

Docket Number: 1295

JAMES D. MORRISSEY, INC.
for and on behalf of
W.P. DICKERSON & SON, INC.

~~C. Grainger Bowman, Esquire~~
~~Carleton O. Strouss, Esquire~~
~~Bert R. Ostler, Esquire~~
~~Philip E. Beck, Esquire~~
~~Lisa Pendergast, Esquire~~

CLOSED

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Kenneth L. Sable, Chief Claims Attorney~~
~~James W. Kutz, Assistant Counsel~~
Gerald R. Schultz, Assistant Counsel

September 16, 1988

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$1,000,000.00+.

September 21, 1988

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

September 23, 1988

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

CLOSED

Stipulation filed by attorney for Plaintiff and attorney for Defendant.

April 20, 1989

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 20th day of April, 1989, upon reason shown and accepted, a Stay of an indefinite period of time is granted to Plaintiff until such time, if either party believes that the Plaintiffs' Claim has fully accrued - all of the reasons are reserved by each of the parties other than the Defendant's waiving of the Statute of Limitations. Either party premised upon the conditions herein, and contained in said Stipulation shall have the right to request that the Stay be lifted by filing an appropriate pleading." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

April 24, 1989

Acceptance of Service of Opinion and Order dated April 20, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 21, 1989.

June 8, 1992

Amended Complaint filed by attorney for Plaintiff. Amount of Amended Complaint: \$1,600,000.00+. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 8, 1992

Praecipe for Entry of Appearance filed by Carleton O. Strouss, Esquire, attorney for Plaintiff (W.P. Dickerson & Sons, Inc.). Copy forwarded to attorney for Defendant by attorney for Plaintiff (W.P. Dickerson & Sons, Inc.).

June 8, 1992

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

June 15, 1992

Praecipe for Entry of Appearance of Ben R. Castle, Esquire and Lisa Pender Morse, Esquire on behalf of Plaintiff, W.P. Dickerson & Sons, Inc. filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

June 19, 1992

Copy of Amended Complaint forwarded to Chief Deputy Attorney General.

June 23, 1992

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 22, 1992.

July 2, 1992

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 2nd day of July, 1992, it is **ORDERED** and **DECREED** that the letter-type Motion for the lifting of the stay is **GRANTED** and Plaintiff is **GRANTED** the right to file its Amended Complaint." Copy forwarded to attorney for Plaintiff (Carleton O. Strouss, Esquire) and attorney for Defendant.

July 7, 1992

Copy of Acceptance of Service of Opinion and Order dated July 2, 1992 received from attorney for Plaintiff (Carleton O. Strouss, Esquire). Receipt of same acknowledged by attorney for Plaintiff (Carleton O. Strouss, Esquire) July 6, 1992.

July 8, 1992

Acceptance of Service of Opinion and Order dated July 2, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 6, 1992.

July 9, 1992

Original Acceptance of Service of Opinion and Order dated July 2, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 6, 1992.

August 21, 1992

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

September 9, 1992

Answer to New Matter filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff (Carleton O. Strouss, Esquire).

January 21, 1993

Praecipe for Withdrawal of Appearance filed by C. Grainger Bowman, Esquire, attorney for Plaintiff. Copy forwarded to attorneys for Plaintiff (Carleton O. Strouss, Esquire and Bert R. Oastler, Esquire) and attorney for Defendant by attorney for Plaintiff (C. Grainger Bowman, Esquire).

April 7, 1993

Defendant's Request for Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Bert R. Oastler, Esquire) by attorney for Defendant.

April 13, 1993

Notice of Deposition of Commonwealth of Pennsylvania, Department of Transportation, filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff (Carleton O. Strouss, Esquire).

September 21, 1993

Second Amended Complaint filed by attorneys for Plaintiff. Amount of Claim: \$1,523,124.00+. Copy forwarded to attorney for Defendant by attorney for Plaintiff (Carleton O. Strouss, Esquire).

September 21, 1993

Amended Answer to New Matter filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff (Carleton O. Strouss, Esquire).

October 13, 1993

Copy of Second Amended Complaint forwarded to Chief Deputy Attorney General.

October 20, 1993

Acceptance of Service of Second Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 18, 1993.

October 22, 1993

Acceptance of Service of Second Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General October 18, 1993.

December 8, 1993

Hearing scheduled from May 10 through 13, and May 16, 1994, if necessary in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 9:30 a.m.

December 15, 1993

Defendant's Interrogatories to Plaintiff filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Bert R. Oastler, Esquire) by attorney for Defendant.

January 14, 1994

Stipulation Regarding Defendant's Answer to Second Amended Complaint, executed by parties, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 17, 1994

Answers to Plaintiff's Interrogatories to Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 15, 1994

Hearing scheduled for May 10, 11, 12, 13, and 16, 1994, if necessary, to be held in Hearing Room No. 1, North Office Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m.

May 2, 1994

Hearing scheduled for May 10, 11, 12, 13, and 16, 1994, if necessary, to be held in the Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, at 9:30 a.m.

May 10, 1994

Hearing held in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m.

May 11, 1994

Hearing held in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. Case completed.

CLOSED

June 3, 1994

Testimony for hearing held May 10 and 11, 1994, filed.

June 7, 1994

Copies of testimony for hearing held May 10 and 11, 1994, forwarded to attorney for Defendant.

July 15, 1994

Plaintiff's Proposed Findings of Fact, Conclusions of Law, and Brief in Support Thereof filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 15, 1994

Defendant's Findings of Fact, Conclusions of Law and Brief in Support, thereof, filed by attorney for Defendant. Copy forwarded to attorneys for Plaintiff by attorney for Defendant.

October 11, 1994

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

July 14, 1995

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 14th day of July, 1995, the Board finds in favor of the Plaintiff, James D. Morrissey, Inc., for and on behalf of W. P. Dickerson and Son, Inc., and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation, in the amount of Eight Hundred Twenty-Five Thousand Dollars (\$825,000.00) with six percent (6%) interest from September 16, 1988, the date of commencement of this action as filed with the Board of Claims. Upon receipt of said award, Plaintiff shall forthwith file with the Board of Claims a Praecipe that the case be marked settled, discontinued and ended with prejudice. Each party to bear its own costs and attorneys fees."

Copies forwarded to attorneys for Plaintiff, and copies forwarded to Chief Deputy Attorney General.

July 14, 1995

Acceptance of Service of Opinion and Order dated July 14, 1995 received from attorney for Plaintiff (Carlton Strass, Esquire). Receipt of same acknowledged by attorney for Plaintiff July 14, 1995.

July 18, 1995

Acceptance of Service of Opinion and Order dated July 14, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 18, 1995.

July 18, 1995

Acceptance of Service of Opinion and Order dated July 14, 1995 received from attorneys for Plaintiff (Bert R. Oastler, Esquire and Philip E. Beck, Esquire). Receipt of same acknowledged by attorneys for Plaintiff July 18, 1995.

July 26, 1995

Motion for Reconsideration filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (Bert R. Oastler, Esquire) by attorney for Defendant.

August 7, 1995

Plaintiff's Reply to PennDOT's Motion for Reconsideration of Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 10, 1995

Plaintiff James D. Morrissey, Inc.'s Motion for Modification of Order and Award filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 14, 1995

Petition for Review, as filed in Commonwealth Court, filed by attorney for Defendant. [No. 1988 C.D. 1995]

August 24, 1995

Cross Petition for Review filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

CLOSED

Copy of Cross-Petition for Review received from Commonwealth Court. [No. 2095 C.D. 1995]

August 28, 1995

Courtesy copy of Entry of Appearances filed by Carleton O. Strouss, Esquire and Linda J. Shorey, Esquire, attorneys for Plaintiff, as filed in Commonwealth Court. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

September 12, 1995

File transmitted to Commonwealth Court.

November 27, 1995

Copy of Order received from Commonwealth Court. Order as follows:
"Now, November 21, 1995, upon consideration of Respondent's request for extension of time to file advance-form briefs, and it appearing that said request is not opposed, said request is granted and Respondent's advance-form briefs shall be filed on or before December 1, 1995."

October 23, 1996

Copy of Opinion and Order received from Commonwealth Court. Order as follows: "AND NOW, this 8th day of August, 1996, the order of the Pennsylvania Board of Claims, dated July 14, 1995, in favor of James D. Morrissey, Inc., for and on behalf of W.P. Dickerson and Son, Inc., and against the Commonwealth of Pennsylvania, Department of Transportation, in the amount of \$825,00.00, (sic) with 6% interest from September 16, 1988, is hereby affirmed to the extent that it holds the Department of Transportation liable for the payment of damages. With regard to the amount of damages for which the Department of Transportation is liable, the order is reversed and modified, increasing the damage award to \$1,523,124.00, representing \$1,410,344.00 in actual costs and \$112,824.00 as an general contractor markup, with 6% interest from September 16, 1988."

CLOSED

October 23, 1996

File returned from Commonwealth Court.

August 4, 1997

Copy of Order received from Commonwealth Court. Order as follows: "AND NOW, this 25th day of July, 1997, on consideration of the Joint Motion for Enforcement or Clarification or Order, it is hereby ordered that: 1. The principal brief of Dickerson shall be filed on or before August 1, 1997. 2. The brief of PennDOT shall be filed on or before September 1, 1997. 3. The reply brief of Dickerson, if any, shall be filed on or before September 8, 1997. 4. Argument on the joint motion will be heard on September 11, 1997, at 2:00 p.m., in Courtroom No. 1, 5th Floor, South Office Building, Harrisburg, PA."

August 5, 1997

Copy of Order received from Commonwealth Court. Order as follows: "AND NOW, this 4th day of August, 1997, the Order dated July 25th, 1997, is corrected as follows: Upon consideration of the Joint Motion for Enforcement or Clarification of Order, it is hereby ordered that: 1. The principal brief of Dickerson shall be filed on or before August 15, 1997. 2. The brief of PennDOT shall be filed on or before September 1, 1997. 3. The reply brief of Dickerson, if any, shall be filed on or before September 8, 1997. 4. Argument on the joint motion will be heard on September 11, 1997, at 2:00 p.m., in Courtroom No. 1, 5th Floor, South Office Building, Harrisburg, PA."

September 10, 1997

Copy of Order received from Commonwealth Court. Order as follows:
"NOW, September 8, 1997, upon consideration of the Department of Transportation's letter of September 5, 1997, which we treat as a motion for continuance, the motion is granted and hearing in the above matter, previously scheduled for September 11, 1997 at 2:00 p.m. is continued generally. The parties are directed to file a status report with respect to this case on or before October 8, 1997."

October 15, 1997

Copy of Order received from Commonwealth Court. Order as follows:
"NOW, October 9, 1997, upon consideration of the status report, filed by W. P. Dickerson and Son, Inc., it is ordered that the parties shall file a further status report with respect to this case within 4 days of the date of this order."

November 26, 1997

Copy of Order received from Commonwealth Court. Order as follows:
"NOW, November 24, 1997, upon consideration of the status report, filed by W. P. Dickerson and Son, Inc., it is ordered that the parties shall file a further status report with respect to this case on or before January 15, 1998."

CLOSED