

Docket Number: 1078

GERALD E. KARL and LINDA LEE KARL

William H. Poole, Jr., Esquire
John W. Thompson, Jr., Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES, and DEPARTMENT OF TRANSPORTATION
and YORK BANK AND TRUST COMPANY**

Joel M. Ressler, Esquire and Michael Reed, Chief of Litigation,
Kenneth L. Sable, Chief Claims Attorney
Donald Yost, Esquire

July 26, 1985

On Order, AND NOW, the preliminary objection of the Commonwealth of Pennsylvania is sustained, the action is transferred to the Board of Claims, and the preliminary injunction entered by this Court on April 26, 1985 is hereby dissolved. Exit. Opinion not reported.

THE FOLLOWING FILED IN COMMONWEALTH COURT:

April 11, 1985

Petition filed.

April 11, 1985

Motion for injunctive relief filed.

April 11, 1985

Proof of service filed.

April 12, 1985

On Order, upon consideration of petitioners' motion for injunctive relief, hearing thereon is hereby fixed for April 17, 1985, at 10:00 a.m., in Courtroom No. 1, Fifth Floor, South Office Building, Harrisburg, PA. (Sr. Judge Lehman) Order exit.

April 12, 1985

On Praecipe, the appearance of Joel M. Ressler, Esquire is hereby entered on behalf of the Commonwealth of Pennsylvania, Department of General Services. See Entry of Appearance filed.

April 12, 1985

Petitioners' Motion to Amend Caption and Complaint and proof of service filed. See Motion filed.

April 22, 1985

On Order, upon consideration of Petitioners' motion to amend caption and complaint, and it appearing that the Commonwealth of Pennsylvania, Department of Transportation, Department of General Services, have no objection, said motion is granted. (J. Palladino) Order exit.

April 23, 1985

On Order, upon consideration of the stipulation presented in open court on April 17, 1985, by counsel for the respective parties, the hearing on Petitioners' Motion for Injunctive Relief is rescheduled for Thursday, April 25, 1985, at 10:00 a.m. in Courtroom No. 2, at which time the Court will, in the alternative, receive information concerning an accomplished settlement or receive testimony regarding Petitioner's Motion for Injunctive Relief. (J. Palladino) Order exit.

April 24, 1985

Preliminary Objections of Commonwealth Respondents to Petition for Review and Certificate of Service filed. See Objections filed.

April 25, 1985

Petitioners' Trial Memorandum filed.

April 25, 1985

Memorandum of Commonwealth Respondents in Opposition to Petitioner's Motion for Injunction and Certificate of Service filed.

April 25, 1985

On Order, upon consideration of respondents' preliminary objections, argument thereon is hereby fixed for July 15, 1985, at 10:00 a.m. in Courtroom No. 1, Fifth Floor, South Office Building, Harrisburg, PA. Respondents shall file and serve briefs (fifteen (15) in number) in support of said preliminary objections on or before May 28, 1985. Petitioners shall file and serve briefs (fifteen (15) in number) in opposition thereto on or before June 28, 1985. (J. Colins) Order exit.

April 26, 1985

On Order, Respondent, Commonwealth of Pennsylvania, Department of General Services and Department of Transportation, is hereby preliminarily enjoined from terminating Lease No. 62909 for alleged nonpayment of rent which occurred prior to the date of this order, or for an alleged default of the Lease because of alleged subleasing by Petitioners of portions of the leased premises and/or improvements thereon which occurred prior to the date of this Order. Respondent, York Bank and Trust Company, is hereby preliminarily enjoined from exercising its default remedies under the loan documents executed by Petitioners and secured by the premises and improvements which are the subject of Lease No. 62909, for an alleged default of the Lease because of alleged subleasing by Petitioners of portions of the leased premises and/or improvements thereon which occurred prior to the date of this Order. The parties are directed to maintain the status quo, as it existed on March 13, 1985, pending final determination of the matters in controversy. The parties shall, from the date of this Order and henceforth, except as otherwise provided by this Order, retain their rights and liabilities under Lease No. 62909 and under any other documents entered into by them with respect to the premises leased by Lease No. 62909. (J. Palladino) Order exit.

April 29, 1985

Transcript of proceedings of April 25, 1985, lodged.

April 25, 1985

Heard (before Judge Palladino)

April 29, 1985

Notice of transcript of proceedings in the above matter has been lodged with the Chief Clerk of this Court. Notice exit to William H. Poole, Jr., Esquire as per William B. Heffner, Jr., Court Reporter. See Notice filed.

April 29, 1985

Petitioner's exhibits filed.

May 1, 1985

Memorandum Opinion filed (J. Palladino)

May 1, 1985

On Opinion, we have granted Petitioners' prayer for a preliminary injunction. Exit. Opinion not reported. See Order of April 26, 1985.

May 15, 1985

On Order, the Commonwealth of Pennsylvania, Department of General Services, Department of Transportation and the York Bank and Trust Company, Respondents herein, are ordered and directed to each pay one-third of the cost of transcribing the notes of testimony of the April 25, 1985 hearing, the total transcription cost being in the amount of \$156.25. (J. Palladino) Order exit.

May 22, 1985

Commonwealth's Notice of Appeal to the Supreme Court and Certificate of Service filed. Paid \$15.00 and transmitted \$50.00 check to the Supreme Court.

May 23, 1985

In the Supreme Court, Notice of appeal filed to No. 33 M.D. Appeal Docket 1985.

May 28, 1985

Respondent's Brief in Support of Preliminary Objections and Proof of Service filed.

May 31, 1985

Transcript of Proceedings held April 25, 1985 filed.

June 3, 1985

Record forwarded.

July 1, 1985

Petitioner's Brief in Support of Preliminary Objections and proof of service filed.

July 15, 1985

Argued (before Judge Palladino)

July 26, 1985

Memorandum Opinion filed. (J. Palladino)

July 26, 1985

On Order, AND NOW, the preliminary objection of the Commonwealth of Pennsylvania is sustained, the action is transferred to the Board of Claims, and the preliminary injunction entered by this Court on April 26, 1985 is hereby dissolved. Exit. Opinion not reported.

August 5, 1985

Bill of Costs filed by Department of General Services and Department of Transportation and proof of service filed. See Bill of Costs filed.

August 9, 1985

Petitioners' Application for Reargument or Reconsideration and proof of service filed. Paid \$15.00.

August 12, 1985

On Order, petitioners having filed an application for reargument or reconsideration respondents, pursuant to Pa. R.A.P. 2545, shall file an answer (original and eleven (11) copies) to said application for reargument or reconsideration, which answer shall be filed and serviced on or before August 22, 1985. Said answer shall be filed in the Office of the Chief Clerk in Harrisburg. (J. MacPhail) Order exit.

August 7, 1985

In the Supreme Court, Petition for Allowance of Appeal discontinued.

August 22, 1985

Respondent's Answer to Application for Reargument and proof of service filed. See Answer filed.

August 30, 1985

On Order, petitioner's application for reargument or reconsideration is hereby denied. (J. Palladino) Order exit. See Order filed.*

September 13, 1985

On Order, the cost of Respondent's Brief in Support of Preliminary Objections, in the amount of One Hundred Eight Dollars (\$108.00) is taxed against Petitioners and in favor of Respondents, Department of General Service and Department of Transportation. All other costs listed on Respondent's Bill of Costs, dated August 5, 1985, are denied. (J. Palladino) Order exit.

***September 5, 1985**

Petitioners' Answer to Bill of Costs and certificate of service filed.
See Answer filed.

September 30, 1985

Petitioner's Notice of Appeal to the Supreme Court and proof of service filed. Paid \$15.00 and transmitted \$50.00 to Supreme Court.

October 1, 1985

In the Supreme Court, Notice of Appeal filed to No. 64 M.D. Appeal Docket 1985.

October 9, 1985

Record forwarded.

June 27, 1986

In the Supreme Court, Appeal is Quashed. (Per Curiam)

July 8, 1986

Bill of Costs of Respondents Department of General Services and Department of Transportation and Certificate of Service filed.

July 17, 1986

Response of Petitioners to Respondents' Bill of Costs and proof of service filed.

July 23, 1986

On Order, the cost of Respondent's brief in the Supreme Court of Pennsylvania in the amount of \$67.20 is taxed against Petitioners and in favor of Respondents, Department of General Services and Department of Transportation. (J. Palladino) Order exit.

BEFORE THE BOARD OF CLAIMS:

April 4, 1986

Record transferred from Commonwealth Court.

August 6, 1986

File received from Commonwealth Court.

August 8, 1986

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

November 5, 1986

Complaint and filing fee filed. Amount of Claim:

November 7, 1986

Copies of Complaint forwarded to attorneys for Defendants and Chief Deputy Attorney General.

November 14, 1986

Acceptance of Service of Complaint received from Defendant (Mr. Sable). Receipt of same acknowledged by Defendant (Mr. Sable) November 14, 1986.

November 18, 1986

Acceptance of Service of Complaint received from Defendant (Mr. Ressler by Mr. DeVries). Receipt of same acknowledged by Defendant November 14, 1986.

September 6, 1991

Settlement Agreements filed by attorney for Plaintiff and attorney for Defendant, executed by parties.

October 23, 1991

The Board rendered an Opinion and made the following Order: "AND NOW, this 23rd day of October, 1991, upon due consideration of the Stipulation of Settlement is approved and the parties, thereto, are bound by the terms, thereof, and all claims and actions arising from a certain lease, dated January 31, 1979, are DISMISSED and the parties are released from liability thereunder. Nothing that the York Bank and Trust Company is not a governmental entity of the Commonwealth of Pennsylvania, the Board further ORDERS that is, York Bank and Trust Company, shall be, and is hereby DISMISSED as a party Defendant.

It is further ORDERED that this case shall be closed and the docket marked "settled and discontinued with prejudice". Each party to bear its own costs.

October 28, 1991

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

November 1, 1991

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

May 21, 1992

Acceptance of Service of Opinion and Order dated October 23, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 19, 1992.
