

Docket Number: 2994

ROBERT CLARK

Peter G. Loftus, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

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

June 19, 1996

By Order of the Lackawanna County Court, case filed, Order as follows:
"Now, this 19th day of June, 1996, the defendant having filed preliminary objections to the plaintiff's complaint averring that jurisdiction lies with the Pennsylvania Board of Claims and the plaintiff having agreed, the said preliminary objection is sustained.

All other preliminary objections are denied. The clerk of Judicial Records is directed to transfer this file forthwith to the Pennsylvania Board of Claims for consideration of plaintiff's complaint by that tribunal."

THE FOLLOWING FILED IN LACKAWANNA COUNTY COURT:

CLOSED

July 4, 1991
Filed Praecipe for Writ of Summons.
August 2, 1991

Filed Sheriff's Return of Service of Summons dated August 5, 1991 upon PENNDOT by the Sheriff of Lackawanna County.

September 16, 1991

Filed Entry of Appearance of Robert J. Borthwick, DAG on behalf of Pa. Dept. of transp. Also, filed Certificate of Service of same by mail.

September 17, 1991

Filed Praecipe for Rule to File Complaint and Rule dated 9-17-91, William P. Rinaldi, Clerk of Judicial Records issues Rule.

September 20, 1991

Filed Certificate of Service of Praecipe for rule to file complaint by mail.

August 26, 1993

Filed Objection to Dismissal of Case.

March 21, 1996

Filed Compl. by P. Loftus, Esq. Also, filed Cert. of Ser. of same by mail.

March 27, 1996

Filed Brief in Support of the Def, Comm. of Pa., Dept. of Transp.'s. Prel. Objs. to Pl's Compl. by G. Michael Thiel, Esq.

March 27, 1996

Filed Prel. Obj's. of Def., Comm. of Pa., Dept. of Transp. by G. Michael Thiel, Esq. (SENT TO C.A.)

April 3, 1996

Filed Plt's. Answer to the Prel. Obj's of the Def. by P. Loftus, Esq. Also filed Cert. of Ser. of same by mail.

June 14, 1996

Filed Plaintiff's Brief in Opposition to the Defendant's Preliminary Objections by Peter G. Loftus, Esq. and Cert. of Service of same by mail.

June 19, 1996

Filed Order dated 6-19-96. BY THE COURT: Cotton, J. (NOTIFIED)

January 13, 2000

Filed Letter dated Jan. 12, 2000, addressed to Clerk of Judicial Records from Diane Oakes, The Loftus Law Firm, P.C. Re: ORDER dated 6/19/96 for the Clerk of Judicial Records to transfer filed to Penna. Board of Claims.

January 14, 2000

Sent File to Penna. Board of Claims by certified mail receipt # Z 327 517 501 along with cover letter addressed to David C. Clipper, Esq. Chairman/Chief Administrative Judge with explanation as to why case was not transferred as per Order dated 6/19/96.

BEFORE THE BOARD OF CLAIMS

June 19, 1996

Record transferred from Lackawanna County Court by Order.

January 20, 2000

File received from Lackawanna County Court.

January 21, 2000

Letter forwarded to attorney for Plaintiff, with copy to attorney for Defendant, requesting additional copies of Claim and filing fee.

February 7, 2000

Additional copies of Claim and filing fee received. Amount of Claim:
In excess of \$30,000.00.

February 9, 2000

Copies of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. Defendant's responsive pleading due on or before
March 10, 2000.

February 16, 2000

Acceptance of Service of Claim received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General February 14, 2000.

March 3, 2000

Letter/Request for a thirty (30) day extension of time to file Defendant's responsive pleading to Plaintiff's Claim filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 16, 2000

Letter forwarded to attorney for Defendant, with copy to attorney for Plaintiff, granting Defendant's request for a thirty (30) day extension of time to file its responsive pleading to Plaintiff's Claim. Defendant's responsive pleading now due on or before
April 10, 2000.

March 27, 2000

Defendant's Preliminary Objections to Complaint and Brief in Support of Preliminary Objections to Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

April 28, 2000

Entry of Default Judgement, Preliminary Objections to Defendant's Preliminary Objections as well as Brief in Support of the Plaintiff's Preliminary Objections and in Opposition to the Defendant's Preliminary Objections, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

May 23, 2000

Brief for Defendant in Opposition to Plaintiff's Preliminary Objections to Defendant's Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

July 19, 2000

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 19th day of July, 2000, the Preliminary Objections of the Commonwealth of Pennsylvania, Department of Transportation are **DENIED** and the Preliminary Objections of the Plaintiff, Robert Clark, to the Preliminary Objections of the Commonwealth of Pennsylvania are **GRANTED**. The Commonwealth of Pennsylvania is to file an appropriate responsive pleading within twenty (20) days from the date of this Order." Copy forwarded attorney for Plaintiff and attorney for Defendant.

July 17, 2000

Acceptance of Service of Opinion and Order dated July 19, 2000 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 25, 2000.

August 9, 2000

Answer with New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Reply due from Plaintiff 9/13/00.**

August 23, 2000

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

October 16, 2000

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

November 16, 2000

Letter received from attorney for Defendant requesting an extension of time until December 12, 2000 in which to file Defendant's Responses to Plaintiff's First Set of Interrogatories and First Request for Production of Documents.

November 20, 2000

Letter forwarded to attorney for Defendant, with copy to attorney for Plaintiff, granting Defendant's request for an extension of time until December 12, 2000 in which to file Defendant's Responses to Plaintiff's First Set of Interrogatories and First Request for Production of Documents.

May 15, 2001

Letter forwarded to parties requesting a Status Report. Status Report due on or before **June 14, 2001**.

May 18, 2001

Principle original filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 1, 2001

Letter received from Plaintiff advising that the parties have mutually agreed that November 2001 would be a convenient time for this matter to be scheduled for trial.

June 28, 2001

The Board made the following Order: "**AND NOW**, this 28th day of June, 2001, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board beginning on November 26, 2001 through November 30, 2001, 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 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.

July 20, 2001

Acceptance of Service of Order dated June 28, 2001 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff July 18, 2001.

September 27, 2001

Motion for Summary Judgment and Brief in Support thereof filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Plaintiff's Response/Brief due on or before October 29, 2001.**

October 15, 2001

Copy of Defendant's Request for Admissions and Plaintiff's Answers to Defendant's Request for Admissions, in support of Defendant's Motion for Summary Judgment, filed by attorney for Defendant.

October 25, 2001

Deposition of Robert Clark, along with Exhibit 1 to that Deposition filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 16, 2001

The Board rendered an Opinion and made the following Order: "**AND NOW** this 16th day of November, 2001, upon consideration of Defendant's Motion for Summary Judgment, together with the supporting brief, it is hereby **ORDERED** that the Motion is **GRANTED**. This matter is hereby **DISMISSED** with prejudice, and the hearing scheduled to begin November 26, 2001 is **CANCELLED**." Copy forwarded to attorney for Plaintiff and attorney for Defendant.
