

Docket Number: 996

JAMES D. MORRISSEY, INC. and
J.D.M. MATERIALS CO., INC. and
EUREKA STONE QUARRY, INC.

William M. Barnes, Esquire

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Kenneth L. Sable, Chief Claims Attorney

February 8, 1985

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: TOTAL =\$714,739.00

| | |
|-------------------------------|--------------|
| James D. Morrissey, Inc. - | \$602,191.00 |
| J.D.M. Materials, Co., Inc. - | \$53,317.00 |
| Eureka Stone Quarry, Inc. - | \$59,231.00 |

February 13, 1985

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General.

March 15, 1985

Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 1, 1985

Report to New Matter filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 2, 1988

Notice of Deposition of James D. Morrissey, Inc., J.D.M. Materials Co., Inc., and Eureka Stone Quarry, Inc. filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 2, 1988

Request for Production of Documents of James D. Morrissey, Inc., J.D.M. Materials Co., Inc., and Eureka Stone Quarry, Inc. filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 18, 1988

Hearing scheduled for February 14, 15, 16 and 17, 1989, as well as February 21, 22, 23 and 24, 1989, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

November 23, 1988

Notice of Deposition of Eureka Stone Quarry, Inc., filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 22, 1988

Notice to take Deposition of James D. Morrissey, Inc., J.D.M. Materials Company, Inc., and Eureka Stone Quarry, Inc filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 14, 1989

Hearing held this date in Board's Courtroom No. 1 commencing at 10:00 a.m.

February 14, 1989

Memorandum of Law Submitted on Behalf of Defendant Regarding Res Judicata or Collateral Estoppel Effect of Commonwealth Court Preliminary Injunction filed by attorney for Defendant at time of hearing. Copy given to attorney for Plaintiff.

February 15, 1989

Hearing held this date in Board's Courtroom No. 1 commencing at 10 a.m. Case to be continued on February 21, 1989.

February 21, 1989

Hearing held this date in Board's Courtroom No. 1 commencing at 10:15 a.m.

February 22, 1989

Hearing held this date in Board's Courtroom No. 1 commencing at 10:30 a.m. Case concluded subject to re-opening or rebuttal if requested.

March 7, 1989

Hearing scheduled for March 9, 1989, for completion, in Board's Courtroom No. 1 commencing at 10:00 a.m.

March 9, 1989

Hearing held in Board's Courtroom No. 1 commencing at 10:25 a.m. Case completed.

March 16, 1989

Testimony of hearing held February 14, 1989 filed.

March 17, 1989

Copy of testimony of hearing held February 14, 1989 forwarded to attorney for Defendant.

March 21, 1989

Testimony of hearing held February 15, 1989 filed.

March 21, 1989

Acceptance of Service of testimony of hearing held February 14, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 20, 1989.

March 23, 1989

Copy of testimony of hearing held February 15, 1989 forwarded to attorney for Defendant.

March 29, 1989

Testimony of hearing held February 21 and 22, 1989 filed.

March 30, 1989

Copies of testimony of hearing held February 21 and 22, 1989 forwarded to attorney for Defendant.

March 27, 1989

Acceptance of Service of testimony of hearing held February 15, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 23, 1989.

April 3, 1989

Acceptance of Service of testimony for hearing held February 21 and 22, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 31, 1989.

September 7, 1989

Testimony of hearing held March 9, 1989 filed.

September 8, 1989

Copies of testimony of hearing held March 9, 1989 forwarded to attorney for Defendant.

September 12, 1989

Acceptance of Service of testimony of hearing held March 9, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 11, 1989.

October 26, 1989

Plaintiff's Proposed Findings of Fact, Conclusions of Law and Memorandum in Support thereof, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 28, 1989

Motion to Preclude Defendant's Post Hearing Filing and for Judgment in Favor of Plaintiffs and Proposed Order filed by Plaintiff via fax. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 29, 1989

Motion to Preclude Defendant's Post Hearing Filing and for Judgment in Favor of Plaintiffs and Proposed Order filed by Plaintiff via mail. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 12, 1990

Defendant's Post Hearing Memorandum with Requested Findings of Fact and Conclusions of law filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 12, 1990

Plaintiff's Reply to Defendant's Post Hearing Memorandum with Requested Findings of Fact and Conclusions of Law filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 15, 1990

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 15th day of February, 1990, it is **ORDERED** and **DECREED** that the Plaintiff's Motion to Preclude Defendant's Post Hearing Filing and for Judgment in favor of Plaintiffs, filed December 19, 1989, should be and hereby is **DISMISSED**, same having been rendered moot by the filing of Defendant's Post Hearing Brief, Proposed Findings of Fact and Proposed Conclusions of Law." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

February 21, 1990

Acceptance of Serve of Opinion and Order dated February 15, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 20, 1990.

March 26, 1990

Acceptance of Service of Opinion and Order dated February 15, 1990 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 19, 1990.

May 22, 1990

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 22nd day of May, 1990, an award is hereby entered in favor of James D. Morrissey, Inc., in the amount of \$152,151.36 with six percent (6%) interest from January 1, 1985 and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation; further an award is hereby entered in favor of J.D.M. Materials Co., Inc., in the amount of Nineteen Thousand Seven Hundred Sixty-One Dollars and Seventy-Seven Cents (\$19,761.77 with interest at six percent (6%) from January 1, 1985, and against the Commonwealth of Pennsylvania, Department of Transportation; further, an award and judgment is hereby entered in favor of the Commonwealth of Pennsylvania, Department of Transportation against Eureka Stone Quarry, Inc., upon the Claim of Eureka Stone Quarry, Inc." Copy forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

May 12, 1990

Acceptance of Service of Opinion and Order dated May 22, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 23, 1990.

May 29, 1990

Acceptance of Service of Opinion and Order dated May 22, 1990 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General May 23, 1990.

May 30, 1990

Acceptance of Service of Opinion and Order dated May 22, 1990 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 24, 1990.

June 21, 1990

Petition for Reconsideration filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 22, 1990

Copy of Petition for Review as filed in Commonwealth Court filed by attorney for Plaintiff.

June 26, 1990

Petition for Review received from Commonwealth Court. (No. 1308 C.D. 1990)

June 26, 1990

Motion to Strike Plaintiff's Petition for Reconsideration filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 26, 1990

Copy of Cross Petition for Review as filed in Commonwealth Court filed by attorney for Defendant.

July 2, 1990

Cross-Petition for Review received from Commonwealth Court. (No. 1344 C.D. 1990)

July 26, 1990

File transmitted to Commonwealth Court.

August 13, 1990

Copy of Designation of James D. Morrissey, Inc., J.D.M. Materials Co., Inc. and Eureka Stone Quarry, Inc. of Contents of Reproduced Record In No. 1308 C.D. 1990, as well as Statement of Issues for Review of Petitioners, James D. Morrissey, Inc., J.D.M. Materials, Co., Inc. and Eureka Stone Quarry, Inc., as filed in Commonwealth Court received from attorney for Plaintiff.

August 28, 1990

Supplemental Designation of James D. Morrissey, Inc., J.D.M. Materials Co., Inc. and Eureka Stone Quarry, Inc. of Contents of Reproduced Record as filed in Commonwealth Court filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 11, 1990

Brief of Petitioners as filed in Commonwealth Court filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 3, 1990

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 3rd day of October, 1990, it is **ORDERED** and **DECREED** that the Petition for Reconsideration filed by Plaintiff, James D. Morrissey, Inc. and J.D.M. Materials Co., Inc. and Eureka Stone Quarry, Inc., be and is hereby **DISMISSED** as being moot in light of the Board's loss of jurisdiction to proceed further." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 5, 1990

Acceptance of Service of Opinion and Order dated October 3, 1990 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 4, 1990.

October 11, 1990

Acceptance of Service of Opinion and Order dated October 3, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 7, 1990.

November 26, 1990

Copy of Reply Brief of Petitioners in No. 1308 C.D. 1990 and Respondents in No. 1344 C.D. 1990 as filed in Commonwealth Court filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. (Nos. 1308 C.D. 1990 and 1344 C.D. 1990).

January 22, 1991

Copy of Opinion and Order received from Commonwealth Court. Order as follows: "**AND NOW**, January 17, 1991, the order of the Board of Claims in the above-captioned matter is affirmed."

March 25, 1991

File returned from Commonwealth Court.
