

Docket Number: 1348

KIMMINS ABATEMENT CORP.

~~James T. Fries, Regional Manager~~  
Jeffrey A. Less, Esquire

VS.  
**CLOSED**

COMMONWEALTH OF PENNSYLVANIA  
STATE SYSTEM OF HIGHER EDUCATION,  
KUTZTOWN UNIVERSITY OF PENNSYLVANIA  
\*DEPARTMENT OF GENERAL SERVICES

~~Wayne M. Richardson, Chief Legal Counsel~~  
~~Richard A. Holmes, Esquire~~  
Jose Morales, Assistant Counsel

**\*February 22, 1989**

New Claim and filing fee filed. Amount of Claim: \$261,547.00.

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**March 2, 1989**

Copies of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General.

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**March 9, 1989**

Acceptance of Service of Claim received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General March 3, 1989.

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**March 10, 1989**

Entry of Appearance, filed on behalf of Jeffrey A. Less, Esquire, attorney for Plaintiff.

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**March 13, 1989**

Copies of Entry of Appearance forwarded to attorney for Defendant and Chief Deputy Attorney General.

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**March 16, 1989**

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 13, 1989.

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**March 21, 1989**

Acceptance of Service of Entry of Appearance, filed on behalf of Jeffrey A. Less, Esquire received from Chief Deputy Attorney General. Receipt of same acknowledged by Chief Deputy Attorney General March 14, 1989.

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**March 24, 1989**

Acceptance of Service of Entry of Appearance filed on behalf of Jeffrey A. Less, Esquire received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 21, 1989.

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**March 24, 1989**

Acceptance of Service of Entry of Appearance filed on behalf of Jeffrey A. Less, Esquire received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant March 21, 1989.

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**March 27, 1989**

Entry of Appearance filed by Richard A. Holmes, Esquire, on behalf of Defendant, attorney for Defendant. Copy forwarded to attorney for Defendant.

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**March 27, 1989**

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

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**April 20, 1989**

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

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**\*\*April 20, 1989**

Amended Complaint filed by attorney for Plaintiff. Amount of Claim: \$64,940.40.

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**May 3, 1989**

Copies of Amended Complaint forwarded to attorney for Defendant and Chief Deputy Attorney General.

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**May 11, 1989**

Acceptance of Service of Amended Complaint received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 11, 1989.

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**May 12, 1989**

Acceptance of Service of Amended Complaint received from Office of Attorney General. Receipt of same acknowledged by Office of Attorney General May 5, 1989.

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**May 19, 1989**

Praecipe for Entry of Appearance on behalf of Jose E. Morales, Assistant Counsel filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**May 22, 1989**

The Board rendered an Opinion and made the following Order: **"AND NOW,** this 22nd day of May, 1989, it is **ORDERED** and **DIRECTED** that the caption in the above-entitled matter shall hereinafter read as: KIMMINS ABATEMENT CORP. VS. COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF GENERAL SERVICES BEFORE THE BOARD OF CLAIMS DOCKET

NO. 1348. The Board of Claims acknowledges the receipt of the  
**May 22, 1989(cont'd)**

Amended Complaint docketed under of April 20, 1989, correcting the caption in line with this Order. Hereinafter, the pre-trial procedure shall be in response to the Amended Complaint." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

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**May 24, 1989**

Acceptance of Service of Opinion and Order dated May 24, 1989, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant May 23, 1989.

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**May 26, 1989**

Receipt for withdrawal of Appearance of Richard Holmes Esquire, filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**June , 1989**

Acceptance of Service of Opinion and Order dated May 22, 1989, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff June 5, 1989.

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**August 4, 1989**

Brief in Support of Defendant's Preliminary Objections to Plaintiff's Amended Complaint filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**August 7, 1989**

Plaintiff Kimmins Abatement Corporation's Response to Defendant Commonwealth of Pennsylvania, Department of General Services' Preliminary Objections, Memorandum of Law in Support of Kimmins Abatement Corporation's Response to Defendant Commonwealth of Pennsylvania Department of General Services' Preliminary Objections and Proposed Order filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

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**November 30, 1989**

The Board rendered an Opinion and made the following Order: **"AND NOW**, this 30th day of November, 1989, upon consideration of the Preliminary Objections filed on behalf of the Defendant, Commonwealth of Pennsylvania, Department of General Services, and against the Claimant, Kimmins Abatement Corp., it is hereby **ORDERED** that the Preliminary Objection in the Nature of a Demurrer is hereby **DENIED**.

This matter shall be held in abeyance until such time as the parties

have fulfilled or otherwise exhausted the  
**November 30, 1989 (cont'd)**

conditions precedent set forth in the contractual terms agreed to between the parties. In the event this matter is resolved by the "pre-claim hearing" provision provided for in Section 63.83 (A) of the General Conditions of Contract, contained within the pertinent contract between the parties, then in such instance, the Claimant shall promptly file a Praeipice to Withdraw Claim with this Board.

In the event that the pre-claim hearing process does not resolve the issued which form the basis of the instant claim, upon notification from either party, the Board shall re-open this matter for full hearing on the merits. The Motion to Strike Off Complaint Because of Lack of Conformity to Pa. R.C.P. 101 (1) is hereby **DELETED** for the reasons set forth in the foregoing Opinion. Copies forwarded to attorney for Plaintiff and attorney for Defendant.

**CLOSED**  
December 5, 1989  
Acceptance of Service of Opinion and Order dated November 30, 1989, received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 1, 1989.

**December 22, 1989**

Acceptance of Service of Opinion and Order dated November 30, 1989, received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff December 13, 1989.

**October 17, 1991**

Letter acknowledging receipt of final payment from Defendant filed by attorney for Plaintiff. Copy forwarded to attorney for Defendant by attorney for Plaintiff.

**November 25, 1991**

The Board rendered an Opinion and made the following Order: **"AND NOW, this 25th day of November, 1991, upon due consideration of the record in the within case and receipt of Praeipice to withdraw it is hereby ORDERED and DECREED that the matter before the Board of Claims docketed to No. 1348 is ended and the same shall be marked 'closed with prejudice'. It is so ORDERED."** Copies forwarded to attorney for Plaintiff and attorney for Defendant.

**December 2, 1991**

Acceptance of Service of Opinion and Order dated November 25, 1991 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant November 26, 1991.

**December 2, 1991**

Acceptance of Service of Opinion and Order dated November 25, 1991 received from attorney for Plaintiff. Receipt of same acknowledged by attorney for Plaintiff November 27, 1991.

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**CLOSED**