

(CONSOLIDATED WITH 3947)

Docket Number: 3946

BEECH CONSTRUCTION, INC.

Jessica R. Quinn-Horgan, Esquire
Richard D. Kalson, Esquire
Lauren C. Rodriguez, Esquire
Brian S. Wood, Pro Hac Vice

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

~~Andrew S. Gordon, Chief Counsel~~
Robert T. Kuntz, Assistant Counsel

October 24, 2008

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: \$163,680.51+.

October 24, 2008

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

October 31, 2008

Chief Deputy Attorney General filed Acknowledgement of Claim dated October 24, 2008. Receipt of same acknowledged October 29, 2008.

November 21, 2008

Defendant filed letter requesting extension of time until December 8, 2008 in which to file Defendant's Answer to Claim.

November 24, 2008

Board issued letter to Defendant, with copy to Plaintiff granting extension of time for Defendant to file its Answer to Plaintiff's Claim.

December 8, 2008

Defendant filed Answer and New Matter.

December 15, 2008

Board forwarded letter to Plaintiff requesting a reply to new matter.

December 26, 2008

Defendant filed Concurred-in Motion to Amend Pleading.

December 29, 2008

Board rendered Order. Order as follows: " **AND NOW**, this 29th day of December, 2008, Defendant's Concurred-In Motion to Amend Pleading is hereby **GRANTED**. Defendant shall file its amended pleading within 20 days from the exit date of this Order." Copy

forwarded to Plaintiff and Defendant.

January 7, 2008

Plaintiff filed Acceptance of Service of Order dated December 29, 2008. Receipt of same acknowledged January 5, 2009.

January 8, 2008

Defendant filed Acceptance of Service of Order dated December 29, 2008. Receipt of same acknowledged December 30, 2008.

January 15, 2009

Defendant filed Amended Answer and New Matter.

February 2, 2009

Plaintiff filed Reply to Defendant's New Matter.

February 3, 2009

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

March 7, 2011

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

March 7, 2011

Board forwarded 234.1 - to attend with duces tecum and 4009.21 - to produce documents subpoenas dated March 7, 2011 to Plaintiff.

March 14, 2011

Plaintiff filed Entry of Appearance of Richard D. Kalson, Esquire and Lauren C. Rodriguez, Esquire on behalf of Plaintiff.

April 29, 2011

Plaintiff filed Motion for Consolidation.

May 2, 2011

Board rendered Consolidation Order. Order as follows: "**AND NOW**, this 9th day of March, 2011, upon consideration of Plaintiff's Motion for Consolidation requesting to consolidate Docket No. 3946 with Docket No. 3947 representing, inter alia, that the two actions arise from the same Project (the replacement of the Foxburg Bridge over the Allegheny River on S.R. 58, Section 150 in Armstrong and Clarion Counties, as well as related road construction), involve common questions of law and fact and affect the same parties in interest, it is **ORDERED** that Docket Nos. 3946 and 3947 are hereby consolidated for all purposes into Docket No. 3946. Plaintiff further advises that counsel for the Defendant, the Pennsylvania Department of Transportation consents to consolidation of these two cases." Copy forwarded to Plaintiff and Defendant.

May 5, 2011

Plaintiff filed Notice of Service of Subpoena Directed to Pennsylvania Drilling Company.

May 11, 2011

Plaintiff filed Certificate of Service of Second Request for Production of Documents.

May 26, 2011

Plaintiff filed Motion to Admit Brian S. Wood Pro Hac Vice. Defendant has consented to this motion.

May 26, 2011

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 26th day of May, 2011, after review of Plaintiff's motion to admit attorney Brian S. Wood to practice before the Court in this case pro hac vice, it is hereby **ORDERED** that: 1) Effective upon the date of this Order, Brian S. Wood shall be **ADMITTED** pro hac vice to the bar of the Commonwealth of Pennsylvania under Pennsylvania Bar Admission Rule 301 for the limited purpose of serving as co-counsel on behalf of Plaintiff in this matter; 2) Brian S. Wood shall abide by all the rules of, and applicable to, practice before this Board, including all attorney disciplinary rules; and 3) Brian S. Wood shall immediately notify this Board of any matter affecting

his standing at the bar of any other court or jurisdiction where they may be admitted to practice. All correspondence with this Board shall continue to be accomplished through the Pennsylvania attorney of record unless otherwise requested in writing by the party and confirmed by the Board." Copy forwarded to Plaintiff and Defendant.

June 6, 2011

Plaintiff filed Certificate of Service of Notice of Deposition of Gary Madey.

June 6, 2011

Plaintiff filed Certificate of Service of Notice of Deposition of Paul Majoris.

June 6, 2011

Plaintiff filed Acceptance of Service of Opinion and Order dated May 26, 2011. Receipt of same acknowledged June 2, 2011.

June 8, 2011

Plaintiff filed letter requesting that Richard D. Kalson, Esquire be considered lead counsel and that all notices, orders and any other communications concerning the case be directed to Richard D. Kalson's attention.

June 15, 2011

Plaintiff filed Motion to Compel Production of Documents and Brief in Support. [07A071911]

July 5, 2011

Plaintiff filed Certificate of Service of Notice of Deposition of Larry Traister.

July 5, 2011

Plaintiff filed Certificate of Service of Notice of Deposition of Stephen Geidel.

July 18, 2011

Defendant filed Answer to Claimant's Motion to Compel Respondent to Production of Documents and Things and Brief in Support.

August 4, 2011

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 4th day of August, 2011, after consideration of Plaintiff's motion to compel and Defendant's response thereto, it is hereby **ORDERED** and **DECREED** that Plaintiff's motion to compel is **GRANTED** with respect to the production of the responsive documents in the 28 existing boxes in the possession of PennDOT. Plaintiff's motion to compel the production of any *electronic* documents, records, etc. sought in its Second Request for Production of Documents is **DENIED** at this time, without prejudice. Defendant shall make available to Plaintiff the referenced boxes of documents within 30 days of the exit date of this Order or as agreed to by the parties." Copy forwarded to Plaintiff and Defendant.

August 10, 2011

Plaintiff filed Acceptance of Service of Opinion and Order dated August 4, 2011. Receipt of same acknowledged August 8, 2011.

August 18, 2011

Defendant filed Acceptance of Service of Opinion and Order dated August 4, 2011. Receipt of same acknowledged August 10, 2011.

September 1, 2011

Plaintiff requested via telephone 234.1 - to attend with duces tecum and 4009.21 - to produce documents subpoenas.

September 1, 2011

Board forwarded 234.1 - to attend with duces tecum and 4009.21 - to produce documents subpoenas dated September 1, 2011 to Plaintiff.

September 6, 2011

Plaintiff filed Certificate of Service of Subpoena and Notice of Deposition of Kevin Miller.

September 12, 2011

Plaintiff filed Certificate of Service of Notice of Deposition of Geo-Mechanics, Inc and Certificate of Service of Notice of Deposition of Kenneth C. Oberle.

October 6, 2011

Plaintiff requested via telephone 234.1 - to attend with duces tecum subpoenas.

October 6, 2011

Board forwarded 234.1 - to attend with duces tecum subpoenas dated October 6, 2011 to Plaintiff.

October 13, 2011

Plaintiff filed Certificate of Service of Notice of Deposition of Ken Gearhart and Certificate of Service of Notice of Deposition of Gary Bowser.

October 19, 2011

Plaintiff filed Certificate of Service of Notice of Deposition of Aaron M. Gaston.

October 24, 2011

Plaintiff filed Certificate of Service of Notice of Deposition of Aaron M. Gaston.

January 11, 2012

Defendant requested via telephone 234.1 - to attend with duces tecum subpoenas.

January 11, 2012

Board forwarded 234.1 - to attend with duces tecum subpoenas dated January 11, 2012 to Defendant.

January 31, 2012

Defendant requested via telephone 234.1 - to attend with duces tecum subpoenas.

February 1, 2012

Board forwarded 234.1 - to attend with duces tecum subpoenas dated February 1, 2012 to Defendant.

May 1, 2012

Defendant requested via telephone 234.1 - to attend with duces tecum subpoenas.

May 2, 2012

Board forwarded 234.1 - to attend with duces tecum subpoenas dated May 2, 2012 to Defendant.

August 28, 2012

Plaintiff transmitted via facsimile letter requesting the Board schedule a conference call to discuss the status of payment from Defendant.

August 29, 2012

Defendant filed letter advising the Board that Defendant has been pursuing approval of proposed settlement and that Defendant does not consent to Board-supervised settlement negotiations.

August 30, 2012

Plaintiff filed U.S. Mail letter requesting the Board schedule a conference call to discuss the status of payment from Defendant.

August 30, 2012

Board forwarded letter to parties advising that a conference at this time will not be useful.

January 8, 2013

Plaintiff transmitted (via fax) a letter requesting a judicial conference to discuss the status of payment from PennDOT.

January 9, 2013

Board forwarded letter scheduling teleconference for January 25, 2013 at 1:00 p.m.

January 24, 2013

Plaintiff transmitted via facsimile letter informing Board that Jessica Quinn Horgan, Esquire, Brian S. Wood, Esquire and Richard D. Kalson, Esquire will be participating in the teleconference on behalf of Beech Construction and McKinney Drilling and Robert Kuntz, Esquire will be participating on behalf of PennDOT.

January 25, 2013

Plaintiff transmitted via facsimile letter advised that the parties have reached a settlement agreement and requesting the teleconference scheduled for January 25, 2013 be cancelled.

May 20, 2013

Plaintiff filed Praecipe to Settle and Discontinue.

May 22, 2013

Board rendered Order. Order as follows: "**AND NOW**, this 22nd day of May, 2013, upon receipt of a Praecipe executed by Jessica R. Quinn-Horgan, Esquire, on behalf of Plaintiff, Beech Construction, Inc., requesting that the Board mark the above-captioned matter settled and discontinued, docketed with this Board under date of May 20, 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.

May 28, 2013

Defendant filed Acceptance of Service of Order dated May 22, 2013. Receipt of same acknowledged May 23, 2013.

May 31, 2013

Plaintiff filed Acceptance of Service of Order dated May 22, 2013. Receipt of same acknowledged May 24, 2013.
