

**UNITED STATES DISTRICT COURT  
District of Maine**

<b>UNITED STATES OF AMERICA</b>	)	
<b>For the use and benefit of</b>	)	
<b>DOTEN'S CONSTRUCTION, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL No. 03-134-P-S</b>
	)	
<b>JMG EXCAVATING &amp; CONSTRUCTION</b>	)	
<b>CO., INC., et al.</b>	)	
	)	
<b>Defendants</b>	)	
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<b>JMG EXCAVATING &amp; CONSTRUCTION</b>	)	
<b>CO., INC.,</b>	)	
<b>Crossclaim Plaintiff</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>J.A. JONES MANAGEMENT SERVICES,</b>	)	
<b>INC., et al.,</b>	)	
	)	
<b>Crossclaim Defendants</b>	)	

**ORDER AFFIRMING THE  
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on November 17, 2004, his Recommended Decision (Docket No. 136). Defendant JMG Excavating & Construction Co., Inc. filed its Objection to the Recommended Decision (Docket No. 139) on December 6, 2004. Third-Party Plaintiff Greenwich Insurance Company filed its objection (Docket No. 140) on December 6, 2004.

Defendants J.A. Jones Management Services, Inc. and Fireman's Fund Insurance Company filed their response to objection (Docket No. 141) on December 23, 2004. Defendant JMG Excavating & Construction Co., Inc. filed its response to objection (Docket No. 142) on December 23, 2004. Plaintiff United States of America filed its response (Docket No. 143) to JMG's objection on December 23, 2004. Plaintiff United States of America filed its response (Docket No. 144) to Greenwich Insurance's objection on December 23, 2004.

I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and determine that no further proceeding is necessary.

It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED.

The Motion of JMG Excavating & Construction Company, Inc.'s on Counts II - IV of its crossclaim (No. 131) is DENIED.

The Motion of J.A. Jones Management Services, Inc. and Fireman's Fund Insurance Company for summary judgment on all counts of JMG's crossclaim (No. 81) is GRANTED as to Counts II and III of the crossclaim and otherwise DENIED.

Plaintiff's motion for summary judgment (No. 66) is GRANTED as to Count I of the second amended complaint against defendant Fireman's Fund Insurance Company and as to Count II of the second amended complaint against defendant JMG Excavating & Construction Company, Inc. and otherwise DENIED.

The motion of J.A. Jones Management Services, Inc. and Fireman's Fund Insurance Company for summary judgment (No. 76) is GRANTED as to Counts II and IV of the second amended complaint and otherwise DENIED.

The motion of Greenwich Insurance Company for summary judgment (No. 72) is GRANTED as to Count II of the second amended complaint and otherwise DENIED.

The motion of Fireman's Fund Insurance Company to deem certain facts admitted (No. 123) is DENIED.

The following Counts remain for trial:

Count I of the second amended complaint against defendants JMG and Greenwich;

Count III against all defendants;

Count IV against JMG and Greenwich;

Count V against defendant JMG;

Count VI against Greenwich;

Count I of the crossclaim against Jones, Greenwich and Fireman's Fund; and

Count III of the crossclaim against Greenwich.

/s/ George Z. Singal  
Chief U.S. District Judge

Dated this 5<sup>th</sup> day of January, 2005

**UNITED STATES OF AMERICA**  
*for the use and benefit of*  
*on behalf of*  
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INCORPORATED

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