

Docket Number: 1772

P. DIMARCO & CO., INC.

David T. Bolger, Esquire
Michael W. Winfield, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~John J. Robinson, Jr., Chief Claims Attorney~~
~~Stephen S. Stokwitz, Assistant Counsel~~
~~Cheryl Kovaly, Assistant Counsel~~

December 6, 1993

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$300,000.00+.

December 9, 1993

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

December 13, 1993

Acceptance of Service of Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 10, 1993.

CLOSED

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

April 20, 1994

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

July 25, 1994

Plaintiff's Request for the Production of Documents Addressed to Defendant, Commonwealth of Pennsylvania, Department of Transportation (First Set) filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 15, 1994

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

October 17, 1994

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

October 21, 1994

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

September 25, 1995

Notice of Deposition of Stephen S. Stokwitz, Esquire, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 5, 1995

Motion for Protective Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

October 6, 1995

The Board rendered an Opinion and made the following Order: **AND NOW, this 6th day of October, 1995, it is ORDERED and DECREEED** that the deposition scheduled for October 10, 1995, be and is hereby **STAYED**. Counsel for both parties, herein, shall communicate with each other and reschedule the aforementioned deposition within thirty (30) days of October 10, 1995." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 26, 1995

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

December 12, 1995

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

February 26, 1996

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

March 4, 1996

Reply of P. Dimarco & Company, Inc. to Request for Production of Documents by Commonwealth of Pennsylvania, Department of Transportation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Defendant.

May 6, 1996

Hearing scheduled for December 9, 10, 11, 12 and 13, 1996, in Board's Courtroom No. 1, 6th Floor, Fulton Building, 200 North Third Street, Harrisburg, Pennsylvania, commencing at 9:30 a.m.

October 29, 1996

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

October 29, 1996

Expert Interpretations Directed to Plaintiff filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 12, 1996

Praecipe for Entry of Appearance of Michael W. Winfield, Esquire, attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 25, 1996

Reply of P. Dimarco & Company, Inc. to Second Request for Production of Documents by Commonwealth of Pennsylvania Department of Transportation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 2, 1996

Amended Answer filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 2, 1996

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

December 3, 1996

Notice to Attend directed to Lynn L. Ramsey filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 3, 1996

Notice to Attend directed to Robert Jecenk filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 3, 1996

P. Dimarco & Company, Inc.'s Supplemental Answers to Expert Interrogatories Directed to Plaintiff filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 4, 1996

Defendant's Objections to Plaintiff's Proposed Expert Witness and Testimony filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 4, 1996

Notice and Acknowledgment of Receipt of Subpoena by Mail directed to Messrs. Jeffrey Sweigart, David Gates, and Trevor Harper, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 5, 1996

Entry of Appearance of Cheryl L. Kovaly, Assistant Counsel, filed on behalf of Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 5, 1996

P. Dimarco & Company, Inc.'s Supplemental Answers to Expert Interrogatories Directed to Plaintiff filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 5, 1996

Defendant's Motion to Quash Subpoenas filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 9, 1996

Hearing held this date in Board's Court Room No. 1, 6th Floor,
200 North Third Street, Harrisburg, Pennsylvania.

December 10, 1996

Hearing held this date in Board's Court Room No. 1, 6th Floor,
200 North Third Street, Harrisburg, Pennsylvania.

December 11, 1996

Hearing held this date in Board's Court Room No. 1, 6th Floor,
200 North Third Street, Harrisburg, Pennsylvania. Case completed.

January 21, 1997

Testimony for hearing held December 9, 10, & 11, 1996, filed.

February 4, 1997

Copy of testimony of hearing held December 9, 10, & 11, 1996 forwarded
to attorney for Defendant.

February 4, 1997

Letter forwarded to parties setting the briefing schedule.
Plaintiff's Findings of Fact, etc. due 3/4/97.
Defendant's Findings of Fact, etc. due 4/3/97.

March 3, 1997

Letter received from attorney for Plaintiff requesting the Board
to confirm the agreement of the parties to an additional 30-day
extension of time to file their Findings of Fact, etc. **Same granted**
3/18/97.

Plaintiff's Findings of Fact, etc. due 4/3/97.

Defendant's Findings of Fact, etc. due 5/5/97.

April 29, 1997

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

Defendant's Findings of Fact, etc. due 5/29/97.

June 2, 1997

Letter forwarded to attorney for Defendant requesting a status
report.

Response due from attorney for Defendant 7/2/97.

June 4, 1997

Letter received from attorney for Defendant requesting a 45-day extension of time to file his Findings of Facts.
Defendant's Findings of Fact due 7/14/97.

July 7, 1997

Letter received from attorney for Defendant requesting a 30-day extension of time to file his Findings of Facts. Same granted 7/11/97.
Defendant's Findings of Fact due 8/14/97.

August 1, 1997

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

September 9, 1997

Plaintiff's Memorandum of Law in Reply to Defendant's Post-Trial Brief filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 7, 1997

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 7th day of November, 1997, judgment is hereby entered in favor of Plaintiff, P. DiMarco & Company, Inc., in the amount of Five Hundred Fifty-Six Thousand Four Hundred Twenty-Nine Dollars (\$556,429.00) with interest at the rate of six percent (6%) per annum from December 6, 1993. Upon receipt of said award, Plaintiff shall forthwith file with the Board of Claims a Praecipe requesting that the matter be marked closed, discontinued and ended with prejudice. Each party to bear its own costs and attorneys fees." Copies forwarded to attorney for Plaintiff and attorney for Defendant.

November 12, 1997

Acceptance of Service of Opinion and Order dated November 7, 1997, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 10, 1997.

December 5, 1997

Petition for Review as filed in Commonwealth Court filed by attorney for Defendant. [No. 3294 C.D. 1997]

December 9, 1997

Petition for Review received from Commonwealth Court.

January 8, 1998

File transmitted to Commonwealth Court.

June 8, 1998

Opinion and Order received from Commonwealth Court. Order as follow:
"AND NOW, this 13th day of May, 1998, the order of the Department
of Transportation, Board of Claims in the above-captioned matter
is hereby affirmed in all respects except for the calculation of
DiMarco's total damages, which are reduced by \$90,000.00 for a revised
total of \$466,429.00."

July 6, 1998

File returned from Commonwealth Court.

CLOSED