

JAMES D. MORRISSEY, INC. and
J.D.M. MATERIALS CO., INC. and
EUREKA STONE QUARRY, INC.
VS.

William M. Barnes, Esquire

DOCKET NO. 996

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION

Kenneth M. Sable, Chief Claims Attorney

FORM
10-78

February 8, 1985 Complaint and filing fee filed. Amount of Claim: TOTAL - \$714,739.00.
James D Morrissey, Inc. - \$302,191.00
J.D.M. Materials, Co., Inc. - \$53,317.00
Eureka Stone Quarry, Inc. - \$59,231.00

February 13, 1985 Copies of Complaint forwarded to attorney for Defendant and Deputy Attorney General.

March 15, 1985 Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney
for Plaintiff by attorney for Defendant.

April 8, 1985 Reply to New Matter filed by attorney for Plaintiff. Copy forwarded to attorney for
Defendant by attorney for Plaintiff.

November 1, 1988 Notice of Deposition of James D. Morrissey, Inc., J.D.M. Materials Co., Inc., and
Eureka Stone Quarry, Inc. filed by attorney for Defendant. Copy forwarded to
attorney for Plaintiff by attorney for Defendant.

November 1, 1988 Request for Production of documents of James D. Morrissey, Inc., J.D.M. Materials
Co., Inc., and Eureka Stone Quarry, Inc. filed by attorney for Defendant. Copy
forwarded to attorney for Plaintiff by attorney for Defendant.

November 18, 1988 Hearing scheduled for February 14, 15, 16 and 17, 1989, as well as February 21, 22,
23 and 24, 1989, if necessary, in Board's Courtroom No. 1, 707 Transportation and
Safety building, Harrisburg, Pennsylvania, commencing at 10:00 a.m.

November 23, 1988 Notice of Deposition of Eureka Stone Quarry, Inc. filed by attorney for Defendant.
Copy forwarded to attorney for Plaintiff by attorney for Defendant.

December 22, 1988 Notice to take Deposition of James D. Morrissey, Inc., J.D.M. Materials Company,
Inc., and Eureka Stone Quarry, Inc. filed by attorney for Defendant. Copy forwarded
to attorney for Plaintiff by attorney for Defendant.

February 14, 1989 Hearing held this date in Board's Courtroom No. 1 commencing at 10:00 a.m.

OVER

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February 14, 1989 Memorandum of Law Submitted on Behalf of Defendant Regarding Res Judicata or Collateral Estoppel Effect of Commonwealth Court Preliminary Injunction filed by attorney for Defendant at time of hearing. Copy given to attorney for Plaintiff.

February 15, 1989 Hearing held this date in Board's Courtroom No. 1 commencing at 10:00 a.m. Case to be continued on February 21, 1989.

February 21, 1989 Hearing held this date in Board's Courtroom No. 1 commencing at 10:15 a.m.

February 22, 1989 Hearing held in Board's Courtroom No. 1 commencing at 10:30 a.m. Case concluded subject to re-opening or rebuttal if requested.

March 7, 1989 Hearing scheduled for March 9, 1989, for completion, in Board's Courtroom No. 1 commencing at 10:00 a.m.

March 9, 1989 Hearing held in Board's Courtroom No. 1 commencing at 10:25 a.m. Case completed.

March 16, 1989 Testimony of hearing held February 14, 1989 filed.

March 17, 1989 Copy of testimony of hearing held February 14, 1989 forwarded to attorney for Defendant.

March 21, 1989 Testimony of hearing held February 15, 1989 filed.

March 21, 1989 Acceptance of Service of Testimony of hearing held February 14, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 20, 1989.

March 23, 1989 Copy of testimony of hearing held February 15, 1989 forwarded to attorney for Defendant.

March 29, 1989 Testimony of hearing held February 21 and 22, 1989 filed.

March 30, 1989 Copies of testimony of hearing held February 21 and 22, 1989 forwarded to attorney for Defendant.

- Over -

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March 27, 1989 Acceptance of Service of Testimony for hearing held February 15, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 23, 1989.

April 3, 1989 Acceptance of Service of Testimony for hearing held February 21 and 22, 1989 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 31, 1989.

September 7, 1989 Testimony of hearing held March 9, 1989 filed.

September 8, 1989 Copies of Testimony for hearing held March 9, 1989 forwarded to attorney for Defendant.

September 12, 1989 Acceptance of Service of Testimony for hearing held March 9, 1989, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 11, 1989.

October 26, 1989 Plaintiffs' Proposed Findings of Fact, Conclusions of Law and Memorandum in Support thereof filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 18, 1989 Motion to Preclude Defendant's Post Hearing Filing and for Judgment in Favor of Plaintiffs and Proposed Order filed by Plaintiff via fax. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

December 19, 1989 Motion to Preclude Defendant's Post Hearing Filing and for Judgment in Favor of Plaintiffs and Proposed Order filed by Plaintiff via mail. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

January 11, 1990 Defendant's Post-Hearing Memorandum with Requested 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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Kenneth L. Sabie, Chief Claims Attorney

February 12, 1990 Plaintiffs' Reply to Defendant's Post-Hearing Memorandum with Requested Findings of Fact and Conclusions of Law filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

February 15, 1990 The Board rendered an Opinion and made the following Order: "AND NOW, this 15th day of February, 1990, it is ORDERED and DECREED that the Plaintiffs' Motion to Preclude Defendant's Post Hearing Filing and for Judgment in Favor of Plaintiffs, filed December 29, 1989, should be and hereby is DISMISSED same having been rendered moot by the filing of defendant's Post Hearing Brief, Proposed Findings of Fact and Proposed Conclusions of Law. Copies forwarded to attorney for Plaintiff and attorney for Defendant.

February 11, 1990 Acceptance of Service of Opinion and Order dated February 15, 1990, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant February 20, 1990.

March 26, 1990 Acceptance of Service of Opinion and Order dated February 15, 1990, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff February 19, 1990.

May 22, 1990 The Board rendered an Opinion and made the following Order: "AND NOW, this 22nd day of May, 1990, an award is hereby entered in favor of James D. Morrissey, Inc., in the amount of \$152,151.16 with six percent (6%) interest from January 1, 1985 and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation; further an award is hereby entered in favor of J.T.M. Materials Co., Inc. in the amount of Nineteen Thousand Seven Hundred Sixty-One Dollars and Seventy-Seven Cents (\$19,761.77) with interest at six percent (6%) from January 1, 1985, and against the Commonwealth of Pennsylvania, Department of Transportation; further, an award and judgment is hereby entered in favor of the Commonwealth of Pennsylvania, Department of Transportation against Eureka Stone Quarry, Inc., upon the claim of Eureka Stone Quarry, Inc." Copy forwarded to attorney for Plaintiff, attorney for Defendant and Chief Deputy Attorney General.

May 24, 1990 Acceptance of Service of Opinion and Order dated May 22, 1990 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 23, 1990.

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May 29, 1990 Acceptance of Service of Opinion and Order dated May 22, 1990 received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General May 23, 1990.

May 30, 1990 Acceptance of Service of Opinion and Order dated May 22, 1990 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff May 24, 1990.

June 21, 1990 Petition for Reconsideration filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

June 22, 1990 Copy of Petition for Review as filed in Commonwealth Court filed by attorney for Plaintiff.

June 26, 1990 Petition for Review received from Commonwealth Court. (No. 1308 C.D. 1990)

June 26, 1990 Motion to Strike Plaintiff's Petition for Reconsideration filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

June 26, 1990 Copy of Cross-Petition for Review as filed in Commonwealth Court filed by attorney for Defendant.

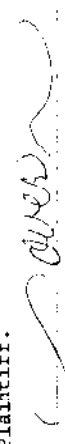
July 2, 1990 Cross-Petition for Review received from Commonwealth Court. (No. 1344 C.D. 1990)

July 26, 1990 File transmitted to Commonwealth Court.

August 13, 1990 Copy Designation of James D. Morrissey, Inc., J.D.M. Materials Co., Inc. and Eureka Stone Quarry, Inc. of Contents of Reproduced Record In No. 1308 C.D. 1990, as well as Statement of Issues for Review of Petitioners, James D. Morrissey, Inc., J.D.M. Materials Co., Inc. and Eureka Stone Quarry, Inc. as filed in Commonwealth Court received from attorney for Plaintiff.

August 28, 1990 Supplemental Designation of James D. Morrissey, Inc., J.D.M. Materials Co., Inc. and Eureka Stone Quarry, Inc. of Contents of Reproduced Record as filed in Commonwealth Court filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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JR



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~~Kenneth B. Babler, Chief Claims Attorney~~

September 11, 1990 Brief of Petitioner; as filed in Commonwealth Court filed by attorney for Plaintiff.
Copy forwarded to attorney for Defendant by attorney for Plaintiff.

October 3, 1990 The Board rendered an Opinion and made the following Order: "AND NOW, this 3rd day of
October 1990, it is ORDERED and DECREED that the Petition for Reconsideration filed
by Plaintiff, James D. Morrissey, Inc. and J.D.M. Materials Co., Inc. and Eureka
Stone Quarry, Inc., be and is hereby, DISMISSED as being moot in light of the Board's
loss of jurisdiction to proceed further." Copies forwarded to attorney for Plaintiff
and attorney for Defendant.

October 5, 1990 Acceptance of Service of Opinion and Order dated October 3, 1990 received from
attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff
October 4, 1990.

October 11, 1990 Acceptance of Service of Opinion and Order dated October 3, 1990 received from
attorney for Defendant. Receipt of same acknowledged by attorney for Defendant
October 8, 1990.

November 26, 1990 Copy of Reply Brief of Petitioners in No. 1308 C.D. 1990 and Respondents in No. 1344
C.D. 1990 as filed in Commonwealth Court filed by attorney for Plaintiff. Copy
forwarded to attorney for Defendant by attorney for Plaintiff. (Nos. 1308 C.D. 1990
and 1344 C.D. 1990 .

January 22, 1991 Copy of Opinion and Order received from Commonwealth Court. Order as follows: "AND
NOW, January 17, 1991, the order of the Board of Claims in the above-captioned matter
is affirmed."

March 25, 1991 File returned from Commonwealth Court.