

Docket Number: 4226

**J.M. CLARK CONSTRUCTION, L.L.C.**

~~Lee W. Davis, Esquire~~  
D. Matthew Jameson, III, Esquire  
Gerard A. Hornby, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA  
STATE SYSTEM OF HIGHER EDUCATION,  
SLIPPERY ROCK UNIVERSITY**

~~Andrew Lehman, Chief Counsel~~  
Laura J. Neal, University Legal Counsel  
Michael S. Ferguson, University Legal Counsel

**March 3, 2021**

Plaintiff filed Claim, proof of mailing and filing fee. Amount of Claim: UNSPECIFIED.

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**March 3, 2021**

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

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**March 4, 2021**

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

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**April 7, 2021**

Defendant filed preliminary objections, brief in support and proposed order.

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**April 7, 2021**

Board forwarded letter to Plaintiff requesting response to preliminary objections.

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**May 3, 2021**

Plaintiff filed response to Defendant's preliminary objections.

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**May 24, 2021**

Board rendered Opinion and Order. Order as follows: "**AND NOW**, this 24<sup>th</sup> day of May 2021, upon consideration of the claim filed by J.M. Clark Construction, L.L.C, the preliminary objections filed by the Commonwealth, State System of Higher Education, Slippery Rock University, and the response thereto, it is hereby **ORDERED** and **DECREED** that the preliminary objections of Respondent are **OVERRULED**. Respondent shall file its response to the Statement of Claim within 30 days." Copy forwarded to Plaintiff and Defendant.

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**June 4, 2021**

Plaintiff filed Acceptance of Service of Opinion and Order dated May 24, 2021. Receipt of same dated June 2, 2021.

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**June 21, 2021**

Defendant filed Acceptance of Service of Opinion and Order dated May 24, 2021. Receipt of same dated June 2, 2021.

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**June 21, 2021**

Defendant filed Motion for Extension of Time to File Answer.

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**June 22, 2021**

Board rendered Order. Order as follows: "**AND NOW**, this 22<sup>nd</sup> day of June, 2021, upon consideration of the request for a 14-day extension of time to file an answer submitted by Defendant, State System of Higher Education, Slippery Rock University, without concurrence from Plaintiff, it is hereby **ORDERED** that the Motion for Extension of Time to File Answer is **GRANTED**. Defendant shall file its Answer in this matter by no later than July 7, 2021." Copy forwarded to Plaintiff and Defendant.

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**June 25, 2021**

Plaintiff filed acceptance of service of Order dated June 22, 2021. Receipt of same acknowledged June 23, 2021.

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**July 7, 2021**

Defendant filed Answer with New Matter.

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**July 8, 2021**

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

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**July 14, 2021**

Defendant filed acceptance of service of Order dated June 22, 2021. Receipt of same acknowledged June 28, 2021.

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**July 19, 2021**

Plaintiff filed Answer to Defendant's New Matter.

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**July 20, 2021**

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

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**October 8, 2021**

Plaintiff filed a Motion for Leave to Withdraw as Counsel and proposed order.

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**October 18, 2021**

Board forwarded letter to Plaintiff requesting new contact information for J.M. Clark Construction.

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**October 19, 2021**

Plaintiff filed Substitution of Counsel withdrawing the appearance of Lee W. Davis, Esquire and entering the appearance of D. Matthew Jameson, III, Esquire and Gerard A. Hornby, Esquire of Burns White, LLC on behalf of Plaintiff.

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**October 21, 2021**

Board rendered an Order. Order as follows: "**AND NOW**, this 21<sup>st</sup> day of October, 2021, upon consideration of the record in this case and the Motion to Withdraw as Counsel for J.M. Clark Construction, L.L.C. filed by Lee W. Davis, Esquire as well as Plaintiff's Substitution of Counsel, it is hereby **ORDERED** and **DECREED** that Lee W. Davis, Esquire is **WITHDRAWN** as counsel in this matter." Copy forwarded to Plaintiff and Defendant.

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**October 21, 2021**

Plaintiff filed acceptance of service of Order dated October 21, 2021. Receipt of same acknowledged October 28, 2021.

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**December 30, 2022**

Plaintiff filed Motion for Leave to Amend Claim, Brief in Support and Proposed Order.

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**January 3, 2023**

Board forwarded letter to Defendant, with copy to Plaintiff, requesting response to Plaintiff's motion for leave to amend claim.

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**February 1, 2023**

Defendant filed letter provided change of address and requesting a 30 day extension of time in which to file its response to Plaintiff's motion for leave to amend claim.

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**February 3, 2023**

Board issued letter to Defendant, with copy to Plaintiff, granting extension of time for Defendant to file its response to Plaintiff's motion for leave to amend claim.

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**February 24, 2023**

Defendant filed Brief in Opposition to Motion for Leave to Amend.

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**March 2, 2023**

Board forwarded letter to Plaintiff, with copy to Defendant, requesting reply to Defendant's Brief in Opposition.

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**March 22, 2023**

Plaintiff filed Reply Brief to Defendant's Brief in Opposition.

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**April 27, 2023**

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 27<sup>th</sup> day of April 2023, upon consideration of the Motion to Amend Claim and Brief in Support filed by Claimant, J.M. Clark Construction, L.L.C.; the Brief in Opposition to Claimant's Motion for Leave to Amend filed by Respondent Slippery Rock University of the Pennsylvania State System of Higher Education; and the Reply thereto filed by Claimant; the Board of Claims hereby **ORDERS** and **DECREES** that the current Motion for Leave to Amend is **DENIED**." Copy forwarded to Plaintiff and Defendant.

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**May 4, 2023**

Plaintiff filed acceptance of service of Order dated April 27, 2023. Receipt of same acknowledged May 1, 2023.

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**May 26, 2023**

Plaintiff filed Motion for Reconsideration of Board's April 27, 2023 Opinion and Order and Proposed Order.

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**May 31, 2023**

Board forwarded letter to Defendant requesting a response to Plaintiff's Motion for Reconsideration.

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**June 26, 2023**

Defendant filed Response and Argument in Opposition to Motion for Reconsideration.

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**August 22, 2023**

Board forwarded letter to parties requesting Plaintiff provide materials related to its administrative claim which it asserts are missing from those currently before the Board.

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**November 20, 2023**

Plaintiff filed Motion to Compel Production of Documents.

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**November 29, 2023**

Board forwarded letter to parties requesting Plaintiff to file a brief in support of its motion to compel, as well as, requesting Defendant to file its response to Plaintiff's motion to compel and brief.

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**December 8, 2023**

Plaintiff filed brief in support of motion to compel production of documents.

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**January 8, 2024**

Defendant filed its brief in opposition to motion to compel.

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**February 20, 2024**

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 20<sup>th</sup> day of February, 2024, upon consideration of the Motion to Compel Production of Documents and supporting brief filed by J.M. Clark Construction, L.L.C., and the responsive brief filed by Commonwealth of Pennsylvania, State System of Higher Education, Slippery Rock University, it is hereby **ORDERED** and **DECREED** that the Motion to Compel Production of Documents filed by J.M. Clark Construction, L.L.C. is **GRANTED** in **PART**, in accordance with this opinion. Within 30 days of the date of this Order, Respondent shall provide Claimant with all materials (in written or electronic format) filed by Claimant or its representatives with Respondent in connection with the administrative claim that is now the subject of these proceedings before the Board. It is further **ORDERED** and **DECREED** that, within 20 days of its receipt of said discovery materials, Claimant shall file with the Board a final brief identifying, with specificity, any and all materials that have been heretofore missing from the record in support of its argument for reconsideration." Copy forwarded to all parties of record.

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**March 4, 2024**

Plaintiff filed acceptance of service of Opinion and Order dated February 20, 2024. Receipt of same acknowledged February 27, 2024.

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**March 11, 2024**

Defendant filed acceptance of service of Opinion and Order dated February 20, 2024. Receipt of same acknowledged February 28, 2024.

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**April 10, 2024**

Plaintiff filed its brief in support of reconsideration of motion for leave to amend claim.

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