

Reversed and Remanded and Opinion Filed June 23, 2025



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-24-00541-CV

PROFESSIONAL SERVICE INDUSTRIES, INC., APPELLANT

V.

**TAMARA LYNN IBEY, INDIVIDUALLY AND AS HEIR AT LAW OF THE
ESTATE OF PETER G. IBEY, DECEASED; CODY G. IBEY, AND
KALEENA NICHOLAS; AND PEGASUS LINK CONSTRUCTORS-LBJ
EAST PROJECT, APPELLEES**

No. 05-24-00599-CV

RABA KISTNER, INC., APPELLANT

V.

PEGASUS LINK CONSTRUCTORS-LBJ EAST PROJECT, APPELLEE

**On Appeal from the 101st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-22-03222**

OPINION

Before Justices Goldstein, Lewis, and Lee
Opinion by Justice Lee

These interlocutory appeals arise from the same trial court litigation and involve denials of section 150.002 motions to dismiss¹. In 05-24-00541-CV (the PSI appeal), appellant Professional Service Industries, Inc. (PSI) appeals the denial of its motion to dismiss the claim asserted against it by appellees Tamara Lynn Ibey, individually and as Heir at Law of the Estate of Peter G. Ibey, Deceased, Cody G. Ibey, and Kaleena Nicholas (collectively Ibeys) and the denial of the motion to dismiss the cross-claim asserted by appellee Pegasus Link Contractors – LBJ East Project (Pegasus). In 05-24-00599-CV (the RKI appeal), appellant Raba Kistner, Inc. (RKI) appeals the denial of its motion to dismiss the cross-claim asserted by Pegasus.

The resolution of these appeals turns, in large part, on a determination of whether the 2019 version of Civil Practice & Remedies Code section 150.002 governs or if the 2023 amendment to the statute applies. Given the factual background, as described throughout this opinion, this appears to be a case of first impression. Therefore, we publish this opinion.

Because we believe the trial court erred in denying the motions to dismiss, we reverse the decisions of the trial court. We render judgment to PSI in the PSI appeal. For reasons explained below, we remand the RKI appeal for further proceedings consistent with this opinion.

¹ TEX. CIV. PRAC. & REM. CODE § 150.002.

BACKGROUND

On September 7, 2021, Peter Ibey was driving his motorcycle through a construction zone when he was rear-ended by another driver allegedly going too fast. Ibey was seriously injured and ultimately died.

On March 22, 2022, the Ibeys sued Pegasus and the drivers who allegedly caused the crash.

On August 16, 2023, Pegasus sought leave to file a third-party petition against PSI and RKI.

The Ibeys amended their petition to add claims against PSI and RKI on September 5, 2023. Pegasus then filed cross-claims against PSI and RKI.

Pegasus was responsible pursuant to a design-build agreement with the Texas Department of Transportation for the highway construction project. Pegasus alleges it contracted with PSI to provide inspection services related to the project. PSI, in turn, subcontracted some of its inspection services to RKI. According to the agreement, RKI agreed to perform a portion of the quality assurance services PSI was obligated to perform according to PSI's contract with Pegasus. PSI and RKI provided inspection services to determine whether the construction activities being performed by Pegasus conformed to engineering plans and specifications for the project. Pegasus' contract with PSI required PSI's services be performed by, or under the supervision of, a licensed engineer.

PSI and RKI moved to dismiss both the Ibeys' claims and Pegasus' cross-claims for failure to include section 150.002 certificates of merit. The trial court denied RKI's motion to dismiss Pegasus' cross-claim but did not rule on RKI's motion to dismiss the Ibeys' claims against RKI. The trial court denied PSI's motion regarding Pegasus' cross-claims and PSI's motion regarding the Ibeys' direct claims. These interlocutory appeals followed.

JURISDICTION

Generally, appellate courts may only consider appeals from interlocutory orders when such power is expressly conferred by statute. *See Crosstex Energy Services, L.P. v. Pro Plus, Inc.*, 430 S.W.3d 384, 387-88 (Tex. 2014); *see also Tex. A & M Univ. Sys. v. Koseoglu*, 233 S.W.3d 835, 840 (Tex. 2007).

Here, the statute provides: "An order granting or denying a motion for dismissal is immediately appealable as an interlocutory order." TEX. CIV. PRAC. & REM. CODE § 150.002(f). Therefore, we have jurisdiction to hear these interlocutory appeals.

STANDARD OF REVIEW

A court reviews for an abuse of discretion a trial court's order on a section 150.002 motion to dismiss. *Stillwater Capital v. HKS, Inc.*, 2021 WL 2154617, at *2 (Tex. App.—Dallas May 27, 2021, pet. dism'd) (mem. op.).

However, because statutory construction is a question of law, we review the trial court's conclusions de novo. *McIntyre v. Ramirez*, 109 S.W.3d 741, 745 (Tex. 2003). Our primary objective when construing a statute is to ascertain and give effect to the legislature's intent. *Id.* We look first to the plain and common meaning of the language of the statute. *Id.*; see TEX. GOV'T CODE ANN. § 312.002 (Vernon 2005). We must read the statute as a whole, not just isolated portions. *Tex. Dep't. of Transp. v. City of Sunset Valley*, 146 S.W.3d 637, 642 (Tex. 2004). We also consider the objective the law seeks to obtain and the consequences of a particular construction. *Id.*; see TEX. GOV'T CODE ANN. § 312.006 (revised statutes to be liberally construed to achieve their purpose and promote justice).

ANALYSIS

PSI presents two issues on appeal: (1) the trial court abused its discretion in denying its motion to dismiss the Ibeys' claims against it because the claims arose out of its performance of professional engineering services and required a certificate of merit and (2) the trial court abused its discretion in denying its motion to dismiss Pegasus' cross-claim by applying the wrong version of the statute. In the second issue, PSI also argues it did not waive its right to seek section 150.002 dismissal.

RKI presents one issue on appeal: the trial court abused its discretion in denying RKI's motion to dismiss Pegasus' cross-claim for failure to include a certificate of merit. Additionally, RKI presents three sub-issues: (1) whether the

2019 or 2023 statute applies; (2) whether an action commences on the date of the original suit or when a cross-claim is filed; and (3) whether RKI waived its right to rely on the certificate of merit requirement if RKI did not move to dismiss a separate cross-claim for the same reason.

Because of the commonality between the issues brought by PSI and RKI, we have consolidated the analysis for these two appeals into one opinion. Distinct issues or resolutions to one appeal and not the other will be clearly noted.

I. Section 150.002 Certificate of Merit Requirement

The Ibeys and Pegasus assert that a certificate of merit was not required to be filed.

The Ibeys contend a certificate of merit was not required against PSI because PSI was not engaged in professional engineering services. Against both PSI and RKI, Pegasus maintains: (1) neither were engaged in professional engineering services; (2) the 2023 amendment to section 150.002 made their claim exempt; and (3) PSI and RKI waived their right to rely on the certificate of merit requirement.

Section 150.002 of the Civil Practice and Remedies Code states, in pertinent part:

a) In any action or arbitration proceeding for damages arising out of the provision of professional services by a licensed or registered professional, a claimant shall be required to file with the complaint an affidavit of a . . . licensed professional engineer . . . who:

(2) holds the same professional license or registration as the defendant; and

(3) practices in the area of practice of the defendant and offers testimony based on the person's:

- (A) knowledge;
- (B) skill;
- (C) experience;
- (D) education;
- (E) training; and
- (F) practice.

...
e) A claimant's failure to file the affidavit in accordance with this section shall result in dismissal of the complaint against the defendant. This dismissal may be with prejudice.

TEX. CIV. PRAC. & REM. CODE § 150.002(a), (e). Section 150.002(a) "imposes a mandatory duty" to include a certificate of merit with a complaint which arises out of professional engineering services. *Crosstex*, 430 S.W.3d at 392.

A. "*Professional Engineering Services*"

While all parties agree PSI and RKI are licensed engineering firms, Pegasus and the Ibeys argue their claims "do not arise out of [engineering] services" but instead arise out of RKI's and PSI's alleged failure to "ensure proper implementation of the subject lane closure [and] remedy the improper lane closure installation." Therefore, the Ibeys and Pegasus claim neither party was required to provide a certificate of merit. Pegasus and the Ibeys contend a certificate of merit was unnecessary because PSI and RKI "simply inspected the placement of traffic controls and determined whether the procedures utilized by Pegasus in implementing the lane closure were in conformance with TxDOT standards and specifications."

In determining whether claims arise out of the provision of professional services and impose the mandatory duty of providing a certificate of merit, we look to the substance of the plaintiff's pleadings. *Jennings, Hackler & Partners, Inc. v. N. Tex. Mun. Water Dist.*, 471 S.W.3d 577, 581 (Tex. App.—Dallas 2015, pet. denied). A claim arises out of the provision of professional services if the substance of the pleadings implicates a professional's education, training, and experience in applying special knowledge or judgment. *Id.*

The practice of engineering for purposes of section 150.002 is defined in the Occupations Code. TEX. CIV. PRAC. & REM. § 150.001(3). The Occupations Code defines the “practice of engineering” to include:

[T]he performance of or an offer or attempt to perform any public or private service or creative work, the adequate performance of which requires engineering education, training, and experience in applying special knowledge or judgment of the mathematical, physical, or engineering sciences to that service or creative work.

TEX. OCC. CODE ANN. § 1001.003(b).

The statutory definition of the “practice of engineering” includes specific types of professional services, including the development or optimization of plans and specifications for engineering works or systems; engineering for review of the construction or installation of engineered works to monitor compliance with drawings or specifications; and “any other professional service necessary for the planning, progress, or completion of an engineering service.” TEX. OCC. CODE

ANN. § 1001.003(c) (9), (12); *see Whitaker v. R2M Eng'g, LLC*, 603 S.W.3d 530, 537 (Tex. App.—Amarillo 2020, pet. denied) (observing that the “umbrella of practicing engineering casts a large shadow”).

In their Second Amended Petition, the Ibeys contended PSI and RKI “were responsible for installing the two-lane closure and ensuring that the traffic control devices were the correct devices, the correct number of devices, and were properly placed and spaced.” These same types of arguments are made by Pegasus in its cross-claims against PSI and RKI. PSI and RKI were hired to “install, inspect, perform quality control, and perform quality assurance of the work performed in installing the two-lane closure.” Both PSI and RKI were accused of:

- a) Violation of the road construction plans, TCPs, and/or incorporated Manual on Uniform Traffic Control Devices (MUTCD);
- b) Failing to properly hire, train, and supervise employees, agents, and subcontractors;
- c) Failing to warn of dangerous conditions and/or make safe;
- d) Failing to properly conduct an audit of, and to inspect and document, PEGASUS’s lane closure; and,
- e) Making material misrepresentations regarding PEGASUS’s lane closure, including but not limited to, that the closure was done legally and properly.

PSI entered into a Professional Services Agreement with Pegasus which required PSI to audit and update, as needed, the quality management plans for the construction project, which provided the procedures to be followed in implementing the work. Additionally, PSI was required to assure timely performance of inspection and testing and required to provide independent evidence that all materials,

equipment and elements of the work performed pursuant to the contract met applicable standards. The Professional Services Agreement *required* PSI's services be performed by or under the supervision of licensed engineers.

Pegasus argues PSI's services did not "require anything more than simple observation, which any intelligent person could perform without reference to engineering or its principles." We find this argument unpersuasive.

RKI's and PSI's previously enumerated responsibilities involved the monitoring of compliance with drawings or specifications and other professional services. These were necessary for the planning, progress, or completion of an engineering service in conjunction with the construction project. Thus, the alleged failures directly involve the practice of engineering. *See Lina T. Ramey & Associates, Inc. v. Comeaux*, 2023 WL 8183272, at *5 (Tex. App.—Dallas Nov. 27, 2023, no pet.). It is clear PSI's and RKI's inspection services were "necessarily done as a component part of the necessary steps for implementing the traffic control plan, which clearly involved the provision of engineering services and from which appellee's claims arose." *See id.*

We therefore conclude PSI and RKI were performing professional engineering services when they were retained to audit, inspect, update, and test the highway construction area. Section 150.002, as it existed at the time of the filing of

this lawsuit, mandates that a certificate of merit be filed along with claims asserted against PSI and RKI. The trial court abused its discretion in concluding otherwise.

This holding is dispositive of the Ibeys' claim against PSI – they failed to include a certificate of merit, so the trial court abused its discretion in denying PSI's motion to dismiss their claims against it. Whether the same outcome applies to the motions to dismiss Pegasus' cross-claims is dependent on the version of the statute applying to the cross-claims.

B. Section 150.002: 2019 or 2023 version

For actions commenced on or after September 1, 2023, the Legislature amended² section 150.002 by adding subsection (i), which states:

A third-party plaintiff that is a design-build firm or a design-build team, or an architect, engineer, or other member of a design-build firm or design-build team, is not required to file [a certificate of merit] in connection with filing a third-party claim or cross-claim against a licensed or registered professional if the action or arbitration arises out of a design-build project in which a governmental entity contracts with a single entity to provide both design and construction services for the construction, expansion, extension, rehabilitation, alteration, or repair of a facility, a building or associated structure, a civil works project, or a highway project.

TEX. CIV. PRAC. & REM. CODE § 150.002(i).

PSI and RKI assert the trial court erred by giving effect to the September 1, 2023 amendment in determining whether a certificate of merit was required for

² TEX. H.B. 2007, 88TH LEG., N.S. (2023).

Pegasus’ cross-claims against them. Section 150.002(i)’s inclusion exempts third-party claims and cross-claims brought by a design-build firm – such as Pegasus – from the certificate of merit requirement when the claim arises from a contract with a government entity – such as TXDOT. But that exemption only applies to actions commenced on or after the effective date of the inclusion of subsection (i).

PSI and RKI contend the action was commenced on March 22, 2022, when the Ibeys filed their original suit – well before the effective date of subsection (i). Therefore, Pegasus was required to include a certificate of merit with the cross-claim.

Pegasus contends the action, insofar as it pertains to the cross-claims against PSI and RKI, was commenced no earlier than the date the Ibeys filed the amended petition first naming PSI and RKI, September 5, 2023. Pegasus therefore asserts subsection (i) applies to the cross-claims. Therefore, a certificate of merit was not required.

Thus, the question before us is: when was this action commenced?

C. The Meaning of “Action”

Section 150.002 does not define an “action.” Rather, it defines a “complaint.” See TEX. CIV. PRAC. & REM. CODE § 150.001(1-b) (a “complaint” is a pleading that, for the first time, raises a claim against a licensed or registered

professional). Therefore, we must look beyond section 150.002 to determine when this action was commenced.

PSI and RKI argue that “action” is the entire suit, from the plaintiff’s first filing through any counterclaims or other party additions, and they urge us to apply the *Jaster* rule. *See Jaster v. Comet II Const., Inc.*, 438 S.W.3d 556, 563–64 (Tex. 2014) (“[t]he common meaning of the term ‘action’ refers to an entire lawsuit or cause or proceeding, not to discreet ‘claims’ or ‘causes of action’ asserted within a suit, cause, or proceeding”). This view would require Pegasus to have filed a certificate of merit with its cross-claim because the action was filed before the effective date of the 2023 amendment.

Pegasus argues that the context of *Jaster* is much different than is presented in these appeals. *Jaster* involved an earlier version of section 150.002 which applied only to plaintiffs’ obligations to file certificates of merit. Since *Jaster*, the statute was amended several times to now require any claimant to include certificates of merit with their initial claims. In Pegasus’ view, common sense requires us to consider that the relevant “action” is the cross-claim against PSI and RKI because appellants were not even parties to the lawsuit until they were named as defendants by the September 5, 2023 amended petition filed by the Ibeys.³

³ In considering Pegasus’ argument, we discount – because it is not necessary to our resolution – an obvious rejoinder. On August 16, 2023, before the effective date of the amendment, Pegasus sought leave to file a third-party petition against PSI and RKI. With the motion for leave, Pegasus tendered the proposed third-party petition. A certificate of merit was not included with the proposed third-party petition. The

We believe the better course is to apply the common meaning of the term “action” as referring to the entire lawsuit, not to the discrete claims or causes of action asserted by Pegasus. *See id.* We note that the Supreme Court commented that intermediate courts of appeals, including this Court, have held that “action” means “suit” in varied contexts⁴, and that the Rules of Civil Procedure recognize “action” as being synonymous with “suit.”⁵ In different contexts also applying section 150.002, our sister courts have applied that common meaning of “action.”⁶

Pegasus finally argues that applying the 2019 version of section 150.002 to its cross-claims would produce “absurd results.” The absurdity, says Pegasus, comes from applying the 2019 version to require certificates of merit when the Legislature has determined those certificates are no longer required. This argument is unpersuasive. A more “absurd” outcome would be applying the earlier version of the statute to one group of parties (*i.e.*, the Ibeys), because they filed their action

motion for leave was not granted before the Ibeys filed – after the effective date of the amendment – their amended petition naming PSI and RKI. Pegasus then changed the proposed third-party petition to a cross-claim. One might conclude this “common sense” argument was an afterthought.

⁴ *Jaster v. Comet II Construction, Inc.*, 438 S.W.3d 556, 565 (Tex. 2014); *Bradley v. Etessam*, 703 S.W.2d 237, 241 (Tex. App.—Dallas 1985, writ ref’d n.r.e.) (“the term *action* in section 10.01 [of the Civil Practice and Remedies Code] means ‘suit.’”); *Matter of Marriage of Combs*, 958 S.W.2d 848, 850 (Tex. App.—Amarillo 1997, no pet.) (holding that a counter-claim is not an “action” as the Family Code uses that term)).

⁵ TEX. R. CIV. P. 86 (referring to transfer of venue “from the county where the action is pending”).

⁶ *S & P Consulting Engineers, PLLC v. Baker*, 334 S.W.3d 390, 3937 (Tex. App.—Austin 2011, no pet.) (“an action commences when the original petition is filed . . . the action does not recommence with the filing of an amended petition even if that petition names a new defendant for the first time); *Jay Miller & Sundown, Inc. v. Camp Dresser & McKee Inc.*, 381 S.W.3d 635, n. 4 (Tex. App.—San Antonio 2012, no pet.) (“‘an action’ is filed or ‘commenced when the original petition is filed.’”).

before the effective date of the amended statute, while applying a later version of the same statute to another party in the same suit (*i.e.*, Pegasus) because its affirmative pleading was filed after the effective date.⁷ Further, the Legislature could have chosen different enabling language than was actually chosen should the Legislature have wished for the amendment to apply to claims, pleadings, or causes of action commenced or filed after the effective date. We assume the Legislature carefully chose the language it used, applying the amendment “only to an action commenced on or after the effective date of this Act”⁸ and providing that “[a]n action commenced before the effective date of this Act is governed by the law as it existed immediately before the effective date.”⁹

We therefore hold that the action was filed before the effective date of the amendment to section 15.002. Pegasus was required to include with its cross-claim against PSI and RKI an appropriate certificate of merit. Because no certificate of merit was filed, the trial court abused its discretion in failing to give effect to section

⁷ Again, in addressing this “absurdity” argument, we do not consider the fact that Pegasus filed a motion for leave to file a third-party petition and tendered the proposed petition before the effective date of the statutory amendment. *See* fn 3, *supra*.

⁸ TEX. H.B. 2007, 88TH LEG., N.S. (2023).

⁹ *In re McReynolds*, 502 S.W.3d 884, 886 (Tex. App.—Dallas 2016) (“We take the text’s plain meaning as the sole expression of legislative intent, unless the Legislature has supplied a different meaning by definition, a different meaning is apparent from the context, or applying the plain meaning would lead to absurd results.”) (internal citations omitted).

150.002. Having reached this conclusion, we now turn to Pegasus’ argument that both PSI and RKI waived the certificate requirement.

D. Waiver

1. PSI

Pegasus asserts that PSI waived its right to rely on section 150.002’s certificate of merit requirement because PSI filed its own cross-claim against Pegasus for contribution. Pegasus contends PSI threw “itself into the vortex of the merits, either explicitly or implicitly by its unmistakable conduct” by filing a general denial and failing to file its own certificate of merit with its cross-claim against Pegasus, such that waiver is established.

In *LaLonde v. Gosnell*, 593 S.W.3d 212, 219-20 (Tex. 2019), the Supreme Court held “the universal test for implied waiver by litigation conduct is whether the party’s conduct – action or inaction – clearly demonstrates the party’s intent to relinquish, abandon, or waive the right at issue – whether the right originates in a contract, statute, or the constitution.” PSI maintains, in filing its answer and contribution claim, it was merely parrying the attacks by appellees and seeking its contribution rights against the other parties knowing that a section 150.002 dismissal would extinguish any contribution claims or rights. *See id.* at 221 (“conduct that is merely defensive or responsive to litigation initiated and carried on by the other party does not in and of itself give rise to waiver. Hence, filing an answer ‘out of an

abundance of caution’ is ‘inconsequential.’”). We agree with PSI that its repeated express mentions of its intent to preserve its section 150.002 rights in its pleadings are wholly inconsistent with any kind of waiver finding.

We hold that PSI did not waive reliance on section 150.002’s certificate of merit requirement by filing a cross-claim against Pegasus or by filing a general denial.

2. *RKI*

Pegasus similarly contends that, because RKI did not file a motion to dismiss PSI’s cross-claim for failure to include a certificate of merit, RKI has waived its right to rely on section 150.002’s certificate of merit requirement as to Pegasus’ cross-claim.

Pegasus asserts RKI’s “attempted selective application” of the certificate of merit requirement circumvents the purpose of the statute to “quickly jettison meritless lawsuits,” thereby “sav[ing] parties the expense of protracted litigation.” *See id.* at 220. Pegasus contends dismissal would only result in a second, almost identical, lawsuit following the conclusion of the present suit in which RKI’s alleged negligence is already at issue, and another jury would have to apportion liability for the same incident.

In order to establish waiver, RKI’s conduct must explicitly or implicitly demonstrate RKI’s intent to relinquish, abandon, or waive the right at issue. *See id.*

at 219-20. We see no intentional relinquishment, abandonment, or waiver in RKI's litigation strategy, as shown in the record before us.

We hold that RKI did not waive reliance on section 150.002's requirement for a certificate of merit with regard to Pegasus' cross-claim.

II. Resolution of the Appeals

The trial court abused its discretion in denying the motions to dismiss because section 150.002 requires a certificate of merit be filed with the claims.

As to the claims against PSI, the trial court should have dismissed all claims. Accordingly, we reverse the denial of the motions to dismiss as to both the Ibeys' claim and Pegasus' cross-claim and render judgment granting dismissal of all claims against PSI.

The trial court only ruled on RKI's motion to dismiss Pegasus' cross-claim, leaving pending the motion to dismiss the Ibeys' claims. We therefore remand the claims asserted against RKI for final consideration of the motions to dismiss, consistent with this opinion.

CONCLUSION

We reverse the trial court's denial of PSI's motions to dismiss and render judgment dismissing all claims against PSI with prejudice. We reverse the trial court's denial of RKI's motion to dismiss Pegasus' cross-claim and remand the actions against RKI for further proceedings consistent with this opinion.

/Mike Lee/
MIKE LEE
JUSTICE



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

PROFESSIONAL SERVICE
INDUSTRIES, INC., Appellant

No. 05-24-00541-CV V.

TAMARA LYNN IBEY,
INDIVIDUALLY AND AS HEIR AT
LAW OF THE ESTATE OF PETER G.
IBEY, DECEASED; CODY G. IBEY,
AND KALEENA NICHOLAS AND
PEGASUS LINK CONSTRUCTORS-LBJ
EAST PROJECT, Appellee

On Appeal from the 101st Judicial District
Court, Dallas County, Texas
Trial Court Cause No. DC-22-03222.
Opinion delivered by Justice Lee. Justices
Goldstein and Lewis participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **REVERSED** and judgment is **RENDERED** that all claims against PROFESSIONAL SERVICE INDUSTRIES, INC. are dismissed with prejudice.

It is **ORDERED** that appellant PROFESSIONAL SERVICE INDUSTRIES, INC. recover its costs of this appeal from appellee TAMARA LYNN IBEY, INDIVIDUALLY AND AS HEIR AT LAW OF THE ESTATE OF PETER G. IBEY, DECEASED; CODY G. IBEY, AND KALEENA NICHOLAS AND PEGASUS LINK CONSTRUCTORS-LBJ EAST PROJECT.

Judgment entered this 23rd day of June, 2025.



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

RABA KISTNER, INC., Appellant

No. 05-24-00599-CV V.

PEGASUS LINK CONSTRUCTORS-LBJ
EAST PROJECT, Appellee

On Appeal from the 101st Judicial District
Court, Dallas County, Texas
Trial Court Cause No. DC-22-03222.
Opinion delivered by Justice Lee. Justices
Goldstein and Lewis participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **REVERSED** and this cause is **REMANDED** to the trial court for further proceedings consistent with this opinion.

It is **ORDERED** that appellant RABA KISTNER, INC. recover its costs of this appeal from appellee PEGASUS LINK CONSTRUCTORS-LBJ EAST PROJECT.

Judgment entered this 23rd day of June, 2025.