

Docket Number: 3916

COMMONWEALTH OF PENNSYLVANIA,  
STATE SYSTEM OF HIGHER EDUCATION,  
SHIPPENSBURG UNIVERSITY

Thomas J. Madigan, Esquire  
Ann B. Graff, Esquire

VS.

LYONS CONSTRUCTION SERVICES, INC.

Christopher R. Opalinski, Esquire  
Cornelius J. O'Brien, Esquire

and

LIBERTY MUTUAL INSURANCE COMPANY

Jeffrey A. Less, Esquire  
Noah H. Charlson, Esquire

**\*October 10, 2007**

SSHE filed Claim, proof of mailing and filing fee. Amount of Claim: \$3,607,289.00

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**October 11, 2007**

Board issued Acknowledgment letter.

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**October 11, 2007**

SSHE filed Supplemental Proof of Mailing of Liberty Mutual Insurance Company and Lyons Construction Services, Inc.

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**November 9, 2007**

Lyons Construction transmitted a request via fax for an extension of time to file its response to Plaintiff's SSHE complaint.

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**November 13, 2007**

Lyons Construction filed a request for an extension of time to file its response to Plaintiff's SSHE complaint.

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**November 19, 2007**

Liberty Mutual transmitted a request via fax for an extension of time to file its response to Plaintiff's SSHE complaint.

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**November 21, 2007**

Liberty Mutual filed a request for an extension of time to file its response to Plaintiff's SSHE complaint.

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**November 28, 2007**

Liberty Mutual filed Entry of Appearance of Jeffrey A. Less, Esquire and Noah H. Charlson, Esquire.

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**November 28, 2007**

Liberty Mutual filed Answer with New Matter.

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**November 28, 2007**

Lyons Construction filed Answer, New Matter and Counterclaim.

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**December 12, 2007**

SSHE transmitted a request via fax for an extension of time in which to file its response to Lyons Construction's New Matter and Counterclaim. Counsel for Lyons has agreed to an extension until January 4, 2008.

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**December 13, 2007**

SSHE filed a request for an extension of time in which to file its response to Lyons Construction's New Matter and Counterclaim. Counsel for Lyons has agreed to an extension until January 4, 2008.

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**December 14, 2007**

SSHE filed Reply to New Matter of Liberty Mutual.

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**December 14, 2007**

Board forwarded letter to SSHE granting their request for an extension of time in which to file its Response to Lyon's Construction's New Matter and Counterclaim until January 4, 2008. Copy forwarded to all parties of record.

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**January 4, 2008**

SSHE filed Preliminary Objections to Counterclaim of Lyons Construction Services, Inc. and Brief in Support.

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**January 4, 2008**

SSHE filed Motion to Stay Proceedings and Refer to Pre-Claim Hearing or, in the Alternative, Strike Impertinent Matter from Answer and New Matter of Lyons Construction Services, Inc. [09A020608D]

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**January 23, 2008**

Lyons Construction filed Amended Counterclaim.

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**January 24, 2008**

Board forwarded letter to SSHE requesting response to Amended Counterclaim filed by Lyons.

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**February 4, 2008**

Lyons Construction filed Answer to SSHE's Motion to Stay Proceedings and Refer to Pre-Claim Hearing or, in the Alternative, Strike Impertinent Matter from Answer and New Matter and Brief in Opposition.

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**February 20, 2008**

SSHE filed Answer and New Matter to Lyons Construction Amended Counterclaim.

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**February 21, 2008**

Board forwarded letter to Lyons Construction requesting a response to New Matter to Amended Counterclaim.

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**February 21, 2008**

SSHE filed Notice of Service of Expert Interrogatories Directed to Lyons.

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**February 21, 2008**

SSHE filed Notice of Service of Requests for Admissions Directed to Structural Group, Inc. c/o Lyons.

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**February 21, 2008**

SSHE filed Notice of Service of First Set of Interrogatories and Request for Production of Documents Directed to Lyons.

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**February 29, 2008**

Board issued Order. Order as follows: **AND NOW**, this 29<sup>th</sup> day of February, 2008, upon consideration of the University's motion to stay proceeding and refer Lyons' counterclaim to a pre-claim hearing or, in the alternative, strike scandalous and impertinent matter from the answer and new matter, said motion is **DENIED** in its entirety. Copy forwarded to all parties of record.

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**March 5, 2008**

SSHE filed Acceptance of Service of Opinion and Order dated February 29, 2008. Receipt of same acknowledged on March 3, 2008.

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**March 5, 2008**

Liberty Mutual filed Acceptance of Service of Opinion and Order dated February 29, 2008. Receipt of same acknowledged on March 3, 2008.

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**March 12, 2008**

Lyons filed Acceptance of Service of Opinion and Order dated February 29, 2008. Receipt of same acknowledged on March 3, 2008.

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**March 17, 2008**

SSHE filed Reply to New Matter of Defendant Lyons.

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**March 20, 2008**

SSHE filed Notice of Service of Shippensburg University's Objections and Responses to Lyons Construction Services, Inc.'s Amended First Set of Interrogatories and First Request for Production of Documents.

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**March 24, 2008**

Lyons filed Motion to Extend Time for Filing of Answer to New Matter to Amended Counterclaim.

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**March 24, 2008**

Lyons filed Answer to New Matter to Amended Counterclaim.

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**March 25, 2008**

Board forwarded letter to parties directing parties to commence with discovery.

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**March 26, 2008**

SSHE filed Notice of Service of Plaintiff's First Request for Production of Documents Directed to Structural Group, Inc. c/o Lyons Construction Services, Inc.

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**April 11, 2008**

SSHE filed Motion to Determine the Sufficiency of Responses to Plaintiff's Requests for Admissions and Brief in Support. [07A051208D]

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**April 30, 2008**

SSHE filed Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 and Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21.

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**May 9, 2008**

Lyons filed Brief in Opposition to Motion to Determine the Sufficiency of Responses to Plaintiff's Requests for Admissions Directed to Structural Group, Inc. and Argument in Support.

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**May 13, 2008**

SSHE filed Objections to Subpoena Pursuant to Rule 4009.21. [07A071008D].

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**May 15, 2008**

SSHE filed Motion for Protective Order and Brief in Support. [07A062307D].

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**May 15, 2008**

Board forwarded letter to Lyons requesting response to Motion.

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**June 5, 2008**

SSHE filed a letter regarding our letter to Lyons requesting a response to SSHE's Objections to Subpoenas. SSHE states that Lyons should file a Motion to Strike SSHE's objections so that SSHE would then have the opportunity to file a responsive pleading. SSHE cited Pa.R.C.P. 4009.21.

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**June 11, 2008**

Lyons filed Motion to Quash Plaintiff/Counterclaim Defendant Shippensburg University's Objections to Subpoenas Directed to Gannett Fleming, Inc., Spillman Farmer Architects, Nicholson Construction Company and Lobar, Inc. and Brief in Support.

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**June 11, 2008**

Lyons filed letter requesting an extension until June 20, 2008 to file its responsive brief to Shippensburg University's Motion for Protective Order.

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**June 13, 2008**

Board issued letter to Lyons, with copy to SSHE, granting extension of time to Lyons to file its response to SSHE's Motion for Protective Order.

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**June 13, 2008**

Board forwarded letter to SSHE requesting response to Motion.

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**June 13, 2008**

SSHE filed Motion for Consolidation of Docket Nos. 3922 and 3916 and Brief in Support.

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**June 17, 2008**

Board rendered Opinion and Order. Order as follows: **"AND NOW,** this 17th day of June, 2008, upon consideration of the Plaintiff's motion to determine sufficiency of responses to requests for admissions and brief, along with the Defendant's brief in opposition to the motion on behalf of Structural Group, Inc., and accompanying brief, it is determined that Structural's responses to requests for admissions numbers six and seven are sufficient but responses to requests one through five and eight through ten do not comply with the requirements of Pennsylvania Rule of Civil Procedure 4014. It is hereby **ORDERED** and **DECREED** that Structural's original responses to requests for admissions numbers one through five and eight through ten are **STRICKEN**, and Structural is **ORDERED** to serve amended responses to these requests for admissions upon the University in accord with the foregoing opinion within twenty days from the exit date of this Order." Copy forwarded to all parties of record.

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**June 20, 2008**

Lyons filed Response to SSHE's Motion for Protective Order and Brief in Opposition.

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**June 23, 2008**

Liberty Mutual filed Acceptance of Service of Opinion and Order dated June 17, 2008. Receipt of same acknowledged on June 19, 2008.

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**June 23, 2008**

SSHE filed Acceptance of Service of Opinion and Order dated June 17, 2008. Receipt of same acknowledged on June 20, 2008.

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**June 26, 2008**

Lyons filed Acceptance of Service of Opinion and Order dated June 17, 2008. Receipt of same acknowledged on June 23, 2008.

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**July 9, 2008**

SSHE filed Brief in Opposition to Motion to Quash Objections to Subpoenas.

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**July 11, 2008**

Board scheduled status conference for July 24, 2008 at 1:00 PM in the Judge's office for all parties of record.

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**July 14, 2008**

SSHE filed the Geotechnical Engineering Report prepared by Gannett Fleming, Inc. dated August 2005, Geotechnical Report prepared by David Blackmore and Associates, Inc. dated July 25, 2002 and Report of Additional Rock Probes and Alternate Foundation prepared by David Blackmore and Associates, Inc. dated January 31, 2003.

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**July 14, 2008**

Herre Bros., Inc. filed Response to SSHE's Motion to Consolidate and Brief in Opposition.

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**July 14, 2008**

Liberty Mutual filed Response to SSHE's Motion for Consolidation and Brief in Opposition.

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**July 14, 2008**

Lyons filed Response to SSHE's Motion to Consolidate and Brief in Opposition.

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**July 18, 2008**

Plaintiff filed Reply Brief in Support of Motion for Consolidation.

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**August 8, 2008**

Board rendered an Opinion and Order. Order as follows: **"AND NOW,** this 8<sup>th</sup> day of August, 2008, upon consideration of the motion for a protective order and brief filed by the Pennsylvania State System of Higher Education, along with the response and brief in opposition to the motion filed by Lyons Construction Services, Inc., it is hereby **ORDERED** and **DECREED** that said motion is **GRANTED IN PART** and **DENIED IN PART**. The University is hereby **ORDERED** to respond to Lyons' requests for production of documents as modified in accordance with the foregoing Opinion within thirty days from the exit date of this Order and Lyons is hereby **ORDERED** to amend its proposed subpoena requests as specified in the foregoing Opinion." Copy forwarded to all parties of record.

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**August 8, 2008**

Board rendered an Opinion and Order. Order as follows: **"AND NOW,** this 8<sup>th</sup> day of August, 2008, upon consideration of Lyons' motion to quash Shippensburg University's objections to subpoenas directed to Gannett Fleming, Inc., Spillman Farmer Architects, Nicholson Construction Company and Lobar, Inc., and the University's brief in opposition to the motion, it is hereby **ORDERED** and **DECREED** that said motion is **GRANTED** as to the first objection to subpoenas **EXCEPT** that requested discovery shall be permitted to the limited extent described in the foregoing Opinion. The said motion to quash is **DENIED** as to the second objection, relating to the production of any attorney client privileged documents encompassed by the subpoenas, to the extent that documents to which the privilege may apply shall be identified on a privilege log by Gannett Fleming and Spillman Farmer, reviewed by the University, and withheld from production until resolution of any dispute as described in the foregoing Opinion. In all other respects, those receiving the amended subpoena requests for production should respond as directed." Copy forwarded to all parties of record.

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**August 13, 2008**

SSHE filed Acceptance of Service of Opinion and Order dated August 8, 2008. Receipt of same acknowledged on August 11, 2008.

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**August 13, 2008**

SSHE filed Acceptance of Service of Opinion and Order dated August 8, 2008. Receipt of same acknowledged on August 11, 2008.

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**August 15, 2008**

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 15<sup>th</sup> day of August, 2008, upon consideration of the motion for consolidation and supporting brief filed by the Pennsylvania State System of Higher Education and the responses thereto filed by Lyons Construction Services, Inc., Liberty Mutual Insurance Co. and Herre Bros., Inc., it is hereby **ORDERED** and **DECREED** that said motion is **DENIED.**" Copy forwarded to all parties of record.

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**August 18, 2008**

Lyons filed Acceptance of Service of Opinion and Order dated August 8, 2008. Receipt of same acknowledged on August 14, 2008.

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**August 18, 2008**

Lyons filed Acceptance of Service of Opinion and Order dated August 8, 2008. Receipt of same acknowledged on August 14, 2008.

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**August 18, 2008**

Liberty Mutual filed Acceptance of Service of Opinion and Order dated August 8, 2008. Receipt of same acknowledged on August 14, 2008.

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**August 18, 2008**

Liberty Mutual filed Acceptance of Service of Opinion and Order dated August 8, 2008. Receipt of same acknowledged on August 14, 2008.

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**August 21, 2008**

SSHE filed Acceptance of Service of Opinion and Order dated August 15, 2008. Receipt of same acknowledged on August 19, 2008.

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**August 25, 2008**

Herre Bros. filed Acceptance of Service of Opinion and Order dated August 15, 2008. Receipt of same acknowledged on August 22, 2008.

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**August 29, 2008**

SSHE requested six subpoenas(4009.21 - to produce documents).

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**August 29, 2008**

Board forwarded six subpoenas dated August 29, 2008 (4009.21 - to produce documents).

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**September 2, 2008**

Lyons filed Acceptance of Service of Opinion and Order dated August 15, 2008. Receipt of same acknowledged on August 25, 2008.

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**September 2, 2008**

Lyons filed Certificate Prerequisite to Service of Subpoenas Directed to Lobar, Inc., Nicholson Construction Company, Gannett Fleming, Inc. and Spillman Farmer Architects.

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**September 5, 2008**

SSHE filed Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22.

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**September 8, 2008**

SSHE filed Notice of Service of First Set of Interrogatories and Second Set of Requests for Production of Documents Directed to Structural Group, Inc. c/o Lyons Construction Services, Inc.

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**September 25, 2008**

Board forwarded six subpoenas dated September 25, 2008 (4009.21 - to produce documents)to SSHE.

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**September 26, 2008**

SSHE filed Motion to Compel Responses to First Request for Production of Documents Directed to Lyons Construction Services.

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**September 29, 2008**

Board forwarded letter to Lyons requesting response to SSHE's Motion to Compel.

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**October 1, 2008**

Lyons filed Notice of Service of Answers and Responses to Plaintiff's First Set of Interrogatories and First Request for Production of Documents.

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**October 1, 2008**

Board issued Opinion and Order. Order as follows: **"AND NOW**, this 2nd day of October, SSHE's motion to compel filed with this Board on September 26, 2008, is hereby **DENIED** as moot." Copy forwarded to all parties of record.

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**October 6, 2008**

Liberty Mutual filed Acceptance of Service of Opinion and Order dated October 1, 2008. Receipt of same acknowledged on October 3, 2008.

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**October 9, 2008**

SSHE filed Acceptance of Service of Opinion and Order dated October 1, 2008. Receipt of same acknowledged on October 7, 2008.

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**October 10, 2008**

Lyons filed Acceptance of Service of Opinion and Order dated October 1, 2008. Receipt of same acknowledged on October 8, 2008.

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**October 20, 2008**

SSHE filed Notice of Service of Plaintiff's Second Set of Interrogatories Directed to Structural Group, Inc. c/o Lyons Construction Services, Inc.

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**October 30, 2008**

SSHE filed Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22 directed to Christopher R. Opalinski, Esquire and Jeffrey A. Less, Esquire.

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**November 12, 2008**

Board forwarded ten subpoenas dated November 12, 2008 (234.1 - to attend with ducas tecum)to Lyons.

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**November 21, 2008**

SSHE filed Motion to Compel Answers to Interrogatories and Responses to Requests for Production of Documents Directed to Structural Group, Inc. c/o Lyons Construction Services, Inc. and Brief in Support. [05A010609D]

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**November 25, 2008**

Board forwarded letter to Lyons requesting response to Motion.

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**December 10, 2008**

Board forwarded fifteen subpoenas dated December 10, 2008 (234.1 - to attend with ducas tecum)to Lyons.

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**December 18, 2008**

Lyons transmitted via facsimile a letter requesting an extension of time until January 5, 2009 to file its response to SSHE's Motion to Compel Answers to Interrogatories and Responses to Requests for Production of Documents Directed to Structural Group, Inc. c/o Lyons Construction Services, Inc.

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**December 18, 2008**

Lyons transmitted via facsimile a letter stating that counsel for SSHE afforded Lyons the courtesy of its consent to the requested extension of time until January 5, 2009.

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**December 22, 2008**

Lyons filed a letter requesting an extension of time until January 5, 2009 to file its response to SSHE's Motion to Compel Answers to Interrogatories and Responses to Requests for Production of Documents Directed to Structural Group, Inc. c/o Lyons Construction Services, Inc.

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**December 22, 2008**

Lyons filed a letter stating that counsel for SSHE afforded Lyons the courtesy of its consent to the requested extension of time until January 5, 2009.

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**December 22, 2008**

Board issued letter to all parties of record granting extension of time for Lyons to file its response to SSHE's Motion to Compel Answers to Interrogatories and Responses to Requests for Production of Documents Directed to Structural Group, Inc. c/o Lyons Construction Services, Inc. until January 5, 2009.

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**January 5, 2009**

Lyons filed Brief in Opposition to SSHE's Motion to Compel Answers to Interrogatories and Responses to Requests for Production of Documents Directed to Structural Group, Inc. c/o Lyons.

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**January 6, 2009**

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

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**January 7, 2009**

Board forwarded ten subpoenas dated January 7, 2009 (234.1 - to attend with duces tecum).

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**January 13, 2009**

SSHE filed Reply Brief in Support of Motion to Compel Answers to Interrogatories and Responses to Requests for Production of Documents Directed to Structural Group, Inc. c/o Lyons.

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**January 16, 2009**

Lyons transmitted via facsimile a letter requesting a telephonic argument on SSHE's Motion to Compel given the complex nature of this discovery dispute and if the Board is not inclined to hear oral argument, they request the opportunity to file a Surreply Brief addressing SSHE's Reply Brief.

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**January 16, 2009**

SSHE transmitted via facsimile a letter stating that they do not object to a telephonic argument, it does object to allowing Lyons to file a Surreply Brief as SSHE's Reply Brief did not raise any new issues.

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**January 20, 2009**

Lyons filed a letter requesting a telephonic argument on SSHE's Motion to Compel given the complex nature of this discovery dispute and if the Board is not inclined to hear oral argument, they request the opportunity to file a Surreply Brief addressing SSHE's Reply Brief.

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**January 20, 2009**

SSHE filed a letter stating that they do not object to a telephonic argument, it does object to allowing Lyons to file a Surreply Brief as SSHE's Reply Brief did not raise any new issues.

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**January 23, 2009**

SSHE filed Notice of Service of Plaintiff's First Request for Production of Documents Directed to Liberty Mutual Insurance Company.

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**February 3, 2009**

Board issued Order. Order as follows: **"AND NOW**, this 3rd day of February, 2009, it is hereby **ORDERED** that oral argument on the extant discovery motion shall be held by teleconference in the above-captioned matter on February 25, 2009, at 1:00 p.m. The parties are responsible for arranging among themselves to place a single conference call to the Board in a timely manner with all parties connected prior to calling the Board." Copy forwarded to all parties of record.

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**February 13, 2009**

SSHE filed Acceptance of Service of Order dated February 3, 2009. Receipt of same acknowledged on February 7, 2009.

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**February 13, 2009**

Liberty Mutual filed Acceptance of Service of Order dated February 3, 2009. Receipt of same acknowledged on February 11, 2009.

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**February 17, 2009**

Lyons filed Notice of Service of Deposition of Corporate Representative(s) from Nicholson Construction.

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**March 4, 2009**

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 4<sup>th</sup> day of March 2009, after consideration of Plaintiff's motion to compel along with brief in support thereof, Defendant's response along with brief in support thereof, and oral argument, it is hereby **ORDERED** and **DECREED** that: Plaintiff's motion to compel answers to its First Set of Interrogatories, Items 2 and 3, is **GRANTED** in part and **DENIED** in part as set forth in this Opinion. Plaintiff's motion to compel responses to its First Request for Production of Documents, Items 9 and 10, is **DENIED** as the answers are sufficient. Plaintiff's motion to compel responses to its First Request for Production of Documents, Item 11, is held in abeyance pending submissions by the parties as noted in this Opinion. Plaintiff's motion to compel response to its First Request for Production of Documents Item 12 is **GRANTED**, but only to the extent of a five year period prior to the start of the Project and excluding Comprehensus data. Plaintiff's motion to compel

responses to its Second Request for Production of Documents, Items 1 and 3, is **GRANTED** as set forth in this Opinion. Plaintiff's motion to compel responses to its Second Request for Production of Documents, Items 2, 4, 5, 6, 7, are held in abeyance pending submissions by the parties as noted in this Opinion. The motion to compel responses to Plaintiff's Second Request for Production of Documents for Items 8-9 and 13-16 is **DENIED**. All responses and briefings required hereunder shall be made within 30 days of the exit date of this Order." Copy forwarded to all parties of record.

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**March 11, 2009**

SSHE filed Acceptance of Service of Opinion and Order dated March 4, 2009. Receipt of same acknowledged on March 9, 2009.

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**March 11, 2009**

Lyons filed Acceptance of Service of Opinion and Order dated March 4, 2009. Receipt of same acknowledged on March 9, 2009.

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**March 11, 2009**

Liberty filed Acceptance of Service of Opinion and Order dated March 4, 2009. Receipt of same acknowledged on March 9, 2009.

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**March 23, 2009**

SSHE filed Motion to Compel Return of Inadvertently Produced Documents and Brief Support. [09A051409D].

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**March 23, 2009**

Board forwarded letter to Lyons requesting response to Motion.

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**April 1, 2009**

Lyons transmitted a letter via facsimile requesting a 10 day extension of time until April 13, 2009 to file its responses and briefings in accordance with the Board's Order of March 4, 2009 and states that the University has agreed.

**April 2, 2009**

Board issued letter to Lyons, with copy to SSHE and Liberty Mutual granting extension of time for Lyons to file its Responses and Briefings in accordance with the Board's Order of March 4, 2009.

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**April 6, 2009**

SSHE filed Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22.

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**April 13, 2009**

SSHE filed Supplemental Brief in Support of Motion to Compel Answers to Interrogatories and Responses to Requests for Production of Documents Directed to Structural Group, Inc. c/o Lyons Construction Services, Inc.

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**April 13, 2009**

Lyons filed Structural Group, Inc. c/o Lyons Construction Services, Inc.'s Brief in Regards to Comprehensus. [04A041309D]

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**April 14, 2009**

Board forwarded letter to Lyons requesting response to SSHE's Supplemental Brief In Support.

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**April 22, 2009**

Lyons filed Response to SSHE's Motion to Compel Return of Inadvertently Produced Documents, Brief in Opposition and Lyons' Motion to Compel.

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**April 24, 2009**

Board forwarded letter to SSHE's requesting response to Lyon's Motion to Compel.

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**April 29, 2009**

SSHE filed Notice of Service of Second Request for Production of Documents Directed to Lyons Construction Services, Inc.

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**April 29, 2009**

Board issued Opinion and Order. Order as follows: **"AND NOW**, this 29<sup>th</sup> day of April, 2009, in furtherance of the Board's Opinion and Order of March 4, 2009, it is further **ORDERED** and **DECREED** as follows: 1. Promptly following execution of an appropriate confidentiality agreement (with clawback provision), SSHE shall be allowed to search the Geotechnical Division portion of the Comprehensus database by use of relevant keywords or project identifiers selected by SSHE. The search is to be conducted on the premises of Structural by Structural personnel with a representative of SSHE present, and a list of files (with summaries) generated by this search is then to be provided to SSHE for review. If any file (or portion thereof) summarized on this initial list is of interest to SSHE, Structural shall provide same to SSHE promptly after review and redaction of any privileged material or trade secrets contained therein (but with privilege log describing all material redacted and the reasons therefore); 2. Structural shall provide to SSHE the geotechnical report, as well as all documents detailing the work Structural performed and any problems encountered by Structural in performing its work, pertaining to the SR202 King of Prussia Project, Phase I; and 3. Structural will also produce all geotechnical reports for examination by SSHE on the following projects: Exton Mall, Exton, Pennsylvania; the Millvale Quarry Project; the 10 projects along Interstate 70 near Frederick, Maryland; and five (5) other projects on Structural's Limestone Project List as selected by SSHE. From such reports, SSHE shall select a maximum of five projects for which it may request documents detailing the work performed on that project by Structural and any problems encountered in the performance of that work." Copy forwarded to all parties of record.

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**May 4, 2009**

Lyons filed Acceptance of Service of Opinion and Order dated April 29, 2009. Receipt of same acknowledged on May 1, 2009.

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**May 6, 2009**

Liberty Mutual filed Acceptance of Service of Opinion and Order dated April 29, 2009. Receipt of same acknowledged on May 4, 2009.

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**May 6, 2009**

Structural Group, Inc. filed Praecipe for Substitution of Appearance of Richard D. Kalson, Lauren C. Rodriguez and Richard W. Saxe, Esquires of Babst, Calland, Clements and Zomnir and the withdrawal of Danny P. Cerrone, Esquire of Thorp, Reed and Armstrong.

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**May 11, 2009**

SSHE filed Acceptance of Service of Opinion and Order dated April 29, 2009. Receipt of same acknowledged on May 7, 2009.

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**May 14, 2009**

SSHE filed Reply Brief in Support of Motion to Compel Return of Inadvertently Produced Documents and Brief in Opposition of Lyons Motion to Compel.

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**May 15, 2009**

SSHE filed Notice of Service of Second Request for Production of Documents Directed to Liberty Mutual.

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**May 26, 2009**

Lyons filed a Motion for Leave to File Sur-Reply Brief and Proposed Order.

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**May 27, 2009**

Board forwarded letter to Lyons stating that the Board will accept their sur-reply if same is filed by June 2, 2009.

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**June 2, 2009**

Lyons filed Surreply Brief in Opposition to Shippensburg University's Motion to Compel Return of Inadvertently Produced Documents and Reply Brief in Support of Motion to Compel and Proposed Order.

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**June 19, 2009**

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 19<sup>th</sup> day of June, 2009, it is **ORDERED** and **DECREED** that Plaintiff University shall produce to the Board, in separate sealed envelopes, for in camera inspection: (A) those spreadsheets that were inadvertently produced to Lyons in discovery for which the University asserts attorney-client privilege and seeks return; and (B) those spreadsheets not yet produced to Lyons in discovery for which the University asserts attorney-client privilege and which Lyons seeks to procure by reason of its motion to compel. Both sets of documents shall be provided to the Board for review within ten (10) days of the exit date of this Order." Copy forwarded to all parties of record.

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**June 24, 2009**

Lyons filed Acceptance of Service of Opinion and Order dated June 16, 2009. Receipt of same acknowledged on June 22, 2009.

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**June 29, 2009**

SSHE filed the spreadsheet documents in separate sealed envelopes as required by the Board's Order of June 19, 2009.

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**July 10, 2009**

Board issued an Opinion and Order. Order as follows: **"AND NOW**, this 10<sup>th</sup> day of July, 2009, the University's Motion to Compel Return of Inadvertently Produced Documents is **DENIED** because we do not find the spreadsheets to be protected from discovery by the attorney-client privilege asserted by the University for the reasons set forth in this Opinion. Additionally, Lyons' Motion to Compel Production of the full and complete set of spreadsheets is hereby **GRANTED** for the same reasons. These spreadsheets shall be produced within 10 days of the exit date of this Order." Copy forwarded to all parties of record.

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**July 15, 2009**

Lyons filed Acceptance of Service of Opinion and Order dated July 10, 2009. Receipt of same acknowledged on July 13, 2009.

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**July 22, 2009**

SSHE filed Acceptance of Service of Opinion and Order dated July 10, 2009. Receipt of same acknowledged on July 20, 2009.

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**August 10, 2009**

SSHE filed Acceptance of Service of Opinion and Order dated May 19, 2009. Receipt of same acknowledged on June 24, 2009.

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**August 10, 2009**

SSHE filed Certificate Prerequisite to Service of a Subpoena Pursuant to Rule 4009.22.

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**August 14, 2009**

SSHE requested ten subpoenas(5 - 234.1 - to attend with duces tecum and 5 - 4009.21 - to produce documents).

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**August 17, 2009**

Board forwarded ten subpoenas dated August 17, 2009 (5 - 234.1 - to attend with duces tecum and 5 - 4009.21 - to produce documents).

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**September 15, 2009**

Board forwarded six subpoenas dated September 15, 2009 (234.1 - to attend with duces tecum)to Lyons.

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**December 2, 2009**

Lyons transmitted via facsimile a request for a telephonic status conference to set deadlines for the exchange of expert reports, dispositive motions and pre-trial statements.

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**December 4, 2009**

Lyons filed a letter on behalf of itself and Structural Group requesting a telephonic status conference to set deadlines for the exchange of expert reports, dispositive motions and pre-trial statements.

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**December 8, 2009**

Board forwarded letter to all parties requesting a proposed scheduling order.

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**December 18, 2009**

Plaintiff transmitted letter via facsimile stating that they had just received the request for a proposed scheduling order and are requesting a few additional days to provide the requested information.

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**December 21, 2009**

Board forwarded letter to Plaintiff granting an extension of 10 days in which to file its proposed scheduling order.

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**December 23, 2009**

Board forwarded four subpoenas dated December 23, 2009 (234.1 - to attend with duces tecum) to Lyons.

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**December 31, 2009**

SSHE transmitted via facsimile a letter with a proposed scheduling order as requested by the Board.

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**December 31, 2009**

Lyons filed a letter with a proposed scheduling order as requested by the Board.

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**January 14, 2010**

Board rendered Scheduling Order. Order as follows: **"AND NOW**, this 14<sup>th</sup> day of January, 2010, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for parties to provide expert reports is June 1, 2010;<sup>1</sup> 2. The last day for parties to provide expert rebuttal reports is July 15, 2010;<sup>1</sup> 3. All discovery shall be completed by September 24, 2010;<sup>2</sup> 4. The last day for filing pre-trial motions is October 25, 2010;<sup>2</sup> 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than December 3, 2010 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday,



December 14, 2010 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 Monday, February 14, 2011 and running through Friday, March 18, 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." Copies forwarded to all parties of record.

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**January 21, 2010**

Lyons filed Acceptance of Service of Scheduling Order dated January 14, 2010. Receipt of same acknowledged on January 18, 2010.

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**January 25, 2010**

SSHE filed Acceptance of Service of Scheduling Order dated January 14, 2010. Receipt of same acknowledged on January 21, 2010.

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**January 29, 2010**

Liberty Mutual filed Acceptance of Service of Scheduling Order dated January 14, 2010. Receipt of same acknowledged on January 27, 2010.

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**February 23, 2010**

SSHE filed Motion for Leave to file Amended Complaint, Brief in Support and Amended Complaint.

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**February 23, 2010**

Board forwarded letter to Lyons and Liberty requesting response to SSHE's Motion for Leave to File Amended Complaint.

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**April 6, 2010**

Board rendered Opinion and Order. Order as follows: **"AND NOW,** this 6<sup>th</sup> day of April 2010, SSHE's Motion for Leave to File Amended Complaint is **GRANTED.** SSHE shall file said amended complaint within 20 days of the date of this order. Lyons and Liberty Mutual shall thereafter be permitted 30 days from said filing to respond to the amended portions of said complaint." Copy forwarded to all parties of record.

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**April 12, 2010**

SSHE filed Acceptance of Service of Opinion and Order dated April 6, 2010. Receipt of same acknowledged on April 9, 2010.

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**April 12, 2010**

Lyons filed Acceptance of Service of Opinion and Order dated April 6, 2010. Receipt of same acknowledged on April 9, 2010.

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**\*April 14, 2010**

Plaintiff filed Amended Complaint and proof of mailing. Amount of Amended Complaint: \$3,416,147.00+.

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**April 14, 2010**

Board issued Acknowledgment letter and forwarded copy of Amended Complaint to Attorney General.

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**April 15, 2010**

Liberty Mutual filed Acceptance of Service of Opinion and Order dated April 6, 2010. Receipt of same acknowledged on April 12, 2010.

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**April 22, 2010**

Attorney General filed Acknowledgement of Amended Claim dated April 14, 2010. Receipt of same acknowledged on April 20, 2010.

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**May 14, 2010**

Lyons filed Answer and New Matter to SSHE's Amended Complaint.

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**May 17, 2010**

Board forwarded letter to SSHE requesting a response to Lyons' New Matter.

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**May 25, 2010**

SSHE filed Reply to New Matter.

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**August 6, 2010**

SSHE filed Notice of Service of Plaintiff's First Set of Interrogatories and Third Request for Production of Documents to Liberty Mutual Insurance Company.

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**August 6, 2010**

SSHE filed Notice of Service of Plaintiff's Second Set of Interrogatories and Second Request for Production of Documents Directed to Lyons Construction Services, Inc.

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**October 25, 2010**

Lyons filed Motion for Partial Summary Judgment and Brief in Support. [01A102710]

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**October 25, 2010**

SSHE filed Motion in Limine to Exclude Geotechnical Reports From Other Projects, Proposed Order and Brief in Support. [10A111710]

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**October 25, 2010**

SSHE filed Motion for Partial Summary Judgment on Counterclaim for Constructive Fraud, Proposed Order, Brief in Support and Appendix in Support. [01A102710]

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**October 25, 2010**

SSHE filed Motion for Summary Judgment as to Lyons' Counterclaim for the Use and Benefit of Structural Group, Inc., Proposed Order, and Brief in Support. [01A102710]

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**October 27, 2010**

Board forwarded letter to Lyons requesting a response to SSHE's Motion in Limine to Exclude Geotechnical Reports From Other Projects.

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**October 27, 2010**

Board forwarded letter to SSHE requesting a response to Lyons' Motion for Partial Summary Judgment.

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**October 27, 2010**

Board forwarded letter to Lyons requesting a response to SSHE's Motion for Partial Summary Judgment on Counterclaim for Constructive Fraud.

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**October 27, 2010**

Board forwarded letter to Lyons requesting a response to SSHE's Motion for Summary Judgment as to Lyons' Counterclaim for the Use and Benefit of Structural Group, Inc.

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**November 4, 2010**

Lyons filed Motion for Extension of Time to File Response to Motions for Summary Judgment and Motion in Limine and Proposed Order.

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**November 4, 2010**

Board forwarded a letter via facsimile and U.S. Mail to Lyons granting their extension request until November 16, 2010.

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**November 9, 2010**

SSHE filed Answer to Lyon's Motion for Partial Summary Judgment and Brief in Opposition.

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**November 16, 2010**

Lyons filed Brief in Opposition to Motion for Partial Summary Judgment on Counterclaim for Constructive Fraud and Appendix.

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**November 16, 2010**

Lyons filed Brief in Opposition to Motion for Summary Judgment as to Counterclaim, Lyons Claim for the Use and Benefit of Structural Group, Inc.

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**November 16, 2010**

Lyons filed Response in Opposition to Motion in Limine to Exclude Geotechnical Reports from other Projects.

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**November 18, 2010**

Plaintiff transmitted via facsimile a letter regarding the timeliness of its submission of a Motion in Limine.

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**November 22, 2010**

Plaintiff filed via U.S. mail a letter regarding the timeliness of its submission of a Motion in Limine.

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**November 23, 2010**

SSHE filed Reply Brief in Support of Motion in Limine to Exclude Geotechnical Reports from other Projects.

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**November 23, 2010**

SSHE filed Reply Brief in Support of Motion for Summary Judgment as to Claim for the Use and Benefit of Structural Group, Inc.

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**November 23, 2010**

SSHE filed Reply Brief in Support of Motion for Summary Judgment as to Counterclaim for Constructive Fraud.

---

**November 29, 2010**

Lyons filed Motion for Extension of Deadline to File Pre-Trial Statements.

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**November 30, 2010**

Board issued letter to the parties (via fax & U.S. Mail), granting extension of time for the parties to file Pre-Trial Statements.

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**December 1, 2010**

Board rendered Opinion and Order. Order as follows: **"AND NOW, this 1<sup>st</sup> day of December, 2010, the State System of Higher Education, Shippensburg University's Motion for Summary Judgment as to Lyon's Counterclaim for the Use and Benefit of Structural Group, Inc. is hereby DENIED."** Copy forwarded to all parties of record.

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**December 1, 1020**

Board rendered Opinion and Order. Order as follows: **"AND NOW, this 1<sup>st</sup> day of December, 2010, the State System of Higher Education, Shippensburg University's Motion for Partial Summary Judgment on Counterclaim for Constructive Fraud is hereby DENIED."** Copy forwarded to all parties of record.

---

**December 1, 2010**

Board rendered Opinion and Order. Order as follows: **"AND NOW, this 1<sup>st</sup> day of December, 2010, it is hereby ORDERED that the motion of Lyons Construction Services, Inc. for partial summary judgment is GRANTED as to the claim of the State System of Higher Education, Shippensburg University for indemnification and said claim is DISMISSED. In all other respects, the motion is DENIED."** Copy forwarded to all parties of record.

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**December 2, 2010**

Board rendered an Opinion and Order. Order as follows: **"AND NOW, this 2<sup>nd</sup> day of December, 2010, it is ORDERED and DECREED that Plaintiff's Motion in Limine is DENIED."** Copy forwarded to all parties of record.

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**December 8, 2010**

SSHE filed Acceptance of Service of Opinion and Order dated December 1, 2010. Receipt of same acknowledged on December 6, 2010.

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**December 8, 2010**

SSHE filed Acceptance of Service of Opinion and Order dated December 1, 2010. Receipt of same acknowledged on December 6, 2010.

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**December 8, 2010**

SSHE filed Acceptance of Service of Opinion and Order dated December 1, 2010. Receipt of same acknowledged on December 6, 2010.

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**December 8, 2010**

SSHE filed Acceptance of Service of Opinion and Order dated December 2, 2010. Receipt of same acknowledged on December 6, 2010.

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**December 10, 2010**

SSHE filed Pre-Trial Statement.

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**December 10, 2010**

Lyons and Liberty filed its Joint Pre-Trial Statement.

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**December 14, 2010**

A Pre-Trial Conference was held today in the Judge's office at 1:00 PM.

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**December 14, 2010**

Lyons filed Supplemental Attachments to Pre-Trial Statement.

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**December 15, 2010**

SSHE filed a letter via facsimile pertaining to the discussion at pre-trial conference regarding missed pleadings. Mr. Madigan misspoke, SSHE received Liberty's Answer and New Matter to the original Complaint, but did not receive a response to the Amended Complaint.

---

**December 15, 2010**

Board rendered a Case Management Order. Order as follows: **"AND NOW**, this 15<sup>th</sup> day of December, 2010, pursuant to discussion at the pre-trial conference held December 14, 2010, and in order to facilitate the efficient presentation and defense of the respective claims of each party at the upcoming hearing currently scheduled for five weeks duration, it is hereby **ORDERED** and **DECREED** that the Commonwealth of Pennsylvania, State System of Higher Education ("SSHE") shall limit presentation of its claims and its defense of those claims asserted against it in this matter (including cross-examination and rebuttal) at hearing to a total of 80 hours. It is further **ORDERED** and **DECREED** that Lyons Construction Services, Inc. ("Lyons") and Liberty Mutual Insurance Company ("Liberty") shall limit presentation of their claims and their defense of those claims asserted against them in this matter (including cross-examination and rebuttal) at hearing to a total of 80 hours. The Board will hold the remaining time currently scheduled for disposition at its discretion." Copy forwarded to all parties of record.

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**December 17, 2010**

Board forwarded fifteen subpoenas dated December 17, 2010 (234.1 - to attend with duces tecum) to SSHE.

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**December 23, 2010**

Lyons filed Acceptance of Service of Opinion and Order dated December 1, 2010. Receipt of same acknowledged on December 16, 2010.

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**December 23, 2010**

Lyons filed Acceptance of Service of Opinion and Order dated December 1, 2010. Receipt of same acknowledged on December 16, 2010.



**December 23, 2010**

Lyons filed Acceptance of Service of Opinion and Order dated December 1, 2010. Receipt of same acknowledged on December 16, 2010.

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**December 23, 2010**

Lyons filed Acceptance of Service of Opinion and Order dated December 2, 2010. Receipt of same acknowledged on December 16, 2010.

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**December 23, 2010**

SSHE filed Acceptance of Service of Case Management Order dated December 15, 2010. Receipt of same acknowledged on December 21, 2010.

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**December 27, 2010**

Liberty Mutual filed Answer to the Amended Complaint.

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**December 28, 2010**

Board rendered an Order. Order as follows: "On December 27, 2010, Defendant Liberty Mutual Insurance Company ("Liberty") filed with this Board its answer with new matter to the amended complaint of the State System of Higher Education ("SSHE"). Although Liberty's answer with new matter to SSHE's amended complaint has been filed beyond the time period prescribed by both the Board's rules of procedure and the Pennsylvania Rules of Civil Procedure, our review of Liberty's answer with new matter shows that, with the exception of new responses to the new allegations in SSHE's amended complaint seeking reimbursement for the settlement with Herre Brothers, Liberty's responses to SSHE's original claim and its new matter assertions remain the same. Additionally, we see no reasonable possibility of surprise or prejudice to SSHE in Liberty's responses to SSHE's new allegations in the amended claim regarding SSHE's settlement reimbursement claim. Accordingly, the Board enters the following order. **AND NOW**, this 28<sup>th</sup> day of December, 2010, the Board hereby grants Liberty leave to file its answer with new matter to SSHE's amended statement of claim and will accept same as filed with this Board on December 27, 2010. SSHE is directed to file its response to Liberty's new matter on or before January 7, 2011." Copy forwarded to all parties of record.

**January 5, 2011**

SSHE filed Acceptance of Service of Order dated December 28, 2010. Receipt of same acknowledged on January 3, 2011.

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**January 7, 2011**

SSHE filed Reply to New Matter of Liberty Mutual.

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**January 10, 2011**

Liberty Mutual filed letter requesting the Court's permission to appear at trial on less than all of the days, at the request of their client. Liberty Mutual understands that it will otherwise be deferring to and relying upon Lyons' counsel for the balance of the trial.

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**January 11, 2011**

Board forwarded ten subpoenas dated January 11, 2011 (234.1 - to attend with duces tecum) to SSHE.

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**January 11, 2011**

Board forwarded letter to Liberty Mutual stating that there will be no objection to letting them attend less than all the days of hearing in this matter.

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**January 12, 2011**

SSHE filed Supplemental Pre-trial Statement.

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**February 1, 2011**

Board forwarded five subpoenas dated February 1, 2011 (234.1 - to attend with duces tecum) to Lyons.

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**February 3, 2011**

Board forwarded four subpoenas dated February 3, 2011 (234.1 - to attend with duces tecum) to Lyons.

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**February 14, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:30 a.m.

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**February 15, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**February 16, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**February 17, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**February 18, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**February 21, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**February 22, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**February 23, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**February 24, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**February 28, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**February 28, 2011**

Testimony of Board hearing held February 14, 2011 filed. Copy forwarded to attorney for Plaintiff.

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**March 1, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**March 2, 2011**

Board hearing held in Board's Courtroom No. 1, 6<sup>th</sup> Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**March 3, 2011**

Board hearing held in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**March 3, 2011**

Testimony of hearing held February 16, 2011 and February 17, 2011 filed.

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**March 4, 2011**

Board hearing held in Board's Courtroom No. 1, 6<sup>th</sup> Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**March 4, 2011**

Testimony of hearing held February 18, 21, 22, 23 and 24, 2011 filed.

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**March 7, 2011**

Board hearing held in Board's Courtroom No. 1, 6<sup>th</sup> Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**March 7, 2011**

SSHE filed Acceptance of Service of testimony of hearing held February 14, 2011. Receipt of same acknowledged March 3, 2011.

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**March 8, 2011**

Board hearing held in Board's Courtroom No. 1, 6<sup>th</sup> Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**March 8, 2011**

Testimony of hearing held February 15, 2011 filed.

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**March 8, 2011**

Testimony of hearing held February 15, 16, 17, 18, 21, 22, 23 and 24, 2011 forwarded to attorney for Plaintiff.

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**March 9, 2011**

Board hearing held in Board's Courtroom No. 1, 6<sup>th</sup> Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**March 10, 2011**

Board hearing held in Board's Courtroom No. 1, 6<sup>th</sup> Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**March 11, 2011**

SSHE filed Acceptance of Service of testimony of hearing held February 15, 16, 17, 18, 21, 22, 23 and 24, 2011. Receipt of same acknowledged March 9, 2011.

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**March 14, 2011**

Board hearing held in Board's Courtroom No. 1, 6<sup>th</sup> Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:00 a.m.

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**March 15, 2011**

Board hearing held in Board's Courtroom No. 1, 6<sup>th</sup> Floor, Fulton Bank Building, Harrisburg, Pa commencing at 1:00 p.m. Case completed.

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**March 15, 2011**

Testimony of hearing held February 28, March 1, 2, and 3, 2011 filed.

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**March 15, 2011**

Testimony of hearing held February 28, March 1, 2 and 3, 2011 forwarded to attorney for Plaintiff.

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**March 17, 2011**

Testimony of hearing held March 4, 7 and 8, 2011 filed.

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**March 18, 2011**

Testimony of hearing held March 4, 7 and 8, 2011 forwarded to attorney for Plaintiff.

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**March 18, 2011**

Testimony of hearing held March 9, 10, 14 and 15, 2011 filed. Last day of testimony.

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**March 21, 2011**

Testimony of hearing held March 9, 10, 14 and 15, 2011 forwarded to attorney for Plaintiff.

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**March 21, 2011**

Plaintiff filed Acceptance of Service of testimony of hearing held February 28, March 1, 2 and 3, 2011. Receipt of same acknowledged "undated".

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**March 22, 2011**

Lyons filed Exhibits D464, D295, 31 and 44.

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**March 22, 2011**

SSHE filed Exhibits P98, P99 and Objection 295.

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**March 25, 2011**

Lyons transmitted via fax a letter regarding Exhibit D295 and the deposition of Fred Tarquinio (D464).

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**March 25, 2011**

SSHE filed Acceptance of Service of Testimony of hearing held March 4, 7 and 8, 2011. Receipt of same acknowledged March 23, 2011.

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**March 25, 2011**

SSHE filed Acceptance of Service of Testimony of hearing held March 9, 10, 14 and 15, 2011. Receipt of same acknowledged March 23, 2011.

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**March 28, 2011**

Lyons filed via US mail a letter regarding Exhibit D295 and the deposition of Fred Tarquinio (D464).

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**March 28, 2011**

Board rendered an Order. Order as follows: "**AND NOW**, this 28<sup>th</sup> day of March, 2011, pursuant to discussion and agreement of the parties reached at hearing, the Board hereby admits and incorporates into the record of these proceedings Exhibits D464 (Fred Tarquinio deposition designations including Exhibit J31 attached thereto); P98 (Fred Tarquinio deposition counter-designations); and D99 (Nicholson letter dated October 17, 2003). Additionally, having reviewed Exhibit D295, Plaintiff's objections thereto, and Defendant's response (including reference to Mr. Tarquinio's testimony on pages 227 and 228), the Board believes the photo in Exhibit D295 to have been adequately identified and will admit same into the record over objection." Copy forwarded to all parties of record.

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**April 1, 2011**

SSHE filed Acceptance of Service of Order dated March 23, 2011. Receipt of same acknowledged March 30, 2011.

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**April 4, 2011**

Lyons filed Acceptance of Service of Order dated March 28, 2011. Receipt of same acknowledged March 30, 2011.

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**May 27, 2011**

Lyons filed a letter requesting an extension of time until June 17, 2011, in which to file proposed findings of fact, conclusions of law and legal brief, advising that SSHE and Liberty Mutual consent to this extension.

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**May 31, 2011**

Boarded forwarded letter to parties granting an extension of time until June 17, 2011, in which to file proposed findings of fact, conclusions of law and legal brief.

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**June 16, 2011**

SSHE transmitted (via fax) a letter requesting an extension of time until June 22, 2011, in which to file its proposed findings of fact, conclusions of law and legal brief, advising that Lyons consents to this request.

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**June 17, 2011**

Boarded forwarded letter to parties granting an extension of time until June 22, 2011, in which to file proposed findings of fact, conclusions of law and legal brief.

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**June 22, 2011**

SSHE filed Proposed Findings of Fact and Conclusions of Law, Post-trial Brief and Brief Regarding Admissibility of FHWA Manual Excerpts.

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**June 22, 2011**

Lyons filed Proposed Findings of Fact and Conclusions of Law and Closing Brief.

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**June 27, 2011**

Lyons filed a CD-ROM disk containing work files of Lyon's Findings of Fact and Conclusions of Law and Closing Brief.

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**June 28, 2011**

Liberty transmitted (via fax) its Joinder in Lyons Construction Services' Proposed Findings of Fact and Conclusions of Law and Closing Brief.

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**June 29, 2011**

Board forwarded letter to parties advising them that their replies to each other's proposed findings of facts, conclusions of law and legal brief are due no later August 5, 2011.

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**July 28, 2011**

Lyons transmitted (via fax) a letter requesting an extension of time until August 16, 2011, in which to file replies to one another's proposed findings of fact, conclusions of law and legal briefs. SSHE's counsel consents to this request.

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**July 29, 2011**

Board forwarded letter to Lyons, with copy to all other parties, granting an extension of time until August 16, 2011, in which to file replies to one another's proposed findings of fact, conclusions of law and legal briefs.

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**August 1, 2011**

Lyons transmitted (via US mail) a letter requesting an extension of time until August 16, 2011, in which to file replies to one another's proposed findings of fact, conclusions of law and legal briefs. SSHE's counsel consents to this request.

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**August 16, 2011**

SSHE filed Reply to Defendant's Closing Brief and Proposed Findings of Fact and Conclusions of Law.

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**August 16, 2011**

Lyons filed Lyons' Reply to SSHE's Proposed Findings of Fact.

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**August 16, 2011**

Lyons filed Brief in Support of Admissibility of FHWA Manual Excerpts.

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**August 17, 2011**

Lyons filed Reply Brief to SSHE's Post-Trial Brief.

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**August 23, 2011**

Board forwarded letter to all parties of record requesting copies of the full FHWA 2000 and 2005 manuals which were requested at hearing.

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**August 29, 2011**

SSHE filed a Motion to Open Trial Record to Admit Evidence of Settlement and Proposed Order.

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**August 30, 2011**

Board forwarded letter to parties requesting a response to SSHE's Motion to Open Trial Record to Admit Evidence of a Settlement.

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**August 30, 2011**

Lyons filed FHWA 2000 and 2005 manuals as requested by the Board.

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**September 26, 2011**

Lyons filed Response to Plaintiff's Motion to Open Trial Record to Admit Evidence of Settlement.

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**September 27, 2011**

Board forwarded a letter to parties advising that the Board is awaiting a copy of a fully executed agreement before issuing an order to incorporate the settlement agreement into the trial record.

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**October 7, 2011**

Lyons filed an executed Settlement Agreement and Release between Liberty Mutual Insurance Company and Structural Group, Inc. per the Board's letter dated September 27, 2011.

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**October 7, 2011**

Board rendered an Order. Order as follows: "**AND NOW**, this 7th day of October, 2011, upon consideration of Plaintiff's Motion to Open the Trial Record to Admit Evidence of Settlement, and Defendants' consent thereto, it is hereby **ORDERED**, **ADJUDGED** and **DECREED** that Plaintiff's Motion is **GRANTED** and the attached copy of the executed settlement agreement (hereby designated as Exhibit 600) is made part of the hearing record in this case." Copy forwarded to all parties of record.

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**October 14, 2011**

Plaintiff filed Acceptance of Service of Order dated October 7, 2011. Receipt of same acknowledged October 12, 2011.

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**October 25, 2011**

Board forwarded a letter to parties directing them to file additional proposed findings of fact, conclusions of law and brief in support.

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**November 28, 2011**

Plaintiff filed Proposed Additional Findings of Fact and Conclusions of Law Regarding Liberty Mutual's Liability as Surety and Brief in Support.

**November 29, 2011**

Plaintiff filed a disk containing its Proposed Additional Findings of Fact and Conclusions of Law Regarding Liberty Mutual's Liability as Surety and Brief in Support.

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**December 12, 2011**

Liberty filed letter advising that the parties have agreed to an extension of time until January 12, 2012 in which to file additional proposed Findings of Fact, Conclusions of Law and Brief.

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**December 12, 2011**

Board forwarded letter to parties granting an extension time until January 12, 2012 in which to file additional proposed Findings of Fact, Conclusions of Law and Brief.

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**January 12, 2012**

Liberty filed Additional Proposed Findings of Fact and Conclusions of Law and Brief in Opposition.

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**February 7, 2012**

Board forwarded letter to parties regarding the litigation cooperation agreement between Lyons and Structural Steel.

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**February 9, 2012**

Lyons filed a motion to open record to admit litigation cooperation agreement into evidence.

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**February 10, 2012**

Board forwarded letter to parties requesting a response to Lyons motion within 15 days.

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**February 22, 2012**

SSHE filed a brief in opposition to Lyons' Motion to open record to admit litigation cooperation agreement in evidence.

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**February 23, 2012**

Board forwarded letter to Lyons', with copy to all parties of record, requesting a reply to SSHE Brief in Opposition to Lyons' Motion to open record to admit litigation cooperation agreement in evidence.

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**March 13, 2012**

Lyons filed Reply Brief in Support of Lyons' Motion to Open Record to Admit Litigation Cooperation Agreement in Evidence.

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**May 3, 2012**

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 3<sup>rd</sup> day of May 2012, after consideration of Lyons' Motion to Open the Record to Admit the Litigation Cooperation Agreement in Evidence, the University's Brief in Opposition and Lyons' Reply Brief, it is hereby **ORDERED** and **DECREED** that the motion is **GRANTED** and the Litigation Cooperation Agreement is admitted into evidence as Exhibit 601, a copy of which is appended to this Opinion and Order." Copy forwarded to all parties of record.

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**May 9, 2012**

SSHE filed Acceptance of Service of Opinion and Order dated May 3, 2012. Receipt of same acknowledged May 7, 2012.

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**May 11, 2012**

Lyons filed Acceptance of Service of Opinion and Order dated May 3, 2012. Receipt of same acknowledged May 8, 2012.

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**January 18, 2013**

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 18<sup>th</sup> day of January, 2013, **IT IS ORDERED** and **DECREED** that judgment be entered in favor of the Commonwealth of Pennsylvania, State System of Higher Education, Shippensburg University ("University") against Lyons Construction Services, Inc. ("Lyons"), in the sum of \$3,126,924. This sum consists of \$2,314,519, the net principal amount owed to the University for damages after resolution of the multiple claims between the parties, and \$812,405 in prejudgment interest on that amount. No award is made to Lyons for the use and benefit of Structural Group, Inc. **IT IS FURTHER**

**ORDERED** and **DECREED** that judgment be entered in favor of the Commonwealth of Pennsylvania, State System of Higher Education, Shippensburg University ("University") against Liberty Mutual Insurance Company ("Liberty Mutual") in the sum of \$3,130,063. This sum consists of \$2,316,842, the net principal amount owed to the University by Liberty Mutual as performance bond surety on the Project and \$813,221 in prejudgment interest on that amount. The foregoing awards are several, not cumulative. The University is further awarded post-judgment interest on the outstanding amount of each judgment at the statutory rate for judgments (6% per annum) beginning on the date of this Order and continuing until said judgment is paid in full. Each party herein will bear its own costs and attorney fees.

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**January 25, 2013**

Lyons filed Acceptance of Service of Opinion and Order dated January 18, 2013. Receipt of same acknowledged January 23, 2013.

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**January 25, 2013**

Attorney General filed Acceptance of Service of Opinion and Order dated January 18, 2013. Receipt of same acknowledged January 22, 2013.

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**January 28, 2013**

SSHE filed Acceptance of Service of Opinion and Order dated January 18, 2013. Receipt of same acknowledged January 24, 2013.

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**February 19, 2013**

Lyons filed copy of Petition for Review as filed in Commonwealth Court.

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**February 19, 2013**

Liberty filed copy of Petition for Review as filed in Commonwealth Court.

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**February 23, 2013**

Commonwealth Court filed Notice of Filing of Petition for Review - Lyons - 202 CD 2013.

**February 23, 2013**

Commonwealth Court filed Notice of Filing of Petition for Review - Liberty - 201 CD 2013.

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**February 26, 2013**

Board filed certified list comprising the record from the Board of Claims to Commonwealth Court (202 CD 2013 & 201 CD 2013).

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**March 4, 2013**

SSHE filed copy of Petition for Review as filed in Commonwealth Court.

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**March 5, 2013**

Lyons filed copy of its Docketing Statement as filed in Commonwealth Court.

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**March 7, 2013**

Lyons filed copy of its motion to consolidate multiple appeals, No. 202 CD 2013, No. 201 CD 2013 and No. 279 CD 2013 as filed in Commonwealth Court.

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**March 7, 2013**

Commonwealth Court filed Notice of Filing of Petition for Review - SSHE - 279 CD 2013.

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**March 8, 2013**

Board filed certified list comprising the record from the Board of Claims to Commonwealth Court (279 CD 2013).

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**March 13, 2013**

Liberty filed a copy of its Motion to Consolidate and proposed Order as filed in Commonwealth Court.

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**March 18, 2013**

SSHE filed a copy of its Docketing Statement as filed in Commonwealth Court.

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**March 22, 2013**

SSHE filed a copy of its notice of intent to defer reproduction of record pursuant to Pa.R.A.P. 2154(b) as filed in Commonwealth Court.

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**December 30, 2014**

Commonwealth Court filed Order. Order as follows: "NOW, October 27, 2014, upon consideration of the parties' joint application for leave to discontinue appeals pursuant to Pa.R.A.P. 1973(a), the application is granted. The Chief Clerk shall mark this matters closed and discontinued."

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