

Docket Number: 1277

DICK ENTERPRISES, a Pennsylvania Corporation, for the use and benefit
of Stavro N. Semanderes, t/a ODYSSEY CONTRACTING COMPANY

Roger J. Peters, Esquire
Susan A. Yohe, Esquire

CLOSED VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Kenneth L. Sable, Chief Claims Attorney~~
Stephen J. Busterna, Assistant Counsel

July 14, 1988

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$525,000.00.

July 20, 1988

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

July 25, 1988

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 22, 1988.

Acceptance of Service of Claim received from office of Attorney General. Receipt of same acknowledged by office of Attorney General July 21, 1988.

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

October 28, 1988

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

December 22, 1988

Defendant's First Request for Production of Documents to Plaintiffs, Dick Enterprises and Odyssey Contracting Company filed by attorney for Defendant. Copy forwarded to attorneys for Plaintiffs by attorney for Defendant.

December 22, 1988

Defendant's Interrogatories to Plaintiffs Dick Enterprises and Odyssey Contracting Company, First Set filed by attorney for Defendant. Copy forwarded to attorneys for Plaintiffs by attorney for Defendant.

January 5, 1989

Plaintiff's First Set of Interrogatories Directed to Defendant and Plaintiff's First Request for Production of Documents filed by attorneys for Plaintiffs. Copy forwarded to attorney for Defendant by attorneys for Plaintiffs.

May 18, 1989

Response to Defendant's First Request for Production of Documents filed by attorneys for Plaintiffs. Copy forwarded to attorney for Defendant by attorneys for Plaintiffs.

May 18, 1989

Answers to Defendant's Interrogatories to Plaintiffs Dick Enterprises and Odyssey Contracting Company, First Set filed by attorneys for Plaintiffs. Copy forwarded to attorney for Defendant by attorneys for Plaintiffs.

July 13, 1989

Defendant's Responses to Plaintiff's First Request for Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Susan A. Yohe, Esquire) by attorney for Defendant.

July 13, 1989

Defendant's Responses to Plaintiff's First Set of Interrogatories Directed to Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Susan A. Yohe, Esquire) by attorney for Defendant.

August 31, 1989

Defendant's Amended Responses to Plaintiff's First Set of Interrogatories Directed to Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Susan A. Yohe, Esquire) by attorney for Defendant.

December 4, 1989

Amendment to Answers to Defendant's Interrogatories to Plaintiffs Dick Enterprises and Odyssey Contracting Company First Set filed by attorneys for Plaintiffs. Copy forwarded to attorney for Defendant by attorneys for Plaintiffs.

February 5, 1990

Hearing scheduled for June 5, 6, 7 and 8, 1990 through June 12, 13, 14 and 15, 1990, if necessary, in Board's Court Room No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 10 a.m.

June 5, 1990

Stipulation of Fact executed by parties filed at time of hearing.

June 5, 1990

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

June 6, 1990

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

July 18, 1990

Testimony of hearing held June 5 and 6, 1990 filed.

July 19, 1990

Copy of testimony for hearing held June 5 and 6, 1990 forwarded to attorney for Defendant.

July 19, 1990

Acceptance of Service of testimony for hearing held June 5 and 6, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 20, 1990.

August 20, 1990

Plaintiff's Proposed Findings of Fact and Conclusions of Law, Brief in Support of Plaintiff's Findings of Fact and Conclusions of Law and Plaintiff's Motion to Amend Complaint to Conform to the Evidence filed by attorney for Plaintiff (Susan A. Yohe, Esquire). Copy forwarded to attorney for Defendant by attorney for Plaintiff (Susan A. Yohe, Esquire).

September 19, 1990

Department's Response to Plaintiffs' Motion to Amend Complaint to Conform to the Evidence filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Susan A. Yohe, Esquire) by attorney for Defendant.

September 25, 1990

Defendant's Proposed Findings of Fact and Conclusions of Law and Brief in Support of Defendant's Findings of Fact and Conclusions of Law filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Susan A. Yohe, Esquire) by attorney for Defendant.

October 10, 1990

Brief in Support of Plaintiff's Motion to Amend Complaint to Conform to the Evidence filed by attorney for Plaintiff (Susan A. Yohe, Esquire). Copy forwarded to attorney for Defendant by attorney for Plaintiff (Susan A. Yohe, Esquire).

October 15, 1990

Plaintiff's Brief in Reply to Defendant's Brief in Support of Defendant's Findings of Fact and Conclusions of Law filed by attorney for Plaintiff (Susan A. Yohe, Esquire). Copy forwarded to attorney for Defendant by attorney for Plaintiff (Susan A. Yohe, Esquire).

October 19, 1990

Brief in Opposition to Plaintiff's Motion to Amend Complaint to Conform to the Evidence filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Susan A. Yohe, Esquire) by attorney for Defendant.

October 26, 1990

Defendant's Brief in Response to Plaintiff's Reply Brief filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 2, 1991

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 2nd day of July, 1991, after hearing, the Board makes the following award to the Claimant: Three Hundred Forty-One Thousand Five Hundred Fifty-Nine Dollars and Forty-One Cents (\$341,559.41) for additional labor, material and equipment. Eighty-Five Thousand Three Hundred Eighty-Nine Dollars and Eighty-Five Cents (\$85,389.85) for twenty-five percent (25%) overhead and profit. Eight Thousand Five Hundred Thirty-Eight Dollars and Ninety-Eight Cents (\$8,538.98) for two percent (2%) pursuant from Form 408 Specifications. Total award of Four Hundred Thirty-Five Thousand Four Hundred Eighty-Eight Dollars and Twenty-Four Cents (\$435,488.24) with interest thereon at the rate of six percent (6%) per annum from March 3, 1988, to the date of PennDOT's official denial of the claim. The Board **DISMISSES** the Claimant's Claims for overspray. Each party to bear its own costs. Motion to Amend Complaint to conform to the evidence was **GRANTED**, contents therein were given appropriate determination."

Copy forwarded to attorneys for Plaintiffs, attorney for Defendant and Chief Deputy Attorney General.

July 8, 1991

Acceptance of Service of Opinion and Order dated July 2, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 3, 1991.

July 8, 1991

Acceptance of Service of Opinion and Order dated July 2, 1991 received from attorney for Use-Plaintiff. Receipt of same acknowledged by attorney for Use-Plaintiff July 5, 1991.

July 11, 1991

Acceptance of Service of Opinion and Order dated July 2, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 5, 1991.

July 11, 1991

Acceptance of Service of Opinion and Order dated July 2, 1991 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General July 8, 1991.

August 14, 1991

Letter received from attorney for Defendant advising of an error in the award of our Opinion and Order dated July 2, 1991.

August 19, 1991

The Board rendered an Amended Opinion and made the following Order:

"**AND NOW**, this 19th day of August, 1991, it is **ORDERED** and **DECREED** that the Defendant, Commonwealth of Pennsylvania, Department of Transportation is indebted unto the Plaintiff, Dick Enterprises, A Pennsylvania Corporation for the Use and Benefit of Stavro N. Semanderes, t/a Odyssey Contracting Company in the full and true sum of Four Hundred Thirty-Five Thousand Four Hundred Eighty-Eight Dollars and Twenty-Four Cents (\$435,488.24) with interest thereon at the rate of six percent (6%) per annum from March 3, 1988 until date of payment. All other provisions of the Opinion and Order of July 2, 1991, remain in force." Copy forwarded to attorneys for Plaintiff and attorney for Defendant.

August 21, 1991

Acceptance of Service of Amended Opinion and Order dated August 19, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 20, 1991.

August 23, 1991

Acceptance of Service of Amended Opinion and Order dated August 19, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 21, 1991.

August 26, 1991

Acceptance of Service of Amended Opinion and Order dated August 19, 1991 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 20, 1991.

August 30, 1991

Acceptance of Service of Amended Opinion and Order dated August 19, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 26, 1991.

February 10, 1992

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

April 8, 1992

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 8th day of April, 1992, upon receipt of Letter/Praecipe, acknowledging receipt of award, executed by Susan A. Yohe, Esquire, on behalf of Dick Enterprises, a Pennsylvania Corporation, for the use and benefit of Stavro N. Semanderes, t/a Odyssey Contracting Company, same of which is docketed with this Board under date of February 10, 1992, it is **ORDERED** and **DIRECTED** that said case be marked, 'settled, terminated and dismissed with prejudice'." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

April 13, 1992

Acceptance of Service of Order dated April 8, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 10, 1992.

April 17, 1992

Acceptance of Service of Order dated April 8, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 17, 1992.
