

Docket Number: 3293

DOME CORPORATION OF NORTH AMERICA

~~Jacques Kessous, Vice President~~  
~~Dean F. Piermattei, Esquire~~  
~~Stephanie E. DiVittore, Esquire~~

VS.

**CLOSED**

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

~~Andrew S. Gordon, Chief Counsel~~  
~~Audrey Feinman Miner, Assistant Counsel~~

October 30, 2000

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$15,000.00.

---

October 31, 2000

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT 11/30/00.

---

November 6, 2000

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General November 1, 2000.

---

November 8, 2000

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 2, 2000.

---

Preliminary Objections and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant. **Plaintiff's Response & Brief in Opposition due 1/1/01.**

---

December 22, 2000

Letter/type Response to Preliminary Objections filed by Plaintiff.

---

January 4, 2001

Certification of Service of Letter/type Response to Preliminary Objections filed by Plaintiff.

---

May 11, 2001

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 11th day of May, 2001, after due consideration of Defendant's, Commonwealth of Pennsylvania, Department of Transportation, Preliminary Objections to the Plaintiff's, Dome Corporation of North America, Claim and submissions of the parties in support of their positions, it is hereby **ORDERED** that each and every Preliminary Objection is **DENIED** and the Defendant is **DIRECTED** to file a response to Plaintiff's Claim within thirty (30) days of the exit date of this Opinion and Order." Copy forwarded to Plaintiff and attorney for Defendant.

---

**May 16, 2001**

Acceptance of Service of Opinion and Order dated May 11, 2001 received from Plaintiff. Receipt of same acknowledged by Plaintiff May 14, 2001.

---

**June 11, 2001**

Answer and New Matter filed by attorney for Defendant. Copy forwarded to Plaintiff by attorney for Defendant. **Reply due from Plaintiff 7/12/01.**

---

**June 20, 2001**

Letter/Response to New Matter filed by Plaintiff

---

**June 22, 2001**

Notice of Service of Plaintiff's response to Defendant's New Matter filed by Plaintiff.

---

**January 3, 2002**

Letter forwarded to parties requesting a Status Report. Status Report due on or before 2/4/01.

---

**January 7, 2002**

Status letter received from Plaintiff advising that as far as they are concerned, they have provided sufficient discovery material and are not sure what other information they can provide.

---

**February 6, 2002**

Status letter received from attorney for Defendant advising that the case is active and before PennDOT proceeds further, they are waiting for Dome Corporation to be represented by an attorney.

---

**March 6, 2002**

Praecipe for Entry of Appearance of Dean F. Piermattei, Esquire and Rhoads & Sinon, LLP, on behalf of the Plaintiff filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

---

**March 19, 2002**

Notice of Service of First Request for Production of Documents, Interrogatories Directed to Defendant - and a Notice of Deposition filed by attorney for Plaintiff.

---

**August 27, 2002**

Letter forwarded to parties requesting a Status Report. Status Report due on or before September 26, 2002.

---

**September 9, 2002**

Letter/Status Report received from attorney for Plaintiff requesting advising that discovery is complete and requesting a hearing be scheduled for the next available hearing date.

---

**September 26, 2002**

Letter received from attorney for Plaintiff advising of dates available for hearing.

---

**CLOSED**

---

**October 10, 2002**

The Board made the following Order: "**AND NOW**, this 10th day of October, 2002, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board's Panel, composed of Robert L. McLaughlin, Esquire, Panel Attorney, and Conrad E. Kambic, P.E., Panel Engineer, beginning on December 11, 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.

---

**October 15, 2002**

Acceptance of Service of Order dated October 10, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff October 11, 2002.

---

**November 12, 2002**

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

---

**November 12, 2002**

Pre-Trial Statement of Dome Corporation of North America filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

---

**December 9, 2002**

Letter received via fax from attorney for Plaintiff requesting that the hearing scheduled for December 11, 2002 be rescheduled to January 15, 2003.

---

**December 10, 2002**

Panel hearing scheduled for December 11, 2002 canceled due to Plaintiff's request.

---

**December 10, 2002**

Letter received via U.S. mail from attorney for Plaintiff requesting that the hearing scheduled for December 11, 2002 be rescheduled to January 15, 2003.

---

**December 12, 2002**

The Board rendered the following Order: "**AND NOW**, this 12th day of December, 2002, it is **ORDERED** and **DECREED** that this matter is set for a hearing before the Board's Panel, composed of Robert L. McLaughlin, Esquire, Panel Attorney, and Conrad E. Kambic, P.E., Panel Engineer, beginning on January 15, 2003, if necessary. Said hearing shall be held in Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

---

**December 16, 2002**

Acceptance of Service of Order dated December 12, 2002 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 13, 2002.

---

**January 14, 2003**

Defendant's Motion to Quash the Notice to Attend and Proposed Order filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

---

**January 15, 2003**

Trial Brief of Plaintiff Dome Corporation filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

---

**January 15, 2003**

Panel hearing (McLaughlin/Kambic) held in Courtroom No. 2, 6th Floor, Fulton Building, Harrisburg, Pennsylvania, commencing at 9:30 a.m. Case completed.

---

**February 3, 2003**

Testimony of panel hearing held January 15, 2003 filed. Copy forwarded to attorney for Defendant. **Plaintiff's Findings of Fact, etc. due 3/5/03.**

---

**March 4, 2003**

Proposed Findings of Fact & Conclusions of Law of Plaintiff Dome Corporation, Brief in Support of Proposed Findings of Fact & Conclusions of Law of Plaintiff and Lexis Decisions in Support of Plaintiff's Proposed Findings of Fact and Conclusions of Law filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff. **Defendant's Findings of Fact, etc. due 4/9/03.**

---

**April 4, 2003**

Pennsylvania Department of Transportation's Proposed Findings of Fact, Pennsylvania Department of Transportation's Proposed Conclusions of Law and Brief filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

---

**May 8, 2003**

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

---

**November 6, 2003**

Board issued an Opinion and Order. Order as follows: "**AND NOW**, this 6th day of November, 2003, after hearing, **IT IS ORDERED** and **DECREED** that judgment be entered in favor of plaintiff, Dome Corporation of North America, and against defendant, Commonwealth of Pennsylvania, Department of Transportation, in the sum of Fifteen Thousand Dollars (\$15,000.00) with interest thereon at the legal rate of six percent (6%) per annum from April 3, 2000. **IT IS FURTHER ORDERED** that plaintiff's petition for an award of a penalty and attorney fees is **GRANTED**. Defendant shall pay to plaintiff a penalty of one percent (1%) per month on the \$15,000.00 calculated from April 3, 2000, to the exit date of this Order, and attorneys' fees in the amount of \$4,622.89. Other than the attorneys' fees awarded herein, each party shall bear the remainder of its own costs." Copy forwarded to Plaintiff, Defendant and Attorney General.

**November 13, 2003**

Plaintiff filed Acceptance of Service of Opinion and Order dated November 6, 2003. Receipt of same acknowledged November 10, 2003.

**November 17, 2003**

Attorney General filed Acceptance of Service of Opinion and Order dated November 6, 2003. Receipt of same acknowledged November 12, 2003.

**November 17, 2003**

Defendant filed Department's Motion for Post-Trial Relief and Brief in Support. Copy forwarded to Plaintiff.

**November 26, 2003**

Board issued an Opinion and Order. Order as follows: "**AND NOW**, this 26th day of November, Defendant's Motion for Reconsideration is **GRANTED** in part and **DENIED** in part. It is **ORDERED** and **DECREED** that the Board's Opinion and Order of November 6, 2003, is hereby amended to eliminate the award of penalties and attorneys' fees to Plaintiff.

Judgment shall be entered in this case in favor of Plaintiff, Dome Corporation of North America and against Defendant, Commonwealth of Pennsylvania, Department of Transportation in the sum of Fifteen Thousand Dollars (\$15,000.00) with interest thereon at the legal rate of six percent (6%) per annum from April 3, 2000. Each party shall bear its own costs." Copy forwarded to Plaintiff and Defendant.