

Docket Number: 1452

TONY DEPAUL & SON

Mason Avrigian, Jr., Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Kenneth L. Sable, Chief Claims Attorney

June 25, 1990

Statement of Claim and filed by attorney for Plaintiff. Amount of Claim: \$831,397.60+.

July 3, 1990

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

July 9, 1990

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

Acceptance of Service of Statement of Claim received from Office of Attorney General.

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

September 11, 1990

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

September 13, 1991

Letter/Motion for an Order Compelling Answers to DePaul's Outstanding Discovery Requests to DOT, Proposed Order, and Exhibit A (which includes Claimant's Interrogatories Addressed to Respondent - First Set, Claimant's Request for Admissions Addressed to Respondent - Second Set) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 16, 1991

Answers to Claimant, Tony DePaul & Son's Request for Admissions Addressed to Respondent Commonwealth of Pennsylvania, Department of Transportation (First Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 23, 1991

Letter and Proposed Order relative to compelling answers to discovery requests addressed to Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 27, 1991

The Board made the following Order: **"AND NOW**, this 27th day of September, 1991, upon consideration of Claimant's Tony DePaul & Son, Motion for and Order compelling answers to its outstanding Interrogatories addressed to Respondent, Commonwealth of Pennsylvania, Department of Transportation, it is hereby **ORDERED** and **DECREED** that the Department of Transportation shall provide answers, without objections, to the discovery requests on or before October 11, 1991. Failure to do so shall be reason to suffer sanctions." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

October 1, 1991

Acceptance of Service of Order dated September 27, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for defendant September 30, 1991.

October 8, 1991

Acceptance of Service of Order dated September 27, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 30, 1991.

October 11, 1991

Response of the Commonwealth of Pennsylvania Department of Transportation to Claimant's Request for Production of Documents (Second Request) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 11, 1991

Answers to Claimant, Tony DePaul & Son's Interrogatories Addressed to Respondent, Pennsylvania Department of Transportation (First Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 15, 1991

Motion for Sanctions and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 25, 1991

Letter received via FAX advising of outstanding discovery requests and this being the reason for the filing of a Motion for Sanctions, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Defendant.

October 28, 1991

Letter received via MAIL (FEDERAL EXPRESS) advising of outstanding discovery requests and this being the reason for the filing of a Motion for Sanctions, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Defendant.

November 25, 1991

The Board reviewed an Opinion and made the following Order: "AND NOW, this 25th day of November, 1991, the Motion for Sanctions of the Claimant is hereby **DENIED**. Further, this case will be listed for trial within the immediate future." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

December 2, 1991

Acceptance of Service of Opinion and Order dated November 25, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 26, 1991.

December 6, 1991

Acceptance of Service of Opinion and Order dated November 25, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 27, 1991.

March 16, 1992

Hearing scheduled for June 9, through June 12, 1992 as well as June 16 through June 19, 1992, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

April 10, 1992

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

May 29, 1992

Claimant, Tony Depaul & Son's Request for Admissions Addressed to Respondent Commonwealth of Pennsylvania, Department of Transportation (Second Set) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 29, 1992

Claimant, Tony DePaul & Son's Interrogatories Addressed to Respondent, Pennsylvania Department of Transportation (Second Set) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 29, 1992

Claimant, Tony DePaul & Son's Request for Production of Documents and Things Addressed to Respondent, Commonwealth of Pennsylvania, Department of Transportation (Third Request) filed by attorney for Plaintiff. Copy forwarded to attorney for defendant by attorney for Plaintiff.

June 1, 1992

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

June 5, 1992

Trial Brief of Claimant, Tony DePaul & Son filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 9, 1992

Hearing held this date in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:25 a.m.

June 10, 1992

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

June 11, 1992

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

June 12, 1992

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

June 17, 1992

Exhibit P-53 and Exhibit P-28 filed by attorney for Plaintiff per Judge Pace's request at the time of hearing. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 1, 1992

Testimony for hearing held June 9, 10, 11 and 12, 1992 filed.

July 21, 1992

Copy of testimony for hearing held June 9, 10, 11 and 12, 1992 forwarded to attorney for Defendant.

July 23, 1992

Acceptance of Service of testimony for hearing held June 9, 10, 11 and 12, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 22, 1992.

August 28, 1992

Plaintiff's, Tony DePaul & Son's Proposed Findings of Fact, Conclusions of Law and Memorandum of Law in Support filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 20, 1992

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

October 28, 1993

The Board rendered an Opinion and made the following Order: "AND NOW, this 28th day of October, 1993, the Board of Claims hereby enters an award in favor of the Plaintiff, Tony DePaul & Son, and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation, in the amount of Two Hundred Sixty-Three Thousand Fifty-Seven Dollars and Sixty-Eight Cents (\$263,057.68) with interest at the legal rate of six percent (6%) per annum from June 25, 1990, the date on which the Claim was filed with the Board of Claims. Upon receipt of said award, Plaintiff 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." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

November 2, 1993
Acceptance of Service Opinion and Order dated October 28, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 29, 1993.
November 2, 1993

Copy of Petition for Review as filed in Commonwealth Court filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 6, 1993

Petition for Review received from Commonwealth Court. [No. 2774 C.D. 1993].

January 10, 1994

File transmitted to Commonwealth Court.

March 8, 1994

Courtesy copy of Order received from Commonwealth Court. Order as follows: "NOW, March 2, 1994, upon consideration of petitioner's request for an extension of time, the request is granted and petitioner's brief (15 copies) and reproduced record (8 copies) shall be filed and served on or before April 6, 1994."

May 9, 1994

Courtesy copy of Order received from Commonwealth Court. Order as follows: **"AND NOW**, this 4th day of May, 1994, upon consideration of Respondent's Petition for Enlargement of Time, it is hereby **ORDERED** and **DECREED** that the Petition is **GRANTED**, and Respondent's brief shall be filed on or before June 5, 1994."

December 9, 1994

Copy of opinion and Order received from Commonwealth Court. Order as follows: **"AND NOW**, this 6th day of December, 1994, the order of the Board of Claims dated October 28, 1993 is hereby affirmed."

February 24, 1995

Copy of Opinion and Order received from Commonwealth Court. Order as follows: **"AND NOW**, this 6th day of December, 1994, the order of the Board of Claims dated October 28, 1993 is hereby affirmed."

February 24, 1995

File returned from Commonwealth Court.

CLOSED