

Docket Number: 1266
*Consolidated with 1312 and 1350

JOHN POPPLE t/a JOHN POPPLE TRUCKING

Albert L. Chase, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

~~Keith E. Welks, Chief Counsel~~

Edward J. Morris, Assistant Counsel

May 26, 1988

Complaint and filing fee filed. Amount of Claim: \$977,568.10+.

June 2, 1988

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

June 9, 1988

Acceptance of Service of Complaint received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General June 6, 1988.

June 9, 1988

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 6, 1988.

July 1, 1988

Answer to Complaint of John Popple t/a John Popple Trucking filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 13, 1988

Motion for Judgement and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 15, 1988

Brief Sur Motion for Judgment filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 6, 1988

Reply Brief to Motion for Judgment filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 11, 1988

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 11th day of October, 1988, the request of the Plaintiff is hereby **DENIED.** The Defendant is further directed to elaborate, more fully, the basis of its denial to the allegations as set forth in the Plaintiff's Complaint, so that, at the time of trial, all the pleadings will be complete; and both the Plaintiff and Defendant will know exactly the issues and what each party will be expected to present at the time of the hearing."

October 12, 1988

Copies of Opinion and Order dated October 11, 1988, forwarded to attorney for Plaintiff and attorney for Defendant.

October 17, 1988

Acceptance of Service of Opinion and Order dated October 11, 1988, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 13, 1988.

October 18, 1988

Acceptance of Service of Opinion and Order dated October 11, 1988, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Defendant October 13, 1988.

February 14, 1989

Amended Answer to Complaint of John Popple t/a John Popple Trucking filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 5, 1989

Settlement Agreement and Mutual Release and Proposed Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

***July 10, 1989**

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 10th day of July, 1989, upon consideration of the filings in the three captioned cases and the Settlement Agreement and Mutual Release, it is hereby **ORDERED** and **DECREED** that Docket Nos. 1266, 1312 and 1350 be consolidated for all future proceedings." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

July 10, 1989

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 10th day of July, 1989, premised on the record, the pleadings filed, and the need for an in-depth determination, it is hereby **ORDERED** and **DIRECTED** that an exploratory hearing be held before the Board of Claims in Courtroom No. 2, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 9:00 a.m. on Wednesday, July 12, 1989." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

July 11, 1989

Exploratory hearing held in Board's Courtroom No. 2, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m. Case settled.

July 17, 1989

Acceptance of Service of Opinions and Orders dated July 10, 1989, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 12, 1989.

July 21, 1989

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 21st day of July, 1989, premised on the record, the pleadings herein and the testimony presented, it is hereby **ORDERED** and **DECREED** that the Settlement Agreement and Mutual Release be and hereby is approved and that the Defendant, Commonwealth of Pennsylvania, Department of Environmental Resources, is obligated to pay the sum of One Million Fourteen Thousand Six Hundred Sixty-Eight Dollars (\$1,014,668.00) in full satisfaction of all Claims filed and unfiled arising from Contract No. OSM 49(3662) 101.1 pertaining to the "Maysville Mine Fire" and that all terms, conditions and provisions of the Settlement Agreement and Mutual Release shall be effective.

July 21, 1989 (cont'd)

Plaintiff, John Popple t/a John Popple trucking, shall upon payment, file a Praecipe to mark the suit settled and discontinued with prejudice. Each party to pay its own costs." Copies forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy attorney General.

July 21, 1989

Acceptance of Service of Opinions and Orders dated July 10, 1989, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 12, 1989.

July 21, 1989

Acceptance of Service of Opinion and Order dated July 21, 1989, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 21, 1989.

July 21, 1989

Testimony of hearing held July 12, 1989, filed.

July 27, 1989

Acceptance of Service of Opinion and Order dated July 21, 1989, received from Chief Deputy Attorney General July 24, 1989.

July 31, 1989

Copy of testimony of hearing held July 12, 1989, forwarded to attorney for Defendant.

July 31, 1989

Acceptance of Service of Opinion and Order dated July 21, 1989, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 26, 1989.

August 9, 1989

Acceptance of Service of Testimony for hearing held July 12, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 4, 1989.

July 17, 1990

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 17th day of July, 1990, a Rule to Show Cause is issued upon Plaintiff, John Popple t/a John Popple Trucking, 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 settled with prejudice in the event the Board does not receive a response to said Rule." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

July 23, 1990

Acceptance of Service of Opinion and Order dated July 17, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant at July 23, 1990.

August 20, 1990

Response filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 14, 1993

Hearing scheduled for December 7, 8, 9, 10, 14, 15, 16, & 17, 1993, in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 10:00 a.m.

June 17, 1993

Hearing originally scheduled for December 7, 8, 9, 10, 14, 15, 16, & 17, 1993, rescheduled for December 7, 1993, in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, at 10:00 a.m.

December 7, 1993

Hearing held in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:26 a.m. Case settled.

January 26, 1994

Testimony of hearing held December 7, 1994 filed.

February 7, 1994

Acceptance of Service of Testimony dated January 27, 1994 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 2, 1994.

April 25, 1994

Praeipie to Settle, Discontinue and End filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 4, 1994

The Board rendered the following Order: **"AND NOW**, this 5th day of May, 1994, upon receipt of a Praeipie to Settle, Discontinue and End, executed by Albert L. Chase, Esquire, on behalf of Plaintiff, John Popple t/a John Popple Trucking, which states 'Would you kindly mark the above-captioned matter SETTLED, DISCONTINUED and ENDED', one of which is docketed with this Board under date of April 13, 1994, it is **ORDERED** and **DIRECTED** that said case be marked 'settled, ended and ended withdrawn with prejudice'." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 10, 1994

Acceptance of Service of Order received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 6, 1994.
