

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Robert J. Bonds, Circuit Court Judge

Case No. 2022-000636

South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware Appellant,

v.

GMK Associates Design Build Division, Inc. Respondent.

RECORD ON APPEAL

Russell P. Patterson, Esquire
Lauren P. Williams, Esquire
Russell P. Patterson, P.A.
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Hilton Head, South Carolina 29938
(843) 341-9300
Attorneys for the Appellant
South Atlantic Forest Products, Inc.
d/b/a Gaster Lumber & Hardware

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(803) 796-9160
Attorney for Respondent GMK Associates
Design Build Division, Inc.

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	
South Atlantic Forest Products, Inc.,	)	C.A. NO: 2017-CP-07-02337
d/b/a Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CONSENT ORDER FOR
	)	SUBSTITUTION OF COUNSEL
GMK Associates Design Build Division,	)	
Inc., Travelers Casualty and Surety	)	
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
	)	

It appears to the Court that Attorney Carl D. Hiller was retained by Defendants Travelers Casualty and Surety Company of America (hereinafter "Travelers") and Frank Golson (hereinafter "Golson") with regard to the above matter. It further appears that Defendant Travelers and Defendant Golson are desirous of substituting S. Jahue Moore as attorney for the Defendants in the above-referenced case, and it further appears that Carl D. Hiller has consented to this substitution of Counsel.

NOW, THEREFORE, based on all of the foregoing, and on Motion of S. Jahue Moore,

IT IS ORDERED, ADJUDGED AND DECREED that Attorney S. Jahue Moore be and he hereby is substituted as Counsel for Defendants Travelers and Golson in the above-captioned case.

AND IT IS SO ORDERED.

JUDGE, COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT

Beaufort, South Carolina
_____, 2018

I SO MOVE:

s/S. Jahue Moore
S. Jahue Moore, SC Bar No. 4063

I CONSENT:

s/ Carl D. Hiller (with permission)
Carl D. Hiller



Beaufort Common Pleas

Case Caption: South Atlantic Forest Products Inc , plaintiff, et al VS Gmk Associates Design Build Division Inc , defendant, et al
Case Number: 2017CP0702337
Type: Order/Substitution Of Counsel

So Ordered

s/Carmen T Mullen 2142

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE NO.: 2017-CP-07-02337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CONSENT ORDER RESOLVING
	)	PLAINTIFF'S MOTION TO COMPEL
GMK Associates Design Build Division,	)	AND AMENDED MOTION TO
Inc., Travelers Casualty and Surety	)	COMPEL
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
_____	)	

This matter comes before the Court upon Plaintiff's Motion to Compel Discovery Responses from Defendant GMK Associates Design Build Division, Inc., filed January 29, 2018 and Plaintiff's Amended Motion to Compel Discovery Responses from Defendants GMK Associates Design Build Division, Inc, Travelers Casualty and Surety Company of America, and Frank Golson, filed February 26, 2018. Said matters were scheduled for a hearing on Tuesday, February 27, 2018, at 10:00 a.m. Prior to said hearing, counsel for the parties reached a resolution providing that all Defendants will provide discovery responses on or before **March 26, 2018.**

IT IS SO ORDERED.

Perry M. Buckner, III
Fourteenth Judicial Circuit

_____, 2017
Beaufort, South Carolina

I Consent.

/s/ Lauren P. Williams / 2/26/18
Lauren P. Williams /Date
Attorney for the Plaintiff

I Consent.

/s/ S. Jahue Moore /2/26/18
S. Jahue Moore /Date
Attorney for the Defendants



Beaufort Common Pleas

Case Caption: South Atlantic Forest Products Inc , plaintiff, et al VS Gmk Associates Design Build Division Inc , defendant, et al
Case Number: 2017CP0702337
Type: Order/Consent Order

It is so Ordered

s/ Perry M Buckner III 2122

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-2337
SOUTH ATLANTIC FOREST PRODUCTS,	)	
INC., d/b/a GASTER LUMBER &	)	
HARDWARE,	)	
	)	
PLAINTIFF,	)	PLAINTIFF'S MOTION TO HOLD
	)	THE DEFENDANTS IN CONTEMPT
Vs.	)	OF COURT
	)	
GMK ASSOCIATES DESIGN BUILD	)	
DIVISION, INC.; TRAVELERS	)	
CASUALTY AND SURETY COMPANY	)	
OF AMERICA; FRANK GOLSON	)	
	)	
DEFENDANTS.	)	
_____	)	

This matter came before the Court on April 26, 2017, at 11:00 a.m., upon Plaintiff South Atlantic Forest Products, Inc., d/b/a Gaster Lumber & Hardware's ("Gaster") Motion to Hold the Defendants in Contempt of Court, dated April 9, 2018. Present at the hearing was Russell P. Patterson and Lauren P. Williams for Gaster and S. Jahue Moore for Defendants. Prior to the hearing, the parties reached an agreement to resolve said motion, the terms and conditions of which are set forth below.

1. By June 1, 2018, Gaster will provide Defendants' counsel with a list of outstanding discovery requests.
2. By June 4, 2018, Defendants will pay \$250.00 to Gaster. This money is to be delivered to Plaintiff's counsel at Russell P. Patterson, P.A., P.O. Box 8047, Hilton Head, SC 29938.
3. By June 11, 2018, at 5:00 p.m., Defendants will provide Gaster with responses to all outstanding discovery requests, including hard copies or electronic copies of all requested

documents. If Defendants are unable to provide all responses and documents, the parties will initiate a status conference with Judge Mullen to resolve same.

4. If Defendants fail to provide Gaster with all requested discovery responses and documents by June 11, 2018, Defendants' Defenses and Counterclaims filed on November 22, 2017, and December 5, 2017, will be dismissed, with prejudice.

THEREFORE, it is ordered that the above is hereby approved and adopted as an Order of the Court.

AND IT IS SO ORDERED.

Carmen T. Mullen
Fourteenth Judicial Circuit

Beaufort, South Carolina

_____, _____, 2018



Beaufort Common Pleas

Case Caption: South Atlantic Forest Products Inc , plaintiff, et al VS Gmk Associates Design Build Division Inc , defendant, et al
Case Number: 2017CP0702337
Type: Order/Other

So Ordered

s/Carmen T Mullen 2142

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Beaufort
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP0702337

South Atlantic Forest Products Inc et al
PLAINTIFF(S)

Gmk Associates Design Build Division Inc et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

The Defendant, Frank Golson's, Motion for Directed Verdict is GRANTED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 01/28/2022 .

Gaster Lumber & Hardware

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: South Atlantic Forest Products Inc , plaintiff, et al VS Gmk Associates
Design Build Division Inc , defendant, et al
Case Number: 2017CP0702337
Type: Order/Electronic Form 4

So Ordered

s/ Robert Bonds, 2770

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS

FOURTEENTH JUDICIAL CIRCUIT

CASE NO.: 2017CP0702337

South Atlantic Forest Products, Inc., d/b/a
Gaster Lumber & Hardware,

Plaintiff,

vs.

GMK Associates Design Build Division,
Inc.,

Defendant.

VERDICT FORM

***Only chose one option below**

- (1) We the jury, by unanimous consent, find that the Plaintiff proved damages, in the following amount;

\$ 24,885.²⁴ Dollars (numerical)

And interest in the following amount.

\$ Ø Dollars (numerical)

- (2) We the jury, by unanimous consent, find that the Defendant proved damages on their counterclaim in the following amount;

\$ _____ Dollars (numerical)

TMK

(3) We the jury, by unanimous consent, find that neither the Plaintiff nor Defendant proved their claim or counterclaim by preponderance of the evidence.

Yes _____

No _____

Please notify the Bailiff(s) when you have completed your deliberations and sign below.

 28 JAN 2022
Foreperson

January 28th, 2022
Beaufort, South Carolina
Judge Robert J. Bonds
Court Reporter Sharon Hardoon

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2017CP0702337**

South Atlantic Forest Products Inc	Gaster Lumber & Hardware	Gmk Associates Design Build Division Inc Travelers Casualty And Surety Company Of America	Frank Golson

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☒ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

SEE ATTACHED VERDICT FORM

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
South Atlantic Forest Products Inc. d/b/a Gaster Lumber & Hardware	Gmk Associates Design Build Division Inc.	24,885.24

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


Circuit Court Judge

2770
Judge Code

1/28/2022
Date

For Clerk of Court Office Use Only

This judgment was entered on this **28th day of January, 2022**, and a copy mailed first class or placed in the appropriate attorney's box on this **28th day of January, 2022**, to attorneys of record or to parties (when appearing pro se) as follows:

Lauren Patterson Williams PO Box 8047 Hilton Head Island,
SC 29938
Russell Pierce Patterson PO Box 8047 Hilton Head Island, SC
29938

S. Jahue Moore PO Box 5709 1700 Sunset Boulevard West
Columbia, SC 29171

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Jerri Ann Roseneau - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

ELECTRONICALLY FILED - 2022 Jan 28 4:42 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.:2017-CP-07-2337
	)	
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
PLAINTIFF,	)	
	)	ORDER AWARDING
VS.	)	ATTORNEYS FEES
	)	
GMK Associates Design Build Division,	)	
Inc.,	)	
	)	
DEFENDANT.	)	
_____	)	

This matter came before the Court on February 11, 2022 upon the Plaintiff and Defendants' motions for Attorney's Fees following a jury verdict in favor of the Plaintiff on January 27th, 2022. The Plaintiff was represented by Russell Patterson, Esq. and Lauren Williams, Esq, and the Defendants were represented by Jahue Moore, Esq.

The Plaintiff brought two causes of action in this matter, a mechanics' lien and a breach of contract claim. During the trial the Court dismissed two Defendants, Frank Golson (Golson) and Traveler's Casualty and Surety Company of America (Travelers), who were only named as it related to the mechanics' lien cause of action. Plaintiff's counsel objected to the dismissal of the Defendants but did admit that Golson was named in error. The Plaintiff was awarded \$24,855.25 and \$0.00 in interest by the jury. The remaining Defendant, GMK Associates Design Build Division Inc. (GMK), was not awarded damages on their counterclaim.

The parties each submitted their fees to the Court for consideration. The Plaintiff requested \$153,235.28 in fees and costs relating to this action, whereas the Defendant requested \$57,820.00 in fees and costs.

Law

Generally, attorney's fees are not recoverable unless authorized by contract or statute. *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989). There are six factors to consider in determining an award of attorney's fees: 1) nature, extent, and difficulty of the legal services rendered; 2) time and labor devoted to the case; 3) professional standing of counsel; 4) contingency of compensation; 5) fee customarily charged in the locality for similar services; and 6) beneficial results obtained. *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993).

Discussion

The Court finds that based on the verdict and arguments of counsel that the Plaintiff undoubtedly prevailed in the mechanics' lien action. The jury award was, in fact, for the exact amount of the lien and, as such, pursuant to S.C. Code § 29-5-20, this Court may award reasonable attorney's fees and costs, not to exceed the amount of the lien which totaled \$24,855.24. However, whether the Plaintiff was the prevailing party in the breach of contract cause of action, is unclear to the Court. The Plaintiff argues it did prevail in the breach of contract cause of action and it is entitled to reasonable attorney's fees pursuant to the Defendant's breach. Further, the attorneys for Plaintiff argue that their fees would not be capped at \$24,855.24 under the breach of contract claim. The Court concludes that even if the Plaintiff is to be considered the prevailing party in the breach of contract action, for reasons set forth below, the Plaintiff's reasonable attorney's fees and cost should not exceed \$24,855.24. The Court also finds that Defendant Golson, who was dismissed by the Court in the mechanics' lien cause of action, was also a prevailing party, and as a result is entitled to reasonable attorney's fees and costs.

The Court has had the opportunity to preside over this matter, review memoranda concerning the award of reasonable attorney's fees and costs, examine a breakdown of attorneys' fees and costs of all parties, and hear arguments of counsel. Based on this arguments and evidence presented the Court concludes that the Plaintiff was in fact a prevailing party under the mechanics' lien cause of action and is entitled to reasonable attorneys' fees and cost of \$24,855.25. The Court further finds that the Defendant Golson was a prevailing party in the mechanic's lien cause of action and is entitled to \$7,000.00 for his attorneys' fees and cost. The Court arrived at the above mentioned figures by examining the six (6) factors used to determine an award of attorneys' fees and cost. The reasons and basis for these figures are as follows:

A. Nature, Extent, and Difficulty of the Legal Services Rendered

The Court acknowledges that mechanics' lien and breach of contract actions, while fairly routine, can become more difficult, particularly when they involve counterclaims thus increasing, to some extent, the difficulty of the legal services rendered by the attorneys in this matter. The Court believes that this was a more complicated case. The Court, however, finds the attorneys themselves made this case more complicated than it had to be. It was clear to the Court that there was a breakdown in communication between the attorneys in the matter and that breakdown greatly added to the complexity of the case.

B. Time and Labor Devoted to the Case

The attorneys for the Plaintiff and Defendants spent extensive time on this matter. Unfortunately, however, the time spent by both parties far exceeded the value of each parties damages. While the Court acknowledges that reasonable attorney's fees and costs can exceed the actual amount

recovered, the Court finds that it is not reasonable in this case because of the breakdown of communication between the attorneys. This breakdown only drove up the cost and time spent on this case and the Court concludes that this has led to the excessive fees and cost. Both attorneys in this matter clearly allowed this case to spiral out of control. As a result, the Court believes that a good deal of the fees claimed are excessive and deemed unreasonable.

C. Professional Standing of Counsel

The Court was not provided with letters or affidavits concerning the attorneys attesting to their professional standing. The Court, however, is aware of the reputations of the attorneys involved in this matter. Mr. Patterson and Mr. Moore have practiced for over 30 years and enjoy excellent reputations not only regionally but statewide. Ms. Williams provided significant information to the Court in the form of briefs before, during, and after trial. The Court also observed her ability in the courtroom. The Court finds her to be an excellent attorney and is confident that she is held in high esteem in the legal community.

D. Contingency of Compensation

Neither party produced a fee agreement to the Court but based upon the information argued and presented at the hearing it is clear to the Court that representation was provided on an hourly basis as opposed to a contingency fee.

E. Fee Customarily Charged in the Locality of Similar Services

The Court was not provided with affidavits but with only general information concerning fees customarily charged in the local area for similar services. Taking into account the Beaufort area,

and their levels of experience, the Court concludes that customary fees for a lawyer of Ms. Williams experience and standing would be in the \$175-\$250 range and the fees for attorney Patterson and Moore would range \$250-350 per hour.

F. Beneficial Result

As mentioned earlier, it would appear to the Court that Plaintiff did receive a beneficial result to wit, a \$24,885.25 verdict and that Defendant Golson as received a beneficial result to wit being dismissed from litigation by the Court with the acknowledgment of the Plaintiff's counsel that he was not an appropriate party.

For all of the above reasons, the Court finds that the Plaintiff is entitled to \$24,885.25 in attorney's fees and costs regardless of whether the Plaintiff is considered a prevailing party in the breach of contract claim. Defendant Golson is entitled to \$7,000.00 in attorney's fees and costs.

IT IS SO ORDERED!

The Honorable Robert J. Bonds
Presiding Judge

Walterboro, South Carolina
March ____, 2022



Beaufort Common Pleas

Case Caption: South Atlantic Forest Products Inc , plaintiff, et al VS Gmk Associates
Design Build Division Inc , defendant, et al
Case Number: 2017CP0702337
Type: Order/Attorney Fees

So Ordered

s/ Robert Bonds, 2770

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.:2017-CP-07-2337
	)	
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
PLAINTIFF,	)	
	)	ORDER DENYING PLAINTIFF'S
VS.	)	MOTION TO RECONSIDERATION
	)	OF ATTORNEYS FEES
GMK Associates Design Build Division,	)	
Inc.,	)	
	)	
DEFENDANT.	)	
_____	)	

This matter came before the Court on April 8, 2022, upon the Plaintiff's Motion to Reconsider Attorney Fees. The hearing was conducted virtually. The Plaintiff was represented by Russell Patterson, Esq., and the Defendants were represented by Jahue Moore, Esq.

Procedural

The above-captioned case was tried before this Court the week of January 27th, 2022 in Beaufort County. The Court dismissed two Defendants, Frank Golson (Golson) and Traveler's Casualty and Surety Company of America (Travelers), who were only named as it related to the mechanics' lien cause of action. Plaintiff's counsel objected to the dismissal of the Defendants but did admit that Golson was named in error. After a four-day trial, the Plaintiff was awarded \$24,855.25 and \$0.00 in interest by the jury. The remaining Defendant, GMK Associates Design Build Division Inc. (GMK), was not awarded damages on their counterclaim. At the conclusion of the trial, the Court requested that the parties speak regarding attorney's fees and if they could not agree to a resolution the Court was to be notified to have a hearing on the award of reasonable attorney's fees and costs.

On February 11th, 2022, this Court heard arguments on the Plaintiff's and Defendants' Motions for Attorney's Fees. The parties each submitted their fees to the Court for consideration. The Plaintiff requested \$153,235.28 in fees and costs relating to this action, whereas the Defendant requested \$57,820.00 in fees and costs. After considering the relevant law and arguments of Counsel, the Court submitted a formal order on March 10th, 2022 awarding the Plaintiff \$24,885.25 in attorney's fees and costs, and Defendant Golson, \$7,000.00 in attorney's fees and costs.

On March 21st, 2022, the Plaintiff submitted a Motion to Reconsider and Revise the Order Awarding Attorney's Fees under Rule 59(e), SCRCP. The Court heard this motion on April 8th, 2022, and DENIES the Plaintiff's Motion for the reasons set forth herein.

Law

Generally, attorney's fees are not recoverable unless authorized by contract or statute. *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989). There are six factors to consider in determining an award of attorney's fees: (1) nature, extent, and difficulty of the legal services rendered; (2) time and labor devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) fee customarily charged in the locality for similar services, and (6) beneficial results obtained. *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993).

Discussion

In this matter, the Plaintiff brought two causes of action; a mechanics lien and a breach of contract. The Plaintiff's Motion to Reconsider alleged that the Court erred by awarding the Plaintiff \$0.00 in attorney's fees and costs under its breach of contract claim and \$24,855.24 in attorney's fees and costs under its mechanics lien cause of action. However, the Court's Order dated March 10th, 2022 awarded attorneys fees and costs collectively to the Plaintiff and did not

specify what amount should be attributed to each cause of action. In its Order, the Court specifically stated that it was unclear if the Plaintiff was the prevailing party on both causes of action or only a single cause of action. This was partially due to the fact that the verdict form, agreed to by the parties, asked the jury to write the amount of money, if any, they felt the Plaintiff was entitled to based on the case presented. The verdict form did not ask the jury to determine if the Plaintiff prevailed on each individual cause of action. Additionally, these causes of action were intertwined and involved the same witnesses and the same evidence in some instances. However, the Plaintiff contends that despite the structure of the verdict form, it would be considered the prevailing party on both causes of action if a verdict was returned awarding the Plaintiff any amount of damages. The Court would be speculating if it tried to determine what amount of the award for damages, if any, was assigned to which cause of action. As a result, the Court ordered what it deemed as reasonable attorneys fees and costs for the entire action, irrespective of whether the Plaintiff prevailed on a single cause of action or both causes of action.

Next, the Plaintiff claims that the Court erred by awarding Defendant Frank Golson (Golson) \$7,000.00 in attorneys fees. The Plaintiff claims that Golson was not considered a prevailing party and this award was not supported by the evidence. The Court, however, has had the opportunity to preside over this matter, review memoranda concerning the award of reasonable attorney's fees and costs, examine a breakdown of attorneys' fees and costs of all parties, and hear arguments of counsel. Based on the arguments and evidence presented the Court concludes that Golson was in fact a prevailing party as he was removed from the case on a successful Motion for Directed Verdict. The Court arrived at the figure by examining the six (6) factors used to determine an award of attorneys' fees and costs: Nature, Extent, and Difficulty of

the Legal Services Rendered, Time and Labor Devoted to the Case, Professional Standing of Counsel, Contingency of Compensation, Fee Customarily Charged in the Locality of Similar Services, and Beneficial Result. *See Blumberg v. Nealco, Inc.*, 310 S.C. 494, 427 S.E.2d 659 (1993).

Golson was represented by Mr. Moore who also represented the other two Defendants in this matter. The Defendants, though separate and distinct entities or individuals, were represented by a single attorney for reasons unknown to the Court. However, the defense of each entity or individual involved similar legal arguments, evidence, witnesses, and discovery. The issues relating to each Defendant were intertwined, and it was clear to the Court that Mr. Moore, a well-respected and seasoned attorney was participating in discovery to the benefit of each client, including Golson.

However, Mr. Moore's client GMK, was the only Defendant to pursue counterclaims, which the Plaintiff admitted took up much of the Defense's case, though they were unsuccessful. Mr. Moore's billing rate and invoices submitted to the Court showed \$21,000.00 in attorneys fees for the time he spent trying this case. Based on the verdict and rulings of this Court, Golson is the only prevailing Defendant, as he was removed from the case. Therefore the Court finds that the Defendant Golson is entitled to \$7,000.00 in attorneys fees and costs. The Court based this decision on the fact that Mr. Moore was successful at trial for one of his three clients. Therefore it is reasonable to award Golson one-third of the \$21,000.00 spent by the Defense during the trial of this matter

Finally, the Plaintiff informed the Court that it made every effort to communicate and participate in resolving this matter in good faith and that most of its time spent working on this case was in defense of the counterclaims brought by GMK. Thus it is the Plaintiff's position that

the award of 24,885.24 is not representative of the time, effort, and attention that it put into this case. The Court recognizes the Plaintiff's hard work on this case and understands that it is a prevailing party, however, the Court must award only reasonable attorneys fees. In this case, the Court had the opportunity to observe the attorneys and although they zealously represented their clients, there was also a clear breakdown in communication that caused this case to spiral out of control. When the Court asked counsel to discuss a possible resolution regarding attorneys fees at the conclusion of the case, the Court noticed that the attorneys only addressed each other in raised voices. It was clear to the Court that though the attorneys were speaking neither was listening. The combative nature with which these attorneys approached this matter was demonstrated at the virtual hearing on this very motion by directly addressing each other rather than the Court.

The Plaintiff submitted invoices that represent that extensive time and attention was given to this case, however, a close review of the invoices reveals unreasonable fees in the eyes of the Court. For example, fees were billed at attorney rates for matters that could have been handled by paralegals, like calling an attorney's office to schedule a deposition. These types of tasks should have been billed at paralegal rates. Additionally, this case was also not so complicated as to require two attorneys to bill for the entirety of this four-day trial. Although these types of charges may be reasonable when presented to a client, they are not reasonable to this Court when determining an award of attorneys fees and costs.

For all of the above reasons the Plaintiff's Motion to Reconsider and Revise is respectfully DENIED. The Court finds that the Plaintiff is entitled to \$24,885.25 in attorney's fees and costs and Defendant Golson is entitled to \$7,000.00 in attorney's fees and costs.

IT IS SO ORDERED!

The Honorable Robert J. Bonds
Presiding Judge

Walterboro, South Carolina
April ____, 2022

ELECTRONICALLY FILED - 2022 Apr 27 3:00 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337



Beaufort Common Pleas

Case Caption: South Atlantic Forest Products Inc , plaintiff, et al VS Gmk Associates
Design Build Division Inc , defendant, et al
Case Number: 2017CP0702337
Type: Order/Form 4

So Ordered

s/ Robert Bonds, 2770

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-_____
	)	
SOUTH ATLANTIC FOREST	)	
PRODUCTS, INC. d/b/a GASTER	)	
LUMBER & HARDWARE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	SUMMONS
	)	(Non-Jury)
GMK ASSOCIATES DESIGN BUILD	)	
DIVISION, INC.; TRAVELERS	)	
CASUALTY AND SURETY COMPANY	)	
OF AMERICA; FRANK GOLSON,	)	
	)	
Defendants.	)	
_____	)	

TO: THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the subscribers hereunder at their offices at Post Office Box 8047, Hilton Head Island, South Carolina 29938, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded in the Complaint.

RUSSELL P. PATTERSON, P.A.

By: /s/ Lauren P. Williams
 Russell P. Patterson
 Lauren P. Williams
 P.O. Drawer 8047
 Hilton Head Island, SC 29938
 (843) 341-9300
russell@russellpattersonlaw.com
lauren@russellpattersonlaw.com
 Attorneys for the Plaintiff

Hilton Head Island, South Carolina
 November 3, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-_____
	)	
SOUTH ATLANTIC FOREST	)	
PRODUCTS, INC. d/b/a GASTER	)	
LUMBER & HARDWARE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	COMPLAINT
	)	(Non-Jury)
	)	
GMK ASSOCIATES DESIGN BUILD	)	
DIVISION, INC.; TRAVELERS	)	
CASUALTY AND SURETY COMPANY	)	
OF AMERICA; FRANK GOLSON,	)	
	)	
Defendants.	)	
_____	)	

The Plaintiff, **SOUTH ATLANTIC FOREST PRODUCTS, INC. D/B/A GASTER LUMBER & HARDWARE** (“Gaster”) complaining of the Defendants herein, respectfully alleges the following:

1. The Plaintiff, South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware, is a corporation organized and existing under the laws of the State of Georgia, which maintains its principal place of business at Savannah, Georgia. Plaintiff is licensed with the S.C. Secretary of State for authority to transact business in South Carolina.

2. Plaintiff is informed and believes Defendant GMK Associates Design Build Division, Inc. (“GMK”), is a corporation organized and existing under the laws of the State of South Carolina.

3. Plaintiff is informed and believes Defendant Travelers Casualty and Surety Company of America (“Travelers”) is a corporation organized and existing under the laws of the State of Connecticut and is doing business in South Carolina.

4. Plaintiff is informed and believes that Defendant Frank Golson ("Golson"), is an individual residing in Richland County, South Carolina.

5. That this Court has jurisdiction over the parties to this matter and to the matters raised herein.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract – GMK and Golson)

6. The allegations of paragraphs 1 through 5 hereinabove are hereby restated as if set forth verbatim herein.

7. Plaintiff sold and delivered materials on credit to GMK based upon a business account agreement to which GMK applied and is subject. GMK agreed to pay for such goods within the 10th day of the month after they are billed. A copy of the "Contractor Business Account Application" confirming the terms and conditions to which GMK agreed is attached hereto and incorporated herein as Exhibit 1 ("Agreement").

8. Pursuant to the Agreement, GMK, agreed to pay interest of 1.75% percent per month applied to past due charges and said parties further agreed to pay reasonable attorney fees in connection with any litigation under the Agreement. Further, pursuant to said Agreement, Golson personally guaranteed all sums due and owing under the Agreement.

9. Plaintiff has furnished to GMK, goods and materials on credit in the amount of \$24,885.24, in connection with certain improvements constructed on the Subject Property, which said parties have not paid.

10. GMK and Golson have failed and refused to pay sums due within the time required by the Agreement or otherwise, thereby breaching said Agreement.

11. As the direct and proximate result of the breach of Agreement by GMK and Golson, Plaintiff has sustained and is entitled to recover from GMK and Golson actual damages in the

amount of \$24,885.24, together with attorney fees incurred to enforce its rights under the Agreement, together with interest at the rate of 1.75% percent per month on unpaid amounts, together with its costs in this matter.

FOR A SECOND CAUSE OF ACTION
(Suit Against Mechanics Lien Bond - All Defendants)

12. The allegations of paragraph 1 through 11 hereinabove are hereby restated as if set forth verbatim herein.

13. Plaintiff furnished building materials and goods which were actually used in the erection of buildings or structures upon the Subject Property by virtue of an agreement with, or by or with the consent of, the Defendant Berry, the then current owners of the buildings or structures, or a person or persons having authority from or rightfully acting for the owners of the buildings or structures.

14. The reasonable value of the materials furnished to the Subject Property by Plaintiff is \$24,885.24, plus interest at 1.75% per month, no portion of which has been paid despite demand made by the Plaintiff.

15. By virtue of the furnishing of the materials described in paragraph 13 hereinabove, Plaintiff has and claims a mechanic's lien to secure the payment of the debt due Plaintiff in an amount equal to the value of the labor and materials furnished, together with prejudgment interest, costs and reasonable attorney's fees.

16. Plaintiff, on or about September 13, 2017, filed a Notice and Certificate of Lien at the office of the Register of Deeds for Beaufort County, South Carolina (File no. 2017049580; Book 125 Page 1026), and served a statement of just and true account as to the appropriate parties herein, pursuant to S.C. Code of Laws, Section 29-5-90 (1976) and any other applicable laws. A

copy of the Notice and Certificate of Mechanic's Lien is attached hereto and incorporated herein as Exhibit 2.

17. That on or about September 22, 2017, the Defendant, GMK and Berry, issued a Surety Bond issued by Travelers in the amount of \$33,097.38 (Bond No. 2017051390 "Bond") to release the mechanics lien against the Subject Property. A copy of said Bond is attached as Exhibit 3.

18. Plaintiff is entitled to a determination of the monies due under its Mechanics Lien and the payment of same under the Bond. If the Bond amount is not sufficient, Plaintiff is entitled to a judgment against Defendants GMK and Gould.

WHEREFORE, the Plaintiff prays that the Court inquire into the facts and matters alleged herein; and

1. First Cause of Action

- (a) Enter judgment in favor of the Plaintiff and against Defendants GMK Associates Design Build Division, Inc. and Frank Golson in the amount of \$24,885.24 in actual damages, together with interest at the rate of 1.75% percent per month, plus attorney fees and costs; and

2. Second Cause of Action

- (a) Enter judgment foreclosing the mechanic's lien against the Bond in the principal amount of \$24,885.24, plus interest at 1.75% per month and attorney fees and costs; and
- (b) If said Bond is not sufficient to pay said judgment, enter judgment against Defendants GMK Associates Design Build Division, Inc. and Frank Golson.

- (c) Granting the Plaintiff such other and further relief as the Honorable Court deems just and proper.

RUSSELL P. PATTERSON, P.A.

/s/ Lauren P. Williams
Russell P. Patterson
Lauren P. Williams
P.O. Drawer 8047
Hilton Head Island, SC 29938
(843) 341-9300
russell@russellpattersonlaw.com
lauren@russellpattersonlaw.com
Attorney for the Plaintiff

Hilton Head, South Carolina

November 3, 2017.



(912) 925-1100	15010 Abercorn Exp	Savannah, GA 31419
(912) 748-7376	108 West Highway 80	Bloomington, GA 31302
(843) 784-2000	3051 Plantation Drive	Hardeeville, SC 29927
(912) 832-3666	RR 4 Box 3137	Eulonia, GA 31331

COMMERCIAL BUSINESS ACCOUNT APPLICATION

NOTICE: Please complete all sections as applicable. Failure to provide necessary information may result in denial of credit. Contact the credit office if there are any questions. Please allow three to five business days for processing. Fax submissions are acceptable to begin processing, but original applications must be on file in order to receive approval.

INFORMATION ABOUT APPLICANT

Date Needed: January 30, 2017 F.E.I. Number: 57-0714443

Legal Name of Corporation, Partnership or Proprietorship: GMK Design Build Division, Inc.

dba N/A

Street Address: 1201 Main Street, Suite 2100

City: Columbia State: SC Zip: 29201

Mailing Address if Different: Same as Above

Business phone: (803) 256-0000 Accounts Payable Contact: Frank Gelson

Fax #: (803) 252-7269

Are you tax exempt? ☐ Yes ☒ No # _____ (If so, please complete separate exemption certificate.)

Type of Business: ☐ Partnership ☐ Individual Proprietorship ☒ Corporation

If Subsidiary:

Name of Parent Company: N/A

Address of Parent Company: _____

If Incorporated: Date of Incorporation: January 1966 State: _____

PRINCIPAL'S NAME	SOCIAL SECURITY #	HOME ADDRESS	POSITION
<u>Thomas P. Monahan</u>	_____	<u>1201 Main St., Ste 2100,</u>	<u>Chairman</u>
		<u>Columbia, SC 29201</u>	

Banking Relationships:
Business Checking with: NBSC Account #: available upon request

Trade References:

Supplier: Custom Steel Fabricators Telephone: (803) 796-1776

Supplier: Wex Bank Telephone: (800) 774-4939

Supplier: ABI Group Telephone: (803) 951-3636

Supplier: _____ Telephone: _____

06/30/2005

EXHIBIT 1

000035

ELECTRONICALLY FILED - 2017 Nov 03 10:34 AM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337

Name of Person(s) authorized to charge on this account: Tripp Berry, Bruce Williamson

P.O. # Required? ☒ Yes

☐ No

Job # Required? ☒ Yes

☐ No

(Note: Charges will be accepted only from the above listed persons; any change in authorized agents must be submitted in writing.)

The above information is for the purpose of obtaining credit and I/we certify that the information is true and correct. I/we authorize your to verify this information and/or obtain additional information by obtaining data from a credit reporting agency. In consideration for the credit extended, the undersigned agrees to be liable for all indebtedness plus interest and reasonable attorney fees should any litigation be incurred for nonpayment of account. In consideration of the credit extended to the above listed corporation, the undersigned hereby guarantees and agrees to be personally liable for all indebtedness plus interest and reasonable attorneys fees incurred by the corporation or any of its authorized agents listed above.

I/we understand and accept the following terms and conditions: Statements are mailed on the first business day following the end of the month. Statements will contain all activity from the 1st of the previous month through the last day of the billing month. All invoices are referenced by the order number. Statement balances are due on the 10th of the month. A finance charge at the periodic rate of 1-3/4%, 21% per annum (or maximum allowed by law) shall be imposed on all unpaid balances. The unpaid balance is that portion of the balance due which has not been paid or credited by the 25th of the month. The minimum finance charge will be \$2.50 per month. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from the date of purchase. Checks returned for insufficient funds are subject to a \$30.00 or 5% fee, whichever is greater. Vendor reserves the right to file a materialmen's lien on any property to which goods are delivered and not paid for.

Statements are issued on the first business day of each month and include invoices for all deliveries made in the previous month. Statement balances are due in full on the 10th and considered past due on the 11th. Finance charges accrue on all past due balances if not paid by the 25th. The undersigned hereby understand and accepts these terms.

Franka Goldson
Signature

Franka Goldson
Typed or printed name

Controller

Title

1/30/17

Date

Signature

Typed or printed name

Title

Date

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

SOUTH ATLANTIC FOREST)
PRODUCTS, INC. d/b/a GASTER)
LUMBER & HARDWARE,)
)
Plaintiff,)
)
vs.)
)
GMK DESIGN BUILD DIVISION, INC.;)
PERCY M. BERRY, III; SOUTH STATE)
BANK,)
)
Defendants.)
_____)

MECHANIC'S LIEN NO.: _____

**NOTICE AND CERTIFICATE
OF MECHANIC'S LIEN**

TO: THE ABOVE DEFENDANTS:

NOTICE IS HEREBY GIVEN that pursuant to S.C. Code Ann. § 29-5-10, *et seq.* (1976), and any other applicable statutes and law, South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware ("Lienor") is due the sum of \$24,885.25 together with interest on the principal amount at the rate of \$12.28 per day from September 8, 2017, until paid, such attorney's fees as may be allowed, and the costs and disbursements of any action to indebtedness, with all just credit given, being attached hereto and made a part hereof.

THAT SAID DEBT IS DUE Lienor for labor performed and furnished and/or for materials furnished, and actually used in the erection, alteration or repair of buildings or structures situated on, or otherwise improving, the real estate hereinafter described on Exhibit B by virtue of an agreement

EXHIBIT 2

with Percy M. Berry, III, the Owner of said property, or a person or persons authorized by, or rightfully acting for, said owner, or said debt is due the undersigned because such improvements have been authorized by said owner. That as shown on the attached statement (Exhibit A), Lienor last labored on or last furnished labor and/or materials for such buildings, structures, or improvements within ninety (90) days of the date hereof, to wit: June 21, 2017.

That by virtue thereof, by service and filing of this Notice and Certificate, and pursuant to the provisions of the statutes in such cases made and provided, Lienor has and claims a lien to secure the payment of the debt so due, including attorney's fees and the cost of enforcing said lien upon the buildings, structures and improvements herein above mentioned constructed on the following described real estate as reflected on Exhibit B attached hereto.

RUSSELL P. PATTERSON, P.A.



Russell P. Patterson
 Lauren P. Williams
 P.O. Drawer 8047
 Hilton Head Island, SC 29938
 (843) 341-9300
russell@russellpattersonlaw.com
lauren@russellpattersonlaw.com
 Attorney for the Plaintiff

September 13, 2017.

Exhibit A to Notice and Certificate of Mechanic's Lien

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT) **VERIFIED STATEMENT OF ACCOUNT**

CREDITOR: South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware

OWNER OF PROPERTY: Percy M. Berry, III

DEBTOR: GMK Design Build Division, Inc.

TOTAL CONTRACT AMOUNT DUE FOR LABOR/MATERIALS PROVIDED:

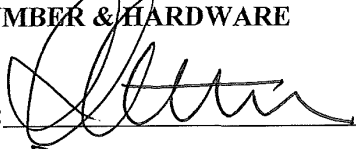
1. MATERIALS – Front Entry Door Unit, Sill, Sill Cover, Sweep, Hinges	\$3,922.00
2. MATERIALS – Exterior Siding and Trim, Tyver Tape	5,437.09
3. MATERIALS – Southern Sutter Package	130.09
4. MATERIALS – Sheathing, Plywood	376.29
5. MATERIALS – Premium MCA	397.24
6. MATERIALS – Windows, Screen	1,453.34
7. MATERIALS – Plastics, Siding, Siding Nails, Finish Nails	884.84
8. MATERIALS – Select Lumber, Plywood	1,340.89
9. MATERIALS – HardiPine Trim, Backer Pine	2,416.27
10. MATERIALS – HardiPine Trim, Plastic	165.35
11. MATERIALS – HardiPine Trim	2,066.47
12. MATERIALS – Select Lumber	816.43
13. MATERIALS – Select Lumber	685.93
14. MATERIALS – Trim, HardiPine Panels	1,045.27
15. MATERIALS – Select Lumber	368.21
16. MATERIALS – Ice/Water Shield	270.09
17. MATERIALS – Select Lumber, Plywood	1,999.90
18. MATERIALS – Batten	267.44
19. MATERIALS – Siding Nails	351.55
20. MATERIALS – Trim	1,188.79
21. MATERIALS – Exterior Trim, Decking	2,854.16
22. MATERIALS – Drywall Screws, Stain	671.82
23. MATERIALS – Select Lumber	173.46
24. MATERIALS – Select Lumber	480.45
25. Account Credit	<1,709.25>
26. Payment	<4,582.76>
27. Accrued Interest	1,413.88

TOTAL DUE AND OWNING \$24,885.24

TOTAL AMOUNT DUE (exclusive of costs of this action and attorney's fees to which the creditor is entitled): \$24,885.24, plus interest of \$12.29 per diem

I swear that the foregoing is a true and accurate statement of the account representing all amounts due Creditor with all just credits applied.

**SOUTH ATLANTIC FOREST
PRODUCTS, INC. d/b/a GASTER
LUMBER & HARDWARE**

By: 

Its: PRESIDENT

SWORN to before me on this
13 day of September, 2017.

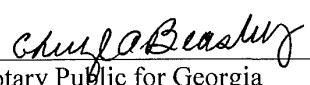

Notary Public for Georgia
My Commission Expires: 12 June 2018



Exhibit B to Notice and Certificate of Mechanic's Lien

All that certain piece, parcel or lot of land situate, lying and being in the City of Beaufort, Beaufort County, South Carolina, being shown and designated as Lot 11, Phase II, on that plat entitled "Plat Showing the Subdivision of Tract "A", TMS R120-031-000-003-0000 Into Lots 1 Through 29, The Island of Beaufort, Subdivision, Deer Island, Property of Beaufort Properties, LLC Located City of Beaufort, Beaufort County, SC", prepare by Davis & Floyd, Inc. dated October 24, 1997, revised May 18, 1998, and recorded in Plat Book 65 at Page 148 in the Office of the Register of Deeds for Beaufort County, South Carolina.

TMS: R120-032-000-0194-0000

Derivation: 3487/2543

5 SW
NC
R. Williams

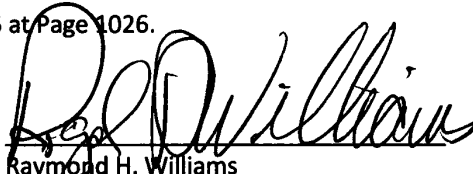
BEAUFORT COUNTY SC - R00
BK 125 Pgs 1748-1752
FILE NUM 2017051390
09/22/2017 12:04:11 PM
REC'D BY sherrellw RCPT# 8647
RECORDING FEES \$0.00

-----SPACE RESERVED ABOVE FOR RECORDING PURPOSES-----

STATE OF SOUTH CAROLINA)
)
) **SURETY BOND FOR RELEASE OF MECHANICS LIEN**
)
COUNTY OF BEAUFORT) Original filed Book 125 Page 1026-1030

KNOW ALL MEN BY THESE PRESENTS: That the undersigned as attorney for the benefit of PERCY M. BERRY, III, owner of the land described in Exhibit B hereof, having an interest in or lien upon the property referenced herein, state that GMK Associates Design Division and Percy M. Berry, III, as Principal and Travelers Casualty and Surety Company of America, as a surety company duly licensed to transact a surety business in the State of South Carolina, as Surety, are held and firmly bound unto the Beaufort County RMC Office the sum of \$33,097.38, pursuant to the attached Bond to Release Mechanic's Lien executed September 20, 2017, a copy of which is attached hereto as Exhibit A, said amount being one and one-third the amount claimed in the lien filed in Lien Book 125 at Page 1026, for the payment of which the undersigned bind themselves, their successors and assigns, jointly and severally, as herein set forth.

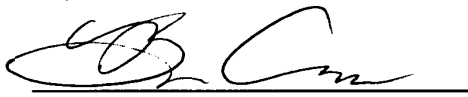
This bond is filed in accordance with the provisions of S.C. Code 29-5-110 so as to discharge the real estate and premises described above from the lien recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 125 at Page 1026.


Raymond H. Williams

800 Congress Street, PO Drawer 1027
Beaufort, SC 29901-1027
Phone: (843)521-5000
South Carolina Bar Number : 6148

STATE OF SOUTH CAROLINA)
)
) **ACKNOWLEDGMENT**
)
COUNTY OF BEAUFORT)

PERSONALLY appeared before me, a Notary Public for South Carolina, RAYMOND H. WILLIAMS, who did sign the within instrument for the uses and purposes herein mentioned this 22 day of September, 2017.


Notary Public for South Carolina

My Commission Expires: 3/9/2027

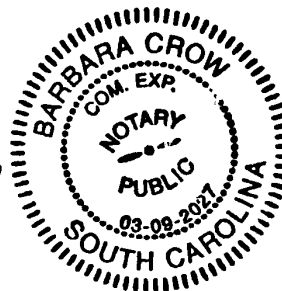


EXHIBIT 3

EXHIBIT A

BOND TO RELEASE MECHANIC'S LIEN



Bond No.: 106804048

Premium: \$589.00

BOND TO RELEASE MECHANIC'S LIEN

KNOW ALL MEN BY THESE PRESENTS That we, GMK Associates Design Build Division, Inc. and Percy M. Berry III as Principal, and Travelers Casualty and Surety Company of America, a Corporation created, organized and existing under and by virtue of the laws of the State of Connecticut, as Surety, are held and firmly bound unto Beaufort County RMC Office in the sum of Thirty Three Thousand Ninety-Seven & 38/100 (\$33,097.38) DOLLARS, lawful money of the United States of America, to the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT Whereas, Percy M. Berry, III are owners of the following described property: located in the City of Beaufort, Beaufort County, SC - Lot 11, Phase II, Plat showing the Subdivision of Tract "A", TMS ~~8710-001-000-000-0000~~ R120 032 000 0194 0000

WHEREAS, The above described real property is subject to a claim of mechanic's lien filed for record in the Official Records of Beaufort County, State of South Carolina, on September 13, 2017, in Book 125, Page 1026-1030, whereby South Atlantic Forest Products, Inc. d/b/a Gaster Lumber Hardware claims a lien on said real property in the amount of Twenty Four Thousand Eight Hundred Eighty-Five and 25/100 (\$24,885.25) DOLLARS.

WHEREAS, said Principal disputes the correctness or validity of such claim of mechanic's lien and desire to execute and record a bond pursuant to the laws of South Carolina, to enable the real property above described to be freed from the effect of said claim of mechanic's lien and any action brought to foreclose said lien.

NOW, THEREFORE, The condition of this obligation is such that, if the Principal shall pay, or cause to be paid, any and all sums which said claimant may recover on said claim together with his costs of suit in the action, then this obligation shall be void; otherwise to remain in full force and effect.

WITNESS The hand and seal of the said Principal, and witness also the corporate seal of said Surety and the signature of its duly authorized Attorney-in-fact this 20th day of September, 2017.

GMK Associates Design Build Division, Inc. and Percy M. Berry III

Thomas P. Alban, Treasurer

Percy M. Berry III
Travelers Casualty and Surety Company of America

Thomas M. Albus

Thomas M. Albus

Attorney-in-Fact

Producer Name
(Required in Arizona Only)



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 214725

Certificate No. 005987189

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Jeannie A. Albus, Thomas M. Albus, and Buck Leigh

of the City of Lexington, State of South Carolina, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 21st day of July, 2014.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: Robert L. Raney
Robert L. Raney, Senior Vice President

On this the 21st day of July, 2014, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2016.



Marie C. Tetreault
Marie C. Tetreault, Notary Public

58440-8-12 Printed in U.S.A.

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 20th day of SEPTEMBER, 20 17

Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

EXHIBIT B

All that certain piece, parcel or lot of land situate, lying and being in the City of Beaufort, Beaufort County, South Carolina, being shown and designated as Lot 11, Phase II, on that plat entitled "Plat Showing the Subdivision of Tract "A", TMS R120-031-000-003-0000 Into Lots 1 Through 29, The Island of Beaufort, Subdivision, Deer Island, Property of Beaufort Properties, LLC Located City of Beaufort, Beaufort County, SC", prepare by Davis & Floyd, Inc. dated October 24, 1997, revised May 18, 1998, and recorded in Plat Book 65 at Page 148 in the Office of the Register of Deeds for Beaufort County, South Carolina.

TMS: R120-032-000-0194-0000

Derivation: 3487/2543

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

C.A. NO: 2017-CP-07-02337

South Atlantic Forest Products, Inc.,)
d/b/a Gaster Lumber & Hardware,)
Plaintiff,)

vs.)

DEMAND FOR JURY TRIAL

GMK Associates Design Build Division,)
Inc., Travelers Casualty and Surety)
Company of America; Frank Golson,)
Defendants.)

The Defendant GMK Associates Design Build Division, Inc., hereby demands a trial by jury.

MOORE TAYLOR LAW FIRM, P.A.

BY: s/ S. Jahue Moore

S. Jahue Moore (SC Bar #4063)

Post Office Box 5709

West Columbia, South Carolina 29171

Phone: (803) 796-9160

Fax: (803) 791-8410

jake@mttlaw.com

***Attorney for GMK Associates Design Build
Division, Inc.***

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	
		C.A. NO: 2017-CP-07-02337
South Atlantic Forest Products, Inc.,	)	
d/b/a Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ANSWER AND COUNTERCLAIM
	)	(Jury Demand)
GMK Associates Design Build Division,	)	
Inc., Travelers Casualty and Surety	)	
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
	)	

THE DEFENDANT, GMK ASSOCIATES DESIGN BUILD DIVISION, INC., HEREBY DEMANDS A TRIAL BY JURY, ANSWERS AND COUNTERCLAIMS AS FOLLOWS:

FOR A FIRST DEFENSE

1. Defendant denies each and every allegation set forth in the Complaint except for those allegations hereinafter specifically admitted, qualified or explained.
2. Defendant admits to allegations set forth in paragraph 1-6.
3. Defendant denies allegations set forth in paragraph 7-18.

FOR A SECOND DEFENSE

4. Defendant hereby reasserts and realleges each and every allegation set forth above as fully as if set forth verbatim.
5. The Plaintiff has breached its contract. Thus, Plaintiff has no authority to sue based upon the contract which it has breached.

FOR A THIRD DEFENSE AND BY WAY OF COUNTERCLAIM

6. The parties had a specific agreement wherein and whereby the Plaintiff was to deliver certain goods as instructed.

7. The goods in question which were delivered were not in conformity with the agreement and were not in conformity with the order.

8. The structural members delivered by the Plaintiff were wrong and were done specifically contrary to orders. The siding which was delivered was not consistent and was wrong. This error was not discovered until the siding had been placed upon the house.

9. Various other goods were simply wrong and the Plaintiff ignored the agreement between the parties.

10. As a direct and proximate result of the aforementioned breach of contract by the Plaintiff, the Defendant has been denied the benefit of its bargain; has been delivered defective products; now has a home built which is depreciated in value and not consistent with the plans and specifications; and the Defendant has been otherwise damaged in all its damage both actual and punitive.

11. As this is an alleged suit on a mechanic's lien bond, the Defendant is entitled to a reasonable sum as an attorney's fee.

WHEREFORE, having fully answered the Defendant prays the Complaint be dismissed with costs; for judgment against the Plaintiff; for attorney's fees; and for such other and further relief as this court might deem just and proper.

MOORE TAYLOR LAW FIRM, P.A.

BY: s/ S. Jahue Moore

S. Jahue Moore (SC Bar #4063)

Post Office Box 5709

West Columbia, South Carolina 29171

Phone: (803) 796-9160

Fax: (803) 791-8410

jake@mttlaw.com

***Attorney for GMK Associates Design
Build Division, Inc.***

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BEAUFORT	)	DOCKET No.: 2017-CP-07-02337
	)	
South Atlantic Forest Products, Inc. d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	ANSWER OF DEFENDANTS
	)	TRAVELERS CASUALTY AND
vs.	)	SURETY COMPANY OF AMERICA
	)	AND FRANK GOLSON
	)	(Jury Trial Demanded)
	)	
GMK Associates Design-Build Division,	)	
Inc.; Travelers Casualty and Surety	)	
Company of America; and Frank Golson.	)	
	)	
Defendants.	)	
	)	

COMES NOW, Defendants Travelers Casualty and Surety Company of America (“Travelers”) and Frank Golson (“Golson”) (collectively “Defendants”) by and through their undersigned attorneys, answering the Complaint of the Plaintiff. Defendants would respectfully show unto the Court the following:

FOR A FIRST DEFENSE
(General Denial)

1. Defendants deny each and every allegation of the Complaint not hereinafter specifically admitted, explained or qualified below.
2. Defendants have no knowledge of the allegations of Paragraph 1 of the Complaint and therefore deny these allegations and demand strict proof thereof.
3. Defendants admit the allegations of Paragraphs 2, 3, 4 and 5 of the Complaint.
4. Paragraph 6 of the Complaint does not contain allegations and a response is not necessary. To the extent a response is necessary, Defendants deny these allegations and demand strict proof thereof.

5. As to the allegations of Paragraphs 7 and 8 of the Complaint, Defendants admit that Frank Golson, executed a Commercial Business Account Application. Defendants would make reference to the terms of this Commercial Business Account Application and deny all allegations inconsistent therewith. Defendants would deny the remaining allegations of Paragraphs 7 and 8 of the Complaint and demand strict proof thereof.

6. Defendants deny the allegations of Paragraphs 9, 10 and 11 of the Complaint and demand strict proof thereof.

7. Paragraph 12 of the Complaint does not contain allegations and a response is not necessary. To the extent a response is necessary, Defendants deny these allegations and demand strict proof thereof.

8. Defendants have no knowledge of the allegations of Paragraph 13 of the Complaint and therefore deny these allegations and demand strict proof thereof.

9. Defendants deny the allegations of Paragraphs 14 and 15 of the Complaint and demand strict proof thereof.

10. Defendants have no knowledge of the allegations of Paragraphs 16 and 17 of the Complaint and therefore deny these allegations and demand strict proof thereof.

11. Defendants deny the allegations of Paragraph 18 and the prayer of the Complaint and demand strict proof thereof.

FOR A SECOND DEFENSE

(Failure to State a Cause of Action – Rule 12(b)6, SCRCP)

12. The foregoing allegations are incorporated by reference as if fully set forth herein verbatim.

13. Plaintiff has failed to state a cause of action upon which relief can be granted.

FOR A THIRD DEFENSE

(Breach of Contract)

14. The foregoing allegations are incorporated by reference as if fully set forth herein verbatim.

15. Plaintiff's claims are barred in whole or in part because, upon information and belief, the Plaintiff breached the Contract by failing to perform the contracted for services.

FOR A FOURTH DEFENSE

(Setoff)

16. The foregoing allegations are incorporated by reference as if fully set forth herein verbatim.

17. Plaintiff's claims are barred in whole or in part by the doctrine of setoff.

FOR A FIFTH DEFENSE

(Waiver)

18. The foregoing allegations are incorporated by reference as if fully set forth herein verbatim.

19. Plaintiff's claims are barred in whole or in part by the doctrine of waiver.

FOR A SIXTH DEFENSE

(Unclean Hands)

20. The foregoing allegations are incorporated by reference as if fully set forth herein verbatim.

21. Plaintiff's claims are barred in whole or in part by the doctrine of unclean hands.

FOR A SEVENTH DEFENSE

(Noncompliance with Payment Bond)

22. The foregoing allegations are incorporated by reference as if fully set forth herein verbatim.

23. Plaintiff's claims and damages are barred in whole or in party by its failure to

adhere to the express terms and conditions of the Payment Bond.

FOR AN EIGHTH DEFENSE
(Estoppel)

24. The foregoing allegations are incorporated by reference as if fully set forth herein verbatim.

25. On information and belief, Plaintiff's claims are barred in whole or in part to the extent that the failure to act by Plaintiff caused, contributed to, or exacerbated the damages sought by Plaintiff's claims.

FOR A NINTH DEFENSE
(Failure to Mitigate)

26. The foregoing allegations are incorporated by reference as if fully set forth herein verbatim.

30. On information and belief, Plaintiff's claims against Travelers must be dismissed because Plaintiff failed to mitigate its damages.

FOR A TENTH DEFENSE
(Penal Sum Limitation)

31. The foregoing allegations are incorporated by reference as if fully set forth herein verbatim.

32. Travelers' liability, if any, is limited to the penal sum of the bond.

RESERVATION AND NONWAIVER

33. Defendants reserve and do not waive his rights to assert any further defenses that may be revealed in discovery or otherwise.

WHEREFORE, Defendants having fully responded to Plaintiff's Complaint, prays the Court issue an order:

a. Dismissing the Complaint of the Plaintiff;

- b. Awarding attorney's fees and costs for the defense of the foreclosure of a mechanic's lien; and
- c. Awarding such other and further relief as the Court deems just and proper.

Respectfully Submitted,

FINKEL LAW FIRM LLC
1201 Main Street, Suite 1800
Post Office Box 1799
Columbia, South Carolina 29202
(803) 765-2935

By: s/ Carl D. Hiller
Carl D. Hiller (SC Bar #: 101242)
Attorneys for Travelers Casualty and Surety
Company of America and Frank Golson

December 5, 2015
Columbia, South Carolina.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-2337
	)	
SOUTH ATLANTIC FOREST	)	
PRODUCTS, INC. d/b/a GASTER	)	
LUMBER & HARDWARE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S ANSWER TO GMK
	)	ASSOCIATES DESIGN BUILD
GMK ASSOCIATES DESIGN BUILD	)	DIVISION, INC.'S COUNTERCLAIM
DIVISION, INC.; TRAVELERS	)	
CASUALTY AND SURETY COMPANY	)	
OF AMERICA; FRANK GOLSON,	)	
	)	
Defendants.	)	
	)	

TO: DEFENDANT GMK ASSOCIATES DESIGN BUILD DIVISION, INC. AND ITS ATTORNEY S. JAHUE MOORE, ESQUIRE:

The Plaintiff, South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware ("Gaster") answers the Answer and Counterclaim ("Counterclaim") of Defendant GMK Associates Design Build Division, Inc. ("GMK"), as follows:

FOR A FIRST DEFENSE
(General Denial)

1. That Gaster denies each allegation of the Counterclaim that it does not expressly admit herein.

2. That the allegations of Paragraphs 1 through 3 are in answer to Gaster's Complaint and do not require a response from Gaster. To the extent that the allegations require a response, Gaster denies them to the extent that they are inconsistent with the allegations of Gaster's prior filings in this case, including, but not limited to, Gaster's Complaint.

3. As to the allegations of Paragraph 4, Gaster is informed and believes no response is necessary. To the extent a response is necessary, the allegations of Paragraph 4 are denied.

4. That Gaster denies the allegations of Paragraphs 5 – 10.

5. That Gaster admits the allegations of Paragraph 11 to the extent that Gaster is seeking to foreclose on a mechanics lien bond. The remaining allegations are denied.

FOR A FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim – 12(b)(6))

6. Gaster realleges and incorporates by reference all of its responses in the Paragraphs above as if fully repeated verbatim.

7. The causes of action as set out in GMK's Counterclaim fail to state facts sufficient to constitute a cause of action against Gaster.

FOR A SECOND AFFIRMATIVE DEFENSE
(Failure to Mitigate)

8. Gaster realleges and incorporates by reference all of its responses in the Paragraphs above as if fully repeated verbatim.

9. That Gaster is informed and believes that GMK failed to take reasonable actions to adequately mitigate its damages, if any, by not taking proper preventative or curative measures, and accordingly, the damages claimed must be barred or reduced.

FOR A THIRD AFFIRMATIVE DEFENSE
(Third Party Liability)

10. Gaster realleges and incorporates by referenced all of its responses in the Paragraphs above as if fully repeated verbatim.

11. That Gaster is informed and believes that the damages alleged in the Counterclaim, if any, were directly and proximately caused by the acts, errors, and omissions of persons or entities other than Gaster and over whom Gaster had no control.

12. That Gaster is informed and believes that GMK is therefore barred from recovery against Gaster.

FOR A FOURTH AFFIRMATIVE DEFENSE
(Laches/Waiver/Estoppel)

13. Gaster realleges and incorporates by reference all of its responses in the Paragraphs above as if fully repeated verbatim.

14. The claims against Gaster are barred by the equitable doctrine of laches, waiver, and/or estoppel.

FOR A FIFTH AFFIRMATIVE DEFENSE
(Reservation and Non-Waiver)

15. Gaster realleges and incorporated by reference all of its responses in the Paragraphs above as if fully repeated verbatim.

16. That Gaster reserves the right and does not waive any additional or further defenses as may be revealed by additional information that may be acquired during the course of discovery or otherwise in this action.

WHEREFORE, having fully answered the Counterclaim, Gaster prays the same be dismissed with prejudice and that the Court award Gaster its costs and such other and further relief as the Court may deem just and proper.

RUSSELL P. PATTERSON, P.A.

/s/ Lauren P. Williams _____
Russell P. Patterson
Lauren P. Williams
P.O. Drawer 8047
Hilton Head Island, SC 29938
(843) 341-9300
russell@russellpattersonlaw.com
lauren@russellpattersonlaw.com
Attorney for the Plaintiff

Hilton Head, South Carolina

December 20, 2017.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE NO.: 2017-CP-07-02337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S MOTION TO COMPEL
	)	DISCOVERY RESPONSES FROM
GMK Associates Design Build Division,	)	DEFENDANT GMK ASSOCIATES
Inc., Travelers Casualty and Surety	)	DESIGN BUILD DIVISION, INC.
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
	)	

TO: THE DEFENDANT GMK ASSOCIATES DESIGN BUILD DIVISION, INC. AND ITS ATTORNEY, S. JAHUE MOORE, ESQUIRE:

YOU WILL PLEASE TAKE NOTICE that Plaintiff South Atlantic Forest Products, Inc. d/b/a Gaster Lumber and Hardware ("Gaster"), by and through its undersigned counsel, pursuant to Rule 37, SCRCF, hereby requests the Court to issue an Order compelling Defendant GMK Associates Design Build Division, Inc. to respond to the following discovery requests, served December 7, 2017:

1. Plaintiff's First Interrogatories to Defendants, dated December 7, 2017 (Exhibit 1);
2. Plaintiff's First Requests for Production to Defendants, dated December 7, 2017 (Exhibit 2).

Said discovery responses were initially due on or before January 12, 2018. Plaintiff granted a ten-day extension until January 26, 2018. To date, Plaintiff has not provided any responses.

The Plaintiff, pursuant to Rule 11, SCRPC, has consulted with Defendant's counsel as to the resolution of this Motion prior to filing same, without success.

RUSSELL P. PATTERSON, P.A.

/s/ Lauren P. Williams
Russell P. Patterson
Lauren P. Williams
P.O. Drawer 8047
Hilton Head Island, SC 29938
(843) 341-9300
russell@russellpattersonlaw.com
lauren@russellpattersonlaw.com
Attorneys for the Defendants

January 29, 2018
Hilton Head Island, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-2337
	)	
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S FIRST
	)	INTERROGATORIES
	)	TO DEFENDANTS
GMK Associates Design Build Division,	)	
Inc.; Travelers Casualty and Surety	)	
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
	)	

TO: THE DEFENDANTS AND THEIR COUNSEL, S. JAHUE MOORE AND CARL D. HILLER:

The Plaintiff, South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware ("Gaster"), pursuant to South Carolina Rules of Civil Procedure 33, hereby requires the Defendants to answer the following Interrogatories and to serve a copy of its Answers thereto upon Lauren P. Williams of Russell P. Patterson, P.A., Attorney for the Plaintiff Gaster at their offices on Hilton Head Island, South Carolina, within thirty (30) days after service hereof.

DEFINITIONS and INSTRUCTIONS

1. "Identify" or "Identity" when referring to an individual means the full name and last known residential and business address (i.e. street address, city, state and zip code) and telephone number, if known, of such person.
2. "Identify" or "Identity" when referring to a corporation or other business entity means the full name of the entity, the address of the office where its records are kept and of the office where its principal place of business is located (i.e. street address, city, state and zip code) and the identity of its agents or employees who are the most knowledgeable concerning the subject matter of the Interrogatory.

EXHIBIT 1

3. "Identify" or "Identity" when referring to a document or recording, means to state the type of document or recording (i.e. letter, memorandum, handwritten notes, photograph, etc.), the subject matter discussed or contained in the document or recording, the date of its preparation, the identity of its preparer or preparers, the identity of its recipient or recipients, if any, and the present location and identity of the custodian of each copy of the document.

4. "Document" means any tangible item in your possession, custody or control, including, but not limited to, correspondence, memoranda, notes, e-mails, paper, film, microfilm, plans, plats, specifications, computer discs or hard drive memory, or any other item which contains any writing, lettering or other graphical or pictorial representation thereon. Any document bearing on any sheet or side thereof any marks, including, but not limited to, initials, stamped indicia, comments or notations of any character, which are not part of the original text, or any other reproduction thereof, is to be considered a separate document for purposes of this definition.

5. "Recording" means any material or medium upon which sound or light has been registered or recorded, whether in your possession or in some other persons' or entities' possession, including, but not limited to, tape recordings, video recordings, photographs and motion picture recordings.

6. The term "GMK Answer" shall refer to the Answer and Counterclaim filed by GMK, dated November 22, 2017.

7. The term "Subject Property" shall refer to the home constructed at Lot 11 Anchorage Way, Beaufort, South Carolina.

7. The term "Gaster" shall refer to the Plaintiff, South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware.

8. The term "GMK" shall refer to the Defendant, GMK Associates Design Build Division, Inc.

9. If you contend that any Interrogatory seeks proprietary information, then Plaintiff will enter into an appropriate protective order allowing the answer to the Interrogatory to be filed with the Clerk of Court in a sealed envelope and prohibiting the use or dissemination of the information to any third parties for any purpose not related to this litigation. Therefore, it is requested that you contact Plaintiff's attorney to attempt to reach agreement as to the terms of an appropriate protective order with respect to any such Interrogatories, rather than merely filing an objection to them on this basis.

10. In lieu of fully identifying any documents or recordings requested to be identified in these Interrogatories, you may attach a copy of the documents and recording to your response to the Interrogatories, or produce them to the Plaintiff in response to Plaintiff's request for production. The Interrogatory response should list the documents being attached or produced with sufficient particularity to enable Plaintiff to determine which documents are responsive to each Interrogatory. In addition, if the documents being produced do not indicate the identity of the preparer or preparers, or the recipient or recipients, then this information should be provided in the response to the Interrogatory relating to such document or recording.

11. If you contend that any documents or records to be identified are too voluminous to be separately identified or produced, or are otherwise too voluminous or burdensome to separately identify or produce, state the approximate number of pages contained in such category or categories of documents and state the reason or reasons why you contend it is burdensome to produce such documents.

INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or the defense in the case.

3. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of policies involved and the amount or amounts of liability coverage provided to each party.

4. Identify the name, address, and telephone number of each expert Defendants propose to use as a witness at the trial of this case, and as to each, provide:

- a. The subject matter of the anticipated testimony;
- b. The expert's qualifications;

- c. The substance of the facts and opinions to which the expert is expected to testify; and
 - d. A summary of the grounds for each of the expert's opinions.
5. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by GMK.
6. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.
8. Identify or list all payments made to Gaster from 2015 to present, including name of the bank for any payments by check, check number, date, payee, amount, subject line, and signatory for each check for the Subject Property.
9. In connection with the assertions contained in Paragraph 6 of GMK's Answer, identify or describe with specificity the terms of the parties agreement.
10. In connection with the assertions contained in Paragraphs 9 and 10 of GMK's Answer, identify or list all terms of the agreement which were breached or ignored by Gaster.
11. Identify or list all orders made by GMK to Gaster, including the specific terms of the order, the date the order was made, and the date the order was fulfilled.
12. In connection with assertions contained in Paragraph 7, identify or list all goods that the Defendants assert were not delivered in conformity with the order, including the specific defect with each item.

13. In connection with assertions contained in Paragraph 8 of GMK's Answer, identify or list all structural members that the Defendants assert were not delivered in conformity with the order, including the specific defect with each item.

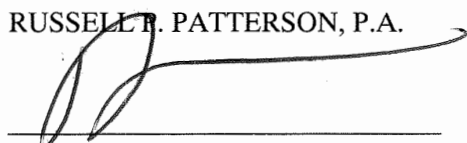
14. For every occasion the Defendants ever asserted, disputed or questioned (collectively "Dispute") that Gaster deliver goods that were not in conformity with the parties' agreement or GMK's order, provide the following as to each Dispute:

- a. The date of said Dispute;
- b. The manner the Dispute was brought to the attention of Gaster (i.e., phone call, fax, e-mail, letter, etc.);
- c. The response, if any, to the notice provided under item B;
- d. Identify all Documents evidencing items A through C above.

15. In connection with the assertions contained in Paragraph 10 of GMK's Answer, identify or list the ways in which the home is not consistent with the plans and specifications that relate to Plaintiff's action or inaction.

These Interrogatories shall be deemed to continue from the date of service until the time of the trial of this case.

RUSSELL P. PATTERSON, P.A.



Russell P. Patterson
Lauren P. Williams
P.O. Drawer 8047
Hilton Head Island, SC 29938
(843) 341-9300
russell@russellpattersonlaw.com
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Attorneys for the Plaintiff

Hilton Head Island, South Carolina
December 7, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.:2017-CP-07-2337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S FIRST REQUESTS
	)	TO PRODUCE TO DEFENDANTS
GMK Associates Design Build Division,	)	
Inc.; Travelers Casualty and Surety	)	
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
_____	)	

TO: THE DEFENDANTS AND THEIR COUNSEL, S. JAHUE MOORE AND CARL D. HILLER:

The Plaintiff, South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware ("Gaster"), pursuant to South Carolina Rules of Civil Procedure 33, hereby requires the Defendants to answer the following Interrogatories and to serve a copy of its Answers thereto upon Lauren P. Williams of Russell P. Patterson, P.A., Attorney for the Plaintiff Gaster at their offices on Hilton Head Island, South Carolina, within thirty (30) days after service hereof.

DEFINITIONS and INSTRUCTIONS

This Request for Production requests all documents in the possession, custody or control of officers, employees, agents, servants, representatives, past and present, and, unless privilege is granted, each and every attorney, past and present, of each and every such individual or entity.

B. "You" and "your" shall mean the party to whom this request is addressed, and its officers, employees, agents, servants, representatives, contractors, family members or someone acting on their behalf, past and present, of each and every individual or entity.

EXHIBIT 2

C. "Document" shall mean any and all materials and non-identical copies thereof in your possession, custody or control regardless of where it is located and includes, but is not limited to, material that is written, printed, typed, photographed, filmed, videotaped, recorded (electrically, electronically, magnetically, graphically or otherwise), or which is capable of being recorded in any form and is subject to production. The term "document" is intended to include papers, books, records, letters, photographs, tangible things, correspondence, communications, telegrams, cables, telex messages, memoranda, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone and other conversations, or of interviews, or of conferences, or of other meetings, affidavits, statements, summaries, opinions, reports, studies, analysis, evaluations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, advertisements, instructions, charts, manuals, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, diaries, lists, tabulations, sound recordings, computer printouts, data processing program library, data processing input and output, microfilm, books of accounts, records and invoices reflecting business operations, all records kept by electronic, photographic or mechanical means, any notes or drafts relating to the foregoing, all things similar to any of the foregoing, however denominated, videotapes, films and recordings.

D. The term "you" and "your" shall refer to and include the Defendant(s) or Plaintiff(s), as well as Defendant(s) or Plaintiff(s) counsel.

E. The term "Gaster" shall refer to the Plaintiff, South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware.

F. The term "Subject Property" shall refer to the home constructed at Lot 11 Anchorage Way, Beaufort, South Carolina.

G. The term "GMK" shall refer to the Defendant, GMK Associates Design Build Division, Inc.

H. The term "GMK Answer" shall refer to the Answer and Counterclaim filed by GMK, dated November 22, 2017.

I. The term "Travelers Answer" shall refer to the Answer filed by Travelers Casualty and Surety Company of America and Frank Golson dated December 5, 2017.

DOCUMENTS SOUGHT TO BE PRODUCED

1. All documents identified in, referred to, or relied upon in your responses to Gaster's First Set of Interrogatories.
2. A copy of any and all letters, correspondence, memorandums, faxes, billings, statements, agreements, e-mails, or other similar Documents sent by the Defendants, or on their behalf, to Gaster, or anyone on its behalf, from 2015 to present related to the Subject Property.
3. A copy of any and all letters, correspondence, memorandums, faxes, billings, statements, agreements, e-mails, or other similar Documents sent by Gaster, or anyone on its behalf, to the Defendants, or anyone on their behalf, from 2015 to present related to the Subject Property.
4. A copy of any and all documents supporting Defendant GMKs' alleged damages.
5. A full and complete copy of any and all signed agreements entered into between Gaster and GMK, including but not limited to the agreement referenced in Paragraphs 6, 7, 9, and 10 of the GMK Answer, and any other agreement related to the Subject Property.
6. A copy of any and all cancelled checks or wire transactions depicting payments from the Defendants to Gaster from June 2015 to present relating to the Subject Property.
7. A copy of any and all drawings, renderings, blueprints, plans, specifications, or any other similar Documents depicting the design and layout of the home referenced in Paragraph 10 of the GMK Answer.
8. A copy of any and all Documents that support GMK's contention that various goods were not delivered in conformity with the order.
9. A copy of any and all Documents that support GMK's contention that structural members delivered by Gaster were wrong and were done specifically contrary to orders.

10. A copy of any and all Documents that support GMK's contention that the siding which was delivered was not consistent with the parties' agreement and was wrong.

11. A copy of any and all Documents that support GMK's contention that Gaster ignored the agreement between the parties.

12. A copy of any and all Documents that support GMK's contention that it now has a home built which is depreciated in value.

13. A copy of any and all Documents that support GMK's contention that it now has a home built which is not consistent with the plans and specifications.

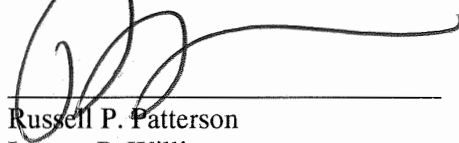
14. A copy of any and all letters, correspondence, memorandums, faxes, billings, statements, agreements, e-mails, or other similar Documents sent by the Defendants, or on their behalf, to Randy Thomason, Tim Kirksey, Woodford Plywood, Billy Gavigan, Jim Curry, Bruce Williams, Gerilyn Price, and Thomas L. Hiatt, or anyone on their behalf, from 2015 to present related to the Subject Property.

15. A copy of any and all letters, correspondence, memorandums, faxes, billings, statements, agreements, e-mails, or other similar Documents sent by Randy Thomason, Tim Kirksey, Woodford Plywood, Billy Gavigan, Jim Curry, Bruce Williams, Gerilyn Price, and Thomas L. Hiatt, or anyone on their behalf, to the Defendants, or anyone on their behalf, from 2015 to present related to the Subject Property.

16. A copy of all estimates or price quotes provided by the Plaintiff to the Defendants for the Subject Property.

17. A full and complete copy of all documents that Defendants intend to use at trial.

RUSSELL P. PATTERSON, P.A.



Russell P. Patterson
Lauren P. Williams
Post Office Box 8047
Hilton Head Island, South Carolina 29938
(843) 342-2580
russell@russellpattersonlaw.com
lauren@russellpattersonlaw.com
Attorneys for the Plaintiff

Hilton Head Island, South Carolina
December 1, 2017.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-2337
SOUTH ATLANTIC FOREST PRODUCTS,	)	
INC., d/b/a GASTER LUMBER &	)	
HARDWARE,	)	
	)	
PLAINTIFF,	)	PLAINTIFF'S MOTION TO HOLD
	)	THE DEFENDANTS IN CONTEMPT
Vs.	)	OF COURT
	)	
GMK ASSOCIATES DESIGN BUILD	)	
DIVISION, INC.; TRAVELERS	)	
CASUALTY AND SURETY COMPANY	)	
OF AMERICA; FRANK GOLSON	)	
	)	
DEFENDANTS.	)	
_____	)	

TO: THE DEFENDANTS GMK ASSOCIATES DESIGN BUILD DIVISION, INC., TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, FRANK GOLSON AND THEIR ATTORNEY, S. JAHUE MOORE, ESQUIRE:

YOU WILL PLEASE TAKE NOTICE that Plaintiff South Atlantic Forest Products, Inc. d/b/a Gaster Lumber and Hardware ("Gaster"), by and through its undersigned counsel, will move on the tenth (10th) day after the date of this motion or as soon thereafter as the parties may provide or the Court may require, for an Order holding the Defendants GMK Associates Design Build Division, Inc., Travelers Casualty And Surety Company Of America, and Frank Golson (collectively "Defendants"), in contempt of court for violation of the Court's Order of February 27, 2018, a copy of which is attached as Exhibit 1 ("Order").

1. That as reflected in the Order, Defendants agreed to provide responses to Plaintiff's First Interrogatories to Defendants, dated December 7, 2017, and Plaintiff's First Requests for Production to Defendants, dated December 7, 2017, on or before March 26, 2018.

2. That as of the date of this motion, Defendants have not provided Plaintiff with the requested documents in response to Plaintiff's First Requests for Production to Defendants, dated December 7, 2017 ("Discovery Responses"). Defendants did provide Plaintiff with a response, with no actual documents, stating "These documents will be made available at the Defendant's office," on or about February 23, 2018 (Exhibit 2), however, pursuant to SCRCP 37(a)(3), Plaintiff treats these responses as a failure to answer.

3. That pursuant to Rule 11, Plaintiff's counsel emailed Defense counsel on March 27, 2018, and April 6, 2018, and called Defense counsel on April 5, 2018, requesting the documents be provided but has not received a response.

4. That the Plaintiff, pursuant to the terms and provisions of the Order, requests the following relief:

- a. That Defendants be ordered to provide their Discovery Responses within ten (10) days by actually providing all documents requested.
- b. That Defendants be held in contempt of Court for violation of the Order.
- c. That Plaintiff be awarded the amount of its fees and costs in bringing this motion, pursuant to SCRCP 37(b).

PLAINTIFF SO MOVES.

RUSSELL P. PATTERSON, P.A.

/s/ Lauren P. Williams
Russell P. Patterson
Lauren P. Williams
P.O. Drawer 8047
Hilton Head Island, SC 29938
russell@russellpattersonlaw.com
lauren@russellpattersonlaw.com
(843) 341-9300
Attorneys for the Plaintiff

Hilton Head Island, South Carolina
April 9, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE NO.: 2017-CP-07-02337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CONSENT ORDER RESOLVING
	)	PLAINTIFF'S MOTION TO COMPEL
GMK Associates Design Build Division,	)	AND AMENDED MOTION TO
Inc., Travelers Casualty and Surety	)	COMPEL
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
	)	

This matter comes before the Court upon Plaintiff's Motion to Compel Discovery Responses from Defendant GMK Associates Design Build Division, Inc., filed January 29, 2018 and Plaintiff's Amended Motion to Compel Discovery Responses from Defendants GMK Associates Design Build Division, Inc, Travelers Casualty and Surety Company of America, and Frank Golson, filed February 26, 2018. Said matters were scheduled for a hearing on Tuesday, February 27, 2018, at 10:00 a.m. Prior to said hearing, counsel for the parties reached a resolution providing that all Defendants will provide discovery responses on or before **March 26, 2018.**

IT IS SO ORDERED.

 Perry M. Buckner, III
 Fourteenth Judicial Circuit

_____, 2017
 Beaufort, South Carolina

EXHIBIT 1

000073

I Consent.

/s/ Lauren P. Williams / 2/26/18
Lauren P. Williams /Date
Attorney for the Plaintiff

I Consent.

/s/ S. Jahue Moore /2/26/18
S. Jahue Moore /Date
Attorney for the Defendants



Beaufort Common Pleas

Case Caption: South Atlantic Forest Products Inc , plaintiff, et al VS Gmk Associates Design Build Division Inc , defendant, et al
Case Number: 2017CP0702337
Type: Order/Consent Order

It is so Ordered

s/ Perry M Buckner III 2122

Electronically signed on 2018-02-27 15:17:42 page 3 of 3

ELECTRONICALLY FILED - 2018 Feb 27 3:24 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337
ELECTRONICALLY FILED - 2018 Apr 09 6:17 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
South Atlantic Forest Products, Inc.,)
d/b/a Gaster Lumber & Hardware,)
Plaintiff,)
vs.)
GMK Associates Design Build)
Division, Inc.; Travelers Casualty)
And Surety Company of America;)
Frank Golson)
Defendant.)

IN THE COURT OF COMMON PLEAS
THE FOURTEENTH JUDICIAL CIRCUIT

**DEFENDANT'S ANSWERS TO PLAINTIFF'S
FIRST REQUEST TO PRODUCE**

CIVIL ACTION NO.: 2017-CP-07-2337

**TO: RUSSEL P. PATTERSON, ATTORNEY FOR PLAINTIFF, SOUTH ATLANTIC
FOREST PRODCUTS,INC. d/b/a/ GASTA LUMBER & HARDWARE:**

1. All documents identified in, referred to, or relied upon in your responses to
Gaster's First Set of Interrogatories:

RESPONSE: These documents will be made available at the Defendant's office.

2. A copy of any and all letters, correspondence, memorandums, faxes, billings,
statements, agreements, e-mails, or other similar Documents sent by the Defendants, or on their
behalf, to Gaster, or anyone on its behalf, from 2015 to present related to Subject Property:

RESPONSE: These documents will be made available at the Defendant's office.

EXHIBIT 2

3. A copy of any and all letters, correspondence, memorandums, faxes, billings, statements, agreements, e-mails, or other similar Documents sent by Gaster, or on their behalf, to Gaster, or anyone on its behalf, from 2015 to present related to Subject Property:

RESPONSE: These documents will be made available at the Defendant's office.

4. A copy of any and all documents supporting Defendant GMK's alleged damages:

RESPONSE: These documents will be made available at the Defendant's office.

5. A full and complete copy and all signed agreements entered into between Gaster and GMK, including but not limited to the agreement referenced in Paragraphs 6,7,9, and 10 of the GMK Answer, and any other agreements related to the Subject Property.

RESPONSE: These documents will be made available at the Defendant's office.

6. A copy of any and all cancelled checks or wire transactions depicting payments from the Defendants to Gaster from June 2015 to present relating to Subject Property:

RESPONSE: These documents will be made available at the Defendant's office.

7. A copy of any and all drawings, renderings,, blueprints, plans, specifications, or any other similar Documents depicting the design and layout of the home referenced in Paragraph 10 of the GMK Answer:

RESPONSE: These documents will be made available at the Defendant's office.

8. A copy of any and all Documents that support GMK's contention that various goods were not delivered in conformity with the order:

RESPONSE: These documents will be made available at the Defendant's office.

9. A copy of any and all documents that support GMK's contention that structural members delivered by Gaster were wrong and were done specifically contrary to orders:

RESPONSE: These documents will be made available at the Defendant's office.

10. A copy of any and all Documents that support MK's contention that the siding which was delivered was not consistent with the parties' agreement and was wrong:

RESPONSE: These documents will be made available at the Defendant's office.

11. A copy of any and all Documents that support GMK's contention that Gaster ignored the agreement between the parties:

RESPONSE: These documents will be made available at the Defendant's office.

12. A copy of any and all Documents that support GMK's contention that it now has a home built which is depreciated in value:

RESPONSE: These documents will be made available at the Defendant's office.

13. A copy of any and all Documents that support GMK's contention that it now has a home built which is not consistent with the plans and specifications:

RESPONSE: These documents will be made available at the Defendant's office.

14. A copy of any and all letters, correspondences, memorandums, faxes, billings, statements, agreements, e-mails, or other similar Documents sent by the Defendants, or on their behalf, to Randy Johnson, Tim Kirksey, Woodford Plywood, Billy Gavigan, Jim Curry, Bruce Williams, Gerilyn Price, and Thomas L. Hiatt, or anyone on their behalf, from 2015 to present related to the Subject Property:

RESPONSE: These documents will be made available at the Defendant's office.

15. A copy of any and all letters, correspondences, memorandums, faxes, billings, statements, agreements, e-mails, or other similar Documents sent by Randy Johnson, Tim Kirksey, Woodford Plywood, Billy Gavigan, Jim Curry, Bruce Williams, Gerilyn Price, and Thomas L. Hiatt, or anyone on their behalf, to the Defendants, or anyone on their behalf, from 2015 to present related to the Subject Property:

RESPONSE: These documents will be made available at the Defendant's office.

16. A copy of all estimates or price quotes provided by the Plaintiff of the Defendants for the Subject Property:

RESPONSE: These documents will be made available at the Defendant's office.

MOORE TAYLOR LAW FIRM, P.A.

By: _____

S. Jahue Moore
1700 Sunset Boulevard
P.O. Box 5709
West Columbia, SC 29171

ATTORNEY FOR THE DEFENDANT

West Columbia, South Carolina
February 23, 2018

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
South Atlantic Forest Products, Inc.,)
d/b/a Gaster Lumber & Hardware,)

Plaintiff,

vs.

GMK Associates Design Build)
Division, Inc.; Travelers Casualty)
And Surety Company of America;)
Frank Golson)

Defendant.

IN THE COURT OF COMMON PLEAS
THE FOURTEENTH JUDICIAL CIRCUIT

CERTIFICATE OF SERVICE

CIVIL ACTION NO.: 2017-CP-07-2337

I, Richard Capps, law clerk to Stanley L. Myers, Esquire with the law firm of Moore Taylor, Law Firm, P.A., Attorneys for the Plaintiff, hereby certify that I have served a copy of the **Defendant's Responses to the Plaintiff's Interrogatories and Defendant's Responses to the Plaintiff's Requests to Produce** to the following by placing a copy of the same will be hand delivered to the addressed as follows:

Russell P. Patterson
Russell P. Patterson, P.A.
19 Shelter Cove Ln., Ste. 107
Hilton Head, SC 29928

MOORE TAYLOR LAW FIRM, P.A.

By: _____

S. Jahue Moore
1700 Sunset Boulevard
P.O. Box 5709
West Columbia, SC 29171

West Columbia, South Carolina
February 23, 2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	
	)	Civil Action No.: 2017-CP-07-02337
South Atlantic Forest Products, Inc., d/b/a,	)	
Gaster Lumber & Hardware,	)	
	)	
	)	
Plaintiff,	)	
vs.	)	DEFENDANTS' AMENDED
	)	PRE-TRIAL BRIEF
GMK Associates Design Build Division,	)	
Inc., Travelers Casualty and Surety	)	
Company of America; Frank Golson,	)	
	)	
Defendants.	)	

Pursuant to the South Carolina Rules of Civil Procedure, Defendants above-named hereby submit the following Amended Pre-Trial Brief:

I. Statement of Facts

This case involves, among other issues, the delivery of defective products and a claim for approximately \$25,000.00 for the cost of the defective building materials. The money is not owed due to, *inter alia*, serious defects in the products that were delivered by the Plaintiff. For the most part, the defective products at issue include the structural members for the roofing system; the siding that was ultimately installed; and the sliding glass doors.

The Plaintiff, South Atlantic Forest Products, Inc., is a company with whom the Defendants have never done business. All of the agreements between the Plaintiff and the Defendants are with Gaster Lumber & Hardware. It appears Gaster Lumber & Hardware is not a legal entity. The contracts existing in this case are not between the Defendants and South Atlantic Forest Products, Inc.

Neither the Defendants nor anyone connected to the Defendants ever heard of South Atlantic Forest Products, Inc. during the transactions in question. The supplier in this case was

held out as a company lawfully existing under the laws of the State of South Carolina. During the course of discovery, however, it has been learned there is no legal entity known as Gaster Lumber & Hardware.

Billy Gavigan is a local builder in the Beaufort, South Carolina area. He had an ongoing relationship with Gaster Lumber Company and also had a good relationship with the actual owner of the home, Tripp Berry.

Mr. Berry is a licensed professional engineer and has been involved in the building business for many years. Not only is he capable to testify as an owner, he is capable to testify as an expert witness in regard to engineering and costing. Mr. Berry has been deposed for an extensive period of time as have all of the other witnesses in the case.

The testimony will show that Gaster Lumber wanted to supply building products for this job. Gaster Lumber has a practice of underestimating jobs in order to secure a job. Following the securing of the job, Gaster will then seriously inflated the charges. In this case, Gaster estimated the cost of structural materials; doors and windows; siding; and other materials at approximately \$105,000.00. The actual cost turned out to be approximately \$175,000.00. In short, Gaster intentionally underestimated the cost of the materials in order to secure the business. Thereafter, it supplied serious defective materials which cost the Defendants significant amounts of money.

GMK Associates is the actual contracting party for the house. GMK Associates was the contractor. GMK Associates was a company in which Mr. Berry had an ownership interest and the credit of GMK was needed by the bank in order for the project to be approved. Mr. Berry is not a wealthy man.

Mr. and Mrs. Berry supplied Gaster with architectural and engineering plans which showed the type of structural materials to be used in the roof; the size of the siding to be installed; and the specifications in regard to the sliding glass doors.

Gaster Lumber—not South Atlantic—entered into an agreement wherein everything was to be shipped by a purchase order. The only people who had the right to order products were Bruce Williamson who was the superintendent and Mr. Berry. Nothing was to be shipped without a purchase order according to the credit agreements entered into between Gaster and GMK. There are no purchase orders in this transaction.

The purpose of providing plans and specifications is to ensure the appropriate materials are delivered to the job. The purpose of a written purchase order is to protect the customer and to protect the supplier to ensure what is ordered is what is delivered. It is the responsibility of the supplier to secure the purchase order.

The roofing structural members were delivered by Gaster and were basically installed before the superintendent realized the wrong materials had been sent. Representatives of Gaster met with representatives of the homeowner and determined the wrong material had been sent. The right material was ultimately delivered. Some of the wrong material was taken back which had not been used but Gaster refused to accept the wrong material it had delivered which had been cut and nailed. Part of the claim in this case is for the defective roofing material which had been sent.

When the error was determined about the roofing material, serious work had been done in order to install very heavy members three stories high. What had been installed had to be ripped out and taken down. Thereafter, new product had to be installed. The framer charged an additional \$22,000.00 to Mr. Berry for “overages”. These overages included approximately \$12,000.00 for the work that had to be done to rip out and reinstall the defective roofing material.

The siding was ordered and delivered. The Defendants saw the siding was wrong and sent it back. New siding was delivered and installed. When the Defendants took occupancy of the home they discovered the wrong siding had been put up again. The siding was the wrong size and the wrong texture. Everything was basically reversed. At the time it would have taken approximately \$45,000.00 to take off the siding and replace it. In today's dollars it would take about \$70,000.00 to correct the error with the siding. The error with the siding is not readily visible to a contractor. It was easily visible to Mr. Berry's wife. The Berrys have not had the money to take down the bad siding and replace it. The bad siding works as siding but it detracts from the appearance of the home and from what was originally designed. Again, there is no purchase order for the siding. If there had been a purchase order this problem would not have existed.

The plans and specifications clearly show how the sliding glass doors are to open. This is an expensive item. The sliding glass doors were to open a certain way. What the Plaintiff supplied was backwards. It will take about \$85,000.00 in order to correct the problems with the sliding glass doors.

In short, the Defendants were the victim of a bait and switch scheme in regard to the estimate for the job. They were shipped defective merchandize. Some of the defective merchandize had to be ripped out and replaced. Other of the defective merchandize still exists on the home and it will take, at this time, almost \$100,000.00 to fix the defective merchandize.

II. Applicable Legal Issues

The legal issues involved are significant. The Defendants never had any contract with the Plaintiff in this case. To the knowledge of the Defendants the Plaintiff never supplied anything to this home. Everything that was supplied was supplied by Gaster Lumber Company and the name South Atlantic Forest Products never appeared until the case was filed.

The Defendants' damages consists of approximately \$24,000.00 related to tearing out the bad roofing material and replacing it. The damages related to the siding are \$45,000.00 to \$70,000.00 depending upon whether today's numbers are used or the numbers that would be used as of the time of construction. The problem with the sliding glass doors amounts to about a \$10,000.00 claim.

III. Exhibits / Witnesses

It is the understanding of the Defendants that the parties believe they agree on the exhibits. There may be some hearsay issues with some testimony and some exhibits.

Presently, the Defendants anticipate the following witnesses may be called to testify:

1. Sammy Hernandez;
2. Billy Gavigan;
3. Bruce Williamson;
4. Tripp Berry;
5. Mrs. Brenda Berry;
6. Ray Gaster;
7. MarChelle Youmans; and
8. Scott Warren.

IV. Unusual Evidentiary Problems

Counsel for the Defendant is not aware of any unusual problems regarding evidence that may be introduced.

There is a serious legal issue in regard to the identity of the Plaintiff and how the Plaintiff claims to have been involved in this case.

V. Settlement Discussions

There have been prior settlement discussions in the case. The Plaintiff insisted on being paid in full. Under the circumstances, the Defendant made a generous counteroffer in an effort to settle. Settlement negotiations broke down because of Plaintiff's insistence on being payment in full. In other words, there was no compromise by the Plaintiff.

This case presents serious issues. The case should be settled but the settlement is not one which is dictated on the Plaintiff's terms.

The Defendants are still willing to consider a compromise settlement in this case. Any settlement will have to include consideration by the Plaintiff of the serious claims being made by the Defendants.

Respectfully submitted,

MOORE BRADLEY MYERS, P.A.

BY: s/ S. Jahue Moore
S. Jahue Moore, SC Bar No. 4063
Bryan C. Letteer, SC Bar No. 78700
P. O. Box 5709
West Columbia, SC 29171
(803) 796-9160

ATTORNEYS FOR THE DEFENDANTS

West Columbia, South Carolina
January 19, 2022

II. Applicable Legal Issues

The legal issues involved are significant. The Defendants never had any contract with the Plaintiff in this case. To the knowledge of the Defendants the Plaintiff never supplied anything to this home. Everything that was supplied was supplied by Gaster Lumber Company and the name South Atlantic Forest Products never appeared until the case was filed.

III. Listing of Exhibits

In regard to exhibits, the parties believe they agree on the exhibits. There may be some hearsay issues with some testimony and some exhibits.

IV.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

South Atlantic Forest Products, Inc., d/b/a,)
Gaster Lumber & Hardware,)

C.A. No.: 2017-CP-07-02337

Plaintiff,)

vs.)

GMK Associates Design Build Division,)
Inc., Travelers Casualty and Surety)
Company of America; Frank Golson,)

**MOTION ON BEHALF OF
DEFENDANTS GMK ASSOCIATES
DESIGN BUILD DIVISION, INC.;
TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA;
AND FRANK GOLSON**

Defendants.)

TO: RUSSELL P. PATTERSON, ESQUIRE AND LAUREN P. WILLIAMS,
ESQUIRE, ATTORNEYS FOR THE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the above parties were prevailing parties in
this case. Pursuant to the statute, they should be awarded attorney's fees and pursuant to the
contract are entitled to attorney's fees.

The undersigned hereby requests a hearing to set an amount for attorney's fees for these
Defendants.

MOORE BRADLEY MYERS, P.A.

BY: s/ S. Jahue Moore
S. Jahue Moore, SC Bar No. 4063
1700 Sunset Boulevard
P. O. Box 5709
West Columbia, SC 29171
(803) 796-9160

ATTORNEY FOR THE DEFENDANTS

West Columbia, South Carolina
February 4, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-2337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
PLAINTIFF,	)	
	)	
Vs.	)	PLAINTIFF'S POST-TRIAL MOTION
	)	FOR ATTORNEY FEES AND COSTS
GMK Associates Design Build Division, Inc.;	)	
Travelers Casualty and Surety Company of	)	
America; Frank Golson,	)	
	)	
DEFENDANTS.	)	
	)	

TO: **THE DEFENDANTS ABOVE NAMED AND THEIR COUNSEL, S. JAHUE MOORE, ESQUIRE:**

YOU WILL PLEASE TAKE NOTICE that the Plaintiff will move for a post-trial award of attorney fees and costs on the tenth (10th) day after the filing of this motion or as soon thereafter as the Honorable Robert J. Bundy, South Carolina Circuit Court Judge, shall set said motion for hearing. The grounds for said motion are as follows:

1. **Under First Cause of Action – Breach of Contract**

The Plaintiff is entitled to an award of its reasonable attorney fees and costs under the terms and conditions of the Parties three (3) agreements:

- A. Commercial Business Account Agreement (Ex. 1);
- B. Plaintiff's Invoices to Defendant GMK (Exs. 5, 7, 10, 11, 12, 13, 14, 16, 18, et. al.);

C. Plaintiff's Delivery Tickets Signed by Defendant GMK (Exs. 49, 51, 55, 56, 78, 94, et. al.).

2. Under the Second Cause of Action – Mechanic's Lien

The Plaintiff, as the prevailing party, is entitled to the recovery of its reasonable attorney fees and costs, up to the stated amount of the lien, or \$24,885.42 (Ex. 2), pursuant to Section 29-5-20 of the South Carolina Code of Laws (1976).

PLAINTIFF SO MOVES.

Respectfully submitted,
RUSSELL P. PATTERSON, P.A.

/s/ Russell P. Patterson

Russell P. Patterson

Lauren P. Williams

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Hilton Head Island, SC 29938

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Attorneys for the Plaintiff

Hilton Head Island, South Carolina
February 7, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-2337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
PLAINTIFF,	)	
	)	
Vs.	)	PLAINTIFF'S MEMORANDUM OF
	)	LAW IN OPPOSITION TO
GMK Associates Design Build Division, Inc.;	)	DEFENDANTS' MOTION FOR
Travelers Casualty and Surety Company of	)	ATTORNEY'S FEES
America; Frank Golson,	)	
	)	
DEFENDANTS.	)	
	)	

Plaintiff, South Atlantic Forest Products, Inc., d/b/a Gaster Lumber & Hardware (“Gaster”) respectfully submits this Memorandum of Law in Opposition to the Defendants GMK Associates Design Build Division, Inc. (“GMK”), Travelers Casualty and Surety Company of America (“Travelers”), and Frank Golson’s (“Golson”) Motion for Attorney's Fees, dated February 4, 2022 (“Motion”). For the reasons discussed below, the Motion should be denied.

I. Attorney's Fees Sought By GMK.

GMK’s Motion requests attorney's fees pursuant to statute and by contract. Each claim is addressed separately below.

1. GMK’s Statutory Claim for Attorney's Fees Must Fail Because GMK Was Not a Prevailing Party.

The only applicable statute GMK could claim attorney's fees in this case is under S.C. Code Ann. § 29-5-20 as the “prevailing party” under Gaster’s mechanic’s lien cause of action. As discussed in detail in Gaster’s Memorandum of Law in Support of its Request for Attorney's Fees, Gaster is clearly the prevailing party under this statute. Section 29-5-20(C) provides if no formal statutory settlement offer is made by either party, which is the case in this matter, the plaintiff’s

statutory offer is the amount of the lien (here, \$24,885.25)¹, and the defendants' statutory offer is the negative value of its counterclaim (here, -\$90,000). S.C. Code Ann. §29-5-20(C). As the jury verdict was in favor of Gaster for \$24,885.25, the verdict is identical to Gaster's statutory offer and Gaster is the prevailing party. Accordingly, GMK thus has no statutory claim for attorney's fees.

2. GMK's Contractual Claim for Attorney's Fees Must Fail For Lack of Contractual Right.

The only contractual claim that could be asserted by GMK is under the Commercial Business Account Application. (Tr. Ex. 1 – "Account Agreement"). However, there is no language in the Account Agreement that allows the prevailing party, or GMK, under any circumstances, to recover attorney's fees against Gaster. Instead, the Account Agreement expressly provides that GMK is obligated to pay reasonable attorney's fees to Gaster in the event litigation is filed. Absent such a written agreement, GMK cannot recover attorney's fees against Gaster. *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 493, 427 S.E.2d 659, 660 (1993). Even if there was such an agreement which granted attorney's fees to the prevailing party, GMK was clearly not the prevailing party, as discussed above.

II. Attorney's Fees Sought By Travelers.

1. Traveler's Statutory Claim for Attorney's Fees Must Fail Because It Was Not a Prevailing Party.

Travelers asserts it is the prevailing party in the mechanic's lien cause of action since the Court dismissed Gaster's collection of mechanic's lien claim against Travelers upon Traveler's

¹ Prejudgment interest is not included as part of the lien amount sought by Gaster in this analysis. *Muzingo & Wallace Architects, LLP v. Grand*, 379 S.C. 478, 666 S.E.2d 267 (2009) (Lienor cannot include prejudgment interest at agreed 18% when determining amount of attorney's fees capped at amount of lien.) Even if prejudgment interest was included in Gaster's claimed amount per the Complaint, Gaster's statutory offer would be \$47,670.17 (Ex. 102), which is much closer to the actual verdict of \$24,885.25 than Defendants' offer of -\$90,000.

Motion for a Directed Verdict at the end of the trial. The Court based this ruling on its impression there was no testimony as to Travelers' liability presented at trial. Gaster respectfully submits that the dismissal of Travelers was in error on a number of grounds, and thus Travelers is not entitled to any attorney's fees under S.C. Code Ann. § 29-5-20(A).

A. Travelers was a Proper Defendant in the Mechanic's Lien Cause of Action.

A brief summary of the mechanic's lien process is appropriate. As the Court is aware, the Notice and Certificate of Lien must be served on the owner and filed with the Register of Deeds within ninety (90) days of the last day of work. S.C. Code Ann. § 29-5-20; §29-5-90. Thereafter, within six (6) months of the last day of work, the lienor must file suit to enforce the mechanic's lien or the lien is released by operation of law. S.C. Code Ann. § 29-5-120. Anytime after the mechanic's lien has been filed, the owner or other person having an interest or lien on the property can file a bond in one and one-third (1 1/3) times the amount claimed in the lien to discharge the loan. S.C. Code Ann. § 29-5-110. The bond shall take the place of the lien on the real property. *Id.*

After Gaster's mechanic's lien was filed and recorded, but before the Complaint was filed, Travelers issued a Surety Bond for Release of Mechanic's Lien, recorded in the Beaufort County Register of Deeds Office at Book 125 at Page 1748 in the amount of \$33,097.38 ("Bond"). The Bond was admitted into evidence at trial, as Exhibit 3 to Plaintiff's Summons and Complaint. (Tr. Ex. 104).

In Gaster's Second Cause of Action as to the mechanic's lien, it requested "a determination of the monies due under its Mechanic's Lien and the payment of same under the Bond." (Tr. Ex. 104, § 18 – emphasis added). The Prayer for Relief also requested the Court "[e]nter judgment foreclosing the mechanic's lien against the Bond in the principal amount of \$24,885.24, plus

interest at 1.75% per month and attorney's fees and costs.” (Tr. Ex. 104, Prayer, § 2(a) – emphasis added)

Thus, Gaster requested specific affirmative relief against Travelers to pay any amounts found due under the mechanic’s lien cause of action. The Bond was in evidence. By stipulation of counsel, the jury verdict form as to monies found to be due Gaster applied equally to the Breach of Contract and Mechanic’s Lien causes of action. No oral testimony was needed to be submitted by Gaster in order to obtain the relief requested in its Complaint under these circumstances. The jury returned a verdict in favor of Gaster on the mechanic’s lien cause of action. Thus, Gaster was awarded the affirmative relief requested against Travelers and Travelers should not have been dismissed as a party to this claim.

B. A Review of South Carolina Case Law Supports this Conclusion.

A review of South Carolina case law on appropriate parties to a mechanic’s lien foreclosure supports this conclusion. After an extensive review, Gaster’s counsel has not found a single South Carolina case holding the bonding company or surety should be dismissed as a party when the bond is filed prior to the filing of the mechanic’s lien foreclosure action. In fact, Gaster has identified at least four (4) other reported mechanic's liens cases where the bond company or surety was named as a party defendant. *See e.g. Cohen's Drywall Co. Inc. v. Sea Spray Homes, LLC*, 374 S.C. 195, 200, 648 S.E.2d 598, 600 (2007); *Keeney's Metal Roofing, Inc. v. Palmieri*, 345 S.C. 550, 551, 548 S.E.2d 900, 901 (Ct. App. 2001); *United Tank Servs., Inc. v. United Indus. Grp., Inc.*, 453 F. Supp. 3d 826, 829 (D.S.C. 2020); *Reed Concrete Const., Inc. v. Millie, LLC*, 2013 WL 80487, (D.S.C. Jan. 7, 2013).

In these four cases, South Carolina courts had ample opportunity to rule that it is improper to name a bond company or surety as a party defendant but elected not to do so. Instead, when

faced with issues regarding the necessity of naming the bonding company or surety company as a party defendant in mechanic's lien litigation, our courts have merely stated that the bonding company or surety company is not a required party in a mechanic's lien foreclosure. *See e.g. id*

In *Cohen*, after a mechanic's lien was filed, the owner submitted a cash bond, without the knowledge of the lienor. *Id.* at 197, 684 S.E.2d at 599. The contractor timely foreclosed the mechanic's lien, naming the owner and seeking to foreclose the owner's property. *Id.* After filing the foreclosure action, the contractor became aware of the existence of the bond and amended its Complaint to identify the bond as the subject of the action. *Id.* The owner sought to dismiss the action since the contractor did not file suit against the bond within the six (6) month time period established under § 29-5-120. *Id.* The Court denied said request, relying solely on § 29-5-110, which states that once the bond is filed, the bond takes the place of the real property upon which the lien existed, and the bond will be subject to the lien. *Id.* at 199, 684 S.E.2d at 600. The applicable cited portion of § 29-5-110 reads as follows:

upon the filing of such undertaking so secured the lien shall be discharged and the cash, securities or surety bond deposited shall take the place of the property upon which the lien existed and shall be subject to the lien, . . . Unless suit for enforcement of the lien is commenced as required by § 29-5-120, the undertaking herein required shall be null and void and the principal therein shall have the right to have it cancelled and such cash or securities deposited or pledged or surety bond filed shall be released from the lien herein provided. (emphasis added)

Id. The Court then held that neither § 29-5-110 or § 29-5-120 requires a lien holder be named in the foreclosure lawsuit stating: "In the absence of such a requirement, we interpret § 29-5-110 as an instructional mechanism to the court directing that a judgment on a foreclosed mechanic's lien be executed against a cash bond or other secured undertaking if one has been substituted in accordance with the statutory requirements." *Id.* at 200, 684 S.E.2d at 600-01.

Thus, the Court in *Cohen* ruled a lienor in a foreclosure action on a mechanic's lien bonded off under § 29-5-110 did not have to name the bond or surety company. The same result was reached in *Reed*. *Reed* at *4. However, the courts in these cases did not determine it would be improper to do so.

Furthermore, the case law is clear that a lienor cannot name the owner of the property after a bond is filed. In *Keeney's Metal Roofing, Inc. v. Palmieri*, 345 S.C. 550, 552, 548 S.E.2d 900, 901 (Ct. App. 2001), a subcontractor filed a mechanic's lien, naming the general contractor and the owner. A bond was then posted under §29-5-110 by a surety company. *Id.* The subcontractor filed suit to foreclose the mechanic's lien, naming as defendants the owner, the general contractor, and the surety. *Id.* The Court upheld the dismissal of the owner and awarded the owner attorney's fees since it was deemed the prevailing party. *Id.* at 555, 548 S.E.2d at 903. Because the subcontractor was aware a bond had been posted, it should not have named the owner in its suit to foreclose the mechanic's lien under § 29-5-120.² *Id.*

In issuing its ruling, the *Keeney's* court relied heavily upon the principle found in § 29-5-110 that upon filing the bond, the lien upon the owner's property was discharged, and the surety bond took the place of the property upon which the lien existed. *Id.* at 555, 548 S.E.2d at 902. The court concluded that because there was no longer a lien on the owner's property, the subcontractor could no longer recover from the owner. *Id.* As the subcontractor improperly named the owner in the foreclosure litigation, it was liable to the owner for its attorney's fees. *Id.* As noted above, just as Gaster did in this case, the subcontractor named the surety as a defendant in

² A different result may be reached by the Court if the lienor had no knowledge of the bond being posted. See *Cohen's Drywall Co., Inc. v. Sea Spa Homes, LLC*, 374 S.C. 195, 648 S.E.2d 598 (2007). In the instant case, Gaster was aware of the filing of the bond and thus did not name the owner as a defendant.

its mechanic's lien foreclosure action. *Id.* at 52, 548 S.E.2d 901. There was no discussion by the Court that the subcontractor improperly named the surety as a defendant.

In the instant matter, Travelers issued the bond, and undertook the defense of the mechanic's lien. Travelers was a real party in interest for three reasons. First, it had the financial obligation to pay up to \$33,097.38 if the mechanic's lien was successful (Bond, Ex. 104, attached to Complaint). Second, under the allegations of Gaster's Second Cause of Action, as discussed above, Gaster requested specific relief against Travelers (i.e., pay the \$33,097.38 if the mechanic's lien cause of action was successful). Third, as stated in § 29-5-110, the bond took the place of the property and became the primary remedy for Gaster in the event its mechanic's lien was granted. Thus, Travelers was a necessary party and should have not been dismissed from this cause of action.

Finally, Travelers should not have been dismissed for a simple practical reason. Since it is clear that Gaster could not name the owner in its mechanic's lien action under *Keeney*, the only party Defendant that could be named is Travelers which issued the bond. *Id.* at 555, 548 S.E.2d at 903 Otherwise, the cause of action would have named no party and would have been easily dismissed shortly after the Complaint was filed.

For the reasons discussed above, it is clear that Travelers should not have been dismissed by the Court from this action. Under said circumstances, it should not be awarded any attorney's fees or costs under the mechanic's lien statute.

2. *Traveler's Contractual Claim for Attorney's Fees Must Fail For Lack of Contract.*

Here, there is no contract in existence between Travelers and Gaster. Thus, this claim is wholly without merit.

III. Attorney's Fees Sought By Frank Golson.

1. Golson's Statutory Claim Must Fail Because He Was Not a Prevailing Party.

A. No Relief Under Mechanic's Lien Statute Ever Requested from Golson.

It is anticipated Golson, who was named in this litigation solely as a personal guarantor, will assert he is a "prevailing party" under § 29-55-20(A) and request attorney's fees and costs. (Tr. Ex. 104, §§ 8, 18) As the Court is aware, Gaster consented to the dismissal of Golson as a party to the mechanic's lien cause of action at the end of its case-in-chief.

Gaster calls to the attention of the Court the fact that the only reference to Golson as a party responsible for monetary damages under the Second Cause of Action was in fact appropriate and wholly separate from the mechanic's lien statutes. There are only two (2) references to Golson in the Second Cause of Action in the Complaint, as follows:

18. Plaintiff is entitled to a determination of the monies due under its Mechanic's Lien and the payment of same under the Bond. **If the Bond amount is not sufficient, Plaintiff is entitled to a judgment against Defendants GMK and Golson.** (Emphasis added)

(Tr. Ex. 104). The second reference to Golson is in the prayer in the Complaint, where the following relief was requested

2. Second Cause of Action

- (a) Enter judgment foreclosing the mechanic's lien against the Bond in the principal amount of \$24,885.24, plus interest at 1.75% per month and attorney's fees and costs; and
- (b) **If said Bond is not sufficient to pay said judgment, enter judgment against Defendants GMK Associates Design Build Division, Inc. and Frank Golson.** (Emphasis added).

(Tr. Ex. 104).

Thus, it is absolutely clear no relief directly associated with the foreclosure of the mechanic's lien cause of action was ever asserted against Golson. The only allegations which reference Golson accurately stated that if the mechanic's lien action was successful and the Bond amount was not sufficient to pay the full judgment amount, Golson may be personally liable under his personal guarantee in the Account Agreement. (Tr. Ex. 1). Because no monies or claims were ever sought directly against Golson as a party to the mechanic's lien foreclosure, he cannot be a "prevailing party" under § 29-5-20(A).

B. Alternatively, Golson Incurred Little or No Attorney's Fees & Costs.

Other than Carl D. Hiller, Esq., with the Finkel Law Firm, filing a basic Answer on behalf of Golson and Travelers on December 5, 2017, Plaintiff's counsel is unaware of any other legal services rendered in relation to the defense of the mechanic's lien action on behalf of Golson. Golson was never deposed, was not referenced in any of the substantial discovery requests, never filed any motions, and did not appear at trial. Thus, assuming, *arguendo*, he is deemed a prevailing party under § 29-5-20(A), he is not entitled to anything more than a nominal award of attorney's fees (i.e., ≤ \$200.00).

2. *Golson Contractual Claim for Attorney's Fees Must Fail for Lack of Contractual Right.*

As is the case with GMK, there simply is no contract between Gaster and Golson that allows for the recovery of attorney's fees by Golson under any circumstances.

IV. Conclusion.

For the reasons stated above, Defendants GMK, Travelers, and Golson are not entitled to collect attorney's fees under either a contractual or statutory basis. Accordingly, their Motion must be denied.

Respectfully submitted,
RUSSELL P. PATTERSON, P.A.

/s/ Lauren P. Williams
Russell P. Patterson
Lauren P. Williams
P.O. Box 8047
Hilton Head Island, SC 29938
(843) 341-9300
russell@russellpattersonlaw.com
lauren@russellpattersonlaw.com
Attorneys for the Plaintiff

Hilton Head Island, South Carolina
February 10, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE NO.: 2017-CP-07-02337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S AFFIDAVIT OF
	)	ATTORNEYS FEES
GMK Associates Design Build Division,	)	
Inc., Travelers Casualty and Surety	)	
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
	)	

PERSONALLY appeared before me, Russell P. Patterson , Esquire, who being duly sworn deposes and says:

1. I, along with my Associate, Lauren P. Williams, are the attorneys for the Plaintiff in the above matter.
2. That he is a member of the South Carolina Bar engaged in the general practice of law in the Law Offices of Russell P. Patterson, P.A. of Hilton Head Island, South Carolina.
3. That he is and has been a member of the South Carolina Bar Association since 1982, and has an hourly billing rate of \$300 per hour. My current billing rate for 2022 is \$325.00 per hour.
4. That Exhibit A to this Affidavit, is a listing of my Firm's billing in this matter, as well as the costs incurred with all available invoices and raw billing, reflects the attorney's fees actually incurred through February 7, 2022. These fees are \$143,259.00 and the costs are \$9,976.28 (Exhibit B) for a total of \$153,235.28 in connection with this action. Additionally, Exhibit B reflects that a total of 578.50 hours were spent by my Firm on this matter, of which

258.50 hours, or \$65,330.00, were spent preparing for and participating in the five (5) day jury trial in this matter. The hours by attorney are broken down on Exhibit B.

5. Under Dedes v. Strickland, 307 S.C. 155, 414 S.E.2d. 134 (1992), the Supreme Court has set forth the factors to be considered in an award of attorney's fees in real property actions. These factors include the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fees charged in the locality for similar services, and the beneficial result obtained. These factors, as applied in this case, are as follows:

- a. Nature, Extent and Difficulty of the Legal Services Rendered. This is an action to collect on a mechanic's lien bond and enforce the terms of a written contract between the parties. However, this relatively simple collection action was transformed into complex litigation in light of the three (3) counterclaims filed by Defendant GMK Associates Design Build Division, Inc. ("GMK") alleging the wrong products were delivered by Plaintiff. GMK claimed damages of approximately \$100,000. This litigation has been pending since 2017 and during that time there have been nine (9) depositions, including three (3) depositions of GMK's proposed expert witness, Billy Gavigan, once as a fact witness and twice as an expert witness due to Mr. Gavigan's failure to comply with Plaintiff's subpoena duces tucum. Additionally, Plaintiff was forced to file both a Motion to Compel and a Motion for Contempt in 2018 to obtain routine discovery from GMK.
- b. Time and Labor Necessarily Devoted to the Case. The number of hours he and his Firm expended in this matter, totaling 578.50 hours or \$143,259.00, is shown on Exhibit B, as well as evidenced by the detailed listing of services performed in

Exhibit A. A review of Exhibit A indicates the vast majority of the hours spent on this matter are directly related to the Counterclaims filed by GMK. Plaintiff's counsel was required to expend considerably more time and effort on this matter because GMK's Counterclaims transformed a simple collection action into complex litigation. Accordingly, the time and labor devoted to this case were necessary to properly prepare and try this case. Furthermore, his Firm spent at least 258.50 hours or \$65,330.00 preparing for and participating in the five (5) day jury trial in this matter. Finally, he expects to incur costs of approximately \$3,000.00 preparing for and arguing the pending Motions for Attorney's Fees.

- c. Professional Standing of Counsel. I am a licensed member of the Bar of the State of South Carolina, as well as the United States District Court for the District of South Carolina. I completed law school in 1982. I have thus practiced law for approximately forty (40) years. For approximately the last 37 years, I have been employed as an attorney on Hilton Head Island, South Carolina. For 24 of these years, he was a partner in Jones, Scheider, and Patterson, P.A. For the last 13 years he has operated his own firm, Russell P. Patterson, P.A. I am a member of the Beaufort County Bar Association, the American Bar Association, and other professional organizations. Approximately 40% of my practice consists of litigation, including construction cases, contract disputes, mechanic's lien cases, foreclosure cases, community association lien and collection cases, land title questions, class actions, and other business-related litigation. Accordingly, I submit that I have a high professional standing in general and in this area of practice. Furthermore, my associate, Lauren Williams, has been licensed member

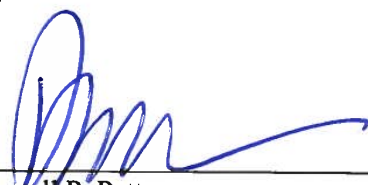
of the Bar of the State of South Carolina since 2015 and has practiced law as an attorney on Hilton Head Island South Carolina since 2016. Prior to working as an attorney on Hilton Head, she clerked for the Honorable G. Thomas Cooper, Jr. She is also a member of the Beaufort County Bar Association and other professional organizations.

- d. Contingency of Compensation. Compensation in this case is based on the hourly rate of 300.00 per hour and my associate's hourly rate of \$250.00 per hour.
- e. Customary Fee Charged on the Locality for Similar Services. I am aware from discussions with clients, other attorneys in the Beaufort area, and from my general familiarity with the legal profession that the fees charged for services similar to those in this case are, in the Beaufort area, range from \$275 to \$450+ per hour. As stated earlier, my hourly rate is well within this range in this case. Accordingly, this hourly rate is the fee customarily charged in this locality for similar services.
- f. Beneficial Results Obtained. Plaintiff's counsel obtained beneficial results for the Plaintiff in this action by securing a judgment against GMK for the full amount of the lien. The jury awarded GMK no monies on their \$90,000 counterclaim.

6. Amount Sought. After due consideration of the nature, extent and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fee charged in the locality for similar services, and the beneficial result obtained, the expense time, effort and cost to complete this portion of the case, I respectfully submit that an award of attorney's fees and costs to the full extent set forth in this Affidavit is appropriate. Therefore, Plaintiff is entitled to recover

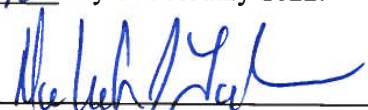
\$146,259.00 (\$143,259.00+\$3,000.00) in attorneys fees and \$9,976.28 in costs for a total recovery of \$156,235.28.

FURTHER DEPONENT SAYETH NAUGHT.



Russell P. Patterson

SWORN TO before me this
10th day of February 2022.



Notary Public for South Carolina

My Commission Expires: _____

DEBORAH J. TAYLOR
Notary Public, State of South Carolina
My Commission Expires 10/24/2027

Russell P. Patterson, P.A.

P.O. Drawer 8047
Hilton Head Island, SC 29938 USA

Ph: (843) 341-9300
Fax: (843) 341-9301

Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

October 3, 2017

File #: 2037

Inv #: 9736

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Sep-12-17	Revise Mechanics Lien	0.80	LW
Sep-13-17	Receipt and review signed Verification; Submit lien for recording	0.40	LW
Sep-14-17	E-mail copy of recorded lien to GMK	0.30	LW
Sep-15-17	Receipt and review confirmation of service by Columbia process server	0.30	LW
Sep-28-17	Receipt and review Affidavit of Service for Percy Berry	0.30	LW
Sep-29-17	E-mail client [REDACTED]	0.10	LW
	Totals	2.20	\$385.00

DISBURSEMENTS

Sep-18-17	Filing Fee	15.50
Sep-18-17	service of process charges- Inv. 5921	100.00
Sep-28-17	service of process charges - Inv. RPP 17-212 - Percy Berry	70.00
	Totals	\$185.50

EXHIBIT A

Invoice #: 9736

Page 2

October 3, 2017

Total Fee & Disbursements

\$570.50

Balance Now Due

\$570.50

ELECTRONICALLY FILED - 2022 Feb 10 12:09 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337

Russell P. Patterson, P.A.

P.O. Drawer 8047
Hilton Head Island, SC 29938 USA

Ph: (843) 341-9300
Fax: (843) 341-9301

Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

November 2, 2017

File #: 2037

Inv #: 9862

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Oct-02-17	Receipt and review e-mails from client [REDACTED] Respond to same; E-mail Tripp Berry regarding payment and impending foreclosure	0.40	LW
Oct-11-17	Telephone conference with client [REDACTED] [REDACTED]	0.20	RPP
Oct-12-17	Receipt and review two memos from owner, copy of bond; Draft memo to same	0.30	RPP
	Totals	0.90	\$195.00
	Total Fee & Disbursements		\$195.00

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Russell P. Patterson, P.A.

P.O. Drawer 8047
Hilton Head Island, SC 29938 USA

Ph: (843) 341-9300
Fax: (843) 341-9301

Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

December 5, 2017

File #: 2037

Inv #: 9990

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Nov-01-17	Receipt and review memo from client [REDACTED] [REDACTED] Draft memo to Ray Williams as to accepting service	0.30	RPP
Nov-02-17	Review and revise draft Summons and Complaint	0.30	RPP
	Draft Summons and Complaint for breach of contract and foreclosure of mechanics lien	1.50	LW
Nov-03-17	Submit Summons and Complaint for recording; Receipt and review recorded documents	0.30	LW
Nov-06-17	Receipt and review filed Summons and Complaint; Arrange for service of same on all defendants	0.70	LW
Nov-09-17	Receipt and review Affidavits of Service for GMK and Frank Golson; Submit same for filing	0.30	LW
Nov-13-17	Receipt and review Acceptance of Service letter from SC Department of Insurance; Respond to same	0.30	LW
Nov-17-17	Receipt and review letter from Traveler's Insurance acknowledging Summons and Complaint	0.20	RPP

ELECTRONICALLY FILED - 2022 Feb 10 12:09 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337

Invoice #: 9990

Page 2

December 5, 2017

Nov-28-17	Receipt and review Answer and Counterclaim filed by GMK	0.30	LW
Nov-29-17	Prepare Affidavit of Service for Travelers Insurance; Submit same for recording	0.40	LW
	Totals	4.60	\$865.00

DISBURSEMENTS

	Postage	8.55
Nov-06-17	Service of Process Fee (2017-CP-07-2337)	10.00
	Totals	\$18.55
	Total Fee & Disbursements	\$883.55

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Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

January 4, 2018

File #: 2037

Inv #: 10119

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Dec-04-17	E-mail client [REDACTED] Draft first set of discovery requests	1.40	LW
Dec-05-17	Receipt and review discovery requests from GMK; Respond to same	0.40	LW
Dec-06-17	Receipt and review [REDACTED] from client; Review file; Participate in conference call with client [REDACTED] Draft memo to defense counsel as to conference call to discuss settlement	1.50	RPP
	E-mail client [REDACTED] Receipt and review e-mail from client [REDACTED] Telephone conference with client [REDACTED]	1.10	LW
Dec-07-17	Review and revise discovery requests; File and serve same	0.30	RPP
Dec-19-17	Review and revise Answer to Counterclaim, discovery responses	0.30	RPP
	Draft responses to GMK's Interrogatories and Requests for Production; Prepare reply to GMK's Counterclaim	1.60	LW
Dec-20-17	E-mail client regarding [REDACTED] [REDACTED]	2.60	LW

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Review and revise Answer to Counterclaim;
Review and revise Answers to Interrogatories;
E-mail same to client [REDACTED] Receipt and
review client's [REDACTED]
[REDACTED] Submit Answer to Counterclaim
for filing; Receipt and review filed Answer to
Counterclaim; Review all documents produced
by client [REDACTED]
Prepare documents for production to opposing
counsel

Dec-27-17	Mail responses to GMK's Interrogatories and Requests to Produce to all counsel; E-mail [REDACTED] client; Review and revise chronology	0.50	LW
	Totals	9.70	\$1,855.00

DISBURSEMENTS

Copying	16.50
Postage	7.00
Totals	\$23.50

Total Fee & Disbursements	\$1,878.50

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Gaster Lumber
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Savannah, GA 31419

February 2, 2018

File #: 2037

Inv #: 10262

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jan-17-18	E-mail defense counsel regarding outstanding discovery responses; Receipt and review extension request from Carl Hiller; Grant same as to Travelers and Golson only	0.40	LW
Jan-22-18	Receipt and review Consent Order for counsel substitution	0.30	LW
Jan-25-18	Receipt and review filed Consent Order of Substitution	0.30	LW
Jan-29-18	Prepare Motion to Compel Discovery Responses; Submit same for filing	0.50	LW
Jan-30-18	Receipt and review filed Motion to Compel	0.30	LW
	Totals	1.80	\$315.00

DISBURSEMENTS

Filing Fee	31.74
Totals	\$31.74

Total Fee & Disbursements	\$346.74

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Gaster Lumber
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Savannah, GA 31419

March 5, 2018

File #: 2037

Inv #: 10437

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Feb-13-18	Receipt and review Notice of Hearing on Motion to Compel from Court; E-mail opposing counsel regarding same	0.30	LW
Feb-16-18	Receipt and review e-mail from Court regarding status of Motion to Compel; Respond to same	0.30	LW
Feb-20-18	E-mail opposing counsel regarding outstanding discovery requests	0.30	LW
Feb-26-18	Telephone conference with Jake Moore's office as to resolving motion hearing on Motion to Compel	0.30	RPP
	Prepare Amended Motion to Compel to compel responses from Travelers and Golson; Submit same for filing; Receipt and review letter from opposing counsel regarding Motion for Continuance; E-mail opposing counsel and judge regarding Motion to Compel; Prepare Consent Order resolving same; E-mail Consent Order to opposing counsel for review; Receipt and review filed Amended Motion to Compel; Submit Consent Order for filing	0.70	LW
Feb-27-18	Receipt and review filed Consent Order resolving Motion to Compel	0.30	LW

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Invoice #: 10437

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March 5, 2018

Feb-28-18	Receipt and review discovery responses from Defendant; E-mail [REDACTED] client	0.30	LW

Totals	2.50	\$460.00

DISBURSEMENTS

Feb-06-18	Filing Fee	63.48
	5210	65.00

Totals	\$128.48

Total Fee & Disbursements	\$588.48

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Gaster Lumber
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Savannah, GA 31419

April 3, 2018

File #: 2037

Inv #: 10509

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Mar-27-18	E-mail opposing counsel regarding discovery responses	0.30	LW
	Totals	0.30	\$52.50
	Total Fee & Disbursements		\$52.50

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Gaster Lumber
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Savannah, GA 31419

May 2, 2018

File #: 2037
Inv #: 10685

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Apr-05-18	Telephone call with Jahue Moore's office regarding status of discovery responses; Draft Motion to hold defendants in contempt	1.00	LW
Apr-06-18	Review and revise Motion to Hold in Contempt; E-mail same to opposing counsel	0.30	LW
Apr-09-18	Submit Motion to Hold Defendants in Contempt for fling; E-mail [REDACTED] client	0.30	LW
Apr-10-18	Receipt and review filed Motion to Hold Defendants in Contempt of Court	0.30	LW
Apr-13-18	Receipt and review Notice of Motion Hearing for Motion to Hold Defendants in Contempt of Court; E-mail same to opposing counsel [REDACTED]	0.30	LW
Apr-25-18	Conference call with defense counsel as to Motion for Contempt hearing, production of documents, hearing tomorrow	0.30	RPP
	Telephone call with opposing counsel regarding status of requested documents	0.30	LW
Apr-26-18	Attend motion hearing in Beaufort as to Motion to Hold Defendant in Contempt of Court for failure to comply with discovery; Conference with opposing counsel as to work	2.20	RPP

	out; Draft memo to opposing counsel with list of outstanding items		
Apr-27-18	Draft list of documents to be produced; Draft memo to defense counsel	1.10	RPP
	Draft Order Resolving Motion for Contempt; E-mail same to opposing counsel for review	0.50	LW
Apr-30-18	Submit proposed Order for filing; Review documents produced by opposing counsel	0.30	LW
	Totals	6.90	\$1,425.00

DISBURSEMENTS

Filing Fee	63.48
Totals	\$63.48
Total Fee & Disbursements	\$1,488.48

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Gaster Lumber
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Savannah, GA 31419

June 1, 2018

File #: 2037
Inv #: 10777

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
May-08-18	Receipt and review Defendant's discovery responses; E-mail [REDACTED] client	1.70	LW
May-16-18	Review documents provided by GMK and create chronology	2.20	LW
May-17-18	Review documents provided by GMK to create chronology and create issue files	2.20	DT
May-21-18	Review documents provided by GMK; Organize same into issues and update chronology	1.10	LW
May-22-18	E-mail Jahue Moore regarding attorney client privileged documents	0.30	LW
May-29-18	Receipt and review correspondence from Court regarding revising proposed Order; Revise same and e-mail it to Court for filing	0.30	LW
May-31-18	Receipt and review Order Resolving Contempt Motion	0.30	LW
	Totals	8.10	\$1,186.50

DISBURSEMENTS

Copying 146.25

Invoice #: 10777

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June 1, 2018

Totals

\$146.25

Total Fee & Disbursements

\$1,332.75

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000121

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Gaster Lumber
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Savannah, GA 31419

July 3, 2018

File #: 2037
Inv #: 10830

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jun-01-18	Receipt and review Consent Order filed by Jahue Moore; E-mail Jahue Moore to schedule Tripp Berry's deposition	0.30	LW
Jun-07-18	E-mail opposing counsel regarding scheduling Berry deposition; Receipt and review response from counsel; Respond to same	0.30	LW
Jun-08-18	Receipt and review ADR deadline from Court	0.30	LW
Jun-11-18	Receipt and review e-mail regarding scheduling Tripp Berry's deposition; Respond to same	0.30	LW
Jun-14-18	Receipt and review e-mail from opposing counsel regarding deposition dates; Prepare Notice of Deposition and Certificate of Service	0.30	LW
Jun-21-18	Receipt and review filed Order of Protection	0.30	LW
	Totals	1.80	\$315.00

DISBURSEMENTS

Copying	141.75
Totals	\$141.75

Invoice #: 10830

Page 2

July 3, 2018

Total Fee & Disbursements

\$456.75

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000123

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Gaster Lumber
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Savannah, GA 31419

August 3, 2018

File #: 2037

Inv #: 10936

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jul-03-18	Send out Notice of Deposition to opposing counsel; Arrange for court reporter	0.30	LW
Jul-09-18	Receipt and review e-mail from opposing counsel regarding rescheduling the deposition; Receipt and review e-mail from client [REDACTED] E-mail opposing counsel [REDACTED] to reschedule deposition	0.30	LW
Jul-16-18	E-mail opposing counsel to schedule deposition of Tripp Berry	0.30	LW
Jul-18-18	Receipt and review e-mail from opposing counsel confirming new deposition date; Prepare Notice of Deposition and mail same to opposing counsel; E-mail client [REDACTED] [REDACTED]	0.30	LW
	Totals	1.20	\$210.00
	Total Fee & Disbursements		\$210.00

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September 5, 2018

File #: 2037

Inv #: 11014

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Aug-06-18	E-mail client [REDACTED] [REDACTED]	0.30	LW
Aug-07-18	Prepare for deposition of Trip Berry; Review all documents related to siding issue; Review plans; Outline basic issues; Review EWD related documents; Draft list of questions for client; Receipt and review memo from defense counsel as to cancellation of deposition; Draft memo to same as to need for a court order, request alternate dates	5.80	RPP
	Receipt and review e-mail from Martin regarding Tripp Berry's deposition; Forward [REDACTED] client; E-mail client [REDACTED] [REDACTED] Receipt and review e-mail from client [REDACTED] [REDACTED] Receipt and review e-mail from client [REDACTED] [REDACTED] Respond to same; Receipt and review e-mail from opposing counsel regarding Consent Order	1.60	LW
Aug-08-18	Continue extensive review of documents as to siding and EWP issues; Prepare list of questions for client	3.80	RPP
	Receipt and review e-mail from Martin	0.30	LW

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	regarding deposition dates; Forward client [REDACTED]		
Aug-09-18	Complete outline of questions for client [REDACTED] [REDACTED]	0.50	RPP
Aug-10-18	Review and revise letter [REDACTED] client	0.50	RPP
	E-mail Martin regarding rescheduling Tripp Berry's deposition and preparing Scheduling Order	0.30	LW
Aug-13-18	Receipt and review e-mail from Martin regarding deposition of Tripp Berry; Confirm date; Prepare Third Notice of Deposition and Certificate of Service; Prepare Consent Order regarding deposition date; Prepare Consent Scheduling Order; Mail and e-mail Third Notice of Deposition to Martin and client; E-mail Martin regarding Consent Order and Scheduling Order	0.50	LW
Aug-14-18	Receipt and review e-mail from Martin regarding changes to Consent Deposition Order and Consent Scheduling Order; Revise both accordingly; Submit both orders for filing	0.40	LW
Aug-16-18	Receipt and review Consent Order regarding deposition of Tripp Berry; E-mail [REDACTED] client	0.30	LW
Aug-20-18	Receipt and review filed Consent Scheduling Order; Calendar deadlines; E-mail [REDACTED] client	0.30	LW
Aug-27-18	Extensive meeting with MarChelle [REDACTED] [REDACTED]	3.20	RPP
	Put together to-do list from meeting with MarChelle; E-mail [REDACTED] MarChelle; Update witness list after meeting with MarChelle; Review documents provided by MarChelle; Prepare supplemental discovery responses; Mail and e-mail same to Jahue Moore	1.30	LW
Aug-28-18	Receipt and review color photo of Berry siding from MarChelle; Review documents produced	1.20	LW

by MarChelle [REDACTED]
[REDACTED]

Aug-29-18	Receipt and review [REDACTED] provided by MarChelle; Mail and e-mail same to opposing counsel; Review new documents for issue files	1.20	LW
Aug-30-18	Review documents produced by MarChelle [REDACTED]	0.70	LW
Totals		22.20	\$4,920.00

DISBURSEMENTS

Copying	92.55
Filing Fee	31.74
Totals	\$124.29

Total Fee & Disbursements**\$5,044.29**

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Gaster Lumber
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Savannah, GA 31419

October 3, 2018

File #: 2037

Inv #: 11105

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Sep-01-18	Review [REDACTED] produced by client; Outline questions for deposition covering all siding issues	4.20	RPP
Sep-04-18	E-mail MarChelle [REDACTED] [REDACTED]	0.30	LW
Sep-05-18	Receipt and review e-mail from MarChelle [REDACTED]	0.30	LW
	Receipt and review additional documents from MarChelle; Redact and bates label same; Prepare supplemental discovery responses, Certificate of Service and cover letter; Mail and e-mail supplemental discovery responses to GMK	1.30	LW
Sep-06-18	Review documents produced by Marchelle; [REDACTED] Organize all documents produced by Marchelle [REDACTED] and produce final set of documents	1.90	LW
Sep-09-18	Prepare for deposition of Trip Berry; Outline [REDACTED] [REDACTED] Pull all 94 exhibits	4.20	LW

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Sep-10-18	Draft memo to MaRchelle [REDACTED] [REDACTED] Send memo to defense counsel with deposition exhibits; Receipt and review delivery receipt for windows; Add to exhibits group, produce; Prepare for and attend depositions; Draft letter to defense counsel as to missing documents	7.10	RPP
	Bates label documents produced by client and prepare for deposition	0.30	LW
Sep-11-18	Review and revise letter to defendants as to missing documents, setting case for trial	0.30	RPP
	Receipt and review e-mail from client [REDACTED]	0.30	LW
Sep-12-18	Receipt and review drone photo from client; Number and produce; Draft memo to client as [REDACTED] [REDACTED] Receipt and review additional documents from MarChelle; Number and produce	0.60	LW
	E-mail court reporter to cancel Friday's deposition	0.30	LW
Sep-20-18	Draft memo to defense counsel as to missing documents, completion of discovery, setting case for trial; Receipt and review response as to new deadline for production, possible deposition of Scott	0.50	RPP
Sep-27-18	E-mail opposing counsel regarding status of outstanding documents and Notices of Depositions; Receipt and review transcript and exhibits from Tripp Berry's deposition	0.40	LW
	Totals	22.00	\$4,757.50

DISBURSEMENTS

	Copying	6.90
	Postage	1.84
Sep-28-18	Invoice # 49338 - Tripp Berry Deposition	952.35
	INVOCIE 49338- 2nd part of deposition of Tripp Berry	952.35
	Totals	\$1,913.44

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Invoice #: 11105

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October 3, 2018

Total Fee & Disbursements

\$6,670.94

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Gaster Lumber
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Savannah, GA 31419

November 2, 2018

File #: 2037

Inv #: 11184

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Oct-02-18	Receipt and review documents from GMK; Receipt and review e-mail regarding scheduling depositions; E-mail client [REDACTED]	0.50	LW
Oct-03-18	Review documents provided by GMK and arrange same into chronological order	0.40	LW
Oct-04-18	Receipt and review e-mail from client [REDACTED] [REDACTED] E-mail opposing counsel that we do not have contact information for Scott Warren and Craig Smith; E-mail MarChelle [REDACTED]	0.40	LW
Oct-08-18	E-mail client [REDACTED]	0.30	LW
Oct-09-18	Receipt and review e-mail from MarChelle [REDACTED]; Forward same to opposing counsel	0.30	LW
Oct-15-18	E-mail opposing counsel regarding scheduling MarChelle's deposition	0.30	LW
Oct-19-18	E-mail opposing counsel regarding revising Scheduling Order and scheduling mediation; Telephone call with client [REDACTED] [REDACTED] Telephone call with	0.50	LW

	opposing counsel's office; E-mail opposing counsel regarding Scheduling Order and mediation dates		
Oct-22-18	Receipt and review e-mail from Jake Moore regarding additional witness; Respond to same; Receipt and review e-mail from Jake Moore consenting to mediator	0.30	LW
Oct-23-18	Discuss [REDACTED] with client	0.30	LW
Oct-24-18	E-mail Mitch Griffith's office to schedule mediation	0.30	LW
Oct-26-18	Receipt and review e-mail from Linda Smyth regarding Mitch's availability; Respond to same and forward [REDACTED] client	0.30	LW
Oct-30-18	Follow up with opposing counsel regarding deposition dates for Gavigan deposition	0.30	LW
Oct-31-18	Receipt and review [REDACTED] from client; Draft memo to same as to Billy Gavigan deposition; Telephone conference with same	0.40	RPP
	E-mail client [REDACTED] E-mail opposing counsel regarding same	0.30	LW
	Totals	4.90	\$887.50
	Total Fee & Disbursements		\$887.50

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Gaster Lumber
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Savannah, GA 31419

December 4, 2018

File #: 2037

Inv #: 11339

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Nov-02-18	E-mail opposing counsel regarding mediation dates	0.30	LW
Nov-06-18	Receipt and review e-mail from client [REDACTED] E-mail Notice of Deposition and subpoena to opposing counsel; Receipt and review e-mails from opposing counsel regarding mediation; Respond to same	0.40	LW
Nov-08-18	E-mail GMK's counsel regarding setting up Billy Gavigan's deposition	0.30	LW
Nov-12-18	Left voicemail for Diane Corley regarding setting up deposition and mediation	0.30	LW
Nov-13-18	Follow up with opposing counsel regarding mediation and deposition of Billy Gavigan	0.30	LW
Nov-14-18	Receipt and review e-mail from Diane Corely regarding Billy Gavigan's deposition and mediation; E-mail clients [REDACTED] [REDACTED] Prepare subpoena for Billy Gavigan and arrange for service of same; Revise Notice of Deposition, letter to Jake Moore, and Certificate of Service	0.50	LW
Nov-15-18	Receipt and review e-mail from client	0.30	LW

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	[REDACTED] E-mail process server with service deadline; E-mail opposing counsel to confirm deposition date and mail Notice of Deposition		
Nov-19-18	Receipt and review e-mail from process server confirming Billy Gavigan was served with subpoena	0.30	LW
Nov-26-18	Receipt and review e-mail from MarChelle regarding Gavigan deposition; Respond to same; Receipt and review Affidavit of Service of Gavigan subpoena; Submit same for filing	0.40	LW
Nov-27-18	Locate documents in preparation of Billy Gavigan's deposition	0.40	LW
Nov-28-18	Draft memo to Billy Gavigan confirming his deposition tomorrow; Receipt and review response from Gavigan as to being out of town; Draft memo in response; [REDACTED] Prepare for depositions. outline questions, pull exhibits	3.50	RPP
	Review documents in preparation of Billy Gavigan's deposition	0.30	LW
Nov-29-18	Prepare for deposition of Billy Gavigan; Send deposition exhibits to Jake Moore	4.70	RPP
Nov-30-18	[REDACTED] Review siding costs	0.40	RPP
	Review and summarize deposition of Tripp Berry; Draft extensive letter to mediator in preparation for mediation	2.60	RPP
	Totals	15.00	\$3,465.00

DISBURSEMENTS

	Copying	36.45	
Nov-05-18	Inv. 24027 Deposition of Percy Berry	303.85	
Nov-30-18	service of process charges Inv RPP 18-235	140.00	
	Totals		\$480.30
	Total Fee & Disbursements		\$3,945.30

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Gaster Lumber
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January 3, 2019

File #: 2037

Inv #: 11385

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Dec-03-18	E-mail client [REDACTED]	0.30	LW
Dec-04-18	Receipt and review memo from mediator; Confirm time and place; Review and revise letter to mediate outlying our position	0.30	RPP
	Prepare subpoena to South State Bank and accompanying exhibit; Arrange for service of same	0.80	LW
Dec-05-18	Review and revise letter to mediator; Draft memo to same	0.30	RPP
Dec-06-18	Prepare for and attend mediation in Beaufort	6.40	RPP
Dec-07-18	Draft memo to opposing counsel as to referring case to Master; Review plans for disclaimer to not measure drawings to obtain measurements of materials	0.40	RPP
Dec-10-18	Receipt and review Affidavit of Service of South State Bank subpoena; Mail same to opposing counsel	0.30	LW
Dec-13-18	Receipt and review letter from Jake Moore as to designating Billy Gavigan as an expert witness; Draft memo objecting to said designation [REDACTED]	0.50	RPP

	Receipt and review response of Jake Moore as to motion needed to prevent further discovery		
	Receipt and review letter from Jake Moore indicating GMK will name Billy Gavigan as expert witness	0.30	LW
Dec-17-18	Telephone conference with Mitch (mediator) as to chances to settle case	0.30	RPP
	Receipt and review transcript of Billy Gavigan's deposition	0.30	LW
Dec-18-18	Research case law regarding excluding expert witnesses and prepare motion regarding same	1.80	LW
Dec-19-18	Revise Motion to Exclude; Submit same for filing; Receipt and review filed memo; E-mail [REDACTED] client	0.80	LW
Dec-20-18	Receipt and review filed exhibits to Motion to Exclude; Telephone call with South State Bank regarding outstanding subpoena	0.80	LW
Dec-26-18	Telephone call with South State Bank regarding subpoena; E-mail Bank regarding same	0.30	LW
Dec-27-18	Telephone call with South State Bank regarding subpoena	0.30	LW
	Totals	14.20	\$3,100.00

DISBURSEMENTS

	Filing Fee	31.74
Dec-31-18	Invoice # 49750 - W. Gavigan Depo 11-29-18	884.00
	service of process charges Inv. #s: 93378002	40.00
	Totals	\$955.74

Total Fee & Disbursements**\$4,055.74**

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Gaster Lumber
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Savannah, GA 31419

February 1, 2019

File #: 2037

Inv #: 11475

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jan-02-19	Receipt and review documents produced by South State Bank; Review three (3) construction contracts produced in this case; Receipt and review memo from client [REDACTED] [REDACTED] [REDACTED] Draft memo to client [REDACTED] [REDACTED]	0.30	RPP
	Receipt and review documents produced by South State Bank	0.50	LW
Jan-03-19	Review documents produced by South State Bank; E-mail Angie requesting copy of construction contract, loan application, and e-mails regarding construction contract	0.60	LW
Jan-08-19	Receipt and review e-mail from South State Bank regarding subpoena results	0.30	LW
Jan-14-19	E-mail South State Bank regarding subpoena	0.30	LW
Jan-15-19	Receipt and review Notice of Hearing; E-mail same to opposing counsel	0.30	LW
Jan-16-19	Receipt and review e-mail from South State regarding subpoena; Respond to same; Prepare second subpoena to South State Bank	0.40	LW

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February 1, 2019

Jan-17-19	Receipt and review response from Jake Moore regarding Order of Protection; Receipt and review additional information in response to South State subpoena	0.40	LW

Totals	3.10	<u>\$565.00</u>

DISBURSEMENTS

Copying	9.00

Totals	<u>\$9.00</u>

Total Fee & Disbursements	<u>\$574.00</u>

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Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

March 4, 2019

File #: 2037

Inv #: 11629

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Feb-04-19	Receipt and review signed Order of Protection for opposing counsel	0.30	LW
Feb-14-19	Receipt and review e-mail from Court regarding hearing on Motion to Exclude Witness; E-mail [REDACTED] client; Calendar hearing	0.30	LW
Feb-27-19	Bates label additional documents from South State Bank; Draft letter to GMK regarding documents	0.50	LW
Feb-28-19	Mail and e-mail South State Bank documents to Jake Moore	0.30	LW
	Totals	1.40	\$280.00
	Total Fee & Disbursements		\$280.00

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Gaster Lumber
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Savannah, GA 31419

April 2, 2019

File #: 2037
Inv #: 11683

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Mar-05-19	Prepare for motion hearing before Judge Dixon; Review SC cases; Various telephone calls with Jake Moore, Draft proposed Order granting motions; E-file same with Judge Dixon; E-file proposed Order with Judge Dixon	2.10	RPP
Mar-12-19	Receipt and review Notice of Roster Meeting; E-mail client regarding same	0.40	LW
Mar-13-19	Receipt and review Notice of Jury Roster; Draft memo to Judge as to pending motion decision to prevent Gavigan to be an expert witness	0.30	RPP
	receipt and review e-mail from Jake Moore regarding order of protection; respond to same	0.30	LW
Mar-19-19	Research Billy Gavigan's service record	0.70	LW
	Totals	3.80	\$880.00

DISBURSEMENTS

Mar-05-19	Copying	9.75
	West Law Fee	18.18

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April 2, 2019

Totals

\$27.93

Total Fee & Disbursements

\$907.93

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Savannah, GA 31419

May 2, 2019

File #: 2037
Inv #: 11804

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Apr-12-19	Receipt and review Notice of Roster Meeting from Court; E-mail client [REDACTED]	0.30	LW
Apr-23-19	Draft memo to Judge as to decision on outstanding motion since case is on jury trial docket for May 13	0.30	RPP
Apr-30-19	Telephone call with Judge Dickson's law clerk regarding status of outstanding motion	0.30	LW
	Totals	0.90	\$195.00
	Total Fee & Disbursements		\$195.00

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Gaster Lumber
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Savannah, GA 31419

June 4, 2019

File #: 2037
Inv #: 11968

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
May-01-19	Prepare SR180 Form to confirm Gavigan's military records; Fax and mail same to military; E-mail Jake Moore regarding continuing trial and status conference	0.60	LW
May-02-19	E-mail Judge Buckner's law clerk requesting a continuance from the May 13th trial roster; Receipt and review response; Draft Consent Order for Continuance; E-mail same to opposing counsel; Receipt and review approval of order from opposing counsel; Submit same for filing	0.60	LW
May-09-19	Conference call with Gavigan's counsel as to resolution of Motion for Summary Judgment, date of delivery, mediation	0.50	RPP
	Totals	1.70	\$365.00

DISBURSEMENTS

Filing Fee	31.74
Totals	\$31.74

Total Fee & Disbursements	\$396.74

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Gaster Lumber
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Savannah, GA 31419

July 2, 2019

File #: 2037

Inv #: 12066

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jun-11-19	Telephone conference [REDACTED]	0.40	RPP
	[REDACTED]		
	Totals	0.40	\$100.00
	Total Fee & Disbursements		\$100.00

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Gaster Lumber
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Savannah, GA 31419

September 10, 2019

File #: 2037
Inv #: 12308

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Aug-01-19	Receipt and review Order of Judge Dickson as to Motion to Exclude Witness; Draft memo to opposing counsel as to missing documents; Supplement responses to discovery, proposed deposition date; Review Gavigan deposition as to missing documents; Draft memo to Ray Gaster	0.90	RPP
Aug-02-19	Draft second set of Interrogatories and Requests to Produce regarding new expert witness	1.00	LW
Aug-19-19	Prepare revised South State Bank subpoena	0.40	LW
Aug-20-19	Prepare and arrange for service of second subpoena to South State Bank and Certificate of Service; Mail same to Jake Moore; Finalize second set of discovery responses and prepare Certificate of Service; Mail same to Jake Moore; Resubmit request for Gavigan's military records	1.40	LW
Aug-26-19	Receipt and review Affidavit of Service for South State Bank subpoena	0.30	LW
Aug-27-19	telephone call with Angie at South State Bank regarding subpoena	0.30	LW

Invoice #: 12308

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September 10, 2019

Aug-28-19	Receipt and review e-mail from Marines regarding military history request	0.30	LW
	Totals	4.60	\$965.00

DISBURSEMENTS

Aug-30-19	Inv. # 10120 - Service of Process	32.50
	Totals	\$32.50
	Total Fee & Disbursements	\$997.50

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Gaster Lumber
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Savannah, GA 31419

October 3, 2019

File #: 2037
Inv #: 12427

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Sep-18-19	E-mail South State Bank regarding subpoena response	0.30	LW
Sep-19-19	Receipt and review message from South State Bank; Telephone call with Angie regarding document status	0.20	LW
Sep-23-19	Receipt and review message from Angie at South State Bank; Left voicemail in response	0.30	LW
Sep-25-19	E-mail Jake Moore regarding outstanding discovery responses; Telephone call with Angie at South State Bank regarding subpoena	0.40	LW
	Totals	1.20	\$240.00

DISBURSEMENTS

Lexis/Westlaw	5.32
Totals	\$5.32

Total Fee & Disbursements	\$245.32

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Gaster Lumber
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Savannah, GA 31419

November 5, 2019

File #: 2037
Inv #: 12524

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Oct-01-19	Prepare Motion to Compel discovery responses; Submit same for filing; Receipt and review filed Motion	0.30	LW
Oct-04-19	E-mail client [REDACTED]	0.30	LW
Oct-07-19	E-mail South State Bank regarding status of subpoena response	0.30	LW
Oct-09-19	Receipt and review documents produced by South State Bank	0.70	LW
Oct-11-19	Review documents produced by South State Bank and compare loan amount to contract amount	0.40	LW
Oct-28-19	Receipt and review Notice of Hearing for Motion to Compel; E-mail [REDACTED] client	0.30	LW
	Totals	2.30	\$460.00

DISBURSEMENTS

	Filing Fee	31.74
Oct-31-19	Inv. for Research Requested - South Atlantic v. GMK	55.75

Totals

\$87.49

Total Fee & Disbursements

\$547.49

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Gaster Lumber
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Savannah, GA 31419

December 3, 2019

File #: 2037

Inv #: 12629

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Nov-18-19	Receipt and review e-mail from defense counsel regarding resolving Motion to Compel; Draft Consent Order; E-mail same to opposing counsel; Receipt and review approval of Consent Order; Submit same for filing; E-mail Court regarding resolution	0.50	LW
	Totals	0.50	\$112.50

DISBURSEMENTS

Filing Fee	31.74
Totals	\$31.74
Total Fee & Disbursements	\$144.24

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Gaster Lumber
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Savannah, GA 31419

January 3, 2020

File #: 2037

Inv #: 12766

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Dec-04-19	Draft Motion for Contempt; E-mail opposing counsel regarding status of discovery requests	0.30	LW
Dec-05-19	Receipt and review e-mail from Hood Dawson regarding outstanding documents; Respond to same	0.30	LW
Dec-09-19	Receipt and review discovery responses from GMK; E-mail Hood Dawson regarding outstanding issues	1.10	LW
Dec-16-19	Receipt and review e-mail from Hood regarding supplemental responses; Respond to same and request deposition dates; Provide potential deposition dates	0.30	LW
	Totals	2.00	\$450.00
	Total Fee & Disbursements		\$450.00

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Gaster Lumber
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Savannah, GA 31419

February 5, 2020

File #: 2037

Inv #: 12902

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jan-06-20	Follow up with Hood Dawson regarding deposition dates for Billy Gavigan	0.30	LW
Jan-07-20	Receipt and review e-mail from Hood regarding Gavigan's deposition; Respond to same; Prepare Gavigan subpoena for deposition; Prepare subpoena to Islands of Beaufort; Mail same to Jake Moore; E-mail [REDACTED] client; Arrange for service of subpoena to Gavigan	2.00	LW
Jan-08-20	Arrange for court reporter; Produce South State Bank documents to GMK; Put together packet regarding loan amount and contract discrepancy	1.40	LW
Jan-20-20	Receipt and review e-mail regarding roster meeting; Receipt and review Affidavit of Service for Gavigan's deposition	0.10	LW
Jan-21-20	Receipt and review multiple e-mails from Meredith Bannon regarding Islands of Beaufort subpoena; Receipt and review documents from Islands of Beaufort	0.60	LW
Jan-24-20	Review documents produced by Islands of Beaufort; Mail and e-mail same to defense counsel	0.70	LW

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Jan-27-20	E-mail Judge Jefferson's law clerk regarding continuance; Telephone call with same; E-mail opposing counsel requesting continuance; Receipt and review response	0.30	LW
Jan-28-20	Receipt and review defense counsel's consent to continuance; Prepare and circulate Consent Order; E-mail Court with status update; Submit Consent Order for filing	0.40	LW
Jan-29-20	Review all materials; Summarize deposition of Billy Gavigan; Prepare for deposition of Gavigan	4.30	RPP
	Telephone call with defense counsel regarding attending deposition by telephone; Review and summarize Berry deposition	4.50	LW
Jan-30-20	Prepare for and attempt to take deposition of Billy Gavigan; Continue same due to failure of expert witness to produce documents per subpoena; Review mechanics lien statute and case law on recovering attorney fees; Conference with paralegal (Ansley) as to pulling all complaints involving Billy Gavigan	4.10	RPP
	Receipt and review numerous e-mails from Hood Dawson in response to Gavigan subpoena; Receipt and review documents provided by Gavigan in response to the subpoena; E-mail Hood requesting all requested documents and regarding re-scheduling deposition; Receipt and review filed Consent Order of Continuance	0.50	LW
	Totals	19.20	\$4,522.50

DISBURSEMENTS

	Copying	9.00
	Filing Fee	31.74
Jan-31-20	Service of process charges - Inv. RPP 20-103	75.00
	Inv. 24308 - Deposition of William Gavigan, Vol II	278.45
	Totals	\$394.19

Total Fee & Disbursements**\$4,916.69**

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Gaster Lumber
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Savannah, GA 31419

March 3, 2020

File #: 2037

Inv #: 12969

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Feb-03-20	Receive transcript from Gavigan's deposition; E-mail Hood regarding rescheduling Mr. Gavigan's deposition	0.30	LW
Feb-05-20	Receipt and review notice of jury trial roster; Draft memo to attorneys for GMK; Draft memo to client [REDACTED] [REDACTED]	0.50	RPP
Feb-07-20	Receipt and review documents from Billy Gavigan; Prepare subpoena for deposition and Acceptance of Service; E-mail same to Billy; E-mail Hood regarding scheduling of deposition and receipt of documents	2.60	LW
Feb-14-20	Bates label and review documents produced by Gavigan; Produce same to opposing counsel; Review Tripp Berry's deposition	1.50	LW
Feb-18-20	Receipt and review documents produced by Gavigan through GMK; E-mail opposing counsel requesting outstanding subpoenaed documents	0.70	LW
Feb-19-20	Receipt and review additional documents from GMK; E-mail opposing counsel regarding scope of Gavigan's opinions; Receipt and review response; review Confidentiality order; execute same and e-mail to opposing counsel	1.10	LW

Feb-20-20	Extensive review of 1,400 pages of documents; Complete summary of Gavigan's first depositions; Outline questions for deposition	4.40	RPP
Feb-21-20	Compile new deposition exhibits; Complete list of questions; Draft memo to opposing counsel with copies of new exhibits; Prepare for and take deposition of Gavigan	3.80	RPP
	Follow up with Verizon about MarChelle's text messages; E-mail client [REDACTED]	0.30	LW
Feb-24-20	Left messages for case number one on trial roster; E-mail clients [REDACTED] Telephone call with lawyer to confirm case number one on trial roster has been resolved; Telephone call with Russell to outline a to-do list; Prepare list of trial witnesses; Locate contact information for Samuel Hernandez; Prepare draft jury instructions	1.00	LW
Feb-25-20	Review and organize documents produced by GMK	1.00	RPP
	Prepare for trial; E-mail client [REDACTED] [REDACTED] [REDACTED] Revise chronology; Prepare jury charges and trial subpoenas; Review research regarding Gavigan's past litigation	4.50	LW
	Prepare proposed voir dire and jury instructions; Outline motion in limine to disqualify Gavigan; Research case law regarding jury issues for mechanic's lien	2.00	LW
Feb-26-20	E-mail client [REDACTED] [REDACTED]	1.20	LW
Feb-27-20	Work on completing chrono documents; Pull all documents relevant to roofing LVL issue; Complete chronology; Prepare package for witness review; Receipt and review memos from Plaintiff's chosen as to trial date; Participate in two (2) status conferences with Judge as to trial date, reference; Telephone conference with client; Telephone conference with Sammy Fernandez	3.90	RPP

Receipt and review transcript of Gavigan's deposition and exhibits; Telephone call with Ray [REDACTED] 1.50 LW
 Telephone call with Judge Jefferson's secretary regarding arranging a conference call;
 Conference call with Judge and Hood Dawson;
 Telephone call with process server to cancel trial subpoenas; E-mail client [REDACTED]
 [REDACTED] Receipt and review multiple e-mails from Jake Moore regarding referring case; Conference call with Judge regarding same; E-mail client [REDACTED]
 [REDACTED] E-mail opposing counsel regarding conflicts for week of March 9th;
 Telephone call with Ray [REDACTED]
 [REDACTED]

Totals	30.30	\$7,157.50

DISBURSEMENTS

	Copying	37.80
Feb-21-20	Deposition Fee - \$25 + (39.1*.575)	47.48
	Subpoena Copying Fee	250.00
Feb-28-20	Paralegal - Reseach on Billy Gavigan & his prior litigation	192.50
	Totals	\$527.78

Total Fee & Disbursements	\$7.685.28

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Gaster Lumber
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April 6, 2020

File #: 2037

Inv #: 13120

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Mar-16-20	Prepare Motion for Protective Order; Submit same for filing	0.70	LW
Mar-18-20	Receipt and review filed Motion for Protective Order	0.30	LW
	Totals	1.00	\$225.00

DISBURSEMENTS

Mar-30-20	Legal Research - Westlaw	2.48	
Mar-31-20	415-1; Service of Process - Hernandez, Samuel Zanun	75.00	
	Totals	\$77.48	
	Total Fee & Disbursements		\$302.48

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Gaster Lumber
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Savannah, GA 31419

May 5, 2020

File #: 2037

Inv #: 13235

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Apr-27-20	Receipt and review Order of Protection filed by Jake Moore	0.30	LW
	Totals	0.30	\$67.50

DISBURSEMENTS

Apr-30-20	Service of Process - 112415-2	75.00
	Inv. 24312 - Deposition of William Gavigan, Vol III	1,033.55
	Totals	\$1,108.55

Total Fee & Disbursements	\$1,176.05

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Gaster Lumber
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Savannah, GA 31419

June 3, 2020

File #: 2037

Inv #: 13345

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
May-13-20	Conference with Russell [REDACTED] [REDACTED] E-mail Court regarding scheduling Motion for Protective Order	0.30	LW
May-14-20	Receipt and review e-mail from Court scheduling Motion for Protective Order; Forward same to opposing counsel; Receipt and review e-mail from Court canceling hearing; Forward same to opposing counsel	0.30	LW
May-15-20	Research case law and prepare memo in support of Motion for Protective Order	2.00	LW
May-18-20	Finalize memo in support of Motion for Protective Order; Submit same for filing; Receipt and review filed memo	0.80	LW
May-20-20	Receipt and review Order Denying Motion for Protective Order	0.30	LW
	Totals	3.70	\$832.50

DISBURSEMENTS

Lexis/Westlaw	20.07
Totals	\$20.07

Total Fee & Disbursements

\$852.57

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Gaster Lumber
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Savannah, GA 31419

July 7, 2020

File #: 2037

Inv #: 13496

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jun-09-20	Receipt and review Notice of Deposition; Respond to same; E-mail client [REDACTED] [REDACTED]	0.30	LW
Jun-10-20	Receipt and review e-mail from client [REDACTED] E-mail Angel regarding same	0.30	LW
	Totals	0.60	\$135.00
	Total Fee & Disbursements		\$135.00

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Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

August 6, 2020

File #: 2037

Inv #: 13601

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jul-14-20	Receipt and review numerous e-mails from Jake Moore's office regarding Ray's deposition; E-mail client [REDACTED]	0.40	LW
Jul-21-20	Receipt and review e-mail from client [REDACTED] E-mail opposing counsel to reschedule; E-mail client [REDACTED] E-mail a status update to the Court	0.30	LW
Jul-27-20	Receipt and review e-mail from opposing counsel regarding Ray's deposition; Respond to same; E-mail Ray [REDACTED]	0.30	LW
Jul-28-20	Receipt and review e-mail from client [REDACTED] E-mail Angel regarding same	0.30	LW
Jul-29-20	Receipt and review Notice of Deposition; Forward [REDACTED] client	0.30	LW
	Totals	1.60	\$360.00
	Total Fee & Disbursements		\$360.00

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Gaster Lumber
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Savannah, GA 31419

September 9, 2020

File #: 2037

Inv #: 13701

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Aug-04-20	E-mail client [REDACTED] [REDACTED]	0.30	LW
Aug-06-20	Identify and pull together all documents to be sent to Ray [REDACTED] Prepare list of outline of issues to be discussed and reviewed	1.70	RPP
Aug-07-20	Complete compilation of documents for Ray Gaster [REDACTED]; Draft memo to same [REDACTED] [REDACTED]	0.50	RPP
Aug-12-20	Prepare for and attend extensive conference with Ray Gaster [REDACTED]	2.00	RPP
	Organize Zoom call; E-mail [REDACTED] Ray; Receipt and review e-mail from Angel regarding deposition; Respond to same	0.30	LW
Aug-14-20	Attend deposition of client via Zoom	2.00	RPP
Aug-20-20	Receipt and review e-mail from Jake Moore regarding settlement; Forward [REDACTED] client [REDACTED]	0.40	LW
Aug-21-20	Receipt and review MarChelle's	0.30	LW

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Notice of Deposition; E-mail s [REDACTED]
MarChelle [REDACTED]

Aug-26-20	Receipt and review e-mail from MarChelle [REDACTED] Respond to same to set up preparation meeting; E-mail opposing counsel to confirm deposition date; E-mail client [REDACTED]	0.30	LW
Aug-27-20	Receipt and review Ray Gaster's deposition	0.10	LW
	Totals	7.90	\$1,932.50

DISBURSEMENTS

Aug-31-20	Job No. 22825 - Ray Gaster hard copy condensed transcript	296.68	
	Totals	\$296.68	
	Total Fee & Disbursements		\$2,229.18

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Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

October 6, 2020

File #: 2037

Inv #: 13800

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Sep-01-20	E-mail client [REDACTED] [REDACTED]	0.30	LW
Sep-11-20	Telephone conference with Marchelle Youmans [REDACTED] [REDACTED]	0.30	RPP
Sep-15-20	Telephone conference with Marchelle Youmans [REDACTED]; Extensive telephone call with client [REDACTED] [REDACTED]	2.80	RPP
	Receipt and review e-mail from Marchelle [REDACTED]	0.30	LW
	Respond to same; Receipt and review e-mail from Jake Moore's office regarding Marchelle's deposition; Respond to same		
Sep-16-20	Call and write Marchelle [REDACTED] [REDACTED] Receipt and review response with missing e-mails; Need to reschedule; Draft memo to opposing counsel, Receipt and review memo from Marchelle; Receipt and review memo from Jake Moore as to settlement; Draft memo in response	0.50	RPP
Sep-17-20	Receipt and review additional documents from client; Review and revise summary of conference with Marchelle [REDACTED]	1.70	RPP

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Complete summary of lap siding issue;
Produce "new" documents provided by client
to other side; Update chronology; Receipt and
review settlement offer; Draft memo in
response rejecting same [REDACTED]

Receipt and review e-mail from opposing
counsel regarding rescheduling deposition;
E-mail MarChelle [REDACTED]

0.30

LW

Totals

6.20 \$1,527.50**Total Fee & Disbursements**

\$1,527.50

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Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

November 5, 2020

File #: 2037

Inv #: 13994

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Oct-05-20	E-mail MarChelle [REDACTED] [REDACTED] Receipt and review response	0.30	LW
Oct-06-20	Prepare for and attend virtual Jury Roster meeting; Draft memo to client [REDACTED]	1.20	RPP
	Receipt and review e-mail from MarChelle [REDACTED] Respond to same; Review Court calendar to determine November terms of Court	0.30	LW
Oct-07-20	Prepare for and participate in extensive conference call with MarChelle Youmans [REDACTED] [REDACTED]; Draft memo to client	3.10	RPP
Oct-08-20	Second extensive conference call with MarChelle Youmans [REDACTED] [REDACTED]	0.60	RPP
Oct-09-20	Attend deposition of MarChelle; Draft memo to same	1.00	RPP
Oct-15-20	Telephone conference with client [REDACTED] [REDACTED]	0.40	RPP

	E-mail Jake Moore to schedule deposition of Bruce Williamson	0.30	LW
Oct-19-20	Review Bates documents [REDACTED] [REDACTED]	0.30	LW
Oct-20-20	Draft memo to client [REDACTED] [REDACTED] Review jury roster information from Clerk's website; Check on timing of settlement offer under mechanics lien statute; Receipt and review memo from Clerk of Court as to no jury trial for rest of year	0.50	RPP
	Review produced documents [REDACTED] [REDACTED]	0.50	LW
Oct-21-20	E-mail opposing counsel regarding scheduling Bruce Williamson deposition	0.30	LW
Oct-28-20	Leave voicemail for Diane regarding scheduling Bruce Williamson's deposition; Discuss e-mails [REDACTED] with Russell; E-mail Diane and Jake regarding scheduling deposition	0.30	LW
Oct-29-20	Telephone call with Diane Corely regarding Bruce Williamson's deposition; Confirm date of same; Prepare Notice of Deposition; Mail out same; Arrange for court reporter; Arrange for production of additional documents	0.60	LW
	Totals	9.70	\$2,352.50

DISBURSEMENTS

Oct-27-20	FedEx Inv. 7-096-89860	510.93
	FedEx Inv. 7-096-89860 - GMK Design Build	19.95
	Totals	\$530.88

Total Fee & Disbursements**\$2,883.38**

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December 4, 2020

File #: 2037

Inv #: 14095

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Nov-02-20	Mail and e-mail additional documents to GMK	0.30	LW
Nov-17-20	Review extensive documents, go through all three issue files; Pull all documents involving Bruce Williamson; Outline deposition questions with 50 exhibits	6.40	RPP
	Review produced documents to find documents related to doors; Bates label and produce new documents from MarChelle	0.50	LW
Nov-18-20	Draft memo to court reporter and defense counsel as to deposition exhibits; Prepare for and attend deposition of Bruce Williamson	2.80	RPP
	Totals	10.00	\$2,480.00

DISBURSEMENTS

Nov-30-20	invoices 53448 Depo Bruce Williams	764.15
	Totals	\$764.15

Total Fee & Disbursements	\$3,244.15

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Gaster Lumber
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Savannah, GA 31419

January 6, 2021

File #: 2037

Inv #: 14270

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Dec-01-20	Draft memo to opposing counsel as to re-setting the deposition of Bruce Williamson	0.30	RPP
Dec-17-20	Draft memo to defense counsel as to re-setting deposition of Bruce Williams	0.30	RPP
	Totals	0.60	\$157.50

DISBURSEMENTS

Dec-21-20	FedEx Invs. 7-192-43248	16.97
	Totals	\$16.97

Total Fee & Disbursements	\$174.47

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Gaster Lumber
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Savannah, GA 31419

February 2, 2021

File #: 2037

Inv #: 14300

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jan-07-21	Draft memo to defense counsel as to contact information for Bruce Williamson	0.30	RPP
Jan-25-21	Telephone conference with Bryan Leetter; Draft memo to Bruce Williamson confirming completion of his deposition this Friday; Arrange for court reporter, Notice of Deposition and Certificate of Service	0.40	RPP
Jan-26-21	Receipt and review Notice of Deposition, COS for Bruce Williamson deposition; Sign and serve same	0.30	RPP
Jan-28-21	Scan transcript of the first volume of Bruce Williamson's deposition; Review and prepare for completion of his deposition; Draft memo to all parties and witness	1.50	RPP
Jan-29-21	Receipt and review memo from Bruce Williamson as to re-sending invite to new address; Send memo to same; Complete deposition of Bruce Williamson; Dictate summary of same	2.40	RPP
	Totals	4.90	\$1,225.00
	Total Fee & Disbursements		\$1,225.00

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Savannah, GA 31419

April 5, 2021

File #: 2037

Inv #: 14530

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Mar-30-21	Receipt and review memo from Court as to trial status; Draft memo in response; Draft memo to clients [REDACTED]	0.30	RPP
	Totals	0.30	\$75.00
DISBURSEMENTS			
Feb-26-21	Second Depositon Bruce Williamson - Inv 53829		505.35
	Totals		\$505.35
	Total Fee & Disbursements		\$580.35

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Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

July 2, 2021

File #: 2037

Inv #: 14840

RE: GMK Design Build Division, Inc.

DISBURSEMENTS

Jun-18-21 Filing Fee - Scheduling Order

31.74

Totals

\$31.74

Total Fee & Disbursements

\$31.74

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Gaster Lumber
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Savannah, GA 31419

August 4, 2021

File #: 2037

Inv #: 14977

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jul-08-21	Receipt and review Notice of Roster Meeting; E-mail Court regarding pending Consent Scheduling Order	0.30	LW
Jul-09-21	Receipt and review Notice of Jury Roster Meeting; Exchange e-mails with the Judge; Pull Trial Roster; Draft memo to client; Draft second memo to client [REDACTED] [REDACTED]	0.50	RPP
	Telephone call with Court regarding outstanding Scheduling Order; Telephone call with Judge Price's office regarding same; E-mail Judge Price's office regarding Order; Telephone call and e-mail Judge Mullen's office regarding outstanding Order; Resubmit Order for filing; Exchange multiple e-mails with opposing counsel regarding same	0.50	LW
Jul-12-21	Receipt and review Consent Scheduling Order filed by Court	0.30	LW
	Totals	1.60	\$372.50
	Total Fee & Disbursements		\$372.50

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Gaster Lumber
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Savannah, GA 31419

October 5, 2021

File #: 2037

Inv #: 15187

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Sep-13-21	Receipt and review Notice of Trial Roster; E-mail clients [REDACTED]	0.30	LW
Sep-23-21	Receipt and review status conference roster notice from Judge Price; Draft memo to Clerk of Court as to jury roster for following week	0.80	RPP
Sep-28-21	Review statute and case law regarding settlement offer and attorneys fees for mechanics liens; Prepare draft jury instructions	2.00	LW
Sep-29-21	Review discovery, issue files; Conference with Lauren to prepare for trial	0.50	RPP
	Receipt and review e-mails from client [REDACTED] Respond to same; Meet with Russell regarding trial strategy; Summarize Tripp Berry's deposition; Summarize Bruce Williamson's deposition; Summarize Ray Gaster's deposition	2.10	LW
Sep-30-21	Draft Plaintiff Pre-Trial Brief	0.50	RPP
	Review Ray Gaster's deposition transcript; Telephone call with Ray regarding trial preparation; Review key point summary of Bruce's deposition	0.80	LW

Invoice #: 15187

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October 5, 2021

Totals

7.00 \$1,685.00

Total Fee & Disbursements

\$1,685.00

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Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

November 11, 2021

File #: 2037

Inv #: 15332

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Oct-04-21	Review and finalize draft Pre-Trial Brief; Review and prepare siding exhibits and LVL trial exhibits	3.40	LW
Oct-05-21	Prepare for trial; Outlined cross-examination of defendant	5.20	RPP
	Prepare South State Bank Subpoena; Arrange for service of same; E-mail South State regarding same; Telephone call with South State regarding same; Receipt and review e-mail from Court regarding roster meeting; Respond to same; Telephone call with court reporter regarding Marchelle's deposition transcript; Mail subpoena to Jake Moore; Order copies of Berry plans; Receipt and review same; Summarize Ray's deposition; Prepare key siding, roof, and sliding door documents for trial exhibits	8.00	LW
Oct-06-21	Continue working on cross-examination of credit bearing as to siding and other issues; Attend trial roster meeting in Beaufort	3.70	RPP
	Review and summarize MarChelle's deposition; Locate and organize original deposition transcripts; Prepare trial exhibits; E-mail Ray [REDACTED]	3.40	LW

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	Finalize witness list and voir dire; Prepare draft jury instructions for foreclosure of mechanic's lien		
Oct-07-21	Continue to outline cross examination of Tripp Berry; Identify exhibits; Conference with Lauren [REDACTED] [REDACTED] Prepare for trial	5.50	RPP
	Prepare list of documents produced and ensure all Bates documents have been produced; Order large 2017 calendar; Update map showing directions from McDonalds to Berry's house; Prepare cross examination of Bruce Williamson; E-mail [REDACTED] clients; Telephone call with Court regarding updated Trial Roster; E-mail other attorneys regarding status of cases	5.10	LW
Oct-08-21	Prepare for trial; Complete outline of cross examination of Tripp Berry; Complete 90% of direct examination of MarChelle; Telephone call with Ray Gaster; Telephone call with MarChelle; Communication with Court as to trial status; Numerous conferences with Laurer [REDACTED]	6.90	RPP
	Receipt and review e-mail from Court requesting Pre-Trial Brief; Submit same for recording; Telephone call with Court regarding updated roster and attendance requirements; Telephone call with Jake Moore's office regarding subpoenas; Receipt and review copies of same; Prepare trial binders; Finalize key siding documents; Prepare Williamson cross-examination; Finalize sliding glass doors exhibits	3.60	LW
Oct-09-21	Complete direct examination of siding questions for Marcel; Review ACH payment, documents requesting payment; Prepare for trial	2.90	RPP
	Prepare cross-examination of Bruce Williamson; Prepare pleadings notebook; Finalize trial notebooks; Organize all files; Review exhibit lists	5.50	LW
Oct-10-21	Draft Motion to Disqualify Gavigan as expert; Prepare exhibit list; Prepare all exhibit binders; Finalize 2017 calendar; Review trial strategy	8.00	LW

Oct-11-21	Complete outline of cross-examination of Tripp Berry, including questions as to can agreement, not paying bills as agreed; Outline and prepare opening statement; Locate missing exhibits, including the appraisal; Organize and prepare for trial	5.50	RPP
Oct-12-21	Attend roster meeting in Beaufort; Conference with MarChelle [REDACTED]	5.40	RPP
Oct-18-21	E-mail Ray [REDACTED]	0.30	LW
Oct-20-21	Receipt and review e-mail from Ray [REDACTED]	0.30	LW
Oct-21-21	Review and revise damages spreadsheet; Draft memo to client [REDACTED]	0.30	RPP
	Receipt and review e-mail from client [REDACTED] Prepare same in advance of conference call	0.30	LW
Oct-25-21	Conference call with client [REDACTED]	0.40	RPP
	E-mail settlement offer to Jake Moore; Receipt and review supplemental discovery responses from GMK; E-mail Jake Moore regarding same	0.30	LW
Oct-29-21	Review and summarize volumes two and three of Billy Gavigan extensive depositions, outlining his cross-examination, pulling applicable exhibits	5.40	RPP
	Totals	79.40	\$20,800.00
	Less: Attorney Discount		1,500.00
	Total Fees After Discount		\$19,300.00

DISBURSEMENTS

Oct-29-21	service of process charges - Inv. #s: 130429-1 - same day service	120.00
	Totals	\$120.00

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Invoice #: 15332

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November 11, 2021

Total Fee & Disbursements

\$19,420.00

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December 6, 2021

File #: 2037

Inv #: 15403

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Nov-04-21	Merge three (3) Gavigan deposition summaries into one summary	1.30	RPP
Nov-23-21	Prepare and mail out subpoena to Lou Pontigo	0.60	LW
	Totals	1.90	\$540.00
	Total Fee & Disbursements		\$540.00

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Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

January 14, 2022

File #: 2037
Inv #: 15494

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Dec-01-21	Telephone calls with Ryan regarding Pontigo subpoena; E-mail client and Ryan regarding same	0.40	LW
Dec-03-21	Draft memo to client [REDACTED] [REDACTED]	0.30	RPP
Dec-13-21	Receipt and review memo from Hardi Plank Siding as to types of batten; Draft memo to same as to types of board	0.30	RPP
	Receipt and review e-mail from MarChelle [REDACTED]; E-mail Russell regarding same; E-mail MarChelle [REDACTED]	0.30	LW
Dec-17-21	Prepare subpoena for Brenda Berry's deposition; E-mail same to Jake Moore; Bates label additional documents to produce; Prepare cover letter and Certificate of Service; E-mail out same to Jake Moore	0.50	LW
Dec-22-21	Receipt and review Notice of Jury Trial; E-mail clients [REDACTED]; E-mail Jake Moore regarding Brenda's deposition	0.30	LW
Dec-29-21	Arrange for service of subpoena on Brenda Berry	0.30	LW

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Invoice #: 15494

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January 14, 2022

Totals

2.40

\$630.00

Total Fee & Disbursements

\$630.00

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Savannah, GA
31419

February 3, 2022

File #: 2037

Inv #: 15580

Attention:

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Jan-03-22	E-mail process server regarding gate codes	0.30	LW
Jan-05-22	E-mail process server regarding service on Brenda Berry; E-mail Jake Moore regarding deposition; FedEx copy of subpoena to Brenda Berry; Prepare Notice of Brenda Berry Deposition; Mail and e-mail out same; Prepare subpoena to Lubkin Appraisal; Mail out same; Follow up with South State Bank regarding outstanding subpoena	1.20	LW
Jan-06-22	Telephone call with process server regarding Brenda Berry subpoena	0.30	LW
Jan-07-22	Receipt and review Affidavit of Service for Brenda Berry	0.30	LW
Jan-11-22	Prepare for Brenda Berry's deposition	1.40	LW
	Receipt and review color appraisal in response to subpoena; E-mail confirming receipt	0.30	LW
Jan-12-22	Conference with Lauren [REDACTED]; Make additional comments to questions	0.80	RPP
	Receipt and review e-mail from court reporter with link for Brenda Berry's deposition;	2.00	LW

	E-mail out same; Prepare for Brenda Berry's deposition		
Jan-13-22	Attend deposition of Mrs. Berry; Discuss with Lauren [REDACTED]	1.90	RPP
	Prepare for and depose Brenda Berry; E-mail court reporter regarding exhibits; Conference with Russell [REDACTED]; E-mail clients [REDACTED]; Review appraisal photographs for exhibits; Receipt and review e-mail from Court regarding Pre-Trial Brief; Respond to same; Receipt and review response from Marchelle [REDACTED]	4.00	LW
Jan-14-22	Review and revise Motion for Summary Judgment	0.40	RPP
	Research case law and prepare Motion for Summary Judgment	1.80	LW
Jan-17-22	Review all three (3) Gavigan depositions; Outline and cite key points to be used in trial; Go thorough all 54 lawsuits to be used in cross examination; Begin outline of specific questions of Gavigan; Update chronology; Update exhibit list; Review and revise Motion to Disqualify Gavigan as Expert Witness; Review photos; Generally prepare for trial	7.00	RPP
	E-mail Ray [REDACTED] [REDACTED] Prepare and file Motion to Exclude Expert Witness; Prepare Amended Pre-Trial Brief; Update pleadings file and trial binders; Prepare Gavigan Construction Litigation Binders	3.50	LW
Jan-18-22	Complete cross-examination of Billy Gavigan; Review and revise pre-trial brief; Update exhibit list and chronology; Review and revise direct examination of Marchelle; Draft memo to Ray Gaster [REDACTED]	4.50	RPP
	Prepare Gavigan Construction and Gavigan Litigation binders; Update pleading index; Receipt and review filed Motion for Summary Judgment and Motion to Exclude; Prepare Marchelle's direct testimony; Revise Amended	4.50	LW

	Pre-Trial Brief; Prepare Voir Dire; Receipt and review Brenda Berry deposition transcript; Confirm with Ray meeting time		
Jan-19-22	Receipt and review memo from Clerk of Court to trial judge; Review and revise Voir Dire and Pre-Trial Brief; Extended meeting with Marchelle [REDACTED]; Review deposition of Ray Gaster; Update his direct examination; Make list of discussion points	5.90	RPP
	Prepare Pre-Trial Motions including Motion for Summary Judgment and Motions in Limine; Finalize Pre-Trial Brief and Voir Dire; Submit same to the Court; Receipt and review Jury Roster; E-mail [REDACTED] client; [REDACTED]	6.40	LW
Jan-20-22	Prepare for and attend trial prep meeting with Ray Gaster; Exchange e-mails with the Court as to trial on Monday, request for Motion Hearing today or tomorrow; Receipt and review negative response; Review and revise memo in support of Motion for Summary Judgment, three (3) Motions in Limine; Discuss [REDACTED] Lauren; Receipt and review client's [REDACTED] Begin work on final Exhibit list	4.20	RPP
	Discuss [REDACTED] Russell; E-mail Court requesting jury list; Revise Memo in Support of Motion for Partial Summary Judgment	5.80	LW
Jan-21-22	Work extensively to update and revise Exhibits list; Exchange e-mails with opposing counsel as to same; Review documents related to siding and costs estimates; Draft memo to Marchelle [REDACTED]; Review and revise Memo of Law in Support of Motion for Summary Judgment, update chronology, prepare for trial	6.10	RPP
	Prepare and finalize Exhibit list; E-mail same to all parties; Prepare five exhibit binders for trial; Finalize pre-trial exhibits; Research case law regarding trade names	4.00	LW
Jan-22-22	Complete cross examination of Bruce Williamson; Update Exhibits list; Review rules	5.30	RPP

	on Opening and use of exhibits; Exchange e-mails with defense counsel as to stipulated exhibits, use of documents during opening; Outline list of needed action during pre-trial conference with Judge; Repair damaged exhibits of siding, general trial prep		
	Prepare and finalize exhibit notebooks and index; Scan and locate all trial exhibits; Prepare for trial; Prepare Gavigan and Gavigan Construction litigation notebooks	7.00	LW
Jan-23-22	Prepare for trial; Outline opening statement; Prepare to argue numerous pre-trial motions	8.60	RPP
	Prepare and finalize trial exhibit notebooks	7.00	LW
	Finalize exhibit notebooks; Prepare cross examination of Brenda Berry; Outline jury instructions; Review opening statement; Prepare posters for exhibits; Prepare extensive Affidavit of Attorneys Fees; Prepare jury spreadsheet	7.00	LW
Jan-24-22	Attend first day of trial; Pull jury; Argue numerous pre-trial motions; Work on opening statement; Review outline of direct examination for first two witnesses	13.60	RPP
	Attend first day of trial; Pull jury; Argue numerous pre-trial motions; Draft jury instructions; Prepare slide show for opening statement	13.60	LW
Jan-25-22	Attend second day of trial; Work on cross examination of four (4) defense witnesses; Review Directed verdict issues	14.80	RPP
	Attend second day of trial; Outline cross examination of Brenda Berry; Prepare additional exhibits for trial	14.80	LW
Jan-26-22	Attend third day of trial; Work on cross examination of defense witness; Review legal issues raised by defense; Work on outline of closing	15.50	RPP
	Attend third day of trial; Finalize cross examination of Brenda Berry; Review attorneys fees provisions; Research evidence rules	15.50	LW

Jan-27-22	Attend the fourth day of trial; Work on jury charges, jury verdict form, closing arguments (1st and 2nd)	13.50	RPP
	Attend fourth day of trial; Review case law regarding waiver; Prepare jury charges and draft verdict form	13.50	LW
Jan-28-22	Attend final day of trial; Discuss settlement [REDACTED]	10.20	RPP
	Attend final day of trial; Research case law regarding attorneys fees and election of remedies; Discuss settlement with client after jury verdict	10.20	LW
Jan-30-22	Return to office; Unpack and organize all material used in trial; List issues to research and review as to post-trial motions; Request for attorney fees from both sides, settlement options	1.50	RPP
Jan-31-22	Receipt and review memo from Jake Moore as to settlement; Draft memo in response	0.30	RPP
	Totals	238.50	\$65,330.00

DISBURSEMENTS

Oct-17-21	Staples - Posters	31.80
Jan-14-22	Amazon - Binders	285.00
Jan-22-22	Staples - Posters	31.80
Jan-23-22	Staples - Posters	63.60
	Staples - Posters	36.00
Jan-28-22	Copying 675 @ 0.15	101.25
Jan-31-22	Inv 24497 - Deposition of Brenda H. Berry	489.25
	service of process charges Inv. #s: 131074-01, 131063-01	105.00
	Totals	\$1,143.70

Total Fee & Disbursements**\$66,473.70**

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Gaster Lumber
15010 Abercorn Expressway
Savannah, GA 31419

February 8, 2022

File #: 2037

Inv #: Sample

RE: GMK Design Build Division, Inc.

DATE	DESCRIPTION	HOURS	LAWYER
Feb-02-22	Research law [REDACTED]	1.40	RPP
Feb-03-22	continue extensive research [REDACTED] [REDACTED] review pleadings, draft outline of post-trial settlement options and outcomes	3.90	RPP
Feb-04-22	extensive telephone call with Ray [REDACTED] [REDACTED] Draft settlement response to Jake Moore, Receipt and review response from Jake Moore, draft memo in response [REDACTED], Receipt and review Defendant Motion for legal fees, Receipt and review memo to Judge Bonds law clerk, draft memo to same as to our motion to be filed on Monday, scheduling of same thereafter	1.70	RPP
Feb-07-22	research law [REDACTED] [REDACTED] draft and e-file motion for attorney fees and costs under both causes of action	3.90	RPP

Invoice #: Sample

Page 2

February 8, 2022

receipt and review email from Judge Bonds
regarding hearing; respond to same; email
client [REDACTED]

0.30

LW

Totals

11.20 \$3,345.00

Total Fee & Disbursements

\$3,345.00

ELECTRONICALLY FILED - 2022 Feb 10 12:09 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337

Inv. Date	Fees	RPP Fees	LPW Fees	Costs
10/3/2017	\$ 385.00	\$ -	\$ 385.00	\$ 185.50
11/2/2017	\$ 195.00	\$ 125.00	\$ 70.00	
12/5/2017	\$ 865.00	\$ 200.00	\$ 665.00	\$ 18.55
1/4/2018	\$ 1,855.00	\$ 525.00	\$ 1,330.00	\$ 23.50
2/2/2018	\$ 315.00	\$ -	\$ 315.00	\$ 31.74
3/5/2018	\$ 460.00	\$ 75.00	\$ 385.00	\$ 128.48
4/3/2018	\$ 52.50	\$ -	\$ 52.50	
5/2/2018	\$ 1,425.00	\$ 847.50	\$ 577.50	\$ 63.48
6/1/2018	\$ 1,186.50	\$ -	\$ 1,032.50	\$ 146.25
7/3/2018	\$ 315.00	\$ -	\$ 315.00	\$ 141.75
8/3/2018	\$ 210.00	\$ -	\$ 210.00	
9/5/2018	\$ 4,920.00	\$ 3,450.00	\$ 1,470.00	\$ 124.29
10/3/2018	\$ 4,757.50	\$ 3,025.00	\$ 1,732.50	\$ 1,913.44
11/2/2018	\$ 887.50	\$ 100.00	\$ 787.50	
12/4/2018	\$ 3,465.00	\$ 2,800.00	\$ 665.00	\$ 480.30
1/3/2019	\$ 3,100.00	\$ 2,050.00	\$ 1,050.00	\$ 955.74
2/1/2019	\$ 565.00	\$ 75.00	\$ 490.00	\$ 9.00
3/4/2019	\$ 280.00	\$ -	\$ 280.00	
4/2/2019	\$ 880.00	\$ 600.00	\$ 280.00	\$ 27.93
5/2/2019	\$ 195.00	\$ 75.00	\$ 120.00	
6/4/2019	\$ 365.00	\$ 125.00	\$ 240.00	\$ 31.74
7/2/2019	\$ 100.00	\$ 100.00	\$ -	
9/10/2019	\$ 965.00	\$ 225.00	\$ 740.00	\$ 32.50
10/3/2019	\$ 240.00	\$ -	\$ 240.00	\$ 5.32
11/5/2019	\$ 460.00	\$ -	\$ 460.00	\$ 87.49
12/3/2019	\$ 112.50	\$ -	\$ 112.50	\$ 31.74
1/3/2020	\$ 450.00	\$ -	\$ 450.00	
2/5/2020	\$ 4,522.50	\$ 2,092.50	\$ 2,430.00	\$ 394.19
3/3/2020	\$ 7,157.50	\$ 3,400.00	\$ 3,757.50	\$ 527.78
4/6/2020	\$ 225.00	\$ -	\$ 225.00	\$ 77.48
5/5/2020	\$ 67.50	\$ -	\$ 67.50	\$ 1,108.55
6/3/2020	\$ 832.50	\$ -	\$ 832.50	\$ 20.07
7/7/2020	\$ 135.00	\$ -	\$ 135.00	
8/6/2020	\$ 360.00	\$ -	\$ 360.00	
9/9/2020	\$ 1,932.50	\$ 1,550.00	\$ 382.50	\$ 296.68
10/6/2020	\$ 1,527.50	\$ 1,212.50	\$ 315.00	
11/5/2020	\$ 2,352.50	\$ 1,700.00	\$ 652.50	\$ 530.88
12/4/2020	\$ 2,480.00	\$ 2,300.00	\$ 180.00	\$ 764.15
1/6/2021	\$ 157.50	\$ 157.50	\$ -	\$ 16.97
2/2/2021	\$ 1,225.00	\$ 1,225.00	\$ -	
4/5/2021	\$ 75.00	\$ 75.00	\$ -	\$ 505.35
7/2/2021		\$ -	\$ -	\$ 31.74
8/4/2021	\$ 372.50	\$ 125.00	\$ 247.50	
10/5/2021	\$ 1,685.00	\$ 515.00	\$ 1,170.00	
11/11/2021	\$ 19,300.00	\$ 9,750.00	\$ 9,550.00	\$ 120.00
12/6/2021	\$ 540.00	\$ 390.00	\$ 150.00	
1/14/2022	\$ 630.00	\$ 180.00	\$ 450.00	
2/3/2022	\$ 65,330.00	\$ 34,230.00	\$ 31,100.00	\$ 1,143.70
2/8/2022	\$ 3,345.00	\$ 3,270.00	\$ 75.00	
TOTAL	\$ 143,259.00	\$ 76,570.00	\$ 66,535.00	\$ 9,976.28

Total Hours	578.5
Total RPP Hours	283.5
Total LPW Hours	295
Total Fees	\$ 143,259.00
Total RPP Fees	\$ 76,570.00
Total LPW Fees	\$ 66,535.00
Total Costs	\$ 9,976.28
Total Trial Costs	\$ 65,330.00

EXHIBIT B

000191

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2017-CP-07-2337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
PLAINTIFF,	)	
	)	
Vs.	)	PLAINTIFF'S MEMORANDUM OF
	)	LAW IN SUPPORT OF ITS POST-
GMK Associates Design Build Division, Inc.;	)	TRIAL MOTION FOR ATTORNEY'S
Travelers Casualty and Surety Company of	)	FEES AND COSTS
America; Frank Golson,	)	
	)	
DEFENDANTS.	)	
_____	)	

Plaintiff, South Atlantic Forest Products, Inc., d/b/a Gaster Lumber & Hardware (“Gaster”) respectfully submits this Memorandum in support of its February 7, 2022, Post-Trial Motion for Attorney's Fees and Costs (“Motion”).

I. Gaster Is Entitled to An Award of Attorney's Fees and Costs Under Its First Cause of Action – Breach Of Contract.

1. *Gaster is Entitled to Recover Its Reasonable Attorney's Fees and Costs Pursuant to its Contract with GMK.*

The long-standing “general rule in South Carolina is that attorney fees are not recoverable unless they are authorized by contract or by statute.” *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 493, 427 S.E.2d 659, 660 (1993). In this matter, three (3) separate documents explicitly entitle Gaster to attorney fees against the Defendant GMK Associates Design Build Division, Inc. (“GMK”).

The Commercial Business Account Application, on Page 2, first paragraph, expressly provides that GMK “agrees to be liable for all indebtedness plus interest and reasonable attorney fees should any litigation be incurred for nonpayment of the account.” (Tr. Ex. 1 – “Account Agreement”).

Second, the numerous Delivery Tickets, all signed by GMK's on-site representative, Bruce Williamson, also provide for the recovery of reasonable attorney fees. (Tr. Exs. 49, 51, 55, 56, 78, and 94). Each Delivery Ticket states: "The purchaser agrees to pay any reasonable attorney fees in the event of default of payment of this invoice."

Finally, each invoice sent by Gaster to GMK, including all past due invoices making up the outstanding balance of \$24,885.24 awarded by the jury, expressly provide for the recovery of attorney fees. (*See e.g.* Tr. Ex. 18). These invoices state: "The Purchaser agrees to pay all reasonable attorney fees in the event of default of payment of this invoice."

Accordingly, based on the jury's finding of a breach of the contract between Gaster and GMK, and damages resulting from GMK's breach, Gaster is entitled to an award of its reasonable attorney's fees and costs incurred in this litigation.

2. Calculation of Gaster's Reasonable Attorney's Fees and Costs.

Where, as here, the agreements between the parties do not specify a rate or amount for reasonable attorney fees, it is left to the discretion of the trial judge to make a determination of the appropriate amount of attorney's fees awarded. *Dedes v. Strickland*, 307 S.C. 155, 160, 414 S.E.2d 134, 137 (1992).

As cited by the Court in *Dedes*, the following six (6) factors are to be considered by the Court in determining reasonable attorney fees:

1. The nature, extent and difficulty of the legal services rendered;
2. The time and labor necessarily devoted to the case;
3. The professional standing of counsel;
4. The contingency of compensation;
5. The fee customarily charged in the locality for similar legal services; and

6. The beneficial results obtained.

Id. Each of these six factors is discussed in detail below. Not one of these factors is controlling, but instead the Court should give consideration to all six criteria in establishing reasonable attorney's fees. *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 384, 377 S.E.2d 296, 297 (1989).

1. The Nature, Extent, And Difficulty Of The Legal Services Rendered.

The actions of GMK in asserting various counterclaims turned a fairly routine collection action for around \$25,000 into complex litigation involving thousands of pages of documents, well over one hundred exhibits at trial, and the introduction of many complex, disputed factual and legal issues raised by GMK throughout the litigation. *Id.* (the trial court as part of its award of reasonable attorney's fees determined that the plaintiff's counsel had to expend considerably more time and effort on the case because the defendants had transformed a simple collection action into complex litigation). Gaster completed the extensive deposition of GMK's purported expert, Billy Gavigan, in three specific designated areas: design, ordering materials, supplying materials and construction. Gaster also completed the depositions of Tripp Berry, Bruce Williamson, and Brenda Berry. GMK deposed Ray Gaster and Marchelle Youmans. Gaster also subpoenaed records, used at trial, from Mr. Berry's construction lender, South State Bank, on three occasions, and Mr. Berry's neighborhood, the Islands of Beaufort Property Owners Association. Gaster also subpoenaed records from GMK's second purported expert in structural engineering, Lou Pontigo, who was not named as a witness in trial. Finally, due to GMK's repeated non-responsiveness and non-compliance with routine discovery responses, including GMK's non-compliance with a consent order, Gaster was also forced to obtain an Order holding the Defendants in Contempt of Court on May 31, 2018.

As the Court is aware, the trial of the case took a full five (5) days. Throughout the trial, Gaster's counsel successfully dealt with a slew of motions, issues, and claims that were never raised in the four years this case has been pending, including but not limited to the following:

1. Claim that the interest rate agreed to by parties was an unenforceable penalty.
2. That Gaster intentionally lowballed its quotes and then improperly increased same, costing GMK over \$100,000.
3. Pursuant to "new" testimony at trial of four (4) witnesses (Mr. Berry, Mrs. Berry, Billy Gavigan, Bruce Williamson), evidence was introduced by GMK that Mr. Berry raised issues and concerns prior to the time the mechanic's lien was filed as to the siding width, siding texture, LVL roof beams, and sliding glass doors.
4. Pursuant to "new" testimony at trial of these same four (4) witnesses, evidence was introduced at trial by GMK that Scott Warren, on behalf of Gaster, not only admitted Gaster shipped the wrong siding, LVL roof beams and sliding glass doors, but that Gaster "would make it good."
5. A request to elect remedies between Gaster's two causes of action.
6. Numerous other motions, claims, and defenses.

Accordingly, Gaster's counsel was required to expend a considerable amount of effort on this case due to the nature of the GMK's various counterclaims and the issues raised at trial.

2. The Time And Labor Necessarily Devoted To The Case.

Pursuant to Plaintiff's Affidavit of Attorney Fees, submitted in support of the Motion, the total number of hours expended by Plaintiff's counsel was 578.50 hours through February 7, 2022, with an estimated 10 hours spent preparing for and arguing the pending Motions for Attorney's Fees. (Affidavit, § 4). Of these 578.50 hours, Russell P. Patterson ("Patterson") worked 283.50

hours and Lauren P. Williams ("Williams") worked 295 hours. (Affidavit, Ex. B). The total fees collectively charged through February 7, 2022, are \$143,259.00 (Patterson charged between \$250 and \$300 per hour and Williams charged from \$175 to \$250 per hour throughout the four years of this litigation). (Affidavit, § 4). The total costs expended of \$9,976.26 are set forth in detail in the legal statements attached as Exhibit A and B to Plaintiff's Affidavit. These costs were in relation to the six (6) depositions taken by the parties, litigation filing fees, recording fees, service and subpoena fees, copying charges, litigation and trial supplies, etc.

As this Court is aware, the actual trial itself took an entire week, with each of Gaster's counsel working thirteen (13) to fifteen (15) hours per day. The attorney's fees and costs just for the trial were approximately \$66,473.70 (\$65,330.00 + \$1,143.70). (Affidavit § 4).

3. The Professional Standing Of Counsel.

Gaster's counsel, Patterson, has practiced law in the Lowcountry for over forty (40) years, primarily handling business litigation in all courts, as well as real estate closings, and other legal services. Williams, after law clerking for Judge G. Thomas Cooper, has practiced law for 6.5 years, working on the same types of cases as her co-counsel. Thus, Gaster's counsel are experienced and skilled attorneys with high professional standing in the community.

4. The Contingency Of Compensation.

As Gaster's counsel undertook this work on an hourly basis, this factor is not applicable.

5. The Fee Customarily Charged In The Locality For Similar Legal Services.

Gaster's counsel is informed and believes their current respective hourly rates (\$300 – Patterson and \$250 – Williams) are well within the reasonable range of counsel with similar experience. It should be noted that all of the invoices in this matter have been timely paid by Gaster.

Plaintiff's counsel is aware that many attorneys in the Beaufort County area, with the same or less experience in litigation matters, are charging substantially more for similar service (ex. \$400 to \$450+ an hour for a Partner; \$275 to \$325 for an Associate).

6. The Beneficial Results Obtained.

Despite defense counsel's declaration after the verdict that he was extremely happy with the verdict, Gaster clearly prevailed in this action. It was awarded 100% of the claimed principal amount for both the Breach of Contract and Mechanic's Lien causes of action of \$24,885.24, and successfully defended GMK's Counterclaims seeking \$90,000+. The only issue Gaster did not prevail on was its request of pre-judgment interest.

Upon consideration of the six (6) *Dedes* factors, it is Gaster's position an amount of attorney's fees and costs of \$156,235.28, the actual fees and costs incurred, is reasonable. Furthermore, South Carolina courts have routinely held that there is no requirement that an attorney's fee be less than or comparable to a party's monetary judgment. *Baron Data Sys., Inc.* at 385, 377 S.E.2d at 297-98; *see also Taylor v. Medenica*, 133 S.C. 575, 582, S.E.2d 458 (1998); *Rice v. Multimedia Inc.*, 318 S.C. 95, 101, 456 S.E.2d 381, 385 (1995); *Laser Supply & Servs., Inc. v. Orchard Park Assocs.*, 382 S.C. 326, 341 & 343, 676 S.E.2d 139, 147-48 (Ct. App. 2009). Our appellate courts have routinely approved awards of attorney's fees where the fee substantially exceeded the actual recovery. *Id.*

II. Gaster is Entitled to Attorney's Fees Under the Mechanic's Lien Statute, § 29-5-20(A).

The determination of the attorney's fees under the mechanic's lien cause of action is straightforward. The amount of attorney's fees and costs awarded to the prevailing party is limited to the amount of the lien pursuant to S.C. Code Ann § 29-5-20(A). In this case, the amount of the lien was \$24,885.25. (Tr. Ex. 2)

The determination of the prevailing party under the mechanic's lien statute is based on which party's settlement offer, filed with the court per the terms of S.C. Code Ann. §29-5-20(C), is closest to the final verdict. If there are no formal statutory settlement offers, as is the case in this matter, the plaintiff's final offer of settlement is equal to the amount prayed for in the Complaint and the defendant's negative final offer of settlement is equal to the value of its Counterclaim. *Id.*

This process was applied by the Court in *Zepso Construction v. Randazzo*, 357 S.C. 32, 40-42, 591 S.E.2d 29, 33-34 (Ct. App. 2004) to determine that the contractor was the prevailing party and entitled to an award of attorney's fees. In *Zepso*, the contractor who filed the lien made a statutory settlement offer of \$40,000. *Id.* at 41, 591 S.E.2d at 33. The owner made no statutory offer but asserted counterclaims valued at \$88,000. *Id.* at 42, 591 S.E.2d at 33. The master in equity ruled in favor of the contractor in the amount of \$10,864. *Id.* at 42, 591 S.E.2d at 34. Thus, the final verdict was closer to contractor's offer of \$40,000 than owner's offer of -\$80,000, and the contractor was deemed the prevailing party and awarded attorney's fees. *Id.*

Here, neither party submitted a statutory offer of settlement. Thus, the settlement offer for Gaster is equal to the amount prayed for in the Complaint, \$24,885.42¹ and GMK's settlement offer is the negative value of its Counterclaim, -\$90,000. Since the jury returned a verdict in favor of Gaster for \$24,885.42, Gaster is clearly the prevailing party under § 29-5-20(C).

As discussed above, the actual attorney's fees and costs incurred by Gaster substantially exceed the statutory limit for recovery of attorney's fees under the § 29-5-20(A) of \$24,885.42. Thus, Gaster is entitled to an award of attorney's fees in the amount of \$24,885.42 in addition to

¹ Prejudgment Interest is not included as part of the amount sought by the Plaintiff in this action. *Muzingo & Wallace Architects, LLP v. Grand*, 379 S.C. 478, 666 S.E.2d 267 (2009) (Lienor cannot include prejudgment interest at agreed 18% when determining amount of attorney's fees capped at amount of lien.)

the reasonable attorney's fees awarded in its breach of contract claim not to exceed Gaster's total fees of \$156,235.28.

III. Conclusion.

For all of the reasons outlined above, Gaster is entitled to an award of attorney's fees and costs of \$156,235.28 under its breach of contract claim. Furthermore, under its mechanic's lien cause of action, Gaster is the prevailing party and entitled to an award of attorney's fees and costs of \$24,885.25.²

Respectfully submitted,
RUSSELL P. PATTERSON, P.A.

/s/ Lauren P. Williams
Russell P. Patterson
Lauren P. Williams
P.O. Box 8047
Hilton Head Island, SC 29938
(843) 341-9300
russell@russellpattersonlaw.com
lauren@russellpattersonlaw.com
Attorneys for the Plaintiff

Hilton Head Island, South Carolina
February 10, 2022

² It should be noted that Gaster is not seeking a double recovery of attorney's fees and costs between its two causes of action. Instead, it anticipates the court will take into account the total attorney's fees and costs incurred when making its ruling. Gaster should not be awarded attorney's fees and costs in excess of \$156,235.58.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS

South Atlantic Forest Products, Inc., d/b/a,)
 Gaster Lumber & Hardware,)

C.A. No.: 2017-CP-07-02337

Plaintiff,)

vs.)

AFFIDAVIT OF S. JAHUE MOORE

GMK Associates Design Build Division,)
 Inc., Travelers Casualty and Surety)
 Company of America; Frank Golson,)

Defendants.)

PERSONALLY appeared before me S. Jahue Moore who, upon first being duly sworn, states as follows:

I submit this bill in support of Defendants GMK Associates Design Build Division, Inc.; Travelers Casualty and Surety Company of America; and Frank Golson's request for attorney's fees. I have practiced law since 1976. I am a member of the American Broad of Trial Advocates. I have an AV rating with Martindale-Hubbell. I have tried hundreds of cases in the state and federal courts of this state.

I believe this bill to be an adequate reflection of the time spent on this case.

These hours were spent on behalf of GMK Associates Design Build Division, Inc.; Travelers Casualty and Surety Company of America; and Frank Golson.

Travelers and Mr. Golson totally prevailed and GMK prevailed also.

FURTHER, Affiant sayeth not.

SWORN to before me this 10th
 day of February, 2022.

Diane M. L. Conley (SEAL)
 Notary Public for South Carolina
 My Commission Expires: 3-29-28

S. Jahue Moore



P.O. Box 5709
West Columbia, SC 29171
Tax I.D. Number: 57-0808395
Ph:(803) 796-9160 Fax:(803) 791-8410

February 9, 2022

File Number: 125742-0002
Billed through: 02/09/2022

GMK Associates Design Build Division, Inc.
Beaufort, South Carolina

RE: South Atlantic Forest Products, Inc., et al v. GMK Associates Design Build Division, Inc., et al
C.A. No.: 2017-CP-07-02337

STATEMENT

November 2017:

11/22/17	Initial meeting with client; preparation of Answer and Counterclaim; Discovery requests	1.5

December 2017:

12/5/17	Preparation of Answer for Travelers Ins.	0.3

January 2018:

1/6/18	Review of Plaintiff's discovery responses	0.3

1/12/18	Letter to client regarding Plaintiff's discovery responses	0.2

1/22/18	Preparation of Substitution of Counsel for Travelers; Telephone conversation with Carl Hiller	0.5

February 2018:

2/26/18	Letter to Judge Buckner requesting continuance of hearing	0.2

May 2018:

5/7/18	Preparation of Defendants' discovery responses	1.0

August 2018:

8/13/10	Review of Scheduling Order	0.2

September 2018:

9/6/18	Review of Plaintiff's 2 nd supplemental responses	0.3

9/7/18	Review of Plaintiff's 3 rd supplemental responses	0.3

9/9/19	Review of Plaintiff's 4 th supplemental responses	0.3

9/10/18	Travel/Attend deposition of Percy (Tripp) Berry in Beaufort	8.0

November 2018:

11/29/18	Travel/Attend deposition of William Gavigan in Beaufort	6.0

December 2018:

12/6/18	Travel/Attend mediation in Beaufort	8.0

12/10/18	Letter regarding intent to use William Gavigan as expert witness	0.2

12/17/18	Review of Plaintiff's motion to exclude	0.2

February 2019:

2/28/19	Review of subpoenaed documents from South State Bank	0.3

March 2019:

3/13/2019	Drafting order denying motion to exclude	0.5

April 2019:

4/18/19	Letter to client regarding standby for trial	0.2

May 2019:

5/2/19	Review consent order for continuance	0.2

July 2019:

7/26/19	Review order denying motion to exclude	0.2

December 2019:

12/6/19	Preparation of Defendants' responses to discovery	1.0

January 2020:

1/8/20	Review of subpoenaed documents from South State Bank	0.3

1/27/20	Review of subpoenaed documents from Islands of Beaufort HOA	0.3

1/28/20	Review of consent order for continuance	0.1

1/30/20	Letter to William Gavigan regarding subpoenaed documents at deposition	0.2

1/30/20	Attend deposition of William Gavigan	1.0

February 2020:

2/10/20	Letter to Lauren Williams	0.1

2/13/20	E-mail to William Gavigan	0.2

2/17/20	Review of documents from William Gavigan	0.3

2/18/20	E-mail to William Gavigan	0.1

2/19/20	E-mail to Russell Patterson regarding initial review from William Gavigan	0.3

2/19/20	E-mail to Lauren Williams regarding confidentiality agreement	0.3

2/21/20	Attend deposition of William Gavigan	3.5

2/26/20	Preparation of motion/order for continuance	0.3

March 2020:

3/5/20	Preparation of deposition notice of Ray Gaster; Letter to client to attend deposition	0.3

3/10/20	Review of scheduling order	0.2

3/16/20	Review of Plaintiff's motion for protective order	0.2

May 2020:

5/18/20	Review of Plaintiff's memo in support of motion for protective order	0.3

June 2020:

6/2/20	Preparation of amended deposition notice of Ray Gaster; Letter to client to attend deposition	0.3

July 2020:

7/29/20	Preparation of amended deposition notice of Ray Gaster; Letter to client to attend deposition	0.3

August 2020:

8/14/20	Taking deposition of Ray Gaster	2.0

8/20/20	Preparation of deposition notice of MarChelle Yeomans; Letter to client to attend deposition	0.3

September 2020:

9/17/20	E-mails regarding canceling deposition of MarChelle Yeomans; Received/review of produced documents from Ray Gaster	0.5

9/18/20	Preparation of amended deposition notice of MarChelle Yeomans; Letter to client to attend deposition	0.3

October 2020:

10/9/20	Taking deposition of MarChelle Yeomans	1.0

10/29/20	E-mails coordinating deposition of Bruce Williamson	0.2

November 2020:

11/2/20	Review of additional produced documents of Ray Gaster	0.3

11/30/20	Letter to client	0.2

11/18/20	Attend deposition of Bruce Williamson	2.5

January 2021:

1/26/21	Received deposition notice of Bruce Williamson; Letter to client to attend deposition	0.2

1/29/21	Attend deposition of Bruce Williamson	1.5

June 2021:

6/14/21	E-mail from Tripp Berry regarding Travelers	0.2

6/28/21	Letter to adjustor for Travelers regarding case update	0.3

July 2021:

7/12/20	Review of consent scheduling order	0.2

7/13/21	Review of fact summary from client	0.4

October 2021:

10/5/21	E-mails from adjustor for Travelers	0.3

10/7/21	Preparation of four (4) subpoenas for trial	0.3

10/8/21	Preparation of cross-examination of Ray Gaster; Review Plaintiff's pre-trial brief	2.5

10/11/21	Preparation of cross-examination of MarChelle Yeomans; Preparation of Defendants' pre-trial brief	3.0

10/12/21	E-mail to adjustor for Travelers	0.2

10/13/21	E-mail from client regarding structural engineer	0.1

10/18/21	Preparation of Defendants' supplemental responses	0.4

10/21/21	Review of e-mailed Plaintiff's settlement offer	0.3

November 2021:

11/11/21	E-mailed response to Plaintiff's settlement offer	0.2

December 2021:

12/17/21	Received deposition notice of Brenda Berry	0.2

12/21/21	Letter to client to attend deposition of Brenda Berry	0.2

12/29/21	Letter to client standby for trial	0.2

January 2022:

1/5/22	E-mail from adjustor for Travelers	0.1

1/10/22	Review letter from Lauren Williams to Lubkin Appraisal	0.2

1/12/22	Letter to Lauren Williams	0.2

1/13/22	Review of subpoenaed documents from Lubkin Appraisal	0.5
1/13/22	Attend deposition of Brenda Berry	2.0
1/17/22	Review of Plaintiff's motion to exclude expert witness	0.2
1/18/22	Preparation of six (6) trial subpoenas	0.4
1/19/22	Review of Plaintiff's motion for partial summary judgment; Proposed voir dire; amended pre-trial brief; motion to exclude expert witness; E-mails regarding estimated length of trial	0.4
1/19/22	Preparation of Defendants' amended pre-trial brief and witness list	1.0
1/20/22	Meeting with clients / prepare for trial	1.0
1/20/22	E-mails submitting Defendants' amended pre-trial brief to Judge; E-mail to Court as to start time of trial; e-mailed jury list from Court	0.5
1/20/22	Preparation of Defendants' motion for summary judgment	0.3
1/21/22 – 1/23/22	Preparation for trial	40.0
1/21/22	Review of Plaintiff's stipulation as to admissibility of exhibits at trial; Review of stipulated exhibits	0.4
1/23/22	Review of Plaintiff's motion to sequester; motions in limine; Memo in opposition to Defendants' motion for summary judgment; Memo in support of Plaintiff's motion for partial summary judgment	0.5
1/24/22 – 1/27/22	Trial in Beaufort	60.0
1/25/22	Preparation of jury charges	0.5

February 2022:

2/4/22	Preparation of motion for attorney's fees	0.3
2/7/22	E-mail to adjustor for Travelers	0.2

TOTAL BILLABLE HOURS: **165.2**

PROFESSIONAL SERVICES RENDERED:

165.2 Hours at \$350.00 Per Hour **\$ 57,820.00**

BALANCE DUE: **\$ 57,820.00**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CASE NO.: 2017-CP-07-02337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	MOTION TO RECONSIDER AND
	)	REVISE THE ORDER AWARDING
	)	ATTORNEYS FEES
GMK Associates Design Build Division,	)	
Inc., Travelers Casualty and Surety	)	
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
	)	

NOW COMES Plaintiff South Atlantic Forest Products, Inc., d/b/a Gaster Lumber & Hardware ("Gaster"), by and through the undersigned counsel, and hereby submits this Motion to Reconsider and Revise the Court's Order Awarding Attorneys Fees, dated March 10, 2022 ("Order"), pursuant to Rule 59(e), SCRCF. For the reasons set forth below, Gaster respectfully requests this Court reconsider the Order awarding Gaster no attorney's fees under its breach of contract claim and awarding Frank Golson \$7,000.00 in attorney's fees.

STANDARD OF REVIEW

The long-standing "general rule in South Carolina is that attorney's fees are not recoverable unless they are authorized by contract or by statute." *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 493, 427 S.E.2d 659, 660 (1993). There are six factors the court should consider in determining an award of attorney's fees: 1) nature, extent, and difficulty of the legal services rendered; 2) time and labor devoted to the case; 3) professional standing of counsel; 4) contingency of compensation; 5) fee customarily charged in the locality for similar services; and 6) beneficial results obtained. *Dedes v. Strickland*, 307 S.C. 155, 160, 414 S.E.2d 134, 137 (1992). When an award of attorney's

fees is requested and authorized by contract or statute, the court must make specific findings of fact on the record for each of the six factors. *Blumberg* at 494, 427 S.E.2d at 661.

LEGAL ARGUMENT

I. The Court Should Reconsider its Order Awarding Gaster No Attorney's Fees Under its Breach of Contract Cause of Action Because This Award is Legally and Factually Incorrect.

In its Order, the Court awarded no attorney's fees under Gaster's breach of contract claim. This was an error. The Order repeatedly emphasizes the fact that the verdict issued by the jury was for only \$24,855.25. However, the amount in controversy in the litigation was actually \$284,670.17, broken down as follows:

1) Gaster's Claimed Damages (Tr. Ex. 102)	\$47,670.17
a) Outstanding Invoices	\$24,885.24
b) Interest	\$22,784.93
2) Defendants' Claimed Damages Per Amended Pre-Trial Brief	<u>\$237,000.00</u>
Total Amount In Controversy	\$284,670.17

Ultimately, the verdict was completely in favor of Gaster, awarding Gaster the money it was owed, without interest, and denying all of Defendants' counterclaims. It is undisputed that the vast majority of Gaster's legal expenses are directly related to Defendants' failed counterclaims.

A. Gaster is Entitled to Recover Its Reasonable Attorney's Fees and Costs Pursuant to Its Contract With GMK Associates Design Build Division, Inc..

In this matter, three (3) separate documents explicitly entitle Gaster to attorney's fees against the Defendant GMK Associates Design Build Division, Inc. ("GMK") under its breach of contract cause of action. While Gaster was clearly the prevailing party in this litigation, none of the three (3) documents permitting Gaster to recover attorney's fees state that recovery is contingent upon being the prevailing party. First, the Commercial Business Account Application, on Page 2, first paragraph, expressly provides that GMK "agrees to be liable for all indebtedness

plus interest and reasonable attorney fees should any litigation be incurred for nonpayment of the account.” (Tr. Ex. 1 – “Account Agreement”). Second, the numerous Delivery Tickets, all signed by GMK’s on-site representative, Bruce Williamson, also provide for the recovery of reasonable attorney fees, stating “The purchaser agrees to pay any reasonable attorney fees in the event of default of payment of this invoice.” (Tr. Exs. 49, 51, 55, 56, 78, and 94). Finally, each invoice sent by Gaster to GMK, including all past due invoices making up the outstanding balance of \$24,885.24 awarded by the jury, expressly provides for the recovery of attorney fees, stating “The Purchaser agrees to pay all reasonable attorney fees in the event of default of payment of this invoice.” (See e.g. Tr. Ex. 18). Accordingly, Gaster is entitled to an award of its reasonable attorney's fees and costs incurred in this litigation.

B. Calculation of Gaster's Reasonable Attorney's Fees and Costs.

In the Order, the Court walks through each of the six factors outlined in *Dedes* and made specific findings of fact for each factor when determining the reasonableness of an award of attorney's fees. *Blumberg* at 494, 427 S.E.2d at 661. The Court's analysis recognized that while Gaster's initial causes of action, mechanic's lien foreclosure and breach of contract, are fairly routine, the litigation became more difficult and complex due to the assertion of Defendants' counterclaims. The Court also recognized that each party spent extensive time on this matter. Additionally, the Court acknowledged the professional standing of counsel and the reasonableness of all parties' fees. Finally, the Court acknowledged that Gaster did receive a beneficial result in this litigation. Despite these findings, the Court awarded no attorney's fees under Gaster's breach of contract claim ostensibly due to the Court's *sua sponte* conclusion that the attorneys were to blame for the excessive cost of this litigation. This reasoning is factually and legally incorrect for four main reasons.

First, the Court mistakenly concludes that the time spent on the case by both parties far exceeds the value of each parties' damages. As stated above, the total amount in controversy in this litigation is approximately \$284,670.17. Plaintiff's attorney's fees totaled \$156,235 and Defendants' attorney's fees totaled \$57,820, ignoring the admitted errors throughout the account statement, for a total of \$214,055. Thus, the parties' total attorney's fees are in line with the total amount in controversy in this litigation. South Carolina courts have routinely held that there is no requirement that an attorney's fee be less than or comparable to a party's monetary judgment. *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 385, 377 S.E.2d 296, 297-98 (1989)(holding an award of \$26,000 in attorney's fees was reasonable compared to an award of \$16,151); *see also Taylor v. Medenica*, 331 S.C. 575, 582, 503 S.E.2d 458, 462 (1998) (there is no requirement that an attorney's fee be less than or comparable to a party's monetary judgment); *Rice v. Multimedia Inc.*, 318 S.C. 95, 101, 456 S.E.2d 381, 385 (1995) (it was not an abuse of discretion to award attorney's fees in excess of the verdict); *Laser Supply & Servs., Inc. v. Orchard Park Assocs.*, 382 S.C. 326, 341 & 343, 676 S.E.2d 139, 147-48 (Ct. App. 2009)(disparity of \$87,000 attorney fee award with \$24,000 damages award did not demonstrate abuse of discretion).

Our appellate courts have routinely approved awards of attorney's fees where the fee substantially exceeded the actual recovery. *Id.* Additionally, our appellate courts have stated that a party should not be penalized or criticized for hiring more than one attorney, provided their work is not duplicated and the complexity of the case demands it. *Mallett v. Mallett*, 323 S.C. 141, 154, 473 S.E.2d 804, 812 (Ct. App. 1996). No such duplication of services is found throughout Plaintiff's counsel very detailed legal statements.

Second, the Court repeatedly asserted there was a "breakdown of communication between the attorneys" leading to unreasonable attorney's fees and costs being incurred. This finding is

without basis and contrary to the actual record and procedure of this case. As shown in Exhibit A to Plaintiff's Affidavit of Attorney's Fees, Plaintiff's counsel sent numerous emails and letters and participated in multiple phone calls with defense counsel throughout this litigation. Furthermore, Plaintiff initiated numerous settlement offers, including offers made prior to filing litigation and throughout the over four (4) years of litigation. At no time was there a breakdown of communication between the attorneys or any settlement offers made that were not responded to by either party. There simply is no evidentiary support for this finding as such a breakdown never occurred.

The Court's finding that the "attorneys themselves made this case more complicated than it had to be" is also not supported by the record. Gaster's witnesses and cross-examination focused entirely on its fairly direct and simple breach of contract and mechanic's lien causes of action and the various large and ever-changing counterclaims asserted by Defendants. Plaintiff's counsel pre-marked and negotiated a stipulation as to the blanket admissibility of virtually all of the numerous exhibits for judicial expediency during trial. Also, all of the witnesses Plaintiff's counsel deposed in discovery appeared at trial. There is simply nothing in the record that any action by Gaster or its counsel made the case more complicated than necessary.

Finally, the Order states that the attorneys allowed this case to "spiral out of control." Similar to the reasoning outlined above, there is no evidence in the record to support this finding. All discovery and depositions taken in this litigation were of witnesses who testified at trial. There were relatively few motions filed throughout the over four (4) years of litigation. As stated above, the amount in controversy was over \$284,000. GMK exercised its legal right to request a jury trial. This request significantly contributed to the length and costs of this litigation.

Thus, the Court's conclusion that the attorneys were to blame for the "excessive cost" of this litigation is factually and legally incorrect. Accordingly, the Court should reconsider its finding that Gaster was not entitled to an award of attorney's fees under its breach of contract claim and revise its ruling to reflect a reasonable award of attorney's fees incurred by Gaster of \$156,235, less the \$24,885.25 awarded under its mechanic's lien cause of action, for a total award of \$131,349.75.

II. The Court Should Reconsider its Order Awarding Frank Golson \$7,000.00 in Attorney's Fees Because the Award Is Not Supported By the Record.

In its Order, the Court awarded Frank Golson ("Golson") \$7,000 in attorney's fees and costs. It is presumed that this award is based solely on the finding that Golson was a prevailing party under the mechanic's lien statute, S.C. Code Ann. §29-5-20(A). However, it is Gaster's position that Golson is not a prevailing party under §29-5-20(A) because no relief under the mechanic's lien statute was ever requested from Golson by Gaster. Furthermore, this award is not supported by any specific findings of fact for any of the six factors, or any evidence presented by defense counsel as to same. An analysis of these factors does not support such an award.

A. Golson Was Not a Prevailing Party Under the Mechanic's Lien Statute, §29-5-20(A).

As outlined in Gaster's Memorandum of Law in Opposition to Defendants' Motion for Attorney's Fees, dated February 10, 2022, Golson was named in the litigation based solely on his role as a personal guarantor to the underlying contract. In fact, the only reference to Golson as a party responsible for monetary damages under the Second Cause of Action was in fact appropriate and wholly separate from the mechanic's lien statutes. There are only two (2) references to Golson in the Second Cause of Action in the Complaint, as follows:

18. Plaintiff is entitled to a determination of the monies due under its Mechanic's Lien and the payment of same under the Bond. **If the Bond**

amount is not sufficient, Plaintiff is entitled to a judgment against Defendants GMK and Golson. (Emphasis added)

(Tr. Ex. 104). The second reference to Golson is in the prayer in the Complaint, where the following relief was requested

2. Second Cause of Action

- (a) Enter judgment foreclosing the mechanic's lien against the Bond in the principal amount of \$24,885.24, plus interest at 1.75% per month and attorney's fees and costs; and
- (b) **If said Bond is not sufficient to pay said judgment, enter judgment against Defendants GMK Associates Design Build Division, Inc. and Frank Golson.** (Emphasis added).

(Tr. Ex. 104).

Thus, no relief directly associated with the foreclosure of the mechanic's lien cause of action was ever asserted against Golson. The only allegations which reference Golson accurately stated that if the mechanic's lien action was successful and the Bond amount was not sufficient to pay the full judgment amount, Golson may be personally liable under his personal guarantee in the Account Agreement. (Tr. Ex. 1). Because no monies or claims were ever sought directly against Golson as a party to the mechanic's lien foreclosure, he cannot be a "prevailing party" under § 29-5-20(A) and is not entitled to an award of attorney's fees.

B. Alternatively, Golson's Award Was Not Supported By Any Evidence Presented.

Golson's award of \$7,000.00 is not supported by any evidence in the record, any factual findings in the Order, or under the *Dedes* factors. The only factual basis provided in the Order for the award to Golson is factually incorrect. The Order states that Golson was only named in the litigation as it related to Gaster's mechanic's lien cause of action. However, Golson was named as a party to the litigation based upon his role as the personal guarantor of the underlying contract and was named as a party to both Gaster's breach of contract cause of action and its mechanic's

lien cause of action. As discussed above, no actual monies or claims were even sought directly against Golson as a party to the mechanic's lien foreclosure. Instead, Gaster's main claim against Golson was based upon his role as a personal guarantor of the contract under Gaster's first cause of action. Thus, it would seem to reason that the majority the legal services rendered on behalf of Golson, if any, would be associated solely with the breach of contract claims asserted against Golson.

Pursuant to South Carolina law, the court must consider the six factors outlined in *Dedes* and make specific findings of fact for each factor when determining the reasonableness of an award of attorney's fees. *Blumberg* at 494, 427 S.E.2d at 661. Furthermore, the South Carolina Supreme Court held in *Williamson v. Middleton*, 383 S.C. 490, 495, 681 S.E.2d 867, 870 (2009), that where there is no evidence that attorney's fees and costs were actually incurred by a party, there cannot be an award for fees and costs assessed against another party. In *Williamson*, the defendant was the prevailing party in a contract dispute and was statutorily entitled to an award of reasonable attorney's fees and costs. *Id.* However, upon a review of record, the Court found that there was no competent evidence that defendant actually incurred attorneys' fees and costs based on the testimony of defense counsel that there was no fee agreement, no invoices sent to defendant, and no fees charged or collected throughout the litigation. *Id.* The Court found there was no competent evidence despite defense counsel's testimony that someday defendant may pay a fee based on a moral obligation. *Id.* at 496, 681 S.E.2d at 870. The *Williamson* decision is directly on point as to any attorneys' fees due Golson.

The Order lacks any findings of fact relating to any of the six factors as it pertains to the Golson award as required by *Blumberg*. *Id.* ("On appeal, absent sufficient evidentiary support on the record for each factor, the award should be reversed, and the issue remanded for the trial court

to make specific findings of fact.). Additionally, there has been no evidence presented by defense counsel to support an award of \$7,000.00 to Golson. Similar to the facts in *Williamson*, at the hearing, defense counsel stated that no invoice had ever been sent to Golson or any party in this litigation. The account statement or "billing" attached to his affidavit was prepared solely for the February 11, 2022 hearing and was not actually a real bill, or paid by any party. The account statement did not include any time entries on behalf of Golson. No payment has been made by Golson at any time throughout this litigation. Additionally, defense counsel stated that he would talk to Mr. Tripp Berry at some point in the future to resolve the legal bill. Defense counsel stated that he had only received around \$3,000 from Mr. Berry since the litigation started. At no point was there any reference to an obligation from Golson to pay any legal fees or costs. Accordingly, there is no competent evidence to support an award of \$7,000 to Golson. *Williamson* at 495, 681 S.E.2d at 870; *S.C. Dep't of Soc. Servs. v. Mary C.*, 396 S.C. 15, 29, 720 S.E.2d 503, 510 (Ct. App. 2011). Thus, this award must be withdrawn.

III. Additional Errors In Order.

A. Plaintiff Prevailed in Both Causes of Action. On page 2 of the Order, the Court states that Plaintiff prevailed in the mechanic's lien cause of action, but the Court was unclear if Plaintiff prevailed in the breach of contract cause of action. By stipulation of counsel when the jury verdict form was discussed on the record by counsel, it was stipulated any finding by the jury in favor of the Plaintiff being entitled to damages applied to both Plaintiff's first and second causes of action. As the jury awarded Plaintiff damages of \$24,885.24, Plaintiff clearly prevailed under both causes of action.

B. No Evidence Plaintiff's Legal Fees Are Excessive. On page 4 of the Order, the Court states "that a good deal of the fees claimed [by Plaintiff] are excessive and deemed

unreasonable." This finding is not supported by the record. There is no specification of what billed activities were excessive or unreasonable. As noted above, while two attorneys represented Plaintiff, there was little, if any, duplication of billing. Only one attorney billed for each deposition, motion hearing, etc.

C. Plaintiff's Beneficial Result. On Page 5 of the Order, the Court states Plaintiff's beneficial result was a \$24,885.24 verdict. As stated above, such a finding completely ignores the 100% successful defense of Defendants' counterclaims of \$237,000.

D. Plaintiff's Admission or Acknowledgment of Error in Naming Golson in Mechanic's Lien Cause of Action. On page 5 of the Order, the court states that Plaintiff's counsel acknowledged or admitted it was in error in naming Golson as a party to the mechanic's lien cause of action. Plaintiff at trial and at the February 11, 2022 hearing repeatedly pointed out to the Court that the explicit allegations against Golson in the second cause of action were appropriate and correct, as explained above.

E. Defendants' Legal Statement or Invoice. The Court's Order failed to make specific findings of fact or conclusions of law that the legal bill or statement attached to defense counsel's affidavit provided any reliable evidence of the attorney's fees incurred by any of the Defendants in this case. As was pointed out by Plaintiff's counsel, and conceded by Defense counsel, this legal statement was rife with material, substantive errors throughout. There were many entries where Defense counsel billed for depositions he did not attend, billed travel to depositions that were conducted virtually, and for filing pleadings his firm did not prepare and file, among other errors.

CONCLUSION

For all of the foregoing reasons, this Court should reconsider the Order awarding Gaster no attorney's fees under its breach of contract claiming and awarding Frank Golson \$7,000.00 in attorney's fees due to a lack of evidentiary support.

Respectfully submitted,
RUSSELL P. PATTERSON, P.A.

/s/ Lauren P. Williams
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Attorneys for the Plaintiff

Hilton Head Island, South Carolina
March 21, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BEAUFORT	)	C.A. No.: 2017-CP-07-02337
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	RESPONSE TO MOTION TO
	)	RECONSIDER AND REVISE THE ORDER
GMK Associates Design Build Division,	)	
Inc., Travelers Casualty and Surety	)	
Company of America; Frank Golson,	)	
	)	
Defendants.	)	
	)	

TO: RUSSELL P. PATTERSON, ESQUIRE and LAUREN P. WILLIAMS,
ESQUIRE, COUNSEL FOR PLAINTIFF:

The undersigned hereby appears on behalf of the Defendants and makes the following response to the Plaintiff's motion to reconsider:

The issue of attorney's fees is left to the sound discretion of the trial court.

The judge who heard this case did an admirable job with a very difficult situation. The court had every opportunity to observe the facts of the case and to judge the various merits and demerits before the court. The matter being one of discretion, the undersigned believes the court followed all of the rules applicable and probably exercised its discretion.

Based on the foregoing, it is respectfully submitted the court has done an admirable job with the case as a whole and the motion to reconsider should be denied.

MOORE BRADLEY MYERS LAW FIRM, P.A.

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Attorney for Defendants

March 30, 2022

000218

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Robert J. Bonds, Circuit Court Judge

Case No. 2017-CP-07-2337

South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware Appellant,

v.

GMK Associates Design Build Division, Inc. Respondent.

NOTICE OF APPEAL

South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware ("Gaster") appeals the Orders of the Honorable Robert J. Bonds, which awarded in part Gaster's Motion for Attorney's Fees and GMK Associates Design Build Division, Inc.'s Motion for Attorney's Fees, dated March 10, 2022 (Exhibit 1), and the Order of the Honorable Robert J. Bonds, which denied Gaster's Motion for Reconsideration, dated April 27, 2022 (Exhibit 2).

Appellant received written notice of entry of this judgment, by way of the Order Denying Gaster's Motion for Reconsideration of Attorneys Fees, on April 27, 2022.

May 11, 2022

/s/ Lauren P. Williams

Lauren P. Williams

Russell P. Patterson

Russell P. Patterson, P.A.

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Attorneys for Appellant

Other Counsel of Record:

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Attorney for Respondent

EXHIBIT 1

ELECTRONICALLY FILED - 2022 May 10 4:03 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.:2017-CP-07-2337
	)	
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
PLAINTIFF,	)	
	)	
VS.	)	ORDER AWARDING
	)	ATTORNEYS FEES
	)	
GMK Associates Design Build Division,	)	
Inc.,	)	
	)	
DEFENDANT.	)	
	)	

This matter came before the Court on February 11, 2022 upon the Plaintiff and Defendants' motions for Attorney's Fees following a jury verdict in favor of the Plaintiff on January 27th, 2022. The Plaintiff was represented by Russell Patterson, Esq. and Lauren Williams, Esq, and the Defendants were represented by Jahue Moore, Esq.

The Plaintiff brought two causes of action in this matter, a mechanics' lien and a breach of contract claim. During the trial the Court dismissed two Defendants, Frank Golson (Golson) and Traveler's Casualty and Surety Company of America (Travelers), who were only named as it related to the mechanics' lien cause of action. Plaintiff's counsel objected to the dismissal of the Defendants but did admit that Golson was named in error. The Plaintiff was awarded \$24,855.25 and \$0.00 in interest by the jury. The remaining Defendant, GMK Associates Design Build Division Inc. (GMK), was not awarded damages on their counterclaim.

The parties each submitted their fees to the Court for consideration. The Plaintiff requested \$153,235.28 in fees and costs relating to this action, whereas the Defendant requested \$57,820.00 in fees and costs.

Law

Generally, attorney's fees are not recoverable unless authorized by contract or statute. *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989). There are six factors to consider in determining an award of attorney's fees: 1) nature, extent, and difficulty of the legal services rendered; 2) time and labor devoted to the case; 3) professional standing of counsel; 4) contingency of compensation; 5) fee customarily charged in the locality for similar services; and 6) beneficial results obtained. *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993).

Discussion

The Court finds that based on the verdict and arguments of counsel that the Plaintiff undoubtedly prevailed in the mechanics' lien action. The jury award was, in fact, for the exact amount of the lien and, as such, pursuant to S.C. Code § 29-5-20, this Court may award reasonable attorney's fees and costs, not to exceed the amount of the lien which totaled \$24,855.24. However, whether the Plaintiff was the prevailing party in the breach of contract cause of action, is unclear to the Court. The Plaintiff argues it did prevail in the breach of contract cause of action and it is entitled to reasonable attorney's fees pursuant to the Defendant's breach. Further, the attorneys for Plaintiff argue that their fees would not be capped at \$24,855.24 under the breach of contract claim. The Court concludes that even if the Plaintiff is to be considered the prevailing party in the breach of contract action, for reasons set forth below, the Plaintiff's reasonable attorney's fees and cost should not exceed \$24,855.24. The Court also finds that Defendant Golson, who was dismissed by the Court in the mechanics' lien cause of action, was also a prevailing party, and as a result is entitled to reasonable attorney's fees and costs.

The Court has had the opportunity to preside over this matter, review memoranda concerning the award of reasonable attorney's fees and costs, examine a breakdown of attorneys' fees and costs of all parties, and hear arguments of counsel. Based on this arguments and evidence presented the Court concludes that the Plaintiff was in fact a prevailing party under the mechanics' lien cause of action and is entitled to reasonable attorneys' fees and cost of \$24,855.25. The Court further finds that the Defendant Golson was a prevailing party in the mechanic's lien cause of action and is entitled to \$7,000.00 for his attorneys' fees and cost. The Court arrived at the above mentioned figures by examining the six (6) factors used to determine an award of attorneys' fees and cost. The reasons and basis for these figures are as follows:

A. Nature, Extent, and Difficulty of the Legal Services Rendered

The Court acknowledges that mechanics' lien and breach of contract actions, while fairly routine, can become more difficult, particularly when they involve counterclaims thus increasing, to some extent, the difficulty of the legal services rendered by the attorneys in this matter. The Court believes that this was a more complicated case. The Court, however, finds the attorneys themselves made this case more complicated than it had to be. It was clear to the Court that there was a breakdown in communication between the attorneys in the matter and that breakdown greatly added to the complexity of the case.

B. Time and Labor Devoted to the Case

The attorneys for the Plaintiff and Defendants spent extensive time on this matter. Unfortunately, however, the time spent by both parties far exceeded the value of each parties damages. While the Court acknowledges that reasonable attorney's fees and costs can exceed the actual amount

recovered, the Court finds that it is not reasonable in this case because of the breakdown of communication between the attorneys. This breakdown only drove up the cost and time spent on this case and the Court concludes that this has led to the excessive fees and cost. Both attorneys in this matter clearly allowed this case to spiral out of control. As a result, the Court believes that a good deal of the fees claimed are excessive and deemed unreasonable.

C. Professional Standing of Counsel

The Court was not provided with letters or affidavits concerning the attorneys attesting to their professional standing. The Court, however, is aware of the reputations of the attorneys involved in this matter. Mr. Patterson and Mr. Moore have practiced for over 30 years and enjoy excellent reputations not only regionally but statewide. Ms. Williams provided significant information to the Court in the form of briefs before, during, and after trial. The Court also observed her ability in the courtroom. The Court finds her to be an excellent attorney and is confident that she is held in high esteem in the legal community.

D. Contingency of Compensation

Neither party produced a fee agreement to the Court but based upon the information argued and presented at the hearing it is clear to the Court that representation was provided on an hourly basis as opposed to a contingency fee.

E. Fee Customarily Charged in the Locality of Similar Services

The Court was not provided with affidavits but with only general information concerning fees customarily charged in the local area for similar services. Taking into account the Beaufort area,

and their levels of experience, the Court concludes that customary fees for a lawyer of Ms. Williams experience and standing would be in the \$175-\$250 range and the fees for attorney Patterson and Moore would range \$250-350 per hour.

F. Beneficial Result

As mentioned earlier, it would appear to the Court that Plaintiff did receive a beneficial result to wit, a \$24,885.25 verdict and that Defendant Golson as received a beneficial result to wit being dismissed from litigation by the Court with the acknowledgment of the Plaintiff's counsel that he was not an appropriate party.

For all of the above reasons, the Court finds that the Plaintiff is entitled to \$24,885.25 in attorney's fees and costs regardless of whether the Plaintiff is considered a prevailing party in the breach of contract claim. Defendant Golson is entitled to \$7,000.00 in attorney's fees and costs.

IT IS SO ORDERED!

The Honorable Robert J. Bonds
Presiding Judge

Walterboro, South Carolina
March ____, 2022



Beaufort Common Pleas

Case Caption: South Atlantic Forest Products Inc , plaintiff, et al VS Gmk Associates
Design Build Division Inc , defendant, et al
Case Number: 2017CP0702337
Type: Order/Attorney Fees

So Ordered

s/ Robert Bonds, 2770

EXHIBIT 2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.:2017-CP-07-2337
	)	
South Atlantic Forest Products, Inc., d/b/a	)	
Gaster Lumber & Hardware,	)	
	)	
PLAINTIFF,	)	
	)	ORDER DENYING PLAINTIFF'S
VS.	)	MOTION TO RECONSIDERATION
	)	OF ATTORNEYS FEES
GMK Associates Design Build Division,	)	
Inc.,	)	
	)	
DEFENDANT.	)	
_____	)	

This matter came before the Court on April 8, 2022, upon the Plaintiff's Motion to Reconsider Attorney Fees. The hearing was conducted virtually. The Plaintiff was represented by Russell Patterson, Esq., and the Defendants were represented by Jahue Moore, Esq.

Procedural

The above-captioned case was tried before this Court the week of January 27th, 2022 in Beaufort County. The Court dismissed two Defendants, Frank Golson (Golson) and Traveler's Casualty and Surety Company of America (Travelers), who were only named as it related to the mechanics' lien cause of action. Plaintiff's counsel objected to the dismissal of the Defendants but did admit that Golson was named in error. After a four-day trial, the Plaintiff was awarded \$24,855.25 and \$0.00 in interest by the jury. The remaining Defendant, GMK Associates Design Build Division Inc. (GMK), was not awarded damages on their counterclaim. At the conclusion of the trial, the Court requested that the parties speak regarding attorney's fees and if they could not agree to a resolution the Court was to be notified to have a hearing on the award of reasonable attorney's fees and costs.

On February 11th, 2022, this Court heard arguments on the Plaintiff's and Defendants' Motions for Attorney's Fees. The parties each submitted their fees to the Court for consideration. The Plaintiff requested \$153,235.28 in fees and costs relating to this action, whereas the Defendant requested \$57,820.00 in fees and costs. After considering the relevant law and arguments of Counsel, the Court submitted a formal order on March 10th, 2022 awarding the Plaintiff \$24,885.25 in attorney's fees and costs, and Defendant Golson, \$7,000.00 in attorney's fees and costs.

On March 21st, 2022, the Plaintiff submitted a Motion to Reconsider and Revise the Order Awarding Attorney's Fees under Rule 59(e), SCRCP. The Court heard this motion on April 8th, 2022, and DENIES the Plaintiff's Motion for the reasons set forth herein.

Law

Generally, attorney's fees are not recoverable unless authorized by contract or statute. *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989). There are six factors to consider in determining an award of attorney's fees: (1) nature, extent, and difficulty of the legal services rendered; (2) time and labor devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) fee customarily charged in the locality for similar services, and (6) beneficial results obtained. *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 494, 427 S.E.2d 659, 660 (1993).

Discussion

In this matter, the Plaintiff brought two causes of action; a mechanics lien and a breach of contract. The Plaintiff's Motion to Reconsider alleged that the Court erred by awarding the Plaintiff \$0.00 in attorney's fees and costs under its breach of contract claim and \$24,855.24 in attorney's fees and costs under its mechanics lien cause of action. However, the Court's Order dated March 10th, 2022 awarded attorneys fees and costs collectively to the Plaintiff and did not

specify what amount should be attributed to each cause of action. In its Order, the Court specifically stated that it was unclear if the Plaintiff was the prevailing party on both causes of action or only a single cause of action. This was partially due to the fact that the verdict form, agreed to by the parties, asked the jury to write the amount of money, if any, they felt the Plaintiff was entitled to based on the case presented. The verdict form did not ask the jury to determine if the Plaintiff prevailed on each individual cause of action. Additionally, these causes of action were intertwined and involved the same witnesses and the same evidence in some instances. However, the Plaintiff contends that despite the structure of the verdict form, it would be considered the prevailing party on both causes of action if a verdict was returned awarding the Plaintiff any amount of damages. The Court would be speculating if it tried to determine what amount of the award for damages, if any, was assigned to which cause of action. As a result, the Court ordered what it deemed as reasonable attorneys fees and costs for the entire action, irrespective of whether the Plaintiff prevailed on a single cause of action or both causes of action.

Next, the Plaintiff claims that the Court erred by awarding Defendant Frank Golson (Golson) \$7,000.00 in attorneys fees. The Plaintiff claims that Golson was not considered a prevailing party and this award was not supported by the evidence. The Court, however, has had the opportunity to preside over this matter, review memoranda concerning the award of reasonable attorney's fees and costs, examine a breakdown of attorneys' fees and costs of all parties, and hear arguments of counsel. Based on the arguments and evidence presented the Court concludes that Golson was in fact a prevailing party as he was removed from the case on a successful Motion for Directed Verdict. The Court arrived at the figure by examining the six (6) factors used to determine an award of attorneys' fees and costs: Nature, Extent, and Difficulty of

the Legal Services Rendered, Time and Labor Devoted to the Case, Professional Standing of Counsel, Contingency of Compensation, Fee Customarily Charged in the Locality of Similar Services, and Beneficial Result. *See Blumberg v. Nealco, Inc.*, 310 S.C. 494, 427 S.E.2d 659 (1993).

Golson was represented by Mr. Moore who also represented the other two Defendants in this matter. The Defendants, though separate and distinct entities or individuals, were represented by a single attorney for reasons unknown to the Court. However, the defense of each entity or individual involved similar legal arguments, evidence, witnesses, and discovery. The issues relating to each Defendant were intertwined, and it was clear to the Court that Mr. Moore, a well-respected and seasoned attorney was participating in discovery to the benefit of each client, including Golson.

However, Mr. Moore's client GMK, was the only Defendant to pursue counterclaims, which the Plaintiff admitted took up much of the Defense's case, though they were unsuccessful. Mr. Moore's billing rate and invoices submitted to the Court showed \$21,000.00 in attorneys fees for the time he spent trying this case. Based on the verdict and rulings of this Court, Golson is the only prevailing Defendant, as he was removed from the case. Therefore the Court finds that the Defendant Golson is entitled to \$7,000.00 in attorneys fees and costs. The Court based this decision on the fact that Mr. Moore was successful at trial for one of his three clients. Therefore it is reasonable to award Golson one-third of the \$21,000.00 spent by the Defense during the trial of this matter

Finally, the Plaintiff informed the Court that it made every effort to communicate and participate in resolving this matter in good faith and that most of its time spent working on this case was in defense of the counterclaims brought by GMK. Thus it is the Plaintiff's position that

the award of 24,885.24 is not representative of the time, effort, and attention that it put into this case. The Court recognizes the Plaintiff's hard work on this case and understands that it is a prevailing party, however, the Court must award only reasonable attorneys fees. In this case, the Court had the opportunity to observe the attorneys and although they zealously represented their clients, there was also a clear breakdown in communication that caused this case to spiral out of control. When the Court asked counsel to discuss a possible resolution regarding attorneys fees at the conclusion of the case, the Court noticed that the attorneys only addressed each other in raised voices. It was clear to the Court that though the attorneys were speaking neither was listening. The combative nature with which these attorneys approached this matter was demonstrated at the virtual hearing on this very motion by directly addressing each other rather than the Court.

The Plaintiff submitted invoices that represent that extensive time and attention was given to this case, however, a close review of the invoices reveals unreasonable fees in the eyes of the Court. For example, fees were billed at attorney rates for matters that could have been handled by paralegals, like calling an attorney's office to schedule a deposition. These types of tasks should have been billed at paralegal rates. Additionally, this case was also not so complicated as to require two attorneys to bill for the entirety of this four-day trial. Although these types of charges may be reasonable when presented to a client, they are not reasonable to this Court when determining an award of attorneys fees and costs.

For all of the above reasons the Plaintiff's Motion to Reconsider and Revise is respectfully DENIED. The Court finds that the Plaintiff is entitled to \$24,885.25 in attorney's fees and costs and Defendant Golson is entitled to \$7,000.00 in attorney's fees and costs.

IT IS SO ORDERED!

The Honorable Robert J. Bonds
Presiding Judge

Walterboro, South Carolina
April ____, 2022

ELECTRONICALLY FILED - 2022 May 21 3:03 PM - BEAUFORT - COMMON PLEAS - CASE#2017CP0702337

1 STATE OF SOUTH CAROLINA
2 IN THE COURT OF COMMON PLEAS
3 COUNTY OF BEAUFORT

4 South Atlantic Forest Products, Inc.,
5 Plaintiff,

6 vs. Transcript of Record
2017-CP-07-2337

7 GMK Associates, et al.,
8 Defendant.

9
10
11 January 28, 2022
12 Beaufort, South Carolina
13 Excerpt: Direct Verdict, Motion, Charge
Conference, Verdict Form

14 B E F O R E:

15 The HONORABLE ROBERT BONDS

16 A P P E A R A N C E S:

17 Russell Patterson, Representing the plaintiff

18 Jay Parker, Representing the plaintiff

19 Jahue Moore, Representing the defendant

20
21
22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, III
24
25

1 doesn't say that Travelers will pay.

2 If you read it, it's interesting. It
3 doesn't say anything about the ability to
4 foreclose upon it. It doesn't say that it is for
5 the benefit of the plaintiff. It says the
6 indebtedness runs to Beaufort County.

7 So, I don't think there's been any proof
8 of a violation of a bond. I don't think there's
9 been any proof as to demands being made on the
10 bond. There's been a lawsuit filed, which, I
11 guess, could qualify as a demand, but I don't see
12 any evidence here where the breach of the
13 conditions of the bond are referred to, nor is
14 there anything in the record that would
15 purportedly allow the plaintiff to recover on a
16 bond.

17 I would again -- that would be the second
18 motion, Your Honor.

19 THE COURT: Okay.

20 MR. MOORE: The third motion, would be, I
21 renew my motion to dismiss Mr. Golson on the basis
22 of the signature, the way it was signed from the
23 breach of contract action. I also renew my motion
24 for attorney's fees on behalf of Mr. Golson, which
25 I understand would be left to a later date which

1 certainly suits me fine to leave Mr. Golson's
2 attorney's fees to be collected against Gaster for
3 a later date.

4 So I move to dismiss the defendants on
5 the grounds that, according to the contract upon
6 which GMK is being sued, the specific wording of
7 the contract provides that GMK is guaranteeing the
8 account to the extent the account is created by
9 way of purchase order.

10 Now, the parties ignored the purchase
11 order language, but the testimony is that it was a
12 personal residence of the Berrys and the
13 corporation, GMK, guaranteed payment of the
14 account but they were entitled to have the account
15 contract complied with before they would be
16 obligated to pay anything. What they contracted
17 to do, I believe, by the specific language of the
18 contract, what they contracted to do was to
19 guarantee payment of the account on anything
20 ordered pursuant to the contract by Mr. Berry or
21 Mr. Williamson.

22 Now, that contract as testified to by the
23 -- Marchelle Youmans, she said to charge the
24 account, a purchase order was required. And she
25 was absolutely correct in that testimony. But she

1 made that admission as a witness for the plaintiff
2 and as an agent for the plaintiff. And she very
3 clearly said a purchase order was required, and
4 she's right.

5 The plaintiff wants to have the contract
6 technically enforced to its terms when it suits
7 the plaintiff, but wants to ignore the contract,
8 according to its terms, when it suits him as well.
9 They can't have it both ways. If they're going to
10 seek the benefits of the contract and we're going
11 to be trying this case based as a contract case,
12 then they have to take the bitter and the sweet in
13 regard to the contract. The contract calls for
14 attorney's fees on either side, the contract calls
15 for payments and guaranty.

16 The contract also says this: In dealing
17 with an account that GMK is responsible for, there
18 has to be a purchase order. GMK should, therefore,
19 be liable as the guarantor only for those things
20 which are ordered pursuant to the actual terms of
21 the contract.

22 Again, they made a big point about the
23 fact that they haven't sued Mr. and Mrs. Berry.
24 That is true. But they dealt with Mr. and Mrs.
25 Berry as Mr. and Mrs. Berry. When they were

1 dealing with the account, they simply ignored the
2 requirements that were in the contract to protect
3 GMK.

4 I would respectfully submit GMK has the
5 right to expect Gaster to comply with the terms of
6 the guaranty agreement if it expects to collect on
7 the guaranty agreement. So I would ask to move
8 the case -- dismiss the case against GMK on the
9 grounds that GMK has not complied with the
10 provisions of the contract in regard to the
11 purchase order. One who does not comply with the
12 contract is not allowed to enforce or sue upon
13 that contract. And there simply is no evidence in
14 the record that GMK has done anything that would
15 afford it liability under the actual written terms
16 of the document.

17 No purchase order means GMK owes nothing.
18 No purchase order does not mean that Gaster
19 doesn't have a claim. It does not mean that
20 Gaster might not be able to have a mechanic's lien
21 and foreclose on a mechanic's lien.

22 But, it's apparent that when the parties
23 initially contracted, they treated GMK as separate
24 from Mr. and Mrs Berry. And GMK never did
25 anything to vary from that. Mr. Golson never did

1 anything to verify that. There is no evidence at
2 all that Mr. Golson waived anything.

3 In regard to Mr. Golson, how was it
4 possible that Mr. Golson has a contract saying, I
5 don't get charged unless there's a purchase order
6 and there are no purchase orders. He is a totally
7 innocent person. He never -- there is no evidence
8 that he voluntarily waived anything. They're
9 attempting to sue him individually. If they're
10 going to sue him individually, it would appear
11 that they would have to prove that the terms of
12 the contract were actually complied with, and the
13 account that's going to be charged is going to be
14 charged pursuant to a written purchase order.

15 The evidence is that, if we had purchase
16 orders, none of this would probably have happened
17 because the purpose of a purchase order, according
18 to the record, is to make sure the plans, the
19 specifications, the detail of what is ordered is
20 what is delivered.

21 Mr. Golson had every right in the world
22 to rely upon the requirements of their contract
23 which they wrote saying that we're going to charge
24 you based upon purchase orders. There is nothing,
25 Your Honor, in this contract that says we're going

1 to make Mr. Golson liable, or GMK liable, for
2 things that are invoiced. It basically says,
3 they're liable on things which are ordered by way
4 of a purchase order.

5 The parties elected to go -- and
6 Mr. Berry and Mr. Gaster elected to do things
7 differently than this contract called for, but
8 that's not GMK's fault. GMK, as a guarantor, has
9 every right -- and so does Mr. Golson to rely upon
10 the actual terms of that guaranty agreement for
11 their protection.

12 The parties agreed -- I believe the
13 evidence shows the contract was to protect
14 everybody, and that the purchase order requirement
15 is something that is there to protect everybody.

16 I believe on cross-examination,
17 Miss Youmans acknowledged that the purpose of a
18 purchase order is to protect the seller and the
19 buyer. So Gaster Lumber decided to ignore that
20 protection. They can ignore that protection, and
21 they can do business another way. But if they
22 ignore that protection, the guarantor isn't liable
23 because the guarantor is only liable to the extent
24 of the guaranty.

25 In the law, as I understand, in

1 South Carolina, a guarantor, a surety is basically
2 one of the most favored parties in the law. And
3 the law basically provides that if the protected
4 party chooses to place the guarantor at an
5 additional risk, or does something to impair the
6 collateral and impair the rights, then the
7 guarantor is discharged. There is no discharge of
8 GMK in this case. The problem is, there simply is
9 nothing in the contract -- or there is nothing in
10 the action of the parties that would obligate GMK
11 to pay because there was no purchase order.

12 The law also provides, I believe,
13 Your Honor, that one who violates a contract may
14 not sue upon the contract. Now, I'm not saying
15 that they violated the contract by not having a
16 purchase order, but they ignored the contract by
17 not having a purchase order. If they're going to
18 ignore the contract, they would do so at their
19 peril. Certainly, they can look to Mr. Berry,
20 they can look to the property, they can have a
21 mechanic's lien, but I'm talking about GMK and
22 Mr. Golson. They had the right to expect what
23 they were going to be charged that there would be
24 a purchase order.

25 We had everybody -- you know, I could

1 have a dog and I could write the word "cat" on the
2 dog. I could do it with spray paint. The fact
3 that I have the word "cat" written on the dog
4 doesn't change the fact that it's a dog.

5 An invoice is an invoice. It is not a
6 purchase order. And in cross-examination,
7 Miss Youmans clearly indicated that a purchase
8 order and an invoice are two different things.

9 On cross-examination of Mr. Gaster, he
10 says they do have purchase order forms and about
11 30 percent of the business they do is done by way
12 of purchase order. You can't change an invoice
13 into an purchase order by calling a cat a dog. It
14 doesn't work that way.

15 The contract is very clear on its face.
16 It requires a purchase order to charge GMK. It
17 requires a purchase order to charge Mr. Golson.
18 There wasn't one. They ignored that provision.
19 And by doing that, they waived any claims they
20 would have had against GMK on the contract.

21 It wouldn't have waived claims against
22 Mr. Berry and they can still sue Mr. Berry. We're
23 still within the six-year statute of limitations.
24 They might still be able to go against the
25 procedure on the mechanic's lien. That would be

1 fine. But when it comes down to GMK and
2 Mr. Golson waived that because they didn't require
3 the purchase order the contract talks about.

4 The next motion I would make, Your Honor,
5 would be to conform the pleadings to the proof and
6 to dismiss any claim for interest. It was only on
7 cross-examination the first time I ever heard
8 Gaster say that 21 percent was designed as a
9 penalty. We learned of that during the trial.

10 The law, as I understand it, indicates
11 that a motion to conform the pleadings to the
12 proof, or, in the interest of justice, trying to
13 find the truth of the matter. And I believe that
14 whether or not that interest is a penalty
15 provision is a question of fact for the jury. It
16 is not a matter of law. And we think -- right
17 now, I'm moving to dismiss it as a matter of law
18 based upon the admissions of Mr. Gaster that 21
19 percent is designed as a penalty.

20 But, if it is not dismissed as matter of
21 law on that ground, I would ask the Court to
22 submit the issue to the jury, at least, and allow
23 us to do that.

24 If the Court looks at the pleadings, too,
25 there is a provision in there where it talks about

1 MR. MOORE: Yes, sir.

2 THE COURT: So there's not going to be a
3 double recovery. Because I think the issues that
4 concern the doubling or the issues concerning that
5 all ultimately being issues in my discretion. I
6 will make certain that that doesn't happen. And
7 on top of that, counsel has alluded to the fact in
8 his argument. Again, I think it becomes clear, I
9 think it makes it easier for the jury, but I don't
10 think it's so confusing that we can't send that to
11 them.

12 On the second argument concerning the
13 bond, I'm removing the bond -- I'm removing
14 Travelers as a defendant in this matter. The bond
15 still exists. And, quite frankly, there is no
16 reason for Travelers to be mentioned in the
17 pleadings -- in the verdict form. I don't think
18 Travelers's name came up once. Maybe it did,
19 once, but the jury has no idea why they're there.
20 There is nothing in the record. And so Travelers
21 as a party, as far as I'm concerned, is dismissed.

22 It relates to number 3 and Mr. Golson,
23 what you brought up just a moment ago was the very
24 thing that came to me when I asked for the
25 contract. Now, the contract was entered into with

1 Mr. Golson. I didn't hear one thing that Golson
2 was notified, that Golson agreed to alter the
3 terms of the contract. Golson entered this
4 contract, and Golson should have been the one who
5 agreed to or through Golson's actions modified
6 this contract. Let's face it, gentlemen, this
7 whole thing is because, if his contract had
8 actually been followed, I personally don't think
9 we'd be here. But that's -- it is what it is.

10 And so I think this contract has been
11 modified. Mr. Moore may disagree with me on that,
12 but I think through the actions of the parties.
13 And, yes, you may disagree, I think the actions of
14 GMK.

15 But that having been said, Golson as far
16 as his individually capacity, he's gone.

17 MR. PATTERSON: Okay.

18 THE COURT: Golson is gone, because
19 Golson -- there was no testimony as I recollect
20 that Golson was involved or did anything other
21 than sign the contract. And if he signed the
22 contract, then Golson should have been brought in,
23 particularly when Golson signed the contract and
24 was subject to being individually responsible for
25 this, I think, at a minimum, the plaintiff should

1 have contacted Golson and made sure that this
2 arrangement was acceptable. It certainly was an
3 arrangement that ended up being acceptable with
4 Mr. Berry, or whoever else they were dealing with.
5 But I'm not going to allow Golson to stay in and
6 be bound by a document that wasn't followed, and
7 there's no evidence that he acquiesced in any way.

8 The issue concerning Golson's attorney's
9 fees, of course, I'm not saying he's entitled to a
10 penny, but issues concerning all attorney's fees
11 is moot.

12 As it relates to this fifth matter and
13 GMK and the contract and not following a contract,
14 I'm just going to deny the motion there. I mean,
15 gentlemen, the course of action in this case was
16 clear. There was modification to the agreement.
17 And, in my opinion, the evidence certainly tends
18 to indicate that there was an agreement or some
19 type of understanding that that was going to be
20 the course of action.

21 As it relates to the seventh, I'm going
22 to respectfully deny your motion for a judgment as
23 matter of law as to your counterclaim, sir.

24 MR. MOORE: Thank you, sir.

25 THE COURT: Number 8, I think I've

1 we propose is, add her section after number 4, and
2 interest in this amount. We're now sending the
3 interest in there.

4 THE COURT: Right.

5 MR. PATTERSON: So we could move your
6 interest over to after 4 and get rid of the
7 guaranty question, number 2, on our proposed.

8 MR. MOORE: Your Honor, may I stick my
9 two cents in?

10 THE COURT: I'm listening. Absolutely.

11 MR. MOORE: We know that under the
12 mechanic's lien statute the damages are limited to
13 X number of dollars, but that is not any of the
14 jury's worry. The Court can handle that after the
15 verdict if they rule in the favor of the
16 plaintiff.

17 With all due respect, I think the easiest
18 way to do this thing is to do it just like it's a
19 wreck case. We find for the plaintiff actual
20 damages, X dollars. Next line, we find for the
21 defendant against the plaintiff on the
22 counterclaim, X dollars.

23 THE COURT: All right.

24 MR. MOORE: Or we find for the defendant,
25 meaning neither party proved -- neither party

1 proved their case. And with that, is just like a
2 wreck case. You get your number and we deal with
3 the number when it's over. They know what the
4 interest is. They know what the principal is.
5 And we can deal with the limitations on the
6 mechanic's lien when it's over.

7 If they find on the contract claim, they
8 are finding on the mechanic's lien case. They
9 shouldn't have to differentiate that.

10 THE COURT: All right. I understand
11 that. Let me ask you something: On my proposed
12 verdict form -- do you have it in front of you?

13 MR. PATTERSON: Yes, Your Honor.

14 THE COURT: You got a problem with the
15 first question? I mean, we find, by unanimous
16 consent, the plaintiff proved the evidence so
17 they're entitled to recover on the mechanic's
18 lien.

19 MR. PATTERSON: I don't have a problem.
20 I switched the order because I'd rather have the
21 contract claim first. I don't have a problem with
22 the language.

23 THE COURT: Okay. So, the contract
24 claim -- so you want to include a contract claim
25 question. Okay. And then number 3, we find that

1 the plaintiff -- let's see. Breach of contract.

2 Okay, I got -- this is mine, right?

3 LAW CLERK: Yes, I wrote that. Yes.

4 THE COURT: You didn't like the order,
5 but 1 and 2, you don't have a problem with the
6 question, right, on my form?

7 MR. PATTERSON: Your Honor, I guess the
8 problem is, we'd have inconsistent verdict if they
9 find for contract and not for the lien.

10 THE COURT: Well, you're the one who
11 wanted both of them, right?

12 MR. PATTERSON: Your Honor, that's why I
13 said, we were having trouble late last night
14 looking through this because it is complicated.
15 I'm not sure that -- counsel's suggestion may work
16 as long as we stipulate.

17 THE COURT: Wait a second. You-all are
18 agreeing to a third thing today?

19 MR. PATTERSON: Well --

20 THE COURT: So, what do you want? I
21 mean -- go ahead. I'm sorry.

22 MR. PATTERSON: If we say, find for the
23 plaintiff, or the defendant, if we stipulate that
24 if it's for the plaintiff, in that amount, it
25 would include attorney's -- they would include the

1 mechanic's lien cause of action. Because we all
2 know in this room that if they find a breach of
3 contract, the amount of the lien is going to be
4 the same amount. And you don't -- it can't be
5 different. So I don't think we can ask the
6 jury --

7 THE COURT: Well, how is it inconsistent?
8 If they find for you on the mechanic's, but don't
9 find for you on the contract, who cares? As long
10 as you win on one, what do you care? Other than
11 the attorney's fees, you don't get guaranteed
12 attorney's fees if you lost on the mechanic's
13 lien.

14 MR. PATTERSON: What about the reverse?

15 THE COURT: What about it?

16 MR. PATTERSON: What if they find for the
17 mechanic's lien and not for the contract? I mean,
18 the other way.

19 THE COURT: They find for the contract
20 but not the mechanic's lien.

21 MR. PATTERSON: But under what basis
22 could they not find the mechanic's lien because
23 there isn't any dispute that all the elements are
24 met.

25 THE COURT: Because they might just not.

1 I'm not instructing them as a matter of law that
2 you've proven that. That's not in the charges.
3 So they might just not do that. I mean, that's
4 where you run the real risk, sir. You run the
5 real risk when you throw that up there and include
6 the second cause of action that doesn't include
7 the attorney's fees that you could wipe away your
8 mandatory attorney's fees.

9 MR. PATTERSON: Again --

10 THE COURT: You tell me what you want me
11 to do. You ain't got an answer for me. I'm
12 listening.

13 MR. PATTERSON: As counsel suggested, I
14 think a simplified verdict form would be fine as
15 long as we stipulate that if they have the finding
16 for the plaintiff that would be the same number
17 for both causes of action.

18 THE COURT: Mr. Moore? I mean --

19 MR. MOORE: There is a side of me that
20 wants to -- that says I'm better off if I have a
21 very complex verdict form because it will create
22 havoc in the jury room, which very easily could
23 help me. The truth of the matter is, I believe
24 what I said originally is the way it actually
25 should be done.

1 There's one account, if we lose -- well,
2 I guess we don't because they may not have proven
3 the mechanic's lien within the appropriate time
4 frame. But --

5 THE COURT: How about this, Mr. Moore,
6 your simplification. I think -- I mean, you could
7 argue. I think they're going to find the
8 mechanic's lien was there, but -- I think the
9 evidence reflects that. But how about, one, we,
10 the jury, by unanimous consent find that the
11 plaintiff proved damages -- she put not to exceed
12 the amount of the lien. You have suggested, let's
13 just say, the plaintiff proved damages in the
14 amount of X, and interest in the following amount.
15 Of course, they could also not find interest. I
16 guess they could put zero.

17 All right. Number 2, we, the jury, find
18 by unanimous consent that the defendant proved
19 damages on their counterclaim in the following
20 amount.

21 MR. MOORE: Bang.

22 THE COURT: We, the jury, by unanimous
23 consent find that neither the plaintiff nor the
24 defendant proved their claim or counterclaim.

25 MR. MOORE: Bingo. Works for me.

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Beaufort County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

June 21, 2022

A handwritten signature in cursive script, reading "Sharon G. Hardoon".

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
2017-CP-07-02337

South Atlantic Forest)
Products, Inc.,)
)
Plaintiff,)
)
vs.)
)
GMK Associates, et al.,)
)
Defendant.)
-----)

TRANSCRIPT OF HEARING

February 11, 2022
Colleton, South Carolina

B E F O R E:

The Honorable Robert Bonds, Judge Presiding

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P R O C E E D I N G S

* * * * *

THE COURT: Good morning, Mr. Moore, can you hear me, sir?

MR. MOORE: I hear you well, so thank you very much.

THE COURT: All right. We have Mr. Patterson here, and I've asked him to speak up so that I want to make sure that you can hear what he is saying.

All right, Gentlemen, I think we're here today on some multiple motions for attorney's fees, and Mr. Patterson, what I'd like to do is address your petition, I guess, for attorney's fees first, and I'm happy to hear from you, sir.

MR. PATTERSON: If it please the Court? Thank
you very much.

THE COURT: Hold on one second. Can you hear that Mr. Moore? Can you hear Mr. Patterson?

MR. MOORE: If he could speak up a little bit, it would be nice.

THE COURT: Yes, sir. All right.

MR. PATTERSON: If it please the Court?

MR. MOORE: I can hear you.

MR. PATTERSON: Under the first cause of action, we're seeking attorney's fees under two different

1 causes of action. Under the first cause of action,
2 which is a breach of contract, the Court is well
3 aware of the general rule in South Carolina that no
4 attorney's fees can be obtained other than by
5 agreement or contract or statute. Gaster has three
6 separate contractual documents providing it can
7 recover reasonable attorney's fees should any
8 litigation be incurred for nonpayment. That
9 standard is not whether -- under the agreement
10 whether it's the prevailing party, it just says if
11 there's litigation incurred to collect, then Gaster
12 can collect reasonable attorney's fees.

13 The first document is Exhibit 1, Trial Exhibit 1
14 page 2, says Gaster agrees to be liable -- I mean
15 GMK agrees to be liable for all indebtedness plus
16 interest in reasonable attorney's fees should any
17 litigation be incurred for nonpayment. And that was
18 signed by GMK.

19 The second contractual document are the delivery
20 tickets that were signed by Bruce Williams, the
21 onsite representative for GMK, and we listed all of
22 the exhibits in our brief where he signed those
23 tickets. And the delivery tickets say the purchaser
24 agrees to pay any reasonable attorney's fees in the
25 event of default of payment of this invoice.

1 The third set of documents is on the actual
2 invoices sent by Gaster to GMK that has the same
3 language as the delivery tickets, and all of those
4 invoices were put into evidence.

5 As we have clearly established a legal right to
6 the fees, the Court must under its discretion
7 determine the amount.

8 The Court, in looking at that, is guided by six
9 very well-established factors cited in Dedes vs.
10 Strickland, and I'll address each of the six factors
11 briefly. The first one is the nature, extent, and
12 difficulty of the legal services rendered. The
13 action of GMK in asserting numerous substantial
14 counterclaims turned what should have been a
15 relatively benign, routine collection action into
16 very complex litigation that spanned over five
17 years. Despite numerous requests from our side that
18 this matter be referred to the Master in Equity,
19 Defense Counsel remained firm that they wanted to
20 have it tried before a jury, which is clearly their
21 absolute legal right to do so. But in exercising
22 that right comes the practical reality that it takes
23 a very long time for it to be heard, and as Your
24 Honor is aware, it is much, much more expensive to
25 try something in front of a jury than with a Master

1 in Equity.

2 Due to the counterclaims where the Defendant
3 before the jury was seeking 90,000, in their pre-
4 trial brief it was 100,000. They actually had
5 testimony from Mr. Berry that in addition to the
6 90,000 for repairs, he felt he was overcharged
7 125,000. So they made very substantial
8 counterclaims. We ended up having thousands and
9 thousands of pages of documents in discovery. We
10 took the depositions of six witnesses, several which
11 -- because of time restraints or they didn't bring
12 the documents, we had to continue. Many of the
13 depositions were very long, had exhibits -- 50 to 60
14 exhibits. Included extensive depositions of the
15 Defendant's designated expert who was supposed to be
16 Mr. Gavigan, and he was set forth as an expert in
17 four areas: design, ordering material, supplying
18 material, and construction. Ended up he didn't
19 testify as an expert at all. He was a fact witness.
20 They also listed the engineer in Florida as an
21 expert because we spent time doing that and then
22 they withdrew that. And then we had to deal with
23 Mr. Berry was proffered as an expert at trial and
24 the Court denied that because he wasn't listed.

25 We required the subpoenas to Mr. Berry's lender,

1 SouthState Bank on two occasions, and to the Islands
2 of Beaufort HOA where the property was bought. We
3 used those records at trial very successfully to
4 deal with a number of issues out there.

5 THE COURT: Let me ask you one thing because I
6 was reviewing the documents. Why did you have to
7 give two different subpoenas to SouthState?

8 MR. PATTERSON: I believe -- Counsel, she
9 handled subpoenas. I think I know, but I'll let her
10 say.

11 MS. WILLIAMS: Your Honor, the first time we
12 specifically asked SouthState Bank for all their
13 loan records, and there was no construction contract
14 included in those documents, and so when I went to
15 follow up, SouthState Bank asked that we issue
16 another subpoena to request specifically the
17 construction contract and a number of other
18 documents that were enclosed in the original --

19 THE COURT: All right. Thank you. I just -- I
20 saw that when I was going over the information that
21 you provided, sir, and then you brought it up, and I
22 was just curious. Go ahead.

23 MR. PATTERSON: We also had to file -- we had a
24 lot of discovery issues in this case. We had to
25 file a motion to compel. Then we got a court order.

1 Then we had to file a motion after many, many, many
2 attempts to obtain compliance, because I don't like
3 to try to hold anybody in contempt just like most
4 attorneys, and the Judge issued an order attempt to
5 try to get documents that we were entitled. The
6 trial itself, as the Court is aware, lasted five
7 full days. Defense counsel is one of the best
8 litigators in the State, having tried hundreds and
9 hundreds of cases in federal and state court. They
10 vigorously prosecuted their case with a slew of
11 motions, objections, and defense maneuvers
12 throughout the trial. We were successfully able to
13 deal with numerous issues and evidence, never
14 presented in discovery, and never brought up at any
15 time prior to trial. That would include the defense
16 that -- the prejudgment interest was a penalty.
17 More importantly, I'll call it "new" evidence from
18 four witnesses: Mr. Berry, Mrs. Berry, Mr. Gavigan,
19 and Mr. Williams, that Mr. Berry raised the issues
20 of the siding, both parts of the siding, the LVLs
21 and the sliding glass door prior to my client filing
22 a lien, new testimony from the same witnesses that
23 Scott Warren admitted Gaster sent the wrong
24 materials, and that they made a mistake. And then
25 new testimony from four witnesses that Scott Warren

1 said Gaster Lumber agreed to make it right. None of
2 that testimony was ever brought up at the
3 depositions where we had taken years before. And
4 somehow all four witnesses recalled a conversation
5 or series of conversations four years prior with the
6 exact same word "make it right." Even though we had
7 an order that provided -- the sequester order that
8 the witnesses are not supposed to talk to each
9 other. Somehow when they showed up for trial, they
10 all said the same thing. So we had to overcome all
11 of those things, which we did, as found by the jury
12 verdict. We also dealt with election remedies and
13 numerous other claims and issues brought by very
14 able Defense Counsel. We put in 124 exhibits at
15 trial to respond to these counterclaims. And I
16 mentioned that Mr. Berry testified that not only did
17 he have \$90,000 of repairs, he also said he had
18 \$120,000 of overcharges. So really we were dealing
19 with almost a \$200,000 counterclaim. And so we
20 believe the issues although looking back from day
21 one, it should have been a fairly simple case
22 because of the actions of the Defendants, which they
23 are entitled to vigorously defend, and they're
24 entitled to a jury trial, it turned into a very
25 complex matter that took a whole week to try.

1 The second factor is the time and labor
2 involved. We've submitted an affidavit that it's
3 with actual billings that were actually paid by
4 Gaster Lumber. All of those bills were paid except
5 for the very last one, because they haven't had time
6 to pay, but Mr. Gaster has advised they would pay
7 that bill. We have got very, very detailed time
8 entries. There's no duplicate entries or
9 unnecessary work. The total hours over five years
10 is 578.5. I had 283, my co-counsel had 295. The
11 total attorney's fees that were incurred, and that
12 have been paid, or will be paid by my client is
13 \$143,000. Our hourly rate, my rate varied over that
14 time period from 250 to 300, Ms. Williams was 175 to
15 250. The total cost was about \$10,000, and that
16 included all of the depositions, the service and
17 filing fees, the copying charges, and we did spend a
18 good bit of money on trial prep, which I think, if
19 we had it pre-marked, and done the exhibit
20 notebooks, it would have taken two weeks to try that
21 case. The trial itself took the entire week. We
22 spent 13 to 15 hours a day working on that just for
23 trial. The attorney's fees for the trial total
24 \$66,000.

25 The professional standing is the third thing.

1 I've practiced law for 40 years, two years with the
2 Dowling Firm in Beaufort, 21 years as a partner with
3 Jones, Scheider and Patterson, and the last 13 I've
4 operated my own sole practice, handled a very large
5 number of litigation matters. I don't specialize in
6 jury trials, but I do handle lots and lots of
7 litigation. I've handled hundreds of mechanics lien
8 cases, many other complex matters, class actions,
9 and -- as well as other legal work in a small town.
10 Even though Hilton Head is the resort, it's still a
11 small town, and they expect their attorney to know
12 how to do their closing and a will and stuff, so we
13 handle that type of work. Lauren Williams, the
14 associate, was the editor of the Business Log
15 Journal at -- at law school. She clerked for Judge
16 Cooper, she's practiced law with me for six and a
17 half years, and has, basically, worked on all of the
18 same matters that I've worked; and so she's also got
19 a high-level of experience, and a very good
20 reputation in the community.

21 The next factor is the contingency of the
22 recovery, and that, since it's an hourly rate, that
23 is not applicable.

24 The fifth factor is the fees customarily
25 charged. The -- and as we set forth in our --- my

1 affidavit, attorneys with my experience charge
2 anywhere from 400 to \$450 an hour. I'm on the lot
3 -- low end, I've always been kind of on the low end,
4 and so my fee that started out at 275 when this case
5 started, and then I charged Gaster 300, my fee is
6 now 325. Lauren's fee for other attorneys, her
7 husband's an attorney in the Hilton Head area.
8 Obviously, they know what everybody charges.
9 Lauren's on the low-end of her -- of people with the
10 same experience and know -- and knowledge. So we
11 believe the rates charged are very fair. Then we
12 look at probably the -- although all these factors
13 have the same weight by the Court, you look at the
14 beneficial result. Despite Defense Counsel's
15 declaration after the verdict that he was extremely
16 happy, and I noted the Judge seemed somewhat
17 surprised, and we did too, as to why you would be
18 happy, it's clear that Gaster prevailed in this
19 action. We received 100 percent of the award we
20 sought on both causes of action. As to the
21 counterclaims, which were 90,000 all the way up to
22 200,000, the Defense was awarded zero. The only
23 part of the claim we were not successful on was
24 prejudgment interest. Under the Court decision of
25 Heath v. County of Aiken, and other cases, you don't

1 have to win all of the claims to be -- prevail in an
2 action. The Court evaluates the entire overall
3 degree of success. Under any way you want to look
4 at how this case turned out, the Plaintiff's
5 prevailed. The -- again, the only thing we didn't
6 win was prejudgment interest. Whether they thought
7 they -- they agreed with counsel's -- defense
8 counsel's argument that 21 percent's too high, and
9 it's a penalty, or whatever, that's the only thing
10 we did not get. If you look at the overall factors
11 cited by Dedes, we should be awarded the full amount
12 of 156,000. Now, there are numerous cases in South
13 Carolina we have cited that provide that there's no
14 requirement that the award of attorney's fees be
15 less than or comparable to the party's monetary
16 judgment. They have routinely upheld awards for
17 attorney's fees where the fees has substantially
18 exceeded the actual recovery. If you look back from
19 what Gaster should have done, we had -- had to
20 respond to the counterclaims, which we did. We
21 didn't -- every person we deposed actually
22 testified. We didn't take 25 depositions of every
23 person involved, we focused on who we thought would
24 be important. It turned out they were important,
25 because they showed up for trial, and we used that

1 information substantially during cross-examination
2 to show to the jury that the story substantially
3 changed from what they really said. So we believe
4 under the Dedes factors, the -- for the first cause
5 of action we're entitled to 156,000. Now, under
6 the mechanic's lien, the second cause of action, the
7 analysis is much simpler, because we have a statute
8 that sets forth how it works. In the determination
9 of who's the prevailing party, under 29520, is tied
10 to the -- what I'll call the statutory offers of
11 settlement. And as the Court, prior to the case
12 going to the Jury, questioned counsel and confirmed
13 neither party made a statutory offer of settlement
14 under that statute. And so if you don't make a --
15 an offer, as found by the Court, applied under Zepssa
16 in Section 20C, the Plaintiff's settlement offer in
17 this analysis is the principal amount sought in the
18 complaint, and the Defendant's settlement offer is
19 the negative value of the counterclaim they sought.
20 Our principal amount of the complaint was 24,885.
21 The value of the Defendant's counterclaim was minus
22 -- at least minus 90,000, it could be minus 200, but
23 it doesn't really matter. The Jury awarded exactly
24 how much the Plaintiff sought, the 24,885. Gaster's
25 the prevailing party under that analysis, and is

1 awarded its reasonable attorney's fees limited to
2 the principal amount of the bond. In this case,
3 that would be the only amount of attorney's fees
4 we're entitled in the second cause of action is -- I
5 mean not the bond, but the lien, the amount is
6 24,885, and that's what we're requesting. And so
7 that, I believe, walks through our position of the
8 two bases for our attorney's fees, and why the
9 amounts we're requesting should be ordered.

10 THE COURT: All right, thank you. Mr. Moore?

11 MR. MOORE: May it please the Court?

12 THE COURT: Hold on, hold on one second. Hold
13 on one second. Can you turn that up?

14 MR. MOORE: Yes.

15 MR. PATTERSON: Okay. You don't mind if I get a
16 little closer, Judge?

17 THE COURT: No, sir, not at all. Hey, Mr.
18 Moore?

19 MR. MOORE: Good morning, Your Honor.

20 THE COURT: See -- can you get -- can you get a
21 little closer to your device, because it --

22 MR. MOORE: How about this? Is that helping at
23 all?

24 THE COURT: Yes, sir, I think we can hear you
25 better now. Yes, sir.

1 MR. MOORE: All right.

2 THE COURT: Mr. Moore, let me hear from you, in
3 response to Counsel's argument, sir.

4 MR. MOORE: Yes. Your Honor, one of the good
5 things about this case is, that neither side filed
6 any post-trial motions. So I -- from what I
7 understand the time to do that has run, and,
8 therefore, the verdict of \$24,000 stands.
9 Thankfully that verdict stands. The verdict, in my
10 mind, appears to have been a compromised verdict.
11 The Jury awarded the full amount of the invoice but
12 disregarded the interest altogether. So in regard
13 to who prevailed, that's a very interesting
14 question. The amount of the interest claimed was
15 almost equal to the amount of the account, I believe
16 the interest was, roughly, 23,022 and change, and as
17 I recall the amount of the invoice was 24,000. So
18 the Jury, basically, awarded, roughly, 52 percent of
19 the amount the Plaintiff claimed in the case. Now,
20 the Plaintiff claims to have prevailed, but when the
21 Jury, in effect, disallows a portion of interest
22 that was placed into evidence, without really a
23 whole lot of argument from us in regard to the
24 amount, they just disregarded it. What you
25 basically have, in my humble opinion, is the Jury

1 simply reached a compromised verdict, which, in all
2 truth of the matter was probably fair. Counsel
3 indicates that we -- I -- I said I was delighted
4 with this verdict, I had more authority than the
5 amount of the verdict to settle the case. I
6 announced that in open Court, and Counsel was not
7 interested in knowing how much authority I had.
8 After I announced to the Court I was willing to
9 explore the possibility of paying them money, their
10 response to that was nothing; not how much is it?
11 Where are we? Nothing. Counsel was absolutely
12 correct, that the award of attorney's fees, at least
13 to some extent, is within the discretion of the
14 Court. The Court can award what it feels to be
15 equitable, reasonable under the circumstances, but
16 it really is interesting as to who is the prevailing
17 party. The amount of the award was 52 percent, or
18 50 per -- 51 percent of the -- of the amount
19 claimed. The amount of the award was less than the
20 amount of authority we had to settle the case, and
21 Mr. Golson, who I represent, and Travelers, who I
22 represent, were both dismissed as parties to the
23 case. So two of the three Defendants prevailed
24 against the Plaintiff's claim.

25 THE COURT: Well -- well, as it relates to your

1 other folks, I -- I really don't want to get into
2 that this second. I'm going to hear from that.
3 What I want to do right now, I want to deal with his
4 motion first as it relates to his petition for
5 attorney's fees pursuant to causes of action one and
6 cause of action two. I'm going to give you plenty
7 of time, Mr. Moore, to talk about parties that you
8 may allege prevailed, but I don't want to get into
9 that right now, okay, sir?

10 MR. MOORE: Yes, sir. The -- the only reason I
11 mention that is this, Your Honor, basically, Counsel
12 alleges he is the prevailing party, because he got
13 an award from the Jury. When we look at who won,
14 the prevailing party, it would certainly seem that
15 to argue he is the prevailing party, where two of
16 the three Defendants were dismissed, would tend to
17 mitigate against the argument that he is, in fact, a
18 prevailing party. It is hard for me to understand
19 how counsel can allege to have been the prevailing
20 party against Travelers or against Golson. He got
21 an award equal to 50 percent of what he was seeking.
22 The Jury totally disregarded all of his evidence in
23 regard to interest, and the Court dismissed two of
24 the three people he had sued for all of these years.
25 We also had an interesting -- an interesting point

1 throughout the trial. When we made the motion to
2 elect between the contract claim and the bond claim,
3 and they refused to do that. My understanding is
4 the amount of recovery in regard to fees on a
5 mechanic's lien would be limited to the amount of
6 the penal sum in the bond. So he now has proceeded
7 on a cause of action, which statutorily limits the
8 amount of attorney's fees, at least on that cause of
9 action, to the penal amount of the bond, and he'd
10 still have to prove that the fees were reasonable,
11 and that they were -- I had a moment there, Your
12 Honor, excuse me, but the statute to -- to proceed
13 under the -- to insist upon proceeding under the
14 mechanic's lien statute, he insisted then, upon
15 proceeding under a statute which statutorily limited
16 the amount of the attorney's fees. Now, there is an
17 argument that can be made, that, well, the
18 contract's there, too; well, yes, it is, but the
19 contract has to be read in light of the elections
20 they've made to proceed in regard to their claims.
21 They proceeded to enforce that contract under the
22 mechanic's lien statute. And since they continued
23 to move forward under the lien statute, I would
24 highly recommend that they did that to their peril
25 and made the realization. I believe, but I could be

1 wrong, I believe that when I made the motion to
2 dismiss the mechanic's lien portion, or to dismiss
3 the contract portion, the argument was that they are
4 mutually exclusive in regard to the remedies for
5 fees, and, therefore, since they're mutually
6 exclusive, he has to elect one or the other. He
7 refused to do that, and the Court didn't make him,
8 and I understand that, I'm not arguing with that
9 ruling; but I think what he elected he elected to
10 his peril, at which time he clearly limited the
11 amount of his fees to the bond. It's an interesting
12 argument, especially, when we go back and -- and
13 consider the fact that we have to basically look at
14 a discretionary call.

15 It's also interesting that there is a claim for
16 \$150,000 in attorney's fees when the award was
17 \$24,000. Much of the fees appear to be involved in
18 defending the counterclaim. Now, GMK never signed
19 any contract that said, we will pay your fees if we
20 counterclaim, and you have to defend the
21 counterclaim. What portion of those fees are
22 related to defending the counterclaim, and what
23 portion of those fees are related to proving a debt
24 for \$24,000 in claimed interest? It looks to me
25 like the bulk, if not almost all, of the fees that

1 he's talking about are fees that were basically
2 incurred in defending the counterclaim. I might be
3 wrong, but I do not see anything in any contract
4 indicating that we're responsible for the fees
5 relating to defending a counterclaim. Now,
6 obviously, the two were intricately related to each
7 other, but it -- it doesn't seem to me to be
8 equitable, especially in a case where the Jury
9 basically said a portion of your claim is bogus. To
10 come in and say, okay, \$154,000 in fees. The --
11 Counsel discusses the beneficial result. The
12 beneficial result was less than the amount we were
13 prepared to pay in the resolution, and the
14 beneficial result did not include anything brought
15 after the claim. The -- we were satisfied with the
16 verdict. Obviously, we would have liked to have had
17 a vote in the counterclaim, but we were satisfied
18 with the verdict. It was about what we were willing
19 -- I had \$25,000 in authority to settle the case, if
20 they would have talked to us, but since the verdict
21 came back less than the amount we were willing to
22 pay to settle it, we were satisfied. Were we happy?
23 No. One of the sad things about the case is, that
24 now, I guess, I've got to come back -- I don't know
25 what we're going to do. I want this thing over.

1 And Russell and I have talked about it, he has been
2 most gracious, and we have tried to resolve it; and,
3 again, you know, we're at loggerheads again, which
4 is nothing new for this case. It is to me -- it is
5 to me very disappointing that we spent this kind of
6 time, effort and money on trying to resolve the
7 case, when the actual invoice was \$24,000. It just
8 seems -- it seems like it was an incredible waste of
9 time and resources, and I appreciate the patience
10 with which the Court dealt with me. Your Honor, we
11 just believe that, you know, I spent time, and I had
12 two associates running up and down the roads for
13 these depositions, and a week worth of trial down
14 there, I think my bill was something -- my total
15 hours were something like 40 or \$50,000 -- \$57,000
16 with costs. It is incredibly hard for me to
17 understand how you can run up a \$150,000 bill over a
18 \$24,000 account, but, apparently we get it. It --
19 it just seems to me that it's time for this stuff to
20 stop. And if we -- if we follow the directives of
21 the Jury, it appears to me the Jury, basically,
22 said, stop it, we're going to leave you where you
23 were, we're going to give you the debt, no interest,
24 and everybody go home. And I think that's what they
25 meant to do. What I'm thinking, 50 cents will buy a

1 cup of coffee, I could be wrong about that, but the
2 Jury meant to basically stay everybody, and I think
3 that basically the Jury intended to leave them where
4 they are, to give them the bill and say, go home.
5 That's why the interest wasn't awarded. The -- the
6 -- it just seems to me that an award of attorney's
7 fees in a case like this just should not be done.
8 And with all due respect to myself, I honestly don't
9 think we should be awarded an attorney's fee either.
10 I don't think any of us should be awarded attorney's
11 fees. I think we ought to be left right where we
12 are. I know the mechanic's lien statute says I can
13 go after it, but, you know, truly, attorney's fees
14 ought to be golf balls in my humble opinion. You
15 talk about equity, quite frankly, maybe there were
16 hard heads on both sides, Your Honor. I think we
17 both had a -- I think Russell and I had a
18 miscommunication early on in the case that was
19 unfortunate, and hard heads prevailed, and the Jury
20 probably dispensed pretty good justice in the case.
21 In my humble opinion, with all of the resources
22 we've expended, the parties ought to be left the way
23 they are. And, you know, I'll -- I'll make my
24 wonderful argument in regard to my fees, but,
25 honestly, I think the -- in your discretion, I would

1 ask the Court -- I'd ask the Court to leave them --
2 leave them where they are, but I'm going to have to
3 ask for the fees, so I guess I'm making an
4 inconsistent request as well. I think they ought to
5 be left alone. I -- I can tell a war story right
6 now about Judge Timmerman. Do you remember Judge
7 Timmerman?

8 THE COURT: No, sir, I don't.

9 MR. MOORE: But he had a case one time with a
10 request for attorney's fees, and it was very, very
11 interesting what he had to say, but war stories are
12 not appropriate for argument, and I know that.

13 THE COURT: All right.

14 MR. MOORE: I guess I'm getting -- I'm getting
15 to the age where I want to tell war stories, but I
16 simply think it should be left alone, and I'll make
17 my argument at my turn for my fees, but, truly, in
18 justice and equity, it ought to probably be all
19 gone.

20 THE COURT: All right.

21 MR. MOORE: Maybe everybody in this battle
22 learned a lesson, including me.

23 THE COURT: All right.

24 MR. PATTERSON: Can I -- can I just address a
25 few points?

1 THE COURT: Yeah, I'm happy to hear from you.

2 MR. PATTERSON: Okay.

3 THE COURT: Yes, sir.

4 MR. PATTERSON: As the Court's probably
5 observed, there's not a single case or statute cited
6 by Counsel in its entire argument. Did not submit
7 any brief citing any cases in there, and that's
8 because the law is 100 percent against what we just
9 heard. I'll -- I'll point out the Baron Data case,
10 he said, well, you -- you can't have attorney's fees
11 up this high, because you're only suing for \$24,000.
12 Well, that's not what the lawsuit was about. That's
13 what it probably should have been about. They filed
14 counterclaims and asked the Jury for \$100,000. They
15 put up testimony for another 120,000. The reason
16 this case lasted so long is the counterclaims, which
17 they got zero. Counsel never hardly even talked
18 about the counterclaims, as if that wasn't there.
19 If that's -- if all we had was a mechanic's lien,
20 Judge Dukes would have decided this six months after
21 we filed, like is what happens in every contested
22 mechanic's lien. But when you have a contract
23 claim, and then you have counterclaims, the South
24 Carolina case law is very clear, Baron Data vs.
25 Loter, and 377 S.E.2d 296, the Court looks at the

1 total amount of attorney's fees the Plaintiff had to
2 incur to obtain that verdict. They had to deal with
3 the counterclaims, and that's the same argument that
4 we just heard in there. The Court said that -- let
5 me read it, the Court -- the Plaintiff in Baron won
6 a \$16,000 verdict in avoidance of nearly a half
7 million dollars of liability on the counterclaims,
8 okay? And they awarded the attorney's fees over the
9 overall defense that were incurred in trying to get
10 that judgment. That's the same thing we have --

11 THE COURT: All right, let -- let me see that
12 case.

13 MR. PATTERSON: Yes, Your Honor. I think the
14 part that I just read from is highlighted.

15 THE COURT: All right, go ahead.

16 MR. PATTERSON: So it's not what attorney's fees
17 did you have for the -- for collecting \$24,000, it's
18 what attorney's fees that we were required to expend
19 to collect \$24,000, and to defend a counterclaim
20 over \$100,000, and we were successful 100 percent,
21 they got zero on their counterclaims. And that's
22 what almost all of the trial was about, were the
23 counterclaims, because it took us about two minutes
24 to put in our account agreement, and the unpaid
25 invoices. And if that's all we had to do, the whole

1 case would have been done with one witness.
2 Everything else after we put that account agreement
3 in, and the unpaid invoices, all counterclaims,
4 having to defend and deal with the counterclaims.
5 And so that's why the attorney's fees are what they
6 are. The -- Counsel has misstated the law on a
7 mechanic's lien. First of all, I would also point
8 out he -- he cited no case for the proposition that
9 the attorney's fees are limited to the amount of the
10 contract claim, because there is no case, the law is
11 opposite. He also said -- brought up this issue
12 again about the election of remedies between a
13 contract claim and a mechanic's lien. We've cited
14 many, many mechanic's lien cases. Almost every one
15 of them has a breach of contract claim and a
16 mechanic's lien foreclosure.

17 THE COURT: Okay.

18 MR. PATTERSON: There are two remedies that are
19 used together by all contractors when they file a
20 lien. They're not mutually exclusive. There are 40
21 or 50 cases on attorney's fees on mechanic's liens.
22 Not a single one says that, if you ask for
23 attorney's fees under the mechanic's lien, you
24 cannot get attorney's fees under a contract
25 provision. There is no case that says that because

1 that's not the law. And the reason it's not the law
2 is because the mechanic's lien is an additional tool
3 the Legislature provided to protect contractors when
4 they're not paid, so they can obtain a lien on the
5 property, or if the lien's bonded off, against the
6 bond. He also stated that the attorney's fees under
7 the mechanic's lien are limited to the bond amount.
8 That is incorrect. I think, Your Honor, was nodding
9 his head when I was going through the statutory
10 process, the attorney's fees are limited to the
11 amount of -- the principal amount of the mechanic's
12 lien. The bond doesn't have anything to do with the
13 amount of attorney's fees. The -- also under the
14 first cause of action, the standard is not the
15 prevailing party. That's not what the contract
16 says. It says, if we incur legal fees in the
17 collection of this matter, we're entitled to recover
18 them. GMK signed that. We did incur attorney's
19 fees, lots of them, trying to collect \$26,000, and
20 then as part of that, had to deal with these million
21 dollar counterclaims. So the last thing I'll say,
22 and I -- I really don't want to get into the issue
23 of settlement. Settlement is not a factor under
24 deeds or any case law we found. I would disagree
25 with Counsel's representation of the settlement

1 discussions. You might have noticed I got kind of
2 upset right after the verdict, after Counsel said,
3 "Mr. Patterson won't talk to me about settlement,
4 I've tried, and tried, and tried." I've never --
5 and I called Mr. -- Counsel on that, and I said,
6 "Have I ever not returned your call? Letter? Email?
7 Have I ever said, 'I won't talk to you about
8 settlement?'" He said, "No." All right, when he
9 announced in the Court he had some settlement
10 authority, I said, "Fine." He never came to me with
11 any offer of settlement, and I didn't go to him.
12 It's not that I refused to talk to him, I didn't
13 come asking him what he wanted. If he wanted to
14 make a settlement offer, that was fine, and we'd
15 respond like we've done every single time in this
16 case. So settlement doesn't have -- and I won't go
17 into any of the numbers, because I think it's
18 inappropriate, because it's not a factor to be
19 decided. So we think the case law is very clear,
20 and it's not a matter -- it is a matter for
21 discretion, but there are standards, well
22 established under Dedes of how the Court goes about
23 doing it. And if you look at those standards, we
24 have met all of the factors. And to say that we
25 weren't the successful party, you -- the Court's

1 right, it doesn't matter what happened to other
2 parties, we're dealing with GMK, that's who we're
3 seeking attorney's fees for. Were we successful
4 against GMK? And the answer is absolutely yes.

5 THE COURT: All right.

6 MR. PATTERSON: Thank you, Your Honor.

7 THE COURT: All right, let me hear from you, Mr.
8 Moore, as it relates to what I believe is a motion
9 that you made, sir, for attorney's fees, I guess, on
10 behalf of Travelers and Mr. Golson -- Mr. Golson,
11 sir.

12 MR. MOORE: Yes, sir. Your Honor, if I -- if I
13 might also just respond very briefly to Counsel's
14 comments in regard to his reply, will that be all
15 right, if I could respond --

16 THE COURT: Yeah, go ahead.

17 MR. MOORE: -- briefly?

18 THE COURT: Yes, sir.

19 MR. MOORE: In regard to the preparation of a
20 brief, I have five cases coming up for trial next
21 week, and I think we learned that this motion was
22 going to be this morning, golly, Monday or Tuesday
23 of this week. Honestly, I did not have the
24 logistical ability to prepare a memo.

25 THE COURT: That's fine, Mr. Moore.

1 MR. MOORE: I was trying to get --

2 THE COURT: Mr. Moore, that -- you don't have to
3 apologize for that, sir. I mean that --

4 MR. MOORE: Thank you.

5 THE COURT: You don't have to do that at all.
6 I'm ready to hear from you though, and if there's
7 anything else you want to talk about as it relates
8 to his argument, I'm happy to hear from you on that,
9 but I really want to get into your claim for
10 attorney's fees on behalf of the two folks.

11 MR. MOORE: If -- if I could very, very briefly,
12 Your Honor --

13 THE COURT: Yes, sir.

14 MR. MOORE: -- a mechanic's lien action is a
15 foreclosure action. It's just like a mortgage
16 foreclosure, except instead of foreclosing on a note
17 and mortgage, you're foreclosing on an account.
18 That is why it's improper to style it as two
19 separate causes of action, because it's the same
20 cause of action. When you basically are foreclosing
21 on an account, the contract becomes the basis for
22 the lien, which is being foreclosed. Therefore, the
23 problem that he has is that he can try to foreclose
24 on the lien, but to do that, he has to use the
25 contractual nature of the account to do that. This

1 whole case, with all due respect to Mr. Patterson,
2 should have been treated as a one cause of action, a
3 mechanic's lien, instead of two separate causes of
4 action, where the one cause of action foreclosure
5 has been split. With that, I will move on. Your
6 Honor, it -- it simply is -- it -- it is without
7 question, I believe, that Mr. Golson has basically
8 had to incur significant amounts of fees and costs
9 associated with having to defend himself throughout
10 this entire matter, so has Travelers. We're in a
11 posture to where both of those people prevailed in
12 the case. I would generally consider it prevailing
13 when they're dismissed at the motion stage. So it
14 would appear to me that both of these have been
15 dismissed as parties to the action, so two of the
16 three Defendants totally prevailed. With that,
17 there are fees which were incurred. Some of those
18 fees were incurred by my then associates. The -- I
19 have billed the whole thing at \$350 an hour, but the
20 associates' billing rate's actually \$175 or \$150 an
21 hour, I don't recall which one, so my -- my total
22 bill should actually be reduced to about \$50,000.
23 Much of -- a significant portion of that money is --
24 is for some costs. I think our -- our total -- our
25 total charges in this case, and we've been pretty

1 much paid in full, \$57,820, and we got 165.2
2 billable hours in the case. I guess what I, you
3 know, I don't even -- I haven't even added my actual
4 costs to the bill that we have; but I don't -- Your
5 Honor, I've been practicing law 45 years, I'm an AV
6 rated lawyer with Martindale. \$350 an hour is
7 probably mid-range for the South Carolina market for
8 a lawyer with 45 years' experience. I'm a member of
9 ABOTA American Board of Trial Advocates. I think
10 I'm generally regarded as having --

11 THE COURT: Speak -- can you speak up a little
12 louder?

13 MR. MOORE: I will. I, you know, it's always
14 interesting when you argue the issue of attorney's
15 fees, and you've got to tell the Court how great you
16 are. You know, I -- I -- I'm a member of ABOTA.
17 I've got an AV rating with Martindale. I've
18 probably tried over 45 years somewhere around 1,000
19 or better jury trials. I -- I represent a number of
20 governmental entities, and I do an awful lot of
21 construction work. I -- I think I have a fairly
22 decent standing and reputation in the community for
23 litigation skills. I think 350 bucks an hour is
24 probably a fair bill. The clients have paid me
25 everything I've asked for, and as far as I'm

1 concerned, my bill is current. And with that, I,
2 you know, you -- you've got a claim for attorney's
3 fees from Golson and Travelers, and it just seems to
4 me they were clearly the prevailing party. It would
5 appear to me that this thing washes out, it should
6 wash out, but if it doesn't wash out, I just ask the
7 Court to do, in its discretion, what is the right
8 thing to do. Legally, are Mr. Golson and Travelers
9 probably entitled to some fees? Yes, but I -- I'm
10 asking for it because they're asking for it.

11 THE COURT: Well, and -- and let me ask you
12 this, sir, and I understand that. So my question to
13 you is, you're -- you're claiming that two people
14 have won --

15 MR. MOORE: Yes.

16 THE COURT: -- two people that you represented
17 won, in that they were dismissed prior to the Jury
18 verdict, and that would be a winner.

19 MR. MOORE: Yes.

20 THE COURT: So what I'm asking you --

21 MR. MOORE: Yes.

22 THE COURT: -- sir, is, what amount of money are
23 you asking for -- for them, or how -- what would you
24 -- what would you think would be reasonable for each
25 one of those? Because I mean I -- and I understand

1 your underlying arguments that you made as it
2 relates to Mr. Patterson's argument, but at this
3 point, I -- I need to know what is your position on
4 what these clients that prevailed, what they would
5 be entitled to, sir, that's what I need to know.

6 MR. MOORE: And that's a great question. You
7 know, you -- you can look at it in two separate
8 ways, and say, okay, they should be responsible --
9 they -- they should recover two-thirds of my bill,
10 that's a very, very legitimate argument; but they're
11 jointly and severally liable for my bill, so each of
12 them has a liability for my money. So if that's the
13 case, they're joint and severally liable, then they
14 owe me all of -- each of them owe me \$67,000, and as
15 joint and several liability. If -- if I were going
16 to award a fee, and, of course, I keep saying if I
17 were going to do it, you know, they won, and they
18 wound up jointly and severally liable for \$57,000.

19 THE COURT: Yeah, but let --

20 MR. MOORE: That --

21 THE COURT: Yeah, but Mr. Moore --

22 MR. MOORE: It has to be fair, that's not fair.

23 THE COURT: Mr. Moore --

24 MR. MOORE: Yes, sir.

25 THE COURT: -- if they won, they'd be entitled

1 to -- they be entitled to, potentially, attorney's
2 fees, and I'm not -- I'm not saying I made my mind
3 up, but, if they won, under the attorney's fees
4 statute, if they're deemed a winner at --

5 MR. MOORE: Yes, sir.

6 THE COURT: -- at -- at most, they'd be -- well,
7 this is what I'm asking, there's only \$24,000 on the
8 amount of the debt. I don't think it could be more
9 than \$24,000, and so what I'm asking is, are you
10 saying each one would be entitled to \$24,000; or
11 what are you -- I'm -- I -- I want to make sure I
12 understand, sir, because you don't -- you don't have
13 a breach of contract claim, or -- or -- I understand
14 they may be on the hook for more than what the lien
15 is, but that's kind of another matter for another
16 day. So what I'm asking, sir, is, what's your
17 position, as it relates to the mechanic's lien
18 statute itself, and what would entitle them as
19 winners to recover?

20 MR. MOORE: Being totally, intellectually honest
21 with the Court, I believe that the amount of their
22 recovery fees would be limited to the amount of the
23 debt, \$44,800 something. I believe that would be
24 the law, but I believe that probably should be the
25 law, but I don't know that. I mean --

1 THE COURT: Are you saying --

2 MR. MOORE: -- that's what I think.

3 THE COURT: Are you saying each one, or are you
4 saying --

5 MR. MOORE: No, sir.

6 THE COURT: -- collectively?

7 MR. MOORE: I think collectively.

8 THE COURT: All right.

9 MR. MOORE: And look -- look -- listen --

10 THE COURT: No, sir. No, sir. No, sir. I just
11 want to -- Mr. Moore -- and I'm hap -- I don't mean
12 to cut you off. Well, I want to make sure, I'm
13 asking that question because I just want to know
14 what your position is, and I think -- I mean you've
15 got kind of -- this -- you've got different
16 positions, but as it relates to the two Defendants,
17 who you have deemed winners under the mechanic's
18 lien statute, it'd be your position that each one --
19 well, that they would collectively be entitled to
20 \$24,000, or whatever the -- whatever the original
21 lien amount was, 24 and change; is that your
22 position sir? That's what I want to -- want to make
23 sure I understand.

24 MR. MOORE: As much as I hate to say it, but I
25 have to be honest with the Court, yes, sir, I would

1 not think they each would be entitled to 24,000.

2 THE COURT: All right, and then I didn't want to
3 cut you off, it's just that I wanted to make sure I
4 understood you, is there something else you want to
5 tell me, sir?

6 MR. MOORE: No, sir.

7 THE COURT: All right.

8 MR. MOORE: I, you know, I think it would be --
9 I -- I think what I'm telling you is the honest
10 answer to your question.

11 THE COURT: Yes, sir.

12 MR. MOORE: It's a mess, and I'll -- if -- if I
13 start trying to play games, then all I'm going to do
14 is add to the mess. I believe that under that stat
15 -- under that code section, the amount either -- the
16 -- the total amount awarded to either party, the
17 maximum amount either of them would get is \$24,000.

18 THE COURT: All right. All right, thank you.
19 All right, Mr. Patterson, I'm help -- happy to hear
20 from you, sir, in response to Mr. -- Mr. Moore's
21 argument.

22 MR. PATTERSON: Thank you. Your Honor, thank
23 you very much. I wanted to ask one question, I have
24 -- I want to go through my legal arguments as to why
25 we oppose his request, but I also have a few

1 questions for Counsel as to his affidavit of
2 attorney's fees, and I can do that after the
3 arguments, which might be best. It won't take very
4 long, I just have a few questions as to the
5 information submitted to the Court, which I think
6 I'm allowed to do when attorney's fees are being
7 requested.

8 THE COURT: All right, let's go ahead and make
9 your argument, sir.

10 MR. PATTERSON: Thank you very much. In the
11 motions that were made, Defense Counsel asked for
12 attorney's fees for GMK. Also I don't hear where
13 that argument is being made anymore, because,
14 obviously, there is no contract that gives them any
15 rights, and they weren't the prevailing party under
16 the mechanic's lien statute, so I won't spend time
17 addressing any claims for GMK. I want to talk about
18 Travelers, and they assert their attorney's fees,
19 because they weren't the prevailing party, because
20 at the end of the trial, the Court dismissed
21 Travelers, and it's my recollection, or the reason
22 was, is that I -- there was no testimony as to
23 Travelers' liability presented at trial. So I want
24 to briefly go through the mechanic's lien process to
25 look at that dismissal. Ninety days -- with --

1 within 90 days of the last day worked, you have to
2 file a lien, and you have to serve it on them within
3 180 days you have to file suit to foreclose. At any
4 time after the lien is filed, the owner, or anybody
5 with interest in the property can basically bond off
6 the lien by filing a surety of one and a third
7 amount with the Register of Deeds. The lien against
8 the property and the owner is then removed and
9 substituted in its place is the bond obligation to
10 pay the one and a third amount. In this case, after
11 the lien was filed, a bond was filed by Travelers as
12 the surety, and it was recorded at the Courthouse at
13 125 of page 1748, in the amount of \$33,000. The
14 bond was admitted into evidence as part of Exhibit
15 104.

16 THE COURT: So the bond was filed and you had a
17 copy of it before you filed your summons and
18 complaint, correct?

19 MR. PATTERSON: Right. We knew -- we knew a
20 bond had been filed, and I'll talk in a minute why
21 you cannot name the owner, and so we named, as I can
22 represent to you, virtually, everybody that does
23 mechanic's liens foreclosures, once the bond as we
24 named the bonding company as a Defendant, because
25 they're now substituted in the place, and they're --

1 they have money at stake. They've got \$33,000, and
2 they need to be in the litigation, if they want to
3 have any say about what happens to their \$33,000,
4 but --

5 THE COURT: All right.

6 MR. PATTERSON: And that bond was put into
7 evidence. Then we look at the allegations in the
8 complaint, and I've got an official copy, Your
9 Honor, right here, if I can hand this up?

10 THE COURT: Yes, sir.

11 MR. PATTERSON: Just to make it easy, but --

12 THE COURT: Thank you.

13 MR. PATTERSON: So let's see what was alleged as
14 to Travelers in the mechanic's lien cause of action,
15 and I've marked it. In paragraph 18, it said,
16 "Gaster requested a determination of the monies due
17 under its mechanic's lien, and then the payment of
18 same under the bond." And so in paragraph 18 we
19 specifically asked the Court to issue an order, if
20 we were found money to be due to require Gaster to
21 pay us that money under the bond. Under our prayer
22 for relief, it's -- we -- in the second one we had
23 entered judgment foreclosing the mechanic's lien,
24 and against the bond in the principal amount of
25 \$24,000, plus attorney's fees. So we sought very

1 specific affirmative relief against the bonding
2 company in the second cause of action. The bond was
3 in evidence. There really wasn't any other
4 testimony or evidence that was needed to proceed on
5 that cause of action. As we now know the Jury found
6 for Gaster for the full amount of the request in the
7 bond, and in the mechanic's lien. So we don't
8 believe --

9 THE COURT: For the bond and the mechanic's
10 lien?

11 MR. PATTERSON: Well, in the -- the mechanic's
12 lien cause of action they found in our favor, okay,
13 for the \$24,000. As you recall, we had a lively
14 discussion about whether we're going to have two,
15 asked the Jury, first cause of action second, and
16 then we stipulated that the one answer we find for
17 the Plaintiff and X applied both to the first cause
18 of action and the second cause of action. Because
19 we had a lot of confusion about how to ask specific
20 questions on each question.

21 THE COURT: All right.

22 MR. PATTERSON: And I've got the jury verdict
23 here.

24 THE COURT: Well, I've got the verdict form
25 right here, and that was going to be a question.

1 MR. PATTERSON: Right.

2 THE COURT: The verdict form doesn't say on what
3 cause of action they prevailed, right?

4 MR. PATTERSON: Right, but -- but the -- it said
5 the Plaintiff is entitled, we stipulated, Judge, and
6 I -- I don't know if your -- your --

7 THE COURT: Well, I don't --

8 MR. PATTERSON: I -- law clerk --

9 THE COURT: I don't remember that stipulation.
10 Did we? But, you know, even if we stipulated,
11 doesn't that then require your magic to interpret
12 what the Jury said, because we don't know? I mean
13 there may have been a -- you-all may have stipulated
14 it, but I'm like how do we know, all right?

15 MR. PATTERSON: Judge, we -- we went round and
16 around, the initial Jury verdict form had the first
17 cause of action, second cause of action, and then
18 the other questions, and then we went round and
19 round. And Mr. Moore is actually the first one to
20 suggest it, let's just do it like the wreck case, if
21 they -- if they find it for the Plaintiff, that
22 applies -- that means they have to find the first
23 and the second.

24 THE COURT: All right.

25 MR. PATTERSON: And then simplify it.

1 THE COURT: I agree, but my question is, how,
2 looking at this verdict form, how am I supposed to
3 know who won on what cause of action?

4 MR. PATTERSON: You can --

5 THE COURT: When I look at the verdict form --

6 MR. PATTERSON: Uh-huh, yes, sir.

7 THE COURT: -- how am I supposed to do that?

8 MR. PATTERSON: Because it's -- if you -- if you
9 only had the verdict form, you couldn't, but you
10 also have to say, wait a minute, that verdict form
11 was the result of a stipulation of counsel, that it
12 applied to both causes of action.

13 THE COURT: Right, but still -- okay, and let's
14 assume it is a stipula -- what -- what was -- and
15 what was the stipulation?

16 MR. PATTERSON: Whatever that verdict if -- for
17 the Plaintiff applied for the first cause of action
18 and the second cause of action, knowing that we're
19 not talking about a duplicate recovery, but it
20 applied to both causes of action. I'm absolutely
21 clear on that, Your Honor.

22 THE COURT: Okay, okay. I mean I just --

23 MR. PATTERSON: Okay, so my point in going
24 through that process is to respectfully submit that
25 the Judge committed error when he dismissed

1 Travelers before the case went to the Jury, because
2 we had put into evidence everything we needed on
3 Travelers. We did not need any oral testimony.

4 THE COURT: Let me ask you this, I read one of
5 the cases in your brief, the roof case, the roofing
6 company -- was there a roofing company case? No,
7 that's a -- I've -- I've got several motions today,
8 and I can't -- what was -- what was the case that
9 talked about?

10 MR. PATTERSON: It's Kenny Roofing, I think --

11 THE COURT: Yeah.

12 MR. PATTERSON: -- is what you're talking about.

13 THE COURT: Kenny's -- Kenny's Roofing.

14 MR. PATTERSON: Yes, sir.

15 THE COURT: As I read Kenny's Roofing case, it
16 sort of indicated that the bonding company should
17 have been in, but that -- then the named Plaintiff
18 or Defendant should be out. In other words, as I
19 read Kenny's Roofing, it kind of said, you know,
20 when the bonding got -- when the bonding people came
21 on the bond, they end up becoming, in essence, the
22 defendant in the matter.

23 MR. PATTERSON: That's -- that's correct.

24 THE COURT: Okay. Which would then, to me, mean
25 that maybe the Court made a mistake letting the

1 Travelers out, but then also there was no reason, at
2 that point, for the Defendant, GMK, to remain in,
3 correct? I mean -- and that -- in other words, why
4 was GMK -- what I'm asking is this, technically, all
5 you needed to do, sir, was to name Travelers in this
6 action, as it relates to the first cause of action.
7 Is the mechanic's lien the first cause of action?

8 MR. PATTERSON: No, the second one.

9 THE COURT: The second, I'm sorry. As it
10 relates to the second cause of action, the only
11 Defendant you needed to name was Travelers; isn't
12 that correct?

13 MR. PATTERSON: No, sir. We have to name the
14 general contractor. GMK, again, is not the owner.
15 Who we could not name is Mr. Berry, the owner of the
16 property; and that's what the Kenny case said, and
17 that's what the Kenny case was about is because
18 after the lienor was aware the bond had been filed,
19 he --

20 THE COURT: Okay.

21 MR. PATTERSON: -- he went ahead and foreclosed,
22 and he named the owner of the property and the
23 surety company. And the Court said, "You -- you
24 can't name the owner of the property because the
25 surety company is substituted in its place," and

1 they upheld the dismissal of the owner --

2 THE COURT: Okay.

3 MR. PATTERSON: -- and awarded attorney's fees
4 to him because he should have never been in the
5 lawsuit.

6 THE COURT: All right.

7 MR. PATTERSON: If I could back up a little, I
8 think --

9 THE COURT: Go ahead.

10 MR. PATTERSON: -- I think I can make it a
11 little clearer.

12 THE COURT: Go ahead.

13 MR. PATTERSON: The -- we have done a very
14 substantial review of the large number of recorded
15 mechanic's lien cases; and there's not a single
16 case, and defense counsel has not seen -- cited a
17 case, where any Court has ever held that the bonding
18 or surety company should be dismissed as a party in
19 a mechanic's lien action after they file a bond.
20 There's not a single case. In fact, we listed four
21 cases that are reported, and there are other ones,
22 where the bonding company was named a party, and
23 they talked about lots of issues. Nobody ever said,
24 "Hey, the bonding company shouldn't be here."
25 That's Cohen, Kenny's Roofing, United Tank Service,

1 Reed, and others. So the Court has never held it
2 was improper for somebody like Gaster to name the
3 bond -- the bonding company. What we do have that's
4 interesting, we do have cases that state it's not
5 required to name the bonding company to complete a
6 mechanic's lien foreclosure. The Cohen case, it was
7 a mechanic's lien by a contractor, the own -- owner
8 bonded it off, but the owner didn't tell anybody he
9 bonded it off, which I've had that happen,
10 surprisingly. The contractor filed its foreclosure
11 within the six months. He didn't know anything
12 about the bond, he just named the owner. He found
13 out about the bond after the six months, amended the
14 pleadings to name the bonding company. The owner
15 came back and said, "Wait a minute, Court, they
16 didn't file their foreclosure within six months
17 naming the right parties, and I want the mechanic's
18 lien to be dismissed, because they didn't name the
19 bonding company in their first complaint." The
20 Court reviewed the bond statute 29-5-110 to confirm
21 that the filing of the bond merely released the lean
22 on the property, and the bond took the place of the
23 property. They then looked at 29-5-110, which is
24 the statute that imposes a six-month foreclosure
25 requirement and concluded that neither provision

1 required the bonding company to be named. The same
2 result is in Reed v. Miller. So at this point, we
3 have no South Carolina case has ever dismissed a
4 mechanic's lien foreclosure by naming Travelers by
5 the bonding. Numerous cases where they were named,
6 but it is not required that they be named.

7 THE COURT: All right.

8 MR. PATTERSON: Then we move to Kenny's Roofing,
9 which we just mentioned, where -- where if you name
10 the owner after the bond, you're in deep trouble.
11 Okay, in our case, we didn't name the owner, all
12 right? Because we knew about the bond, we only
13 filed against the bonding company, and we also --
14 the general contractor, which is a required party in
15 a mechanic's lien foreclosure.

16 THE COURT: All right.

17 MR. PATTERSON: All right, so we did something
18 that no case law prohibits. The reported cases
19 provide for it. And then I want to look -- and,
20 again, if you'll refer to the complaint, what did we
21 say about the bonding company? Again, this is where
22 we made specific allegations for affirmative relief
23 that they had to pay off the mechanic's lien if they
24 were successful; and that's, again, paragraph, the
25 second cause of action, we asked for very

1 affirmative relief against Travelers, okay? And the
2 bond is our primary right of payment. Their money,
3 as I mentioned, was at stake, they need to be --
4 have a seat at the table, because they're going to
5 lose \$33,000, if things go bad. And that's exactly
6 what happened because Jake Moore is representing the
7 Travelers.

8 THE COURT: All right.

9 MR. PATTERSON: So I believe, respectfully, it
10 was an error for the Court to dismiss it, thus,
11 under your discretion of awarding the attorney's
12 fees now that we've had a chance, and during the
13 trial, obviously, we don't have the chance to really
14 research all of these things, and have time to
15 discuss it, but now we do, and now maybe --

16 THE COURT: That's well said.

17 MR. PATTERSON: Right? Well --

18 THE COURT: That's a well said statement, yes,
19 sir.

20 MR. PATTERSON: That goes for you, and it
21 certainly goes for the attorneys, and -- and I'll
22 tell you that. So since they shouldn't have been
23 dismissed, we shouldn't have to pay attorney's fees,
24 because they got dismissed. Now, we didn't file an
25 appeal. We're not filing an appeal over that issue,

1 because it doesn't make any sense, so -- but at
2 point of whether we should have to pay attorney's
3 fees is very relevant; but even -- say you find
4 Travelers should have been dismissed, and they were
5 the prevailing party, you still have to determine
6 how much attorney's fees and costs were paid by
7 Travelers in relation to the mechanic's lien
8 foreclosure. The case of Utility Construction v.
9 Wilson is on point. That involved a dispute over
10 attorney's fees due to prevailing party's mechanic's
11 lien. The attorney's fees evidence submitted by the
12 party seeking fees dealt with numerous -- handling
13 numerous causes of action, other than the mechanic's
14 lien. The Appellate Court reversed the Trial
15 Court's award of attorney's fees since there was no
16 evidence that those fees were related to the
17 mechanic's lien case. In this case, evidence of
18 Plaintiff's counsel totals \$57,820, but there's
19 absolutely no evidence of a breakdown of how much of
20 that was for Travelers. And I'm handing to the
21 Court, and I believe I emailed a copy of this
22 exhibit to you -- well, Your Honor, I -- I won't
23 hand it up, but I have a summary. We went through
24 Counsel's affidavit, and there were only eight
25 entries that referenced Travelers, and they were for

1 2.1 hours, and that would total \$375. That's the
2 only reference. I'll go ahead and proffer it up,
3 but I thought I had emailed this to Counsel, and I
4 know it's not fair, since he's on Zoom. I don't
5 know really how to show it to him.

6 THE COURT: Well, I mean the -- the bills speak
7 for --

8 MR. PATTERSON: Yes.

9 THE COURT: -- speak for themselves --

10 MR. PATTERSON: Okay.

11 THE COURT: -- and -- and so to that extent I've
12 had an opportunity to review his bill, I've had an
13 opportunity to review your bill, and if you're
14 telling me that the -- the actual entries that
15 involved Travelers ends up being a certain amount of
16 time and \$350, I mean as it relates to that, I don't
17 -- Mr. Moore, I'm sure, probably doesn't have an
18 objection to that. I mean the bill is what it is,
19 as it reflects, and I'm going to let him -- there
20 may be other things about that, and I --

21 MR. PATTERSON: Sure.

22 THE COURT: -- going to let him to respond. But,
23 no, sir, go ahead, your fine.

24 MR. PATTERSON: All right. We just -- all we
25 can go by is the bill, and anything that said

1 Travelers, that's what we had.

2 THE COURT: I understand.

3 MR. PATTERSON: In addition, and -- and why I
4 have some questions for Counsel is, if he did not
5 submit the bills, which I've never seen a summary
6 like this. Every time I've always had attorney's
7 fees, which is a lot, we always get the actual
8 bills. And somebody's out, we can see who they went
9 to, and we can see that they've got paid. In this
10 case, we don't have any bills. We have some type of
11 summary that looks like it was recently prepared.
12 We don't have any information if Travelers paid a
13 dime, all right? We don't know if Mr. Berry with
14 GMK paid all these bills, all right? So we're also
15 aware, as I know you've done a lot of defense work,
16 if he's working for Travelers, they're not going to
17 pay \$350 an hour. So that's why I'm -- I'm
18 questioning whether Travelers -- this is not a bill
19 to Travelers, I'm fairly certain. All right, so
20 that -- that summarizes the statutory right of
21 Travelers, because we don't think they should have
22 been dismissed, and we don't think we should --
23 there's very little, if any, evidence of attorney's
24 fees. As far as Travelers' contractual claim, I
25 didn't hear any argument about that, and they don't

1 have a contract with us, so that's -- that's gone.
2 The -- then I want to talk about Mr. Golson. Okay,
3 it's absolutely clear that there was no relief
4 sought in the mechanic's lien action against Mr.
5 Golson, all right? And, again, I'm going to ask the
6 Court to look at the second cause of action, and the
7 only claims that we've made against Mr. Golson is in
8 paragraph 18. Again, it --

9 THE COURT: All right.

10 MR. PATTERSON: -- says, "If the bond amount is
11 not sufficient, the Plaintiff is entitled to a
12 judgment against GMK and Golson. We did not name --
13 we did not assert Mr. Golson was responsible for the
14 mechanic's lien claim. He was only referenced,
15 because if the bond amount was not sufficient, we
16 were then asking the Court to have a judgment
17 against the guarantor, which there is absolutely
18 nothing wrong with. And in the prayer for relief,
19 we said the exact same thing in --

20 THE COURT: Right.

21 MR. PATTERSON: -- in paragraph 2B.

22 THE COURT: Right.

23 MR. PATTERSON: So the idea that -- and that's
24 why we did not oppose for --

25 THE COURT: But it did name him in the second

1 cause of action.

2 MR. PATTERSON: No, I'm -- I'm talking about the
3 second cause of action. Look at paragraph 18, Your
4 Honor.

5 THE COURT: Well, yeah, but I'm looking at --
6 I'm looking at the heading. The second cause of
7 action suit against mechanic's lien bond, all
8 Defendants.

9 MR. PATTERSON: I understand that, but you have
10 to look at the substance of what we're alleging, and
11 you read, and you say, "Well, Mr. Golson, what is
12 your liability under the mechanic's lien statute?"
13 Well, it's zero. The only thing they're asking is,
14 if the mechanic's lien doesn't pay, Mr. Golson,
15 under your guarantee, you may have liability. And
16 the same thing in the prayer for relief. We've
17 never asked for any relief under the mechanic's lien
18 statutes against Mr. Golson, okay? And so that is
19 why we did not have any problem dismissing him.

20 THE COURT: And, I'm sorry, what did you say
21 about -- on page 5 2B?

22 MR. PATTERSON: The prayer of relief.

23 THE COURT: In the second cause of action?

24 MR. PATTERSON: In Paragraph 2 --

25 THE COURT: Yes, sir.

1 MR. PATTERSON: -- B.

2 THE COURT: Yes, sir. And what were you saying
3 about that?

4 MR. PATTERSON: We -- we had the same relief.
5 We did not ask for any relief against Mr. Golson as
6 to the mechanic's lien, we just said if the
7 mechanic's lien process and the bond doesn't provide
8 enough money, then, and only then, separate from the
9 mechanic's lien, Mr. Golson is going to be liable
10 under his personal guarantee; that's basically what
11 that says.

12 THE COURT: All right.

13 MR. PATTERSON: Okay. Again, that's why we had
14 no problem dismissing him from, quote, "the second
15 cause of action," because really all we're -- if you
16 read what we ask for, we just said, "You may have
17 some liability as a personal guarantor if that bond
18 -- if we're successful in the mechanic's lien, the
19 bond's not enough and there's money due, Mr. Golson,
20 as a personal guarantee, you may be responsible."

21 THE COURT: But that -- but -- right. He -- but
22 that's really -- he's not -- but he's not -- he's
23 not responsible under the second cause of action at
24 all, correct? Mr. Golson has no liability
25 whatsoever under the second cause of action,

1 correct?

2 MR. PATTERSON: He did the way that we pled it.

3 THE COURT: No. No. We have a second cause of
4 action --

5 MR. PATTERSON: Right.

6 THE COURT: -- that only deals with the
7 mechanic's lien.

8 MR. PATTERSON: But then we --

9 THE COURT: Whoa, whoa, whoa.

10 MR. PATTERSON: Okay.

11 THE COURT: There is no way Golson has any
12 liability to your client under the second cause of
13 action, is there?

14 MR. PATTERSON: I agree, it --

15 THE COURT: Okay, okay. So now what you're
16 saying is, under the first cause of action the
17 personal guarantee side of things, that's where he
18 can have liability.

19 MR. PATTERSON: And we made reference to that in
20 a separate paragraph in the second cause of action,
21 which is the only time we named him, and said,
22 hey --

23 THE COURT: Why -- why did you do that? Why
24 would you put his name -- why would you put in the
25 second cause of action -- and I mean I'm -- I'm

1 asking, that -- that's what -- that -- that doesn't
2 make any sense to me.

3 MR. PATTERSON: I -- I can -- I can see that
4 argument, and it certainly is clear as day right
5 now. Five years ago, when we were drafting it, we
6 said, "Well, we want to make sure that GMK and
7 Golson know that, if the bond's not enough, they
8 still have some liability.

9 THE COURT: Why wouldn't you -- why wouldn't
10 Golson's lawyer think, hey, I don't know what this
11 guy's doing putting this under the second cause of
12 action, but I've better, you know, we better do
13 something Off Record Golson, you've got some
14 potential li -- they're alleging you have potential
15 liability under the second cause of action." Why
16 wouldn't a reasonable attorney think that based upon
17 what you pled?

18 MR. PATTERSON: Well, they -- they could have.
19 They still have to do -- deal with the first cause
20 of action placed.

21 THE COURT: I understand that, but --

22 MR. PATTERSON: Right.

23 THE COURT: -- but --

24 MR. PATTERSON: And --

25 THE COURT: -- but we're talking about

1 attorney's fees, and prevailing parties, and the
2 dismissal; and so what I'm saying is, I don't
3 understand how a competent lawyer might not
4 interpret you to feel that Golson's got some
5 liability under the second cause of action based on
6 what you've pled, sir.

7 MR. PATTERSON: Right, I -- I --

8 THE COURT: And --

9 MR. PATTERSON: -- agree, he -- we asserted he
10 did, but we didn't assert it was based on the
11 mechanic's lien, it was based on the guarantee; but
12 I understand your point.

13 THE COURT: All right.

14 MR. PATTERSON: He's named under the second
15 cause of action, and it says mechanic's lien
16 foreclosure.

17 THE COURT: I'm with you.

18 MR. PATTERSON: All right.

19 THE COURT: Go ahead.

20 MR. PATTERSON: So even if the Court finds he's
21 -- was part of the mechanic's lien, and he is the
22 pre -- prevailing party, we still have to determine
23 what amount of attorney's fees have been incurred by
24 Mr. Golson. He's the only party we're looking at.
25 There are -- from the affidavit, there -- and

1 there's no evidence Mr. Golson ever received a legal
2 bill in this case. We don't have any evidence Mr.
3 Golson ever paid any legal fees. There's zero time
4 entries related to anything to Mr. Golson, other
5 than an attorney -- other than Mr. Moore filed a
6 very simple answer on behalf of Travelers and
7 Golson. Mr. Moore didn't file it, somebody else
8 did, very short answer. After that there's not a
9 single document in the pleadings dealing with Mr.
10 Golson. There's no discovery documents in the
11 thousands of documents. He was never deposed. He
12 did not show up at trial. We think, at most, he
13 would be awarded very nominal fees because there is
14 absolutely no evidence he incurred any. Certainly,
15 this is not an excuse, but if -- if -- if Mr.
16 Hiller, who was representing him at the beginning
17 called up and said, "Hey, why did you name Mr.
18 Golson in the second cause of action," I would have
19 said, "Hey, you're right, that doesn't make any
20 sense, all we wanted was a guarantee?" They could
21 have done that on day one, as -- as opposed to the
22 last day right before trial, but that -- I'm not --
23 that's trying to point the finger at somebody else.
24 I mean we named him, and I understand your position,
25 but it could have easily been resolved; just as easy

1 as when it got brought up, I said, "Sure, that --
2 that doesn't make sense," but we -- we think he is
3 not entitled to any attorney's fees, because there's
4 no evidence that he actually was billed and paid
5 fees, okay, that's -- that's our response, Your
6 Honor. And I have a short --

7 THE COURT: So is it your position that if
8 somebody has not paid the fee, they're not entitled
9 to collect attorney's fees? Because I thought there
10 was some 2006 or '07 case that dealt with a lawyer
11 -- the reason I remember it is because we were
12 arguing the Branham case, Ford v. -- Branham v. Ford
13 Motor Company, and this case was argued directly
14 before, while we were waiting on our case.

15 Unfortunately, we didn't have good results in our
16 case. But there was some issue about collecting the
17 attorney's fees, and the lawyer ends up saying,
18 "Well, when the case is over I'm going to talk to
19 them about the fee," as in, we're going to get it
20 right then. We're going to -- when I say get right
21 then, I mean we're going to make --

22 MR. PATTERSON: Right.

23 THE COURT: -- we're going to deal with that
24 situation at the appropriate time, all right? And I
25 forget the name of the case, but there was -- the --

1 the -- what's your position, sir?

2 MR. PATTERSON: I -- I think I remember that
3 case vaguely. Under that case there wasn't any
4 question that that defendant owed a lot of
5 attorney's fees, they just didn't have a firm fee
6 agreement as to the amount, okay? In this case, we
7 don't have a fee agreement, we don't have any bills,
8 we have no evidence whatsoever, other than a short
9 answer filed five years ago by another attorney,
10 that -- that Mr. Golson did anything, was obligated
11 to pay anybody at any time, and/or that any
12 attorney's fees, or any attorney time was ever
13 devoted to Mr. Golson. Because Defense Counsel was
14 focused on Mr. Berry, GMK, and Travelers. Yes, in
15 name, he represented Mr. Golson, and he did file a
16 request at the end of our case, and he got him
17 dismissed; but other than those two events at the
18 very beginning, a short answer, and the 15 minutes
19 we talked about dismissing Golson, there is no
20 evidence before you that anybody spent any time on
21 Mr. Golson, and I don't think there can be any
22 evidence, because nobody did. But I did have a
23 couple of questions for Mr. Moore about his
24 affidavit, but I'll wait until after arguments, if
25 you wish.

1 THE COURT: All right. Let me just ask, I've
2 got Mr. Moore's affidavit, and I've got his
3 statement or the attachment to it. So let me just
4 ask, what question is it you want to ask Mr. Moore?

5 MR. PATTERSON: Well, first, is this the actual
6 bill that was sent to anyone, and has anyone
7 actually paid this bill?

8 THE COURT: Hold on one second. All right,
9 we're going to be at ease for a minute. All right,
10 Mr. Moore, we're going to take a break for a minute,
11 sir. I'm going to -- I've got -- I want to think
12 about whether I'm going to allow -- allow him to ask
13 you questions, sir, okay? I can't hear you.

14 MR. MOORE: I thought I just -- thank you, Your
15 Honor, yes, sir.

16 THE COURT: All right, I'll be with you in one
17 minute. We're going to be at ease for ten minutes.
18 Thank you.

19 MR. PATTERSON: And -- and we'll try to find a
20 case on that.

21 THE COURT: Sure, thank you.

22 (BRIEF RECESS)

23 THE COURT: All right, Mr. Moore, are you back
24 with us?

25 MR. MOORE: Yes, I am, your Honor.

1 THE COURT: All right. Mr. Patterson, there's
2 something you wanted to ask Mr. Moore?

3 MR. PATTERSON: I had a few questions, Judge,
4 but it -- it may be quicker if I just made them in
5 arguments and let Mr. Moore respond, if -- if what I
6 say is not right. I -- I don't want -- I see his
7 clients with him, I don't want to take up the
8 Court's time.

9 THE COURT: Well, why don't -- why don't -- why
10 don't you do this? Go ahead and let -- are you
11 ready to make an argument? I'm happy to hear from
12 you on that, and certainly willing to listen to,
13 quite frankly, what I think probably you would be
14 asking as it relates to the arguments that you're
15 going to make. I mean in other words, I -- I think
16 he can summarize, in essence, I think what --

17 MR. PATTERSON: Yeah.

18 THE COURT: -- you were -- I think you can --
19 when you summarize, or -- or -- or make your final
20 arguments, I think he can probably adequately
21 address in those, the questions that you would ask,
22 and what you perhaps even would anticipate those
23 responses to be, okay?

24 MR. PATTERSON: Yes, Your Honor, I think -- I
25 think that might be a little more professional --

1 professional, without asking counsel questions about
2 his bills, so --

3 THE COURT: Yes, sir.

4 MR. PATTERSON: What -- what I would -- what I
5 would assert, Your Honor, is, what we have is a
6 statement that's attached to Mr. Moore's affidavit,
7 and it's to GMK. We do not have any bills to Mr.
8 Golson. We don't have any evidence he was ever
9 billed, or that he's ever obligated to pay for
10 anything. The answer that was filed by Mr. Golson
11 was by Mr. Hiller, not by Mr. Moore, so he -- I
12 believe there -- that there was just an error in
13 preparing this statement where he said his office
14 prepared the answer. The same thing with Travelers,
15 there is no bill to Travelers, there is no
16 statement. I -- and I don't believe if I asked Mr.
17 Moore, that -- that he would say he has billed
18 Travelers. And so they have to have obligations for
19 legal fees if they're going to recover them, and all
20 the legal fees, my understanding, have been paid by
21 either GMK or Mr. Berry, and so there's no evidence
22 of that. I also pointed out -- will point out that
23 there are a number of -- of what I'm sure are
24 oversights or errors. It sounds like Mr. Moore's
25 office was very busy, and if I had to guess, a

1 paralegal went through the file and prepared this
2 statement. It is not based on actual time entries.
3 For example, travel to attend the deposition of Trip
4 Berry on September 10th in Beaufort, eight hours.
5 That deposition did not take place in Beaufort. Mr.
6 Berry came to my office, and Mr. Moore attended by
7 phone in Columbia. The same thing on Se -- November
8 29th, 2018, the deposition of William Gavigan.

9 THE COURT: Your office is in Bluffton?

10 MR. PATTERSON: Not in Beaufort.

11 THE COURT: Okay, in --

12 MR. PATTERSON: Hilton Head.

13 THE COURT: -- Hilton Head?

14 MR. PATTERSON: Hilton Head.

15 THE COURT: All right.

16 MR. PATTERSON: And the total hours were
17 substantially less than eight hours for that
18 deposition. And I -- I have exhibits of the -- I
19 was planning to use, and I think I'll go ahead and
20 proffer those, Your Honor.

21 THE COURT: Yes, sir.

22 MR. PATTERSON: To show when the depositions
23 started and stopped, and who attended them, and I've
24 emailed those to Mr. Moore right before the start of
25 this hearing, Exhibits 1 through 8.

1 (Plaintiff's Exhibit Numbers 1 through 8 is marked
2 and entered into evidence without objection.)

3 MR. PATTERSON: The same thing with the
4 deposition of William Gavigan where it's stated on
5 the -- the bill incorrectly, it was in Beaufort. It
6 actually took place in my office, and Mr. Moore did
7 not attend, his associate handled that deposition,
8 and it took three hours. The same thing on January
9 30th, 2020, the deposition -- second deposition of
10 William Gavigan. Again, Mr. Moore did not handle
11 that. Hood Dawson with his office attended that,
12 and I'm sure his billing rate is not \$350 an hour.
13 Same thing on the next deposition, February 21st,
14 2020, with Billy Gavigan. Again Hood Dawson with
15 Mr. Moore's office attended that deposition, and it
16 took one hour, according to the court reporter's
17 records, not three and a half. November 18th, 2020,
18 the deposition of Bruce Williamson, again, Mr. Moore
19 did not attend that, it was one of his associates.
20 And January 29th, 2021, the second deposition of
21 Bruce Williamson. Bryan Letteer also attended that
22 deposition, Mr. Moore did not. And, again, I am
23 positive given the -- what Mr. Moore described as
24 his schedule, that somebody in his office pulled
25 this schedule together, and they just made some

1 mistakes. And so what we don't have are the bills,
2 which is what we need to have to see who actually
3 got billed, and who actually paid; so that would be
4 my argument as to -- as to, specifically, to Mr.
5 Golson. And as well, if you decide to award
6 attorney's fees to Travelers, we have only 2.1 hours
7 indicated for Travelers in these bills. Thank you,
8 Your Honor.

9 THE COURT: All right.

10 MR. MOORE: Well, counsel would be correct in
11 regard to those errors, and --

12 THE COURT: Oh, hold on, hold on. Can you speak
13 up a little bit more? I'm sorry, but -- I'm sorry,
14 I'm sorry, Mr. Moore.

15 MR. MOORE: That's okay. Counsel would be
16 absolutely correct in regard to those time errors in
17 regards to those depositions. And I -- I do want to
18 make it clear, this actually is the bill as it
19 presently exists. We have not sent a final bill.
20 We have not been paid the final. We are current
21 with these people, but this is, basically, intended
22 to be filed as a reflection as best I can -- as --
23 as best I have it from my time records, and from the
24 file of the time we've actually spent in the file.
25 However Counsel is --

1 THE COURT: Counsel, hold -- hold -- couldn't
2 hear you.

3 MR. MOORE: Thank you. I'm sorry?

4 THE COURT: You -- you broke up.

5 MR. MOORE: I'm sorry. Counsel is totally
6 correct in regard to the time adjustments that need
7 to be made on those depositions, he's absolutely
8 right about that. But, again, the final bill has
9 not been sent, but this is the -- this -- this is
10 the present billing status of this file in my office
11 with all Defendants.

12 THE COURT: All right.

13 MR. MOORE: We have not sent a final bill, but
14 as far as we're concerned, we are current. They
15 have made some payments to us. I'm guessing there's
16 been about \$20,000 that has come in. We still have
17 to settle up with them, but this is -- this is the
18 final charges of time as best I know them right now.

19 THE COURT: All right.

20 MR. MOORE: I want to make it known that's what
21 it is. I don't want to -- I don't want to mislead
22 anybody about this --

23 THE COURT: Yes, sir.

24 MR. MOORE: -- but he's right about those
25 deposition charges, those adjustments need to be

1 made.

2 THE COURT: All right. All right, thank you.

3 Anything -- anything else, Mr. Moore? Anything --

4 MR. MOORE: Just, again, Your Honor, I thank you
5 for all the patience you've had with us, and I -- I
6 just thank you.

7 THE COURT: All right. All right, Mr.
8 Patterson, has that got us?

9 MR. PATTERSON: Nothing further from the
10 Plaintiff, Your Honor.

11 THE COURT: All right.

12 MR. PATTERSON: I'll go sit down.

13 THE COURT: All right, gentlemen, I'm just going
14 to be honest, y'all tried my patience on this one, I
15 can tell -- I can tell you. When I look at these
16 factors and the Dedes factors as it relates to --
17 let me just say, as it relates to Mr. Patterson, and
18 as it really relates to Mr. Moore, number one, the
19 -- the nature and extent and difficulty of the legal
20 services rendered. I believe that this ended up
21 being a very difficult case. I believe that it was
22 a case that started off perhaps with not a whole lot
23 of difficulty that wouldn't be involved in the case
24 though. There's a lot of pitfalls, and there's a
25 lot of -- there's a lot of -- there's a lot of

1 knowledge that you need to have to go and to move
2 forward with a mechanic's lien case, to move forward
3 with a breach of contract case; but quite frankly,
4 gentlemen, the main reason this -- this is a case
5 that spiraled out of control. And I'm just going to
6 be honest, I think it spiraled out of control as a
7 result of the actions of both attorneys and/or their
8 clients. I -- I don't -- I don't know if it would
9 -- I don't know, but this case spiraled out of
10 control. And as a result of that, it ended up
11 becoming what I would consider to be a difficult
12 case. And so the nature, extent and difficulty of
13 the legal services rendered, I believe that it's as
14 -- it was a fairly mundane case that spiraled out of
15 control. And, again, this Court is going to say
16 that what led to this spiral was -- I'm not blaming
17 any one person, it always -- the old takes two to
18 tango, and, gentlemen, y'all's actions and/or that
19 of your clients allowed this case to spiral out of
20 control. As it relates to Dedes factor two, the
21 time and labor necessary devoted to the case, I
22 think it took a lot of time, and I think it took a
23 lot of labor, but I think that it took a lot of time
24 and labor, because amongst other things, the case
25 spiraled out of control. In looking at the bills

1 that have been presented by each party, what -- what
2 I would say is, that, Mr. Moore, quite frankly, I
3 understand the concern about the brevity of the
4 bills/statements that you preside -- that you
5 provided, and some issues that Counsel may have
6 concerning that, sir, but I've also had an
7 opportunity to review 80 pages -- I don't know how
8 many it is, it looks like it's 80 pages to me, of
9 bills that have been presented by Plaintiff's
10 Counsel. And I will say that, number one, Mr.
11 Moore, your bill certainly could be in more -- could
12 be in better order, sir, but Plaintiff's Counsel's
13 bills, I'll just be honest, I think are -- are
14 extremely -- quite frankly, I just think they're
15 excessive. I think to be billing for two attorneys
16 the entire week of trial, with one attorney billing
17 at \$300 an hour, I'll get to your hourly fees in a
18 minute, the bottom line on that is I think the
19 hourly fees that everybody has provided is -- are
20 reasonable, but when you have two attorneys billing
21 whatever, \$200 an hour for one, and 300 for the
22 other, or whatever it was, \$500 an hour to go and to
23 try this case, that's just -- that -- that's --
24 that's just excessive. Particularly, in light of
25 the fact they had one person on the other side

1 trying the case. And so to that extent I think that
2 -- I think that those bills, I mean quite frankly, I
3 mean between -- between Counsel for trial, you're --
4 you're billing over 20 plus hours a day between the
5 two of them for those five days. And I -- I just
6 think that when I go back and I've looked through
7 their bills, which are in detail, and, again, Mr.
8 Moore, I didn't really have an opportunity to
9 analyze your bills, sir, because your bills could
10 have been a little -- could have been a little more
11 in detail, sir. So, whereas, I'm making mention of
12 these things in Mr. Patterson's bill, I'm able to do
13 that because they are in such detail. So I -- I
14 don't want -- I don't want you to think, Mr. Moore,
15 that I'm sitting here going through Mr. Patterson's
16 bill, you know, I don't have necessarily many places
17 to go through your bill, because I think your bill
18 could have been in better -- in more detail, but I
19 think a lot of Mr. Patterson's bill, quite frankly,
20 I -- I just think -- I just think it's excessive
21 under the circumstances. Now, I think that there
22 was the third professional standing of Counsel.
23 First of all, Mr. Patterson, I've practiced law in
24 the 14th Circuit for 30 years. I'm aware of your
25 reputation in the legal community, and that of your

1 daughter, and I think that you maintain and have an
2 excellent legal reputation. I think that your
3 daughter likewise has an excellent legal reputation.
4 And so I think that the -- I think that the hourly
5 rates that you have outlined and claimed, I think
6 are very -- are -- are appropriate, so as it relates
7 to your professional standing in the community, I
8 think it's second to none, and have no concern there
9 about your professional standing in the community.
10 As it relates to Mr. Moore, while I haven't
11 practiced in the Lexington, Richland, West Columbia
12 area, I know that Mr. Moore has a excellent
13 reputation, some might even say he's got a state-
14 wide reputation, but that having been said, I think
15 that his reputation, much like Mr. Patterson's,
16 quite frankly, second to none; and so to that extent
17 I think that each party was represented by a very
18 professional attorney. Both of these gentlemen
19 accomplished in their own rights, Mrs. Williams, not
20 Wallace, Ms. Williams, likewise with her reputation
21 in the community, and, quite frankly, having seen
22 the briefs and other documents that she has
23 produced, because I do believe that she was the
24 producer of many of these briefs and documents, and
25 not you, Mr. Patterson. She -- just in reviewing

1 these documents, it lets me know I can read, and I
2 can see what type of attorney I'm dealing with, so
3 to that extent on both sides. You know, contingency
4 in compensation, I mean as far as I'm concerned,
5 this is an hourly -- I don't know that it's really a
6 contingent fee, I think this is an hourly fee in
7 this case. That's the information that's been
8 provided to the Court. Number five -- that's number
9 four, number five, the fee customarily charged in
10 the locality for similar legal services, what I
11 would say is, that, clearly, the fees that each --
12 both the Plaintiff and Defendant's Counsel have
13 alleged or are charging, very reasonable in light of
14 what other services are being provided for in the
15 locale. I agree there are plenty of lawyers in
16 Hilton Head with less experience than Mr. Patterson.
17 And I use Hilton Head simply because, in essence,
18 this -- it's in Beaufort County, and that's where
19 this case is being tried. There are plenty of
20 lawyers with lesser experience who are charging more
21 per hour than Mr. Patterson is. Mr. Moore, I think
22 your rates are certainly reasonable in light of the
23 locality and in the -- in the 14th Circuit, I think
24 your -- your rates are very reasonable. I'm sure
25 they're very reasonable in your home circuit, but

1 when I look at the locality of it, I think that this
2 -- your rates -- both rates in this case are
3 reasonable, and are similar to other lawyers and
4 what they would customarily charge. Beneficial
5 results obtained. Frankly, under the mechanic's
6 lien statute, I believe that the Plaintiff would be
7 considered the prevailing party. Whether you look
8 at it from there being no offers to settle, and it
9 being zero and 24, and they brought back -- or they
10 -- he won it 52 percent, that's kind of a close
11 call, Mr. Moore, but as I read the statute, you're
12 still a winner, you're still a winner. But when you
13 factor in the counterclaim, which as I read the
14 statute, it looks like, basically, then you would --
15 you would jump to a negative 80 or \$90,000, or some
16 amount for your -- for your offer, he's clearly a
17 winner. As it relates to Mr. Moore's argument, that
18 his clients are the winners, and when I say his
19 clients, I'm referring to Travelers and to Mr.
20 Golson. I do believe that it may have been error
21 for the Court to release Travelers. At the end of
22 the day I don't know if that matters a whole lot. I
23 don't think it really says a whole lot, other -- as
24 -- as the underlying case other than the -- the
25 attorney's fees issue. Given that fact, I don't

1 know if I have let Travelers in error, which it's
2 very possible that I did. I don't know that it's
3 fair to Travelers to recover attorney's fees based
4 upon what could very well be an error on the part of
5 the Court. As it relates to Mr. Golson, I clearly
6 think Mr. Golson is the winner under the mechanic's
7 lien statute. Anyways, number one, he should have
8 never been included, and, number two, a motion was
9 made immediately before the case -- or at the end of
10 all the evidence, and the Court granted that motion.
11 And, Mr. Golson, in the Court's opinion, under the
12 comp statute is a winner. You know, as it relates
13 to the prevailing on the breach of contract claim,
14 you know, there -- there -- there may have been a
15 stipulation that, if they return any -- for lack of
16 better words, Mr. Patterson informs me that there
17 was a stipulation by Counsel that, basically, if the
18 Jury returned a verdict under question one, it was
19 going to be basically assumed a winner under the
20 mechanic's lien statute, and not that being a winner
21 is necessarily important for the purposes of -- of
22 attorney's fees, but you could look at that as being
23 a -- a positive result on the breach of contract
24 case. I don't really remember that. I don't -- I'm
25 not saying it didn't happen, and it may have, but

1 when I look now to the attorney's con -- to the
2 attorney's fees issue as it relates in the first
3 cause of action, which is the violation of the -- of
4 the statute -- excuse me, of the -- the violation of
5 the agreement -- the contract. You know, I --
6 honestly, I don't know -- I don't know who won that,
7 but I think all of the factors really remain the
8 same, when I -- when I analyzed that with the five
9 or six factors. You know, other than prevailing --
10 of course, prevailing party, but, you know, as
11 Counsel pointed out, Mr. Patterson, and I think he's
12 perhaps correct, you know, it doesn't say he has to
13 prevail. But when I look at this case, I've got to,
14 you know, I think there's a lot of discretion that's
15 given to the Judge, and I think that's because they
16 want me to use my experience in evaluating the case,
17 and evaluating attorney's fees, and coming up with
18 reasonable, you know, reasonable attorney's fees, so
19 that -- it says that. That's what this is all about
20 is, what are -- what are reasonable attorney's fees
21 in this case? And, you know, one of the things I
22 told you gentlemen is, nobody's going to be happy at
23 the end of this case. There was no way it was going
24 to happen. And the reason that nobody was going to
25 be happy is, because, folks, again, this is a case

1 that just spiraled out of control. I understand
2 that attorney's fees can exceed the amount of the
3 recovery. I understand that there are plenty of
4 statutes or case law out there that says that, but
5 -- but I think still what guides all of those things
6 is what the Court deems is fair, and what's
7 appropriate, and what's reasonable, and I believe
8 that -- I believe that that can be used as a
9 measure. I'm not saying it's -- it's the -- it's
10 the guiding light to it, but I think it's a measure,
11 and I'll be honest, I think \$156,000 of attorney's
12 fees for the recovery of \$24,000 and change -- now I
13 do understand that there was some defense associated
14 with the counterclaim. You know, I don't know if
15 this was a defense -- and I did practice insurance
16 defense law 30 years ago, and I don't know if this
17 was a defensive counterclaim. I don't know how this
18 came about. I don't know what's up with that, but
19 -- and I understand -- but I understand there's
20 costs that were associated with it, but, you know, I
21 -- I do think that, Mr. Moore, you kind of made a
22 statement, you thought the Jury, basically, kind of
23 threw their hands up, and they just gave -- they
24 awarded \$24,000, and basically said, "This needs to
25 be over with." You kind of -- I pick you up as kind

1 of saying that, sir, this morning. The unfortunate
2 thing is, Mr. Moore, I think that, as it relates to
3 the second cause of action, and I'm going to be
4 honest, I -- I really -- I -- pretty much I think I
5 agree with you on the first cause of action; but on
6 the second cause of action, sir, he's entitled to
7 attorney's fees. I think, clearly, Mr. Patterson is
8 -- Mr. Patterson's client is the prevailing party.
9 And I -- so I think that it -- I think that it's up
10 to me now to determine what's reasonable. I think
11 this case was overtried by both parties; and, again,
12 I'm not saying, I -- I just think -- I just --
13 again, it just spiraled. It just was a case that it
14 just -- once -- once the first domino fell, there
15 was no stopping it, and it just wasn't going to
16 stop. And I'm not -- I'm not blaming anybody, it's
17 just what happened in this case. I've practiced law
18 long enough to see it. I do believe that it is
19 reasonable to award South Atlantic Forest Products,
20 d/b/a Gaster Lumber and Hardware. I believe it is
21 reasonable to award them the amount of money that
22 they be entitled to under the mechanic's lien
23 statute, which is \$24,800 -- what is that? Hold on,
24 one second. \$24,885.24. I think that is
25 reasonable. I think that's a reasonable attorney's

1 fee in this matter. I think they're entitled to
2 that by statute. And now in regard to Mr. Golson, I
3 do believe that Mr. Golson is entitled to attorney's
4 fees, but I will tell you that I think that it's --
5 it's arguable that Mr. Golson could have been
6 potentially dismissed from this case much earlier.
7 I agree with Mr. Patterson, but at the same time I'm
8 not going to say it's a good strategy that someone
9 as skilled as Mr. Moore, with his years of
10 experience, and, again, his reputation, I'm not
11 going to second guess strategy as to when he's going
12 to move to get somebody dismissed or not dismissed.
13 I don't know what's involved in that. There could
14 be things that I don't know about, or wouldn't even
15 understand, but I do believe that Mr. Golson is
16 entitled to attorney's fees. Mr. Moore -- I've
17 already told Mr. Moore that, in as much as I
18 criticized or pointed out some problems, or issues
19 with -- and when I say problems, this is just
20 something that when I look at this, I saw, as it
21 relates to Mr. Patterson's. Now, Mr. Moore, I've --
22 I've complained to you, sir, I said, "Complain," I
23 guess is the wrong word, but, you know, some of the
24 brevity, as it relates to the documents in yours,
25 but I do believe that when I look at, and you did

1 testify that you thought that -- you did testify --
2 or I say testify, you did tell the Court earlier in
3 your argument that you felt that each one was joint
4 and severally liable for your bill of 50 plus
5 thousand dollars. I don't know if that's exactly
6 reasonable. I don't think Golson had any interest
7 in the counterclaim. I think a lot of your effort
8 was spent on the counterclaim. I think that Mr.
9 Golson, though ultimately was a winner, and based
10 upon a breakdown of the -- of the time that's been
11 presented, when I take into consideration the fact
12 that Mr. Golson could have potentially been removed
13 earlier, though, again, I'm not necessarily saying
14 that was the right or wrong thing to do, but
15 certainly I think he could have been. I think
16 breaking this down and saying that he's jointly and
17 severally liable for all of it, I think is -- is not
18 fair. I don't think it's reasonable. To say that
19 he's entitled to pay a third of it or would be
20 entitled to a third of that figure, I don't think
21 it's reasonable, because I don't think it's
22 reasonable in light of the fact that really there
23 was a lot of time spent on the counterclaim. I do
24 believe though that Mr. Golson -- I believe that Mr.
25 Golson's -- reasonable attorney's fees for Mr.

1 Golson would be \$7,000.

2 All right, as it relates to Travelers, I just
3 want to make clear if I didn't, I'm not going to
4 award any money to Travelers. Perhaps it was an
5 error for the Court to let Travelers out, and I
6 think that -- and -- and looking at the case that
7 Mr. Patterson brought to my attention in the brief,
8 the roof case, yeah, Kenny Roofing, it looks like
9 they should have been left in. Again, I don't think
10 that really has any outcome other than the issue of
11 attorney's, but I think I'm not going to award
12 attorney's fees in that. And, again, as it relates
13 to the first cause of action, I'm just not going to
14 award any attorney's fees as to that first cause of
15 action. I think that the -- I think that the 24,500
16 -- 24,885.24, I think that amount represents
17 reasonable attorney's fees in this case. And,
18 again, I know that a whole lot more time -- I know
19 that a whole lot more time than that was spent on
20 this case, I believe that, but the question is
21 whether it was reasonable, and the question is, in
22 this case I just -- I just don't know that -- again,
23 this is a case, gentlemen, that spiraled out of
24 control, and it's unfortunate that it did. So
25 that'd be my ruling. All right, I'll have my clerk

1 prepare a ruling or an Order, that she will send to
2 you gentlemen. It's going to take -- we've got a
3 murder case coming up next week, we're going to be
4 tied up, so it's going to be a week or two before we
5 get you anything. It has been a pleasure getting to
6 know you, seeing good lawyers work, and I thank you
7 very much. Again, I know nobody's happy with what
8 I've done. Heck, I'm not happy, I like everybody to
9 be happy, but I've got to do what I think is
10 reasonable, and that's what I think is reasonable in
11 this case, all right?

12 MR. PATTERSON: Thank you very much.

13 THE COURT: Thank you, Mr. Patterson.

14 MR. PATTERSON: Thank you.

15 THE COURT: Mr. Moore, thank you, sir.

16 MR. MOORE: I would like to --

17 THE COURT: Hold on, hold on, hold on, I can't
18 hear you.

19 MR. MOORE: I would like to thank you, again,
20 for the sincerity, honesty, patience, just an
21 absolute joy in working in the courtroom with you.
22 I'm glad that we finally have a ruling, and,
23 hopefully, this thing will now come to an end, but
24 thank you for your kind words and thank you, again,
25 for your patience, Your Honor.

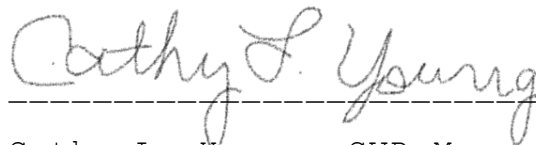
1 THE COURT: Yes, sir, thank you.

2 - - -END OF TRANSCRIPT- - -

3
4 CERTIFICATE OF REPORTER

5
6 I, Cathy L. Young, CVR-M, for the
7 Fourteenth Judicial Circuit of the State of South
8 Carolina, do hereby certify that the foregoing is a
9 true, accurate and complete Transcript of Record of
10 the proceedings had and evidence introduced in the
11 trial of the captioned case, relative to appear, in
12 the Circuit Court for Colleton County, South
13 Carolina, on the 11th day of February, 2022.

14 I do further certify that I am neither of
15 kin, counsel nor interest to any party herein.

16
17 
18 _____

19 Cathy L. Young, CVR-M

20 Court Reporter and Notary

21 Public in and for South Carolina

22 My Commission expires: 3-28-2029

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2)
3 COUNTY OF BEAUFORT) Case No. 2017-CP-07-2337

4 -----x
5 SOUTH ATLANTIC FOREST)
6 PRODUCTS, INC.,)
7)
8 Plaintiff,)
9 vs.) TRANSCRIPT OF RECORD
10)
11 GMK ASSOCIATES, et al.,)
12)
13 Defendants.)
14 -----x

April 8, 2022

MOTION FOR RECONSIDERATION

B E F O R E:

The Honorable Robert J. Bonds, Presiding Judge

A P P E A R A N C E S:

Russell P. Patterson, Esq.
Attorney for the Plaintiff

S. Jahue Moore, Esq.
Attorney for the Defendant

Recorded by: Webex Recording

Transcribed by: Bobbi Fisher
SC Official Court Reporter III

I N D E X

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E X H I B I T S

(None.)

COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality

P R O C E E D I N G S

(Whereupon, the following proceedings commenced as follows:)

THE COURT: Good morning, Mr. Moore and Mr. Patterson.

MR. MOORE: Good morning, Your Honor.

THE COURT: And, Mr. Patterson, I think that we are here today, sir, on your motion to reconsider my award of attorney's fees. Is that correct, sir?

MR. PATTERSON: Yes, Your Honor.

THE COURT: Okay. And -- let's see.

Monica, where is this motion? Okay. She's got it. I have the -- I have the original Plaintiff's affidavit of attorney's fees, my order, the motion -- oh, here it is. Is this it right here? Motion to reconsider. Yeah. Thank you, Monica. All right. I have got it.

All right. Mr. Patterson, I have got your motion in front of me, and I wanted to make sure I had it because I made some notes on it. And, so, I am happy to hear from you, Mr. Patterson.

MR. PATTERSON: Okay. Thank you, Your Honor.

THE COURT: Yes, sir.

MR. PATTERSON: Under Rule 59(e), we respectfully ask the Court to reconsider and revise its order awarding attorney's fees dated March 10th, 2022. In your order, you granted attorney's fees to the plaintiff, my client, Gaster Lumber, of \$24,885 only on its mechanic's lien cause of action. You did

1 not award any attorney's fees under our breach of contract
2 cause of action. You awarded the defendant, Golson, \$7,000 in
3 legal fees as the prevailing party in the plaintiff's second
4 cause of action for mechanic's lien.

5 At the motion hearing, when we originally argued this in
6 person in front of you on February 11th, we submitted a very
7 detailed, extensive affidavit of attorney's fees with copies
8 of all the legal fees that we sought, all of which had
9 actually been paid by the plaintiff, Gaster Lumber, for the
10 four years this litigation had been ongoing, and that totalled
11 \$153,235.

12 As the Court's aware, this case had been pending since
13 2017. The trial of the case took the entire week. The jury
14 verdict came back Friday afternoon.

15 The first issue we have and that we'd ask you to
16 reconsider is that you made no award of attorney's fees under
17 the plaintiff's breach of contract claim. The key point we
18 believe the Court overlooked in its order and honest decision
19 is that the order stated the -- basically that the entire case
20 involved \$24,855 in unpaid materials delivered by the
21 plaintiff to the defendant. In fact, what was litigated were
22 the claims between the parties that totalled over \$284,000.

23 Our claim, as shown on Exhibit 2, that we submitted into
24 evidence, included the invoices of \$24,000 and interest of
25 about \$22,000. So we were seeking \$47,670 from the jury. It

1 was our position that the defendant was owed no monies. The
2 defendant, on their counterclaims, under a variety of
3 theories, which changed throughout the trial, sought over
4 \$237,000 in damages, and that was for the delay in
5 construction by delivering the wrong roof materials; the cost
6 to repair and replace the wrong roof materials; for the
7 HardiePlank siding, the cost to remove the entire siding, and
8 there were costs to buy new siding and put it back up; the
9 cost to remove the incorrect board and batten siding and the
10 cost to put up the correct board and batten; the cost to
11 remove the incorrect sliding glass door and the cost to put in
12 a new sliding glass door; and the claim that they brought up
13 at trial that we intentionally quoted very low on our invoice
14 quotes and then charged them a whole lot more money.

15 The defendant's amended pretrial brief and their
16 arguments at trial showed the damages they were seeking were
17 \$237,000. So the case was not about \$23,000. It was about
18 our claims of 47,000 and the defendant's counterclaims of 237.
19 So we were litigating \$284,670 in claims.

20 The verdict form -- and we discussed this at the hearing
21 and we discussed the verdict form at length prior to closing
22 arguments. It was stipulated by counsel and (indiscernible)
23 by the Court, if the jury found for the plaintiff and the
24 verdict was for both causes of action, the breach of contract
25 and the mechanic's lien, and, in fact, that verdict form was

1 suggested by Mr. Moore who said, Let's just treat it just like
2 a car wreck. The plaintiff is entitled to X damages or the
3 defendant is entitled to X damages. And that's what we did.
4 And it was stipulated on the record that that verdict would
5 apply to both causes of action.

6 The jury found for both causes of action for the
7 plaintiff, Gaster, 24,000, and they found zero on the \$237,000
8 counterclaim. There's absolutely no question that the
9 plaintiff prevailed on its breach of contract and mechanic's
10 lien.

11 So to talk about the mechanic -- the attorney's fees on
12 the breach of contract, we had three written agreements that
13 were put into evidence that provided we were entitled to
14 reasonable attorney's fees. That was the commercial account
15 agreement, Exhibit 1, all the delivery tickets that were
16 signed by GMK -- and we have listed the exhibit numbers in our
17 motion -- and the actual invoices.

18 So under South Carolina law -- and those agreements
19 didn't say that Gaster was entitled to attorney's fees if
20 they're prevailing. They just said, if the other side
21 breached the contract, we were entitled to reasonable
22 attorney's fees. So we didn't even have to be the prevailing
23 party, although we were.

24 So the Court was correct in its order to cite the six
25 *Dedes* factors in determining the reasonable attorney's fees

1 under South Carolina law, and we certainly agree that the
2 Court has discretion in awarding those attorney's fees. But,
3 obviously, just given how many attorney's fees awards are
4 appealed, that discretion is not carte blanche in that there
5 are limits in -- on how the Court exercises its discretion.
6 And the awards must be based on considering the six factors
7 and the evidence in the record.

8 Your Honor correctly held and recognized in its order
9 that the litigation became much more difficult and complex due
10 to the counterclaims filed by the defendant for \$237,000. The
11 Court recognized the extensive time each side spent. They
12 acknowledged the professional standard of each, the counsel
13 and their reasonable hourly rates.

14 After considering all that, the Court only -- awarded no
15 attorney's fees for the contract claim. We agree the Court
16 correctly said that the mechanic's lien attorney's fees is
17 limited to the amount of the lien, but to provide no
18 attorney's fees for the breach of contract, we believe, is
19 error. And we (indiscernible) that error was based upon the
20 assumption that this is a case about \$23,000, and it clearly
21 was not a case.

22 As I mentioned earlier at the first hearing, if all we
23 were talking about was the outstanding invoices, I put up all
24 the evidence I needed in the first ten minutes with my first
25 witness and said, "Are these -- here's the account agreement.

1 Are there any outstanding invoices where they pay?" And then
2 we'd be done.

3 Everything else that happened in that trial is related to
4 the \$200,000 counterclaims and all of the issues that were
5 raised by the defendant.

6 The other big factor, I think, that influenced the
7 Court's decision is that the attorneys for to blame for the
8 excessive cost in the litigation. All right? And that the
9 time spent by both parties far exceeds the value of the
10 claims. Well, we already know that the total claims were
11 \$284,000 in litigation. Our attorney's fees were 156.
12 Counsel for the defendant's affidavit says he had 57,000, and
13 with \$214,000 in attorney's fees incurred, litigating a
14 \$284,000 claim. So the fees were \$70,000 less than what was
15 in dispute. The Court is certainly aware of the cases we
16 cited that there was no requirement that the attorney's fees
17 be less than the -- than what was the comparable money
18 judgment.

19 In the *Baron* case, the attorney's fees there were upheld
20 by the appellate court, were 26,000. The verdict was 16,000.
21 *Laser Supply*, \$87,000 in fees were upheld when the verdict was
22 only 24. And there are numerous other cases.

23 But I think, on top of that assumption, which is not
24 really supported in the record, is the finding that the Court
25 made three different times in its order that the attorney's

1 fees are so high because there was a breakdown between the
2 attorneys in their communication, and that's why the
3 attorney's fees were so high. (Indiscernible) that if the
4 Court looks back at what happened, there's absolutely no
5 evidence in the record to support that there was any breakdown
6 between the attorneys' communications in this case.

7 We had a detailed billing that we submitted that showed
8 all the communications that we had with opposing counsel
9 throughout the four years, and there are many, many emails and
10 letters going back and forth. There are numerous settlement
11 offers that were made, not only in mediation but prior to the
12 parties even having the attorneys, and that information was
13 put into evidence.

14 There was no conflict between attorneys during the four
15 years. There were nine depositions taken. Not a single time
16 did the Court have to get involved with any dispute during the
17 depositions. There was on only one motion to compel filed in
18 this case, and I think Mr. Moore will admit that that was
19 through an oversight in his office, but we had in the record
20 and there were attorney bills, over and over, emails,
21 telephone calls, and letters to Mr. Moore to ask him to
22 respond to specific discovery requests. He did not. We filed
23 a motion, which is typical to compel, and, normally, that's
24 when those issues get resolved, and we had no response.

25 Judge Mullen did issue an order to hold him in contempt,

1 did a nominal fine of \$250, and that was the end of that
2 dispute. There wasn't any big -- any other dispute.

3 During the trial, for five days, Your Honor saw counsel
4 interact, and I believe we each treated each other
5 professionally. There was no histrionics, outbursts, and
6 arguments between counsel, as I have seen in many other cases
7 where counsel do not get along.

8 The only evidence in the record for the entire four years
9 came at the very end of the case, after the verdict was done,
10 and that's when Mr. Moore stated that he had settlement
11 authority and that Mr. Patterson would not -- or I would not
12 communicate with him about settlement. I did not object to
13 that because my daughter, Lauren, has been a law clerk and my
14 son-in-law is a law clerk, and they have told me the stories,
15 which I assume were true, that the judge really does not like
16 to get into disputes between the attorneys. I didn't say
17 anything at that time to challenge that statement, but, right
18 after that, when you ordered the parties to go talk
19 settlement, we went in the back room, and the first thing I
20 did was challenge Mr. Moore as to why he said I would not talk
21 to him about settlement. And I went through the same thing I
22 talked to you about: All the email communications, letters, I
23 have never not returned his call and did not refuse to talk to
24 settlement about him [verbatim] in that case. He admitted
25 that statement was not completely accurate because he had

1 never asked me during the trial to come talk to settlement and
2 that I refused.

3 What Mr. Moore said -- and his position was -- I
4 announced in court I had settlement authority and you didn't
5 come to me and find out -- and ask about settlement. That's
6 correct. I did not, all right, upon request of my client.

7 But Mr. Moore never came to me and said, "Russell, I want
8 to talk about settlement," and I refused. I see now I should
9 have challenged that statement as not true, because,
10 apparently, the Court put a lot of credence in there, because
11 three different times in its order, it said there was a
12 breakdown between the attorneys, and that's the only evidence
13 in four years that I could possibly see that what that could
14 be based on.

15 So I think that fundamental decision that the attorneys
16 caused the legal fees because they weren't getting along is
17 the error is not supported.

18 I would also say that (indiscernible) the attorneys let
19 the case get out of control, spiral out of control, and made
20 the case a lot more complicated. All of the parties that I
21 deposed or we deposed, every one of them testified at trial.
22 I didn't go take 25 depositions and use three of them.

23 The cross-examination that we had was 100 percent
24 directly tied to all of the counterclaims. We didn't spend a
25 lot of time talking about issues that were not before the

1 Court.

2 All of the -- we also spent a lot of time on our side
3 premarking over a hundred exhibits and working with Mr. Moore
4 to have them stipulated. And then we made four sets of
5 notebooks so that we wouldn't have to spend two days putting
6 all those documents into evidence, which greatly reduced the
7 amount of trial time. Okay?

8 Every one of the exhibits had something to do with the
9 roof, the siding, the board and batten, the sliding glass
10 door, and the overcharge. We had to refute at trial testimony
11 from four separate witnesses, all of who were supposed to be
12 sequestered, all of them happened to say that they -- that we
13 had an employee of Gaster admit that Gaster was at fault on
14 all those issues and that Gaster now said the same thing:
15 Would make it right. They never said any of that during their
16 deposition. We had to deal with that at trial, and certainly,
17 that took some time.

18 The -- at the end of the day, that resulted in a
19 successful result from my client where we received \$23,000 on
20 its claims, and we defended counterclaims successfully for
21 over \$200,000.

22 So I believe that the time spent was necessary. You can
23 certainly -- I can certainly argue, well, that's -- 150 is way
24 too much, but to say zero, that is not reasonable. Just the
25 time at trial was 40- to \$50,000 for us to spent 12 or 14

1 hours per day during that trial period.

2 I'd like to move on to the Golson claim for \$7,000, which
3 we --

4 THE COURT: Yes, sir.

5 MR. PATTERSON: -- which we submit it was an error. We
6 do not believe Mr. Golson was the prevailing party in a
7 mechanic's lien. It's the same argument we made before the
8 Court, at the motion hearing. We'd asked the Court to again
9 read the allegations in the second cause of action that we
10 made of Mr. Golson. The allegations in the complaint control
11 over any heading, you want to call it, mechanic's lien, or
12 negligence. You cannot rely on a complaint with a heading to
13 say you made a proper cause of action. You have to look at
14 the substance of the allegations.

15 If you look at the allegations as Mr. Golson, paragraph
16 18 says the only time Mr. Golson is mentioned are two times.
17 No. 18, it says, "If the bond amount is not sufficient,"
18 that's the bond for the mechanic's lien, "Plaintiff is
19 entitled to a judgment against defendant GMK and Golson."

20 So Mr. Golson, as you'll recall, is a guarantor. So all
21 that paragraph 18 says is, if the bond posted on the
22 mechanic's lien is not enough, Mr. Golson, as a guarantor, is
23 responsible. And then, in the prayer for relief, we said, "If
24 the bond is not sufficient to pay said judgment, enter
25 judgment against the defendant, GMK, and Frank Golson."

1 So there were no claims made by Mr. -- by us against
2 Mr. Golson under the mechanic's lien statute. And so
3 dismissing him from that cause of action is -- cannot -- he
4 cannot be a prevailing party under the mechanic's lien statute
5 because no claims were made against him from the mechanic's
6 lien.

7 The second reason we believe the \$7,000 is inappropriate,
8 it is not supported under the *Dedes* factors. He was --
9 Mr. Golson was named in two causes of action: The breach of
10 contract and the mechanic's lien. Any attorney's fees
11 incurred by Mr. Golson for the breach of contract cannot be
12 recoverable under the mechanic's lien, all right, because he
13 didn't have a right to recover attorney's fees, even if he
14 won, under the breach of contract. He has no written
15 agreement that allows for that.

16 The vast majority of whatever time and expenses were
17 incurred on behalf of Mr. Golson related to his breach of
18 contract claim, not to the mechanic's lien.

19 Then you look at how the Court came up with \$7,000, and
20 that's where it gets to be very problematic, because no
21 attorney's fees can be awarded a party under the *Dedes* factors
22 if there's no evidence that that party actually incurred
23 attorney's fees. Okay? And that is the *Williams v. Middleton*
24 case, and in that case, Mr. Williams used a very good friend
25 of his as his attorney, and they prevailed in a suit against

1 his employee, and the jury awarded \$906. The trial court
2 awarded attorney's fees to Mr. Williams for 35,000. Here's
3 another one of those cases where the verdict is very small and
4 the attorney's fees are much, much higher.

5 The Supreme Court reversed the award of attorney's fees
6 and said Mr. Williams is not entitled to any attorney's fees
7 because, noting that the attorney handling the case was a
8 friend of Mr. Williams, he never was billed any attorney's
9 fees. There was never a fee agreement. There was no
10 obligation on Mr. Williams to pay any attorney's fees. And
11 the Court said, under those circumstances, under the deeds
12 factor, he's not entitled to attorney's fees because he didn't
13 incur any attorney's fees.

14 Let's look at this case. With Mr. Golson, there's no
15 evidence of a fee agreement. There's no evidence a bill was
16 ever sent to Mr. Golson. The statement -- and I hesitate to
17 call it a bill -- that was attached to Mr. Moore's affidavit,
18 it does not have Mr. Golson's name on it. It says GMK.

19 THE COURT: Let me ask you this: Mr. Patterson, did you
20 provide me with a copy of your fee agreement?

21 MR. PATTERSON: No, I did not, but my fees --

22 THE COURT: All right. That's all I needed to know. Go
23 ahead.

24 MR. PATTERSON: All our bills show they were paid by the
25 client. Okay? There is no -- nothing on the statement

1 submitted by counsel -- opposing counsel that any bill -- any
2 portion of that was paid. And, in fact, Mr. Moore stated at
3 the last hearing on the record that he thinks he may have
4 gotten about \$3,000 from Mr. Derrick. All right? So he
5 litigated for four years and never got paid anything from
6 anyone except about \$3,000 from Mr. Barrett. There's no
7 evidence Mr. Golson was ever billed for any time nor has he
8 paid any money, nor is he obligated to pay any.

9 And the -- we also have the issue of what's actually on
10 the bills, and we -- without going into too much of it, as you
11 recall, the statement -- the bill provided the Court had many,
12 many substantive, significant errors for depositions that
13 Mr. Moore did not attend, that he did not travel to, that he
14 also billed for the filing of an answer for Mr. Golson when
15 that answer was actually filed by another law firm; it's filed
16 with the court.

17 There's not a single mention of Mr. (Indiscernible) doing
18 any legal work for Mr. Golson in any of the statements, bills
19 provided. In fact, Mr. Golson did not attend the trial and
20 was never deposed.

21 So there's no evidence to support that Mr. Golson paid or
22 is obligated to pay \$7,000 in legal fees in connection -- even
23 if you say that he was the prevailing party.

24 And Mr. Moore also said that no legal bills had ever been
25 sent to Mr. Golson during the four years this case has been

1 ongoing. So under Williamson and the cases -- the ones
2 (indiscernible), we don't believe it's appropriate that any
3 attorney's fees should be awarded to Mr. Golson.

4 Thank you, Your Honor.

5 THE COURT: All right. Mr. Moore, anything you want to
6 tell me, sir?

7 MR. MOORE: Your Honor, I will try to be very brief, if I
8 can. My understanding is that a motion for reconsideration is
9 supposed to address things that the Court overlooked in its
10 decision. A motion for reconsideration is not to give you a
11 second chance to argue your positions.

12 My recollection, which could be an error but I don't
13 think so, is that everything we just heard from Mr. Patterson
14 was argued to the Court when we argued the motion in regard to
15 attorney's fees. In other words, it appears to me -- I'm not
16 sure that we could have gotten any fairer trial than this
17 Court gave us. As aggressive as both of us were, I think the
18 Court had an incredible amount of patience with us and knows
19 this case from top to bottom, and, quite frankly, I tend to
20 agree with lot of what the Court has said to us, and I have
21 tried to take some of it to heart.

22 We have sent the Court a couple of cases which clearly
23 indicate the issue of attorney's fees as discretionary. You
24 know, I didn't want to bring up the fact that Mr. Patterson
25 did not have any fee agreement actually before the Court,

1 which I think is probably required, but neither of us did.

2 But the law is very clear, as the Court pointed out, that
3 fees are a matter of discretion. There is, no doubt, that I
4 represented Mr. Golson in the case. I told the jury that I
5 did. I told the Court that I did. I made arguments for
6 Mr. Golson. Unless Mr. Patterson is taking the position that
7 I really didn't represent Mr. Golson, I think the Court was
8 totally correct to award him fees.

9 Now, having said that, I actually think the amount of
10 fees awarded to Mr. Golson was a little on the light side, but
11 I understand and I'm willing to respect the Court's discretion
12 because that's why the Court has the black robe on and I
13 don't. And I'm glad that you do have it on. The Court
14 exercised its discretion and ruled. Even though I might think
15 that Golson should have gotten more than he got, it's the
16 Court's discretion. It's your call, Your Honor.

17 Travelers was dismissed as a party to the action. Now,
18 whether Travelers should have been dismissed or should not
19 have been dismissed is for another day. But one thing is for
20 certain: Travelers was dismissed. Whether the Court was in
21 error in dismissing them or not, I don't know. Somebody else
22 will probably have to tell us, which is a shame.

23 But we're certainly willing to live with the order as
24 it's written. We have a situation, Your Honor, where
25 Travelers was dismissed as a party, and even though, I guess,

1 Mr. Patterson alleges they didn't prevail, but I think they
2 did. It seems to me that Travelers was a prevailing party.
3 In the exercise of discretion, should they have been awarded
4 fees? Yes. But they were probably improperly dismissed. And
5 I understand the Court's ruling. And, quite frankly, you
6 know, we are certainly willing to do what the law says and to
7 recognize that it's a matter of the Court's discretion.

8 In trying to be as brief as possible, Your Honor, we
9 understand the Court's ruling. Quite frankly, we respect it.
10 We appreciate the criticism, which was very kind criticism. I
11 know that it was true. What the Court said is absolutely
12 proper and right. There is nothing new being argued today,
13 and, to me, it's a discretionary call from the Court. The
14 Court has heard all of these arguments before, and the Court
15 has ruled.

16 At some point in time, this case has got to end, and I
17 just don't see anything new that would justify a modification
18 of the Court's order.

19 I thank you for listening to me, and if the Court will
20 excuse me, I will simply say I think you were right and I
21 don't have any real argument with anything the Court did. I
22 think the Court was correct. But I don't -- I don't really
23 think we have heard anything new today. And I thank you for
24 listening to me.

25 THE COURT: All right. Thank you.

1 Mr. Patterson, do you have anything in response to
2 Mr. Moore?

3 MR. PATTERSON: Just two quick points. The Travelers'
4 issue of attorney's fees is not before the Court, and that --
5 nobody filed the appeal of the verdict, and there was no 59
6 motion on the other side. That's fairly moot. That's done.

7 THE COURT: Right.

8 MR. PATTERSON: And we, obviously, also, respect the
9 Court, and we appreciate the patience, and this is not a
10 personal attack. This is a process that's allowed under the
11 rules -- it's actually required under the rules if we have an
12 issue. And, so, that's all we're doing is asking the Court to
13 reconsider, and it's up to you to, obviously, decide how to
14 handle it.

15 THE COURT: All right. Well, first of all, gentlemen, I
16 want to let you know, I do apologize because I believe that I
17 was in error when I dismissed Travelers. And, you know,
18 listen, I'm new to judging, and, you know, issues that come
19 before me, you know, all I can do is try to do better and try
20 to learn from the mistakes that I made.

21 At the end of the day, I don't know that that mistake
22 really had an impact on the outcome of this case as it relates
23 to Mr. Patterson's claim, as it relates to Mr. Moore's claim.
24 But that having been said, I apologize for that, and I will --
25 you know, it's -- I'm certainly not perfect, and I don't know

1 all the law, and I try to do my best, and I just want to let
2 y'all know that.

3 MR. MOORE: I believe that.

4 THE COURT: All right. Now, you know, Mr. Moore -- I
5 mean, Mr. Patterson, I just want to let you know that when I
6 said there's a breakdown of communications between the
7 lawyers, you know, I tried to craft my order in such a way
8 that I wasn't pointing fingers at anybody because I don't
9 think, A, that's helpful, and I don't think that this case
10 and, in my opinion, what happened is the result of any one
11 individual's fault, for lack of better words.

12 You know, when Ms. Marcell -- I think that was her
13 name -- when she was on the stand, one of the things she
14 said -- and it got skipped over real fast because, obviously,
15 it shouldn't have been said -- was that, when these folks were
16 all at this McDonald's meeting, the meeting broke down over
17 \$400. \$400.

18 And, Mr. Patterson, what you just told me, I think, is
19 indicative of the \$400 meeting, the \$400 breakdown. You said
20 that your client told you not to go talk to Mr. Moore about
21 resolution or settlement or not to talk to him. That's what
22 you said. I wrote it down. Your client told you not to. And
23 this was late in the game. I understand that. I understand
24 that completely, Mr. Patterson.

25 But I really think that it affirms what I have thought

1 and what I have felt throughout the trial of this case, sir,
2 that the attorneys and/or their clients allowed this matter to
3 spin out of control. And it takes two to tango. I'm not
4 blaming any one person or attorney, and I'm not saying that
5 any one person is more responsible or less responsible.
6 That's it. I just feel that that's irrelevant.

7 And, Mr. Patterson, you know, what I saw -- when I asked
8 y'all to go talk or ordered you, I said, "Why don't y'all,"
9 and then I said, "In fact, I'm going to order you. Go back to
10 that room back there. Let's see if y'all can work this thing
11 out."

12 There's a glass -- there's glass in that room, in the
13 back of that courtroom, as I recollect. I saw firsthand the
14 tension in the room between the attorneys. I saw the
15 voices -- I heard the voices that were raised. And I saw
16 the -- Mr. Patterson, both sides were professional during the
17 term -- during the course of the trial. I agree they were
18 professional. But, again, I practiced law for 30 years, and I
19 know what being professional and I know what being tense and I
20 know also, Mr. Patterson, there's a difference between talking
21 and listening.

22 And, yes, there were plenty of phone calls and plenty of
23 bills and emails that were exchanged. So, again, when I talk
24 about breakdown in communication, Mr. Patterson, I'm not
25 necessarily saying that we aren't speaking. But I don't think

1 either side was listening. And, again, I'm not blaming
2 anybody. I'm not saying that one was listening and one wasn't
3 listening. I think it was a breakdown all the way around.

4 I understand that, you know, the problems that you have
5 with my order, Mr. Patterson. I mean, I respect -- I
6 certainly respect you and the professional nature that you and
7 your daughter went about this case and the information that
8 you provided the Court. But, again, when I look at the case,
9 when I look at -- I think I have to look at it from a global
10 perspective. I think that I have criteria that I'm charged
11 with examining, but, also, I think I'm charging with looking
12 at this from a global perspective as to what went on.

13 And what I will tell you is, I just think that, based
14 upon -- you know, when you say I'm not awarding any money for
15 the -- for the breach of contract, the reality of it is, I
16 just think that my award of \$24,000 and change -- and, I'm
17 sorry, I don't have it in front of me -- but that award, I
18 think, is a fair award for the entire claim of attorney's fees
19 in this matter.

20 You know, I could go through the bills and just -- and
21 point out. Mr. Patterson, there was a lot of work that was
22 done, but I tell you, there was a lot of work that this Court
23 just doesn't feel was reasonable. But, then, you have to
24 understand, the fact that I'm saying -- I have done a lot of
25 thought about this, Mr. Patterson. The fact that I'm saying

1 that I don't think it's reasonable doesn't necessarily mean
2 that I think it's unreasonable, and what I mean by that is, I
3 mean, if your client feels that paying those bills are
4 reasonable to him, that's his prerogative. But as it relates
5 to me and my position in seeing this, I just don't think these
6 bills are reasonable, and I just don't think that they are --
7 I don't think it's reasonable, for instance, to expect
8 Mr. Moore's client to pay for two attorneys sitting through
9 the trial, both billing the entire time.

10 I didn't think it was reasonable for many of the
11 paralegal tasks -- secretarial and paralegal tasks, setting up
12 depositions, phone calls. I didn't think it was reasonable
13 for those to be billed at .3 at attorney's hours.

14 Now, again, I don't know that it's unreasonable, and if
15 your client wants to pay that, that's fine. I don't see that
16 there's anything wrong in that, but I don't think that's
17 reasonable as it relates to when I'm charging with looking at
18 what a reasonable fee is in the case.

19 So, I mean, those are just two examples, you know,
20 because I went back through this bill, sir. I spent an hour
21 and a half of my time -- and it's my job; I don't mind doing
22 it. But I spent an hour and a half reviewing your motion and
23 reviewing these matters and going through over them again, and
24 there is just some things, sir, that I just didn't think was
25 reasonable given the circumstances, given my observations of

1 the case, given the fact that -- given all those factors,
2 quite frankly, I just think that the amount that I have
3 awarded is reasonable under the circumstances.

4 I know Mr. Moore didn't provide an affidavit. You know,
5 there's a lot of things. You know, there were no affidavits.
6 Nobody gave me an affidavit as to somebody standing in the
7 community. I have seen attorney's fees -- I have handled
8 attorney's fees cases. I have gone and had lawyers provide
9 affidavits that I submitted to the Court that says, Hey, this
10 person has this many years' experience, and he's worth \$300 an
11 hour. I have had affidavits that have been presented that
12 say, This is the customary rate in this area. I have had
13 affidavits that say these things. And I don't know that those
14 affidavits were presented in this case.

15 You know, I don't know that I needed those affidavits --
16 I'm going to be honest, Mr. Patterson -- because the
17 reputation that you gentlemen enjoy in the community and in
18 the legal field, I mean, I just don't think that was an issue
19 there. But the fact that he didn't -- Mr. Moore didn't
20 provide me with his -- with his fee agreement, that just
21 doesn't bother me as it relates to how I came up with the
22 \$7,000. You know, I just think that was -- I think that was
23 reasonable. I base that upon amongst other things, and
24 there's a lot of different ways I looked at that. I can look
25 at perhaps what he billed just for the trial and take a third

1 of that. I could look at it and, you know, look at the total
2 amounts requested, and maybe it was 5 percent was requested.
3 Or maybe I can look at it in terms of, you know, being a third
4 of what -- I mean, being a third of what the 24,000 that was
5 awarded to you, being a third or 20 percent of what I think
6 Mr. Moore's trial costs were.

7 And one of the things I said earlier, now, could
8 Mr. Moore have moved to get him out earlier? Yeah, I agree
9 with you there, Mr. Patterson, but, again, I'm not going to --
10 I'm not going to interfere with somebody's trial strategy.
11 You know, why and when he moved, I'm not, but I just think
12 \$7,000 was -- was reasonable.

13 Hold on one second.

14 All right. I think that that was reasonable, and I do
15 believe that he was a prevailing party. He was dismissed from
16 the mechanic's lien cause of action. I think that dismissal
17 was appropriate, and I think, as a result of my reading the
18 case law, that dismissal makes him a winner. And, as a
19 winner, he's entitled to some attorney's fees. And I believe,
20 again, I just think that what I have awarded here is
21 reasonable.

22 So, with all due respect, sir, I'm going to deny your
23 motion to revise the order awarding attorney's fees in this
24 matter. I want to let y'all know, it was a pleasure trying
25 this case in front of you. I regret the mistake I made as it

1 relates to releasing Travelers. Won't do that again. That's
2 something I learned from this trial. Thankfully, I don't know
3 that that mistake made --

4 MR. MOORE: Could I just say this? I know that you are
5 fairly but on the bench because you keep saying that, but it
6 was a sincere pleasure to have appeared before you. It is
7 nice to appear before a judge who has obviously been there
8 before, and I want to just thank you. I hope they send you to
9 Lexington soon. I would love to have you here. I know you
10 probably wouldn't want to come; I wouldn't want to leave
11 Beaufort either. But I do thank you for your patience.

12 THE COURT: Well, Mr. Moore, thank you very much. I
13 appreciate the kind words.

14 And, Mr. Patterson, I know you're disappointed in my
15 ruling. I understand that. But, sir, I learned a lot in this
16 case, and I think you're a fine lawyer, sir.

17 MR. PATTERSON: Thank you, Your Honor. I just had two
18 things. I do want to address your observation of me in the --
19 in the private conference room. I was not aware you were
20 still in the court. The reason I was so upset is because I
21 just had an attorney tell the Court that I refused to
22 communicate or respond to a settlement offer, and Mr. Moore
23 acknowledged to me -- and I hope he acknowledges right now --
24 that that statement was not true. That's what I was upset
25 about, is that he misrepresented something to the Court, and I

1 took issue, which any other attorney would.

2 So, Mr. Moore, do you agree that you acknowledge --

3 THE COURT: Mr. Patterson, let me tell you this: I don't
4 want to get into a back -- I mean, this just continues to show
5 the -- it continues to reaffirm my thoughts. But what I will
6 tell you is this, Mr. Patterson, I don't doubt that Mr. Moore
7 said that or said something like that. But I want you to know
8 something, sir: I didn't believe that whatever you -- he just
9 said, I didn't put any stock in that. And I mean no
10 disrespect to Mr. Moore.

11 Sir, y'all are going at it, you're zealously representing
12 your clients. I understand that. I understand it. I just
13 want to let you know that, and I think you -- I think y'all
14 both did a good job, and I appreciate the opportunity to have
15 heard the case before each of you gentlemen. All right?

16 MR. PATTERSON: Thank you very much.

17 Who is going to prepare an order? Is your clerk going to
18 prepare an order, Your Honor? Or do you want one of us to
19 prepare an order?

20 THE COURT: She'll probably prepare a brief order, yes,
21 sir. All right?

22 MR. PATTERSON: Thank you.

23 MR. MOORE: Your Honor --

24 MR. PATTERSON: Thank you for your patience and your
25 time, Judge.

1 MR. MOORE: I just wanted to say one thing.

2 Mr. Patterson has been nothing but a perfect gentleman to me
3 throughout this case. He was a very zealous advocate. I
4 don't even remember the con- -- I don't even remember what
5 happened. To me, this trial was ten years ago, from my feeble
6 brain. But if I have done anything to offend him, I have
7 previously told him that I apologize. I hope that we have
8 made amends and that we can leave this case friends.

9 We can continue on whatever we're going to do, but I
10 respect Mr. Patterson greatly, and if I have done anything to
11 offend him, I have told him privately and I tell him again on
12 the record, I apologize for anything that I did to offend him,
13 and I hope that he will accept that apology. He said he would
14 privately, but I think we're still at a little bit of
15 animosity, and I hope we can become friends. He's a good
16 lawyer and I have --

17 THE COURT: All right. Gentlemen, I have got to run.

18 MR. MOORE: Thank you, Judge.

19 THE COURT: Thank you very much.

20 MR. MOORE: Thank you. Have a good weekend, my friend.

21 MR. PATTERSON: All right. Thank y'all.

22 (The above hearing concluded.)
23
24
25

CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: South Atlantic Forest v. GMK Assoc.

2017-CP-07-02337

DATE OF HEARING: 4/8/2022

COURT REPORTER/MONITOR: Webex Recording

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Bobbi Fisher, Certified Transcriber

Date Prepared: June 5, 2022

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STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Case # 2017-CPO72337

SEE ATTACHED

EXHIBITS

Plaintiff(s)

vs.

Defendant(s)

South Atlantic Forest Products
BKK Assoc.

PLAINTIFF'S EXHIBITS

DEPENDANT'S EXHIBITS

COURT'S EXHIBITS

100 Email 1	1120 Email	1 Fore Person
2 101 Chart	2 121 Email	2 Charge 13
3 102 Totals	3 122 Email	3 Charge 11
4 103 A & B List	4 123 Email	4 NOTE
5 104 Sumons	5 124 Email	5 NOTE From Jury
6 105 EMAIL	6 125 Not Admitted	6 1st Verdict Form
7 106 Email	7 126 Email	7
8 107 Email	8	8
9 108 Email	9 19-NOT ADMITTED	9 21-NOT ADMITTED
10 109 Email	10	10
11 110 Email	11	11
12 111 Picture	12	12
13 112 Gaurgan License Sumons	13	13
14 113 (Not Admitted)	14	14
15 114 Diary Redacted	15	15
16 115 Check List	16	16
17 116 Loan \$199.00	17	17
18 117 Email	18	18
19 118 Email	19	19
20 119 Email	20	20

2022 JAN 28 PM 4:09
JERRI ANN ROSEHEAD
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Court Reporter

Trial Judge

Clerk of Court

Date January 28th, 2022

000367

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Case # 2017-CP-07-2337

EXHIBITS

Plaintiff(s) Southern Atlanta Forest Products
vs.
Defendant(s) BAK Assoc.

PLAINTIFF'S EXHIBITS	DEFENDANT'S EXHIBITS	COURT'S EXHIBITS
1	1 NOT ADMITTED	1
2	2 Plans	2
3	3 Plans	3
4	4 Plans	4
5	5 Acet Agrmt	5
6	6	6
7	7	7
8	8	8
9	9	9
10	10	10
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14	14	14
15	15	15
16	16	16
17	17	17
18	18	18
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2022 JAN 28 PM 4:09
JERRI ANN ROSENBAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Court Reporter Sharon Haddon Trial Judge T. Bonds
Clerk of Court Kristen Kukman

Date January 28th, 2022 000368

Gaster LUMBER & Hardware

(912) 925-1100	15010 Abercorn Exp	Savannah, GA 31419
(912) 748-7376	108 West Highway 80	Bloomington, GA 31302
(843) 784-2000	3051 Plantation Drive	Hardeeville, SC 29927
(912) 832-3666	RR 4 Box 3137	Eulonia, GA 31331

COMMERCIAL BUSINESS ACCOUNT APPLICATION

NOTICE: Please complete all sections as applicable. Failure to provide necessary information may result in denial of credit. Contact the credit office if there are any questions. Please allow three to five business days for processing. Fax submissions are acceptable to begin processing, but original applications must be on file in order to receive approval.

INFORMATION ABOUT APPLICANT

Date Needed: January 30, 2017 F.E.I. Number: 57-0714443

Legal Name of Corporation, Partnership or Proprietorship: GMK Design Build Division, Inc.

dba N/A

Street Address: 1201 Main Street, Suite 2100

City: Columbia State: SC Zip: 29201

Mailing Address if Different: Same as Above

Business phone: (803) 256-0000 Accounts Payable Contact: Frank Goleen

Fax #: (803) 252-7269

Are you tax exempt? ☐ Yes ☒ No # _____ (If so, please complete separate exemption certificate.)

Type of Business: ☐ Partnership ☐ Individual Proprietorship ☒ Corporation

If Subsidiary: _____

Name of Parent Company: N/A

Address of Parent Company: _____

If Incorporated: Date of Incorporation: January 1966 State: _____

PRINCIPAL'S NAME	SOCIAL SECURITY #	HOME ADDRESS	POSITION
<u>Thomas P. Monahan</u>	_____	<u>1201 Main St., Ste 2100</u>	<u>Chairman</u>
		<u>Columbia, SC 29201</u>	

Banking Relationships:
Business Checking with: NBSC Account #: available upon request

Trade References:

Supplier: <u>Custom Steel Fabricators</u>	Telephone: <u>(803) 796-1776</u>
Supplier: <u>Wex Bank</u>	Telephone: <u>(800) 774-4939</u>
Supplier: <u>ABI Group</u>	Telephone: <u>(803) 951-3636</u>
Supplier: _____	Telephone: _____

06/30/2005



Gaster 11-2-17 000063

000369

Name of Person(s) authorized to charge on this account: Tripp Berry, Bruce Williamson

P.O. # Required? ☒ Yes

☐ No

Job # Required? ☒ Yes

☐ No

(Note: Charges will be accepted only from the above listed persons; any change in authorized agents must be submitted in writing.)

The above information is for the purpose of obtaining credit and I/we certify that the information is true and correct. I/we authorize your to verify this information and/or obtain additional information by obtaining data from a credit reporting agency. In consideration for the credit extended, the undersigned agrees to be liable for all indebtedness plus interest and reasonable attorney fees should any litigation be incurred for nonpayment of account. In consideration of the credit extended to the above listed corporation, the undersigned hereby guarantees and agrees to be personally liable for all indebtedness plus interest and reasonable attorneys fees incurred by the corporation or any of its authorized agents listed above.

I/we understand and accept the following terms and conditions: Statements are mailed on the first business day following the end of the month. Statements will contain all activity from the 1st of the previous month through the last day of the billing month. All invoices are referenced by the order number. Statement balances are due on the 10th of the month. A finance charge at the periodic rate of 1-3/4%, 21% per annum (or maximum allowed by law) shall be imposed on all unpaid balances. The unpaid balance is that portion of the balance due which has not been paid or credited by the 25th of the month. The minimum finance charge will be \$2.50 per month. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from the date of purchase. Checks returned for insufficient funds are subject to a \$30.00 or 5% fee, whichever is greater. Vendor reserves the right to file a materialmen's lien on any property to which goods are delivered and not paid for.

Statements are issued on the first business day of each month and include invoices for all deliveries made in the previous month. Statement balances are due in full on the 10th and considered past due on the 11th. Finance charges accrue on all past due balances if not paid by the 25th. The undersigned hereby understand and accepts these terms.

<u>Frank Golden</u>	_____ Signature
<u>Frank Golden</u>	_____ Signature
<u>Controller</u>	_____ Typed or printed name
_____ Title	_____ Title
<u>1/30/17</u>	_____ Date
_____ Date	_____ Date

08/30/2005

Gaster 11-2-17 000064

000370

Exhibit A to Notice and Certificate of Mechanic's Lien

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

VERIFIED STATEMENT OF ACCOUNT

CREDITOR: South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware

OWNER OF PROPERTY: Percy M. Berry, III

DEBTOR: GMK Design Build Division, Inc.

TOTAL CONTRACT AMOUNT DUE FOR LABOR/MATERIALS PROVIDED:

1.	MATERIALS – Front Entry Door Unit, Sill, Sill Cover, Sweep, Hinges	\$3,922.00
2.	MATERIALS – Exterior Siding and Trim, Tyver Tape	5,437.09
3.	MATERIALS – Southern Sutter Package	130.09
4.	MATERIALS – Sheathing, Plywood	376.29
5.	MATERIALS – Premium MCA	397.24
6.	MATERIALS – Windows, Screen	1,453.34
7.	MATERIALS – Plastics, Siding, Siding Nails, Finish Nails	884.84
8.	MATERIALS – Select Lumber, Plywood	1,340.89
9.	MATERIALS – HardiPine Trim, Backer Pine	2,416.27
10.	MATERIALS – HardiPine Trim, Plastic	165.35
11.	MATERIALS – HardiPine Trim	2,066.47
12.	MATERIALS – Select Lumber	816.43
13.	MATERIALS – Select Lumber	685.93
14.	MATERIALS – Trim, HardiPine Panels	1,045.27
15.	MATERIALS – Select Lumber	368.21
16.	MATERIALS – Ice/Water Shield	270.09
17.	MATERIALS – Select Lumber, Plywood	1,999.90
18.	MATERIALS – Batten	267.44
19.	MATERIALS – Siding Nails	351.55
20.	MATERIALS – Trim	1,188.79
21.	MATERIALS – Exterior Trim, Decking	2,854.16
22.	MATERIALS – Drywall Screws, Stain	671.82
23.	MATERIALS – Select Lumber	173.46
24.	MATERIALS – Select Lumber	480.45
25.	Account Credit	<1,709.25>
26.	Payment	<4,582.76>
27.	Accrued Interest	1,413.88

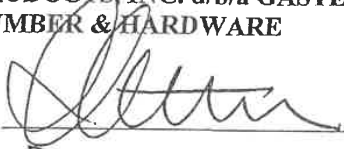
TOTAL DUE AND OWNING \$24,885.24



TOTAL AMOUNT DUE (exclusive of costs of this action and attorney's fees to which the creditor is entitled): \$24,885.24, plus interest of \$12.29 per diem

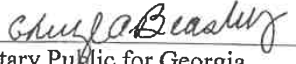
I swear that the foregoing is a true and accurate statement of the account representing all amounts due Creditor with all just credits applied.

SOUTH ATLANTIC FOREST
PRODUCTS, INC. d/b/a GASTER
LUMBER & HARDWARE

By: 

Its: PRESIDENT

SWORN to before me on this
13 day of September, 2017.


Notary Public for Georgia
My Commission Expires: 12 June 2018



MAIN OFFICE
(912) 925-1100

(912) 748-7376
FARGO/DAVE HARDWARE SALES

Gaster
LUMBER
& Hardware

(843) 784-2000

2001 PLUMMER RD - BRIDGEVILLE, GA 30107

"Naturally, I Built it with Gaster"

07:38:01

DATE	INVOICE
05/10/17	207497

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GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

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HV130416 ** INVOICE **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE B1139

(803) 256-0000

TAX JURISDICTION AND DESCRIPTION
0166 Beaufort County

TAX EXEMPT

LOC	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO	CUSTOMER ORDER NO	CLS	CLERK	TERMS	COPY PAGE
	0303/16/17	05/10/17		BERRY	39ANCHORA			32 07NET 10TH	0101

ITEM	ORDERED BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
NON-INV EA			SPECIAL ORDER NON RETURNABLE PO# HV130416/INV# 207497 ETA 6MKS 5/2/17 TUCKER# 009256-0. FRONT ENTRY: MANOGANY EXT DOOR UNIT, JMB, NO BM, ESE BR ADJ BILL, BILL COVER, STD SWEEP, & ORB HINGES 6 9/16" MAH JMB. 1.00 103010X80	3700.00	3700.00
			RV GAPELE, DBB, TDL, DP47 RHIN, 3/4LT ZLT 1W2H TDL OVER 1 RAISED PANEL. SIDELITES: FULLY STOPPED IN SL PANEL		

3700.00

222.00

3922.00

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO "Fix Up Your Dock"*****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month (which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law)) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th.
Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default of payment of this invoice. Clerical errors are subject to correction.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.


PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000037

000373

MAIN OFFICE
(912) 925-1100
GASTER LUMBER & HARDWARE
(912) 743-7376
2501 PLANTERS DR. - HARDEEVILLE, GA 30522

**Gaster
LUMBER
& Hardware**

(843) 704-2000
2501 PLANTERS DR. - HARDEEVILLE, GA 30522

"Naturally, I Build it with Gaster"

07:33:25

DATE	INVOICE
05/02/17	212102

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GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST. STE 2100
COLUMBIA, SC 29201

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HV138803-A ** INVOICE **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803)258-0000

TAX JURISDICTION NO. DESCRIPTION
0166 Beaufort County

TAX EXEMPT

LOG: DATE ORDERED: 0304/28/1705/02/17 DATE SHIPPED: 39ANCHORA CUST. ORDER NO: 32 05NET 10TH COPY PAGE: 0101

ITEM	ORDERED GASTER ORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
NON-INV EA TYVTAPE EA			DROP 5 EXT SDC & TRIM GLC# HV138803-A MEYER VENDOR SHIPPED WRONG REPLACING 675.00 8.25 TEXT HARDIE 1.00 TYVEK TAPE 2"x165'	7.58 12.83	5116.50 12.83

5437.09
Pd - 4582.76
\$ 854.33 Balance owed

5129.33

307.76

5437.09

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO "Fix Up Your Dock"*****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 29th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th.
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THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000038

000374

000375

MAIN OFFICE
(812) 925-1100

(912) 748-7376

Gaster LUMBER & Hardware

(843) 784-2000

201 PLANTATION DR., WAREHOUSING, GA 30097

"Naturally, I Built it with Gaster"

07:22:08

DATE	INVOICE
05/03/17	212498

GK005

** INVOICE **

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GK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

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BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803) 256-0000

TAX JURISDICTION NO DESCRIPTION
0165 Beaufort County

TAX EXEMPT

LOG: DATE ORDERED: 0305/03/17 DATE SHIPPED: 03/17 SHIP VIA: 39 ANCHORAGE BERRY JOB NO: CUST. ORDER NO: 32 07 NET 10TH SCS: CLERK: TERMS: 0101 COPY PAGE

ITEM	ORDERED BACK ORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
			DROP 5 BRUCE CALLED IN FOR A DELIVERY. SHIP NEXT TRUCK POSSIBLE		
2416CKDAT EA		1.00	2X4 16' CLEAR/CC/KDAT C&BTR SUPER SELECT DO NOT STOCK IN A 14'	18.67	18.67
34CDX SHT		8.00	3/4 4X8 RATED SHEATHING (23/32) PLYWOOD FOR EXT PLYWOOD	23.14	185.12
Z616PT EA		12.00	2X6 16' PT #2 MCA G/C	12.60	151.20

354.99

21.30

376.29

SALES AMOUNT: SALES TAX: SHIPPING CHG: CORE DEPOSIT: CASH CODE:

*****Now is the time to Fix Up Your Back*****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th.
Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany this request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default of payment of this invoice. Clerical errors are subject to correction.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000040

000376

POST KEYNESIAN ECONOMICS

2011 RELEASE UNDER E.O. 14176

07:38:36

INVOICE

GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST. STE 100
COLUMBIA, SC

29201

SHIP TO

BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803) 256-0000

TAX JURISDICTION	NO	DESCRIPTION
0166		Beaufort County

LOG: DATE ORDERED: DATE SHIPPED
0305/04/1705/05/17

JOB NO. 39 ANCHORAGE BERRY

S. CLERK: TERMS
32 07NET 10TH

COPY-PA
0101

374.75

22.49

397.24

[illegible]

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. This unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE of 18% per month (1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE of 18%) will be imposed on unpaid balances. NO FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 90 days from date of purchase. Original invoice must accompany the request for credit. The customer's responsibility for the loss of or damage to the merchandise is the responsibility of the buyer. Physical damage is subject to inspection.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000041

000377

MAIN OFFICE
(912) 925-1100
1000 W. 24th Ave. - Panama City, FL 32401

Gaster
LUMBER
& Hardware

(843) 794-2000
3751 PLANTATION DR. - FLEMING, GA 30629

"Naturally, I Built It with Gaster"

(912) 748-7376
1000 W. 24th Ave. - Panama City, FL 32401

17:41:37

DATE	INVOICE
05/31/17	212675

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GNK005
GNK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

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HV139256 ** INVOICE **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

18031256-0000

TAX JURISDICTION NO./DESCRIPTION
6166 Beaufort County

TAX EXEMPT

LOC. DATE ORDERED DATE SHIPPED SHIP VIA JOB NO. CUST. ORDER NO. SLS. CLERK TERMS COPY PAGE
0305/04/1705/31/17 39ANCHORA BERRY 32 QNET 10TH 0101

ITEM	ORDERED ACK ORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
			SPECIAL ORDER NON RETURNABLE		
			FOR HV139256/INV# 212675 DEALERS SUPPLY#185306-0 VICTOR BILT/LEGEND HBA WHITE DH WINDOWS W/SCREEN *****		
NON-IN 2-6x4-10 EA		2.00	DH UNIT	65.54	131.08
			CODE 366IG R-PC50, 6 7/16" 1/8 EXT OGEE WDL INT PROF 2/8 STAN WDL COLONIAL 2W1H/2W1H		
NON-INV SCREEN EA		2.00	2-6x4-10 FULL WHT SCRE		.00
			CO-MR. BERRY		

1371.08

82.26

1453.34

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO Fix Up Your Back *****
*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: not upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default of payment of this invoice. Clerical errors are subject to correction.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000042

000378

MAIN OFFICE
(912) 925-1100

AUTOMATIC CREDIT - CREDIT ADVISORY

(912) 748-7376

AUTOMATIC CREDIT - CREDIT ADVISORY

Gaster LUMBER & Hardware

(843) 784-2000

2051 PLANTATION DR - HUNTSVILLE, GA 35897

"Naturally, I Built it with Gaster"

07:31:34

DATE	INVOICE
05/08/17	212911

**** INVOICE ****

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GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

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BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803) 256-0000

TAX JURISDICTION NO. DESCRIPTION TAX EXEMPT
0166 Beaufort County

LOC	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO.	CURT ORDER NO.	SLS	CLERK	TERMS	COPY PAGE
	0305/08/17	05/08/17			39ACHDRA			32 05NET 10TH	0101

ITEM	ORDERED BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
Z61ACKDAT		10.00	2X6 16' CLEAR/EC/KDAT	29.00	290.00
EA			C18TR SUPER SELECT		
PL100		2.00	3X120 SMOOTH 4M COUNT	28.00	56.00
EA			285469 PLASTIC *		
DA2SEL		3.00	2 1/2" ANGLED FINISH 4	36.25	108.75
EA			15 GA. EG 230931		
C5N21455		2.00	COIL SIDING NAIL 2 1/4	95.00	190.00
EA			9/8 3.6H *		
DA2155		2.00	2" 15GA 6S FINISH NAIL	95.00	190.00
EA			*		

834.75

50.09

884.84

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****Now is the time to "Fix Up Your Deck"*****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default of payment of this invoice. Clerical errors are subject to correction.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.


**PLEASE PAY
THIS AMOUNT**

Gaster 11-2-17 000043

000379

MAIN OFFICE
(912) 825-1100

(912) 748-7378
4 WESTWAY DR - COLUMBIA, GA 29201

Gaster LUMBER & Hardware

(843) 784-2000
204 PLANTATION DR. - HUNTERVILLE, GA 29922

"Naturally, I Built it with Gaster"

DATE	INVOICE
07:34:05	05/09/17 212956

GNK005 **** INVOICE ****

SOLD TO GNK DESIGN BUILD DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

SHIP TO BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE B1139

TAX JURISDICTION NO./DESCRIPTION	TAX EXEMPT
18031256-0000	0166 Beaufort County

LOG	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO	CUSTOMER NO	SLS. CLERK	TERMS	COPY PAGE
	0305/08/17	05/09/17			39ANCHORA		32 05NET 10TH	0101

ITEM	QUANTITY	SHIPPED	DESCRIPTION	PRICE	AMOUNT
4612PT EA	3.00		4X6 12' PT #2 MCA G/C	19.91	59.73
			NO 24' AVAIL		
4612PT EA	1.00		4X6 12' PT #2 MCA G/C	19.91	19.91
4616PT EA	2.00		4X6 16' PT #2 MCA G/C	25.18	50.36
4612PT EA	1.00		4X6 12' PT #2 MCA G/C	19.91	19.91
4412PT EA	6.00		4X4 12' PT #2 MCA G/C	13.47	80.82
2612CKDAT EA	20.00		2X6 12' CLEAR/GC/KDAT C&BTR SUPER SELECT	21.00	420.00
2816CKDAT EA	4.00		2X8 16' CLEAR/GC/KDAT C&BTR SUPER SELECT	33.28	133.12
34CDXPT SHT	6.00		3/4 4X8 PT PLYWOOD CCA	33.79	202.74
584DCPT SHT	6.00		23/32 RTD PRESSURE TRE	46.40	278.40

1264.99	75.90					1340.89
SALES AMOUNT	SALES TAX	SHIPPING CHG.	CODE	DEPOSIT	CASH	CODE
*****Now is the time to "Fix Up Your Deck"*****						
*****We have Piling, Timbers, Decking & Hardware*****						

TERMS AND CONDITIONS: not upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th.

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**PLEASE PAY
THIS AMOUNT**

MAIN OFFICE
(912) 925-1100
FAX (912) 925-1100

Gaster LUMBER & Hardware

(843) 784-2000
201 PLEASANT DA - WOODVILLE, GA 29227

"Naturally, I Built it with Gaster"

(912) 748-7376
*SOUTH A - WOODVILLE, GA 29227

DATE	INVOICE
07:38:01	05/10/17 213026

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CMK005
GMR DESIGN BUILD
DIVISION, INC.
1201 MAIN ST. STE 2100
COLUMBIA, SC 29201

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HV139282 ** INVOICE **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

TAX JURISDICTION NO./DESCRIPTION	TAX EXEMPT
(803)256-0000	0166 Beaufort County

REQ	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO.	CUST. ORDER NO.	SLS. CLERK	TERMS	COPY	PAGE
	0305/09/17	05/10/17		39ANCHORA BERRY			32 07NET 10TH	0101	

ITEM	QUANTITY	SHIPPED	DESCRIPTION	PRICE	AMOUNT
NON-INV PRIMED EA			DROP 5 SPECIAL ORDER NON RETURNABLE #0# HV139282/INV 213026 WEYERHAUSER# 1004506817 ***** HARDI TRIM FIBER CEMENT SMDOTH		
	35.00		SE 4/4x8.25x12' HARDI	23.70	829.50
NON-INV "RAW" EA	50.00		1/4" 4'x8' BACKER PANE	29.00	1450.00

2279.50	136.77						2416.27
SALES AMOUNT	SALES TAX	SHIPPING CHG.	CODE	DEPOSIT	CASH	CODE	

*****NOW IS THE TIME TO "Fix Up Your Deck"*****
*****We have Piling, Timbers, Decking & Hardware*****

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THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.


**PLEASE PAY
THIS AMOUNT**

Gaster 11-2-17 000045

MAIN OFFICE
(912) 925-1100
VIA BUSINESS COPY - 5000000000

(912) 746-7376
1201 MAIN ST. - COLUMBIA, SC 29201

Gaster LUMBER & Hardware

(843) 784-2000
3611 FLATIRON RD. - WAREHOUSING, GA 30767

"Naturally, I Built it with Gaster"

07:25:58

DATE	INVOICE
05/15/17	213502

GMK005
SOLD TO
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST. STE 2100
COLUMBIA, SC 29201

SHIP TO
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

** INVOICE **

(803) 256-0000

TAX JURISDICTION NO./DESCRIPTION
0166 Beaufort County

TAX EXEMPT

LOC. DATE ORDERED DATE SHIPPED SHIP VIA JOB NO. DIST. ORDER NO. SLS. CLERK TERMS COPY PAGE
0305/12/1705/15/17 39ANCHORS 32 05NET 10TH 0101

ITEM	QUANTITY ORDERED BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
DA25GL EA	1.00	1.00	2 1/2" ANGLED FINISH 4	36.25	36.25
PL10HDS EA	2.00	2.00	15 GA. EG 230931 3"x120 GALV R/S PLASTI 153444	59.87	119.74

155.99

9.36

165.35

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****Now is the time to "Fix Up Your Dock"*****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 90 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default or nonpayment of this invoice. Clerical errors are subject to correction.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000046

000382

MAIN OFFICE
(912) 925-1100

**Gaster
LUMBER
& Hardware**

(843) 784-2000

"Naturally, I Built it with Gaster"

(912) 748-7376

07:29:55

DATE	INVOICE
05/16/17	213652

GMK005

HV139295 ** INVOICE **

S
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GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

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BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE B1139

(803) 256-0000

TAX JURISDICTION NO/DESCRIPTION
0166 Beaufort County

LOG	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO.	CUST ORDER NO.	CLS. CLERK	TERMS	COPY PAGE
	0305/15/17	05/16/17		39ANCHORAGEBERRY			32 07NET 10TH	0101

ITEM	QUANTITY ORDERED BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
			DROP S EXT TRIM		
			PD# HV139295/INV 213652		
			WEYERHAEUSER# 1004517248		

			SMOOTH HARDITRIM FC		
NON-INV HARDI EA		60.00	SE 5/4X5.5X12' PRIMED	21.80	1308.00
NON-INV HARDI EA		10.00	SE 4/4X11.25X12' PRIME	35.20	352.00
NON-INV EA		10.00	SE 4/4X9.25X12' PRIMED	28.95	289.50

1949.50

116.97

2066.47

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO "Fix Up Your Deck"*****
*****We have Piling, Timbers, Decking & Hardware*****

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THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000047

000383

MAIN OFFICE
(912) 925-1100
11000 FARMER - GASTON, GA 30203

(912) 748-7376
11000 FARMER - GASTON, GA 30203

Gaster
LUMBER
& Hardware

(843) 784-2000
1901 PLANTATION DR. - WADSWORTH, GA 30087

"Naturally, I Built it with Gaster"

07:29:55

DATE	INVOICE
05/16/17	213681

GNK005

INVOICE

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GNK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

S
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BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803)256-0000

TAX JURISDICTION NO. DESCRIPTION
0166 Beaufort County

TAX EXEMPT

LOC DATE ORDERED DATE SHIPPED SHIP VIA JOB NO. CUST ORDER NO. SLS - ORDER TERMS COPY PAGE
0305/15/1705/16/17 39ANCHORA 32 05NET 10TH 0101

ITEM	ORDERED BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
2616SPF EA		25.00	2X6 16' SPRUCE/H-F#2	9.65	241.25
2614PT EA		8.00	2X6 14' PT #2 MCA G/C	10.49	83.92
2416SPF EA		20.00	2X4 16' SPRUCE STD/#2	6.81	136.20
15320SD SHT		15.00	15/32" 4X8 D.S.B.	12.95	194.25
2812SYP EA		15.00	2X8 12' #2 SQU PINE	7.64	114.60

770.22

46.21

816.43

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****Now is the time to Fix Up Your Dock*****

*****We have Piling, Timbers, Decking & Hardware*****

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THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.


PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000048

000384

MAIN OFFICE
(812) 925-1100

"NATURALLY, I BUILD IT WITH GASTER"

(912) 748-7375

"NATURALLY, I BUILD IT WITH GASTER"

Gaster
LUMBER
& Hardware

(843) 784-2000

361 PLANTATION RD. NARCESSETT, GA 30060

"NATURALLY, I BUILD IT WITH GASTER"

07:38:41

DATE	INVOICE
05/18/17	213913

CHK005

** INVOICE **

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GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

S
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BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803)256-0000

TAX JURISDICTION NO./DESCRIPTION
0166 Beaufort County

TAX EXEMPT

DATE ORDERED: 0305/17/1705/18/17 DATE SHIPPED: 0305/17/1705/18/17 SHIP VIA: 39ACHORA ORDER NO.: 32 05NET 10TH COPIES: 0101

ITEM	QUANTITY	SHIPPED	DESCRIPTION	PRICE	AMOUNT
2616PT EA	25.00		2X6 16' PT #2 NCA G/C	11.89	297.25
2416PT EA	20.00		2X4 16' PT #2 NCA A/G	8.50	170.00
2812PT EA	15.00		2X8 12' PT #2 NCA G/C	11.99	179.85

647.10

38.83

685.93

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO "Fix Up Your Deck"*****

*****We have Piling, Timbers, Decking & Hardware*****

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THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000049

000385

MAIN OFFICE
(912) 925-1100

(912) 748-7376

Gaster LUMBER & Hardware

(843) 784-2009
251 PLANTATION DR. - BEAUFORT, NC 28520

"Naturally, I Built It with Gaster"

DATE	INVOICE
07:38:09	05/19/17 213965

ENK005
SOLD TO
GNK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

SHIP TO
HV139304 ** INVOICE **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
STATE CODE 01139

(803) 256-0000

TAX JURISDICTION NO/DESCRIPTION
0166 Beaufort County

TAX EXEMPT

DATE ORDERED: 0305/18/17 DATE SHIPPED: 05/19/17 SHIP VIA: 39 ANCHORAGE BERRY JOB NO: CUST ORDER NO: 32 07NET 10TH SLS CLERK: TERMS: COPY PAGE: 0101

ITEM	QUANTITY BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
			DRIP 5		
			SPECIAL ORDER		
			NON RETURNABLE		

			PO# HV139304/INV 213965		
			MEYERHAUSER# 1004521487		
			ETA 5/18/17		

			PRIMED HARDI		
NON-INV HARDI EA		6.00	5/16 PR SM VERTICLE PA	34.45	206.70
NON-INV HARDI EA		14.00	5/16 PR SM CEM PANEL	39.60	554.40
NON-INV HARDI EA		20.00	5E4/4X3.5X12 SM PR TRI	11.25	225.00

986.10

59.17

1045.27

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NON IS THE LINE TO Fix Up Your BOCK *****
*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000050

000386

(912) 748-7376
2481 NORTON RD. DUBLIN, GA 31004

**Gaston
LUMBER
& Hardware**

(843) 784-2000

"Naturally, I Build it with Gaster"

07:38:09

05/19/17 214019

发票 INVOICE 发票

SOLD TO

GNK005
GNK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST. STE2100
COLUMBIA, SC 29201

SH-1-O

BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(A93)256-0000

TAX JURISDICTION NO./DESCRIPTION
0166 Beaufort County

TAX EXEMPT

LOC DATE ORDERED DATE SHIPPED
0305/18/1705/19/17

JOB NO. 39ANCHORA CUST. ORDER
39ANCHORA BERRY

SCIENTIFIC TERMS
12 OCTET 10TH

COPY PAGE
 0101

ITEM	QUANTITY BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
2616SPF EA		24.00	SHIP TOMORROW 1ST POSSIBLE TRUCK 2X6 16' SPRUCE/H-F#2	9.65	231.60
2416SPF EA		17.00	2X4 16' SPRUCE STD/#2	6.81	115.77

0	347.37	20.84					368.21
SALES AMOUNT	SALES TAX	SHIPPING CHG.		CODE DEPOSIT	CASH	CODE	

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*****NOW is the time to "Fix Up Your Back"*****
*****We have Piling, Timbers, Decking & Hardware*****
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TERMS AND CONDITIONS: net upon receipt. For charge customers a **FINANCE CHARGE** will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due that has not been paid by the 20th of the month. A **FINANCE CHARGE** at the periodic rate of 1.5% per month which corresponds to an **ANNUAL PERCENTAGE RATE** of 18% (or maximum allowed by law) will be imposed on all unpaid balances. No **FINANCE CHARGE** will be imposed on balances paid in full prior to the 20th.

RETURN POLICY: Merchandise may be returned for a full refund. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000051

000387

MAIN OFFICE
(912) 925-1100

(912) 748-7376
12345678901234567890

Gaster LUMBER & Hardware

(843) 704-2000
1234 PLANTATION DR. - HARGESVILLE, GA 29027

"Naturally, I Built It with Gaster"

07:40:30

DATE	INVOICE
05/23/17	214357

** INVOICE **

S
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ENK005
GAK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

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BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803) 256-0000

TAX JURISDICTION NO DESCRIPTION
Village Beaufort County

TAX EXEMPT

COU: DATE ORDERED: DATE SHIPPED: SHIP VIA: ADD NO: CUST. ORDER NO: BLS. TOLERK: TERMS: COPY: PAGE:
0305/23/17 05/23/17 39ANCHDRA 32 05NET 10TH 0101

ITEM	ORDERED BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
WATERSHIELD EA		4.00	UESDAY ICE/WATER SHIELD GRWRZ 36"X65" SAND SURFACE 2	63.70	254.80

254.80

15.29

270.09

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO "Fix Up Your Deck"*****
*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: not upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.


PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000052

000388

MAIN OFFICE
(912) 925-1100

**Gaster
LUMBER
& Hardware**

(843) 784-2000
261 PLANTERS DR - WASSILL, GA 30093

"Naturally, I Built it with Gaster"

(912) 748-7376
1100 WYATT BLVD - GASTON, SC 29044

17:41:37

DATE	INVOICE
05/31/17	214768

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GMK005
GMK DESIGN BULD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

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INV139657 ** INVOICE **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(6031256-0000)

JURISDICTION NO. DESCRIPTION
0166 Beaufort County

TAX EXEMPT

DATE ORDERED 0305/26/17
DATE SHIPPED 05/31/17

JOB NO. 39ANCHORA
CUST. ORDER NO. 39ANCHORA

SLIP CLERK 32
TERMS 05NET 10TH

COPY PAGE 0101

ITEM	QUANTITY ORDERED	QUANTITY SHIPPED	DESCRIPTION	PRICE	AMOUNT
NON-INV EA 12CDXPT SMT			TUESDAY OPEN ARRIVAL CLC# INV139657 MEYER REPLACES INCORRECT MATERIAL SHPD BY VENDOR 50.00 5/16 4X8 SMOOTH 10.00 1/2 4XB FT PLYWOOD CCA 15/32 RTD PRESSURE TAE	32.75 24.92	1637.50 249.20

1086.70

113.20

1999.90

SALES AMOUNT SALES TAX SHIPPING CHG. CORE DEPOSIT CASH CODE

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th.
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THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000053

000389

MAIN OFFICE
(912) 925-1100

Gaster LUMBER & Hardware

(849) 754-2000
3831 FLATIRON DR - JACKSONVILLE, FL 32227

"Naturally, I Built it with Gaster"

(912) 748-7378
111 WEST HAVEN BL - JACKSONVILLE, FL 32202

DATE	INVOICE
07/26/05	06/05/17 215068

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 EMK005
 GMR DESIGN BUILD
 DIVISION, INC.
 1201 MAIN ST, STE 2100
 COLUMBIA, SC 29201
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 HV139672 ** INVOICE **
 BERRY RESIDENCE
 39 ANCHORAGE WAY
 ISLE OF BEAUFORT
 GATE CODE 81139

(803) 256-0000
 TAX JURISDICTION NO / DESCRIPTION
 0166 Beaufort County
 TAX EXEMPT

LOG# DATE ORDERED DATE SHIPPED SHIP VIA JOB NO. CUSTOMER ORDER NO. SCS CLEVER TERMS COPY PAGE
 0306/01/1706/05/17 BERRY 32 30NET 10TH 0101

ITEM	QUANTITY ON ORDER	SHIPPED	DESCRIPTION	PRICE	AMOUNT
			VI39672 WEYERHAEUSER GMR/BERRY RESIDENCE HARDIE 4/4X2-1/2"X12' BATTEN STRIPS PRINED		
SO		1.00	***SPECIAL ORDER***		.00
EA			ITEMS ARE NONRETURNABL		
NR		1.00	ITEM CANNOT BE RETURNED		.00
EA			FOR CREDIT		
NON-INV		30.00	4/4X2-1/2" 12' BATTEN	8.41	252.30
EA					

252.30 15.14 267.44

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO "Fix Up Your Back"*****
 *****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default.

THIS IS THE ONLY
 ITEMIZED INVOICE
 YOU WILL RECEIVE.


 PLEASE PAY
 THIS AMOUNT

Gaster 11-2-17 000054

MAIN OFFICE
(912) 925-1100

1204 SANDHURST DR., SUITE 100, GASTON, GA 30203

(912) 748-7376
100 WESTVIEW DR., ROCKDALE, GA 30158

Gaster LUMBER & Hardware

(843) 784-2000

3301 PLANTATION DR. - HAZENSVILLE, GA 30222

"Naturally, I Built It with Gaster"

07:21:31

DATE	INVOICE
06/01/17	215128

GNK005
SOLD TO
GNK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

** INVOICE **
SHIP TO
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803) 256-0000

TAX JURISDICTION/NO. DESCRIPTION
0166 Beaufort County

TAX EXEMPT

100% DATE ORDERED: 06/01/17 DATE SHIPPED: 06/01/17 SHIP VIA: BERRY JOB NO.: 32 30NET 10TH COPY PAGE 0101

ITEM	QUANTITY ORDERED	QUANTITY SHIPPED	DESCRIPTION	PRICE	AMOUNT
GN21455 EA		3.00	COIL SIDING NAIL 2 1/4 5/8 3.6M	10.55	31.65

331.65

19.90

351.55

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO Fix Up Your Hull*****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.


PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000055

000391

MAIN OFFICE
(912) 925-1100

140 WEST 10TH AVE. SUITE 100
COLUMBIA, SC 29201

(912) 748-7376

140 WEST 10TH AVE. SUITE 100
COLUMBIA, SC 29201

Gaster LUMBER & Hardware

(843) 784-2000

1001 PLANTATION DR. - HUNTERVILLE, GA 27072

"Naturally, I Built it with Gaster"

07:26:05

DATE	INVOICE
06/05/17	215323

S
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GNK005
GNK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST. STE 2100
COLUMBIA, SC 29201

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HV139682 ** INVOICE **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803) 256-0000

TAX JURISDICTION NO. DESCRIPTION
0166 Beaufort County

TAX EXEMPT

LOC. DATE ORDERED DATE SHIPPED SHIP VIA CUST. ORDER NO. CUS. CLERK TERMS COPY PAGE
0306/05/17 06/05/17 39 ANCHORAGE BERRY JOB 32 07NET 10TH 0101

ITEM	ORDERED BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
			SPECIAL ORDER NON RETURNABLE ***** WEVERHAEUSER# 1004554889 RD HV139682/215323 ETA 6/5/17 ***** PRIMED SMOOTH HARDI TRIM		
NON-INV PRIMED EA		20.00	4/4"x11.25"x12' SM HAR	35.20	704.00
NON-INV primed EA		25.00	4/4"x5.5"x12' SM HARDI	16.70	417.50

1121.50

67.29

1188.79

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO Fix Up Your Back *****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th.
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THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.


PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000056

000392

MAIN OFFICE
(912) 825-1100
1300 WOODBRIDGE BLVD. - SCOTSDALE, GA 30087
(912) 748-7375
2220 WYATT BL - BUCKINGHAM, GA 30609

Gaster LUMBER & Hardware

(843) 784-2000
2001 PLAYATION DR. - HANCOCKVILLE, GA 30227

"Naturally, I Built it with Gaster"

07:35:40

DATE	INVOICE
06/12/17	215567

S
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GNK005
GNK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

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HV139695 ** INVOICE **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803) 256-0000

TAX JURISDICTION NO./DESCRIPTION
0166 Beaufort County

TAX EXEMPT

LOG	DATE ORDERED	DATE SHIPPED	SHIP VIA	OR NO.	POST ORDER NO.	GLS CLERK	TERMS	COPY PAGE
0306	06/17	06/17	12/17	39ANCH	39ANCHORAS		32 05NET 10TH	0101

ITEM	QUANTITY /BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
SD		1.00	EXT TRIM		
EA			***SPECIAL ORDER***		.00
NR		1.00	ITEMS ARE NONRETURNABL		
EA			ITEM CANNOT BE RETURNE		.00
NON-INV		205.00	FOR CREDIT		
EA			5/4 X 4 X 16 KDAT	12.70	2603.50
			BULLNOSE DECKING		
			PREMIUM		
GTK1212		1.00	2 1/2" CERAMIC COAT DE	89.10	89.10
EA			SCREW BULK		

2692.60

161.56

2854.16

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****Now is the time to "Fix Up Your Dock"*****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default for credit.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000057

000393

MAIN OFFICE
(912) 925-1100
1200 W. BROAD ST. - SUITE 100
(812) 740-7376
1000 W. BROAD ST. - SUITE 100

Gaster LUMBER & Hardware

(843) 784-2000
3041 FLATWOOD DR. - HARTSEVILLE, GA 30053

"Naturally, I Built it with Gaster"

07:36:11

DATE	INVOICE
06/14/17	216344

** INVOICE **

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GK005
GK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

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BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803) 256-0000

JURISDICTION NO. DESCRIPTION
0165 Beaufort County

TAX EXEMPT

LOC. DATE ORDERED DATE SHIPPED SHIP VIA JOB NO. CUST. ORDER NO. SLS. CLERK TERMS COPY PAGE
0306/13/1706/14/17 39ANCHORA 32 05NET 10TH 0101

ITEM	QUANTITY ORDERED BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
15DSC5 BOX	1.00		THURSDAY 1-5/8" DRYWALL SCREW CR BD-1/10	15.54	15.54
34BLUEPLUS SNT	25.00		3/4 4X8 T&G BLUE PLUS	24.73	618.25

633.79

38.03

671.82

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****Now is the time to Fix Up Your Back *****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month, which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th.
Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000058

000394

MAIN OFFICE
(912) 925-1100

(912) 748-7376
111 WEST BAY BL - ROSELAND, GA 30080

Gaster
LUMBER
& Hardware

(843) 784-2000
2001 FLAVIN DR. - BRIDGEVILLE, GA 30527

"Naturally, I Built It with Gaster"

07:33:34

DATE	INVOICE
06/16/17	216631

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GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST. STE 2100
COLUMBIA, SC 29201

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** INVQICE **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

18031256-0000

TAX JURISDICTION AND DESCRIPTION
0166 Beaufort County

LOG: DATE ORDERED: 06/16/17 DATE SHIPPED: 06/16/17 SHIP VIA: 39 ANCHORAGE GLS: 32 05NET 10TH TERMS: 0101 COPY PAGE

ITEM	QUANTITY UNRECORDED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
2814PT EA		8.00	2X8 14' PT #2 NCA E/C	13.97	111.76
4412PT EA		4.00	4X4 12' PT #2 NCA E/C	12.97	51.88

163.64

9.82

173.46

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****Now is the time to "Fix Up Your Dock"*****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th.
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THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.


PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000059

000395

(912) 748-7376
1015 N. W. 10th St. Miami, FL 33136

**Caster
LUMBER
& Hardware**

(843) 784-2000
PLANTATION DR - MYRTLE BEACH, SC 29577

"Naturally, I Built it with Gaster"

07:31:59

DATE	INVOICE
06/21/17	217059

7是 INVOICE 8是

SOLD TO

GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC

29201

SECRET

BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

18031256-0000

TAX JURISDICTION NO. DESCRIPTION
0166 Beaufort County

24X 6340129

LOG	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO.	CLST. ORDER NO.	STS.	CLERK	TERMS	COPY 2 ARE
	0306/21/17	06/21/17		39ANCHDR	39ANCHDRA			32 05NET 10TH	0101

ITEM	QUANTITY BACKORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
1532053 SHT		35.00	APPROVED PER 20778 15/32" 4XB U.S.B.	12.95	453.25

453.25

27.20

480.45

SALES AMOUNT	SALES TAX	SHIPPING CHG.	CODE	DEPOSIT	CASH	CODE
100.00	10.00	5.00	1	115.00		
200.00	20.00	10.00	2	230.00		
300.00	30.00	15.00	3	345.00		
400.00	40.00	20.00	4	465.00		
500.00	50.00	25.00	5	580.00		
600.00	60.00	30.00	6	690.00		
700.00	70.00	35.00	7	805.00		
800.00	80.00	40.00	8	925.00		
900.00	90.00	45.00	9	1040.00		
1000.00	100.00	50.00	10	1150.00		
1100.00	110.00	55.00	11	1265.00		
1200.00	120.00	60.00	12	1385.00		
1300.00	130.00	65.00	13	1500.00		
1400.00	140.00	70.00	14	1615.00		
1500.00	150.00	75.00	15	1735.00		
1600.00	160.00	80.00	16	1855.00		
1700.00	170.00	85.00	17	1975.00		
1800.00	180.00	90.00	18	2095.00		
1900.00	190.00	95.00	19	2215.00		
2000.00	200.00	100.00	20	2335.00		
2100.00	210.00	105.00	21	2455.00		
2200.00	220.00	110.00	22	2575.00		
2300.00	230.00	115.00	23	2695.00		
2400.00	240.00	120.00	24	2815.00		
2500.00	250.00	125.00	25	2935.00		
2600.00	260.00	130.00	26	3055.00		
2700.00	270.00	135.00	27	3175.00		
2800.00	280.00	140.00	28	3295.00		
2900.00	290.00	145.00	29	3415.00		
3000.00	300.00	150.00	30	3535.00		
3100.00	310.00	155.00	31	3655.00		
3200.00	320.00	160.00	32	3775.00		
3300.00	330.00	165.00	33	3895.00		
3400.00	340.00	170.00	34	4015.00		
3500.00	350.00	175.00	35	4135.00		
3600.00	360.00	180.00	36	4255.00		
3700.00	370.00	185.00	37	4375.00		
3800.00	380.00	190.00	38	4495.00		
3900.00	390.00	195.00	39	4615.00		
4000.00	400.00	200.00	40	4735.00		
4100.00	410.00	205.00	41	4855.00		
4200.00	420.00	210.00	42	4975.00		
4300.00	430.00	215.00	43	5095.00		
4400.00	440.00	220.00	44	5215.00		
4500.00	450.00	225.00	45	5335.00		
4600.00	460.00	230.00	46	5455.00		
4700.00	470.00	235.00	47	5575.00		
4800.00	480.00	240.00	48	5695.00		
4900.00	490.00	245.00	49	5815.00		
5000.00	500.00	250.00	50	5935.00		
5100.00	510.00	255.00	51	6055.00		
5200.00	520.00	260.00	52	6175.00		
5300.00	530.00	265.00	53	6295.00		
5400.00	540.00	270.00	54	6415.00		
5500.00	55					

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is the portion of the balance due which has not been paid or credited by the 25th of the month. A FINANCE CHARGE rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE of 18% (or maximum allowed by law) will be imposed on all unpaid balances. NO FINANCE CHARGE will be assessed if the balance is paid in full prior to the 25th.

Twenty percent (20%) of the purchase price will be credited to the purchaser's account. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original Invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000060

000396

MAIN OFFICE
(912) 925-1100

(912) 748-7376

1301 MAIN ST - BEAUFORT, NC 28520

Gaster LUMBER & Hardware

(843) 784-2000

201 PLANTATION DR. - HARTSFORD, NC 28520

"Naturally, I Built it with Gaster"

DATE	INVOICE
07/13/17	706492

07:36:25

GMK005

** CREDIT **

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GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST STE2100
COLUMBIA, SC 29201

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BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

(803)256-0000

TAX JURISDICTION NO. DESCRIPTION
0166 Beaufort County

DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO.	CUSTOMER NO.	BLS. CLERK	TERMS	COPY PAGE
0305/26/17	07/13/17	39ANCHORA	39ANCHORA	32 05NET 10TH			0101

ITEM	QUANTITY PACK ORDERED	SHIPPED	DESCRIPTION	PRICE	AMOUNT
NON-INV EA		50.00	LEASE PICK UP FOR CREDIT WHEN YOU DELV CORRECT MATERIAL TUESDAY REF#213026 SHIPPED FROM VENDOR INCORRECT. REBILL# 214768 1 1/4" 4XB BACKER PANEL WILL RETURN TO MEYER FOR FULL CREDIT.	23.70	1185.00

1185.00

71.10

1256.10

CREDIT

SALES AMOUNT SALES TAX SHIPPING CHG. CODE DEPOSIT CASH CODE

*****NOW IS THE TIME TO FIX UP YOUR BOAT*****

*****We have Piling, Timbers, Decking & Hardware*****

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 20th of the month. A FINANCE CHARGE at the periodic rate of 1.6% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 19% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.

PLEASE PAY
THIS AMOUNT

Gaster 11-2-17 000061

000397

MAIN OFFICE
(912) 925-1100

(912) 748-7376
HARTNEY - BLOOMSBURG, PA 17008

Gaster
LUMBER
& Hardware

(843) 764-2050
261 PLANTATION DR - JENSENVILLE, GA 29577

"Naturally, I Built it with Gaster"

07:29:29

DATE	INVOICE
07/14/17	906739

GMK005

** CREDIT **

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GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST. STE2100
COLUMBIA, SC 29201

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BERRY RESIDENCE
37 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

18031256-0000

0186 Beaufort County

LOG	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO.	CUST. ORDER NO.	SLS. CLERK	TERMS	COPY PAGE
	0307/14/17	07/14/17			ANCHORA		32 05NET 10TN	0101

ITEM	ORDERED BACKORDER	SHIPPED	DESCRIPTION	PRICE	AMOUNT
TRINCOILW		4.00	24" X 80' WHITE TRIM C	87.00	348.00
EA					
LUG210		75.00	2X10 HANGERS SGL	1.06	79.50
EA					

427.50	25.65					453.15
SALES AMOUNT	SALES TAX	SHIPPING CHG.	CODE	DEPOSIT	CASH	CREDIT
*****NOW is the time to "Fix Up Your Back"*****						
*****We have Piling, Timbers, Decking & Hardware*****						

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the 26th of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th.
Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default.

THIS IS THE ONLY
ITEMIZED INVOICE
YOU WILL RECEIVE.


**PLEASE PAY
THIS AMOUNT**

Gaster 11-2-17 000062

000398

4/26/17

Gaster
LUMBER
& Hardware

HOME OFFICE

(912) 925-1100

15010 ABERCORN EXPWY. - SAVANNAH, GA 31419

(843) 784-2000

(912) 748-7376

3051 PLANTATION DR. - HARDEEVILLE, SC 29927

108 WEST HWY 80 - BLOOMINGDALE, GA 31003

"Naturally, I Built it with Gaster"

DATE	NUMBER
04/07/17	209690

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OMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

29201

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HV130004 SPECIAL ORDER
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
DATE CODE 01139

TRK #
313
DRIVER
on

TELEPHONE NUMBER (843) 256-0000		DATE WANTED		TAX JURISDICTION NO./DESCRIPTION		TAX EXEMPT		CHECK TO BY	
LOC. DATE ORDERED 0304/06/17		DATE SHIPPED 4/26/17		SHIP VIA		JOB NO.		CUST. ORDER NO.	
ITEM		ORDERED BACKORDERED		SHIPPED		DESCRIPTION		UNIT PRICE	
						DROP 5 EXTERIOR TRIM SPECIAL ORDER NON-RETURNABLE			
						ON HV130003/INVO 209690 WEYERHAEUSER# 1004443080 ETA 4/5/17 XXXXXXXXXXXXXXXXXXXX			
						HARDI TRIM PACKAGE			
NON-INV PANEL		28.00		28		4'X6' FR HARDI PANEL			
EA									
NON-INV BATTEN		100.00		100		1X2.5X12' BATTEN BRD			
EA									
NON-INV TRIM		29.00		29		5/4X3.5X12' HARDI TRIM			
EA									
NON-INV TRIM		29.00		29		1X3.5X12' HARDI TRIM			
EA									
NON-INV (ROLL)		6.00		6		HARDI WRAP 5'X150'			
EA									
NON-INV TRIM		55.00		55		1X12X12' HARDI TRIM			
EA									

Delivered
4/26/17
HOF

CONTINUED

(REV. 09/13)

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the last day of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default of payment of this invoice. Clerical errors are subject to correction.

RECEIPT OF THE GOODS DESCRIBED ABOVE IN GOOD CONDITION IS ACKNOWLEDGED SUBJECT TO ALL THE TERMS, CONDITIONS AND INFORMATION HEREON WHETHER OR NOT A SIGNATURE APPEARS BELOW.

CUSTOMER
SIGNATURE

[Signature]

Gaster Produced 9-17-20 001269

000399

PENGAD 800-631-6888

PLAINTIFF'S
EXHIBIT

49

Gaster LUMBER & Hardware

HOME OFFICE
(912) 925-1100

"Naturally, I Built it with Gaster"

15010 ABERCORN EXPWY. - SAVANNAH, GA 31419

(843) 784-2000

(912) 748-7376

3051 PLANTATION DR. - HARDEEVILLE, SC 29927

108 WEST HWY 80 - BLOOMINGHAM, AL 35410

DATE	NUMBER
04/07/17	209690

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GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

04130004 ** SPECIAL ORDER **
BERRY RESIDENCE
32 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 01139

TRK # 313
DRIVER 417

TELEPHONE NUMBER		DATE WANTED		TAX JURISDICTION NO./DESCRIPTION				TAX EXEMPT		CHECKED BY	
(803) 256-0000				0166 Beaufort County						06	
LOC.	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO.	CUST. ORDER NO.	SALESPERSON	CLK	TERMS	COPY PAGE		
0304	06/17	7-7-17		ANCHORA	BERRY		32	NET 10TH	0402		
ITEM		ORDERED BACKORDERED	SHIPPED	DESCRIPTION				UNIT PRICE	AMOUNT		
NON-INV TRIM		45.00	45	5/4X6X12'							
EA			39	1X6X12' HARDI TRIM							
NON-INV TRIM		39.00									
EA			675	8 1/4 TEXTURED FRMD							
NON-INV		675.00									
EA											

Delivered
4-26-2017
AET

*****SALES AMOUNT*****
*****SALES TAX*****
*****SHIPPING CHG*****
*****Fix Up Your Deck*****
*****DEPOSIT*****
*****CASH*****
*****We have Piling, Timbers, Decking & Hardware*****

(REV. 09/13)

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the last day of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 90 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default of payment of this invoice. Clerical errors are subject to correction.

RECEIPT OF THE GOODS DESCRIBED ABOVE IN GOOD CONDITION IS ACKNOWLEDGED SUBJECT TO ALL THE TERMS, CONDITIONS AND INFORMATION HEREON WHETHER OR NOT A SIGNATURE APPEARS BELOW.

CUSTOMER
SIGNATURE

Gaster LUMBER & Hardware

HOME OFFICE
(912) 925-1100

15010 ABERCORN EXPWY. - SAVANNAH, GA 31419

(843) 784-2000

(912) 748-7376

3051 PLANTATION DR. - HARDEEVILLE, SC 29927

108 WEST HWY 80 - BLOOMINGDALE, GA 31002

"Naturally, I Built it with Gaster"

DATE	NUMBER
04/28/17	212102

SOLD TO
GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201
HVL3A003-A *** SPECIAL ORDER ***
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE A1139

313
DRIVER
mnd

TELEPHONE NUMBER		DATE WANTED		TAX JURISDICTION NO / DESCRIPTION				TAX EXEMPT		CHECKED BY	
(803) 256-0000				0166 Beaufort County						[Signature]	
LOG	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO.	CUST. ORDER NO.	SALESPERSON	CLK	TERMS	COPY	PAGE	
0304	04/20/17				39ANCHORA	32	05	NET 10TH		0121	
ITEM		ORDERED BACKORDERED	SHIPPED	DESCRIPTION			UNIT PRICE	AMOUNT			
NON-INV EA		675.00	675	DROP 5 EXT SDD & TRIM GLCH HV130003-A WEYER VENDOR SHIPPED WRONG REPLACING 0.25 TEXT HARDIE							
Tyvek to file		1	1	In office recovered				5/17 Ask			

SALES AMOUNT	SALES TAX	SHIPPING CHG.	CODE	DEPOSIT	CASH	CODE
*****We have Piling, Timbers, Decking & Hardware*****						

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the last day of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default of payment of this invoice. Clerical errors are subject to correction.

RECEIPT OF THE GOODS DESCRIBED ABOVE IN GOOD CONDITION IS ACKNOWLEDGED SUBJECT TO ALL THE TERMS, CONDITIONS AND INFORMATION HEREON WHETHER OR NOT A SIGNATURE APPEARS BELOW.

CUSTOMER SIGNATURE *[Signature]*

PENGAD 000-431-0988
PLAINTIFF'S
EXHIBIT
51

Gaster
8-29-18
181

Gaster LUMBER & Hardware

HOME OFFICE
(912) 925-1100

15010 ABERCORN EXPWY. - SAVANNAH, GA 31419

(843) 784-2000

(912) 748-7376

3051 PLANTATION DR. - HARDEEVILLE, SC 29927

108 WEST HWY 80 - BLOOMINGDALE, GA 31302

08:42:06

"Naturally, I Built it with Gaster"

DATE	NUMBER
06/01/17	215060

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GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE2100
COLUMBIA, SC 29201

29201

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HV139672 *** SPECIAL ORDER ***
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
DATE CODE 81139

TAK #
312
DRIVER
Ank
CHECKED BY
TE

TELEPHONE NUMBER		DATE WANTED		TAX JURISDICTION NO./DESCRIPTION		TAX EXEMPT		CHECKED BY	
0306/01/17		06/01/17		0156		0156		0156	
DATE ORDERED		DATE SHIPPED		SHIP VIA		JOB NO.		SALESPERSON	
0306/01/17		06/01/17		0156		0156		0156	
ITEM		QUANTITY		DESCRIPTION		UNIT PRICE		AMOUNT	
SO		1.00		1		1.00		1.00	
EA		1.00		1		1.00		1.00	
NR		1.00		1		1.00		1.00	
EA		1.00		1		1.00		1.00	
NON-INV		30.00		30		30.00		30.00	
EA		30.00		30		30.00		30.00	
12" window mpc		2		2		2.00		2.00	
here!									
SALES AMOUNT		SALES TAX		SHIPPING CHG.		CODE		DEPOSIT	

*****Now is the time to "Fix Up Your Deck"*****
*****We have Piling, Timbers, Decking & Hardware*****

(REV. 09/13)

TERMS AND CONDITIONS: net upon receipt. For charge customers a FINANCE CHARGE will be imposed upon the unpaid balance. The unpaid balance is that portion of the balance due which has not been paid or credited by the last day of the month. A FINANCE CHARGE at the periodic rate of 1.5% per month which corresponds to an ANNUAL PERCENTAGE RATE OF 18% (or maximum allowed by law) will be imposed on all unpaid balances. No FINANCE CHARGE will be imposed on balances paid in full prior to the 20th. Twenty percent (20%) charge on all returned merchandise. No credit allowed for any merchandise returned beyond 30 days from date of purchase. Original invoice must accompany the request for credit. The purchaser agrees to pay any reasonable attorney's fees in the event of default of payment of this invoice. Clerical errors are subject to correction.

RECEIPT OF THE GOODS DESCRIBED ABOVE IN GOOD CONDITION IS ACKNOWLEDGED SUBJECT TO ALL THE TERMS, CONDITIONS AND INFORMATION HEREON WHETHER OR NOT A SIGNATURE APPEARS BELOW.

CUSTOMER
SIGNATURE

X Bu Z...

PENGAD 800-831-6880

PLAINTIFF'S
EXHIBIT
55

Gaster
8-29-18
229

000402

Gaster LUMBER & Hardware

HOME OFFICE
(912) 925-1100

"Naturally, I Built it with Gaster"

15010 ABERCORN EXPWY. - SAVANNAH, GA 31419
(843) 784-2000 (912) 748-7376
3051 PLANTATION DR. - HARDEEVILLE, SC 29927 108 WEST HWY 80 - BLOOMINGDALE, GA 31002

DATE	NUMBER
06/05/17	215323

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GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

V6/5/17

HV139682 ** SPECIAL ORDER **
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

TRUCK # 313
DRIVER [Signature]
CHECKED BY [Signature]

TELEPHONE NUMBER (803) 256-0000		DATE WANTED		TAX JURISDICTION NO/DESCRIPTION 0166 Beaufort County		TAX EXEMPT		CHECKED BY M	
LOC. 0306/05/17	DATE ORDERED 6-5-17	DATE SHIPPED	SHIP VIA	JOB NO. 39ANCHORA	CUST. ORDER NO. BERRY JOB	SALESPERSON CLK 32 07	TERMS NET 10TH	COPY PAGE 01.01	
ITEM		ORDERED BACKORDERED	SHIPPED	DESCRIPTION		UNIT PRICE		AMOUNT	
				SPECIAL ORDER NON-RETURNABLE ***** WEYERHAEUSER# 1004554880 PO HV139682/215323 ETA 6/5/17 ***** PRIMED SMOOTH HARDI TRIM 4/4"x11.25"x12' SM HAR					
NON-INV PRIMED EA		20.00	20						
NON-INV primed EA		25.00	25	4/4"x5.5"x12' SM HARDI					
			Delivered						
			6-5-17						
			Rev						

*****We have Piling, Timbers, Decking & Hardware*****

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CUSTOMER SIGNATURE [Signature]



Gaster
8-29-18
227

Gaster LUMBER & Hardware

HOME OFFICE
(912) 925-1100

15010 ABERCORN EXPWY. - SAVANNAH, GA 31419

(843) 784-2000

(912) 748-7376

3051 PLANTATION DR. - HARDEEVILLE, SC 29927

108 WEST HWY 80 - BLOOMINGDALE, GA 31508

"Naturally, I Built it with Gaster"

DATE	NUMBER
03/13/17	207062

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GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE2100
COLUMBIA, SC 29201

29201

BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE A1139

YARD ORDER

DRIVER

ITEM	ORDERED BACKORDERED	SHIPPED	DESCRIPTION	UNIT PRICE	AMOUNT
			AS SOON AS POSSIBLE TUESDAY*		
			ROOF LVL PER SAMUEL		

			DROP 1A- ENGINEERED LUMBE		
11LVL LFT	360.00	360	1-3/4"X 11-7/8"LVL LFT		
			SOLD BY LFT 2.0E RATED		
11LVL LFT	216.00	216	1-3/4"X 11-7/8"LVL LFT		
			SOLD BY LFT 2.0E RATED		
			6/36" ✓		

SALES AMOUNT	SALES TAX	SHIPPING CHG.	CODE	DEPOSIT	CASH	CODE

*****Now is the time to "Fix Up Your Dock"*****
*****We have Piling, Timbers, Decking & Hardware*****

(REV. 08/13)

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CUSTOMER
SIGNATURE

PLAINTIFF'S
EXHIBIT
78

Gaster
8-29-18
169

000404

Gaster JIMBER & Hardware

HOME OFFICE
(912) 925-1100

"Naturally, I Built it with Gaster"

(843) 784-2000 (912) 748-7376
15010 ABERCORN EXPWY. - SAVANNAH, GA 31419
3051 PLANTATION DR. - HARDEEVILLE, SC 29927 108 WEST HWY 80 - BLOOMINGDALE, GA 31001

DATE	NUMBER
03/17/17	207623

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GMK005
GMK DESIGN BUILD
DIVISION, INC.
1201 MAIN ST, STE 2100
COLUMBIA, SC 29201

29201

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HV138417 *** SPECIAL ORDER ***
BERRY RESIDENCE
39 ANCHORAGE WAY
ISLE OF BEAUFORT
GATE CODE 81139

TRK #
127
DRIVER
WV

TELEPHONE NUMBER (803) 256-0000		DATE WANTED		TAX JURISDICTION NO./DESCRIPTION 0166 Beaufort County		TAX EXEMPT		CHECKED BY WV	
LOC	DATE ORDERED	DATE SHIPPED	SHIP VIA	JOB NO.	CUST. ORDER NO.	SALESPERSON	GLK	TERMS	PAGE
0303	17/17	4/20/17			39ANCHORA	32	07	NET 10TH	0301
ITEM	ORDERED BACKORDERED	SHIPPED	DESCRIPTION	UNIT PRICE	AMOUNT				
			SPECIAL ORDER NON-RETURNABLE						
			PO# HV138417/INV# 207623 CWS# 473360 BRENT ETA 4/19/17 (LDS 4/17/17)						
			6000 WHI SGD UNITS, OAK HANDLES, SCREENS INCLUDED 506 SGD DP60, FIN, 2 TRACK FRAME, 5 15/16" DEPTH LOW E 366 INS TEMPERED PVC THRESHOLD, WHITE FRAME.						
NON-INV 8900 XO EA	1.00		6080 (OSLI SLIDING RIG						
NON-INV 8900 XO EA	1.00		6080 (OSLI SLIDING RIG						
NON-INV 8900 XO EA	1.00		(ID: BREAKFAST) CUSTOM 71 1/2 X 81 1/						
SALES AMOUNT		SALES TAX		SHIPPING CHG.		CODE		DEPOSIT	
								CASH	
								CODE	
								CONTINUED	
								(REV. 09/13)	

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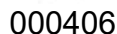
CUSTOMER
SIGNATURE

[Signature]



Gaster
9-10-18
362

000405



Total Amount Due to Gaster Lumber
1/24/2022

Total Outstanding Invoices	\$24,885.24

Interest Due (21% per year)

9/13/17 - 9/13/18 (1 year)	\$5,225.90

9/14/18 - 9/13/19 (1 year)	\$5,225.90

9/14/19 - 9/13/20 (1 year)	\$5,225.90

9/14/20 - 9/13/21 (1 year)	\$5,225.90

9/14/20 - 1/24/22 (133 days)	\$1,881.32

Total Interest Due	<u>\$22,784.93</u>

Total Due Gaster Lumber as of 1/24/22	\$47,670.17



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Robert J. Bonds, Circuit Court Judge

Case No. 2022-000636

South Atlantic Forest Products, Inc. d/b/a Gaster Lumber & Hardware Appellant,

v.

GMK Associates Design Build Division, Inc. Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the *Record on Appeal* contains all material proposed to be included by any of the parties, not any other material.

Respectfully submitted,

/s/ Lauren P. Williams

Russell P. Patterson

Lauren P. Williams

Russell P. Patterson, P.A.

P.O. Box 8047

Hilton Head Island, SC 29938

(843) 341-9300

Russell@russellpattersonlaw.com

lauren@russellpattersonlaw.com

*Attorneys for the Appellant, South
Atlantic Forest Products, Inc. d/b/a
Gaster Lumber & Hardware*

Hilton Head Island, South Carolina
February 21, 2023