

Docket Number: 2044

A.R. POPPLE CONSTRUCTION, INC.

Geff Blake, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
~~Ferry, R. Dossett, Esquire~~
Michael T. Ferrence, Assistant Counsel
Judy A. Rivera, Assistant Counsel

December 8, 1995

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim:\$53,400.00+

December 14, 1995

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

December 26, 1995

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General December 20, 1995.

CLOSED

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

January 23, 1996

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

February 16, 1996

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

February 20, 1996

Defendant's Brief in Support of Defendant's Motion to Dismiss filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 1, 1996

Corrections to the Answer to Interrogatory 1.6 in Defendant's Objections and Answers to Plaintiffs First Set of Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 12, 1996

Plaintiff's Answer to Defendant's Preliminary Objections to Complaint, Plaintiff's Brief in Opposition to Defendant's Preliminary Objections to Plaintiff's Complaint and Proposed Order, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Defendant.

May 3, 1996

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 3rd day of May, 1996, after due consideration of the Pleadings and other submissions filed before the Board, it is hereby **ORDERED** that the Motion to Dismiss as filed by the Defendant, Commonwealth of Pennsylvania, Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, in the instant case is hereby **DENIED**. The Defendant is **ORDERED** to file an Answer or other response to the Claim of A.R. Apple Construction, Inc., Plaintiff, within thirty (30) days of the entry date of this Order. Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 10, 1996

Acceptance of Service of Opinion and Order dated May 3, 1996 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 6, 1996.

June 3, 1996

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

July 15, 1996

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

April 1, 1997

Letter forwarded to parties requesting status. Response due from parties May 1, 1997.

April 21, 1997

Status letter received from attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

August 11, 1997

Status letter received from attorney for Plaintiff advising that the parties are still conducting discovery. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 2, 1997

Status letter received from attorney for Plaintiff advising that the parties are still conducting discovery. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

September 8, 1997

Notice of Service of Defendant's Answer to Plaintiff's Second Set of Interrogatories Directed to Defendant were served on the Plaintiff this date.

March 2, 1998

Letter forwarded to parties requesting status. Response due from parties April 2, 1998.

April 6, 1998

2nd letter forwarded to parties requesting status. Response due from parties May 6, 1998.

April 9, 1998

Letter received from attorney for Plaintiff advising that Plaintiff's status letter dated March 27, 1998, either by clerical error or mail error did not get to the Board of Claims, therefore Plaintiff is updating the Board as follows: Letter received March 27, 1998, advising that the parties are in discovery. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 11, 1998

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

May 12, 1998

Letter forwarded to attorney for Defendant requesting Response and Brief to Plaintiff's Motion for Summary Judgment. Defendant's Response due June 12, 1998.

June 8, 1998

Department's Cross-Motion for Summary Judgment and Response in Opposition to Plaintiff's Motion for Summary Judgment and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 7, 1998

Plaintiff's Reply Brief in Support of its Motion for Summary Judgment and Brief in Opposition to Defendant's Cross-Motion for Summary Judgment filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 2, 1999

CLOSED

The Board rendered an Opinion and made the following Order: **AND** **NOTED**, this 3rd day of March, 1999, it is **ORDERED** and **DECREED** that Plaintiff's, R. Popple Construction, Inc., Motion for Summary Judgment is hereby **DENIED**. It is further **ORDERED** and **DECREED** that Defendant's, Commonwealth of Pennsylvania, Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Motion for Summary Judgment is hereby **GRANTED**. Judgment shall be entered in favor of the Defendant against Plaintiff, Plaintiff having previously paid the liquidated damage sum of Fifty Three Thousand Dollars (\$53,000.00), Defendant shall retain said sum." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

March 9, 1999

Acceptance of Service of Opinion and Order dated March 2, 1999 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 9, 1999.

April 2, 1999

Acceptance of Service of Opinion and Order dated March 2, 1999 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff March 30, 1999.

April 2, 1999

Petition for Review as filed in Commonwealth Court received from attorney for Plaintiff.

April 8, 1999

Notice of Filing Petition for Review received from Commonwealth Court. [0862 C.D. 1999]

April 12, 1999

File transmitted to Commonwealth Court.

May 27, 1999

Brief of Appellant and Reproduced Record as filed in Commonwealth Court filed by attorney for Plaintiff.

July 12, 1999

Reply Brief for Appellant as filed in Commonwealth Court filed by attorney for Plaintiff.

CLOSED

Consented Motion to Submit Case on Briefs as filed in Commonwealth Court filed by attorney for Defendant.

February 1, 2000

Order rendered in Commonwealth Court as follows: "**AND NOW**, this 17th day of November, 1999, the order of the Board of Claims, at Docket No. 2044, addressing the two motions for summary judgment of the respective parties in the above captioned matter, and entering judgment in favor of the Department of Environmental Protection, is reversed. This case is remanded back to the Board of Claims for proceedings consistent with this opinion. Jurisdiction relinquished."

February 29, 2000

The Board rendered the following Order: "**AND NOW**, this 29th day of February, 2000, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board beginning on August 21, 2000 through August 25, 2000, if necessary. Said hearing shall be held in Courtroom No. 1, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. It is further **ORDERED** and **DECREED** that all discovery herein shall be completed no later than forty-five (45) days prior to August 21, 2000." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

March 6, 2000

Acceptance of Service of Order dated February 29, 2000 received from

attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff March 3, 2000.

March 6, 2000

Acceptance of Service of Order dated February 29, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 3, 2000.

July 13, 2000

Entry of Appearance of Michael T. Ferrence and Judy A. Rivera filed on behalf of Defendant.

July 21, 2000

Defendant's Pre-Trial Statement filed by attorney for Defendant.

July 21, 2000

Plaintiff's Motion in Limine to Limit Evidence at Trial in accordance with the Commonwealth Court's Remand Direction as well as Brief in Support filed. Response due from Defendant August 24, 2000.

July 21, 2000

Plaintiff's Pre-Trial Statement filed by attorney for Plaintiff.

July 31, 2000

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 31st day of July, 2000, it is **ORDERED** and **DECREED** that Plaintiff's, Motion in Limine to Limit Evidence at Trial in Accordance with the Commonwealth Court's Remand Direction, is hereby **OVERRULED**."

Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 2, 2000

Acceptance of Service of Opinion and Order dated July 31, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 1, 2000.

August 2, 2000

Plaintiff's Motion for Reconsideration of This Board's July 31, 2000 Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

August 10, 2000

The Board rendered the following Opinion and Order: "**AND NOW**, this 10th day of August, 2000, it is **ORDERED** and **DECREED** that Plaintiff's,

A.R. Popple Construction, Inc., Motion for Reconsideration of the Board's July 31, 2000 Order, is hereby **DENIED**." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

August 7, 2000

Acceptance of Service of Opinion and Order dated July 31, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff August 3, 2000.

August 14, 2000

Acceptance of Service of Opinion and Order dated July 31, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 11, 2000.

CLOSED

August 18, 2000

Hearing scheduled for August 22, 2000 through August 25, 2000, settled.

August 17, 2000

Letter received (via facimile) advising that the hearing has been cancelled due to settlement.

September 1, 2000

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 1st day of September, 2000, it is **ORDERED** and **DECREED** that this case be marked "settled and terminated with prejudice."

September 7, 2000

Acceptance of Service of Opinion and Order dated September 1, 2000 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 6, 2000.