

Docket Number: 4181

HEMPT BROS., INC.

James W. Kutz, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA TURNPIKE COMMISSION

~~Doreen McCall, Chief Counsel~~
Kelly H. Decker, Esquire
Douglas C. Hart, Esquire

March 2, 2018

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

March 5, 2018

Board issued Acknowledgment letter requesting response from Defendant and forwarding a copy of the Complaint to Attorney General.

March 20, 2018

Attorney General filed acknowledgment of complaint form. Receipt of same acknowledged March 9, 2018.

March 28, 2018

Defendant filed Preliminary Objections and Brief in Support.

March 28, 2018

Board forwarded letter to Plaintiff, with copy to Defendant, advising of rules for filing response.

April 26, 2018

Plaintiff filed preliminary objections in response to Defendant's preliminary objections and brief in support.

April 30, 2018

Board forwarded letter to Defendant, with copy to Plaintiff, advising of rules for filing response.

May 25, 2018

Defendant filed response in opposition to preliminary objections and brief.

June 6, 2018

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 6th day of June 2018, upon consideration of the preliminary objections filed by Hempt Bros., Inc. to PTC's preliminary objections, PTC's response in opposition thereto, and briefs filed by the parties, it is **ORDERED** and **DECREED** as follows: 1. Hempt's preliminary objections are **OVERRULED**; 2. Hempt shall have twenty days in which to file a response to PTC's preliminary objections." Copy forwarded to Plaintiff and Defendant.

June 12, 2018

Defendant filed Acceptance of Service of Opinion and Order dated June 6, 2018. Receipt of same dated June 7, 2018.

June 13, 2018

Plaintiff filed a letter requesting an extension of time until July 26, 2018 to file its response to Defendant's preliminary objections and advising that Defendant concurs.

June 13, 2018

Plaintiff filed Acceptance of Service of Opinion and Order dated June 6, 2018. Receipt of same dated June 11, 2018.

June 14, 2018

Board forwarded letter to Plaintiff, with copy to Defendant, granting Plaintiff an extension of time until July 26, 2018 to file its response to Defendant's preliminary objections.

July 26, 2018

Plaintiff filed Answer and New Matter to Defendant's Preliminary Objections and Brief.

July 27, 2018

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

July 27, 2018

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

July 30, 2018

Board forwarded two Subpoenas 4009.21 - to produce documents dated July 30, 2018 to Plaintiff.

August 1, 2018

Defendant filed a letter requesting an extension of time until September 21, 2018 in which to file its reply to new matter.

August 1, 2018

Board forwarded letter via facsimile & U.S. Mail to Defendant, with copy to Plaintiff, granting extension.

September 21, 2018

Defendant filed Preliminary Objection in the Nature of a Motion to Strike New Matter for Lack of Conformity to Pa.R.C.P. 1017, Brief in Support and Proposed Order.

September 26, 2018

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 26th day of September, 2018, upon consideration of the preliminary objections to Plaintiff Hempt Bros., Inc.'s Statement of Claim filed by Defendant, Pennsylvania Turnpike Commission; Hempt's answer and new matter filed in response thereto; PTC's preliminary objection in the nature of a motion to strike Hempt's new matter; and the briefs filed by the parties, it is **ORDERED** and **DECREED** as follows: 1. PTC's preliminary objection in the nature of a motion to strike Hempt's new matter is **SUSTAINED**, and the motion to strike said new matter is **GRANTED**; 2. A decision on PTC's preliminary objections to Plaintiff Hempt Bros., Inc.'s Statement of Claim is **DEFERRED** until such time as a hearing may be held in order for the parties to present any and all factual matters relevant to determination of said preliminary objections; and 3. Counsel are directed to confer and advise the Board within the next ten days of a proposed date or dates for such a hearing as well as their individual need for a discovery period, if any, to prepare for the hearing." Copy forwarded to Plaintiff and Defendant.

October 2, 2018

Defendant filed Acceptance of Service of Opinion and Order dated September 26, 2018. Receipt of same dated October 1, 2018.

October 9, 2018

Plaintiff filed letter regarding the Board's Order of September 26, 2018 and requesting a status conference.

October 9, 2018

Board forwarded letter to parties scheduling status conference for October 22, 2018 at 1:00 p.m.

October 22, 2018

Board held status conference on October 22, 2018 at 1:00 p.m.

October 23, 2018

Board rendered Order. Order as follows: "**AND NOW**, this 23rd day of October, 2018, pursuant to a recent status conference with the parties, an evidentiary hearing to determine all factual issues pertinent to the Board's jurisdiction over the claim of Hempt Bros., Inc. against the Commonwealth of Pennsylvania, Pennsylvania Turnpike Commission has been set for Tuesday and Wednesday, May 7 and 8, 2019. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101 beginning at 9:30 a.m. 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 along with any agreed upon stipulations by no later than April 29, 2019." Copy forwarded to Plaintiff and Defendant.

November 8, 2018

Defendant filed Acceptance of Service of Order dated October 23, 2018. Receipt of same dated October 26, 2018.

February 19, 2019

Defendant filed Entry of Appearance of Douglas C. Hart, Esquire and Burns White LLC on behalf of Defendant.

March 7, 2019

Board rendered Order Postponing Hearing. Order as follows: "**AND NOW**, this 7th day of March, 2019, the evidentiary hearing in this matter scheduled for May 7 and 8, 2019 is hereby **POSTPONED** indefinitely. The parties are directed to confer and advise the Board of alternate dates for the hearing." Copy forwarded to Plaintiff and Defendant.

March 11, 2019

Defendant filed Acceptance of Service of Order Postponing Hearing

dated March 7, 2019. Receipt of same dated March 8, 2019.

October 21, 2019

Board forwarded letter directing parties to provide alternate dates for the evidentiary hearing.

November 7, 2019

Board rendered Order. Order as follows: "**AND NOW**, this 7th day of November, 2019, an evidentiary hearing to determine all factual issues pertinent to the Board's jurisdiction over the claim of Hempt Bros., Inc. against the Commonwealth of Pennsylvania, Pennsylvania Turnpike Commission is hereby set for Wednesday and Thursday, February 19 and 20, 2020. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101 beginning at 9:30 a.m. 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 along with any agreed upon stipulations by no later than February 7, 2020." Copy forwarded to Plaintiff and Defendant.

November 12, 2019

Plaintiff filed Motion to Compel Discovery Responses and Brief in Support.

November 13, 2019

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

November 14, 2019

Defendant filed Acceptance of Service of Order dated November 7, 2019. Receipt of same dated November 13, 2019.

November 18, 2019

Plaintiff filed Acceptance of Service of Order dated November 7, 2019. Receipt of same dated November 14, 2019.

December 4, 2019

Defendant filed response in opposition to Plaintiff's motion to compel discovery responses.

December 9, 2019

Board forwarded, via facsimile, a letter requesting Plaintiff to advise the Board whether or not Defendant has fully responded to Plaintiff's interrogatories and request for production of documents.

December 16, 2019

Plaintiff filed letter advising it withdraws its Motion to Compel Discovery but reserves the right to file a follow-up motion to compel if it is determined that there is still additional information that has not yet been provided. **Motion is hereby WITHDRAWN.**

December 27, 2019

Defendant transmitted via facsimile a letter advising that Defendant is not available February 19 & 20, 2020 for the hearing scheduled and requesting the hearing be scheduled for April 14-16, 2020, or that a status conference be scheduled in the near future.

December 30, 2019

Board forwarded letter via facsimile and U.S. Mail advising that the Board is available on April 15-17, 2020 for the evidentiary hearing.

January 3, 2020

Board rendered Third Revised Order. Order as follows: "**AND NOW**, this 3rd day of January, 2020, an evidentiary hearing to determine all factual issues pertinent to the Board's jurisdiction over the claim of Hempt Bros., Inc. against the Commonwealth of Pennsylvania, Pennsylvania Turnpike Commission is hereby set for April 15 through April 17, 2020. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101 beginning at 9:30 a.m. 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 along with any agreed upon stipulations by no later than April 3, 2020." Copy forwarded to Plaintiff and Defendant.

March 16, 2020

Board rendered Fourth Revised Order. Order as follows: "**AND NOW**, this 16th day of March, 2020, the evidentiary hearing to determine all factual issues pertinent to the Board's jurisdiction over the claim of Hempt Bros., Inc. against the Commonwealth of Pennsylvania, Pennsylvania Turnpike Commission remains set for April 15 through April 17, 2020. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101 beginning at 9:30 a.m. It is **FURTHER ORDERED** and **DECREED** that the date set for both parties to exchange and file with this Board a list of exhibits and witnesses which they plan to present at this hearing along with any agreed upon stipulations is extended to no later than April 10, 2020." Copy forwarded to Plaintiff and Defendant.

March 18, 2020

Defendant filed acceptance of service of Fourth Revised Order dated March 16, 2020. Receipt of same acknowledged March 17, 2020.

March 25, 2020

Board forwarded letter via Facsimile and U.S. Mail to parties postponing evidentiary hearing.

August 25, 2020

Defendant transmitted via facsimile a letter advising that the parties are available for an evidentiary hearing December 8 and 9, 2020.

August 27, 2020

Board rendered Fifth Revised Order. Order as follows: "**AND NOW**, this 27th day of August, 2020, the evidentiary hearing to determine all factual issues pertinent to the Board's jurisdiction over the claim of Hempt Bros., Inc. against the Commonwealth of Pennsylvania, Pennsylvania Turnpike Commission is set for December 8 and December 9, 2020. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101 beginning at 9:30 a.m. It is **FURTHER ORDERED** and **DECREED** that the date set for both parties to exchange and file with this Board a list of exhibits and witnesses which they plan to present at this hearing along with any agreed upon stipulations is extended to no later than December 1, 2020." Copy forwarded to Plaintiff and Defendant.

August 28, 2020

Defendant filed via U.S. Mail a letter advising that the parties are available for an evidentiary hearing December 8 and 9, 2020.

September 4, 2020

Plaintiff filed acceptance of service of Fifth Revised Order dated August 27, 2020. Receipt of same acknowledged September 1, 2020.

September 8, 2020

Defendant filed acceptance of service of Fifth Revised Order dated August 27, 2020. Receipt of same acknowledged September 2, 2020.

October 30, 2020

Board forwarded letter to parties inquiring if parties wish to keep current hearing date or postpone due to current COVID-19 cases in Pennsylvania.

November 9, 2020

Defendant transmitted via facsimile a letter advising that the parties have agreed to postpone the evidentiary hearing.

November 10, 2020

Board forwarded letter postponing hearing scheduled for December 8-9, 2020 and requesting new date.

November 12, 2020

Defendant filed via U.S. mail a letter advising that the parties have agreed to postpone the evidentiary hearing.

November 20, 2020

Defendant transmitted via facsimile a letter providing alternative dates for evidentiary hearing.

November 23, 2020

Defendant filed via U.S. Mail a letter providing alternative dates for evidentiary hearing.

November 24, 2020

Board rendered Sixth Revised Order. Order as follows: "**AND NOW**, this 24th day of November, 2020, the evidentiary hearing to determine all factual issues pertinent to the Board's jurisdiction over the claim of Hempt Bros., Inc. against the Commonwealth of Pennsylvania, Pennsylvania Turnpike Commission is set for May 25 and May 26, 2021. Said hearing shall be held at 200 North Third Street, Fulton Building, 6th Floor, Harrisburg, PA 17101 beginning at 9:30 a.m. It is **FURTHER ORDERED** and **DECREED** that the date set

for both parties to exchange and file with this Board a list of exhibits and witnesses which they plan to present at this hearing along with any agreed upon stipulations is extended to no later than May 14, 2021." Copy forwarded to Plaintiff and Defendant.

December 7, 2020

Defendant filed acceptance of service of Sixth Revised Order dated November 24, 2020. Receipt of same acknowledged December 1, 2020.

December 9, 2020

Plaintiff filed acceptance of service of Sixth Revised Order dated November 24, 2020. Receipt of same acknowledged December 3, 2020.

May 13, 2021

Plaintiff filed List of Witnesses and Exhibits.

May 14, 2021

Defendant filed List of Exhibits and Witnesses.

May 25, 2021

Board evidentiary hearing held in Board's Courtroom No. #1, 6th Floor, Fulton Bank Building, Harrisburg, Pa.

May 26, 2021

Board evidentiary hearing held in Board's Courtroom No. #1, 6th Floor, Fulton Bank Building, Harrisburg, Pa.

June 3, 2021

Testimony of hearing held May 25, 2021 filed.

June 4, 2021

Testimony of hearing held May 26, 2021 filed. LAST DAY

June 4, 2021

Defendant filed Construction Management/Inspection Agreement as

directed by the Board.

June 8, 2021

Board issued letter establishing briefing schedule and forwarding a copy of testimony to attorney for Defendant.

June 18, 2021

Defendant filed Acceptance of Service of Testimony of hearing held May 25 & 26, 2021 dated June 8, 2021. Receipt of same dated June 11, 2021.

July 22, 2021

Plaintiff filed proposed findings of fact, conclusions of law and brief in support.

August 23, 2021

Defendant filed proposed findings of fact, conclusions of law and memorandum of law in support.

September 7, 2021

Plaintiff filed Reply Brief.

September 21, 2021

Defendant transmitted via facsimile a letter advising that Defendant does not intend to request leave to file a response but does request that an oral argument be conducted with respect to the jurisdictional challenge at issue.

September 22, 2021

Board forwarded letter to Defendant, with copy to Plaintiff, advising that the Board does not believe that an oral argument is necessary and advising that the Board will accept a reply to Plaintiff's reply brief until October 6, 2021.

September 23, 2021

Defendant filed via U.S. mail a letter advising that Defendant does not intend to request leave to file a response but does request that an oral argument be conducted with respect to the jurisdictional challenge at issue.

October 6, 2021

Defendant filed Supplemental Brief in Support of Preliminary Objections and in Response to Plaintiff's Reply Brief.

March 8, 2022

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 8th day of March, 2022, the Board of Claims, upon consideration of the preliminary objections filed by the Pennsylvania Turnpike Commission to the Statement of Claim of Hempt Brothers, Inc., all subsequent filings of record, and the evidence presented at hearing, it is hereby **ORDERED** and **DECREED** that the preliminary objections to Board jurisdiction are **OVERRULED**. The Pennsylvania Turnpike Commission shall file its answer to Hempt's Statement of Claim within 30 days from the date of this Order." Copy forwarded to all parties of record.

March 17, 2022

Plaintiff filed acceptance of service of Opinion and Order dated March 8, 2022. Receipt of same acknowledged March 14, 2022.

March 17, 2022

Defendant filed acceptance of service of Opinion and Order dated March 8, 2022. Receipt of same acknowledged March 11, 2022.

March 21, 2022

Defendant filed Uncontested Motion to Extend Pleading Deadline and Proposed Order.

March 22, 2022

Board rendered Order. Order as follows: "**AND NOW**, this 22nd day of March, 2022, upon consideration of the Uncontested Motion to Extend Pleading Deadline submitted by Defendant, Pennsylvania Turnpike Commission, it is hereby **ORDERED** that the Uncontested Motion to Extend Pleading Deadline is **GRANTED**. Defendant shall file its Answer in this matter by no later than April 22, 2022." Copy forwarded to Plaintiff and Defendant.

March 30, 2022

Defendant filed acceptance of service of Order dated March 22, 2022. Receipt of same acknowledged March 28, 2022.

April 8, 2022

Plaintiff filed acceptance of service of Order dated March 22, 2022. Receipt of same acknowledged April 1, 2022.

April 22, 2022

Defendant filed Answer and New Matter to Plaintiff's Complaint.

April 25, 2022

Board forwarded letter to Plaintiff requesting response to New Matter.

May 11, 2022

Plaintiff filed reply to new matter.

May 13, 2022

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

July 10, 2024

Plaintiff filed praecipe to discontinue.

July 12, 2024

Board rendered an Order. Order as follows: "**AND NOW**, this 12th day of July, 2024, upon receipt of a Praecipe executed by James W. Kutz, Esquire, on behalf of Plaintiff, Hempt Bros., Inc., requesting that the Board mark the above-captioned matter settled, ended and discontinued, docketed with this Board under date of July 10, 2024, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

July 17, 2024

Defendant filed acceptance of service of Order dated July 12, 2024. Receipt of same acknowledged July 17, 2024.

July 24, 2024

Plaintiff filed acceptance of service of Order dated July 12, 2024. Receipt of same acknowledged July 18, 2024.
