

Docket Number: 4134

BRAYMAN CONSTRUCTION CORPORATION

James W. Kutz, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

~~William J. Cressler, Chief Counsel~~
~~Gerald R. Schultz, Assistant Counsel~~
Bradley J. Billet, Assistant Counsel

January 29, 2016

Plaintiff filed a complaint, proof of mailing and filing fee.
Amount of Claim: \$114,003.55+.

February 1, 2016

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

February 4, 2016

Attorney General filed Acknowledgment of complaint form.
Receipt of same acknowledged February 2, 2016.

March 23, 2016

Defendant filed Answer and New Matter.

March 24, 2016

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

April 22, 2016

Defendant filed a copy of a letter addressed to Plaintiff enclosing the Defendant's request for production of documents.

May 2, 2016

Defendant filed a copy of a letter addressed to Plaintiff enclosing the Defendant's Interrogatories - 1st Set.

June 13, 2016

Defendant filed a copy of a letter addressed to Plaintiff enclosing the Defendant's Requests for Admissions - 1st Set.

June 15, 2016

Plaintiff filed Reply to New Matter.

June 16, 2016

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

June 30, 2016

Plaintiff filed praecipe to withdraw appearance of Ashley Brooke Nichols, on behalf of Plaintiff.

October 10, 2017

Plaintiff filed letter requesting a status conference for scheduling purposes and/or the Board to schedule a hearing in this matter in 2018.

October 10, 2017

Board forwarded letter to parties requesting scheduling information.

October 25, 2017

Defendant transmitted via facsimile Proposed Scheduling Order.

October 25, 2017

Defendant filed via U.S. Mail Proposed Scheduling Order.

October 31, 2017

Plaintiff filed Proposed Scheduling Order.

November 2, 2017

Board rendered Scheduling Order. Order as follows: **"AND NOW**, this 2nd day of November, 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 June 1, 2018;¹ 2. The last day for defendants' expert report, if any, to be provided to plaintiff is July 6, 2018;¹ 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by August 15, 2018;² 4. The last day for filing pre-trial motions is August 29, 2018;² 5. Pre-trial statements of both parties shall

be filed with the Board and served upon one another no later than October 10, 2018 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, October 16, 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 Tuesday, November 13, 2018 and running through Friday, November 16, 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.

December 28, 2017

Defendant filed praecipe for entry of appearance entering appearance of Bradley J. Billet, Assistant Counsel and praecipe for withdrawal of appearance of Gerald R. Schultz, Senior Counsel, on behalf of Defendant.

March 15, 2018

Defendant filed Certificate of Service of Defendant's Response to Plaintiff's First Set of Interrogatories.

May 11, 2018

Defendant filed Motion to Compel.

May 11, 2018

Board forwarded letter to Plaintiff, with copy to Defendant, requesting response to motion to compel.

June 11, 2018

Plaintiff filed response to Defendant's motion to compel.

June 11, 2018

Plaintiff filed Motion to Compel Discovery.

June 12, 2018

Board forwarded letter to Defendant, with copy to Plaintiff, requesting response to motion to compel.

June 12, 2018

Board forwarded letter to Defendant, with copy to Plaintiff, requesting reply to Plaintiff's response to motion to compel.

June 22, 2018

Defendant filed its Reply to Plaintiff's Response to Defendant's Motion to Compel.

June 22, 2018

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 22nd day of June, 2018, Defendant's Motion to Compel is **DISMISSED** as **MOOT**." Copy forwarded to Plaintiff and Defendant.

June 29, 2018

Defendant filed response to Plaintiff's motion to compel.

July 6, 2018

Defendant filed acceptance of service of Opinion and Order dated June 22, 2018. Receipt of same acknowledged June 29, 2018.

July 9, 2018

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

July 9, 2018

Board forwarded letter to Plaintiff, with copy to Defendant, requesting reply to Defendant's response to motion to compel.

July 19, 2018

Plaintiff filed Response to Defendant's Response to Plaintiff's Motion to Compel.

July 25, 2018

Board forwarded letter to parties advising of dates available for status conference.

July 27, 2018

Plaintiff transmitted via facsimile a letter advising the Board of the dates Plaintiff is available for a status conference.

July 27, 2018

Plaintiff filed via U.S. mail a letter advising the Board of the dates Plaintiff is available for a status conference.

August 1, 2018

Defendant transmitted via facsimile a letter advising the Board of the dates Plaintiff is available for a status conference and requesting that Mr. Jeffrey S. Mountain, Transportation Construction Manager, be allowed to participate by telephone.

August 1, 2018

Board forwarded letter via facsimile & U.S. Mail scheduling status/discovery conference on August 16, 2018 at 1:00 p.m. and advising that Mr. Mountain may attend by teleconference.

August 2, 2018

Defendant filed via U.S. Mail a letter advising the Board of the dates Plaintiff is available for a status conference and requesting that Mr. Jeffrey S. Mountain, Transportation Construction Manager, be allowed to participate by telephone.

August 10, 2018

Defendant transmitted via facsimile a letter providing information prior to the status conference.

August 16, 2018

Board held status conference.

August 17, 2018

Board rendered a Revised Scheduling Order. Order as follows: **"AND NOW**, this 17th day of August, 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 September 19, 2018; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is October 19, 2018; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by November 21, 2018; 4. The last day for filing pre-trial motions is November 28, 2018; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than January 17, 2019 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Thursday, January 24, 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 Tuesday, February 19, 2019 and running through Friday, February 22, 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.

August 20, 2018

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 20th day of August, 2018, Plaintiff's Motion to Compel is **DENIED** as **MOOT**." Copy forwarded to Plaintiff and Defendant.

August 22, 2018

Board rendered a Second Revised Scheduling Order. Order as follows: "AND NOW, this 22nd day of August, 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 September 19, 2018; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is October 19, 2018; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by November 21, 2018; 4. The last day for filing pre-trial motions is November 28, 2018; 5.

Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than January 17, 2019 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Thursday, January 24, 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, February 4, 2019 and running through Friday, February 8, 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.

August 24, 2018

Defendant filed acceptance of service of Revised Scheduling Order dated August 17, 2018. Receipt of same acknowledged August 24, 2018.

August 24, 2018

Defendant filed acceptance of service of Revised Scheduling Order dated August 22, 2018. Receipt of same acknowledged August 24, 2018.

August 24, 2018

Defendant filed acceptance of service of Revised Scheduling Order dated August 20, 2018. Receipt of same acknowledged August 24, 2018.

October 9, 2018

Plaintiff requested via letter two Subpoenas 4009.21 - to produce documents.

October 9, 2018

Board forwarded two Subpoenas 4009.21 - to produce documents dated October 9, 2018 to Plaintiff.

October 16, 2018

Plaintiff requested via telephone one Subpoena 234.1 - to attend and testify.

October 16, 2018

Board forwarded one Subpoena 234.1 - to attend and testify dated October 16, 2018 to Plaintiff.

November 19, 2018

Defendant filed a letter advising that the parties are engaged in settlement discussions and additional discovery and therefore proposes a hearing date after June 2019; Plaintiff concurs with this request.

November 27, 2018

Board rendered a Third Revised Scheduling Order. Order as follows: " The last day for plaintiff's expert report, if any, to be provided to defendant is May 10, 2019; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is June 14, 2019; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by July 19, 2019; 4. The last day for filing pre-trial motions is August 2, 2019; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than September 16, 2019 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, September 24, 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, October 21, 2019 and running through Friday, October 25, 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.

December 3, 2018

Plaintiff filed acceptance of service of Third Revised Scheduling Order dated November 27, 2018. Receipt of same acknowledged November 30, 2018.

December 11, 2018

Defendant filed acceptance of service of Third Revised Scheduling Order dated November 27, 2018. Receipt of same acknowledged November 29, 2018.

July 8, 2019

Plaintiff filed a letter requesting an extension to the discovery deadline; Defendant agrees to same.

July 9, 2019

Board rendered Fourth Revised Scheduling Order. Order as follows: **"AND NOW**, this 9th 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 10, 2019;¹ 2. The last day for defendants' expert report, if any, to be provided to plaintiff remains June 14, 2019;¹ 3. The last day for filing pre-trial motions remains August 2, 2019;² 4. All discovery, including exchange of any further rebuttal expert reports, shall be completed by September 11, 2019;² 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than September 16, 2019 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, September 24, 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, October 21, 2019 and running through Friday, October 25, 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 24, 2019

Plaintiff filed acceptance of service of Fourth Revised Scheduling Order. Receipt of same acknowledged July 18, 2019.

August 1, 2019

Defendant filed acceptance of service of Fourth Revised Scheduling Order. Receipt of same acknowledged July 10, 2019.

August 28, 2019

Board forwarded Notice of Settlement Conference.

August 28, 2019

Plaintiff filed a letter advising that the parties have reached a settlement and requesting that the pretrial conference and hearing be postponed.

February 18, 2020

Plaintiff filed praecipe to discontinue signed by both parties.

February 19, 2020

Board rendered a Praecipe Order. Order as follows: "**AND NOW**, this 19th day of February, 2020, upon receipt of a Praecipe executed by James W. Kutz, Esquire, on behalf of Plaintiff, Brayman Construction Corporation, and Bradley J. Billet, Assistant Counsel, on behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation, requesting that the Board mark the above-captioned matter settled, ended and discontinued, docketed with this Board under date of February 18, 2020, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.
