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SUPREME COURT OF NEW JERSEY  
DOCKET NO. 090537

ERWIN CAMPOVERDE,

PLAINTIFF-APPELLANT  
PETITIONER,

V.

NY-NJ LINK DEVELOPER, LLC,  
MACQUARIE GROUP LIMITED  
I/S/H/A MACQUORIE GROUP  
LIMITED, KIEWIT DEVELOPMENT  
COMPANY, AND THE PORT  
AUTHORITY OF NEW YORK AND NEW JERSEY,  
DEFENDANTS-RESPONDENTS,  
AND

KS ENGINEERS, PC,  
DEFENDANT.

Sat Below: Mawla, J.A.D., Natali, J.A.D.  
Vinci J.A.D.

Honorable Justices:

Petitioners Defined Alliance, LLC and George Makhoul, submit this  
Petition for Certification to review the attached decision of the Superior Court of  
New Jersey, Appellate Division, Docket No. A-1174-23 (March 4, 2025). PA1.

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### **Questions Presented**

Did the Law Division err in granting defendants' motion for summary judgment and dismissing plaintiff's claims for the serious injuries he sustained while working on a reconstruction project on the Goethals Bridge which was located in both New Jersey and New York, and where the evidence permits a reasonable jury to find that the incident injuring the plaintiff arose from the negligence of an incompetent subcontractor hired by the defendants?

### **Matter Presented**

Plaintiff began working as a construction laborer, and later joined a New Jersey laborer's union. The plaintiff's union referred him to Kiewit-Weeks-Massman (KWM), a joint venture between Kiewit Infrastructure Co. (a subsidiary of Kiewit Development Company), Weeks Marine, Inc., and Massman Construction Co., to work on the Goethals Bridge project ("project"), which connects Union County with Richmond County, New York, by spanning the Arthur Kill waterway. PA1-3.

The Port Authority of New York and New Jersey ("Port Authority") owns the Goethals Bridge. In 2013, the Port Authority entered into an agreement with NY-NJ Link Developer, LLC ("NY-NJ Link"), to replace the bridge. Macquarie Group, an Australian global services group, owns ninety percent of NY-NJ Link

while Kiewit Development Company owns the remaining ten percent. NY-NJ Link hired KWM to design and construct the replacement bridge. PA1-3.

A design-build contract between KWM and NY-NJ Link governed those parties' relationship. The contract required KWM to provide and comply with a health and safety plan, supervise and inspect its own work, and deemed KWM's failure to "formally establish, adhere to or enforce a safety policy, procedure, process, or guideline as required by the [h]ealth and [s]afety [p]lan" a "noncompliance event." The contract also required KWM and NY-NJ Link "each [to] irrevocably and unconditionally submit[] . . . to the exclusive jurisdiction of any New York State court or the U.S. District Court for the Southern District of New York . . . for the settlement of any dispute in connection with th[e c]ontract."

According to the affidavit of Luke Chenery, the Chief Executive Officer of NY-NJ Link, "[o]nly KWM had the authority to hire its workers, train them, assign them tasks to complete, provide them with instructions on completing those tasks and discipline them if necessary." Chenery also attested "NY-NJ Link did not have the authority to control the means and methods of . . . [p]laintiff's work or the work of other KWM employees."

While working on the New Jersey side of the project on October 26, 2017, a KWM foreman assigned plaintiff and a coworker, both KWM employees, to

prepare crane mats near a construction trench. At the time of the accident, plaintiff was located outside the trench. An excavator operator, also a KWM employee, swung the crane mat without proper signaling and, plaintiff testified, as he bent down to hand a co-worker a piece of wood, he was struck in the back by the crane mat attached to the excavator. PA3-4. KWM terminated the excavator operator following the incident. Id.

Plaintiff sued the defendants to recover for his injuries. Following discovery, the defendants moved for summary judgment. The court granted the motion in a November 3, 2023 order and explained its decision in a comprehensive oral opinion.

The court first rejected plaintiff's arguments seeking the application of New York law and, instead, determined New Jersey law governed plaintiff's claims. It considered the Restatement (Second) of Conflict of Laws § 145 (1971) factors and found the record contained no facts to "establish New York [h]as the most significant relationship to the plaintiff's accident." Instead, the court concluded New Jersey had the more dominant relationship as plaintiff was hired for the job through his New Jersey union, lived in the state, and was injured here. The court also rejected plaintiff's argument that New York law should apply based on the New York choice of law provision in the contract between KWM and NY-NJ Link, as plaintiff's personal injury claims did not arise out of

the contract. Applying New Jersey law, the court concluded defendants did not owe plaintiff a duty of care. The court explained general contractors are not ordinarily liable for injuries sustained by employees of an independent contractor because an independent contractor controls the manner in which their own work is completed. Relying on the principles detailed in Tarabokia v. Structure Tone, 429 N.J. Super. 103 (App. Div. 2012), the court was satisfied that the moving parties did not "provide equipment[,] . . . supervise the construction[,] . . . [or] supervise the work." The court found "Macq[uarie] and Kiewit were simply investors and had no direct connection to the plaintiff's employer KWM." Further, the court noted "NY[-]NJ Link retained KWM to build the . . . [p]roject, but did not retain control over the meetings and methods of KWM's work" and was "satisfied . . . there [could] be no basis . . . to find any of the moving parties potentially exposed to liability for the claims at issue."

The court relied on this Court's decision in Alloway v. Bradlees, Inc., 157 N.J. 221, 236 (1999), and held the OSHA violations plaintiff relied upon as proof that NY-NJ Link and, by extension, the Port Authority, hired an incompetent contractor were insufficient to impose liability because those violations occurred after the parties' entered the contract and, further, plaintiff failed to establish their admissibility. The court also held the project did not constitute a "nuisance per se[.]" because the work at issue was not "an activity

which can be carried on safely only by the exercise of special skill and care and which involves grave risk of danger to persons or property if negligently done."

Plaintiff appealed and argued that the trial court erroneously applied New Jersey law instead of New York law because the project "spanned across both New Jersey and New York[,]" and New York's involvement was significantly greater than New Jersey's." PA6-9. Plaintiff argued that "[a] worker injured in the course of working on a massive project spanning both . . . [states] should be protected by whichever state's law is more protective of the injured worker." "New York has the more significant interest in this matter given that the legislative intent of both its [l]abor [l]aws and its [i]ndustrial [c]ode was to protect workers and to promote overall safety on construction sites."

The appeals panel rejected the argument and said that New Jersey law applied. The court acknowledged "a conflict exists between New Jersey law and New York law with respect to the liability imposed upon general contractors." "New Jersey adopted the most-significant-relationship test for deciding choice of substantive law in tort cases." "Applying the most significant relationship test and weighing the relevant factors and principles, the court correctly concluded that New Jersey law applies to plaintiff's claims against defendants. It is undisputed the injury occurred in New Jersey. Therefore, to overcome the presumption New Jersey law applies, the plaintiff must establish

that New York has the more significant relationship to the injury by applying the above-described factors. He has failed to do so,” the panel said. PA12-14.

Plaintiff argued that even if New Jersey law applied, “[d]efendants had a duty under New Jersey law not to retain negligent contractors and subcontractors,” which they breached because “incompetent workers were operating excavators on the Goethals Bridge without a signalman, and without remembering the excavator was still hooked on to the crane mat.” The panel rejected this argument, too. “We are satisfied the court did not err in holding defendants did not owe plaintiff a duty of care as none of the three exceptions to the general rule protecting general contractors applied to these facts. The undisputed facts show that none of the defendants retained control over the manner and means of the work. It is undisputed KWM hired plaintiff and the excavator operator, trained the employees, provided protective equipment, and managed the jobsite. It was also not contested that defendants, particularly with respect to Macquarie Group and Kiewit Development, were merely investors who provided funding and board oversight, and the Port Authority was similarly disconnected from the project except for hiring NY-NJ Link. Further, as the court correctly noted, the contract between NY-NJ Link and KWM required NY-NJ Link to conduct certain inspections to ensure compliance with the contract and applicable law, not control the manner and means of the work.” PA14-19.

## **ARGUMENT**

### **THE LAW DIVISION ERRED IN GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND DISMISSING WITH PREJUDICE PLAINTIFF'S CLAIMS FOR THE SERIOUS INJURIES HE SUSTAINED WHILE WORKING ON A RECONSTRUCTION PROJECT ON THE GOETHALS BRIDGE (A983; 1T37).**

The Court should grant Certification to clarify (1) when the law of a foreign state applies to a New Jersey resident's personal injury claim, and (2) the standard of liability for an owner or general contractor for hiring an incompetent subcontractor on a construction project.

#### **A. New York law should have been applied to assess the plaintiff's personal injury claim in this case.**

As summarized in Appellant's Brief (incorporated by reference), New York law provides greater protection for an injured construction worker like the plaintiff because it imposes strict liability on owners for injuries falling within its ambit, regardless of whether the owner had control of the worksite, or contracted for the work, *see e.g. Sanatass v. Consol. Investing Co.*, 10 N.Y.3d 333, 339 (2008) ("the statutory duty imposed by this strict liability provision is nondelegable and that an owner is liable for a violation of the section even though the job was performed by an independent contractor over which it exercised no supervision or control").

The Court should clarify that New York law should apply because this was a project that spanned both New Jersey and New York. Plaintiff's work permit (App.

Div. Appx. “A” 101) was required for working on the project in both New York and New Jersey in order to be able to work in both states, and the plaintiff’s work, spanning the entire bridge, extended to both states. Workers’ compensation for the plaintiff was filed in New York.

The Bridge project contract references New York courts and New York law. The contracting documents for the Goethals Bridge project all referenced New York law and New York courts. New Jersey courts honor choice of law provisions in contracts unless “(a) the chosen state has no substantial relationship to the parties or the transaction and there is no other reasonable basis for the parties’ choice, or (b) application of the law of the chosen state would be contrary to a fundamental policy of a state which has a materially greater interest than the chosen state in the determination of the particular issue and which would be the state of the applicable law in the absence of an effective choice of law by the parties.” See Instructional Sys., Inc. v. Computer Curriculum Corp., 130 N.J. 324, 341–42 (1992) (quoting Restatement (Second) of Conflict of Laws § 187 (1971)). Forum selection clauses are generally enforceable unless the clause is unreasonable or contravenes a strong public policy of the forum where the suit is brought. Id.

The documents demonstrate the intent of the Defendants to be bound by the laws of New York and not New Jersey. The Second Amended and Restated Construction Engineering and Inspection Contract between NY-NJ Link Developer

LLC and KS Engineers, P.C. dated July 1, 2016 contains Section 16.7 (Submission to Jurisdiction) and Section 16.9 (Governing Law), which read as follows:

16.7 (Submission to Jurisdiction) Developer and Engineer each irrevocably and unconditionally submits, to the fullest extent permitted by Applicable Law, to the exclusive jurisdiction of any New York State court or the U.S. District Court for the Southern District of New York sitting in the City and County of New York, and any appellate court from any thereof, for the settlement of any dispute in connection with this Contract or any transaction contemplated hereby. Engineer and Developer each also irrevocably and unconditionally waive, to the fullest extent permitted by Applicable Law, any objection that it may have now or hereafter to the laying of venue in such courts on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with this Contract or any transaction contemplated hereby. \*\*\*

16.9 (Governing Law) THIS CONTRACT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, BUT WITHOUT REGARD TO, THE STATE OF NEW YORK'S CONFLICT OF LAW PRINCIPLES. (See Cert. of Counsel at Exhibit F).

The Design-Build Contract between Defendant NY-NJ Link and KWM dated August 30, 2013 contains the following provisions: “32.8 (Submission to Jurisdiction) Developer and Contractor each irrevocably and unconditionally submits, to the fullest extent permitted by Applicable Law, to the exclusive jurisdiction of any New York State court or the U.S. District Court for the Southern District of New York sitting in the City and County of New York, and any appellate court from any thereof, for the settlement of any dispute in connection with this Contract or any transaction contemplated hereby. Engineer and Developer each also

irrevocably and unconditionally waive, to the fullest extent permitted by Applicable Law, any objection that it may have now or hereafter to the laying of venue in such courts on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with this Contract or any transaction contemplated hereby.” “32.10 (Governing Law) THIS CONTRACT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, BUT WITHOUT REGARD TO THE STATE OF NEW YORK CONFLICT OF LAW PRINCIPLES.” The Subcontract for Design between KWM and Parsons Transportation Group of New York, Inc. dated March 12, 2013 contains Article 26 – Governing Law, which reads as follows: “This Agreement shall be governed by the laws of the State of New York, excluding their conflicts of law provisions. The site for jurisdiction and resolution of any legal dispute hereunder shall be New York.”

While plaintiff was injured on the New Jersey side of the bridge, but his work spanned the entire project and both sides of the bridge. The work on the Goethals Bridge project embraced both New Jersey and New York in multiple sections; the bridge spans the Arthur Kill waterway separating the City of Elizabeth, New Jersey, from the County of Richmond, New York, *see* A78 (plaintiff’s deposition transcripts at A363, A366), A87 (answers to interrogatories), A944, 951; including descriptions of the project's scope involving construction in both states and the bridge connecting

Elizabeth, New Jersey, to Staten Island, New York (A659). Permits and approvals were from both states (A366, 576, 581, 600, 608, 795, 796, 806, 817, 821, 900, 980), pointing to the bi-state nature of the project.

The contract and related documents confirm that the work on the Goethals Bridge involved building two new bridges to replace an old one and spanned both sides of the bridge, including New Jersey and a part of New York, separated only by the Arthur Kill waterway (A380-381). Construction details include the eastbound and westbound bridges (A582, 600), with government approvals for work involving both New York and New Jersey (A817), and specific structural components such as "Main Span - South Structure" and "Main Span - North Structure" (A841-843). The Port Authority of New York and New Jersey owns and operates the Goethals Bridge and entered into an agreement with NYNJ Link for a project to replace the Goethals Bridge, suggesting that the project pertains to both New York and New Jersey due to the involvement of the Port Authority that operates across both states (A576, A581). The project undertaken by Kiewitt Infrastructure Corp and its joint venture was to build a bridge between New Jersey and New York, implicitly conveying that the work on the Goethals Bridge project involved both states (A608; A795-96). The Port District is noted as being an area of about 1,500 square miles centering around New York Harbor, which includes cities in both New York and New Jersey, again indicating that the work on the Goethals Bridge project spans across both states

(A806, A817). A subcontract mentions the Goethals Bridge Replacement Project and includes addresses in New Jersey and New York, specifically listing "470 Chestnut Ridge Road, Woodcliff Lake, NJ 07677" for Kiewit-Weeks-Massman, AJV, and "100 M Street SE, Washington, DC 20003" for Parsons Transportation Group of New York, Inc., with the project located in New York, New York (A980). Construction details include the eastbound and westbound bridges (A582, 600), with government approvals for work involving both New York and New Jersey (A817), and specific structural components such as "Main Span - South Structure" and "Main Span - North Structure" (A841-843).

In addition to the contract's choice of New York courts and law, defendants were cited for 51 violations of the Occupational Safety and Health Administration (OSHA), a Federal agency of the U.S. Department of Labor, which can be evidence that a defendant was negligent (though a duty of care does not arise based solely on a finding that OSHA regulations were violated, Alloway v. Bradlees, Inc., 157 N.J. 221, 236 (1999); Costa v. Gaccione, 408 N.J. Super. 362, 372–73 (App. Div. 2009); Slack v. Whalen, 327 N.J. Super. 186, 195 (App. Div. 2000)). A general contractor's duty of care is determined under "general negligence principles." Alloway, supra, 157 N.J. 230. OSHA violations are a factor in the negligence assessment. Tarabokia v. Structure Tone, 429 N.J. Super. 103, 112 (App. Div. 2012). The OSHA violations

are germane to showing that defendants hired an “incompetent” general contractor since OSHA’s responsibility is to improve worker safety and health protection.

Plaintiff’s Workers’ Compensation case was filed in New York. All the defense IME’s requested by opposing counsel for the Defendants were held in New York and conducted by New York doctors. Indeed, other than the exact location of the accident itself, there are very few contacts that this matter has with New Jersey as opposed to New York. As such, New York law should apply.

A worker injured in the course of working on a massive project spanning both New Jersey and New York should be protected by whichever state’s law is more protective of the injured worker. This is consistent with courts, in assessing a duty of care, considering factors such as “the foreseeability of the risk of injury, both its nature and severity.” “Determining whether a duty exists is a matter of fairness,” and involves a complex analysis that “weigh[s], and balance[es] several factors – the relationship of the parties, the nature of the attendant risk, the opportunity and ability to exercise care, and the public interest in the proposed solution.” Alloway, supra, 157 N.J. 230 (quoting Hopkins v. Fox & Lazo Realtors, 132 N.J. 426, 439 (1993)). “The analysis is both very fact-specific and principled; it must lead to solutions that properly and fairly resolve the specific case and generate intelligible and sensible rules to govern future conduct.” Hopkins, supra, 132 N.J. 439.

Imposing a duty of care on defendants is consistent, the Court should clarify by granting Certification in this case, with the most significant relationship test set forth in sections 6, 145 and 146 of the Restatement (Second) of Conflicts of Law, P.V. ex rel. T.V. v. Camp Jaycee, 197 N.J. 132, 142–43 (2008) (*citing* Erny v. Estate of Merola, 171 N.J. 86, 95–97 (2002)).

§ 6. Choice-of-Law Principles: (1) A court, subject to constitutional restrictions, will follow a statutory directive of its own state on choice of law; (2) When there is no such directive, the factors relevant to the choice of the applicable rule of law include:

- (a) the needs of the interstate and international systems;
- (b) the relevant policies of the forum;
- (c) the relevant policies of other interested states and the relative interests of those states in the determination of the particular issue;
- (d) the protection of justified expectations;
- (e) the basic policies underlying the particular field of law;
- (f) certainty, predictability and uniformity of result; and
- (g) ease in the determination and application of the law to be applied.

§ 145. General Principle: (1) The rights and liabilities of the parties with respect to an issue in tort are determined by the local law of the state which, with respect to that issue, has the most significant relationship to the occurrence and the parties under the principles stated in § 6; (2) Contacts to be taken into account in applying the principles of § 6 to determine the law applicable to an issue include:

- (a) the place where the injury occurred;
- (b) the place where the conduct causing the injury occurred;

(c) the domicile, residence, nationality, place of incorporation and place of business of the parties; and

(d) the place where the relationship, if any, between the parties is centered. These contacts are to be evaluated according to their relative importance with respect to the particular issue.

§ 146. Personal Injuries: In an action for a personal injury, the local law of the state where the injury occurred determines the rights and liabilities of the parties, unless, with respect to the particular issue, some other state has a more significant relationship under the principles stated in § 6 to the occurrence and the parties, in which event the local law of the other state will be applied.

In Erny, supra, 171 N.J. 94, for instance, the Court highlighted New York's higher value of placing protection on the innocent auto accident victim versus the reduction of automobile insurance cost by virtue of passing an exception to the New York law section 1601 that abrogated the common law of joint and several liability." See also P.V. ex rel. T.V., supra, 197 N.J. 142; Haggerty v. Cedeno, 267 N.J. Super. 114, 121 (Law. Div. 1993), aff'd, 279 N.J. Super. 607 (App. Div. 1995) ("It is not the place where a relationship originates which governs the choice of law, but the state which has the most compelling interest in the application of its law which governs what law is to be applied."); Dolan v. Sea Transfer Corp., 398 N.J. Super. 313 (App. Div. 2008) (New York law applied when the accident happening in New Jersey fortuitous when primary act of negligence occurred in New York when truck driver knowingly failed to ensure that container was properly attached to chassis, and driver was engaged in New York transaction, in which container was unloaded in New York and was to be transported to another location in New York); Butkera

v. Hudson River Sloop Clearwater, Inc., 300 N.J. Super. 550 (App. Div. 1997) (New York law, which does not afford charitable immunity from tort liability, applied to action brought in New Jersey on behalf of nine-year-old New Jersey student against charitable corporation incorporated in and primarily operating in New York for injuries sustained in New Jersey when student fell while disembarking from school-sponsored excursion on charitable corporation's sloop; consequently, charitable corporation was not immune from liability under New Jersey charitable immunity statute); Fairfax Fin. Holdings Ltd. v. S.A.C. Capital Mgmt., L.L.C., 450 N.J. Super. 1 (App. Div. 2017) (New York's Organized Crime Control Act (OCCA), rather than New Jersey's anti-racketeering legislation, applied to private Racketeer Influenced and Corrupt Organizations (RICO) action by New Jersey corporate plaintiff against multiple defendants, most of whom were located in New York, in which plaintiff alleged racketeering scheme by short-sellers designed to cause plaintiff to fail; New Jersey law permitted, while New York law categorically disallowed, private RICO claims, parties did not assert or allege any prior relationship that preceded alleged events, and alleged financial market conduct at issue was predominantly located in New York).

New York has a more significant interest in this matter, given that the legislative intent of both its Labor Laws and its Industrial Code was to protect workers and to promote overall safety on construction sites. N.Y. Lab. Law § 200

(McKinney) codifies the common law duty of owners of properties and general contractors doing work on the property to protect the safety “of all persons employed on the job-site or lawfully frequenting such places.” KWM had broad oversight of NY-NJ Link but no safety responsibility on the project. The 51 OSHA violations that Kiewit Corporation and its subsidiaries incurred since 2016, including a member of the general contractor KWM joint venture negligently killing a worker less than a year before the accident date, evidences the Defendants’ notice of the dangerous condition on the project that caused Plaintiff’s damages (the hiring of a dangerous and incompetent general contractor). The Court should grant Certification to clarify these important principles of law.

**B. Even if the lower court correctly ruled that only New Jersey law applies, the court erred in ruling that the defendants owed no duty of care to the plaintiff under New Jersey law.**

Defendants had a duty under New Jersey law not to retain negligent contractors and subcontractors, which led to the accident that hurt the plaintiff. The legal duty of a construction project manager is to hire competent contractors; otherwise, the project manager faces allegations of negligence, as in this case. Negligence is established where the principal knew or should have known or might by the exercise of reasonable care have ascertained, that the contractor retained was not competent. Ruling as the lower court did that the defendants did not owe a duty of care under New Jersey law in this case

disregards the summary judgment evidence showing (1) the defendants' prior knowledge of the dangerous circumstances in light of the 51 OSHA violations, and defendants' own Incident Report (A957); (2) the intertwined corporate relationships of the Defendants that demonstrates that most of them are subsidiaries of, and controlled by, Kiewit Corporation; (3) the obvious risks associated with performing excavation work at the height of the Goethals Bridge; and (4) all of the Defendants had the opportunity to exercise care to prevent the accident, including by making sure all workers knew and understood that a signalman is necessary when moving loads with machinery -- as noted (again) in Defendants' own Incident Report (A957, A961).

The hazard was conspicuous, as incompetent workers were operating excavators on the Goethals Bridge without a signalman, and without remembering the excavator was still hooked on to the crane mat (*see* A957). The lower court's ruling enables such entities to avoid the responsibility of providing safe workplaces simply because they failed to do anything to manage the work being performed on the project they controlled – frustrating the central purpose of federal safety regulations like OSHA designed to promote safety on construction sites. The Court should clarify Alloway, supra, 157 N.J. 221, in this regard, where the Court held that when determining whether a general contractor owed a duty of care to employees of a subcontractor working on a

construction site, courts should employ general negligence principles. Id. at 223. The Court indicated that the first question to ask to determine whether a duty of care exists is “the foreseeability of the risk of injury.” Alloway, supra, 157 N.J. 223. In addition to the foreseeability of the injury, the Court held that courts should examine “the relationship of the parties, the nature of the attendant risk, the opportunity and ability to exercise care, and the public interest in the proposed solution.” Id.

The injuries to Plaintiff in this case were foreseeable and could have been prevented by the Defendants, rendering them liable under the important legal principles. It is clearly foreseeable that when incompetent excavator operators use such machinery in haphazard and careless ways and fail to use a signalman when carrying heavy loads, the risk of exposing workers to injuries increases substantially – leading directly the grave injuries caused to plaintiff. Whether Plaintiff’s employer, KWM, was an incompetent contractor hired by the Defendants is at the very least an issue of material fact for a jury to decide, we submit, Mavrikidis v. Petullo, 153 N.J. 117 (1998); Puckrein v. ATI Transp., Inc., 186 N.J. 563, 576 (2006).

**Reasons for Granting Certification**

The Court should grant Certification to clarify the important issues about the application of a foreign state's laws to the personal injury claim of a New Jersey resident, and the legal principles governing the liability of an owner or general contractor for hiring or retaining an incompetent subcontractor on a construction project.

**Conclusion and Certification**

The undersigned certifies that this application is made in good faith, presents substantial questions, and is not brought for purposes of delay. In the event that the Petition is granted, petitioners reserve the right to seek leave to file a brief pursuant to R. 2:12-11.

Respectfully submitted,

/s/ Michael Confusione  
Hegge & Confusione, LLC  
Counsel for Petitioner

Dated: April 21, 2025