

Docket Number: 1718

CARMEN PALIOTTA and Individual t/d/b/a CARMEN PALIOTTA CONTRACTING
COMPANY

Robert A. King, Esquire

CLOSED VS.
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Michael D. Alsher, Assistant Counsel

May 10, 1993

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$672,798.84+

May 19, 1993

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. **ANSWER DUE FROM DEFENDANT JUNE 19, 1993.**

May 21, 1993

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 20, 1993.

June 2, 1994

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General May 20, 1993.

February 11, 1995

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

April 28, 1994

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

April 13, 1995

Praecipe for Entry of Appearance and Notice of Substitution of Counsel filed by attorneys for Plaintiff, Robert A. King, Esquire and D. Matthew Jameson, III, Esquire filed. Copy forwarded to attorney for Defendant by attorneys for Plaintiff.

May 24, 1995

Plaintiff's First Request for Production of Documents filed by attorney for Plaintiff (D. Matthew Jameson, III, Esquire). Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 19, 1995

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

September 13, 1995

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

June 5, 1996

Notices of Deposition for Messrs. Sullivan, Foxhall and Kozy filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 29, 1996

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

October 21, 1996

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

October 30, 1996

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

November 18, 1996

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

February 18, 1997

Plaintiff's First Combined Set of Requests for Admissions, Interrogatories and Request for Production of Documents Directed to Defendant.

February 18, 1997

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

May 21, 1997

Status letter requesting a hearing be set filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 7, 1997

Status letter received from attorney for Plaintiff.

July 11, 1997

Hearing scheduled in Board's Court Room No. 1, 200 North Third Street, Suite 700, on March 9, 10, 11, 12, 13, 16, 17, 18, 19 & 20, 1998 commencing at 9:30 a.m.

January 16, 1998

Letter forwarded to parties confirming hearing scheduled for March 9-11 and 16-20, 1998, and further advising that the parties pre-trial statements will be due on or before February 11, 1998.

February 6, 1998

Plaintiff's Pretrial Statement with attachments filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 24, 1998

Defendant's Pretrial Statement filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

February 25, 1998

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

February 27, 1998

Plaintiff's Motion to Strike Defendant's Pre-Trial Statement and Brief in Support filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 3, 1998

Letter-type Response to Plaintiff's Motion to Strike Defendant's Pre-Trial Statement filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 5, 1998

Letter received from attorney for Defendant requesting to Amend its Pre-trial Statement. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 9, 1998

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

March 10, 1998

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

March 11, 1998

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

March 12, 1998

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

March 13, 1998

Hearing held in Board's Court Room, No. 1, 6th Floor, Fulton Bank Building, Harrisburg, Pa commencing at 9:30 a.m. CASE COMPLETED.

April 7, 1998

Testimony for hearing held March 9, 1998 filed.

April 8, 1998

Testimony for hearing held March 10, 1998 filed.

April 9, 1998

Testimony for hearing held March 11, 1998 filed.

April 10, 1998

Testimony for hearing held March 9, 10 and 11, 1998 forwarded to attorney for Defendant.

April 20, 1998

Acceptance of Service of testimony for hearing held March 9, 10 and 11, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 14, 1998.

April 20, 1998

Acceptance of Service of testimony for hearing held March 12, 1998 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 14, 1998.

April 21, 1998

Acceptance of Service of testimony for hearing held March 12, 1998 filed by attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 16, 1998.

May 4, 1998

Letter forwarded to parties setting forth briefings scheduled for Plaintiff's and Defendant's Findings of Fact, Conclusions of Law and Brief. Plaintiff's due June 4, 1998. Defendant's due July 5, 1998.

June , 1998

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

July 8, 1998

Letter received from attorney for Defendant requesting an extension of time until July 17, 1998 in which to file Defendant's Findings of Fact, Conclusions of Law and Brief.

July 9, 1998

Letter forwarded to attorney for Defendant granting Defendant's request for an extension of time until July 17, 1998 in which to file Defendant's Findings of Fact, Conclusions of Law and Brief.

July 17, 1998

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

July 27, 1998

Letter received from attorney for Plaintiff advising that they will filing a response to Defendant's Proposed Findings of Fact, Conclusions of Law and Brief within thirty days.

September 14, 1998

Plaintiff's Reply Brief in Support of Proposed Findings of Fact, Conclusions of Law filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 26, 1998

Letter received from attorney for Plaintiff (via facsimile) requesting an extension of time until September 11, 1998 in which to file Plaintiff's Reply Brief. Same granted by Lynn in a telephone conversation with Plaintiff on August 28, 1998.

January 27, 1999

CLOSED

The Board rendered an Opinion and made the following Order: "AND NOW this 27th day of January, 1999, the Board finds in favor of the Plaintiff, Carmen Paliotta, an individual doing business as Carmen Paliotta Contracting Company, and against the Defendant, the Commonwealth of Pennsylvania, Department of Transportation, in the amount of One Hundred Forty-Four thousand One Hundred Fifty and Eighty-Six Cents (\$144,105.86) with six (6%) percent interest from March 8, 1989, the date of commencement of this action as filed with the Board of Claims. Upon receipt of said award, Plaintiff shall forthwith file with the Board of Claims, a Praecipe requesting that the case be marked "closed, discontinued and ended with prejudice. Each party to bear its owns costs and attorney fees." Copy forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

February 1, 1999

Acceptance of Service of Opinion and Order dated January 27, 1999 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General January 28, 1999.

February 3, 1999

Acceptance of Service of Opinion and Order dated January 27, 1999 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 1, 1999.

February 5, 1999

Plaintiff's Post-Trial Motion for Reconsideration and Brief in Support filed by attorney for Plaintiff.

February 5, 1999

Acceptance of Service of Opinion and Order dated January 27, 1999 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff January 29, 1999.

February 5, 1999

Defendant's Motion for Post-Trial Relief and Brief in Support filed by attorney for Defendant.

February 10, 1998

The Board rendered the following Order: "**AND NOW**, this 9th day of February, 1999, upon consideration of Plaintiff's Post-Trial Motion and Supporting Brief, it is hereby **ORDERED** that Plaintiff's Motion is **GRANTED**. The Order entered on January 27, 1999 is **RENEDED** as follows: Six percent (%) interest shall accrue from May 10, 1993 until paid. In all other respects the Order entered on January 27, 1999 remains unchanged. Copy forwarded to attorney for Plaintiff and attorney for Defendant."

February 17, 1999

Acceptance of Service of Order dated February 9, 1999 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 16, 1999.

March 11, 1999

Courtesy copy of Petition for Review as filed in Commonwealth Court by counsel for Plaintiff.

March 17, 1999

Acceptance of Service of Order dated February 9, 1999 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 12, 1999.

April 1, 1999

Notice of Filing Petition for Review received from Commonwealth Court of Pennsylvania. [No. 0604 C.D. 1999]

May 17, 1999

File transmitted to Commonwealth Court.

September 18, 2000

Copy of Opinion and Order received from Commonwealth Court as follows:

"AND NOW, this 22nd day of December, 1999, that portion of the Board of Claim's (Board) order denying damages to Carmen Paliotta, an individual t/d/b/a Carmen Paliotta Contracting Company (Paliotta), for interference with the construction of curb gutters is reversed.

That portion of the Board's order awarding interest on damages from May 10, 1993 is modified to allow interest on damages from April 6, 1993. In all other respects, the Board's Order is affirmed."

September 18, 2000

File returned from Commonwealth Court.

CLOSED