

Docket Number: 4159

SUSQUEHANNA SUPPLY COMPANY

James W. Kutz, Esquire
~~Catherine H. Law, Esquire~~

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

~~William J. Cressler, Chief Counsel~~
~~Gerald R. Schultz, Senior Counsel~~
Jeffrey W. Davis, Deputy Chief Counsel

January 27, 2017

Plaintiff filed Complaint proof of mailing and filing fee. Amount of Claim: \$2,668,721.26+.

January 30, 2017

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

February 6, 2017

Attorney General filed acknowledgment of claim form. Receipt of same acknowledged February 1, 2017.

February 6, 2017

Plaintiff filed a letter requesting the Board schedule a status conference.

February 8, 2017

Board forwarded letter to parties requesting proposed scheduling information.

February 23, 2017

Plaintiff filed a proposed scheduling order.

February 24, 2017

Defendant filed a proposed scheduling order.

March 1, 2017

Board rendered a scheduling order. Order as follows: **"AND NOW**, this 1st day of March, 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 30, 2018; 2. The last day for defendants' expert report, if any, to be provided to plaintiff is September 14, 2018; 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by October 31, 2018; 4. The last day for filing pre-trial motions is November 16, 2018; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than December 14,

2018 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Thursday, January 3, 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 15, 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.

March 3, 2017

Defendant filed answer and new matter.

March 6, 2017

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

March 6, 2017

Plaintiff filed acceptance of service of scheduling order dated March 1, 2017. Receipt of same acknowledged March 3, 2017.

March 23, 2017

Defendant filed type notice of service of Defendant's Request for Production of Documents - First Set.

March 27, 2017

Plaintiff filed Reply to New Matter.

March 28, 2017

Board forwarded letter to parties directing parties to commence with discovery.

October 16, 2017

Defendant filed Motion to Dismiss Plaintiff's Claim and Brief in Support.

October 17, 2017

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

November 14, 2017

Plaintiff filed brief in opposition to Defendant's motion to dismiss claim for alleged failure to exhaust administrative remedies.

November 15, 2017

Plaintiff filed answer to Defendant's motion to dismiss claim for alleged failure to exhaust administrative remedies.

November 22, 2017

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 22nd day of November, 2017, upon consideration of the motion to dismiss filed by the Department of Transportation and the opposition to the motion filed by Susquehanna Supply Company, the motion is **DENIED**." Copy forwarded to Plaintiff and Defendant.

November 30, 2017

Plaintiff filed acceptance of service of Opinion and Order dated November 22, 2017. Receipt of same acknowledged by Plaintiff November 27, 2017.

January 9, 2018

Plaintiff filed praecipe to withdraw appearance of Catherine H. Law, Esquire on behalf of Plaintiff.

February 28, 2018

Defendant filed a Motion to Compel Production of Documents Pursuant to Pa. R.C.P. 4019 and Brief in Support.

March 1, 2018

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

March 29, 2018

Plaintiff filed response to Defendant's Motion to Compel Production of Documents with New Matter.

March 30, 2018

Board forwarded letter to Defendant requesting response to new matter to Defendant's motion to compel.

April 9, 2018

Plaintiff filed a letter requesting 3 subpoenas.

April 9, 2018

Board forwarded 3 subpoenas 4009.21 - to produce documents dated April 9, 2018 to Plaintiff.

April 19, 2018

Defendant filed reply to Plaintiff's new matter.

April 19, 2018

Defendant filed Praecipe for Withdrawal of Appearance of Gerald R. Schultz, Senior Counsel on behalf of Defendant.

April 19, 2018

Defendant filed Praecipe for Entry of Appearance of Jeffrey W. Davis, Deputy Chief Counsel on behalf of Defendant.

April 23, 2018

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 23rd day of April, 2018, upon consideration of the Motion to Compel Production of Documents Pursuant to Pa.R.C.P. 4019 filed by Respondent, Commonwealth of Pennsylvania, Department of Transportation ("Department"), and the response thereto filed by Susquehanna Supply Company ("SSC"), it is hereby **ORDERED** that the Motion is **DENIED**. SSC shall maintain the designated documents for a period of not less than 45 days from the date of this Order, and the Department shall make arrangements for copying the designated documents within the 45 day time period should it wish to obtain same." Copy forwarded to Plaintiff and Defendant.

May 3, 2018

Plaintiff filed acceptance of service of Opinion and Order dated April 23, 2018. Receipt of same acknowledged April 27, 2018.

May 7, 2018

Plaintiff filed a letter on behalf of both parties requesting that the hearing scheduled in this matter be postponed and that a revised trial date be scheduled for either late 2019 or early 2020.

May 8, 2018

Board forwarded letter scheduling a teleconference for Thursday, May 10, 2018 at 1:00 p.m.

May 10, 2018

Teleconference held May 10, 2018 at 1:00 p.m.

May 11, 2018

Board rendered Revised Scheduling Order. Order as follows: **"AND NOW**, this 11th day of May, 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 July 31, 2019;¹ 2. The last day for defendants' expert report, if any, to be provided to plaintiff is September 13, 2019;¹ 3. All discovery, including exchange of any further rebuttal expert reports, shall be completed by October 31, 2019;² 4. The last day for filing pre-trial motions is November 12, 2019;² 5. Pre-trial statements of both parties shall be filed with

the Board and served upon one another no later than December 20, 2019 (Please note BOC R.P. 501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Thursday, January 2, 2020 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 10, 2020 and running through Friday, February 21, 2020, 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, 2019

Plaintiff filed a Praecipe to Discontinue.

April 8, 2019

Board rendered Praecipe Order. Order as follows: "**AND NOW**, this 8th day of April, 2019, upon receipt of a Praecipe executed by James W. Kutz, Esquire, on behalf of Plaintiff, Susquehanna Supply Company, and Robert T. Kuntz, Assistant Counsel, on behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation, requesting that the Board mark the above-referenced action settled, ended and discontinued with prejudice, docketed with this Board under date of April 5, 2019, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

April 17, 2019

Plaintiff filed acceptance of service of Order dated April 8, 2019. Receipt of same acknowledged April 10, 2019.
