

Docket Number: 1415

JAMES BROZZETTI AND JIM'S AMUSEMENTS

Sal Cagnetti, Jr., Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

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

~~Michael D. Alsher, Assistant Counsel~~

***January 25, 1990**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$100,000.00+

February 2, 1990

Notice of Claim letter with enclosure forwarded to attorney for Defendant.

February 6, 1990

Acceptance of Service of Statement of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 5, 1990.

CLOSED
*June 13, 1990
Amended Statement of Claim filed by attorney for Plaintiff. Amount of Amended Claim: \$16,017.73+

June 18, 1990

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

June 29, 1990

Acceptance of Service of Amended Statement of Claim filed by attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 28, 1990.

July 9, 1990

Acceptance of Service of Amended Statement of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General June 29, 1990.

July 27, 1990

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

August 31, 1990

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

September 25, 1990

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

November 28, 1990

The Board rendered an Opinion and made the following Order: "AND NOW, this 28th day of November, 1990, upon consideration of the Commonwealth's Preliminary Objections in the nature of a demurrer, and after consideration of supporting briefs filed on behalf of Commonwealth of Pennsylvania, Department of Transportation, and the Claimant, James Brozzetti, t/d/b/a Jim's Amusements, it is hereby ORDERED that the Preliminary Objections are DENIED. Defendant shall have thirty days from the date of this Order in which to file a responsive pleading to Claimant's amended statement of Claim." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

Acceptance of Service of Opinion and Order dated November 28, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 28, 1990.

January 14, 1991

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

February 6, 1991

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

September 25, 1992

The Board rendered an Opinion and made the following Order: "AND NOW, this 25th day of September, 1992, a Rule is issued upon Plaintiff, James Brozzetti and Jim's Amusements, to show cause why the case should not be dismissed for failure to prosecute. This Rule shall become absolute and the case shall be marked closed with prejudice in the event the Board does not receive a response to said Rule within 30 days of the date of this Order." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

September 29, 1992

Acceptance of Service of Opinion and Order dated September 25, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 28, 1992.

October 13, 1992

Plaintiff's Response to the Board's Rule to Show Cause and Order of September 25, 1992 filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 10, 1992

CLOSED
The Board rendered an Opinion and made the following Order: "AND NOW, this 11th day of November, 1992, it is **ORDERED** and **DECREED** that the Rule to Show Cause dated September 25, 1992 be and is hereby **DISMISSED** as being moot in view of the Plaintiff's James Brozzetti and Jim's Amusements, response hereto. It is further **ORDERED** and **DECREED** that the Plaintiff shall complete and disclose herein, either in the form of interrogatories or depositions to be completed no later than January 30, 1993." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

November 13, 1992

Acceptance of Service of Opinion and Order dated November 10, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 12, 1992.

February 5, 1993

Defendant's Interrogatories to Plaintiff - First Set, as well as Defendant's Request for Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 22, 1993

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 22, 1993

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

December 10, 1993

Hearing scheduled for March 20, 30, 31 and April 1, 1994, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Bldg., Harrisburg, PA commencing at 9:30 a.m.

February 23, 1994

Defendant's Interrogatories to Plaintiff - Second Set as well as Defendant's Request for Production of Documents - Second Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 23, 1994

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

March 23, 1994

Notice to Produce filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 23, 1994

Defendant's Pre-Trial Memorandum of Law filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 24, 1994

Plaintiff's Answers to Second Set of Interrogatories and Responses to Second Set of Request for Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 25, 1994

Plaintiff's Response to Defendant's Notice to Produce filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 29, 1994

Hearing held this date commencing at 9:30 a.m. Case Completed.

March 29, 1994

Claimant's Post Trial Brief filed by attorney for Plaintiff at time of hearing. Copy given to attorney for Defendant by attorney for Plaintiff at time of hearing.

April 27, 1994

Testimony of hearing held March 29, 1994 filed.

May 2, 1994

Copy of testimony of hearing held March 29, 1994 forwarded to attorney for Defendant.

June 3, 1994

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

September 2, 1994

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

September 7, 1995

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 7th day of September, 1995, upon consideration of the pleadings, the record, and other submissions of the parties, it is hereby **ORDERED** and **DECREED** that an award be made in favor of the Plaintiff, James Brozzetti, t/d/b/a Jim's Amusements, and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation, wherein Defendant shall pay to the Plaintiff a sum in the amount of One Hundred Eighty-Seven Thousand Seven Hundred Eighty-Three Dollars and Nine Cents (\$187,783.09), plus interest at the legal rate of six percent (6%) per annum from the date of the filing of the original Complaint, January 25, 1990. Upon receipt of said award, Plaintiff shall forthwith file with the Board of Claims a Praecipe that the case be marked 'discontinued and ended with prejudice'. Each party to bear their own costs and attorney fees."

Copies forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

September 13, 1995

Acceptance of Service of Opinion and Order dated September 7, 1995 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 12, 1995.

September 13, 1995

Acceptance of Service of Opinion and Order dated September 7, 1995 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 8, 1995.

September 13, 1995

Acceptance of Service of Opinion and Order dated September 7, 1995 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General September 12, 1995.

October 10, 1995

Petition for Review as filed in Commonwealth Court received from attorney for Defendant. (No. 2522 C.D. 1995)

November 9, 1995

File Transmitted to Commonwealth Court.

November 4, 1996

Opinion and Order received from Commonwealth Court. Order as follows: "AND NOW, this 28th day of October, 1996, the order of the Board of Claims, dated September 7, 1995, is affirmed on the issue of DOT's liability for breach, affirmed in part and reversed in part on the issue of damages, and this case is remanded to the Board for an itemized calculation of damages in accordance with the foregoing opinion. Jurisdiction relinquished."

December 9, 1996

Letter received from attorney for Defendant advising that the parties have agreed to settle the claim.

December 23, 1996

The Board rendered an Opinion and made the following Order: "AND NOW, this 23rd day of December, 1996, it is **ORDERED** and **DECREED** that, in light of the settlement letter, this case be marked **SETTLED** and **TERMINATED** with prejudice. It is further **ORDERED** and **DECREED** that in the event the monies to be paid under the settlement agreement are not paid within ninety (90) days from the date of this Order, the Plaintiff shall have the right to request the reopening of this file." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

January 8, 1997

File returned from Commonwealth Court.
