

Docket Number: 1361

*Consolidated for hearing with Nos. 1110, 1142 and 1417

J. ROSE CORPORATION

Michael H. Payne, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

John J. Buchy, Chief of Litigation

April 19, 1989

New Claim and filing fee filed. Amount of Claim: \$5,222,083.01+.

April 21, 1989

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

April 27, 1989

Acceptance of Service of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General April 24, 1989.

May 17, 1989

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 10, 1989.

May 18, 1989

Preliminary Objections to Plaintiff's Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 16, 1989

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

June 20, 1989

Brief in Support of Preliminary Objections to Plaintiff's Complaint filed by attorney for Defendant. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 11, 1989

Plaintiff's Reply Brief in Opposition to Defendant's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 18, 1989

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 18th day of August, 1989, upon consideration of the Preliminary Objections filed on behalf of the Defendant herein, Commonwealth of Pennsylvania, Department of General Services, pertaining to the Complaint filed on behalf of the Plaintiff, J. Rose Corporation, it is hereby **ORDERED** that the Defendant's Motion for a More Specific Complaint is **GRANTED** as to Counts II, III, V, VI and VII, and **DENIED** as to Counts VIII and XVI. Plaintiff shall have Thirty (30) days from the date of this Order to file an Amended Complaint as to Counts II, III, V, VI and VII. Plaintiff need not amend its Complaint as to Counts VIII and XVI. Defendant's Preliminary Objections in the nature of a demurrer and Motion to Strike Off Plaintiff's Complaint because of irrelevant matter, it is hereby **DENIED** for the reasons set forth in the foregoing opinion." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

Acceptance of Service of Opinion and Order dated August 18, 1989, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 21, 1989.

August 28, 1989

Acceptance of Service of Opinion and Order dated August 18, 1989 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 24, 1989.

September 22, 1989

Amended Complaint filed by attorney for Plaintiff.

September 29, 1989

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

October 4, 1989

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 2, 1989.

October 12, 1989

Acceptance of Service of Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General October 3, 1989.

October 25, 1989

Preliminary Objections to Plaintiff's Amended Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 27, 1989

Second Amended Complaint filed by attorney for Plaintiff. Amount of Claim: \$5,488,035.42+.

CLOSED

Entry of Appearance of Timothy S. Kerr, Esquire, filed by Timothy S. Kerr, Esquire, attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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

January 24, 1990

Acceptance of Service of Second Amended Complaint filed by attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 16, 1990.

January 25, 1990

Acceptance of Service of Second Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 16, 1990.

February 9, 1990

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 9th day of February, 1990, it is **ORDERED** and **DECREED** that the Preliminary Objections, as filed by Defendant on October 25, 1989, are now moot, and accordingly are **DISMISSED.**" Copy forwarded to attorney for Plaintiff and attorney for Defendant.

February 15, 1990

Acceptance of Service of Opinion and Order dated February 9, 1990, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 13, 1990.

February 16, 1990

Acceptance of Service of Opinion and Order dated February 9, 1990, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 14, 1990.

May 9, 1990

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

June 18, 1990

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

September 7, 1990

Defendant's Interrogatories to Plaintiff - First Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 6, 1990

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

October 17, 1990

Motion to Consolidate Docket Nos. 1110, 1142, 1361 and 1417 filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 22, 1990

Hearing scheduled for May 7, 8, 9 and 10, 1991, May 14, 15, 16 and 17, 1991, May 21, 22, 23 and 24, 1991 as well as May 28, 29, 30 and 31, 1991, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania commencing at 10:00 a.m.

November 21, 1990

The Board rendered an Opinion and made the following Order; **"AND NOW,** this 21st day of November, 1990, it is **ORDERED** and **DECREED** that J. Rose Corporation vs. Commonwealth of Pennsylvania, Department of General Services, Docket Numbers 1110, 1142, 1361 and 1417 be, and are hereby, consolidated for trial beginning May 7, 1991." Copies forwarded to attorneys for Plaintiff and attorney for Defendant.

November 26, 1990

Acceptance of Service of Opinion and Order dated November 21, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 23, 1990.

Acceptance of Service of Opinion and Order dated November 21, 1990 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 23, 1990.

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

February 14, 1991

Notice of Taking Depositions on Oral Examination Under Pa. R.C.P. 4007.1 of J. Rose Corporation; Brian Nallon, Charles Giardina; Tom Sobieski; and George Pajor; Lycoming Supply, Inc. and Leo M. Williams, Jr.; George Shadie Electrical Associates, Inc. and Mike Dimino; superior Fireproof door, Inc.; Harold W. Lasako; and Joseph V. Scott, Jr.; Duggan and Marcon, Inc.; George E. Worden, Jr.; and L. Charles Marcon; McGregor Architectural Iron Company, inc. and Stephen V. Demanovich, Jr.; J. rose Corporation; Louis LeBar; and Delores Watkins; J. Rose Corporation and John L. Ludwig filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 26, 1991

Doctor's Certificate relative to Mrs. Wideman filed by attorney for Plaintiff.

April 10, 1991

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 10th day of April, 1991, upon consideration of the request of Mr. Payne and the attached certificate, the evidentiary hearing scheduled for May 7, 1991, through May 31, 1991, is continued sine die. It is further **ORDERED** and **DECREED** that counsel for both the Plaintiff, J. Rose Corporation, and the Defendant, Commonwealth of Pennsylvania, Department of General Services, be in contact with Senior Counsel for the Board of Claims with reference to rescheduling the hearing." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

April 15, 1991

Acceptance of Service of Opinion and Order dated April 10, 1991 received from attorney for Plaintiff (Michael H. Payne, Esquire). Receipt of same acknowledged by attorney for Plaintiff April 15, 1991.

April 18, 1991

Acceptance of Service of Opinion and Order dated April 10, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 15, 1991.

April 23, 1991

Acceptance of Service of Opinion and Order dated April 10, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 15, 1991.

May 23, 1991

Hearing scheduled for November 19, 20, 21 and 22, 1991, December 3, 4, 5 and 6, 1991, December, 10, 11, 12 and 13, 1991, as well as December 17, 18, 19 and 20, 1991, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania at 10:00 a.m.

September 26, 1991

Notice of Taking Depositions on Oral Examination Under Pa.R.C.P. 4007.1 filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 16, 1991

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

October 18, 1991

Petition for Order to Apply for Subpoena Duces Tecum in Foreign Jurisdiction and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 22, 1991

Judge Pace executed the Proposed Order, as filed by attorney for Plaintiff. Order as follows: "AND NOW, this 22nd day of October, 1991, upon consideration of Plaintiff's Petition for an Order to Apply for Subpoena Duces Tecum in Foreign Jurisdiction, it is hereby **ORDERED**, that Moyer associates Incorporated (Moyer), of Glendale, Illinois, shall make Mr. Steve Hesselswerfer available for the taking of testimony by Plaintiff which is or may be relevant or otherwise discoverable in this action within the meaning of the Pennsylvania Rules of Civil Procedure, and shall make available for Plaintiff's inspection and copying all documents in Moyer's possession, custody or control which refer or relate to the construction project known as the Conversion of Retreat State Hospital to a State Correctional Institution, all at a time and place to be designated by Plaintiff in a subpoena duces tecum on the forms used by this Board; and it is **FURTHER ORDERED**, that Plaintiff shall have, and is hereby granted, the Board's full and complete authority to cause to be issued the aforesaid subpoena duces tecum; and it is **FURTHER ORDERED**, that Plaintiff may, on its own behalf and on behalf of this Board, apply to a court of competent jurisdiction in the State of Illinois for the enforcement of the said subpoena duces tecum and/or for the enforcement of this Order, pursuant to the applicable laws and rules of the said jurisdiction." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

October 28, 1991

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

October 29, 1991

Acceptance of Service of Order dated October 22, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 24, 1991.

November 14, 1991

Motion for Sanctions for Failure to Timely Produce Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 18, 1991

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 18th day of November 18, 1991, upon consideration of the full record, the comments made hereinabove, and review of the Motion for Sanctions for Failure to Timely Produce Documents, said Motion is **DISMISSED** with prejudice. The case shall commence, as scheduled, Tuesday, November 19, 1991. Court given to attorney for Plaintiff at time of hearing, copy hand delivered to attorney for Defendant.

November 18, 1991

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

November 19, 1991

Plaintiff's Response to Defendant's Motion for Sanctions for Failure to Timely Produce Documents filed at time of hearing by attorney for Plaintiff. Copies given to all counsel of record at time of hearing.

November 20, 1991

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

November 21, 1991

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

November 22, 1991

Hearing held this date in Board's Courtroom No. 1, 707 Transportation

and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

November 27, 1991

Acceptance of Service of Order dated October 22, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 24, 1991.

December 3, 1991

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

December 4, 1991

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

December 5, 1991

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

December 6, 1991

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

December 10, 1991

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

December 11, 1991

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

December 12, 1991

Hearing held this date in Board's Courtroom No. 1, 707 Transportation

and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

December 13, 1991

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

December 19, 1991

Acceptance of Service of Opinion and Order dated November 18, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 17, 1991.

January 22, 1992

Testimony for hearing held November 19, 20, 21 and 22, 1991 filed.

January 24, 1992

Copy of testimony for hearing held November 19, 20, 21 and 22, 1991 forwarded to attorney for Defendant.

January 29, 1992

Testimony for hearing held December 3, 4, 5 and 6, 1991 forwarded to attorney for Defendant.

January 31, 1992

Copy of testimony for hearing held December 3, 4, 5 and 6, 1991 forwarded to attorney for Defendant.

January 31, 1992

Acceptance of Service of testimony for hearing held November 19, 20, 21 and 22, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 27, 1992.

February 7, 1992

Acceptance of Service of testimony for hearing held December 3, 4, 5 and 6, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 4, 1992.

February 28, 1992

Settlement and Release Agreement executed by parties filed by

attorney for Plaintiff.

March 16, 1992

Testimony for hearing held December 10, 11, 12 and 13, 1991 filed.

March 17, 1992

Copy of testimony for hearing held December 10, 11, 12 and 13, 1991 forwarded to attorney for Defendant.

March 31, 1992

Acceptance of Service of testimony for hearing held December 10, 11, 12 and 13, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 20, 1992.

June 8, 1992

CLOSED

The Board rendered an opinion and made the following Order: "AND NOW, this 8th day of June, 1992, upon due consideration of the Settlement and Release Agreement executed by the parties and other submissions, it is hereby ~~ORDERED~~ and ~~DECREED~~ that Defendant, Commonwealth of Pennsylvania, Department of General Services, shall pay to Plaintiff, J. Rose Corporation, the sum of One Million Six Hundred Thousand Dollars (\$1,600,000.00) upon the terms and conditions set forth in the Settlement and Release Agreement. Both parties shall comply with each and every condition, to which it has agreed, in a timely manner. Plaintiff shall forthwith acknowledge full compliance with all terms and conditions of the herein set forth Settlement and Release Agreement and further submit a Praecipe with the Board of Claims requesting that each of the captioned cases on the docket be marked 'settled and discontinued with prejudice'. Each party to bear its own costs." Copies forwarded to attorneys for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

June 19, 1992

Acceptance of Service of Opinion and Order dated June 8, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff June 10, 1992.

June 22, 1992

Acceptance of Service of Opinion and Order dated June 8, 1992 received

from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff June 11, 1992.

July 6, 1992

Acceptance of Service of Opinion and Order dated June 8, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 9, 1992.

June 15, 1993

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 15th day of June, 1993, a Rule to Show Cause is issued upon Plaintiff, J. Rose Corporation, 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.

June 28, 1993

Acceptance of Service of Opinion and Order dated June 15, 1993 received from attorney for Plaintiff (Timothy S. Kerr, Esquire). Receipt of same acknowledged by attorney for Plaintiff June 21, 1993.

June 28, 1993

Praeipie to Settle, Discontinue and End filed by attorney for Plaintiff (Timothy S. Kerr, Esquire).

June 29, 1993

Copy of Praeipie to Settle, Discontinue and End forwarded to attorney for Defendant.

July 1, 1993

Acceptance of Service of Opinion and Order dated June 15, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 16, 1993.

July 8, 1993

The Board made the following Order: "**AND NOW**, this 8th day of July, 1993, upon receipt of Praeipie to Settle, Discontinue and End,

requesting that the matter be marked 'settled, discontinued and ended', executed by Timothy S. Kerr, Esquire, on behalf of the Plaintiff, same of which is docketed with this Board under date of June 28, 1993, it is **ORDERED** and **DIRECTED** that said case be marked 'settled, discontinued and ended with prejudice'." Copies forwarded to attorneys for Plaintiff and attorney for Defendant.

July 16, 1993

Acceptance of Service of Order dated July 8, 1993 received from attorney for Plaintiff (Timothy S. Kerr, Esquire). Receipt of same acknowledged by attorney for Plaintiff July 13, 1993.

July 19, 1993

Acceptance of Service of Praecipe to Settle, Discontinue and End received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 19, 1993.

August 1, 1993

Acceptance of Service of Order dated July 9, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 9, 1993.

CLOSED