

Docket Number: 2736

JAMES JULIAN, INC. for the use and benefit of
Eagle Traffic Control, Inc.

Joseph A. McGinley, Esquire

CLOSED VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

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

August 7, 1998

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$422,578.23+.

August 17, 1998

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 9/17/98.

August 24, 1998

Acceptance of Service of Complaint received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General August 19, 1998.

CLOSED

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

November 5, 1998

Reply of Claimants to the New Matter of the Commonwealth of Pennsylvania Department of Transportation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

November 10, 1998

Letter forwarded to the parties directing them to proceed with discovery.

April 12, 1999

Notice of Service of Claimant's Request for Production of Documents Addressed to Defendant; Notice of Service of Claimant's Interrogatories (1st Set) Addressed to Defendant; and Notice of Service of Claimant's Request for Admissions Addressed to Defendant, filed by attorney for Plaintiff.

April 22, 1999

Notice of Service of Department's Response to Claimants' Request for Production of Documents Addressed to PennDOT filed by attorney for Defendant.

April 27, 1999

Notice of Service of Defendant's Response to Plaintiff's Interrogatories (First Set) as well as Notice of Service of Answers to Plaintiff's Request for Admissions Addressed to Defendant filed by attorney for Defendant.

October 29, 1999

Letter forwarded to parties requesting a Status Report. Status Report due on or before **November 29, 1999**.

November 5, 1999

Letter/Status Report received from attorney for Defendant advising that this case continues in the discovery phase of litigation.

November 22, 2000

Letter forwarded to parties requesting Status Report. Status Report due on or before **December 21, 2000**.

December 17, 2000

Letter received from attorney for Plaintiff advising that they intend to file a Motion for Partial Summary Judgment within the next few weeks so the legal posture of the case can be more fully defined.

May 29, 2001

James Julian, Inc. for the Use and Benefit of Eagle Traffic Control, Inc. Motion for Partial Summary Judgment as well as Memorandum of Law in Support of Motion for Partial Summary Judgment of James Julian, Inc. for the Use and Benefit of Eagle Traffic Control, Inc., filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. Defendant's Response/Brief due on or before **June 28, 2001**.

June 21, 2001

Letter received from attorney for Defendant requesting an extension of time until August 8, 2001 to file a Response to Claimant's Motion for Partial Summary Judgment.

July 6, 2001

Withdrawal of Appearance of the law firm of Lavin, Coleman, O'Neil, Ricci, Finarelli & Gray on behalf of Plaintiff filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 6, 2001

Entry of Appearance of Joseph A. McGinley, Esquire, on behalf of Plaintiff, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

July 27, 2001

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

October 10, 2001

The Board rendered an Opinion and made the following Order: "**AND NOW, this 10th day of October, 2001, after a review of the pleadings, motions, briefs and accompanying documents and affidavits, I do hereby ORDER and DECREE that the Motion for Partial Summary Judgment filed by the Plaintiff, James Julian, Inc., for the use and benefit of Eagle Traffic Control, Inc., is hereby DENIED and DISMISSED. Similarly, the request of the Plaintiff, James Julian, Inc., for the use and benefit of Eagle Traffic Control, Inc., for a Declaratory Judgment is hereby DENIED and DISMISSED.**" Copy forwarded to attorney for Plaintiff and attorney for Defendant.

October 25, 2001

Acceptance of Service of Opinion and Order dated October 22, 2001 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant October 22, 2001.

October 26, 2001

Acceptance of Service of Opinion and Order dated October 10, 2001 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 23, 2001.

March 28, 2002

Letter received from attorney for Plaintiff advising that the case is almost ready for trial and requesting a conference be scheduled with both parties and the Board to discuss resolution and/or issues to be raised or disputed at trial.

August 15, 2002

Letter received (via fax) from attorney for Plaintiff advising that any three day period from later October through December for trial, but that settlement negotiations are taking place.

August 28, 2002

Letter received (via fax) from attorney for Plaintiff requesting that a hearing be scheduled for anytime in November.

September 3, 2002

The Board rendered the following Order: "AND NOW, this 3rd day of September 2002, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board's Panel, composed of Robert J. McLaughlin, Esquire, Panel Attorney, and Conrad E. Kambic, P.E., Panel Engineer, beginning on November 6, 2002 through November 8, 2002, if necessary. Said hearing shall be held in Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. It is further **ORDERED** and **DECREED** that all discovery be completed no later than forty-five (45) days prior to the commencement of the trial." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

September 13, 2002

Acceptance of Service of Order dated September 3, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff September 9, 2002.

October 7, 2002

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

October 30, 2002

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

November 6, 2002

Panel Hearing (McLaughlin/Kambic) held in Court Room No. 2, 200 North Third Street, Harrisburg, Pa commencing at 9:30 a.m.

November 7, 2002

Panel Hearing (McLaughlin/Kambic) held in Court Room No. 2, 200 North Third Street, Harrisburg, Pa commencing at 9:30 a.m. Case completed.

December 6, 2002

Testimony of Panel hearing held November 6 & 7, 2002 filed.

December 9, 2002

Copy of testimony of Panel hearing held November 6 & 7, 2002 forwarded to attorney for Defendant. **Plaintiff's Findings of Fact, etc. due January 8, 2003.**

January 13, 2003

Plaintiffs' Proposed Findings of Fact, Plaintiffs' Proposed Conclusions of Law and Memorandum of Law filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. **Defendant's Findings, etc. due 2/12/03.**

February 12, 2003

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

March 25, 2003

Panel Report filed by Robert L. McLaughlin, Esquire and Conrad E. Kambic, P.E.

December 1, 2003

Board issued an Opinion and Order. Order as follows: "**AND NOW**, this 1st day of December, 2003, it is hereby **ORDERED** that an award be entered in favor of the Claimant, James Julian, Inc., for the use and benefit of Eagle Traffic Control, Inc., and against the Commonwealth of Pennsylvania, Department of Transportation, in the amount of Two Hundred Eighteen Thousand Four Hundred Eight Dollars and Five Cents (\$218,408.05). Interest on the Claim is hereby awarded in the amount of six percent (6%) from the date the Claims accrued. The Board views the repair Claim (\$22,673.71), as having accrued as of the date of the filing of the Claim, i.e. August 7, 1998. The Board views the attenuator Claim (\$195,734.34) as accruing on January 30, 1997, per the Claimant's billing. Each party to bear its own costs. Copy forwarded to Plaintiff, Defendant and Attorney General.

December 4, 2003

Attorney General filed Acceptance of Service of Opinion and Order dated December 1, 2003. Receipt of same acknowledged by Attorney General December 2, 2003.

December 8, 2003

Plaintiff filed Acceptance of Service of Opinion and Order dated December 1, 2003. Receipt of same acknowledged by Plaintiff December 4, 2003.