

Docket Number: 1659

Jay Fulkroad & Sons, Inc.

Thomas A. French, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
Department of Transportation

Michael E. Alsher, Assistant Counsel

August 14, 1992

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: unstated. Amount of Claim to be requested.

August 20, 1992

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

August 20, 1992

Letter forwarded to attorney for Plaintiff to acknowledge receipt of Claim and filing fee and request for amount of Claim.

August 24, 1992

Acceptance of Service of Statement of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 24, 1992.

August 26, 1992

Acceptance of Service of Statement of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 24, 1992.

***September 3, 1992**

Amendment to the Complaint (Amount of Claim) filed by attorney for Plaintiff. Amount of Claim \$300,000.00+.

September 9, 1992

Copies of Amendment to the Complaint (Amount of Claim) forwarded to attorney for Defendant and Chief Deputy Attorney General.

September 11, 1992

Acceptance of Service of Amendment to Complaint (Amount of Claim) received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 10, 1992.

October 15, 1992

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

October 26, 1992

Notice of Service of Plaintiff's First Set of Interrogatories Directed to Defendant and Plaintiff's First Request for Production and Copying of Documents Directed to Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 30, 1992

Letter forwarded to attorney for Plaintiff requesting the filing of Plaintiff's Interrogatories to Defendant and Plaintiff's Request for Production of Documents to Defendant. Copy forwarded to attorney for Defendant.

November 4, 1992

Plaintiff's First Request for Production and Copying of Documents Directed to Defendant, Commonwealth of Pennsylvania, Department of Transportation and Plaintiff's First Set of Interrogatories to Defendant, Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 1, 1992

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

January 4, 1993

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

January 7, 1993

Stipulation (to include Paragraph 31 of Claimant's Reply to New Matter) executed by attorney for Plaintiff and attorney for Defendant but filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 19, 1993

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

February 24, 1993

Response to Plaintiff's First Set of Interrogatories to Defendant, Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 26, 1993

Defendant's Interrogatories to Plaintiff - First Set and Defendant's Request for Production of Documents filed by attorney for Defendant. Copies forwarded to attorney for Plaintiff and attorney for Defendant.

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March 26, 1993
Response of Jay Fulkroad & Sons, Inc. to Request for Production of Documents of Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 26, 1993

Response of Jay Fulkroad & Sons, Inc., to Defendant's First Set of Interrogatories to Plaintiff filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 11, 1993

The Board rendered an Opinion and made the following Order: **AND NOW**, this 11th day of May 1993, the Stipulation is **ACCEPTED** and the Plaintiff's Reply to Defendant's New Matter is **AMENDED** to include paragraph 31 as follows: **DENIED**. The averments contained in paragraph 31 constitute conclusions of law to which no response is required and the same are denied. By way of further answer, the Department's plans, being writings, speak for themselves.

May 13, 1993

Acceptance of Service of Opinion and Order received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant.

May 14, 1993

Acceptance of Service of Opinion and Order received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff.

June 27, 1994

Notice of Deposition of Robert Hippenstiel, P.E. filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 29, 1994

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

November 9, 1994

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

December 1, 1994

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

December 17, 1994

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

December 13, 1994

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

February 14, 1995

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

June 21, 1995

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

June 21, 1995

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

June 21, 1995

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

July 18, 1995

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

February 14, 1996

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

CLOSED

March 18, 1996

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

July 24, 1996

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

September 13, 1996

Response to Claimant's Request for Admissions and Interrogatories
filed by attorney for Defendant.

November 1, 1996

Praeipue to List case for trial filed by attorney for Plaintiff.

August 6, 1997

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

August 7, 1997

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

September 5, 1997

Claimant's Hearing Brief filed by attorney for Plaintiff. Copy
forwarded to attorney for Defendant by attorney for Plaintiff.

September 8, 1997

Board hearing held Monday in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa., commencing at 9:30 a.m.

September 9, 1997

Board hearing held Tuesday in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA., commencing at 9:30 a.m.

September 10, 1997

Board hearing held Wednesday Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, PA., commencing at 9:30 a.m.

CLOSED

Board hearing held Thursday in Board's Courtroom No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa., commencing at 9:30 a.m. Case completed.

Testimony of hearing held (September 8, 9, 10, and 11, 1997) filed. Copy forwarded to attorney for Defendant.

November 7, 1997

Acceptance of Service of testimony of hearing held September 8, 9, 10, and 11, 1997, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 4, 1997.

December 2, 1997

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

February 12, 1998

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

March 3, 1998

Claimant's Reply Brief to Respondent's Proposed Findings of Fact and Conclusions of Law filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for plaintiff.

March 31, 1998

Defendant's Brief in Response to Plaintiff's Reply Brief and Request for Admissions filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 10, 1998

The Board rendered an Opinion and made the following Order: **AND NOW** this 10th day of November, 1998, an award is entered in favor of Jay Fulkroad & Sons, Incorporated and against the Commonwealth of Pennsylvania, Department of Transportation in the amount of One Hundred and Ninety-One Thousand, Three Hundred and Fourteen Dollars and Thirty-Seven Cents (\$191,314.37) with interest at the statutory rate of six percent (6%) from January 1, 1993. Upon receipt of said award Plaintiff shall forthwith file with the Board of Claims a Receipt requesting that the matter be marked settled, discontinued and ended with prejudice. Each party to bear its own costs and attorneys' fees. Copy forwarded to attorney for Plaintiff and Defendant.

November 15, 1998

Acceptance of Service of Opinion and Order dated November 10, 1998 received by attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 13, 1998.

November 18, 1998

Acceptance of Service of Opinion and Order dated November 16, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 16, 1998.

November 19, 1998

Acceptance of Service of Opinion and Order dated November 10, 1998 received by Chief Deputy Attorney General. Receipt of same acknowledged by attorney Chief Deputy Attorney General November 17, 1998.

November 20, 1998

Defendant's Motion for Post-Trial Relief as well as its Brief in Support of the Department's Motion for Post-Trial Relief filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 7, 1998

The Board rendered an Opinion and made the following Order: **AND NOW**, this 7th day of December, 1998, it is **ORDERED** and **DECREED** that the Defendant's Motion for Post-Trial Relief is hereby **DENIED**. Copy forwarded to attorney for Plaintiff and Defendant.

December 14, 1998

Acceptance of Service of Opinion and Order dated December 7, 1998 received by attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 9, 1998.

December 16, 1998

Acceptance of Service of Opinion and Order dated December 7, 1998 received by attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 12, 1998.

CLOSED