

Docket Number: 1154

ALOE COAL COMPANY

Rodger D. Horgan, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Kenneth L. Sable, Chief Claims Attorney

October 20, 1987

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$231,723.00+

October 23, 1987

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

October 27, 1987

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 26, 1987.

CLOSED

Preliminary Objections to Plaintiff's Claim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 7, 1987

Reply to Defendant's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 23, 1987

Brief in Support of Preliminary Objections to Plaintiff's Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 20, 1988

Brief in Opposition to Defendant's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 16, 1988

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 16th day of February, 1988, upon consideration of the Preliminary Objections field by the Commonwealth of Pennsylvania, Department of Transportation, to the Claim filed on behalf of Aloe

February 16, 1988 (cont'd)

Coal Company, it is hereby **ORDERED** that DOT's Motion to Strike is **DENIED** and Plaintiff is granted leave to amend its Claim by attaching a copy of the Agreement in question so as to conform with Pa.R.C.P. 1019(h). In the interest of judicial economy, the Board will attach a copy of the Agreement, which was subsequently attached by Plaintiff to its Response to the Preliminary Objections, to all copies of the Claim contained in the official record and serve the Claim as amended upon DOT. It is further **ORDERED** that DOT's Motion for a More Specific Pleading is **GRANTED** and the Plaintiff shall have Thirty (30) days from the date of this Order to file an Amended Claim, setting forth in detail the nature of the expenses incurred relative to the road repairs and extra hauling costs claimed by Plaintiff. DOT's request for a demurre and contention that this Board lacks subject matter jurisdiction of this matter are deemed to be meritorious and therefore, **DENIED.**" Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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

February 22, 1988

Acceptance of Service of Opinion and Order dated February 16, 1988 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 19, 1988.

March 17, 1988

Amended Claim filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 23, 1988

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

March 24, 1988

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 23, 1988.

March 30, 1988

Acceptance of Service of Amended Complaint received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General March 24, 1988.

May 12, 1988

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

June 16, 1988

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

September 2, 1988

First Set of Interrogatories Directed to Respondent filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 2, 1988

Answers to First Set of Interrogatories Directed to Respondent filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 6, 1988

Motion to Compel Discovery and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 30, 1988

The Board rendered an Opinion and made the following Order: **"AND NOW, this 30th day of December, 1988, it is hereby ORDERED and DECREED that Claimant's Motion to Compel Discovery is hereby DISMISSED as the Respondent's filing of answers to the interrogatories has rendered the motion moot."** Copy forwarded to attorney for Plaintiff and attorney for Defendant.

January 4, 1989

Acceptance of Service of Opinion and Order dated December 30, 1988 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 4, 1989.

January 9, 1989

Acceptance of Service of Opinion and Order dated December 30, 1988 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 4, 1989.

April 25, 1989

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

April 25, 1989

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

May 17, 1989

Notice of Depositions of Gorraine Keller and Stanley Popovich filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 30, 1989

Request for Admissions filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 26, 1989

Answers to Request for Admissions filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 16, 1989

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

August 31, 1989

Reply to Motion for Sanctions filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 14, 1989

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

September 27, 1989

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 27th day of September, 1989, it is hereby **ORDERED** and **DECREED** that the Defendant's Motion for Sanctions is hereby **DISMISSED** as the Plaintiff's filing of Answers to the Interrogatories have rendered the motion moot." Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 29, 1989

Acceptance of Service of Opinion and Order dated September 27, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 28, 1989.

CLOSED

Hearing scheduled for May 21, 22, 23, 24, 1991, through May 28, 29, 30 and 31, 1991, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 10:00 a.m.

May 7, 1991

Pre-Trial Statement received via fax from attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 9, 1991

Pre-Trial Statement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 15, 1991

Letter forwarded to parties stating that hearing originally scheduled for May 21, 22, 23, 24, 1991 through May 28, 29, 30 and 31 1991, is re-scheduled to commence on May 22, 23, 24, 1991, through May 28, 29, 30 and 31, 1991.

May 20, 1991

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

May 21, 1991

The Board rendered the following Order: "**AND NOW**, this 21st day of May, 1991, the Board of Claims having duly reviewed the Claimant's Motion to Amend Complaint, it is hereby **ORDERED** that said Motion is **DENIED** and the matter shall proceed to hearing on the merits of the Complaint filed with the Board on October 20, 1987, and the Amended Complaint filed with the Board on October 20, 1987, and the Amended Complaint filed on March 17, 1988. It is so **ORDERED**." Copies given to attorney for Plaintiff and attorney for Defendant at time of hearing.

May 22, 1991

Trial Memorandum received via fax from attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 22, 1991

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

May 22, 1991

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

May 22, 1991

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

May 23, 1991

Hearing held this date in Courtroom No. 1, 707 Transportation and Safety Building commencing at 10:00 a.m. Case completed.

June 14, 1991

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

June 18, 1991

Copies of Testimony for hearing held May 22 and 23, 1991 forwarded to attorney for Defendant.

June 21, 1991

Acceptance of Service of Testimony for hearing held May 22 and 23, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 19, 1991.

July 15, 1991

Proposed Findings of Fact, Proposed Conclusions of Law, Legal Memorandum and Certificate of Service filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 16, 1991

Proposed Findings of Fact and Conclusion of Law as well as Brief of Commonwealth of Pennsylvania Department of Transportation in Support of Proposed Findings of Fact and Conclusions of Law filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 31, 1992

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 31st day of August, 1992, the Claim of Aloe Coal Company is hereby **DENIED** and judgment is entered in favor of the Defendant, Commonwealth of Pennsylvania, Department of Transportation and against the Plaintiff, Aloe Coal Company. Each party to bear its own costs and attorneys fees." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

September 8, 1992

Acceptance of Service of Opinion and Order dated August 31, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 2, 1992.

September 29, 1992

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

October 2, 1992

Petition for Review received from Commonwealth Court. (No. 2058 C.D. 1992)

November 6, 1992

File transmitted to Commonwealth Court.

June 3, 1994

Order rendered in Commonwealth Court re: "**AND NOW**, this 2nd day of June, 1994, the order of the Board of Claims in the above-captioned matter is affirmed."

August 10, 1994

File returned from Commonwealth Court.

CLOSED