

RECEIVED

Apr 05 2024

SC Court of Appeals

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

Respondent Trident Construction, LLC (“Trident”) moves for the dismissal of this appeal as follows.

**I. Relevant Procedural History**

**A. In the Trial Court**

On March 24, 2023, Appellant moved to amend his complaint to substitute Trident as a defendant in place of a John Doe defendant. Trident moved to intervene to oppose the amendment on numerous grounds, including that the statute of limitations had run and that Trident was a statutory employer of the Plaintiff. See **Ex. A** (email from Appellant’s counsel stating Trident will not be named as a party because of its status as a statutory employer). On May 26, 2023, Judge McFaddin granted Trident’s motion to intervene and denied Appellant’s motion to amend. **Ex. B.**

Appellant and Trident were both served with Judge McFaddin's order on May 26, 2023. **Ex. C.** This order has never been appealed. *See* **Ex. D** (Notice of Appeal).

On June 5, 2023, Appellant moved to reconsider pursuant to Rule 59(e), S.C.R.C.P. **Ex. E.** It is uncontroverted that this motion was never served on Trident, either directly or electronically through the e-filing system (as Trident had not become a party). Judge McFaddin denied the Rule 59(e) motion on June 9, 2023. **Ex. F.** It is uncontroverted that this order was never served on Trident by Appellant or through the e-filing system.

## **B. On Appeal**

On July 10, 2023, Appellant appealed only the trial court's order of June 9, 2023 (denying reconsideration); the May 26, 2023 denial of Appellant's Motion to Amend was *not* appealed. **Ex. D.** Trident moved to dismiss the appeal on October 12, 2023 for want of jurisdiction, which was denied without prejudice by this Court's Order of November 14, 2023.<sup>1</sup>

### ***1. First Deficiency Letter***

On January 31, 2024, the Court of Appeals issued a deficiency letter to Appellant, directing him to (i) submit proof the underlying transcript had been timely ordered pursuant to Rule 207, S.C.A.C.R. or (ii) file a motion requesting additional time within which to request the transcript.

**Ex. H.** Appellant did not make a motion, but rather advised the Court that:

1. He requested the transcript by letter of July 19, 2023 sent via US Mail to Transcripts at 1220 Senate Street, Suite 200, Columbia, SC 29201 (**Ex. I**)<sup>2</sup>;
2. He sent a second request dated July 24, 2023 by email to transcripts@sccourts.org (**Ex. J**)<sup>3</sup>; and

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<sup>1</sup> The Court of Appeals, *sua sponte*, had previously asked Appellant to address whether the appealed order was interlocutory (**Ex. G**), and it was following this order that Trident moved to dismiss the appeal on the basis that it was untimely.

<sup>2</sup> Trident was not copied.

<sup>3</sup> Trident was not copied.

3. He followed up via email on January 10, 2024 (**Ex. K**)<sup>4</sup>.

He also provided a transcript request form dated February 1, 2024.<sup>5</sup> **Ex. L.** On February 9, 2024, Appellant sent a letter to Court Administration stating he had not received the transcript nor notification of an extension.<sup>6</sup> **Ex. M.**

Trident advises the Court it did not receive notice of the transcript being delivered as provided for in SCACR 207(a)(1) (“Appellant shall contemporaneously furnish *all parties*, the Office of Court Administration, and the clerk of the appellate court with *the copies of all correspondence with the court reporter.*” (emphasis added)) and does not know when that occurred.

## ***2. Second Deficiency Letter***

This Court issued a second deficiency letter to Appellant Josue Pineda Orellana on March 21, 2024, noting that Appellant’s initial brief and designation of matter had been filed with the Court, but that no certificate of service of the same was filed. **Ex. N.** Earlier that same day, Appellant’s counsel wrote Trident’s counsel stating “[p]lease see the attached Appellate Brief . . .” and attaching “Appellant’s First Amended Brief.”<sup>7</sup> **Ex. O.** That same day, Trident’s counsel responded that Trident did not know a transcript had been received, nor had Trident been served with an initial brief, and so it was not clear what was being amended. **Ex. P.**

Trident’s counsel received an email on March 29, 2024 attaching (i) “Appellant’s Brief,”

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<sup>4</sup> Trident was not copied.

<sup>5</sup> This was 207 days after serving his notice of appeal. In an appeal from a circuit court order, the transcript must be ordered within 10 days of the service of the notice of appeal. Rule 207(a)(1), S.C.A.C.R.

<sup>6</sup> Trident *was* copied on this communication.

<sup>7</sup> Trident has received no indication that this version of “Appellant’s First Amended Brief” was ever filed with the Court.

(ii) “First Amended Brief of Appellant,” (iii) a proof of service of both “Appellant’s First Amended Brief (with incorrect caption)” on March 21 and “Appellant’s First Amended Brief (with corrected caption)”<sup>8</sup> on March 29, and (iv) a copy of the underlying transcript. **Ex. Q.** This was the first time Trident received the “Appellant’s Brief” that had been filed with the Court on March 20, 2024. **Ex. R.**

If Appellant has responded to this Court’s deficiency letter of March 21, 2024 and/or provided a proof of service of his March 20, 2024 brief, Trident was not copied and has no knowledge of it. Accordingly, it appears that Appellant has not demonstrated to the Court that he timely served his initial brief.

## **II. Grounds for Dismissal**

Trident moves to strike Appellant’s brief and dismiss this appeal as follows.

### **A. Failures on Appeal**

Appellant has failed to do the following in connection with this appeal:

1. He has never served Trident with Appellant’s Designation of Matter.
2. He did not serve Trident with his initial brief filed March 20, 2024 until March 29, 2024, serving two “amended” briefs in the meantime;
3. He failed to copy Trident on or send Trident a copy of:
  - a. Any communications with the court reporter save one (a February 15, 2024 email);
  - b. The communication with the court reporter delivering the underlying transcript;
  - c. Any communications with this Court that the underlying transcript had been ordered or received; and
  - d. Any communications with this Court regarding Appellant’s initial brief and designation of matter.

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<sup>8</sup> Trident has received no indication that this version of “Appellant’s First Amended Brief” was filed with the Court either.

4. Appellant further:

- a. Failed to contemporaneously notify the Court that it had requested the transcript prior to February 1, 2024;
- b. Failed to provide certificate of service of initial brief and designation of matter (neither having been properly served) as required by this Court's deficiency letter of March 21, 2024;
- c. Failed to move for leave to amend his initial brief filed with the Court March 20, 2024 (and served on Trident March 29, 2024); and
- d. Failed to file his "First Amended Brief (with incorrect caption) or his "First Amended Brief (with corrected caption)" with the Court.

Appellant's appeal is subject to dismissal for certain of these failings alone. *See, e.g.*, Rule 208(a)(4) ("Upon the failure of the appellant to file *and serve* his brief within the time prescribed, the clerk of the appellate court *shall* sign an order dismissing the appeal . . . ." (emphasis added)).<sup>9</sup> In light of the combined weight of them all, Trident requests Appellant's brief(s) be struck and the appeal be dismissed.

**B. Renewal of Prior Motion**

In light of these irregularities, Trident renews its prior motion to dismiss and incorporates the same herein. That motion was premised upon, *inter alia*, the fact that Appellant never served Trident with his Motion for Reconsideration of the trial court's order denying Appellant's Motion to Amend. Such motions must "be served within 10 days after receipt of the entry of the order." Rule 59(e), S.C.R.C.P.

Significantly, a motion that is not served on a party is without effect as to that party. *Keowee Inv. Grp. v. Pickens Cnty.*, No. 4002-UP-459, 2004 WL 6331837, at \*4 (S.C. Ct. App. Aug. 30, 2004). And, motion under Rule 59(e) that is *not* timely served (or is not served at all)

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<sup>9</sup> As Trident is unaware of when the transcript was received, it does not know when Appellant's Initial Brief was due. However, Trident is confident it was received by Appellant prior to February 28, 2024, and Trident was not served with Appellant's initial brief until March 29, 2024.

does *not* toll the time in which to appeal. *Albertson v. Byfield*, Case No. 2019-000664, 2021 WL 1784829, at \*1 (S.C. Ct. App. May 5, 2021) (“Because Mother’s Rule 59(e) motion was untimely, the filing of the motion did not toll the time for Mother to serve the notice of appeal from the November 2018 orders.”).

Accordingly, the effect of Appellant’s failure to serve Trident with his Rule 59(e) motion was that the time to appeal as to Trident was not tolled. Any appeal involving Appellant’s effort to substitute Trident in place of John Doe # 1 must, therefore, have been noticed no later than June 26, 2023. Trident was first served with a notice of appeal of that issue on July 10, 2024.<sup>10</sup> Accordingly, this Court lacks jurisdiction. *Elam v. S.C. Dep’t of Transp.*, 631 S.C. 9, 14–15, 602 S.E.2d 772, 775 (2004) (“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 . . .*” (emphasis added)).

### III. Conclusion

For the foregoing reasons, Trident requests Appellant’s brief(s) be struck and this appeal dismissed.<sup>11</sup>

[signature on following page]

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<sup>10</sup> Though the notice of appeal fails to appeal the May 26, 2023 order. **Exh. D.**

<sup>11</sup> Further, not having been properly served with an initial brief or designation of matter, Trident cannot determine when its own briefing deadline would fall. Accordingly, should this motion be denied, Trident requests it be granted 30 days from any such denial to serve and file its initial brief and designation of matter.

This 5th day of April, 2024  
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*

# 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

Josue Pineda Orellana  
PLAINTIFF(S)

John Doe 1 - 10 et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (*CHECK REASON*):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN (*CHECK REASON*):**  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (*CHECK APPLICABLE BOX*):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

This matter came before the Court on May 18, 2023. I reviewed my notes from the hearing and the memorandums submitted by the parties. I respectfully grant Trident's motion to intervene and deny Plaintiff's motion to amend and substitute. I adopt the arguments made by Trident in their memorandum.

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/26/2023 .

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

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Dorchester Common Pleas

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

**Case Number:** 2021CP1801400

**Type:** Order/Electronic Form 4

So Ordered

S/George M. McFaddin, Jr., #2759

# EXHIBIT C

# Certificate of Electronic Notification

## Recipients

**Benjamin Parker** - Notification transmitted on 05-26-2023 01:08:33 PM.

**Morgan Templeton** - Notification transmitted on 05-26-2023 01:08:34 PM.

**Patrick Morrissey** - Notification transmitted on 05-26-2023 01:08:34 PM.

**John Tiller** - Notification transmitted on 05-26-2023 01:08:33 PM.

**Thomas Boger** - Notification transmitted on 05-26-2023 01:08:34 PM.

**Jaan Rannik** - Notification transmitted on 05-26-2023 01:08:34 PM.

\*\*\*\*\* 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.

-

**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

# EXHIBIT D



NORTH CHARLESTON OFFICE

3045 ASHLEY PHOSPHATE ROAD  
POST OFFICE BOX 40637  
NORTH CHARLESTON, SOUTH CAROLINA 29423-0637  
PHONE (843) 552-6011 FAX (843) 760-6840  
www.johnpricelawfirm.com

July 10, 2023

Jaan G. Rannik  
Clinton T. Magill  
46A State Street  
Charleston, SC 29401

Trident Construction, LLC  
Timothy K. Kennedy, Registered Agent  
2245 Technical Parkway  
N. Charleston, SC 29406

Re: Josue Pineda Orellana vs. Trident Construction, LLC  
Case No: 2021-CP-10-01400

Dear Sirs:

Enclosed please find, for service upon Trident Construction, LLC, Pineda Orellana's Notice of Appeal.

Sincerely,



Benjamin A. Parker

BAP/rc

Enclosures: as stated above

North Charleston<sup>†</sup> Summerville<sup>†</sup> Myrtle Beach<sup>§</sup>

John Price<sup>†</sup> Bobby Phipps<sup>†</sup> Heather A. Hartoin, SC, IN<sup>†</sup> J. David Murrell<sup>†</sup>  
Benjamin A. Parker<sup>†</sup> Mark A. Redmond<sup>†</sup> Matthew T. Douglas<sup>†</sup>  
M. Greg McCollum<sup>§</sup> - Of Counsel Frederick "Fritz" Jekel\* - Of Counsel

**RECEIVED**

**Jul 10 2023**

**SC Court of Appeals**

**NOTICE OF APPEAL IN A CIVIL CASE  
THE STATE OF SOUTH CAROLINA  
Court of Common Pleas**

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

Case No. 2021-CP-18-01400

Josue Pineda Orellana, ..... Appellant

v.

Trident Construction, LLC, ..... Respondent

**NOTICE OF APPEAL**

Josue Pineda Orellana appeals the order of the Honorable George M. McFaddin, Jr., dated June 9, 2023. Appellant received written notice of entry of this order on June 9, 2023.

July 8, 2023

s/ Benjamin A. Parker  
Benjamin A. Parker  
3045 Ashley Phosphate Rd  
North Charleston, SC 29418  
P: (843) 552-6011  
F: (843) 760-6840

---

[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)  
SC Bar No: 100831

*ATTORNEY FOR JOSUE PINEDA ORELLANA*

Other Counsel of Record:

Jaan G. Rannik  
Clinton T. Magill  
46A State Street  
Charleston, SC 29401  
Phone: 843.377.1871  
[jgr@epting-law.com](mailto:jgr@epting-law.com) [ctm@epting-law.com](mailto:ctm@epting-law.com)

*ATTORNEYS FOR TRIDENT CONSTRUCTION, LLC*

**RECEIVED**

**Jul 10 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

George M. McFadden, Jr. , Circuit Court Judge

Case No. 2021-CP-18-01400

Josue Pineda Orellana Appellant,

v.

Trident Construction, LLC, Respondent

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Trident Construction, LLC by depositing a copy of it in the United States Mail, postage prepaid, on July 10, 2023, to:

Trident Construction, LLC  
Timothy K. Kennedy, Registered Agent  
2245 Technical Parkway  
N. Charleston, SC 29406

Jaan G. Rannik  
Clinton T. Magill, Attorneys for Record for Trident Construction, LLC  
46A State Street,  
Charleston, South Carolina, 29401

July 10, 2023

s/ Benjamin A. Parker  
Benjamin A. Parker  
3045 Ashley Phosphate Road  
N. Charleston, SC 29418  
843-552-6011  
SC Bar #: 100831  
Attorney for Appellant

**RECEIVED**

**Jul 10 2023**

**SC Court of Appeals**

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APPEAL FROM DORCHESTER COUNTY  
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George M. McFadden, Jr. , Circuit Court Judge

Case No. 2021-CP-18-01400

Josue Pineda Orellana

Appellant,

v.

Trident Construction, LLC,

Respondent

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Dorchester County Court of Common Pleas by electronically filing a copy of same with the Clerk of Court, a filed copy is attached hereto.

July 10, 2023

s/ Benjamin A. Parker

Benjamin A. Parker

3045 Ashley Phosphate Road

N. Charleston, SC 29418

843-552-6011

SC Bar #: 100831

Attorney for Appellant

**NOTICE OF APPEAL IN A CIVIL CASE**  
**THE STATE OF SOUTH CAROLINA**  
Court of Common Pleas

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

George M. McFaddin, Jr., Circuit Court Judge

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July 8, 2023

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P: (843) 552-6011  
F: (843) 760-6840

[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)

SC Bar No: 100831

*ATTORNEY FOR JOSUE PINEDA ORELLANA*

Other Counsel of Record:

Jaan G. Rannik

Clinton T. Magill

46A State Street

Charleston, SC 29401

Phone: 843.377.1871

[jgr@epting-law.com](mailto:jgr@epting-law.com) [ctm@epting-law.com](mailto:ctm@epting-law.com)

*ATTORNEYS FOR TRIDENT CONSTRUCTION, LLC*

STATE OF SOUTH CAROLINA  
COUNTY OF Dorchester  
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP1801400

Josue Pineda Orellana  
PLAINTIFF(S)

John Doe 1 - 10 et al  
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

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 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

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IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

This matter came before the Court on May 18, 2023. I reviewed my notes from the hearing and the memorandums submitted by the parties. I respectfully grant Trident's motion to intervene and deny Plaintiff's motion to amend and substitute. I adopt the arguments made by Trident in their memorandum.

ORDER INFORMATION

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See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/26/2023.

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

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

**Court Reporter:**

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ELECTRONICALLY FILED - 2023 May 26 1:08 PM - DORCHESTER - COMMON PLEAS - CASE#2021CP1801400  
ELECTRONICALLY FILED - 2023 Jul 10 10:04 AM - DORCHESTER - COMMON PLEAS - CASE#2021CP1801400



Dorchester Common Pleas

**Case Caption:** Josue Pineda Orellana VS John Doe 1 - 10 , defendant, et al  
**Case Number:** 2021CP1801400  
**Type:** Order/Electronic Form 4

So Ordered

S/George M. McFaddin, Jr., #2759

Electronically signed on 2023-05-26 11:47:19 page 3 of 3

ELECTRONICALLY FILED - 2023 May 26 1:08 PM - DORCHESTER - COMMON PLEAS - CASE#2021CP1801400  
ELECTRONICALLY FILED - 2023 Jul 10 10:04 AM - DORCHESTER - COMMON PLEAS - CASE#2021CP1801400

STATE OF SOUTH CAROLINA  
COUNTY OF Dorchester  
IN THE COURT OF COMMON PLEAS

FORM 4

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CASE NO. 2021CP1801400

Josue Pineda Orellana  
PLAINTIFF(S)

John Doe 1 - 10 et al  
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- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

Plaintiff's Motion to Reconsider filed June 5 2023, is respectfully denied.

**ORDER INFORMATION**

This order  ends  does not end the case.

See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/09/2023 .

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

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

---

ELECTRONICALLY FILED - 2023 Jun 09 11:56 AM - DORCHESTER - COMMON PLEAS - CASE#2021CP1801400  
ELECTRONICALLY FILED - 2023 Jun 10 10:04 AM - DORCHESTER - COMMON PLEAS - CASE#2021CP1801400



Dorchester Common Pleas

**Case Caption:** Josue Pineda Orellana VS John Doe 1 - 10 , defendant, et al  
**Case Number:** 2021CP1801400  
**Type:** Order/Electronic Form 4

So Ordered

S/George M. McFaddin, Jr., #2759

Electronically signed on 2023-06-09 11:50:58 page 3 of 3

ELECTRONICALLY FILED - 2023 Jun 09 11:56 AM - DORCHESTER - COMMON PLEAS - CASE#2021CP1801400  
ELECTRONICALLY FILED - 2023 Jun 10 10:04 AM - DORCHESTER - COMMON PLEAS - CASE#2021CP1801400

Josue Pineda Orellana  
PLAINTIFF(S)

John Doe 1 - 10 et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

This matter came before the Court on May 18, 2023. I reviewed my notes from the hearing and the memorandums submitted by the parties. I respectfully grant Trident's motion to intervene and deny Plaintiff's motion to amend and substitute. I adopt the arguments made by Trident in their memorandum.

**ORDER INFORMATION**

This order  ends  does not end the case.

See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/26/2023 .

<p>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</p>	<p><b>RECEIVED</b> <b>Jul 10 2023</b> <b>SC Court of Appeals</b></p>
<p><b>NAMES OF TRADITIONAL FILERS SERVED BY MAIL</b></p>	

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

---



Dorchester Common Pleas

**Case Caption:** Josue Pineda Orellana VS John Doe 1 - 10 , defendant, et al  
**Case Number:** 2021CP1801400  
**Type:** Order/Electronic Form 4

So Ordered

S/George M. McFaddin, Jr., #2759

Josue Pineda Orellana  
PLAINTIFF(S)

John Doe 1 - 10 et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

Plaintiff's Motion to Reconsider filed June 5 2023, is respectfully denied.

**ORDER INFORMATION**

This order  ends  does not end the case.

See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/09/2023 .

<p>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</p> <p style="text-align: center;"><b>NAMES OF TRADITIONAL FILERS SERVED BY MAIL</b></p>	<p><b>RECEIVED</b> <b>Jul 10 2023</b> <b>SC Court of Appeals</b></p>
--	--

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

---



Dorchester Common Pleas

**Case Caption:** Josue Pineda Orellana VS John Doe 1 - 10 , defendant, et al  
**Case Number:** 2021CP1801400  
**Type:** Order/Electronic Form 4

So Ordered

S/George M. McFaddin, Jr., #2759

Electronically signed on 2023-06-09 11:50:58 page 3 of 3



NORTH CHARLESTON OFFICE

3045 ASHLEY PHOSPHATE ROAD  
POST OFFICE BOX 40637  
NORTH CHARLESTON, SOUTH CAROLINA 29423-0637  
PHONE (843) 552-6011 FAX (843) 760-6840  
www.johnpricelawfirm.com

July 10, 2023

Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Josue Pineda Orellana vs. Trident Construction, LLC  
Case No: 2021-CP-10-01400

Dear Sirs:

Attached please find our firm check in the amount of \$250.00 which represents payment of the filing fee for the Notice of Appeal in the above-noted matter. If you have any questions or need additional information, please do not hesitate to call.

s/ Benjamin A. Parker  
Benjamin A. Parker  
3045 Ashley Phosphate Road  
N. Charleston, SC 29418  
843-552-6011  
SC Bar #: 100831  
Attorney for Appellant

cc: Jaan G. Rannik  
Clinton T. Magill  
46A State Street  
Charleston, SC 29401  
843-377-1871  
Attorneys for Respondent

Trident Construction, LLC  
Timothy K. Kennedy, Registered Agent  
2245 Technical Parkway  
N. Charleston, SC 29406

North Charleston<sup>†</sup> Summerville<sup>†</sup> Myrtle Beach<sup>§</sup>

John Price<sup>†</sup> Bobby Phipps<sup>†</sup> Heather A. Hartoin, SC, IN<sup>†</sup> J. David Murrell<sup>†</sup>  
Benjamin A. Parker<sup>†</sup> Mark A. Redmond<sup>†</sup> Matthew T. Douglas<sup>†</sup>  
M. Greg McCollum<sup>§</sup> - Of Counsel Frederick "Fritz" Jekel\* - Of Counsel

84039

Truist  
67-160/532

07/10/2023

**JOHN PRICE LAW FIRM, LLC**  
**GENERAL EXPENSE ACCOUNT**  
POST OFFICE BOX 40637  
NORTH CHARLESTON, SC 29423  
(843) 552-6011

PAY TO THE ORDER OF S.C. Court of Appeals \$ **\*\*250.00**

Two hundred fifty and 00/100\*\*\*\*\* DOLLARS

S.C. Court of Appeals  
Hon Kenneth Richstad; Clerk of Court  
P.O. Box 11629  
Columbia, SC 29211

MEMO

  
AUTHORIZED SIGNATURE

211816/Pineda-Orellana, Josue/Filing Fee

⑆084039⑆ ⑆05320⑆607⑆0005⑆2965⑆106⑆

# EXHIBIT E

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT  
CIVIL ACTION NO.: 2021-CP-18-01400

Josue Pineda Orellana, )  
 )  
Plaintiff, )

vs. )

**PLAINTIFF’S MOTION TO  
RECONSIDER**

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, Inc.; 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; )

Defendants. )

To: Jaan Rannick, Esquire, Attorney for Trident Construction LLC

Pursuant to Rules 52, 59 and 60 of the South Carolina Rules of Civil Procedure, Plaintiff Josue Pineda Orellana, by and through undersigned counsel, hereby submits his Motion to Reconsider and Relief from Order. Plaintiff’s Motion moves this Court for an Order reconsidering, altering, amending, correcting and/or vacating the Order entered by Judge McFaddin on May 26,

2023 which purports to grant Trident Construction, LLC's Motion to Intervene and deny Plaintiff's Motion to Amend and Substitute Defendant.

The grounds for this Motion are based on **errors of fact** and law, including but not limited to, **as a matter of fact**, Trident Construction, LLC did not directly hire Franks Painting (employer of Plaintiff) to perform painting services, as contended in Trident's brief. Franks Painting was a subcontractor of Peters Paint & Wall Covering, who was then hired by Trident Construction, as contended in both Plaintiff's Complaint and Plaintiff's Motion to Amend and Substitute Defendants. Given that the Court "adopt[s] the arguments made by Trident in their memorandum" in its decision and Form 4 Order, and that one of the questions of fact upon which this decision and Order are granted is *per se* incorrect, Plaintiff petitions this Court to reevaluate its position in light of the actual facts of the case.

Additionally, as a matter of law, Trident Construction LLC failed to satisfy its burden to deny Plaintiff's original motion. In support thereof, Plaintiff refers the Court to Plaintiff's Memorandum in Support of Plaintiff's Motion to Amend Complaint and Substitute Defendant and exhibits attached thereto, and will submit an additional Memorandum prior to the Hearing for this Motion to Reconsider.

In addition to the arguments set forth in Plaintiff's Memorandum in Support of Plaintiff's Motion to Amend Complaint and Substitute Defendant and exhibits attached thereto, in tandem with a forthcoming memorandum, Plaintiff would submit that the Court's Order dated May 26, 2023 contains blatant and clear errors of **fact** and law.

JOHN PRICE LAW FIRM, LLC

S/ Benjamin A Parker

N. Charleston, SC  
June 5, 2023

Benjamin A Parker (SC Bar 100831)  
3045 Ashley Phosphate Road  
North Charleston, SC 29418  
(p) 843-552-6011  
benparker@johnpricelawfirm.com

# EXHIBIT F

Josue Pineda Orellana  
PLAINTIFF(S)

John Doe 1 - 10 et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

Plaintiff's Motion to Reconsider filed June 5 2023, is respectfully denied.

**ORDER INFORMATION**

This order  ends  does not end the case.

See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/09/2023 .

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	<p><b>RECEIVED</b></p> <p><b>Jul 10 2023</b></p> <p><b>SC Court of Appeals</b></p>
<p><b>NAMES OF TRADITIONAL FILERS SERVED BY MAIL</b></p>	

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

---



Dorchester Common Pleas

**Case Caption:** Josue Pineda Orellana VS John Doe 1 - 10 , defendant, et al  
**Case Number:** 2021CP1801400  
**Type:** Order/Electronic Form 4

So Ordered

S/George M. McFaddin, Jr., #2759

Electronically signed on 2023-06-09 11:50:58 page 3 of 3

# EXHIBIT G



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

September 29, 2023

Mr. Benjamin Adair Parker, Esquire  
3045 Ashley Phosphate Road  
North Charleston SC 29418

Re: Josue Pineda Orellana v. Trident Construction, LLC  
Appellate Case No. 2023-001118

Dear Counsel:

This Court has received your notice of appeal. A preliminary review of the orders challenged on appeal indicates it might not be appealable.

Accordingly, it is requested that you serve and file a memorandum addressing the issue of appealability within ten (10) days of the date of this letter. The time limits for perfecting the appeal are held in abeyance pending the Court's consideration of the memorandum.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitchings". The signature is fluid and cursive.

CLERK

cc: Jaan Gunnar Rannik, Esquire  
Clinton Thomas Magill, Esquire

# EXHIBIT H



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

January 31, 2024

Mr. Benjamin Adair Parker, Esquire  
3045 Ashley Phosphate Road  
North Charleston SC 29418

Re: Josue Pineda Orellana v. Trident Construction, LLC  
Appellate Case No. 2023-001118

Dear Counsel:

Our records reflect that the time for ordering the transcript has expired. Within ten days of the date of this letter, you must file a copy of the letter showing that you have timely ordered the transcript from the court reporter. If you have not timely ordered the transcript, you must serve and file a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the SCACR, along with a copy of your letter addressed to the court reporter.

Be sure to copy the Court, the Office of Court Administration and opposing counsel with all correspondence concerning the transcript. The address for Court Administration is as follows:

South Carolina Office of Court Administration  
1220 Senate Street, Suite 200  
Columbia, SC 29201

You must advise the Court of the status of the transcript within ten (10) days of the date of this letter, or your appeal will be dismissed.

Very truly yours,  
*Catherine Hannigan, deputy*  
CLERK

cc: Jaan Gunnar Rannik, Esquire  
Clinton Thomas Magill, Esquire

# EXHIBIT I



NORTH CHARLESTON OFFICE

3045 ASHLEY PHOSPHATE ROAD  
POST OFFICE BOX 40637  
NORTH CHARLESTON, SOUTH CAROLINA 29423-0637  
PHONE (843) 552-6011 FAX (843) 871-3232  
www.johnpricelawfirm.com

RECEIVED

Feb 02 2024

SC Court of Appeals

February 1, 2024

South Carolina Office of Court Administration  
1220 Senate Street, Suite 200  
Columbia, SC 29201

Re: Josue Pineda Orellana vs. Trident Construction, LLC  
Appellate Case No: 2023-001118

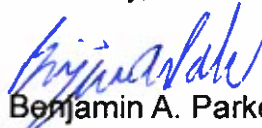
Dear Madam Clerk:

We are in receipt of your letter dated January 31, 2024 regarding our request for ordering the transcript for the above-noted matter. As you can see by the attached documents, a copy of the transcript was ordered by US Mail on July 19, 2023. A copy of the written request was emailed to [transcripts@sccourts.org](mailto:transcripts@sccourts.org) on July 24, 2023 and followed up on January 10, 2024.

Please see enclosed Form SCCA800.

If this documentation is not sufficient, please advise immediately so that we may take the necessary steps to secure a copy of the transcripts.

Sincerely,



Benjamin A. Parker

BAP/rc

Enclosures: as stated above

Cc: Jaan Gunnar Rannik, Esquire  
Clinton Thomas Magill, Esquire

North Charleston<sup>†</sup> Summerville<sup>†</sup> Myrtle Beach<sup>†</sup>

John Price<sup>†</sup> Bobby Phipps<sup>†</sup> Heather A. Panter, SC, IN<sup>†</sup> J. David Murrell<sup>†</sup>  
Benjamin A. Parker<sup>†</sup> Mark A. Redmond<sup>†</sup> Matthew T. Douglas<sup>†</sup> Victoria LeRoy<sup>†</sup>  
M. Greg McCollum<sup>†</sup> - Of Counsel Frederick "Fritz" Jekel\* - Of Counsel

# EXHIBIT J

## Renee Carter

---

**From:** Renee Carter  
**Sent:** Wednesday, January 10, 2024 3:08 PM  
**To:** transcripts@sccourts.org  
**Cc:** PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com  
**Subject:** FW: HEARING TRANSCRIPT REQUEST  
**Attachments:** Pineda - Transcript Request 071923.pdf

**Importance:** High

I'm following up on our request for a transcript.  
Can you please give us an update on the status of the request.

Renee Carter  
Litigation Paralegal



3045 Ashley Phosphate Road  
N. Charleston, SC 29418  
phone: 843-552-6011  
fax: 843-871-3232

The information contained in this electronic communication is confidential and intended only for the stated recipient. It may, therefore, be protected from unauthorized use or dissemination by the attorney-client and/or attorney work product privileges. If you are not the intended recipient or the intended recipient's agent, any review, use, dissemination, distribution, or copying of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately and delete this message from your Inbox and Deleted Items. Thank you.

---

**From:** Renee Carter  
**Sent:** Monday, July 24, 2023 11:50 AM  
**To:** transcripts@sccourts.org  
**Subject:** HEARING TRANSCRIPT REQUEST

HEARING DATE: 5/18/23 Josue Antonio Pineda-Orellana vs. John Doe 1 - 10, Immaculate Reflections, Inc., Banks Construction Company, Keller North America, Inc., et al Case #: 2021-CP-18-01400  
JUDGE: McFADDEN

On July 19, 2023 I mailed in a request for a transcript of the above-noted hearing. We've recently starting having issues with US mail so thought it would be best if I requested same by email as well.

PLEASE CONFIRM RECEIPT.

Renee Carter  
Litigation Paralegal



3045 Ashley Phosphate Road  
N. Charleston, SC 29418  
phone: 843-552-6011  
fax: 843-871-3232

The information contained in this electronic communication is confidential and intended only for the stated recipient. It may, therefore, be protected from unauthorized use or dissemination by the attorney-client and/or attorney work product privileges. If you are not the intended recipient or the intended recipient's agent, any review, use, dissemination, distribution, or copying of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately and delete this message from your Inbox and Deleted Items. Thank you.

# EXHIBIT K

## Renee Carter

---

**From:** Renee Carter  
**Sent:** Wednesday, January 10, 2024 3:08 PM  
**To:** transcripts@sccourts.org  
**Cc:** PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com  
**Subject:** FW: HEARING TRANSCRIPT REQUEST  
**Attachments:** Pineda - Transcript Request 071923.pdf

**Importance:** High

I'm following up on our request for a transcript.  
Can you please give us an update on the status of the request.

Renee Carter  
Litigation Paralegal



3045 Ashley Phosphate Road  
N. Charleston, SC 29418  
phone: 843-552-6011  
fax: 843-871-3232

The information contained in this electronic communication is confidential and intended only for the stated recipient. It may, therefore, be protected from unauthorized use or dissemination by the attorney-client and/or attorney work product privileges. If you are not the intended recipient or the intended recipient's agent, any review, use, dissemination, distribution, or copying of this information is strictly prohibited. If you have received this transmission in error, please notify the sender immediately and delete this message from your Inbox and Deleted Items. Thank you.

---

**From:** Renee Carter  
**Sent:** Monday, July 24, 2023 11:50 AM  
**To:** transcripts@sccourts.org  
**Subject:** HEARING TRANSCRIPT REQUEST

HEARING DATE: 5/18/23 Josue Antonio Pineda-Orellana vs. John Doe 1 - 10, Immaculate Reflections, Inc., Banks Construction Company, Keller North America, Inc., et al Case #: 2021-CP-18-01400  
JUDGE: McFADDEN

On July 19, 2023 I mailed in a request for a transcript of the above-noted hearing. We've recently starting having issues with US mail so thought it would be best if I requested same by email as well.

PLEASE CONFIRM RECEIPT.

Renee Carter  
Litigation Paralegal

# EXHIBIT L



# South Carolina Judicial Branch

TRANSCRIPT REQUEST FORM

RECEIVED

Feb 02 2024

SC Court of Appeals

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter/Transcriptionist and to South Carolina Court Administration at [transcripts@sccourts.org](mailto:transcripts@sccourts.org). If WebEx or DCRP were used to capture the record, please indicate below and send the form to [transcripts@sccourts.org](mailto:transcripts@sccourts.org).

Requestor's Information			
Full Name <b>Benjamin A. Parker</b>		Law Firm/Agency <b>John Price Law Firm, LLC</b>	Phone Number <b>843-552-6011</b>
Email Address <b>benparker@johnpricelawfirm.com</b>		Mailing Address <b>P O Box 40637, N. Charleston, SC 29423</b>	
Is the requestor a party in the case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
If no, does the requestor represent a party? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of party <b>Josue Antoino Pineda-Orellana</b>			
Transcript Information			
Docket Number <b>2012-CP-18-01400</b>	Full Case Caption (i.e. State v. John Doe or John Smith v. Jane Smith) <b>Pineda-Orellana vs. John Doe 1-10, Immaculate Reflections, et al</b>		Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>
Date(s) of Proceeding <b>5/18/23</b>	County <b>Dorchester</b>	Appeal pending <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Death Penalty <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Presiding Judge <b>George M. McFaddin, Jr. #2759</b>		Special Circumstances Is the hearing to be transcribed one of the following: <input type="checkbox"/> Termination of parental rights <input type="checkbox"/> Adoption <input type="checkbox"/> Any actions involving child custody/visitation.	
Opposing Counsel(s) (name and email address) <b>Jaan G. Rannik <a href="mailto:jgr@epting-law.com">jgr@epting-law.com</a> Clinton T. Magill <a href="mailto:ctm@epting-law.com">ctm@epting-law.com</a></b>		Delivery Timeframe (check Rule 607 for current page rates) <input type="checkbox"/> Quote <input type="checkbox"/> Rough Draft <input type="checkbox"/> Overnight delivery <input type="checkbox"/> Daily delivery <input checked="" type="checkbox"/> Expedited delivery (7 days) Due on/before: _____ <input type="checkbox"/> Regular delivery (60 days)	
Court Reporter(s) <b>Unknown</b>	<input checked="" type="checkbox"/> WebEx <input type="checkbox"/> DCRP	Delivery Method (additional fees may apply) <input checked="" type="checkbox"/> PDF / Email <input type="checkbox"/> Hard Copy/Priority Mail (\$50 + shipping) <input type="checkbox"/> PDF & Hard Copy/Priority Mail (\$50 + shipping)	
Portion of proceeding to be transcribed <input checked="" type="checkbox"/> Entire hearing <input type="checkbox"/> Voir dire by juror <input type="checkbox"/> Jury selection <input type="checkbox"/> Plaintiff's opening statement <input type="checkbox"/> Defendant's opening statement <input type="checkbox"/> Plaintiff's closing arguments <input type="checkbox"/> Defendant's closing arguments <input type="checkbox"/> Entire direct examination <input type="checkbox"/> Entire cross examination <input type="checkbox"/> Entire redirect <input type="checkbox"/> Examination of witness (W) by attorney (A) W: _____ A: _____		Responsible Payor <input checked="" type="checkbox"/> Private / Self <input type="checkbox"/> Court Appointed Counsel <i>Appeals Attorney</i> _____ <i>Email</i> _____ <input type="checkbox"/> Other	
<input type="checkbox"/> Ruling of the court			
Next Hearing Date _____			

Requestor's Signature: *Benjamin A. Parker* Date: 2/1/2024  
(Typed name will serve as signature)

NOTE: Requests will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party, regardless of indigent status. Please promptly submit your payment in the method of payment requested, in order for the transcript to be produced. In some cases, a deposit may be required before the transcript can be placed in the production queue. You may also request a quote before deciding to order. *If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.*

If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court

# EXHIBIT M



NORTH CHARLESTON OFFICE

3045 ASHLEY PHOSPHATE ROAD  
POST OFFICE BOX 40637  
NORTH CHARLESTON, SOUTH CAROLINA 29423-0637  
PHONE (843) 552-6011 FAX (843) 871-3232  
[www.johnpricelawfirm.com](http://www.johnpricelawfirm.com)

RECEIVED

Feb 09 2024

SC Court of Appeals

February 9, 2024

**SENT VIA EMAIL: [transcripts@sccourts.org](mailto:transcripts@sccourts.org)**

South Carolina Office of Court Administration  
1220 Senate Street, Suite 200  
Columbia, SC 29201

Re: Civil Court Caption: Josue Antonio Pineda-Orellana vs. John Doe 1-10,  
Immaculate Reflections, Inc., Banks Construction Company, Keller North  
America, Inc., et al  
Civil Court Case No: 2021-CP-18-01400;  
Hearing Date: 05/18/2023  
Judge: McFadden

Appellate Court Caption: Josue Pineda Orellana vs. Trident Construction,  
LLC  
Appellate Case No: 2023-001118

Dear Sir/Madame:

As stated in the enclosed correspondence dated 02/01/2024, we are in receipt of The South Carolina Court of Appeals' letter dated January 31, 2024 regarding our request for ordering the transcript for the above-noted matter.

As you can see from the attached documents, a copy of the transcript was ordered by US Mail on July 19, 2023 pursuant to Rule 207.

A copy of the written request was emailed to [transcripts@sccourts.org](mailto:transcripts@sccourts.org) on July 24, 2023 and followed up on January 10, 2024.

We have been informed that we need to advise the Court of the status of a transcript by this coming Monday, 02/12/2024, or our appeal will be dismissed.

Please accept this letter as written correspondence pursuant to 207(a)(5) SCACR that appellant has not received the transcript within the allotted time nor received notification of an extension within ten (10) days after the allotted time.

We are again sending all of the attached correspondence to [transcripts@sccourts.org](mailto:transcripts@sccourts.org) and look forward to your response.

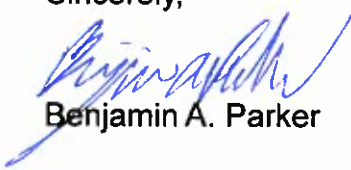
North Charleston<sup>†</sup> Summerville<sup>†</sup> Myrtle Beach<sup>‡</sup>

John Price<sup>†</sup> Bobby Phipps<sup>†</sup> Heather A. Panter, SC, IN<sup>†</sup> J. David Murrell<sup>‡</sup>  
Benjamin A. Parker<sup>‡</sup> Mark A. Redmond<sup>†</sup> Matthew T. Douglas<sup>†</sup> Victoria LeRoy<sup>‡</sup>  
M. Greg McCollum<sup>‡</sup> - Of Counsel Frederick "Fritz" Jekel\* - Of Counsel

Please see enclosed Form SCCA 800.

If this documentation is not sufficient, please advise immediately so that we may take the necessary steps to secure a copy of the requested transcript.

Sincerely,



Benjamin A. Parker

BAP/rc

Enclosures: as stated above

Cc: Jaan Gunnar Rannik, Esquire  
Clinton Thomas Magill, Esquire

# EXHIBIT N



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

March 21, 2024

Mr. Benjamin Adair Parker, Esquire  
3045 Ashley Phosphate Road  
North Charleston SC 29418

Re: Josue Pineda Orellana v. Trident Construction, LLC  
Appellate Case No. 2023-001118

Dear Counsel:

Upon reviewing your appellant's initial brief and designation of matter, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.
- The caption/title does not comply with Rule 267(a), SCACR. Specifically, the caption must match exactly with the one given below:

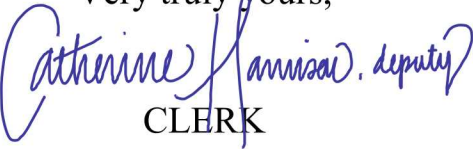
**Josue Pineda Orellana, Appellant,**

**v.**

**John Doe 1-10; Immaculate Reflections, Inc.; Banks Construction Company; Keller North America, Inc., f/k/a Hayward Banker, Inc.; Cooper River Concrete, LLC; Anchor Restoration Contractors, LLC; SC Steel, LLC f/k/a SMI-Owen Steel Company, Inc.; Enloe, Inc.; 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,**

**Of which Trident Construction, LLC is the Respondent.**

Very truly yours,

  
CLERK

cc: Jaan Gunnar Rannik, Esquire  
Clinton Thomas Magill, Esquire

# EXHIBIT O

**From:** [Benjamin Parker](#)  
**To:** [Jaan Rannik](#)  
**Cc:** [Clinton T. Magill](#); [Angela Gross](#); [Renee Carter](#);  
[PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com](mailto:PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com)  
**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118  
**Date:** Thursday, March 21, 2024 3:10:07 AM  
**Attachments:** [Amended Appellate Brief - Josue Pineda Orellana.pdf](#)

---

Jaan,

Please see attached Appellate Brief and please advise whether your carrier would be willing to discuss settlement negotiations at this time.

Thanks,

Ben

**Benjamin A. Parker, Attorney at Law**

John Price Law Firm, LLC

3045 Ashley Phosphate Rd

North Charleston, SC 29418

O: (843) 552-6011

F: (843) 871-3232 **\*PLEASE NOTE NEW FAX NUMBER**

*NOTICE: This e-mail is confidential and may contain information which is legally privileged or otherwise exempt from disclosure. If you received this message in error, please delete this message and any attachments to this message from your device.*

---

**From:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>

**Sent:** Thursday, February 8, 2024 10:00 AM

**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>

**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>

**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Renee,

Please confirm there are no other communications or request forms that were sent without copy to us, other than those provided to the Court of Appeals last week.

Thank you,

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](mailto:benparker@johnpricelawfirm.com)>

**Sent:** Friday, February 2, 2024 16:43

**To:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>

**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>

**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Jaan, please copy my paralegal, Renee Carter (cc'ed on this email), on all correspondence moving forward. I believe you've got everything we sent, but Renee can let you know if there's something else out there.

Thanks,

Ben

**PLEASE USE "REPLY ALL" WHEN RESPONDING**

**Benjamin A. Parker, Attorney at Law**

John Price Law Firm, LLC

3045 Ashley Phosphate Rd

North Charleston, SC 29418

O: (843) 552-6011

F: (843) 871-3232 **\*PLEASE NOTE NEW FAX NUMBER**

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**From:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>

**Sent:** Friday, February 2, 2024 3:47 PM

**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>

**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>

**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Benjamin,

Thanks for copying us on the letter to the Court of Appeals today. For purposes of organizing our file, were there multiple transcript request forms or versions sent to the Court Reporter between July 19<sup>th</sup> and January 31<sup>st</sup>? Or was there just one version that you scanned and re-sent (including to the Court of Appeals today)?

I ask because, if there were versions sent in July and/or January different from the one we got today, we do not have them, as we were not copied on any prior correspondence with the court reporter.

Please send us copies of any others so our file is complete.

Thanks much,

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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addressee, you are not authorized to read, print, retain, copy or disseminate this communication or any part of it. If you have received this communication in error, please delete all copies of this message and notify the sender immediately either by phone (843-377-1871) or by reply to this e-mail. Thank you.

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**From:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>

**Sent:** Friday, February 2, 2024 14:04

**To:** [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

**Cc:** Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>; Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>

**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

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Dear Sir/Madame,

I have also uploaded the attached file to SC Court Sharepoint. Please let me know if anything further is required on my end at this time.

Thanks,

Ben

**Benjamin A. Parker, Attorney at Law**

John Price Law Firm, LLC

3045 Ashley Phosphate Rd

North Charleston, SC 29418

O: (843) 552-6011

F: (843) 871-3232 **\*PLEASE NOTE NEW FAX NUMBER**

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---

**From:** Evans-Pryor, Khee'Asia <[kprior@sccourts.org](mailto:kprior@sccourts.org)>

**Sent:** Wednesday, January 31, 2024 3:07 PM

**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>; [jgr@epting-law.com](mailto:jgr@epting-law.com); [ctm@epting-law.com](mailto:ctm@epting-law.com)

**Cc:** Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>; [agg@epting-law.com](mailto:agg@epting-law.com)

**Subject:** Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Dear Counsel,

Attached please find correspondence from the Court of Appeals. **Please do not respond to this email.** Send all correspondence to [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org). **Any parties not included in this email will receive the attached correspondence via US Mail.**

Respectfully,

**Khee'Asia Evans-Pryor**

Appeals Specialist 1

South Carolina Court of Appeals

1220 Senate Street, Columbia, SC 29201

803-734-1890

E-filing: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

Website: [www.sccourts.org](http://www.sccourts.org)

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# EXHIBIT P

**From:** [Jaan Rannik](#)  
**To:** [Benjamin Parker](#)  
**Cc:** [Clinton T. Magill](#); [Angela Gross](#); [Renee Carter](#);  
[PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com](mailto:PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com)  
**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118  
**Date:** Thursday, March 21, 2024 9:23:43 AM

---

Ben,

I did not see that the Court of Appeals (i) has been advised that you have received the transcript or (ii) has set a briefing schedule. I also have not received an initial brief from you, so I'm not sure what is being amended. If I have missed something, please advise.

I will forward to the carrier, but I do not anticipate there being much appetite to discuss settlement.

Believe we are still waiting on confirmation that we now have copies of all communications and transcript requests per my email below. Please advise.

Thanks,  
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](mailto:benparker@johnpricelawfirm.com)>  
**Sent:** Thursday, March 21, 2024 03:09  
**To:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>  
**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>;  
[PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com](mailto:PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com)  
**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

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---

Jaan,

Please see attached Appellate Brief and please advise whether your carrier would be willing to discuss settlement negotiations at this time.

Thanks,  
Ben

**Benjamin A. Parker, Attorney at Law**

John Price Law Firm, LLC  
3045 Ashley Phosphate Rd  
North Charleston, SC 29418  
O: (843) 552-6011  
F: (843) 871-3232 **\*PLEASE NOTE NEW FAX NUMBER**

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**From:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>  
**Sent:** Thursday, February 8, 2024 10:00 AM  
**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>  
**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>  
**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Renee,

Please confirm there are no other communications or request forms that were sent without copy to us, other than those provided to the Court of Appeals last week.

Thank you,  
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](mailto:benparker@johnpricelawfirm.com)>

**Sent:** Friday, February 2, 2024 16:43

**To:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>

**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>

**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Jaan, please copy my paralegal, Renee Carter (cc'ed on this email), on all correspondence moving forward. I believe you've got everything we sent, but Renee can let you know if there's something else out there.

Thanks,  
Ben

PLEASE USE "REPLY ALL" WHEN RESPONDING

**Benjamin A. Parker, Attorney at Law**

John Price Law Firm, LLC

3045 Ashley Phosphate Rd

North Charleston, SC 29418

O: (843) 552-6011

F: (843) 871-3232 \*PLEASE NOTE NEW FAX NUMBER

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**Sent:** Friday, February 2, 2024 3:47 PM

**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>

**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>

**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

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Please send us copies of any others so our file is complete.

Thanks much,  
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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---

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**Sent:** Friday, February 2, 2024 14:04  
**To:** [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)  
**Cc:** Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>; Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>  
**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

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Dear Sir/Madame,

I have also uploaded the attached file to SC Court Sharepoint. Please let me know if anything further is required on my end at this time.

Thanks,  
Ben

**Benjamin A. Parker, Attorney at Law**  
John Price Law Firm, LLC  
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North Charleston, SC 29418

O: (843) 552-6011

F: (843) 871-3232 \*PLEASE NOTE NEW FAX NUMBER

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---

**From:** Evans-Pryor, Khee'Asia <[kpryor@sccourts.org](mailto:kpryor@sccourts.org)>

**Sent:** Wednesday, January 31, 2024 3:07 PM

**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>; [jgr@epting-law.com](mailto:jgr@epting-law.com); [ctm@epting-law.com](mailto:ctm@epting-law.com)

**Cc:** Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>; [agg@epting-law.com](mailto:agg@epting-law.com)

**Subject:** Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Dear Counsel,

Attached please find correspondence from the Court of Appeals. **Please do not respond to this email.** Send all correspondence to [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org). **Any parties not included in this email will receive the attached correspondence via US Mail.**

Respectfully,

***Khee'Asia Evans-Pryor***

Appeals Specialist 1

South Carolina Court of Appeals

1220 Senate Street, Columbia, SC 29201

803-734-1890

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# EXHIBIT Q

**From:** [Benjamin Parker](#)  
**To:** [Jaan Rannik](#)  
**Cc:** [Clinton T. Magill](#); [Angela Gross](#); [Renee Carter](#);  
[PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com](mailto:PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com)  
**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118  
**Date:** Friday, March 29, 2024 5:38:55 PM  
**Attachments:** [First Amended Appellate Brief - Josue Pineda Orellana.pdf](#)  
[Pineda - Proof of Service \[Appellants First Amended Brief\].pdf](#)  
[Common Pleas Hearing Transcript.pdf](#)  
[Orellana v. Trident - AIB.pdf](#)

---

Jaan, please see attached First Amended Appellate Brief with corrected caption and Proof of Service. I had assumed that when I dropped documents in the Court of Appeals Filings folder it would automatically shoot whatever got dropped in the folder to all other attorneys of record (like when filing online for circuit court and district court), but I'm now starting to doubt that and will make certain to email you as well whenever I drop any documents in the Filings folder. With regards to that, because I'm now unsure whether you received the Hearing Transcript or the original brief (which is essentially the same as the first amended brief, just with a "Table of Contents and Cases" in the correct format), I have attached them to this email as well.

Hope you have a great Easter weekend!

Thanks,  
Ben

**PLEASE USE "REPLY ALL" WHEN RESPONDING**

**Benjamin A. Parker, Attorney at Law**

John Price Law Firm, LLC

3045 Ashley Phosphate Rd

North Charleston, SC 29418

O: (843) 552-6011

F: (843) 871-3232 **\*PLEASE NOTE NEW FAX NUMBER**

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**From:** Benjamin Parker  
**Sent:** Thursday, March 21, 2024 3:09 AM  
**To:** Jaan Rannik <jgr@epting-law.com>  
**Cc:** Clinton T. Magill <ctm@epting-law.com>; Angela Gross <agg@epting-law.com>; Renee Carter <rcarter@johnpricelawfirm.com>;  
[PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com](mailto:PinedaOrellanaJosuePersonalInjuryZ991261187@johnpricelawfirm.filevineapp.com)  
**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Jaan,

Please see attached Appellate Brief and please advise whether your carrier would be willing to discuss settlement negotiations at this time.

Thanks,  
Ben

**Benjamin A. Parker, Attorney at Law**

John Price Law Firm, LLC

3045 Ashley Phosphate Rd

North Charleston, SC 29418

O: (843) 552-6011

F: (843) 871-3232 **\*PLEASE NOTE NEW FAX NUMBER**

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**From:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>

**Sent:** Thursday, February 8, 2024 10:00 AM

**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>

**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>

**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Renee,

Please confirm there are no other communications or request forms that were sent without copy to us, other than those provided to the Court of Appeals last week.

Thank you,  
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](mailto:benparker@johnpricelawfirm.com)>

**Sent:** Friday, February 2, 2024 16:43

**To:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>

**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>

**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Jaan, please copy my paralegal, Renee Carter (cc'ed on this email), on all correspondence moving forward. I believe you've got everything we sent, but Renee can let you know if there's something else out there.

Thanks,  
Ben

PLEASE USE "REPLY ALL" WHEN RESPONDING

**Benjamin A. Parker, Attorney at Law**

John Price Law Firm, LLC

3045 Ashley Phosphate Rd

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O: (843) 552-6011

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**From:** Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>

**Sent:** Friday, February 2, 2024 3:47 PM

**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>

**Cc:** Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>

**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Benjamin,

Thanks for copying us on the letter to the Court of Appeals today. For purposes of organizing our file, were there multiple transcript request forms or versions sent to the Court Reporter between July 19<sup>th</sup> and January 31<sup>st</sup>? Or was there just one version that you scanned and re-sent (including to the Court of Appeals today)?

I ask because, if there were versions sent in July and/or January different from the one we got today, we do not have them, as we were not copied on any prior correspondence with the court reporter.

Please send us copies of any others so our file is complete.

Thanks much,  
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](mailto:benparker@johnpricelawfirm.com)>  
**Sent:** Friday, February 2, 2024 14:04  
**To:** [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)  
**Cc:** Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>; Angela Gross <[agg@epting-law.com](mailto:agg@epting-law.com)>; Jaan Rannik <[jgr@epting-law.com](mailto:jgr@epting-law.com)>; Clinton T. Magill <[ctm@epting-law.com](mailto:ctm@epting-law.com)>  
**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

---

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

Dear Sir/Madame,

I have also uploaded the attached file to SC Court Sharepoint. Please let me know if anything further is required on my end at this time.

Thanks,  
Ben

**Benjamin A. Parker, Attorney at Law**  
John Price Law Firm, LLC  
3045 Ashley Phosphate Rd

North Charleston, SC 29418

O: (843) 552-6011

F: (843) 871-3232 \*PLEASE NOTE NEW FAX NUMBER

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**From:** Evans-Pryor, Khee'Asia <[kpryor@sccourts.org](mailto:kpryor@sccourts.org)>

**Sent:** Wednesday, January 31, 2024 3:07 PM

**To:** Benjamin Parker <[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)>; [jgr@epting-law.com](mailto:jgr@epting-law.com); [ctm@epting-law.com](mailto:ctm@epting-law.com)

**Cc:** Renee Carter <[rcarter@johnpricelawfirm.com](mailto:rcarter@johnpricelawfirm.com)>; [agg@epting-law.com](mailto:agg@epting-law.com)

**Subject:** Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118

Dear Counsel,

Attached please find correspondence from the Court of Appeals. **Please do not respond to this email.** Send all correspondence to [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org). **Any parties not included in this email will receive the attached correspondence via US Mail.**

Respectfully,

***Khee'Asia Evans-Pryor***

Appeals Specialist 1

South Carolina Court of Appeals

1220 Senate Street, Columbia, SC 29201

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# EXHIBIT R

**APPELLANT’S BRIEF**

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. 2023-00118  
Civil Ct. Case No. 2021-CP-18-01400

\_\_\_\_\_

Josue Pineda Orellana, ..... Appellant

v.

Trident Construction, LLC, ..... Respondent

\_\_\_\_\_

**APPELLANT’S BRIEF**

\_\_\_\_\_

**(A) TABLE OF CONTENTS AND CASES** (see below)

**(B) STATEMENT OF ISSUES ON APPEAL**

- I. Did the Circuit Court Appropriately Deny Plaintiff’s Motion to Amend Because it Would Prejudice Trident?

- I. Did the Circuit Court Appropriately Deny Plaintiff’s Motion to Amend/Substitute Due to the Futility of Said Motion?
  - a. Did the Circuit Court Appropriately Decide Whether the Exclusivity Defense Bars Any Further Claim by Plaintiff Against Trident?
    - i. Did the Circuit Court Appropriately Decide that the Keene Case does Not Alter Trident’s Status as a Statutory Employer?
  - b. Did the Circuit Court Appropriately Decide that Trident’s Dismissal from a Workers’ Compensation Act Claim Would Preclude Further Litigation in a Tort Law Claim?
  - c. Pursuant to 15(C), S.C.R.C.P., Did the Circuit Court Appropriately Decide that the Statute of Limitations had Expired to Substitute Trident in as a “New Party” for John Doe?

**(C) STATEMENT OF THE CASE**

Trident Construction, LLC (“Trident Construction”) was the general contractor hired by a commercial truck dealer and distributor, Worldwide Equipment, to build a new 37,000 square-foot facility at 78 Jedburg Road, Summerville, South Carolina. Trident supervised the construction, which was performed by various subcontractors either engaged by Trident, or subcontractors engaged by subcontractors. Appellant was an employee of a subcontractor engaged by a subcontractor, Frank’s Painting LLC, contracted by Peter’s Paint and Wall Covering, which was in turn contracted by Trident Construction.

An August 6, 2018, appellant was assigned to install plastic on the concrete second floor to prevent paint from spraying onto the concrete floor. This was appellant’s first day setting foot on the second floor of the Premises. Appellant was placing plastic down by taping down the front of the plastic and walking backwards in a squatting position as he unrolled the plastic. As appellant was moving backwards, he stepped onto a blue foam board (Dow Styrofoam Scoreboard Extruded Polystyrene Insulation with a compression strength of 25 lbs.) that was placed inside of a 2.5 feet by 3.5 feet open hole. The blue Styrofoam hard insulation had been placed in the holes (on the second floor of the Premises) by employees of Trident Construction. As Appellant stepped onto the blue foam board, the blue foam board broke and Plaintiff fell backwards and into the hole, falling approximately 14 feet, landing neck and back first onto the concrete floor below. Plaintiff suffered back fractures, a broken dorsal spine, and damaged tendons, resulting in Plaintiff being paralyzed (a paraplegic).

On August 5, 2021, appellant filed a summons and complaint naming 10 “John Doe” defendants, in addition to multiple other defendants. On May 18, 2023, appellant moved before the Dorchester County Court of Common Pleas to amend his complaint pursuant to Rules 11, 15(b), 15(c), and 37 of the South Carolina rules of Civil Procedure, requesting of the Court an

order allowing appellant to amend his complaint to substitute Trident Construction, LLC as the named Defendant in place of Defendant John Doe 1, alleging: no prejudice would result from granting the motion; the claims asserted in appellant's proposed amended pleading arose out of the same conduct and occurrence set forth in the original pleadings; Trident Construction had notice of the institution of said action within the period provided by law for commencement of said action; Trident Construction knew or should have known that, but for a mistake concerning the identity of the proper party, said action would have been brought against Trident Construction, and; the workers' compensation exclusivity doctrine did not apply due to the fact that appellant was not a statutory employee of Trident Construction pursuant to the SC Supreme Court's recent decision in Keene v. CNA Holdings, LLC, Opinion No. 28052, which would not be considered a retroactive application of law pursuant to Zeigler v. Eastman Chemical Company LLC (2022).

Trident Construction responded by moving the court for leave to intervene for the limited purpose of opposing appellant's motion to include Trident as a defendant in said action, alleging: the motion to amend should be denied because it would prejudice Trident Construction; the motion to amend should be denied as futile; the workers' compensation exclusivity defense barred any further claim by appellant against Trident Construction; the Keene case did not alter Trident Construction's status as a statutory employer; Trident Construction was dismissed with prejudice from the workers' compensation action, and; the statute of limitations had expired.

On May 26, 2023, the trial court granted Trident Construction's motion to intervene and denied appellant's motion to amend and substitute, adopting in its order the arguments made by Trident Construction in their memorandum, filed May 18, 2023, and effectively dismissing appellant's claim against Trident Construction. On June 5, 2023, appellant filed a motion to reconsider. On June 9, 2023, the trial court judge issued an order denying appellant's motion to reconsider. Appellant filed this appeal on July 10, 2023, and received the Record of Appeal on February 19, 2024.

#### **(D) STANDARD OF REVIEW**

"The determination of whether a worker is a statutory employee is jurisdictional and, therefore, the question on appeal is one of law." Posey v. Proper Mold & Eng'g, Inc., 378 S.C. 210, 216, 661 S.E.2d 395, 398 (Ct. App. 2008) (citing Harrell v. Pineland Plantation, Ltd., 337 S.C. 313, 320, 523 S.E.2d 766, 769 (1999); Glass v. Dow Chem. Co., 325 S.C. 198, 201-02, 482 S.E.2d 49, 51 (1997)). "As a result, this court has the power and duty to review the entire record and decide the jurisdictional facts in accord with its view of the preponderance of the evidence." Id. at 216, 661 S.E.2d at 399 (citing Harrell, 337 S.C. at 320, 523 S.E.2d at 769; Glass, 325 S.C. at 202, 482 S.E.2d at 51); see also Bridges v. Wyandotte Worsted Co., 243 S.C. 1, 7-10, 132 S.E.2d 18, 20-22 (1963), overruled in part on other grounds, Sabb v. S.C. State Univ., 350 S.C. 416, 567 S.E.2d 231 (2002) (holding the existence or absence of an employment relationship is a jurisdictional fact that the court must determine based on its review of all the evidence in the record). "Where the issue involves jurisdiction, the appellate court can take its own view of the

preponderance of the evidence.” Posey, 378 S.C. at 216-17, 661 S.E.2d at 399 (citing Nelson v. Yellow Cab Co., 349 S.C. 589, 594, 564 S.E.2d 110, 112 (2002)). “It is South Carolina’s policy to resolve jurisdictional doubts in favor of the inclusion of employers and employees under the [WCA].” Edens v. Bellini, 359 S.C. 433, 440, 597 S.E.2d 863, 867 (Ct. App. 2004).

An interlocutory order not governed by a specialized appealability statute is not immediately appealable unless it fits into one of the categories listed in section 14-3-330 of the South Carolina Code (1976 & Supp. 2009). Ex Parte Capital U-Drive-It, Inc., 369 S.C. 1, 6, 630 S.E.2d 464, 467 (2006). An order "involves the merits" when it finally determines a substantial matter forming the whole or a part of some cause of action or defense. Mid-State Distribs., Inc. v. Century Imps., Inc., 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993). Additionally, the practical effect of the denial of appellant’s motion to amend the complaint and substitute Defendant John Doe 1 for Trident Construction is to strike out the appellant’s complaint with respect to the respondent. Appellant contends the portion of the order dealing with denial of appellant’s motion to amend and substitute Trident Construction for John Doe 1 is appealable under sections 14-3-330(1) and 14-3-330(2)(c) because it involves the merits and affects a substantial right by effectively striking a pleading [similar to a motion to dismiss under Rule 12(b)(6)].

Generally, a ruling on a motion to dismiss under Rule 12(b)(6), SCRCPP [or its equivalent], must be based solely on the allegations contained in the complaint. Baird v. Charleston County, 333 S.C. 519, 527, 511 S.E.2d 69, 73 (1999). "Viewing the evidence in favor of the plaintiff, the motion must be granted if facts alleged in the complaint and inferences reasonably deducible therefrom do not entitle the plaintiff to relief on any theory of the case." Jarrell v. Petoseed Co., 331 S.C. 207, 209, 500 S.E.2d 793, 794 (Ct. App. 1998).

“In a case raising a novel question of law, the appellate court is free to decide the question with no particular deference to the lower court.” Hagood v. Sommerville, 362 S.C. 191, 194, 607 S.E.2d 707, 708 (2005).

## **(E) ARGUMENT**

- I. Did the Circuit Court Appropriately Deny Plaintiff’s Motion to Amend Because it Would Prejudice Trident?

As stated previously in Plaintiff’s Motion to Substitute Defendants, Plaintiff would agree to a 40(j) dismissal of this claim in order to prevent Trident from being prejudiced. The only argument that Trident made with regards to prejudice at the Hearing was that Trident would be forced to try this case in two (2) months had the motion been granted then, or would have to try this case without enough time to prepare its defense if this Appeal were granted now.

- II. Did the Circuit Court Appropriately Deny Plaintiff’s Motion to Amend/Substitute Due to the Futility of Said Motion?

a. Did the Circuit Court Appropriately Decide Whether the Exclusivity Defense Bars Any Further Claim by Plaintiff Against Trident?

i. Did the Circuit Court Appropriately Decide that the Keene Case does Not Alter Trident's Status as a Statutory Employer?

The Keene case specifically states that its decision applies to both 42-1-400 and 42-1-410, but more importantly, there are numerous decisions by South Carolina courts that state that the term "owner" as used in 42-1-400 is synonymous with "principal contractor." Murray v. Aaron Mizell Trucking Co. (S.C.App. 1985) 286 S.C. 351, 334 S.E.2d 128; Fortner v. Thomas M. Evans Const. and Development, LLC (S.C.App. 2013) 402 S.C. 421, 741 S.E.2d 538; Marchbanks v. Duke Power Co. (1939) 190 SC 336, 2 SE 2d 825; Kennerly v. Ocmulgee Lumber Co. (1945) 206 SC 481, 34 SE2d 292. Therefore, Trident falls under 42-1-400, which is admitted by Defendant, does not fall within the purview of the three part test. Even if it were determined to fall under the purview of 42-1-410, all case law states the exact same test applies. See e.g. Collins v. Charlotte, 400 S.C. 50 (S.C. Ct. App. 2012), 732 S.E.2d 630.

b. Did the Circuit Court Appropriately Decide that Trident's Dismissal from a Workers' Compensation Act Claim Would Preclude Further Litigation in a Tort Law Claim?

The Consent Order proffered by Defendants as Exhibit A states that "The South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of this claim," and that "The parties agree to dismiss with prejudice Defendants Trident Construction, LLC, and New Hampshire Insurance Company c/o Gallagher Basset Services, Inc., from the claim with prejudice, pursuant to S.C. Code § 42-1-415(A) and S.C. Reg. 67-415. Each of these codes deals exclusively with the Workers' Compensation Act, meaning that it would have no bearing whatsoever on further litigation in a tort law claim, which is what is being pursued here.

c. Pursuant to 15(C), S.C.R.C.P., Did the Circuit Court Appropriately Decide that the Statute of Limitations had Expired to Substitute Trident in as a "New Party" for John Doe?

The only case applicable to this Appeal cited by Defendant is Hughes v. Water World Water Slide, Inc., 314 S.C. 211 S.C. 211, 214, 442 S.E.2d 584, 586 (1994), which sets forth how a claim against a new party can relate back to the date of the original complaint if all four (4) elements are satisfied under Rule 15(C), S.C.R.C.P. The other two (2) cases cited by Defendant are Jackson v. Doe, 342 S.C. 554, 558-59 (2000), which has to do with adding as opposed to substituting a party, and Land v. Green Tree Servicing, LLC, 140 F. Supp. 3d 539, 546 (D.S.C. 2015), which considers equitable tolling. Claimant satisfied the four (4) elements to relate the claim back to the date of the original complaint against the "new party" (Trident) because (i) the claim against the new party arises out of the conduct set forth in the original pleading; (ii) the new party received notice of the action such that it will not be prejudiced in defending the claim on the merits; (iii) the new party knew or should have know that, but for a mistake concerning the new party's identity, the new party would have been added when the original complaint was filed, and; (iv) requirements ii and iii were fulfilled before expiration of the statute of limitations.

## **F. CONCLUSION**

Therefore, given the pertinent case and statutory law, and the facts of this case, the portion of the order dealing with denial of appellant's motion to amend and substitute Trident Construction for John Doe 1 should be overturned.

10/11/2023

s/ Benjamin A. Parker

Benjamin A. Parker

3045 Ashley Phosphate Rd

North Charleston, SC 29418

P: (843) 552-6011

F: (843) 760-6840

[benparker@johnpricelawfirm.com](mailto:benparker@johnpricelawfirm.com)

SC Bar No: 100831

*ATTORNEY FOR APPELLANT JOSUE PINEDA ORELLANA*

**RECEIVED**

**Apr 05 2024**

**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

**PROOF OF SERVICE**

I certify that I have served Respondent’s Motion to Dismiss, on opposing counsel via e-mail, this 5th day of April, 2024, 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

**From:** [Angela Gross](#)  
**To:** [Benjamin Parker](#)  
**Cc:** [Clinton T. Magill](#); [Angela Gross](#); [Renee Carter](#); [Jaan Rannik](#); [Angela Gross](#)  
**Subject:** RE: Josue Pineda Orellana v. Trident Construction, LLC- 2023-001118  
**Date:** Friday, April 5, 2024 4:28:00 PM  
**Attachments:** [2024 04 05 - Exhibits to 2nd Motion to Dismiss.pdf](#)  
[2024 04 05 - Second Motion to Dismiss.pdf](#)

---

Mr. Parker,

Attached for service please find Trident's Motion to Dismiss, with supporting exhibits, in the above appeal. A Proof of Service will follow under separate email cover.

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)