

Docket Number: 3917

**LOCKHEED MARTIN CORPORATION,  
INTEGRATED SYSTEMS & SOLUTIONS**

\*Brett A. Schlossberg, Esquire  
Kenneth W. Lee, Esquire  
Steven B. Silverman, Esquire  
Danielle Hodnicki-Dietrich, Esquire  
Erin Beckner, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA STATE POLICE**

~~Barbara L. Christy, Chief Counsel~~  
Thomas W. Hazlett, Esquire  
William L. Kipnes, Esquire

**\*October 12, 2007**

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: \$24,545,766+.

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**October 16, 2007**

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

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**October 29, 2007**

Chief Deputy Attorney General filed Acceptance of Service of Claim dated October 16, 2007. Receipt of same acknowledged by Chief Deputy Attorney General October 19, 2007.

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**November 9, 2007**

Defendant filed Entry of Appearance of Thomas W. Hazlett, Esquire and Wilbur L. Kipnes, Esquire.

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**November 13, 2007**

Defendant filed Preliminary Objections and Memorandum of Law in Support of Preliminary Objections.[A04121707D]

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**November 14, 2007**

Board issued letter to Plaintiff directing its response and brief to Defendant's Preliminary Objections.

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**November 30, 2007**

Defendant filed Emergency Motion for Protective Order and Memorandum of Law in Support of Motion. [04A121107D]

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**December 10, 2007**

Plaintiff filed Response and Memorandum In Opposition to Motion of Defendant for a Protective Order.

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**December 13, 2007**

Defendant filed Reply Brief of Pennsylvania State Police in Support of Motion for Protective Order.

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**December 14, 2007**

Plaintiff filed Answer and Memorandum in Opposition to Defendant's Preliminary Objections.

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**December 21, 2007**

Board rendered the following Opinion and Order: Order as follows: "**AND NOW**, this 21<sup>st</sup> day of December, 2007, it is hereby **ORDERED** that Plaintiff's motion for summary judgment and Defendant's motion for summary judgment are **DENIED. MISTAKE IN ORDER.** See Corrective Order dated December 21, 2007.

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**December 21, 2007**

Defendant transmitted via fax a letter advising that Defendant plans to file a reply brief in support of its preliminary objections and that Board's Order of December 21, 2007 should be corrected to reflect the opinion on same.

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**December 21, 2007**

Board rendered a Corrective Order. Corrective Order as follows: "**AND NOW**, this 21<sup>st</sup> day of December, 2007, the Board's previous Order dated December 21, 2007 is corrected to read as follows: **AND NOW**, this 21<sup>st</sup> day of December, 2007, it is hereby **ORDERED** and **DECREED** that Defendant's Emergency Motion for a Protective Order is **GRANTED**. Defendant's response to Plaintiff's requests for production of documents shall be due 30 days from the exit date of this Board's order resolving Defendant's preliminary objections." Copy forwarded to Plaintiff and Defendant.

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**December 26, 2007**

Defendant filed a letter advising that Defendant plans to file a reply brief in support of its preliminary objections and that Board's Order of December 21, 2007 should be corrected to reflect the opinion on same.

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**December 28, 2007**

Defendant filed Acceptance of Service of Opinion and Order dated December 21, 2007. Receipt of same acknowledged by Defendant December 26, 2007.

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**December 28, 2007**

Defendant filed Acceptance of Service of Corrective Order dated December 21, 2007. Receipt of same acknowledged by Defendant December 26, 2007.

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**January 7, 2008**

Defendant filed Reply Brief in Support of Preliminary Objections.

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**January 8, 2008**

Plaintiff filed Acceptance of Service of Corrective Order dated December 21, 2007. Receipt of same acknowledged by Plaintiff December 24, 2007.

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**January 10, 2008**

Plaintiff transmitted letter by facsimile raising new issues relevant to Defendant's Reply Brief as well as requesting oral arguments be held on Preliminary Objections.

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**January 11, 2008**

Board forwarded letter respecting matters raised in Defendants' reply brief and acknowledge Plaintiff's request for leave to file a responsive brief and to hold argument on preliminary objections. Board is currently reviewing same and will advise in timely manner.

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**January 14, 2008**

Plaintiff filed letter raising new issues relevant to Defendant's Reply Brief as well as requesting oral arguments be held on Preliminary Objections.

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**February 28, 2008**

Board rendered the following Opinion and Order: **AND NOW**, this 28<sup>th</sup> day of February, 2008, upon consideration of the preliminary objections of the Pennsylvania State Police to Lockheed Martin Corp.'s Statement of Claim, and the response thereto, it is hereby **ORDERED** that the preliminary objections based on the following grounds are **OVERRULED**: 1. lack of jurisdiction in the Board of Claims; 2. presence of an agreement for alternative dispute resolution; 3. demurrer to Lockheed's claim for unjust enrichment; 4. inclusion of scandalous or impertinent matter; and 5. insufficient specificity in the pleadings. The preliminary objections based on the following grounds are **SUSTAINED**: 1. legal insufficiency of the claims for injunctive relief (Count II of the Statement of Claim); 2. legal insufficiency of the claims for statutory violations (Count I(a)(b); Count III(a)(b); and Count IV(a)(b) of the Statement of Claim); and 3. legal insufficiency of the claims for declaratory judgment (All Counts). Lockheed is **GRANTED** leave to file an amended complaint in conformity with this Opinion within 20 days from the exit date of this Order. Copy forwarded to Plaintiff and Defendant.

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**March 7, 2008**

Defendant filed Acceptance of Service of Opinion and Order dated February 29, 2008. Receipt of same acknowledged by Defendant March 4, 2008.

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**March 18, 2008**

Defendant filed Pennsylvania State Police's Motion to Continue Protective Order Staying Merits Discovery and Memorandum of Law in Support. [07A040208 ]

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**\*March 18, 2008**

Plaintiff filed Amended Claim and proof of mailing. Amount of Claim: Unchanged.

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**March 19, 2008**

Board issued letter to Plaintiff directing its response and Brief in Support to Defendant's Motion to Continue Protective Order Staying Merits Discovery.

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**March 19, 2008**

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

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**March 19, 2008**

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

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**March 21, 2008**

Defendant filed (Corrected) Pennsylvania State Police's Motion to Continue Protective Order Staying Discovery, Memorandum of Law in Support, and Proposed Order.

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**March 26, 2008**

Board issued letter to Plaintiff requesting its response to Defendant's corrected Motion to Continue Protective Order Staying Merits Discovery. Via fax and U.S. Mail.

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**March 27, 2008**

Chief Deputy Attorney General filed Acceptance of Service of Claim dated March 19, 2008. Receipt of same acknowledged by Chief Deputy Attorney General March 25, 2008.

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**April 1, 2008**

Plaintiff filed Memorandum in Response to Motion to Continue Protective Order Staying Merits Discovery and Proposed Order.

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**April 7, 2008**

Plaintiff filed Motion to Compel Production of Documents, Memorandum in Support, and Proposed Order.

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**April 8, 2008**

Board issued letter to parties respecting Plaintiff's outstanding discovery and Defendant's motion for protective order. In light of our April 8, 2008 Order, the Board considers this current motion to compel to be moot. Plaintiff may, of course, file a subsequent motion to compel if Defendant does not comply with timing set forth in our April 8, 2008 Order.

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**April 8, 2008**

Board rendered the following Opinion and Order: **AND NOW**, this 8<sup>th</sup> day of April, 2008, it is hereby **ORDERED** that Defendant's Motion to Continue Protective Order Staying Merits Discovery is **DENIED**. Furthermore, within 10 days of the exit date of this order, Plaintiff is to identify and provide Defendant with changes to the numbering of the referenced paragraphs in its initial discovery request for production of documents to reflect the numbering in its amended claim. Defendant's response to the outstanding discovery requests shall now be due 30 days from the exit date of this order. Copy forwarded to Plaintiff and Defendant.

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**April 17, 2008**

Defendant filed Acceptance of Service of Opinion and Order dated April 8, 2008. Receipt of same acknowledged by Defendant April 15, 2008.

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**April 17, 2008**

Plaintiff filed Acceptance of Service of Opinion and Order dated April 8, 2008. Receipt of same acknowledged by Plaintiff April 14, 2008.

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**April 21, 2008**

Defendant filed Answer and New Matter to Amended Statement of Claim.

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**April 22, 2008**

Board forwarded letter to Plaintiff requesting response to New Matter to Amended Statement of Claim.

**May 9, 2008**

Plaintiff filed Answer to New Matter.

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**May 27, 2008**

Plaintiff filed Proposed Order, Motion (I) To Compel the Production of Documents; (II) For Sanctions; and (III) For an Order Pursuant to Pa. R.C.P. 4007.3 (Sequence and timing of Discovery) and Memorandum in Support. [05A062508D]

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**May 28, 2008**

Board forwarded letter to Defendant requesting its response and brief to Plaintiff's motion.

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**June 19, 2008**

Defendant filed Notice of Service of First Set of Requests for the Production of Documents to Plaintiff.

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**June 19, 2008**

Defendant filed Notice of Service of First Set of Interrogatories to Plaintiff.

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**June 19, 2008**

Defendant filed Notice of Service of Second Supplemental Objections and Responses to Plaintiff's First Request for the Production of Documents.

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**June 19, 2008**

Defendant filed Notice of Service of Objections and Responses to Plaintiff's First Request for Production of Documents.

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**June 19, 2008**

Defendant filed Notice of Service of Supplemental Objections and Responses to Plaintiff's First Requests for Production of Documents.

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**June 19, 2008**

Defendant filed Answer in Opposition to Plaintiff's Motion to Compel and Memorandum of Law in Support.

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**July 10, 2008**

Board issued an Order. Order as follows: "**AND NOW**, this 10<sup>th</sup> day of July, 2008, it is hereby **ORDERED** that a status conference to resolve discovery issues raised by the parties in the above-captioned matter shall be held on Wednesday, July 23, 2008, at 1:00 p.m. at the offices of the Board of Claims at 200 North Third Street, Fulton Building, 7<sup>th</sup> Floor, Harrisburg, PA 17101." Copies forwarded to Plaintiff and Defendant.

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**July 17, 2008**

Defendant filed Acceptance of Service of Order dated July 10, 2008. Receipt of same acknowledged by Defendant July 15, 2008.

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**July 23, 2008**

Board status conference held at 200 North Third Street, Suite 700, Harrisburg, PA 17101 commencing at 1:00 p.m.

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**August 4, 2008**

Plaintiff filed Memorandum of Lockheed Martin Corporation RE Format of Electronic Documents to be Produced in Discovery.

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**August 4, 2008**

Defendant filed Pennsylvania State Police's Memorandum of Law Regarding Format of Document Production, and Proposed Order.

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**August 28, 2008**

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 28<sup>th</sup> day of August, 2008, it is hereby **ORDERED** and **DECREED** as follows: 1. PSP shall provide the first tranche of documents it has compiled in TIFF format (some 190,000+ documents) to Lockheed as set forth in this Order; 2. All document production thereafter of electronic data shall henceforth be provided by PSP to Lockheed in native format with metadata included; 3. All

document production of electronic data by Lockheed to PSP shall be provided in native format with metadata included; 4. Should Lockheed further require and make additional request for the production of electronic data already provided in PSP's initial tranche in TIFF format to be provided to it in native format with metadata included, PSP shall provide same upon the terms and conditions outlined in the body of this opinion; 5. The parties shall adhere to the following discovery schedule: a. PSP's first tranche of document production (in TIFF format) shall be made by September 5, 2008; b. PSP's second tranche of initial document production shall be made by September 25, 2008; c. Lockheed shall inform PSP by September 30, 2008 of the specific electronic data originally provided in first tranche (TIFF format) which it requires re-produced in native format with metadata; d. PSP's final tranche of initial document production shall be made by October 15, 2008; e. PSP's re-production in native format with metadata of electronic data originally produced in its first tranche in TIFF format shall be made by November 15, 2008; f. Any challenge by Lockheed to PSP's privilege log (if any) shall be filed by November 30, 2008; g. Lockheed's response to PSP's first request for production of documents and interrogatories shall be made by no later than December 1, 2008; h. Lockheed shall serve PSP with its interrogatories on or about December 15, 2008; and i. Depositions may commence on or about February 15, 2009." Copy forwarded to Plaintiff and Defendant.

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**October 17, 2008**

Plaintiff filed letter relative to discovery matters and requesting the Board to direct Defendant to promptly reproduce its second tranche in native format with all metadata as per the Board's Order of August 28, 2008.

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**October 21, 2008**

Defendant transmitted via fax a letter in response to Plaintiff's letter regarding discovery matters.

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**October 22, 2008**

Defendant filed a letter in response to Plaintiff's letter regarding discovery matters.

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**October 23, 2008**

Board forwarded letter to parties clarifying discovery matters.

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**October 30, 2008**

Plaintiff filed letter apologizing for not including in his original October 14 submission that he exchanged email and letter correspondence and spoke with opposing counsel, and was unable to secure its resolution without recourse to the Board.

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**December 17, 2008**

Plaintiff filed Notice of Service of Objections and Responses to Defendant's First Set of Interrogatories; Objections and Responses to Defendant's First Set of Requests for Production of Documents; and First Set of Interrogatories of Plaintiff Addressed to Defendant.

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**December 29, 2008**

Plaintiff requested 3 subpoenas (234.1 - to attend with duces tecum) and 3 subpoenas (4009.21 - to produce documents).

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**December 31, 2008**

Plaintiff filed Praecipe to Enter Appearance of the law firm of Tucker Arensberg, P.C., Kenneth W. Lee, Steven B. Silverman, Danielle Hodnicki-Dietrich and Erin Beckner on behalf of Plaintiff.

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**January 6, 2009**

Board forwarded letter to parties requesting clarification as to which law firm the Board shall communicate with for Plaintiff.

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**January 9, 2009**

Plaintiff transmitted via facsimile a letter advising that Mr. Schlossberg shall remain as local counsel for Plaintiff.

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**January 9, 2009**

Plaintiff transmitted via facsimile a revised letter advising that Mr. Schlossberg shall remain as lead counsel for Plaintiff.

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**January 12, 2009**

Board forwarded 3 subpoenas (234.1 - to attend with duces tecum) and 3 subpoenas (4009.21 - to produce documents) dated January 12, 2009 to Plaintiff.

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**January 12, 2009**

Plaintiff filed (via U.S. mail) a revised letter advising that Mr. Schlossberg shall remain as lead counsel for Plaintiff.

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**May 19, 2009**

Plaintiff filed Motion to Compel Production of Documents and Brief in Support.

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**May 20, 2009**

Plaintiff filed cover letter regarding Plaintiff's Motion to Compel Production of Documents.

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**June 17, 2009**

Defendant filed Answer to Motion to Compel, Memorandum of Law in Opposition and Proposed Order.

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**June 23, 2009**

Board rendered an Order. Order as follows: "**AND NOW**, this 23<sup>rd</sup> day of June, 2009, it is hereby **ORDERED** that a status conference with respect to Plaintiff's Motion to Compel the Production of Documents shall be held on Thursday, July 2, 2009 at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101 commencing at 1:00 p.m. Counsel for the parties are to participate by telephone conference call arranged among themselves before calling this office at (717) 787-3325." Copy forwarded to Plaintiff and Defendant.

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**June 29, 2009**

Plaintiff filed Acceptance of Service of Order dated June 23, 2009. Receipt of same acknowledged June 25, 2009.

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**June 30, 2009**

Plaintiff filed Brief in Reply to Defendant's Memorandum of Law in Opposition to Plaintiff's Motion to Compel Production of Documents.

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**July 1, 2009**

Defendant filed Acceptance of Service of Order dated June 23, 2009. Receipt of same acknowledged June 29, 2009.

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**July 6, 2009**

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 6<sup>th</sup> day of July, 2009, it is hereby **ORDERED** and **DECREED** that Lockheed's Motion to Compel is hereby **DENIED**. This denial is without prejudice to renew such motion after the parties have made further efforts between themselves to eliminate or reduce the documents for which the privilege status is in dispute." Copy forwarded to Plaintiff and Defendant.

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**July 10, 2009**

Defendant filed Acceptance of Service of Opinion and Order dated July 6, 2009. Receipt of same acknowledged July 8, 2009.

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**July 13, 2009**

Plaintiff filed Acceptance of Service of Opinion and Order dated July 6, 2009. Receipt of same acknowledged July 8, 2009.

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**November 25, 2009**

Defendant filed Objections to Plaintiff's Third Party Subpoena to the Commonwealth of Pennsylvania, Governor's Office of Policy and Planning; Objection to Plaintiff's Third Party Subpoena to the Commonwealth of Pennsylvania, Department of General Services; Objections to Plaintiff's Third Party Subpoena to the Commonwealth of Pennsylvania, Governor's Office of the Budget; and Objections to Plaintiff's Third Party Subpoena to the Commonwealth of Pennsylvania, Office of Administration.

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**September 27, 2010**

Plaintiff filed Motion for Leave to file Second Amended Statement of Claim, Brief in Support and Proposed Order.[09A102510]

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**September 27, 2010**

Board forwarded letter to Defendant, with copy to Plaintiff, requesting a response to Plaintiff's motion for leave to file second amended statement of claim.

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**October 12, 2010**

Plaintiff and Defendant filed Proposed Consent to Clawback Agreement and Order and Proposed Confidentiality Agreement and Protective Order.

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**October 15, 2010**

Board approved Confidentiality Agreement and Protective Order.

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**October 15, 2010**

Board issued Consent to Clawback Agreement and Order.

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**October 18, 2010**

Plaintiff requested 4009.21 - to produce documents subpoena.

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**October 18, 2010**

Board forwarded 4009.21 - to produce documents subpoena dated October 18, 2010 to Plaintiff.

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**October 21, 2010**

Plaintiff requested 4009.21 - to produce documents subpoena.

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**October 21, 2010**

Board forwarded 4009.21 - to produce documents subpoena dated October 21, 2010 to Plaintiff.

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**October 21, 2010**

Plaintiff filed Acceptance of Service of Opinion and Order dated October 15, 2010. Receipt of same acknowledged October 18, 2010.

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**October 21, 2010**

Plaintiff filed Acceptance of Service of Opinion and Order dated October 15, 2010. Receipt of same acknowledged October 18, 2010.

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**October 21, 2010**

Defendant filed Acceptance of Service of Opinion and Order dated October 15, 2010. Receipt of same acknowledged October 19, 2010.

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**October 21, 2010**

Defendant filed Acceptance of Service of Opinion and Order dated October 15, 2010. Receipt of same acknowledged October 19, 2010.

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**October 25, 2010**

Defendant filed Answer in Opposition to Plaintiff's Motion for Leave to Amend its Statement of Claim, Memorandum of Law in Opposition and Proposed Order.

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**November 5, 2010**

Plaintiff filed Certificate Prerequisite to Service of Subpoenas to Defendant.

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**November 12, 2010**

Plaintiff filed (via fax) a letter requesting leave to file a brief in reply to Defendant's memorandum of law in opposition by Friday, November 19, 2010.

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**November 19, 2010**

Plaintiff filed Brief in Reply to Defendant's Memorandum of Law in Opposition to Plaintiff's Motion for Leave to Amend Statement of Claim.

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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 hereby **ORDERED** and **DECREED** that Plaintiff's motion for leave to file a second amended statement of claim is **GRANTED**. Plaintiff may file its proposed second amended statement of claim within 20 days of the date of this Order." Copy forwarded to Plaintiff and Defendant.

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**December 10, 2010**

Defendant filed Acceptance of Service of Opinion and Order dated December 2, 2010. Receipt of same acknowledged December 8, 2010.

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**\*December 27, 2010**

Plaintiff filed Second Amended Statement of Claim. Amount of Claim: unspecified.

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**December 28, 2010**

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

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**December 30, 2010**

Plaintiff filed verification and proof of mailing.

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**January 3, 2011**

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

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**January 14, 2011**

Attorney General filed Acknowledgment of Amended Claim form. Receipt of same acknowledged January 11, 2011.

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**January 26, 2011**

Defendant filed Answer and New Matter to Second Amended Statement of Claim.

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**January 27, 2011**

Board forwarded a letter to Plaintiff, with copy to Defendant, requesting a response to new matter.

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**January 28, 2011**

Plaintiff filed Renewed Motion to Compel Production of Document and Brief in Support (filed under seal).

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**January 31, 2011**

Board forwarded letter to Defendant, with copy to Plaintiff advising of rules for filing responses/briefs.

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**February 15, 2011**

Plaintiff filed Reply to New Matter to Second Amended Statement of Claim.

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**February 28, 2011**

Defendant filed under seal its Answer in Opposition to Plaintiff's Motion to Compel Production of Documents, Memorandum of Law in Opposition and Proposed Order.

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**March 10, 2011**

Board scheduled oral conference for April 12, 2011 at 200 North Third Street, Suite 700, Harrisburg, Pennsylvania 17101 commencing at 1:00 p.m.

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**March 11, 2011**

Plaintiff filed Reply Brief in Support of Renewed Motion by Plaintiff to Compel Production of Documents.

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**March 25, 2011**

Plaintiff transmitted (via fax) a letter advising that the parties have settled and requesting that the Board place this case on hold pending finalization of the settlement.

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**March 25, 2011**

Board forwarded a letter to the parties advising them that the oral argument scheduled for April 12, 2011 has been canceled.

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**May 25, 2011**

Plaintiff transmitted (via fax) a letter advising that the parties confirm the conclusion of their settlement and understand that the Board will mark its record of this case "settled".

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**May 27, 2011**

Plaintiff filed (via U.S. mail) a letter advising that the parties confirm the conclusion of their settlement and understand that the Board will mark its record of this case "settled".

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**June 1, 2011**

Board rendered Praecipe Order. Order as follows: "**AND NOW**, this 1<sup>st</sup> day of June, 2011, upon receipt of a letter executed by Brett A. Schlossberg, Esquire, on behalf of Plaintiff, Lockheed Martin Corporation, Integrated Systems & Solutions, requesting that the Board mark the above-captioned matter settled, docketed with this Board under date of May 27, 2011, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

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**June 6, 2011**

Defendant filed Acceptance of Service of Order dated June 1, 2011. Receipt of same acknowledged June 3, 2011.

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