

Docket Number:
1045

FRANCIS J. PALO, INC.

James B. Alexander, Esquire,

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
Kenneth L.Sable, Chief Claims Attorney

VS.

****COUNTY OF MERCER Impleaded**
William J. Madden Esquire,

February 7, 1986

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$51,925.69

February 10, 1986

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

February 12, 1986

Acceptance of Service received from Defendant. Receipt of same acknowledged by Defendant February 11, 1986.

February 14, 1986

Acceptance of Service received from Office of Attorney General. Receipt of same acknowledged by the Office of Attorney General February 12, 1986.

March 3, 1986

Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 24, 1986

Request for Production filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 3, 1986

Brief in Support of Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 22, 1986

Answer to Preliminary Objections and Brief in Opposition to Defendant's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney Plaintiff.

June 10, 1986

The Board rendered an Opinion and made the following Order: "AND NOW, this 10th day of June, 1986, the Preliminary Objections as filed by the Defendant in the Nature of a Demurrer and a Motion Questioning the Jurisdiction of this Board are hereby DENIED. The Preliminary Objection as filed by the Defendant raising the question of a non-joinder of a necessary and indispensable party is GRANTED. This Board, sui juris, will enter Mercer County as a named Defendant. The presence of the County of Mercer is necessary

June 10, 1986 (Cont'd)

for a complete determination of Plaintiff's Claim. It would appear, to the Board, that the County of Mercer is alleged to have acted as an agent for the Commonwealth, an undisclosed or partially disclosed principal, and that the presence of the County of Mercer is necessary for a complete determination of the Plaintiff's Claim.

It is hereby ORDERED that the County of Mercer be and is hereby impleaded as a Interpleaded Defendant. Further, the caption will be amended and from this date forward, shall appear as follows: Francis J. Palo, Inc. vs. Commonwealth of Pennsylvania Department of Transportation vs. County of Mercer, Interpleaded Defendant - Before the Board of Claims - Docket No. 1045. In furtherance of this Order, the Plaintiff is directed to serve upon the County of Mercer a copy of the complaint and copy of this Order." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

June 12, 1986

Acceptance of Service of Opinion and Order, date June 10, 1986, received from Defendant. Receipt of same acknowledged by Defendant June 11, 1986.

June 19, 1986

Acceptance of Service of Opinion and Order, dated June 10, 1986, received from Plaintiff. Receipt of same acknowledged by Plaintiff on June 13, 1986.

June 19, 1986

Copy of Complaint and Board's Order dated June 10, 1986 forwarded to Interpleaded Defendant by attorney for Plaintiff per Board's Order of June 10, 1986.

June 23, 1986

Acceptance of Service, executed by attorney for Plaintiff, of Complaint and Board's Order dated June 10, 1986, received from Interpleaded Defendant. Receipt of same acknowledged by Interpleaded Defendant June 19, 1986.

July 24, 1986

Answer filed by attorney for Impleaded Defendant. Copies forwarded to attorney for Plaintiff and attorney for Defendant by attorney for Impleaded Defendant.

August 7, 1986

Department of Transportation's Answer filed by attorney for Defendant. Copies forwarded to attorney for Plaintiff and attorney for Impleaded Defendant by attorney for Defendant.

September 18, 1987

Hearing scheduled for October 20, 21, 22, 23, 27, 29 and 30, 1987, if necessary in Board's Court Room No. 1 at 10 a.m.

October 20, 1987

Hearing held in Board's Court Room No. 1 at 10:00 a.m. Case withdrawn by Plaintiff. Case completed.

October 20, 1987

Praecipe to Withdraw filed by attorney for Plaintiff. Copy given to attorney for Defendant at time of hearing.

October 22, 1987

The Board rendered an Opinion and made the following Order: "AND NOW, this 22nd day of October, 1987 in the above entitled matter, wherein the word Interpleader may have been used as mentioned; the word Impleader should have been used. The record stands corrected.

It is to be noted, however, that the caption at the end of the call of the case for hearing on October 20, 1987 set forth as follows:

Francis J. Palo, Inc. vs. Commonwealth of Pennsylvania, Department of Transportation vs. County of Mercer Impleaded Defendant. Let the record so show." Copies forwarded to attorney for plaintiff, attorney for Defendant and attorney for Impleaded Defendant.

October 23, 1987

Acceptance of Service of Opinion and Order dated October 22, 1987 received from attorney for Defendant. Receipt of same acknowledged by Defendant October 22, 1987.

October 26, 1987

Testimony of hearing held October 20, 1987 filed.

October 27, 1987

Copy of testimony for hearing held October 20, 1987 forwarded to attorney for Defendant.

October 29, 1987

Acceptance of Service of Opinion and Order dated October 22, 1987 received from Plaintiff. Receipt of same acknowledged by Plaintiff October 27, 1987

October 29, 1987

Acceptance of Service of Opinion and Order dated October 22, 1987 received from Impleaded Defendant. Receipt of same acknowledged by Impleaded Defendant October 27, 1987.

October 29, 1987

Acceptance of Service of Testimony for hearing held October 20, 1987 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 28, 1987.

November 2, 1989

The Board rendered the following Order: **"AND NOW**, this 2nd day of November, 1989, upon receipt of Praecipe to Withdraw filed by Plaintiff, Francis J. Palo, Inc., the matter having been settled, it is **ORDERED** and **DIRECTED** that the case be marked settled, discontinued and ended with prejudice." Copies forwarded to attorney for Plaintiff, attorney for Defendant and attorney for Impleaded Defendant.

November 6, 1989

Acceptance of Service of Order dated November 2, 1989, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 3, 1989.

November 17, 1989

Acceptance of Service of Order dated November 2, 1989, received from attorney for Impleaded Defendant. Receipt of same acknowledged by attorney for Impleaded Defendant November 6, 1989.
