

Docket Number: 1643

CONTI CONSTRUCTION CO., INC.

G. Daniel Carney, Esquire and
Dan M. Brookhart, Esquire
March F. Nowak, Esquire

VS.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

Jeffrey W. Davis, Assistant Counsel

***June 17, 1992**

Claim and filing fee filed by Plaintiff, additional information to be requested (more detailed Statement of Claim). Amount of Claim: \$50,000.00

June 23, 1992

Letter forwarded to attorney for Plaintiff requesting additional information (more detailed Statement of Claim). Copy forwarded to attorney for Defendant.

June 23, 1992

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

June 25, 1992

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 24, 1992.

July 16, 1992

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General July 13, 1992.

***August 4, 1992**

Amended Claim filed by attorney for Plaintiff. Amount of Claim: \$872,438.50.

August 11, 1992

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

August 13, 1992

Acceptance of Service of Amended Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 12, 1992.

August 17, 1992

Acceptance of Service of Amended Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 12, 1992.

October 13, 1992

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

November 12, 1992

Brief in Support of Preliminary Objection to Amended Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 30, 1992

Plaintiff Conti Construction Co., Inc.'s First Set of Interrogatories and First Request for Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 7, 1992

Brief in Response to Defendant's Preliminary Objection to Amended Complaint and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 11, 1992

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

December 11, 1992

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

December 11, 1992

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

December 11, 1992

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

December 31, 1992

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

January 28, 1993

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

February 8, 1993

Motion to Compel Production of Documents and Brief in Support thereof and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 22, 1993

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

February 25, 1993

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 25th day of February, 1993, upon consideration of the Preliminary Objections filed by the Defendant, Commonwealth of Pennsylvania, Department of Transportation, pertinent to the Amended Complaint filed by the Plaintiff, Conti Construction Co., Inc., it is hereby **ORDERED** that the Preliminary Objections are **DENIED** for the reasons set forth in the foregoing Opinion." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

March 4, 1993

Acceptance of Service of Opinion and Order dated February 25, 1993 received from attorney for Plaintiff (Mr. Brookhart). Receipt of same acknowledged by attorney for Plaintiff March 2, 1993.

March 25, 1993

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 25th day of March, 1993, the Defendant is directed to answer all request made by the Plaintiff in its Request for Production of Documents within thirty (30) days of the exit date of this Opinion and Order." Copies forwarded to attorneys for Plaintiff and attorney

for Defendant.

March 29, 1993

Acceptance of Service of Opinion and Order dated March 25, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 26, 1993

April 1, 1993

Acceptance of Service of Opinion and Order dated March 25, 1993 received from attorney for Plaintiff (Mr. Brookhart). Receipt of same acknowledged by attorney for Plaintiff March 29, 1993.

April 5, 1993

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

April 28, 1993

Plaintiff, Conti Construction Co., Inc.'s Second Set of Interrogatories Directed to Defendant, Commonwealth of Pennsylvania, Department of Transportation, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 12, 1993

Response to Conti Construction Co., Inc.'s Supplemental Request for Production of Documents filed by attorney for Defendant. Copy forwarded to attorneys for Plaintiff by attorney for Defendant.

May 27, 1993

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

June 1, 1993

Plaintiff's Response to New Matter filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 4, 1993

Plaintiff's Motion to compel Production of Documents and Brief in Support of Motion to Compel Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 19, 1993

Memorandum in Opposition to Plaintiff's Motion to Compel filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 26, 1993

Motion for Summary Judgment and Brief in Support of Motion for Summary Judgement filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 29, 1993

Plaintiff, Conti Construction Co., Inc.'s First Set of Interrogatories Directed to Defendant, Commonwealth of Pennsylvania, Department of Transportation, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 29, 1993

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

August 17, 1993

Memorandum in Opposition to Motion for Summary Judgment filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

September 13, 1993

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 13th day of September, 1993, the prayer of the Plaintiff, Conti Construction Co., inc., as it relates to the three (3) Requests is **GRANTED** under and subject to the above-stated Opinion. The Board further **DIRECTS** the parties to expedite and to concentrate on resolving these problems in accordance with this Opinion." Copies forwarded to attorneys for Plaintiff and attorney for Defendant.

September 15, 1993

Acceptance of Service of Opinion and Order dated September 13, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 14, 1993.

September 20, 1993

Acceptance of Service of Opinion and Order dated September 13, 1993 received from attorneys for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 17, 1993.

September 20, 1993

Conti Construction Company, Inc.'s Responses and Objections to Defendant, Commonwealth of Pennsylvania, Department of Transportation's First Set of Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for defendant by attorney for Plaintiff.

September 20, 1993

Reply to Defendant's Memorandum in Opposition to Plaintiff's Motion for Summary Judgment filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 24, 1993

Conti Construction Co., inc.'s Supplemental Responses and Objection to Defendant, Commonwealth of Pennsylvania, Department of Transportation's First Set of Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 14, 1993

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 14th day of October, 1993, the request of the Plaintiff, in the nature of a Motion for Summary Judgment is hereby **DENIED.**" Copies for attorney for Plaintiff and attorney for Defendant.

October 18, 1993

Acceptance of Service of Opinion and Order dated October 14, 1993 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 15, 1993.

October 20, 1993

Notice of Appearance of Mark F. Nowak, Esquire, on behalf of

Plaintiff, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 21, 1993

Acceptance of Service of Opinion and Order dated October 14, 1993 received from attorney for Plaintiff (G. Daniel Carney, Esquire). Receipt of same acknowledged by attorney for Plaintiff October 18, 1993.

October 29, 1993

Deposition of Henry Richard Basso, Jr., Scott Christie, Robert L. Davidson, John Ekiert, Gerald A. Esser, Joseph A. Filippino, Charles A. Kline, William C. Koehler, David H. Kuniaga, John W. Martin, Jr., Walter F. Martz, Manendra J. Patel and David H. Spagnolli, filed by attorney for Plaintiff (G. Daniel Carney, Esquire). Copy forwarded to attorneys for Plaintiff (Dan M. Brookhart, Esquire and Mark F. Nowak, Esquire) and attorney for Plaintiff (G. Daniel Carney, Esquire).

November 22, 1993

Plaintiff's Responses and Objection to Defendant Request for Production of Documents filed by Plaintiff.

March 14, 1995

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

May 31, 1995

Defendant's Request for Admissions, Interrogatories - Second Set, and Third Request for Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 19, 1995

Hearing scheduled for March 4,5,6,7 and 8, 1996, in Board's Courtroom No. 1, Suite 600, Fulton Bldg., 200 North Third Street, Harrisburg,

Pa, to commence at 9:30 a.m.

February 15, 1996

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 15th day of February, 1996, it is **ORDERED** and **DECREED** the hearing scheduled for March 1996 be continued indefinitely, pending the execution of the necessary settlement documents. Upon receipt of payment of said award, Plaintiff shall forthwith file with the Board a Praecipe that the case be marked settled and ended with prejudice. Each party to bear its own costs. Copies forwarded to attorney for Plaintiff and attorney for Defendant.

February 22, 1996

Acceptance of Service of Opinion and Order dated February 15, 1996 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 20, 1996.

February 23, 1996

Acceptance of service of Opinion and Order dated February 15, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 21, 1996.

May 31, 1996

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 31st day of May, 1996, a Rule to Show Cause is issued upon Plaintiff, Conti Construction Co., Inc., wherein it is **DIRECTED** that Plaintiff advise the Board, within thirty (30) days from the exit date of this Order, as to whether or not Plaintiff has received the said settlement award. In the event the Board does not receive a response to this Rule, said Rule to Show Cause shall become absolute and the case shall be marked 'closed, discontinued and ended with prejudice'." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 31, 1996

Praecipe to Settle and Discontinue filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 5, 1996

Acceptance of service of Opinion and order dated May 31, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 3, 1996.

June 17, 1996

The Board rendered the following Order: "**AND NOW**, this 17th day of June, 1996, upon receipt of a Praecipe to Settle and Discontinue, requesting that the case be marked 'settled and discontinued', executed by G. Daniel Carney, Esquire, on behalf of Plaintiff, Conti Construction Company, Inc., same of which is socketed with this Board under date of May 31, 1996, it is **ORDERED** and **DIRECTED** that said case be marked 'closed, discontinued and ended with prejudice'." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

June 20, 1996

Acceptance of Service of Order dated June 17, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant June 18, 1996.

June 24, 1996

Acceptance of Service of Order dated June 17, 1996, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff June 20, 1996.