

Docket Number: 4231

HRI, INC., on its own behalf and for the use and benefit of APEX
ROCKFALL MITIGATION, LLC

James W. Kutz, Esquire

AND APEX ROCKFALL MITIGATION, LLC

Michael Winfield, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Jason D. Sharp, Chief Counsel~~
Jason M. Wolgemuth, Assistant Counsel
~~Seth Bortner, Assistant Counsel~~
Brett D. Pollock, Assistant Counsel

May 11, 2021

Plaintiffs filed Complaint, proof of mailing and filing fee.
Amount of Claim: \$2,455,563.88+.

May 13, 2021

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

June 10, 2021

Defendant filed Answer with New Matter.

June 11, 2021

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

June 11, 2021

Attorney General filed acknowledgment of Complaint. Receipt of same acknowledged May 20, 2021.

June 28, 2021

Plaintiffs filed reply to new matter.

June 29, 2021

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

July 6, 2021

Plaintiff filed a letter requesting two Subpoenas 4009.21 - to produce documents.

July 6, 2021

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

February 28, 2022

Plaintiffs filed a letter requesting the Board issue a letter so that the parties can propose dates for a scheduling order.

March 16, 2022

Plaintiffs filed proposed scheduling order.

March 21, 2022

Defendant filed proposed scheduling order.

March 30, 2022

Board rendered a Scheduling Order. Order as follows: **"AND NOW**, this 30th day of March, 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 May 3, 2023; 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is May 31, 2023; 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by July 5, 2023; 4. The last day for filing pre-trial motions is July 24, 2023; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than September 5, 2023 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, September 19, 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 Monday, October 30, 2023 and running through Thursday, November 9, 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.

April 1, 2022

Defendant filed acceptance of service of Scheduling Order dated March 30, 2022. Receipt of same acknowledged April 1, 2022.

April 8, 2022

Plaintiff filed acceptance of service of Scheduling Order dated March 30, 2022. Receipt of same acknowledged April 5, 2022.

May 3, 2023

Plaintiffs filed a joint letter requesting a revised Scheduling Order.

May 16, 2023

Board rendered an Amended Scheduling Order. Order as follows: "**AND NOW**, this 16th day of May, 2023, 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 18, 2023; 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is January 16, 2024; 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed by February 12, 2024; 4. The last day for filing pre-trial motions is February 26, 2024; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than April 8, 2024 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, April 23, 2024 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 Wednesday, May 29, 2024 and running through Tuesday, June 11, 2024, 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.

May 22, 2023

Defendant filed acceptance of service of Amended Scheduling Order dated May 16, 2023. Receipt of same acknowledged May 22, 2023.

June 1, 2023

Plaintiff filed acceptance of service of Amended Scheduling Order dated May 16, 2023. Receipt of same acknowledged May 23, 2023.

July 19, 2023

Defendant filed notice of service of interrogatories.

July 19, 2023

Defendant filed a praecipe for entry of appearance of Seth F. Bortner, Assistant Counsel on behalf of Defendant.

August 10, 2023

Plaintiffs filed notice of service of its responses and objections to first set of Defendant's interrogatories.

August 21, 2023

Defendant filed Notice of Withdrawal of Seth F. Bortner, Assistant Counsel, on behalf of Defendant.

October 17, 2023

Defendant filed a letter requesting a revised scheduling order and advising that Plaintiff has agreed.

November 3, 2023

Board rendered a Second Amended Scheduling Order. Order as follows: "**AND NOW**, this 3rd day of November, 2023, 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 July 1, 2024; 2. The last day for defendants' expert report, if any, to be provided to plaintiff and filed with the Board is July 29, 2024; 3. All discovery (including exchange and Board filing of any further rebuttal expert reports) shall be completed

by August 26, 2024; 4. The last day for filing pre-trial motions is September 9, 2024; 5. Pre-trial statements of both parties shall be filed with the Board and served upon one another no later than October 15, 2024 (Please note BOC R.P. 899.501(b) and (c)(3)); 6. A pre-trial conference is scheduled for Tuesday, October 29, 2024 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, December 2, 2024 and running through Friday, December 13, 2024, 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.

November 14, 2023

Defendant filed acceptance of service of Second Amended Scheduling Order dated November 3, 2023. Receipt of same acknowledged November 14, 2023.

November 14, 2023

Defendant filed Praecipe for Entry of Appearance of Brett D. Pollock, Assistant Counsel, on behalf of Defendant.

April 10, 2023

Defendant filed certificate of service of its Second Request for Production of Documents.
