

Docket Number: 1606

KIEWIT EASTERN CO. AND PERINI CORPORATION, A JOINT VENTURE

Paul A. Logan, Esquire

C. Grainger Bowman, Esquire

David Frances, Esquire

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Jeffrey W. Davis, Assistant Counsel

Kenneth L. Sable, Chief Claims Attorney

John J. Robinson, Jr., Chief Claims Attorney

Stephen S. Stokwitz, Assistant Counsel

January 17, 1992

Claim and filing fee filed by Plaintiff. Amount of Claim:
\$43,000,000.00+.

January 22, 1992

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

January 24, 1992

Acceptance of Service of Claim filed by attorney for Defendant. Receipt of same acknowledged by attorney for Defendant January 23, 1992.

CLOSED

Kiewit Eastern Corporation/Perini Corporation a Joint Venture's Request for the Production of Documents directed to Defendant (First Set) and 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 30, 1992

Answer, New Matter, Counterclaim and Set-Off filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 14, 1992

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

August 24, 1992

Kiewit/Perini's Preliminary Objections to The Counterclaim and Setoff of The Commonwealth of Pennsylvania filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 27, 1992

Verification of Kiewit/Perini's Preliminary Objections to The Counterclaim and Set off of The Commonwealth of Pennsylvania filed by attorney for Plaintiff.

September 4, 1992

Praecipe for Entry of Appearance filed by Stephen S. Stokwitz, Assistant Counsel and Stephen J. Busterna, Assistant Counsel, attorneys for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant (Stephen S. Stokwitz, Assistant Counsel).

September 14, 1992

Reply to New Matter of the Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 22, 1992

Memorandum of Law in Support of Preliminary Objections to PaDOT's Counterclaim filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 24, 1992

Plaintiff, Kiewit/Perini's Reply to Defendant, Commonwealth of Pennsylvania, Department of Transportation's Request for Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 2, 1992

Motion to Stay Defendant's Response to Plaintiff's Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 20, 1992

Plaintiff's Answer to Defendant's Motion to Stay Response to Plaintiff's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 1, 1992

Plaintiff's Amended Reply to New Matter of the Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 3, 1992

Defendant's Memorandum in Support of its Motion to Stay the Proceedings filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 4, 1993

Defendant's Motion for Judgment on the Pleadings or Alternatively Motion to Compel Specific Response filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 17, 1993

Praecipe of McNeese, Wallace & Curcio to Withdraw as Counsel filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 8, 1993

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

March 18, 1993

Praecipe For Withdrawal and Substitution filed by Stephen J. Busterna, Assistant Counsel (Withdrawal) and Gerald R. Schultz, Assistant Counsel (Substitution) attorney for Defendant. Copy forwarded to attorney for Plaintiff (C. Grainger Bowman, Esquire) by attorney for Defendant (Gerald R. Schultz, Assistant Counsel).

April 16, 1993

Plaintiff's Response to Defendant's Motion For Judgment on the Pleadings or Alternatively Motion to Compel Specific Response and Plaintiff's Brief Opposing Defendant's Motion for Judgment on the Pleadings or Alternatively For More Specific Response filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 19, 1993

Defendant's Motion to Withdraw its Motion for Judgment on the Pleadings/Alternatively Motion to Compel Specific Response filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 17, 1993

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 17th day of May, 1993, it is **ORDERED** and **DECREED** that the Defendant's Motion to Withdraw its Motion for Judgment on the Pleadings and/or Alternatively Motion to Compel Specific Response is hereby **GRANTED**. It is further **ORDERED** and **DECREED** that counsel for both parties shall provide the Board of Claims with a status report no later than sixty (60) days after the exit date of this Order." Copy forwarded to attorneys for Plaintiff and attorneys for Defendant.

May 24, 1993

Acceptance of Service of Opinion and Order dated May 17, 1993 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 20, 1993.

May 21, 1993

Acceptance of Service of Opinion and Order dated May 17, 1993 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 21, 1993.

October 21, 1993

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 21st day of October, 1993, it is **ORDERED** and **DECREED** that the Motion to Stay Defendant's Response to Plaintiff's Preliminary Objections as filed by the Defendant, Commonwealth of Pennsylvania, Department of Transportation, be and is hereby **DISMISSED** as being moot. It is further **ORDERED** and **DECREED** that counsel for the parties provide the Board with a status report no later than 90 days after the exit date of this Order." Copy forwarded to attorneys for Plaintiff and attorneys for Defendants.

October 25, 1993

Acceptance of Service of Opinion and Order dated October 21, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 22, 1993.

November 8, 1993

Acceptance of Service of Opinion and Order dated October 21, 1993 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 1, 1993.

November 19, 1993

Praecipe for Entry of Appearance filed by David W. Francis, Esquire, attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 19, 1993

Proposed Order and Plaintiff's Motion to Quash Subpoena of Kellogg Corporation and for Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 20, 1993

Proposed Order and Defendant's Response to Plaintiff's Motion to Quash Subpoena of Kellogg Corporation and for Protective Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

January 7, 1994

Praecipe for Entry of Appearance filed by David W. Francis, Esquire, attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 19, 1994

Amended Praecipe for Entry of Appearance filed by David W. Francis, Esquire, attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 24, 1994

Plaintiff Kiewit/Perini's Brief in Support of the Motion to Quash Subpoena of Kellogg Corporation and For Protective Order filed by attorney for Plaintiff. Copy forwarded to attorneys for Defendant by attorneys for Plaintiff.

February 14, 1994

Defendant's Brief in Support of Response to Plaintiff's Motion to Quash Subpoena of Kellogg Corporation and for Protective Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 22, 1994

Plaintiff's Motion to Quash Subpoena of Michael Vorster and For Protective Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 25, 1994

Pre-trial conference scheduled for March 25, 1994 in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, PA commencing at 10:00 a.m.

March 10, 1994

Pre-trial conference rescheduled for April 4, 1994 in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, PA commencing at 10:00 a.m.

April 4, 1994

Pre-trial conference held this date commencing at 10:00 a.m. Pre-trial conference completed.

April 11, 1994

Department's Supplemental Brief in Opposition to Motion to Quash Subpoena filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

***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.

Defendant's Motion to Compel Production of Documents Pursuant to R. C. P. 1019, et seq. filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

Defendant's Answer to Plaintiff's Request for Admissions relating to the Boswell Yule Jordon 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 file 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.

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.