

Docket Number: 4138

eciCONSTRUCTION, LLC

Timothy J. Woolford, Esquire
Joseph M. Kanfer, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES**

Charles Anderson, Chief Counsel
David L. Narkiewicz, Assistant Chief Counsel
Joseph M. Gavazzi, Assistant Counsel

April 15, 2016

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

April 18, 2016

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

April 26, 2016

Attorney General filed Acknowledgment of Claim form. Receipt of same acknowledged April 21, 2016.

May 13, 2016

Defendant filed preliminary objections and brief in support.

May 13, 2016

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

June 13, 2016

Plaintiff filed response and new matter and brief in opposition to preliminary objections.

June 15, 2016

Board forwarded letter to parties advising that the Board wishes to schedule a status conference and requesting a date for same.

June 15, 2016

Plaintiff transmitted via facsimile a letter advising that parties have scheduled a meeting to discuss a potential resolution of claim in both Docket No. 4138 & 4141 and advising that Plaintiff has no objection to deferring both cases until after July 12, 2016.

June 16, 2016

Board forwarded letter (via Facsimile & U.S. Mail) deferring action on preliminary objections in Docket Nos. 4138 & 4141 until after July 12, 2016.

June 17, 2016

Plaintiff filed via U.S. mail a letter advising that parties have scheduled a meeting to discuss a potential resolution of claim in both Docket No. 4138 & 4141 and advising that Plaintiff has no objection to deferring both cases until after July 12, 2016.

August 3, 2016

Plaintiff transmitted via facsimile a letter advising that a resolution was not achieved at the meeting and requesting the Board schedule a status conference.

August 5, 2016

Board forwarded letters to parties with dates the Board is available to schedule a status conference.

August 5, 2016

Plaintiff filed via U.S. mail a letter advising that a resolution was not achieved at the meeting and requesting the Board schedule a status conference.

August 11, 2016

Plaintiff transmitted via facsimile a letter advising that the parties are available for a status conference on September 14, 2016.

August 11, 2016

Board forwarded letter to parties scheduling a conference for Wednesday, September 14, 2016 at 1:00 p.m.

August 15, 2016

Plaintiff filed via U.S. mail a letter advising that the parties are available for a status conference on September 14, 2016.

September 14, 2016

Board status conference held at 200 North Third Street, Suite 700, Harrisburg, PA 17101.

October 5, 2016

Defendant transmitted via facsimile a letter requesting the Board to schedule a follow up status conference.

October 5, 2016

Plaintiff transmitted via facsimile a letter advising that the parties are not available for a hearing on January 18, 2017, but are available on February 1, 2 and/or 3rd.

October 6, 2016

Plaintiff filed Notice of Service of Interrogatories (First Set); Requests for Production of Documents (First Set); Notice of Depositions.

October 7, 2016

Board forwarded letters to parties with dates the Board is available to schedule a status conference.

October 11, 2016

Plaintiff transmitted via facsimile a letter advising that both parties are available for a status conference on October 26, 2016.

October 11, 2016

Board forwarded letter to parties scheduling a conference for Wednesday, October 26, 2016 at 1:00 p.m.

October 11, 2016

Plaintiff filed via U.S. mail a letter advising that both parties are available for a status conference on October 26, 2016.

October 26, 2016

Board status conference held at 200 North Third Street, Suite 700, Harrisburg, PA 17101.

October 27, 2016

Board forwarded letter to parties directing Plaintiff to file an updated brief within 20 days; then giving Defendant 20 days from its receipt to file its reply brief.

October 31, 2016

Plaintiff filed Praecipe for Entry of Appearance of Joseph M. Kanfer of the law firm Woolford Law, P.C., on behalf of Plaintiff.

November 16, 2016

Plaintiff filed Supplemental Brief in Opposition to Preliminary Objections addressing "Tribunal" Issue.

December 5, 2016

Defendant filed supplemental brief in support of preliminary objections to statement of claim addressing applicability of 42 Pa. C.S. § 5103.

December 16, 2016

Plaintiff filed Motion for Leave to File Reply Brief in Opposition to preliminary objections addressing "tribunal" issue and proposed order.

December 16, 2016

Board forwarded letter to Plaintiff, with copy to Defendant, granting motion for leave to file reply brief.

December 19, 2016

Plaintiff filed Reply Brief in Opposition to Preliminary Objections addressing "Tribunal" issue.

February 9, 2017

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 9th day of February, 2017, upon consideration of the preliminary objections to ECI's Complaint filed by Defendant DGS, ECI's response thereto, and briefs filed by the parties, it is **ORDERED** and **DECREED** as follows: 1. DGS's second preliminary objection is **SUSTAINED**, and Count V of ECI's Complaint, filed with the Board on April 15, 2016, is **DISMISSED**; 2. 42 Pa.C.S. §5103 is not applicable to require transfer of the Complaint received by DGS to the Board; and 3. The parties are to confer and advise the Board within two weeks from the date of this Order as to their proposed schedules for discovery and evidential hearing with respect to ECI's fraudulent concealment and nunc pro tunc arguments as discussed herein." Copy forwarded to Plaintiff and Defendant.

February 14, 2017

Plaintiff transmitted via facsimile an acceptance of service of Opinion and Order dated February 9, 2017. Receipt of same acknowledged February 14, 2017.

February 15, 2017

Plaintiff filed acceptance of service of Opinion and Order dated February 9, 2017. Receipt of same acknowledged February 14, 2017.

February 15, 2017

Defendant filed acceptance of service of Opinion and Order dated February 9, 2017. Receipt of same acknowledged February 10, 2017.

February 23, 2017

Plaintiff filed Motion to Certify Order for Interlocutory Appeal Pursuant to 42 PA. C.S. §702(B) and PA. R. APP.P. 1311(B), Brief in Support and Proposed Order.

February 24, 2017

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

March 13, 2017

Defendant filed Response in Opposition to Plaintiff's Motion to Certify Order for Interlocutory Appeal Pursuant to 42 PA. C.S. §702(B) and PA. R. APP.P. 1311(B) and Brief in Opposition.

March 21, 2017

Board rendered an Opinion and Order. Order as follows: **"AND NOW, this 21st day of March, 2017, upon consideration of ECI's Motion to Certify Order for Interlocutory Appeal, IT IS ORDERED that the Motion is DENIED."** Copy forwarded to Plaintiff and Defendant.

March 23, 2017

Defendant filed acceptance of service of Opinion and Order dated March 21, 2017. Receipt of same acknowledged March 22, 2017.

March 23, 2017

Plaintiff transmitted via facsimile acceptance of service of Opinion and Order dated March 21, 2017. Receipt of same acknowledged March 23, 2017.

March 24, 2017

Plaintiff filed acceptance of service of Opinion and Order dated March 21, 2017. Receipt of same acknowledged March 23, 2017.

March 28, 2017

Defendant filed letter via facsimile forwarded to Plaintiff relative to discovery requests.

April 26, 2017

Plaintiff transmitted via facsimile a letter advising that both parties are available for an evidentiary hearing mid-to late July and request 90 days for discovery.

April 26, 2017

Board forwarded letter to Plaintiff, with copy to Defendant, requesting clarification of its letter dated April 25, 2017.

April 27, 2017

Plaintiff filed via U.S. mail a letter advising that both parties are available for an evidentiary hearing mid-to late July and request 90 days for discovery.

May 4, 2017

Plaintiff transmitted via facsimile a letter clarifying its letter of April 26, 2017, advising that the parties agree that the discovery and evidentiary hearing they are requesting should only address Docket No. 4138.

May 5, 2017

Board rendered an Order. Order as follows: "**AND NOW**, this 4th day of May, 2017, pursuant to recent correspondence from the parties, an evidentiary hearing to determine all remaining factual issues pertinent to the Board's jurisdiction over eciConstruction, LLC's claim against the Commonwealth of Pennsylvania, Department of General Services has been set to begin on Wednesday July 19, 2017, and run through Friday, July 21, 2017, or as otherwise necessary. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101 beginning at 9:30 a.m. on Wednesday, July 19, 2017. It is **FURTHER ORDERED** and **DECREED** that discovery in this matter relevant to the outstanding jurisdictional issues proceed apace and that both parties exchange and file with this Board a list of exhibits and witnesses which they plan to present at this hearing by no later than July 13, 2017." Copy forwarded to Plaintiff and Defendant.

May 5, 2017

Plaintiff filed acceptance of service of Order dated May 4, 2017. Receipt of same acknowledged May 4, 2017.

May 11, 2017

Defendant filed acceptance of service of Order dated May 4, 2017. Receipt of same acknowledged May 10, 2017.

May 22, 2017

Defendant transmitted via facsimile a letter advising that the parties have reached an agreement in principle and requesting that the evidentiary hearing scheduled in 4138 to begin July 19, 2017 be removed from the calendar and that all three cases (4138, 4141 and 4151) be stayed pending formalization of a settlement agreement.

May 24, 2017

Board rendered an Order. Order as follows: "**AND NOW**, this 24th day of May, 2017, for the reasons noted in Defendant's letter of May 22, 2017, it is hereby **ORDERED** and **DECREED** that the proceedings in this case are **STAYED** until further action by the Board." Copy forwarded to Plaintiff and Defendant.

May 30, 2017

Plaintiff filed acceptance of service of Order dated May 24, 2017. Receipt of same acknowledged May 26, 2017.

September 20, 2017

Plaintiff filed Praecipe to Settle, Discontinue and End.

September 21, 2017

Board rendered Order. Order as follows: "**AND NOW**, this 21st day of September, 2017, upon receipt of a Praecipe executed by Joseph M. Kanfer, Esquire, on behalf of Plaintiff, eciConstruction, LLC, requesting that the Board mark the above-captioned matter settled, discontinued and ended, docketed with this Board under date of September 20, 2017, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

September 27, 2017

Defendant filed acceptance of service of Order dated September 21, 2017. Receipt of same acknowledged September 22, 2017.

September 27, 2017

Plaintiff filed acceptance of service of Order dated September 21, 2017. Receipt of same acknowledged September 26, 2017.
