Aerial Lighting & Elec., Inc. v. 900 State Coll. PA. Props. I K6, LLC

Common Pleas Court of Centre County, Pennsylvania

January 9, 2026, Decided; January 9, 2026, Filed

Consolidated Cases: No. 2023-CV-2936-CI, No. 2023-CV-2937-CI

Reporter
2026 Pa. Dist. & Cnty. Dec. LEXIS 235 *; 2026 LX 363894

AERIAL LIGHTING & ELECTRIC, INC., Claimant, v. 900 STATE COLLEGE PA PROPERTIES I K6, LLC, and 1275 STATE COLLEGE PA PROPERTIES I K6, LLC, Owners, v. POOLE ANDERSON CONSTRUCTION, LLC, Petitioner Intervenor.

Counsel: [*1] For Claimant: Benjamin Rachelson, Esq. Peter W. Nigra, Esq.

For Owners: Michael B. Gallagher, Esq. Garrett A. Gibson, Esq.

For Proposed Intervenor: David A. Levine, Esq. Benjamin R. Wright, Esq.

Judges: Brian K. Marshall, Judge.

Opinion by: Brian K. Marshall

Opinion

OPINION AND ORDER

Marshall, J.

Presently before the Court is the Petition to Intervene and Discharge Mechanics' Lien, filed by Poole Anderson Construction, LLC ("Petitioner") on September 26, 2025. A hearing on the Petition was held on November 18, 2025. On November 13, 2025, this Court entered a Consent Order discharging the Mechanics' Lien upon Petitioner's deposit of a cash bond. With respect to the Petition to Intervene, upon review of the filings and arguments of the parties, the Court enters the following Opinion and Order:

BACKGROUND

This matter is a Mechanics' Lien action related to two student housing projects (together, the "Projects") constructed near Perm State University Campus. 1275 State College PA Properties I K6, LLC and 900 State College PA Properties IK6, LLC (together, the "Owners") are the owners of the real property upon which the Projects were constructed. The Owners contracted with Petitioner to be the general contractor of the Projects **[*2]** and Petitioner, in turn, entered into subcontract agreements with Aerial Lighting & Electric, Inc. ("Claimant") for performance of the electrical subcontract work on the Projects. *See Pet. Intervene,* Ex. A (Sept. 17, 2021 subcontract agreement between Petitioner and Claimant, for 1275 Project); Ex. B (Sept. 15, 2022 subcontract agreement between Petitioner and Claimant, for 900 Project). Petitioner avers that Article 6 of both subcontract agreements provide that any disputes between Petitioner and Claimant, including any disputes that arise out of any act or omission of the Owner(s), be resolved in arbitration at Petitioner's election. *Id.* Petitioner further avers that they have elected to arbitrate the disputes and that there is an arbitration proceeding pending with the American Arbitration Association naming Claimant as a party. *See Pet. Intervene, ¶10* ("...AAA Matter Number 01-24-0008-8537").

On November 21,2023, Claimant filed a Mechanics' Lien claim against Owner 1275 State College in the amount of $1,359,240.16 against the improvements and property located at 179 College Avenue, State College, PA. The claim filed against Owner 1275 State College was docketed at no. 2023-CV-2937-CI. **[*3]**

Simultaneously thereto, on November 21, 2023, Claimant filed a Mechanics' Lien claim against Owner 900 State College in the amount of $95,563.52 against the improvements and property located at West College Avenue, State College, PA. The claim filed against Owner 900 State College was docketed at no. 2023-CV-2936-CI. By Order dated September 19, 2025, this Court consolidated the two Mechanics' Lien matters because they share common law and facts.

On September 26, 2025, Petitioner filed the instant Petition to Intervene asking this Court to allow it to intervene in the consolidated matters pursuant to *Pa.R.C.P. 2327(1)* and/or *(4)*, on the basis that an entry of judgment in these actions may impose liability upon Petitioner to indemnify the Owners and/or that the outcome of these actions may affect a legally enforceable interest of Petitioner.

DISCUSSION

Rules 2327 to 2330 of the Pennsylvania Rules of Civil Procedure govern intervention. *See Pa.R.C.P. 2327-2330*. *Rule 2327* describes who may intervene in an action, providing that:

At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein, subject to these rules if

(1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify **[*4]** in whole or in part the party against whom judgment may be entered; or

(2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof; or

(3) such person could have joined as an original party in the action or could have been joined therein; or

(4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.

Pa. R.C.P. 2327.

Rule 2329 governs the actions of the court upon receipt of an application to intervene, and provides that:

Upon the filing of the petition and after hearing, of which due notice shall be given to all parties, the court, if the allegations of the petition have been established and are found to be sufficient, shall enter an order allowing intervention; but an application for intervention may be refused, if

(1) the claim or defense of the petitioner is not in subordination to and in recognition of the propriety of the action; or

(2) the interest of the petitioner is already adequately represented; or

(3) the petitioner has unduly delayed in making application for intervention or the intervention will **[*5]** unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties.

Pa.R.C.P. 2329.

Petitioner Poole Anderson Construction, LLC asks this Court to permit it to intervene in this consolidated action. Specifically, Petitioner relies on 2327(1) and (4) as the bases by which it should be permitted to intervene. *See Pa.R.C.P. 2327(1)* and *(4)* ("the entry of ajudgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered;"

and "the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.").

The Court agrees that Petitioner should be permitted to intervene in these matters pursuant to *Pa.R.C.P. 2327(1)* and *(4)*. With respect to *2327(1)*, should this Court enter judgment in favor of Claimant and against Owners, the Owners likely have a colorable indemnification claim against Petitioner pursuant to the general contractor contract between Owners and Petitioner. With respect to 2327(4), Petitioner has a legally enforceable interest as the party that is ultimately responsible for satisfactory completion of the Projects; **[*6]** Petitioner also has a legally enforceable contract interest that any disputes in these matters be resolved in arbitration. Further, the Court finds that none of the exceptions to intervention provided for in *Pa.R.C.P. 2329* are applicable here: Petitioner's claim is in subordination to and in recognition of the propriety of the action; the interest of Petitioner is not fully and adequately represented by Owners, who will likely be indemnified by Petitioner; and Petitioner has not unduly delayed in filing the Petition. Accordingly, the Court enters the following Order:

ORDER

AND NOW, this 9th day of January, 2026, the Petition to Intervene filed by Petitioner Poole Anderson Construction, LLC is hereby GRANTED. Following the entry of this order allowing intervention, Petitioner shall have all the rights and liabilities of a party to the action pursuant to *Pa.R.C.P. 2330(a)*. Any party to this action may amend any pleading filed by said party to include any claim or defense available against an intervening party pursuant to *Pa.R.C.P. 2330(b)*.

BY THE COURT:

/s/__

Brian K. Marshall, Judge

End of Document