

Docket Number: 1217

ROY AND MARCIA CUMMINGS

Howard J. Wein, Esquire

VS.

**CLOSED**

COMMONWEALTH OF PENNSYLVANIA  
COAL AND CLAY MINE SUBSISTENCE BOARD AND COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL RESOURCES

Gail Phelps, Assistant Counsel

**February 8, 1988**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$66,397.20+.

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**February 10, 1988**

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

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**February 18, 1988**

Acceptance of Service of Claim received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General February 11, 1988.

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**CLOSED**  
February 23, 1988  
Answer to Claim and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.  
May 13, 1989

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Praecipe to Discontinue Case filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**August 2, 1989**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 2nd day of August, 1989, the Plaintiff's Praecipe to Discontinue 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.

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**August 17, 1989**

Acceptance of Service of Opinion and Order dated August 2, 1989 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 8, 1989.

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**September 1, 1989**

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

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**September 5, 1989**

Petition for Review in the Nature of a Writ of Prohibition received from Commonwealth Court. (No. 260 M.D. 1989)

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**September 20, 1989**

Respondent's Reply and New Matter to Petition for Review in the Nature of a Writ of Prohibition and Praecipe for Entry of Appearance of Franklin L. Bialon filed by Board of Claims in Commonwealth Court.

Copy forwarded attorney for Plaintiff, attorney for Defendant and Attorney General by Board of Claims.

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**October 16, 1989**

Praecipe to Discontinue Case filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**October 18, 1989**

The Board made the following order: "AND NOW, this 18th day of October, 1989, the Praecipe to Discontinue the above-captioned matter is hereby sua sponte **STRIKEN** as the above-captioned case is on appeal in the Commonwealth Court and jurisdiction will be retained until an appellate court order is received." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**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.

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**October 25, 1989**

Copy of Order dated October 23, 1989 received from Commonwealth Court.

Order as follows: "NOW, October 25, 1989, upon consideration of the Commonwealth of Pennsylvania, Board of Claims' request for consolidation and argument before the Court En Banc, and it appearing (1) that the matter docketed at No. 1654 C.D. 1989 is in this Court's appellate jurisdiction and that the other cases are in this 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."

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**November 1, 1989**

Acceptance of Service of Order dated October 25, 1989 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 26, 1989.

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**October 24, 1991**

Copy of Order dated October 21, 1991 received from Commonwealth Court.

Order as follows: "NOW, October 21, 1991, the above action having been dormant for an extended period of time, a Rule to Show Cause why said action should not be dismissed for want of prosecution is hereby issued against the petitioner(s)/plaintiff(s). Said Rule is returnable within 30 days of the date of this Order. In responding to said Rule, petitioner(s)/plaintiff(s) shall serve a copy thereof on respondent(s)/Defendant(s) and shall so certify in the response. Upon failure of petitioner(s)/plaintiff(s) to respond to said Rule within 30 days, the Chief Clerk is directed to dismiss the above action as of course." (No. 026 M.D. 1989)

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**CLOSED**  
November 1, 1991

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 13th day of November, 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 the Environmental Hearing Board.

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**November 14, 1991**

File transferred to Environmental Hearing Board.

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**November 20, 1991**

Acceptance of Service of Opinion and Order dated November 13, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 14, 1991.

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**December 2, 1991**

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

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**December 12, 1991**

Copy of Order received from Commonwealth Court. Order as follows:  
"NOW, December 9, 1991, Petitioner/Appellant having failed to  
respond to the Rule to Show Cause issued by this Court dated October  
21, 1991, the above action is dismissed as of course."  

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**CLOSED**