

RECEIVED

Oct 12 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Ct. App. Case No. 2023-001118  
Civil Case No.: 2021-CP-18-01400

Josue Pineda Orellana, ..... Appellant

v.

Trident Construction, LLC, ..... Respondent

**MOTION TO DISMISS**

Trident Construction, LLC (“Trident”) moves this Court to dismiss the appeal of Appellant Josue Pineda Orellana (“Mr. Pineda”) as follows. The Court has, *sua sponte*, indicated that the order appealed from (an order denying a motion to amend) may not be appealable by letter of September 29, 2023, in which it requested Mr. Pineda provide a memorandum as to appealability. Mr. Pineda submitted a memorandum October 11, 2023 in which he contends the order is immediately appealable.

Trident takes no position at this time on the question of whether Judge McFaddin’s May

26, 2023 order or June 9, 2023 order are appealable orders.<sup>1</sup> Rather, Trident requests this Court dismiss the appeal as untimely.

**I. Statement of Pertinent Facts**

On August 6, 2018, Mr. Pineda was injured on a construction project for which Trident was the general contractor. Mr. Pineda was employed by a second-tier subcontractor. After he was injured, he filed a Worker's Compensation claim against his employer and also against Trident as an additional statutory employer. The case was dismissed as to Trident, with prejudice, on date.

On August 5, 2021, one day before the statute of limitations expired, Mr. Pineda filed an action in circuit court against the subcontractors at the project and a number of John Doe defendants. Trident was known to him at this time, a fact that is evident from Mr. Pineda having previously sued Trident in Worker's Compensation. Mr. Pineda's counsel affirmed in writing that Trident was a statutory employer who could only be sued in Worker's Compensation. **Exh. A.**

Twenty-two months later, which was also twenty-two months after the statute of limitations expired, Mr. Pineda moved to amend his pleading to substitute Trident for John Doe #1. Trident moved to intervene on April 21, 2023 for the limited purpose of opposing the amendment, arguing *inter alia* that (i) the amendment would prejudice Trident as the case was set for trial within one month of the hearing on the motion; (ii) the amendment was futile because Trident is a statutory employer and can only be sued in Worker's Compensation; (iii) Mr. Pineda *already had* sued Trident for this same incident in Worker's Compensation and had dismissed Trident with prejudice; (iv) any new claim against Trident was barred by the statute of limitations; and (v) the law in South Carolina regarding a general contractor's status as a statutory employer entitled to the worker's

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<sup>1</sup> See *infra*, Part II, regarding which order has been appealed.

compensation exclusivity defense has not been altered.

By order of May 26, 2023 (“the Order”), Trident’s Motion to Intervene was granted and Mr. Pineda’s Motion to Amend was denied. Trident was therefore terminated on the docket and removed from the e-filing service list on May 26, 2023. Mr. Pineda filed a Motion to Reconsider the Order on June 5, 2023, but did not serve Trident. The Motion to Reconsider was denied on June 9, 2023, and this order was also not served on Trident.

The notice of this appeal was sent to Trident via United States mail on July 10, 2023 and was received July 12, 2023.

## **II. Order Appealed From**

As an initial matter, the only order listed in Mr. Pineda’s Notice of Appeal is the June 9, 2023 denial of his Motion to Reconsider. Accordingly, it is Trident’s position that he has not appealed the May 26, 2023 Order at all.

However, even if the Court rejects this argument, the appeal should be dismissed for the reasons set forth below.

## **III. The Appeal Is Untimely and Must Be Dismissed.**

Mr. Pineda did not serve a notice of appeal within 30 days of the entry of the Order he appeals from. And, because Trident was not timely served with the Motion to Reconsider, the Motion did not toll stay the 30-day period within which to appeal. Further, because Trident was not served *at all* with the Motion to Reconsider or the order resolving that motion,<sup>2</sup> the Motion is ineffective as to Trident and cannot extend the time within which to notice an appeal with Trident as the sole Respondent.

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<sup>2</sup> And thus was without the opportunity to oppose the motion or make a record in the trial court regarding the same.

**A. Legal Standards**

In order for an appeal to be timely, notice of the appeal must be served on all Respondents within 30 days of the order appealed from. Rule 203(b)(1), SCACR.; *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14, 602 S.E.2d 772, 775 (2004) (“The notice of appeal in a case appealed from the Court of Common Pleas must be served on all respondents within thirty days after receipt of written notice of entry of the order or judgment.”). The requirement of timely service of a notice of appeal is jurisdictional, and this Court lacks jurisdiction over untimely appeals. *Elam*, 361 S.C. at 14–15, 602 S.E.2d at 775 (“The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.”).

A timely motion to reconsider under Rule 59(e), SCRCR stays the time within which to appeal. Rule 59(f), SCRCR. Motions to reconsider, like all motions, are required to be served on all parties. Rule 5(a)(3), SCRCR. To be timely, 59(e) motions must “be served not later than 10 days after receipt of written notice of the entry of the order.” Rule 59(e), SCRCR. An untimely motion to reconsider does not toll the time within which to appeal. *See Albertson v. Byfield*, Case No. 2019-000664, 2021 WL 1784829, at \*1 (Ct. App. May 5, 2021) (“Because Mother's Rule 59(e) motion was untimely, the filing of that motion did not toll the time for Mother to serve the notice of appeal from the November 2018 orders.”).

**B. Because Mr. Pineda’s Rule 59(e) Motion Was at Untimely and Ineffective as to Trident, and Because the Notice of Appeal Was Not Served Within 30 Days of the Order Appealed From, This Court Is Without Jurisdiction to Hear This Appeal.**

The Order denying Mr. Pineda’s Motion to Amend was entered on May 26, 2023, and Trident received electronic notice of the Order that same day. **Exh. B.** As noted above, Trident

was never served with any motion to reconsider or order deciding the same. Then, on July 10, 2023—more than 30 days after the entry of the Order—Trident was served with a Notice of Appeal.

***1. The Rule 59(e) Motion Was Untimely Because It Was Not Served Upon Trident Within Ten Days of the Order.***

Before serving the notice, Mr. Pineda evidently *did* file a Motion to Reconsider the Order (filed June 5, 2023, denied on June 9, 2023). As Trident had been terminated as a party on May 26, 2023, it did not receive electronic notice through the court’s e-filing system, as is apparent from the Notice of Electronic Filing (“NEF”) associated with the Motion to Reconsider and received by Mr. Pineda. **Exh. C.** Despite being on notice that Trident had not been served electronically with the Motion, Mr. Pineda did not serve Trident by traditional means either. *See Exh. D* (Affidavit of Angela Gross), **Exh. E** (emails between counsel regarding the lack of service on Trident). Because Trident was not served with the Motion to Reconsider within 10 days of the Order as required by Rule 59(e), the Motion to Reconsider was untimely and did not toll the time within which to appeal.

***2. Mr. Pineda’s Failure to Ever Serve Trident Renders the Rule 59(e) Motion Ineffective as to Trident.***

Further, the failure to *ever* serve a motion for reconsideration on Trident means the motion is without effect as to Trident:

Clearly, failure to serve a particular party with a motion or order adverse to that party’s rights would render it ineffective against that party.

*Keowee Inv. Grp., LLC v. Pickens Cnty.*, No. 4002-UP-459, 2004 WL 6331837, at \*4 (Ct. App. Aug. 30, 2004). It is undisputed that Trident was never served with the June 5, 2023 Motion to Reconsider, rendering it ineffective as to Trident, the only Respondent in this putative appeal. Because the Motion is ineffective as to Trident, it cannot serve to extend the time within which to notice an appeal with Trident as the only respondent. Accordingly, the time to serve notice of Mr.

Pineda’s appeal expired on June 26, 2023,<sup>3</sup> fourteen days before Trident was served with the notice.

Because the notice of appeal was not timely served, this Court lacks jurisdiction to hear the appeal. *See Canal Ins. Co. v. Caldwell*, 338 S.C. 1, 5, 524 S.E.2d 416, 418 (Ct. App. 1999) (“The failure to timely serve the notice of appeal divests this court of subject matter jurisdiction and results in dismissal of the appeal.” (internal quotation marks omitted)). The appeal must be dismissed.

**IV. Conclusion**

For the reasons presented herein, Mr. Pineda’s appeal was not timely perfected and must be dismissed.

This 12<sup>th</sup> day of October, 2023  
Charleston, South Carolina

**Respectfully submitted:**

/s/ Jaan Rannik  
EPTING & RANNIK, LLC  
Jaan G. Rannik  
Clinton T. Magill  
46A State Street  
Charleston, SC 29401  
P: (843) 377-1871  
F: (843) 377-1310  
[jgr@epting-law.com](mailto:jgr@epting-law.com)  
[ctm@epting-law.com](mailto:ctm@epting-law.com)

*COUNSEL FOR RESPONDENT*

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<sup>3</sup> Thirty days from May 26 would be June 25, which fell on a Sunday in 2023.

# EXHIBIT A

## Jaan Rannik

---

**From:** Ben Parker <benparker@johnpricelawfirm.com>  
**Sent:** Friday, June 26, 2020 19:38  
**To:** Jaan Rannik  
**Cc:** Angela Gross; 'Eddie Fickling'; Adam Mlynarczyk; 'brandon@kmlawsc.com'; delfin@kmlawsc.com; John Price  
**Subject:** RE: Worldwide Equipment (Josue Pineda-Orellana v. Frank's Painting)

Jaan, all we are looking for is the electronic file, we *really* don't want your client to produce all of those documents as a physical file. I do not see how it could be so costly to put everything onto a large thumb drive, external hard drive, cloud-based platform, or something along those lines. Regarding the release and confidentiality agreement, I don't know anything about potential indemnity agreements between potential subcontractor defendants and Trident (who I still maintain will not be named as a defendant due to statutory employer status) that might limit recovery down the line, and it's not worth signing a release (without knowing the potential ramifications) when our subpoena is enforceable. The lien will be asserted by the comp carrier on the third-party action (per statute), it will be well over one million dollars, and it is currently still growing due to ongoing treatment. If we have to file motions, so be it, but I really don't see how sending/receiving the file electronically can be so burdensome. I look forward to your response. Thanks, and have a great weekend.

Regards,  
Ben

---

**From:** Jaan Rannik [mailto:jgr@epting-law.com]  
**Sent:** Friday, June 26, 2020 3:01 PM  
**To:** Ben Parker <benparker@johnpricelawfirm.com>  
**Cc:** Angela Gross <agg@epting-law.com>; 'Eddie Fickling' <efickling@speed-seta.com>; Adam Mlynarczyk <adam@kmlawsc.com>; 'brandon@kmlawsc.com' <brandon@kmlawsc.com>; delfin@kmlawsc.com; John Price <johnprice@johnpricelawfirm.com>  
**Subject:** RE: Worldwide Equipment (Josue Pineda-Orellana v. Frank's Painting)

Ben,

If a release and agreement to generally maintain confidentiality is not an option, then I fear we're back to narrowing the scope, because a subpoena for Trident's entire project file goes far, far beyond what is relevant. In addition, the cost of production would be in the tens of thousands of dollars, and Trident cannot be compelled to bear that cost. I confess I don't see the issue with signing a release as you have stated you have no interest in suing or ability to sue Trident.

A few questions. Who is the third party against whom the lien is sought? What is the amount of the lien? I ask, because I want to understand whether it is cost effective for you to pay for the entire file, understanding the lien amount will be crammed down.

We want—and have tried—to accommodate and work with you to narrow the scope and get you what you need. If the only way forward is to file motions, then I suppose that's where we are.

Please let me know, and I hope you have a good weekend.  
Jaan

Jaan G. Rannik, Esq.  
Epting & Rannik, LLC

# EXHIBIT B

## Angela Gross

---

**From:** efiledonotreply@sccourts.org  
**Sent:** Friday, May 26, 2023 1:09 PM  
**To:** Jaan Rannik  
**Cc:** Angela Gross  
**Subject:** Courtesy NEF RE: 2021CP1801400

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
NOTICE OF ELECTRONIC FILING [NEF]

---

**A filing has been submitted to the court RE: 2021CP1801400**

**Official File Stamp:** 05-26-2023 01:08:22 PM  
**Court:** CIRCUIT COURT  
Common Pleas  
Dorchester  
**Case Caption:** Josue Pineda Orellana VS John Doe 1 - 10 , defendant, et al  
**Document(s) Submitted:** Form 4 Granting Mtn to Intervene/Deny Mtn to Amend/Subs.Pty Form 4 Granting  
Mtn to Intervene/Deny Mtn to Amend/Subs.Pty  
**Filed by or on behalf of:** George Mcfaddin

This notice was automatically generated by the Court's auto-notification system.

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**The following people were served electronically:**

Patrick T. Morrissey  
Morgan S. Templeton  
Benjamin Adair Parker for Josue Pineda Orellana  
John H. Tiller  
Jaan Gunnar Rannik for Trident Construction, Llc  
Thomas B Boger for All Steel Construction Inc

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Martin Murray Installation Llc  
Immaculate Reflections Inc  
Cooper River Concrete Llc  
Anchor Restoration Contractors Llc  
Commercial Interiors Llc  
John Doe 1 - 10  
Polished Concrete Professionals Of America Inc

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# EXHIBIT C

# Certificate of Electronic Notification

## Recipients

**Benjamin Parker** - Notification transmitted on 06-05-2023 04:00:48 PM.

**Morgan Templeton** - Notification transmitted on 06-05-2023 04:00:48 PM.

**John Tiller** - Notification transmitted on 06-05-2023 04:00:48 PM.

**Thomas Boger** - Notification transmitted on 06-05-2023 04:00:49 PM.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
NOTICE OF ELECTRONIC FILING [NEF]

-

**A filing has been submitted to the court RE:** 2021CP1801400

**Official File Stamp:** 06-05-2023 03:59:49 PM

**Court:** CIRCUIT COURT

Common Pleas

Dorchester

**Case Caption:** Josue Pineda Orellana VS John Doe 1 - 10 ,  
defendant, et al

**Document(s) Submitted:** Motion/Reconsider

**Filed by or on behalf of:** Benjamin Adair Parker

This notice was automatically generated by the Court's auto-notification system.

-

**The following people were served electronically:**

Morgan S. Templeton

Benjamin Adair Parker for Josue Pineda Orellana

John H. Tiller

Thomas B Boger for All Steel Construction Inc

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Martin Murray Installation Llc

Immaculate Reflections Inc

Cooper River Concrete Llc

Anchor Restoration Contractors Llc

Commercial Interiors Llc

John Doe 1 - 10

Polished Concrete Professionals Of America Inc

# EXHIBIT D

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT

Josue Piñeda Orellana, )  
 )  
Plaintiff, )

Case No.: 2021-CP-18-01400

v. )  
John Doe 1-10; Immaculate Reflections, )  
Inc.; Banks Construction Company; Keller )  
North America, Inc., f/k/a Hayward Baker, )  
Inc.; Cooper River Concrete, LLC; Anchor )  
Restoration Contractors, LLC; SC Steel, )  
LLC f/k/a SMI-Owen Steel Company, )  
Inc.; Enloe, Inch; Ashley Steel, Inc.; )  
Martin Murray Installation LLC; Low )  
Country Case & Millwork, Inc.; Advanced )  
Exterior Systems, LLC; R.W. Ford )  
Company, Inc.; Therm-All, Inc.; Meritage )  
Asset Management, Inc. d/b/a Century )  
Glass; Lowcountry Doors & Hardware, )  
Inc.; Commercial Interiors LLC; Bonitz )  
Contracting Company, Inc.; Polished )  
Concrete Professionals of America, Inc.; )  
Summit Industrial Maintenance, Inc., d/b/a )  
Summit Industrial Flooring; Vulcan Steel )  
Structures, Inc.; All Steel Construction, )  
Inc.; All Plumbing Company, LLC; Design )  
Build Mechanical Corporation; Delta )  
Industrial Electric Company, )  
Defendants. )

**AFFIDAVIT OF  
ANGELA GROSS**

PERSONALLY appeared before me, ANGELA GROSS, stating as follows:

1. My name is Angela Gross, and I am a paralegal with Epting & Rannik, LLC.
2. Trident Construction, LLC (“Trident”) filed its motion to intervene in this action to oppose Plaintiff’s motion to amend his complaint to substitute Trident for a John Doe defendant on April 21, 2023.

3. A hearing on the motions was held before Judge McFaddin on May 18, 2023. Our firm received notice of the May 18, 2023 hearing on April 21, 2023 via the Court's e-filing system. **(Exh. A)**

4. Judge McFaddin issued an order granting Trident's motion to intervene and denying Plaintiff's motion to amend and substitute on May 26, 2023. Our firm received notice of the May 26, 2023 order on May 26, 2023 via the Court's e-filing system. **(Exh. B)**

5. Plaintiff moved to reconsider the May 26, 2023 order on June 5, 2023, which Plaintiff did not serve on Trident and of which Trident did not receive notice via the Court's e-filing system or any other means.


6. The Court denied the motion to reconsider on June 9, 2023, of which Trident also did not receive notice via the Court's e-filing system or any other means.

7. Our office received a copy of Plaintiff's notice of appeal on Wednesday, July 12 via US Mail.

8. Further affiant sayeth naught.

  
ANGELA GROSS

SWORN to before me this 13  
day of October, 2023.

  
Notary Public for South Carolina  
My Commission Expires: 3/16/20

# EXHIBIT A

## Angela Gross

---

**From:** Courtmail18\_DoNotReply@sccourts.org  
**Sent:** Friday, April 21, 2023 4:32 PM  
**To:** Angela Gross  
**Cc:** bstevens@dorchestercountysc.gov; pbolen@dorchestercountysc.gov  
**Subject:** Motion "MMTSPY-Motion/Substitute Parties" for Case "2021CP1801400-Josue Pineda Orellana VS John Doe 1 - 10 , defendant, et al" was added to a Motions Roster for 5/18/2023 at 9:30 AM

NOTICE OF MOTION ROSTER: May 18, 2023 -- Hon. George McFaddin Presiding. This hearing will be Live and Virtual. You may join the hearing in person at 5200 E. Jim Bilton Blvd. St. George, SC 29477 in the Jury Assembly Room or remote through the virtual courtroom. You can go to [https://protect-us.mimecast.com/s/\\_JAXCgJKqwfA9NNiNXb9I](https://protect-us.mimecast.com/s/_JAXCgJKqwfA9NNiNXb9I) Click on the Circuit for that day's link; then choose the link "Virtual Courtroom" underneath Judge McFaddin's name. After the judge has started the meeting, you will be able to enter your full name and email address. Please use chrome as your browser as this does not support Internet https://protect-us.mimecast.com/s/NhqTCjRMwzin8AAURcz2i is your responsibility to notice any party that has not made an appearance. By Hon. Maite' Murphy, Chief Administrative Judge, by Becky Stevens, Chief Deputy Clerk of Court, (bstevens@dorchestercountysc.gov) and Priscilla Bolen, Assistant Chief Deputy Clerk of Court (PBolen@dorchestercountysc.gov).

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# EXHIBIT B

## Angela Gross

---

**From:** efiledonotreply@sccourts.org  
**Sent:** Friday, May 26, 2023 1:09 PM  
**To:** Jaan Rannik  
**Cc:** Angela Gross  
**Subject:** Courtesy NEF RE: 2021CP1801400

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Dorchester  
**Case Caption:** Josue Pineda Orellana VS John Doe 1 - 10 , defendant, et al  
**Document(s) Submitted:** Form 4 Granting Mtn to Intervene/Deny Mtn to Amend/Subs.Pty Form 4 Granting  
Mtn to Intervene/Deny Mtn to Amend/Subs.Pty  
**Filed by or on behalf of:** George Mcfaddin

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**The following people were served electronically:**

Patrick T. Morrissey  
Morgan S. Templeton  
Benjamin Adair Parker for Josue Pineda Orellana  
John H. Tiller  
Jaan Gunnar Rannik for Trident Construction, Llc  
Thomas B Boger for All Steel Construction Inc

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Martin Murray Installation Llc  
Immaculate Reflections Inc  
Cooper River Concrete Llc  
Anchor Restoration Contractors Llc  
Commercial Interiors Llc  
John Doe 1 - 10  
Polished Concrete Professionals Of America Inc

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# EXHIBIT E

## Angela Gross

---

**From:** Jaan Rannik  
**Sent:** Tuesday, August 1, 2023 9:31 AM  
**To:** Benjamin Parker  
**Cc:** Angela Gross; Renee Carter; PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com  
**Subject:** RE: TCC/Worldwide

Ben,

If I understand correctly from your email that that no service was effected upon Trident, we will put the questions to the Court.

Kind regards,  
Jaan

Jaan G. Rannik, Esq.  
EPTING & RANNIK, LLC  
46A State Street, Charleston, SC 29401  
P: 843-377-1871  
F: 843-377-1310  
[jgr@epting-law.com](mailto:jgr@epting-law.com)

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---

**From:** Benjamin Parker <benparker@johnpricelawfirm.com>  
**Sent:** Monday, July 31, 2023 13:33  
**To:** Jaan Rannik <jgr@epting-law.com>  
**Cc:** Angela Gross <agg@epting-law.com>; Renee Carter <rcarter@johnpricelawfirm.com>; PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com  
**Subject:** RE: TCC/Worldwide

Jaan,

As you are aware, SCRCP 59(e) requires a party filing a written motion under Rule 59 to provide a copy of the motion to the Judge within ten (10) days of filing the motion. Plaintiff's Motion to Reconsider was filed June 5, 2023 and was promptly denied by Judge McFaddin only four (4) days later on June 9, 2023, thereby relieving Plaintiff's counsel of the necessity to provide a copy of the Motion to Reconsider either to the Judge or to any other parties within the ten (10) day deadline. If you still feel the need to file a Motion to Dismiss, that's your prerogative, but given that the Motion to Reconsider was denied so quickly, without oral argument, I can't see how there was any prejudice to Trident Construction in not receiving a copy of the denied Motion to Reconsider.

Considering the above, please advise as to how you plan on proceeding.

Thanks,  
Ben

Ehgnp lq#D#Sdunhu/#Dwruqh | #lw#Odz #  
John Price Law Firm, LLC  
3045 Ashley Phosphate Rd  
North Charleston, SC 29418  
O: (843) 552-6011  
F: (843) 760-6840

---

**From:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>  
**Sent:** Monday, July 31, 2023 9:40 AM  
**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>  
**Cc:** Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>  
**Subject:** RE: TCC/Worldwide

Ben,

Just following up on the below. We intend to file a motion to dismiss.

Kindest regards,  
Jaan

Jaan G. Rannik, Esq.  
EPTING & RANNIK, LLC  
46A State Street, Charleston, SC 29401  
P: 843-377-1871  
F: 843-377-1310  
[jgr@epting-law.com](mailto:jgr@epting-law.com)

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---

**From:** Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>  
**Sent:** Friday, July 14, 2023 11:49  
**To:** Ben Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>  
**Cc:** Andrew K. Epting <[ake@epting-law.com](mailto:ake@epting-law.com)>; Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>  
**Subject:** TCC/Worldwide

---

SENT ON BEHALF OF ANDREW K. EPTING, JR., ESQUIRE:

Ben,

We received a copy of your notice of appeal. Our office did not even know a motion for reconsideration was filed. Rule 59 requires you to send a copy of the motion to the judge. Would you please provide us with any communications you

have indicating we were served with this motion to reconsider or that a copy was sent to the judge which would have required a copy being sent to us?

With kindest regards,

*s/Drew*

Andrew K. Epting, Jr., Esquire  
Epting & Rannik, LLC  
46A State Street  
Charleston, SC 29401  
Phone: (843) 377-1871  
Fax: (843) 377-1310  
[ake@epting-law.com](mailto:ake@epting-law.com)

**RECEIVED**

**Oct 12 2023**

**SC Court of Appeals**

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

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Ct. App. Case No. 2023-001118  
Civil Case No.: 2021-CP-18-01400

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Josue Pineda Orellana, ..... Appellant

v.

Trident Construction, LLC, ..... Respondent

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**PROOF OF SERVICE**

---

I certify that I have served Respondent’s Motion to Dismiss, on opposing counsel via e-mail, this 12<sup>th</sup> day of October, 2023, addressed to Appellant’s attorneys of record as follows:

Benjamin A. Parker, Esq. – [benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)

A copy of the e-mail is attached to this Proof of Service as Exhibit A.

By s/Angela  
Angela Gross  
Legal Assistant to  
Jaan G. Rannik  
46A State Street, Charleston, SC 29401  
Phone: 843-377-1871; Fax: 843-377-1310

# EXHIBIT A

## Angela Gross

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**From:** Angela Gross  
**Sent:** Thursday, October 12, 2023 4:50 PM  
**To:** Benjamin Parker; Renee Carter  
**Cc:** Angela Gross; PinedaOrellanaJosuePersonallInjuryZ991261187@johnpricelawfirm.filevineapp.com; Jaan Rannik; Clinton T. Magill  
**Subject:** App. No. 2023-001118 (Josue Pineda Orellana v. Trident Construction)  
**Attachments:** 2023 10 12 - Exhibits to Motion to Dismiss.pdf; 2023 10 12 - Motion to Dismiss.pdf

Dear Mr. Parker,

Attached for service please find Trident Construction, LLC's Motion to Dismiss, with supporting exhibits, in the above appeal.

A Proof of Service will follow under separate email.

With kindest regards,



Angela Gross  
Legal Assistant to Andrew K. Epting, Jr., Esq.  
Jaan G. Rannik, Esq.  
Clinton T. Magill, Esq.  
EPTING & RANNIK, LLC  
46A State Street  
Charleston, SC 29401  
Telephone: (843) 377-1871  
Facsimile: (843) 377-1310  
[agg@epting-law.com](mailto:agg@epting-law.com)

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**From:** Benjamin Parker <benparker@johnpricelawfirm.com>  
**Sent:** Wednesday, October 11, 2023 3:57 AM  
**To:** Jaan Rannik <jgr@epting-law.com>; Renee Carter <rcarter@johnpricelawfirm.com>  
**Cc:** Angela Gross <agg@epting-law.com>; PinedaOrellanaJosuePersonallInjuryZ991261187@johnpricelawfirm.filevineapp.com  
**Subject:** RE: TCC/Worldwide

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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Please see attached Amended Appealability Memoranda.

Thanks,  
Ben

PLEASE USE "REPLY ALL" WHEN RESPONDING