

Docket Number: 1159

CAMERON CONSTRUCTION COMPANY

~~Neal R. Brendel, Esquire~~
Carleton O. Strouss, Esquire

VS.
CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Kenneth L. Sable, Chief Claims Attorney~~
James W. Kutz, Assistant Counsel

***October 29, 1987**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$40,900.00+.

November 2, 1987

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

November 4, 1987

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 3, 1987.

November 13, 1987

Acceptance of Service of Claim received from office of Attorney General. Receipt of same acknowledged by office of Attorney General November 9, 1987.

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

January 6, 1988

Defendant's Interrogatories to Plaintiff, Cameron Construction Company, First Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 29, 1988

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 29th day of March, 1988, it is directed that the Board of Claims: 1. Grant Cameron leave to file an Amended Complaint setting forth a second claim arising out of the same contract, 2. Order that Cameron is excused from filing a Reply to the Department's Answer and New Matter filed on January 4, 1988, 3. Enlarge the time within which Cameron must respond to the Department's Interrogatories to Plaintiff - First Set to and including May 23, 1988. Counsel for the parties are to keep the Board advised of the status of this matter within sixty (60) days from the date of this Order." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

April 1, 1988

Acceptance of Service of Opinion and Order dated March 29, 1988 received from Plaintiff. Receipt of same acknowledged by Plaintiff March 30, 1988.

April 1, 1988

Acceptance of Service of Opinion and Order dated March 29, 1988 received from Defendant. Receipt of same acknowledged by Defendant March 30, 1988.

***June 20, 1988**

Amended Statement of Claim (Complaint) filed. Amount of Claim: \$378,642.02.

June 21, 1988

Copies of Amended Statement of Claim (Complaint) forwarded to attorney for Defendant and Chief Deputy Attorney General.

June 22, 1988

Acceptance of Service of Amended Statement of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 21, 1988.

June 22, 1988

Responses to Defendant's Interrogatories to Plaintiff, Cameron Construction Company - First Set filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 27, 1988

Acceptance of Service of Amended Statement of Claim received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General June 22, 1988.

September 13, 1988

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

September 21, 1988

Page 28 of Answer and New Matter which was inadvertently left out of original filing and which is to be incorporated in the Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 24, 1988

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

November 21, 1988

First Request for Production of Documents Directed to Defendant and First Set of Continuing Interrogatories Directed to Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 12, 1989

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

January 13, 1989

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

February 26, 1990

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

March 16, 1990

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

April 4, 1990

Hearing scheduled for October 16, 17, 18 and 19, 1990 as well as October 23, 24, 25 and 26, 1990, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 10:00 a.m.

October 12, 1990

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

October 15, 1990

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

October 16, 1990

Hearing held in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m. continued to October 23, 24, 25 and 26, 1990 as well as October 30, November 1 and 2, 1990.

October 23, 1990

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

October 24, 1990

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

October 25, 1990

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

October 26, 1990

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

October 30, 1990

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

November 1, 1990

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

November 2, 1990

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

November 21, 1990

Copies of testimony for hearing held October 16, 23 and 24, 1990 filed.

November 21, 1990

Copies of testimony for hearing held October 16, 23 and 24, 1990 forwarded to attorney for Defendant.

November 26, 1990

Acceptance of Service of Testimony for hearing held October 16, 23 and 24, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 21, 1990.

Testimony for hearing held October 25 and 26, 1990 filed.

Copies of testimony for hearing held October 25 and 26, 1990 forwarded to attorney for Defendant.

December 4, 1990

Acceptance of Service of testimony for hearing held October 25 and 26, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 3, 1990.

December 4, 1990

Testimony for hearing held October 30, 1990 filed.

December 5, 1990

Copy of testimony for hearing held October 30, 1990 forwarded to attorney for Defendant.

December 6, 1990

Testimony for hearing held November 1 and 2, 1990 as well as Index of Plaintiff's Proposed Exhibits Volume I and Volume II filed.

December 7, 1990

Copies of testimony for hearing held November 1 and 2, 1990 forwarded to attorney for Defendant.

December 7, 1990

Acceptance of Service of testimony for hearing held October 30, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 6, 1990.

December 12, 1990

Acceptance of Service of testimony for hearing held November 1 and 2, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 11, 1990.

February 4, 1991

Proposed Findings of Fact, Conclusions of Law and Brief in Support thereof filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 5, 1991

Motion of Plaintiff Cameron Construction Company Supplemental Trial Record filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 25, 1991

The Board rendered an Opinion and made the following Order: **"AND NOW, this 25th day of February, 1991, it is ORDERED and DECREED that the Motion of Plaintiff to Supplemental Trial Record filed by Plaintiff, Cameron Construction Company, is hereby GRANTED and will be admitted in to evidence as Plaintiff's Exhibit P-75."** Copy forwarded to attorney for Plaintiff and attorney for Defendant.

February 27, 1991

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

March 1, 1991

Acceptance of Service of Opinion and Order dated February 25, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 27, 1991.

April 4, 1991

Proposed Findings of Fact and Conclusions of Law as well as Brief 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.

April 13, 1992

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 13th day of April, 1992, an award in the amount of One Hundred Ninety Thousand Three Hundred Fifty-Four Dollars and Ninety-One Cents (\$190,354.91) is hereby made in favor of the Plaintiff, Cameron Construction Company and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation. The Board has calculated the same as follows: Material \$3,958.16, Labor \$1,579.00, 2% Markup (material & labor) 88.154, Equipment \$3,376.72, Geo-Mechanics, Inc. \$9,353.47, Keith Gile \$744.50, Karl's Dewatering Co. \$6,411.00, Hame Engineering \$3,245.00, Gecon, Inc. (exploratory drilling) \$2,500.50, Gecon, Inc. (grouting Arch Abutment No. 1) \$86,454.91, 2% Markup (Subcontractors Work) \$2,106.07, Subtotal \$213,454.91, Less: Original interest at the statutory rate of six percent (6%) per annum shall be paid from the date of October 29, 1987, which is the date Cameron filed its claim with this Board. Each party to bear its own costs." Copies forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

April 23, 1992

Acceptance of Service of Opinion and Order dated April 13, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 15, 1992.

May 13, 1992

Copy of Petition for Review as filed in Commonwealth Court filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 27, 1992

Copy of Petition for Review as filed in Commonwealth Court filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 28, 1992

Petition for Review received from Commonwealth Court. (No. 976 C.D. 1992 and No. 1067 C.D. 1992).

June 11, 1992

File transmitted to Commonwealth Court.

August 31, 1993

Copy of Opinion and Order received from Commonwealth Court. Order as follows: "**AND NOW**, this 27th day of August, 1993, the order of the Board of Claims at Docket No. 1159, dated April 13, 1992, is affirmed as to the determination that Cameron Construction Company is entitled to extra compensation for work performed in the construction of a bridge over the Clifton River. The Board's Order is reversed as to the determination that Cameron is not entitled to a 25% markup on its equipment costs in relation to that extra work. The case is remanded for the entry of an appropriate order. Jurisdiction is relinquished."

October 29, 1993

File returned from Commonwealth Court.

November 30, 1993

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 30th day of November, 1993, it is **ORDERED** and **DECREED** that the Defendant, Commonwealth of Pennsylvania, Department of Transportation, is indebted unto the Plaintiff, Cameron Construction Company, Inc., in the full and true sum of Two Hundred Thirteen Thousand Six Hundred Ninety-Nine Dollars and Nine Cents (\$213,699.09), said sum to include the twenty-five percent (25%) markup on the equipment cost of Twenty-Three Thousand Three Hundred Forty-Four Dollars and Eighteen Cents (\$23,344.18). It is further **ORDERED** and **DECREED** that Plaintiff is awarded interest at the legal rate of six percent (6%) per annum from the date of filing of the Claim on October 29, 1987. Upon receipt of said award, Plaintiff shall forthwith file with the Board, a Praecipe to mark the case 'closed, discontinued and ended with prejudice'. Each party to bear its own costs and attorney fees." Copy forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

December 2, 1993

Acceptance of Service of Opinion and Order dated November 30, 1993 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 1, 1993.

December 3, 1993

Acceptance of Service of Opinion and Order dated November 30, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 2, 1993.

December 6, 1993

Acceptance of Service of Opinion and Order dated November 30, 1993 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General December 6, 1993.

March 7, 1994

The Board rendered and Opinion and made the following Order: **AND NOW**, this 17th day of March, 1994, a Rule to Show Cause is issued upon Plaintiff, Cameron Construction Company, 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 ended with prejudice' in the event the Board does not receive a response to said Rule." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

March 22, 1994

Acceptance of Service of Opinion and Order dated March 17, 1994 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 18, 1994.

March 23, 1994

Acceptance of Service of Opinion and Order dated March 17, 1994 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff March 18, 1994.

May 12, 1994

Status/Report to Board's Rule to Show Cause, filed by attorney for Plaintiff, advising that Plaintiff has not received payment from Defendant for the interest owed. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 20, 1995

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 20th day of September, 1995, after due review and consideration of Briefs and calculations submitted by the parties, it is hereby **ORDERED** that an award is entered in favor of the Plaintiff and against the Defendant in the amount of One Thousand Twenty-Two Dollars and Sixty-Two Cents (\$1,022.62) plus interest on that amount from August 18, 1994, to the date of payment, together with the sum of Five Thousand Four Hundred Thirty-Four Dollars and Forty-Eight Cents (\$5,434.48) which was awarded by the Pennsylvania Commonwealth Court against the Defendant, after its determination of a Petition for Review of the instant case to which we award no interest. Upon receipt of payment of this award, Plaintiff shall forthwith file with the Board of Claims a Praecipe requesting that the case be marked "Closed with prejudice." Each party to bear its own costs, except as set forth hereinabove. It is so **ORDERED**. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

Motion to Reconsider Order of September 20, 1995 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 26, 1995

Acceptance of Service of Opinion and Order dated September 20, 1995 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 22, 1995.

September 26, 1995

Acceptance of Service of Opinion and Order dated September 20, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 22, 1995.

November 1, 1995

The Board made the following Amended Order: **"AND NOW,** this 1st day of November, 1995, after due consideration of Defendant's Motion to Reconsider Order of September 20, 1995, and Exhibits, the Board of Claims deems it fitting and proper to amend its Order of September 20, 1995, by deleting all references to an award of Five Thousand Four Hundred Thirty-Four Dollars and Forty-Eight Cents (\$5,434.48) to Plaintiff and against the Defendant for Pennsylvania Commonwealth Court costs which amount has been paid by Defendant and received by Plaintiff. Said Order in all other parts and

November 1, 1995 (cont'd)

particulars shall remain unchanged." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

November 3, 1995

Acceptance of Service of Opinion and Order dated November 1, 1995 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 2, 1995.

November 8, 1995

Acceptance of Service of Opinion and Order dated November 1, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 3, 1995.

May 31, 1996

The Board rendered an Opinion and made the following Order: "And NOW, this 31st of May, 1996 a Rule to Show Cause is issued upon Cameron Construction Co., wherein it is **DIRECTED** that Plaintiff advise the Board, within thirty (30) days from the entry date of this Order, as to whether or not Plaintiff has received the monies awarded. In the event the Board does not receive a response to this Rule, said Rule to Show Cause shall become absolute and the case shall be marked 'closed, discontinued and ended with prejudice'." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

June 4, 1996

Acceptance of Service of Opinion and Order dated May 31, 1996 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff June 3, 1996.

June 5, 1996

Acceptance of Service of Opinion and Order dated May 31, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 3, 1996.

June 6, 1996

Status Report/Praecipe to Discontinue filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 17, 1996

The Board rendered the following Order: "**AND NOW**, this 17th day of June, 1996, upon receipt of a Status Report and Praecipe to Discontinue, requesting that the case be marked 'closed, discontinued and ended', executed by Carleton O. Strouss, Esquire, on behalf of Plaintiff, Cameron Construction Company, same of which this Board under date of June 6, 1996, it is **ORDERED** and **DIRECTED** that said case be marked 'closed, discontinued and ended with prejudice'." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

June 19, 1996

Acceptance of Service of Order dated June 19, 1996, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff June 18, 1996.

CLOSED