

Docket Number: 1243

NEW ENTERPRISE STONE & LIME CO., INC.

Kenneth M. Cushman, Esquire(Phila. Counsel)

Donna L. Fisher(Hbg. Counsel)

VS.

**CLOSED**

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

~~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 of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General April 11, 1988.

**April 11, 1988**

Request for Production of Documents of New Enterprises Stone & 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.

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**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.

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**August 4, 1988**

The Board rendered an Opinion and made the following Order: **AND NOW**, this 4th day of August, 1988, upon due consideration of the Preliminary Objections as filed by the Defendant, the request of the Defendant is hereby **DENIED**. The Defendant is granted thirty (30) days from the date of this Order to file appropriate responsive pleadings." Copy forwarded to attorneys for Plaintiff and attorney for Defendant.

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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.

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**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.

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**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.

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**October 17, 1988**

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

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**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.

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**October 19, 1988**

Copy of Opinion and Order dated October 18, 1988 forwarded to attorney for Plaintiff and attorney for Defendant.

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**October 21, 1988**

Acceptance of Service of Opinion and Order dated October 18, 1988 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 20, 1988.

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**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 forwarded to attorneys for Plaintiff and attorney for Defendant.

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**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

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**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.

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**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.

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**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.

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**December 3, 1991**

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

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**CLOSED**

**June 30, 1992**

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.

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**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.

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**April 14, 1993**

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

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**August 3, 1993**

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

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**August 3, 1993**

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

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**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 Transportation, 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 **DECREED** that this case now be marked settled and discontinued with prejudice".

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**CLOSED**

**October 21, 1993**

Acceptance of Service of Opinion and Order dated October 19, 1993 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 20, 1993.

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