

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Roger M. Young, Circuit Court Judge

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Appellate Case No. 2017-001391  
Opinion No. 5471

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Joshua Fay,.....Respondent,

v.

Total Quality Logistics, LLC, ..... Petitioner,

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**NOTICE OF SETTLEMENT AND REQUEST TO VACATE**

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Robert D. Moseley, Jr. (SC Bar #05526)  
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**S.C. SUPREME COURT**

## AGREEMENT OF THE PARTIES AND REQUEST TO VACATE

The parties to this appeal have reached an agreement regarding the issues presented in this appeal. The parties' agreement is conditioned upon the vacation of the Court of Appeals Opinion No. 5471. If the Court grants the parties' request to vacate the Court of Appeals Opinion, the parties agree to file a notice of voluntary dismissal which complies with Rules 260, SCACR within 30 days of such vacation.

The parties to this appeal have been engaged in ongoing discussions regarding a resolution of the claims. One of the conditions of the settlement agreement between the parties is the vacation of the Court of Appeals opinion filed in this matter. Without this vacation, the parties are unable to agree on the terms of a settlement. It was at the request of Respondent that the appeal be settled, rather than Petitioner. Petitioner had filed its Initial Brief and granted Respondent an extension for the filing of Respondent's Brief. However, Respondent instead agreed to end the appeal and to consent to a request to vacate the opinion of the Court of Appeals.

In order to preserve the position of the parties prior to the initiation of the appellate process, the opinion of the Court of Appeals must be vacated. By vacating the Order of the Court of Appeals, the Court preserves judicial resources. The settlement agreement between the parties includes a resolution of all the parties' claims against one another. However, the settlement agreement is conditioned on a vacation of the Court of Appeals opinion.

In order to permit the parties to settle this matter, the parties respectfully request this Court vacate the opinion No. 5471 of the Court of Appeals, which was previously issued in this matter.

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Dated: April 24, 2018.

WE CONSENT:

Alice Paylor (with permission by Emily Bridges)  
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JOSHUA FAY.....Respondent,

vs.

TOTAL QUALITY LOGISTICS, LLC.....Petitioner.

**PROOF OF SERVICE**

The undersigned of the law offices of Smith Moore Leatherwood LLP, attorneys for Petitioner, does hereby certify that service of the Notice of Settlement and Request to Vacate was made on counsel for Respondent, specified below, by sending a copy via US Postal Service, Priority Mail Express, on **April 24, 2018**, to the following address:

Alice F. Paylor, Esq.  
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*Counsel for Respondent Joshua Fay*

Date: April 24, 2018

*Emily I. Bridges*

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