

Docket Number: 1837

Five-R Excavating, Inc.

Dennis Shilobod, Esquire

VS.

**CLOSED**

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

Cheryl L. Kovaly, Esquire

**September 12, 1994**

Claim and filing fee filed by attorney for Plaintiff. Amount of Claim: \$33,402.50.

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**September 22, 1994**

Copy of Claim forwarded to attorney for Defendant and Chief Deputy Attorney General. ANSWER DUE FROM DEFENDANT [October 22, 1994]

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**October 3, 1994**

Acceptance of Service of Claim received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant September 29, 1994.

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**CLOSED**

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Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**November 28, 1994**

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

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**January 5, 1995**

Preliminary Objections to Plaintiff's Reply to Defendant's Answer and New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**January 26, 1995**

Brief in Support of Defendant's Preliminary Objections to Plaintiff's Reply to the Defendant's New Matter filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

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**October 27, 1995**

The Board rendered an Opinion and made the following Order: "Therefore, the Board of Claims after due consideration of the submissions of the parties, this 27th day of October, 1995, hereby issued the following order: The Preliminary Objections of the Defendant are **GRANTED**. Paragraph 1 through 8 and paragraphs 15 through 17 of the Plaintiff's response entitled 'Answer and New Matter' are **STRICKEN**. The remaining paragraphs of such pleadings are accepted as Plaintiff's Reply to Defendant's New Matter. It appears in the instant case that the pleadings are closed and the case is in proper posture for a hearing and decision by the Board. The parties will be advised at such time as a hearing on this matter is scheduled by the Board." Copy forwarded to attorney for Plaintiff and attorney for Defendant.

**CLOSED**

November 3, 1995

Acceptance of Service of Opinion and Order dated October 27, 1995.  
Receipt of same acknowledged by attorney for Defendant October 31, 1995.

**February 9, 1996**

Defendant's First Request for Admissions directed to Plaintiff, Five-R Excavating, Inc. filed by attorney for Defendant. Copy forwarded to attorney for Plaintiff by attorney for Defendant.

**February 9, 1996**

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

**August 29, 1996**

Defendant's Motion for Summary Judgment Pursuant to Pa. R.C.P. 1035(b) filed by attorney for Defendant.

**September 9, 1996**

Plaintiff's Response to Defendant's Motion for Summary Judgment filed by attorney for Plaintiff.

**September 9, 1996**

Brief in Support of Five-R Excavating, Inc.'s Response to Motion for Summary Judgment filed by attorney Plaintiff.

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**September 9, 1996**

Plaintiff's Answers to Defendant's Requests for Admissions filed by attorney for Plaintiff

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**September 9, 1996**

Plaintiff's Answer to Defendant's Interrogatories Directed to Plaintiff - First Set filed by attorney for Plaintiff and Defendant

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**CLOSED**  
December 2, 1996  
The Board rendered the following Order: **AND NOW** this 2nd day of December, 1996, after due consideration of the pleadings including the Motion for Summary Judgment and other such submissions of the parties it is hereby **ORDERED** that Summary Judgment is **GRANTED** in favor of the Defendant, Commonwealth of Pennsylvania, Department of Transportation and against the Plaintiff, Five-R Excavating, Inc., and the Complaint of the Plaintiff is **DISMISSED**.

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**December 9, 1996**

Acceptance of Service of Opinion and Order dated December 2, 1996 received from attorney for Defendant. Receipt of same acknowledged by attorney for Defendant December 5, 1996.

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