

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+.

August 14, 2020

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

August 17, 2020

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

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.

September 3, 2020

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

October 14, 2020

Defendant filed Answer and New Matter.

October 15, 2020

Board forwarded letter to Plaintiff requesting reply to new matter.

November 3, 2020

Plaintiff filed reply to new matter.

November 5, 2020

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

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.

July 6, 2021

Board forwarded letters to parties requesting proposed scheduling order.

July 20, 2021

Defendant filed proposed scheduling order.

July 22, 2021

Plaintiff filed proposed scheduling order.

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;¹ 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is October 25, 2022;¹ 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by November 22, 2022;² 4. The last day for filing pre-trial motions is December 13, 2022;² 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.

August 6, 2021

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

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.

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.

May 20, 2022

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

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 1st 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.

July 12, 2022

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

July 14, 2022

Plaintiff filed reply to amended answer and new matter.

July 14, 2022

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

November 16, 2022

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

November 22, 2022

Board rendered Amended Scheduling Order. Order as follows: **"AND NOW**, this 22nd 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;¹ 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is January 13, 2023;¹ 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;² 4. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by January 31, 2023;² 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.

December 1, 2022

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

December 6, 2022

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

January 20, 2023

Board forwarded Notice of Settlement Conference.

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.
