

**Docket Number: 4261**

**WALLER CORPORATION**

Phillip J. Binotto, Esquire  
Robert D. Shope, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION**

Jeffrey M. Spotts, Chief Counsel  
Kathryn L. Waters, Esquire

**October 25, 2023**

Plaintiff filed Statement of Claim and proof of mailing. Amount of Claim: \$149,489.25+.

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**October 25, 2023**

Board issued deficiency notice to Plaintiff. Claim lacks: filing fee and verification.

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**October 26, 2023**

Plaintiff filed filing fee and Verification.

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**October 30, 2023**

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

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**November 9, 2023**

Attorney General filed acknowledgement of claim form. Receipt of same acknowledged November 1, 2023.

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**November 29, 2023**

Plaintiff transmitted via facsimile a letter advising that the parties have agreed to place this matter on hold pending possible resolution.

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**November 29, 2023**

Board rendered an Order. Order as follows: **"AND NOW**, this 29<sup>th</sup> day of November, 2023, upon consideration of the request by all parties to place this matter on hold pending possible resolution, the Board of Claims hereby **STAYS** this matter **INDEFINITELY**, until the parties request to lift the stay or the stay is lifted by the Board." Copy forwarded to Plaintiff and Defendant.

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**December 4, 2023**

Plaintiff filed via U.S. Mail a letter advising that the parties have agreed to place this matter on hold pending possible resolution.

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**December 5, 2023**

Plaintiff filed acceptance of service of Order dated November 29, 2023. Receipt of same acknowledged December 5, 2023

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**December 8, 2023**

Defendant filed acceptance of service of Order dated November 29, 2023. Receipt of same acknowledged December 5, 2023.

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**May 3, 2024**

Plaintiff filed a motion to remove stay and for leave to file an amended statement of claim, brief in support and proposed order.

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**May 8, 2024**

Board forwarded letter to Defendant, with copy to Plaintiff requesting a response to Plaintiff's Motion to Remove Stay and for Leave to File an Amended Statement of Claim.

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**May 17, 2024**

Defendant filed praecipe for entry of appearance of Kathryn L. Waters, Assistant Counsel, on behalf of Defendant.

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**June 6, 2024**

Defendant filed Reply to Motion to Remove Stay and for Leave to File an Amended Statement of Claim.

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**June 6, 2024**

Defendant filed Preliminary Objections and Brief in Support.

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**June 10, 2024**

Board forwarded letter to Plaintiff, with copy Defendant, advising of rules for filing responses.

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**July 3, 2024**

Plaintiff filed Response and Brief in Opposition to Defendant's preliminary objections.

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**July 15, 2024**

Defendant filed Preliminary Objections in response to Plaintiff's Brief in Opposition to Defendant's Preliminary Objections as well as its Brief in Support.

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**July 17, 2024**

Board forwarded letter to parties acknowledging Defendant's Preliminary Objections and Brief in Support.

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**July 31, 2024**

Board rendered Opinion and Order. Order as follows: **"AND NOW**, this 31<sup>st</sup> day of July, 2024, upon consideration of the statement of claim filed by Waller Corporation (Waller) on October 25, 2023; the motion to remove stay and for leave to file an amended statement of claim, along with a supporting brief filed by Waller on May 3, 2024; the reply to Waller's motion and preliminary objections to the statement of claim and supporting brief filed by the Commonwealth of Pennsylvania, Department of Transportation (PennDOT) on June 6, 2024; the response and brief in opposition to the preliminary objections filed by Waller on July 3, 2024; and the preliminary objections to Waller's brief in opposition to the original preliminary objections, along with a brief in support of those preliminary objections filed by PennDOT on July 15, 2024; it is hereby **ORDERED** and **DECREED** as follows: 1. The stay placed on these proceedings by Order dated November 29, 2024, is lifted. 2. Waller is granted leave to file an amended statement of claim within twenty (20) days of the date of service of this Order. 3. PennDOT shall have thirty (30) days following the filing of an amended statement of claim to file a response. 4. By virtue of

the above grant of leave to file an amended statement of claim, the preliminary objections filed by PennDOT on June 6, 2024, and July 15, 2024, are moot. The Board makes no determination on the substance of these preliminary objections." Copy forwarded to Plaintiff and Defendant.

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**August 5, 2024**

Defendant filed acceptance of service of Opinion and Order dated July 31, 2024. Receipt of same acknowledged August 1, 2024.

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**August 9, 2024**

Plaintiff filed acceptance of service of Opinion and Order dated July 31, 2024. Receipt of same acknowledged August 7, 2024.

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**\*August 12, 2024**

Plaintiff filed Amended Statement of Claim and proof of mailing. Amount of claim: \$149,489.25+.

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**August 14, 2024**

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

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**August 22, 2024**

Attorney General filed acknowledgement of Amended Statement of Claim. Receipt of same acknowledged August 19, 2024.

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**September 9, 2024**

Defendant filed Answer with New Matter and Counterclaim.

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**September 11, 2024**

Board issued Acknowledgment letter requesting a response from Plaintiff and forwarding a copy of the Answer with New Matter and Counterclaim to Attorney General.

**September 17, 2024**

Attorney General filed acknowledgement of answer with new matter and counterclaim. Receipt of same acknowledged September 17, 2024.

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**September 30, 2024**

Plaintiff filed Reply to New Matter and Answer and New Matter to Counterclaim.

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**October 2, 2024**

Board forwarded letter to Defendant requesting response to Plaintiff's new matter.

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**October 16, 2024**

Defendant filed its reply to Plaintiff's new matter and Defendant's further new matter.

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**October 16, 2024**

Board forwarded letter to Plaintiff requesting response to Defendant's new matter.

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**November 5, 2024**

Plaintiff filed Reply to Further New Matter.

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**November 6, 2024**

Board forwarded letter advising parties to proceed with discovery.

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**December 23, 2024**

Plaintiff filed Notice of Service of Plaintiff's First Set of Interrogatories and Requests for Production of Documents.

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**January 2, 2025**

Defendant filed Notice of Service of Defendant's First Set of Interrogatories and Request for Production of Documents.

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**February 18, 2025**

Plaintiff filed Joint Praecipe to Discontinue With Prejudice.

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**February 19, 2025**

Board rendered Order. Order as follows: "**AND NOW**, this 19<sup>th</sup> day of February, 2025, upon receipt of a joint Praecipe executed by Phillip J. Binotto, on behalf of Plaintiff, Waller Corporation, and Kathryn L. Waters, Assistant Counsel, on behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation, requesting that the Board mark the above-captioned matter, including all claims, counterclaims and affirmative defenses, settled and discontinued with prejudice, docketed with this Board under date of February 18, 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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**March 7, 2025**

Plaintiff filed acceptance of service of Order dated February 19, 2025. Receipt of same acknowledged March 3, 2025.

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