

CLOSED

Paul A. Logan, Esquire

IA CONSTRUCTION CORPORATION, Individually
and for the use and benefit of H. MINISCALCO
& SONS, INC., and H. MINISCALCO & SONS, INC.

Kenneth L. Sabie, Chief Claims Attorney
Bruce M. Munderoff, Assistant Counsel
James W. Kutz, Assistant Counsel

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION

VS.



Date	Description	Amount of Claim: \$
September 5, 1984	Complaint and filing fee filed.	
September 7, 1984	Copies of Complaint forwarded to attorney for Defendant and Deputy Attorney General.	
January 21, 1985	Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.	
March 15, 1985	Letter received from attorney for Defendant withdrawing his Preliminary Objections based on an understanding reached between counsel. Copy forwarded to attorney for Plaintiff by attorney for Defendant.	
April 12, 1985	The Board rendered an Opinion and made the following Order: "AND NOW, this 12th day of April, 1985, the request of the Commonwealth of Pennsylvania to withdraw its Preliminary Objections is GRANTED and the Commonwealth is Directed therefore to file its Answer with New Matter as deemed Meet." Copies forwarded to attorney for Plaintiff and attorney for Defendant.	
April 12, 1985	Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.	
November 25, 1985	Answers to Plaintiff's Interrogatories Addressed to Defendant - First Set - filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.	
April 1, 1987	Defendant's Interrogatories to Plaintiffs, A Construction Corporation and H. Miniscalco & Sons, Inc. - First Set filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.	
May 4, 1987	Interrogatories Addressed to Defendant - Second Set filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.	
May 11, 1987	Response to New Matter filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.	

OVER

IA CONSTRUCTION CORPORATION, Individually
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DEPARTMENT OF TRANSPORTATION

Faul A. Logan, Esquire

James W. Kutz, Assistant Counsel

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May 21, 1987 Answers to Defendant's Interrogatories to Plaintiffs. IA Construction Corporation and
H. Miniscalco & Sons, Inc. - First Set filed by attorney for Plaintiff. Copy
forwarded to attorney for Defendant by attorney for Plaintiff.

June 5, 1987 Answers to Interrogatories Addressed to Defendant - Second Set filed by attorney for
Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

November 28, 1988 Request for Production of Documents filed by attorney for Plaintiff. Copy forwarded
to attorney for Defendant by attorney for Plaintiff.

November 28, 1988 Notice of Taking Deposition of Joseph Meshan filed by attorney for Plaintiff. Copy
forwarded to attorney for Defendant by attorney for Plaintiff.

December 2, 1988 Response to Plaintiff's Request for Production of Documents filed by attorney for
Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 9, 1988 Plaintiffs' Second Set of Containing Interrogatories to Defendant filed by attorney for
Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 28, 1989 Answers to Plaintiffs' Second Set on Containing Interrogatories to Defendant filed by
attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for
Defendant.

March 1, 1989 Defendant's Second Request for Production of Documents filed by attorney for
Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

March 1, 1989 Defendant's Interrogatories to Plaintiff, I.A. Construction Corporation and I.
Miniscalco & Sons, Inc. - Second Set filed by attorney for Defendant. Copy forwarded
to attorney for Plaintiff by attorney for Defendant.

March 1, 1989 Defendant's Request for Admissions filed by attorney for Defendant. Copy forwarded
to attorney for Plaintiff by attorney for Defendant.

March 22, 1989 Discovery Stipulation filed by attorney for Defendant. Copy forwarded to attorney
for Plaintiff by attorney for Defendant.

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James W. Kutz, Assistant Counsel

Docket No. 957

CLOSED

MULTIPLE COPIES



March 28, 1989 Hearing scheduled for May 30 and 31, 1989, June 1 and 2, 1989, and June 6, 7, 8, and 9, 1989, if necessary, in Board's Courtroom No. 1, 707 Transportation and Safety Building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

March 29, 1989 Answers to Requests for Adm. ssion filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

March 29, 1989 Plaintiff's Response to Defendant's Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 13, 1989 Proposed Order and Motion to Amend Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 13, 1989 Amended Complaint filed by attorney for Plaintiff. Amount of Claim: \$178,006.06+.

April 19, 1989 Supplemental Answers to PenDot's Second Set of Continuing Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 19, 1989 Supplemental Answers to Requests for Admission filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

April 21, 1989 Letter/Response to Plaintiff's Motion to Amend its Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 10, 1989 The Board rendered an Opinion and made the following Order: "AND NOW, this 10th day of May, 1989, upon due consideration of the Plaintiff's Motion to Amend Complaint and noting that Defendant raises no objection to the said MOTION, the same is GRANTED. It is further ORDERED that the Defendant shall file its Answer to the Amended Complaint on or before May 26, 1989, so as to allow for timely review of the Answer prior to May 30, 1989. It is so Ordered." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 15, 1989 Copies of Amended Complaint forwarded to attorney for Defendant and Chief Deputy Attorney General.

over

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- May 12, 1989 Acceptance of Service of Opinion and Order dated May 10, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 11, 1989.
- May 16, 1989 Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 15, 1989.
- May 25, 1989 Answer to Amended Complaint and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.
- May 25, 1989 Supplemental Answers to Plaintiff's Second Set of Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.
- May 26, 1989 Plaintiffs' Supplemental Answers to Defendant's Second Set of Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.
- May 30, 1989 Plaintiffs' Answer to New Matter filed by attorney for Plaintiff at time of hearing.
- May 30, 1989 Hearing held in Board's Court Room No. 1 beginning at 10:00 a.m.
- May 31, 1989 Hearing held in Board's Court Room No. 1 beginning at 10:00 a.m.
- June 1, 1989 Hearing held in Board's Court Room No. 1 beginning at 10:00 a.m.
- June 2, 1989 Hearing held in Board's Court Room No. 1 beginning at 10:00 a.m.
- June 6, 1989 Hearing held in Board's Court Room No. 1 beginning at 10:00 a.m.
- June 7, 1989 Hearing held in Board's Court Room No. 1 beginning at 10:00 a.m.
- June 8, 1989 Hearing held in Board's Court Room No. 1 beginning at 10:00 a.m. Case completed.
- August 10, 1989 Testimonies of hearings held May 30 and 31, 1989 filed.
- August 11, 1989 Testimonies of hearings held June 1 and 2, 1989 filed.

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DEPARTMENT OF TRANSPORTATION

FORM
No. 30-11

Paul A. Logan, Esquire
Mark F. Brancato, Esquire

James W. Kutz, Assistant Counsel

Docket No. 957

CLOSED

August 14, 1989 Copy of Testimony for hearings held May 30 and 31, 1989 and June 1 and 2, 1989 forwarded to attorney for Defendant.

August 15, 1989 Acceptance of Service of Testimony for hearings held June 1 and 2, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 14, 1989.

August 15, 1989 Testimony for hearings held June 6 and 7, 1989 filed.

August 16, 1989 Testimony for hearing held June 8, 1989 filed.

August 17, 1989 Copy of Testimony for hearings held June 6, 7 and 8, 1989 forwarded to attorney for Defendant.

August 17, 1989 Acceptance of Service of Testimony for hearings held May 30, and May 31, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 16, 1989.

August 18, 1989 Acceptance of Service of Testimony for hearings held June 6, 7 and 8, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant August 17, 1989.

October 2, 1989 Plaintiffs' Proposed Findings of Fact and Conclusions of Law and Plaintiffs' Memorandum of Law in Support of Proposed Findings of Fact and Conclusions of Law filed by attorney for Plaintiff. Copies forwarded to attorney for Defendant by attorney for Plaintiff.

October 10, 1989 Entry of Appearance filed by Mark F. Brancato, Esquire, attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 4, 1989 Defendant's Proposed Findings of Fact and Conclusions of Law and Defendant's Memorandum of Law in Support of Proposed Findings of Fact and Conclusions of Law filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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VS.

COMMONWEALTH OF PENNSYLVANIA,
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Paul A. Logan, Esquire
Mark F. Brancato, Esquire

DOCKET NO. 957

CLOSED

James W. Kutz, Assistant Counsel

December 27, 1989

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

April 13, 1990

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 13th day of April, 1990, after hearing, the Board makes the following award in favor of the Plaintiffs. Plaintiff, H. Miniscalco & Sons, Inc., is awarded Sixty-One Thousand Nine Hundred Forty-Five Dollars (\$61,945.00) with interest per annum thereon at a rate of six percent (6%) per annum from May 14, 1984. Plaintiff, IA Construction Corporation, is awarded Eighteen Thousand One Hundred Forty-Four Dollars and Fifty Cents (\$18,144.50) with interest per annum thereon at a rate of six percent (6%) per annum from May 14, 1984. Each party to pay its own costs." Copies forwarded to attorneys for Plaintiffs, attorney for Defendant and Chief Deputy Attorney General.

April 16, 1990

Acceptance of Service of Opinion and Order dated April 13, 1990, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant April 13, 1990.

April 19, 1990

Acceptance of Service of Opinion and Order dated April 13, 1990, received from attorney for Plaintiff (Mark F. Brancato, Esquire). Receipt of same acknowledged by attorney for Plaintiff (Mark F. Brancato, Esquire) April 16, 1990.

April 19, 1990

Acceptance of Service of Opinion and Order dated April 13, 1990, received from attorney for Plaintiff (Paul A. Logan, Esquire). Receipt of same acknowledged by attorney for Plaintiff (Paul A. Logan, Esquire) April 17, 1990.

April 20, 1990

Acceptance of Service of Opinion and Order dated April 13, 1990, received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General April 17, 1990.

April 26, 1990

Motion for Modification of Findings of Fact, Conclusions of Law, Opinion and Order of this Board and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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vs.

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DEPARTMENT OF TRANSPORTATION

Mark F. Branzato, Esquire

Docket No. 957

CLOSED

James W. Kutz, Assistant Counsel

W. James

April 27, 1990

Response to Motion for Modification of Findings of Fact, Conclusions of Law, Opinion and Order of this Board filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

May 8, 1990

The Board made the following Amended Order: "AND NOW, this 8th day of May, 1990, upon consideration of the Motion for Modification of Findings of Fact, Conclusions of Law, Opinion and Order, it is hereby ORDERED that the Motion is granted. Finding of Fact No. 62 is hereby amended as follows: 62. Miniscalco's damages are as follows: Right-of-way shut-down \$2,775.41, Oil shut-down \$8,469.10 - \$11,174.51. Damages for change of scope of the job: Labor \$26,238.00, Equipment \$9,628.00, Material \$12,208.00, Miscellaneous \$1,482.00 - \$19,556.00; plus \$11,174.51 - \$60,730.51, plus 25% overhead: \$15,182.63; TOTAL EQUALS (D-27) \$75,913.14. Conclusion of Law No. 14 is amended as follows: 14. H. Miniscalco & Sons, Inc., is entitled to an award of \$75,913.14. Pages 37 and 38 of this Board's Opinion are amended to the following extent: The Board rules that Miniscalco's damages are as follows: Right-of-way shut-down \$2,775.41, Oil shut-down \$8,469.10 - \$11,174.51. Damages for change of scope of the job: Labor \$26,238.00, Miscellaneous \$1,482.00 - \$19,556.00, Material \$12,208.00, Equipment \$9,628.00, Miscellaneous \$1,482.00 - \$11,174.51. Damages for change of scope of the job: Labor \$26,238.00, Equipment \$9,628.00, Material \$12,208.00, Miscellaneous \$1,482.00 - \$19,556.00; plus \$11,174.51 - \$60,730.51, plus 25% overhead: \$15,182.63; Plus \$11,174.51 - \$60,730.51; Plus 25% overhead: \$15,182.63 - TOTAL EQUALS (D-27) \$75,913.14. The Order of this Board with respect to Miniscalco is amended as follows: Plaintiff, H. Miniscalco & Sons, Inc., is awarded Seventy-Five Thousand Nine Hundred Thirteen Dollars and Fourteen Cents (\$75,913.14) with interest per annum thereon at a rate of six percent (6%) per annum from May 14, 1984." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

May 10, 1990

Copy of Amended Order dated May 8, 1990 (inadvertently forwarded to Paul A. Logan Esquire) forwarded to attorney for Plaintiff.

May 11, 1990

Acceptance of Service of Amended Order dated May 8, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 10, 1990.

May 16, 1990

Acceptance of Service of Amended Order dated May 8, 1990 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff (undated)

May 17, 1990

Acceptance of Service of Amended Order dated May 10, 1990 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 14, 1990.

AKC

IA CONSTRUCTION CORPORATION, Individually
and for the use and benefit of H. MINISCALCO
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CLOSED

JAMES W. KUTZ, ASSISTANT COUNSEL

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

May 16, 1990 Copy of Petition for Review as filed in Commonwealth Court filed by attorney for Plaintiff.

May 23, 1990 Petition for Review received from Commonwealth Court. [No. 1040 C.D. 1990].

May 29, 1990 Copy of Cross-Petition as filed in Commonwealth Court filed by attorney for Defendant [No. 1100 C.D. 1990].

May 29, 1990 Copy of Cross-Petition for Review received from Commonwealth Court. [No. 1100 C.D. 1990].

May 8, 1991 Copy of Opinion and Order received from Commonwealth Court. Order as follows: "NOW, May 6, 1991, the orders of the Board of Claims dated April 13, 1990 and May 8, 1990, are affirmed insofar as they order that the Department of Transportation is liable for damages in this matter. Insofar as those orders set the amount of damages owed, the orders are vacated and the matter is remanded to the Board of Claims for proceedings deemed necessary to award damages pursuant to the force account provisions of the contract."

September 12, 1991 File returned from Commonwealth Court.

October 8, 1992 Agreement and Release, executed by parties, as well as letter advising the Defendant paid to Plaintiff the settlement amount, filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 24, 1992 The Board rendered an Opinion and made the following Order: "AND NOW, this 24th day of December, 1992, upon due consideration of the Agreement and Release of the parties and other submissions, it is hereby ORDERED that Defendant, Commonwealth of Pennsylvania, Department of Transportation, shall pay to Plaintiff, IAConstruction Corporation, Individually and for the use and benefit of H. Miniscalco & Sons, Inc., and H. Miniscalco & Sons, Inc., the sum of One Hundred Seventy-Five Thousand Dollars (\$175,000.00), which amount shall include the Fifty-Dollar (\$50.00) filing fee paid by the Plaintiff to commence this action, in full satisfaction and settlement of the matter. Further, the Board of Claims will treat the letter from Defendant's counsel

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James W. Kutz, Assistant Counsel

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December 24, 1992 dated October 5, 1992, as a Practise to discontinue with prejudice the matter docketed
(cont'd) to No. 957. It is so ORDERED that this matter be marked 'discontinued, settled and
ended with prejudice'. Each party to bear its own costs and attorneys' fees. Copy
forwarded to attorney for Plaintiff and attorney for Defendant.

January 4, 1993 Acceptance of Service of Opinion and Order dated December 24, 1992 received from
attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff
December 29, 1992.