

CIVIL CASE INFORMATION STATEMENT
CIVIL CASES

IN THE CIRCUIT COURT OF UPSHUR COUNTY, WEST VIRGINIA

I. Case Style:

THE VELOTTA COMPANY, an
Ohio corporation,

Plaintiff,

v.

CIVIL ACTION NO.: 13-C-122
JUDGE: Kurt Hall

STANTEC CONSULTING SERVICES, INC.,
a New York corporation,

Defendant.

<u>Defendant</u>	<u>Days to Answer</u>	<u>Type of Service</u>
Stantec Consulting Services, Inc. Corporate Service Company 209 West Washington Street Charleston, West Virginia 25302	30	Secretary of State

UPSHUR COUNTY, W.V.
FILED
2013 DEC - 9 A 11:36
BRIAN GAUDET
CIRCUIT CLERK

Original and _____ copies of complaint furnished herewith.

PLAINTIFF: The Velotta Company

CASE NUMBER:

DEFENDANT: Stantec Consulting Services, Inc.

II. TYPE OF CASE:

TORTS	OTHER	CIVIL
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Adoption	<input type="checkbox"/> Appeal from Magistrate Court
<input type="checkbox"/> Professional Malpractice	<input checked="" type="checkbox"/> Contract	<input type="checkbox"/> Petition for Modification of Magistrate Sentence
<input type="checkbox"/> Personal Injury	<input type="checkbox"/> Real Property	<input type="checkbox"/> Miscellaneous Civil
<input type="checkbox"/> Product Liability	<input type="checkbox"/> Mental Health	<input type="checkbox"/> Other
<input type="checkbox"/> Other Tort	<input type="checkbox"/> Appeal of Administrative Agency	

III. JURY DEMAND: ☐ Yes ☒ No
CASE WILL BE READY FOR TRIAL BY (*Month/Year*): 11/2014

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? ☐ YES ☒ NO. IF YES, PLEASE SPECIFY:

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary for the visually impaired
- ☐ Other:

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? ☐ YES ☒ NO. IF YES, PLEASE SPECIFY:

- ☐ Wheelchair accessible hearing room and other facilities
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- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary for the visually impaired
- ☐ Other:

Attorney: Johnson W. Gabhart, Esq.

Representing: The Velotta Company

Firm: Johnstone & Gabhart, LLP

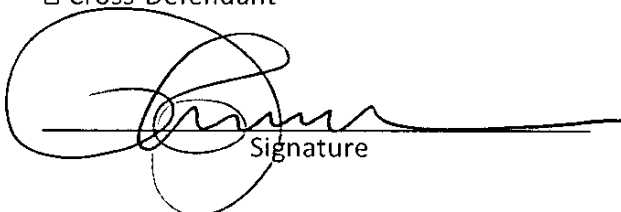
☒ Plaintiff ☐ Defendant

Address: 1125 Virginia Street, East
P.O. Box 313
Charleston, West Virginia 25321

☐ Cross-Complainant
☐ Cross-Defendant

Telephone: (304) 343-7100

Dated: December 6, 2013


Signature

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Ohio corporation,

Plaintiff,

v.

STANTEC CONSULTING SERVICES, INC.,
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COMPLAINT

NOW COMES, the Plaintiff, The Velotta Company, by counsel, and for its complaint against the Defendant, Stantec Consulting Services, Inc. and states the following:

1. The Velotta Company is an Ohio corporation, authorized to do business in the State of West Virginia, engaged in West Virginia and other states in the business of highway and bridge construction contracting.
2. Stantec Consulting Service, Inc. is a New York corporation authorized to do business in the State of West Virginia, engaged in West Virginia and other states in the business of providing consulting engineering and design services. Stantec maintains offices within the State of West Virginia in Fairmont and Buckhannon.
3. Stantec lists its notice of process address as Corporate Service Company, 209 West Washington Street, Charleston, West Virginia 25302.
4. Between August of 2010 and November 2011 The Velotta Company entered into four public works construction projects with the State of Pennsylvania, Department of Transportation ("PennDot") for separate bridge and highway improvement projects, all on a "design-build" basis.
5. The Velotta Company entered into four subcontracts with the Defendant, Stantec, to provide design services for each of the four "design-build" projects.

6. Stantec breached contractual and common law duties owed to The Velotta Company by failing to perform its work and services with the application of reasonable skill and diligence required by customarily accepted professional practice procedures applicable to the time and place of performance.

7. As a direct, proximate foreseeable result of the breach by Stantec of its contractual and common law duties owed to The Velotta Company, Plaintiff has suffered substantial financial losses including, but not limited to, expenses resulting from performance delays including extended general conditions and extended, unabsorbed home-office overhead expenses, increased costs associated with extra and changed work, and liquidated damages imposed by PennDot for delayed completion.

8. The Velotta Company's losses far exceed the Court's jurisdictional amount.

COUNT ONE

THE WESTMORELAND COUNTY, PENNSYLVANIA PROJECT

9. The Velotta Company incorporates by reference each of the allegations heretofore set out in Paragraphs 1 through 8 as if fully set forth verbatim herein.

10. On or about March 17, 2011, The Velotta Company entered into a public works contract with PennDot to perform construction work identified as Project No.: 73031, a bridge and highway improvement project on State Route 2003 over Jacobs Fork in Westmoreland County, Pennsylvania.

11. On or about March 2, 2011 The Velotta Company entered into a subcontract with Stantec whereby Stantec agreed to provide design services for the Westmoreland County, Pennsylvania project.

12. The majority of Stantec's services under its subcontract were performed at its office located at One Moore Avenue, Buckhannon, West Virginia.

13. Stantec failed to exercise the reasonable skill and diligence required by customarily accepted professional practices and procedures at the time and location where the services were performed and failed to perform its services within the contract time and thereby breached its subcontract with The Velotta Company.

14. As a direct, proximate and foreseeable result of Stantec's breach of its contractual duties owed to The Velotta Company under its subcontract relative to the Fayette County Project, the Plaintiff

has suffered financial loss in the form of additional costs resulting from additional work, extended project performance, extended general conditions and extended, unabsorbed home-office overhead, alteration of The Velotta Company's planned sequence of work, disruption in its planned manner and method of performance.

COUNT TWO

THE FAYETTE COUNTY, PENNSYLVANIA PROJECT

15. The Velotta Company incorporates by reference each of the allegations heretofore set out in Paragraphs 1 through 14 as if fully set forth verbatim herein.

16. On or about November 12, 2010 The Velotta Company entered into a public works construction project with the PennDot identified as Project No. 29895 involving improvements to the Pittsburgh Street Bridge in Fayette County, Pennsylvania.

17. On or about November 15, 2010 The Velotta Company entered into a subcontract with Stantec to provide design services for the Fayette County, Pennsylvania project.

18. The majority of Stantec's services under its subcontract were performed at its office located at One Moore Avenue, Buckhannon, West Virginia.

19. Stantec failed to exercise the reasonable skill and diligence required by customarily accepted professional practices and procedures at the time and location where the services were performed and failed to perform its services within the contract time and thereby breached its subcontract with The Velotta Company.

20. As a direct, proximate and foreseeable result of Stantec's breach of its contractual duties owed to The Velotta Company under its subcontract relative to the Fayette County Project, the Plaintiff has suffered financial loss in the form of additional costs resulting from additional work, extended project performance, extended general conditions and extended, unabsorbed home-office overhead, alteration of The Velotta Company's planned sequence of work, disruption in its planned manner and method of performance, and imposition of liquidated damages by PennDot.

COUNT THREE

THE TIOGA COUNTY, PENNSYLVANIA PROJECT

21. The Velotta Company incorporates by reference each of the allegations heretofore set out in Paragraphs 1 through 20 as if fully set forth verbatim herein.

22. On or about November 21, 2011 The Velotta Company entered into a public works construction project with PennDot identified as ECMS Project No. 7231 on State Route 249 over Losey Creek in Tioga County, Pennsylvania.

23. On or about November 30, 2011 The Velotta Company entered into a subcontract with Stantec to perform design services on the Tioga County, Pennsylvania project.

24. Stantec failed to exercise the reasonable skill and diligence required by customarily accepted professional practices and procedures at the time and location where the services were performed and failed to perform its services within the contract time and thereby breached its subcontract with The Velotta Company.

25. As a direct, proximate and foreseeable result of Stantec's breach of its contractual duties owed to The Velotta Company under its subcontract relative to the Tioga County Project, the Plaintiff has suffered financial loss in the form of additional costs resulting from additional work, extended project performance, extended general conditions and extended, unabsorbed home-office overhead, alteration of The Velotta Company's planned sequence of work and disruption in its planned manner and method of performance, and imposition of liquidated damages by PennDot.

COUNT FOUR

THE BEAVER COUNTY, PENNSYLVANIA PROJECT

26. The Velotta Company incorporates by reference each of the allegations heretofore set out in Paragraphs 1 through 25 as if fully set forth verbatim herein.

27. On or about August 19, 2010 The Velotta Company entered into a public works construction project with PennDot identified as Project No. 29078, a bridge and highway improvement on Wildwood Road over Brady Run in Beaver County, Pennsylvania.

28. On or about August 23, 2010, The Velotta Company entered into a subcontract with Stantec to provide design services on the Beaver County, Pennsylvania Project.

29. Stantec failed to exercise the reasonable skill and diligence required by customarily accepted professional practices and procedures at the time and location where the services were performed and failed to perform its services within the contract time and thereby breached its subcontract with The Velotta Company.

30. As a direct, proximate and foreseeable result of Stantec's breach of its contractual duties owed to The Velotta Company, the Plaintiff has suffered financial loss in the form of additional costs resulting from additional work, extended project performance, extended general conditions and extended, unabsorbed home-office overhead, alteration of The Velotta Company's planned sequence of work and disruption in its planned manner and method of performance, and the imposition of liquidated damages by PennDot.

COUNT FIVE

NEGLIGENCE

31. The Velotta Company incorporates by reference each of the allegations heretofore set out in Paragraphs 1 through 30 as if fully set forth verbatim herein.

32. Stantec owed a common law duty to The Velotta Company to perform its professional services with the ordinary skill, care and diligence commensurate with that rendered by members of its profession in the same or similar circumstances.

33. In the performance of its subcontracts with The Velotta Company, Stantec failed to adhere to the aforesaid standard of care in the provision of its professional services by, among other things, failing to complete its work in a diligent and timely manner, providing incomplete, incorrect, and error-filled designs.

34. As a direct, proximate and foreseeable result of Stantec's breach of its common law and contractual duties owed to The Velotta Company, the Plaintiff has suffered substantial financial losses arising from additional work, delayed contract completion, extended general conditions and extended,

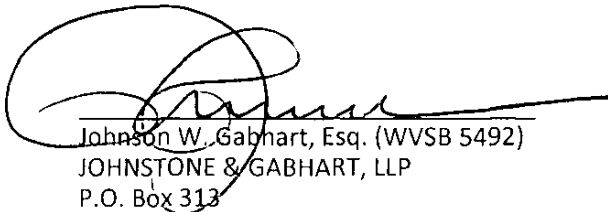
unabsorbed home-office overhead, the alteration of The Velotta Company's planned sequence of work and planned manner and method of performance, and the imposition of liquidated damages by PennDot.

35. As a direct, proximate and foreseeable result of the Defendant, Stantec's failure to adhere to its contractual and common law duties owed to The Velotta Company on each of the four projects described hereinabove, Plaintiff has suffered financial losses in a total amount exceeding Two Million Dollars (\$2,000,000.00)

WHEREFORE, the Plaintiff, The Velotta Company, demands judgment against the Defendant, Stantec Consulting Services, Inc., in an amount necessary to compensate Plaintiff for losses it has incurred as a direct, proximate and foreseeable result of Defendant, Stantec Consulting Services, Inc.'s breach of contract and negligence, and necessary to do justice in this matter, including, but not limited to, its reasonable attorney's fees and expenses incurred in the prosecution of these claims.

Respectfully submitted,
THE VELOTTA COMPANY

By counsel:

A handwritten signature in black ink, appearing to read 'Johnson W. Gabhart', is written over a horizontal line. The signature is fluid and cursive, with a large loop at the beginning.

Johnson W. Gabhart, Esq. (WVSB 5492)
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