

Docket Number: 1049

DICK ENTERPRISES, INC. for Use and Benefit of
AKM Associates, Inc.

~~Stanley M. Stein, Esquire~~
James P. Ross, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Kenneth B. Allen, Assistant Counsel~~
Kenneth L. Sable, Assistant Counsel

***March 14, 1986**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$59,522.31

March 18, 1986

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

March 19, 1986

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 19, 1986.

March 26, 1986

Acceptance of Service of Complaint received from Office of Attorney General. Receipt of same acknowledge by Office of Attorney General March 25, 1986.

April 22, 1986

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

May 8, 1986

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

August 27, 1986

Request for Interrogatories Directed to Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 27, 1986

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

August 27, 1986

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

September 29, 1986

Answers to Request for Production of Documents as well as Defendant's Answers to Plaintiff's Request to Admit filed by attorney for Defendant. Copies forwarded to attorney for Plaintiff by attorney for Defendant.

October 7, 1986

Defendant's Continuing Interrogatories to Plaintiff - First Set as well as Defendant's Request for Production of Documents filed by attorney for Defendant. Copies forwarded to attorney for Plaintiff by attorney for Defendant.

November 10, 1986

Hearing scheduled for December 17, 18 and if necessary, December 19, 1986, before the Western District, to be held in the Pittsburgh State Office Building, Room 1605, Pittsburgh, Pennsylvania, commencing at 10:00 a.m.

December 17, 1986

Hearing held in Pittsburgh State Office Building, Room 1605, Western District, commencing at 10:00 a.m. The case was called to order. It was revealed by Chairman Campedel that there may be an appearance of impropriety because of representation of Dick Company in other matters, although it is not the same company. When the Commonwealth was apprised for its determination, it refused to waive the apparent conflict and asked that the matter be continued. Judge Pace ordered the continuance of same and ordered the case back to the full Board for a full hearing in the immediate future.

December 17, 1986

Amended Statement of Claim, amending the Wherefore Clause changing the amount to \$84,608.23, filed at time of hearing. Copy hand-delivered to attorney for Defendant by attorney for Plaintiff at time of hearing.

January 9, 1987

Hearing scheduled for February 10, 1987 through February 13, 1987, if necessary, in Board's Court Room No. 1 at 10:00 a.m.

January 8, 1987

Testimony of hearing held December 17, 1986 filed.

January 15, 1987

Copy of testimony, for hearing held December 17, 1986, forwarded to attorney for Defendant.

January 21, 1987

Acceptance of Service of Testimony for hearing held December 17, 1986 received from Defendant. Receipt of same acknowledge by Defendant January 17, 1987.

February 10, 1987

Hearing held in Board's Courtroom No. 1 commencing at 10:22 a.m.

February 10, 1987

Deposition of Douglass K. Loughery filed by Defendant at time of hearing.

February 11, 1987

Hearing held in Board's Courtroom No. 1 commencing at 10:09 a.m. Case completed.

March 10, 1987

Testimony of hearing held February 10, 1987 filed.

March 11, 1987

Testimony of hearing held February 11, 1987 filed.

March 13, 1987

Copies of testimony for hearings held February 10 and 11, 1987 forwarded to attorney for Defendant.

March 17, 1987

Acceptance of Service of Testimony for hearings held February 10 and 11, 1987 received from Defendant. Receipt of same acknowledged by Defendant March 16, 1987.

April 9, 1987

Memorandum in Support of Claim by AKM Associates, Admissions by the Parties, Suggested Finds of Fact and Conclusions of Law filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 9, 1987

Proposed Findings of Fact and Conclusions of Law and Brief of Defendant in Support of Proposed Findings of Fact and Conclusions of Law filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 8, 1987

Response to Counterstatement of the Case by Commonwealth filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff

July 16, 1987

Department's Reply to Plaintiff's Response to Counterstatement of the Case filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 15, 1987

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 15th day of September, 1987, we find in favor of the Plaintiff, Dick Enterprises, Inc. for the Use and Benefit of AKM Associates, Inc. and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation, in the amount of Eighty-Three Thousand Three Hundred Eleven Dollars and Seventy-five Cents (\$83,311.75) established in the following manner: Materials cost - \$1,696.00, Labor Cost - \$60,795.15, Equipment cost - \$2,851.40 = Subtotal - \$66,359.39, 25% Overhead - \$16,589.85 = Total Cost - \$82,949.24, 2% Sub-contractor - \$1,658.98 = GRAND TOTAL - \$83,311.75. Interest at the legal rate of six (6%) percent per annum beginning thereon from September 30, 1985 shall be granted. Each party to bear its own costs."

September 18, 1987

Copies of Opinion and Order dated September 15, 1987 forwarded to attorney for Plaintiff and attorney for Defendant.

September 22, 1987

Acceptance of Service of Opinion and Order dated September 15, 1987 received from Defendant. Receipt of same acknowledged by Defendant September 21, 1987.

September 25, 1987

Acceptance of Service of Opinion and Order dated September 15, 1987

received from Plaintiff. Receipt of same acknowledged by Plaintiff
September 23, 1987.
