

Docket Number: 1069

SHANNOPIN MINING COMPANY

~~J. Frank McKenna, III, Esquire~~  
William M. Wycoff, Esquire and Diana L. Reed, Esquire  
Kevin C. Abbott, Esquire (Co-counsel for Plaintiff)

CLOSED

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE WORKMEN'S INSURANCE FUND

~~Barry M. Hartman, Chief Counsel~~  
~~Frederick H. Hobbs, Esquire~~  
~~Charles F. McElwee, Esquire~~

**May 23, 1986**

On Order, upon consideration of the "complaint in civil action" and it appearing that the Board of Claims has jurisdiction over this matter, this matter is transferred to the Board of Claims. See 42 Pa. C.S. §761 (a) (iv). The Chief Clerk shall certify to the prothonotary of said court a photocopy of the docket entries of the above captioned matter and shall transmit to him the record thereof. (J. MacPhail) Order exit.

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THE FOLLOWING FILED IN COMMONWEALTH COURT

**May 19, 1986**

Complaint filed.

**May 21, 1986**

Memo to the Sheriff of Dauphin County for service exit.

**May 23, 1986**

On Order, upon consideration of the "complaint in civil action" and it appearing that the Board of Claims has jurisdiction over this matter, this matter is transferred to Board of Claims. See Pa. C.S. §761 (a) (iv). The Chief Clerk shall certify to the prothonotary of said court a photocopy of the docket entries of the above captioned matter and shall transmit to him the record thereof. (J. MacPhil) Order exit.

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**May 22, 1986**

Service of within Civil Action Complaint upon State Workmen's Inc. Fund by personally handing to person in charge of office at time of Service. So Answers WHL Sheriff of Dauphin County. See Sheriffs return filed.

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**June 13, 1986**

Record transferred from Commonwealth Court. Amount of Claim: \$40,000.00+

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**June 16, 1986**

File received from Commonwealth Court.

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**June 18, 1986**

Letter forwarded to Plaintiff requesting additional copies of Complaint and filing fee.

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**June 20, 1986**

Preliminary Objections to Complaint and Brief of Defendant, State Workmen's Insurance Fund in Support of Preliminary Objections to the Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**July 1, 1986**

Additional copies of Claim and filing fee received from attorney for Plaintiff.

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**July 1, 1986**

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

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**July 8, 1986**

Acceptance of Service of Claim received from Defendant. Receipt of same acknowledged by Defendant July 3, 1986.

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**July 10, 1986**

Acceptance of Service of Claim received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General July 3, 1986.

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**July 14, 1986**

Acceptance of Service of Complaint received from Defendant. Receipt of same acknowledged by Defendant July 9, 1986.

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**July 24, 1986**

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 24th day of July, 1986, the Preliminary Objection of the Nature of a Demurrer is **DENIED**. The Preliminary Objection of the Defendant in the Nature of a More Specific Complaint is **GRANTED**. The Plaintiff is given thirty (30) days from the date of this Order to file a more Specific Pleading in accordance with this Order."

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**July 25, 1986**

Copy of Opinion and Order dated July 24, 1986, forwarded to attorney for Plaintiff and attorneys for Defendants.

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**July 29, 1986**

Acceptance of Service of Opinion and Order dated July 24, 1986 received from Defendant (Mr. Hobbs). Receipt of same acknowledged by Defendant (Mr. Hobbs) July 28, 1986.

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**July 31, 1986**

Acceptance of Service of Opinion and Order dated July 24, 1986 received from Plaintiff. Receipt of same acknowledged by Plaintiff. Receipt of same acknowledged by Plaintiff July 28, 1986.

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**August 4, 1986**

Acceptance of Service of Opinion and Order dated July 24, 1986, received from Defendant (McElwee). Receipt of same acknowledged by Defendant (McElwee) July 31, 1986.

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**August 15, 1986**

Amended Complaint in Civil Action filed by attorney for Plaintiff. Copy forwarded to attorneys for Defendant by attorney for Plaintiff.

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**August 19, 1986**

Copy of Amended Claim in Civil Action forwarded to Chief Deputy Attorney General.

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**August 25, 1986**

Acceptance of Service of Amended Claim received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General August 21, 1986.

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**September 4, 1986**

Answer and New Matter to Amended Claim filed by attorneys for Defendants. Copy forwarded to attorney for Plaintiff by attorneys for Defendants.

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**October 6, 1986**

Plaintiff Shannopin Mining Company's Reply to New Matter filed by attorney for Plaintiff. Copy forwarded to attorneys for Defendants by attorney for Plaintiff.

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**October 14, 1986**

Defendant's Request for Production of Evidence filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**November 20, 1986**

Notice of Service of Interrogatories as well as Plaintiff's Request for Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorneys for Defendants by attorney for Plaintiff.

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**February 24, 1987**

Letter received from Frederick M. Hobbs, attorney for Defendant, that Attorney Charles F. McElree's name should be withdrawn as co-counsel of record for the Defendant.

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**March 3, 1987**

Hearings scheduled for April 28, 29, 30, and May 1, 1987, if necessary, in Board's Court Room No. 1, commencing at 10:00 a.m.

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**March 16, 1987**

Notice of Depositions of Wilbur H. Scheurer, Ronald Koldjeski, William C. Steppacher and Paul J. Dufallo filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**April 8, 1987**

Praecipe for Appearance substituting the appearance of William M. Wycoff, Esquire, and Diane L. Reed, Esquire, for J. Frank McKenna, III, and Kevin C. Abbott, Co-counsel for Plaintiff filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**April 24, 1987**

Trial Brief of Plaintiff Shannopin Mining Company filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**April 24, 1987**

Depositions of Wilbur H. Scheurer, Ronald Koldjeski, and Paul J. Dufallo filed by attorney for Plaintiff.

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**April 28, 1987**

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

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**May 22, 1987**

Testimony of hearing held April 28, 1987 filed.

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**May 26, 1987**

Copy of testimony, for hearing held April 28, 1987 forwarded to attorney for Defendant.

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**May 29, 1987**

Acceptance of Service of testimony for hearing held April 28, 1987 received from Defendant. Receipt of same acknowledged by Defendant May 27, 1987.

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**June 25, 1987**

Suggested Findings of Facts and Conclusions of Law and Brief filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**August 24, 1987**

Defendant, State Workmen's Insurance Fund's Suggested Findings of Fact, Conclusions of Law and Brief filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**November 6, 1987**

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 6th day of November, 1987, the Board finds in favor of the Defendant, Commonwealth of Pennsylvania, Department of Labor and Industry, State Workmen's Insurance Fund, and against the Plaintiff, Shannopin Mining Company. Each party to bear its own costs."

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**November 10, 1987**

Copy of Opinion and Order dated November 6, 1987 forwarded to attorneys for Plaintiff and attorney for Defendant.

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**November 16, 1987**

Acceptance of Service of Opinion and Order dated November 6, 1987 received from Defendant. Receipt of same acknowledged by Plaintiff November 12, 1987.

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**November 16, 1987**

Acceptance of Service of Opinion and Order dated November 6, 1987 received from Plaintiff (Mr. Abbot). Receipt of same acknowledged by Defendant November 12, 1987.

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**November 19, 1987**

Acceptance of Service of Opinion and Order dated November 6, 1987 received from Plaintiff (Ms. Reed). Receipt of same acknowledged by Defendant November 12, 1987.

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**CLOSED**

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Notice of Appeal filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

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**January 8, 1988**

Motion of Appellant Shannopin Mining Company to Transfer Appeal Pursuant to 42 Pa. C.S.A. §5103(a) and (d) and Pa. R.APP.P. 751 and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**February 16, 1988**

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 16th day of February, 1988, the Motion of the Appellant Shannopin Mining Company to Transfer Appeal Pursuant to 42 Pa. C.S.A. §5103(a) and (d) and Pa. R.APP.P. 751 is hereby **GRANTED.** The appropriate pleadings will be transferred by the Board to the Commonwealth Court of the Commonwealth of Pennsylvania."

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**February 17, 1988**

Copy of Opinion and Order dated February 16, 1988, forwarded to attorneys for Plaintiff and attorney for Defendant.

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**February 19, 1988**

Acceptance of Service of Opinion and Order dated February 16, 1988, received from Defendant. Receipt of same acknowledged by Defendant February 18, 1988.

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**February 25, 1988**

Acceptance of Service of Opinion and Order dated February 16, 1988, received from Plaintiff (Mr. Wycoff). Receipt of same acknowledged by Plaintiff February 19, 1988.

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**June 1, 1988**

File transmitted to Commonwealth Court.

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**July 13, 1988**

Application for Leave to Resignate Notice of Appeal filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**March 4, 1989**

Courtesy copy of Petition of Shannopin Mining Company for Allowance of Appeal received from attorney for Plaintiff.

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**June 9, 1989**

Courtesy copy of Petition of Shannopin Mining Company for Allowance of Appeal received from attorney for Plaintiff.

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**April 17, 1989**

File returned from Commonwealth Court.

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**April 17, 1989**

Petition for Allowance of Appeal from Supreme Court denied March 13, 1990. [No. 33 T.D. Commonwealth Court 1988]

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