

Docket Number: 1520

INDUSTRIAL CERAMICS, INC

~~Mark S. Gordon, Esquire~~
Daniel D. Harshman, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR & INDUSTRY,
STATE WORKMEN'S INSURANCE FUND

~~Elaine Lytle Mead, Deputy Chief Counsel~~
Patrick J. O'Conner, Esquire
Douglas B. Lang, Esquire
Joseph J. Bellew, Esquire and
Gerianne Hannibal, Esquire

March 11, 1991

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$1,765,000.00+

March 13, 1991

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

March 20, 1991

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 14, 1991.

March 20, 1991

Acceptance of Service of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General March 14, 1991.

April 30, 1991

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

June 14, 1991

Brief of Respondent filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 5, 1991

Brief of Claimant and Amended Complaint filed by attorneys for Plaintiff. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

July 23, 1991

Petition for Leave to Amend Complaint in Accordance with Rule 1033 of the Pennsylvania Rules of Civil Procedure, Brief in Support of and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 31, 1991

The Board made the following Order: ‘**AND NOW**, this 31st day of July, 1991, upon consideration of Industrial Ceramics, Inc.’s Petition for Leave to Amend the Complaint and Brief in Support thereof, it is hereby **ORDERED, ADJUDGED** and **DECREED** that Industrial Ceramics Petition for Leave to Amend the Complaint is granted and Industrial Ceramics, Inc. is hereby given 30 days to file its Amended Complaint.” Copies forwarded to attorney for Plaintiff and attorney for Defendant.

August 1, 1991

Request for Admissions Directed to State Workmen’s Insurance Fund and Request for Production of Documents Directed to State Workmen’s Insurance Fund filed by attorney for Plaintiff. Copies forwarded to attorney for Defendant by attorney for Plaintiff.

CLOSED

August 6, 1991

Acceptance of Service of Order dated July 31, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 2, 1991.

August 6, 1991

Acceptance of Service of Order dated July 31, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 2, 1991.

August 8, 1991

Amended Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 15, 1991

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

August 21, 1991

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 19, 1991.

August 26, 1991

Acceptance of Service of Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 20, 1991.

September 16, 1991

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

September 18, 1991

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

CLOSED

September 27, 1991

Answers to Request for Admissions Under Pa. R.C.P. 4014, as well as Response to Request for Production of Documents Under Pa. R.C.P. 4009, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 27, 1991

Preliminary Objections to Preliminary Objections, Proposed Order, as well as Brief in Support of Preliminary Objections to Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 27, 1991

Second Amended Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 7, 1991

Brief of Claimant in Opposition to Respondent's Preliminary Objections to Amended Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 7, 1991

Claimant's Response to Preliminary Objections filed on Behalf of Respondent to Claimant's Amended Complaint and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 18, 1991

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

October 23, 1991

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

CLOSED

October 31, 1991

Acceptance of Service of Second Amended Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General October 23, 1991.

November 15, 1991

Preliminary Objections to Second Amended Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 6, 1991

Answer to Respondent's Preliminary Objections to Second Amended Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 23, 1991

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

January 6, 1992

Brief of Claimant in Opposition to Respondent's Preliminary Objections to Second

Amended Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

CLOSED

January 6, 1992

Preliminary Objections to SWIF's Preliminary Objections to Second Amended Complaint and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 5, 1992

The Board rendered an Opinion and made the following Order: "AND NOW, this 5th day of May, 1992, the Motion of the Defendant, in the nature of Preliminary Objections, is **DENIED**. The Defendant is given thirty (30) days from the exit date of this Order to file appropriate pleadings." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

Acceptance of Service of Opinion and Order dated May 5, 1992 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 6, 1992.

CLOSED

May 12, 1992

Acceptance of Service of Opinion and Order dated May 5, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 7, 1992.

June 4, 1992

Application to Amend Order for Interlocutory Appeal and Application for Stay filed by attorneys for Defendant. Copy forwarded to attorney for Plaintiff by attorneys for Defendant.

June 15, 1992

Claimant's Response to Commonwealth of Pennsylvania, Department of Labor & Industry, State Workmen's Insurance Fund's Application to Amend Order for Interlocutory Appeal and Claimant's Response to Commonwealth of Pennsylvania, Department of Labor & Industry, State Workmen's Insurance Fund's Application for Stay filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 17, 1992

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

CLOSED

June 29, 1992

Claimant's Response to Respondent's New Matter to Second Amended Claim filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 31, 1992

Notice of Service of Interrogatories and Claimant's First Set of Interrogatories Directed to Respondent filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 3, 1992

Notice of Deposition of Thomas Kostolansky, Esquire, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 10, 1992

Notice of Deposition of Andrew Golub filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 14, 1992

Motion for Protective Order and Stay as to the Deposition of Thomas Kostolansky and two (2) Proposed Orders filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 17, 1992

Claimant's Response to Motion for Protective Order and Stay as to the Deposition of Thomas Kostolansky, New Matter, Brief in Opposition to Request for Protective Order as well as Proposed Order, received, via fax, from attorney for Plaintiff. Copy forwarded to attorney for Defendant, via fax, this date, by attorney for Plaintiff.

August 19, 1992

Claimant's Response to Motion for Protective Order and Stay as to the Deposition of Thomas Kostolansky, New Matter, Brief in Opposition to Request for Protective Order as well as Proposed Order, received, via U.S. Mail, from attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 24, 1992

The Board rendered an Opinion and made the following Order: “**AND NOW**, this 24th day of August, 1992, all proceedings in this matter are **STAYED** pending the Board’s ruling on the Application to Amend the Order for Interlocutory Appeal.” Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 24, 1992

Notice of Deposition of Thomas Kostolansky, Esquire filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 27, 1992

Acceptance of Service of Opinion and Order dated August 24, 1992 received from attorney for Defendant (Mead). Receipt of same acknowledged by attorney for Defendant August 25, 1992.

CLOSED

October 15, 1992

The Board rendered an Opinion and made the following Order: “**AND NOW**, this 15th day of October, 1992, the Board does not have jurisdiction to entertain the request of the Plaintiff and the Complaint is hereby **DISMISSED**. However, the Board will allow the interlocutory appeal because the issue of jurisdiction involves a controlling question of law upon which there is substantial grounds for difference of opinion and an immediate appeal of this Order may materially advance the ultimate determination of this matter.” Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 27, 1992

Acceptance of Service of Opinion and Order dated October 15, 1992 received from attorney for Defendant (Elaine Lytle Mead, Deputy Chief Counsel). Receipt of same acknowledged by attorney for Defendant October 19, 1992.

October 30, 1992

Acceptance of Service of Opinion and Order dated October 15, 1992 received from attorney for Defendant (Amy L. Putnam, Assistant Counsel). Receipt of same acknowledged by attorney for Defendant October 16, 1992.

November 12, 1992

Acceptance of Service of Opinion and Order dated October 15, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 20, 1992.

November 12, 1992

Motion for Reconsideration Or, In The Alternative, For Transfer of the Case filed by attorney for Plaintiff. Copy forwarded to attorney for Plaintiff and attorneys for Defendant.

November 12, 1992

Copy of Petition for Review filed in Commonwealth Court filed by attorney for Plaintiff.

CLOSED

November 18, 1992

Petition for Review received from Commonwealth Court. [No. 2412 C.D. 1992].

November 23, 1992

The Board rendered an Opinion and made the following Order: “**AND NOW**, this 23rd day of November, 1992, the Motion for Reconsideration Or, In The Alternative, For Transfer of The Case, of the Plaintiff, Industrial Ceramics, Inc., is hereby **DENIED.**” Copy forwarded to attorney for Plaintiff and attorneys for Defendant.

December 10, 1992

Acceptance of Service of Opinion and Order dated November 23, 1992 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 4, 1992.

December 11, 1992

Copy of Petition for Review of Board of Claims’ Order of November 23, 1992 filed by attorney for Plaintiff.

January 13, 1993

Petition for Review of Board of Claims’ Order of November 23, 1992 received from Commonwealth Court. [No. 2540 C.D. 1992].

February 11, 1993

File transferred to Commonwealth Court.

CLOSED

July 22, 1993

Copy of Opinion and Order received from Commonwealth Court. Order as follows:
“AND NOW, this 16th day of July, 1993, the orders of the Board of Claims, in docket No. 1520, dated October 15, 1992, and November 23, 1992, are hereby reversed, and the case is remanded to the Board of Claims so that petitioner may proceed with its action before the Board.

August 17, 1993

Courtesy Copy of Petition for Allowance of Appeal to Supreme Court, as filed in Supreme Court received from attorney for Defendant.

CLOSED

November 29, 1993
Petition for Allowance of Appeal denied [No. 234 M. Docket 1993].
December 17, 1993

Notice of Service of Interrogatories and Request for Production, Second Set of Interrogatories Directed to Respondent and Second Request for Production of Documents Directed to Respondent, State Workmen's Insurance fund filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 22, 1993

File returned from Commonwealth Court.

March 29, 1994

Entry of Appearance of Patrick J. O'Conner, Esquire, Douglas B. Lang, Esquire, Joseph J. Bellow, Esquire and Gerianne Hannibal, Esquire, on behalf of Defendant, filed by attorneys for Defendant.

March 30, 1994

Response to Second Request for Production of Documents Directed by Respondent, State Workmen's Insurance Fund, filed by attorneys for Defendant (SWIF). Copy forwarded to attorney for Plaintiff and attorney for Defendant (Department of Labor & Industry) by attorneys for Defendant (SWIF).

March 30, 1994

Response to Claimant's First Set of Interrogatories Directed to Respondent filed

by attorneys for Defendant (SWIF). Copy forwarded to attorney for Plaintiff and attorney for Defendant (Department of Labor & Industry) by attorneys for Defendant (SWIF).

March 30, 1994

Response to Second Set of Interrogatories Directed to Respondent, State Workmen's Insurance Fund, filed by attorneys for Defendant (SWIF). Copy forwarded to attorney for Plaintiff and attorney for Defendant (Department of Labor & Industry) by attorneys for Defendant (SWIF).

April 8, 1994

Response (Corrected) to Second Set of Interrogatories directed to Respondent, SWIF, filed by attorney for Defendant (SWIF). Copy forwarded to attorney for Plaintiff and attorney for Defendant (Department of Labor & Industry) by attorneys for Defendant (SWIF).

CLOSED

May 16, 1994

Respondent's Interrogatories to Claimant as well as Respondent's Request for Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 5, 1994

Plaintiff's Answer to Defendant's Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 5, 1994

Motion for Leave to File an Amended Answer and Counterclaim, Memorandum of Law in Support of Motion to Amend its Answer and to Include a Counterclaim Against Industrial Ceramics, Proposed Order as well as copy of Amended New Matter and Counterclaim marked as Exhibit A, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 17, 1994

Praeceptum for Substitute Verification filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 19, 1994

Claimant's Opposition to Motion for Leave to file Amended Answer and Counterclaim, Claimant's Brief Opposing SWIF's Motion for Leave to File Amended Answer and Counterclaim, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 19, 1994

Claimant's Motion for Stay of Proceedings filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 7, 1994

Notice of Deposition of Maureen Nowack, Deanna Moffei and Andrew Golub filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

CLOSED

November 10, 1994

Claimant's Supplemental Answers to Respondent's Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 18, 1994

Claimant's Brief in Support of Motion for Stay of Proceedings filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 21, 1994

Claimant's Notice of Rescheduled Depositions filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 29, 1994

Motions (3) for Protective Orders and Stay of Depositions of Andrew Golub, Deanna Moffei, and Maureen Nowack and Proposed Orders filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 29, 1994

Respondent's Motion to Compel, Verification of Prior Interrogatory Responses, Interrogatory Responses and Response to Request for Production of Documents as well Proposed Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 1, 1994

Notice of Service of Claimant's Third Request for Production of Documents Directed to SWIF filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

Claimant's Second Supplemental Responses to Respondent's Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 9, 1995

Claimant's Amended Answers to Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 18, 1995

Stipulation, executed by both parties, staying the case pending the resolution of Cmwlth. of Pa., Dept. of Labor & Industry vs. Industrial Ceramics, Inc., No. 252 M.D. 1994, now pending before the Commonwealth Court, filed by attorney for Plaintiff.

January 30, 1995

The Board rendered an Opinion and made the following Order: **'AND NOW**, this 30th day of January, 1995, it is **ORDERED** and **DECREED** that this matter is **STAYED** pending the resolution of Commonwealth of Pennsylvania, Department of Labor & Industry, State Workmens Insurance Fund vs. Industrial Ceramics, Inc., No. 252 M.D. 94, presently before the Commonwealth Court. It is further **ORDERED** that discovery in the Commonwealth Court action may be used in the Board of Claims' action. The Motions for Protective Orders and Stay of Depositions are hereby **DISMISSED** and being **MOOT.**" Copies forwarded to attorney for Plaintiff and attorneys for Defendant.

February 15, 1995

Acceptance of Service of Opinion and Order dated January 30, 1995 received from attorneys for Defendant. Receipt of same acknowledged by attorneys for Defendant February 10, 1995.

February 28, 1995

Acceptance of Service of Opinion and Order dated January 30, 1995 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 2, 1995.

May 7, 1996

Notice of Commencement of Bankruptcy Under Chapter 11 filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 24, 1997

Status letter filed by attorney for Defendant advising that they are still waiting for a decision to be rendered in the United States Bankruptcy Court.

January 12, 2000

Letter forwarded to parties requesting a status report. Status Report due on or before February 14, 2000.

January 19, 2000

Letter received from attorney for Defendant advising that this matter is still subject to a bankruptcy proceeding pending in the US Bankruptcy Court for the Western District of New York and that he has been informed by the bankruptcy trustee that he envisions finalizing the documentation necessary to conclude this matter in the near future.

April 27, 2000

Order to Settle, Discontinue and End filed by attorney for Plaintiff and attorney for Defendant.

May 2, 2000

The Board made the following Order: "AND NOW, this 2nd day of May, 2000, upon receipt of an Order to Settle, Discontinue and End, requesting the Board to 'Please mark the above-captioned matter as Settled, Discontinued and Ended', executed by Michael H. Arnold, Esquire, on behalf of Plaintiff, Industrial Ceramics, Inc. and Joseph J. Bellew, Esquire, on behalf of Defendant, Commonwealth of Pennsylvania, Department of Labor & Industry, State Workers' Insurance Fund, and docketed with this Board under date of April 27, 2000, 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.

CLOSED
May 8, 2000
Acceptance of Service of Order dated May 2, 2000 received from attorney for defendant. Receipt of same acknowledged by attorney for Defendant May 4, 2000.
May 25, 2000

Acceptance of Service of Of Order dated May 2, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 25, 2000.