

Docket Number: 1422

NORTHEAST PURVEYANCE CORPORATION

Peter G. Loftus, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

Keith E. Welks, Chief Counsel

February 23, 1989

By Order of Commonwealth Court, case field **ORDER** as follows: "NOW, February 23, 1989, we raise sua sponte the question of our jurisdiction of this proceeding and conclude that we lack jurisdiction. See Ezy Parks v. Larson, 499 Pa. 615, 454 A.2d 928 (1982); Stambaugh's Air Service, Inc. v. Larson, 97 Pa. Commonwealth Ct. 474, 509 A.2d 1377 (1986) aff'd per curiam, ___ Pa ___, 524 A.2d 491 (1987). The Chief Clerk is directed to transfer this action, the pleadings and a copy of this Court's docket entries to the Board of Claims."

THE FOLLOWING FILED IN COMMONWEALTH COURT:

Petition filed.

February 23, 1989

February 23, 1989

Motion for Preliminary Injunction Without Prior Hearing filed.

February 23, 1989

Certificate of Service filed.

February 23, 1989

On Order, we raise sua sponte the question of our jurisdiction of this proceeding and conclude that we lack jurisdiction. The Chief Clerk is directed to transfer this action, the pleadings and a copy of this Court's docket entries to the Board of Claims. (PER CURIAM) February 24, 1989 Order exit. See Order filed.

BEFORE THE BOARD OF CLAIMS:

March 29, 1989

Record transferred from Commonwealth Court.

April 4, 1989

File received from Commonwealth Court. Amount of Claim:

April 11, 1989

Letter forwarded to attorney for Plaintiff requesting additional copies of Complaint and filing fee.

February 23, 1990

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 23rd day of February, 1990, a Rule to Show Cause is issued upon Plaintiff, Northeast Purveyance Corporation, wherein it is **DIRECTED** that Plaintiff remit the statutory filing fee of Fifty Dollars (\$50.00) and additional copies of the Complaint within 30 days of this Order. This Rule shall become absolute and the case dismissed with prejudice in the event the Board does not receive an adequate response to said Rule." Copy forwarded to attorney for Plaintiff.

March 29, 1990

Acceptance of Service of Opinion and Order dated February 23, 1990 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff March 8, 1990.

March 9, 1990

Complaint and filing fee filed. Amount of Claim:

March 15, 1990

Telephone call made this date requesting additional information.

March 20, 1990

Amended Statement of Claim filed. Amount of Amended Statement of Claim: \$200,000.00+.

March 23, 1990

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

April 2, 1990

Acceptance of Service of Complaint and Amended Statement of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General March 27, 1990.

April 2, 1990

Acceptance of Service of Complaint and Amended Statement of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 29, 1990.

April 20, 1990

Preliminary Objections of the Commonwealth of Pennsylvania, Department of Environmental Resources filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 25, 1991

Brief of DER in Support of Preliminary Objections of the Commonwealth of Pennsylvania, Department of Environmental Resources filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 11, 1991

Letter/Withdrawal of Appearance of William M. Calder, Assistant Counsel, on behalf of Defendant filed by attorney for Defendant.

June 11, 1991

Letter/Entry of Appearance of Philip Van Zile, III, Assistant Counsel, on behalf of Defendant filed by attorney for Defendant.

June 27, 1991

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 27th day of June, 1991, it is **ORDERED** and **DECREED** that the Plaintiff, Northeast Purveyance Corporation shall file a more specific pleading within thirty (30) days from the date of this Order.

If, after the filing of the more specific pleading, counsel for the Defendant is satisfied that his Preliminary Objections have been addressed, the Defendant, Commonwealth of Pennsylvania, Department of Environmental Resources is **ORDERED** and **DIRECTED** to so advise the Board." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

***July 29, 1991**

Amended Complaint filed by attorney for Plaintiff. Amount of Claim: \$20,000.00+.

August 6, 1991

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

August 12, 1991

Acceptance of Service of Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 7, 1991.

August 13, 1991

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 9, 1991.

August 29, 1991

Request for Extension of Time for filing of Defendant's Answer filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 2, 1991

Answer to New Matter of Commonwealth of Pennsylvania, Department of Environmental Resources, to the Amended Complaint of Northeast Purveyance Corporation filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 22, 1992

Entry of Appearance of Robert M. Cohen, Esquire on behalf of Plaintiff filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 30, 1992

Answer to New Matter of the Commonwealth of Pennsylvania, Department of Environmental Resources, in Response to the Commonwealth's Answer and New Matter to the Amended Complaint of Northeast Purveyance Corporation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 14, 1992

Amended Certificate of Service of Answer the New Matter of Commonwealth of Pennsylvania Department of Environmental Resources filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 20, 1992

Claimant's Interrogatories Addressed to Respondent and Claimant's Request for Production of Documents Directed to Respondent Department of Environmental Resources filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

CLOSED

December 23, 1992

Request for Extension of Time for Filing of Defendant's Responses to Claimant's Interrogatories and Document Requests filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 19, 1993

Response to Plaintiff's Request for Production of Documents as well as Response of Commonwealth of Pennsylvania, Department of Environmental Resources, to Claimant's First Set of Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 25, 1993

General Release executed by both parties filed by attorney for Defendant.

June 29, 1993

The Board rendered an Opinion and made the following Order: "**AND NOW,** this 29th day of June, 1993, it is **ORDERED** and **DECREED** that the Defendant, Commonwealth of Pennsylvania, Department of Environmental Resources is indebted unto the Plaintiff, Northeast Purveyance Corporation, in the full and true sum of Eighty-Five Thousand Dollars (\$85,000.00). Upon receipt of payment of said award, Plaintiff shall forthwith file with the Board of a Praecipe that the case be marked 'settled and ended with prejudice'. Each party to bear its own costs and attorneys' fees."

August 9, 1993

Praecipe for Discontinuance and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 24, 1993

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 24th day of August, 1993, upon receipt of Letter/Praecipe requesting that the case be marked 'settled, ended and discontinued with prejudice', executed by Richard J. Confair, Esquire, on behalf of Northeast Purveyance Corporation which is docketed with this board under date of August 9, 1993, and the Board presuming that the sum of money awarded has been received, it is **ORDERED** and **DIRECTED** that said case be marked settled, discontinued and ended with prejudice."

Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 30, 1993

Acceptance of Service of Opinion and Order dated August 25, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 27, 1993.

Acceptance of Service of Opinion and Order dated August 25, 1993 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 31, 1993.