

Docket Number: 1074

DICK CORPORATION, AND DICK ENTERPRISES, INC., A JOINT VENTURE, TO
THE USE OF BEAVER VALLEY BUILDER'S SUPPLY, INC.

Stuart J. Moskovitz, Esquire
Roger Peters, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Jeffrey W. Davis, Assistant Counsel

July 7, 1986

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$10,000.00+.

July 14, 2001

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

July 16, 1986

Acceptance of Service of Complaint received from Defendant. Receipt of same acknowledged by Defendant July 15, 1986.

July 25, 1986

Acceptance of Service of Complaint received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General July 16, 1986.

August 6, 1986

Praecipe for Entry of Appearance of John J. Buchy, Jr. Assistant Counsel filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 4, 1986

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

October 14, 1986

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

December 19, 1986

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

March 10, 1988

Praecipe removing the name of John J. Buchy, Esquire, as attorney for Defendant and entering appearance of Patricia Carey Zucker as attorney for Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 14, 1988

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

November 7, 1988

Interrogatories from Defendant, Commonwealth of Pennsylvania, Department of Transportation to Plaintiff, Dick Corporation, and Dick Enterprises, Inc., a Joint Venture, and use - Plaintiff Beaver Valley Builders Supply, Inc. filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 7, 1989

Plaintiff's Answers to Interrogatories from Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 11, 1989

Hearing scheduled for February 6, 7, 8 and 9 through February 13, 14, 15 and 16, 1990, if necessary, in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 10:00 a.m.

February 6, 1990

Hearing held in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

February 7, 1990

Hearing held in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

February 8, 1990

Hearing held in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

February 9, 1990

Hearing held this date canceled. To be continued February 13, 1990.

February 13, 1990

Hearing held in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

February 14, 1990

Hearing held in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m. Case Completed.

February 15, 1990

Exhibit 1 and 1(a) filed by attorney for Defendant per request at hearing.

March 1, 1990

Testimony for hearings held February 6 and 7, 1990 filed.

March 6, 1990

Copies of testimony for hearings held February 6 and 7, 1990 forwarded to attorney for Defendant.

March 8, 1990

Acceptance of Service of testimony for hearings held February 6, 1990 and February 7, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 6, 1990.

March 8, 1990

Testimony of hearings held February 8, 13 and 14, 1990 filed.

March 13, 1990

Copies of testimony for hearings held February 8, 13 and 14, 1990 forwarded to attorney for Defendant.

March 14, 1990

Acceptance of Service of testimony for hearings held February 8, 13 and 14, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 13, 1990.

May 11, 1990

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

July 25, 1990

Requesting Findings of Fact and Conclusions of Law, and Memorandum in Support thereof, submitted on behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 13, 1991

The Board rendered an Opinion and made the following Order: "AND NOW, this 13th day of February, 1991, we find in favor of the Plaintiff, Dick Corporation, and Dick Enterprises, Inc., A Joint Venture, to the use of Beaver Valley Builder's Supply, Inc., and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation, in the amount of Three Hundred Forty-One Thousand Seven Hundred Four Dollars and Twelve Cents (\$341,704.12) with interest thereon at the legal rate of six percent (6%). Upon receipt of payment of said award, Plaintiff shall forthwith filed with the Board a Praecipe that the case be marked settled, discontinued and ended with prejudice. Each party to bear its own costs." Copy forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

February 15, 1991

Acceptance of Service of Opinion and Order dated February 13, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 14, 1991.

February 21, 1991

Acceptance of Service of Opinion and Order dated February 13, 1991 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General February 14, 1991.

February 25, 1991

The Board rendered an Amended Opinion and made the following Amended Order: "AND NOW, this 25th day of February, 1991, we find in favor of the Plaintiff, Dick Corporation, and Dick Enterprises, Inc., A Joint Venture, to the use of Beaver Valley Builder's Supply, Inc., and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation, in the amount of Three Hundred Forty-One Thousand Seven Hundred Four Dollars and Twelve Cents (\$341,704.12) with interest thereon at the legal rate of six percent (6%) beginning on July 7, 1986." Copy forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

February 27, 1991

Acceptance of Service of Amended Opinion and Amended Order dated February 25, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 26, 1991.

March 4, 1991

Acceptance of Service of Amended Opinion and Amended Order dated February 25, 1991 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General February 27, 2001.

April 9, 1991

Motion to Direct Payment of Judgment to Beaver Valley Builder's Supply, Inc. filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

***April 16, 1991**

Letter forwarded to Roger Peters, Esquire (representing Dick Corporation and Dick Enterprises, Inc., A Joint Venture) requesting a response to the Motion to Direct Payment of Judgment. Copy forwarded to attorney for Plaintiff (Beaver Valley Builder's Supply, Inc.) and attorney for Defendant.

May 29, 1991

The Board rendered an Opinion and made the following Order: "AND

NOW, this 29th day of May, 1991, it is ORDERED and DECREED that the Defendant, Commonwealth of Pennsylvania, Department of Transportation is indebted unto the Plaintiff, Dick Corporation, and Dick Enterprises, Inc., A Joint Venture To The Use of Beaver Valley Builder's Supply, Inc. in the full and true sum of Three Hundred Forty-One Thousand Seven Hundred Four Dollars and Twelve Cents (\$341,704.12) with interest thereon at the legal rate of six percent (6%) beginning July 7, 1986. It is further ORDERED and DECREED that the check representing the award be made payable to Beaver Valley Builder's Supply, Inc., and mailed directly to them at 906 Glenwood Avenue, P.O. Box 250, Ambridge, PA 15003. Upon receipt of payment of said award, Plaintiff shall forthwith file with the Board a Praeipie that the case be marked settled and ended with prejudice." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 31, 1991

Acceptance of Service of Opinion and Order dated May 29, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 30, 1991.

June 4, 1991

Acceptance of Service of Opinion and Order dated May 29, 1991 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General May 31, 1991.

June 5, 1991

Acceptance of Service of Opinion and Order dated May 29, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 31, 1991.

September 17, 1991

Letter Praeipie received from attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 23, 1991

The Board made the following Order: "AND NOW, this 23rd day of September, 1991, upon receipt of Letter acknowledging that monies

have been paid, executed by Stuart J. Moskovitz, Esquire, on behalf of Plaintiff, same of which is docketed with this Board under date of September 17, 1991, it is ORDERED and DIRECTED that said case be marked settled, discontinued and ended with prejudice." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

September 26, 1991

Acceptance of Service of Order dated September 23, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 24, 1991.

October 4, 1991

Acceptance of Service of Order dated September 23, 1991 received from attorney for Use-Plaintiff. Receipt of same acknowledged by attorney for Use-Plaintiff September 27, 1991.