

Docket Number: 1333

LANE CONSTRUCTION CORPORATION to the use of
CONN CONSTRUCTION COMPANY

Kenneth W. Lee, Esquire

CLOSED VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Kenneth L. Sable, Chief Claims Attorney~~

Stephen J. Busterna, Assistant Counsel

January 10, 1989

Complaint and filing fee filed. Amount of Claim: \$748,909.01+.

January 13, 1989

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

January 18, 1989

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 17, 1989.

January 25, 1989

Acceptance of Service of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 17, 1989.

February 1, 1989

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

March 2, 1989

Defendant's Request for Production of Documents to Plaintiff, Lane Construction Corporation - First Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 10, 1989

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

March 14, 1989

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

March 28, 1989

First Request for Production of Documents (Corrected) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 21, 1989

Plaintiff's Answer to Defendant's Interrogatories to Plaintiff, Lane Construction Corporation - First Set filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 10, 1989

Plaintiff's First Request for Admissions filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 5, 1989

Defendant's Responses to Plaintiff's First Request for Admissions filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 9, 1990

Defendant's First Request for Admissions filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 15, 1990

Defendant's Interrogatories to Plaintiff, Lane Construction Corporation - Second Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 15, 1990

Defendant's Request for Production of Documents to Plaintiff, Lane Construction Corporation - Second Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 21, 1990

Motion for Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 24, 1990

Motion to Compel filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 13, 1990

Plaintiff's Responses to Defendant's First Request for Admissions filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 20, 1990

Response to Plaintiff's Motion for Protective Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 26, 1990

Motion to Compel filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 7, 1990

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

April 10, 1991

Plaintiff's Answers to Defendant's Interrogatories to Plaintiff, Lane Construction Corporation - Second Set filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 1, 1991

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 1st day of May, 1991, upon notification by counsel for the Plaintiff, Lane Construction Corporation to the use of Conn Construction Company, it is **ORDERED** and **DECREED** that the Motion for Protective Order and the Motion to Compel are dismissed as being moot. It is further **ORDERED** and **DECREED** that counsel for both parties shall advise the Board when discovery is complete so that the matter can be set for a full Board hearing." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 7, 1991

Acceptance of Service of Opinion and Order dated May 1, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 3, 1991.

May 8, 1991

Acceptance of Service of Opinion and Order dated May 1, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 3, 1991.

May 8, 1991

Acceptance of Service of Opinion and Order dated May 1, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 3, 1991.

June 19, 1991

Letter/Motion to Withdraw Motion to Compel as filed by Defendant, filed by attorney for Defendant. copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 28, 1991

The Board rendered an opinion and made the following Order; "AND NOW, this 28th day of June, 1991, it is ORDERED and DECREED that the Motion to Compel as filed by the Defendant, Department of Transportation, is hereby DISMISSED as being moot. Copies forwarded to attorney for Plaintiff and attorney for Defendant.

July 2, 1991

Acceptance of Service of Opinion and Order dated June 28, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 1, 1991.

July 8, 1991

Acceptance of Service of Opinion and Order dated June 28 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 1, 1991.

July 18, 1991

Hearing scheduled for January 7, 8, 9 and 10, 1992, as well as January 14, 15, 16 and 17, 1992, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 10:00 a.m.

November 26, 1991

Defendant's Second Request for Admissions filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 23, 1991

Motion to Preclude the Requirement for the Personal Appearance of William R. Jones as a Witness, or in the Alternative, Motion to Submit His Deposition in Lieu of Personal Appearance filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 31, 1991

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 31st day of December, 1991, it is hereby **ORDERED** and **DECREED** that counsel for the Defendant may introduce the deposition of Mr. William R. Jones in lieu of his personal appearance before the Board of Claims." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

CLOSED

December 31, 1991

Plaintiff's Response to Motion to Preclude the Requirement for the Personal Appearance of William R. Jones as a Witness filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 6, 1992

Motion in Limine as to Defendants Defense Asserted under Section 110.03(e) of the Form 408 Specifications and Brief in Support of Motion in Limine as to Defendants Defense Asserted Under Section 110.03(3) of the Form Specifications filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 6, 1992

Motion in Limine to Exclude Certain Defenses Asserted Against use Plaintiff's Damages and Brief in Support of Motion in Limine to Exclude Certain Defenses Asserted Against Use Plaintiff's Damages filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 6, 1992

Hearing scheduled to begin January 7, 1992 at 10 a.m., postponed to begin at 1:30 p.m.

January 6, 1992

Acceptance of Service of Opinion and Order dated December 31, 1991,

received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 2, 1992.

January 7, 1992

Hearing held in Board's Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 1:30 pm.

January 8, 1992

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 8th day of January, 1992, the Commonwealth of Pennsylvania, Department of Transportation, is directed to file its Response to the Motion in Limine to Exclude Certain Defenses Against Use of Plaintiff's Damages. The Commonwealth, therefore, has ten (10) days in which to file said response from the date of service of this Opinion and Order." Copy handed to attorneys at time of trial.

January 8, 1992

Hearing held in Board's Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:05 a.m.

January 8, 1992

Acceptance of Service of Opinion and Order dated January 8, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 8, 1992.

January 9, 1992

Hearing held in Board's Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:17 a.m.

January 9, 1992

Acceptance of Service of Opinion and Order dated January 8, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 8, 1992.

January 10, 1992

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

January 14, 1992

Hearing held in Board's Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 11:20 a.m.

January 15, 1992

Hearing held in Board's Courtroom No. 1, 707 Transportation & Safety

Building, Harrisburg, Pennsylvania, commencing at 10:20 a.m.

January 16, 1992

Hearing held in Board's Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:40 a.m.

January 17, 1992

Hearing held in Board's Courtroom No. 1, 707 Transportation & Safety Building, Harrisburg, Pennsylvania, commencing at 10:20 a.m.

January 29, 1992

Defendant's Response to Plaintiff's Motion in Limine filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 10, 1992

Testimony for hearing held January 7, 8 and 9, 1992 filed.

February 11, 1992

Testimony for hearing held January 7, 8 and 9, 1992 forwarded to attorney for Defendant.

February 11, 1992

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

February 13, 1992

Acceptance of Service of testimony for hearing held January 7, 8 and 9, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 12, 1992.

February 21, 1992

Testimony for hearing held January 10, 14, 15, 16 and 17, 1992 filed.

February 24, 1992

Copy of testimony for hearing held January 10, 14, 15, 16 and 17, 1992 forwarded to attorney for Defendant.

February 27, 1992

Acceptance of Service of testimony of hearing held January 10, 14, 15, 16 and 17, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 25, 1992.

June 2, 1992

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

July 22, 1992

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

August 19, 1992

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 19th day of August, 1992, both Motions in Limine as filed by the Plaintiff, Lane Construction Corporation to the use of Conn Construction Company are **DENIED**." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 21, 1992

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

August 21, 1992

Acceptance of Service of Opinion and Order dated August 19, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 20, 1992.

August 27, 1992

Acceptance of Service of Opinion and Order dated August 19, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 24, 1992.

September 10, 1992

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

December 21, 1992

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 21st day of December, 1992, an award is hereby entered in favor of the Plaintiff, Lane Construction Corporation to the use of Conn Construction Company, in the amount of Five Hundred Forty-Nine Thousand Three Hundred Fifty-Eight Dollars and Twenty-Eight Cents (\$549,358.28) with six percent (6%) interest from January 10, 1989, the date on which the Plaintiff's claim was filed with this Board, and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation. Upon receipt of said award by the Plaintiff, Plaintiff shall forthwith file with the Board a Praecipe to mark the case settled and ended with prejudice. Each party to bear its own costs and attorneys' fees." Copy forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

December 23, 1992

Acceptance of Service of Opinion and Order dated December 21, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 22, 1992.

December 29, 1992

Acceptance of Service of Opinion and Order dated December 21, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 23, 1992.

January 8, 1993

Acceptance of Service of Opinion and Order dated December 21, 1992 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 4, 1993.

June 11, 1993

Praecipe to Satisfy Award filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 29, 1993

The Board made the following Order: **"AND NOW,** this 29th day of June, 1993, pursuant to Praecipe to Satisfy Award filed by Kenneth W. Lee, Esquire representing Plaintiff, Lane Construction Corporation to the use of Conn Construction Company received by this Board under

date of June 11, 1993, it is hereby **ORDERED** and **DIRECTED** that the case be marked 'settled, discontinued and ended with prejudice'."

Copy forwarded to attorney for Plaintiff and attorney for Defendant.

July 1, 1993

Acceptance of Service of Order dated June 29, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 30, 1993.

July 9, 1993

Acceptance of Service of Order dated June 29, 1993 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 2, 1993

CLOSED