

Docket Number: 1103  
Consolidated with Docket No. 1362

CAMERON CONSTRUCTION COMPANY

Stuart J. Moskovitz, Esquire

VS.  
**CLOSED**

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

~~John J. Buchy, Jr., Assistant Counsel~~  
~~Kenneth L. Sable, Chief Claims Attorney~~  
Jeffrey W. Davis, Assistant Counsel

**\*February 4, 1987**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$2,099,071.18+.

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**February 9, 1987**

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

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**February 10, 1987**

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 9, 1987.

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**CLOSED**

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

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**June 22, 1987**

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

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**August 7, 1987**

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

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**September 23, 1988**

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

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**September 23, 1988**

Interrogatories from Defendant, Commonwealth of Pennsylvania, Department of Transportation, to Plaintiff, Cameron Construction Company, First Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**December 6, 1989**

Plaintiff's Answers to Interrogatories from Defendant, Commonwealth of Pennsylvania, Department of Transportation First Set filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**June 28, 1990**

Motion to Consolidate filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**July 13, 1990**

Reply to Defendant's Motion to Consolidate filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**November 27, 1990**

Motion to Amend Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**\*November 27, 1990**

Amended Complaint filed by attorney for Plaintiff. Amount of Claim: \$10,000.00+ Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**\*\*December 13, 1990**

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 13th day of December, 1990, upon due consideration of the Defendant's motion to consolidate, said request is hereby **GRANTED** and as of the date of this Order, these two cases Docket No. 1103 and 1362 are now consolidated." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**December 17, 1990**

Acceptance of Service of Opinion and Order dated December 13, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 17, 1990.

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**January 4, 1991**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 4th day of January, 1991, it is **ORDERED** and **DECREED** that the Motion to Amend Complaint is hereby **GRANTED** subject to the following: 1. The Department's lack of objection to the amendment is not in any way to be construed as a waiver of any defenses to the new claim asserted, including, without limitation, the defenses of the statute of limitations and failure of the Plaintiff to give required notices of its claims; and 2. The Department's declining to object is premised on its understanding that the Board will allow sufficient time to explore the new claim(s) in pretrial discovery before the case is scheduled for trial. It is further **ORDERED** and **DECREED** that the Defendant shall file its response to the new allegations of the Amended Complaint within thirty (30) days of the issuance of this Opinion and Order." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

**January 8, 1991**

Acceptance of Service of Opinion and Order dated January 4, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 8, 1991.

**April 17, 1991**

Hearing scheduled for October 15, 16, 17 and 18, 1991, October 22, 23, 24 and 25, 1991, October 29, 30 31 and November 1, 1991, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Bldg., Harrisburg, Pennsylvania commencing at 10:00 a.m.

**April 24, 1991**

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

**May 9, 1991**

Notice of Deposition of Beaver Valley Builder's Supply, Inc., filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

**May 23, 1991**

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

**June 20, 1991**

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

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**July 29, 1991**

Motion to Amend Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**August 2, 1991**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 2nd day of August, 1991, it is **ORDERED** and **DECREED** that the Motion to Amend and/or Supplement the Amended Complaint be, and is hereby, **GRANTED**. It is further **ORDERED** and **DECREED** that all prior pleadings by both parties shall be deemed to be in effect as amended without the necessity of the filing of a further Answer by Defendant. Plaintiff, Cameron Construction Company, shall have thirty (30) days in which to file its amended Complaint with the Board of Claims." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

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**August 5, 1991**

Corrected Version of Motion to Amend Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**August 6, 1991**

Acceptance of Service of Opinion and Order dated August 2, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 5, 1991.

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**August 22, 1991**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 22nd day of August, 1991, it is **ORDERED** and **DECREED** that the corrected Motion and Exhibit be substituted for those submitted under docket date of July 29, 1991. It is further **ORDERED** and **DECREED** that all prior pleadings by both parties shall be deemed to be in effect as amended without the necessity of the filing of a further Answer by Defendant. The Plaintiff, Cameron Construction Company, shall have thirty (30) days from the date hereof in which to file its Amended Complaint with the Board of Claims." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**August 30, 1991**

Acceptance of Service of Opinion and Order dated August 22, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 26, 1991.

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**September 20, 1991**

Defendant's Motion to Preclude Expert Testimony and Evidence Concerning "Overhead and Profit" Damages as well as Brief in Support of Defendant's Motion to Preclude Expert Testimony and Evidence Concerning "Overhead and Profit" Damages filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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Motion for a Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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Plaintiff's Interrogatories to Defendant (First Set) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**September 25, 1991**

Letter/Response to Plaintiff's Motion for a Protective Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**September 26, 1991**

The Board rendered an Opinion and made the following Order: **"AND NOW, this 26th day of September, 1991, it is ORDERED and DECREED that the Plaintiff's Motion for a Protective Order be, and is hereby DENIED."** Copies forwarded to attorney for Plaintiff and attorney for Defendant.

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**October 1, 1991**

Acceptance of Service of Opinion and Order dated September 26, 1991, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 30, 1991.

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**October 8, 1991**

Motion for Protective Order and Brief in Support of Motion for Protective Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**October 8, 1991**

Supplemental Answer to Interrogatory 40 filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**October 8, 1991**

Plaintiff's Reply to Defendant's Motion to Preclude Expert Testimony and Evidence Concerning Overhead and Profit Damages and Brief in Support of Plaintiff's Reply to Defendant's Motion to Preclude Expert Testimony and Evidence Concerning 'Overhead and Profit' Damages filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**CLOSED**

**October 15, 1991**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 15th day of October, 1991, the Defendant's Motion to Preclude Expert Testimony and Evidence Concerning 'Overhead and Profit' Damages is **DENIED**. It is so **ORDERED**. Copy given to attorneys at time of hearing.

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**October 15, 1991**

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 15th day of October, 1991, premised on the statements contained herein, and the record, this Motion for Protective Order is **DENIED**. If counsel wishes to further speak about the matter during the beginning stage of the hearing, same shall be permitted for a limited time and with due response by attorney for Cameron Construction Company. It is **DIRECTED** and **ORDERED**." Copy given to attorneys at time of hearing.

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**October 15, 1991**

Hearing held in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:15 a.m.

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**October 16, 1991**

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

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**October 17, 1991**

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

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**October 18, 1991**

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

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**October 22, 1991**

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

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**October 23, 1991**

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

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**October 24, 1991**

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

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**October 25, 1991**

Hearing held in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:15 a.m.

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**October 29, 1991**

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

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**October 30, 1991**

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

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**October 31, 1991**

Hearing held in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:35 a.m.

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**November 1, 1991**

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

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**November 4, 1991**

Testimony for hearing held October 15, 16, 17 and 18, 1991 filed.

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**November 5, 1991**

Hearing held in Board's Courtroom No. 1, 707 Transportation and Safety



Building, Harrisburg, Pennsylvania, commencing at 10:15 a.m.

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**November 6, 1991**

Hearing held in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:25 a.m.

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**November 6, 1991**

Copies of testimony for hearings held October 15, 16, 17 and 18, 1991 forwarded to attorney for Defendant.

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**November 7, 1991**

Hearing held in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:25 a.m. Case to be continued.

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**November 12, 1991**

Acceptance of Service of testimony of hearing held October 15, 16, 17 and 18, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 7, 1991.

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**November 15, 1991**

Testimony of hearing held October 22 and 23, 1991 filed.

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**November 19, 1991**

Copies of testimony of hearing held October 22 and 23, 1991 forwarded to attorney for Defendant.

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**November 21, 1991**

Acceptance of Service of testimony of hearings held October 22 and 23, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 20, 1991.

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**November 27, 1991**

Testimony of hearings held October 24, 25, 29, 30, 31 and November 1, 1991 filed.

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**December 3, 1991**

Copies of testimony of hearings held October 24, 25, 29, 30, 31 and November 1, 1991 forwarded to attorney for Defendant.

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**December 6, 1991**

Acceptance of Service of testimony of hearing held October 24, 25, 29, 30, 31 and November 1, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 5, 1991.

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**December 6, 1991**

Defendant's Answers to Plaintiff's Interrogatories to Defendant - First Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**January 6, 1992**

Testimony for hearing held November 5, 6 and 7, 1991 filed.

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**January 7, 1992**

Copies of testimony of hearing held November 5, 6 and 7, 1991 forwarded to attorney for Defendant.

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**January 13, 1992**

Acceptance of Service of testimony for hearing held November 5, 6 and 7, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 9, 1992.

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**March 23, 1992**

Affidavit of Thomas W. Kibel, Secretary/Treasurer of Cameron Construction Company filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff

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**May 21, 1993**

Hearing scheduled for November 9, 10 and 12, 1993, as well as November 16, 17, 18 and 19, 1993, if necessary, in Board's Courtroom No. 1, 707 Transportation & Safety Bldg., Harrisburg, PA commencing at 10:00 a.m.

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**September 8, 1993**

Hearing scheduled for November 9, 10 and 12, 1993, as well as November 16, 17, 18 and 19, 1993 canceled. Case to be rescheduled for hearing at a later date.

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**March 11, 1994**

Hearing scheduled for November 1, 2, 3 and 4, 1994; November 7, 8, 9 and 10, 1994; November 14, 15, 16, 17 and 18, 1994, as well as November 21, 22 and 23, 1994, if necessary, in Board's Courtroom No. 1, 707 Transportation & Safety Bldg, Harrisburg, PA, commencing at 9:30 a.m.

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**August 30, 1994**

Pre-Trial Conference scheduled for September 22, 1994 to be held in Judge Clipper's Chambers, Room 1201 Labor & Industry Bldg, Harrisburg, PA commencing at 10:30 a.m.

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**September 22, 1994**

Pre-Trial Conference held this date commencing at 10:30 a.m.

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**November 1, 1994**

Hearing held in Room 132 Finance Building, Harrisburg, Pennsylvania, this date commencing at 9:30 a.m.

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**November 2, 1994**

Hearing held in Room 132 Finance Building, Harrisburg, Pennsylvania, this date commencing at 9:30 a.m.

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**November 7, 1994**

Hearing held in Room 132 Finance Building, Harrisburg, Pennsylvania, this date commencing at 9:30 a.m.

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**November 8, 1994**

Hearing held in Room 132 Finance Building, Harrisburg, Pennsylvania, this date commencing at 9:30 a.m.

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**November 17, 1994**

Hearing held in Room 132 Finance Building, Harrisburg, Pennsylvania, this date commencing at 9:30 a.m.

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**December 1, 1994**

Testimony of hearing held November 1, 2, 7 and 8, 1994 filed.

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**December 7, 1994**

Copy of testimony of hearing held November 1, 2, 7 and 8, 1994 forwarded to attorney for Defendant.

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**December 14, 1994**

Acceptance of Service of testimony of hearing held November 1, 2, 7 and 8, 1994 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 12, 1994.

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**December 16, 1994**

Testimony of hearing held November 17, 1994 filed.

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**December 21, 1994**

Copy of testimony of hearing held November 17, 1994 forwarded to attorney for Defendant.

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**January 6, 1995**

Acceptance of Service of testimony of hearing held November 17, 1994 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 29, 1994.

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**May 8, 1995**

Plaintiff's Proposed Findings of Fact and Conclusions of Law and 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.

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**August 21, 1995**

Defendant's Post Hearing Brief filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**August 28, 1995**

Defendant's Proposed Findings of Facts and Conclusions of Law filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**December 16, 1996**

The Board rendered the following Order: "AND NOW, this 16th day of December, 1996, an award in the amount of Three Hundred Eighty Thousand Fifty-Four Dollars (\$380,054.00) is hereby entered in favor of Claimant, Cameron Construction Company, Inc., and against the Commonwealth of Pennsylvania, Department of Transportation, with interest thereon at the legal rate of six (6%) percent, per annum, from February 4, 1987, the date upon which the original Complaint in the above captioned matter was filed. Upon receipt of said award, Claimant shall forthwith file with the Board a Praecipe to mark the case settled and ended with prejudice. Each party to bear its own costs and attorneys' fees." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**January 27, 1997**

Copy of Cross-Petition for Review as filed by Commonwealth Court, received from attorney for Plaintiff. {No. 124 CD 97}

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**February 18, 1997**

File transmitted to Commonwealth Court.

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**October 22, 1997**

Opinion and Order rendered by Commonwealth Court. Order as follows:  
"AND NOW, this 22nd day of October, 1997, the order of the Board of Claims dated the 16th day of December, 1996 is affirmed"

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**December 29, 1997**

File returned from Commonwealth Court - Case Closed.

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**March 6, 1998**

Motion to Correct Prejudgment Interest Included in Award and Memorandum in Support thereof filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**March 19, 1998**

The Board made the following Order: "AND NOW, this 19th day of March 1998, upon consideration of the Motion to Correct Prejudgment Interest Included in Award, filed on behalf of the Defendant, Department of Transportation, it is hereby ORDERED that the Motion is **DENIED**. The Board views the issue contemplated by the Motion as waived, given the fact that the matter was not raised on appeal.

In addition, the Amended Complaint filed on behalf of the Claimant incorporated the original Complaint and the Board, in its award and Order of December 16, 1996 fully intended to award all interest back to the date of the original Complaint filing, i.e. February 4, 1987. Accordingly, the Commonwealth is hereby directed to forthwith satisfy the original award, along with interest as per that award." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

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**March 23, 1998**

Letter received from Plaintiff opposing Defendant's Motion to Correct Prejudgment Interest with attached copies of Verified Application to Enforce an Order and Memorandum in Support thereof as filed by attorney for Plaintiff in Commonwealth Court.

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