

Docket Number: 1537
Consolidated with No. 1606

KIEWIT EASTERN CO. AND PERINI CORPORATION, A JOINT VENTURE

~~Paul A. Logan, Esquire~~
~~C. Grainger Bowman, Esquire~~
David Frances, Esquire

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Kenneth L. Sable, Chief Claims Attorney~~
~~John J. Robinson, Jr., Chief Claims Attorney~~
Stephen S. Stokwitz, Assistant Counsel
Jeffrey W. Davis, Assistant Counsel

June 11, 1991

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$367,974.00+.

June 13, 1991

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

June 17, 1991

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 13, 1991.

June 18, 1991

Acceptance of Service of Claim receive from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General June 14, 1991.

August 12, 1991

Subpoena and Affidavit of Service for Greiner/Yule Jordan filed by Fay B. Hunsberger, Paralegal (Plaintiff).

August 15, 1991

Subpoena and Affidavit of Service for Greiner Engineering filed by Fay B. Hunsberger, Paralegal (Plaintiff).

February 24, 1992

Subpoena and Proof of Service for SMC Environmental Services Group, Inc. filed by Fay B. Hunsberger, Paralegal (Plaintiff).

April 13, 1992

Subpoena and Affidavit of Service for Urban Engineers, Inc. filed by Fay B. Hunsberger, Paralegal (Plaintiff).

April 23, 1992

Subpoena and Proof of Service for William Guy filed by Fay B. Hunsberger, Paralegal (Plaintiff).

May 5, 1992

Kiewit Eastern Corporation/Perini Corporation, a Joint Venture's Request for the Production of Documents Directed to Defendant (First Set) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 5, 1992

Kiewit Eastern Corporation/Perini Corporation, a Joint Venture's Expert Interrogatories Directed to Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 20, 1992

Subpoenas and Affidavits of Service for Hahn Construction Company, Chilton Engineering, Inc. and CMC Engineering, Inc. filed by Fay B. Hunsberger, Paralegal (Plaintiff).

April 7, 1992

Entry of Appearance of C. Grainger Bowman, Esquire on behalf of Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

***April 21, 1994**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 21st day of April, 1994, the above two cases, docket numbers 1537 & 1606, have been consolidated and all future correspondence and pleadings will contain evidence of same in its caption." Copy forwarded to all parties of record.

April 27, 1994

Acceptance of Service of Claim received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff April 26, 1994.

April 27, 1994

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 25, 1994.

June 1, 1994

Plaintiff Kiewit/Perini's Brief in Reply to the Department's Supplemental Brief in Opposition to the Motions to Quash filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 2, 1994

Affidavit in Reply to PennDot's Response to Kiewit/Perini's Motion to Quash filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 29, 1994

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 29th day of July, 1994, the Motions as filed by the Plaintiff to Quash the Subpoena of Kellogg Corporation and for Protective Order and the Motion to Quash the Subpoenas of Mike Vorster and for Protective Order are hereby **GRANTED**." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 3, 1994

Acceptance of Service of Opinion and Order dated July 29, 1994 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 1, 1994.

August 5, 1994

Acceptance of Service of Opinion and Order dated July 29, 1994 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 2, 1994.

August 17, 1994

Plaintiff Kiewit Eastern Corporation and Perini Corporation, a Joint Venture's Request for Admissions relating to the Boswell Yule Jordan files Addressed to Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Plaintiff.

August 18, 1994

Plaintiff Kiewit Eastern Corporation and Perini Corporation, a Joint Venture's Interrogatories Related to the Production of Interrogatories Related to the Production of Boswell Yule Jordan Documents Addressed to Commonwealth of Pennsylvania - Department of Transportation - First Set filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 26, 1994

Motion to Compel Answers to Expert Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 29, 1994

Motion to Compel the Return of Privileged and Confidential Material filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 12, 1994

Defendant's Opposition to Plaintiff's Motion to Compel Answers to Expert Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 12, 1994

Defendant's Motion to Compel Production of Documents Pursuant to Pa. R. C. P. 4019, et seq. filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 19, 1994

Defendant's Answer to Plaintiff's Request for Admissions relating to the Boswell Yule Jordan filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 19, 1994

Plaintiff Kiewit Eastern Corporation and Perini Corporation, a Joint Venture's Interrogatories Related to the Production of Documents Addressed to Commonwealth of Pennsylvania, Department of Transportation - First Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 22, 1994

Response to Motion to Compel the Return of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 22, 1994

Memorandum of Law in Support of Response to Motion to Compel the Return of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 12, 1994

Kiewit/Perini's Request for Admissions Related to Access - First Set filed by attorney for Plaintiff. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 20, 1994

Testimony for pre-trial conference held July 19, 1994 filed.

October 20, 1994

Testimony for pre-trial conference held July 19, 1994 forwarded to attorney for Defendant.

November 18, 1994

Defendant's Response to Plaintiff's Request for Admissions Related to Access - First Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 29, 1994

Defendant's Motion to Compel Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 18, 1994

Defendant's Motion to Withdraw Defendant's Motion to Compel Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 9, 1995

Department's Response to Plaintiff's Request for Production of Documents Directed to Defendant (Third Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 10, 1995

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

February 15, 1995

Stipulation and Confidentiality Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 15, 1995

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

February 16, 1995

Notice of Motion to Compel Answers to Deposition Questions, For Sanctions and for Continuance of Trial Date filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 21, 1995

Motion for Sanctions to Preclude Expert Testimony on Behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation for Failure to Provide Full and Complete Answers to Plaintiff's Expert Interrogatories and to Compel Full and Complete Answers to Plaintiff's Expert Interrogatories Directed to Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 21, 1995

Memorandum of Law in Support of Plaintiff's Motion for Sanctions to preclude Expert Testimony on behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation for Failure to Provide Full and Complete Answers to Plaintiff's Expert Interrogatories Directed to Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 23, 1995

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

February 23, 1995

Answers to Kiewit Eastern Corporation/Perini Corporation, a Joint Venture's Expert Interrogatories Directed to Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 24, 1995

Defendant's Interrogatories Directed to Plaintiff (First Set) Filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 24, 1995

Defendant's Request for Admissions filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 29, 1995

Defendant's Interrogatories Directed to Plaintiff (Second Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 29, 1995

Defendant's Response to Plaintiff's Motion for Sanctions to Preclude Expert Testimony on behalf of Defendant, for Failure to Provide Full and Complete Answers to Plaintiff's Expert Interrogatories directed to Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 3, 1995

Praecipe for Entry of Appearance of Jeffrey W. Davis, Assistant Counsel filed on behalf of Defendant. Copy forwarded to attorney for Plaintiff by Jeffrey W. Davis, Assistant Counsel on behalf of Defendant.

March 7, 1995

Plaintiff Kiewit/Perini's Counter Reply to Defendant's Response to Plaintiff's Motion for Sanctions to Preclude Expert Testimony on Behalf of Defendant, Commonwealth of Pennsylvania, Department of Transportation for Failure to Provide Full and Complete Answers to Plaintiff's Expert Interrogatories Directed to Defendant filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 7, 1995

Notice of Motion to Withdraw Without Prejudice filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 10, 1995

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 10th day of March, 1995, it is **ORDERED** and **DIRECTED** that Defendant, Commonwealth of Pennsylvania, Department of Transportation's Motion to Withdraw its Motion to Compel Production of Documents is hereby **GRANTED** and the Motion to Compel Production of Documents filed on December 29, 1994, is **DISMISSED** as being moot." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

March 16, 1995

Kiewit Eastern Company/Perini Corporation's Answers to Defendant's Request for Admissions filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 17, 1995

Acceptance of Service of Opinion and Order dated March 10, 1995 received from attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 23, 1995

Notice of Taking Deposition on Oral Examination under Pa. R.C.P. 4007.1 (Mr. David Anderson) filed by attorney for Defendant.

March 23, 1995

Plaintiff Kiewit/Perini's Answers to Defendant, Department of Transportation's Expert Interrogatories, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 24, 1995

Plaintiff's Expert Report filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 26, 1995

Praecipe to Discontinue filed by attorney for Plaintiff and attorney for Defendant.

October 23, 1995

The Board rendered the following Order: AND NOW, this 23rd day of October, 1995, upon receipt of a Motion to Discontinue, executed by David W. Francis, Esquire and Stephen S. Stokwitz, Assistant Counsel, which states: "COMES NOW, Kiewit Eastern Company and Perini Corporation, A Joint Venture and the Commonwealth of Pennsylvania, Department of Transportation, and jointly move this Court to discontinue the above-captioned matters." same of which is docketed with this Board under date of September 26, 1995, 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.