

Docket Number: 4224

**AMERICAN ASPHALT PAVING CO.**

Anthony L. Byler, Esquire  
Michael Metz-Topodas, Esquire  
Mary C. Emert, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION**

~~Jason D. Sharp, Chief Counsel~~  
Jason M. Wolgemuth, Assistant Counsel

**February 19, 2021**

Plaintiff filed Statement of Claim, proof of mailing and filing fee. Amount of Claim: \$490,324.98+.

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**February 23, 2021**

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

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**March 19, 2021**

Defendant filed Answer with New Matter.

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**March 23, 2021**

Board forwarded letter to Plaintiff requesting response to New Matter.

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**April 7, 2021**

Plaintiff filed Reply to New Matter.

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**April 8, 2021**

Plaintiff filed via hand delivery a letter requesting a status conference with a proposed scheduling order.

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**April 12, 2021**

Plaintiff filed via U.S. mail a letter requesting a status conference with a proposed scheduling order.

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**April 15, 2021**

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

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**April 15, 2021**

Board forwarded letter to parties requesting proposed scheduling information.

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**April 15, 2021**

Attorney General filed acknowledgment of claim form. Receipt of same acknowledged March 4, 2021.

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**April 16, 2021**

Plaintiff filed uncontested Motion to Correct Statement of Claim's Delivery and Filing Date and Proposed Order.

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**April 19, 2021**

Board rendered Order. Order as follows: **"AND NOW**, this 19<sup>th</sup> day of April, 2021, upon consideration of Claimant, American Asphalt Paving Co.'s, uncontested Motion to Correct Statement of Claim's Delivery and Filing Date, it is hereby **ORDERED** that the Motion is **GRANTED**. **IT IS FURTHER ORDERED** that the Board's docket is corrected to reflect that American Asphalt Paving Co.'s Statement of Claim was delivered to and filed at the Board of Claims on February 19, 2021." Copy forwarded to Plaintiff and Defendant.

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**April 28, 2021**

Plaintiff filed acceptance of service of Order dated April 19, 2021. Receipt of same acknowledged April 27, 2021.

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**April 28, 2021**

Defendant filed its proposed scheduling order.

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**May 4, 2021**

Plaintiff filed Praecipe for Entry of Appearance of Mary C. Emert, Esquire, on behalf of Plaintiff.

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**May 4, 2021**

Plaintiff filed Praecipe to Replace "Exhibit Q" of Plaintiff's Statement of Claim.

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**May 11, 2021**

Plaintiff filed Notice of Service of its First Requests for

Production of Documents.

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**May 11, 2021**

Plaintiff filed Notice of Service of its First its First Set of Interrogatories.

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**May 12, 2021**

Plaintiff filed its proposed scheduling order.

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**May 13, 2021**

Plaintiff filed additional copy of its proposed scheduling order.

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**May 13, 2021**

Board rendered Scheduling Order. Order as follows: **"AND NOW**, this 13<sup>th</sup> day of May, 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 14, 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 February 14, 2022;<sup>1</sup> 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by March 1, 2022;<sup>2</sup> 4. The last day for filing pre-trial motions is April 1, 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 May 27, 2022 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Thursday, July 14, 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 Tuesday, August 16, 2022 and running through Friday, August 26, 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.

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**May 17, 2021**

Plaintiff filed its proposed scheduling order (US mail).

**June 2, 2021**

Plaintiff filed acceptance of service of Scheduling Order dated May 13, 2021. Receipt of same acknowledged May 20, 2021.

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**February 17, 2022**

Board rendered an Amended Scheduling Order. Amended Scheduling Order as follows: **"AND NOW**, this 17<sup>th</sup> day of February, 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 March 23, 2022; 2. The last day for defendant's expert report, if any, to be provided to plaintiff and filed with the Board is April 25, 2022; 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by May 19, 2022; 4. The last day for filing pre-trial motions is June 2, 2022; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than June 29, 2022 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Thursday, July 14, 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 Tuesday, August 16, 2022 and running through Friday, August 26, 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.

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**February 25, 2022**

Plaintiff filed Acceptance of Service of Amended Scheduling Order dated February 17, 2022. Receipt of same acknowledged February 24, 2022.

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**May 4, 2022**

Board forwarded letter to parties requesting written confirmation that the case has settled.

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**May 13, 2022**

Plaintiff filed a letter advising that the parties have reached a settlement in principle and are negotiating a written agreement to memorialize the settlement.

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**October 6, 2022**

Plaintiff filed praecipe to settle, discontinue and end.

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**October 11, 2022**

Board rendered an Order. Order as follows: "**AND NOW**, this 11<sup>th</sup> day of October, 2022, upon receipt of a Praecipe executed by Anthony L. Byler, Esquire, on behalf of Plaintiff, American Asphalt Paving Co., requesting that the Board mark all claims in the above-captioned matter as settled, discontinued and ended with prejudice, docketed with this Board under date of October 6, 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.

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**October 31, 2022**

Plaintiff filed Acceptance of Service of Order dated October 11, 2022. Receipt of same acknowledged October 27, 2022.

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**November 1, 2022**

Defendant filed acceptance of service of Order dated October 11, 2022. Receipt of same acknowledged November 1, 2022.

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