

(CONSOLIDATED WITH 4115 & 4125)
Docket Number: 4110

WALSH CONSTRUCTION COMPANY

Carleton O. Strouss, Esquire
C. Grainger Bowman, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA TURNPIKE COMMISSION

~~Doreen McCall, Chief Counsel~~
Mason Avrigian, Jr., Esquire
Jeffrey P. Wallack, Esquire

December 18, 2014

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: UNSPECIFIED.

December 19, 2014

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

December 30, 2014

Attorney General filed Acknowledgment of Claim form. Receipt of same acknowledged December 29, 2014.

December 31, 2014

Defendant filed Entry of Appearance of Mason Avrigian, Jr. and Jeffrey P. Wallack, Esquire on behalf of Defendant.

February 4, 2015

Plaintiff filed a joint Stipulation Among Counsel and Order.

February 6, 2015

With regard to the Stipulation Among Counsel and Order filed on February 4, 2015, the following order is entered: "AND NOW, this 6th day of February, 2015, the above-referenced Stipulation is hereby approved and made an Order of the Board of Claims." Copy forwarded to Plaintiff and Defendant.

February 12, 2015

Plaintiff filed Acceptance of Service of Order dated February 6, 2015. Receipt of same acknowledged February 9, 2015.

February 13, 2015

Defendant filed Acceptance of Service of Order dated February 6, 2015. Receipt of same acknowledged February 10, 2015.

March 11, 2015

Plaintiff filed Motion for Consolidation as well as Proposed Order.

March 20, 2015

Defendant filed Joinder in Plaintiff's Motion for Consolidation.

March 23, 2015

Board rendered Consolidation Order. Order as follows: "**AND NOW**, this 23rd day of March, 2015, upon consideration of Walsh Construction Company's Motion for Consolidation, said Motion is hereby granted. The cases docketed at No. 4110 and No. 4115 are hereby consolidated for all purposes into one at Docket No. 4110. Counsel for Walsh Construction Company shall immediately file and docket the Consolidated Complaint attached to the aforesaid Motion under Docket No. 4110, and shall simultaneously serve upon counsel of record for the Pennsylvania Turnpike Commission a true copy of the Consolidated Complaint by regular U.S. mail, and if so served, said service shall be deemed effective service. Such service shall be evidenced by a certificate of service attached to the Consolidated Complaint filed by Walsh Construction Company. The Pennsylvania Turnpike Commission shall file its response to the Consolidated Complaint within 15 days after the Board of Claims grants the Motion for Consolidation and any formal docketing of the Consolidated Complaint, or within 30 days after Walsh Construction Company's filing of the Motion for Consolidation, whichever period of time is longer. The Pennsylvania Turnpike Commission shall file counterclaims in accordance with the Pennsylvania Rules of Civil Procedure. Either party may seek additional relief by way of motion, as appropriate." Copy forwarded to Plaintiff and Defendant.

***April 1, 2015**

Plaintiff filed Consolidated Statement of Claim.

April 1, 2015

Plaintiff filed Acceptance of Service of Order dated March 23, 2015. Receipt of same acknowledged April 1, 2015.

April 6, 2015

Defendant filed Acceptance of Service of Order dated March 23, 2015. Receipt of same acknowledged March 26, 2015.

April 8, 2015

Plaintiff filed a Certificate of Service certifying that on April 1, 2015 it served Defendant with its Consolidated Statement of Claim (Complaint).

April 8, 2015

Plaintiff filed a Stipulation Among Counsels agreeing to corrected language for Paragraph 6 of the Consolidated Statement of Claim as well as a Proposed Order.

April 10, 2015

Defendant filed preliminary objections to Plaintiff's consolidated statement of claim, memorandum of law and proposed order.

April 13, 2015

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

April 13, 2015

Board rendered an Order. Order as follows: **"AND NOW**, this 13th day of April, 2015, the recently submitted Stipulation Among Counsel is approved. The language of paragraph 6 of Walsh Construction Company's Consolidated Statement of Claim (Complaint) is amended to read: "6. On March 11, 2015, counsel for Walsh filed Walsh Construction Company's Motion for Consolidation of the DSC Complaint and the SEPTA Complaint ("Motion") with the Board of Claims. On March 19, 2015, counsel for the Commission filed Respondent's Joinder in Claimant's

Motion for Consolidation. On March 23, 2015, the Board of Claims granted Walsh's Motion, consolidated Docket No. 4110 and Docket No. 4115, and directed Walsh to file the Consolidated Complaint attached to the Motion. This Consolidated Complaint is filed in accordance with the Motion." Walsh is not required to make a separate filing to implement this Order." Copy forwarded to Plaintiff and Defendant.

April 17, 2015

Defendant filed Acceptance of Service of Order dated April 13, 2015. Receipt of same acknowledged April 15, 2015.

April 17, 2015

Plaintiff filed Acceptance of Service of Order dated April 13, 2015. Receipt of same acknowledged April 15, 2015.

***April 29, 2015**

Plaintiff filed Amended Consolidated Statement of Claim.

April 30, 2015

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

December 30, 2014

Attorney General filed Acknowledgment of Amended Consolidated Claim form. Receipt of same acknowledged May 6, 2015.

May 26, 2015

Defendant requested via telephone Subpoenas 4009.21 - to produce documents.

May 26, 2015

Board forwarded Subpoenas 4009.21 - to produce documents dated May 26, 2015 to Defendant.

May 27, 2015

Defendant transmitted via facsimile a letter advising that the parties have agreed to extend the time for Defendant to file its Answer to the Amended Consolidated Claim until June 5, 2015.

May 27, 2015

Board issued letter to Defendant, with copy to Plaintiff acknowledging extension between the parties.

May 29, 2015

Defendant filed via U.S. mail a letter advising that the parties have agreed to extend the time for Defendant to file its Answer to the Amended Consolidated Claim until June 5, 2015.

May 29, 2015

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

June 1, 2015

Board forwarded Subpoena 234.1 - to attend with duces tecum dated June 1, 2015 to Plaintiff.

June 5, 2015

Plaintiff requested via telephone a Subpoena 4009.21 - to produce documents.

June 5, 2015

Board forwarded a Subpoena 4009.21 - to produce documents dated June 5, 2015 to Plaintiff.

June 5, 2015

Defendant filed Answer and New Matter.

June 8, 2015

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

June 9, 2015

Plaintiff filed Notice of Service of Interrogatories, Request for Production of Documents, and Request for Admissions.

July 27, 2015

Plaintiff filed Reply to New Matter.

July 28, 2015

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

November 16, 2015

Plaintiff requested via telephone a Subpoena 4009.21 - to produce documents.

November 16, 2015

Board forwarded a Subpoena 4009.21 - to produce documents dated November 16, 2015 to Plaintiff.

November 16, 2015

Plaintiff filed certificate prerequisite to service of a subpoena pursuant to Rule 4009.22.

February 11, 2016

Plaintiff filed joint motion for consolidation and proposed order.

February 11, 2016

Plaintiff filed Consent Confidentiality and Inadvertent Production Agreement and Order.

February 11, 2016

Plaintiff filed proposed scheduling order.

February 16, 2016

Board rendered an Order. Order as follows: **"AND NOW**, this 16th day of February, 2016, upon consideration of Walsh Construction Company and the Pennsylvania Turnpike Commission's Joint Motion for Consolidation, said Motion is hereby granted. The cases previously consolidated at Docket No. 4110 (Docket Nos. 4110 and 4115) and the case docketed at Docket No. 4125 are hereby consolidated for all purposes into one case at Docket No. 4110. Either party may seek additional relief by way of motion, as appropriate." Copy forwarded to Plaintiff and Defendant.

February 17, 2016

Board rendered a Scheduling Order. Scheduling Order as follows: **"AND NOW**, this 17th day of February, 2016, 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 February 15, 2017; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is April 15, 2017; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by May 28, 2017; 4. The last day for filing pre-trial motions is June 15, 2017; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than August 2, 2017 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Wednesday, August 9, 2017 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 11, 2017 and running through Friday, September 29, 2017, 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.

February 18, 2016

Board rendered an Order. Order as follows: "**AND NOW**, this 18th day of February, 2016, upon receipt by the Board of the "Consent Confidentiality and Inadvertent Production Agreement and Order" (attached hereto as "Exhibit A" and referred to herein as the "Protective Order") to which the parties have agreed, and for which they jointly seek Board approval and adoption, it is hereby **ORDERED** that said Protective Order is approved and adopted by the Board as its own (unless and until modified by further order of the Board) **PROVIDED** that: A) in lieu of the procedure for filing confidential material with the Board contained therein, no materials or information designated as confidential may be filed with the Board unless the proponent of the filing first gives 15 days advance notice of such intent to counsel for the party or person who designated the item or information as confidential, which party or person may, before the expiration of said 15 day period, move the Board for an order that the filing (or applicable portion thereof) be received *in camera* and under such conditions as needed to prevent unnecessary disclosure, and the Board will determine, at that time, what protection is to be offered to such confidential materials and/or confidential information prior to filing; and B) the Board is under no obligation to return any materials filed with, or provided to, it by reason of this Order." Copy forwarded to Plaintiff and Defendant.

February 22, 2016

Plaintiff filed Acceptance of Service of Scheduling Order dated February 17, 2016. Receipt of same acknowledged February 19, 2016.

February 22, 2016

Plaintiff filed Acceptance of Service of Order dated February 16, 2016. Receipt of same acknowledged February 19, 2016.

February 24, 2016

Defendant filed Acceptance of Service of Scheduling Order dated February 17, 2016. Receipt of same acknowledged February 22, 2016.

February 24, 2016

Defendant filed Acceptance of Service of Order dated February 16, 2016. Receipt of same acknowledged February 22, 2016.

February 25, 2016

Plaintiff filed Acceptance of Service of Order dated February 18, 2016. Receipt of same acknowledged February 25, 2016.

February 26, 2016

Defendant filed Acceptance of Service of Order dated February 18, 2016. Receipt of same acknowledged February 23, 2016.

March 7, 2016

Plaintiff filed reply to new matter.

April 20, 2016

Defendant filed Certificate Prerequisite to Service of a Subpoena upon Wings Field Preservation Associates, L.P.

August 17, 2016

Plaintiff requested via telephone a Subpoena 4009.21 - to produce documents.

August 18, 2016

Board forwarded a Subpoena 4009.21 - to produce documents dated August 18, 2016 to Plaintiff.

September 21, 2016

Plaintiff requested via telephone a Subpoena 4009.21 - to produce documents.

September 21, 2016

Board forwarded a Subpoena 4009.21 - to produce documents dated September 21, 2016 to Plaintiff.

November 23, 2016

Plaintiff filed Certificate Prerequisite to Service of a Subpoena pursuant to Rule 4009.22.

December 21, 2016

Plaintiff filed Certificate Prerequisite to Service of a Subpoena pursuant to Rule 4009.22.

January 27, 2017

Defendant filed a motion for amended scheduling order and proposed amended scheduling order.

January 30, 2017

Board forwarded letter via facsimile & U.S. Mail to Plaintiff, with copy to Defendant, requesting response to motion for amended scheduling order.

February 10, 2017

Plaintiff filed Response to motion for amended scheduling order and proposed scheduling order.

February 14, 2017

Board rendered a Revised Scheduling Order. Order as follows: "AND NOW, this 14th day of February, 2017, 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 14, 2017; 2. The last day for defendant's expert report, if any, to be provided to plaintiff is September 15, 2017; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by October 18, 2017; 4. The last day for filing pre-trial motions is November 1, 2017; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than December 20, 2017 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Wednesday, January 3, 2018 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, February 5, 2018 and running through Friday, March 2, 2018, 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.

February 17, 2017

Defendant transmitted via facsimile a letter advising that counsel for Defendant has changed law firms and address.

February 17, 2017

Defendant transmitted via facsimile acceptance of service of revised scheduling order. Receipt of same acknowledged February 17, 2017.

February 21, 2017

Defendant filed via U.S. mail a letter advising that counsel for Defendant has changed law firms and address.

February 21, 2017

Defendant filed acceptance of service of revised scheduling order. Receipt of same acknowledged February 17, 2017.

February 22, 2017

Defendant filed acceptance of service of revised scheduling order dated February 14, 2017. Receipt of same acknowledged February 17, 2017.

July 12, 2017

Parties filed a Joint Motion for Stipulated Amended Scheduling Order.

July 13, 2017

Board rendered Second Revised Scheduling Order. Order as follows: **"AND NOW**, this 13th day of July, 2017, 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 January 26, 2018;¹ 2. The last day for defendant's expert report, if any, to be provided to plaintiff is February 28, 2018;¹ 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by March 30, 2018;² 4. The last day for filing pre-trial motions is April 13, 2018;² 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than May 24, 2018 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Wednesday, May 30, 2018 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, July 9, 2018 and running through Friday, July 27, 2018, 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 19, 2017

Defendant transmitted via facsimile a letter providing change of law firm and address for Mason Avrigian, Jr., Esquire.

July 19, 2017

Defendant transmitted via facsimile a letter providing change of law firm and address for Jeffrey P. Wallack, Esquire.

July 19, 2017

Defendant filed Acceptance of Service of Second Revised Scheduling Order dated July 13, 2017. Receipt of same acknowledged July 17, 2017.

July 19, 2017

Plaintiff filed Acceptance of Service of Second Revised Scheduling Order dated July 13, 2017. Receipt of same acknowledged July 17, 2017.

July 19, 2017

Defendant filed Acceptance of Service of Second Revised Scheduling Order dated July 13, 2017. Receipt of same acknowledged July 17, 2017.

July 21, 2017

Defendant filed via U.S. Mail a letter providing change of law firm and address for Mason Avrigian, Jr., Esquire.

July 21, 2017

Defendant filed via U.S. Mail a letter providing change of law firm and address for Jeffrey P. Wallack, Esquire.

September 26, 2017

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

September 26, 2017

Board forwarded five Subpoenas 4009.21 - to produce documents dated September 26, 2017 to Defendant.

February 22, 2018

Defendant requested via telephone four Subpoenas 234.1 - to testify.

February 23, 2018

Board forwarded four Subpoenas 234.1 - to testify dated February 23, 2018 to Defendant.

April 3, 2018

Parties filed Joint Motion to Extend Deadline for Pre-trial Motions.

April 4, 2018

Board rendered Third Revised Scheduling Order. Order as follows: **"AND NOW**, this 4th day of April, 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 January 26, 2018;¹ 2. The last day for defendant's expert report, if any, to be provided to plaintiff is February 28, 2018;¹ 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by March 30, 2018;² 4. The last day for filing pre-trial motions is April 27, 2018;² 5. The last day for responding to a pre-trial motion is May 14, 2018; 6. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than May 24, 2018 (Please note BOC R.P. 501(b) and (c)(3)); 7.A pre-trial conference is scheduled for Wednesday, May 30, 2018 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, July 9, 2018 and running through Friday, July 27, 2018, 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 Third Revised Scheduling Order dated April 4, 2018. Receipt of same acknowledged April 4, 2018.

April 11, 2018

Plaintiff filed Acceptance of Service of Third Revised Scheduling Order dated April 4, 2018. Receipt of same acknowledged April 10, 2018.

May 15, 2018

Parties filed a joint letter advising that the parties have reached a settlement and requests that the pre-trial statement and the pre-trial conference deadlines be suspended.

May 15, 2018

Board rendered Scheduling Revision Order. Order as follows: "AND NOW, this 15th day of May, 2018, pursuant to a May 14, 2018 letter submitted jointly by counsel for both parties, it is hereby **ORDERED** and **DECREED** that the dates set forth in the Board's Third Revised Scheduling Order of April 4, 2018 for submission of pre-trial statements, pre-trial conference and for hearing on this matter are **SUSPENDED** pending further advice by the parties and action by the Board." Copy forwarded to Plaintiff and Defendant.

May 16, 2018

Defendant filed Acceptance of Service of Scheduling Revision Order dated May 15, 2018. Receipt of same acknowledged May 16, 2018.

May 16, 2018

Plaintiff filed Acceptance of Service of Scheduling Revision Order dated May 15, 2018. Receipt of same acknowledged May 15, 2018.

May 18, 2018

Defendant filed Acceptance of Service of Scheduling Revision Order dated May 15, 2018. Receipt of same acknowledged May 16, 2018.

June 18, 2018

Parties filed a joint Praecipe to Settle, Discontinue and End.

June 19, 2018

Board rendered Order. Order as follows: "**AND NOW**, this 19th day of June, 2018, upon receipt of a joint Praecipe executed by C. Grainger Bowman, Esquire, on behalf of Plaintiff, Walsh Construction Company and Jeffrey P. Wallack, Esquire, on behalf of Defendant, Commonwealth of Pennsylvania, Pennsylvania Turnpike Commission, requesting that the Board kindly mark all claims and counterclaims asserted in the above-captioned consolidated cases as settled, discontinued and ended, with prejudice, docketed with this Board under date of June 18, 2018, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

June 25, 2018

Plaintiff filed Acceptance of Service of Order dated June 19, 2018. Receipt of same acknowledged June 22, 2018.

June 25, 2018

Defendant transmitted, via facsimile, Acceptance of Service of Order dated June 19, 2018. Receipt of same acknowledged June 22, 2018.

June 27, 2018

Defendant filed, via U.S. Mail, Acceptance of Service of Order dated June 19, 2018. Receipt of same acknowledged June 22, 2018.
