

Docket Number: 1110

*Consolidated for hearing with Nos. 1142, 1361 and 1417

J. ROSE CORPORATION

Michael H. Payne, Esquire
Harvey A. Pollack, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF GENERAL SERVICES**

~~Michael D. Reed, Chief of Litigation~~
~~P. Alan Zulick, Deputy Chief Counsel~~
John Buchy, Chief of Litigation Unit

April 15, 1987

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$2,000,000.00+.

April 20, 1987

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

April 21, 1987

Acceptance of Service of Complaint received from Defendant. Receipt of same acknowledged by Defendant April 21, 1987.

April 27, 1987

Acceptance of Service of Complaint received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General April 22, 1987.

May 20, 1987

Answer, New Matter and Counterclaim of Defendant, Commonwealth of Pennsylvania, Department of General Services filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 9, 1987

Reply to Answer, New Matter and Counterclaim of Defendant, and New Matter Raised on Behalf of Plaintiff, J. Rose Corporation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 1, 1987

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

June 6, 1988

Entry of Appearance filed by Harvey A. Pollack, attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 6, 1988

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

June 13, 1988

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

August 2, 1988

Plaintiff's Motion to Compel the Production of Documents and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 5, 1988

Response of Department of General Services to Plaintiff's Amended Request for Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 15, 1988

Plaintiff's Supplemental Motion to Compel Production of Documents, Brief in Support of and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 6, 1989

Praecipe for Entry of Appearance of John J. Buchy, Chief of Litigation and Withdrawal of P. Alan Zulick, Esquire filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 17, 1989

Answer to Plaintiff's Motion to Compel the Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 17, 1989

Answer to Plaintiff's Supplemental Motion to Compel Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 19, 1989

Defendant's Brief in Opposition to Plaintiff's Supplemental Motion to Compel Production of Documents filed by attorney for Defendant.
Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 3, 1989

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

February 7, 1989

Plaintiff's Answer to Defendant's Motion for Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 13, 1989

The Board rendered an Opinion and made the following Order: "AND NOW, this 13th day of February, 1989, after due consideration of the Defendant's Motion for a Protective Order, Plaintiff's Answer to said Motion and arguments of counsel for interested parties, the said Motion is DENIED. The deponents were DIRECTED to present themselves for depositions on February 9 and 10, 1989 as set forth in the Plaintiff's Notice of Depositions and accompanying subpoenas. The Questions addressed to the deponents were to be limited and restricted to issues regarding the case docketed to Board of Claims' No. 1110."

February 14, 1989

Copies of Opinion and Order dated February 13, 1989 forwarded to attorneys for Plaintiff and attorney for Defendant.

February 21, 1989

The Board rendered an Opinion and made the following Order: "AND NOW, this 21st day of February, 1989, the Plaintiff is directed to reward Request No. 11 of the Amended Request for Production of Documents in accordance with the above-stated Opinion." Copies forwarded to attorneys for Plaintiff and attorney for Defendant.

February 24, 1989

Acceptance of Service of Opinion and Order dated February 13, 1989 received from attorney for Plaintiff (Mr. Payne). Receipt of same acknowledged by attorney for Plaintiff February 17, 1989.

February 27, 1989

Acceptance of Service of Opinion and Order dated February 13, 1989 received from attorney for Plaintiff (Mr. Payne for Mr. Pollack). Receipt of same acknowledged by attorney for Plaintiff February 23, 1989.

March 2, 1989

Acceptance of Service of Opinion and Order dated February 13, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 22, 1989.

March 2, 1989

Acceptance of Service of Opinion and Order dated February 21, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 22, 1989.

May 25, 1989

Withdrawal of Appearance of Rebecca G. Sturchio, Esquire, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 16, 1989

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

September 6, 1990

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

September 6, 1990

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

October 17, 1990

Motion to Consolidate Docket Nos. 1110, 1142, 1361 and 1417 filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 22, 1990

Hearing scheduled for May 7, 8, 9 and 10, 1991, May 14, 15, 16 and 17, 1991, May 21, 22, 23 and 24, 1991 as well as May 28, 29, 30 and 31, 1991, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania commencing at 10:00 a.m.

***November 21, 1990**

The Board rendered an Opinion and made the following Order: "AND NOW, this 21st day of November, 1990, it is ORDERED and DECREED that J. Rose Corporation vs. Commonwealth of Pennsylvania, Department of General Services, Docket Numbers 1110, 1142, 1361 and 1417 be, and are hereby, consolidated for trial beginning May 7, 1991." Copies forwarded to attorneys for Plaintiff and attorney for Defendant.

November 26, 1990

Acceptance of Service of Opinion and Order dated November 21, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 23, 1990.

February 14, 1991

Notice of Taking Depositions on Oral Examination under Pa. R.C.P. 4007.1 of J. Rose Corporation; Brian Nallon, Charles Giardina; Tom Sobieski; and George Pajor; Lycoming Supply, Inc. and Leo M. Williams, Jr.; George Shadie Electrical Associates, Inc. and Mike Dimino; Superior Fireproof Door, Inc.; Harold W. Lasako; and Joseph V. Scott, Jr.; Duggan and Marcon, Inc.; George E. Worden, Jr.; and L. Charles Marcon; McGregor Architectural Iron Company, Inc. and Stephen V. Demanovich, Jr.; J. Rose Corporation; Louis Lebar; and Delores Watkins; J. Rose Corporation and John L. Ludwig filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 26, 1991

Doctors' Certificate relative to Mrs. Wideman filed by attorney for Plaintiff.

April 10, 1991

The Board rendered an Opinion and made the following Order: "AND NOW, this 10th day of April, 1991, upon consideration of the request of Mr. Payne and the attached certificate, the evidentiary hearing scheduled for May 7, 1991, through May 31, 1991, is continued sine

die. It is further ORDERED and DECREED that counsel for both the Plaintiff, J. Rose Corporation, and the Defendant, Commonwealth of Pennsylvania, Department of General Services, be in contact with Senior Counsel for the Board of Claims with reference to rescheduling the hearing." Copies forwarded to attorneys for Plaintiff and attorney for Defendant.

April 15, 1991

Acceptance of Service of Opinion and Order dated April 10, 1991 received from attorney for Plaintiff (Michael H. Payne, Esquire). Receipt of same acknowledged by attorney for Plaintiff April 12, 1991.

April 18, 1991

Acceptance of Service of Opinion and Order dated April 10, 1991 received from attorney for Plaintiff (Timothy S. Kerr, Esquire). Receipt of same acknowledged by attorney for Plaintiff April 15, 1991.

April 23, 1991

Acceptance of Service of Opinion and Order dated April 10, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 15, 1991.

May 23, 1991

Hearing scheduled for November 19, 20, 21 and 22, 1991, December 3, 4, 5 and 6, 1991, December 10, 11, 12 and 13, 1991, as well as December 17, 18, 19 and 20, 1991, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 10:00 a.m.

September 26, 1991

Notice of Taking Depositions on Oral Examination Under Pa.R.C.P. 4007.1 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Timothy S. Kerr, Esquire) by attorney for Defendant.

October 16, 1991

Department's Objections and Answers to Plaintiff's Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 22, 1991

Judge Pace executed the Proposed Order, as filed by attorney for Plaintiff. Order as follows: "AND NOW, this 22nd day of October,

1991, upon consideration of Plaintiff's Petition for an Order to Apply for Subpoena Duces Tecum in a Foreign Jurisdiction, it is hereby ORDERED, that Moyer Associates Incorporated ("Moyer"), of Glencoe, Illinois, shall make Mr. Steve Hesselschwerdt available for the taking of testimony by Plaintiff which is or may be relevant or otherwise discoverable in this action within the meaning of the Pennsylvania Rules of Civil Procedure, and shall make available for Plaintiff's inspection and copying all documents in Moyer's possession, custody or control which refer or relate to the construction project known as the Conversion of Retreat State Hospital to a State Correctional Institution, all at a time and place to be designated by Plaintiff in a subpoena duces tecum on the forms used by this Board; and it is FURTHER ORDERED, that Plaintiff shall have, and is hereby granted, the Board's full and complete authority to cause to be issued the aforesaid subpoena duces tecum; and it is FURTHER ORDERED, that Plaintiff may, on its own behalf and on behalf of this Board, apply to a court of competent jurisdiction in the State of Illinois for the enforcement of the said subpoena duces tecum and/or for the enforcement of this Order, pursuant to the applicable laws and rules of the said jurisdiction." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

October 28, 1991

Department's First Supplemental Answers to Plaintiff's Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 29, 1991

Acceptance of Service of Order dated October 22, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 24, 1991.

November 14, 1991

Motion for Sanctions for Failure to Timely Produce Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 18, 1991

The Board rendered an Opinion and made the following Order: "AND NOW, this 18thday of November, 1991, upon consideration of the full record, the comments made hereinabove, and review of the Motion for Sanctions for Failure to Timely Produce Documents, said Motion is DISMISSED with prejudice. This case shall commence, as scheduled, Tuesday, November 19, 1991. Copy given to attorney for Plaintiff at time of hearing, copy hand delivered to attorney for Defendant.

November 19, 1991

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

November 19, 1991

Plaintiff's Response to Defendant's Motion for Sanctions for Failure to Timely Produce Documents filed at time of hearing by attorney for Plaintiff. Copies given to all counsel of record at time of hearing.

November 20, 1991

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

November 21, 1991

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

November 22, 1991

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

November 27, 1991

Acceptance of Service of Order dated October 22, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 24, 1991.

December 3, 1991

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

December 4, 1991

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

December 5, 1991

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

December 6, 1991

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

December 10, 1991

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

December 11, 1991

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

December 12, 1991

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

December 13, 1991

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

December 19, 1991

Acceptance of Service of Opinion and Order dated November 18, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 17, 1991.

January 22, 1992

Testimony of hearing held November 19, 20, 21 and 22, 1991 filed.

January 24, 1992

Copy of testimony of hearing held November 19, 20, 21 and 22, 1991 forwarded to attorney for Defendant.

January 29, 1992

Testimony for hearing held December 3, 4, 5 and 6, 1991 filed.

January 31, 1992

Copy of testimony for hearing held December 3, 4, 5 and 6, 1991 forwarded to attorney for Defendant.

January 31, 1992

Acceptance of Service of testimony for hearing held November 19, 20, 21 and 22, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 27, 1992.

February 7, 1992

Acceptance of Service of testimony for hearing held December 3, 4, 5 and 6, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 4, 1992.

February 28, 1992

Settlement and Release Agreement executed by parties filed by Timothy S. Kerr, Esquire.

March 16, 1992

Testimony for hearing held December 10, 11, 12 and 13, 1991 filed.

March 17, 1992

Copy of testimony for hearing held December 10, 11, 12 and 13, 1991 forwarded to attorney for Defendant.

March 31, 1992

Acceptance of Service of testimony for hearing held December 10, 11, 12 and 13, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 20, 1992.

June 8, 1992

The Board rendered an Opinion and made the following Order: "AND NOW, this 8th day of June, 1992, upon due consideration of the Settlement and Release Agreement executed by the parties and other submissions, it is hereby ORDERED and DECREED that Defendant, Commonwealth of Pennsylvania, Department of General Services, shall pay to Plaintiff, J. Rose Corporation, the sum of One Million Six Hundred Thousand Dollars (\$1,600,000.00) upon the terms and conditions set forth in the Settlement and Release Agreement. Both parties shall comply with each and every condition, to which it has agreed, in a timely manner. Plaintiff shall forthwith acknowledge full compliance with all terms and conditions of the herein set forth Settlement and Release Agreement and further submit a Praecipe with the Board of Claims requesting that each of the captioned cases on the docket be marked 'settled and discontinued with prejudice.' Each party to bear its own costs." Copies forwarded to attorneys for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

June 19, 1992

Acceptance of Service of Opinion and Order dated June 8, 1992 received from attorney for Plaintiff (in Docket No. 1417). Receipt of same acknowledged by attorney for Plaintiff June 10, 1992.

June 22, 1992

Acceptance of Service of Opinion and Order dated June 8, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff June 11, 1992.

July 6, 1992

Acceptance of Service of Opinion and Order dated June 8, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 9, 1992.

June 15, 1993

The Board rendered an Opinion and made the following Order: "AND NOW, this 15th day of June, 1993, a Rule to Show Cause is issued upon Plaintiff, J. Rose Corporation, wherein it is **DIRECTED** that

Plaintiff advise the Board within thirty (30) days of this Order whether or not Plaintiff has received the sum of money awarded, or other justifiable response. This Rule shall become absolute and the case shall be marked closed and settled with prejudice in the event the Board does not receive a response to said Rule." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

June 28, 1993

Acceptance of Service of Opinion and Order dated June 15, 1993, received from attorney for Plaintiff (Timothy S. Kerr, Esquire). Receipt of same acknowledged by attorney for Plaintiff June 21, 1993.

June 28, 1993

Praecipe to Settle, Discontinue and End filed by attorney for Plaintiff (Timothy S. Kerr, Esquire).

June 29, 1993

Copy of Praecipe to Settle, Discontinue and End forwarded to attorney for Defendant.

July 1, 1993

Acceptance of Service of Opinion and Order dated June 15, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 16, 1993.

July 8, 1993

The Board made the following Order: **"AND NOW**, this 8th day of July, 1993, upon receipt of Praecipe to Settle, Discontinue and End, requesting that the matter be marked 'settled, discontinued and ended', executed by Timothy S. Kerr, Esquire, on behalf of Plaintiff, same of which is docketed with this Board under date of June 28, 1993, it is **ORDERED** and **DIRECTED** that said case be marked 'settled, discontinued and ended'. Copies forwarded to attorneys for Plaintiff and attorney for Defendant.

July 16, 1993

Acceptance of Serviced of Order dated July 8, 1993 received from attorney for Plaintiff (Timothy S. Kerr, Esquire). Receipt of same acknowledged by attorney for Plaintiff July 13, 1993.

July 19, 1993

Acceptance of Service of Praecipe to Settle, Discontinue and End received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 1, 1993.

August 31, 1993

Acceptance of Service of Order dated July 8, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 9, 1993.
