STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

[FILED: June 26, 2019]

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:	C.A. No. PC-2016-4542
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AMENDED DECISION

SILVERSTEIN, J. (Ret.) This Amended Decision is being filed to revise the Original

Decision filed on June 24, 2019.

On page 6 of the original Decision, the first paragraph should read as follows:

The State, here, argues that full and complete adherence to the strict provisions of the contract did not occur. Our Supreme Court in *Clark-Fitzpatrick, Inc./Franki Found. Co. v. Gill*, 652 A.2d 440, 447 (R.I. 1994) found that "the trial justice noted that form should not be made superior to substance and found that the lack of formal notice under Section 105.17 was not a waiver in this instance. We agree." This Court finds that *Clark-Fitzpatrick* stands for the proposition that in State construction contract cases substantial compliance rather than strict compliance with contract requirements as to notice (is the standard to be applied) so that form will not trump substance. Here, the facts demonstrate that Plaintiff substantially complied with the notice requirements. Accordingly, the Court finds that the pending litigation is appropriate, and that sovereign immunity here has been waived so as to permit Plaintiff to bring the present proceeding.

The language "No. 578" has been removed from the last sentence of the above-referenced paragraph.

The remaining contents of the original Decision filed on June 24, 2019 shall remain the same.



RHODE ISLAND SUPERIOR COURT

Amended Decision Addendum Sheet

TITLE OF CASE:	Manafort Brothers, Inc. v. State of Rhode Island, Rhode Island Department of Transportation
CASE NO:	PC-2016-4542
COURT:	Providence County Superior Court
DATE DECISION FILED:	June 26, 2019
JUSTICE/MAGISTRATE:	Silverstein, J. (Ret.)
ATTORNEYS:	
For Plaintiff:	John A. Donovan, III, Esq.

For Defendant: William M. Dolan, Esq.