

(CONSOLIDATED WITH 4208)

Docket Number: 4201

**DEBLIN, INC.
FOR THE USE AND BENEFIT OF TRINITY EXCAVATING, INC.**

Timothy J. Woolford, Esquire
Francis A. Camarota, Esquire
Matthew K. Myer, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA TURNPIKE COMMISSION**

~~Doreen McCall, Chief Counsel~~
Kelly H. Decker, Esquire
Gaetano P. Piccirilli, Esquire
Monica C. Platt, Esquire
Stephanie M. Grey, Esquire

September 20, 2019

Plaintiff filed Statement of Claim, proof of mailing and filing fee. Amount of Claim: \$50,000+.

September 20, 2019

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

September 27, 2019

Attorney General filed acknowledgment of claim form dated September 20, 2019. Receipt of same acknowledged September 26, 2019.

October 18, 2019

Defendant filed preliminary objections in the nature of a motion to strike and brief in support.

October 21, 2019

Board forwarded letter advising Plaintiff of rules for filing response.

November 18, 2019

Plaintiff filed answer in opposition to preliminary objections and brief in opposition.

November 22, 2019

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 22nd day of November, 2019, after consideration of the preliminary objection and supporting brief filed by the Pennsylvania Turnpike Commission and the response and brief in opposition filed by Deblin, Inc., it is hereby **ORDERED** and **DECREED** that the PTC's preliminary objection to the statement of claim is **GRANTED IN PART**. Portions of Exhibit B attached to the statement of claim are **STRICKEN**, as set forth in the foregoing Opinion." Copy forwarded to Plaintiff and Defendant.

December 2, 2019

Defendant filed Acceptance of Service of Opinion and Order dated November 22, 2019. Receipt of same acknowledged November 27, 2019.

December 5, 2019

Plaintiff filed Acceptance of Service of Opinion and Order dated November 22, 2019. Receipt of same acknowledged December 2, 2019.

December 12, 2019

Defendant filed Answer with New Matter.

December 13, 2019

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

January 2, 2020

Plaintiff filed reply to new matter.

January 3, 2020

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

February 7, 2020

Plaintiff filed Notice of Service of Plaintiff's Interrogatories and Requests for Production of Documents.

February 16, 2021

Plaintiff filed Uncontested Motion to Consolidate Docket Nos. 4201 and 4208 and Proposed Order.

February 16, 2021

Board rendered an Order. Order as follows: "**AND NOW**, this 16th day of February, 2021, upon consideration of Plaintiff, Deblin, Inc., for the use and benefit of Trinity Excavating, Inc.'s Uncontested Motion to Consolidate, concurred in by Defendant, Commonwealth of Pennsylvania, Pennsylvania Turnpike Commission, it is hereby **ORDERED** and **DECREED** that the Motion is **GRANTED** and the above cases are **CONSOLIDATED** under Docket Number 4201 for all purposes, including discovery and hearing." Copy forwarded to Plaintiff and Defendant.

March 4, 2021

Plaintiff filed acceptance of service of Order dated February 16, 2021. Receipt of same acknowledged March 2, 2021.

March 4, 2021

Plaintiff filed Notice of Service of Interrogatories and Requests for Production of Documents.

March 25, 2021

Plaintiff transmitted via facsimile a letter, with proposed scheduling order, advising that the parties have agreed on a proposed scheduling order.

March 26, 2021

Plaintiff filed via U.S. Mail, with proposed scheduling order, advising that the parties have agreed on a proposed scheduling order.

March 31, 2021

Board rendered Scheduling Order. Order as follows: "**AND NOW**, this 31st day of March, 2021, it is hereby **ORDERED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant and filed with the Board is August 30, 2021;¹ 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is September 30, 2021;¹ 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by October 15, 2021;²

4. The last day for filing pre-trial motions is October 29, 2021;²
5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than December 29, 2021 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Wednesday, January 19, 2022 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, March 14, 2022 and running through Friday, March 18, 2022, 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 12, 2021

Plaintiff filed acceptance of service of Scheduling Order dated March 31, 2021. Receipt of same acknowledged April 7, 2021.

June 21, 2021

Plaintiff filed Motion to Compel Discovery Answers and Document Production.

June 21, 2021

Defendant transmitted via facsimile a letter requesting to opportunity to respond to Plaintiff's motion to compel.

June 21, 2021

Defendant transmitted via facsimile Notices of Service of Defendant's Objections and Answer to Plaintiff's Interrogatories and Defendant's Objections and Responses to Requests for Production of Documents.

June 22, 2021

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

June 24, 2021

Defendant filed via U.S. Mail Notice of Service of Defendant's objections to Plaintiff's interrogatories and objections and responses to requests for production of documents.

July 13, 2021

Plaintiff transmitted via facsimile a letter requesting five subpoenas 4009.21 - to produce documents.

July 14, 2021

Plaintiff filed a letter via U.S. mail requesting five subpoenas 4009.21 - to produce documents.

July 15, 2021

Board forwarded five Subpoenas 4009.21 - to produce documents to Plaintiff.

July 19, 2021

Defendant filed its response to Plaintiff's motion to compel.

August 4, 2021

Defendant transmitted via facsimile a copy of a letter sent to Plaintiff regarding requests for production of documents and pending motion to compel.

August 19, 2021

Plaintiff filed Praecipe for Entry of Appearance of Matthew K. Myer, Esquire as co-counsel on behalf of Plaintiff.

August 19, 2021

Plaintiff filed Certificate Prerequisite to Service of Subpoena Upon Whitney, Bailey, Cox & Magnani, LLC Pursuant to Rule 4009.22

August 19, 2021

Plaintiff filed Certificate Prerequisite to Service of Subpoena Upon Axis Professional Surveying, LLC Pursuant to Rule 4009.22

August 19, 2021

Plaintiff filed Certificate Prerequisite to Service of Subpoena Upon A&L Construction Managers, LLC Pursuant to Rule 4009.22

August 19, 2021

Plaintiff filed Praecipe to Withdraw Motion to Compel.

August 20, 2021

Board rendered Order. Order as follows: "**AND NOW**, this 20th day of August, 2021, upon receipt of a Praecipe to Withdraw Motion to Compel, executed by Matthew K. Myer, Esquire, on behalf of Claimant, Deblin, Inc. for the use and benefit of Trinity Excavating, Inc., requesting that the Board withdraw Claimant's Motion to Compel Respondent's Discovery Answers and Document Production that was filed with the Board on June 21, 2021, docketed with this Board under date of August 19, 2021, it is **ORDERED** and **DIRECTED** that the above-captioned motion is hereby **WITHDRAWN**." Copy forwarded to Plaintiff and Defendant.

August 25, 2021

Plaintiff filed acceptance of service of Order dated August 20, 2021. Receipt of same acknowledged August 23, 2021.

August 27, 2021

Plaintiff filed an Uncontested Motion to Amend Scheduling Order and Proposed Order.

August 31, 2021

Board rendered an Amended Scheduling Order. Order as follows: "AND NOW, this 31st day of August, 2021, it is hereby **ORDERED** as follows: 1. The last day for plaintiff's expert report, if any, to be provided to defendant and filed with the Board is January 10, 2022;¹ 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is February 7, 2022;¹ 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by February 28, 2022;² 4. The last day for filing pre-trial motions is March 15, 2022;² 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than May 17, 2022 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, June 7, 2022 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, July 18, 2022 and running through Friday, July 22, 2022, 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.

September 9, 2021

Plaintiff filed acceptance of service of Amended Scheduling Order dated August 31, 2021. Receipt of same acknowledged September 7, 2021.

January 31, 2022

Plaintiff requested by mail five Subpoenas 234.1 - to attend with duces tecum.

February 1, 2022

Board forwarded five Subpoenas 234.1 - to attend with duces tecum dated February 1, 2022 to Plaintiff.

February 4, 2022

Defendant filed Entry of Appearance of Gaetano P. Piccirilli, Esquire on behalf of Defendant.

February 4, 2022

Defendant filed Entry of Appearance of Monica C. Platt, Esquire on behalf of Defendant.

February 4, 2022

Defendant filed Entry of Appearance of Stephanie M. Grey, Esquire on behalf of Defendant.

February 7, 2022

Plaintiff filed Notice of Service of Notice of Deposition of John Ozimok.

February 7, 2022

Plaintiff filed Notice of Service of Notice of Deposition of Wendell Evan Livengood.

February 7, 2022

Plaintiff filed Notice of Service of Notice of Deposition of Mike Shaak.

February 7, 2022

Plaintiff filed Notice of Service of Notice of Deposition of Bradley Heigel.

February 7, 2022

Plaintiff filed Notice of Service of Notice of Deposition of Ryan Hurey.

February 10, 2022

Defendant filed Notice of Service of Notice of Deposition of William Rocuskie.

February 10, 2022

Defendant filed Notice of Service of Notice of Deposition of Thomas Powell.

February 10, 2022

Plaintiff filed Uncontested Motion to Amend the Scheduling Order as well as Proposed Order.

February 16, 2022

Defendant filed Notice of Service of Deposition of Paul Kraft.

February 17, 2022

Board rendered a Second Amended Scheduling Order. Second Amended Order as follows: "**AND NOW**, this 17th day of February, 2022, it is hereby **ORDERED** as follows: 1. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by August 16, 2022; 2. The last day for filing pre-trial motions is August 30, 2022; 3. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than September 27, 2022 (Please note BOC R.P. 899.501(b) and (c)(3)); 4. A pre-trial conference is scheduled for Tuesday, October 11, 2022 at 1:00 p.m. Said conference shall be held at 200 North Third Street, Fulton Building, 7th Floor, Harrisburg, PA 17101; 5. This matter is set for hearing beginning on Monday, November 14, 2022 and running through Friday, November 18, 2022, 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.

February 28, 2022

Defendant filed acceptance of service of Second Amended Scheduling Order dated February 17, 2022. Receipt of same acknowledged February 22, 2022.

June 9, 2022

Defendant filed Notice of Service of Defendant's notice of deposition of William Rocuskie, Thomas Powell, Anthony Hinson and Paul Kraft.

June 15, 2022

Plaintiff filed Notice of Service of Plaintiff's Notice of Deposition of Wendell Evan Livengood, Mike Shaak, Bradley Heigel, John Ozimok and Ryan Hurey.

July 14, 2022

Defendant filed Notice of Service of Defendant's notice of depositions of a corporate designee of Trinity Excavating, Inc.

August 30, 2022

Defendant filed motion for summary judgment, brief in support and proposed order.

September 1, 2022

Board forwarded letter to Plaintiff requesting response to Defendant's motion for summary judgment.

September 9, 2022

Plaintiff filed uncontested motion for enlargement of time and proposed order.

September 14, 2022

Board rendered an Order. Order as follows: "**AND NOW**, this 14th day of September, 2022, upon consideration of Plaintiff's Uncontested Motion for Enlargement of Time, it is hereby **ORDERED** and **DECREED** that the Motion is **GRANTED**. Plaintiff's response and brief to Defendant's Motion for Summary Judgment is now due by October 11,

2022. It is further **ORDERED** and **DECREED** that the Second Amended Scheduling Order issued February 17, 2022, is hereby amended to reschedule the pretrial conference to Tuesday, October 25, 2022 at 1:00 p.m. All other dates remain in effect." Copy forwarded to Plaintiff and Defendant.

September 19, 2022

Plaintiff filed acceptance of service of Order dated September 14, 2022. Receipt of same acknowledged September 16, 2022.

September 25, 2022

Board forwarded Notice of Settlement Conference.

September 27, 2022

Defendant filed letter advising that the parties have reached a settlement pending approval.

October 11, 2022

Defendant filed letter advising that the parties have reached a settlement which was approved and therefore the pretrial conference will not be necessary.

November 21, 2022

Plaintiff filed Praecipe for Discontinuance.

November 22, 2022

Board rendered Order. Order as follows: "**AND NOW**, this 22nd day of November, 2022, upon receipt of a Praecipe executed by Matthew K. Myer, Esquire, on behalf of Plaintiff, Deblin, Inc. for the use and benefit of Trinity Excavating, Inc., requesting that the Board mark the above-captioned matter settled, discontinued and ended with prejudice, docketed with this Board under date of November 21, 2022, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to Plaintiff and Defendant.

November 30, 2022

Plaintiff filed Acceptance of Service of Order dated November 22, 2022. Receipt of same acknowledged November 28, 2022.

December 2, 2022

Defendant filed Acceptance of Service of Order dated November 22, 2022. Receipt of same acknowledged November 29, 2022.

CLOSED