

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER: COMMERCIAL DIVISION-----X  
ECSI AMERICA, INC., ISG RISK MANAGEMENT,  
MRG ENGINEERING & CONSTRUCTION, INC. and  
CERTIFIED SITE SAFETY OF NY, LLC,**NOTICE OF APPEAL**

Index No. 54234/2016

**Plaintiffs,**

-against-

JOSEPH CASTILLO, MENOTTI ENTERPRISES, LLC,  
MICHAEL MENOTTI and STEVEN MENOTTI,**Defendants.**  
-----X

**PLEASE TAKE NOTICE** that Defendants, by their undersigned attorneys, hereby appeal to the Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, from those parts of the judgment of the Supreme Court, Westchester County, dated January 10, 2018, finding that:

- (i) Menotti Enterprise, LLC breached its contract with Certified Site Safety of NY, LLC;
- (ii) Certified Site Safety of NY, LLC complied with its contract with Menotti Enterprise, LLC;
- (iii) Menotti Enterprise, LLC breached its contract with ISG Risk Management and MRG Engineering & Construction, Inc.;
- (iv) ISG Risk Management and MRG Engineering & Construction, Inc. complied with their contract with Menotti Enterprise, LLC.

**PLEASE TAKE FURTHER NOTICE** that Defendants served upon all parties with  
Notice of Entry on January 12, 2018.

**Dated: January 12, 2018**  
Ardsley, NY

**LAW OFFICE OF JESSICA M. SANCHEZ, P.C.**  
**ATTORNEYS FOR DEFENDANTS**

/s/ Jessica M. Sanchez  
By: Jessica M. Sanchez  
5 McKinley Place, Suite 200  
Ardsley, NY 10502  
[jessica@jessicasanchezlaw.com](mailto:jessica@jessicasanchezlaw.com)  
(914) 374-2073 (p)

**To:**

Clerk of the Supreme Court of the State of New York  
Westchester County  
111 Martin Luther King Jr. Blvd.  
White Plains, NY 10601

Mario Biaggi Jr., Esq.  
*Attorney for Plaintiffs*  
220 Fifth Avenue, Suite 302  
New York, NY 10001

Supreme Court of the State of New York  
Appellate Division : Second Judicial Department

Form A - Request for Appellate Division Intervention - Civil

See § 670.3 of the rules of this court for directions on the use of this form (22 NYCRR 670.3).

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.

ECSI America, Inc., et al,  
Plaintiffs - Respondents,  
  
v.  
Joseph M. Castillo, et al,  
Defendants - Appellants.

<b>For Court of Original Instance</b>
Date Notice of Appeal Filed
<b>For Appellate Division</b>

<b>Case Type</b>	<b>Filing Type</b>
<input checked="" type="checkbox"/> Civil Action <input type="checkbox"/> CPLR article 75 Arbitration <input type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding	<input checked="" type="checkbox"/> Appeal <input type="checkbox"/> Original Proceeding <input type="checkbox"/> Transferred Proceeding <input type="checkbox"/> CPLR 5704 Review

Nature of Suit: Check up to five of the following categories which best reflect the nature of the case.

<b>A. Administrative Review</b>	<b>D. Domestic Relations</b>	<b>F. Prisoners</b>	<b>J. Torts</b>
<input type="checkbox"/> 1 Freedom of Information Law <input type="checkbox"/> 2 Human Rights <input type="checkbox"/> 3 Licenses <input type="checkbox"/> 4 Public Employment <input type="checkbox"/> 5 Social Services <input type="checkbox"/> 6 Other	<input type="checkbox"/> 1 Adoption <input type="checkbox"/> 2 Attorney's Fees <input type="checkbox"/> 3 Children - Support <input type="checkbox"/> 4 Children - Custody/Visitation <input type="checkbox"/> 5 Children - Terminate Parental Rights <input type="checkbox"/> 6 Children - Abuse/Neglect <input type="checkbox"/> 7 Children - JD/PINS <input type="checkbox"/> 8 Equitable Distribution <input type="checkbox"/> 9 Exclusive Occupancy of Residence <input type="checkbox"/> 10 Expert's Fees <input type="checkbox"/> 11 Maintenance/Alimony <input type="checkbox"/> 12 Marital Status <input type="checkbox"/> 13 Paternity <input type="checkbox"/> 14 Spousal Support <input type="checkbox"/> 15 Other	<input type="checkbox"/> 1 Discipline <input type="checkbox"/> 2 Jail Time Calculation <input type="checkbox"/> 3 Parole <input type="checkbox"/> 4 Other <b>G. Real Property</b> <input type="checkbox"/> 1 Condemnation <input type="checkbox"/> 2 Determine Title <input type="checkbox"/> 3 Easements <input type="checkbox"/> 4 Environmental <input type="checkbox"/> 5 Liens <input type="checkbox"/> 6 Mortgages <input type="checkbox"/> 7 Partition <input type="checkbox"/> 8 Rent <input type="checkbox"/> 9 Taxation <input type="checkbox"/> 10 Zoning <input type="checkbox"/> 11 Other	<input type="checkbox"/> 1 Assault, Battery, False Imprisonment <input type="checkbox"/> 2 Conversion <input type="checkbox"/> 3 Defamation <input type="checkbox"/> 4 Fraud <input type="checkbox"/> 5 Intentional Infliction of Emotional Distress <input type="checkbox"/> 6 Interference with Contract <input type="checkbox"/> 7 Malicious Prosecution/Abuse of Process <input type="checkbox"/> 8 Malpractice <input type="checkbox"/> 9 Negligence <input type="checkbox"/> 10 Nuisance <input type="checkbox"/> 11 Products Liability <input type="checkbox"/> 12 Strict Liability <input type="checkbox"/> 13 Trespass and/or Waste <input type="checkbox"/> 14 Other
<b>B. Business &amp; Other Relationships</b>	<b>E. Miscellaneous</b>	<b>H. Statutory</b>	<b>J. Wills &amp; Estates</b>
<input type="checkbox"/> 1 Partnership/Joint Venture <input checked="" type="checkbox"/> 2 Business <input type="checkbox"/> 3 Religious <input type="checkbox"/> 4 Not-for-Profit <input type="checkbox"/> 5 Other	<input type="checkbox"/> 1 Constructive Trust <input type="checkbox"/> 2 Debtor & Creditor <input type="checkbox"/> 3 Declaratory Judgment <input type="checkbox"/> 4 Election Law <input type="checkbox"/> 5 Notice of Claim <input type="checkbox"/> 6 Other	<input type="checkbox"/> 1 City of Mount Vernon Charter §§ 120, 127-f, or 129 <input type="checkbox"/> 2 Eminent Domain Procedure Law § 207 <input type="checkbox"/> 3 General Municipal Law § 712 <input type="checkbox"/> 4 Labor Law § 220 <input type="checkbox"/> 5 Public Service Law §§ 128 or 170	<input type="checkbox"/> 1 Accounting <input type="checkbox"/> 2 Discovery <input type="checkbox"/> 3 Probate/Administration <input type="checkbox"/> 4 Trusts <input type="checkbox"/> 5 Other
<b>C. Contracts</b>			
<input type="checkbox"/> 1 Brokerage <input type="checkbox"/> 2 Commercial Paper <input type="checkbox"/> 3 Construction <input checked="" type="checkbox"/> 4 Employment <input type="checkbox"/> 5 Insurance <input type="checkbox"/> 6 Real Property <input type="checkbox"/> 7 Sales <input type="checkbox"/> 8 Secured <input checked="" type="checkbox"/> 9 Other			

0.060293

## Appeal

Paper Appealed From (check one only):

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> Amended Decree   | <input type="checkbox"/> Determination          | <input type="checkbox"/> Order              | <input type="checkbox"/> Resettled Order  |
| <input type="checkbox"/> Amended Judgment | <input type="checkbox"/> Finding                | <input type="checkbox"/> Order & Judgment   | <input type="checkbox"/> Ruling           |
| <input type="checkbox"/> Amended Order    | <input type="checkbox"/> Interlocutory Decree   | <input type="checkbox"/> Partial Decree     | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Decision         | <input type="checkbox"/> Interlocutory Judgment | <input type="checkbox"/> Resettled Decree   |   |
| <input type="checkbox"/> Decree           | <input checked="" type="checkbox"/> Judgment    | <input type="checkbox"/> Resettled Judgment |   |

Court: SUPREME COURT

County: WESTCHESTER

Dated: JANUARY 10, 2018

Entered: JANUARY 10, 2018

Judge (name in full): MAND. SCHENCKMAN

Index No.: 54234/2016

Stage:  Interlocutory  Final  Post-FinalTrial:  Yes  No If Yes:  Jury  Non-Jury

## Prior Unperfected Appeal Information

Are any unperfected appeals pending in this case?  Yes  No. If yes, do you intend to perfect the appeal or appeals covered by the annexed notice of appeal with the prior appeals?  Yes  No. Set forth the Appellate Division Cause Number(s) of any prior, pending, unperfected appeals:

## Original Proceeding

Commenced by:  Order to Show Cause  Notice of Petition  Writ of Habeas Corpus

Date Filed: 4/13/16

Statute authorizing commencement of proceeding in the Appellate Division: CPLR § 5515

## Proceeding Transferred Pursuant to CPLR 7804(g)

Court:

County:

Judge (name in full):

Order of Transfer Date:

## CPLR 5704 Review of Ex Parte Order

Court:

County:

Judge (name in full):

Dated:

## Description of Appeal, Proceeding or Application and Statement of Issues

**Description:** If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of the proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.

Appeal from judgment dated January 10, 2018.

**Amount:** If an appeal is from a money judgment, specify the amount awarded.

**Issues:** Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review.

Amounts awarded:

(a) against defendant Castillo \$152,682.<sup>00</sup>; plus attorneys fees costs & disbursements totalling \$365,863.17

(b) against defendant Murotti Enterprise, LLC to (i) certified site safety of NY, LLC and (ii) MRH engineering and construction Inc. and IGH Risk Management, Inc. \$500,000 plus 9% interest from 7/15/15 and costs and disbursements totalling \$614,824.78

Issues Continued:

issues include, among other things:  
 (i) award not supported by the record with legally sufficient evidence;  
 (ii) award deviates from what would have been reasonable compensation.

Use Form B for Additional Appeal Information

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

Examples of a party's original status include: plaintiff, defendant, petitioner, respondent, claimant, defendant third-party plaintiff, third-party defendant, and intervenor. Examples of a party's Appellate Division status include: appellant, respondent, appellant-respondent, respondent-appellant, petitioner, and intervenor.

No.	Party Name	Original Status	Appellate Division Status
1	ESIAMERICA, INC.	Plaintiff	Respondent
2	ISH RISK MANAGEMENT	Plaintiff	Respondent
3	MR G ENGINEERING & CONST. INC	Plaintiff	Respondent
4	CERTIFIED SITE SAFETY OF NY LLC	Plaintiff	Respondent
5	JOSEPH CASTILLO	Defendant	Appellant
6	MENOTTI ENTERPRISE LLC	Defendant	Appellant
7	MICHAEL MENOTTI	Defendant	Appellant
8	STEVEN MENOTTI	Defendant	Appellant
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