

Docket Number: 2407

PKF-MARK III, INC. FOR ITSELF AND FOR THE USE AND BENEFIT OF JOHN
CONNOLLY & SONS, INC.

~~Robert A. Korn, Esquire~~
~~Travis L. Kreiser, Esquire~~
John G. Richards, Esquire

~~C. S.~~
CLOSED
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

~~Andrew S. Gordon, Chief Counsel~~
Jeffrey W. Davis, Assistant Counsel

January 24, 1997

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$1,025,000.00.

January 31, 1997

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 3-3-97.

February 7, 1997

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General February 4, 1997.

CLOSED

Defendant's Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff 4/24/97.

April 4, 1997

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

November 5, 1997

Letter forwarded to parties requesting status. Response due from parties December 5, 1997.

December 9, 1997

Letter forwarded to parties requesting status (2nd letter). Response due from parties January 9, 1997.

January 9, 1998

Status letter received from attorney for Plaintiff advising that the parties are commencing with discovery.

January 12, 1998

Status letter received from Plaintiff advising that they are commencing with discovery and hope to complete same within the next four months.

January 20, 1998

Status letter received from attorney for Defendant advising that the parties are, at this time, are conducting discovery.

March 13, 1998

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

March 16, 1998

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

July 31, 1998

Status letter received from attorney for Defendant advising that the parties are in discovery.

August 20, 1998

Status letter received from attorney for Plaintiff advising that the parties are in discovery.

March 24, 1999

Status letter received from attorney for Defendant advising that the parties are in discovery.

March 25, 1999

Certificate of Service of Defendant's Request for Production of Documents and First Set of Interrogatories filed by attorney for Defendant.

April 6, 1999

Status letter received via fax from attorney for Plaintiff advising that the parties are in discovery.

April 8, 1999

Status letter received via fax from attorney for Plaintiff advising that the parties are in discovery.

January 14, 2000

Letter forwarded to parties requesting status. Response due from parties February 14, 2000.

March 21, 2000

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 21st day of March, 2000, a Rule to Show Cause is issued upon Plaintiff, PKF-MARK III, Inc. for itself and for the use and benefit of John Connolly & Sons, Inc. wherein it is **DIRECTED** that Plaintiff advise the Board, within thirty (30) days from the effective date of this Order, as to whether or not Plaintiff wishes to pursue the above-captioned matter. 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.

March 27, 2000

Status letter received from attorney for Plaintiff advising of their law firm merger and further advising that Plaintiff does wish to continue with this claim.

April 10, 2000

Status letter received from attorney for Plaintiff advising that the case is still active and that Plaintiff plans to embark on discovery starting this month.

April 14, 2000

Status Report filed on behalf of PKF-Mark III, Inc. advising that they were beginning discovery immediately.

May 22, 2000

Certificate of Service of Defendant's Notice of Deposition upon John G. Richards, II, Esquire and Travis L. Kreiser, Esquire.

November 15, 2000

Letter forwarded to parties requesting status. Response due from parties December 15, 2000.

November 27, 2000

Status letter received from attorney for Plaintiff advising that the parties are in discovery.

February 12, 2001

Objection to Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21 filed by attorney for Plaintiff.

February 20, 2001

Motion to Overrule Objection to Subpoena to Produce Documents and Things for Discovery pursuant to Rule 4009.21 as well as Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 9, 2001

The Board rendered an Opinion and made the following Order: "AND NOW, this 29th day of March, 2001, upon consideration of the defendant's Motion to Overrule Objection to Subpoena Documents and Things for Discovery Pursuant to Rule 4009.21, **IT IS ORDERED AND DECREED** that the Motion is **GRANTED** and plaintiff's objection to the subpoena is overruled. Defendant may proceed to serve the subpoena duces tecum on the Records Custodian, Parente Randolph Orlando Carey.

FURTHER IT IS ORDERED that at the time of production of the documents by Parente Randolph Orlando Carey, plaintiff's counsel may first review the documents and remove any which are claimed to be covered by the attorney work product privilege. If there is any dispute about whether the privilege applies, the documents shall be submitted within five (5) days of production to the Board for *in camera* review."

Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 4, 2001

Letter forwarded to parties requesting status. Response due from parties November 5, 2001.

November 6, 2001

Letter forwarded to parties requesting status. Response due December 6, 2001.

November 8, 2001

Status Report filed on behalf of Claimant, PKF-Mark, III, Inc. filed by attorney for Plaintiff advising that discovery is continuing.

May 30, 2002

Status Report filed by attorney for Plaintiff advising that the parties are in discovery. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 5, 2002

Defendant's Motion for Summary Judgment as well as Brief in Support filed. Copy forwarded to attorney for Plaintiff by attorney for Defendant. Response due from Plaintiff December 6, 2002.

April 23, 2003

Letter received from attorney for Defendant requesting that the Board move ahead with Defendant's Motion for Summary Judgment since Plaintiff has not responded and that Plaintiff was directed by the Board to file their response to same on or before December 6, 2002.

July 1, 2003

Board rendered Opinion and Order. Order as follows: "AND NOW, this 29th day of July, 2003, it is ORDERED and DECREED that the Motion for Summary Judgment which was filed by the Commonwealth of Pennsylvania, Department of Transportation is **GRANTED**. The Complaint filed by PKF Mark II, Inc., for itself and for the use and benefit of John Connolly & Sons, Inc., is hereby **DISMISSED** with prejudice."

Copy forwarded to Plaintiff and Defendant.