

Docket Number: 3919

DATA-QUEST, INC.

Michael A. Finio, Esquire
Audrey J. Daly, Esquire
Emily H. Damron, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HEALTH**

~~Christine S. Dutton, Chief Counsel~~
~~Tanya C. Leshko, Assistant Counsel~~
Audrey Fineman Miner, Assistant Counsel

November 5, 2007

Plaintiff filed Claim and filing fee. Amount of Claim: \$3,620,000.00+.

November 6, 2007

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

November 6, 2007

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

November 7, 2007

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

November 15, 2007

Attorney General filed Acknowledgment of Claim form. Receipt of same acknowledged November 13, 2007.

November 15, 2007

Defendant filed Entry of Appearance of Tanya C. Leshko on behalf of Defendant.

December 11, 2007

Defendant filed Preliminary Objections, Memorandum of Law and Proposed Order. [A01030408D]

January 4, 2008

Plaintiff filed letter requesting an extension to respond to the Defendant's Preliminary Objections. Defendant has agreed to an extension until February 1, 2008.

January 7, 2008

Board issued letter to Plaintiff, with copy to Defendant, granting extension of time until February 1, 2008 to file its response to Defendant's PO's.

January 25, 2008

Plaintiff filed letter requesting a second extension until March 3, 2008 in which to file its response to the Defendant's Preliminary Objections.

January 28, 2008

Board issued letter to Plaintiff, with copy to Defendant, granting second extension of time to file its response to Defendant's PO's. Defendant has agreed to an extension until March 3, 2008.

March 3, 2008

Plaintiff filed Response to Preliminary Objections and Brief in Opposition as well as Proposed Order.

March 25, 2008

Defendant filed Reply to Plaintiff's Brief in Opposition to Defendant's Preliminary Objections.

April 10, 2008

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 10th day of April, 2008, having considered the preliminary objections of the Defendant, Commonwealth of Pennsylvania, Department of Health, and the response thereto of Data-quest, Inc., Plaintiff, it is hereby **ORDERED** and **DECREED** that Defendant's preliminary objections are **OVERRULED**. The Department of Health is directed to file an answer to Data-quest's statement of claim within 30 days from the exit date of this **ORDER**." Copy forwarded to Plaintiff and Defendant.

April 15, 2008

Defendant filed Acceptance of Service of Opinion and Order dated April 10, 2008. Receipt of same acknowledged April 10, 2008.

April 16, 2008

Defendant filed Application to Amend Order to Include Statement Specified in 42 Pa.C.S. § 702(b). [01A050708D]

April 17, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated April 10, 2008. Receipt of same acknowledged April 11, 2008.

April 21, 2008

Defendant filed Certificate of Mailing relating to the Defendant's Application to Amend Order to Include Statement Specified in 42 Pa.C.S. § 702(b).

May 5, 2008

Plaintiff filed Response to Defendant's Application to Amend Order to Include Statement Specified in 42 Pa.C.S. § 702(b) and Proposed Order.

May 5, 2008

Defendant filed attachments which were omitted from the Application to Amend Order to Include Statement Specified in 42 Pa.C.S. § 702(b).

May 9, 2008

Board issued an Opinion and Order. Order as follows: **"AND NOW,** this 9th day of May, 2008, the Order of April 10, 2008 is hereby amended to read as follows: Having considered the preliminary objections of the Defendant, Commonwealth of Pennsylvania, Department of Health, and the response thereto of Data-quest, Inc., Plaintiff, it is hereby **ORDERED** and **DECREED** the Defendant's preliminary objections are **OVERRULED**. The Department of Health is directed to file an answer to Data-quest's statement of claim within 30 days from the exit date of this **ORDER**. However, it is the opinion of the Board that this Order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the matter. Therefore, immediate appeal to the Commonwealth Court is hereby permitted." Copy forwarded to Plaintiff and Defendant.

May 9, 2008

Defendant transmitted via facsimile a letter requesting an extension of time to file a response to Plaintiff's claim if Defendant's Application to Amend Order is denied.

May 13, 2008

Defendant filed letter correcting Defendant's letter of May 9, 2008, and requesting an extension of time until June 11, 2008 in which to file a response to Plaintiff's claim.

May 13, 2008

Board transmitted via facsimile a letter to Defendant, with copy to Plaintiff, granting an extension of time until June 11, 2008, for Defendant to file its response to Plaintiff's claim.

May 14, 2008

Board forwarded via U.S. mail a letter to Defendant, with copy to Plaintiff, granting an extension of time until June 11, 2008, for Defendant to file its response to Plaintiff's claim.

May 14, 2008

Defendant filed via U.S. mail a letter requesting an extension of time to file a response to Plaintiff's claim if Defendant's Application to Amend Order is denied.

May 20, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated May 9, 2008. Receipt of same acknowledged on May 14, 2008.

June 6, 2008

Defendant filed Petition for Permission to Appeal as filed in Commonwealth Court.

June 6, 2008

Defendant filed Motion for Stay of the Proceedings and Memorandum of Law in Support. [04A062508].

June 6, 2008

Defendant filed Motion for Extension of Time to File Answer unless Motion for Stay is granted.

June 6, 2008

Board rendered Order. Order as follows: **"AND NOW**, this 6th day of June, 2008, it is hereby **ORDERED** that the Motion for Extension of Time to File Answer submitted by Defendant, Pennsylvania Department of Health, is **GRANTED**. Defendant has 20 days from the date this Board issues an Order disposing of Defendant's Motion for a Stay of Proceedings in the instant case to file an answer, unless the proceedings shall be stayed by this Board." Copy forwarded to Plaintiff and Defendant.

June 9, 2008

Board forwarded letter to Plaintiff requesting response to Defendant's Motion for Stay of the Proceedings.

June 9, 2008

Defendant filed letter advising that Page 9 of the Petition to Review was inadvertently omitted and therefore, filing another copy.

June 11, 2008

Plaintiff filed Acceptance of Service of Opinion and Order dated June 6, 2008. Receipt of same acknowledged June 9, 2008.

June 18, 2008

Defendant filed Acceptance of Service of Opinion and Order dated June 6, 2008. Receipt of same acknowledged June 11, 2008.

June 23, 2008

Plaintiff filed Response to Motion to Stay, Brief in Opposition and Proposed Order.

June 24, 2008

Plaintiff filed Brief in Opposition to Petition for Permission to Appeal as filed in Commonwealth Court. [1019 CD 2008]

July 7, 2008

Commonwealth filed Order as rendered in Commonwealth Court. Order as follows: NOW, July 2, 2008, upon consideration of petitioner's petition for permission to appeal and respondent's brief in opposition to it, said petition is granted and the appeal is allowed from the order entered by the Board of Claims on April 10, 2008, at Docket No. 3919. The Court will consider the issue: Does the board retain subject-matter jurisdiction over quasi-contract claims not based upon a written agreement asserted against an agency of the Commonwealth following the revisions to its enabling provisions effected by Act 142 of 2002 and now found at 62 Pa.C.S.A. §1721 et seq. The Chief Clerk is directed to list oral argument on the merits of this matter on the December 2008 argument list in Harrisburg. The Chairman of the Board of Claims shall certify the record in this matter to this Court on or before August 13, 2008. Petitioner shall file and serve its brief (15 copies) and reproduced record (5 copies) on or before September 24, 2008. Respondent shall file and serve its brief (15 copies) on or before October 24, 2008. Any reply brief (15 copies) shall be filed and served no later than November 10, 2008. All proceedings in this matter before the Board of Claims are stayed pending resolution of the instant appeal. In addition to mailing copies of this Order to counsel of record, the Chief Clerk shall mail a copy to the Chairman of the Board of Claims."

July 7, 2008

Board forwarded letter to parties advising that the matter before the Board is stayed pending the resolution of the appeal in Commonwealth Court.

July 11, 2008

Board filed certified list comprising the record from the Board of Claims to Commonwealth Court.

September 8, 2008

Plaintiff transmitted via facsimile Commonwealth Court's Order of August 26, 2008.

September 9, 2008

Commonwealth Court transmitted via facsimile an Order. Order as follows: "NOW, August 26, 2008, upon consideration of respondent's motion for clarification and affirmation of authority under Pa.R.A.P. 1701 and answer in opposition thereto, the motion is granted. Proceedings before the Board of Claims remain stayed pending the appeal in this matter, subject to the provisions of Pa.R.A.P. 1701(b). Under the authority of Pa.R.A.P. 1701(b)(5), the Board of Claims is directed to set a deadline for the filing of an answer by petitioner to respondent's statement of claims."

September 10, 2008

Board rendered an Order. Order as follows: "**AND NOW**, this 10th day of September, 2008, pursuant to the Order of August 26, 2008, of the Commonwealth Court, it is hereby **ORDERED** that the Commonwealth of Pennsylvania, Department of Health file its answer to Data-Quest, Inc.'s statement of claim within thirty day from the exit date of this Order. Proceedings before this Board remain stayed pending appeal in this matter in all other respects." Copy forwarded to Plaintiff and Defendant.

September 12, 2008

Plaintiff filed Acceptance of Service of Order dated September 10, 2008. Receipt of same acknowledged September 11, 2008.

September 18, 2008

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

October 2, 2008

Plaintiff filed Entry of Appearance of Emily H. Damron, Esquire, on behalf of Plaintiff.

October 14, 2008

Defendant filed letter advising that the parties have agreed to an extension until October 24, 2008, for Defendant to file its answer.

October 24, 2008

Defendant filed Entry of Appearance of Audrey Fineman Miner, Assistant Counsel, on behalf of Defendant.

October 24, 2008

Defendant filed letter advising that the parties have agreed to an extension until November 10, 2008, for Defendant to file its answer.

November 10, 2008

Defendant filed an Answer, New Matter and Cross-Claim (sic - counterclaim).

November 17, 2008

Plaintiff filed Motion for Limited Discovery Pursuant to Pa.R.App. 1701(b)(4), Brief in Support and Proposed Order.

December 4, 2008

Defendant transmitted via facsimile a letter requesting an extension of time until December 19, 2008 in which to file a response to Plaintiff's Motion for Limited Discovery.

December 9, 2008

Board forwarded letter to Defendant, with copy to Plaintiff, granting an extension of time until December 19, 2008 in which to file a response to Plaintiff's Motion for Limited Discovery.

December 9, 2008

Plaintiff transmitted via facsimile a letter requesting an extension of time until January 9, 2009 in which to file a response to Defendant's New Matter and Cross-Claim (sic - counterclaim).

December 9, 2008

Board forwarded letter to Plaintiff, with copy to Defendant, granting an extension of time until January 9, 2008 in which to file a response to Defendant's New Matter and Cross-Claim (sic - counterclaim).

December 12, 2008

Defendant filed (via U.S. mail) a letter requesting an extension of time until December 19, 2008 in which to file a response to Plaintiff's Motion for Limited Discovery.

December 19, 2008

Defendant filed Response to Plaintiff's Motion for Limited Discovery, Brief in Opposition and Proposed Order.

January 16, 2009

Board rendered an Opinion and Order. Order as follows: **"AND NOW,** this 16th day of January, 2009, having considered the motion for limited discovery pursuant to Pa.R.A.P. 1701(b)(4) by the Plaintiff, Data-quest, Inc., and the response thereto of Defendant, Commonwealth of Pennsylvania, Department of Health, it is hereby **ORDERED** and **DECREED** that Data-quest's motion is **DENIED.**" Copy forwarded to Plaintiff and Defendant.

January 23, 2009

Defendant filed Acceptance of Service of Opinion and Order dated January 16, 2009. Receipt of same acknowledged January 21, 2009.

January 27, 2009

Plaintiff filed Acceptance of Service of Opinion and Order dated January 22, 2009. Receipt of same acknowledged January 22, 2009.

February 5, 2009

Plaintiff transmitted (via facsimile) letter requesting an extension of time until after the Commonwealth Court issues its opinion in the appeal in this case, to file its response to Defendant's answer, new matter and cross-claim(sic - counterclaim).

February 9, 2009

Plaintiff filed (via U.S. mail) letter requesting an extension of time until after the Commonwealth Court issues its opinion in the appeal in this case, to file its response to Defendant's answer, new matter and cross-claim(sic - counterclaim).

February 10, 2009

Board forwarded letter to Plaintiff with copy to Defendant, granting an extension of time to file its response to Defendant's answer, new matter and cross-claim until after the Commonwealth Court issues its opinion in the appeal in this case.

April 15, 2009

Commonwealth Court issued Opinion and Order. Order as follows: "AND NOW, this 14th day of April, 2009, the Court affirms the order of the Board of Claims and remands this matter to the Board to proceed in accordance with the foregoing opinion. Jurisdiction relinquished."

April 20, 2009

Plaintiff transmitted (via facsimile) a letter requesting an extension of time until 30 days after the disposition of Defendant's appeal of Commonwealth Court's Order affirming the Board's Order of April 10, 2008, to the Supreme Court in this case, to file its response to Defendant's answer, new matter and cross-claim(sic - counterclaim).

April 20, 2009

Board rendered Order. Order as follows: **"AND NOW**, this 20th day of April, 2009, pursuant to Plaintiff's letter dated April 20, 2009, requesting an extension of time in which to file its response to Defendant's Answer, New Matter and Cross-claim until thirty days from the disposition by the Pennsylvania Supreme Court appeal in the above-captioned matter, it is hereby **ORDERED** and **DECREED** that said response is due in this case thirty days after disposition of the appeal to the Pennsylvania Supreme Court." Copy forwarded to Plaintiff and Defendant.

April 23, 2009

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

April 27, 2009

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

April 29, 2009

Defendant transmitted via facsimile a letter advising that Defendant will not be filing a petition for allowance of appeal to Supreme Court, and therefore, Plaintiff's response to Defendant's answer, new matter and cross-claim(sic - counterclaim) will be due May 29, 2009, as per agreement of the parties.

May 4, 2009

Defendant filed a letter (U.S. Mail) advising that Defendant will not be filing a petition for allowance of appeal to Supreme Court, and therefore, Plaintiff's response to Defendant's answer, new matter and cross-claim(sic - counterclaim) will be due May 29, 2009, as per agreement of the parties.

May 29, 2009

Plaintiff filed Answer to Defendant's New Matter and Counterclaim with New Matter.

June 29, 2009

Defendant filed Response to New Matter.

June 30, 2009

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

April 1, 2013

Parties filed a joint Stipulation to Discontinue.

April 2, 2013

Board rendered Order. Order as follows: "**AND NOW**, this 2nd day of April, 2013, upon receipt of a Stipulation to Discontinue executed by William W. Warren, Jr., Esquire, on behalf of Plaintiff, Data-Quest, Inc. and by Allison Taylor, Esquire, on behalf of Defendant, Department of Health, requesting that the Board mark the above-captioned matter dismissed with prejudice, docketed with this Board under date of April 1, 2013, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

April 3, 2013

Plaintiff filed Acceptance of Service of Order dated April 2, 2013. Receipt of same acknowledged April 3, 2013.
