

Docket Number: 1407

MASHUDA CORPORATION, on its own behalf and to the use of
CHAPIN & CHAPIN, INC., BRAYMAN CONSTRUCTION CORP., SARGENT ELECTRIC
CO., and WEST MIFFLIN CONSTRUCTION

Bert R. Oastler, Esquire (Georgia)

Carleton O. Strouss, Esquire

*Paul A. Logan, Esquire (Chapin & Chapin, Inc.)

CLOSED
VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Kenneth L. Sable, Chief Claims Attorney

December 11, 1989

Complaint and filing fee filed. Amount of Claim: \$5,988,497.04+.

December 15, 1989

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

December 19, 1989

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 18, 1989.

December 21, 1989

Amended Complaint (Supplemental Verification Chapter in support of Statement of Claim (Complaint)) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff (Charleton O. Trouss, Esquire).

January 3, 1990

Acceptance of Service of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General December 18, 1989.

January 11, 1990

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 10, 1990.

January 18, 1990

Acceptance of Service of Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 11, 1990.

February 23, 1990

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

April 2, 1990

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

June 22, 1990

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

May 9, 1991

Interrogatories of Defendant to Plaintiff filed by Jeffrey W. Davis, Assistant Counsel (Department of Transportation). Copies forwarded to attorneys for Plaintiff by Jeffrey W. Davis, Assistant Counsel (Department of Transportation).

June 12, 1991

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

June 17, 1991

Plaintiff's Objections and Responses to Interrogatories of Defendant to Plaintiff filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 19, 1991

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 19th day of August, 1991, the Board urgently requests that the Plaintiff and Defendant to continue its discovery at the convenience of both parties. This Board does not have the time to address anticipated problems when these problems appear to be generated by the unwillingness of both attorneys to cooperate and to move discovery along an amicable path as opposed to the rocky narrow path that will lead to a longevity of suit and a postponement of any type of trial date." Copies forwarded to attorney for Plaintiff (Carleton O. Strouss, Esquire) and attorney for Defendant.

August 21, 1991

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

August 21, 1991

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

January 31, 1992

Notice of Deposition of the Commonwealth of Pennsylvania, Department of Transportation filed by Bert R. Oastler, Esquire and Philip E. Beck, Esquire. Copy forwarded to attorney for Defendant by Bert R. Oastler, Esquire and Philip E. Beck, Esquire.

***June 20, 1992**

Praecipe For Entry of Appearance filed by Paul A. Logan, Esquire, attorney for Plaintiff (Chapin & Chapin, Inc.). Copy forwarded to attorney for Plaintiff (Mashuda Corporation) and attorney for Defendant by attorney for Plaintiff (Chapin & Chapin, Inc.).

August 4, 1992

Hearings scheduled for February 16, 17, 20 and 23, 1993, as well as February 23, 24, 24 and 26, 1993, to be held in Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania commencing at 10 a.m.

December 3, 1992

Proposed Order Allowing Amendment of Plaintiff's Complaint consented to by attorney for Plaintiff (Philip E. Beck) and attorney for Defendant but filed by attorney for Plaintiff (Carleton O. Strouss).

December 3, 1992

First Amendment to Plaintiff's Statement of Claim (Complaint) filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff (Carleton O. Strouss).

December 7, 1992

Plaintiff's First Request For Admissions to Defendant filed by attorneys for Plaintiff (Philip E. Beck and Carleton O. Strouss). Copy forwarded to attorney for Defendant by attorney for Plaintiff (Philip E. Beck).

December 16, 1992

Copy of First Amendment to Plaintiff's Statement of Claim (Complaint) forwarded to attorney for Plaintiff (Paul A. Logan, Esquire) and Chief Deputy Attorney General.

December 17, 1992

The Board made the following Order: "In accordance with the Rules of the Board of Claims and Rule 1033 of the Pennsylvania Rules of Civil Procedure, and with the consent of both parties, it is hereby **ORDERED** and **DECREEED** that Plaintiff Mashuda Corporation is allowed to amend its Statement of Claim (Complaint), as indicated in the attached First Amendment to Plaintiff's Statement of Claim (Complaint). To the extent this Amendment calls for a response by Defendant, the allegations are deemed denied without the requirement of any further responsive pleading by the Defendant." **ORDERED**, this 17th day of December, 1992.

December 21, 1992

Copies of Order dated December 17, 1992 forwarded to attorneys for Plaintiffs, attorney for Defendant and Chief Deputy Attorney General.

December 23, 1992

Acceptance of Service of Order Allowing Amendment of Plaintiff's Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 22, 1992.

December 29, 1992

Acceptance of Service of First Amendment to Plaintiff's Statement of Claim (Complaint) received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General December 18, 1992.

December 29, 1992

Acceptance of Service of First Amendment to Plaintiff's Statement of Claim (Complaint) received from attorney for Plaintiff (Chapin & Chapin, Inc.). Receipt of same acknowledged by attorney for Plaintiff (Chapin & Chapin) December 22, 1992.

December 30, 1992

Acceptance of Service of Order Allowing Amendment of Plaintiff's

Complaint received from attorney for Plaintiff (Carleton O. Strouss, Esquire). Receipt of same acknowledged by attorney for Plaintiff (Carleton O. Strouss, esquire) December 22, 1992.

January 4, 1993

Acceptance of Service of Order Allowing Amendment of Plaintiff's Complaint received from attorney for Plaintiff (Philip E. Beck). Receipt of same acknowledged by Chief Deputy Attorney General January 4, 1993.

January 8, 1993

Acceptance of Service of Order Allowing Amendment of Plaintiff's Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 4, 1993.

February 16, 1993

Hearing held this date in Board's courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania commencing at 11:00 a.m. Case settled.

March 9, 1993

Testimony of hearing held February 19, 1993, filed.

March 22, 1993

Copy of testimony forwarded to attorney for Defendant.

March 24, 1993

Acceptance of Service of testimony received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 23, 1993.

June 25, 1993

Status Report and Praecipe for Discontinuance as well as Proposed Order filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

July 1, 1993

The Board rendered an Opinion and made the following Order: "AND NOW, this 1st day of July, 1993, it is ORDERED and DECREED that the

Defendant, Commonwealth of Pennsylvania, Department of Transportation, is indebted unto the Plaintiff, Mashuda Corporation, in both cases, in the full and true sum of Five Million Two Hundred Fifty Thousand Dollars (\$5,250,000.00). The allocation of the settlement payment is One Million Five Hundred Fifty Thousand Dollars (\$1,550,000.00) for the Claim docketed to number 1407, and Three million Seven Hundred Thousand Dollars (\$3,700,000.00) for the Claim docketed at number 1491. Upon receipt of said award, Plaintiff, in both cases, 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 hand-delivered to attorney for Plaintiff and attorney for Defendant.

July 12, 1993

Praecipe to Discontinue filed by attorney for Plaintiff. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 15, 1993

CLOSED

The Board rendered the following Order: "**AND NOW**, this 16th day of July, 1993, upon receipt of a Letter Praecipe, executed by Carleton O. Strouss, Esquire, on behalf of Plaintiff, Mashuda Corporation, on its own behalf and to the use of Chapin & Chapin, Inc., Brayman Construction Corp., Sargent Electric Co., and West Mifflin Construction Co., Inc., which states 'Checks having been tendered to Mashuda Corporation in accordance with the order entered by the Board on July 1, 1993, same of which is docketed with this Board under date of July 12, 1993, it is **ORDERED** and **DIRECTED** that said case be marked 'settled, discontinued and ended with prejudice'."

Copies forwarded to all attorneys of record.

July 21, 1993

Acceptance of Service of Opinion and Order dated July 16, 1993 received from attorney for Plaintiff (Paul A. Logan, Esquire). Receipt of same acknowledged by attorney for Plaintiff (Paul A. Logan, Esquire) July 19, 1993.

July 23, 1993

Acceptance of Service of Opinion and Order dated July 16, 1993 received from attorney for Plaintiff (Carleton O. Strouss, Esquire).

Receipt of same acknowledged by attorney for Plaintiff (Carleton O. Strouss, Esquire) July 22, 1993.

July 23, 1993

Acceptance of Service of Opinion and Order dated July 16, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 19, 1993.

July 26, 1993

Acceptance of Service of Opinion dated July 16, 1993 received from attorney for Plaintiff (Bert R. Oastler, Esquire). Receipt of same acknowledged by attorney for Plaintiff (Bert R. Oastler, Esquire) July 19, 1993.

CLOSED