Docket Number: 1243

# NEW ENTERPRISE STONE & LIME CO., INC.

Kenneth M. Cushman, Esquire(Phila. Counsel)

Donna L. Fisher(Hbg. Counsel)

COMM WEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORATION

Kenneth L. Sable, Chief Claims Attorney

James W. Kutz, Assistant Counsel

#### March 28, 1988

Complaint and filing fee filed. Amount of Claim: \$2,588,020.70+.

April 6, 1988

Copies of Complaint forwarded to attorney for Defendant and Chief Deputy Attorney General.

#### April 8, 1988

Acceptance of Service of Complaint received from Defendant. Receipt of same acknowledged by Defendant April 6, 1988.

#### April 12, 1988

Acceptance of Service / Complain receive from Chaf Depty Alorney General. Receipt of ame acknowle ged by Chaf Depty Alorney General April , 1988.

April 1, 1988

Requests for Induction of Scaments of New Enterprises State & Lime Co., Inc. Addressed to the Commonwealth of Pennsylvania, Department of Transportation - Set I filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

#### May 5, 1988

Preliminary Objections to Plaintiff's Complaint filed by attorney for Defendant. Copies forwarded to attorneys for Plaintiff by attorney for Defendant.

### May 19, 1988

Motion of Defendant Commonwealth of Pennsylvania Department of Transportation for a Protective Order filed by attorney for Defendant. Copies forwarded to attorneys for Plaintiff by attorney for Defendant.

#### May 19, 1988

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

June 17, 1988

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.

#### July 11, 1988

Brief of New Enterprise Stone & Lime Co., Inc. in Opposition to Respondent Commonwealth of Pennsylvania, Department of Transportation's Preliminary Objections filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

### August 4, 1988

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### August 8, 1988

Acceptance of Service of Opinion and Order dated August 4, 1988 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 5, 1988.

### August 8, 1988

Acceptance of Service of Opinion and Order dated August 4, 1988 received from attorney for Plaintiff (Ms. Fisher). Receipt of same acknowledged by attorney for Plaintiff August 5, 1988.

#### September 29, 1988

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

#### October 17, 1988

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

#### October 18, 1988

The Board rendered an Opinion and made the following Order: "AND NOW, this 18th day of October, 1988, the Motion of the Defendant, Commonwealth of Pennsylvania, Department of Transportation, for a Protective Order is DENIED. This denial is based upon the assertion of counsel for Defendant that the request of the Plaintiff and the objections, thereto, filed by the Defendant has been resolved and discovery will proceed in an orderly manner to the satisfaction of both Plaintiff and Defendant.

#### October 19, 1988

Copy of Opinion and Order dated October 18, 1988 forwarded to attorney for Plain iff and attorny for Defe dant

### Octobe 21 1988

Asceptance of Service & Opinio and Orom dated October 18, 1988 received from ttorner in Defermant. Receipt of same acchowled eductor as 1, 38.

#### January 18, 1991

The Board rendered an Opinion and made the following Order: "AND NOW, this 18th day of January, 1991, it is hereby ORDERED that the Motion of the Claimant, New Enterprise Stone & Lime Co., Inc. for an Order to Compel the Commonwealth of Pennsylvania, Department of Transportation to answer Interrogatories, is hereby DENIED. Both parties to this action are hereby DIRECTED to proceed pursuant to the applicable Rules of Civil Procedure concerning discovery and either parties failure to do so may result in the imposition of sanctions by this Board. This case shall not be impeded by foolish and needless sparing." Copies fowarded to attorneys for Plaintiff and attorney for Defendant.

## January 23, 1991

Acceptance of Service of Opinion and Order dated January 18, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 22, 1991

#### January 23, 1991

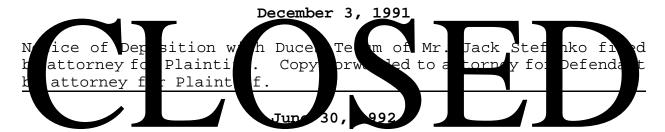
Acceptance of Service of Opinion and Order dated January 18, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 22, 1991.

#### January 28, 1991

Acceptance of Service of Opinion and Order dated January 18, 1991 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 22, 1991.

#### December 3, 1991

Notice of Deposition with Duces Tecum of Mr. Glenn Keiper filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.



Hearing scheduled for March 9, 10, 11, 12, 16, 17, 18, and 19, 1993, if necessary, in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania commencing at 10:00 a.m.

### March 9, 1993

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

### April 14, 1993

Testimony of hearing held March 9, 1993 filed. Copy forwarded to attorney for Defendant.

### August 3, 1993

Agreement and Release executed by parties, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 3, 1993

Letter/Praecipe filed by attorney for Plaintiff. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

#### October 19, 1993

The Board rendered an Opinion and made the following Order: "AND NOW, this 19th day of October, 1993, it is ORDERED and DECREED that the Defendant, Commonwealth of Pennsylvania, Department of Transporation, is indebted unto the Plaintiff, New Enterprise Stone & Lime Co., Inc., in the full and true sum of Nine Hundred Seventy-Five Dollars (\$975,00.00). In light of the disclosure that the monies have already been paid to the Plaintiff. It is further ORDERED and DECLEED that is case not be tarked set led and discontinued with purjudice".

# October 21, 19.

Acceptance of Service of Pointon at Order de ad Ordobe 19 1993 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 20, 1993.