

Docket Number: 1454

DAVID STEWART, INC.

~~Robert J. Burns, Esquire~~
Thomas A. Beckley, Esquire

VS.
CLOSED
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES

~~Michael J. Daley, Chief Counsel~~
Elizabeth A. O'Reilly, Assistant Counsel

and

DEPARTMENT OF LABOR AND INDUSTRY,
BUREAU OF EMPLOYER TAX OPERATIONS

Arthur Selikoff, Assistant Counsel

***July 2, 1990**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$136,696.26+.

July 5, 1990

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

July 12, 1990

Acceptance of Service of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General July 9, 1990.

July 27, 1990

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant July 19, 1990.

August 6, 1990

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

August 13, 1990

Certificate of Service of Preliminary Objections to Plaintiff's Complaint filed on August 6, 1990 received from attorney for Defendant.

September 12, 1990

Department's 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.

December 14, 1990

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

January 18, 1991

The Board rendered an Opinion and made the following Order: "AND NOW, this 18th day of January, 1991, Plaintiff, David Stewart Incorporated, is DIRECTED to file an Amended Complaint consistent with the Board's Opinion. The Board directs the Plaintiff, in the filing of the Amended Complaint to plead damages with the specificity required by the Pa. R.C.P. and Appellate decisions." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

January 28, 1991

Acceptance of Service of Opinion and Order dated January 18, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 27, 1991.

Amended Complaint filed by attorney for Plaintiff. Amount of Claim: \$31,196.00+

Acceptance of Service of Opinion and Order dated January 18, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 23, 1991.

January 31, 1991

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

February 5, 1991

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 1, 1991.

February 8, 1991

Acceptance of Service of Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General February 4, 1991.

March 1, 1991

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

December 11, 1991

Interrogatories of Defendant, Commonwealth of Pennsylvania, Department of General Services to Plaintiff, David Stewart, Inc. (First Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 21, 1992

Letter/Withdrawal of Appearance of Robert J. Burns, Esquire, on behalf of Plaintiff, as well as Letter/Entry of Appearance of Thomas A. Beckley, Esquire, on behalf of Plaintiff, filed by Mr. Beckley, attorney for Plaintiff.

April 14, 1994

Plaintiff's Responses to Interrogatories of Defendant, Commonwealth of Pennsylvania, Department of General Services to Plaintiff, David Stewart, Inc. (First Set) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 14, 1994

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

December 29, 1995

Hearing scheduled for May 20, 21, 22, 23, and 24, 1996, in the Board of Claims' Court Room No. 1, Fulton Building, Suite 600, 200 North Third Street, Harrisburg, Pennsylvania, commencing at 9:30 a.m.

March 15, 1996

Request for Production of Documents of the Commonwealth of Pennsylvania, Department of General Services, Addressed to David Stewart, Inc. filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 1, 1996

Petition to Intervene filed by Department of Labor and Industry. Copies forwarded to all parties of record by Department of Labor and Industry.

April 1, 1996

Notice of Appearance of Arthur Selikoff, Assistant Counsel, attorney for Intervenor. Copies forwarded to all parties of record by attorney for Intervenor.

April 16, 1996

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 16th day of April, 1996, the Petition to Intervene in this matter is **GRANTED**." Copies forwarded to attorney for Plaintiff, attorney for Defendant, and attorney for Intervenor.

May 3, 1996

Acceptance of Service of Opinion and Order dated April 16, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 17, 1996.

June 7, 1996

Answer to Complaint as filed in the United States Bankruptcy Court filed by attorney for Intervenor. Copy forwarded to all parties of record by attorney for Intervenor.

July 3, 1996

Claimant's Answer to the Petition to Intervene filed by the Bureau of Employer Tax Operations ("BETO") and New Matter filed by attorney for Plaintiff. Copy forwarded to all parties of record by attorney for Plaintiff.

July 24, 1996

Intervenor's Answer to the New Matter in Claimant's Answer to the Petition to Intervene filed by attorney for Intervenor. Copy forwarded to all parties of record by attorney for Intervenor.

November 8, 1996

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 8th day of November, 1996 after due consideration of the Petition to Intervene and such subsequent submissions of the parties, this Board is not inclined to rescind nor amend its Order of April 16, 1996 and the parties to the present suit are **ORDERED** and **DIRECTED** to proceed in accordance with Rule 2330, Pennsylvania Rules of Civil Procedure, in a timely manner and the Intervenor shall have all the rights and liabilities of a party to the action." Copies forwarded to attorney for Plaintiff, attorney for Defendant, and attorney for Intervenor.

November 19, 1996

Acceptance of Service of Opinion and Order dated November 8, 1996, received from attorney for Additional Defendant. Receipt of same acknowledged by attorney for Additional Defendant November 18, 1996.

November 25, 1996

Acceptance of Service of Opinion and Order dated November 8, 1996, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 13, 1996.

May 2, 1997

Letter forwarded to parties requesting a status report.

Status report due from parties 6/2/97.

June 2, 1997

Letter received from attorney for Additional Defendant advising that he is ready for hearing.

September 27, 1997

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 25th day of September, 1997, it is **ORDERED** and **DECREED** that a Rule to Show Cause is issued unto counsel for Plaintiff, David Stewart, Inc., to show cause why this case should not be dismissed for failure to prosecute. The Rule to Show Cause is returnable on/or before November 12, 1997." Copies forwarded to all parties of record.

October 3, 1997

Acceptance of Service of Opinion and Order dated September 25, 1997, received from attorney for Intervenor. Receipt of same acknowledged by attorney for Intervenor October 1, 1997.

October 6, 1997

Plaintiff's Response to Rule to Show Cause Dated September 25, 1997, filed by attorneys for Plaintiff. Copy forwarded to all parties of record by attorneys for Plaintiff.

October 9, 1997

Supplement to Plaintiff's Response to Rule to Show Cause dated September 25, 1997 filed by attorneys for Plaintiff. Copies forwarded to all parties of record by attorneys for Plaintiff.

October 29, 1997

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 29th day of October, 1997, it is **ORDERED** and **DECREED** that the Rule to Show Cause as issued by the Board on September 25, 1997, is dismissed as being moot." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

October 31, 1997

Acceptance of Service of Opinion and Order dated October 29, 1997, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 30, 1997.

December 29, 1997

Acceptance of Service of Opinion and Order dated October 29, 1997, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 30, 1997.

April 16, 1998

Letter forwarded to the parties requesting a status report.
Response due 5/16/98.

April 23, 1998

Letter received from attorney for Plaintiff advising that the Plaintiff is ready to proceed to hearing.

May 15, 1998

Letter received from attorney for Defendant advising that the case is ready to proceed to hearing.

May 20, 1998

Letter received from attorney for Plaintiff advising that the case is ready to proceed to hearing.

July 10, 1998

Panel Hearing scheduled for September 28, 29, and 30, 1998, in the Board's Court Room No. 2, 6th Floor, Fulton Building, 200 North Third Street, Harrisburg, Pennsylvania, commencing at 9:30 a.m.

August 28, 1998

Plaintiff's Pre-Trial Statement filed by attorney for Plaintiff.
Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 28, 1998

Panel Hearing held in Board's Court Room No. 2, Fulton Building,
Suite 600, 200 North Third Street, Harrisburg, Pennsylvania,
commencing at 9:30 a.m. Case completed.

October 16, 1998

Testimony of Panel Hearing held September 28, 1998, filed.

October 21, 1998

Copy of testimony of Panel Hearing held September 28, 1998 forwarded
to attorney for Defendant.

October 29, 1998

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

October 30, 1998

Acceptance of Service of testimony of panel hearing held
September 28, 1998, received from attorney for Defendant. Receipt
of same acknowledged by attorney for Defendant October 22, 1998.

January 15, 1999

Defendant's Proposed Findings of Fact and Conclusions of Law filed
by attorney for Defendant. Copy forwarded to attorney for Plaintiff
by attorney for Defendant.

January 26, 1999

Letter-type Reply Brief filed by attorney for Plaintiff. Copy
forwarded to attorney for Defendant by attorney for Plaintiff.

February 2, 1999

Copy of transcript and briefing schedule forwarded to Intervenor,
Department of Labor & Industry. Findings of Fact, Conclusions and
Brief due March 2, 1999.

February 1, 1999

Letter received from attorney for Plaintiff advising that Plaintiff does not feel the Department of Labor & Industry should be granted permission to file their Findings, Conclusions and Brief.

February 4, 1999

Letter received from attorney for Labor & Industry in response to Plaintiff's letter opposing Labor & Industry's right to file Findings, Conclusions and Brief.

March 5, 1999

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

March 8, 1999

Documents forwarded to Messrs. Giles and McLaughlin requesting Panel Report.

March 10, 1999

Letter received from attorney for Plaintiff advising that the Board should not adopt the proposed Conclusions of Law submitted by Defendant but should defer to the Bankruptcy Court's Order. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 12, 1999

Panel Report filed by Messrs. Giles and McLaughlin.

CLOSED

June 25, 1999

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 25th day of June, 1999, judgment is entered in favor of Plaintiff, David Stewart, Inc., in the full and true sum of Two Thousand Five Hundred Fifty Dollars (\$2,550.00) plus interest at the legal rate of six percent (6%) per annum from the date the Claim was filed. The remainder of Plaintiff's Claim against the Commonwealth of Pennsylvania, Department of General Services is **DISMISSED**. Defendant, Commonwealth of Pennsylvania, Department of Labor & Industry, is entitled to set-off its lien against Plaintiff in the amount of the judgment. Upon receipt of payment of said award Plaintiff shall forthwith file with the Board a Receipt that the case is marked settled and ended with prejudice." Copy forwarded to attorney for Plaintiff and attorney for Defendants.

June 30, 1999

Acceptance of Service of Opinion and Order dated June 25, 1999 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 28, 1999.

July 6, 1999

Acceptance of Service of Opinion and Order dated June 25, 1999 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General June 29, 1999.

June 30, 1999

Petition for Review as filed in Commonwealth Court filed by attorney for Plaintiff.

July 5, 1999

Petition for Review filed by Commonwealth Court [1679 C.D. 1999].

July 9, 1999

Acceptance of Service of Opinion and Order dated June 25, 1999 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 7, 1999.

July 22, 1999

File forwarded to Commonwealth Court.

January 4, 2001

Order rendered in Commonwealth Court as follows: **"AND NOW**, this 8th day of May 2000, the order of the Board of Claims in the above-captioned matter is affirmed."

January 4, 2001

Order rendered in Supreme Court as follows: **"AND NOW**, this 20th day of October, 2000, the Petition for Allowance of Appeal is hereby denied." [No. 383 Middle District Allocatur Docket 2000]

CLOSED