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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas  
The Honorable Charles B. Simmons, Jr., Master-in-Equity

Civil Action No. 2015-CP-23-05935  
Appellate Case No. 2018-002052

RECEIVED  
NOV 30 2018  
SC Court of Appeals

Jeanne A. Burton, Trustee.....Appellant,  
v.  
Triad Grading, LLC, .....Respondent.

**RESPONDENT'S MOTION FOR EXPEDITED RESOLUTION**

The Respondent Triad Grading, LLC., ("Triad" or "Respondent") would move the Court for an expedited resolution of the Motions previously filed by Appellant <sup>1</sup>, and would show the Court as follows:

**BACKGROUND**

Triad is a grading contractor whose work (and cash flow) diminish significantly in the winter months. This appeal arises out of supplemental proceedings filed against Triad by Appellant.<sup>2</sup> In short, when Appellant sought to take actions in collecting its judgment which would have caused Triad to have to close its doors, the Court ruled in favor of Triad. Appellant filed a

<sup>1</sup> Respondent's counsel has consulted with Appellant's counsel, who has consented to this motion.

<sup>2</sup> An extensive history of the proceedings below may be found in either the Petition of Appellant for Supersedeas, or Triad's Return to that motion.

Notice of Appeal following the Court's September 2018 ruling from the bench, which was dismissed in early November by this court. It has filed a Notice of Appeal of the November 5 written order, and following the Master's ruling on November 21, 2018 in favor of Triad on its Motion to Lift Automatic Stay, filed yet another Notice of Appeal as to that ruling. After filing that Notice of Appeal, it filed a Motion for Supersedeas and for Preliminary Injunction as to the order lifting the stay.

Triad is filing herewith its Return to Appellant's Motion for Supersedeas, and for the reasons set forth herein, would request an expedited resolution to that motion.

### ARGUMENT

Judge Simmons' Order on Supplemental Proceedings dated November 5, 2018 sets forth the testimony from Triad's construction manager and a forensic accountant as to the dire impact Triad would suffer if it lost the operating funds frozen by Appellant's previous actions. In his Findings of Fact and Conclusions of Law, Judge Simmons found, in weighing the risks faced by each party, that "the greater risk is that the full and immediate payment of the judgment amount to Petitioner from the Frozen Funds will likely result in the closure of Triad and the loss of employment by 39 employees."

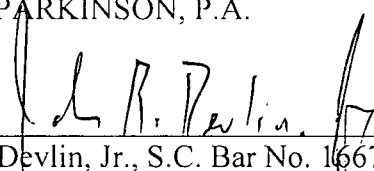
This matter has thus been recognized by the lower court as being time-sensitive. In its Motion to Lift Automatic Stay, Triad argued that the Court's ruling specifically intended to prevent Trustee from forcing Triad to, in effect, starve to death during the slow winter months. As Judge Simmons stated in his Order lifting Automatic Stay, "failure to grant such relief...is likely tantamount to judicial closure of Triad."

If Triad does not have access to the Frozen Funds, it will likely not survive the winter. It would appreciate all possible speed in the resolution of this matter.

Respectfully submitted,

DEVLIN & PARKINSON, P.A.

BY: \_\_\_\_\_

  
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Attorneys for the Respondent

Date: November 28, 2018  
Greenville, SC

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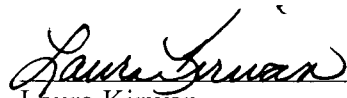
CERTIFICATE OF SERVICE

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I certify that on November 28, 2018, I have served the following with a copy of the **Respondent's Motion for Expedited Resolution** by depositing same in the United States Mail, postage prepaid and properly addressed as follows:

Townes B. Johnson, III, Esq.  
Townes B. Johnson, III, LLC  
P. O. Box 9246  
Greenville, SC 29604

*Attorney for Appellant*

  
\_\_\_\_\_  
Laura Kirwan  
Legal Assistant to John R. Devlin, Jr.  
Devlin & Parkinson, P.A.  
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Greenville, SC 29603

DEVLIN & PARKINSON, P.A.

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November 28, 2018

The Honorable Jenny Abbott Kitchings  
Clerk, Court of Appeals  
P. O. Box 11629  
Columbia, South Carolina 29211

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SC Court of Appeals

RE: Jeanne A. Burton, Trustee vs. Triad Grading, LLC  
Appellate Case No. 2018-002052

Dear Ms. Kitchings:

Please find enclosed the original and seven copies of Respondent's Motion for Expedited Resolution that we would appreciate you filing with the Court in connection with the above matter, along with our filing fee in the amount of \$50.00.

I would also appreciate it if you would return a clocked-in copy of the same to our office in the enclosed envelope.

Should you have any questions, please give me a call.

Sincerely,



John R. Devlin, Jr.

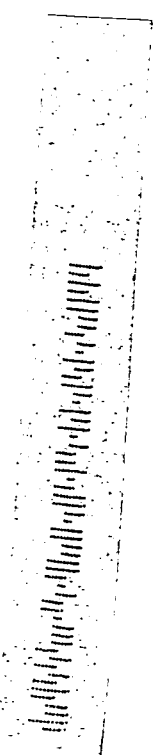
JRD/llk

Enclosures

cc: Townes B. Johnson, III, Esq. (w/enclosures)



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**DEVLIN & PARKINSON, P.A.**

ATTORNEYS AT LAW

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TO:

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
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