

DELAWARE RIVER PORT AUTHORITY  
VS.  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION

D. Donald Jamieson, Esquire  
John M. Elliott, Esquire/Brian P. Kenney, Esquire  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
Michael J. McCaney, Jr., Esquire

Docket No. 660

**CLOSED**

FORM C P 9

October 25, 1979 Complaint and filing fee filed. Amount of claim \$500,000.00 plus.

October 26, 1979 Copies of Complaint forwarded to attorney for defendant and Deputy Attorney General.

Nov. 26, 1979 Preliminary Objections in the Nature of a Demurrer, as well as Brief in Support of Preliminary Objections filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

December 6, 1979 Preliminary Objections in the Nature of a Petition Raising Question of Jurisdiction, as well as Brief in Support of Preliminary Objections filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

January 28, 1980 Plaintiff's Brief in Opposition to Preliminary Objections filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

October 31, 1980 The Court rendered an Opinion and made the following Order: "AND NOW, this 31st day of October, 1980, it is hereby ORDERED and DECREED that Defendant's Preliminary Objections to Plaintiff's Statement of Claim are denied. Defendant is given thirty (30) days in which to file a responsive pleading." Copies forwarded to attorney for plaintiff and attorney for defendant.

December 4, 1980 Answer and New Matter filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

April 30, 1981 Reply to New Matter filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

May 1, 1981 Preliminary Objections and Memorandum in support filed by attorney for defendant. Copies forwarded to attorney for plaintiff by attorney for defendant.

June 8, 1981 Answer to Preliminary Objections to Reply to New Matter filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

June 29, 1981 Request for Production of Documents filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.



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~~R. Donald Jamieson, Esquire~~  
John M. Elliott, Esquire  
Brian P. Kenney, Esquire  
~~Michael J. McCahey, Jr., Esquire~~

Docket No. 660

-continued-

**CLOSED**

October 15, 1981 The Board rendered an Opinion and made the following Order: "AND NOW, this 15th day of October, 1981, it is hereby ORDERED and DECREED that Plaintiff shall have twenty (20) days within which to amend its Answers to Defendant's New Matter in Paragraphs 21 through 23. Plaintiff shall file specific, factual responses to each subpart of said paragraphs containing specific factual averments." Copies of Opinion and Order forwarded to attorney for plaintiff and attorney for defendant.

December 1, 1981 Supplemental Reply to New Matter filed by attorney for plaintiff. Copy forwarded to attorney for defendant by attorney for plaintiff.

March 24, 1982 Defendant's First Set of Continuing Interrogatories to Plaintiff filed by attorney for defendant. Copy forwarded to attorney for plaintiff by attorney for defendant.

October 25, 1983 Entry of Appearance filed by attorney for defendant, Michael J. McCahey, Jr.

February 3, 1984 Joint Motion Requesting A Stay of Proceedings and Proposed Order filed by parties.

March 23, 1984 Letter forwarded to parties relative to Joint Motion Requesting A Stay of Proceedings requesting copy of Complaint as filed by defendant in Commonwealth Court as well as Answer to the Complaint New Matter and Counterclaim as filed by plaintiff in Commonwealth Court.

March 27, 1984 Copy of Complaint as filed in Commonwealth Court received from attorney for defendant per request.

April 4, 1984 Copy of Answer to Complaint, New Matter and Counterclaim, Answer of Plaintiff to Defendant's New Matter and Counterclaim and New Matter of Plaintiff as well as Reply of DRPA to New Matter of Department of Transportation Raised in Defense to the Counterclaim as filed in Commonwealth Court received from attorney for Plaintiff per request.

May 15, 1984 The Board rendered an Opinion and made the following Order: "AND NOW, this 15th day of May, 1984, the Joint Motion of the parties is hereby DENIED." Copies forwarded to attorney for plaintiff and attorney for defendant.

June 5, 1984 Joint Motion to Amend Interlocutory to Contain the Statement Prescribed by 4 Pa.C.S. §:02(b) filed by attorney for Plaintiff and attorney for Defendant.

*Copy Filed*

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-continued-

Docket No. 660

**CLOSED**

July 3, 1984 The Board rendered an Opinion and made the following Order: "AND NOW, this 3rd day of July, 1984, the Board's Order of May 15, 1984 be and is hereby AMENDED by certifying that: This Board is of the opinion that said Order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the Order may materially advance the ultimate determination of the matter. For precedence see: P. S. James & Company, Inc., vs. Commonwealth of Pennsylvania, Department of General Services, et al., 44 Cmwith. Ct. 289 Pa., 403 A.2d 1051 (1979), Commonwealth of Pennsylvania, Department of Public Welfare vs. UEC, Inc., Pa. 397 A.2d 779 (1979)". Copies forwarded to attorney for plaintiff and attorney for defendant.

August 29, 1984 Order received from Commonwealth Court. Order as follows: "NOW, August 23, 1984, upon consideration of joint petition for permission to appeal pursuant to Pa. R.A.P. 1311 said petition is granted and said appeal is allowed from the order entered in the Board of Claims at Docket No. 660, on May 15, 1984, as amended on July 3, 1984. This Court's filing fee for the appeal in the amount of \$50.00 shall be promptly paid. The Board of Claims shall certify the record in this matter to this Court within forty (40) days of the date of this Order. In addition to mailing copies of this Order to counsel of record, the Chief Clerk shall mail a copy of same to Chief Administrative Judge Fred C. Pace of the Board of Claims and to the Executive Secretary of the Board of Claims."

September 5, 1984 Joint Petition for Permission to Appeal received from attorney for defendant.

September 7, 1984 File transmitted to Commonwealth Court.

September 12, 1985 Copy of Opinion and Order received from Commonwealth Court. Order as follows: "NOW, September 9, 1985, the order of the Board of Claims dated May 15, 1984, amended July 3, 1984, at Docket No. 660, is reversed. It is hereby ordered that the proceedings in the above-captioned matter which are presently before the Board of Claims shall be stayed pending resolution of the same matter before the Commonwealth Court."

June 19, 1987 File returned from Commonwealth Court.

April 11, 1988 Entry of Appearance filed by Brian P. Kenney, Esquire on behalf of attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.