

Docket Number: 1160

DALE H. CLAPSADDLE AND MARY LEONA CLAPSADDLE, his wife, and JOSEPH
J. SOPCAK and STEPHANIE R. SOPCAK, his wife

Reed B. Day, Esquire

CLOSED VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

Virginia Davison, Assistant Counsel

October 30, 1987

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$10,000.00+

November 3, 1987

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

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.

November 23, 1987

Notice of Appearance filed by Virginia Dameron, attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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

December 11, 1987

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

March 30, 1989

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

May 10, 1989

Petition to Transfer Claim and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 1, 1989

The Board rendered an Opinion and made the following Order: "AND NOW, this 1st day of August, 1989, the Plaintiff's Petition for Transfer is hereby DENIED as the Board of Claims has exclusive jurisdiction over contractual claims against the Commonwealth of Pennsylvania." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 10, 1989

Acceptance of Service of Opinion and Order dated August 1, 1989 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 4, 1989.

August 21, 1989

Copy of Petition for Review in the Nature of a Petition for a Writ of Prohibition as filed in Commonwealth Court filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 24, 1989

Petition for Review received from Commonwealth Court. (No. 248 M.D. 1989)

September 20, 1989

Respondent's Reply and New Matter to Petitioner for Review in the Nature of a Petition for A Writ of Prohibition and Praecipe for Entry of Appearance of Franklin L. Bialon filed by Board of Claims in Commonwealth Court. Copy forwarded to attorney for Plaintiff, attorney for Defendant and Attorney General by Board of Claim. (No. 248 M.D. 1989)

September 27, 1989

Copy of Order received from Commonwealth Court. Order as follows: "NOW, September 21, 1989, upon consideration of the petition of the Department of Environmental Resources for leave to intervene in the above matter, said petition is granted." (No. 248 M.D. 1989)

October 3, 1989

Copy of Petition for Leave to Intervene and Petition for Review in the Nature of a Writ of Prohibition as filed in Commonwealth Court received from attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 13, 1989

Respondent's Reply and New Matter to Petitioner - Intervenor's Petition for Review in the Nature of a Writ of Prohibition filed by Board of Claims in Commonwealth Court. Copy forwarded to attorney for Plaintiff, attorney for Defendant and Attorney General of Pennsylvania. (No. 248 M.D. 1989)

October 19, 1989

Request for Consolidation and Argument Before the Court En Banc filed by Board of Claims in Commonwealth Court. Copy forwarded to attorney for Plaintiff, attorney for Defendant and Attorney General of Pennsylvania.

October 20, 1989

Copy of Application for Summary Relief as filed in Commonwealth Court received from attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. (No. 248 M.D. 1989)

October 25, 1989

CLOSED

Copy of Order received from Commonwealth Court. Order as follows: AND NOW, October 23, 1989, upon consideration of the Commonwealth of Pennsylvania, Board of Claims request for consolidation and argument before the Court En Banc, and appearing (1) that the matter docketed at No. 1654 C.D. 1989 is in the Court's appellate jurisdiction and that the other cases are in the Court's original jurisdiction; and (2) that there are no pending motions to be argued in the matters docketed at Nos. 256, 260, 261 and 262 Misc. Dkt. 1989, said motion for consolidation is denied. The Chief Clerk is directed to list the applications for summary relief in Nos. 1654 C.D. 1989 and 248 Misc. Dkt. 1989 seriatly on the February 1990 En Banc Argument List." (No. 262 Misc. Dkt. 1989)

October 25, 1989

Copy of Memorandum and Order received from Commonwealth Court. Order as follow: "NOW, October 23, 1989, it is hereby ordered: 1. The petition for review in the nature of a writ of prohibition filed by DER on August 31, 1989, shall be docketed to No. 307 Misc. Dkt. 1989. 2. Nos. 248 Misc. Dkt. 1989 and 307 Misc. Dkt. 1989 are hereby consolidated. 3. The application for summary relief shall be treated as if filed by DER as intervenor in the matter docketed to No. 248 Misc. Dkt. 1989 and by DER as petitioner at No. 307 Misc. 1989. 4. The Chief Clerk is directed to list DER's application for summary relief at No. 307 Misc. Dkt 1989 for argument on the February 1990 En Banc Argument List seriatly with Nos. 1654 C.D. 1989 and 248 Misc. Dkt. 1989. 5. Petitioner's brief (15 copies) in support of its application for summary relief shall be filed and served on or before November 27, 1989. 6. Respondent's brief (15 copies) in opposition to said application for summary relief shall be filed and served on or before December 27, 1989." (Nos. 248 & 307 Misc. Dkt. 1989)

November 2, 1989

Reply to Application for Summary Relief filed by Board of Claims in Commonwealth Court. Copy forwarded to attorney for Plaintiff and attorney for Defendant. (Nos. 248 & 307 M.D. 1989)

November 6, 1989

Copy of Petitioners' Reply to New Matter as filed in Commonwealth Court received from attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. (No. 248 M.D. 1989)

November 27, 1989

Copy of Department of Environmental Resource's Brief in support of the Court's Granting a writ of Prohibition as filed in Commonwealth Court received from attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. (No. 307 Misc. Dkt. 1989)

December 18, 1989

Notice of argument before the Court En Banc scheduled for February 7, 1990, at 9:30 a.m. received from C.R. Hostutler, Deputy Prothonotary/Chief Clerk. Copy forwarded to attorney for Plaintiff and attorney for Defendant by C.R. Hostutler.

December 21, 1989

Brief in Opposition to Petitioner's Application for Summary Relief filed by Board of Claims in Commonwealth Court. Copy forwarded to attorney for Plaintiff and attorney for Defendant. (No. 307 Misc. Dkt. 1989)

December 22, 1989

Adoption by Respondent of Respondent's Brief filed at No. 307 Misc. Dkt. 1989 in Opposition to Petitioners' Application for Summary Relief filed by Board of Claims in Commonwealth Court. Copy forwarded to attorney for Plaintiff and attorney for Defendant. (No. 248 Misc. Dkt. 1989)

December 29, 1989

Acceptance of Service of Brief in Opposition to Petitioners' Application for Summary Relief received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 27, 1989.

July 2, 1990

Copy of Opinion and Order received from Commonwealth Court. Order as follows: "AND NOW, this 28th day of June, 1990, the orders of the Board of Claims in the above captioned matters are vacated. The petition for review in the nature of a writ of prohibition is granted and the Board of Claims is hereby ordered to transfer the above captioned claims to the Environmental Hearing Board. Jurisdiction relinquished." (Nos. 248 & 307 Misc. Docket 1989).

July 12, 1990

Notice of Appeal, Certificate of Service and Jurisdictional Statement filed in Commonwealth Court by Board of Claims. Copies forwarded, via first class mail, to attorney for Plaintiff, attorney for Defendant, Howard J. Wein, Esquire and the Honorable Bernard J. Minley. (Nos. 248 & 307 Misc. Dkt. 1989)

July 19, 1990

Acceptance of Service of Certificate of Service, Notice of Appeal and Jurisdictional Statement filed by attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 16, 1990.

July 31, 1990

Copy of Brief of the Department of Environmental Resources in Opposition to the Board of Claims' Jurisdictional Statement as filed in Supreme Court filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. (Nos. 101 & 102 M.D. Appeal Docket 1990)

October 19, 1990

Motion for Reconsideration of Directive and For Consolidation filed in Supreme Court by Board of Claims. Copy forwarded to all counsel of record by Board of Claims. (No. 225 M.D. Allocatur Docket 1990)

October 31, 1990

Answer of the Department of Environmental Resources to the Board of Claims' Motion for Reconsideration and Consolidation as filed in Supreme Court filed by attorney for Defendant. Copy forwarded to all counsel of record by attorney for Defendant. (No. 225 M.D. Allocatur Dkt. 1990)

November 5, 1990

Copy of Answer of Dale H. Clapsaddle and Mary Leona, his wife, and Joseph J. Sopcak and Stephanie R. Sopcak, his wife, to the Board of Claims' Motion for Reconsideration and Consolidation as filed in Supreme Court Filed by attorney for Plaintiff,. Copy forwarded to all counsel of record by attorney for Plaintiff. (No. 225 M.D. Allocatur Dkt. 1990)

July 1, 1991

Letter received from Supreme Court of Pennsylvania advising of Orders rendered as follows: "(Pet. for Allowance of Appeal)" June 17, 1991, Petition denied Per Curiam'" and "(Motion for Reconsideration of Directive for Consolidation)" June 17, 1991, Petition denied Per Curiam'"

August 13, 1991

The Board rendered an Opinion and made the following Order: "AND NOW, this 13th day of August, 1991, the Board of Claims transfers all pertinent matters of the file to the Environmental Hearing Board. Jurisdiction relinquished." Copy forwarded to attorney for Plaintiff, attorney for Defendant and Environmental Hearing Board.

August 13, 1991

File transferred to Environmental Hearing Board.

August 19, 1991

Acceptance of Service of Opinion and Order dated August 13, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 15, 1991.
