Plaintiff filed Acceptance of Service of Order dated February 25, 2011. Receipt of same acknowledged March 4, 2011.

June 21, 2011

Board rendered an Order. Order as follows: "**AND NOW**, this 21st day of June, 2011, it is hereby **ORDERED** and **DECREED** that the Revised Scheduling Order issued by this Board on February 25, 2011 is amended as follows: 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than September 7, 2011 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for September 14, 2011 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101. All other times and dates in the February 25, 2011 Order remain unchanged." Copy forwarded to all parties of record.

June 24, 2011

Defendant (DGS) filed Acceptance of Service of Order dated June 21, 2011. Receipt of same acknowledged June 22, 2011.

June 29, 2011

Defendant (DOT) filed Acceptance of Service of Order dated June 21, 2011. Receipt of same acknowledged June 25, 2011.

July 11, 2011

Plaintiff filed Acceptance of Service of Order dated June 21, 2011. Receipt of same acknowledged June 27, 2011.

August 4, 2011

Board rendered an Order. Order as follows: "**AND NOW**, this 4th day of August, 2011, it is hereby **ORDERED** and **DECREED** that the Revised Scheduling Order issued by this Board on February 25, 2011 and the Amending Scheduling Order issued by this Board on June 21, 2011 are amended as follows: 6. A pre-trial conference is scheduled for Thursday, September 8, 2011 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101. All other times and dates in the February 25, 2011 and June 21, 2011 Orders remain unchanged." Copy forwarded to all parties of record.

August 10, 2011

DGS filed Acceptance of Service of Order dated August 4, 2011. Receipt of same acknowledged August 8, 2011.

August 11, 2011

PennDOT filed Acceptance of Service of Order dated August 4, 2011. Receipt of same acknowledged August 8, 2011.

August 16, 2011

Plaintiff filed Acceptance of Service of Order dated August 4, 2011. Receipt of same acknowledged August 15, 2011.

September 7, 2011

DGS filed pre-trial statement.

September 7, 2011

PennDOT filed pre-trial statement.

September 7, 2011

Plaintiff filed pre-trial statement.

September 8, 2011

Board forwarded letter rescheduling pre-trial conference from Thursday, September 8, 2011 to Thursday, September 15, 2011 at 2:00 PM by agreement of the parties due to flooding.

October 11, 2011

Plaintiff transmitted (via fax) a letter advising that the parties have reached a tentative settlement and requesting that the Board postpone the hearing scheduled to begin on October 24, 2011.

October 12, 2011

Plaintiff filed (via U.S. mail) a letter advising that the parties have reached a tentative settlement and requesting that the Board postpone the hearing scheduled to begin on October 24, 2011.

October 12, 2011

Board forwarded letter to parties advising them that the hearing scheduled to begin October 24, 2011 has been canceled and that Plaintiff shall provide the Board with a praecipe to close and discontinue at its earliest convenience.

February 23, 2012

Plaintiff filed praecipe to discontinue.

February 27, 2012

Board rendered an Order. Order as follows: "**AND NOW**, this 27th day of February, 2012, upon receipt of a Praecipe executed by James W. Kutz, Esquire, on behalf of Plaintiff, Dynatest Consulting, Inc., requesting that the Board mark the above-captioned proceeding discontinued, settled and ended, docketed with this Board under date of February 23, 2012, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked discontinued, settled and ended with prejudice." Copy forwarded to all parties of record.

February 29, 2012

DGS filed Acceptance of Service of Order dated February 27, 2012 filed. Receipt of same acknowledged February 28, 2012.

March 5, 2012

PennDOT filed Acceptance of Service of Order dated February 27, 2012 filed. Receipt of same acknowledged February 28, 2012.
