

Docket Number: 3972

DEAN INSTITUTE OF TECHNOLOGY, INC.

~~Bridget Montgomery, Esquire~~
~~Amy C. Foerster, Esquire~~
Emily H. Bensinger, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR & INDUSTRY,
BUREAU OF WORKFORCE DEVELOPMENT PARTNERSHIP ~~and~~
~~SANDY VITO, SECRETARY OF THE DEPARTMENT OF LABOR & INDUSTRY~~

~~Jane Pomerantz, Chief Counsel~~
Beth S. Harris, Assistant Counsel

August 5, 2009

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: \$174,947.25+.

August 6, 2009

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

***August 6, 2009**

Plaintiff filed Amended Statement of Claim and proof of mailing. Amount of Claim: unchanged.

August 7, 2009

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

August 12, 2009

Attorney General filed Acknowledgment of Claim form. Receipt of same acknowledged August 10, 2009.

August 17, 2009

Plaintiff filed an entry of appearance of Amy C. Foerster, Esquire on behalf of Dean Institute of Technology, Inc.

August 18, 2009

Attorney General filed Acknowledgment of Amended Claim form. Receipt of same acknowledged August 11, 2009.

August 19, 2009

Board forwarded letter to parties advising that the Board's policy is to correspond with only one attorney of record per litigant and will continue to forward original counsel until otherwise advised in writing.

August 26, 2009

Plaintiff filed withdrawal of appearance of Bridget E. Montgomery, Esquire, on behalf of Plaintiff.

September 2, 2009

Defendant filed a letter advising that the parties have agreed to allow Defendant a two week extension of time in which to file its response to Plaintiff's Amended Complaint.

September 3, 2009

Board forwarded letter to Defendant with copy to Plaintiff advising granting a two week extension of time in which to file its response to Plaintiff's Amended Complaint.

September 17, 2009

Defendant filed (via fax) a letter advising that the parties have agreed to allow Defendant a two week extension of time in which to file its response to Plaintiff's Amended Complaint.

September 18, 2009

Board forwarded letter to Defendant with copy to Plaintiff advising granting a two week extension of time in which to file its response to Plaintiff's Amended Complaint.

September 21, 2009

Defendant filed (via U.S. mail) a letter advising that the parties have agreed to allow Defendant a two week extension of time in which to file its response to Plaintiff's Amended Complaint.

October 2, 2009

Defendant filed Answer to Amended Claim/Complaint with New Matter.

October 5, 2009

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

October 19, 2009

Defendant filed a Motion to Change Case Caption (unopposed) and Proposed Order.

October 20, 2009

Board rendered an Order. Order as follows: "**AND NOW**, this 20th day of October, 2009, pursuant to Defendant's unopposed Motion to Change Case Caption and stipulation to dismiss Secretary of the Department of Labor & Industry, Sandy Vito, as a party, filed with this Board on October 19, 2009, it is hereby **ORDERED** that Sandy Vito, Secretary of the Department of Labor & Industry is **DISMISSED** as a party to this action and removed from the caption of this case. Caption shall be as follows: DEAN INSTITUTUE OF TECHNOLOGY, INC VS. COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF LABOR AND INDUSTRY, BUREAU OF WORKFORCE DEVELOPMENT PARTNERSHIP." Copy forwarded to Plaintiff and Defendant.

October 22, 2009

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

October 22, 2009

Plaintiff filed Reply to New Matter.

October 23, 2009

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

October 26, 2009

Plaintiff filed Acceptance of Service of Order dated October 20, 2009. Receipt of same acknowledged October 23, 2009.

October 26, 2009

Defendant filed Acceptance of Service of Order dated October 20, 2009. Receipt of same acknowledged October 22, 2009.

December 7, 2009

Defendant filed Notice of Service of Defendant's Request for Production of Documents and First Set of Interrogatories.

December 17, 2009

Plaintiff filed Notice of Service of Request for Production of Documents & Interrogatories.

March 2, 2010

Plaintiff filed Notice of Service of Responses to Request for Production of Documents and Responses to Interrogatories.

October 7, 2010

Defendant filed Notice of Service of Deposition served upon Plaintiff.

August 31, 2011

Plaintiff filed Motion for Summary Judgment and Brief in Support.

September 1, 2011

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

September 29, 2011

Defendant filed Answer in Opposition and Brief in Opposition to Plaintiff's Motion for Summary Judgment.

October 12, 2011

Defendant filed Motion for Summary Judgment, Brief in Support and Exhibits.

October 12, 2011

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

October 13, 2011

Plaintiff transmitted via facsimile a letter advising that Plaintiff intends to file a reply brief in support of its motion for summary judgment.

November 14, 2011

Plaintiff filed Reply to Defendant's Response to Motion for Summary Judgment (including a document entitled Second Amended Statement of Claim) and Plaintiff's Response in Opposition to Defendant's Motion for Summary Judgment as well as Brief in Opposition to Defendant's Motion for Summary Judgment.

November 16, 2011

Plaintiff filed Praecipe to Attach Verification to the document entitled Second Amended Statement of Claim.

November 29, 2011

Board scheduled a status conference for December 19, 2011 at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101 beginning at 1:00 p.m.

December 5, 2011

Defendant filed a letter requesting that it be permitted to object, orally and in writing, to Plaintiff's attempt to amend its Amended Complaint at the time of the status conference.

December 19, 2011

Status Conference held on December 19, 2011 at 1:00 p.m.

January 18, 2012

Plaintiff filed Joint Stipulations Related to Submission of Invoices to Defendant by Plaintiff.

January 18, 2012

Plaintiff filed Motion for Leave to Amend, Brief in Support, Proposed Order and Second Amended Statement of Claim.

January 19, 2012

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

February 2, 2012

Board forwarded letter to parties requesting additional information.

February 3, 2012

Defendant transmitted a letter via facsimile requesting clarification of the Board's letter of February 2, 2012.

February 6, 2012

Defendant transmitted a letter via U.S. Mail requesting clarification of the Board's letter of February 2, 2012.

February 6, 2012

Board forwarded a letter to the parties clarifying what the Board was requesting in its letter of February 2, 2012.

February 7, 2012

Plaintiff transmitted via facsimile a letter requesting further clarification of what the Board is requesting in its February 6, 2012 letter.

February 8, 2012

Board forwarded a letter to parties clarifying what the Board was requesting in its letter of February 6, 2012.

February 8, 2012

Plaintiff filed via U.S. mail a letter requesting further clarification of what the Board is requesting in its February 6, 2012 letter.

February 17, 2012

Defendant filed Answer to Plaintiff's Motion for Leave to Amend and Brief in Support.

February 21, 2012

Plaintiff transmitted via facsimile a letter requesting a one week extension for both parties to respond to the Board's request of February 2, 2012 and advising that Defendant does not oppose.

February 21, 2012

Board forwarded letter to Plaintiff, with copy to Defendant, granting a one week extension for both parties to respond to the Board's request of February 2, 2012.

February 24, 2012

Plaintiff filed via U.S. mail a letter requesting a one week extension for both parties to respond to the Board's request of February 2, 2012 and advising that Defendant does not oppose.

February 29, 2012

Defendant transmitted via facsimile a letter with accompanying documents in response to the Board's February 2, 2012 letter requesting additional submission of documents.

February 29, 2012

Plaintiff filed its response to the Board's Information Requests of February 2, 2012.

March 2, 2012

Board forwarded letter to parties requesting additional information.

March 5, 2012

Defendant filed via US mail a letter with accompanying documents in response to the Board's February 2, 2012 letter requesting additional submission of documents.

March 12, 2012

Plaintiff filed Reply Brief in Response to Defendant's Answer to Plaintiff's Motion for Leave to Amend.

March 12, 2012

Parties filed joint responses to Board's letter dated March 2, 2012.

March 29, 2012

Board rendered an Opinion and made the following Order: "**AND NOW**, this 29th day of March, 2012, the Board **ORDERS** as follows: (1) The Department's motion for summary judgment is **GRANTED** in Part and **DENIED** in Part. Specifically, the Board **GRANTS** the Department's motion for summary judgment for lack of Board jurisdiction with regard to Dean's claim for payment of 19 invoices (DT-00002-6, DT-00068-71, DT 00072-75 and DT 00084-89 in Joint Submission of the Parties filed March 12, 2012) under the 1999 Master Agreement and **DENIES** the Department's motion for summary judgment on Dean's claim insofar as it concerns the remaining invoices at issue. (2) The Board **DENIES** Dean's motion for summary judgment. (3) The Board **DENIES** Dean's motion for leave to amend its Amended Statement of Claim." Copy forwarded to Plaintiff and Defendant.

April 2, 2012

Plaintiff filed Acceptance of Service of Opinion and Order dated March 29, 2012. Receipt of same acknowledged April 2, 2012.

April 9, 2012

Defendant filed Acceptance of Service of Opinion and Order dated March 29, 2012. Receipt of same acknowledged March 30, 2012.

May 22, 2012

Plaintiff filed a letter requesting that the Board schedule a pre-hearing or status conference to set a hearing date.

May 23, 2012

Board forwarded letter to parties requesting proposed scheduling orders.

June 5, 2012

Plaintiff transmitted via facsimile proposed scheduling information.

June 6, 2012

Plaintiff filed proposed scheduling information.

June 6, 2012

Defendant filed proposed scheduling information.

June 7, 2012

Board rendered a scheduling order. Scheduling order as follows: **"AND NOW**, this 7th day of June, 2012, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant is July 13, 2012; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is August 15, 2012; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by September 14, 2012; 4. The last day for filing pre-trial motions is September 24, 2012; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than November 1, 2012 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, November 6, 2012 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, December 3, 2012 and running through Wednesday, December 5, 2012, or as necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101. Unless otherwise noted, the first day of all hearings begins at 9:30 a.m., and subsequent hearing days begin at 9:00 a.m." Copy forwarded to Plaintiff and Defendant.

June 12, 2012

Plaintiff filed Acceptance of Service of scheduling order dated June 7, 2012. Receipt of same acknowledged June 11, 2012.

June 15, 2012

Defendant filed Acceptance of Service of scheduling order dated June 7, 2012. Receipt of same acknowledged June 12, 2012.

November 1, 2012

Defendant filed Pre-Trial Statement.

November 1, 2012

Plaintiff filed Pre-Trial Statement.

November 5, 2012

Defendant transmitted via facsimile a letter requesting a continuance of the pre-hearing conference scheduled for November 6, 2012, due to the attorney for this case has been out of the office sick and advising that both parties have consented to the continuance and that both parties are now available November 14, 2012 at 1:00 p.m.

November 6, 2012

Board forwarded letter to parties rescheduling the pre-hearing conference for Wednesday, November 14, 2012 at 1:00 p.m.

November 14, 2012

Board pre-trial conference held at 200 North Third Street, Suite 700, Harrisburg, PA 17101.

November 14, 2012

Defendant requested in person 2 Subpoenas 234.1 - to attend with duces tecum.

November 14, 2012

Board forwarded 2 Subpoenas 234.1 - to attend with duces tecum to Defendant.

November 26, 2012

Defendant transmitted via facsimile Pre-Trial Statement Amendment.

November 27, 2012

Defendant transmitted via facsimile a letter requesting permission to have a witness testify on December 5, 2012.

November 28, 2012

Defendant transmitted via facsimile a letter advising it failed to list a witness and requests permission to add Matthew Stine as a witness.

November 29, 2012

Board forwarded letter to parties allowing Ms. Reeves-Luckette to testify on Wednesday and advising the Board is inclined to allow Mr. Stine as a witness.

November 29, 2012

Defendant filed facsimile Pre-Trial Statement Amendment.

November 29, 2012

Defendant filed a letter requesting permission to have a witness testify on December 5, 2012.

December 3, 2012

Board hearing held in Board=s Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa.

December 4, 2012

Board hearing held in Board=s Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa. Case left open for possible additional testimony.

December 10, 2012

Board issued letter advising the parties that the hearing in this matter will recommence on December 18, 2012.

December 12, 2012

Plaintiff filed a Withdrawal of Appearance of Amy C. Foerster, Esquire on behalf of Plaintiff.

December 18, 2012

Board hearing held in Board=s Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa. Case Complete.

December 20, 2012

Testimony of hearing held December 3 & 4, 2012 filed. Copy forwarded to attorney for Defendant.

December 27, 2012

Defendant filed Acceptance of Service of testimony of hearing held December 3 & 4, 2012. Receipt of same acknowledged December 26, 2012.

January 3, 2013

Testimony of hearing held December 18, 2012 filed. Copy forwarded to attorney for Defendant. Last day of Testimony

January 3, 2013

Board forwarded letter to parties advising of briefing schedule.

February 4, 2013

Plaintiff filed Findings of Fact, Conclusions of Law and Brief.

February 19, 2013

Defendant filed Acceptance of Service of testimony of hearing held December 18, 2012. Receipt of same acknowledged February 13, 2012.

March 1, 2013

Defendant transmitted via facsimile letter requesting an extension of time in which to file its brief.

March 4, 2013

Defendant filed letter requesting an extension of time in which to file its brief.

March 4, 2013

Board forwarded letter to Defendant granting extension of time request.

March 20, 2013

Defendant filed Findings of Fact, Conclusions of Law and Brief.

April 4, 2013

Plaintiff filed Reply Brief.

July 29, 2013

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 29th day of July, 2013, it is **ORDERED** and **DECREED** that judgment is entered against the Commonwealth of Pennsylvania, Department of Labor & Industry, Bureau of Workforce Development Partnership and in favor of Dean of Technology, Inc. in the amount of \$113,119, comprised of the principal amount of \$89,867 plus pre-judgment interest in the amount of \$23,252. Dean is further awarded post-judgment interest at the legal rate of 6% per annum on the outstanding amount of this judgment until paid." Copy forwarded to Plaintiff, Defendant and Attorney General.

August 1, 2013

Defendant filed Acceptance of Service of Opinion and Order dated July 29, 2013. Receipt of same acknowledged July 30, 2013.

August 5, 2013

Attorney General filed Acceptance of Service of Opinion and Order dated July 29, 2013. Receipt of same acknowledged August 1, 2013.

August 9, 2013

Plaintiff filed Acceptance of Service of Opinion and Order dated July 30, 2013. Receipt of same acknowledged August 1, 2013.

August 30, 2013

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

September 6, 2013

Commonwealth Court issued Petition for Review (No.1148 C.D.2013).

September 20, 2013

Defendant forwarded copy of Statement of Issues to the Board as filed in Commonwealth Court.

September 26, 2013

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

March 28, 2014

Commonwealth Court issued Opinion and Order. Order as follows: "AND NOW, this 27th day of March, 2014, the July 29, 2013 order of the Board of Claims is affirmed."
