

Docket Number: 4148A
(SEVERED FROM 4148)

~~SWANK ASSOCIATED COMPANIES, SWANK CONSTRUCTION COMPANY LLC,
SAFETY GROOVING & GRINDING LP~~

~~Christopher M. Reeser, Esquire~~

PENN LINE SERVICE INC.

L. John Argento, Esquire

~~NEW ENTERPRISE STONE & LIME CO. INC.~~

~~Steven D. Snyder, Esquire~~

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Christina A. Israel, Esquire
Jason M. Wolgemuth, Esquire

AS FILED IN 4148

June 29, 2016

By Order of the Court of Common Pleas of Bedford County, Pennsylvania, case filed, Order as follows: "AND NOW, Wednesday, June 29, 2016, the Order of Court is as follows: 1. Inasmuch as we find that the Board of Claims has exclusive jurisdiction of the cross-claims filed by Defendants Swank Associated Companies, Inc., Swank Construction Company, LLC, Safety Grooving and Grinding, LP, New Enterprise Stone and Lime Co., Inc. and Nestor, Inc., pursuant to 62 Pa.C.S.A. §1724(a)(1), the above-captioned matter shall be transferred to the Board of Claims for disposition, pursuant to 42 Pa.C.S.A. §5103(a). 2. The Prothonotary of Bedford County shall transfer the above-captioned matter to the Board of Claims as soon as is practicable. 3. Defendants Swank Associated Companies, Inc., Swank Construction Company, LLC, and Safety Grooving and Grinding, LP's Motion for Partial Summary Judgment against the Pennsylvania Department of Transportation is denied without prejudice, due to the transfer of this matter. 4. Defendant New Enterprise Stone and Lime Co., Inc.'s Motion for Partial Summary Judgment against the Pennsylvania Department of Transportation is denied without prejudice, due to the transfer of this matter. 5. Defendant Nestor, Inc.'s Motion for Partial Summary Judgment against the Pennsylvania Department of Transportation is denied without prejudice, due to the transfer of this matter."

June 29, 2016

Court of Common Pleas of Bedford County transferred record.

July 14, 2016

Board of Claims received file from Court of Common Pleas of Bedford County. Amount of Claim: unknown.

July 14, 2016

Complete docket and record from Court of Common Pleas of Bedford County filed.

July 20, 2016

Board forwarded letter to all parties regarding severance of case and advising if the parties object to this course of action to file a position brief within 20 days.

July 28, 2016

Swank Associated transmitted via facsimile a letter seeking clarification of Board's letter in dated July 20, 2016.

July 29, 2016

Board forwarded letter to all parties regarding the status of both cases (4146 & 4148).

August 1, 2016

U.S. Post Office returned letter dated July 29, 2016 addressed to Ann-Lee Corporation due to address change and/or incorrect mailing address (not deliverable as addressed unable to forward).

August 1, 2016

New Enterprise Stone and Lime Co., Inc. filed a Statement of Claim, proof of mailing (to PennDOT) and filing fee. Amount of Claim: unknown.

August 1, 2016

Board issued deficiency notice to New Enterprise. Claim lacks additional copies.

August 2, 2016

New Enterprise filed additional copies of claim.

August 3, 2016

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

August 10, 2016

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 10th day of August, 2016, it is **ORDERED** and **DECREED** that, pursuant to Pa. R.C.P. 213(b) the contractual "indemnification" claims made by Swank Associated Companies; Swank Construction Company, LLC; Safety Grooving & Grinding, LP; Penn Line Service, Inc. and New Enterprise Stone & Lime Co., Inc. against PennDOT are hereby severed from the remaining claims in this case. These five contractual "indemnification" claims will be assigned new Docket No. 4148A and be retained by this Board. It is **FURTHER ORDERED** and **DECREED** that the remaining claims of this case at Docket No. 4148 (and the record thereof) are hereby **TRANSFERRED** to the Court of Common Pleas of Bedford County, Pennsylvania pursuant to 42 Pa. C.S. § 5103(a) and Pa. R.C.P. 213(f)." Copy forwarded to all parties of record.

August 10, 2016

Board transferred case to the Court of Common Pleas of Bedford County, Pennsylvania per Board's Order of August 10, 2016.

AS FILED IN 4148A

August 11, 2016

Board issued letter to Swank Associated Companies, Swank Construction Company, LLC and Safety Grooving & Grinding, LP requesting Restated Claim, proof of mailing and filing fee.

August 11, 2016

Board issued letter to Penn Line Service, Inc. requesting Restated Claim, proof of mailing and filing fee.

August 11, 2016

Board issued letter to New Enterprise Stone & Lime Co., Inc. acknowledging receipt of its Restated Claim, proof of mailing and filing fee on August 1, 2016.

August 18, 2016

Swank Associated filed a letter advising that they will not be perfecting its claim here at 4148A, but simply proceeding with the claim filed at 4146.

August 22, 2016

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 22nd day of August, 2016, it is **ORDERED** and **DECREED** that the claims of Swank Associated Companies Inc., Swank Construction Company LLC. and Safety Grooving & Grinding LP against Commonwealth of Pennsylvania, Department of Transportation contained in Docket No. 4148A are **CLOSED** and **DISCONTINUED** for failure to complete the filing process." Copy forwarded to all parties of record.

August 29, 2016

New Enterprise filed acceptance of service of Opinion and Order dated August 22, 2016. Receipt of same acknowledged August 25, 2016.

August 29, 2016

Swank filed acceptance of service of Opinion and Order dated August 22, 2016. Receipt of same acknowledged August 24, 2016.

September 12, 2016

Penn Line filed acceptance of service of Opinion and Order dated August 22, 2016. Receipt of same acknowledged September 7, 2016.

October 13, 2016

Board issued second letter to Penn Line requesting Restated Claim, proof of mailing and filing fee.

October 13, 2016

Board issued letter to New Enterprise and Defendant requesting them to advise if the parties intend to pursue this case and proceed accordingly.

October 28, 2016

Defendant (in New Enterprise case) filed Joint Stipulation of Dismissal Without Prejudice.

November 1, 2016

Board rendered an Order. Order as follows: "**AND NOW**, this 1st day of November, 2016, upon receipt of a Joint Stipulation of Dismissal executed by Steven D. Snyder, Esquire, on behalf of Plaintiff, New Enterprise Stone & Lime Co., Inc., and Jason M. Wolgemuth, Esquire, on behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation, advising the Board that the parties jointly stipulate to the voluntary dismissal of this action without prejudice, docketed with this Board under date of October 28, 2016, it is **ORDERED** and **DIRECTED** that the action between New Enterprise Stone & Lime Co., Inc. and Department of Transportation be marked **DISMISSED** and ended without prejudice." Copy forwarded to all parties of record.

November 1, 2016

Board rendered and Order. Order as follows: "**AND NOW**, this 1st day of November, 2016, it is **ORDERED** and **DECREED** that the claims of Penn Line Service Inc. against Commonwealth of Pennsylvania, Department of Transportation contained in Docket No. 4148A are **CLOSED** and **DISCONTINUED** for failure to complete the filing process." Copy forwarded to Plaintiff and Defendant.
