

Docket Number: 4038

Nyleve Bridge corp. and James D. Morrissey, Inc. t/a
Nyleve/Morrissey, a Joint Venture

Mason Avrigian, Jr., Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
Department of Transportation

~~Andrew S. Gordon, Esquire~~
Gerald R. Schultz, Assistant Counsel

***May 1, 2012**

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: Amount of Initial Claim (\$50,000.00).

May 2, 2012

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

May 22, 2012

Plaintiff requested by telephone seven Subpoenas 234.1-to attend with duces tecum and seven Subpoenas 4009.21-to produce documents.

May 22, 2012

Board forwarded seven Subpoenas 234.1-to attend with duces tecum and seven Subpoenas 4009.21-to produce documents.

May 29, 2012

Plaintiff filed Notice of Service of its First Request for Documents upon Defendant.

May 31, 2012

Defendant filed Preliminary Objections and Brief in Support.

May 31, 2012

Board forwarded letter to Plaintiff requesting response to Defendant's Preliminary Objections.

***June 20, 2012**

Plaintiff filed Amended Claim and proof of mailing. Amount of Claim: \$3,000,000.00.

June 21, 2012

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

July 5, 2012

Certificate of Service of Defendant's Response to Plaintiff's First Request for Production of Documents filed.

July 19, 2012

Defendant filed Preliminary Objections and Brief in Support to Plaintiff's Amended Claim.

July 19, 2012

Board forwarded letter to Plaintiff requesting response and brief to Defendant's preliminary objections.

July 19, 2012

Plaintiff filed Certificate Prerequisite to Service of a Subpoena upon Urban Engineers, Inc. and CMC Engineering.

August 17, 2012

Plaintiff filed Response in Opposition, Memorandum of Law in Opposition to Defendant's preliminary objections and proposed order.

August 29, 2012

Board rendered an Opinion and made the following Order: **"AND NOW**, this 29th day of August, 2012, upon consideration of Defendant's Preliminary Objection to Plaintiff's Amended Complaint and Plaintiff's opposition thereto, it is hereby **ORDERED** and **DECREED** that Defendant's Preliminary Objection is **OVERRULED**. **IT IS FURTHER ORDERED** that Defendant shall file an Answer to Plaintiff's Amended Complaint within twenty (20) days of the date of this Order." Copy forwarded to Plaintiff and Defendant.

September 4, 2012

Plaintiff filed Certificate of Compliance with Subpoena to Produce Documents or Things Pursuant to Rule 4009.23.

September 7, 2012

Plaintiff filed Acceptance of Service of Opinion and Order dated August 29, 2012. Receipt of same acknowledged by Plaintiff September 4, 2012.

October 31, 2012

Plaintiff filed request for status conference to discuss a schedule for discovery and other pre-hearing proceedings in this matter.

October 31, 2012

Board forwarded letter to parties requesting proposed hearing dates.

October 31, 2012

Defendant filed answer, New Matter and Counterclaim/Setoff.

November 1, 2012

Board forwarded letter to Plaintiff requesting response to Defendant's New Matter and Counterclaim/Setoff.

November 14, 2012

Defendant filed letter and Proposed Hearing Schedule.

November 14, 2012

Plaintiff filed letter and Proposed Hearing Schedule.

November 19, 2012

Board scheduled teleconference to discuss scheduling issues for Tuesday, December 11, 2012 at 1:00 PM.

December 10, 2012

Plaintiff filed via facsimile a letter advising who would be participating in a teleconference scheduled for December 11, 2012.

December 12, 2012

Board rendered the following Scheduling Order: **"AND NOW**, this 12th day of December, 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 May 23, 2014; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is June 27, 2014; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by July 16, 2014; 4. The last day for filing pre-trial motions is July 30, 2014; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than September 5, 2014 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Thursday, September 11, 2014 at 1:00 PM. 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, October 13, 2014 and running through Friday, November 21, 2014, 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."

January 10, 2013

Plaintiff filed Reply to Defendant's New Matter and Answer and New Matter to Counterclaim/Setoff.

January 11, 2013

Board forwarded letter to Defendant requesting response to Plaintiff's New Matter to Counterclaim/Setoff.

January 29, 2013

Defendant's counter-reply to New Matter to Counterclaim filed.

January 30, 2013

Board forwarded letter directing parties to commence with discovery.

March 8, 2013

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

April 1, 2013

Defendant filed Notice of Service of Defendant's Response to Plaintiff's First Request for Production of Documents.

April 1, 2013

Defendant requested by telephone eight Subpoenas 4009.21 - to produce documents.

April 1, 2013

Board forwarded eight Subpoenas 4009.21 - to produce documents to Defendant.

April 1, 2013

Defendant filed Motion to Compel Production of Documents Pursuant to Pa. R.C.P. 4019 and Brief in Support.

April 2, 2013

Board forwarded letter to Plaintiff requesting response to Defendant's Motion to Compel Production of Documents Pursuant to Pa. R.C.P. 4019.

May 1, 2013

Defendant filed a letter requesting the Board hold the Department's motion to compel production of documents in abeyance and take no action until Defendant has the opportunity to review the response.

May 1, 2013

Plaintiff transmitted via facsimile a letter advising that they have no objection to the Defendant requesting the Board hold the Department's motion to compel production of documents in abeyance and take no action until Defendant has the opportunity to review the response.

May 3, 2013

Plaintiff filed via U.S. mail a letter advising that they have no objection to the Defendant requesting the Board hold the Department's motion to compel production of documents in abeyance and take no action until Defendant has the opportunity to review the response.

May 3, 2013

Board forwarded letter to parties acknowledging the parties request to hold the Defendant's motion in abeyance.

May 9, 2013

Defendant requested by telephone five Subpoenas 4009.21 - to produce documents.

April 1, 2013

Board forwarded five Subpoenas 4009.21 - to produce documents to Defendant.

June 27, 2013

Defendant filed a letter (with exhibits) requesting the Board rule on Defendant's Motion to Compel that was filed on April 1, 2013 and held in abeyance.

June 28, 2013

Board forwarded letter to Plaintiff, with copy to Defendant requesting a response to Defendant's Motion to Compel.

July 9, 2013

Defendant filed a letter addressed to Plaintiff enclosing the Defendant's Interrogatories to Plaintiff - Second Set.

July 9, 2013

Defendant 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 upon E.V.B. Service Center.

July 9, 2013

Defendant 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 upon Green Mountain Land Clearing.

July 9, 2013

Defendant 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 upon Griffin Sign.

July 9, 2013

Defendant 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 upon InterGEO Services.

July 9, 2013

Defendant 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 upon Midori Professional Services.

July 9, 2013

Defendant 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 upon Resonant Machines.

July 9, 2013

Defendant 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 upon Cocco Contracting Corporation.

July 9, 2013

Defendant 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 upon Strongstown's B&K Enterprises.

July 9, 2013

Defendant 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 upon Wampole-Miller, Inc. d/b/a Miller Bros.

July 10, 2013

Defendant filed a letter addressed to Plaintiff enclosing the Defendant's Requests for Admission Directed to Plaintiff (First Set).

July 26, 2013

Plaintiff filed Response to Defendant's Motion to Compel Production of Documents, Memorandum of Law and Proposed Order.

August 13, 2013

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 13th day of August, 2013, upon consideration of the Defendant's first request for production of documents, Plaintiff's response to Defendant's first request for production, Defendant's motion to compel production of documents, Defendant's letter to the Board dated June 27, 2013, and Plaintiff's response, **IT IS ORDERED** that the motion is **GRANTED** in part and **DENIED** in part. It is **GRANTED** with respect to the Nyleve project documents described on Page 7 of this Opinion and **DENIED**, without prejudice, with respect to the remaining requests." Copy forwarded to Plaintiff and Defendant.

January 29, 2014

Defendant filed a letter type notice of service of Defendant's Interrogatories to Plaintiff - Third Set.

March 18, 2014

Plaintiff filed Certificate Prerequisite to Service of a Subpoena upon Montgomery County Conservation District Pursuant to Rule 4009.22.

March 18, 2014

Plaintiff filed Certificate Prerequisite to Service of a Subpoena upon AECOM Pursuant to Rule 4009.22.

May 14, 2014

Defendant requested by telephone one Subpoena 4009.21 - to produce documents.

May 14, 2014

Board forwarded one Subpoena 4009.21 - to produce documents to Defendant.

May 14, 2014

Defendant requested by telephone six Subpoenas 234.1 - to attend and testify.

May 15, 2014

Board forwarded six Subpoenas 234.1 - to attend and testify to Defendant.

May 19, 2014

Defendant filed Motion to Compel Production of Documents by Plaintiff as requesting in Defendant's Second Request for Production of Documents and Brief in Support.

May 20, 2014

Board forwarded letter to Plaintiff requesting response to Motion to Compel.

May 22, 2014

Defendant requested by telephone one Subpoena 4009.21 - to produce documents.

May 22, 2014

Board forwarded one Subpoena 4009.21 - to produce documents to Defendant.

May 30, 2014

Defendant filed a letter type notice of service of Defendant's Request for Admission Directed to Plaintiff (Third Set).

June 3, 2014

Defendant filed a letter type notice of service of Defendant's Request for Admission Directed to Plaintiff (Fourth Set).

June 3, 2014

Plaintiff filed Answer in Opposition to Defendant's Motion to Compel Production of Documents and Memorandum of Law in Opposition as well as a proposed order.

June 6, 2014

Plaintiff filed Motion to Compel Answers to Plaintiff's Third Set of Interrogatories Directed to Defendant and Third Request for Production of Documents Directed to Defendant and Memorandum of Law as well as proposed order.

June 6, 2014

Board forwarded letter to parties requesting date and time for a conference regarding both motions to compel.

June 9, 2014

Board forwarded letter to parties via facsimile and U.S. Mail directing Plaintiff to file a copy of its expert damages report prior to status conference.

June 10, 2014

Plaintiff transmitted a letter (via fax) requesting an extension until June 23, 2014 in which to file its damage reports and that the Board schedule the status conference for after June 23, 2014.

June 10, 2014

Board forwarded letter to parties via facsimile and U.S. Mail instructing the parties to provide new dates and times for a conference.

June 10, 2014

Defendant filed a letter in response to the Board's letter of June 6, 2014.

June 11, 2014

Defendant transmitted via facsimile a letter in response to the Board's letter of June 6, 2014.

June 11, 2014

Plaintiff filed Motion to Overrule Defendant's Objections and Compel Full and Complete Answers to Plaintiff's First Set of Interrogatories and Memorandum of Law as well as Proposed Order.

June 11, 2014

Plaintiff transmitted via facsimile a letter advising that both parties are available for a conference on July 1, 2014 at 10:00 a.m.

June 12, 2014

Board forwarded letter to parties via facsimile and U.S. Mail scheduling a status conference on July 1, 2014 at 10:00 a.m.

June 12, 2014

Board forwarded letter to Defendant with a copy to Plaintiff via facsimile and U.S. Mail directing Defendant to file its responses to both motions no later than June 30, 2014.

June 12, 2014

Defendant transmitted via U.S. Mail a letter in response to the Board's letter of June 6, 2014.

June 12, 2014

Plaintiff transmitted a letter (via U.S. Mail) requesting an extension until June 23, 2014 in which to file its damage reports and that the Board schedule the status conference for after June 23, 2014.

June 13, 2014

Plaintiff filed via U.S. mail a letter advising that both parties are available for a conference on July 1, 2014 at 10:00 a.m.

June 16, 2014

Plaintiff filed a Praecipe to File Affidavit of Service Deposition of Subpoena for Chuck Colletto, Urban Engineers, Inc.

June 16, 2014

Plaintiff filed a Praecipe to File Affidavit of Service Deposition of Subpoena for Eric Teats, CMC Engineering, Inc.

June 25, 2014

Plaintiff filed Expert Report.

June 27, 2014

Plaintiff filed Motion for Leave to Amend Complaint, Memorandum of Law in Support and Proposed Order.

June 30, 2014

Defendant filed letter regarding responses to Plaintiff's outstanding motions.

June 30, 2014

Defendant filed Motion for Sanctions and Brief in Support as well as proposed order.

July 1, 2014

Board held status conference.

July 1, 2014

Board rendered an Order. Order as follows: "**AND NOW**, this 1st day of July, 2014, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff to supplement its expert report to address damages and provide same to defendant is August 22, 2014;¹ 2. The last day for defendant's expert report, if any, to be provided to plaintiff is September 30, 2014;¹ 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by October 31, 2014;² 4. The last day for filing pre-trial motions is November 7, 2014;² 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than December 12, 2014 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, December 16, 2014 at 1:00 PM. 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, January 19, 2015 and running through Friday, February 27, 2015, 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.

July 1, 2014

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 1st day of July 2014, upon consideration of various discovery motions and the discussions with counsel for all parties present at the status conference, it is hereby **ORDERED** and **DECREED** that: 1. Plaintiff's Motion to Compel filed June 11, 2014 is **GRANTED**, with Defendant to provide the requested discovery no later than July 20, 2014 and to identify a Department designee for deposition on the subject of these interrogatories promptly thereafter; 2. Plaintiff's Motion to Compel filed June 6, 2014 is **DENIED**; 3. Defendant's Motion to Compel filed May 19, 2014 is **DENIED IN PART** as to the production of Plaintiff's financial statements and **GRANTED IN PART** as to the bid estimate documents which shall be produced by July 20, 2014 pursuant to a confidentiality agreement negotiated by the parties; 4. Defendant's Motion for Sanctions is **DENIED**; and 5. Plaintiff and Defendant shall cooperate in good faith to produce a job cost report in "machine readable format," if feasible, by

July 20, 2014." Copy forwarded via facsimile and U.S. Mail to Plaintiff and Defendant.

July 1, 2014

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 1st day of July, 2014, it is hereby **ORDERED** and **DECREED** that Plaintiff and Defendant are each **GRANTED** leave to amend their respective pleadings. Such amendments are to be filed by July 3, 2014, with responses to same due by July 31, 2014." Copy forwarded via facsimile and U.S. Mail to Plaintiff and Defendant.

***July 3, 2014**

Plaintiff filed Second Amended Complaint and Statement of Claim. Amount of claim: unchanged.

July 3, 2014

Defendant filed Consent to Plaintiff's Amended Complaint pursuant to Pa. R.C.P. 1033 and proposed order.

July 3, 2014

Defendant filed Answer, New Matter and Counterclaim/setoff.

July 3, 2014

Defendant filed Amended Counterclaim/setoff pursuant to Pa. R.C.P. 1033.

July 7, 2014

Board issued Acknowledgement letter and forwarded copy of Second Amended Claim and statement of claim to Attorney General.

July 7, 2014

Defendant filed Acceptance of Service of Revised Scheduling Order of July 1, 2014. Receipt of same acknowledged by Defendant July 3, 2014.

July 7, 2014

Defendant filed Acceptance of Service of Opinion and Order of July 1, 2014. Receipt of same acknowledged by Defendant July 3, 2014.

July 7, 2014

Defendant filed Acceptance of Service of Opinion and Order of July 1, 2014. Receipt of same acknowledged by Defendant July 3, 2014.

July 14, 2014

Attorney General filed Acknowledgment of Second Amended Claim and statement of claim form. Receipt of same acknowledged July 8, 2014.

July 21, 2014

Defendant filed Notice of Service of Department's Supplemental Answers to Plaintiff's Interrogatories (First Set).

July 28, 2014

Defendant filed a letter (addressed to Plaintiff) regarding expert reports.

August 1, 2014

Defendant filed letter requesting a ten day extension of time request to file its Answer and New Matter and Counterclaim.

August 1, 2014

Defendant filed Certificate Prerequisite to Service of a Subpoena as well as Notice of Intent to Serve Subpoena.

August 1, 2014

Board forwarded via facsimile and U.S. Mail a letter to Defendant granting extension of time request.

August 1, 2014

Plaintiff filed letter type Notice of Service of Notice of Deposition.

August 12, 2014

Defendant filed Answer, New Matter and Counterclaim.

August 13, 2014

Board forwarded letter to Plaintiff requesting response to New Matter and Counterclaim as well as copy of Defendant's Answer, New Matter and Counterclaim to attorney general.

August 18, 2014

Plaintiff transmitted (via fax) a letter requesting a 3 day extension of time in which to file its supplemental expert report, as well as agreeing to a 3 day extension of time for Defendant to file its report as well.

August 19, 2014

Board forwarded letter to Plaintiff, with copy to Defendant, granting extension of time as requested.

August 20, 2014

Plaintiff filed (via U.S.mail) a letter requesting a 3 day extension of time in which to file its supplemental expert report, as well as agreeing to a 3 day extension of time for Defendant to file its report as well.

August 20, 2014

Chief Deputy Attorney General filed Acceptance of Service of Answer, New Matter and Counterclaim. Receipt of same acknowledged by Chief Deputy Attorney General August 15, 2014.

August 27, 2014

Plaintiff filed Expert Report of Wouch Maloney & Co., LLP.

August 27, 2014

Plaintiff filed Supplemental Expert Report by Capital Project Management, Inc.

August 28, 2014

Defendant requested by telephone two Subpoenas 234.1 - to attend and testify.

August 29, 2014

Board forwarded two Subpoenas 234.1 - to attend and testify to Defendant.

September 2, 2014

Plaintiff filed Reply to Defendant's New Matter as well as Answer and New Matter to Defendant's Counterclaim/Setoff.

September 2, 2014

Board forwarded letter to Defendant requesting response to Plaintiff's New Matter to Counterclaim.

September 30, 2014

Plaintiff transmitted via facsimile a letter with exhibits regarding discovery issues involving discovery requests directed to the Defendant and requests the Board issue an Order directing Defendant to provide full and complete answers to Plaintiff's Fourth Set of Interrogatories and Fourth Request for Production of Documents.

October 1, 2014

Defendant transmitted via facsimile a letter requesting two week extension of time in which to file its expert report.

October 1, 2014

Plaintiff transmitted via facsimile a letter in response to Defendant's extension of time request advising that Plaintiff does not object to the extension provided that Plaintiff has an extension until November 16, 2014 to file any rebuttal.

October 1, 2014

Defendant filed letter requesting two week extension of time in which to file its expert report.

October 1, 2014

Board forwarded letter to parties (via facsimile & U.S. Mail) granting Defendant's extension of time request to file expert report as well as Plaintiff's extension of time request to file any rebuttal reports.

October 1, 2014

Board forwarded letter to parties (via facsimile & U.S. Mail) requesting a date and time for a telephonic status conference to discuss discovery issues.

October 1, 2014

Plaintiff filed Motion to Enforce Compliance with Subpoena and Compel Non-Party Deposition of Eric Teats of CMC Engineering, Inc. and Memorandum of Law as well as proposed order.

October 1, 2014

Board forwarded letter to parties as well as Mr. Jason Karasik, Esquire advising Mr. Karasik be in attendance to status conference to discuss motion/discovery issues.

October 2, 2014

Defendant filed letter advising that the parties are available for a telephonic status conference on Tuesday, October 7, 2014 at 1:00 p.m.

October 2, 2014

Plaintiff filed via U.S. Mail a letter requesting two week extension of time in which to file its expert report.

October 2, 2014

Board forwarded letter to attorney Karasik advising if unable to attend teleconference to brief motion within 7 days.

October 2, 2014

Board rendered Order. Order as follows: "AND NOW, this 2nd day of October 2014, upon consideration of the case status, circumstance, correspondence and motion submitted, it is **ORDERED** that a status conference shall be held by teleconference on October 7, 2014 at 1:00 pm to consider the matters raised above. The teleconference is to be initiated by the parties and joined by counsel for Mr. Teats as outlined in the attached enclosure." Copy forwarded to all parties of record as well Paul A. Logan, Esquire and Jason Karasik, Esquire.

October 3, 2014

Counsel for Mr. Eric Teats transmitted via facsimile a letter responding to Board's Order of October 2, 2014 as well as responding to Plaintiff's Motion to Enforce Compliance advising that it was unable to attend the scheduled teleconference and will be preparing a formal response to Plaintiff's motion.

October 6, 2014

Plaintiff transmitted via facsimile a letter advising that Plaintiff and counsel for Mr. Teats have agreed on a firm date for deposition and Plaintiff withdraws its motion to compel.

October 7, 2014

Board forwarded letter via facsimile and U.S. mail to parties as well as Mr. Karasik and Mr. Logan withdrawing Plaintiff's motion to compel deposition.

October 7, 2014

Counsel for Mr. Eric Teats filed via U.S. mail a letter responding to Board's Order of October 2, 2014 as well as responding to Plaintiff's Motion to Enforce Compliance advising that it was unable to attend the scheduled teleconference and will be preparing a formal response to Plaintiff's motion.

October 7, 2014

Defendant filed Counter Reply to Plaintiff's New Matter to Counterclaim/Setoff.

October 7, 2014

Board held teleconference.

October 8, 2014

Plaintiff filed via U.S. mail a letter advising that Plaintiff and counsel for Mr. Teats have agreed on a firm date for deposition and Plaintiff withdraws its motion to compel.

October 9, 2014

Plaintiff filed Acceptance of Service of Order of October 2, 2014. Receipt of same acknowledged on October 7, 2014.

October 14, 2014

Paul Logan, Esquire filed Acceptance of Service of Order of October 2, 2014. Receipt of same acknowledged on October 9, 2014.

October 28, 2014

Board forwarded letter to parties advising that hearing will now commence on January 20, 2015 at 9:30 a.m. due to Martin Luther King Day.

November 18, 2014

Board forwarded letter to parties advising that pretrial conference scheduled for December 16, 2014 to commence at 1:00 p.m. has been changed to commence at 3:30 p.m.

December 5, 2014

Board forwarded Notice of Settlement Conference.

December 12, 2014

Defendant filed its pre-trial statement and expert report with Exhibits A-G and 1-56.

December 12, 2014

Plaintiff filed its pre-hearing memorandum and expert rebuttal report.

January 2, 2015

Plaintiff requested by telephone 15 Subpoenas 234.1 - to attend and testify.

January 5, 2015

Board forwarded 15 Subpoenas 234.1 - to attend and testify to Plaintiff.

January 8, 2015

Plaintiff transmitted via facsimile a letter advising that the parties have reached a tentative settlement and requesting the case be taken off the Board's trial calendar.

January 9, 2015

Board removed hearing from trial calendar.

January 12, 2015

Plaintiff filed via U.S. mail a letter advising that the parties have reached a tentative settlement and requesting the case be taken off the Board's trial calendar.

May 28, 2015

Plaintiff transmitted via facsimile a letter requesting a conference in an attempt to conclude the settlement.

May 29, 2015

Board forwarded letter to parties requesting a date for a conference.

June 1, 2015

Plaintiff filed via U.S. Mail a letter requesting a conference in an attempt to conclude the settlement.

June 1, 2015

Plaintiff transmitted via facsimile a letter advising that Plaintiff received a settlement check and no longer need a conference with the Board.

June 1, 2015

Board forwarded letter to the parties advising that in light of Plaintiff's letter the Board sees no need for a status conference.

June 3, 2015

Plaintiff filed via U.S. Mail a letter advising that Plaintiff received a settlement check and no longer need a conference with the Board.

October 29, 2015

Plaintiff filed joint Praecipe to Settle, Discontinue and End.

October 30, 2015

Board rendered Order. Order as follows: "**AND NOW**, this 30th day of October, 2015, upon receipt of a Praecipe executed by Mason Avrigian, Jr., Esquire, on behalf of Plaintiff, Nyleve Bridge Corp. and James D. Morrissey, Inc. t/a Nyleve/Morrissey, A Joint Venture, and Gerald R. Schultz, Assistant Counsel, on behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation, requesting that the Board mark all claims and counterclaims in this case settled, discontinued and ended, docketed with this Board under date of October 29, 2015, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

November 5, 2015

Plaintiff filed Acceptance of Service of Order dated October 30, 2015. Receipt of same acknowledged November 3, 2015.
