

Docket Number: 4213

TRUMBULL CORPORATION - LINDY PAVING INC., JOINT VENTURE, ON ITS  
OWN BEHALF AND FOR THE USE AND BENEFIT OF MATCON DIAMOND, INC.  
AND MATCON DIAMOND, INC.

James W. Kutz, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

~~Jason D. Sharp, Chief Counsel~~  
~~Ryan A. Cardillo, Assistant Counsel~~  
Seth F. Bortner, Assistant Counsel  
Jason M. Wolgemuth, Assistant Counsel

**August 13, 2020**

Plaintiff filed Complaint, proof of mailing and filing fee. Amount of Claim: \$190,536.02+.

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**August 14, 2020**

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

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**August 17, 2020**

Attorney General filed acknowledgment of Statement of Claim form. Receipt of same acknowledged undated.

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**August 31, 2020**

Defendant filed a letter advising that Defendant has agreed to extend and/or continue the due date of Defendant's responsive pleadings in this matter for 30 days.

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**September 3, 2020**

Board forwarded letter to parties acknowledging Defendant's extension of time request.

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**October 14, 2020**

Defendant filed Answer and New Matter.

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**October 15, 2020**

Board forwarded letter to Plaintiff requesting reply to new matter.

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**November 3, 2020**

Plaintiff filed reply to new matter.

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**November 5, 2020**

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

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**July 6, 2021**

Plaintiff filed a letter requesting that the Board issue a letter so that the parties can propose dates for a Scheduling Order to establish deadlines.

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**July 6, 2021**

Board forwarded letters to parties requesting proposed scheduling order.

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**July 20, 2021**

Defendant filed proposed scheduling order.

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**July 22, 2021**

Plaintiff filed proposed scheduling order.

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**July 28, 2021**

Board rendered Scheduling Order. Order as follows: **"AND NOW**, this 28th day of July, 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 September 27, 2022;<sup>1</sup> 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is October 25, 2022;<sup>1</sup> 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by November 22, 2022;<sup>2</sup> 4. The last day for filing pre-trial motions is December 13, 2022;<sup>2</sup> 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than January 10, 2023 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Wednesday, February 15, 2023 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 Tuesday, March 7, 2023 and running through Friday, March 17, 2023, 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.

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**August 6, 2021**

Defendant filed acceptance of service of Order dated July 28, 2021. Receipt of same acknowledged August 6, 2021.

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**November 30, 2021**

Defendant filed praecipe for entry of appearance entering appearance of Seth F. Bortner and Jason M. Wolgemuth and withdrawing appearance of Ryan A. Cardillo, on behalf of Defendant.

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**May 17, 2022**

Defendant filed Petition for Leave to File an Amended Answer and New Matter and Brief in Support as well as its Amended Answer and New Matter.

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**May 20, 2022**

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

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**July 1, 2022**

Board rendered Order. Order as follows: "Before the Board of Claims is the Petition of the Commonwealth of Pennsylvania, Department of Transportation (PennDOT) for Leave to File Amended Answer and New Matter as well as Brief in Support, filed May 17, 2022, to the Complaint filed by Trumbull Corporation - Lindy Paving Inc., Joint Venture (Claimant) on August 13, 2020. On May 20, 2022, the Board notified the parties that the Petition and Brief had been filed, and directed Claimant to file a response within 20 days if it opposed the Petition. Claimant has not filed a response opposing PennDOT's Petition to date. Accordingly, on this 1<sup>st</sup> day of July, 2022, the Petition is hereby **GRANTED**. PennDOT's Amended Answer and New Matter, filed concurrently with its Petition, shall be considered filed with the Board on the date of this Order. Claimant shall file its response to New Matter within 20 days of this date." Copy forwarded to Plaintiff and Defendant.

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**July 12, 2022**

Defendant filed Acceptance of Service of Order dated July 1, 2022. Receipt of same acknowledged on July 12, 2022.

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**July 14, 2022**

Plaintiff filed reply to amended answer and new matter.

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**July 14, 2022**

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

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**November 16, 2022**

Plaintiff filed letter advising that the parties request an Amended Scheduling Order.

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**November 22, 2022**

Board rendered Amended Scheduling Order. Order as follows: **"AND NOW**, this 22<sup>nd</sup> day of November, 2022, 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 December 30, 2022;<sup>1</sup> 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is January 13, 2023;<sup>1</sup> 3. The last day for filing pre-trial motions, if any, is January 17, 2023. Responses to pre-trial motions, if any, are due February 1, 2023;<sup>2</sup> 4. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by January 31, 2023;<sup>2</sup> 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than February 2, 2023 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Wednesday, February 15, 2023 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 Tuesday, March 7, 2023 and running through Friday, March 17, 2023, 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.

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**December 1, 2022**

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

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**December 6, 2022**

Defendant filed Acceptance of Service of Amended Scheduling Order dated November 22, 2022. Receipt of same acknowledged December 6, 2022.

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**January 20, 2023**

Board forwarded Notice of Settlement Conference.

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**January 24, 2023**

Plaintiff filed a letter on behalf of both parties advising that the parties have reached a tentative settlement and request the Board remove the case from the trial list.

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**January 21, 2025**

Defendant filed letter advising that the parties reached settlement and payment was made to Plaintiff on or around July 31, 2023. Defendant requests that the Board mark the case settled and discontinued with prejudice.

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**January 23, 2025**

Board forwarded letter to Plaintiff, with copy to Defendant, requesting praecipe to discontinue.

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**February 10, 2025**

Plaintiff filed a praecipe to discontinue.

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**February 12, 2025**

Board rendered Order. Order as follow: "AND NOW, this 12<sup>th</sup> day of February, 2025, upon receipt of a Praecipe executed by James W.

Kutz, Esquire, on behalf of Plaintiff, Trumbull Corporation - Lindy Paving Inc., Joint Venture, on its own behalf and for the use and benefit of Matcon Diamond, Inc. and Matcon Diamond, Inc., requesting that the Board mark the above-captioned matter settled, discontinued and ended, docketed with this Board under date of February 10, 2025, it is **ORDERED** and **DIRECTED** that the above-captioned matter be marked settled, discontinued and ended with prejudice." Copy forwarded to all parties of record.

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**February 21, 2025**

Plaintiff filed Acceptance of Service of Order dated February 12, 2025. Receipt of same acknowledged February 18, 2025.

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