

**Docket Number: 4186**

**PHILIPSBURG ROD AND GUN CLUB**

Joel S. Sansone, Esquire  
Massimo A. Terzigni, Esquire  
Elizabeth A. Tuttle, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF CONSERVATION AND  
NATURAL RESOURCES and the  
BUREAU OF STATE PARKS**

Audrey F. Miner, Chief Counsel  
David L. Narkiewicz, Assistant Chief Counsel  
Mark C. Baldwin, Assistant Counsel

**May 21, 2018**

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

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**May 21, 2018**

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

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**May 29, 2018**

Attorney General filed acknowledgment of claim form. Receipt of same acknowledged May 23, 2018.

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**June 20, 2018**

Defendant filed Entry of Appearance of David L. Narkiewicz, Assistant Chief Counsel as Co-Counsel on behalf of Defendant, Department of Conservation and Natural Resources.

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**June 20, 2018**

Defendant filed Application for Special Relief, Brief in Support and Proposed Order.

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**June 20, 2018**

Defendant filed Application for Expedited Consideration of Respondent's Application for Special Relief, Brief in Support and Proposed Order.

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**June 20, 2018**

Defendant filed Preliminary Objections, Brief in Support and Proposed Order.

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**June 21, 2018**

Board forwarded letter to Plaintiff, with copy to Defendant, requesting a response to Defendant's Application for Special Relief.

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**June 21, 2018**

Board forwarded letter to Plaintiff, with copy to Defendant, requesting a response to Defendant's Application for Expedited Consideration of Respondent's Application for Special Relief.

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**June 21, 2018**

Board forwarded letter to Plaintiff, with copy to Defendant, requesting a response to Defendant's Preliminary Objections.

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**July 20, 2018**

Plaintiff filed response to preliminary objections and brief in support.

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**July 20, 2018**

Plaintiff filed response to Defendant's application for special relief and brief in support.

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**July 20, 2018**

Plaintiff filed response to Defendant's application for expedited consideration and brief in support.

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**July 30, 2018**

Board rendered an Opinion and Order. Order as follows: "**AND NOW**, this 30<sup>th</sup> day of July 2018, upon consideration of the preliminary objections, application for special relief, and application for expedited consideration filed by the Commonwealth, Department of Conservation and Natural Resources and the response of the Philipsburg Rod and Gun Club ("the Club"), it is hereby by **ORDERED** and **DECREED** that preliminary objection one is **DENIED**, preliminary objection two is **SUSTAINED** to the extent the Club seeks relief other than monetary damages, and preliminary objection three is **DENIED** as **MOOT**. It is further **ORDERED** and **DECREED** that the application for special relief is **GRANTED**, and the Temporary Restraining Order is **TERMINATED**. Finally, the application for expedited consideration is **DENIED** as **MOOT**." Copy forwarded to Plaintiff and Defendant.

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**July 31, 2018**

Board forwarded letter to parties requesting a date for a status conference.

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**August 6, 2018**

Defendant filed acceptance of service of Opinion and Order dated July 30, 2018. Receipt of same acknowledged August 1, 2018.

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**August 8, 2018**

Plaintiff filed acceptance of service of Opinion and Order dated July 30, 2018. Receipt of same acknowledged August 1, 2018.

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**August 9, 2018**

Defendant filed letter advising the parties are available for a conference on August 16, 2018.

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**August 13, 2018**

Board forwarded letter, via facsimile and U.S. Mail, requesting an alternate date for a conference.

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**August 14, 2018**

Defendant transmitted via facsimile a letter advising that the parties are not able to make any of the suggested dates for a conference work and requests the Board provide additional dates on or after September 20, 2018.

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**August 14, 2018**

Board forwarded letter, via facsimile and U.S. Mail, providing additional alternate dates for a conference.

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**August 16, 2018**

Defendant filed via U.S. mail a letter advising that the parties are not able to make any of the suggested dates for a conference work and requests the Board provide additional dates on or after September 20, 2018.

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**August 23, 2018**

Plaintiff filed Petition for Permission to Appeal as filed in Commonwealth Court.

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**August 24, 2018**

Defendant filed Motion to Certify Order as Interlocutory and Proposed Order.

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**August 28, 2018**

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 28<sup>th</sup> day of August, 2018, upon consideration of Philipsburg Rod and Gun Club's Motion to Certify Order as Interlocutory, **IT IS ORDERED** that the Motion is **DENIED**." Copy forwarded to Plaintiff and Defendant.

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**August 28, 2018**

Defendant filed a letter advising of the dates the parties are available for a status conference.

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**August 28, 2018**

Defendant filed its Response to the Motion to Certify Order as Interlocutory.

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**August 28, 2018**

Defendant filed its Answer with New Matter and Counterclaim.

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**August 29, 2018**

Board issued Acknowledgment letter requesting response from Plaintiff and forwarding a copy of the Answer with New Matter and Counterclaim to Attorney General.

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**August 29, 2018**

Board forwarded letter to parties scheduling status conference for November 28, 2018 at 1:00 p.m.

**September 6, 2018**

Defendant filed acceptance of service of Opinion and Order dated August 28, 2018. Receipt of same acknowledged August 30, 2018.

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**September 11, 2018**

Attorney General filed acknowledgment of answer with new matter and counterclaim form. Receipt of same acknowledged September 5, 2018.

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**September 17, 2018**

Commonwealth Court rendered an Order. Order as follows: "NOW, September 13, 2018, it appears that petitioner's "Petition to Request Permission to Appeal (Petition)" seeks review of the July 30, 2018 order of the Board of Claims that terminated a temporary restraining order, which the United States District Court for the Middle District of Pennsylvania entered in favor of petitioner. The July 30, 2018 order also denied respondent's preliminary objection challenging the Board's jurisdiction. The July 30, 2018 order is not a final order from which an appeal may be taken because it does not dispose of all claims by all parties, and it is not therefore appealable as of right. See Pa.R.A.P. 341 and 311(a)(4), respectively; cf. *Columbia Gas of Pa., Inc. v. Pennsylvania Public Util. Comm'n*, 521 A.2d 105 (Pa. Cmwlth. 1987) (Commonwealth Court quashed appellate jurisdiction petition for review appealing administrative agency order that dissolved a preliminary injunction where the agency lacked authority to grant equitable relief and the order was not appealable as of right pursuant to Pa. R.A.P. 311(a)(4)). Accordingly, the Petition is quashed. It further appears, however, that petitioner filed with the Board of Claims a motion for reconsideration and/or 42 Pa. C.S. §702(b) certification of the July 30, 2018 order and that the Board denied petitioner's motion on August 28, 2018. Therefore, petitioner may file within 30 days of the August 28, 2018 order a new action pursuant to the Note to Pa. R.A.P. 1311 that complies with Chapter 15 of the Pennsylvania Rules of Appellate Procedure (relating to petitions for review)."

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**September 17, 2018**

Plaintiff filed reply to new matter and counterclaim.

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**September 18, 2018**

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

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**October 22, 2018**

Plaintiff filed Notice of Service of First Request for Admissions, First Set of Interrogatories and First Request for Production of Documents.

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**November 28, 2018**

Board held status conference at 1:00 p.m.

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**December 13, 2019**

Board forwarded letter to Plaintiff, with copy to Defendant, requesting a praecipe to close the case.

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