

Docket Number: 599

SLATTERY ASSOCIATES, INC., on its own behalf and on behalf of W.V.  
PANGBORNE & CO., INC.

William A. DeStefano, Esquire

VS.

CLOSED

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

Michael D. Reed, Esquire and  
Kenneth L. Sable, Assistant Counsel

**August 7, 1978**

Claim and filing fee filed. Amount of Claim: \$339,422.00. Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General.

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**September 27, 1978**

Preliminary Objections filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**October 2, 1978**

Motion to Close the Pleadings, Convene Hearing and Enter Judgment on the Pleadings in Favor of Plaintiff filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**October 16, 1978**

Plaintiff's Reply to Defendant's Preliminary Objections filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**November 16, 1978**

Preliminary Objections of Defendant withdrawn by letter dated November 15, 1978.

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**January 4, 1979**

Answer filed by Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**March 22, 1979**

Interrogatories to Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**June 21, 1979**

Answer to Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**October 3, 1980**

Motion to Amend Pleadings, Memorandum of Law in Support and Amended Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**October 7, 1980**

Defendant's First Set of Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**October 27, 1980**

Petition for Leave to Join Additional Defendants filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff (only) by attorney for Defendant.

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**October 31, 1980**

The Board rendered an Opinion and made the following Order: "AND NOW, this 31st day of October, the Defendant's Motion to Amend Pleadings is hereby granted." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**October 31, 1980**

The Board rendered the following Order: "AND NOW, this 31st day of October, 1980, upon review of the Petition of the Commonwealth of Pennsylvania, Department of Transportation, for leave to join Additional Defendants, the Board of Claims hereby issues a Rule upon: 1. Amman and Whitney, Inc., 2. The Department of Public Property of the city of Philadelphia, and, 3. The southeastern Pennsylvania Transportation Authority to show cause why it should not be joined as an Additional Defendant in the above captioned matter. Rule returnable within thirty (30) days of receipt hereof." Copy forwarded to attorney for Plaintiff, attorney for Defendant, Amman and Whitney, Inc., The Department of Public Property of the city of Philadelphia, and SEPTA.

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**November 7, 1980**

Brief in Opposition to Petition for Leave to Join Additional Defendants, Motion for Reconsideration and Brief in Opposition to Motion to Amend Pleadings, and Reply to Request for Admissions filed by attorney for Plaintiff. Copy forwarded to all parties of interest by attorney for Plaintiff.

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**November 12, 1980**

Response to Plaintiffs' Motion for Reconsideration of the Board's Decision to Allow Amendments to the Department's Answer and Brief in Support filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**November 19, 1980**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 19th day of November, 1980, Plaintiff's Motion for Reconsideration is denied, and Plaintiff is **ORDERED** to file a Reply to Defendant's New Matter within twenty (20) days from the date hereof." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**November 24, 1980**

Answer of SEPTA to Petition for Leave to Join Additional Defendants filed by attorney for SEPTA. Copies forwarded to attorney for Plaintiff and attorney for Defendant, Amman & Whitney and Dept. of Public Property by attorney for SEPTA.

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**November 28, 1980**

Plaintiff's Answers & Objections to Defendant's 1st Set of Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**December 4, 1980**

Plaintiff's Reply to Defendant's New Matter filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**December 23, 1980**

Answer of Proposed Additional Defendant, Amman and Whitney, Inc., to Defendant's Petition for Extension of Time to Join Additional Defendants, as well as Memorandum of Law in Opposition to Late Joinder, filed by attorney for Amman and Whitney, Inc. Copies forwarded to all counsel of record by attorney for Amman and Whitney, Inc.

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**January 6, 1981**

Letter received from proposed Additional Defendant Department of Public Property. Copy forwarded to all counsel of record by attorney for Department of Public Property.

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**February 6, 1981**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 6th day of February, 1981, the request of the Defendant, Commonwealth of Pennsylvania, Department of Transportation, to be allowed to file Complaints against Additional Defendants, is hereby denied." Copies forwarded to attorney for Plaintiff, attorney for

Defendant, attorney for Amman & Whitney, attorney for SEPTA and attorney for Dept. of Public Property.

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**March 26, 1981**

Notice of Taking Deposition on Oral Examination filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**April 21, 1981**

Defendant's Second Set of Interrogatories to Plaintiff filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**May 13, 1981**

Depositions of (1) Lynn W. McQuade, (2) James E. Busch, (3) Robert F. Edward, (4) Thomas A. Horvai and (5) Theodore P. Pawski filed by attorney for Defendant.

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**June 16, 1981**

Plaintiff's Answers to Defendant's Second Set of Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**September 25, 1981**

Notice of Taking of Depositions of Richard F. Hill, John Flack, Thomas A. Horvai, Thomas Margro and Wilbur Bourse filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**October 5, 1981**

Supplemental Answers to 1st Set of Interrogatories filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**October 7, 1981**

Hearing scheduled for January 5 through 8, 1982 as well as January 12 through 14, 1982, if necessary, in Board's Court Room at 10 a.m.

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**October 7, 1981**

Amended Answers to Interrogatories filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**November 24, 1981**

Answers to Plaintiff's Interrogatories (2nd Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**November 30, 1981**

Deposition of James R. Ruckel filed by parties.

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**December 11, 1981**

Answers to Plaintiff's Interrogatories to Defendant - Set Number Two filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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Notice of Taking Deposition of Bruce Pinney filed by attorney for Defendant.

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Motion in Limine filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**December 23, 1981**

Plaintiff's Reply to Motion in Limine filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**December 23, 1981**

Defendant's 3rd Set of Interrogatories to Plaintiff filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**December 30, 1981**

Deposition of J.A. Bruce Pinney filed.

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**December 30, 1981**

Supplemental Answers to Plaintiff's Interrogatories to Defendant (2nd Set) filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**December 31, 1981**

Response to Plaintiff's Reply to Defendant's Motion In Limine filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**January 5, 1982**

Hearing held in Board's Court Room at 10 a.m.

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**January 5, 1982**

Depositions of Richard F. Hill, John R. Flack, Thomas Margro, J. Wilbur Boorse and Richard G. Windisch filed at time of hearing.

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**January 5, 1982**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 5th day of January, 1982, the Board **DISMISSES** the Commonwealth of Pennsylvania, Department of Transportation's Motion in Limine and grants an exception to the Commonwealth." Copy of Opinion and Order given to attorney for Plaintiff and attorney for Defendant at time of hearing.

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**January 6, 1982**

Hearing held in Board's Court Room at 10 a.m.

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**January 7, 1982**

Hearing held in Board's Court Room at 10 a.m.

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**January 8, 1982**

Hearing held in Board's Court Room at 10 a.m.

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**January 12, 1982**

Hearing held in Board's Court Room at 10 a.m.

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**January 13, 1982**

Hearing held in Board's Court Room at 10 a.m.

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**January 14, 1982**

Hearing held in Board's Court Room at 10 a.m. Case completed.

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**February 3, 1982**

Testimony of hearing held January 5, 6, 7 and 8, 1982 filed. Copy forwarded to attorney for Defendant.

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**February 8, 1982**

Plaintiff's Request for Production of Documents Addressed to Defendant Pursuant to Pa. R.C.P. 4009 filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**February 9, 1982**

Testimony of hearing held January 12, 13 and 14, 1982 filed.

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**February 9, 1982**

Request for Production of Documents filed by attorney for Defendant.  
Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**February 11, 1982**

Copies of testimony of hearing held January 12, 13 and 14, 1982 forwarded to attorney for Defendant.

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**March 2, 1982**

Department's Response to Plaintiff's Request for Production of Documents filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**March 2, 1982**

Hearing scheduled for May 11 through May 14, 1982, if necessary, in Board's Court Room at 10 a.m.

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**March 22, 1982**

Motion for Order Compelling Production of Documents filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**March 24, 1982**

Response to Plaintiff's Motion For An Order Compelling Production of Documents and Cross-Motion for An Order Compelling Documents filed by attorney for Defendant.

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**March 31, 1982**

The Board rendered an Opinion and made the following Order: "Upon review of the case material as hereinbefore produced, a review of the correspondence, Motion for Order Compelling Production of Documents, Plaintiff's Request for Production of Documents Addressed to Defendant Pursuant to PA. R.C.P. 4009, a review of the Commonwealth's Request for Production of Documents and the Commonwealth's Response to Plaintiff's Motion for an Order Compelling Production of Documents, the Board Directs that each party comply with each others request and arrange a mutually convenient date, place and time well in advance of trial to exchange the requested documents. Under no circumstances will the case be continued. The Board reserves the right to issue Sanctions as may deem meet."

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**April 1, 1982**



Copies of Opinion and Order dated March 31, 1982 forwarded to attorney for Plaintiff and attorney for Defendant.

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**May 11, 1982**

Hearing held in Board's Court Room at 10 a.m.

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**May 12, 1982**

Hearing held in Board's Court Room at 10 a.m. Case completed.

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**June 2, 1982**

Testimony of hearing held May 11 and May 12, 1982 filed.

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**June 7, 1982**

Copies of testimony of hearing held May 11 and May 12, 1982 forwarded to attorney for Defendant.

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**October 4, 1982**

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

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**December 3, 1982**

Stipulation filed by attorney for Defendant and attorney for Plaintiff.

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**December 3, 1982**

The Board made the following Order: "Docketed this 3rd day of December, 1982 with this Board is a Stipulation of Counsel on behalf of the Claimant by William A. DeStefano, Esquire and on behalf of the Defendant, Commonwealth of Pennsylvania, Department of Transportation by Mark F. Brancato, Esquire, Assistant Counsel for the Department. The Board approves and Directs that the record of the case be opened for the limited purpose of allowing on behalf of the Commonwealth of Pennsylvania, Defendant's Exhibit No. 32, which is attached as a copy of Sheet 34 of 37 dated June 10, 1974."

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**December 4, 1982**

Copies of Order dated December 3, 1982 forwarded to attorney for Plaintiff and attorney for Defendant.

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**December 20, 1982**

Proposed Findings of Fact, Conclusions of Law and Supporting Brief filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**March 21, 1984**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 21st day of March, 1984, we find as follows: 1. In regard to Count One, we find in favor of the Plaintiff, Slattery Associates, Inc., on its own behalf and on the behalf of the W.V. Pangborne & Company, Inc. and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation in the amount of Eighteen Thousand Two Hundred Thirty-Seven Dollars and Thirty-One Cents (\$18,237.31) together with interest at the legal rate of six (6) percent per annum beginning from April 6, 1978. 2. In regard to Count Two, we find in favor of the Plaintiff, Slattery Associates, Inc., on its own behalf and on behalf of W.V. Pangborne & Company, Inc. and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation in the amount of Forty-Nine Thousand Eight Hundred Ninety-One Dollars and Seventy-Seven Cents (\$49,891.77) together with interest at the legal rate of six (6) percent per annum beginning from May 23, 1978. Each party to bear its own costs."

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**March 28, 1984**

Copies of Opinion and Order dated March 21, 1984 forwarded to attorney for Plaintiff and attorney for Defendant.

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**April 23, 1984**

Petition for Review in the Nature of an Appeal from an Order of the Board of Claims filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**April 27, 1984**

Petition for Review in the Nature of a Cross Appeal from an Order of the Board of Claims filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**May 4, 1984**

Petition for Review filed by Commonwealth Court. No. 1127 C.D. 1984.

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**May 9, 1984**

Petition for Review (Cross Appeal) filed by Commonwealth Court.  
No. 1246 C.D. 1984.

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**June 18, 1984**

File transmitted to Commonwealth Court.

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**October 29, 1986**

Copy of Opinion and Order received from Commonwealth Court. Order as follows: "AND NOW, this 28th day of October, 1986, the order of the Board of Claims, dated March 21, 1984 as relates to Count I of the above-captioned matter, is reversed insofar as it denied recovery to Slattery Associates, Inc., on its own behalf and on behalf of W.V. Pangborne & Company, Inc., for the costs of installing the fiberglass reinforced molded plastic insulators and this case is remanded for further proceedings not inconsistent with this Opinion. Jurisdiction relinquished."

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**October 29, 1986**

Dismissing Order filed by Collins, Inc.

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**January 15, 1987**

Copy of Application for Review as filed in Commonwealth Court on November 12, 1986 received from attorney for Defendant.

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**January 16, 1987**

Copy of Order rendered by Commonwealth Court filed by attorney for Plaintiff. Order as follows: "NOW, January 9, 1986, having considered the application for reargument filed by the Department of Transportation and the answer thereto of Slattery Associates, Inc., said Application is hereby denied."

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**March 16, 1987**

File returned from Commonwealth Court.

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**June 5, 1987**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 5th day of June, 1987, it is hereby **ORDERED** and **DECREED** that the matter will be heard on Oral Argument and Briefs submitted by Counsel for the parties only on the question of damages pertaining to the installation of the fiberglass reinforced molded plastic insulators involved in Count I of the Complaint on June 12, 1987 at 10:00 a.m. in the Board's Court Room No. 1 at 707 Transportation and Safety Building, Harrisburg, Pennsylvania." Copy forwarded to attorney for Plaintiff and attorneys for Defendant.

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**June 9, 1987**

Acceptance of Service of Opinion and Order, dated June 5, 1987, received from Defendant (Mr. Sable). Receipt of same acknowledged by Defendant June 8, 1987.

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**June 11, 1987**

Acceptance of Service of Opinion and Order, dated June 5, 1987, received from Plaintiff. Receipt of same acknowledged by Plaintiff June 8, 1987.

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**June 12, 1987**

Oral Argument held in Court Room No. 1 at 10:00 a.m.

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**June 12, 1987**

Brief of Defendant, Commonwealth of Pennsylvania Department of Transportation filed by attorney for Defendant at time of Oral Argument. Copy given to attorney for Defendant at time of hearing.

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**June 19, 1987**

Testimony of hearing held June 12, 1987 filed.

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**June 25, 1987**

Copy of testimony for hearing held June 12, 1987 forwarded to attorney for Defendant.

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**June 26, 1987**

Acceptance of Service of testimony for hearing held June 12, 1987 received from Defendant. Receipt of same acknowledged by Defendant June 25, 1987.

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**July 17, 1987**

Plaintiff's Brief on Damages Pertaining to Count I of Plaintiff's Complaint filed by attorney for Plaintiff. Copies forwarded to attorney for Defendant by attorney for Plaintiff.

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**August 10, 1987**

Defendant's Brief on Count I Damages filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**September 1, 1987**

Plaintiff's Reply Brief on Damages Pertaining to Count I of Plaintiff's Complaint filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**March 9, 1988**

The Board rendered an Opinion and made the following Order: "**AND NOW**, this 9th day of March, 1988, an additional award is hereby filed in favor of the Plaintiffs, Slattery Associates, Inc., on its own behalf and on behalf of W.V. Pangborne and Company, Inc., and against the Defendant, Commonwealth of Pennsylvania, Department of Transportation in the amount of Forty-Eight Thousand Six Hundred Nineteen Dollars and Six Cents (\$48,119.06), together with interest at the legal rate of (6% Six percent per annum beginning from April 6, 1978. Each party to bear its own costs."

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**March 10, 1988**

Copies of Opinion and Order dated March 9, 1988, forwarded to attorney for Plaintiff and attorney for Defendant.

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**March 11, 1988**

Acceptance of Service of Opinion and Order dated March 9, 1988 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 10, 1988.

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**March 17, 1988**

Acceptance of Service of Opinion and Order dated March 9, 1988 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff March 4, 1988.

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