

DOCKET NO. 173

NUMBER TERM YEAR

138 February 1961

Sandy Township

VERSUS

Hemes Drilling Corp

Fidelity & Casualty Co of N.Y.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

No. 1 Term, 1966
In Assumpsit

SANDY TOWNSHIP

VS

JAMES DRILLING CORP. and
FIDELITY & CASUALTY COMPANY
OF NEW YORK

COMPLAINT

TO THE WITHIN DEFENDANTS:

You are hereby required to
file an Answer to the within
Complaint within twenty days
from service hereof.

SMITH, SMITH & WORK

BY W.D. Smith
Attys. for Plaintiff

SMITH, SMITH & WORK
ATTORNEYS-AT-LAW
CLEARFIELD, PA.

Lap-over Margin

11 Nov 66 - 73 1966. Same as me by copy
W.D. Smith
Attys. for Plaintiff
to court clerk
to court clerk

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDY TOWNSHIP

VS

No. 138 February Term, 1961

JAMES DRILLING CORPORATION
and THE FIDELITY AND CASUALTY
COMPANY OF NEW YORK

PRAECIPE FOR DISCONTINUANCE

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Mark the above records satisfied and discontinued upon
payment of costs.

SMITH, SMITH & WORK

BY W. Y. Smith
Attys. for Plaintiff

Dated: April 5, 1961

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

No. 138, February Term, 1961

SANDY TOWNSHIP

vs.

JAMES DRILLING CORPORATION
and THE FIDELITY AND CASUALTY
COMPANY OF NEW YORK

WARRANT FOR DISCONTINUANCE

FILED
APR-8 1961
WM. T. HAGERTY
PROTHONOTARY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDY TOWNSHIP

VS.


No. 138 Feb. Term, 1961
In Assumpsit

JAMES DRILLING CORPORATION
and THE FIDELITY AND CASUALTY
COMPANY OF NEW YORK.

APPEARANCE IN BEHALF
OF DEFENDANTS

To William T. Hagerty, Esq., Prothonotary:

Enter my appearance in the above entitled case as
Attorney for James Drilling Corporation and for the Fidelity and
Casualty Company of New York, defendants.


ATTORNEY FOR JAMES DRILLING
CORPORATION AND THE
FIDELITY AND CASUALTY
COMPANY OF NEW YORK

March 9, 1961.

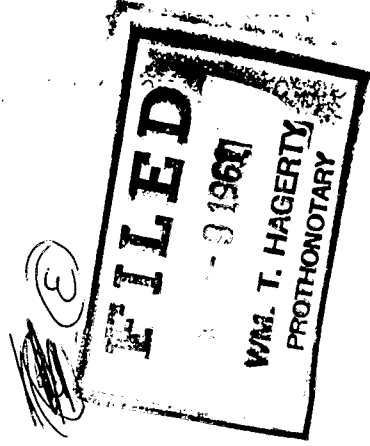
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 138 Feb. Term, 1961
In Assumpsit

SANDY TOWNSHIP

VS.

JAMES DRILLING CORPORATION
AND THE FIDELITY AND
CASUALTY COMPANY OF NEW
YORK

APPEARANCE IN BEHALF
OF DEFENDANTS



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SANDY TOWNSHIP

VS

JAMES DRILLING CORPORATION and
THE FIDELITY AND CASUALTY
COMPANY OF NEW YORK

:
:
:
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:
:

138 Feb
No. ~~November~~ Term, 1960

In Assumpsit

C O M P L A I N T

(1). The name of the Plaintiff is Sandy Township, a Second Class Township in the County of Clearfield, State of Pennsylvania.

(2). The names of the Defendants are the James Drilling Corporation, a Pennsylvania corporation, with principal office at 250 Newport Road, Blairsville, Pennsylvania; and The Fidelity and Casualty Company of New York, a New York corporation, with place of business at 200 S. Craig Street, Pittsburgh, Pennsylvania.

(3). On or about March 14, 1960, the Plaintiff and Defendant, James Drilling Corporation, entered into an agreement, a copy of which is attached hereto, incorporated herein, and marked "Exhibit A", which permitted the Defendant to make extraordinary use of certain roads in Sandy Township as outlined in said contract.

(4). As a further condition of said use, James Drilling caused to be secured as security for the Plaintiff a certain bond with The Fidelity and Casualty Company of New York as Surety, and James Drilling Corporation as Principal. A copy of said bond is attached hereto, incorporated herein, and marked "Exhibit B".

(5). Commencing on or about March 14, 1960, the Defendant, James Drilling, through its servants and employees, entered upon said road and made extraordinary use thereof, hauling over the same extremely heavy loads of drilling equipment and supplies necessary to drill the profitable gas wells which they located in Sandy Township.

(6). As a result of the use of James Drilling Corporation, said road for all practical purposes was destroyed and had to be rebuilt.

(7). The Plaintiff, through its servants and employees, expended the sum of \$987.60 for labor and materials to temporarily repair the road.

(8). The Plaintiff thereafter placed the contract for repairing this road for bid, and the lowest bidder - which was accepted - was \$3379.20.

(9). Pursuant to Paragraph 4 of said Agreement, notice of these repairs, together with their costs, was duly served upon the Defendant, James Drilling Corporation, by registered mail, return receipt requested, on September 2, 1960. A copy of the return receipt showing service upon the Defendant, James Drilling Corporation, is attached hereto, incorporated herein, and marked "Exhibit C".

(10). Pursuant to Paragraph 4 of the Agreement, the Defendant, James Drilling Corporation, made no reply thereto, and, therefore, per the Agreement it was conclusively presumed they agreed with the statement of costs and repairs which the Township of Sandy sent to the Defendant, James Drilling Corporation.

(11). Repeated demands have been made upon James Drilling Corporation for payment of this obligation, but since they have moved to more profitable operations outside of the Township, they refuse to pay the same.

WHEREFORE, Plaintiff demands judgment in the amount of \$4366.80, with interest from September 2, 1960.

SMITH, SMITH & WORK

BY


Attys. for Plaintiff

STATE OF PENNSYLVANIA:

SS

COUNTY OF CLEARFIELD :

ROBERT C. SHAFFER, being duly sworn according to law, deposes and says he is the Chairman of the Supervisors of Sandy Township, and as such is authorized to make this Affidavit; further, the facts setforth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

Robert C. Shaffer
(Robert C. Shaffer)

Sworn and subscribed to
before me this 29th day
of November, 1960.

Mr. Melvin B. Singer
NOTARY PUBLIC
My Commission Expires
JANUARY 7, 1963

A G R E E M E N T

MADE AND ENTERED into this 14th day of March
1960, by and between James Drilling Co 250 Newport Road,
Blairsville Pa.
herein referred to as User

A
N
D

Sandy Township, a municipal subdivision of the County of Clearfield and
Commonwealth of Pennsylvania.

WHEREAS, User is in the business of
and intends to make use of certain roadways under the jurisdiction and
control of the Supervisors of Sandy Township; and,

WHEREAS, in making use of said roadways, User intends to employ
equipment which, together with loads contained therein, is in excess of
the gross weight limitation or the practical limitation which said roads
will bear without deterioration; and,

WHEREAS, User in order to use said roadways is therefor willing
to assume certain contractual responsibilities for excess wear and tear of
said roadways caused by its over use thereof.

W I T N E S S E T H:

(1) Sandy Township, through its Supervisors, will permit User
to haul over the Township Routes listed below vehicles and loads contained
therein which are in excess of the limitation posted on said road or in
excess of the practical limitation which may be used without deterioration
to said roadways.

The road to be bonded is 1.2 miles of Township road known as Township
route No 400 where said road departs from Legislative Route 17013
to where said route intersects with Township Route 402.

(2) In consideration therefor, User agrees to be liable and
responsible for the cost of repairs to the roadways and appurtenant drainage
ditches, sewers, culverts and bridges attendant thereto listed above, which
repairs are attributable to User's use of said roadways. User's liability
shall be limited to the cost of repairs to the surface, base or bed of
said portion of said roadways which are made necessary by its use thereof.
User shall not be liable for any repairs made necessary by Act of God or
ordinary deterioration which would take place without overweight usage,

unless such repairs are made necessary by User's use of said roads when, existing bases and surfaces are weakened by weather conditions or Acts of God.

(3) Within ten (10) days after the first initial use of the roadways listed above by User, User may deliver to the Supervisors of Sandy Township a detailed written report of the condition of said roadways listing thereon an itemization of existing damage thereto. In the event User fails to deliver said report or chooses not to deliver said report, then the roadways listed above shall conclusively be presumed to have been in good condition prior to the use thereof by the User.

(4) Prior to repair of damage to roadways used by User, when said damage is attributable to the use of the roadways by the User, the Supervisors of Sandy Township shall deliver to the User a written report setting forth in detail all repairs which the Supervisors allege were made necessary to the roadways through the use of the User. Such report shall state the approximate cost of the repairs involved. User shall then have a period of twenty (20) days to file written objection thereto with the Supervisors of Sandy Township, sending a copy thereof to its solicitor, William U. Smith, P. O. Box 130, Clearfield, Penna. In the event User fails to file said written objections, then the written report of the Sandy Township Supervisors shall be conclusively presumed to have been accurate.

(5) User shall have the right to terminate this agreement at any time by sending to the Supervisors of Sandy Township written notice of intention to cancel. However, User's liability under this agreement shall not terminate by cancellation if either:

(a) User continues or intends to continue to use roadways under the supervision of Sandy Township; and,

(b) Until thirty (30) days has elapsed after the filing of notice of intention to cancel to the end that the Sandy Township Supervisors may inspect the roadways used by User, and if damage has occurred thereto from the use of User, file with User a report of damage as referred to in Paragraph (4).

In the event of termination, then the assessment of damage, if any, caused to the roadways by use made by the User, shall be determined as provided in Paragraph (2).

(6) It is agreed the Supervisors shall have the right to terminate this agreement at any time by sending to the User written notice of intention to cancel.

(7) It is understood and agreed by the User that this agreement in no way confers upon the User an exclusive right to use the roadways listed herein, nor does it confer upon the User the right to use roadways in violation of any existing law, statute or regulation of the Commonwealth of Pennsylvania, United States of America, or any political subdivision thereof.

(8) Inasmuch as improper maintenance of drainage facilities, roadways, shoulders and berms, and inasmuch as lack of maintenance results in damage to the roadways, Sandy Township agrees to maintain such items properly and promptly. No damage attributable to the failure of Sandy Township to maintain such items shall be the responsibility of User.

(9) In order to secure the performance of its obligation under this agreement, User shall deliver to the Supervisors of Sandy Township a surety bond in the sum of Thirty Five Hundred Dollars (\$ 3500.00) Dollars, conditioned upon the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties have caused this agreement to

be duly executed.

Attest:

B. A. Dunlap
Secretary

James Dilling Corporation
James D. Dilling
User

SANDY TOWNSHIP SUPERVISORS

BY

Supervisor

KNOW ALL MEN BY THESE PRESENTS, That we James Drilling Company, Inc. of 250 Newport Road, Blairsville, Pennsylvania as Principal, and The Fidelity and Casualty Company of New York, a Corporation of the State of New York, and authorized to do business in the State of Pennsylvania, as Surety, are held and firmly bound unto the Township of Sandy, Clearfield County, Pennsylvania, in the full and just sum of THREE THOUSAND FIVE HUNDRED AND NO/100 (\$3500.00) DOLLARS, which is lawful money of the United States for the payment of which well and truly to be made, we, and each of us, bind ourselves, our successors, and assigns jointly and severally, by there presents.

WHEREAS, The said Principal in the development of business in the Township of Sandy, Clearfield County, Pennsylvania, will make use of 1.2 Miles of Township road known as Township route No. 400 where said road departs from Legislative Route 17013 to where said route intersects with Township Route 402 under the jurisdiction and control of the said Township; and

WHEREAS, in making use of said road the Principal utilizes unlicensed and/or licensed equipment which, together with the loads contained therein, is in the excess of the Legal Load; and

WHEREAS, the manner and use of said road consists of constant and repeated trips across the road and over a defined area which may cause damage to the road by reason of such use; and

WHEREAS, the said Principal deems it necessary to conduct his operations in said manner and is therefore willing to assume certain contractual responsibility for any damages that may occur to said road for a period of one year after the termination of use, during which period evidence of damage may occur; and

WHEREAS, Township under and pursuant to legal authority in the premises, is willing to permit such use of said road on the basis above mentioned.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That if the said Principal shall fulfill the terms of the agreement, a copy of which is attached hereto and made a part hereof, and will replace any section of the road or its appurtenances, any structures, also the base or the bed of the roadway which may be damaged by said Principal whether or not such damage may be attributed to negligence on the part of the Principal, then this obligation shall be null and void, otherwise to be in full force and effect.

SIGNED with our seals, and dated this 25th day of March, 1960.

JAMES DRILLING COMPANY, INC.

C. A. Bunker
Secretary

By James L. Hearn
President

THE FIDELITY AND CASUALTY
COMPANY OF NEW YORK

Albert J. Gougeon
Attorney

By Richard J. Sobocinski
Attorney

The Fidelity and Casualty Company of New York

GENERAL POWER OF ATTORNEY

Know all men by these Presents, That the FIDELITY AND CASUALTY COMPANY OF NEW YORK has made, constituted, and appointed, and by these presents does make, constitute, and appoint

Richard J. Sobocinski of Pittsburgh, Pennsylvania

its true and lawful attorney for it and in its name, place and stead to execute on behalf of the said Company, as surety, bonds, undertakings and contracts of suretyship to be given to

all obligees

provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of ONE HUNDRED THOUSAND (\$100,000) DOLLARS.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of THE FIDELITY AND CASUALTY COMPANY OF NEW YORK at a meeting duly called and held on the 16th day of October, 1957:

"RESOLVED, that the Chairman of the Board, the President, an Executive Vice President or any Vice President of the Company, be, and that each or any of them hereby is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of THE FIDELITY AND CASUALTY COMPANY OF NEW YORK, bonds, undertakings and all contracts of suretyship; and that any Secretary or any Assistant Secretary be, and that each or any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company.

FURTHER RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached."

In Witness Whereof THE FIDELITY AND CASUALTY COMPANY OF NEW YORK has caused its official seal to be hereunto affixed, and these presents to be signed by one of its Vice Presidents and attested by one of its Secretaries this 31st day of March, 1959.

THE FIDELITY AND CASUALTY COMPANY OF NEW YORK

Attest:

By

E. J. Miller

Secretary



Carroll R. Young

Vice-President

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

On this 31st day of March, 1959, before me personally came Carroll R. Young, to me known, who being by me duly sworn, did depose and say: that he resides in Berkeley Heights in the County of Union, State of New Jersey, at 23 Ridge Drive East; that he is a Vice-President of THE FIDELITY AND CASUALTY COMPANY OF NEW YORK, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



CERTIFICATE

Robert J. Mettalia

ROBERT J. METTALIA
Notary Public - State of New York
No. 41-2675700
Qualified in Queens County
Certificate Filed in New York County
Term Expires March 30, 1961

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:

I, the undersigned, a Secretary of THE FIDELITY AND CASUALTY COMPANY OF NEW YORK, a New York corporation, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney, is now in force.

Signed and sealed at the City of New York. Dated the 25th day of March, 19 60.



E. J. Miller

Secretary



The Fidelity and Casualty Company of New York

OFFICERS

WILLIAM E. LAMM, JR. Chairman of the Board
and President

CHOLAS DEKKER Executive Vice President

WILLIAM E. LAMM, JR. Vice President
and Secretary

OFFICES

HOME OFFICE 80 Maiden Lane, New York City 38

WESTERN DEPT. 360 West Jackson Blvd., Chicago 6

PACIFIC DEPT. 160 Pine Street, San Francisco 11

SOUTHERN DEPT. 10 Pryor Street, S. W., Atlanta 3

SOUTHWESTERN DEPT. 1505 Federal Street, Dallas 1

CANADIAN DEPT. 3600 Van Horne Avenue, Montreal 26

Branch Offices and Agencies in all Principal Cities



Bond No. S1303498

Obligee: Township of Sandy

Principal: James Drilling Company

Amount of Bond: \$ 3,500.

Premium: \$ 52.50

Date of Bond: March 25, 19 60



The Fidelity and Casualty Company of New York

80 MAIDEN LANE NEW YORK 38, N. Y.