

Docket Number: 4064

POPPLER CONSTRUCTION, INC.

Raymond P. Wendolowski, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

~~William J. Cressler, Chief Counsel~~
~~Robert T. Kuntz, Assistant Counsel~~
~~Seth F. Bortner, Assistant Counsel~~
Jason M. Wolgemuth, Assistant Counsel

December 28, 2012

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: Amount of Initial Claim (Unknown)

December 28, 2012

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

January 5, 2013

Chief Deputy Attorney General filed Acceptance of Service of Claim. Receipt of same acknowledged by Chief Deputy Attorney General January 2, 2013.

January 24, 2013

Defendant filed preliminary objections and brief in support.

January 25, 2013

Board forwarded letter to Plaintiff requesting response to Preliminary Objections.

February 26, 2013

Plaintiff filed answer to preliminary objections and brief in opposition.

March 6, 2013

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 6th day of March, 2013, upon consideration of the preliminary objection filed by the Department of Transportation to the Statement of Claim and the response filed by Popple Construction, Inc., **IT IS ORDERED** that the preliminary objection is **SUSTAINED** and the motion to strike Count III is **GRANTED**. The Department of Transportation is directed to answer the remaining Statement of Claim within 30 days of the exit date of this Order." Copy forwarded to Plaintiff and Defendant.

March 7, 2013

Defendant filed Brief in Reply to Opposition to Preliminary Objections.

March 27, 2013

Defendant filed a letter advising that Plaintiff has agreed to an extension of time until April 19, 2013 to allow Defendant to file the required answer.

March 28, 2013

Board forwarded letter to Defendant, with copy to Plaintiff, acknowledging agreement of an extension between the parties.

April 11, 2013

Defendant filed a letter advising that Plaintiff has agreed to an extension of time until May 3, 2013 to allow Defendant to file the required answer.

April 12, 2013

Board forwarded letter to Defendant, with copy to Plaintiff, acknowledging agreement of an extension between the parties.

April 30, 2013

Defendant filed a letter advising that Plaintiff has agreed to an extension of time until May 17, 2013 to allow Defendant to file the required answer.

May 1, 2013

Board forwarded letter to Defendant, with copy to Plaintiff, acknowledging agreement of an extension between the parties.

May 17, 2013

Defendant filed Answer and New Matter as well as Notice to Plead.

May 20, 2013

Board forwarded letter to Plaintiff requesting response to New Matter.

June 10, 2013

Plaintiff filed letter advising that Defendant has agreed to a 30 day extension of time in which for Plaintiff to file its reply to new matter.

June 10, 2013

Board issued letter to Plaintiff, with copy to Defendant granting extension of time for Plaintiff to file its reply to new matter.

July 11, 2013

Plaintiff filed reply to Defendant's new matter.

July 11, 2013

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

February 8, 2018

Plaintiff filed a letter requesting that this matter be set for trial.

February 8, 2018

Board forwarded letter to parties requesting proposed scheduling dates.

February 21, 2018

Defendant filed proposed scheduling dates.

March 28, 2018

Board rendered a Scheduling Order. Order as follows: **"AND NOW**, this 28th day of March, 2018, 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 April 1, 2019; 2. The last day for defendant's expert report, if any, to be provided to plaintiff is May 3, 2019; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by June 5, 2019; 4. The last day for filing pre-trial motions is June 19, 2019; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than August 1, 2019 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Wednesday, August 7, 2019 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, September 9, 2019 and running through Friday, September 20, 2019, or as otherwise 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.

April 5, 2018

Plaintiff filed acceptance of service of Scheduling Order dated March 28, 2018. Receipt of same acknowledged April 4, 2018.

April 5, 2018

Defendant filed acceptance of service of Scheduling Order dated March 28, 2018. Receipt of same acknowledged April 3, 2018.

March 13, 2019

Defendant filed letter advising that the parties request a revised scheduling order as well as parties' proposed revised scheduling order.

March 14, 2019

Board rendered a Revised Scheduling Order. Order as follows: "AND NOW, this 14th day of March, 2019, 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 1, 2019; 2. The last day for defendant's expert report, if any, to be provided to plaintiff is June 3, 2019; 3. Expert Rebuttal Reports are suspended by agreement; 4. All discovery shall be completed by June 5, 2019; 5. The last day for filing pre-trial motions is June 19, 2019; 6. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than August 1, 2019 (Please note BOC R.P. 501(b) and (c)(3)); 7. A pre-trial conference is scheduled for Wednesday, August 7, 2019 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 8. This matter is set for hearing beginning on Monday, September 9, 2019 and running through Friday, September 20, 2019, or as otherwise 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.

March 18, 2019

Defendant filed Acceptance of Service of Revised Scheduling Order dated March 14, 2019. Receipt of same dated March 15, 2019.

April 22, 2019

Defendant filed a letter requesting a slight revision to the Revised Scheduling Order advising that Plaintiff agrees to same.

April 23, 2019

Board rendered a Second Revised Scheduling Order. Order as follows: **"AND NOW**, this 23rd day of April, 2019, 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 24, 2019; 2. The last day for defendant's expert report, if any, to be provided to plaintiff is June 28, 2019; 3. Expert Rebuttal Reports are suspended by agreement; 4. All discovery shall be completed by July 3, 2019; 5. The last day for filing pre-trial motions is July 12, 2019, with any response to be filed by July 26, 2019; 6. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than August 1, 2019 (Please note BOC R.P. 501(b) and (c)(3)); 7. A pre-trial conference is scheduled for Wednesday, August 7, 2019 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 8. This matter is set for hearing beginning on Monday, September 9, 2019 and running through Friday, September 20, 2019, or as otherwise 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.

May 1, 2019

Defendant filed acceptance of service of Second Revised Scheduling Order dated April 23, 2019. Receipt of same acknowledged April 26, 2019.

May 8, 2019

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

May 8, 2019

Board forwarded five Subpoenas 234.1 - to attend with duces tecum dated May 8, 2019 to Defendant.

May 30, 2019

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

May 30, 2019

Board forwarded three Subpoenas 234.1 - to attend with duces tecum dated May 30, 2019 to Defendant.

July 3, 2019

Board forwarded letter to parties requesting copies of expert reports (if any).

July 8, 2019

Plaintiff filed a letter updating the Board with its new address-contact information.

July 9, 2019

Defendant filed its Expert Report and Resume of Timothy L. Ramirez, P.E.

July 10, 2019

Board forwarded Notice of Settlement Conference.

July 11, 2019

Plaintiff transmitted via facsimile a letter requesting changes to the hearing schedule, as well as requesting a settlement conference be scheduled prior to the pre-trial conference.

July 11, 2019

Defendant filed a letter regarding the scheduling of a settlement conference for July 17, 2019.

July 15, 2019

Board scheduled settlement conference for Friday, August 2, 2019 at 1:00 p.m.

July 15, 2019

Board issued Third Revised Scheduling Order. Order as follows: **"AND NOW**, this 15th day of July, 2019, it is hereby **ORDERED** and **DECREED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant remains May 24, 2019; 2. The last day for defendant's expert report, if any, to be provided to plaintiff remains June 28, 2019; 3. Expert Rebuttal Reports are suspended by agreement; 4. All discovery shall be completed by July 3, 2019; 5. The last day for filing pre-trial motions remains July 12, 2019, with any response to be filed by July 26, 2019; 6. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than August 8, 2019 (Please note BOC R.P. 501(b) and (c)(3)); 7. A pre-trial conference is scheduled for Friday, August 9, 2019 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 8. This matter is set for hearing beginning on Wednesday, September 11, 2019 and running through Friday, September 20, 2019, or as otherwise 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 15, 2019

Defendant filed acceptance of service of Third Revised Scheduled Order dated July 15, 2019. Receipt of same acknowledged July 15, 2019.

July 18, 2019

Plaintiff transmitted via facsimile acceptance of service of Third Revised Scheduled Order dated July 15, 2019. Receipt of same acknowledged July 18, 2019.

July 22, 2019

Board forwarded letter to Defendant, with copy to Plaintiff, requesting additional information prior to settlement conference.

July 29, 2019

Defendant filed additional information as requesting by the Board.

July 31, 2019

Board forwarded letter to Defendant, with copy to Plaintiff, requesting that Mr. Ramirez attend the settlement conference on August 2, 2019.

August 1, 2019

Defendant filed Pre-trial Statement.

August 2, 2019

Board held settlement conference.

October 30, 2020

Board forwarded letter to Plaintiff, with copy to Defendant, requesting praecipe to close case.

January 4, 2021

Plaintiff filed letter advising that settlement has not been completed.

March 25, 2022

Defendant filed Entry of Appearance of Seth F. Bortner, Assistant Counsel, on behalf of Defendant.

March 25, 2022

Defendant filed Notice of Withdrawal of Robert T. Kuntz, Assistant Counsel, on behalf of Defendant.

August 22, 2023

Defendant filed a Praecipe for Entry of Appearance requesting to enter the appearance of Jason M. Wolgemuth, Assistant Counsel and withdrawing the appearance of Seth F. Bortner, on behalf of Defendant.
