

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM YORK COUNTY
Court of Common Pleas

DEC. 08 2023

Honorable Mark J. Hayes, Circuit Court Judge

SC Court of Appeals

Appellate Case Number 2022-001826

Carolina Real Estate Holdings, LLCAppellant,

v.

Brilin Electric, LLC and W & L Services, LLC Defendants,

of which, Brilin Electric, LLC is Respondent.

**RECORD ON APPEAL
VOL. III
(ROA00717 – 01033)**

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1 given to us, as you've heard, the various witnesses
2 presented, and seeing the various exhibits that have
3 been presented by both sides.

4 We understand. My client and I, Mr. Decker,
5 understands that this has been a sacrifice for all of
6 you. You've sacrificed time with family. You've
7 sacrificed time making a living at your jobs to be here
8 with us and help us decide this dispute that the parties
9 have been unable to decide and resolve for themselves.

10 Now, during the jury qualification and selection
11 process, the judge told you that your service here as
12 jurors is very, very important. And, in fact, it is the
13 cornerstone for our democracy that we know in this
14 country today. The, the jury system is vital to the
15 smooth running of our judicial process that we have.
16 Without service by people like you, the court system
17 could not function as effectively as it does.

18 Now, as the Court just told you, what I am going
19 to discuss with you this morning is not evidence. The
20 evidence in this case was presented in that witness box
21 and in the binders of exhibits that we've been going
22 through this week.

23 However, what I hope and plan to do with you all
24 today is to go through, hit some of the highlights. Hit
25 some of the concerns that my client has about what this

1 defendant, Brilin Electric, has done as it relates to
2 the leased commercial space in Fort Mill.

3 And what I hope to do is to bring all of that
4 together for you and tell you and talk to you about what
5 we believe the evidence and the testimony has shown in
6 this case, and what we request that you deliver to us as
7 the outcome in this case.

8 Now, I stood at this podium before y'all on
9 Monday and told you that words matter. Words are
10 important. Words have power. Not only the written
11 word, but also the spoken word. And this week we have
12 seen and heard both.

13 I'm going to start with the written word. The
14 written word is this lease agreement that is in all of
15 your binders. And you'll have -- you don't have to
16 memorize anything that I'm going to show you with
17 respect to this lease agreement. You're going to have a
18 copy of this in the jury deliberation room with you.
19 You're going to be able to look at all of the provisions
20 of the lease agreement. See what they say. See what
21 they don't say.

22 And, if you remember, I had several provisions
23 blown up for you during Mr. Decker's testimony on poster
24 boards, and we went through those. I want to go through
25 those very briefly again, because my remarks to you this

1 morning will refer to these provisions.

2 So, the first provision that I want to talk to
3 you very briefly about, is the one that relates to
4 repairs by the landlord. And this is provision number
5 ten of the lease agreement. And I've highlighted for
6 you here what we believe to be important or the most
7 important portion of this lease provision, number ten.

8 It says: That the landlord shall not be
9 responsible for repairs or capital repairs or
10 replacements rendered necessary by the negligence or the
11 intentional wrongful acts of tenant, Brilin Electric,
12 it's employees, agents, invitees, or contractors.

13 And then we looked at provision 11(a) and 11(b)
14 of the lease. And, again, 11(a) talks about the tenant
15 throughout the initial term of this lease. And the
16 initial term of the lease, ladies and gentlemen, you
17 will recall, is May 1st, 2017 through April 30th, 2020.
18 Throughout the initial term of this lease and any
19 expense or renewal thereof, at his expense, shall
20 maintain in good order and repair the premises.

21 And then the final sentence here: Tenant shall
22 use only licensed contractors for repairs where such
23 license is required. Landlord shall have the right to
24 approve the contractor as to any repairs in excess of
25 \$3,000.

1 And then the final provision that I want to
2 discuss with you at this time, ladies and gentlemen, is
3 11(b) of the lease agreement. And this may be the
4 provision that we talked about most today.

5 Tenant agrees to return the Premises to Landlord
6 at the expiration or prior termination of this lease, in
7 as good condition and repair as, as on the lease
8 commencement date.

9 So these are the three provisions that the
10 plaintiff believes are the most important ones that are
11 to guide your deliberations in this case. Now, during
12 the course of this trial, ladies and gentlemen, we saw
13 multiple damages that this defendant caused to the
14 leased premises, both inside the leased premises and
15 outside.

16 Now, I want to go through each of those with you.
17 You remember this photograph that we showed? This
18 photograph is the broken gravel in the parking lot
19 outside Brilin Electric's building. You heard testimony
20 that prior to this damage being done, early on in
21 Brilin's lease term, the plaintiff, CREH, had the entire
22 parking lot resurfaced. The plaintiff spent \$97,500.00
23 to have this work done. Countywide Commercial did this
24 work.

25 Now, just think about that number, \$97,500.00 to

1 Countywide Commercial to have this parking lot redone.
2 That's a lot of money. That's a lot of money for a
3 business. That's a lot of money, probably for any of
4 us.

5 And then during Brilin's lease term, after
6 Countywide Commercial finished that work, that Carolina
7 Real Estate Holdings spent so much money, Brilin was
8 operating its forklift outside after CREH told Brilin
9 several times, look, we just had this work done, don't
10 operate the forklift outside. You don't want the gravel
11 or asphalt being torn up.

12 But what does Brilin do? Brilin takes its own
13 liberty to run the forklift outside. And the result is
14 exactly what Carolina Real Estate Holdings fear. The
15 result was that the gravel and asphalt paving got
16 destroyed, got torn up in this area.

17 Now, Brilin did not have, between when this
18 damage happened and when Brilin moved out, Brilin did
19 not have this asphalt paving, actually didn't have it
20 replaced, didn't have it repaired, okay?

21 We presented an estimate for repairs for this
22 asphalt that CREH got Countywide Commercial, the same
23 company that did the initial asphalt work in this
24 parking lot. And we're gonna go through the damages in
25 a moment. But I want you to ask yourselves, with

1 respect to this, with respect to the torn up, broken
2 gravel and the asphalt, is this being a good steward of
3 this lease space that you're using from somebody else?
4 Is this type of conduct, leaving this premises, in as
5 good a condition as you found it? I would submit to
6 you, the answer is no.

7 Q. In addition to the gravel, ladies and gentlemen,
8 we also talked about (inaudible) to establish the
9 behaviors between these two parties. You also found
10 these jersey barriers. You probably heard more
11 testimony this week about these jersey barriers than you
12 ever wanted to hear. You probably got sick of hearing
13 about these jersey barriers.

14 But what the jersey barriers establish and what
15 the importance of the jersey barriers are for this case,
16 is that Carolina Real Estate Holdings owned a piece of
17 property, a commercial property across an alleyway, if
18 you will, or a driveway from another property owner,
19 Keller USA.

20 And you heard testimony that Brilin had an end
21 unit. Brilin was on the end, then there was the empty
22 driveway, if you will, between CREH's property and
23 Keller USA's property. And then we had Keller USA. You
24 heard testimony that CREH installed jersey barriers down
25 the property line, down the middle of this driveway, of

1 this median. And you heard it did that because it
2 didn't want 18-wheelers again being considerate of the
3 asphalt paving that I just mentioned a few moments ago.
4 It did not want 18-wheelers and any other heavy duty
5 vehicles coming up and down that area that it had just
6 finished repaving and tear up the asphalt as a result.

7 The jersey barriers were put up by CREH to
8 control flow of traffic. But, again, as Brilin did with
9 the gravel after being told by the landlord what not to
10 do or being asked by the landlord what not to do, Brilin
11 took it upon itself to move these jersey barriers. It
12 didn't like where CREH had put the jersey barriers.
13 They claimed that it interfered with their business. It
14 didn't stop their business. They were still able to
15 access the ramp that you saw to go into the side door.
16 You heard testimony yesterday about that.

17 They were still able to access that door, but
18 they didn't like where these jersey barriers were
19 placed. So what did they do after being asked by CREH
20 not to move the jersey barriers? They moved them. They
21 moved them multiple times. And y'all heard about that.
22 You heard about the multiple times that they moved the
23 jersey barriers.

24 Then asked the landlord, then said, hey, you
25 know, the jersey barriers where you placed them are

1 interfering with our business activities, they moved
2 them. And what did they move them with? A forklift.
3 The brought a forklift out and moved these barriers,
4 several thousand pounds, to where they wanted them.

5 They had a trailer. They had a trailer for 24
6 hours. You heard about the trailer yesterday. They
7 didn't want the trailer getting stolen. That's
8 appropriate. So what did they do? They didn't talk to
9 the landlord. They moved these jersey barriers around.
10 They -- well, they took it upon themselves to move the
11 -- move CREH's property to where they wanted it. They
12 took liberties with this property that they do not own,
13 again, with a forklift.

14 We heard about these, these bricks. And, again,
15 these bricks are located above the side garage door.
16 Ones that Brilin Electric had replaced during this time,
17 okay? And you heard testimony that several of these
18 bricks were broken or chipped. And you heard testimony
19 from the person that did these brick repairs, McGee
20 Brothers, that it had been hit by force by something.
21 He didn't know what. He couldn't tell us what hit these
22 by force, because Mr. Russell didn't tell him. But he
23 told us yesterday that these bricks were hit when this
24 area was hit with force by some piece of equipment,
25 okay, and cracked these bricks.

1 And you saw on his invoice yesterday, his invoice
2 was for \$280. And when I asked him, I said, if
3 something was hit -- if this area was hit by force, did
4 you do any kind of inspection? Any investigation to
5 figure out if any, anything behind the bricks were
6 damaged?

7 That the lentil, you heard the word lentil
8 several times during this trial. The lentil was damaged
9 and needed to be repaired or replaced, and his answer
10 was, no, I was hired just to replace the bricks. All
11 they wanted to do was put lipstick on a pig, if you
12 will. Not trying to replace the bricks to get the job
13 done.

14 Well, ladies and gentlemen, the invoice that we
15 presented from Mr. Philemon, we'll go into that in a
16 moment, included more than just replacing the bricks.
17 Mr. Philemon was to come in and do this job correctly,
18 the right way. He was going to, not only replace the
19 broken bricks, but he was also going to inspect, take
20 the bricks out. Inspect the lentil, inspect the upper
21 portion of this door, this rollout door that's basically
22 supporting the entire structure, to make sure that there
23 wasn't any damage, unconditional damage, done behind the
24 bricks by whatever hit this in force.

25 Mr. Philemon was gonna do the work right. But

1 Brilin, based on the testimony y'all heard yesterday,
2 all they want to do is a band-aid. They just wanted to
3 replace the brick. And, ladies and gentlemen, we submit
4 that is not acceptable, that is not appropriate. Is
5 this, is this another example of giving this property
6 back to the landlord in the same condition that he found
7 it? That's for you to determine.

8 Now, I want to put this up because this is the
9 concrete branded door, if you want to call it. It
10 leaves out from the side door. The side rollup door,
11 one of the ones that Brilin replaced.

12 The photograph we saw of the jersey barriers
13 earlier showed a little bit of this. And the damaged
14 bricks were in the top right corner of that door.

15 Now, you heard testimony that this concrete acre
16 or patch is one of the things that Brilin did during the
17 tenancy, because this brick or this asphalt down here
18 was getting destroyed. It was being pulled apart. It
19 was being broken up. Why? By a forklift. And you
20 heard from Mr. Russell yesterday that Brilin has one
21 forklift.

22 So this infamous forklift that we've talked about
23 and heard about, is causing all of this damage to this
24 property. After CREH tells them multiple times, both by
25 Mr. Decker and Mr. Schulte, stop doing that, you're

1 damaging our property, the property that we own. We're
2 gonna have to have future tenants in there and we're
3 gonna have to be responsible for the damage after you
4 leave. So they told Brilin, don't use the forklift out
5 here as much as you are, because it's damaging our
6 property.

7 Brilin took it upon itself, once again taking
8 liberty with this property, and putting this concrete
9 patch or apron. Didn't talk to Mr. Decker about it.
10 Didn't talk to anyone else at CREH about it. Didn't get
11 their approval, just put it in, okay?

12 You heard Mr. Decker testify about his concerns
13 with this, specifically about water intrusion getting in
14 under the concrete apron that Brilin put in. When I
15 asked Mr. Russell about this yesterday, I asked him
16 about the specifications. How much -- was there rebar?
17 You know, how much concrete did you use?

18 You heard his answer. He said, man, we put it
19 in. I knew at the time how much rebar he put in. I
20 don't really know how much. I don't remember the
21 specific specifications.

22 Those, those responses, ladies and gentlemen,
23 were not acceptable to the landlord. The landlord wants
24 to know if Brilin's doing work on the landlord's
25 property, what work was he doing? Is this something

1 that's going to be durable, something that's going to
2 last, or is it something that we're gonna have to deal
3 with years down the road?

4 Who did this work? Was the person licensed? Was
5 the person insured to do the work? Those are questions
6 that the landlord asked, but we never received any
7 responses to.

8 I also asked Mr. Russell yesterday, this shows
9 the ramp, and these are the jersey barriers that the
10 plaintiff put down the strip between CREH's property and
11 Keller USA's property.

12 You heard from Mr. King, you heard from Mr.
13 Russell that these jersey barriers prohibited them from
14 doing business. They couldn't access this. Their
15 business slowed down.

16 Mr. Russell couldn't remember yesterday whether
17 or not the plaintiff, this is where the plaintiff put
18 these jersey barriers or this is where Brilin moved the
19 jersey barriers. I asked him about this space right
20 here. I said, well, you know, I started off by asking,
21 how would you access this? How would you access this
22 property?

23 And he told us it was always by a forklift. A
24 forklift shows up. Only by a forklift. I said, so you
25 were not using trucks or anything like that? No. It

1 was always, we would access this space by forklift. And
2 I asked him, I said, this space here, it seems to me
3 that you've been maneuvering a forklift in and out of
4 there.

5 Well, that's something that you have to
6 determine. Was his explanation, was Mr. King's
7 explanation about not being able to use this side door
8 on this side ramp, imposed by these jersey barriers, was
9 that reasonable in light of how much distance between
10 the jersey barriers and the end of the ramp?

11 And, again, you all are going to have these
12 pictures back in the jury deliberation room with you,
13 and you can look for yourselves at them and determine
14 for yourselves if what Brilin told you yesterday during
15 direct examination and cross-examination was reasonable.

16 The next damage that we talked about is the
17 ductwork. We went back and forth yesterday about this
18 ductwork. Now, the ductwork is at the top of the
19 warehouse building inside the space that Brilin Electric
20 was in, okay? And the testimony yesterday was the
21 ductwork was hit by a forklift. Once again, the
22 forklift shows up. The forklift is causing all of these
23 damages that we're complaining about. And this ductwork
24 is high enough up off the ground.

25 And when it was hit by the forklift, what does

1 Brilin do? Brilin doesn't tell CREH we hit the
2 forklift, what do you want us to do? How do you want us
3 to reconfigure it so it'll remain in compliance with the
4 lease agreement?

5 What does Brilin do? Brilin has one of his guys
6 reconfigure it. They altered it, ladies and gentlemen.
7 The testimony from the witnesses here, from Mr. King and
8 Mr. Russell, yesterday was that they altered this
9 ductwork that they damaged. They didn't ask CREH if
10 they -- you know, how CREH wanted to handle it.

11 You heard that CREH didn't find out about it
12 until the October, 2019, site visit. When myself and
13 Mr. Russell and Mr. Decker and Mr. Russell's attorney at
14 that time, we all walked the warehouse building. We saw
15 ductwork. Mr. Russell told us about the ductwork. We
16 walked the entire space. We looked at the wall that
17 we'll get at -- get to in a moment.

18 And Mr. Decker's words, you heard testimony about
19 ductwork. That's fine, we'll deal with it before you
20 move out, just let us know if you do anything else.
21 Don't do anything else with our building until -- unless
22 you let us know. And, again, one of the things that
23 you'll have to determine in this case was whether or not
24 that was reasonable.

25 Was it reasonable for Mr. Decker, as the owner of

1 that building, to tell Brilin, look, we know that you
2 caused this damage. We didn't know about it before. We
3 didn't know when it happened. We didn't know you had to
4 reconfigure it. You damaged this ductwork. We'll deal
5 with it later, just please tell us when you're doing
6 something else and ask us, you know, for consent to do
7 what you want to do with our building. Okay?

8 And you heard testimony that at the end of that
9 meeting, Mr. Russell agreed with that request. He shook
10 Mr. Decker's hand, and he promised him, I will come to
11 you before I do anything else. I will keep you updated
12 on what else that I do with this property. And everyone
13 left the meeting with a good taste in their mouth.

14 Mr. Decker thought it was a productive meeting.
15 Mr. Russell testified yesterday that he thought it was a
16 productive meeting. Everything was good. But what
17 happens after that meeting? Does Mr. Russell keep his
18 promise? The answer is, no, Mr. Russell does not keep
19 his promise. Because after that meeting, Mr. Schulte,
20 the property manager or the maintenance person or
21 whatever we want to call him, was out at the property
22 doing his normal duties as property manager, making sure
23 the CREH's assets are okay and aren't being damaged,
24 especially considering the history that we have here.
25 These are valid from a distance. He was in his truck,

1 okay? You heard that testimony as well during this
2 trial.

3 But what does Brilin do? Brilin decides it's
4 gonna replace the doors, the rollup doors. The side
5 garage door and then the garage door in the back.
6 Doesn't tell CREH that he's doing it. Doesn't ask for
7 authorization. You saw the invoice yesterday from
8 Southern for the two garage doors. The two of them
9 combined were above \$3,000.

10 Remember, the provision in the lease agreement,
11 ladies and gentlemen, where it says that Brilin had to
12 get the landlord's approval for any repairs or
13 improvements that exceeded \$3,000. The Southern invoice
14 was \$4900. We didn't find out that Brilin was gonna
15 replace those doors until Wayne Schulte brought it to
16 our attention. And then there was communication between
17 the parties in April of 2020, asking finally for
18 authorization, once we discovered that the doors were
19 coming down and the big ones were going up.

20 You heard testimony yesterday that -- you saw the
21 e-mails when Mr. White was cross-examining Mr. Decker
22 about the correspondence between the two attorneys
23 regarding the doors. Early April 2020. You heard
24 testimony yesterday that the doors were ordered in
25 November or December of 2019.

1 So, Mr. Russell knew. He knew that he had an
2 obligation to talk with CREH any time that he wanted to
3 do repairs in excess of \$3,000. He knew when he talked
4 to Southern that the doors that he wanted to put in,
5 were gonna cost more than \$3,000. They were, in fact,
6 going to cost \$4900.

7 He orders them in November or December 2019. We
8 don't find out about it until April of 2020. I submit
9 to you, ladies and gentlemen, Mr. Russell was never
10 going to tell us, never intended to tell us that he was
11 putting these doors in. Had Wayne Schulte not been out
12 at that property and said, and brought it to our
13 attention, hey, there's people out here putting doors
14 in, we would have never had known. Brilin would have
15 put the doors in and never told us.

16 And if you look at that gap, that tells you. And
17 the copies of the e-mails are in the book of exhibits
18 that you're gonna have in the deliberation room.

19 Now, think about that. Was that reasonable? Was
20 that reasonable? And then also about the doors, you
21 heard a gentleman from Southern testify, yeah, they were
22 like kind. We came out to the property, we specced them
23 out. You know, they were lifetime doors.

24 You have the e-mail correspondence to Wayne
25 Schulte from Joshua Montoya at Overhead Door. He looked

1 at the doors that Brilin wanted to put in. He looked at
2 the doors from Overhead Doors that CREH wanted to put
3 in, and he told us in black and white in that e-mail,
4 ladies and gentlemen, these doors are apples to oranges.
5 He's the door expert. He's the door contractor. CREH
6 relied on his opinion.

7 That's why CREH didn't give its written approval,
8 because it had an e-mail from Joshua Montoya saying the
9 doors that they want to put in are apples and oranges.
10 They are not like kind doors to the ones that you want
11 to put in. And he said, the ones that CREH was
12 proposing, and you'll have that e-mail, you'll have the
13 estimate from Overhead Doors.

14 The doors that CREH wanted to put in were like
15 kind to the ones that were there. They weren't trying
16 to do an upgrade. They weren't trying to upgrade the
17 material and pass the expense onto Brilin Electric.
18 They wanted the property back in the same exact
19 condition that Brilin Electric got. That's what they
20 were trying to do with the doors.

21 And even after we found out, in early April when
22 we found out about the doors, and you can see in there,
23 they rushed us to make a determination. And, ladies and
24 gentlemen, consider prior to that CREH had no clue the
25 doors weren't on yet. And we wanted time to check with

1 Overhead Doors to make sure that the doors that Brilin
2 wanted to put in were like, truly like kind.

3 And when we got the e-mail from Mr. Montoya, we
4 said, no, because the doors that you are putting in are
5 not suitable to the space that you're asking us to use.
6 Was that reasonable? Was that Brilin trying to be a
7 good steward of that property? Is that an example of
8 Brilin trying to return this property to the same
9 condition to CREH that it got it in? That's for you to
10 determine.

11 Now, we've got the wall, the demising wall. We
12 heard a bunch of testimony about this. We heard
13 testimony about this from Mr. Decker. We heard
14 testimony about this from Mark Robinson. Heard
15 testimony about this from John Abernathy. Heard
16 testimony about this from Wayne Schulte.

17 Now, this photograph, and this is, again, in the
18 book of exhibits you'll be able to have with you when
19 you deliberate after closing arguments today. This
20 shows what the wall looked like on the Two Men And A
21 Truck side, all right? But you heard Mark Robinson and
22 you heard John Abernathy testify that on both sides of
23 the wall, Two Men and a Truck side, as well as the
24 Brilin side, that this wall was like a snake. That's
25 what it looked like.

1 You see down here, this is a straight line,
2 ladies and gentlemen. This yellow line here. And
3 you'll have a closer view of this, but this is a
4 straight line. And you see if you compare this straight
5 line with the wall, the wall is, in fact, like a snake.
6 And you heard, we weren't able to get in to inspect the
7 wall before Brilin left, because Brilin said, oh -- you
8 know, remember the testimony about the October 2019
9 meeting?

10 You can't look at the wall right now because we
11 have all of our racks up. You know, we don't want you
12 to look at it right now. Well, when we leave, you'll be
13 able to look at it.

14 So that's exactly what we did. After Brilin
15 left, we got Mark Robinson, John Abernathy, both of whom
16 are professionals, to come in, look at this wall. John
17 Abernathy did two reports. One, after his visit on May
18 4th, 2020, and then one after his visit at the end of
19 the May 2020.

20 During his May 4th visit, all of this gypsum
21 sheeting was still up. It was still up on the wall,
22 okay? But he was able to see that the wall had give.
23 The wall had several inches of give, which a wall should
24 not have. And the wall looked like this. It looked
25 like, as he termed it, a snake. So he said, look, we

1 need to get it stabilized right now. This is an 11,000
2 pound demising wall. I don't want this wall to go down
3 and hurting or killing someone or damaging property. At
4 this point Two Men and a Truck were still on this side.
5 Two Men And A Truck still had its business on this side.

6 John Abernathy did not want Two Men and a Truck
7 to be injured or have somebody killed because of this
8 demising wall. So he said, we need to stabilize this
9 wall right now and then we can come back and look inside
10 to see what the interior structure of the elements are.

11 And you've got a copy of his first report in the
12 binder. You will see exactly what he recommended. What
13 he recommended, CREH did. CREH was going by his
14 opinions, his advice, his recommendations the entire
15 time.

16 John Abernathy is a licensed structural engineer,
17 okay? He's a professional. He was qualified by the
18 Court as an expert witness, okay? He testified as to
19 what -- how the wall looked, what his concerns were on
20 May 4th, and what he recommended to be done at that
21 point. And what he recommended be done, CREH did.

22 Now, after the wall was opened up, and this was
23 within a matter of a week or two, at the most. And the
24 exact dates are in John Abernathy's reports. After the
25 wall was opened up -- I'll show you this picture of the

1 interior threshold components. Now these studs, ladies
2 and gentlemen, these metal studs are steel. They're not
3 alluminum, they're steel. And both Mark Robinson and
4 John Abernathy testified to that, okay?

5 Now, if you look at these, if you look at these,
6 this is the ground here. And you can see how far up the
7 damage to the metal studs are. Now, these metal studs,
8 and there's more pictures at the end of John Abernathy's
9 second report, but these metal studs were bent, they
10 were twisted, they were damaged, sometimes beyond
11 repair. There were 30 studs, John Abernathy testified,
12 that had to be completely replaced because of how
13 damaged they were.

14 John Abernathy testified he was surprised at the
15 damage. This -- these studs, I asked him, I said, how
16 much force would have to be exerted on these studs to
17 cause this kind of damage? And he said, it had to be
18 some kind of equipment. No individual person could have
19 caused this amount of damage.

20 Well, you heard Mr. Russell testify yesterday
21 what would cause all this damage, the forklift. The
22 forklift taking pallets and banging them into the wall
23 repeatedly to cause this damage here.

24 So again, see a trend here, ladies and gentlemen,
25 the forklift. The forklift that I mentioned in my

1 opening statement. All of the damages that we're
2 complaining of here were caused by this forklift, and
3 most fundamentally to this wall.

4 And you heard about the repair process. You
5 heard about Mark Robinson, after John Abernathy came in
6 for his second visit and said this is what needs to
7 happen. In my expert opinion to a reasonable degree of
8 engineering certainty, this is what needs to happen to
9 repair this wall. CREH followed his recommendations
10 precisely.

11 Mark Robinson, an expert in general contracting,
12 been doing contracting for decades, oversaw the work.
13 The work was done. The repairs to the wall were made.
14 Before the repairs started, when the wall was opened up,
15 you heard that there was a meeting out at the property
16 at this demising wall. I was not there, but Mark
17 Robinson was there, Mr. Russell was there, Mr. White was
18 there. And their own engineering expert.

19 We gave them an opportunity. We said that you
20 ought to see the condition of this wall. Bring your own
21 engineering expert and come out. We have no problem if
22 you look at it, if you want to contribute to the
23 repairs. Have at it. We were trying to bring the sides
24 together to coordinate the repairs between the sides.

25 You heard from Mr. Robinson. You heard from Mr.

1 Robinson that during that meeting, when Mr. Russell
2 found out that portions of the wall had to be repaired,
3 Mr. Russell became irate and had to be removed for the
4 meeting. Now, Mr. Russell denies that. And part of
5 your obligations as a jury, and the judge will instruct
6 you on this, is to determine credibility of witnesses.
7 Now, one of your jobs is to determine in that respect,
8 do you believe Mr. Russell or do you believe Mark
9 Robinson?

10 . So, after that visit, you heard testimony that
11 Mr. Russell didn't even offer to participate in the
12 repairs. He didn't ask to participate. He didn't ask
13 to be present when any repairs were being made. He
14 didn't ask to shoulder any of the expense related to the
15 repairs. CREH shouldered that expense all on its own.
16 All on its own.

17 And why? Because CREH had commercial tenants in
18 those spaces. You heard testimony that Two Men And A
19 Truck moved over to where Brilin was after Brilin left.
20 And there was gonna be another commercial tenant where
21 Brilin -- or where Two Men And A Truck used to be.

22 Carolina Real Estate Holdings had to get that
23 space back up and running. It could not wait, because
24 every day that it waited, it was losing rent money from
25 those being empty spaces. CREH wanted this problem

1 resolved quickly. Brilin didn't offer to participate in
2 any regard whatsoever.

3 Now, we presented various invoices, estimates,
4 proposals, and contracts to you. Those are also all in
5 the binders related to our damages in this case. And
6 you'll have those back there with you in the jury
7 deliberation room, okay? I want to go through with you
8 right now briefly what damages we are asking you to
9 award, okay?

10 Asphalt. The torn up asphalt, the damaged
11 asphalt that you saw. This is Plaintiff's Exhibit 6 in
12 the binder. \$5,950, okay? It might seem like a big
13 number, but you all saw, and you'll see it in the
14 exhibit. You can look at it during deliberations.
15 There's a report for that. Why is this number?

16 Carolina Real Estate Holdings, ladies and
17 gentlemen, paid to have the asphalt repaired. Brilin
18 Electric did not. Brilin Electric turned the property
19 back over to CREH at the end of its lease term with this
20 damaged asphalt still damaged that it caused by using
21 the forklift outside. So we're asking for \$5,950 for
22 the damaged asphalt.

23 The bricks. This is Plaintiff's Exhibit 9. And,
24 again, getting back, we're asking for 1600. This is
25 Billy Philemon, who came out and quoted that. And if

1 you will recall, Billy Philemon's estimate included not
2 only replacing the bricks, but it also included an
3 inspection, a detailed inspection of the structural
4 component behind the bricks to see if anything else was
5 damaged.

6 Joel Zotemyer wants to -- wanted to replace it
7 completely. He wanted to make sure that that issue
8 would not resurface later on down the road with another
9 tenant. That's why it's 1600, and not the 280 that the
10 defendant proposed yesterday. That's why there was an
11 additional charge, because Bill Philemon is gonna come
12 in and not only replace the broken brick, but he was
13 gonna inspect the lenthil. He was gonna instruct --
14 inspect the structural aspect of above the door to make
15 sure that nothing else was damaged. And that takes some
16 work, ladies and gentlemen. That's why it's an
17 increased expense.

18 The doors, Plaintiff's Exhibit 10, is the -- is
19 our Overhead Door invoice. \$7,913.51, okay? Now, the
20 defense, I imagine, is gonna argue that Southern said
21 that they can get it done for \$4900. And that is what
22 they paid to have done in that store that they had
23 performed. But the reason that ours is more, ladies and
24 gentlemen, is because they, according to the e-mail from
25 Joshua Montoya, was they had it installed without, by

1 the way, CREH's written consent. Or, according to
2 Joshua Montoya, not like kind.

3 The doors that Brilin put on were more
4 appropriate for, for example, a storage building. One
5 that doesn't have as many revolutions as the doors on
6 the space that Brilin occupied. That's why Overhead
7 Doors is a more -- is this high. That's why their
8 invoice is high.

9 The ductwork, Plaintiff's Exhibit 12, \$3,625.00.
10 Now, you heard testimony that an invoice was sent to, to
11 Brilin to have that done. Brilin never paid it. Brilin
12 never paid this invoice. The ductwork has since been
13 repaired back to its proper how it should be.

14 And the estimate in ductwork, ladies and
15 gentlemen, when Brilin left it up, that ductwork, the
16 ductwork is what circulates the airflow around that
17 warehouse building. So even though it may have been --
18 you know, even though Brilin took the liberty upon
19 itself to raise that ductwork up, the consequences of
20 that is that it's harder for the airflow to reach the
21 bottom of that warehouse space. So it takes more energy
22 to heat and cool that warehouse space, if the ductwork
23 is higher off the ground. That's why it was where it
24 was when Brilin moved into that building. So we're
25 asking \$2,625 for the ductwork.

1 The last Exhibit 17, Integrity Consulting Group.
2 That was John Abernathy. \$1,757.50. This is what CREH
3 paid to have John Abernathy come down on those two
4 occasions in May 2020 and oversee the inspections of the
5 wall and tell CREH, this is what needs to be done to
6 make sure that this wall doesn't fall and hurt or kill
7 someone or damage property. CREH paid this. This isn't
8 speculative. This is -- these are damages that CREH
9 benchmark. This is Mark Robinson. These are the
10 damages, the repairs to the wall.

11 But after John Abernathy came in and said these
12 30 metal studs have to be replaced, Mark Robinson's the
13 one who came in after that, after the meeting with, with
14 Mr. Russell and their expert witness or their
15 engineering expert, and actually made those repairs,
16 \$6,121.00. That's Plaintiff's Exhibit 18.

17 COIT, Plaintiff's Exhibit 20, 250 bucks. You
18 heard testimony that after Brilin moved out it smelled
19 of dog urine. It smelled of animal urine inside the
20 office space, flex space, as it's been called earlier in
21 this trial. CREH had to come in and pay COIT cleaning
22 services \$250 to clean those carpets so that it would be
23 appropriate for the next tenant.

24 L&W, Plaintiff's 26, these are the supplies. Mr.
25 Decker testified about the supplies for the wall. Mr.

1 Robinson had some supplies included with him, but these
2 were supplies that -- and Mr. Decker went through each
3 one of those on that list and explained what each one of
4 those are, \$1,861.13.

5 And then finally, Sunbelt Rentals. Plaintiff's
6 27, \$723.37. Mr. Decker told you that they had to rent
7 a scissor lift in order to get up high enough on the
8 demising wall inside the warehouse building to properly
9 inspect it. This was the charge related to that, okay,
10 that CREH incurred and paid.

11 So in total, ladies and gentlemen, we add all
12 these things up, all of these damages. We're asking you
13 to award a total to CREH on Breach of Contract claim
14 against Brilin Electric in the amount of \$28,802.76,
15 okay?

16 Now, just very, very briefly, one of the issues
17 in this case is that Brilin Electric believes that CREH
18 has engaged in unfair and deceptive trade practices in
19 the conduct of Brilin. And the Court will instruct you
20 about what that means. That's a claim that Brilin has
21 against CREH, okay?

22 You're gonna hear from the Court, and the judge
23 is going to instruct you on this. You're gonna hear
24 that one of the things that Brilin has to show you or
25 establish to you by a preponderance of the evidence, is

1 that the plaintiff, CREH, or the defendant, Brilin,
2 suffered actual damages as a result of the plaintiff's
3 Unfair Trade Practice Act.

4 I anticipate what Brilin is going to argue to you
5 is that the unfair trade practices comes from some
6 invoices or estimates that Carolina Real Estate Holdings
7 prepared, but never sent to Brilin and that Brilin never
8 paid. That Brilin now believes were fraudulent or
9 false.

10 And you'll remember that Brilin's attorney asked
11 Mr. Decker about those invoices and estimates on
12 cross-examination on Tuesday and Mr. Decker denied that
13 they were false or fraudulent. So you have to determine
14 whether or not you believe Mr. Decker's responses to
15 defense counsel's cross-examination questions in that
16 regard. But they have to prove that they suffered
17 actual damages, actual damages as a result of CREH's
18 unfair or deceptive acts.

19 And even if you decide that CREH engaged in
20 unfair and deceptive acts, and we would submit that CREH
21 has not. But even if you determine that they did, and
22 the judge will instruct you on what unfair and deceptive
23 acts includes. But even if you determine that, Brilin
24 suffered no actual damages as a result. These allegedly
25 false or fraudulent estimates were either not sent to

1 Brilin or Brilin never paid. So Brilin has sustained no
2 actual damages as a result of any alleged unfair
3 deceptive acts by CREH.

4 Something else that the Court's gonna instruct
5 you on is whether an act or practice is unfair or
6 deceptive within the meaning of the act depends upon the
7 surrounding facts and the impact of the transaction on
8 the market place. On the market place. Those are very
9 important words, ladies and gentlemen.

10 In this case we have one private lease dispute.
11 This is a lease dispute. A dispute over did a breach of
12 this contract, this lease agreement occur and who
13 breached it? This doesn't involve somebody going out
14 and engaging with, with the general market place. This
15 is a private contract dispute. So we would submit that
16 this has nothing to do with the market place. It has to
17 do with CREH and Brilin Electric, these two private
18 parties.

19 And then finally, the Court's gonna instruct you
20 that where a contract exists, a mere breach of a
21 contract is not conduct which violates the South
22 Carolina Unfair Trade Practices Act. So you can find
23 that -- and we would submit that they did not, but you
24 can find that CREH breached this agreement, this lease
25 agreement, but that alone doesn't mean that CREH

1 violated the unfair and deceptive trade practice. We
2 would submit that CREH did not.

3 So at the end of the day, ladies and gentlemen,
4 we are here over this lease agreement, which is
5 Plaintiff's Exhibit 2, which you've heard and seen ad
6 nauseam this week. The lease agreement was for a
7 three-year term between Carolina Real Estate Holdings
8 and Brilin Electric. That Brilin was leasing the
9 premises, Brilin caused damages to that property.

10 And these are the damages that we're asking you
11 to award as a result of that breach. And we would
12 submit that CREH is entitled to all of these damages.
13 Thank you.

14 THE COURT: Ladies and gentlemen, if you would,
15 stand and stretch your legs just for a moment.

16 Is the defense ready for his closing argument?

17 MR. WHITE: Yes, Your Honor.

18 THE COURT: Yes, sir.

19 CLOSING ARGUMENT

20 BY MR. WHITE:

21 Ladies and gentlemen, good morning. I will start
22 my closing argument where I ended my opening statement,
23 with that bold prediction that trial lawyers should
24 never, ever do in an opening statement because you never
25 want to promise something that won't actually happen.

1 When I was in the military, we had a great
2 phrase, all good plans never to arrive first contact
3 again. But I went ahead and made a bold prediction and
4 said, I want -- I bet you after four days of being here,
5 you're gonna wonder why you're here. Well, we finally
6 got the answer, because I'm wondering.

7 If you look at Defense Exhibit 14 when I said way
8 back in April 2020, hey, I've been in this case a week.
9 I had a chance to go out to the premises. I don't know
10 why we're in litigation. I don't know why you sued us.
11 We haven't even moved out of the space yet. What is
12 going on here?

13 Well, we got our answer today. Mr. Decker, and I
14 think this sums it up more than anything else. Mr.
15 Decker wants you all to award him, among other things,
16 \$8,000 so he can go out and buy the doors that he wants
17 and rip off perfectly good doors that have been sitting
18 on his building for over two years now.

19 So he can put on the doors that he wants because
20 gosh darn it, that's his building and it's his way or
21 the highway and I want those doors, even though they're
22 not insulated, even though they're not the same.
23 They're not even the same color. So everyday y'all are
24 driving by I-77, he puts on his brown and white new
25 doors, it's not gonna match those buckskin doors. It

1 doesn't make sense, other than the fact that this is a
2 person who wants absolute control, domination over
3 anything.

4 You know, this is almost like a bad movie. You
5 know, it would almost be comical if it wasn't such a
6 farce, in terms of the fact that this man, this
7 self-made man, who's been an electrician since he was 18
8 years old, and was so successful at 29 opening his own
9 business and has been thriving ever since, had to deal
10 with this and had to pay me to deal with this, and my
11 law firm for almost three years now.

12 I mean, this is like a bad James Bond movie where
13 you've got this evil villain like Ernst Blowfeld or, you
14 know, or, you know, think Telly Savalas if you're maybe
15 older vintage, or maybe Dr. Evil from Austin Powers if
16 you're younger vintage.

17 And it's like what are we gonna do today, instead
18 of world domination, we're gonna get Brilin Electric.
19 And the plaintiff is sitting in his lair, plotting the
20 demise of Brilin Electric and he's gonna get him. He's
21 gonna get him.

22 And like every good villain, he's got his
23 henchmen. He's got Mr. Wayne Schulte. Get over there.
24 Go over there every day, find out what's going on. Get
25 me those pictures. You know, find it out. And then one

1 day Mr. Schulte comes back to his lair, you're gonna
2 love it. I found it. I got the picture of the dog bed.
3 Why are we even talking about a dog bed in this case?
4 This is a contract to lease premises between two
5 businesses, and everything about this relationship is
6 governed by that lease, and yet we're talking about
7 sticks and stones may break my bones, but words will
8 never hurt me.

9 Pay attention to the words, look, there's a dog
10 bed. What does that have to do with anything, all
11 right? Do me a favor real quick. I'm not trying to
12 make y'all look at these dang binders any more than you
13 have to, but please do me a favor and open your binder
14 up and look at Plaintiff's Exhibit 2, the very last
15 page, please.

16 A gold star for anybody that picked up on this
17 during the course of that trial. Look who didn't even
18 sign that contract, the landlord. The landlord. I
19 wonder if he ever even read the dang thing. If you
20 looked at the front page, paragraph two:

21 All of the following conditions shall have been
22 satisfied or waived by tenant in writing. 2.2.:
23 Landlord has delivered a fully executed copy of this
24 lease's intent. He never even signed the dang thing.
25 Maybe that's why he's coming up with all these crazy

1 things that are outside the scope of the lease. I need
2 the certificates of insurance. I need to approve every
3 contract, whether it was for a dollar or \$10,000,
4 because he hadn't even read the lease. He had even
5 signed it.

6 Now, did he repudiate the lease? Did he say,
7 hey, we don't have a valid contract, you never signed
8 it? No. Because Bryon Russell is a good man, a good
9 business man. And honored his end of the bargain, every
10 step of the way. He did everything right, everything
11 right. And this landlord did everything wrong,
12 everything wrong.

13 Let's talk about the asphalt. Nobody's disputing
14 that the asphalt got torn up. We never did that, okay?
15 That's never what this case was about. We spent way too
16 much time talking about, look at these pictures of
17 damaged asphalt. It's about what caused the asphalt to
18 be damaged, okay?

19 And this is where it's very important that we
20 talk about the Judge's instructions. And one thing he's
21 gonna talk about when you look at damages, is you've got
22 to talk about the proximate cause, okay? The proximate
23 cause, that's a legal term. What actually caused it,
24 okay?

25 It's not that the forklift -- the forklift caused

1 the damage, but what really caused the damage from a
2 legal point, because it's not just actual, because the
3 judge will tell you, a legal cause, is that this
4 plaintiff, knowing full well that a forklift was used at
5 that premises, that it is a commercially reasonable
6 thing to do; that he rented that space in the first
7 place because it had a side door with a ramp. If it
8 didn't have that, he wouldn't have ever been there.

9 He knows all that, and yet he goes ahead and
10 paves the asphalt to an inadequate depth on that side.
11 How do we know that? Because in his own words, his
12 expert paver, I did what he told me to do. Well, he, on
13 the side where all the big trucks go, he did six of
14 grass -- gravel and four inches of asphalt, equivalent
15 to what you use at an airport, according to Mr. Decker.

16 Didn't do that on the other side. And then when
17 it gets torn up, he gets a quote, and then I don't tell
18 them what to do. I just do what Decker told me to do.
19 50 percent more gravel, 50 percent more asphalt.

20 You heard plaintiff's counsel, that was almost
21 \$100,000. That's a lot of money. Okay. Well it was
22 six grand to do the patch job, right? So let's do some
23 math, which is always dangerous with me. I went to law
24 school to avoid that.

25 Okay. \$6,000 to do the path. 50 percent more

1 materials for that little section, so I'm gonna go out
2 on a limb and say, no more than an extra \$3,000 to pave
3 it to the six inches gravel, four inches asphalt, if
4 they would have done it in the dang first place. Okay?
5 It's their fault.

6 The proximate cause of the damage to the asphalt
7 is their fault. They knew a forklift was being used.
8 It was a reasonable thing to do, and nevertheless, they
9 paved it to an inadequate depth. And what was their
10 solution? Because they knew they were using a forklift,
11 and probably because they knew they were using an
12 inadequate building shelf, we'll just block them off.
13 We'll just put up the jersey barriers.

14 And that's why we, ladies and gentlemen, have a
15 counterclaim for breach of contract, among many things.
16 In section 21 of that lease it says, we, as every
17 commercial lease says, heck in every lease says: We
18 have the covenant, the right of quiet enjoyment. So as
19 long as we do what we were entitled to do, he will leave
20 us alone. Leave us alone and let us use this space for
21 the purposes of which it was intended, which is an
22 industrial warehouse with some office flex space in the
23 front. Okay?

24 Now, one last thing on this asphalt. You have a
25 quote, a quote from February 11th, 2020, for 5950.

1 Shockingly, this plaintiff has presented you no evidence
2 whatsoever that that work was ever actually done or how
3 much it cost. You just have a quote. Okay?

4 Every time we actually had some damages, did you
5 pay it? Yep. Do you need your receipt? Yep. You have
6 a quote, so you can knock that one right off the list.

7 Let's talk about these doors. Just like the
8 asphalt. No one's saying the doors get damaged. You
9 heard from both plaintiff and defendant. There was a
10 conversation in 2019. Hey, I busted up your doors, but
11 you're gonna have to fix them before we go. No one said
12 we didn't bang up the doors. Okay?

13 And the lease says it's our obligation to repair
14 it. At least when it comes to repairs, ladies and
15 gentlemen, I would submit to you that this is a very
16 standard provision in the South Carolina commercial
17 leases.

18 That capital improvements are the responsibility
19 of the landlord. That's when you're dealing with big
20 ticket items, resurfacing a parking lot, messing with
21 the structure of the building. You definitely want to
22 have control over that. So that's on the landlord,
23 unless you, the tenant, did something to bust it up.
24 And everything else is on you, the tenant, to fix.

25 And as Mr. Hemphill said, I rarely talked to him,

1 because it's pretty standard. And he's got the
2 obligation to fix something and they fix it, and if it's
3 the doors, they call me and I fix the doors. Very
4 simple, okay?

5 Now, those doors, as you heard Mr. Hemphill say,
6 you split them up in the invoice. If we've got to
7 compete on the invoices, we could have split it up and
8 had more than one invoice with less than 3,000 and
9 another invoice with less than 3,000. Remember, we
10 don't have to talk to them at all per the lease, okay?
11 But we didn't, because Mr. Russell's a good man and we
12 took the high road and did everything right. And that's
13 why, I know some of y'all were growling when I said we
14 were going to go to that e-mail at Defense Exhibit 14,
15 but that is the site picture they took. What our
16 reality was over three years ago.

17 And I think that's a very important thing,
18 because I can tell you right now, like I said in that
19 e-mail, I don't know why we're in litigation. And if I
20 thought that I'd be spending this lovely July week with
21 y'all here two years later, back then, I would have
22 laughed in your face. I never thought that was gonna
23 happen.

24 So that really gives you a good state of mind,
25 right? How could you -- if you're not buying what I'm

1 selling right now because I've had a few years to sleep
2 with this under my pillow. That was what was going on
3 right then and there a week into this case, okay?

4 And in there we said, look, we're asking your
5 permission because combined it's over \$3,000. But
6 you'll see, and the judge will instruct you on this
7 point of law as well, that although it's not expressly
8 written in the contract, every contract in the state of
9 South Carolina has the five components of good faith and
10 fair dealings. You do right by your counterparty in a
11 commercial contract.

12 So, I'm asking you to approve this repair. And
13 if you don't, and I know you're not because you want
14 your preferred vendor to do your doors, I'm telling you
15 right now that's a breach in the implied good faith and
16 fair dealings, so you better approve this. And they did
17 it. And the judge is gonna instruct you on that point
18 of law and you need to take that into account.

19 And then, we just heard some crazy talk a minute
20 ago, that they didn't know. Look at Defendant's Exhibit
21 14. April 8th, hey, man, do we got approval on these
22 doors? We're ready to go next week, April 15th. Look
23 at the invoice, top right corner, delivery date, April
24 15th, 2020. They didn't know about the doors? They
25 most certainly knew about the doors. They knew about

1 the doors all the way back to the October meeting.

2 Y'all gotta fix the doors. Okay, we'll fix the doors.

3 Actually, I take that back. We told them we
4 busted it up and we needed to fix it. Okay? Do you
5 think doors come overnight? No. He ordered them back
6 in late 2019 and they got there in April. Now, for two
7 reasons. One, it takes time to get doors. And what's
8 the point of having two doors standing around, maybe six
9 months left of the lease.

10 Bring your forklift driver and bang right back
11 into them. So, he wanted to put those on when he's out.
12 And you heard he was out. Everything was out. Starting
13 with the office, beginning -- and by the first of April
14 with a couple weeks left. Well, a couple of weeks left,
15 before the end of the lease, was April 17th, 2020.
16 That's the time the garage doors go on.

17 They knew we were putting them on. They knew we
18 wanted to put them on. We didn't really need their
19 permission to put them on, but we asked anyway. And
20 what did they do? What did they do? They called the
21 cops on us. They called the cops on us. I mean, it is
22 crazy. This is a bad movie, that I will call the cops
23 on. Mr. Schulte, yes, master, what should I do? Call
24 the cops.

25 And what did the sheriff do? The sheriff's like,

1 oh, good God, what am I doing here? Like, this is a
2 civil matter, I'm leaving. Right? For the doors.
3 There's no breach in the doors. We repaired the doors.
4 No damages for that. No \$8,000 because he didn't get
5 his approval, okay? No. That's not how it works, okay?

6 Now, I tell you, in addition to not believing I'd
7 be here with 14 lovely perfect strangers in July of
8 2022, on Tuesday I had a thought. And that thought was,
9 you know, what's gonna be my fondest memory of July
10 19th, 2022? Is it gonna be that my oldest son turns 12?
11 He's all into Japanese stuff. We took him to a Japanese
12 steakhouse. Got there just in time. That lovely I-77
13 traffic. Is that gonna be my fondest memory? Or is it
14 gonna be that we don't think that we all spent 15
15 minutes of our lives we'll never get back talking about
16 these bricks.

17 I said to my son, I cannot believe this. I
18 cannot believe we are talking about bricks. This is 15
19 minutes of our lives we'll never get back, talking about
20 these bricks. And here's the kicker, we don't really
21 know. Heck, I even said in my e-mail, we don't know
22 what caused those bricks. That's so high up. It's
23 supposed to be -- you remember how high it is. It's
24 right there in the quote. That's a 10X12 door. 10
25 wide, 12 high.

1 A forklift didn't hit that, okay? The most
2 plausible explanation we heard was from Mr. Bill
3 Broadway himself. Why? Because if you go through the
4 pictures that he took just a week ago, it's high like
5 so. There's something going on there. That space where
6 the park is, there's just something going on. It looks
7 like a slightly bad deal where the brick meets the
8 lentil, something's moving around in there. I mean,
9 you've got a forklift and there's stuff going on right
10 there in the warehouse, well it's just -- nobody did
11 that. We didn't cause it. There's no breach. We
12 didn't, we didn't do that.

13 Well, then what did you hear Mr. Russell say? I
14 don't care, just fix, fix the bricks. Fix the bricks.
15 Let's get it done, let's get it over with. Anything he
16 needed to do to get this thing gone, do it.

17 And this is where we start getting into the
18 pattern, right? We've got an \$8,000 garage doors,
19 versus our \$4500. \$1600 was their quote. Again, quote.
20 They didn't pay any money. They want you to pay and
21 award \$1600 so he can get like the Cadillac diagnostic
22 of what the heck is going on with this lentil. Why?
23 Probably because Mr. Broadway said there is something
24 structural going on up there. Maybe it does need to get
25 fixed.

1 So, if I can get some structural defect, probably
2 from the initial construct to that building fixed and
3 put it on his tab, I'm gonna do it. That's what's going
4 on here, okay?

5 All right. So we've got the bricks. We've got
6 the doors. We've got the asphalt. We've got the
7 carpets. We, we've -- you heard him say, he's fixing
8 the carpets all the time. Why? One, there are people
9 going through with muddy boots and all of that stuff
10 from the job. But also, there was water intrusion
11 because it rained and the weather stripping was garbage
12 in the office space. So they were constantly doing
13 that.

14 So you know what you have to ask yourself right
15 now, do I really believe any of the plaintiff's
16 witnesses, that there was a smell, that there was an
17 odor, or is this more of just one more thing? This is
18 my building, and I will do what I need to do, and I want
19 it cleaned by my people and hold on to the paperwork. I
20 will throw another \$250 in the case. It's just crazy.
21 It is absolutely crazy.

22 So what does that leave us with, ladies and
23 gentlemen, at this point? We've got the insulation.
24 The insulation. Now, you heard me ask Mr. Decker about
25 this. And y'all didn't get this. This isn't going back

1 with y'all. This is a Court's exhibit. This is their
2 response to our discovery request. Discovery where you
3 give us your documents and we'll give you our documents.
4 And we requested an itemized statement of all damages.
5 Tell us what you think you paid out that we owed you.
6 And it says, you have been sustained, quote sustained.

7 We've got the asphalt quote. We've already
8 talked about that. Cleaning, the carpet cleaning. We
9 all know what that's gonna be. The Philemon quote,
10 which they never paid. Overhead Door, we talked about
11 that. Did we get -- oh, the Decker inspection, the
12 fraudulent invoice, we talked about that.

13 Mark Robinson for the wall, we're gonna talk
14 about that. There's nothing even on here about this
15 insulation. Nothing on here about that installation,
16 the two -- sorry, insulation. HVAC ductwork, I'm sorry.
17 All we did was raise it up a little bit. You can see,
18 like, the little S curve we put in there.

19 We did that. And you heard Mr. Russell say, they
20 knew we were doing that. They recalled us doing that.
21 We wanted to raise it up, get it out of the way of our
22 racking. And it's a warehouse space, okay? He said he
23 didn't even use it. They want it off. You don't really
24 need the warehouse cooled down. It's just one more
25 thing they've got to pay for. Why cool down your

1 electrical wiring so that you can be cool?

2 But what else do we have here as part of this
3 pattern? We've got an invoice. I want you to pay me
4 \$2,025.00 -- \$2,625.00. A May '18 invoice from CREH.
5 And then we get the magical preferred vendor invoice
6 seven months later, December 28th, 2018, for \$2,625.00.
7 I hope y'all are starting to smell a rat here. Put a
8 number down, give it to your vendor, that's what we're
9 paying.

10 So it makes you wonder, right, would it really
11 have cost \$2,625 to do whatever CREH wanted their
12 preferred HVAC vendor to do, or is maybe some of that,
13 hey, you didn't use our preferred vendor, you used your
14 own. So why don't you take \$1,000 or something at one
15 of our other jobs. And speaking on this one, because
16 we're gonna stick it to this guy.

17 How do you get an invoice through your tenant for
18 work preferred vendor is gonna do for you if they
19 haven't even called you yet? How does that work? I
20 didn't hear a good explanation. I have one, though.
21 It's part of his pattern.

22 But in any event, they didn't even ask for a list
23 of damages. They didn't do anything, so you can take
24 that off the list. So where does that leave us with,
25 ladies and gentlemen? It leaves us with -- it leaves us

1 with the wall. Okay? All this stuff to do with the
2 wall, okay?

3 Let's do this real quick. You can get rid of
4 that number. You can get rid of that number. You can
5 get rid of that number. You can get rid of that number.
6 And let's see, I think that's all. Sun Bell, L&W,
7 cleaners. Well, I'm gonna take that off. So that's all
8 that we've got left right there. I want to get rid of
9 this number, because we know we ain't nowhere close to
10 that money. Okay? All the wall stuff.

11 And this, once again ladies and gentlemen, is
12 where the judge's instructions are critical, okay? They
13 are saying we breached this contract by not fixing that
14 wall.

15 Now, if you go back to Defendant's Exhibit 14,
16 that comment where I said, how can them lawyers suing
17 us. We're gonna have all of this done, except for these
18 bricks. Who knows what happens with that, but we'll fix
19 it. I never mentioned anything about the studs. I
20 never mentioned anything about that demising wall, do
21 it? Why? Because we didn't know. Nobody knew. You
22 heard Mr. Robinson, the plaintiff's expert in general
23 contracting, say he thought something was going on with
24 that wall, but he wasn't sure. He needed to get an
25 expert, an engineer.

1 So the engineer comes out three days later. And,
2 by the way, Mark Robinson came out May 1st, seeing if he
3 can get the space back. We had that thing empty. We
4 begged for them to do a final walkthrough. If it was so
5 important, you heard plaintiff's counsel say, you know,
6 we could not wait to make repairs. They didn't offer to
7 fix the wall. Well, we've been sued.

8 We cannot wait to make repairs. Really? Mark
9 Robinson could have done exactly what he did on May 4th.
10 What he did on May 4th, what Mr. Abernathy did on May
11 4th, and what Mr. Abernathy did again on May 18th, all
12 in the month of April, all that could have happened. We
13 had it cleared out. They knew we had it cleared out.
14 We begged them for a final walkthrough. Okay? Because
15 that's what you do.

16 And that's the thing here about a contract like
17 this. We had the obligation as a tenant to give you,
18 the landlord, your property back the way we found it.
19 Well, my interpretation as a tenant might be a little
20 different from what your interpretation is with the
21 landlord as to what that means. So, how do you sort
22 that out? Through a walkthrough. Do a walkthrough.
23 Tell me what I need to do.

24 Imagine this is like a residential lease, okay?
25 A month before, okay, the landlord comes in, hey, you've

1 got a hole in the wall there. What's your landlord
2 supposed to -- you know, just fix that up, man. Fix it
3 up before you move out.

4 What happened here? He called the law. There's
5 a lawsuit. That's what happened. That's not what's
6 supposed to happen. You do a walkthrough and you fix
7 it. And if his expert contractor had come on that
8 walkthrough at any point in time in April and did
9 exactly what he did on May 1st, got an engineer out
10 here. And if an engineer came out there at any point in
11 April of 2020, and said I need for you to open up this
12 wall.

13 And as we all go looking at walls to say, yep,
14 the studs need to be fixed. Now, we don't know for sure
15 that the forklift operation did that. Maybe it was like
16 that before. But, you know, let's just assume for
17 purposes of argument that it was the forklift. That it
18 was pushing those pallets on the rack again there.

19 And, look, let me give you a visual. I think a
20 picture is worth a 1,000 words, so it's one of the last
21 times I make you look at the binder. Go to Plaintiff's
22 Exhibit 21 real quick. That's the before picture,
23 ladies and gentlemen, of the demising wall. That's what
24 it looked like. That is the scope of the damage to the
25 gypsum board, to the sheetrock, to the drywall. Okay?

1 Even the expert -- and, look, just to be honest, you'll
2 see it, it's our move-out photos. We did patch all that
3 up, okay?

4 But, like, even if it was like that, I guarantee
5 you, I submit to you, ladies and gentlemen, it is a
6 reasonable inference from the fact that we're gonna do
7 -- switch tile, then Mr. Robinson would not have been
8 able, if it had looked just like that to say the studs
9 are down. It may have been like that. Maybe some of
10 those that are studs behind the walls, and we need to
11 look at it, okay? And we could have cut it open. We
12 don't know. Nobody knew that their studs were busted
13 up. Okay?

14 And, again, this is where it's critical that if
15 you listen very carefully to the instructions on the law
16 that the judge will give you. Now, I'm gonna read to
17 you something. If I misstate anything, you go with what
18 he says, because he's smarter than both of us two
19 lawyers combined.

20 All right. One other thing, plaintiff will show
21 a preponderance or greater weight of the evidence of the
22 defendant unjustifiably breached the contract. Breached
23 the contract. The word breach means the failure without
24 legal excuse or any promise that forms a whole or a part
25 of the contract. Okay?

1 So that's when we get into the other legal
2 principles. One of which is a plaintiff's duty to
3 mitigate its damages. Members of the jury, I charge you
4 that the plaintiff has a duty to minimize the damage
5 caused by the defendant's breach of contract. The test
6 is whether the plaintiff has done what an ordinarily
7 prudent person would have done under like circumstances.

8 There is nothing ordinary and prudent about this
9 plaintiff. If the plaintiff had used unreasonable care
10 that leads to losses, the plaintiff -- then the
11 plaintiff has used reasonable care to reduce the losses
12 of the plaintiff and may recover the whole amount. If
13 the plaintiff has not done so, then you should reduce
14 the damages accordingly. They have a duty to mitigate
15 their damages. They also, as I told you earlier, have
16 an obligation to operate with good faith and fair
17 dealings with the tenant.

18 And, additionally, the judge will instruct you on
19 the concept of waiver. The defendant claims that even
20 if there was a breach, the plaintiff by his actions
21 after the alleged breach, waived his right to enforce
22 the contract. Okay.

23 The waiver of a breach of contract may be shown
24 by an act, which is so inconsistent with an intent to
25 enforce the right as it rises upon breach as reasonably

1 to induce of the length of the record has been
2 relinquished. If you find, because this burden's on us.
3 If you find that the defendant has proved the plaintiff
4 actually waived, waived his right to enforce the
5 contract, then your verdict must be for the defendant on
6 this issue.

7 When they refused to do that walkthrough, they
8 waived the right to go after us for any damage of that
9 demising wall. And we gave them every opportunity to
10 come in there and fix it. And don't -- listen, and I'm
11 not making light of COVID, but don't listen to that
12 COVID nonsense. As it says in Defendant's Exhibit 14,
13 you're telling me right now, no meeting at any point.

14 And y'all have seen those pictures. You can get
15 a visual. That's a big space. People -- we could have
16 used social distancing. We could have done whatever.
17 It could have just been them to do what they needed to
18 do to make their assessment to determine what we needed
19 to do to give them their space back the way we found it.
20 If I'm not doing the commercial and reasonable thing,
21 doing a walkthrough, they waive the right to come after
22 us after the fact.

23 You heard Mr. Russell say, if I had known about
24 it I would have fixed that too. He did everything he
25 possibly could. Like I said, that very first

1 instruction on breach, unjustifiably breached. What,
2 ladies and gentlemen, have you heard in four days that
3 Mr. Russell did that was unjustifiable? Absolutely
4 nothing. He's just trying -- business is so good,
5 because he's so good at what he does, that he outgrows
6 this space, and he's just trying to get the heck out of
7 there.

8 It probably irritated the plaintiff, among other
9 things, probably realized, hey, it's looking like
10 imminent shutdown because of COVID, I might have an
11 empty space, right? But then that didn't even happen
12 because Two Men And A Truck jumped over to the other
13 side and took it over just like that. He can't even
14 tell you, like, oh, we have lost rents.

15 You heard some stuff about, oh, we gave them a
16 rent waiver. You didn't hear any actual evidence that
17 they, like, had any of that because Two Men And A Truck
18 moved over immediately.

19 So, ladies and gentlemen, I'm gonna wrap this up.
20 I appreciate your time, your patience. What I want to
21 do now, is I want y'all to flip to Defendant's Exhibit
22 19, all the way to the back. Flip it over to the blank
23 on the back. Madam Foreperson, I'm going to publish
24 this verdict form for you.

25 So y'all should just be staring at a blank sheet

1 of paper. And what I want to do is I want to give y'all
2 a cheat sheet, okay? Does anybody need a pen? There's
3 a whole mess of pens over here, so you can write this
4 down. All right. All right. Raise your hand if you
5 still need a pen. All right.

6 Okay. I want you to write down, once you get
7 your pen, a couple things. I want you to make a column
8 with numbers on it. I want you to write down one. I
9 want you to write down 2(a). I want you to write down
10 2(b). I want you to write down 3(a). And I want you to
11 write down 3(c).

12 Now, 1, 2(a), and 3(a), I want you to write the
13 word for the defendant. Madam Foreperson, you've got
14 the ultimate cheat sheet right there. The right for the
15 defendant.

16 Now, for 2(a) -- excuse me, 2(b), I want you to
17 write this number down, \$4,424.75. And that number
18 represents the \$1144.75 that my client had to pay for a
19 forklift and shut down the side ramp. And he had to
20 offset, to keep his business running, without a breach
21 of the contract, because that second one is our claim
22 for breach of contract where they harassed us, shut down
23 our business, called the cops on us, all that stuff,
24 okay?

25 So that's the forklift. The \$3,000 security

1 deposit, that the judge told you we stipulated we never
2 got that back. Never gave it to us back. And \$280 for
3 the brick repair, because we all know we didn't cause
4 it. And we got it solid, we did it for them. They got
5 a benefit from that and we want our money back.

6 So I gave you those three sub numbers. As I told
7 y'all, I don't do math real well, so double check my
8 math and make sure that top line is 4424.75.

9 All right. 3(b), I'll tell you what I want you
10 to do for that one. I want you to write down one
11 dollar. And we also brought a counterclaim for unfair
12 trade practice violation. Now, ladies and gentlemen, in
13 a civil trial, yes, it was boring. Redundant, saying
14 everything over and over again. How many times did
15 somebody tell us about the dry boards? How many times
16 did we know that the asphalt was damaged? And it's
17 boring to hear.

18 But this is a fun one, okay? This is one where
19 you, in a civil setting, in a civil trial get to do real
20 justice. You get to do real justice to make our world,
21 our state, our county a better place, by sending a
22 message to this plaintiff, don't you ever, ever do this
23 again to your tenants. A trade practice -- and, again,
24 read the judge's instructions:

25 A trade practice or act is an unfair trade

1 practice or act if it offends, established by the
2 policy, whereas a moral, unethical, or oppressive. That
3 is the burden on us. The defendant must prove that the
4 Unfair Trade Practice Act, has an impact on the public's
5 interest. It most certainly does.

6 We cannot have commercial landlords in this great
7 state taking advantage of its tenants like this. This
8 may be shown by proof that the Unfair Trade Practice Act
9 is capable of repetition. If he can make fake invoices
10 against this tenant, that \$2700 that they didn't even
11 put in evidence, it's all in their deposition. Didn't
12 go up in this chart.

13 But his other company. His other company was
14 gonna hang the drywall and paint the, paint the walls.
15 He was gonna pay himself \$2700 and then go after him for
16 \$2700. He was gonna get inflated invoices for ductwork
17 that he didn't even do, to get his vendor to put the
18 number in for their invoice.

19 So this is your opportunity, ladies and
20 gentlemen, to do real justice. We don't want any money
21 for it. We want that one dollar. We want you to send a
22 message, don't you do this again.

23 I know there are several school teachers on this
24 panel, on this jury. And I think the operative word
25 these four days is bully. Don't let this bully leave

1 this courtroom without being chastened by you, the
2 sovereign jury of this county in this state. Send that
3 message, please. And for the love of God, don't give
4 him a dime.

5 And I'm gonna end on one note, and I appreciate
6 you all's time and you all's patience. You all have
7 been very attentive. I want to end with this. You
8 really do get to do some justice here. I want you to go
9 home, and here's what I want you to do. The judge is
10 gonna tell you on certain deliberations, he's gonna tell
11 you all to go back there, get to know each other a
12 little better. I think, but don't hold me to it because
13 I'm not in charge, go eat your lunch, okay? Get to know
14 each other. When y'all are done eating, get out your
15 cheat sheet, fill out that verdict form and let's go
16 home.

17 You can go tell your loved ones, your significant
18 others, your parents, your kids, your next door
19 neighbor, the person you see at the stoplight, hey, I
20 did justice today. I made this state and this county a
21 better place. All right? So I'm gonna leave and get
22 out of here with this. I'm gonna echo the judge's
23 admonition that second only to military service, that's
24 how important this duty is today.

25 And I wholeheartedly agree for two reasons. One,

1 it's my great privilege to serve ten years on active
2 duty military service. I went all around the world, to
3 doing the combat tour in Afghanistan. That's why that
4 was number one. We'll go over there so the chaos stays
5 over there and doesn't come home.

6 But like that oath I took, to defend this country
7 from all enemies foreign and domestic, we have domestic
8 enemies too. If we don't have civil trials like this,
9 where 12 dispassionate people go back in a room and
10 figure out what's right and what's wrong, then it's
11 trial by combat, Game of Throne's style. And that's why
12 what you're doing is so important.

13 Ladies and gentlemen, you have the opportunity to
14 do justice today. For the defendant, one, two, three,
15 give us our money back for the three or four things we
16 fixed and our security deposit we never got back. Send
17 that message. Don't ever, ever, ever do this again,
18 ever.

19 Thank you, Judge.

20 THE COURT: Any reply?

21 MR. DLUZNESKI: Very briefly, Your Honor.

22 THE COURT: Yes, sir.

23 REPLY CLOSING

24 BY MR. DLUZNESKI:

25 Ladies and gentlemen, Mr. White told you, you

1 have the opportunity to do justice today. You've sat
2 here in this courtroom now for four days. You've heard
3 the testimony, you've seen the evidence. You do have
4 the opportunity to make CREH whole for the damage that
5 Brilin Electric did while it was a tenant for three
6 years at its property. That's the justice that we're
7 asking you to give.

8 The purpose for civil jury trials in this
9 country, ladies and gentlemen, is to make, agree,
10 injure, harm, parties whole for their damages. And you
11 heard throughout this trial the damages that CREH
12 sustained at the hands of this defendant sitting right
13 here. And we would submit to you that justice in this
14 case is making the plaintiff whole for shouldering the
15 burden for the damages that the defendant caused. Thank
16 you.

17 THE COURT: Ladies and gentlemen, we've probably
18 got about ten more minutes. Is everybody okay? Okay.

19 JURY CHARGE

20 BY THE COURT:

21 All right. Then, ladies and gentlemen, it is now
22 my time to instruct you on the law that you will apply
23 in this case. Now, I remind you that during this trial
24 you and I have had certain duties to perform. And as
25 the trial judge, it is my responsibility to preside over

1 the trial of this case.

2 Now, I also have the duty to rule on the
3 admissibility of evidence that's been offered during
4 this trial. Ladies and gentlemen, as I've told you from
5 the very start, you are to consider only the evidence
6 that is before you and that has been presented during
7 the course of this trial.

8 There is -- if there has been testimony or is
9 stricken from the record in this trial, you must
10 disregard that testimony. You are to consider only the
11 testimony which has been presented from the witness
12 stand and any exhibits that has been presented and made
13 part of the record in this case. And, also, any
14 stipulations of counsel.

15 Now, I have the additional duty to charge you the
16 law applicable to this case. And it is your duty as
17 jurors to accept and apply the law as I now state it to
18 you. If you think you have any idea as to what the law
19 is or what the law ought to be, and it does not agree
20 with what I now tell you the law is, you must forget
21 that idea because you are sworn to accept the law and
22 apply the law exactly as I now state it to you.

23 In every case tried in this court before a jury,
24 the jury becomes the sole and exclusive judge of the
25 facts of the case. A trial judge cannot comment on or

1 make any statement about the facts in a case. Since you
2 are the sole judge of the facts, do not think by
3 anything that I have said during this trial that I have
4 any opinions about the facts in this case. The law does
5 not allow me to have an opinion about the facts in this
6 case.

7 The burden of proof in this case is by a
8 preponderance of the evidence. A preponderance of the
9 evidence simply means the greater weight of the
10 evidence. It is evidence, which as a whole, shows that
11 a fact sought to be proved is more likely true than not
12 true.

13 Now, this case can be illustrated by imagining a
14 set of scales. When the case begins, the scales are
15 even. After all the evidence has been presented, if the
16 scales remain even, or if they tip even slightly in
17 favor of the defendant, then the plaintiff has failed to
18 meet the burden of proof and would not be entitled to
19 recover in this case. If, on the other hand, the scales
20 tip even slightly in favor of the plaintiff, the
21 plaintiff will have met the burden of proof and you
22 should return a verdict for the plaintiff.

23 The preponderance of the evidence is not
24 determined by the number of witnesses. Instead, it must
25 be determined by the greater weight of all of the

1 evidence that has been presented in this case.

2 Ladies and gentlemen, there are two types of
3 evidence that's generally presented during the course of
4 a trial, direct evidence and circumstantial evidence.
5 Now, direct evidence is testimony of a person who claims
6 to have actual knowledge of a fact, such as an
7 eyewitness. It is evidence which immediately
8 establishes a main fact to be proved.

9 Circumstantial evidence is proof of a chain of
10 facts and circumstances indicating the existence of a
11 fact. It is evidence which immediately establishes
12 collateral facts from which the main fact may be
13 inferred.

14 Now, circumstantial evidence is based on
15 inference and not on personal knowledge or observation.
16 It is proof that does not actually establish the main
17 fact in question, but that asserts or describes
18 something else from which you may either reasonably
19 infer the truth of the fact or at least reasonably infer
20 an increase in the probability that the fact is true.

21 For circumstantial evidence to be sufficient to
22 warrant a finding of fact, the circumstances must lead
23 to that fact with reasonable certainty. Facts and
24 circumstances should be considered in light of ordinary
25 experience and common sense. And the existence of a

1 fact cannot be based on speculation, surmise, or
2 conjecture.

3 The law makes absolutely no distinction between
4 the weight or value given to either direct or
5 circumstantial evidence, nor is a greater degree of
6 certainty required of circumstantial evidence than of
7 direct evidence.

8 Now, ladies and gentlemen, necessarily, you must
9 determine the credibility of witnesses who have
10 testified in this case. Credibility simply means
11 believability. It becomes your duty as jurors to
12 evaluate and determine which evidence convinces you it
13 is true. In determining the believability of witnesses
14 who have testified in this case, you may believe one
15 witnesses -- I'm sorry -- one witness over several
16 witnesses or several witnesses over one. You may
17 believe part of a testimony of a witness and reject the
18 remaining part of a testimony of that same witness.

19 You may believe the testimony of a witness in its
20 entirety, or reject the testimony of a witness in its
21 entirety. You may consider whether the witness has an
22 interest in the result of the trial; whether the witness
23 is prejudiced towards either the plaintiff or the
24 defendant; the opportunity for the witness to have seen
25 the matters and things about which the witness may

1 testify; and the way the witness acted on the witness
2 stand.

3 Ladies and gentlemen, the rules of evidence
4 ordinarily do not permit witnesses to testify to
5 opinions or conclusions. An exception to the rule
6 exists for witnesses we call expert witnesses. A
7 witness who, by education or experience, has become
8 expert in some art, science, or profession may give an
9 opinion as to the subject the witness claims to be an
10 expert in, and may also give the reasons for the
11 opinion.

12 You should consider any expert opinion given by a
13 witness. And, like any other evidence, give it the
14 weight you think it deserves. If you decide an expert
15 witness's opinion is not based on sufficient education
16 and experience, or if you decide that the reasons given
17 in support of the opinion are not sound, or that the
18 opinion is outweighed by other evidence, you may
19 disregard the opinion entirely.

20 An expert witness's testimony is to be given no
21 greater weight than that of other witnesses simply
22 because the witness is an expert. And you do not have
23 to accept an expert's opinion even though it is -- even
24 though it is uncontradicted.

25 Ladies and gentlemen, in this case, the plaintiff

1 claims that the defendant breached a contract that
2 existed between the parties. In order to recover for a
3 breach of contract, the plaintiff must prove the claim
4 by preponderance of the evidence or greater weight of
5 the evidence.

6 First -- the first thing that the plaintiff must
7 prove by preponderance or greater weight of the evidence
8 is that the parties entered into a binding contract. A
9 contract is an agreement entered into by two or more
10 parties in which each party agrees to perform or not to
11 perform certain acts. It may be shown by words, written
12 or oral, or by conduct. However, a contract is more
13 than the mere exchange of promises.

14 For the agreement to be considered a contract,
15 the parties must have intended to enter into a contract
16 and must have reached a mutual understanding of the
17 terms of that contract. This is sometimes called a
18 meeting of the minds. The parties must intend to be
19 mutually bound by the agreement.

20 Next, the plaintiff must show by preponderance or
21 greater weight of the evidence that the defendant
22 unjustifiably breached the contract. The word breach
23 means the failure without legal excuse to perform any
24 promise that forms the whole or part of the contract.

25 Now, this includes the refusal of a party to

1 recognize the existence of the contract or the doing of
2 something inconsistent with the existence of the
3 contract. A party breaches a contract when that party
4 does not perform as agreed under the contract by failing
5 to carry out a term, promise, or condition of the
6 contract.

7 Finally, the plaintiff must prove by
8 preponderance or greater weight of the evidence that
9 plaintiff suffered damages which were proximately caused
10 by the defendant's breach of contract. Proximate cause
11 requires proof of both causation in fact and legal
12 causation.

13 Causation in fact is proved by establishing that
14 the claimed property damage would not have occurred but
15 for the alleged contract's breach. Legal cause is
16 proved by establishing foreseeability. For an act to be
17 a proximate cause of the alleged property damage, the
18 property damage must be a foreseeable consequence of the
19 alleged contract's breach.

20 The plaintiff must prove damages by a
21 preponderance or greater weight of the evidence. This
22 does not mean that the plaintiff must prove damages of a
23 mathematical certainty, or produce evidence of the exact
24 amount of damages suffered. However, the amount of
25 damages cannot be left to guesswork or speculation.

1 Instead, the evidence presented by the plaintiff must be
2 enough to allow you to determine the amount of damages
3 with reasonable certainty and accuracy.

4 Damages for breach of contract are those that may
5 fairly and reasonably be considered to arise naturally
6 from the breach of the contract itself, or those that
7 may be reasonable supposed to have been in the minds of
8 the parties at the time the contract was made.

9 The plaintiff may not recover damages for breach
10 of contract, unless the plaintiff shows that it has
11 performed its part of the contract or at least was able,
12 ready, and willing to perform at the appropriate time.

13 Members of the jury, I charge you that the
14 plaintiff has the duty to minimize the damages caused by
15 the defendant's breach of contract. The test is whether
16 the plaintiff has done what an ordinarily prudent person
17 would have done under like circumstances.

18 If the plaintiff has used reasonable care to
19 reduce -- has used reasonable care to reduce the losses,
20 the plaintiff may recover the full amount. If the
21 plaintiff has not done so, then you would reduce the
22 damages accordingly.

23 Ladies and gentlemen, I charge you that there
24 exists in every contract an unspoken, but legally
25 enforceable promise of good faith and fair dealing. The

1 defendant claims that even if there was a breach of
2 contract, the plaintiff, by his actions, after the
3 alleged breach, waived his right to enforce the
4 contract.

5 A default in the performance of a contract may be
6 waived. Although intent is necessary to effect a waiver
7 of a breach of contract, it need not be shown by direct
8 evidence. The waiver of a breach of contract may be
9 shown by an act which is so inconsistent with an intent
10 to enforce the right which arises upon the breach as a
11 reasonable -- as reasonable to induce a belief that the
12 right has been relinquished. If you find the defendant
13 has proved the plaintiff acted in such a way as to waive
14 his rights to enforce the breach of contract, then your
15 verdict must be for the defendant on this issue.

16 Now, members of the jury, I charge you that the
17 defendant has brought counterclaims against the
18 plaintiff. This means that the defendant not only
19 denied it breached the contract, but also says that the
20 plaintiff breached the contract and that the defendant
21 should be compensated by the plaintiff. The defendant
22 has the burden of proving any counterclaim by the
23 preponderance or greater weight of the evidence in the
24 same manner that the plaintiff must prove its case
25 against the defendant.

1 The defendant claims that the plaintiff committed
2 unfair trade practices. A trade practice or act is an
3 unfair practice or act if it offends established public
4 policy or is immoral, unethical or oppressive. This
5 does not include acts, practices, or representations
6 that are nothing more than dealer talk or what is called
7 puffing.

8 The defendant must prove that the defendant
9 suffered actual damages as a result of the plaintiff's
10 unfair trade practice or act. In addition, the
11 defendant must prove that the unfair trade practice or
12 act affected persons other than the parties to the
13 transaction. The defendant must prove that the unfair
14 trade practice or act has an impact on the public's
15 interest. This may be shown by proof that the unfair
16 trade practice or act is capable of repetition.

17 The act or practice complained of must be unfair
18 or deceptive. Whether an act or practice is unfair or
19 deceptive within the meaning of the act depends upon the
20 surrounding facts and the impact of the transaction on
21 the market place. It need not be based on a binding
22 contract. Where a contract exists, a mere breach of the
23 contract is not conduct which violates the South
24 Carolina Unfair Trade Practices Act.

25 Now, Madam Forelady, ladies and gentlemen, I have

1 prepared for you a verdict form to be used back in the
2 jury room. I have prepared it in such a way that you
3 will address first, the plaintiff's cause of action.
4 You will then, Madam Forelady, if you would, you can --
5 Madam Forelady, you can lay that up there on the
6 counter. Thank you. That is not a part of the evidence
7 in this case.

8 Madam Forelady, I have prepared this verdict form
9 for you. You will consider it as I have prepared it
10 here. You can first consider the plaintiff's breach of
11 contract against the defendant, and then you will decide
12 if the plaintiff has been successful in establishing his
13 case by a preponderance of the evidence. If so, then
14 you will enter it appropriately. And then also, in the
15 event they have established their damages, actual
16 damages by a preponderance of the evidence, then you
17 would enter that. If you feel like plaintiff has not,
18 then you will enter it for the defendant.

19 Then you address the defendant's counterclaims
20 that deal with the breach of the contract in the same
21 manner that I just addressed the plaintiff's claim. On
22 the counterclaims, the defendant has the burden of proof
23 establishing the counterclaims by preponderance of the
24 evidence. You make a determination whether that has
25 been accomplished by the defendant. And if so, has the

1 defendant established damages by preponderance of the
2 evidence and complete the form.

3 The third item on the verdict form that I
4 prepared, deals with the Unfair Trade Practices Act.
5 And then again, defendant has the burden of proof as to
6 that counterclaim. If the defendant has met its burden
7 of proof, then you would enter it for the defendant. If
8 the defendant has not, then you enter the third cause of
9 action in favor of the plaintiff. If the defendant has
10 met the -- its burden of proof, then you also would make
11 a determination of actual damages in accordance with
12 whether the defendant has met that burden of
13 establishing actual damages by preponderance of the
14 evidence.

15 Now, Madam Clerk [sic], the jury's decision has
16 to be unanimous All 12 members must agree. If by chance
17 during your deliberation at some point, one of the
18 members of the jury has to go to the restroom, make a
19 telephone call or something, your deliberations need to
20 stop. And those deliberations will begin only when all
21 12 members have returned back to the jury deliberation
22 room.

23 Now, Madam Forelady, not only must your decision
24 or the jury's decision must be unanimous, it cannot be
25 based on -- the verdict cannot be based on sympathy,

1 passion, speculation, prejudice, emotion, or any other
2 consideration that has not been presented as evidence in
3 this case.

4 Madam Forelady, one more important thing. Once
5 the jury has concluded its work and you've addressed and
6 you've completed the verdict form, you need to let us
7 know. Now, I had a jury one time, I forgot to say that
8 you've got to let us know, and they sat back there for
9 hours and we became worried about what's going on. So
10 we sent somebody back there and they said, well, Judge,
11 you didn't tell us what to do once you finish the form.
12 Once you finish the form, let us know and we will come
13 get you and bring you back into the courtroom.

14 I'm gonna let you retire back to the jury
15 deliberation room in just a moment. Your lunch should
16 be getting here. Once it gets here, you can go ahead
17 and eat. Do not begin your deliberations, though, until
18 the bailiff has brought you the verdict form that I have
19 prepared for you, and then also the official evidence
20 that will be presented to you as part of the record,
21 because there's still those things I've got to address
22 with the lawyers, it's called matters of law. I've
23 gotta do those before you begin your deliberations.

24 But I want to thank you for your time and
25 attention while we went through the arguments and the

1 instruction on the law. You can leave those notebooks
2 in the chair, and we will get you back just shortly, or
3 we will let you begin your deliberations just shortly.
4 You can take those with you. Pens are okay.

5 (Jury leaves courtroom at 11:53 a.m.)

6 Any exceptions to the charge from the plaintiff?

7 MR. DLUZNESKI: No, Your Honor.

8 THE COURT: Any from the defendant?

9 MR. WHITE: No, Your Honor.

10 THE COURT: All right. Gentlemen, this is the
11 verdict form. Be sure that -- do y'all have -- gonna
12 send one official notebook back?

13 MR. WHITE: Yes, Your Honor. And I think there's
14 one over there.

15 THE COURT: And then, do I recall correctly,
16 there are no other exhibits besides what's in the
17 notebook?

18 MR. WHITE: That's correct, Your Honor.

19 THE COURT: Okay. Mr. Bailiff, do you want to
20 take this? Now, we have an alternate. Yeah, make the
21 lawyers, get them to agree as to what we do with the
22 alternate. I can either have the alternate held in
23 another place in the event that something happens during
24 the deliberations and we have less than 12, such as a
25 juror has an emergency. Or y'all can agree in advance

1 that if we had an emergency and one of them had to
2 leave, that we would go less than 12. Do y'all want to
3 talk about it?

4 MR. DLUZNESKI: Your Honor, we would prefer to
5 have 12, so...

6 THE COURT: Okay, that's fine. We've got his
7 lunch coming anyway. All right. If you could take the
8 alternate. Let's see, that is Mr. -- that is juror
9 number 64, Mr. Gonzales, can you put him somewhere else?

10 THE BAILIFF: Yes, sir.

11 THE COURT: Yeah. Put Mr. Gonzales somewhere
12 else, and then once his lunch arrives, give him his
13 lunch. You can take that verdict form back to the jury,
14 and you can tell them they can go ahead and begin their
15 deliberations.

16 Yeah, do you have a book? Don't give them that
17 Court exhibit, though.

18 MR. DLUZNESKI: That doesn't include your
19 discovery responses?

20 MR. WHITE: No. I have that right here.

21 THE COURT: It should not include the discovery
22 responses. That's gonna be brought back.

23 (Inaudible.)

24 THE COURT: Yeah, that does not go.

25 THE BAILIFF: (Inaudible.)

1 THE COURT: They may begin. Just put the
2 alternate somewhere else.

3 (Unidentified people talking, inaudible.)

4 THE COURT: I usually let them ask. All right.
5 Anything else before I step down?

6 MR. DLUZNESKI: No, Your Honor.

7 MR. WHITE: No, Your Honor.

8 THE COURT: All right. May I see the lawyers for
9 a moment?

10 (A recess was had from 11:56 p.m. - 12:12 p.m.)

11 (Madam Forelady enters courtroom at 12:12 p.m.)

12 THE COURT: All right. Let's come to order. All
13 right. Madam Forelady, thank you very much for the
14 note. I'm gonna respond to it this way. I do not
15 provide written copies of my charges to the jury. There
16 are a lot of different reasons, while I'm not trying to
17 hide anything from the jury. But I do not -- my
18 practice is not to give a copy of my -- a written copy
19 of my charges to the jury, but if there comes a time
20 during the jury's deliberation that they feel a
21 particular section or multiple sections they'd like to
22 be recharged on, we'll bring all of the jury back out
23 here and I will recharge them. Okay? Thank you very
24 much.

25 MADAM FORELADY: I appreciate it.

1 THE COURT: Yes, ma'am.

2 (Madam Forelady leaves courtroom at 12:13 p.m.)

3 All right. I'm gonna make this note a Court's
4 exhibit to the record.

5 (Inaudible, unknown person speaking.)

6 (Court's Exhibit Number 2, Jury Note, was marked
7 for identification.)

8 (Court's Exhibit Number 2 was entered into the
9 record.)

10 THE COURT: All right. We'll step down. Thank
11 you very much.

12 MR. DLUZNESKI: Thank you, Your Honor.

13 (A recess was had from 12:14 p.m. - 2:11 p.m.)

14 THE COURT: Anything before we bring the jury in
15 from the plaintiff or defendant?

16 MR. DLUZNESKI: No, Your Honor.

17 MR. WHITE: No, Your Honor.

18 THE COURT: All right. Let's bring them in.

19 (Jury enters the courtroom at 2:12 p.m.)

20 THE COURT: Madam Forelady, I understand the
21 jury's reached a verdict, is that correct?

22 MADAM FORELADY: Yes.

23 THE COURT: If you will, give the verdict form to
24 the bailiff and he will give it to me. Thank you. All
25 right. Please publish the verdict.

1 VERDICT

2 THE CLERK: In the state of South Carolina,
3 County of York, in the court of Common Pleas, Sixteenth
4 Judicial Circuit, in the case 2020-CP-46-01145, Carolina
5 Real Estate Holdings, LLC versus Brilin Electric, LLC
6 and W&L Services, LLC. Number one, as to the
7 plaintiff's claim of breach of contract against the
8 defendant, we unanimously find for the plaintiff and
9 award \$10,513.88 in actual damages.

10 Number two, as to the defendant's counterclaim of
11 breach of contract against the plaintiff we unanimously
12 find for the defendant and award \$4,424.74.

13 Number three, as to the defendant's counterclaim
14 of violation of the Unfair Trade Practice Act, we
15 unanimously find for the defendant an award of
16 \$6,089.13. Signed this date -- sorry. Signed July
17 21st, 2022, by Foreperson Kay L. McKnight.

18 Ladies and gentlemen, if this is your verdict,
19 please indicate by raising your right hand. Let the
20 record reflect all jurors affirm the verdict.

21 THE COURT: Thank you very much, Madam Clerk.
22 Anything from the plaintiff or the defendant before I
23 dismiss the jury?

24 MR. DLUZNESKI: Nothing from the plaintiff, Your
25 Honor.

1 MR. WHITE: Not from the defendant, Your Honor.

2 THE COURT: Madam Forelady, ladies and gentlemen
3 of the jury, I, with great amount of sincerity, I wanted
4 to extend my appreciation for your service. I'm sure
5 the parties and the attorneys and all the court staff
6 join with our appreciation for your service.

7 As I told you downstairs, I've been doing this
8 job for several years, I consider this job to be
9 extremely important because I've learned that the
10 service of jurors in this process that we, that we call
11 the judicial system is vital to our country's democracy.
12 It is often overlooked. It's often forgotten about.
13 Jury service is often put in some back place in
14 somebody's mind. It's like, oh, jury service, I'll try
15 to get out of that. Oh, jury service, oh, yeah, I got
16 called once ten years ago. What you've done this week,
17 though, is what citizens are required to do in every
18 city and every state all over this country to make our
19 democracy work on a, on an almost daily basis.

20 I mean, sure, people go vote, sometimes they
21 choose to run for office, but very few people do that.
22 But jury service is where the actual, the power of the
23 citizens come to bear. And being able to decide
24 disputes between these parties or any parties, as well
25 as in criminal court. It is a remarkable process that

1 we have and I thank you for your services and your
2 sacrifices.

3 I'm gonna dismiss you for the week. We have
4 concluded all cases. I do want you to know we did have
5 a lot of other cases, but we were able to work them out,
6 so you got to handle the case we had this week. I've
7 instructed you not to have any discussions with anyone.
8 Well, now you can talk as much as you want to.

9 But, if you get approached by people and you feel
10 like being approached and they're talking to you about
11 this case, you feel like it's beginning to be harassing,
12 contact the clerk of court or the sheriff's office and
13 we'll see to it that that type of contact or harassment
14 ceases.

15 But thank y'all very much. You may go with the
16 bailiff. And you may thank the alternate for his
17 service and excuse him as well.

18 (Jury exits courtroom at 2:17 p.m.)

19 THE COURT: Anything before I step down?

20 MR. DLUZNESKI: Nothing from the plaintiff, Your
21 Honor.

22 MR. WHITE: Your Honor, we will be making a
23 post-trial motion for attorney's fees. We can take that
24 up at another time, Your Honor.

25 THE COURT: Well, you have to ask permission,

1 because when I leave here my jurisdiction ends. So if
2 you haven't retained my jurisdiction...

3 MR. WHITE: I'd like your permission, Your Honor,
4 to make a post-trial motion for attorney's fees. I'd
5 like to treble the verdict on the second counterclaim as
6 well. And we would like to do it at a later time. You
7 said we could put all evidence for the attorney's fees
8 in an affidavit and hand it in to Your Honor.

9 THE COURT: All right. Why don't you file -- any
10 objection to waiting ten days to receive the motions?

11 MR. DLUZNESKI: Your Honor, I would ask for a
12 little bit more time since I'm gonna be out of town and
13 off grid all week next week. So I would ask the Court's
14 indulgence for a bit more time to return to the office
15 and get my bearings in order to do that.

16 MR. WHITE: We have no objection, Your Honor.

17 THE COURT: All right. How much time do y'all
18 need? What would be reasonable?

19 MR. DLUZNESKI: If the Court would allow it, Your
20 Honor -- and we would also -- we also intend to file one
21 or more post-trial motions in this case. I would ask
22 the Court for sometime during the week of August 15th,
23 if the Court would extend the deadline for this.

24 THE COURT: Okay, yeah. Is that agreeable?

25 MR. WHITE: No objection.

1 THE COURT: Okay. I mean, I'm looking at August
2 15th, not as the date of doing the hearing, but for the
3 date of receiving the motions.

4 MR. DLUZNESKI: Could we make the deadline for
5 filing post-trial motions Wednesday, August 17th? Would
6 that be too far out?

7 MR. WHITE: No objection, Your Honor.

8 THE COURT: Okay. Well, August 17th, Wednesday
9 by 5 o'clock, y'all can file them. Anything else before
10 I step down?

11 MR. WHITE: No, Your Honor.

12 MR. DLUZNESKI: No, Your Honor.

13 THE COURT: All right. See the lawyers in the
14 back before you leave.

15 (Trial concluded at 2:19 p.m.)

16

17 --- THIS ENDS REQUESTED TRANSCRIPT ---

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1 COURT REPORTER CERTIFICATE

2
3 I, the undersigned Julie A. Cendroski, Court
4 Reporter for the Seventh Judicial Circuit Court of the
5 State of South Carolina, do hereby certify that to the
6 best of my ability from the digital recording of the
7 Digital Court Reporter Program, the foregoing is a true,
8 accurate, and complete transcript of record so far as
9 through the quality of the audio recording of all the
10 proceedings and evidence introduced in the hearing
11 and/or trial of the captioned case, relative to appeal,
12 in the court of COMMON PLEAS for York County, South
13 Carolina, on the days of July 18th - 21st, 2022.

14 I do further certify that I am neither of kin,
15 counsel, nor interest to any party hereto. This was
16 transcribed from the Digital Court Reporter Program.
17
18
19
20

21 s/Julie A Cendroski
22 Julie A. Cendroski
23 Circuit Court Reporter III
24 Seventh Judicial Circuit
25

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EXHIBITS

MARKED ENTERED

NO EXHIBITS PROFFERED

1 CAROLINA REAL ESTATE HOLDINGS VS. BRILIN ELECTRIC

2 THE COURT: Hopefully we will not -- we will not
3 be doing this when you all visit me in the new building
4 in about 12 months. We're supposed to be there in about
5 12 months and two weeks, so hopefully it will get done,
6 because this building has seen it's better days. But
7 thank you all for coming to Spartanburg.

8 All right. I've got that we're here on the
9 post-trial motions that have been filed, both by the
10 plaintiff and the defendant. Let's see. What I'll do
11 is, I usually take the motions like this by order of the
12 filing, and I believe the defendant's filed theirs
13 first. You know, logically, it might be better to hear
14 from the plaintiff first. I believe I want to hear from
15 the defendant first and take their arguments.

16 I know we've got motions going both ways, so
17 normally what I'll do is I'll let the party argue their
18 positions, as they're the party that has the burden of
19 persuasion. Let the other person reply, and we'll close
20 with a response from the party that's moving. But since
21 we've got motions both ways, we'll try to stick to that
22 plan, but we'll deviate towards the end and just let
23 y'all do close back and forth until finally we've killed
24 the horse.

25 So, with that being said, Mr. White, I believe

1 you've got three motions; is that correct?

2 MR. WHITE: Sort of.

3 THE COURT: You've got the defendant's motion for
4 treble damages and attorneys' fees. And then you've got
5 the -- well, you've got the motion for treble damages
6 and you've got the issue for attorneys' fees, correct?

7 MR. WHITE: Correct. Three issues, sort of two
8 motions.

9 THE COURT: All right.

10 MR. WHITE: And, Your Honor, I will be
11 referencing some of the trial exhibits. I've brought
12 some of the notebooks, if you don't have them.

13 THE COURT: I have your notebook left over from
14 the trial.

15 MR. WHITE: I've got an extra one if your clerk
16 -- may I approach, Your Honor?

17 THE COURT: Yes, sir.

18 MR. WHITE: If he would like to follow along too.

19 THE COURT: Thank you.

20 MR. WHITE: I'm ready when you are, Your Honor.

21 THE COURT: Yes, sir.

22 MR. WHITE: All right. Well, I will try not to
23 -- obviously you got our written submission.

24 THE COURT: I did.

25 MR. WHITE: So I won't belabor any of that. Just

1 to kind of highlight, as you know, I -- we had -- I
2 would argue that we prevailed on our counterclaim for
3 breach of contract that we asked for and received every
4 penny that we asked the jury to award. So I want to
5 correct something at the outset that was in my opposing
6 counsel's briefing papers, that there was a -- and this
7 is kind of almost a rebuttal, if you will, to his, I
8 think his last motion, with respect to the excessive
9 reward, that were -- was a \$280 excess in what the
10 Motion for Remittitur that the jury awarded, and that's
11 simply not true.

12 That \$280 was the amount of money that our client
13 spent making the brick repairs, so that was the \$280 we
14 asked for. We asked for our security deposit back for
15 the \$3,000. And then the \$1100 and change, 1144 and
16 change that we had to get the, get the forklift from.
17 So they literally gave us every penny we asked for, for
18 our breach of contract counterclaim. So I do want to
19 make that very clear, Your Honor.

20 Obviously the jury found that we presented
21 sufficient argument that there was no possible way that
22 we were responsible for that under any theory of
23 liability, breach of contract, negligence, or otherwise.
24 As a matter of fact, there are witnesses, I'm sure
25 you'll recall, testified that, you know, probably

1 something in the way that they built that building, and
2 there 'was some sort of settlement or subsidence or
3 something like that.

4 And that's probably what caused it, as evidenced
5 by the fact that after it was replaced two years ago,
6 that same issue seems to be appearing once again and
7 there's no evidence that anybody ever hit it since we
8 repaired it. So, so we 100 percent prevailed on our
9 breach of contract counterclaim.

10 And I would argue that we absolutely prevailed on
11 our South Carolina Unfair Trade Practices Act as well.
12 And I do want to spend a little bit more time on this,
13 Your Honor, because we did take a unique approach in our
14 closing argument, which I think is going to be used
15 against me. It certainly was in the briefing papers.
16 And I'll explain why we did that, because it probably
17 wasn't readily apparent. But there was a tactical
18 reason for that and I would say ---

19 THE COURT: Does your reply make you, even if
20 your technical strategy worked, does that make you
21 prevailing when they only gave you a dollar?

22 MR. WHITE: I believe -- I would say so, Your
23 Honor. I do believe it does. But what I want to
24 emphasize is closing argument is not evidence. And we
25 certainly presented evidence that there were unfair

1 trade practices, numerous unfair trade practices in
2 terms of the, the fake invoices and things like that.

3 THE COURT: All right. Let me rephrase my
4 statement.

5 MR. WHITE: Sure.

6 THE COURT: If the -- the elephant in the room if
7 you're striving for a trade practices claim is that you
8 argued for a dollar.

9 MR. WHITE: Yes, Your Honor.

10 THE COURT: And they gave you money for it.

11 MR. WHITE: They did give us money.

12 THE COURT: But that's the elephant you need to
13 address with me.

14 MR. WHITE: And I'm about to address that, Your
15 Honor.

16 THE COURT: Okay. Look forward to hearing it.

17 MR. WHITE: My thinking was, because I think one
18 of the main damages, and we certainly presented evidence
19 of this, and we presented it primarily through the
20 testimony of Mr. Brian Russell, is the fact that this is
21 where I'll turn you to Defense Exhibit 14 in the binder.
22 And that's the, kind of 20-plus page exchange that
23 happened primarily between me and opposing counsel.

24 And I would emphasize, Your Honor, that at this
25 point this is -- first of all, none of this is 408

1 protective, obviously. If it were, you wouldn't have
2 let it in. This was us doing punch list item work. And
3 it was -- we were doing punch list item work because
4 that's exactly the terms that were dictated to us by
5 plaintiff and plaintiff's counsel.

6 Any communications with respect to any repairs
7 that were gonna be made, had to be made through
8 communications through the attorneys. So, Your Honor, I
9 find myself talking to an asphalt contractor. I talked
10 -- I found myself talking to all these various other
11 contract -- the land, the door guy, to get the garage
12 doors replaced.

13 And so I'm doing all this work, not really in the
14 capacity as an attorney, but work that anybody could
15 have done, but was being dictated by the fact that these
16 communications, once I had that information, it made --
17 I had to be the one, as the attorney, to relay it to
18 plaintiff's counsel, because that's the terms that were
19 dictated.

20 It was quite unusual, Your Honor, the fact that
21 before the lease even ended, the -- my client, the
22 tenant was getting sued for, for these supposed breaches
23 of the lease, and not even giving us the opportunity to
24 do the standard stuff that happens in a commercial lease
25 when the tenant's exiting the premises, which is, okay,

1 let's, let's figure out what we need to do to get this
2 the way it needs to be so it's -- we can move out and
3 you can give us our security deposit back, and you can
4 rent it out to the next perspective tenant.

5 And none of that requires attorneys to do. None
6 of it. And so I found myself almost being like a, sort
7 of like a general contractor/project manager for, for my
8 client. And so, obviously I'm billing my client for
9 that because it's my time. So we incurred those
10 damages. And, in fact, at one point in response to a
11 question on cross-examination it was like, yeah, I've
12 got invoices sitting in my inbox. And so, things like
13 that.

14 And so, I made a tactical decision, because even
15 though it was kind of project manager type things and
16 not really true, like, legal expenses, but because we're
17 entitled to attorneys' fees is simply ask for a dollar
18 and then ask for attorneys' fees as a prevailing party,
19 per the lease provisions in a prevailing party under
20 the, under the UTPA. So that was a tactical decision I
21 made in, in our argument, but it doesn't negate the fact
22 that we presented overwhelming evidence of, basically,
23 unfair trade practices.

24 And, as you know, Your Honor, you denied a Motion
25 for Direct Verdict on that. Said, look there's

1 evidence. Don't know, you know, I'll paraphrase what
2 you said, but not sure he's going to get there with this
3 jury at the end of the day, but if there's enough for it
4 to go to the jury, then that's certainly nothing about
5 my argument should, should negate the fact that evidence
6 was presented that met those elements.

7 And then the jury was quite unique. And then one
8 thing they obviously, that I did say resonated with
9 them, Your Honor, was, look, your -- y'all -- your --
10 what's unique about this case is it's not just a
11 run-of-the-mill landlord tenant case where somebody
12 didn't do what they were supposed to do under the
13 contract.

14 Plaintiff, in his actions, went above and beyond
15 that by manufacturing fraudulent invoices, harassing the
16 tenants, employees constantly. You heard that testimony
17 that is, that is the property manager was there all the
18 time, taking pictures, making the female employees very
19 uncomfortable. I mean, none of that falls under the
20 scope of a, of a contract in any way.

21 So we presented overwhelming evidence in that
22 regard. And I said to that jury, look, this is one of
23 those unique cases in the context of a civil action
24 where you actually get to do a wheel of justice. And
25 the justice you get to do here is to send a message to

1 the plaintiff in this case, the principal of that
2 plaintiff, don't ever do this again. Don't ever do this
3 to the tenant that takes over this space, or takes over
4 any other spaces in any of your properties. And you
5 heard him say he's got a whole bunch of properties all
6 over South Carolina.

7 Send that message. And the way you can do that,
8 one, I was telling them, you know, give them nothing on
9 their breach of contract claim, give us what we're
10 asking for on our breach of contract claim, and find
11 that he committed an unfair trade practice.

12 And they, they did that, but they did it in a
13 unique way in terms of the money in that they said,
14 okay, I mean, I think I can -- I think we can all agree
15 to this. What the jury says, look, at the end of the
16 day, my client did bang up the wall and should pay for
17 that. But -- and then plaintiff should give them their
18 security deposit back and money for the forklift they
19 had to rent when they shut him down and the brick money.

20 And we are gonna send that message. We're gonna
21 send that message to don't do this again by awarding the
22 amount of money they did in the Unfair Trade Practices
23 claim. And that's how they did it. They didn't do it
24 the way I asked them to, but they certainly did it.

25 And so that leads me right into the prevailing

1 parties piece under the contract terms, and then I'll
2 wrap this up, Your Honor.

3 THE COURT: Before you move from unfair trade
4 practices --

5 MR. WHITE: Yes, Your Honor.

6 THE COURT: -- if you're good, I've got a
7 question.

8 MR. WHITE: Okay. Let's say you look at the
9 unfair trade practices claim, you argued what you
10 argued. You argued give us a dollar. They didn't give
11 you a dollar, they gave you \$6,890 -- 89.13; is that
12 correct?

13 MR. WHITE: Yes, Your Honor.

14 THE COURT: Okay. Where did the eight -- where
15 did the \$6,089.13 come from, other than what is the
16 other elephant in the room from me, is that they gave
17 you the same amount of money that they gave the
18 plaintiff?

19 MR. WHITE: I think that's -- I think that's the
20 answer, Your Honor, is they took the ten, minus the
21 four, got the six and that's where they -- and they said
22 that's how we're gonna send a message. That's how we're
23 gonna send the message. I think, you know, Lord knows
24 I spent more than \$6,000 in costs on dealing --

25 THE COURT: But is that ---

1 MR. WHITE: -- with this stuff.

2 THE COURT: But is that an unfair trade practices
3 calculation that's proper?

4 MR. WHITE: I would -- I think, I think, I think
5 it's proper, Your Honor, absolutely. I think it's ---

6 THE COURT: Then how can you support \$6,089.13 in
7 unfair trade practices damages?

8 MR. WHITE: Because I think the way the jury
9 looked at it, Your Honor, is that basically when they
10 gave the order of \$10,000-and change to the plaintiff,
11 that in turn damaged the defendant because the defendant
12 would have to pay that out. And they wanted to send
13 that message, said you're not getting a dime, because
14 what you should have done in this case is you should
15 have just worked this out.

16 You shouldn't have sued your tenant, and then you
17 would have got your wall paid for and we'd all move on
18 and wouldn't have a full-blown trial two years later
19 over something that's simple and uncomplicated, as this
20 case really was at the end of the day.

21 THE COURT: Well, that's a very good summary on
22 my feelings on the case in trying to get y'all to settle
23 the case. But we're talking about a jury verdict where
24 they came out and they awarded an unfair trade practices
25 damages \$6,089.13, in which I'm being asked then to

1 treble and I'm being asked to consider the award --
2 being asked to award attorney fees that are related to
3 the unfair trade practices and damages.

4 MR. WHITE: Yes, Your Honor.

5 THE COURT: So I'm trying to get my head around,
6 if I agree, if I agree with you, that the unfair trade
7 practice verdict stands. I'm trying to get my head
8 around, okay, there's got to be some relationship to the
9 amount of damages that were awarded and to what you
10 actually presented to the jury to come up with this
11 unfair trade practice, the amount that they came up
12 with.

13 The elephant in the room, an undeniable logical
14 link is that the monetary amount that they awarded in
15 unfair trade practices damage to your client, added to
16 what they awarded your client equals 100 percent to the
17 penny the amount of money that they gave the plaintiff.
18 But I do not believe that that is a correct calculation
19 of unfair trade practice standards that the jury can do.
20 I think you've got to have established by evidence,
21 proof before this jury that your client suffered \$6,800
22 -- \$6,800.13 [sic] for damages that are unfair trade
23 practices damages. Can you justify that?

24 MR. WHITE: I can't give you to that specific
25 amount, Your Honor, but I think -- I think what they

1 were doing is like that is the delta between the two,
2 what they awarded on their contract, breach of contract
3 claim with us. And I think that's what they were trying
4 to do is say, you know, basically those are -- by filing
5 this lawsuit you caused damages, but it's almost like
6 the award caused the damages, if you will. And so they
7 were negating that.

8 So they gave and they took away, you know? They
9 gave with the one hand and took with the other, and so
10 that's where they came up with the number, I think. So,
11 I think, I think that was entirely appropriate thing for
12 them to do, particularly in these facts and
13 circumstances of this case, so...

14 THE COURT: I'm not gonna -- and if that's your
15 position, that is your position. I'm not gonna say.
16 And I'm trying to analyze it the way in a very
17 legalistic compartmental way that I'm supposed to do.
18 But if that's your position, I'm not gonna say you're --
19 the position you just articulated is not supported by
20 what is the neon lights that this jury here was sending
21 when they came out with equal verdicts to both sides.
22 I'm not gonna say your argument is not correct, but I'm
23 just wanting to in the way that I, I believe I've got to
24 compartmentalize the unfair trade practices claim
25 separate as to how -- to the extent it can be separate,

1 from what your client was awarded otherwise. And also
2 what the plaintiff was ---

3 MR. WHITE: Right, Your Honor. And that, what
4 you just said, because there is the neon lights signal
5 that they set and there's the legalistic way that, you
6 know, with the UTPA claim, which that's exactly why I
7 asked for a dollar, because I didn't want to go down
8 that rat hole with a jury. I just wanted them to find
9 that there was an Unfair Trade Practice Act, that to
10 send that message and that we would ask for our
11 attorneys' fees under both that act and under, under our
12 preventative parties theory.

13 What I much rather they had done when I did, hey,
14 y'all, you all do this for this one, this for this one,
15 this for this one, and not given them a dime on their
16 breach of contract claim? Absolutely, it would be a
17 lot. I would have preferred that, but I think, I think
18 it's a distinction without a difference at the end of
19 the day. They could do what they did and they did what
20 they did for all the right reasons, so...

21 THE COURT: May I ask another question?

22 MR. WHITE: Yes, Your Honor.

23 THE COURT: Okay.

24 MR. WHITE: Ask away.

25 THE COURT: All right. So let's take that as

1 being your position on the unfair trade practices actual
2 damages amount. All right. Under the statute, Unfair
3 Trade Practice Statute, my understanding is that there
4 is the word must award or shall award treble damages.

5 MR. WHITE: Yes, Your Honor.

6 THE COURT: And shall award attorney fees. Both
7 of those are mandatory?

8 MR. WHITE: That is how I read that, Your Honor.
9 That as a matter of law, thou shalt treble, like there
10 is no discretion in your regard in terms of trebling the
11 award. Liberty Mutual Insurance Company 176 S.C. 2d
12 510, at 531 says: SCUFTA mandates that a court award
13 attorneys fees and costs to a successful party. Upon
14 the finding by the court of a violation article, the
15 court shall award to a person bringing such action under
16 this section reasonable attorney's fees and costs.

17 And that actually the word shall was emphasized
18 in that opinion and it was quoting directly from
19 39-5-140(a).

20 THE COURT: It goes back to -- okay. All right.
21 The -- let's move away from the actual damages part of
22 the Unfair Trade Practice and move to the attorney's
23 fees part. Then doesn't the attorney's fees part have
24 to relate to the damages that were awarded in regards to
25 the Unfair Trade Practices claim and not related to the

1 overall litigation itself, but just relates to the
2 unfair trade, that parts of the litigation that are
3 related to the unfair trade practices?

4 MR. WHITE: I think that's a fair assessment,
5 Your Honor, and I would say that in response to that
6 it's, you know -- again, this is a very unique case,
7 Your Honor. I mean, I, you know, I'd say nine times out
8 of ten, if not more, this is the type of case where we
9 would be talking economic loss and this is a breach of
10 contract case. And this is getting bootied. You know,
11 it's the summary judgment stage, things like that.

12 THE COURT: But you all didn't file.

13 MR. WHITE: Well, I'm not filing against myself
14 in that regard, Your Honor, but so... But This is, this
15 is a unique case. I mean, I'd defer to my brother in
16 the bar. I'm assuming he didn't bring a summary
17 judgment motion because he didn't think he'd prevail,
18 because of the unique facts and circumstances of this
19 case because you have, you know ---

20 THE COURT: We had that discussion, the three of
21 us, about why didn't y'all file a summary judgment
22 motion. Go ahead, I'm sorry.

23 MR. WHITE: No, no, it's okay. It's okay, Your
24 Honor.

25 THE COURT: Yeah.

1 MR. WHITE: But to answer that question if I
2 didn't -- well, I'll put it on the record because I
3 think it was in chambers. I didn't file a summary
4 judgment motion in this case because I was not concerned
5 at all about the negligence claims that were brought in
6 this case and the conspiracy and all that. And I simply
7 have done everything I possibly could in this case, Your
8 Honor, to keep, keep my fees to a minimum.

9 I mean, you saw that our fees were -- and that's
10 not even counting getting prepared for this and being
11 here today, but \$99,000 in a case where the plaintiff
12 asked for \$20,000 to the jury, I mean, I've been trying
13 to do everything. So that was like one more thing.

14 I mean, I had the conversation with my client,
15 Your Honor, that normally I would file a summary
16 judgment motion because I think these negligence claims
17 should get booted if there's any evidence of conspiracy
18 or fraudulent misrepresentation. Well, look, to save
19 you money, what I'd like to do is just move for a
20 directed verdict, which we did, Your Honor, and you
21 granted it.

22 So, I mean, that's, to answer that question for
23 the record, that's exactly why we did not bring summary
24 judgment motions. It's just simply as a cost saving
25 measure in a case that should never ever had gone to

1 trial, let alone had been filed in the first place.

2 THE COURT: The reason for my question about not
3 -- I wasn't suggesting that you were padding your bill,
4 but I was wanting to suggest that an award of attorney's
5 fees under the Unfair Trade Practices Act needs to have
6 some relationship to the amount of money that was
7 awarded, those are damages that the jury found that
8 related to the unfair trade practices claim. And so,
9 based upon the information that you submitted to me thus
10 far, I cannot determine what amount of your bill that
11 you would contend is related to an unfair trade
12 practices claim versus what is just the broader contract
13 claim.

14 MR. WHITE: Yes, Your Honor. And I, I did kind
15 of digress on the summary judgment piece. And let me
16 answer that question. It's, it's -- what I was trying
17 to say was, you know, normally you don't even -- we
18 don't even get this far, but we got this far. But even
19 though they're two different claims, our breach and
20 their alleged breach of our obligations, our
21 counterclaim, and then the unfair trade practices, they
22 were so intertwined in this case, because it was
23 constant. I mean, we had the -- we had the evidence of,
24 like, in October. It was a Halloween day of, I believe
25 it was, before, before the lawsuit was filed in 2020

1 trying to work this out, doing all this stuff and
2 constantly dealing with all that.

3 So -- and if -- and I don't know if you saw it --
4 well, actually, we said we'd submit the, the invoices in
5 chambers, if you so requested, but if you were to --
6 I'll proffer for you right now, Your Honor.

7 You're gonna see up until that lawsuit was filed,
8 another attorney in my law firm was the one dealing with
9 Mr. Hoffman. And I believe you heard -- I mean, his
10 name came out at the trial. Mr. Hoffman was the one who
11 had this case. And then -- but Mr. Hoffman is not a
12 licensed South Carolina attorney, so the moment the
13 lawsuit was filed, he brought me in, and I, I took it
14 from there once it became a civil action.

15 But he spent a considerable amount of time and
16 effort trying to deal with all this stuff. These
17 constant, like, you owe us this, you owe us that. All
18 these invoices and all of that. And that continued on
19 throughout. So you've got these claims of you breach
20 your obligations under the lease and here's a fake
21 invoice to show. I mean, it's so intertwined. That
22 would be my answer to your question, Your Honor.

23 That it's hard -- it was hard to deal with one
24 without dealing with the other because of the way the
25 plaintiff approached this relationship from

1 pre-litigation and post-litigation to try to just deal
2 with all these claims of you're not doing this, you're
3 not doing that.

4 But going above and beyond an allegation of you,
5 you know, you're not doing what you're supposed to do,
6 to creating invoices. I mean, I think one of the most
7 powerful pieces of evidence that the jury heard, Your
8 Honor, was an invoice was given to our client in May of
9 one year. And the underlying invoice from that
10 particular contractor was from December of that year.
11 So somehow, some way the plaintiff knew what the number
12 was going to be to fix the duct work seven months before
13 they actually got an invoice from their preferred
14 vendor.

15 And you heard a lot of testimony about it, Your
16 Honor, from, from Mr. Becker himself about the fact that
17 he wants things done his way. He takes pride in his
18 properties. He's got his preferred vendors. He wants
19 his preferred vendors used, all that stuff, and was just
20 creating all these invoices.

21 I mean, so that like -- so it's like not just,
22 hey, you bang something up, but here's how much it cost
23 for us to fix it. And I'm like, well, what are you
24 talking about? And so, it's really indistinguishable in
25 terms of the work that we had to put in as lawyers to

1 deal with this, to defend our client from these
2 allegations, including these claims, which is fraudulent
3 claims, that you need to pay this, you need to pay that.
4 So that, that is my answer to that question, Your Honor.

5 THE COURT: Okay.

6 MR. WHITE: That it really is hard to just, okay,
7 this right -- you know, I know, you know, as a legal
8 matter, we need to compartmentalize a different cause of
9 action with respect to how the jury came down in terms
10 of liability reward. But in terms of being the
11 practitioner, it was impossible to compartmentalize
12 because it's all part of an ongoing back and forth
13 between counter parties, which is why you don't see an
14 unfair trade practices claim get this far. But this
15 plaintiff was, you know, doing all kinds of crazy stuff,
16 Your Honor. And, obviously, the jury felt the same way.

17 THE COURT: All right. Do you want to -- I don't
18 want to cut you off --

19 MR. WHITE: Yes, sir.

20 THE COURT: -- from unfair rights, but you need
21 to move on to why --

22 MR. WHITE: Yes, sir.

23 THE COURT: -- under the contract why you
24 prevailed.

25 MR. WHITE: Very glad to move on to that, Your

1 Honor. As you know, the lease has prevailing parties
2 fees. That is an enforceable provision of the lease.
3 And, quite simply, we prevailed. I think it's hard to
4 say, Your Honor, that a plaintiff under any
5 circumstances could be considered to have been a
6 prevailing party in a case where the jury ultimately
7 awarded it nothing.

8 And particularly under the unique facts and
9 circumstances of this case, is that jury awarded nothing
10 in the manner that they did to send a message to the
11 plaintiff, as we asked them to do, because of all the
12 untoward and inappropriate conduct that the plaintiff
13 engaged in, in this relationship with this tenant.

14 THE COURT: The contract, though, if I remember
15 correctly, used the word "may"?

16 MR. WHITE: May, yes. Let me -- I believe it
17 does say "may", Your Honor, but I will double check just
18 to be on the safe side.

19 THE COURT: Double check, because I was thinking
20 it was "may".

21 MR. WHITE: I'm incorrect. It does say "shall".
22 It's the very last provision, Your Honor, 26(g), right
23 around the signature blocks. Legal proceedings are
24 instituted to enforce any provision of this lease. The
25 prevailing party in the proceeding shall be entitled to

1 recover from the non-prevailing party reasonable
2 attorney's fees, court costs incurred in connection of
3 that proceeding.

4 THE COURT: So the qualifying or the
5 non-objective word would be reasonable?

6 MR. WHITE: Yes, Your Honor, reasonable, so...
7 And you have our affidavit on that. I'm happy to answer
8 any question on that, but I think given the scope of
9 this case, it's a two year -- two years in litigation,
10 about four or five months of pre-litigation, responding
11 to default letters, and trying to get out there an
12 resolve this and all that. And then all of this stuff
13 where I'm basically being like a punch-list item project
14 manager guy. There's a lot of stuff going on, so I do
15 believe our fees were very reasonable in this case.

16 It -- I mean, I can't tell you how many
17 conversations I had, Your Honor, with my client about
18 I'm doing everything I can. I didn't sue you. I'm
19 trying to defend you as reasonably as I can, and try to
20 resolve this.

21 And that kind of goes to let's talk about us
22 resolving this, Your Honor. I mean, we -- the biggest
23 problem we had in resolving this case is what are your
24 actual, like, no kidding damages? I've got all these
25 invoices and stuff and I don't -- we've alleged fraud,

1 obviously, because some of these, I don't believe the
2 work was ever done. Like, what's your actual number?

3 And I'll be honest with you, Your Honor, I didn't
4 know what that number was until I heard it with
5 everybody else during that closing argument. I really
6 didn't know what that number was. So that made it very
7 difficult to really make an offer. But we made offers.
8 We made an offer at mediation. We had offers before
9 mediation, we made offers after mediation.

10 And if I'm being quite candid with the Court, I
11 always thought in this case, and advised my client
12 accordingly like, look, I think, I think, you know, the
13 way this should have worked is you guys should -- if
14 y'all ---

15 If the landlord had done the walk through, like
16 we begged and pleaded them to do, and we would have
17 known that those studs were busted up, we would have
18 fixed them and you would have paid \$10,500, which is
19 about what they cost them to fix, or maybe even less, if
20 we had our contractor do it. Because we know that there
21 was sufficient evidence that was prevented, Your Honor,
22 that the quotes they were getting were inflated.

23 Some of them were three times as much as the
24 quotes we were getting for lifetime materials and labor,
25 which goes again to the Unfair Trade Practices Act

1 claim, basically juicing the numbers with their
2 preferred contractors. And so, like, what should have
3 happened in this case is they did the walk through, we
4 figured that out and we fixed it. It would have been
5 done.

6 Because that's the thing, and that did come out
7 in the evidence, Your Honor. We didn't know. Like, we
8 didn't know -- we knew there was, like, drywall busted
9 up, but we didn't know that the studs were messed up.
10 And we certainly weren't going to cut holes, as you
11 heard in the evidence. We're not gonna tear up the
12 demisen wall because at the end of the day it's not our
13 property, which is why we wanted to do all those walk
14 throughs. But we never got a chance to do that.

15 And so, really, like, that's what we try to do.
16 And finally, just to avoid the costs of a full week-long
17 trial, when we were on the May docket and didn't go, my
18 client went ahead and said, look, offer them \$20,000,
19 which is above -- twice as much as we thought he was
20 ever, like, anything, like if this had been done the
21 right way without getting lawyers involved, just work it
22 through it. Like two, you know, business folks
23 operating in good faith and dealing fairly with one
24 another. That's twice as much as what my client should
25 have been on the hook for. And he made that offer in .

1 May.

2 And, Your Honor, we never got a response. We
3 didn't get a rejection of that. We never even got a
4 response to that offer, you know? And we never got a
5 counter offer until you hauled us in your chambers and
6 said I want y'all to resolve this thing. And we got an
7 offer of \$65,000.

8 The May -- excuse me. The Monday evening after
9 the first day of trial. That's the first time we ever
10 got a real offer of what to pay since mediation, which
11 if I wasn't clear earlier, just to flush that out, I
12 kept saying over and over to our mediator, like, I don't
13 -- I don't -- I need like -- I need these numbers
14 they're talking about, I don't know where they're coming
15 from. Like walk me through this. And if my memory
16 serves, whatever that number was, it was less than
17 \$65,000.

18 So the first, you know -- so, in terms of
19 prevailing party, they offered 65, we offered 20, they
20 got zero. So I think very simple -- you know, I went to
21 law school to avoid numbers, but when I look at those
22 numbers we won, okay? And we were the prevailing party,
23 and those were the circumstances, you know?

24 And I cited the Seckinger. You know, that,
25 that's the standard case in the context of allowing, you

1 know, attorney's fees. A prevailing party is the one
2 who successfully prosecutes the action or successfully
3 defends against it, prevailing on the main issue, even
4 though not to the extent of the original contention, and
5 is the one in whose favor the decision or burden is
6 rendered to judgment entered.

7 I mean, clearly on the main issue we won. And,
8 and when the plaintiff files a lawsuit alleging
9 liability and damages and gets nothing, the defendant
10 won. And so, I think it's pretty straightforward. But
11 also, you know -- and I got beat up a little bit in the
12 opposition brief, but I, I referenced the fact that the
13 second juror was an -- was the statutory attorney's fees
14 provision in that particular case, was in -- it was in
15 the mechanics lien context. And that's 29-5-10(b).

16 THE COURT: Does the mechanics lien statute
17 require use of the word shall receive or is it optional?

18 MR. WHITE: Well, it's more about who's the
19 prevailing party, Your Honor.

20 THE COURT: All right.

21 MR. WHITE: You know, and it says, you know --
22 so, the party whose offer is closer to the verdict
23 reached is considered the prevailing party in that
24 action. And I simply offered that for -- Your Honor, it
25 looked like you had a question.

1 THE COURT: I do.

2 MR. WHITE: Okay.

3 THE COURT: Okay. So, in you're trying to get to
4 where your guardrails are for this definition of
5 prevailing party is where your position is. And you're
6 arguing things that are factors that are -- most of the
7 things -- a lot of things you're arguing took place off
8 the record of this case.

9 MR. WHITE: Uh-huh.

10 THE COURT: We had a mediation. We had bench
11 conferences. I know the three of us, I tried to get
12 y'all to settle the case. You're arguing a lot of
13 things that are actually not on the record of this -- of
14 the actual trial of this case. Is your guardrails for
15 determining -- because, if I agree with you, and that's
16 a big if, if I agree with you and I award you money,
17 then I've got to look that you got to defend this at
18 some point in front of other judges:

19 MR. WHITE: Yes, Your Honor.

20 THE COURT: So is your guardrail gonna -- is your
21 guardrail of defining prevailing party take into account
22 all of the things that took place off of the record that
23 dealt with this case?

24 MR. WHITE: I think it's illustrative, Your
25 Honor. But, no, is the short answer to your question.

1 THE COURT: Okay.

2 MR. WHITE: What matters is the plaintiff filed a
3 lawsuit and got nothing from a jury. I mean, I think if
4 you grab 20 people on the street and said, who do you
5 think won, all 20 of them are gonna say the defendant.

6 THE COURT: And if the 20 people would understand
7 what went on with this case.

8 MR. WHITE: I don't think you have to, Your
9 Honor. That's my point. Like, if you're the plaintiff
10 and you sue somebody and you -- and the jury gives you
11 nothing, you've lost. We successfully defended the
12 action. We successfully defended the action on the main
13 issue. And that's why, that's why we are the prevailing
14 party. And I'm just throwing all that other stuff out
15 there as illustrative.

16 THE COURT: Right.

17 MR. WHITE: And, obviously, the mechanics lien is
18 inapplicable here, but the fact that, you know, 0, 20,
19 65, if this were a mechanics lien thing, we would have
20 won under those -- under that scenario, so... But, I
21 mean, plaintiff got zero. We won. And we're entitled
22 to the prevailing parties under both -- under the
23 contractual provision, in addition to the UTPA statute.
24 That's all I have, Your Honor, unless you have something
25 else.

1 THE COURT: I may have something later, but I'm
2 sure opposing counsel is gonna try to say that you got
3 too much money by getting nothing.

4 MR. WHITE: Sure. Yes, Your Honor. And I'm
5 saving rebuttal for his stuff, so...

6 THE COURT: I can't wait. Okay.

7 MR. DLUZNESKI: Thank you, Your Honor.

8 THE COURT: Yes, sir.

9 MR. DLUZNESKI: I do want to say a bit in
10 response to some of the points that opposing counsel
11 brought up. Your Honor, on August 17th, as part of our
12 post-trial motions, we provided a factual overview of
13 kind of what happened to get us to this point, to the
14 trial that we had a couple months ago.

15 And in that factual overview, Your Honor, I was
16 retained in this case in the fall of 2019. I've been
17 here almost from the beginning. So I'm familiar about
18 how we got from point A to point B in this case, okay?

19 CREH had some concerns about what its tenant,
20 Brilin Electric was doing out at this particular
21 property. There was withheld rent without getting
22 landlord's consent. There was damages that landlord
23 learned that tenant made to the property. So that's how
24 I got involved and that's the demand letter that was an
25 exhibit in this case that I sent to Brilin Electric.

1 I'm not gonna go through the whole factual
2 overview. It's a 16-page document. But, Your Honor, I
3 think the salient point with that is, the defendant in
4 this case was sued before their lease term ended,
5 because for the second time after we had that on site
6 meeting where it was myself, Mr. Decker, Mr. Hoffman,
7 who was involved for Brilin Electric at that time, and
8 Mr. Russell, we all met out at the property. And there
9 was a lot of testimony that came in at trial about that
10 on site meeting.

11 At the end of that meeting, Your Honor, the two
12 parties, Mr. Decker and Mr. Russell, shook hands. They
13 had a gentlemen's agreement that Brilin would, would not
14 do anything else in that building without getting -- at
15 least letting the landlord know what's going on. It's
16 the landlord's property. The landlord wanted to know,
17 and I think it's reasonable that the landlord wanted to
18 know, what Brilin was doing out at that property.

19 So, as I put in the factual overview, Brilin was
20 sued before the lease term ended because we did not
21 believe that we had any other choice. There was no way,
22 and we tried to work with them. There was nothing that
23 we did that was able to get this tenant's attention.

24 THE COURT: Let me ask you a question on that
25 point.

1 MR. DLUZNESKI: Yes.

2 THE COURT: But the jury found that your client
3 engaged in unfair trade practices. And I understand
4 your narrative and your background that came across very
5 strong during the course of the trial, but I can't -- I
6 have difficulty ignoring that the jury found that your
7 client committed an act of unfair trade practices. And
8 I had no exceptions taken to the law that I gave them
9 unfair trade practice.

10 I did question the wisdom of the defendant in
11 wanting to submit an unfair trade practice claim to this
12 jury, because I, from a strategy standpoint, from a
13 trial perspective I thought -- I didn't think it was
14 wise, but apparently I'm not as wise as what I sometimes
15 wish to believe I am. So how do I ignore the fact that
16 they -- that your client committed an unfair trade
17 practices?

18 MR. DLUZNESKI: Your Honor, I think what we have
19 here -- and, again, I don't know -- neither Mr. White
20 nor I know what happened in the jury deliberation room.
21 We don't know what they talked about. I do know that
22 shortly after they started deliberations, they came out
23 with a note. They wanted copies of the actual jury
24 instructions.

25 Frankly, Your Honor, I think the jury, you know,

1 if I'm speculating about what may have happened in the
2 deliberation room, I think the jury saw this as a
3 contract dispute. We had the lease. I honestly think
4 that unfair trade practices, that claim confused the
5 jury. And that's part of the basis for JNOB. I think
6 that they were confused about what an unfair trade
7 practice was.

8 And that, and that's reflected, Your Honor -- our
9 position is that's reflected by the fact that they
10 awarded the plaintiff -- or the defendant what we
11 believe, and I'll get to this in a moment, what we
12 believe is an excessive amount on the actual damage on
13 the unfair trade practices claim. That shows us that
14 they didn't really understand what that claim involved.

15 And, you know, it is -- I mean, the Court did
16 provide them with a substantial amount of, I think, jury
17 instructions on that point. But honestly, Your Honor, I
18 -- and, again, I'm speculating with this. I think the
19 jury was confused about what that Unfair Trade Practice
20 Act meant and how they should assess damages. And that
21 -- and the reason I can say that is because they gave a
22 damages amount that was completely unsupported by the
23 evidence.

24 THE COURT: Or they gave a damages amount that
25 said -- that sent a signal that they wanted to send to

1 the litigants in this case.

2 MR. DLUZNESKI: Sure. And that may have been,
3 but what counsel opposite argued to them during the
4 defendant's closing argument is, yes, send a message.
5 Send a message. Award one dollar to send a message that
6 CREH, you committed an unfair trade practice and we want
7 to admonish you and prevent you from doing that again.
8 The defendant asked for \$1, and what did the jury do?
9 They awarded 6,000.

10 THE COURT: But your -- and I don't want to --
11 your arguments are well received, but I want to be sure
12 that I understand the basis of your argument is still
13 speculation on your part as to what the jury did.

14 MR. DLUZNESKI: Certainly. Certainly.

15 THE COURT: Okay. All right.

16 MR. DLUZNESKI: So the next point Mr. White
17 talked about damages, and that the defendant is not
18 responsible for the damages.. And, in fact, the
19 plaintiff got zero. Your Honor, that's not what the
20 jury found. The jury may not have awarded the full
21 \$28,500 that we asked them for in closing argument, but
22 they did award us \$10,513.88 as actual damages on the
23 breach of contract claim, so...

24 And that's even contrary to what the defendant
25 asked them to do in closing. The defendant asked the

1 jury to not give CREH a penny in actual damages. But
2 the jury did not do that. The jury awarded us over
3 \$10,000 in damages for breach of contract. And I
4 discuss that more in my Motion for Attorney's Fees,
5 which I won't get into at the moment, but the jury did
6 award us damages.

7 Now, talking about the closing argument. And I
8 spent some time in my, in my memorandum that I filed
9 with the Court talking about defendant's closing
10 argument. The defendant started his closing argument by
11 getting up and telling the jury, which I believe that he
12 also told the jury during opening statements, that this
13 is a bad movie. This is a bad movie. And he referred
14 to Brad Decker, my client, the principal of CREH as Dr.
15 Evil.

16 He referred to Wayne Shulty, the property manager
17 as Lurch. And that essentially the theory of this case
18 from the, from the defense, Your Honor, that the jury
19 heard, notably this is the last thing that they heard
20 before they started deliberations in this case, was that
21 this is a bad movie in which this, this terrible bad
22 faith landlord, Mr. Decker, also known as Dr. Evil, was
23 trying to take advantage of the feeble Brilin Electric
24 using his trusty henchman, Lurch, to do his bidding.

25 This is the last thing that the jury heard before

1 they started deliberating. And then they come out with
2 a verdict for unfair trade practices, 6,000 times more
3 than what -- actually more than 6,000 times than what
4 the defendant asked for. There can't be a coincidence,
5 Your Honor.

6 THE COURT: I heard you. You got up and gave a
7 reply before they went to their deliberations.

8 MR. DLUZNESKI: I think my reply was less than a
9 minute.

10 THE COURT: But they still heard you last. And I
11 thought your reply was very appropriate.

12 MR. DLUZNESKI: Thank you. And I understand.
13 But, but the timing -- I'm most concerned with the
14 timing between when they heard this and when they
15 started their deliberations. They had endless -- and,
16 frankly, Your Honor, I think that Mr. Decker commented
17 -- made a comment at some point in the trial that this
18 was the first time that he has ever been in a jury trial
19 situation on behalf of CREH. He was, frankly, beside me
20 for the entire pendency of the trial.

21 And when the defendant got up and started giving
22 its closing argument, name calling, him as Dr. Evil, and
23 Wayne Shulty as Lurch and saying that this was a bad
24 movie, he was reasonably and justifiably concerned about
25 how that would affect the jury and what they would

1 award.

2 And I think that this, that this damages award on
3 the defendant on this unfair trade practices is evidence
4 of that. That those inflammatory statements that they
5 heard in such short proximity before they started
6 deliberating influenced what they ended up awarding to
7 the defendant in this case.

8 THE COURT: So your position is that it was
9 counsel's closing argument that caused the award of the
10 unfair trade practices to be 6,000-and some-odd dollars?

11 MR. DLUZNESKI: I think that that's what the jury
12 had in its head, those inflammatory statements. I don't
13 know if it's what caused the jury to award that, but it
14 seems rather coincidental, and it very well could have
15 been a factor that that's what they heard so -- in such
16 short a time prior to starting their deliberations.

17 And talking about damages under the Unfair Trade
18 Practices Act, okay, the damages that the defendant
19 presented evidence of, the security deposit, the \$1144,
20 and I think 75 cents, that Brilin unilaterally withheld
21 from one of its month's rent without talking to its
22 landlord ---

23 THE COURT: Tell me that figure again, if you
24 would.

25 MR. DLUZNESKI: 11 -- \$1,144.75, I believe.

1 THE COURT: Okay.

2 MR. DLUZNESKI: Those two damages are what the
3 defendant presented to the jury as far as its, as its
4 breach of contract damages went, okay? There were no
5 actual damages presented of Brilin incurring any damages
6 in any amount from any alleged unfair deceptive trade
7 practices from CREH. And I am confident that if that
8 were the case, the defense would have argued that to the
9 jury in closing argument.

10 And I understand that closing argument is not
11 evidence. However, a closing argument can influence
12 what the jury does in the case. Now, the jury verdict
13 ended in, as far as actual damages go, in dog brawl.
14 Neither party got anything.

15 However, as the Court inquired when defense
16 counsel was making his argument, the \$6,089.13, where
17 did that number come from? There was no evidence
18 whatsoever to support that damages figure. The damages
19 that the plaintiff presented to the jury, and we can
20 include for sake of an argument, the \$280. I did not
21 hear that during the closing argument. My recollection
22 is it was the \$3,000, the 1144.

23 But if we include, for the sake of this argument,
24 that \$280 for replacing some of the breaks, those
25 damages are what the jury awarded was actual damages for

1 breach of contract. There were no damages presented
2 whatsoever that the jury could award for unfair
3 deceptive trade practices. Brilin suffered no damages
4 whatsoever. Brilin didn't pay any of those invoices.
5 So, as far as actual damages, if that's what the defense
6 is hanging its hat on, as far as unfair trade practices
7 goes in actual damages, Brilin didn't incur any actual
8 damages. So that was an improper calculation by the
9 jury. And I do have a Motion for Remittitur as to
10 unfair trade practices that I'll get into at the
11 appropriate time.

12 And remember, during its closing argument, the
13 defense asked for \$1. \$1 from the jury for unfair trade
14 practices. And then what's the jury do? They come back
15 and award \$6,089.

16 All right. Talking about section 29-5-10(b)
17 regarding the prevailing party determination. And I get
18 into this in the memorandum that I filed last month.

19 THE COURT: Now, is this for the prevailing party
20 for unfair trade practices or contract terms and
21 conditions?

22 MR. DLUZNESKI: That is for -- well, I think it's
23 for both because there's no definition as to what a
24 prevailing party is.

25 THE COURT: Okay.

1 MR. DLUZNESKI: So since there's no definition in
2 the lease, the lease provision, 28(g) doesn't define
3 what a prevailing party is, or what constitutes the
4 prevailing party. It just may be a case that the
5 prevailing party is entitled to attorney's fees,
6 reasonable attorney's fees.

7 And I agree, I cited *Seckinger* as well. I think
8 that's -- and I'll leave that for later when I argue my
9 Motion for Attorney's Fees. I just want to touch on
10 this 29-5-10(b). Number one, that is a mechanics lien
11 statute for determining who is a prevailing party in a
12 mechanics lien case. This case is a contract dispute.
13 It has nothing to do with a mechanics lien.

14 So, our position is that Court in determining
15 prevailing party, should not even consider section
16 29-5-10(b) in making this ---

17 THE COURT: What do you think I should consider
18 in determining prevailing party?

19 MR. DLUZNESKI: The definition that the South
20 Carolina Supreme Court establishes in *Seckinger*. And
21 I'll argue that issue when we get there.

22 THE COURT: Well, tell me now. I want to know
23 what is it -- what factors that relate to this case
24 should I apply to come to the conclusion that your
25 client was the prevailing party?

1 MR. DLUZNESKI: Okay. So, in *Seckinger* the court
2 defines prevailing party as the one who successfully
3 prosecutes the action or successfully defends against
4 it, prevailing on the main issue. Even though, and I
5 think this language, even though not to the extent of
6 the original contention.

7 And that's a citation from *Seckinger*. The court
8 in *Heath*, which is a Supreme Court case, observed that a
9 party need not, need not to be successful as to all
10 issues in order to be found to be a prevailing party.

11 So, in other words, Your Honor, the reason that
12 our position is, as we argue on our Motion for
13 Attorney's Fees, that CREH is the prevailing party, is
14 that CREH successfully prosecuted its breach of contract
15 action. And the reason I can say that is the jury
16 awarded us \$10,513.88 on our breach of contract action.

17 And the court in *Seckinger* makes clear that the
18 party need not be a success, need not be to the extent
19 of the original contention. So, in other words, worded
20 slightly differently, we did not have to receive the
21 full amount of damages that we asked for, asked for from
22 the jury in order to be declared prevailing party. We
23 asked for approximately \$28,500. A jury awarded us
24 \$10,513. And we prosecuted on the main -- we prevailed
25 on the main issue as well.

1 THE COURT: Well, let me help you. I perceive it
2 as being you prevailed on one issue.

3 MR. DLUZNESKI: Correct.

4 THE COURT: Because when this case first came to
5 me, and you have a lot of causes of actions.

6 MR. DLUZNESKI: Right.

7 THE COURT: -- that you were seeking. And you
8 were seeking a lot more damages than the \$10-some-odd
9 dollars that the jury gave you.

10 MR. DLUZNESKI: Well, Your Honor, I would agree
11 with that; however, the main issue, as I see it in this
12 case, was whether or not Brilin breached the lease.

13 THE COURT: Okay. And, and that was the main
14 issue. And, according to *Heath*, *Heath* makes clear that
15 a party need not be successful as to all of the issues
16 in order to be found to be a prevailing party. So if we
17 look at that in the context of this case, Your Honor,
18 the jury did give actual damages to the defendant on its
19 breach of contract counterclaim.

20 The jury did award, what we believe to be an
21 excessive amount of actual damages to Brilin's unfair
22 trade practices claim -- counter claim. However, the
23 Court in *Heath* says that we don't have to be successful
24 as to all of the claims in the action in order to be
25 determined to be the prevailing party.

1 And I do want to touch briefly on section
2 29-5-10(b), because I think it's, it's important.
3 Number one, it's a mechanic's lien statute. It has no
4 applicability to this case. So our position is that the
5 Court should not even consider section 29-5-10(b) in
6 determining who's the prevailing party in this case.

7 THE COURT: No, not even as persuasive authority?

8 MR. DLUZNESKI: No. And that's the second point
9 in my argument. Even if the Court finds that there's
10 some applicability to this ---

11 THE COURT: Well, I don't -- my decision is not
12 going to be based on whether 29-5-10 applies or not.

13 MR. DLUZNESKI: Okay.

14 THE COURT: I'm looking for y'all to educate me
15 on what your definition of prevailing party is. I'm
16 only accepting 29-5-10 arguments based upon this is what
17 counsel has looked at as a reasonable place to go to
18 find a definition of that word. You know, I'm looking
19 for y'all to educate me as to what you want me to apply,
20 the factors, in determining the prevailing party, then
21 tell me what those factors are in this case that
22 supported your position that your client was the
23 prevailing party.

24 MR. DLUZNESKI: Okay.

25 THE COURT: You know, that's what I'm looking

1 for. So whether 29-5-10 applies or not is -- don't get
2 hung up on that, because -- don't spend a lot of time on
3 that. That don't matter to me.

4 MR. DLUZNESKI: Okay. Okay. Fair enough. And I
5 go through that analysis of why it's not applicable in
6 my, my brief.

7 Getting back to your question, Your Honor, the
8 definition that we believe, and I think it's fair to
9 say, the defense as well, because the defense also cited
10 in their Motion for Attorney's Fees. The prevailing
11 party determination is the one from the court in
12 *Seckinger*. I, I think that that applies. And if the
13 Court considers that definition and considers how this
14 came out, CREH is the prevailing party under that
15 definition.

16 It matters not, according to the courts in
17 *Seckinger* and *Heath* if we did not get all the damages,
18 the full \$28,500 in damages that we had asked for from
19 the jury. It matters not, as well, that the defendant
20 also received an award of actual damages from the jury.
21 What matters for this definition is that CREH, as far as
22 its breach of contract claim goes -- and that is, in the
23 words of the Court, the main issue. CREH prevailed on
24 the main issue in this case, and the main issue is
25 whether or not Brillin Electric breached the lease

1 agreement. The jury found that. The jury unanimously
2 found that. And if they didn't unanimously find that,
3 they wouldn't have given us any money for actual
4 damages, as the defendant requested.

5 So we were successful in prosecuting that action.
6 It doesn't need to be to the extent of the original
7 contention. The full amount of damages. And it also
8 doesn't matter, according to Heath, that we didn't
9 prevail on all the claims. In other words, that we got
10 actual damages on our breach of contract claim, and the
11 defendant got nothing on either of those two claims.

12 That doesn't matter, according to Heath. Under
13 the definition that the court in *Seckinger* set out, CREH
14 is the prevailing party for purposes of this case.

15 THE COURT: Let me ask you this.

16 MR. DLUZNESKI: Yes, sir.

17 THE COURT: Your factual guardrails, I mean,
18 counsel for the other side has gone into the efforts
19 that were pre-suit, mediation, conferences with the
20 court, all the efforts, the settlements that didn't
21 place that all of a sudden did take the place, went back
22 and forth to highlight why his client should be the
23 prevailing party. Is that -- can I take into
24 consideration those things?

25 MR. DLUZNESKI: Your Honor, and that's the very

1 reason that I, that I included a factual background with
2 my brief. I wanted the Court to understand based on the
3 factual background. We tried to resolve this matter as
4 well prior to filing suit. That was the whole reason
5 that we had that October 31st, 2019, meeting out at the
6 premises. We were going back and forth, and I can't
7 remember who suggested it. I think maybe it was me.
8 Why don't we meet out at the property with these two,
9 walk the building, see what we're dealing with, and then
10 try to resolve it.

11 And both parties, Mr. Russell and Mr. Decker,
12 testified during the trial a couple months ago, that
13 they both genuinely believe that that turned out well.
14 And then after that, there was other stuff that happened
15 that Mr. Russell told us and shook Brad Decker's hand
16 and said he wouldn't do. It caused us to think or
17 caused Mr. Decker to think, this tenant's not listening
18 again. This tenant's gone rove again, in his words.

19 We need to file suit to get their attention and
20 seek a remedy, seek readdress for these damages that we
21 have sustained up until this point. And there were
22 additional damages after that. So, I think if the
23 Court's gonna consider that kind of information -- and,
24 number one, I think that's 408 material. I don't know,
25 you know, as far as settlement negotiations and

1 settlement offers go.

2 I think the Court also needs to consider the, the
3 pre-suit efforts that we made on the plaintiff's side to
4 settle this dispute, without even having filed suit.

5 THE COURT: Thank you for sharing that with me,
6 but let me -- I want to be sure I understand your
7 position. Is it -- should I consider things that are
8 not -- that did not take place in the trial, i.e., the
9 settlement negotiations, pre-suit conferences that as
10 you outlined in your letter that occurred prior to the
11 time, should I consider those things at all or should I
12 just limit it to what transpired that's on the record in
13 this proceeding?

14 MR. DLUZNESKI: Your Honor, I think, I think the
15 Court should limit it's determination based on what is
16 actually in the record.

17 THE COURT: Okay.

18 MR. DLUZNESKI: And the meeting and some of the
19 stuff that I've talked about in this brief actually are
20 in the record of the trial.

21 THE COURT: Okay.

22 MR. DLUZNESKI: All right. I want to talk about
23 these fraudulent invoices. Again, I can't remember how
24 many there were, all the CREH witnesses denied under
25 oath on the witness stand that any documents that they

1 produced were fraudulent. They denied all of those.
2 Every question that the defense asked about these
3 fraudulent invoices, our witnesses denied.

4 So our position, and I would submit to the Court
5 is, with respect to those fraudulent invoices, the
6 defendant has not proven -- has not met their burden of
7 proof with respect to whether or not those invoices were
8 fraudulent, because every single plaintiff's witness
9 denied that, and they had nothing to continue the
10 examination to try and support those.

11 Again, the defendant never paid any of those
12 allegedly fraudulent invoices. The defendant made no
13 mention of those in his closing argument when it was
14 talking about damages. What the, what the defendant
15 mentioned in his closing argument as far as damages
16 goes. Where, again, the \$3,000 security deposit and the
17 1144.75 for the withheld rent. I believe it was for
18 August 2019. Those were the only two things, Your
19 Honor.

20 And the defense, in its closing argument, to my
21 recollection, mentioned as far as damages goes. And
22 that's why the defense said, we want \$1, nominal damages
23 on our unfair trade practices claim. They didn't
24 present any of those invoices, those allegedly
25 fraudulent invoices, those damages for unfair trade

1 practices because there was not reasonable basis to
2 argue that the jury should award damages for those.

3 THE COURT: All right. Help me out. Why are you
4 bringing up these fraudulent invoices? You've got three
5 motions, as I understand it. A Motion for Attorney's
6 Fees and costs, JNOB, and a Motion of Remittitur. What
7 issue does that apply to?

8 MR. DLUZNESKI: Was that to me or Mr. White?

9 THE COURT: You.

10 MR. DLUZNESKI: That is for the motion -- well,
11 two motions, one for JNOV, as to unfair trade practices,
12 because one of the elements for unfair trade practices
13 is that the defendant had to have suffered actual
14 damages as a result of the unfair trade practices. And
15 it's also in support for the Motion for Remittitur as to
16 unfair trade practices because there were not actual
17 damages presented to the jury. And, in fact, the
18 defendant asked for \$1. So that, that's the
19 applicability of those invoices.

20 THE COURT: Okay.

21 MR. DLUZNESKI: And, again, the damages -- and I
22 want to make sure this is clear, that the damages that
23 the jury awarded ---

24 THE COURT: All right. Let me help you out.

25 MR. DLUZNESKI: Yes, sir.

1 THE COURT: My thought process is that the
2 defendant is going to win on the did he establish an
3 unfair trade practices claim. I might have doubted it.
4 I might have thought it was a bad idea, but I believe
5 that there was evidence that was presented during the
6 course of the trial that the jury could take and view it
7 as equal to unfair trade practices.

8 I do have -- and so, I think he's over that
9 hurdle, I think, to establish unfair trade practices. I
10 might not agree with it, you know, I didn't agree with
11 it then, but the jury did what they did and I think
12 there's evidence to support the jury's decision. I do
13 not believe it is my role, nor do I have the authority
14 to invade that.

15 What I do want to hear the arguments on is the
16 fact they gave this amount of money and his argument to
17 the jury was for \$1. You know, that, that is just, as I
18 mentioned to defense counsel, that's an elephant that I
19 can't ignore. You know, now tell me what that means,
20 you know?

21 MR. DLUZNESKI: What that means, Your Honor --
22 and this is the content of our Motion for Remittitur.
23 But as far as those actual damages go, and this gets
24 back to the damages that the jury awarded for breach of
25 contract, because that's the evidence that the defendant

1 presented evidence of during its case. So it did not
2 present any evidence from actual damages sustained from
3 any allegedly unfair act by the plaintiff.

4 So our position is, that if the Court is inclined
5 not to grant JNOB, as far as unfair trade practices go
6 -- goes, we would ask that the Court grant our Motion
7 for Remittitur and reduce the damages for unfair trade
8 practices either to zero, which is the amount of actual
9 damages that the defendant presented evidence of,
10 nothing, or alternatively, that the Court reduce the
11 actual damages award for unfair trade practices down to
12 \$1, which is what the defendant itself asked the jury to
13 award.

14 THE COURT: I'd probably take it to zero, because
15 I've been involved in litigation before where juries
16 have found in favor of a party and awarded \$1. And I
17 think that case law establishes that a jury has the
18 ability to award nominal damages, as a statement that
19 they do believe the party was successful. And I think
20 if I awarded zero, if I said, as I've just said, that
21 there was evidence to support the jury's decision that
22 there was unfair trade practice and I gave them a
23 dollar, I think that's reversible error.

24 I think that I've been involved in jury cases
25 before where the jury actually came back and made it --

1 found for a party seeking a claim found for the
2 plaintiff and awarded zero and I had to send them back
3 to give a dollar amount, and they came back with a
4 dollar, you know, as a statement to -- by the jury. And
5 that, my understanding is, that that is permissible.
6 That's not reversible error to do that, do the \$1 thing,
7 and that's just my thought.

8 All right. So you want me on the JNOB either to
9 reduce it down to -- you want me to reduce it down to a
10 dollar, but your argument is it would probably be better
11 if I reduce it to zero, which I've indicated I probably
12 won't do?

13 MR. DLUZNESKI: Well, my initial argument is if
14 the Court grants the JNOB, as I've, as I've argued
15 there, is similar to what I argued during the argument
16 for summary judgment, that the defendant has not proven,
17 you know, one or more elements of that and that the
18 Court just dismiss it, notwithstanding the jury's
19 verdict. That's our first motion as to that
20 counterclaim.

21 Our second motion is as an alternative, if the
22 Court is not willing to take that action and dismiss it
23 outright, is to reduce the actual damages down to either
24 zero, which is the amount that the defendant actually
25 showed, you know, evidence of, or \$1, which is what they

1 asked the jury to award to send the message.

2 THE COURT: Okay. Did we cover -- okay. I think
3 I've got that. All right.

4 MR. DLUZNESKI: And then the other two, just
5 very, very quickly, I think -- and, again, my
6 recollection, I also moved for remittitur as for the
7 actual damages for breach of contract. The jury ended
8 up awarding \$280 more than what I recall the defendant
9 arguing during closing as to what its damages were. So
10 I asked for a remittitur on the actual damages on breach
11 of contract.

12 The defendant's breach of contract counterclaim,
13 to reduce it by \$280. So that would just account for
14 the \$300 security deposit, and the 1144.75 from the
15 August, 2019, rent.

16 And then my last motion, Your Honor was for
17 attorney's fees. I think we've gotten into that. I
18 understand that the Court is not really looking at
19 29-5-10(b). Our argument is against its applicability
20 in this case are outlined in our brief.

21 THE COURT: Why do you feel like -- your bill was
22 not as substantial as defendant's attorney bill. Why do
23 you feel like you should get everything if I decide that
24 you are the prevailing party?

25 I, I think the Court can look at what is in the

1 record. And, number one, my client and I were both
2 shocked at how high the defendant's attorney fee bill
3 is. The defendant and the plaintiff have both offered
4 to make invoices, the itemized invoices showing exactly
5 what was billed available for in-camera review. We
6 would request that, based on the fact that we're looking
7 at a \$99,000 invoice, versus a \$45,000 invoice as of
8 when I filed it.

9 Again, I think that that's something for the
10 Court to determine. The, the provision in the lease
11 agreement, 28(g), almost mandates the Court, because it
12 uses the word "shall" award attorneys fees to the
13 prevailing party. And I think it's in the Court's
14 discretion to determine what is reasonable.

15 As *Seckinger* points out, I think we squarely fit
16 in that definition. I think the Court should look to
17 the evidence and the testimony in the record. In the
18 record is testimony about that October 2019 visit. The
19 efforts that we made prior to filing suit to resolve
20 this matter to no avail. And this was just a defendant
21 and commercial tenant that continued doing things
22 without even informing the landlord of what was
23 happening.

24 The Court heard testimony about -- you know, one
25 of the things of one of the damage was those rollup

1 doors, that I'm sure the jury got sick of hearing about.
2 The defendant just took the doors off, broke the doors
3 off without even telling the landlord, discarded them.
4 Didn't even ask the landlord if they wanted them back,
5 despite multiple requests for Mr. Decker, through
6 counsel, asking number one, where those were, where
7 those doors are or were, and requested that they be
8 returned.

9 So, Your Honor, I think in this case, the picture
10 that we have got, based on the evidence, is this is just
11 a commercial tenant that did what it wanted to do
12 whenever it wanted to do. Pre-suit all the way up to
13 the closing argument, it withheld \$1144.00 from its
14 August 2019 rent without even asking for consent of the
15 landlord.

16 It knew what its monthly rent was. Those figures
17 were in the lease. And yet, Brilin unilaterally decided
18 to withhold that amount as for a forklift or whatever.

19 THE COURT: Thank you. We have a point of
20 clarification. I'm just asking.

21 MR. DLUZNESKI: Yes, sir.

22 THE COURT: All right. So if you are the
23 prevailing party, you don't want me to consider things
24 that are outside of the trial record in this case, but
25 in determining what's the definition of reasonableness

1 for the award of attorney's fees, you do want me to go
2 outside of the record in this case and consider things
3 like the pre-suit discussions and things that took
4 place?

5 MR. DLUZNESKI: Only to the extent that those
6 pre-suit discussions are on the record of the case. And
7 I think that there is some testimony from trial as to
8 what those pre-suit discussions consist of. But
9 pre-suit discussions that are not in the record or
10 pre-suit discussions or discussions contemporaneously
11 with trial, they're subject to 408 protections, I do not
12 think that the Court should consider.

13 THE COURT: Let me ask you about the 408
14 protection. 408 protection, my understanding is, it
15 goes to the issue of liability. We're not talking about
16 liability when it comes to attorney's fees and what's
17 reasonable under the terms of the lease.

18 MR. DLUZNESKI: Sure. But to the extent that
19 those are not in the record, I mean, if the Court's not
20 going to consider a 408, then I'll still argue if those
21 aren't in the record of this case, the Court should
22 nonetheless not consider them.

23 THE COURT: Okay. All right. Any reply to any
24 of that? He wants me to take away your \$6,089.13 for
25 the award for the unfair trade practices. And he wants

1 me to call his client the prevailing party because he
2 prevailed on the ultimate issue on the breach of
3 contract.

4 MR. WHITE: Yes, Your Honor. I'll reply, I
5 promise. I will say the main issue is did the plaintiff
6 do right by -- the landlord do right by the tenant.
7 That's the main issue here. This is a contractual
8 relationship between two parties, all right?

9 And what the jury did -- well, let's start with
10 this. I tried to get the jury to throw out and not
11 assess any liability or damages with respect to the
12 breach of contract claim pertaining to the wall, the
13 demising wall, on the basis of legal arguments that I'm
14 sure went over the jury's head in terms of the waiver
15 issue and the good faith in fair dealing piece.

16 So that was my argument there, because there was
17 evidence to show that, you know -- that we, it's likely
18 that the forklift is what caused damage to the studs and
19 all that. And I certainly think that's what the jury
20 found, okay? And so that's why I was asking for a
21 dollar, because I didn't want to go in a rabbit hole of,
22 hey, I'm doing all this project management stuff not
23 really for a lawyer and we want you to assess those
24 damages.

25 What they did, Your Honor, and what really

1 matters, and I do not think the jury -- this Court, in
2 its discretion should disturb this in any way, is
3 they've said with their breach of contract, liability,
4 and award for plaintiff, if you had been a normal,
5 rational human being and business person, this is what
6 you should have gotten, but we're not giving you a dime
7 because of how you conducted yourself, which was
8 unethical and inappropriate.

9 That is what the jury did. That is the message
10 they sent. And in that context, there is no possible
11 way that the plaintiff can be considered a prevailing
12 party when you look at it in terms of what the main
13 issue is. Did you do right in the way you conducted
14 yourself? And the answer from the jury was an emphatic
15 no.

16 If we're gonna talk about this in terms of the
17 breach of contract, as opposing counsel wants to, I mean
18 they said, you know, tenant, not only did the tenant
19 breach the contract, but it was negligent and it made
20 fraudulent misrepresentations, and it conspired with
21 another third party to, to hide the, the extent of the
22 damage to the wall. And you heard Mr. Russell say he
23 didn't know about it, because no one -- they wouldn't do
24 the inspections to open up the wall.

25 Well, Your Honor, you threw out those -- the

1 latter three, and all that went to the jury with respect
2 to the plaintiff's complaint, was that breach of
3 contract. And it wasn't just the wall. It was the
4 garage doors. It was the bricks. It was the asphalt.
5 It was all that stuff. It was the carpets.

6 You know, all of that, and the jury didn't buy
7 one bit of that. And all they ended up saying was the
8 wall, okay? Yeah, at the end of the day, he probably
9 didn't bang up that wall, he probably should have got
10 \$10,500, but we're not giving you a dime because you
11 didn't do right by your tenant. That's the main issue.

12 The jury was not confused at all by the Unfair
13 Trade Practices Act, because instead of going with my
14 waiver and breach of the implied covenant, good faith,
15 and fair dealing as to why you should wipe out that
16 \$10,500 damages to the wall. The jury wasn't confused
17 by that. Your instructions were quite clear on the UTPA
18 claim, Your Honor. And I absolutely think that they
19 followed those instructions.

20 They just sent a message a different way. We're
21 gonna wipe you out because of what you, what you did.
22 And that's where the 6,089.13 comes from. That's what
23 you would have gotten if you had not acted in an unfair,
24 deceptive, and unethical, and irresponsible way.

25 I will say this, Your Honor, and I will try not

1 to get -- I'm not gonna get heated about it, but the,
2 the comments about inflammatory statements are not well
3 received by this table. First of all, there was
4 absolutely no objection to anything we said during our
5 closing argument. So I think that's a plain error of
6 review on appeal, if we've got to go that far, but I
7 certainly don't think there was any plain error.

8 Okay? The comment about Dr. Evil was like just
9 in the context of it just seems like this guy's out to
10 get him. Like, that's how this guy's acting. He keeps
11 sending over his property manager to harass these
12 people. It's almost like he's Dr. Evil sitting in his
13 lair plotting against this guy.

14 And I even said, you know, the Mike Myers, one,
15 if you're of a younger vintage and Telly Savalas if
16 you're the older vintage. The jury laughed at that,
17 Your Honor. So it wasn't particularly inflammatory, it
18 was just -- it's just a little injection of humor into
19 this case. So it's not well received.

20 But more importantly, as a matter of law, there
21 were absolutely no objections to that. So I think that
22 you should absolutely discard that argument in its
23 entirety, that somehow, some way, I, in my closing
24 argument, said something that was so inflammatory that
25 it inflamed the passions of the jury and caused them to

1 do what they did.

2 Now, if anything inflamed the passions of the
3 jury, it was the inappropriate conduct of Mr. Decker
4 during the course of this relationship with my client.
5 That's the loud and clear message that this jury
6 conveyed and the manner in which they found liability
7 and award of damages.

8 We don't need to prove an exact number for
9 damages, Your Honor. And, again, I've explained, I
10 think, the technical reasons why I simply asked for \$1
11 in the Unfair Trade Practices Act claim, but that
12 doesn't negate that we had damages in excess of that. I
13 could have asked for a dollar on the breach of contract
14 claim, instead of \$4,424.75. And it wouldn't have
15 negated the other \$4,423.75 if I had done that, okay?
16 It's argument. It's not evidence.

17 I did -- I will say this, you know, because I
18 wasn't in that back room and none of us were, but if you
19 start tallying up those fraudulent invoices, it might
20 get close to \$6,000. So maybe that's what they were
21 thinking. I don't think that in my heart of hearts, I
22 think they were sending a very clear message to the
23 plaintiff that because you acted in the manner you did,
24 we're not giving you anything.

25 THE COURT: Let me ask you a question about that.

1 MR. WHITE: Yes, Your Honor.

2 THE COURT: I asked counsel about what's -- he
3 argued there's no evidence those invoices were
4 fraudulent. Asked him what of his motions that applied
5 to. I mean, one of the reasons that I made the
6 statement that I felt like that there was evidence upon
7 which a jury could find unfair trade practices were some
8 of the billing methods that had been presented to them,
9 as I recall the testimony. Is it necessary that that
10 actually has to produce fraud for there to be an unfair
11 trade practices claim or fraudulent or...

12 MR. WHITE: The ---

13 THE COURT: Let me ask you this, do you agree
14 with the statement that the billing -- that all of the
15 billings that were presented in were never acknowledged
16 as being fraudulent by the witnesses?

17 MR. WHITE: Well, Your Honor, I disagree. I
18 mean, I kind of reacted when he made that comment, Your
19 Honor, because I think, well, I think the jury thought
20 otherwise. You can continue to make the same argument
21 you made at trial and you can continue to argue the fact
22 that your client got on the stand and said, no, we,
23 blah, blah, blah, I think the jury thought otherwise.

24 To answer the first part of that question, no, I
25 don't think it has to be fraudulent. I'm trying to

1 remember the, the ETPA instruction in front of me, Your
2 Honor, but just really it has to be like unethical, and
3 I forget and -- or something else. So it doesn't have
4 to be fraudulent per say.

5 I mean, if it was something like that, we could
6 have me a fraud counterclaim. It just has to be
7 unethical and inappropriate behavior. And that's
8 certainly what it was. And so I think, perhaps my use
9 of the word fraudulent is a term of art in this context,
10 but I also think -- and, again, it's unique because
11 we're talking about, you know -- and I will say, when I
12 made those counterclaims, Your Honor, I was very mindful
13 of the economic loss rule, you know?

14 And I did -- and you may recall, Your Honor, I
15 did in our counterclaim, I actually, to your point about
16 the billing methods and things like that, I actually
17 alleged upon information and belief that, that there was
18 a pecuniary interest to be gained by Mr. Decker through
19 these invoices. So fake, fraudulent, whatever you want
20 to call them. And the most illustrative example is that
21 is the Decker Inspections invoice itself, which we
22 didn't discover until the deposition that that was a
23 wholly owned company by him.

24 So not only is he preparing fake invoices, but
25 he's preparing fake invoices for other companies that he

1 owns, where he is literally the payor and payee in that
2 particular invoice. I mean, so that, that is -- and the
3 jury was not confused at any point during that evidence.
4 They were not enflamed by my argument, and they followed
5 your instructions with regard to that.

6 With respect to prevailing party in terms of
7 off-the-record stuff, again, that's just for
8 illustration purposes. I don't want to belabor this
9 point. The only reason I put in my brief, Your Honor,
10 the reference to the mechanics lien statute is because
11 the black letter law case on what defines prevailing
12 party, *Seckinger*, was a case that dealt with mechanics
13 liens, so...

14 And I just threw that in there, it was like, hey,
15 by the way, *Seckinger's* a mechanics lien case and there
16 is actually a very simple formula in that context.
17 Whoever's closest in their settlement offer to, to the
18 verdict is the prevailing party. And so in our case,
19 zero, 20, and 65, you know, that's simply for
20 illustrative purposes, Your Honor.

21 I'm not asking you to use the mechanics lien
22 statute as bonding or persuasive authority in any way.
23 I just want to make that very clear for the record,
24 because we heard a lot of argument from opposing counsel
25 on that.

1 I'll also say there's a lot of stuff, the factual
2 summary and all that. There's an integration clause in
3 this lease, so we keep hearing about this. And that was
4 elicited. I elicited that through Mr. Decker during my
5 cross-examination. So all this gentlemen's agreement
6 and all that stuff doesn't matter in the context of the
7 breach piece, the lease piece.

8 But it does matter in the, in the Unfair Trade
9 Practices Act claim -- act -- piece. This is what I'm
10 talking about, how this is so intertwined, because they
11 did have this sort of agreement. And then Mr. Decker
12 just basically went off and did his own thing. Started
13 to get quotes from vendors, even though there's
14 provisions in the lease that say unless it's over
15 \$3,000, the tenant's responsible for it and does not
16 need to get the permission of the landlord to make that
17 repair.

18 So he went off the rails immediately with all
19 these invoices. Some of which were fake, we argued were
20 fake. And I believe the jury found were fake or
21 fraudulent, whatever term we want to use.

22 I will say, there was a lot of stuff about the
23 pre-suit discussions. The one thing that didn't really
24 come up in the pre-suit discussions, Your Honor, is like
25 the damage to the studs is simply no one knew that. No

1 one knew that there was a damage to the material
2 structural components of the devising wall until after
3 we had completely vacated the premises, turned
4 possession back over to the landlord. And they went in
5 with their preferred vendor and opened up the wall and
6 had them look at it. Got their engineer to come out and
7 look at it, make an assessment that some of it needed to
8 be repaired. All of which we would have done, Your
9 Honor, had we been given the opportunity to do so.
10 Which we told the jury -- and, again, that just goes
11 back to the point of like that's why I think they gave
12 the 10,5. Like we kind of -- I kind of concede to that
13 in my closing argument. Had given the opportunity to
14 fix the wall, we would have fixed the dang wall, but
15 they refused to do the walkthrough. And that was part
16 of my whole waiver argument. You shouldn't give any
17 money because they basically waive the opportunity to
18 ask for these damages because they wouldn't do a full
19 and final walkthrough, which is a commercial and
20 reasonable thing to do in the context of a commercial
21 lease arrangement in South Carolina.

22 Again, that's a legal argument and I don't think
23 -- I mean, maybe they did. Like opposing counsel said,
24 they did ask for a written copy of the instructions, and
25 maybe that's what they were trying to drill down on, but

1 weren't able to do it without written instructions. So
2 be it.

3 But, again, Your Honor, prevailing party, we won.
4 It's as simple as that. We won the case and we should
5 get our attorney's fees under the provisions of the
6 lease. And we should get our attorney's fees under the
7 Unfair Trade Practices Act claim as well. And they are
8 so intertwined, so I don't think there's -- you can
9 really take some out with respect to that. But if the
10 Court is so inclined to kind of consider that route, we
11 would, like we said, we'd be happy to give you our
12 invoices.

13 And then I'll end with that. Our invoices, our
14 rates are higher than opposing counsel's. And I was
15 doing a whole lot in this case, but I've never had to do
16 in a commercial landlord tenant case, calling
17 contractors over and over again to get this stuff fixed,
18 all of which -- and that's Defendant's Exhibit 14. Why
19 we put that into evidence. Why we walk through that in
20 excruciating detail with Mr. Decker with the jury so
21 they understood how complicated this was in terms of
22 dealing with this guy.

23 And, again, none of that was for rate because
24 none of that was about liability. That was standard how
25 do we fix the things that need to get fixed, as we -- as

1 this, this contractual relationship winds down. And
2 that's one of those unique facts and circumstances case.
3 It was all being done by lawyers. I never had to get --
4 I've never had to get this far in the weeds on a case
5 like this.

6 I mean, look, Your Honor, I mean, you heard it
7 because you were there, but one of the -- you know, it
8 goes over first chronological order towards Defendant's
9 Exhibit 14. And I won't read it off because I know you
10 want me to sit down. I talked about, look, Steve, I
11 don't know why we're -- like, once we do X, Y, and Z, I
12 don't really know why there's a lawsuit going on. I
13 don't know what we're doing here. And I'm just saying
14 this, Your Honor, because this is why we spent a lot of
15 time on this. Although, I'll argue about a third, 40
16 percent of the fees alone are just the trial itself and
17 getting prepared for trial, because trial is a very
18 expensive thing. But the pre-trial stuff, there was a
19 lot of that.

20 I mean, I was desperately trying to do everything
21 I could once this lawsuit was filed to make it go away.
22 And doing things like calling their asphalt contractor,
23 calling our asphalt contractor. Calling our garage guy,
24 doing all this stuff. And all the while relaying to
25 opposing counsel what we're doing and what we're trying

1 to do to resolve this.

2 I mean, that -- there's a whole lot of other long
3 e-mail chains between myself and opposing counsel on
4 trying to resolve this thing, which are 408 protected,
5 which is why they didn't go into the trial exhibits.
6 And that's all stuff that I was doing to make this go
7 away, which is why my fees are likely higher than my, my
8 opposing counsel, because of the things that I was doing
9 to make this go away. So, unless you have any further
10 questions, Your Honor, I will sit down.

11 THE COURT: I don't have any further questions.

12 MR. WHITE: Thank you.

13 MR. DLUZNESKI: Just very briefly, Your Honor,
14 just to touch on a few of the points that were made.
15 First, regarding the waiver issue, the jury wasn't
16 charged with a waiver. The defense didn't even mention
17 the word waiver in any part of its case, its case in
18 chief or otherwise. The Court actually, when we were
19 meeting for the charge conference, the Court actually
20 indicated that it wasn't going to charge the jury on
21 waiver for that exact reason. So any argument related
22 to waiver, I would ask the Court to disregard.

23 Regarding the inflammatory statements and the
24 fact that we didn't object to those during defense's
25 closing argument, that's true. However, in preparing

1 this, our post-trial motions, we came across case law,
2 and this is what caused me to, you know, include it in
3 the first place. There's case law that inflammatory
4 statements do not need to be objected to during the
5 closing arguments so long as they are brought up in
6 post-trial motions.

7 About the argument not being evidence, that's
8 true. The argument, the Court instructed the jury,
9 don't consider counsel's argument because it's not
10 evidence. However, if we look at evidence, the evidence
11 put in of the actual damages caused by the alleged
12 unfair deceptive trade practices by CREH, the defendant
13 didn't present any actual damages that Brilin had
14 suffered as a result of that.

15 And I would say, Your Honor, and this is a case
16 that I cited in my case for remittitur, it's Rush v.
17 Blanchard 310 S.C. 375. And the Court in Rush says:
18 The trial court has wide discretionary power to reduce
19 the amount of the verdict, which in his or her judgment
20 is excessive.

21 Your Honor, I would submit to you, the jury's
22 award for actual damages for unfair trade practices was
23 excessive. There was not evidence presented by the
24 defense of actual damages that Brilin actually
25 sustained. And, in fact, even if we're going off of the

1 argument not being evidence, the defense only asked for
2 \$1 to send a message.

3 And then, you know, just very briefly, last
4 point, the companies that Mr. Decker owns, the
5 information came out during his deposition are not in
6 the record of this case. I would ask the Court to
7 disregard those. The deposition transcripts are not on
8 the record in this case.

9 THE COURT: They were mentioned in the trial.

10 MR. DLUZNESKI: We mentioned at trial. We dived
11 much deeper into them during the depositions. And I
12 can't recall the exact extent. It was a four-day trial,
13 of how far we got into the companies, but I would ask
14 the Court to only consider that to the extent that there
15 was testimony on that at trial. That's all I have.

16 THE COURT: Okay. Thank you very much. One of
17 the, probably, illuminating statements that I've heard
18 today was that this was a four-day trial and we're
19 arguing over how much money? \$6,000 that was awarded as
20 part of the unfair trade practices claim. Those two,
21 and for purposes of the record for anybody who may take
22 a look at this later, is probably, put quotation marks
23 around, this Court's frustration with this Court's
24 efforts that it took prior to engaging in a four-day
25 trial in trying to get this case resolved between the

1 parties. And after a four-day trial, the verdict being
2 given by this jury was the elephant in the room, equal
3 to both sides. That is the Court's frustration.

4 Parties have a right to engage in litigation,
5 have their matters heard and decided by a fair and
6 impartial jury, and I think that this case was tried
7 before a fair and impartial jury who sat for four days
8 and listened to the evidence in this case. And we're
9 here today and we're still arguing over this case. And
10 we're arguing over one side got 10,000-some-odd dollars,
11 the other side got 10,000-some-odd dollars. And we're
12 arguing now over unfair trade practices damages that are
13 a little bit over \$6,000 after a four-day trial.

14 And this is a four-day trial that this Court did
15 not have lawyers that were not prepared. Y'all were
16 prepared to represent your clients' interests. And this
17 jury, as I recall, received this evidence that y'all
18 presented over the matters in this case, and that jury
19 listened to this evidence and came up with the decisions
20 that it made in this case. And this jury made the
21 decision, and again, it's the elephant in the room, that
22 nobody won. When it comes to how that jury viewed this
23 case, it was a draw. It was a tie. Nobody was going to
24 walk out of this courtroom, after that four-day trial,
25 hearing all of the evidence that was presented, and say

1 that somehow one party needed to take the position that
2 as far as this jury was concerned, that they had
3 prevailed.

4 That's what I'm being asked today. The elephant
5 in the room is that this jury saw this case for what it
6 was. I'll take a look at it and let you know. Can I
7 talk to the lawyers in private?

8 MR. WHITE: Sure. May I put one more thing on
9 the record?

10 THE COURT: If you don't open pandora's box.

11 MR. WHITE: I'll try to ---

12 THE COURT: And you'll want to make a response.
13 Go ahead.

14 MR. WHITE: I will say that based on the case law
15 that, you know, thow shalt treble the damages, it's not
16 a zero verdict when you consider that. It's \$12,000,
17 which I wrote it down here for you, Your Honor.
18 \$12,188.13 -- 26 coming our way, as of right now, as a
19 matter of law, plus, you know, plus attorney's fees,
20 reasonable attorney's fees under the UTPA, so I'll say
21 that.

22 THE COURT: Okay. And you said that. I knew
23 that, but thank you for reminding me of that. Yes, I
24 know. Yes, that's what the statute says and that's
25 where we are. May I see the lawyers in chambers for a

1 moment?

2 MR. DLUZNESKI: Yes.

3 THE COURT: Y'all can leave that stuff here. We
4 can go in chambers. We'll come back and y'all can get
5 that.

6 (Hearing concluded at 3:47 p.m.)

7

8 --- THIS ENDS REQUESTED TRANSCRIPT ---

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COURT REPORTER CERTIFICATE




I, the undersigned Julie A. Cendroski, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that to the best of my ability the foregoing is a true, accurate, and complete transcript of record of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court of COMMON PLEAS for Spartanburg County, South Carolina, on the 13th day of September, 2022.




I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



s/o Julie A Cendroski

Julie A. Cendroski
Circuit Court Reporter III
Seventh Judicial Circuit

Address Report
York County Government, SC

 Property	 Parcel	 Address
Property Location: PARCEL A / 2.403 AC	Parcel Number: 7140000035	Address: 2180 CAROLINA PL, STE 111, FORT MILL, SC 29708
CAROLINA PLACE	TaxMapID: 7140000035	Unit Number: 111
Subdivision:	Subdivision:	Lot Number:
Owner(s): CAROLINA REAL ESTATE HOLDING LLC	Lot Number: A	Subdivision:
Previous Grantor: DECKER WILLIAM B	Deeded Acres:	Jurisdiction: COUNTY
Sales Date: May 20, 2013	Deed Book/Page: 13373 / 151	Dwelling Type: B
Sales Price: \$1	Plat Book/Page: E11 / 8	Unit Type: S
Fire Code: (FH-1) Flint Hill		Use Status: O
Tax District: Fort Mill - 4		ID Number: 130226
Municipal District:		Last Edit Date: 11/12/2015 2:56:38 PM

 Taxes	 Political	 District
TaxMapID: 7140000035	Township: FORT MILL	Zoning:
Tax Billing Address: 15105 D JOHN J DELANEY DR CHARLOTTE, NC	Precinct Name: Baxter	Watershed ID: 03050103020
Land Value: \$300,000	Precinct Location: Philadelphia United Methodist Church	Watershed Name: Sugar Creek
Building Value: \$1,277,860	York County Council District: 1	Flood Zone: no
Total Market Value: \$1,638,860	York County Council Member: Tom Audette	Building Inspector District: D-4
Total Tax Value: \$1,314,565		City Jurisdiction: COUNTY
Total Assessed Value: \$78,874		

 Road/Utilities	 School
Street:	School District: Fort Mill - 4
Owner: York County	CURRENT SCHOOL YEAR:
Maintenance: (803) 628-3200	Elementary School: PLEASANT KNOLL ELEM
Electric:	Middle School: PLEASANT KNOLL MIDD
Provider: York Electric Cooperative	High School: NATION FORD HIGH
Maintenance:	
Water:	
Provider:	

This report is provided by the GIS department of the York County Government, SC.

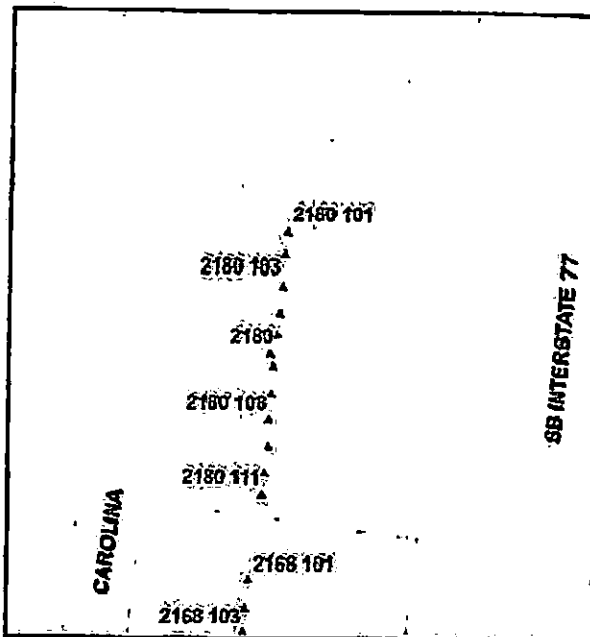
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Report Date: 05/19/2022 12:03:11

ROA00878

Other:

EPZ: B-2



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Report Date: 05/19/2022 12:03:11 | v:3.1.3

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK) LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") by and between Carolina Real Estate Holdings, LLC, a North Carolina limited liability company, ("Landlord"), whose address is 15105-D John J. Delaney Drive, Suite 347, Charlotte, NC 28277-2741, or such other address as Landlord specifies in writing; and Brillio Electric LLC, ("Tenant"), whose address is 1774 Carolina Place Dr #108 Fort Mill, SC 29708

For and in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

BACKGROUND STATEMENT

- A. Landlord is the owner of the building located at 2180 Carolina Place Drive, Fort Mill, York County, South Carolina, (the "Building").
- B. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the Premises for the purposes and upon the terms and conditions hereinafter set forth.

PREMISES

- 1. Landlord leases unto Tenant, and Tenant hereby leases and takes upon the terms and conditions which hereinafter appear, the following described property, including any improvements located thereon (hereinafter called the "Premises"), to wit: Suite 111, 2180 Carolina Place Drive, Fort Mill, SC 29715.

TERM AND CONSTRUCTION

- 2. (a) The term of this Lease shall commence on the date May 1, 2017 (the "Rent Commencement Date") and ends on April 30, 2020. All of the following conditions shall have been satisfied or waived by Tenant in writing:

- 2.1 Landlord has delivered actual possession and control of the Premises to Tenant;
- 2.2 Landlord has delivered a fully executed copy of this Lease to Tenant.

The first Lease Year Anniversary shall be the date twelve calendar months after the first day of the first full month immediately following the Rent Commencement Date and successive Lease Year Anniversaries shall be the date twelve calendar months from the previous Lease Year Anniversary. The lease shall terminate on the date which is the third Lease Year Anniversary (the "Initial Term"), unless sooner terminated pursuant to this Lease. Further, and so long as

this Lease has not been terminated and so long as Tenant is not then in default, Tenant shall have the right to renew the term of this Lease for one (1) successive period of three (3) years by providing written notice of its election to renew the term to Landlord one hundred eighty (180) days prior to the expiration of the then existing term of this Lease (as it may have been renewed). Rent for the additional three (3) period shall be \$3,200.00 per month, plus 3% per year.

(b) Tenant shall not permit any mechanic's, materialman's or similar lien to be filed against any portion of the Premises for any labor performed or material furnished in connection with any work performed or caused to be performed by Tenant, (and not relating to Landlord's failure to perform Landlord's obligations hereunder) to attach to the Premises or the Building or the interest of Landlord or Landlord's lessor, if any, therein or to Tenant's interest in this Lease or the Premises at any time. Tenant covenants and agrees to indemnify, defend and hold harmless Landlord from and against any such lien or claim of lien and any and all costs, expenses and liabilities relating thereto. If any such lien is filed, then Tenant shall fully pay or discharge the same or post a bond regarding such lien in accordance with applicable law and in a manner acceptable to Landlord within ten (10) days of receipt of written notice of the filing thereof. If Tenant fails to fully pay or discharge such lien or post a bond regarding such lien in accordance with applicable law and in a manner acceptable to Landlord within ten (10) days of receipt of written notice of the filing thereof, then Landlord shall have the immediate right (but not the obligation) to pay and/or discharge such lien at Tenant's cost and expense, and Tenant shall, within ten (10) days of written demand, pay all Landlord's costs and expenses incurred in paying or discharging such lien. Tenant's failure to fully pay or discharge said lien or post a bond within the time specified shall also constitute an immediate default under the Lease and Tenant may exercise its rights to terminate and pursue any other remedies available at law or in equity. Prior to the commencement of any improvements to the Premises, Tenant shall notify Landlord thereof so that Landlord may execute for Tenant, and Tenant may post in a conspicuous place upon the Premises, a notice of non-responsibility as contemplated by the South Carolina Code of Laws.

RENTAL

3. Beginning on the "Rent Commencement Date," Tenant agrees to pay Landlord without notice, demand, deduction or set off, rent in monthly installments in advance on the first day of each calendar month as follows: \$3,000.00 per month during the first Lease Year; \$3,090.00 per month during the second Lease Year; and \$3,182.70 per month during the third Lease Year. Rental for any period during the term hereof which is less than one month shall be the pro-rated portion of the monthly installment of rental due, based upon a 30-day month.

Tenant shall pay all rental to Landlord at the following address: Carolina Real Estate Holdings LLC, 15105-D John J. Delaney Dr., Suite 347, Charlotte, NC 28277.

LATE CHARGES

4. If Landlord fails to receive full rental payment within ten days after it becomes due, Tenant shall pay Landlord, as additional rental, a late charge equal to five percent (5.00%) of the overdue amount, plus any actual bank fees incurred for dishonored payments. The parties agree that such a late charge represents a fair and reasonable estimate of the cost Landlord will incur by reason of such late payment.

SECURITY DEPOSIT

5. Upon the execution of this Lease, Tenant shall deposit with Landlord the sum of \$3,000.00 as a security deposit which shall be held by Landlord as security for the full and faithful performance by Tenant of each and every term, covenant and condition of this Lease. The security deposit does not represent payment of and Tenant shall not presume application of same as payment of the last monthly installment of rental due under this Lease. Landlord shall have no obligation to segregate or otherwise account for the security deposit except as provided in this paragraph 5. If any of the rental or other charges or sums payable by Tenant shall be over-due and unpaid or should payments be made by Landlord on behalf of Tenant, or should Tenant fail to perform any of the terms of this Lease, then Landlord may, at its option, appropriate and apply the security deposit, or so much thereof as may be necessary, to compensate toward the payment of the rents, charges or other sums due from Tenant, or towards any loss, damage or expense sustained by Landlord resulting from such default on the part of the Tenant; and in such event Tenant upon demand shall restore the security deposit to the amount set forth above in this paragraph 5. In the event Tenant furnishes Landlord with proof that all utility bills and other bills of Tenant related to the Premises have been paid through the date of Lease termination, and performs all of Tenant's other obligations under this Lease, the security deposit shall be returned to Tenant within sixty (60) days after the date of the expiration or sooner termination of the term of this Lease and the surrender of the Premises by Tenant in compliance with the provisions of this Lease.

UTILITY BILLS/SERVICE CONTRACTS

6. Landlord and Tenant agree that utility bills and service contracts ("Service Obligations") for the Premises shall be paid by the party indicated below as to each Service Obligation. In each instance, the party undertaking responsibility for payment of a Service Obligation covenants that they will pay the applicable Service Obligations prior to delinquency. The responsibility to pay for a Service Obligation shall include all metering, hook-up fees or other miscellaneous charges associated with establishing, installing and maintaining such utility or contract in said party's name. Within thirty (30) days of the Lease Commencement Date, Tenant shall provide Landlord with a copy of any requested Tenant Service Obligation information.

Landlord shall be responsible for: Landscaping and Pest Control.

Tenant shall be responsible for: Sewer/Septic, Water, Electric, Gas, Telephone, HVAC (excluding semiannual service), Security System, Fiber Optic, and interior janitorial and cleaning.

Landlord shall not be liable for injury to Tenant's business or loss of income therefrom or for damage that may be sustained by the person, merchandise or personal property of Tenant, its employees, agents, invitees or contractors or any other person in or about the Premises, caused by or resulting from fire, steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of any utility installations, air conditioning system or other components of the Premises, except to the extent that such damage or loss is caused by Landlord's gross negligence or willful misconduct. Landlord makes no representations or warranties with respect to the heating, ventilation and air conditioning system(s) or utility installations existing as of the date hereof or in the future. Subject to the provisions of this paragraph 6, Landlord shall not be liable in damages or otherwise for any discontinuance, failure or interruption of service to the Premises of utilities or the heating, ventilation and air conditioning system(s) and Tenant shall have no right to terminate this Lease or withhold rental because of the same.

RULES AND REGULATIONS

7. The rules and regulations, if any, attached hereto ("Rules and Regulations") are made a part of this Lease. Tenant agrees to comply with any Rules and Regulations of Landlord in connection with the Premises which are in effect at the time of the execution of the Lease or which may be from time to time promulgated by Landlord in its reasonable discretion, provided such Rules and Regulations are in writing and are not in conflict with the terms and conditions of the Lease.

TAXES AND INSURANCE

8. Landlord shall pay all taxes (including but not limited to, ad valorem taxes, special assessments and any other governmental charges) on the Premises and shall procure and pay for such commercial general liability, broad form fire and extended and special perils insurance with respect to the Premises as Landlord in its reasonable discretion may deem appropriate. Tenant shall be solely responsible for insuring Tenant's personal and business property and for paying any taxes or governmental assessments levied thereon.

INSURANCE; WAIVER; INDEMNITY

9. (a) During the term of this Lease, Tenant shall maintain commercial general liability insurance coverage (occurrence coverage) with broad form contractual liability coverage and with coverage limits of not less than \$1,000,000.00 combined single limit, per occurrence, specifically including liquor liability insurance covering consumption of alcoholic beverages by customers or invitees of Tenant should Tenant choose to sell alcoholic beverages. Such policy shall insure Tenant's performance of the indemnity provisions of this Lease, but the amount of such insurance shall not limit Tenant's liability nor relieve Tenant of any obligation hereunder. All policies of insurance provided for herein shall name as "additional insureds" Landlord, Landlord's Agent, all mortgagees of Landlord and such other individuals or entities as Landlord may from time to time designate upon written notice to Tenant. Tenant shall provide to Landlord,

at least thirty (30) days prior to expiration, certificates of insurance to evidence any renewal or additional insurance procured by Tenant. Tenant shall provide evidence of all insurance required under this Lease to Landlord prior to the Lease Commencement Date.

(b) Landlord (for itself and its insurer) waives any rights, including rights of subrogation, and Tenant (for itself and its insurer) waives any rights, including rights of subrogation, each may have against the other for compensation of any loss or damage occasioned to Landlord or Tenant arising from any risk generally covered by the "all risks" insurance required to be carried by Landlord and Tenant. The foregoing waivers of subrogation shall be operative only so long as available in the State of South Carolina. The foregoing waivers shall be effective whether or not the parties maintain the insurance required to be carried pursuant to this Lease.

(c) Except as otherwise provided in paragraph 10(b), Tenant indemnifies Landlord for damages proximately caused by the negligence or wrongful conduct of Tenant and Tenant's employees, agents, invitees or contractors. Except as otherwise provided in paragraph 10(b), Landlord indemnifies Tenant for damages proximately caused by the negligence or wrongful conduct of Landlord and Landlord's employees, agents, invitees or contractors. The indemnity provisions in this paragraph 10 cover personal injury and property damage and shall bind the employees, agents, invitees or contractors of Landlord and Tenant (as the case may be). The indemnity obligations in this paragraph 10 shall survive the expiration or earlier termination of this Lease.

REPAIRS BY LANDLORD

10. Landlord agrees to keep in good repair the roof, foundation, structural supports and exterior walls of the buildings located on the Premises (exclusive of all glass and exclusive of all exterior doors) and, except as may be specifically allocated to Tenant in paragraph 12 herein, Landlord agrees to be responsible for capital repairs and replacements on the Premises; provided that Landlord shall not be responsible for repairs or capital repairs or replacements rendered necessary by the negligence or intentional wrongful acts of Tenant, its employees, agents, invitees or contractors. Tenant shall promptly report in writing to Landlord any defective condition known to it which Landlord is required to repair or replace and failure to report such conditions shall make Tenant responsible to Landlord for any liability incurred by Landlord by reason of such conditions. Tenant agrees to pay, within thirty (30) days of receipt of an invoice detailing such increase, Tenant's Proportionate Share (18%) of any increase in the Common Area Maintenance over the Base Year of 2016. The term "Common Area Maintenance Expenses" shall mean and include the total cost and expense typically paid or incurred in operating and maintaining the Common Areas of property of this type, including but not limited to landscaping, parking lot repair, painting, lighting, insurance, removal of trash and payment for exterior lighting and water.

REPAIRS BY TENANT

11. (a) Tenant accepts the Premises in their present condition and as suited for the Permitted Use and Tenant's intended purposes. Tenant, throughout the initial term of this Lease, and any extension or renewal thereof, at its expense, shall maintain in good order and repair the Premises, (except those repairs expressly required to be made by Landlord hereunder), specifically including but not limited to any building and other improvements located thereon, all light bulb and ballast replacements, plumbing fixtures and systems repairs within the Premises and water heater repairs. Tenant shall use only licensed contractors for repairs where such license is required. Landlord shall have the right to approve the contractor as to any repairs in excess of \$3,000.00.

Landlord warrants to Tenant that all components of the building shall be in good first class condition and working order at the time Tenant first occupies the Premises. Landlord shall either assign to Tenant or enforce on Tenant's behalf, all warranties on the HVAC system and any other systems and equipment installed on or within the Premises.

Tenant, at its expense, shall maintain the heating, ventilation and air conditioning system(s) in good order and repair, including but not limited to replacement of parts, compressors, air handling units and heating units. Provided that Tenant shall have obtained Landlord's prior written approval of the contractor and the repair or replacement expenses for heating, ventilation and air conditioning equipment, Tenant shall not be liable for more than \$ 200.00 (per occurrence) or \$600.00 (annually), and Landlord shall reimburse Tenant for the amount in excess of the stated amount upon the written request of Tenant.

(b) Tenant agrees to return the Premises to Landlord at the expiration or prior termination of this Lease, in as good condition and repair as on the Lease Commencement Date, natural wear and tear, damage by storm, fire, lightning, earthquake or other casualty alone excepted. Tenant, Tenant's employees, agents, invitees or contractors shall take no action which may void any manufacturers or installers warranty with relation to the Premises. Tenant shall indemnify and hold Landlord harmless from any liability, claim, demand or cause of action arising on account of Tenant's breach of the provisions of this paragraph 12.

ALTERATIONS

12. Other than Tenant's Initial Improvements, Tenant shall not make any alterations, additions, or improvements to the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this paragraph 12 upon Landlord's written request. All approved alterations, additions, and improvements will be accomplished in a good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor approved by Landlord, free of any liens or encumbrances. Tenant shall have the right to remove any alterations, additions or improvements (whether or not made with Landlord's consent) at the termination of the Lease and shall restore the Premises to its prior condition, all at Tenant's expense. Tenant may remove any of Tenant's machinery, equipment or trade fixtures. Tenant shall repair, at Tenant's expense, any damage to the Premises caused by the

removal of any such machinery, equipment or trade fixtures. It is Tenant's intention to have a third party install and own certain work station and divider equipment within the Premises. Landlord consents to this installation and waives any lien as to such third party property.

DESTRUCTION OF OR DAMAGE TO PREMISES

13. (a) If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, Landlord shall have the right to terminate this Lease on written notice to Tenant within thirty (30) days after such destruction and this Lease shall terminate as of the date of such destruction and rental shall be accounted for as between Landlord and Tenant as of that date.

(b) If the Premises are damaged but not wholly destroyed by any such casualties or if the Landlord does not elect to terminate the Lease under paragraph 14(a) above, Landlord shall commence (or shall cause to be commenced) reconstruction of the Premises within one hundred twenty (120) days after such occurrence and prosecute the same diligently to completion, not to exceed two hundred seventy (270) days from the date upon which Landlord receives applicable permits and insurance proceeds. In the event Landlord shall fail to substantially complete reconstruction of the Premises within said two hundred seventy (270) day period, Tenant's sole remedy shall be to terminate this Lease.

(c) In the event of any casualty at the Premises during the last one (1) year of the Lease Term, Landlord and Tenant each shall have the option to terminate this Lease on written notice to the other of exercise thereof within sixty (60) days after such occurrence.

(d) In the event of reconstruction of the Premises, Tenant shall continue the operation of its business in the Premises during any such period to the extent reasonably practicable from the standpoint of prudent business management, and the obligation of Tenant to pay annual rental and any other sums due under this Lease shall remain in full force and effect during the period of reconstruction. The annual rental and other sums due under this Lease shall be abated proportionately with the degree to which Tenant's use of the Premises is impaired, commencing from the date of destruction and continuing during the period of such reconstruction. Tenant shall not be entitled to any compensation or damages from Landlord for loss of use of the whole or any part of the Premises, Tenant's personal property, or any inconvenience or annoyance occasioned by such damage, reconstruction or replacement.

(e) In the event of the termination of this Lease under any of the provisions of this paragraph 14, both Landlord and Tenant shall be released from any liability or obligation under this Lease arising after the date of termination, except as otherwise provided for in this Lease.

GOVERNMENTAL ORDERS

14. Tenant, at its own expense, agrees to comply with: (a) any law, statute, ordinance,

regulation, rule, requirement, order, court decision or procedural requirement of any governmental or quasi-governmental authority having jurisdiction over the Premises, (b) the rules and regulations of any applicable governmental insurance authority or any similar body, relative to the Premises and Tenant's activities therein; (c) provisions of or rules enacted pursuant to any private use restrictions, as the same may be amended from time to time and (d) the Americans with Disabilities Act (42 U.S.C.S. § 12101, et seq.) and the regulations and accessibility guidelines enacted pursuant thereto, as the same may be amended from time to time. Landlord and Tenant agree, however, that if in order to comply with such requirements the cost to Tenant shall exceed a sum equal to one (1) year's rent, then Tenant may terminate this Lease by giving written notice of termination to Landlord in accordance with the terms of this Lease, which termination shall become effective sixty (60) days after receipt of such notice and which notice shall eliminate the necessity of compliance with such requirements, unless, within thirty (30) days of receiving such notice, Landlord agrees in writing to be responsible for such compliance, at its own expense, and commences compliance activity, in which case Tenant's notice given hereunder shall not terminate this Lease.

CONDEMNATION

15. (a) If the entire Premises shall be appropriated or taken under the power of eminent domain by any governmental or quasi-governmental authority or under threat of and in lieu of condemnation (hereinafter, "taken" or "taking"), this Lease shall terminate as of the date of such taking, and Landlord and Tenant shall have no further liability or obligation arising under this Lease after such date, except as otherwise provided for in this Lease.

(b) If more than twenty-five percent (25%) of the floor area of any building of the Premises is taken, or if by reason of any taking, regardless of the amount so taken, the remainder of the Premises is not one undivided space or is rendered unusable for the Permitted Use, either Landlord or Tenant shall have the right to terminate this Lease as of the date Tenant is required to vacate the portion of the Premises taken, upon giving notice of such election within thirty (30) days after receipt by Tenant from Landlord of written notice that said Premises have been or will be so taken. In the event of such termination, both Landlord and Tenant shall be released from any liability or obligation under this Lease arising after the date of termination, except as otherwise provided for in this Lease.

(c) Landlord and Tenant, immediately after learning of any taking, shall give notice thereof to each other.

(d) If this Lease is not terminated on account of a taking as provided herein above, then Tenant shall continue to occupy that portion of the Premises not taken and the parties shall proceed as follows: (i) at Landlord's cost and expense and as soon as reasonably possible, Landlord shall restore (or shall cause to be restored) the Premises remaining to a complete unit of like quality and character as existed prior to such appropriation or taking, and (ii) the annual rent provided for in paragraph 3 and other sums due under the Lease shall be reduced on an equitable basis, taking into account the relative values of the portion taken as compared to the portion remaining. Tenant waives any statutory rights of termination that may arise because of any

partial taking of the Premises.

(e) Landlord shall be entitled to the entire condemnation award for any taking of the Premises or any part thereof. Tenant's right to receive any amounts separately awarded to Tenant directly from the condemning authority for the taking of its merchandise, personal property, relocation expenses and/or interests in other than the real property taken shall not be affected in any manner by the provisions of this paragraph 16, provided Tenant's award does not reduce or affect Landlord's award and provided further, Tenant shall have no claim for the loss of its leasehold estate.

ASSIGNMENT AND SUBLETTING

16. Tenant shall not assign this Lease or any interest hereunder or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than the Tenant, without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Consent to any assignment or sublease shall not impair this provision and all later assignments or subleases shall be made likewise only on the prior written consent of Landlord. No sublease or assignment by Tenant shall relieve Tenant of any liability hereunder.

EVENTS OF DEFAULT

17. The happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease, or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant fails to pay when due the rental or any other monetary obligation as provided for herein; (b) Tenant abandons or vacates the Premises; (c) Tenant fails to comply with or abide by and perform any non-monetary obligation imposed upon Tenant under this Lease within thirty (30) days after written notice of such breach; (d) Tenant is adjudicated bankrupt; (e) A permanent receiver is appointed for Tenant's property and such receiver is not removed within sixty (60) days after written notice from Landlord to Tenant to obtain such removal; (f) Tenant, either voluntarily or involuntarily, takes advantage of any debt or relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be, reduced or payment thereof deferred and such proceeding is not dismissed within sixty (60) days of the filing thereof; (g) Tenant makes an assignment for benefit of creditors; or (h) Tenant's effects are levied upon or attached under process against Tenant, which is not satisfied or dissolved within thirty (30) days after written notice from Landlord to Tenant to obtain satisfaction thereof.

REMEDIES UPON DEFAULT

19. Upon the occurrence of Event of Default, Landlord may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law: (a) Landlord may terminate this Lease by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law; or (b) Landlord may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be entitled to recover from the Tenant

damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of this Lease, or any renewal or extension thereof (as if this Lease had not been terminated); or (c) Landlord, as Tenant's agent, without terminating this Lease, may enter upon and rent the Premises, in whole or in part, at the best price obtainable by reasonable effort, without advertisement and by private negotiations and for any term Landlord deems proper, with Tenant being liable to Landlord for the deficiency, if any, between Tenant's rent hereunder and the price obtained by Landlord on re-letting, provided however, that Landlord shall not be considered to be under any duty by reason of this provision to take any action to mitigate damages by reason of Tenant's default and expressly shall have no duty to mitigate Tenant's damages. No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord's right to collect rent for the period prior to termination thereof.

EXTERIOR SIGNS

19. Any and all signs placed on the Premises shall be in compliance with governmental rules and regulations governing such signs. Tenant shall provide the Landlord with the basic design of any exterior building sign proposed to be installed on the exterior of the building for approval, approval shall not be unreasonably withheld. Tenant may place additional signs and shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

LANDLORD'S ENTRY OF PREMISES

20. Landlord may advertise the Premises "For Rent" or "For Sale" 90 days before the termination of this Lease. Landlord may enter the Premises upon prior notice at reasonable hours to exhibit same to prospective purchasers or tenants, to make repairs required of Landlord under the terms hereof, for reasonable business purposes and otherwise as may be agreed by Landlord and Tenant. Landlord may enter the Premises at any time without prior notice, in the event of an emergency or to make emergency repairs to the Premises. Upon request of Landlord, Tenant shall provide Landlord with a functioning key to the Premises and shall replace such key if the locks to the Premises are changed.

QUIET ENJOYMENT

21. So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Premises, subject to the terms hereof.

HOLDING OVER

22. If Tenant remains in possession of the Premises after expiration of the term hereof, Tenant shall be a tenant at sufferance and there shall be no renewal of this Lease by operation of law. In such event, commencing on the date following the date of expiration of the term, the

monthly rental payable under Paragraph 3 above shall for each month, or fraction thereof during which Tenant so remains in possession of the Premises, be twice the monthly rental otherwise payable under Paragraph 3 above.

ENVIRONMENTAL LAWS

23. (a) Tenant covenants that with respect to any Hazardous Materials (as defined below) it will comply with any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Premises or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act, any other legal requirement concerning hazardous or toxic substances, and any amendments to the foregoing (collectively, all such matters being "Hazardous Materials Requirements"). Tenant shall remove all Hazardous Materials from the Premises, either after their use by Tenant or upon the expiration or earlier termination of this Lease, in compliance with all Hazardous Materials Requirements.

(b) Tenant shall be responsible for obtaining all necessary permits in connection with its use, storage and disposal of Hazardous Materials, and shall develop and maintain, and where necessary file with the appropriate authorities, all reports, receipts, manifest, filings, lists and invoices covering those Hazardous Materials and Tenant shall provide Landlord with copies of all such items upon request. Tenant shall provide within five (5) days after receipt thereof, copies of all notices, orders, claims or other correspondence from any federal, state or local government or agency alleging any violation of any Hazardous Materials Requirements by Tenant, or related in any manner to Hazardous Materials. In addition, Tenant shall provide Landlord with copies of all responses to such correspondence at the time of the response.

(c) Tenant hereby indemnifies and holds harmless Landlord, its successors and assigns from and against any and all losses, liabilities, damages, injuries, penalties, fines, costs, expenses and claims of any and every kind whatsoever (including attorney's fees and costs) paid, incurred or suffered by, or asserted against Landlord as a result of any claim, demand or judicial or administrative action by any person or entity (including governmental or private entities) for, with respect to, or as a direct or indirect result of, the presence on or under or the escape, seepage, leakage, spillage, discharge, emission or release from the Premises of any Hazardous Materials caused by Tenant or Tenant's employees, agents, invitees or contractors. This indemnity shall also apply to any release of Hazardous Materials caused by a fire or other casualty to the premises if such Hazardous Materials were stored on the Premises by Tenant, its agents, employees, invitees or successors in interest.

(d) For purposes of this Lease, "Hazardous Materials" means any chemical, compound, material, substance or other matter that (i) is defined as a hazardous substance, hazardous material or waste, or toxic substance pursuant to any Hazardous Materials Requirements, (ii) is regulated, controlled or governed by any Hazardous Materials Requirements, (iii) is petroleum or a petroleum product, or (iv) is asbestos, formaldehyde, a radioactive material, drug, bacteria,

virus, or other injurious or potentially injurious material (by itself or in combination with other materials).

(e) The warranties and indemnities contained in this paragraph 24 shall survive the termination of this Lease.

SUBORDINATION; ATTORNMENT; ESTOPPEL

24. (a) This Lease and all of Tenant's rights hereunder are and shall be subject and subordinate to all currently existing and future mortgages affecting the Premises. Within ten (10) days after the receipt of a written request from Landlord or any Landlord mortgagee, Tenant shall confirm such subordination by executing and delivering Landlord and Landlord's mortgagee a recordable subordination agreement and such other documents as may be reasonably requested, in form and content satisfactory to Landlord and Landlord's mortgagee. Provided, however, as a condition to Tenant's obligation to execute and deliver any such subordination agreement, the applicable mortgages must agree that mortgages shall not unilaterally, materially alter this Lease and this Lease shall not be in default under the terms of this Lease beyond any applicable cure period set forth herein. Tenant acknowledges that any Landlord mortgagee has the right to subordinate at any time its interest in this Lease and the leasehold estate to that of Tenant, without Tenant's consent.

(b) If Landlord sells, transfers, or conveys its interest in the Premises or this Lease, or if the same is foreclosed judicially or non-judicially, or otherwise acquired, by a Landlord mortgagee, upon the request of Landlord or Landlord's successor, Tenant shall attorn to said successor, provided said successor accepts the Premises subject to this Lease. Tenant shall, upon the request of Landlord or Landlord's successor, execute an attornment agreement confirming the same, in form and substance acceptable to Landlord or Landlord's successor and Landlord shall thereupon be released and discharged from all its covenants and obligations under this Lease, except those obligations that have accrued prior to such sale, transfer or conveyance; and Tenant agrees to look solely to the successor in interest of Landlord for the performance of those covenants accruing after such sale, transfer or conveyance. Such agreement shall provide, among other things, that said successor shall not be bound by (a) any prepayment of more than one (1) month's rental (except the Security Deposit) or (b) any material amendment of this Lease made after the later of the Lease Commencement Date or the date that such successor's lien or interest first arose, unless said successor shall have consented to such amendment.

(c) Within ten (10) days after request from Landlord, Tenant shall execute and deliver to Landlord an estoppel certificate (to be prepared by Landlord and delivered to Tenant) with appropriate facts then in existence concerning the status of this Lease and Tenant's occupancy, and with any exceptions thereto noted in writing by Tenant. Tenant's failure to execute and deliver the Estoppel Certificate within said ten (10) day period shall be deemed to make conclusive and binding upon Tenant in favor of Landlord and any potential mortgagee or transferee the statements contained in such estoppel certificate without exception.

ABANDONMENT

25. Tenant shall not abandon the Premises at any time during the Lease term. If Tenant shall abandon the Premises or be dispossessed by process of law, any personal property belonging to Tenant and left on the Premises, at the option of Landlord, shall be deemed abandoned, and available to Landlord to use or sell to offset any rent due or any expenses incurred by removing same and restoring the Premises.

MEDIATION

26. If any dispute relating to this lease between the Parties is not resolved through informal discussion within 14 days from the date a dispute arises, the Parties agree to submit the issue before a mediator. The decision of the mediator will be binding on the Parties. Any mediator must be a neutral party acceptable to both Parties. The cost of any mediation will be shared equally by the Parties.

NOTICES

27. All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the address shown at the beginning of this Lease, except that upon Tenant taking possession of the Premises, then the Premises shall be Tenant's address for such purposes. Notices to Landlord shall be delivered or sent to the address shown at the beginning of this Lease and notices to Agent, if any, shall be delivered or sent to the address set forth in Paragraph 3 hereof. All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

GENERAL TERMS

28. (a) "Landlord" as used in this Lease shall include the undersigned, its heirs, representatives, assigns and successors in title to the Premises. "Agent" as used in this Lease shall mean the party designated as same in Paragraph 3, its heirs, representatives, assigns and successors. "Tenant" shall include the undersigned and its heirs, representatives, assigns and successors, and if this Lease shall be validly assigned or sublet, shall include also Tenant's assignees or sub lessees as to the Premises covered by such assignment or sublease. "Landlord", "Tenant", and "Agent" include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

(b) No failure of Landlord to exercise any power given Landlord hereunder or to insist upon strict compliance by Tenant of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms hereof. All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

(c) Time is of the essence in this Lease.

(d) This Lease may be executed in one or more counterparts, which taken together, shall constitute one and the same original document. Copies of original signature pages of this Lease may be exchanged via facsimile or e-mail, and any such copies shall constitute originals. This Lease constitutes the sole and entire agreement among the parties hereto and no modification of this Lease shall be binding unless in writing and signed by all parties hereto. The invalidity of one or more provisions of this Lease shall not affect the validity of any other provisions hereof and this Lease shall be construed and enforced as if such invalid provisions were not included.

(e) Each signatory to this Lease represents and warrants that he or she has full authority to sign this Lease and such instruments as may be necessary to effectuate any transaction contemplated by this Lease on behalf of the party for whom he or she signs and that his or her signature binds such party. The parties acknowledge and agree that: (i) the initials lines at the bottom of each page of this Lease are merely evidence of their having reviewed the terms of each page, and (ii) the complete execution of such initials lines shall not be a condition of the effectiveness of this Lease.

(f) Upon request by either Landlord or Tenant, the parties hereto shall execute a short form lease (memorandum of lease) in recordable form, setting forth such provisions hereof (other than the amount of annual rental and other sums due) as either party may wish to incorporate. The cost of recording such memorandum of lease shall be borne by the party requesting execution of same.

(g) If legal proceedings are instituted to enforce any provision of this Lease, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney's fees and court costs incurred in connection with the proceeding.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Lease to be duly executed.

LANDLORD

Carolina Real Estate Holdings, LLC

By: _____
Title: _____
Date: _____

TENANT

Bright Electric
By: [Signature]
Title: owner
Date: 4/17/17

CHARLES S. BRADFORD, P.A.

ATTORNEYS AT LAW

AttorneyCharles S. Bradford
Charles@csblawfirm.comAssociate AttorneySteve D. Dluznieski
Steve@csblawfirm.comAssociate AttorneyAlexis M. Peddy
Alexis@csblawfirm.com

September 24, 2019

Brilin Electric, LLC
2180 Carolina Place Drive, Suite 111
Fort Mill, SC 29708Via: Certified Mail, Return Receipt RequestedBrilin Electric, LLC
Attn: Bryon Russell, Registered Agent
2 Office Park Court, Suite 103
Columbia, SC 29223Via: Certified Mail, Return Receipt RequestedRe: Commercial Lease Agreement with Carolina Real Estate Holdings, LLC
2180 Carolina Place Drive, Suite 111, Fort Mill, SC 29708
Termination of Commercial Lease Agreement and Demand for Money Damages
CSBPA File No.: 6470.00

Dear Sir or Madam:

Our law firm represents Carolina Real Estate Holdings, LLC (hereinafter "Carolina Real Estate Holdings") in the above-mentioned matter. Specifically, Brilin Electric, LLC (hereinafter "Brilin Electric") entered into a Lease Agreement with Carolina Real Estate Holdings on or about April 17, 2017, in which Carolina Real Estate Holdings agreed to lease Suite 111 of its building located at 2180 Carolina Place Drive in Fort Mill, South Carolina to Brilin Electric for a term of three (3) years (from May 1, 2017, through April 30, 2020) at a rental amount of \$3,000.00 per month for the first Lease Year, \$3,090.00 per month during the second Lease Year, and \$3,182.70 per month for the third Lease Year. A copy of Brilin Electric's Lease Agreement with Carolina Real Estate Holdings is attached to this letter as Exhibit A for your reference.

It is our understanding from speaking with our client, Carolina Real Estate Holdings, that several problems have recently arisen in the commercial landlord-tenant relationship between Carolina Real Estate Holdings and Brilin Electric in connection with the Lease Agreement. First and foremost, now that it is the third Lease Year of the Lease Agreement, Brilin Electric is responsible for paying \$3,182.70 per month in rent to Carolina Real Estate Holdings pursuant to the Lease Agreement. Our client has advised us that Brilin Electric only paid \$2,037.95 in rent for the month of August 2019, which leaves an unpaid rental amount of \$1,144.75 for the month of August 2019. Additionally, our client has brought to our attention that employees and/or agents of Brilin Electric caused damage to interior warehouse HVAC ductwork resulting from a forklift

Page 1 of 3

Carolina Real Estate Holdings, LLC v. Brilin Electric, LLC

Demand Letter to Brilin Electric, LLC

4 E. Liberty St. | P.O. Box 977 | York, SC 29745 | (P) 803.684.4888 | (F) 803.684.4488

www.csblawfirm.com

coming into contact with overhead HVAC ducts, which we estimate will cost Carolina Real Estate Holdings \$2,625.00 to repair. I am attaching a copy of the estimate related to this damaged HVAC ductwork to this letter as **Exhibit B** for your review and reference. Furthermore, Carolina Real Estate Holdings has relayed to us that employees and/or agents of Brillin Electric caused damage to an interior demising wall between Brillin Electric's leased space and the commercial space leased by Two Men And A Truck as a direct result of negligent forklift operation. Brillin Electric has apparently repaired the damage to the interior demising wall on Two Men And A Truck's side of the wall but not on Brillin Electric's side of the wall. The work to repair the damage to the interior demising wall on Brillin Electric's side of the wall is estimated to cost Carolina Real Estate Holdings \$1,800.00, and I am attaching a copy of the estimate related to this repair work to this letter as **Exhibit C** for your review and reference. Finally, it is our understanding from discussing this matter with our client that employees and/or agents of Brillin Electric caused damages to some new paving next to Brillin Electric's drive-in entrance of the warehouse by operating a forklift and/or other heavy machinery on the said paving. Carolina Real Estate Holdings estimates that it will cost approximately \$1,500.00 to repair the damaged paving, and I am attaching a copy of the estimate related to the paving repairs to this letter as **Exhibit D** for your review and reference.

Based upon and due to the foregoing, it is the position of Carolina Real Estate Holdings that Brillin Electric is in default of the above-mentioned Lease Agreement as a result of Brillin Electric's failure to pay the full rent amount due for the month of August 2019, and Carolina Real Estate Holdings is therefore sending this correspondence to Brillin Electric as written notice of termination of the Lease Agreement due to Brillin Electric's default. In particular, Paragraph #17 of the Lease Agreement (Events of Default) clearly and unequivocally states that the failure of Brillin Electric to pay rent or any other monetary obligation as provided for in the Lease Agreement constitutes a breach of the Lease Agreement on the part of Brillin Electric. Moreover, Paragraph #19 of the Lease Agreement (Remedies Upon Default) states that, upon the occurrence of default by Brillin Electric, our client has the authority and privilege to terminate the Lease Agreement by giving written notice to Brillin Electric (which our client is doing by way of this letter) and, upon such termination, shall be entitled to recover from Brillin Electric damages as may be permitted under applicable law and/or in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of the Lease. Additionally, Paragraph #28(g) of the Lease Agreement specifically allows Carolina Real Estate Holdings to seek an award of attorney's fees and costs against Brillin Electric in the event that litigation is necessary to enforce any provision of the Lease Agreement. As of today's date, Carolina Real Estate Holdings has incurred a total of \$750.00 in attorney's fees and costs through our office in connection with this matter, and Paragraph #28(g) of the Lease Agreement makes Brillin Electric directly responsible for the payment of our client's attorney's fees and costs.

At this juncture, we are sending this correspondence on behalf of Carolina Real Estate Holdings in an effort to resolve this matter without the need for expensive and time-consuming civil litigation. However, in the event that Brillin Electric is unwilling to settle this matter on our client's terms, we are fully prepared to file suit against Brillin Electric and to aggressively litigate this matter on behalf of Carolina Real Estate Holdings through to a resolution in court. Carolina Real Estate Holdings hereby offers this letter as written notice of its termination of the Lease Agreement and, consequently, demands that Brillin Electric promptly vacate the leased premises. Additionally, our client demands that Brillin Electric expeditiously pay the outstanding balance owed for rent for the month of August 2019 pursuant to the Lease Agreement, as well as for the damages to the leased premises and our client's attorney's fees and costs discussed herein above,

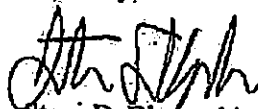
for a total amount of \$7,819.75. We believe that thirty (30) days from the date of this letter is ample time for Brillin Electric to both vacate the above-referenced leased premises as well as pay the \$7,819.75 that Carolina Real Estate Holdings is requesting. If this timeframe is not feasible for Brillin Electric to vacate the leased premises and pay the full amount of money damages requested herein, please contact our office and let me know a more reasonable timeframe for Brillin Electric to perform. If Brillin Electric fails to vacate the above-referenced leased premises and pay the \$7,819.75 in money damages discussed herein by 5:00 P.M. (Eastern Standard Time) on Thursday, October 24, 2019, or if we do not hear from Brillin Electric regarding a more reasonable time period to perform that is acceptable to our client, we will consider Brillin Electric's silence as a representation that it is unwilling to resolve this matter in an amicable manner and outside of court. In such event, we will proceed with filing suit against Brillin Electric seeking an ejection of Brillin Electric from the leased premises as well as a civil judgment against Brillin Electric for the money damages set forth herein above. Although our client's attorney's fees and costs are relatively low at this point, they will increase significantly if litigation in this matter becomes necessary. In that event, we will seek an award against Brillin Electric for the full amount that Carolina Real Estate Holdings is required to pay in attorney's fees and costs in connection with this matter, as is expressly permitted and authorized by Paragraph #28(g) of the Lease Agreement. It also warrants mention that *under no circumstances whatsoever is Brillin Electric to attempt any repairs of the damages discussed herein; rather, our client will make the necessary repairs using its chosen contractor(s) once Brillin Electric vacates the leased premises.*

Additionally, Brillin Electric as well as its agents, employees, and representatives are hereby directed to immediately cease and desist from operating any forklifts and/or other heavy machinery in the parking lot outside the warehouse area due to the damage that this activity has already caused thereto. If Brillin Electric disregards this directive and operates forklifts and/or other heavy machinery in the parking lot area notwithstanding this demand, Carolina Real Estate Holdings will proceed with filing suit against Brillin Electric in this matter immediately. Our client will permit Brillin Electric to use the two dock doors at the rear of the leased space for loading and/or offloading trucks/ deliveries; however, the parking lot outside the warehouse area may only be used for walking and hand truck use. If this arrangement is not feasible for Brillin Electric, please let me know immediately so that I can discuss a reasonable alternative with Carolina Real Estate Holdings.

Thank you for your prompt attention to these matters. If you have any questions about the content of this correspondence or wish to engage counsel in connection with this matter, please contact me by reply or ask your legal counsel to contact me. Since our office now represents Carolina Real Estate Holdings in connection with this matter, please direct all communication and correspondence related to this matter to our office and not to Carolina Real Estate Holdings.

With Kind Regards, I am

Sincerely,


Steve D. Dluznieski

SDD/
Enclosures as indicated

this Lease has not been terminated and so long as Tenant is not then in default, Tenant shall have the right to renew the term of this Lease for one (1) successive period of three (3) years by providing written notice of its election to renew the term to Landlord one hundred eighty (180) days prior to the expiration of the then existing term of this Lease (as it may have been renewed). Rent for the additional three (3) period shall be \$3,200.00 per month, plus 3% per year.

(b) Tenant shall not permit any mechanic's, materialman's or similar lien to be filed against any portion of the Premises for any labor performed or material furnished in connection with any work performed or caused to be performed by Tenant, (and not relating to Landlord's failure to perform Landlord's obligations hereunder) to attach to the Premises or the Building or the interest of Landlord or Landlord's lessor, if any, therein or to Tenant's interest in this Lease or the Premises at any time. Tenant covenants and agrees to indemnify, defend and hold harmless Landlord from and against any such lien or claim of lien and any and all costs, expenses and liabilities relating thereto. If any such lien is filed, then Tenant shall fully pay or discharge the same or post a bond regarding such lien in accordance with applicable law and in a manner acceptable to Landlord within ten (10) days of receipt of written notice of the filing thereof. If Tenant fails to fully pay or discharge such lien or post a bond regarding such lien in accordance with applicable law and in a manner acceptable to Landlord within ten (10) days of receipt of written notice of the filing thereof, then Landlord shall have the immediate right (but not the obligation) to pay and/or discharge such lien at Tenant's cost and expense, and Tenant shall, within ten (10) days of written demand, pay all Landlord's costs and expenses incurred in paying or discharging such lien. Tenant's failure to fully pay or discharge said lien or post a bond within the time specified shall also constitute an immediate default under the Lease and Tenant may exercise its rights to terminate and pursue any other remedies available at law or in equity. Prior to the commencement of any improvements to the Premises, Tenant shall notify Landlord thereof so that Landlord may execute for Tenant, and Tenant may post in a conspicuous place upon the Premises, a notice of non-responsibility as contemplated by the South Carolina Code of Laws.

RENTAL

3. Beginning on the "Rent Commencement Date," Tenant agrees to pay Landlord without notice, demand, deduction or set off, rent in monthly installments in advance on the first day of each calendar month as follows: \$3,000.00 per month during the first Lease Year; \$3,090.00 per month during the second Lease Year; and \$3,182.70 per month during the third Lease Year. Rental for any period during the term hereof which is less than one month shall be the pro-rated portion of the monthly installment of rental due, based upon a 30-day month.

Tenant shall pay all rental to Landlord at the following address: Carolina Real Estate Holdings LLC, 15105-D John J. Delaney Dr., Suite 347, Charlotte, NC 28277.

LATE CHARGES

4. If Landlord fails to receive full rental payment within ten days after it becomes due, Tenant shall pay Landlord, as additional rental, a late charge equal to five percent (5.00%) of the overdue amount, plus any actual bank fees incurred for dishonored payments. The parties agree that such a late charge represents a fair and reasonable estimate of the cost Landlord will incur by reason of such late payment.

SECURITY DEPOSIT

5. Upon the execution of this Lease, Tenant shall deposit with Landlord the sum of \$3,000.00 as a security deposit which shall be held by Landlord as security for the full and faithful performance by Tenant of each and every term, covenant and condition of this Lease. The security deposit does not represent payment of and Tenant shall not presume application of same as payment of the last monthly installment of rental due under this Lease. Landlord shall have no obligation to segregate or otherwise account for the security deposit except as provided in this paragraph 5. If any of the rental or other charges or sums payable by Tenant shall be over-due and unpaid or should payments be made by Landlord on behalf of Tenant, or should Tenant fail to perform any of the terms of this Lease, then Landlord may, at its option, appropriate and apply the security deposit, or so much thereof as may be necessary, to compensate toward the payment of the rents, charges or other sums due from Tenant, or towards any loss, damage or expense sustained by Landlord resulting from such default on the part of the Tenant; and in such event Tenant upon demand shall restore the security deposit to the amount set forth above in this paragraph 5. In the event Tenant furnishes Landlord with proof that all utility bills and other bills of Tenant related to the Premises have been paid through the date of Lease termination, and performs all of Tenant's other obligations under this Lease, the security deposit shall be returned to Tenant within sixty (60) days after the date of the expiration or sooner termination of the term of this Lease and the surrender of the Premises by Tenant in compliance with the provisions of this Lease.

UTILITY BILLS/SERVICE CONTRACTS

6. Landlord and Tenant agree that utility bills and service contracts ("Service Obligations") for the Premises shall be paid by the party indicated below as to each Service Obligation. In each instance, the party undertaking responsibility for payment of a Service Obligation covenants that they will pay the applicable Service Obligations prior to delinquency. The responsibility to pay for a Service Obligation shall include all metering, hook-up fees or other miscellaneous charges associated with establishing, installing and maintaining such utility or contract in said party's name. Within thirty (30) days of the Lease Commencement Date, Tenant shall provide Landlord with a copy of any requested Tenant Service Obligation information.

Landlord shall be responsible for: Landscaping and Pest Control.

Tenant shall be responsible for: Sewer/Septic, Water, Electric, Gas, Telephone, HVAC (excluding semiannual service), Security System, Fiber Optic, and interior janitorial and cleaning.

Landlord shall not be liable for injury to Tenant's business or loss of income therefrom or for damage that may be sustained by the person, merchandise or personal property of Tenant, its employees, agents, invitees or contractors or any other person in or about the Premises, caused by or resulting from fire, steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of any utility installations, air conditioning system or other components of the Premises, except to the extent that such damage or loss is caused by Landlord's gross negligence or willful misconduct. Landlord makes no representations or warranties with respect to the heating, ventilation and air conditioning system(s) or utility installations existing as of the date hereof or in the future. Subject to the provisions of this paragraph 6, Landlord shall not be liable in damages or otherwise for any discontinuance, failure or interruption of service to the Premises of utilities or the heating, ventilation and air conditioning system(s) and Tenant shall have no right to terminate this Lease or withhold rental because of the same.

RULES AND REGULATIONS

7. The rules and regulations, if any, attached hereto ("Rules and Regulations") are made a part of this Lease. Tenant agrees to comply with any Rules and Regulations of Landlord in connection with the Premises which are in effect at the time of the execution of the Lease or which may be from time to time promulgated by Landlord in its reasonable discretion, provided such Rules and Regulations are in writing and are not in conflict with the terms and conditions of the Lease.

TAXES AND INSURANCE

8. Landlord shall pay all taxes (including but not limited to, ad valorem taxes, special assessments and any other governmental charges) on the Premises and shall procure and pay for such commercial general liability, broad form fire and extended and special perils insurance with respect to the Premises as Landlord in its reasonable discretion may deem appropriate. Tenant shall be solely responsible for insuring Tenant's personal and business property and for paying any taxes or governmental assessments levied thereon.

INSURANCE; WAIVER; INDEMNITY

9. (a) During the term of this Lease, Tenant shall maintain commercial general liability insurance coverage (occurrence coverage) with broad form contractual liability coverage and with coverage limits of not less than \$1,000,000.00 combined single limit, per occurrence, specifically including liquor liability insurance covering consumption of alcoholic beverages by customers or invitees of Tenant should Tenant choose to sell alcoholic beverages. Such policy shall insure Tenant's performance of the indemnity provisions of this Lease, but the amount of such insurance shall not limit Tenant's liability nor relieve Tenant of any obligation hereunder. All policies of insurance provided for herein shall name as "additional insureds" Landlord, Landlord's Agent, all mortgagees of Landlord and such other individuals or entities as Landlord may from time to time designate upon written notice to Tenant. Tenant shall provide to Landlord,

at least thirty (30) days prior to expiration, certificates of insurance to evidence any renewal or additional insurance procured by Tenant. Tenant shall provide evidence of all insurance required under this Lease to Landlord prior to the Lease Commencement Date.

(b) Landlord (for itself and its insurer) waives any rights, including rights of subrogation, and Tenant (for itself and its insurer) waives any rights, including rights of subrogation, each may have against the other for compensation of any loss or damage occasioned to Landlord or Tenant arising from any risk generally covered by the "all risks" insurance required to be carried by Landlord and Tenant. The foregoing waivers of subrogation shall be operative only so long as available in the State of South Carolina. The foregoing waivers shall be effective whether or not the parties maintain the insurance required to be carried pursuant to this Lease.

(c) Except as otherwise provided in paragraph 10(b), Tenant indemnifies Landlord for damages proximately caused by the negligence or wrongful conduct of Tenant and Tenant's employees, agents, invitees or contractors. Except as otherwise provided in paragraph 10(b), Landlord indemnifies Tenant for damages proximately caused by the negligence or wrongful conduct of Landlord and Landlord's employees, agents, invitees or contractors. The indemnity provisions in this paragraph 10 cover personal injury and property damage and shall bind the employees, agents, invitees or contractors of Landlord and Tenant (as the case may be). The indemnity obligations in this paragraph 10 shall survive the expiration or earlier termination of this Lease.

REPAIRS BY LANDLORD

10. Landlord agrees to keep in good repair the roof, foundation, structural supports and exterior walls of the buildings located on the Premises (exclusive of all glass and exclusive of all exterior doors) and, except as may be specifically allocated to Tenant in paragraph 12 herein, Landlord agrees to be responsible for capital repairs and replacements on the Premises; provided that Landlord shall not be responsible for repairs or capital repairs or replacements rendered necessary by the negligence or intentional wrongful acts of Tenant, its employees, agents, invitees or contractors. Tenant shall promptly report in writing to Landlord any defective condition known to it which Landlord is required to repair or replace and failure to report such conditions shall make Tenant responsible to Landlord for any liability incurred by Landlord by reason of such conditions. Tenant agrees to pay, within thirty (30) days of receipt of an invoice detailing such increase, Tenant's Proportionate Share (18%) of any increase in the Common Area Maintenance over the Base Year of 2016. The term "Common Area Maintenance Expenses" shall mean and include the total cost and expense typically paid or incurred in operating and maintaining the Common Areas of property of this type, including but not limited to landscaping, parking lot repair, painting, lighting, insurance, removal of trash and payment for exterior lighting and water.

REPAIRS BY TENANT

11. (a) Tenant accepts the Premises in their present condition and as suited for the Permitted Use and Tenant's intended purposes. Tenant, throughout the initial term of this Lease, and any extension or renewal thereof, at its expense, shall maintain in good order and repair the Premises, (except those repairs expressly required to be made by Landlord hereunder), specifically including but not limited to any building and other improvements located thereon, all light bulb and ballast replacements, plumbing fixtures and systems repairs within the Premises and water heater repairs. Tenant shall use only licensed contractors for repairs where such license is required. Landlord shall have the right to approve the contractor as to any repairs in excess of \$3,000.00.

Landlord warrants to Tenant that all components of the building shall be in good first class condition and working order at the time Tenant first occupies the Premises. Landlord shall either assign to Tenant or enforce on Tenant's behalf, all warranties on the HVAC system and any other systems and equipment installed on or within the Premises.

Tenant, at its expense, shall maintain the heating, ventilation and air conditioning system(s) in good order and repair, including but not limited to replacement of parts, compressors, air handling units and heating units. Provided that Tenant shall have obtained Landlord's prior written approval of the contractor and the repair or replacement expenses for heating, ventilation and air conditioning equipment, Tenant shall not be liable for more than \$ 200.00 (per occurrence) or \$600.00 (annually), and Landlord shall reimburse Tenant for the amount in excess of the stated amount upon the written request of Tenant.

(b) Tenant agrees to return the Premises to Landlord at the expiration or prior termination of this Lease, in as good condition and repair as on the Lease Commencement Date, natural wear and tear, damage by storm, fire, lightning, earthquake or other casualty alone excepted. Tenant, Tenant's employees, agents, invitees or contractors shall take no action which may void any manufacturers or installers warranty with relation to the Premises. Tenant shall indemnify and hold Landlord harmless from any liability, claim, demand or cause of action arising on account of Tenant's breach of the provisions of this paragraph 12.

ALTERATIONS

12. Other than Tenant's Initial Improvements, Tenant shall not make any alterations, additions, or improvements to the Premises without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this paragraph 12 upon Landlord's written request. All approved alterations, additions, and improvements will be accomplished in a good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor approved by Landlord, free of any liens or encumbrances. Tenant shall have the right to remove any alterations, additions or improvements (whether or not made with Landlord's consent) at the termination of the Lease and shall restore the Premises to its prior condition, all at Tenant's expense. Tenant may remove any of Tenant's machinery, equipment or trade fixtures. Tenant shall repair, at Tenant's expense, any damage to the Premises caused by the

removal of any such machinery, equipment or trade fixtures. It is Tenant's intention to have a third party install and own certain work station and divider equipment within the Premises. Landlord consents to this installation and waives any lien as to such third party property.

DESTRUCTION OF OR DAMAGE TO PREMISES

13. (a) If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, Landlord shall have the right to terminate this Lease on written notice to Tenant within thirty (30) days after such destruction and this Lease shall terminate as of the date of such destruction and rental shall be accounted for as between Landlord and Tenant as of that date.

(b) If the Premises are damaged but not wholly destroyed by any such casualties or if the Landlord does not elect to terminate the Lease under paragraph 14(a) above, Landlord shall commence (or shall cause to be commenced) reconstruction of the Premises within one hundred twenty (120) days after such occurrence and prosecute the same diligently to completion, not to exceed two hundred seventy (270) days from the date upon which Landlord receives applicable permits and insurance proceeds. In the event Landlord shall fail to substantially complete reconstruction of the Premises within said two hundred seventy (270) day period, Tenant's sole remedy shall be to terminate this Lease.

(c) In the event of any casualty at the Premises during the last one (1) year of the Lease Term, Landlord and Tenant each shall have the option to terminate this Lease on written notice to the other of exercise thereof within sixty (60) days after such occurrence.

(d) In the event of reconstruction of the Premises, Tenant shall continue the operation of its business in the Premises during any such period to the extent reasonably practicable from the standpoint of prudent business management, and the obligation of Tenant to pay annual rental and any other sums due under this Lease shall remain in full force and effect during the period of reconstruction. The annual rental and other sums due under this Lease shall be abated proportionately with the degree to which Tenant's use of the Premises is impaired, commencing from the date of destruction and continuing during the period of such reconstruction. Tenant shall not be entitled to any compensation or damages from Landlord for loss of use of the whole or any part of the Premises, Tenant's personal property, or any inconvenience or annoyance occasioned by such damage, reconstruction or replacement.

(e) In the event of the termination of this Lease under any of the provisions of this paragraph 14, both Landlord and Tenant shall be released from any liability or obligation under this Lease arising after the date of termination, except as otherwise provided for in this Lease.

GOVERNMENTAL ORDERS

14. Tenant, at its own expense, agrees to comply with: (a) any law, statute, ordinance,

regulation, rule, requirement, order, court decision or procedural requirement of any governmental or quasi-governmental authority having jurisdiction over the Premises, (b) the rules and regulations of any applicable governmental insurance authority or any similar body, relative to the Premises and Tenant's activities therein; (c) provisions of or rules enacted pursuant to any private use restrictions, as the same may be amended from time to time and (d) the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.) and the regulations and accessibility guidelines enacted pursuant thereto, as the same may be amended from time to time. Landlord and Tenant agree, however, that if in order to comply with such requirements the cost to Tenant shall exceed a sum equal to one (1) year's rent, then Tenant may terminate this Lease by giving written notice of termination to Landlord in accordance with the terms of this Lease, which termination shall become effective sixty (60) days after receipt of such notice and which notice shall eliminate the necessity of compliance with such requirements, unless, within thirty (30) days of receiving such notice, Landlord agrees in writing to be responsible for such compliance, at its own expense, and commences compliance activity, in which case Tenant's notice given hereunder shall not terminate this Lease.

CONDEMNATION

15. (a) If the entire Premises shall be appropriated or taken under the power of eminent domain by any governmental or quasi-governmental authority or under threat of and in lieu of condemnation (hereinafter, "taken" or "taking"), this Lease shall terminate as of the date of such taking, and Landlord and Tenant shall have no further liability or obligation arising under this Lease after such date, except as otherwise provided for in this Lease.

(b) If more than twenty-five percent (25%) of the floor area of any building of the Premises is taken, or if by reason of any taking, regardless of the amount so taken, the remainder of the Premises is not one undivided space or is rendered unusable for the Permitted Use, either Landlord or Tenant shall have the right to terminate this Lease as of the date Tenant is required to vacate the portion of the Premises taken, upon giving notice of such election within thirty (30) days after receipt by Tenant from Landlord of written notice that said Premises have been or will be so taken. In the event of such termination, both Landlord and Tenant shall be released from any liability or obligation under this Lease arising after the date of termination, except as otherwise provided for in this Lease.

(c) Landlord and Tenant, immediately after learning of any taking, shall give notice thereof to each other.

(d) If this Lease is not terminated on account of a taking as provided herein above, then Tenant shall continue to occupy that portion of the Premises not taken and the parties shall proceed as follows: (i) at Landlord's cost and expense and as soon as reasonably possible, Landlord shall restore (or shall cause to be restored) the Premises remaining to a complete unit of like quality and character as existed prior to such appropriation or taking, and (ii) the annual rent provided for in paragraph 3 and other sums due under the Lease shall be reduced on an equitable basis, taking into account the relative values of the portion taken as compared to the portion remaining. Tenant waives any statutory rights of termination that may arise because of any

partial taking of the Premises.

(e) Landlord shall be entitled to the entire condemnation award for any taking of the Premises or any part thereof. Tenant's right to receive any amounts separately awarded to Tenant directly from the condemning authority for the taking of its merchandise, personal property, relocation expenses and/or interests in other than the real property taken shall not be affected in any manner by the provisions of this paragraph 16, provided Tenant's award does not reduce or affect Landlord's award and provided further, Tenant shall have no claim for the loss of its leasehold estate.

ASSIGNMENT AND SUBLETTING

16. Tenant shall not assign this Lease or any interest hereunder or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than the Tenant, without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Consent to any assignment or sublease shall not impair this provision and all later assignments or subleases shall be made likewise only on the prior written consent of Landlord. No sublease or assignment by Tenant shall relieve Tenant of any liability hereunder.

EVENTS OF DEFAULT

17. The happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease, or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant fails to pay when due the rental or any other monetary obligation as provided for herein; (b) Tenant abandons or vacates the Premises; (c) Tenant fails to comply with or abide by and perform any non-monetary obligation imposed upon Tenant under this Lease within thirty (30) days after written notice of such breach; (d) Tenant is adjudicated bankrupt; (e) A permanent receiver is appointed for Tenant's property and such receiver is not removed within sixty (60) days after written notice from Landlord to Tenant to obtain such removal; (f) Tenant, either voluntarily or involuntarily, takes advantage of any debt or relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be, reduced or payment thereof deferred and such proceeding is not dismissed within sixty (60) days of the filing thereof; (g) Tenant makes an assignment for benefit of creditors; or (h) Tenant's effects are levied upon or attached under process against Tenant, which is not satisfied or dissolved within thirty (30) days after written notice from Landlord to Tenant to obtain satisfaction thereof.

REMEDIES UPON DEFAULT

19. Upon the occurrence of Event of Default, Landlord may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law: (a) Landlord may terminate this Lease by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law; or (b) Landlord may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be entitled to recover from the Tenant

damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of this Lease, or any renewal or extension thereof (as if this Lease had not been terminated); or (c) Landlord, as Tenant's agent, without terminating this Lease, may enter upon and rent the Premises, in whole or in part, at the best price obtainable by reasonable effort, without advertisement and by private negotiations and for any term Landlord deems proper, with Tenant being liable to Landlord for the deficiency, if any, between Tenant's rent hereunder and the price obtained by Landlord on re-letting, provided however, that Landlord shall not be considered to be under any duty by reason of this provision to take any action to mitigate damages by reason of Tenant's default and expressly shall have no duty to mitigate Tenant's damages. No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord's right to collect rent for the period prior to termination thereof.

EXTERIOR SIGNS

19. Any and all signs placed on the Premises shall be in compliance with governmental rules and regulations governing such signs. Tenant shall provide the Landlord with the basic design of any exterior building sign proposed to be installed on the exterior of the building for approval; approval shall not be unreasonably withheld. Tenant may place additional signs and shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

LANDLORD'S ENTRY OF PREMISES

20. Landlord may advertise the Premises "For Rent" or "For Sale" 90 days before the termination of this Lease. Landlord may enter the Premises upon prior notice at reasonable hours to exhibit same to prospective purchasers or tenants, to make repairs required of Landlord under the terms hereof, for reasonable business purposes and otherwise as may be agreed by Landlord and Tenant. Landlord may enter the Premises at any time without prior notice, in the event of an emergency or to make emergency repairs to the Premises. Upon request of Landlord, Tenant shall provide Landlord with a functioning key to the Premises and shall replace such key if the locks to the Premises are changed.

QUIET ENJOYMENT

21. So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Premises, subject to the terms hereof.

HOLDING OVER

22. If Tenant remains in possession of the Premises after expiration of the term hereof, Tenant shall be a tenant at sufferance and there shall be no renewal of this Lease by operation of law. In such event, commencing on the date following the date of expiration of the term, the

monthly rental payable under Paragraph 3 above shall for each month, or fraction thereof during which Tenant so remains in possession of the Premises, be twice the monthly rental otherwise payable under Paragraph 3 above.

ENVIRONMENTAL LAWS

23. (a) Tenant covenants that with respect to any Hazardous Materials (as defined below) it will comply with any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Premises or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act, any other legal requirement concerning hazardous or toxic substances, and any amendments to the foregoing (collectively, all such matters being "Hazardous Materials Requirements"). Tenant shall remove all Hazardous Materials from the Premises, either after their use by Tenant or upon the expiration or earlier termination of this Lease, in compliance with all Hazardous Materials Requirements.

(b) Tenant shall be responsible for obtaining all necessary permits in connection with its use, storage and disposal of Hazardous Materials, and shall develop and maintain, and where necessary file with the appropriate authorities, all reports, receipts, manifest, filings, lists and invoices covering those Hazardous Materials and Tenant shall provide Landlord with copies of all such items upon request. Tenant shall provide within five (5) days after receipt thereof, copies of all notices, orders, claims or other correspondence from any federal, state or local government or agency alleging any violation of any Hazardous Materials Requirements by Tenant, or related in any manner to Hazardous Materials. In addition, Tenant shall provide Landlord with copies of all responses to such correspondence at the time of the response.

(c) Tenant hereby indemnifies and holds harmless Landlord, its successors and assigns from and against any and all losses, liabilities, damages, injuries, penalties, fines, costs, expenses and claims of any and every kind whatsoever (including attorney's fees and costs) paid, incurred or suffered by, or asserted against Landlord as a result of any claim, demand or judicial or administrative action by any person or entity (including governmental or private entities) for, with respect to, or as a direct or indirect result of, the presence on or under or the escape, seepage, leakage, spillage, discharge, emission or release from the Premises of any Hazardous Materials caused by Tenant or Tenant's employees, agents, invitees or contractors. This indemnity shall also apply to any release of Hazardous Materials caused by a fire or other casualty to the premises if such Hazardous Materials were stored on the Premises by Tenant, its agents, employees, invitees or successors in interest.

(d) For purposes of this Lease, "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (i) is defined as a hazardous substance, hazardous material or waste, or toxic substance pursuant to any Hazardous Materials Requirements, (ii) is regulated, controlled or governed by any Hazardous Materials Requirements, (iii) is petroleum or a petroleum product, or (iv) is asbestos, formaldehyde, a radioactive material, drug, bacteria,

virus, or other injurious or potentially injurious material (by itself or in combination with other materials).

(c) The warranties and indemnities contained in this paragraph 24 shall survive the termination of this Lease.

SUBORDINATION; ATTORNMENT; ESTOPPEL

24. (a) This Lease and all of Tenant's rights hereunder are and shall be subject and subordinate to all currently existing and future mortgages affecting the Premises. Within ten (10) days after the receipt of a written request from Landlord or any Landlord mortgagee, Tenant shall confirm such subordination by executing and delivering Landlord and Landlord's mortgagee a recordable subordination agreement and such other documents as may be reasonably requested, in form and content satisfactory to Landlord and Landlord's mortgagee. Provided, however, as a condition to Tenant's obligation to execute and deliver any such subordination agreement, the applicable mortgagees must agree that mortgagee shall not unilaterally, materially alter this Lease and this Lease shall not be divested by foreclosure or other default proceedings thereunder so long as Tenant shall not be in default under the terms of this Lease beyond any applicable cure period set forth herein. Tenant acknowledges that any Landlord mortgagee has the right to subordinate at any time its interest in this Lease and the leasehold estate to that of Tenant, without Tenant's consent.

(b) If Landlord sells, transfers, or conveys its interest in the Premises or this Lease, or if the same is foreclosed judicially or non-judicially, or otherwise acquired, by a Landlord mortgagee, upon the request of Landlord or Landlord's successor, Tenant shall attorn to said successor, provided said successor accepts the Premises subject to this Lease. Tenant shall, upon the request of Landlord or Landlord's successor, execute an attornment agreement confirming the same, in form and substance acceptable to Landlord or Landlord's successor and Landlord shall thereupon be released and discharged from all its covenants and obligations under this Lease, except those obligations that have accrued prior to such sale, transfer or conveyance; and Tenant agrees to look solely to the successor in interest of Landlord for the performance of those covenants accruing after such sale, transfer or conveyance. Such agreement shall provide, among other things, that said successor shall not be bound by (a) any prepayment of more than one (1) month's rental (except the Security Deposit) or (b) any material amendment of this Lease made after the later of the Lease Commencement Date or the date that such successor's lien or interest first arose, unless said successor shall have consented to such amendment.

(c) Within ten (10) days after request from Landlord, Tenant shall execute and deliver to Landlord an estoppel certificate (to be prepared by Landlord and delivered to Tenant) with appropriate facts then in existence concerning the status of this Lease and Tenant's occupancy, and with any exceptions thereto noted in writing by Tenant. Tenant's failure to execute and deliver the Estoppel Certificate within said ten (10) day period shall be deemed to make conclusive and binding upon Tenant in favor of Landlord and any potential mortgagee or transferee the statements contained in such estoppel certificate without exception.

ABANDONMENT

25. Tenant shall not abandon the Premises at any time during the Lease term. If Tenant shall abandon the Premises or be dispossessed by process of law, any personal property belonging to Tenant and left on the Premises, at the option of Landlord, shall be deemed abandoned, and available to Landlord to use or sell to offset any rent due or any expenses incurred by removing same and restoring the Premises.

MEDIATION

26. If any dispute relating to this lease between the Parties is not resolved through informal discussion within 14 days from the date a dispute arises, the Parties agree to submit the issue before a mediator. The decision of the mediator will be binding on the Parties. Any mediator must be a neutral party acceptable to both Parties. The cost of any mediation will be shared equally by the Parties.

NOTICES

27. All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the address shown at the beginning of this Lease, except that upon Tenant taking possession of the Premises, then the Premises shall be Tenant's address for such purposes. Notices to Landlord shall be delivered or sent to the address shown at the beginning of this Lease and notices to Agent, if any, shall be delivered or sent to the address set forth in Paragraph 3 hereof. All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

GENERAL TERMS

28. (a) "Landlord" as used in this Lease shall include the undersigned, its heirs, representatives, assigns and successors in title to the Premises. "Agent" as used in this Lease shall mean the party designated as same in Paragraph 3, its heirs, representatives, assigns and successors. "Tenant" shall include the undersigned and its heirs, representatives, assigns and successors, and if this Lease shall be validly assigned or sublet, shall include also Tenant's assignees or sub-lessees as to the Premises covered by such assignment or sublease. "Landlord", "Tenant", and "Agent" include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

(b) No failure of Landlord to exercise any power given Landlord hereunder or to insist upon strict compliance by Tenant of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms hereof. All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

(c) Time is of the essence in this Lease.

(d) This Lease may be executed in one or more counterparts, which taken together, shall constitute one and the same original document. Copies of original signature pages of this Lease may be exchanged via facsimile or e-mail, and any such copies shall constitute originals. This Lease constitutes the sole and entire agreement among the parties hereto and no modification of this Lease shall be binding unless in writing and signed by all parties hereto. The invalidity of one or more provisions of this Lease shall not affect the validity of any other provisions hereof and this Lease shall be construed and enforced as if such invalid provisions were not included.

(e) Each signatory to this Lease represents and warrants that he or she has full authority to sign this Lease and such instruments as may be necessary to effectuate any transaction contemplated by this Lease on behalf of the party for whom he or she signs and that his or her signature binds such party. The parties acknowledge and agree that: (i) the initials lines at the bottom of each page of this Lease are merely evidence of their having reviewed the terms of each page, and (ii) the complete execution of such initials lines shall not be a condition of the effectiveness of this Lease.

(f) Upon request by either Landlord or Tenant, the parties hereto shall execute a short form lease (memorandum of lease) in recordable form, setting forth such provisions hereof (other than the amount of annual rental and other sums due) as either party may wish to incorporate. The cost of recording such memorandum of lease shall be borne by the party requesting execution of same.

(g) If legal proceedings are instituted to enforce any provision of this Lease, the prevailing party in the proceeding shall be entitled to recover from the non-prevailing party reasonable attorney's fees and court costs incurred in connection with the proceeding.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Lease to be duly executed.

LANDLORD

Carolina Real Estate Holdings, LLC

By: _____

Title: _____

Date: _____

TENANT

Brill Electric

By: CR Russell

Title: Owner

Date: 4/17/17



BRILELS-01

JCLARK

CERTIFICATE OF LIABILITY INSURANCE

DATE (ISSUANCE)
04/11/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Lowy, Cope & Little
14046 Ballantyne Corporate Place
Suite 376
Charlotte, NC 28277

CONTACT
PHONE
Toll Free (888) 408-5988
FAX (704) 943-0892
EMAIL: customerservice@clim.com

INSURED
Brin Electric LLC
1974 Carolina Plaza Dr.
Suite 108
Fort Mill, SC 29708-6924

INSURER(S) AFFORDING COVERAGE

INSURER A:	Selective Ins Co of America	12572
INSURER B:	Accident Fund Ins Co of Amer	10168
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSURANCE TYPE	TYPE OF INSURANCE	ADDL. COV. (IND. / OPT.)	POLICY NUMBER	POLICY EFF. DATE (START/END)	POLICY EXP. DATE (START/END)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY		S2254017	02/01/2017	02/01/2018	EACH OCCURRENCE \$ 1,000,000	
	<input checked="" type="checkbox"/> CLAMS-MADE <input checked="" type="checkbox"/> OCCUR	<input checked="" type="checkbox"/>				DAMAGE TO RENTED PREMISES (Per occurrence) \$ 500,000	
	GEN'L AGGREGATE LIMIT APPLIED PER: POLICY <input checked="" type="checkbox"/> PER-TEST <input type="checkbox"/> LOC <input type="checkbox"/>					USD EMP (Any one person) \$ 15,000	
	OTHER:					PERSONAL & ADV INJURY \$ 1,000,000	
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY		S2254017	02/01/2017	02/01/2018	COMBINED SINGLE LIMIT (Per person) \$ 1,000,000	
	<input checked="" type="checkbox"/> ANY AUTO OWNED <input type="checkbox"/> SCHEDULED AUTOS ONLY	<input checked="" type="checkbox"/>				BODILY INJURY (Per person) \$	
	<input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> Corp. Decl. 5000	<input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> Collision Decl. 5000				BODILY INJURY (Per accident) \$	
A	<input checked="" type="checkbox"/> UMBRELLA LMB	<input checked="" type="checkbox"/> OCCUR	S2254017	02/01/2017	02/01/2018	PROPERTY DAMAGE (Per person) \$	
	<input type="checkbox"/> EXCESS LMB	<input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ 1,000,000	
	<input checked="" type="checkbox"/> RETENTIONS	<input type="checkbox"/>				AGGREGATE \$ 1,000,000	
B	<input checked="" type="checkbox"/> WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY		WCVB139071	02/01/2017	02/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
	ANY OCCUPATIONAL PARTNER EXECUTIVE (Mandatory in FL)					<input checked="" type="checkbox"/> N/A	EL EACH ACCIDENT \$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						EL DISEASE - EA EMPLOYEE \$ 500,000
							EL DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: 2180 Carolina Place Drive, Suite 111 Fort Mill SC 29708-6924. Carolina Real Estate Holdings LLC is hereby an Additional Insured with regards to the General Liability per written contract.

CERTIFICATE HOLDER

Carolina Real Estate Holdings LLC

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 28 (2016/03)

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ROA00911

Carolina Real Estate Holdings, LLC

15105-D John J. Delaney Dr.

Suite 347

Charlotte, NC 28277

Invoice

Date	Invoice #
5/22/2018	460

Bill To:
Bulln Electric LLC
1974 Carolina Place Drive
Suite 108
Port Mill, SC 29708

Quantity	Description	P.O. No.	Terms	Project
		Due on receipt		
			Rate	Amount
	Cost to repair damaged ductwork in warehouse caused by fork lift hitting overhead HVAC ducts.		2,625.00	2,625.00
Total				\$2,625.00



MTB Mechanical, Inc.
 1201 Industrial Dr.
 Matthews, NC 28105
 704.321.9250
 NC 7077 SC 105915

QUOTE

DATE	INVOICE #	CUSTOMER #
12/28/2018	0000390440	0039772

BILL TO:

CAROLINA REAL ESTATE HOLDINGS, LLC
 15105 D JOHN DELANEY DR
 UNIT 347
 CHARLOTTE NC 28227

SHIP TO:

CAROLINA REAL ESTATE HOLDINGS
 2180 CAROLINA PLACE DR.
 FORT MILL SC 29708

P.O. NUMBER	TERMS	SALES PERSON		
	GD			
DESCRIPTION	QUAN	PRICE EACH	AMOUNT	
MISC REPAIR AND / OR REPLACE DAMAGED DUCTWORK ABOVE FINISHED FLOOR BUT BELOW CEILING. PRICE INCLUDES SISSOR LIFT RENTAL TO MAKE REPAIRS	1.00	2,625.00	2,625.00	
TOTAL			\$2,625.00	

Carolina Real Estate Holdings, LLC

15105-D John J. Delaney Dr.

Suite 347

Charlotte, NC 28277

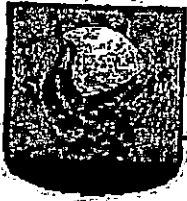
Invoice

Date	Invoice #
8/12/2019	689

Bill To
Brillio Electric LLC 1974 Carolina Place Drive Suite 108 Fort Mill, SC 29708

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description	Rate	Amount
	Labor and materials to repair damaged to the wall between Brillio Electric and Two Men and a Truck caused by your careless forklift operator.	1,800.00	1,800.00
Total			\$1,800.00



Countywide Commercial
Charlotte's Pavement Solutions Company

September 18, 2019

Wayne Schulte
Carolina Real Estate Holdings, LLC
Goose Creek, SC
wayne@deckernational.com

The cost of the repair that you ask about is \$1,500.00 per what I saw in the pictures that were forwarded to me. This cost is subject to change once we get on site to make the repairs if the work is more extensive.

Regards,

Satwinder Singh

Asphalt Charlotte, Com
3514 Robinson Cir, Charlotte, NC 28206
Mailing address: 2033 Seclin Ct Indian Trail, NC 28079
Tel: 704-344-8485 Fax: 704-296-2579

PICTURES, PROJECT EXCLUSIONS & CLARIFICATIONS ON FOLLOWING PAGES

1 | Page

ROA00915

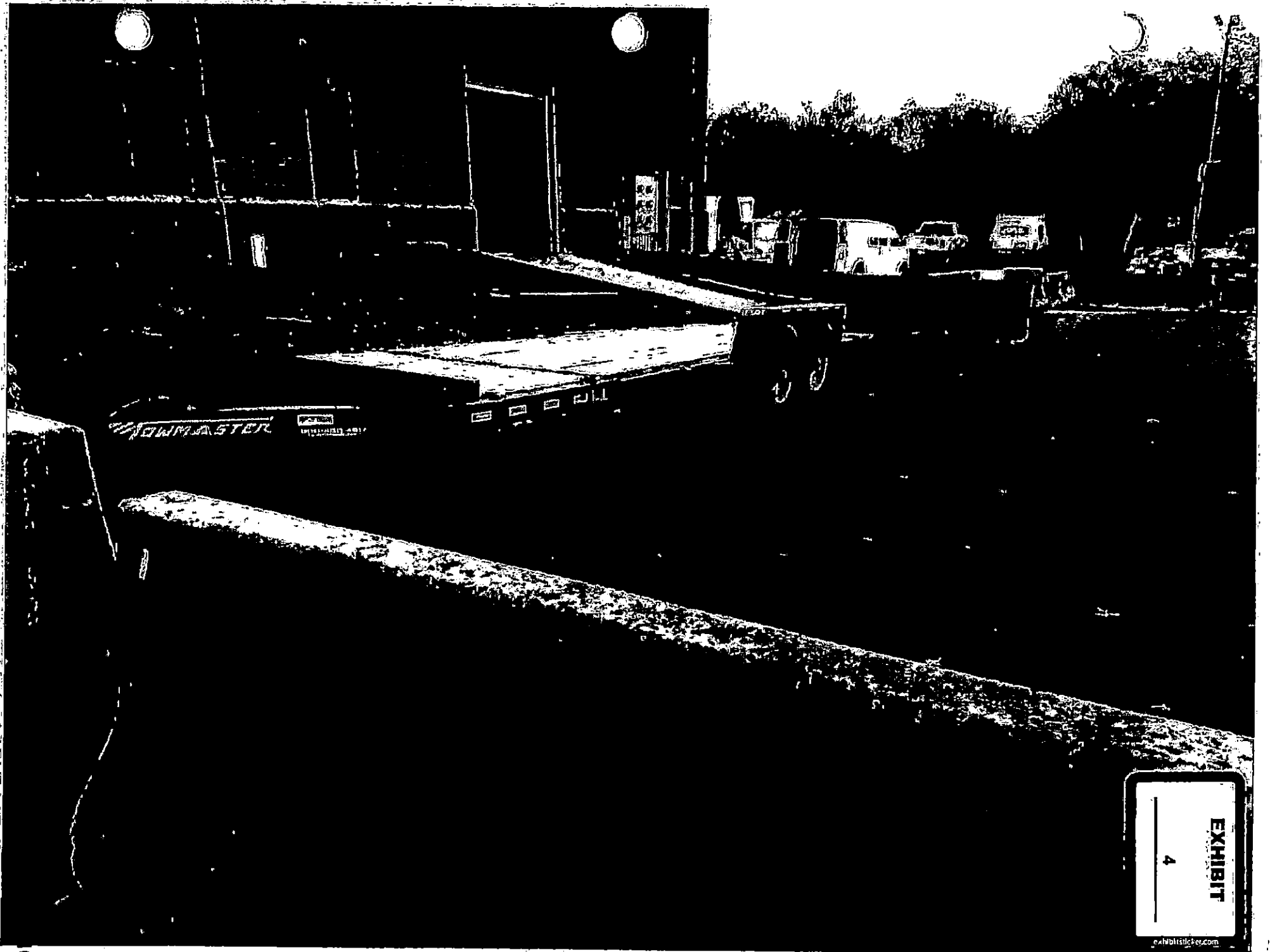


EXHIBIT
4

exhibitster.com

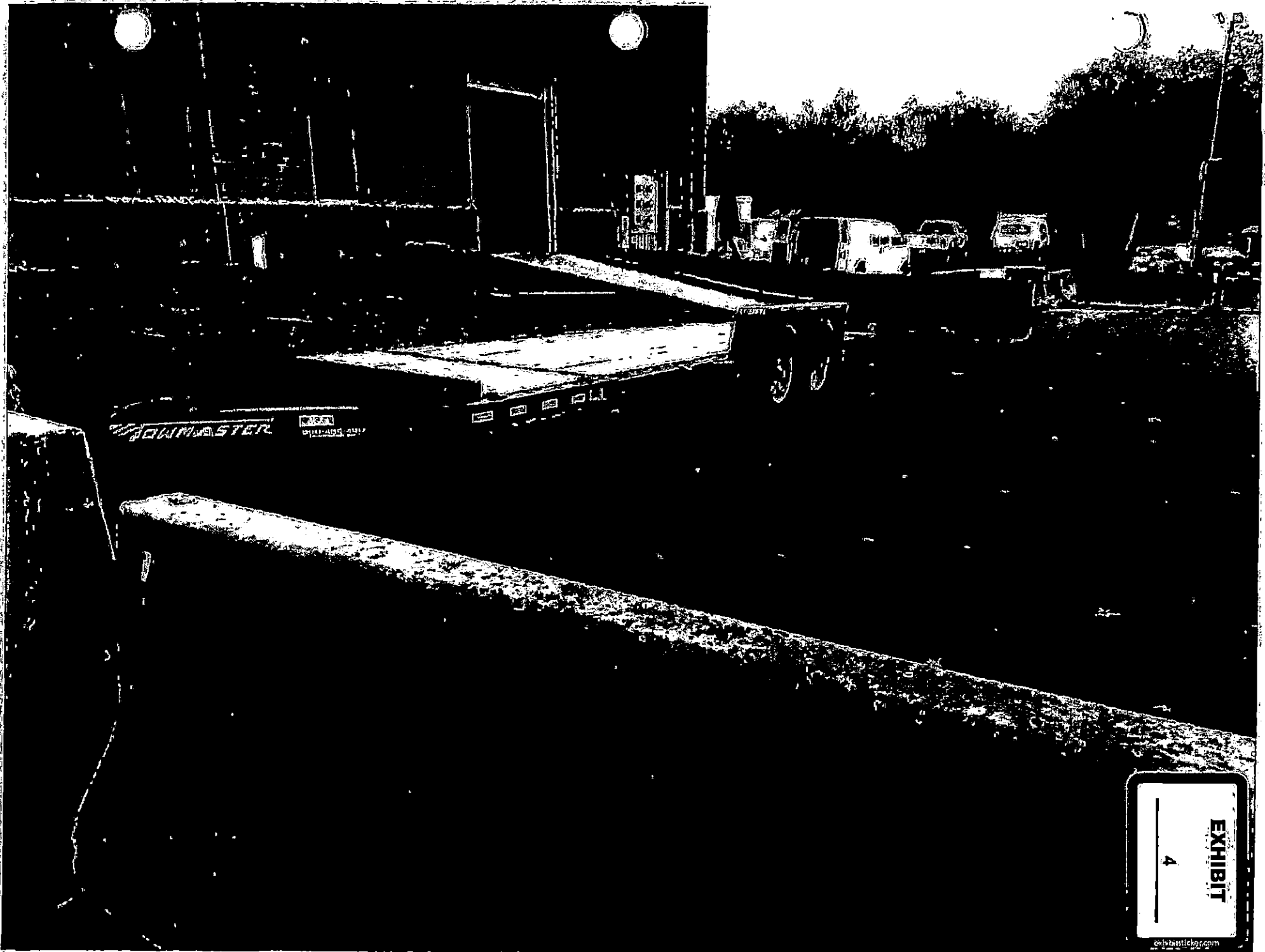


EXHIBIT
4

ovsbattle.com



ROA00918

EXHIBIT
5
www.sticker.com



Countywide Commercial

Charlotte's Pavement Solutions Company

PROPOSAL & CONTRACT

February 11, 2020

Proposal # I200056

EXHIBIT

6

Wayne Schulte
Carolina Real Estate Holdings, LLC
Goose Creek, SC
wayne@deckernational.com 704-634-3048

Thank you for providing us an opportunity to provide a quote for your project. Countywide Commercial Inc. is pleased to submit the following proposal. We would like to bring to your attention the following facts about Countywide Commercial.

1. Over twenty years of experience, and an A+ rated BBB company
2. A vast customer base of Property Management Companies, Hotels, Apartments, Churches, Shopping Centers, Offices and other Commercial Complexes in Charlotte and surrounding areas
3. Your One Stop Shop for all Asphalt and Concrete needs
4. We are certified (NC DOT) DBE/MBE.
5. North Carolina General Contractor License # 73570 Highway

Scope of work: Decker Building

Asphalt Repair 1028 SF as discussed (Includes adding stone to damaged areas) to make sure its 6" deep

- Lay out and mark all areas of repair. Saw cut, excavate and grade areas of repair.
- Remove debris to offsite location for recycling.
- Compact existing sub grade to achieve maximum density.
- Tack coat all vertical edges using CRS-2 emulsion.
- Install 3 inch surface course with hot mix asphalt.
- Compact and roll to smooth finish.

Grand Total \$5,950.00

PROJECT EXCLUSIONS & CLARIFICATIONS

PICTURES, PROJECT EXCLUSIONS & CLARIFICATIONS ON FOLLOWING PAGES

1 | Page

ROA00919

1. Countywide Commercial Incorporated will be referred to as CCI, and Seller, on this and the following pages
2. CCI will not be held responsible for damage caused from our vehicles to property and asphalt due to falling conditions we have to pass over to perform above repairs
3. Excludes, Civil, Architectural or Structural Engineering, drawings and/or design or plan certifications.
4. Excludes, licensed survey layout, and/or any as-built drawings, plan mark-ups or revisions.
5. Excludes, approvals, permit applications & permit fees unless specifically included in this Proposal and Contract.
6. Excludes, inspection, testing cost & associated fees.
7. Excludes, Uniformed Traffic Control Officers and Police Support Vehicles, unless specifically included in this Proposal and Contract.
8. Excludes, overtime & premium time due to project acceleration, or delays caused by inclement weather, acts of nature, owner or owners, subcontractor delays, calendar holiday infringement on/or in project schedule.
9. Excludes, rock or sub-surface structure breaking, blasting, excavation, or removal, unless included in this Proposal and Contract.
10. Excludes, demolition, unless specifically included in this Proposal and Contract.
11. Excludes, disposal of hazardous or contaminated material, unless specifically included in this Proposal and Contract.
12. Excludes, all well point dewatering, or project surface or sub-surface dewatering beyond the practical use of a 3" centrifugal, trash or diaphragm pump, unless specifically included in this Proposal and Contract.
13. Excludes, site sweeping mechanical or manual, onsite or offsite, due to vehicular or equipment tracking during delivery, entry, onsite operation or leaving the construction site. Onsite and offsite roadway, parking lot or property sweeping shall be the responsibility of the Customer/Purchaser unless specifically included in this Proposal and Contract.
14. Unless specified herein, sub-grade soil conditions are considered to be suitable, and therefore usable. If during any course of the contract, or approved change order or authorized extra work, the sub-grade or sub-base material develops soft or yielding areas due to wet or unsuitable material conditions; then corrective measures such as; excavation, remediation, stabilization or replacement of material, backfill, compaction or removal of material from site of unsuitable soil conditions are specifically excluded, and shall be considered to be an additional cost to be borne by the Customer/Purchaser. See #17 below
15. Asphalt found to be thicker than stated replacement depths will create the need for a change order to absorb the additional costs
16. Concrete found to be thicker than stated replacement depths will create the need for a change order to absorb additional costs as well
17. Change orders that need approval before continuation of work, that halts work, will possibly create a need for additional charges applied.
18. Inclement weather and/or any other acts of nature that could affect the suitability of the onsite materials, in-place or stockpiled shall not be the responsibility of CCI, the Customer/Purchaser of this Proposal and Contract shall bear the cost for replacement of said materials.
19. Paving is to be performed in one mobilization unless stated otherwise, or CCI chooses to mobilize more than once for their convenience.
20. Asphalt takes time to cure. Tire tracks will occur from time to time and it is normal. Next tire track usually levels the area out.
21. Parking on new asphalt will leave tire indentions so it is advised to not do so for as long as possible.
22. Seal coating large areas of new asphalt will not be done until at least 30 days. If the Customer/Purchaser insists on doing so, CCI will not be held responsible for sealer not adhering due to the amount of oils in new asphalt.
23. Asphalt placed either new construction or an overlay that isn't edged by concrete will break at edges due to not being supported.
24. Edges of overlaid areas will tend to crack if overlay extends past existing asphalt, this is also normal.
25. If there are small quantities of concrete on the asphalt due to curb/and or sidewalk replacement/ and if quality of the concrete work is 110% as usual, you may have some concrete stains on the asphalt as a product of forward progress.
26. Unless otherwise stated, cur concrete is plant mixed, not from bags, as other contractors may base lower prices on
27. Unless otherwise stated, asphalt depths mentioned in above scope are before compaction.
28. CCI will not be responsible for water ponding on paving projects where less than 1.5% positive drainage can be achieved based on the existing grades and relief points. Our paving is also only as flat as the base, and if it's prepared by others we cannot be responsible for the outcome if it is less than perfect
29. Paving performed during inclement weather conditions can cause esthetic and structural asphalt imperfections. Cold, frost, rain, winds, snow and moisture can all cause imperfections and defects. Paving performed under these conditions will be done so, at the Customer/Purchasers request and responsibility only. Any corrective repair work due to paving in these conditions will be performed solely at the Customer/Purchasers expense.
30. Seal coating when temperatures are below 50°F and rising, may have undesired affects on color and durability of seal coat. If, at the request of the Customer/Purchaser, this is performed, CCI will not be held responsible for the undesired outcome. Usually variations in color will eventually blend in. In the event we have to return in warmer weather the Customer/Purchaser will bear the full expense.
31. Tire scuffs in sealer are normal for the first couple weeks until product cures. This is normal and will all blend in after a month or so.
32. If during seal coating or any repairs above, a tow truck isn't on standby, to remove unwanted vehicles at the Customer/Purchasers expense, and we have to remobilize to complete the project, Customer/Purchaser will bear the full expense of this additional mobilization. This includes any items that may have to be moved, dumpsters etc.
33. All paving prices listed in this proposal and contract are based on the current NCDOT/SCDOT Asphaltic Cement and Fuel Price Index at the date of this proposal and contract. Should the index increase prior to, or during any paving operations, the additional increase to the Customer/Purchaser will be billed at a rate of \$0.25 per ton installed for every \$1.00 increase in the NCDOT Asphaltic Cement and Fuel Price Index. No credits will be given for reductions in the index unless our suppliers extend an equal and respective credit.
34. All prices are based on current fuel prices. Substantial changes in fuel prices will affect above pricing. This has rarely occurred.
35. Prices shown are based on package, if it applies. Individually they may be higher. Example: if we are contracted to crack fill without seal coating, crack filling will usually cost more
36. All utilities both public and private to be located prior to work beginning. CCI will not be held liable for unmarked items
37. CCI will not be held liable for surrounding turf/landscape, concrete or asphalt damaged due to scope above or weight of equipment
38. Price includes labor and material. CCI will provide a 1-year warranty (Except normal wear)
39. General Liability/Worker Compensation Certificate of Insurance is available upon request

Understanding and Acceptance of Above Exclusions & Clarifications

Initial Above

TERMS, CONDITIONS, DATES AND ACCEPTANCE ON FOLLOWING PAGES

TERMS AND CONDITIONS PAGE

CONTRACT TERMS & CONDITIONS

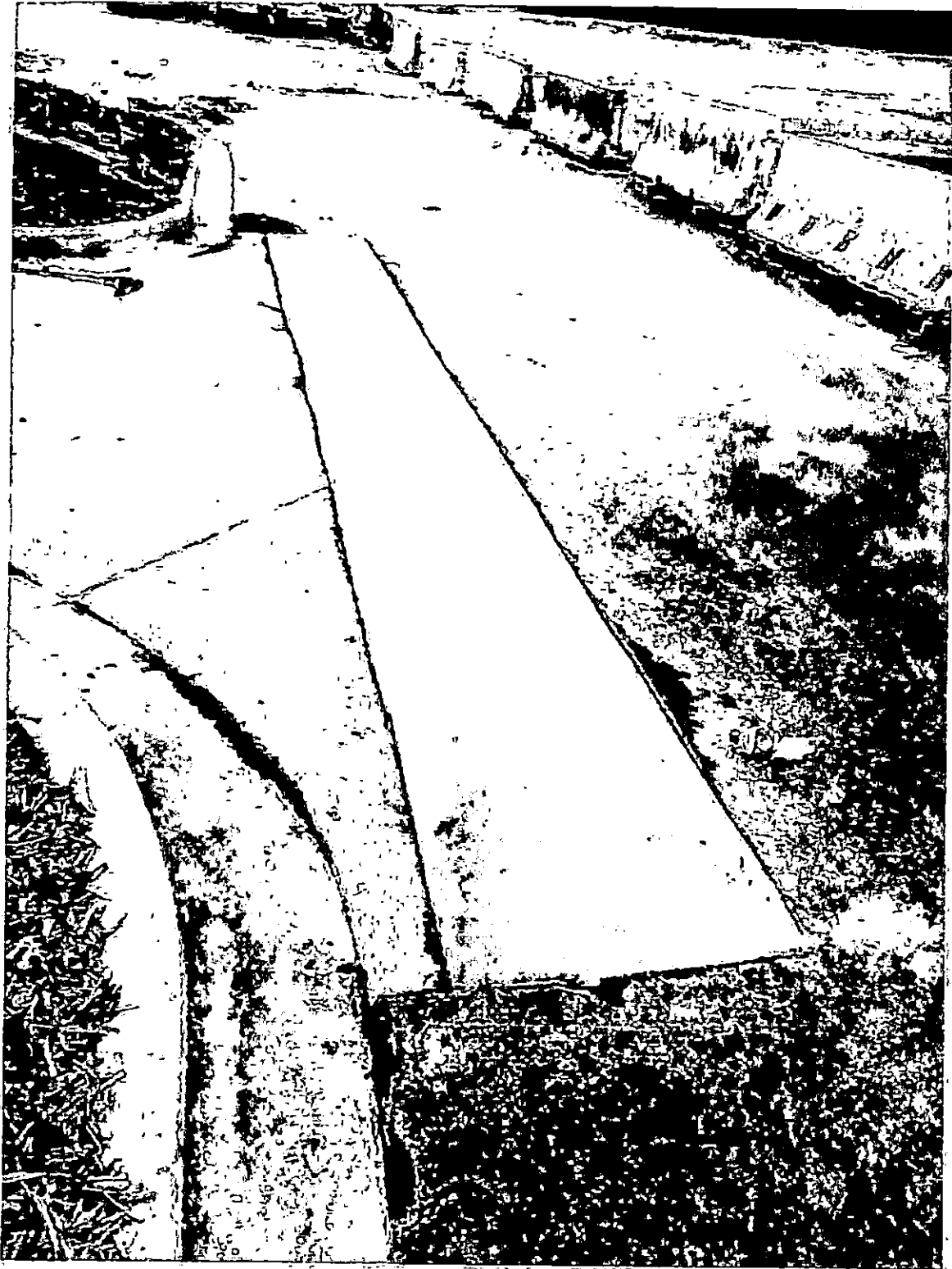
1. This Proposal and Contract becomes effective as a contract, after the Customer/Purchaser, and the Seller have both executed its acceptance. Conditions which are not incorporated in this contract will not be recognized unless made in writing and approved by both the Customer/Purchaser and the Seller's signature. No modification or transfer of this contract after its acceptance shall be binding upon the Seller, unless made in writing and signed by the Seller or by one of the Seller's Officers.
2. This proposal may be withdrawn pending the results of a credit investigation, or it may be necessary to post a bond or establish an escrow account with sufficient funds, and a guarantee of payment upon completion of our work, or established contract payment terms as detailed above.
3. Quantities stated above are approximate only. Payment will be based on actual field measurements. A reduction in quantities may result in an increase in unit prices.
4. Prices listed in this proposal and contract shall be valid for 30 days.
5. Prices do include sales tax. (if applicable)
6. Invoices will be rendered as detailed above, or monthly whichever comes first. Payments not received within 30 days of invoice date will be subject to a 1-1/2% monthly and 18% annual interest charge, which will be added to monthly statements. Full payment for principal and interest is personally guaranteed by the individual signatory purchaser of this contract, as well as the company they represent.
7. Withholding of retainage on invoiced work will constitute a breach of contract unless retainage is specifically detailed in the payment terms listed above.
8. Final payment in full is required within 7 days net of contract completion invoice, unless detailed earlier above. Payments not received within 30 days of invoice date will be subject to a 1-1/2% monthly and 18% annual interest charge, which will be added to monthly statements. Again, full payment for principal and interest is personally guaranteed by the individual signatory Customer/Purchaser of this contract, as well as the company they represent.
9. In the event of non, or late payment by the Customer/Purchaser, the contract shall be considered breached by the Customer/Purchaser, and any and all legal means will be pursued to the fullest extent of NC law to recover any uncollected funds, additionally the signatory of this Proposal and Contract agrees that by signing and authorizing this contract accept that they will be responsible for and reimburse any legal, or collection agency fees incurred by the Seller, as per NC GS 44A-35.

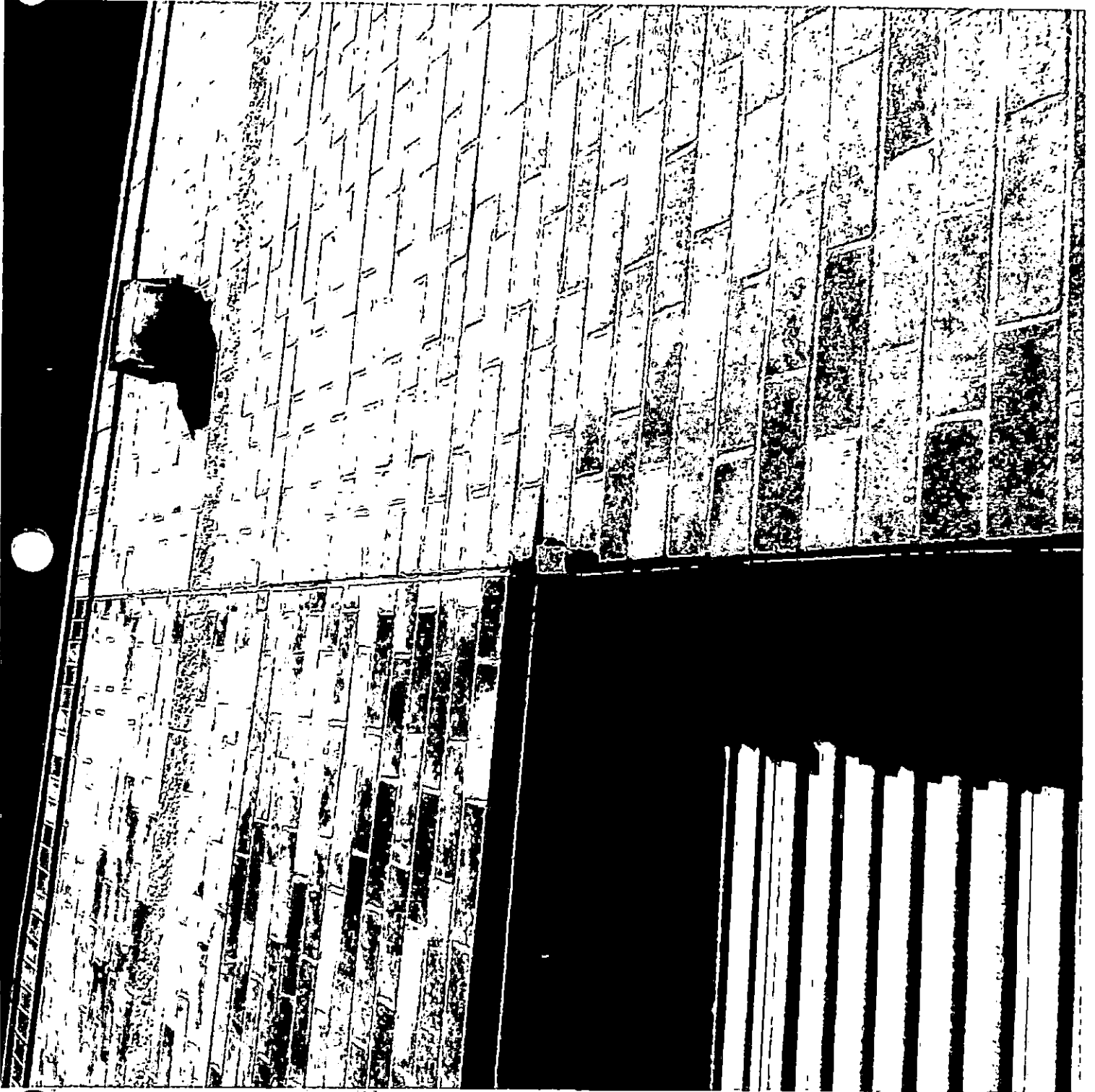
Understanding and Acceptance of Above Contract Terms & Conditions _____
Initial Above

ESTIMATED CONTRACT WORK DATES AND DURATION

Contract Start Date: _____	Purchaser Initials _____	CCI Initials _____
Contract Duration: _____	Purchaser Initials _____	CCI Initials _____
Contract Completion Date: _____	(Weather Permitting) Purchaser Initials _____	CCI Initials _____

CONTRACT ACCEPTANCE ON FOLLOWING PAGE
CONTRACT ACCEPTANCE PAGE





B. Philemon L.L.C.
1605 Clontz Long Rd.
Monroe, NC 28110 US
(704)622-5564
bphilemonllc@live.com



ADDRESS
Decker Inspections & Contracting
15105-D John J. Delaney Dr.
Suite 347
Charlotte, NC 28277

Estimate 1711

DATE 02/20/2020

EXPIRATION DATE 03/20/2020

ACTIVITY	AMOUNT
2180 Carolina Place, Fort Mill, SC 29715 - Brilln Electric	
Per request, I visited the building listed above to view some damaged brick. It seems that the brick wall was struck from the inside causing a few brick at the top right corner of the overhead door to crack and to be displaced toward the outside with a some pieces falling off. I was unable to access the inside for further inspection.	
Services	1,250.00
Labor and materials for repair based upon outside only inspection. This includes scaffolding to reach the top of the door opening, acquiring brick to match existing as close as possible, removing the broken brick and installing new brick.	
Services	350.00
A follow up trip may be necessary to clean or color the repair to match the existing wall more closely.	

Please sign estimate and attached notes pages and email to
Bphilemonllc@live.com

TOTAL \$1,600.00

Accepted By

Accepted Date

The Genuine. The Original.



Overhead Door Company of Charlotte
a Division of DURA-SERV Corp



QUOTATION

Q-275568.00

To: Decker National "COD"
15105-D, John J. Delaney Dr
Suite 347
Charlotte, NC 28277
Attn: Wayne Schultz
Phone: 704-634-3048
Fax:
Email:

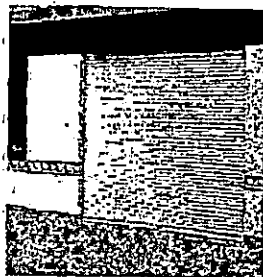
Issued: Thursday, March 5, 2020
Expiration: Saturday, April 4, 2020
Sales Contact: Joshua Montoya
Direct: Cell: 704-591-9288
Email: joshua.montoya@overheaddoorofcharlotte
Reference: (2) Series 600 Rolling Steel Doors

Qty	Description	Price	Total
-----	-------------	-------	-------

Overhead Door to Replace Existing Coiling Doors

This is a "turn-key" quote to replace (2) existing coiling doors. That means we do it all. We provide the materials, we bring the equipment; all you have to do is let us in.

- 2 Overhead Door- Model 600 Coll-Away Rolling Steel Service Door
 - Reliable and durable door for medium-duty use
 - Flat slats constructed from 26 gauge steel
 - Available in White or Brown
 - Manual or Chain Hoist Operation Available



Total: \$6,400.46

Cost to Rent Forklift and Scissorlift

Total: \$1,012.66

Project Total: \$7,413.12

Tax: \$500.38

Total including Taxes: \$7,913.51

The Genuine. The Original.



Overhead Door Company of Charlotte
a division of DURA-SERV Corp

QUOTATION

Q-275568.00

Qty	Description	Price	Total
-----	-------------	-------	-------

Scope of Work

- 1) **UNLOADING & STORAGE:** All unloading and storage of equipment purchased is the responsibility of the purchaser unless otherwise specified.
- 2) **INSTALLATION:** All prices for installation are based on the following:
 - a) Unless specifically stated otherwise, all installation will be performed by factory-trained non-union personnel. If union labor is required, additional charges will apply.
 - b) All wire, wiring, conduit, electrical hookup, control wiring, mounting of control panels and outside lights (if applicable) by others.
 - c) Prices are based on installation of equipment during normal business hours and a normal business week. If specified work is to be done on weekend, additional charges will apply.
 - d) Pricing is also based on all equipment being installed on same trip with driveway to be poured prior to start of installation. Additional charges will be added if additional trips are involved due to site conditions.
 - e) If installation involves removal of existing equipment, pricing does not provide for handling and disposing of existing equipment unless otherwise specified.
 - f) Preparation of site, removal of obstructions to accept equipment, cutting, patching, and painting is by others.
- 3) **DOCK LEVELERS:** Specific to dock levelers and their proper installation:
 - a) Installation of levelers excludes excavating, forming of pits, and pit steel. Pit forming can be provided and quoted as an option.
 - b) Installation pricing includes necessary materials, off loading into pre-formed pit, positioning, shimming, and welding in place for pit leveler only.
 - c) Box Leveler - Shimming and securing a box leveler in place is the responsibility of others. Installation refers to final adjustment only for this type of leveler.
 - d) If pit formation has been included, Just Rite Equipment, Southern Dock Products, and affiliates are not responsible for any sub-surface complications during pit excavation. Should unforeseen obstructions (conduit, water lines, wall thickness greater than 10", slab thickness greater than 6", etc.) be encountered, customer will be notified.
 - e) Unless otherwise noted, pit formation does not include a dust control enclosure around the dock during concrete cutting.
- 4) **OVERHEAD DOORS:** Specific to overhead doors and their proper installation:
 - a) Installation of overhead doors is based on an enclosed facility with a finished floor.
 - b) All interior mounting surfaces to flush and plumb.
 - c) Door frames, extensions and anchor plates for track, springs and / or electric operators are to be supplied and installed by others.
 - d) For operators, all electrical wiring, interconnections, and supply of primary power by others.
- 5) **ELECTRICAL:** Electrical install for power and controls by others. All wire, wiring, conduit, electrical hookup, control wiring, mounting of control panels and outside lights (if applicable) by others.
- 6) **TAX:** Tax excluded from proposals unless expressly provided.

For Standard Terms & Conditions of Sale please visit:
<http://duraservcorp.com/terms/terms-and-conditions.pdf>

Accepted By: _____
 Wayne Schulte - Decker National "COD" Date: _____
 PO #: _____



EXHIBIT
11

© 1997 PETERSON

EXHIBIT

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Carolina Real Estate Holdings, LLC
15105-D John J. DeLaney Dr.
Suite 347
Charlotte, NC 28277

Invoice

Date	Invoice #
5/2/2018	460

Bill To
Bulla Electric LLC 1974 Carolina Place Drive Suite 108 Port Mill, SC 29708

P.O. No.	Terms	Project
	Dis on receipt	

Quantity	Description	Rate	Amount
	Cost to repair damaged ductwork in warehouse caused by fork lift hitting overhead HVAC ducts.	2,625.00	2,625.00
Total			\$2,625.00



MTB Mechanical, Inc.
1201 Industrial Dr.
Matthews, NC 28105
704 321 9260

NC 7077 SC 108618

QUOTE

DATE	INVOICE #	CUST #
12/28/2018	0000350440	0039772

SHIP TO:

CAROLINA REAL ESTATE HOLDINGS, LLC
16185-D JOHN J DELANEY DR
UNIT 347
CHARLOTTE NC 28277

SHIP TO:

CAROLINA REAL ESTATE HOLDINGS
2180 CAROLINA PLACE DR.
FORT MILL SC 28708

PO NUMBER	TERMS	SALES PERSON	
DESCRIPTION	QTY	PRICE EACH	AMOUNT
MISC			
REPAIR AND /OR REPLACE DAMAGED DUCTWORK ABOVE FINISHED FLOOR BUT BELOW CEILING. PRICE INCLUDES SISSOR LIFT RENTAL TO MAKE REPAIRS	1.00	2,625.00	2,625.00
TOTAL			\$2,625.00

PHOTOGRAPHY.COM



W&L-7

ROA00980

EXHIBIT

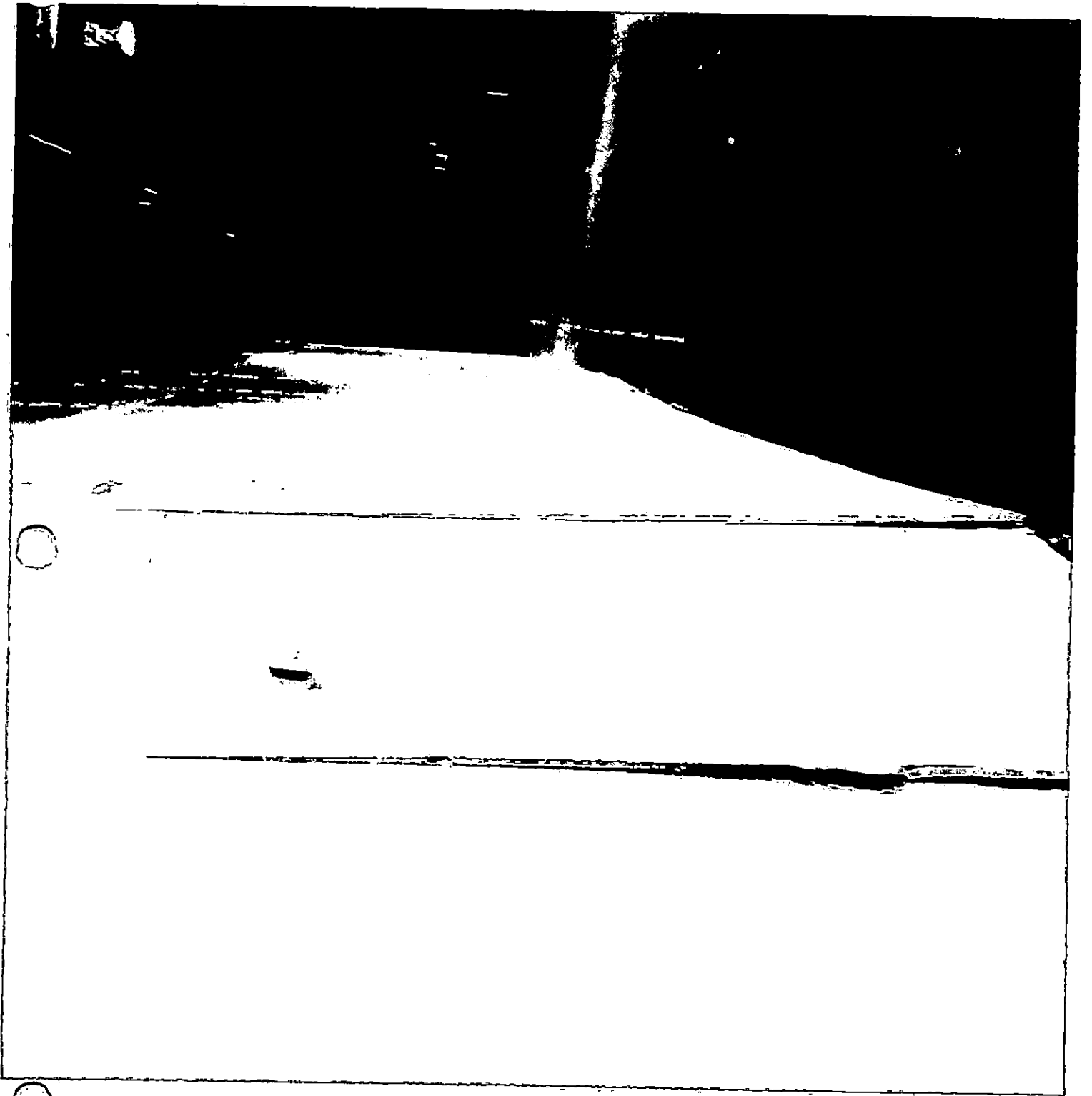
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ca.bjipk@lenc.com



EXHIBIT

15



ROA00932

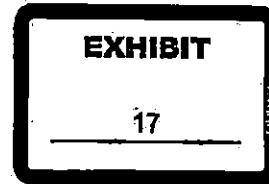
EXHIBIT

16

www.3dscanner.com



Integrity Consulting Group, PLLC
 16607 Riverstone Way, Suite 200
 CHARLOTTE, NC 28277 US
 harry.martin@integritycg.net
 www.integritycg.net



INVOICE

BILL TO
 Brad Decker
 15105-D John Delaney Drive,
 Suite 347
 Charlotte, NC 28277

INVOICE # 5749
DATE 07/02/2020
DUE DATE 07/02/2020
TERMS Due on receipt

PO #
 2180 Carolina Place

PROJECT CONTACT
 Consultation & Site Visits

DATE	ACTIVITY	QTY	RATE	AMOUNT
07/02/2020	Consulting Project: 2180 Carolina Place, Suites 110 & 111 Scope: Consultation services for damaged partition wall. Services have included two site visits and two letters.	1	1,757.50	1,757.50

ICG Federal Tax ID: 81-1520170

BALANCE DUE

\$1,757.50

EXHIBIT

19

Carolina Real Estate Holdings, LLC

15105-D John J. Delaney Dr.
Suite 347

Charlotte, NC 28277

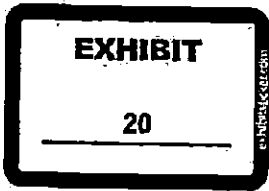
Invoice

Date	Invoice #
8/12/2019	689

Bill To
Brill Electric LLC 1974 Carolina Place Drive Suite 108 Egn Mill, SC 29708

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description	Rate	Amount
	Labor and materials to repair damaged to the wall between Brill Electric and Two Men and a Truck, caused by your careless forklift operator.	1,800.00	1,800.00
Total			\$1,800.00



COIT SERVICES
 3548 CENTRE CIRCLE
 FORT MILL, SC 29715
 P:803-548-7862/704-527-3100
 F:803-548-7788
 coit@comporium.net



Carolina Real Estate Holdings
 15105 John J Delaney Drive, Suite 347
 Charlotte, NC 28277

INVOICE

Invoice # C-75966CC
 Invoice Date 05/08/2020
 Due Date 05/08/2020

Item	Description	Unit Price	Quantity	Amount	
Service	Carpet Cleaning Services - based on all wall to wall carpeting in the Brillin Electric suite; includes cleaning and deodorizing all carpet	250.00	1.00	250.00	
<p>NOTES: Point of Contact: Brad Date of Service: 5/5/2020 Service Address: Brillin Electric 2180 Carolina Place, Suite 111 Fort Mill, SC 29708</p> <p>*Carpets appeared to have pet staining/ spots. Coit cleaned and deodorized all of the carpeting</p> <p>If using a Debit or Credit Card for payment, we accept Visa, Mastercard, and Discover. However, there is a 2% processing fee for all invoices.</p> <p>We appreciate your business very much!</p>					
				Subtotal	250.00
				Total	250.00
				Amount Paid	0.00
				Balance Due	\$250.00

EXHIBIT

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EXHIBITRECORD.COM



WEL-8

ROA00938

ICG

Integrity Consulting Group, PLLC
16607 Riverstone Way - Suite 200
Charlotte, NC 28277
www.integritycg.net

May 18, 2020

Carolina Real Estate Holdings, LLC
15105-D John DeLaney Drive, Suite 347
Charlotte, NC 28277
VIA: Email

Re: Partition Wall Temporary Shoring
2180 Carolina Place, Suites 110 & 111
Fort Mill, SC 29708

Carolina Real Estate Holdings, LLC:

At your request, ICG met with you on Monday, May 4, 2020 at the subject address, to examine a partition wall, shared between Suites 110 and 111 that had been struck with moving equipment and displaced near floor level. We understand from our conversations with you that the tenant, Brillin Electric occupying suites 110 through 111 attempted to push the displaced portion of the wall back into place from the suite side of Suite 109. We observed that the wall appeared relatively plumb but was covered with gypsum sheathing which obscured the view of wall structural elements such as studs, top and bottom plates and connections which may have possibly been damaged from the impact.

Based off of our observations and conversations, we recommend that portions of the gypsum sheathing covering on at least one side of the wall be removed at the impacted area near floor level and above where the top of the wall connects to the bottom of the steel portal frame. Enough wall sheathing will need to be removed to determine the extent of any damaged internal wall framing members and connections.

Once this has been done, we can make an accurate visual assessment of the structural condition of the wall and prescribe any necessary repairs.

Until such time that we are allowed to examine the wall internally, we recommend temporary measures to ensure that the base of the wall is stabilized and does not "kick out" from either side. In order to accomplish this, we recommend that a 12-foot long 2x6 be placed flat on the floor, snug up against the existing partition wall on both sides. The 2x6 should be centered about the approximate impact location and fastened to the concrete floor with concrete screw anchors or concrete mechanical type fasteners (Tapcon, Redhead, Hilti, etc. provide these type of fasteners). The fasteners shall have a minimum shank diameter of ½" and be spaced at a maximum of 16" on center in a single row. They shall be installed per manufacturer recommendations.

Please note this report does not express or imply any warranty of the structure. Warranty expressed or implied as to the condition of the structure, is intended. The maximum liability of the Engineer for loss suffered by the client due to any cause is limited to the amount of

Integrity Consulting Group, PLLC
www.integritycg.net

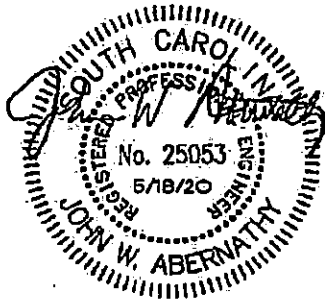
ROA00939

May 18, 2020
Partition Wall Temporary Shoring
2180 Carolina Place, Suites 110 & 111
Fort Mill, SC

the Engineer's fee paid by the client. This shall be the sole exclusive remedy for any loss suffered by the client arising out of the Engineer's performance under this agreement.

If we can assist you further in any way, please feel free to contact us at 704-541-3202.

Sincerely,



John W. Abernathy, P.E.
SC Registration No. 25053
SC Corporate No. 5355

ICG

Integrity Consulting Group, PLLC
16607 Riverstone Way - Suite 200
Charlotte, NC 28277
www.integritycg.net

June 3, 2020

Carolina Real Estate Holdings, LLC
15105-D John Delaney Drive, Suite 347
Charlotte, NC 28277
VIA: Email

Re: Partition Wall Repair
2180 Carolina Place, Suites 110 & 111
Fort Mill, SC 29708

Carolina Real Estate Holdings, LLC:

At your request, ICG performed an evaluation of the subject wall on May 22, 2020. This is the same partition wall we originally observed on May 4, 2020 which is shared between Suites 110 and 111. According to you, this wall had been struck by Brill Electric the previous tenant, and they had attempted to push the displaced portion of the wall back into place.

Observations:

At the time of our original visit, none of the gypsum sheathing had been removed from either side of the wall. Upon our arrival during this second visit, we observed that portions of the gypsum sheathing had been removed from the wall on the side of Suite 111.

It should be noted that the gypsum sheathing had only been partially removed along the bottom half. Sheathing had been removed at the general vicinity of the wall strike and the interior of the wall was exposed to a height of approximately 12 feet. Most of the remainder of the wall was opened to a height of approximately 4 feet. Also, the first 10 feet of partition wall along the front side of the building was obscured by objects stored on the floor and no sheathing had been removed along that section of wall.

We pulled a string from one side of the building to the other at approximately 10-foot stations along the wall, where the partition wall met the exterior walls. At a height of 4'-2-1/2" from the floor surface we measured the distance from the exposed wall studs to the string. The maximum gap measured 1-1/4". In addition, we measured vertical plumbness of the wall using a 4-foot long spirit level. The level was centered at approximately 5 feet from the floor surface and measurements were taken at approximately 10-foot stations. The wall measured relatively plumb. Only one measurement taken exceeded 1/4" (per four-foot level length). It actually measured 3/8" (per four feet) at that location.

Within the exposed wall sections, we observed 18 gauge cold formed steel studs spaced at 16 inches on center. The studs were fastened on one side with screws to a bottom cold formed steel plate. This plate was attached to the concrete floor slab with powder actuated

June 3, 2020
Partition Wall Repair
2180 Carolina Place, Sultes 110 & 111
Fort Mill, SC

fasteners. The top of the wall where it joined to the bottom of the steel portal frame was covered with gypsum sheathing and could not be observed.

Upon closer examination, we counted 30 studs that were either twisted, or the flanges were bent. We also observed where the flanges were warped at the corners where they met with the bottom plate. We counted 22 bays (16-inch spaces between studs along the bottom plate) where the powder actuated fasteners were loose or had pulled out of the holes in the bottom plate and were not secured to the floor.

Recommendations:

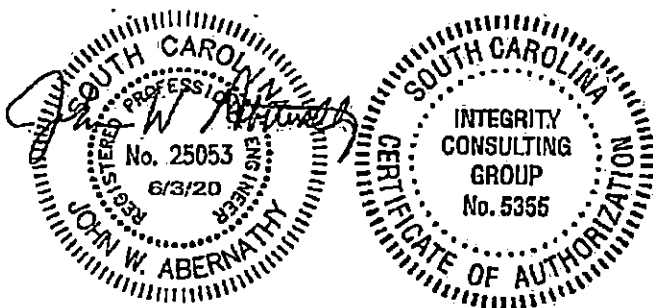
Based off of our observations and the information we have gathered from you, we recommend that the remainder of the gypsum sheathing be removed on that side of the wall up to 12 feet above the floor surface. This will allow us to determine if there is damage to the studs that are not currently exposed. We also recommend that a section of gypsum sheathing above the reported wall strike be removed for inspection. This will help us determine if there is any damage to the connections between the top of the wall and the bottom of the steel portal frame which may have occurred due to the wall strike.

Once all damage is identified, we recommend that the damaged wall elements be repaired. For the damaged wall studs, we recommend that new 16-gauge studs be placed alongside the existing damaged 18-gauge studs. Also, the bottom steel stud plate should be secured to the floor using powder actuated fasteners in the bays between studs where they were loose or had pulled out.

Please note this report does not express or imply any warranty of the structure. The maximum liability of the Engineer for loss suffered by the client due to any cause is limited to the amount of the Engineer's fee paid by the client. This shall be the sole exclusive remedy for any loss suffered by the client arising out of the Engineer's performance under this agreement.

If we can assist you further in any way, please feel free to contact us at 704-541-3202.

Sincerely,



John W. Abernathy, P.E.
SC Registration No. 25053
SC Corporate No. 5355

June 3, 2020
Partition Wall Repair
2180 Carolina Place, Suites 110 & 111
Fort Mill, SC

Photographs



Photo 1



Photo 2

June 3, 2020
Partition Wall Repair
2180 Carolina Place, Suites 110 & 111
Fort Mill, SC

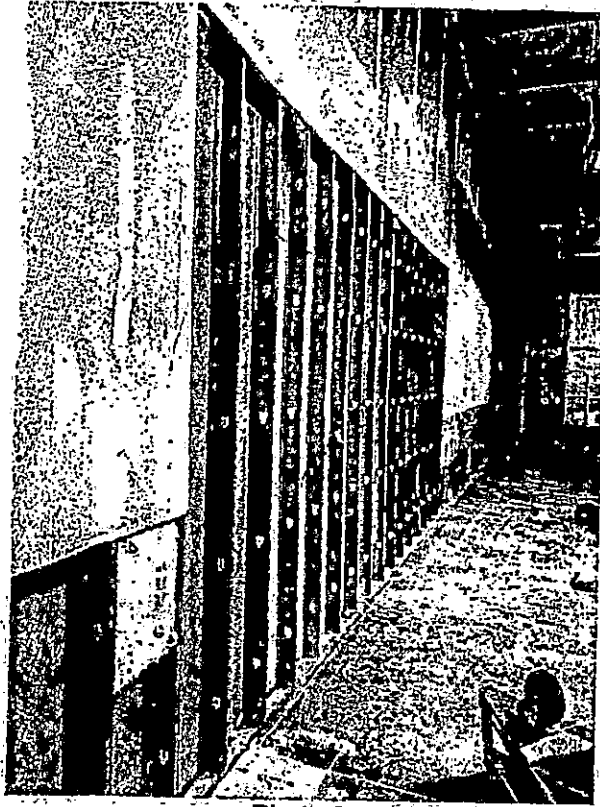


Photo 3



Photo 4

June 3, 2020
Partition Wall Repair
2180 Carolina Place, Suites 110 & 111
Fort Mill, SC

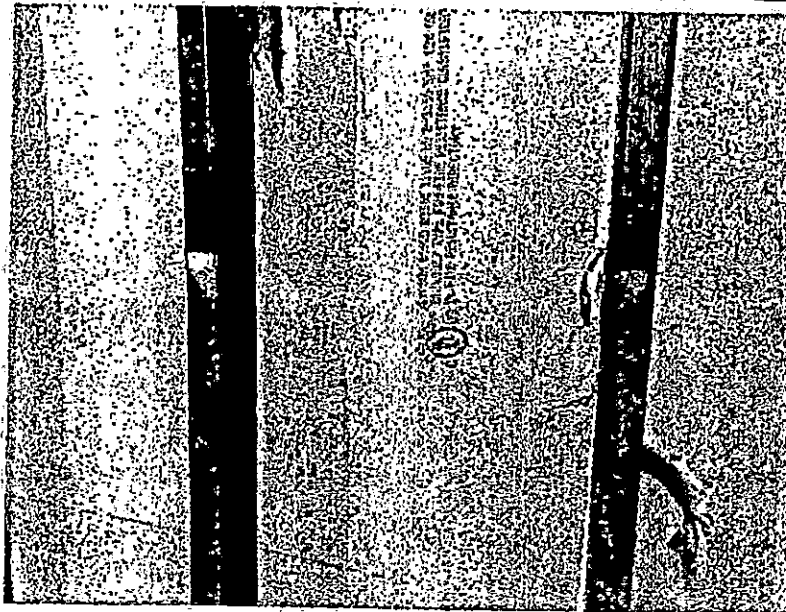


Photo 5



Photo 6

June 3, 2020
Partition Wall Repair
2180 Carolina Place, Suites 110 & 111
Fort Mill, SC



Photo 7



Photo 8

June 3, 2020
Partition Wall Repair
2180 Carolina Place, Suites 110 & 111
Fort Mill, SC

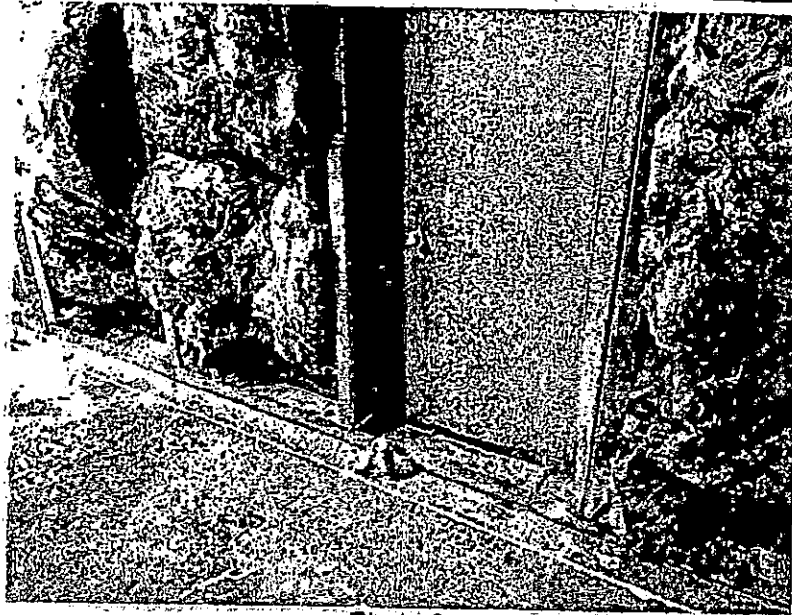


Photo 9

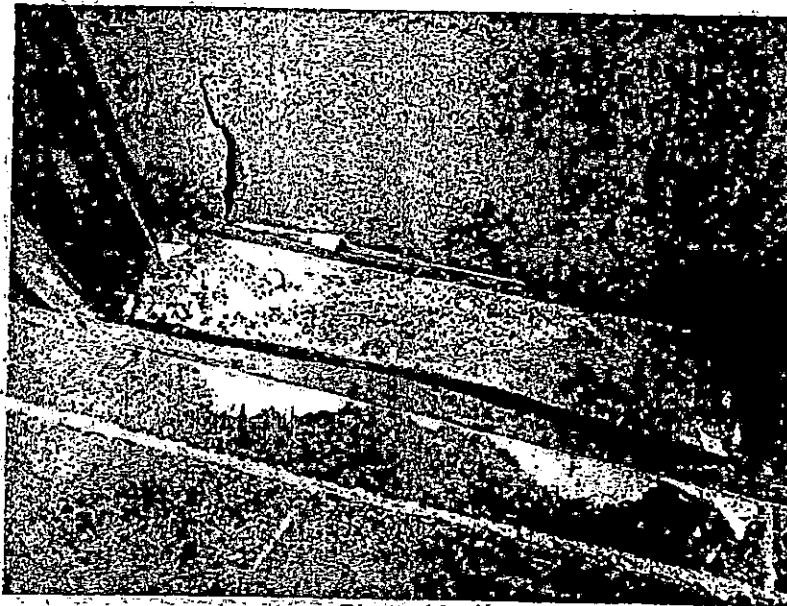


Photo 10

June 3, 2020
Partition Wall Repair
2180 Carolina Place, Suites 110 & 111
Fort Mill, SC

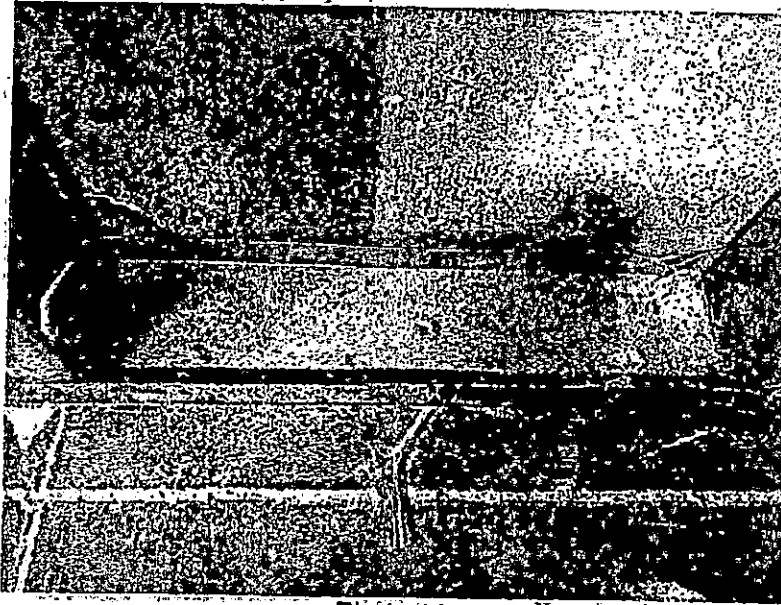


Photo 11



Photo 12

EXHIBIT

24

www.sealedair.com



Steve Dluzneski

From: brad@deckernational.com
Sent: Monday, April 13, 2020 3:46 PM
To: Steve Dluzneski
Subject: Fwd: CREH vs Birlin Electric
Attachments: CREH vs Birlin Electric.zip

----- Original Message -----

From: Joshua Montoya <joshua.montoya@overheaddoorofcharlotte.com>
To: Wayne Schulte <wayne@deckernational.com>
Date: April 10, 2020 at 6:16 AM
Subject: CREH vs Birlin Electric

Wayne,

Per our phone conversation a couple days ago, this is where my research led me. The Amar - Series 5501 is a great product for the proper application. The application at your address would be better suited by a commercial door meant for more frequent revolutions. Between the two options, the OHD-Model 600 door is the better option for your location. The slats and angle mounting offer more structure; structure is very important in a commercial application. The Model-600 is a lighter-duty Rolling Steel Slat Door, but in a different class of light-duty compared to the Amar-Series 5501. This is the age-old comparison of apples to oranges considering these openings are used for commercial/industrial purposes.

I highlighted a few major differences, but again, the major difference is in the type of door itself. Let me know if you have any questions!

Thanks,

Joshua A Montoya

Commercial Sales Representative

Overhead Door of Charlotte

A Division of DuraServ Corp

4045 Perimeter West Drive, Ste. 600 | Charlotte, NC 28214
704-594-5094 Office | 704-591-9288 Mobile | joshua.montoya@overheaddoorofcharlotte.com

The Genuine. The Original.



Overhead Door Company of Charlotte

a division of **DURASERV** corp.

EXHIBIT

26

L&W Supply Corporation
8200 Henderson Rd.
Charlotte, NC 28269
http://www.lwsupply.com
704-598-5464

To accurately verify the price on
invoices please send us a copy of
document and your company
info. Please clearly identify any
payment conditions.

INVOICE

Customer Number	1003245
Invoice Number	293217548
Invoice Date	5/27/20
Payment Due Date	6/10/20
Total Amount Due	1861.38
Make Checks Payable & Remit To:	
L&W Supply Corporation PO Box 415421 Boston, MA 02241-5421	

1234 1 AB 0.419 ED154Y 10234 06182028283 82 P7407491 0001.0301



DECKER INSPEC & CONTRAC
#347
15105-D JOHN J DELANEY DR
CHARLOTTE NC 28277-2741

SHIP TO: 06001

DECKER INSPEC & CONTRAC
1283 CAROLINA PLACE DR
SUITE 111
FORT MILL SC

TO VIEW AND PAY ONLINE GO TO:		http://lwsupply.billtrust.com		USE THIS ENROLLMENT TICKET:		GZX BEK WFV		ENROLL WITH THIS ACCOUNT #:		8331003245	
Customer Order No.	Order Date	Req. Date	Ship Date	Ship Via	Sold To Code	Our Order No.	From Order No.	Our Order No.	From Order No.	Our Order No.	From Order No.
	5/26/20	5/27/20	5/27/20	DELIVER	1003245	2931322200					333001
Commodity Code	Quantity Ordered	Quantity Shipped	Product Description		Extended Quantity	Unit	Price Per Unit	Sales Amount			
358SJ2018	40		40 358 CSJ 20' 18GA		800	MLF	1275.00	1,020.00			
58UX12	42		42 5/8" ULT LT X DMV 4X12'		2,016	MSF	290.00	584.64			
716DP5	1		1 7/16" DRILL POINT 5#		1,000	BOX	29.00	29.00			
UJT250RL	3		3 USG 350' JOINT TAPE 1RL		3,000	ROLL	1.75	5.25			
GBPFSP	5		5 GOLDBOND PRO FORM 5GAL		5,000	PAIL	15.00	75.00			
CHG	1		1 FREIGHT SURCHARGE		1,000	EACH	25.71	25.71			

Damages

Brilin Electric

Legal

*Please Post per
cost to Brilin*

L&W IS A DISTRIBUTOR AND MAKES NO PRODUCT WARRANTIES. L&W DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. All sales are made solely pursuant to L&W's terms and conditions of sale, which can be accessed at <http://lwsupply.com/help/terms-conditions/> and are available upon request from your local branch. Note: Seller's terms contain indemnification provisions and warranty limitations and damage disclaimers that are binding upon Buyer. All other terms and conditions are expressly rejected. By accepting the below materials, you agree to L&W's terms and conditions. Seller represents that with respect to the production of the goods and/or the performance of the services covered by this invoice, has fully complied with section 12(A) of the Fair Labor Standards Act of 1938 as amended. LATE PAYMENT CHARGE: All accounts past due will be subject to a monthly late payment charge, not to exceed the maximum allowable by state or federal law. When you provide a check as payment, you authorize us either to use this information from your check to make a one-time electronic fund transfer (EFT) from your account or to process the payment as a check transaction. For inquiries, please call the number provided on the invoice.

DISCOUNT AVAILABLE	SUB-TOTAL	1,739.60
DISCOUNT DUE DATE	TAX \$ \$Y	121.78
DISCOUNT DUE DATE	TOTAL INVOICE	1,861.38

EXHIBIT

27

SUNBELT RENTALS

INVOICE
SEND ALL PAYMENTS TO:
SUNBELT RENTALS, INC.
PO. BOX 409211
ATLANTA, GA. 30384-0211

INVOICE NO.	101511391-0001
ACCOUNT NO.	47921
INVOICE DATE	5/26/20

INVOICE TO

102-838-017
DECKER INSPECTIONS & CONTRACT
15105D JOHN J DELANEY DR STE 347
CHARLOTTE NC 28277-2741

RECEIVED BY	DECKER, BRAD	PAGE	1 of 1
CONTRACT NO.	101511391		
PURCHASE ORDER NO.	BRILAN ELECTRIC DAMAGES		
JOB NO.	1 - BUSINESS		
BRANCH	FORT MILL, SC PC720 120 SUTTON RIDGE LN FORT MILL, SC 29708 9400 803-228-6464		

JOB ADDRESS
2 MEN AND A TRUCK
2180 CAROLINA PL
FORT MILL, SC 29708 7002
704-634-3036

QTY	EQUIPMENT #	Min	Day	Week	4 Week	Amount
1	19' ELECT SCISSORLIFT 10094528	160.00	160.00	295.00	390.00	390.00
	Make: JLG Model: 1930ES Ser #: M200026257					
	HR OUT: 69.300 HR IN:					
	TOTAL: 69.300					
	Rental Sub-total:					390.00

SALES ITEMS:

Qty	Item number	Unit	Price	Amount		
1	SCHERS4	EA	9.750	9.75		
1	SC 2.5% HEAVY EQUIP. RENTAL SURCHARGE	EA	31.050	31.05		
1	TRANSPORTATION SURCHARGE	EA	5.070	5.07		
1	ENVIRONMENTAL ENVIRONMENTAL CHARGE 2133	EA		58.50		
1	RENTAL PROTECTION PLAN	EA		115.00		
	DELIVERY CHARGE			115.00		
	PICKUP CHARGE			115.00		
QTY	EQUIPMENT #	Min	Day	Week	4 Week	Amount

BILLED FOR FOUR WEEKS 5/18/20 THRU 6/14/20

*Repairing Brilin
Damage*

*Brilin legal matter
Equipment*

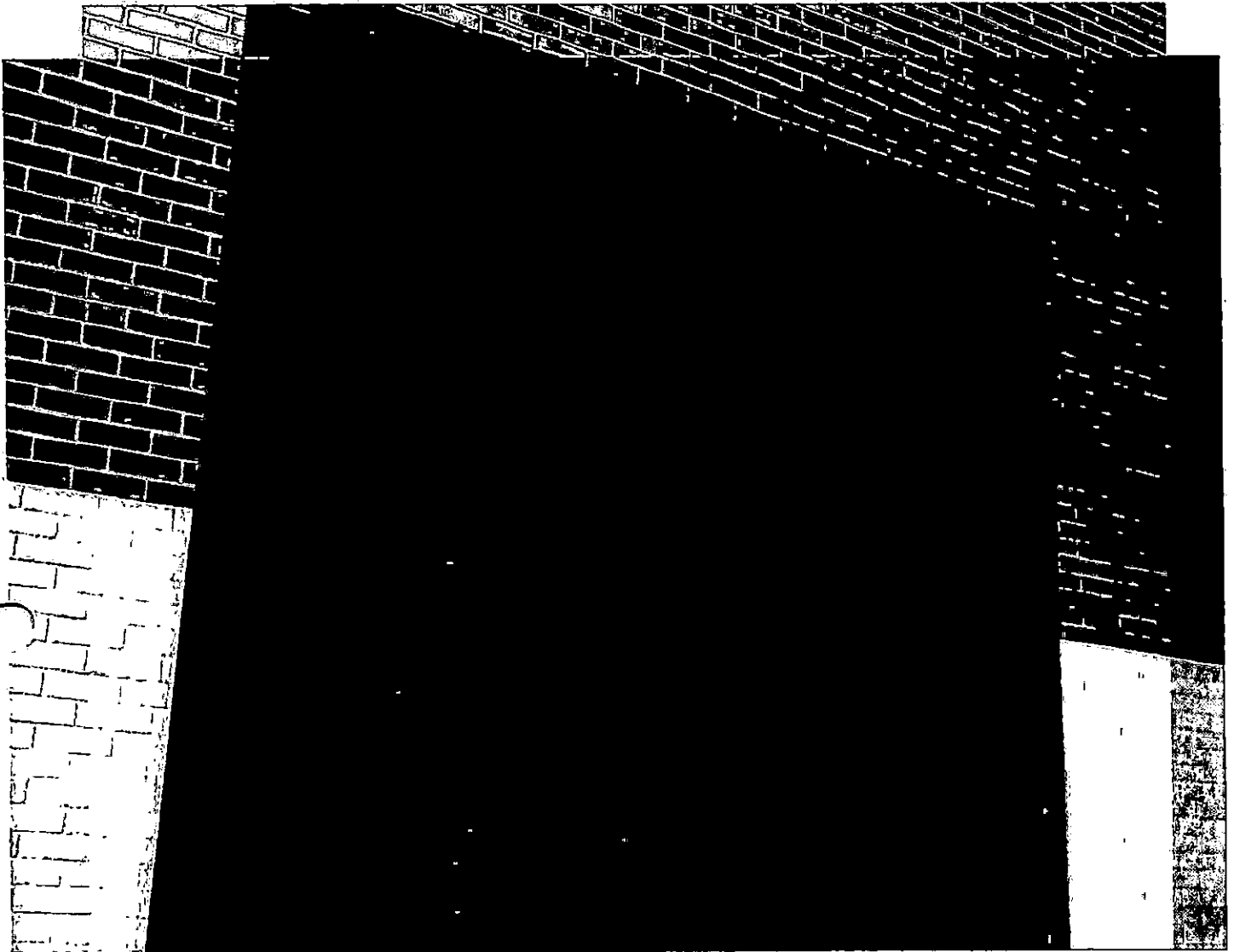
*Please keep track
of all cost*

ment. Service. Guaranteed.

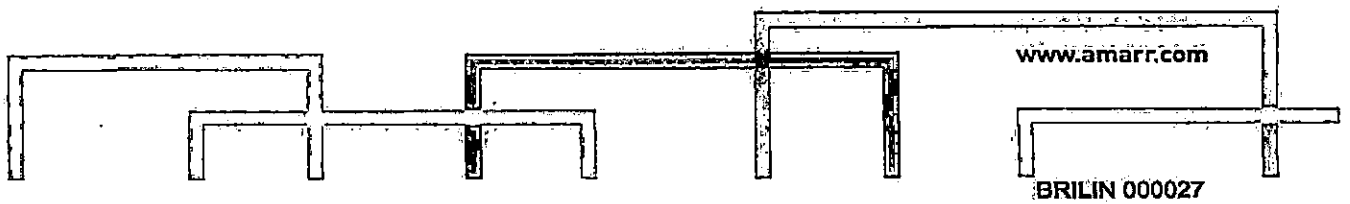
SUBTOTAL	724
SALES TAX	50

DEFENDANT'S
EXHIBIT
2

ENTRE//MATIC



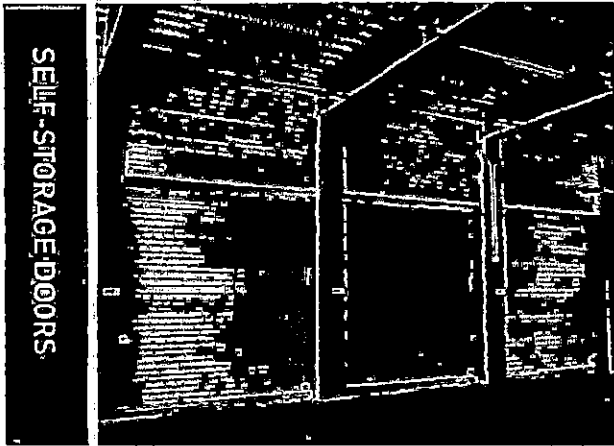
Amarr Rolling Sheet Commercial Doors



www.amarr.com

BRILIN 000027

ROA00955



Perfect for most storage facilities, Amarr self-storage doors offer excellent performance and reliability at an economical price. These easy-to-install doors are a popular choice among DIY installers of storage sheds and building projects requiring a secure opening. All models are available in sizes starting as small as 3' wide.

Amarr 5101, 5151, 5161 SELF-STORAGE DOORS

Technical Features

1. 26-gauge galvanized steel curtain (Amarr 5161 is 24-ga)
2. Super Durable Polyester paint provides years of fade resistance and film integrity
3. Clear acrylic coated galvanized steel bottom bar with full width steel angle
4. Exterior dual lock assembly provides for two padlocks
5. Heavy-duty galvanized steel guides hot dipped for maximum strength and rust resistance
6. 9-1/2" drums are totally enclosed by the galvanized steel barrel assembly
7. Steel bearing shaft support
8. Adjustable tensioning device



	Amarr 5101 Formerly Amarr 5102	Amarr 5151 Formerly Amarr 5150-33	Amarr 5161 Formerly Amarr 5164
CURTAIN STEEL THICKNESS	24ga	24ga	24ga
DRUM/BARREL SIZE	9.5"	9.5"	9.5"
MAXIMUM WIDTH	10'	10'	10'
MAXIMUM HEIGHT	11'	11'	11'
GUIDE DEPTH	1.4"	1.4" or 2.2"	1.4"
GUIDE GAUGE	15ga	18ga	12ga
WIND LOAD RATED	No	Yes	Yes
WINDLOCK TYPE	R/A	Steel	Steel
MIAMI-DADE WL APPROVAL	No	No	Yes



The Amarr light-duty commercial sheet door is an excellent choice for projects requiring value. The enclosed barrel assembly allows this door to fit into spaces with low headroom requirements. The Amarr light-duty commercial sheet door is designed to be economical without sacrificing performance, craftsmanship, or aesthetics.

Amarr 5501 LIGHT-DUTY SHEET DOORS

Technical Features

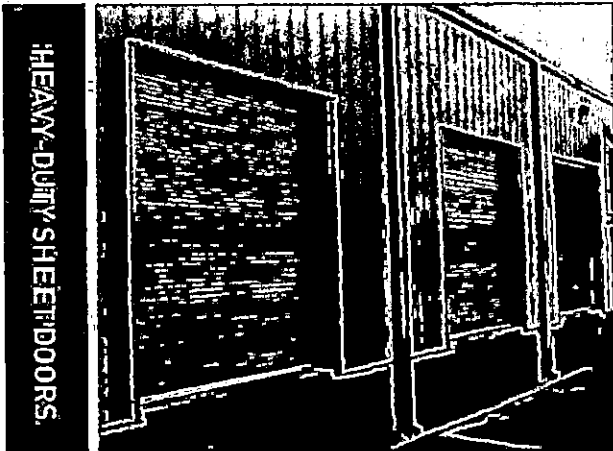
1. 26-gauge galvanized steel curtain
2. Super Durable Polyester paint provides years of fade resistance and film integrity
3. Clear acrylic coated galvanized steel bottom bar with full width steel angle
4. Dual galvanized steel slide bolt locks attached to the bottom bar
5. Heavy-duty galvanized steel guides hot dipped for maximum strength and rust resistance
6. Heavy-duty nylon strapping reduces friction and ensures smooth and quiet operation
7. 9-1/2" drums are totally enclosed by the galvanized steel barrel assembly
8. Steel bearing shaft support
9. 16-gauge wall mounting brackets
10. Reduced drive chain hoist standard for doors over 100 sq. ft.



	Amarr 5501 Formerly Amarr 5534
CURTAIN STEEL THICKNESS	26ga
DRUM/BARREL SIZE	9.5"
MAXIMUM WIDTH	12'
MAXIMUM HEIGHT	14'
GUIDE DEPTH	2.2"
GUIDE GAUGE	16ga
WIND LOAD RATED	No
WINDLOCK TYPE	n/a
MIAMI-DADE WL APPROVAL	No

BRILIN 000028

ROA00956



The heavy-duty line of Amarr commercial sheet doors are engineered for door openings with more demanding applications. These doors are typically found on warehouse docks with up to 18' wide openings. The combination of heavy-duty sheet door features and the reduced labor requirement due to ease of install, make these doors an affordable choice for most projects.

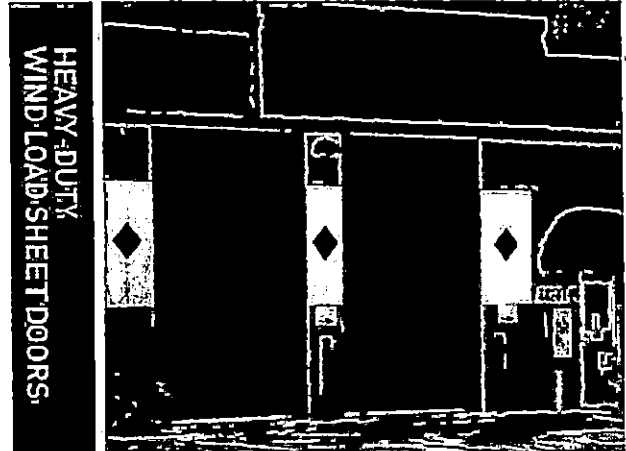
Amarr 5601 HEAVY-DUTY SHEET DOORS

Technical Features

1. 26-gauge galvanized steel curtain
2. Super Durable Polyester paint provides years of fade resistance and film integrity
3. Clear acrylic coated galvanized steel bottom bar with full width steel angle
4. Dual galvanized steel slide bolt locks attached to the bottom bar
5. Heavy-duty galvanized steel guides hot dipped for maximum strength and rust resistance
6. Heavy-duty nylon strapping reduces friction and ensures smooth and quiet operation
7. 12" enclosed barrel
8. Steel-bearing shaft support
9. 12-gauge wall mounting brackets
10. Reduced drive chain hoist standard for doors over 100 sq. ft.



	Amarr 5601
CURTAIN STEEL THICKNESS	26ga
DRUM/BARREL SIZE	12"
MAXIMUM WIDTH	18'
MAXIMUM HEIGHT	10'
GUIDE DEPTH	2 3/4" to 17" / 17" / 17" / 18"
GUIDE GAUGE	16ga up to 17' w / 12ga 12 1/2" - 18' w
WIND LOAD RATED	No
WINDLOCK TYPE	N/A
MIAMI-DADE WL APPROVAL	No

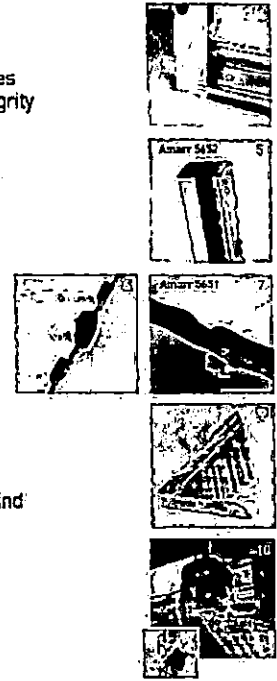


Manufactured to protect property and products in storm prone areas, the line of Amarr heavy-duty wind load certified sheet doors has a variety of models to fit your wind load certification needs, including Miami-Dade. The smooth operation of the nylon windlocks also makes the 5652 an ideal option for most oversized commercial applications.

Amarr 5652, 5651, 5661 HEAVY-DUTY WIND LOAD SHEET DOORS

Technical Features

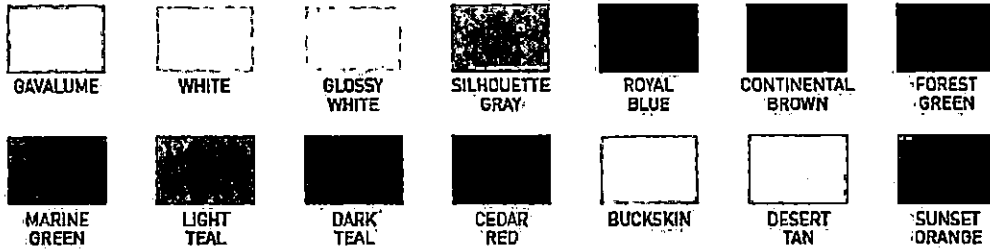
1. 26-gauge galvanized steel curtain
2. Super Durable Polyester paint provides years of fade resistance and film integrity
3. Clear acrylic coated galvanized steel bottom bar with full width steel angle
4. Dual galvanized steel slide bolt locks provide for two padlocks and added security
5. Heavy-duty galvanized steel guides hot dipped for maximum strength and rust resistance
6. Nylon windlocks on the Amarr 5652 provide wind load protection without sacrificing ease of operation
7. Steel windlocks on the Amarr 5651 and Amarr 5661 provide maximum wind load protection in extreme weather locations
8. Steel-bearing shaft support
9. 12-gauge wall mounting brackets
10. Reduced drive chain hoist standard for doors over 100 sq. ft.



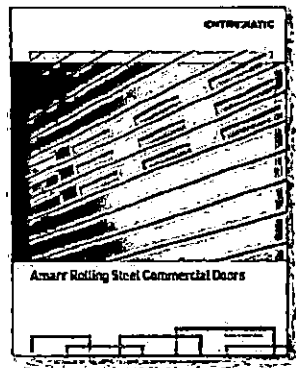
	Amarr 5652	Amarr 5651	Amarr 5661 Formerly Amarr 5651 OCC
CURTAIN STEEL THICKNESS	26ga	26ga	26ga
DRUM/BARREL SIZE	12"	12"	12"
MAXIMUM WIDTH	18'	20'	17'
MAXIMUM HEIGHT	20'	18'	22'
GUIDE DEPTH	2"	4"	4"
GUIDE GAUGE	12ga	12ga	12ga
WIND LOAD RATED	Yes	Yes	Yes
WINDLOCK TYPE	Nylon	Steel	Steel
MIAMI-DADE WL APPROVAL	No	No	Yes

BRILIN 000029

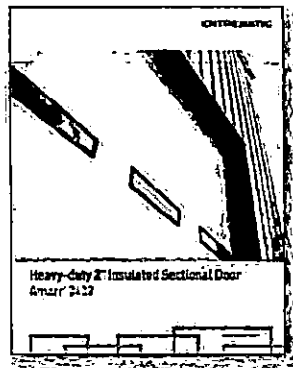
COLORS Actual paint colors may vary from samples shown.



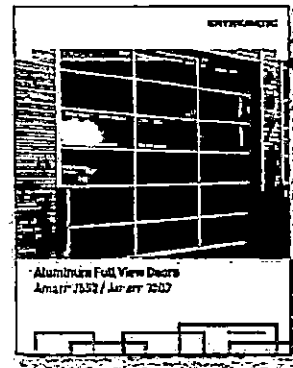
OTHER COMMERCIAL MODELS AVAILABLE



Rolling Steel



Sectional



Sectional Full View

WARRANTY

Products guaranteed to be free from defects in workmanship and materials for a period of 1 year from date of factory shipment. There is a limited 25-year warranty on the paint and finish.

ENTRE/MATIC

Entrematic
165 Carriage Court
Winston-Salem, NC 27105
800.603.0008
www.amarr.com

FOR TECHNICAL
QUESTIONS:
1.866.366.4814



Our Philosophy. Since 1951, we have successfully raised the standards of quality, value, and dependability in our industry. Today, with the same promise of individual attention and great value for all our customers, we remain committed to offering products and services that raise those standards even higher.

Technical data subject to change without notice.

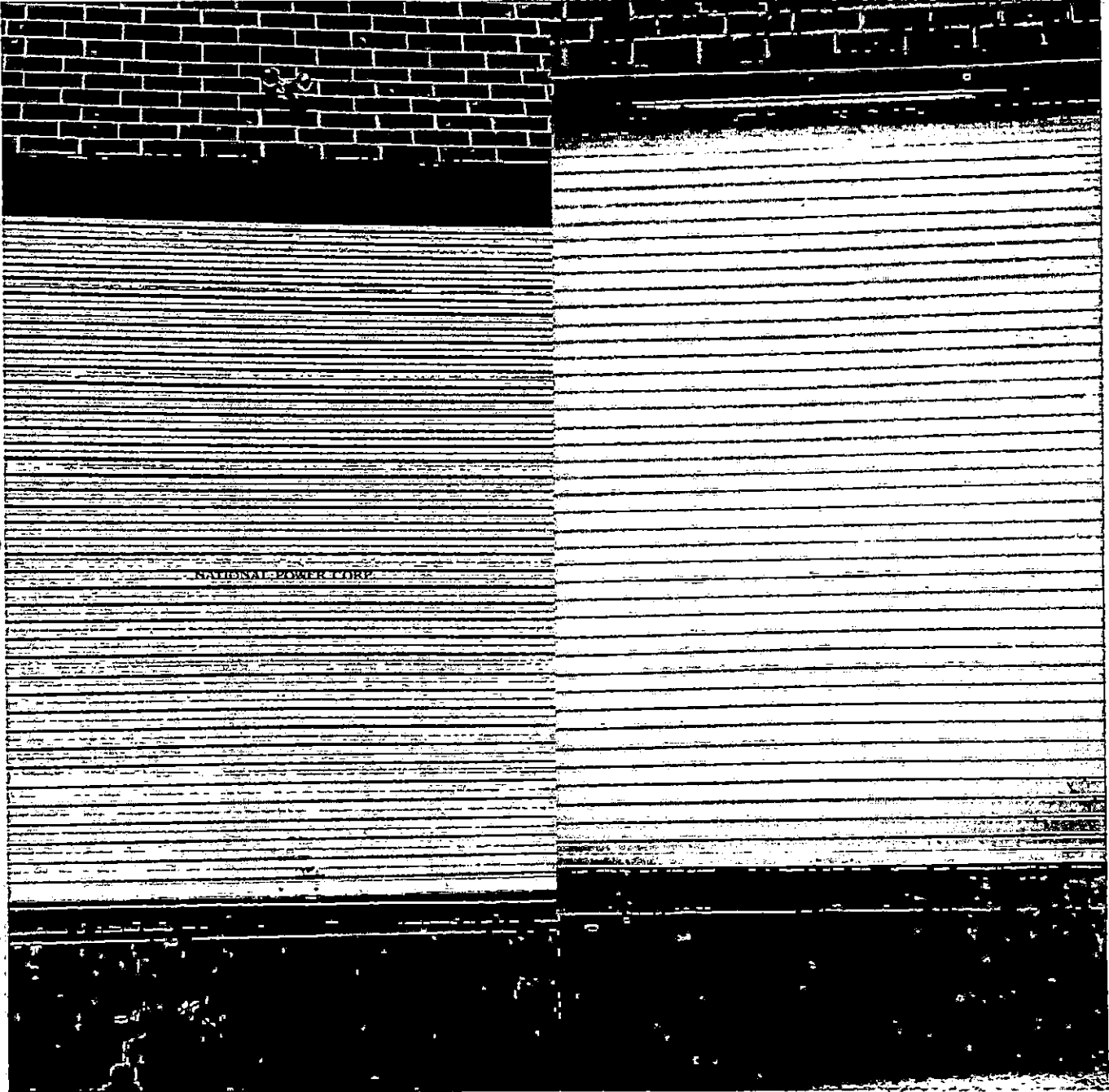
Entrematic products may be the subject of one or more U.S. and/or foreign, issued and/or pending, design and/or utility patents.

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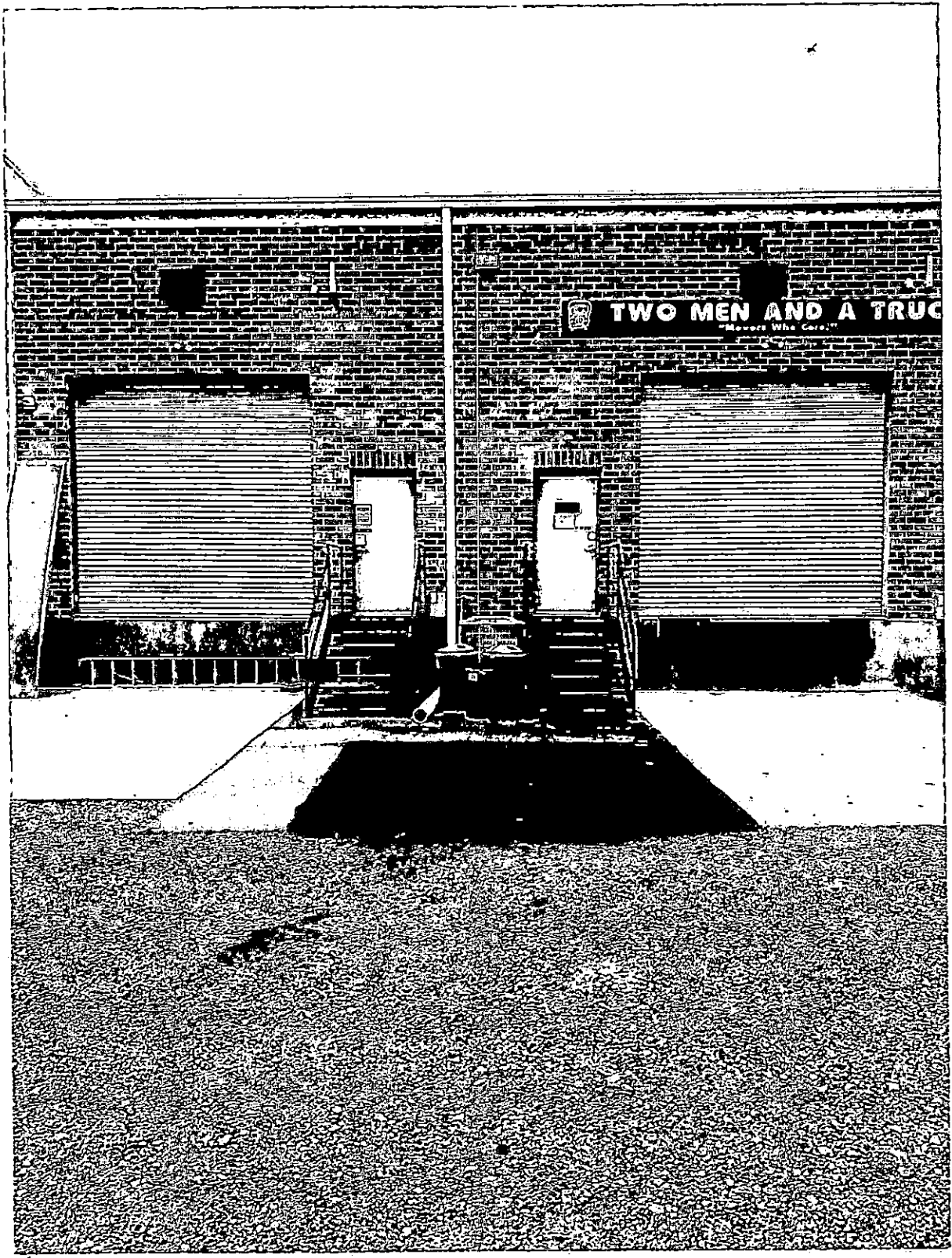
BRILIN 000030

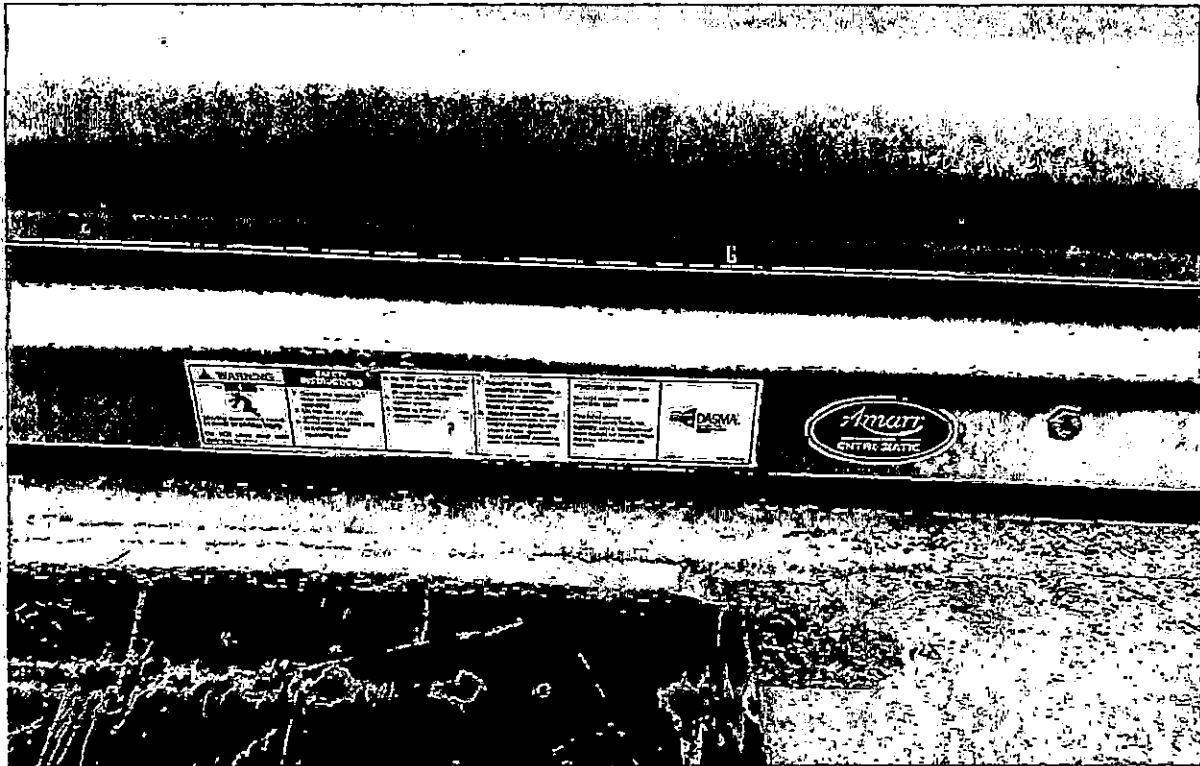
ROA00958

DEFENDANT'S
EXHIBIT
3

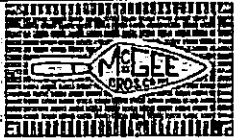


BRILIN 000034





DEFENDANT'S EXHIBIT
4



INVOICE

MCGEE BROTHERS COMPANY, INC.

Invoice No. **1148126**
BRI08

4808 CARRIKER ROAD MONROE, NORTH CAROLINA 28110
MONROE (704) 753-4582
CHARLOTTE (704) 372-7610

BILL TO

REPAIR
2180 CAROLINA PLACE SUITE 111

BRILIN ELECTRIC
3685 CENTRE CIRCLE
FORT MILL, SC 29715

PO NBR	WORKTYPE	TERMS/DUE DATE	INVOICE DATE	PAGE
		5/30/2020	5/15/2020	1 of 1

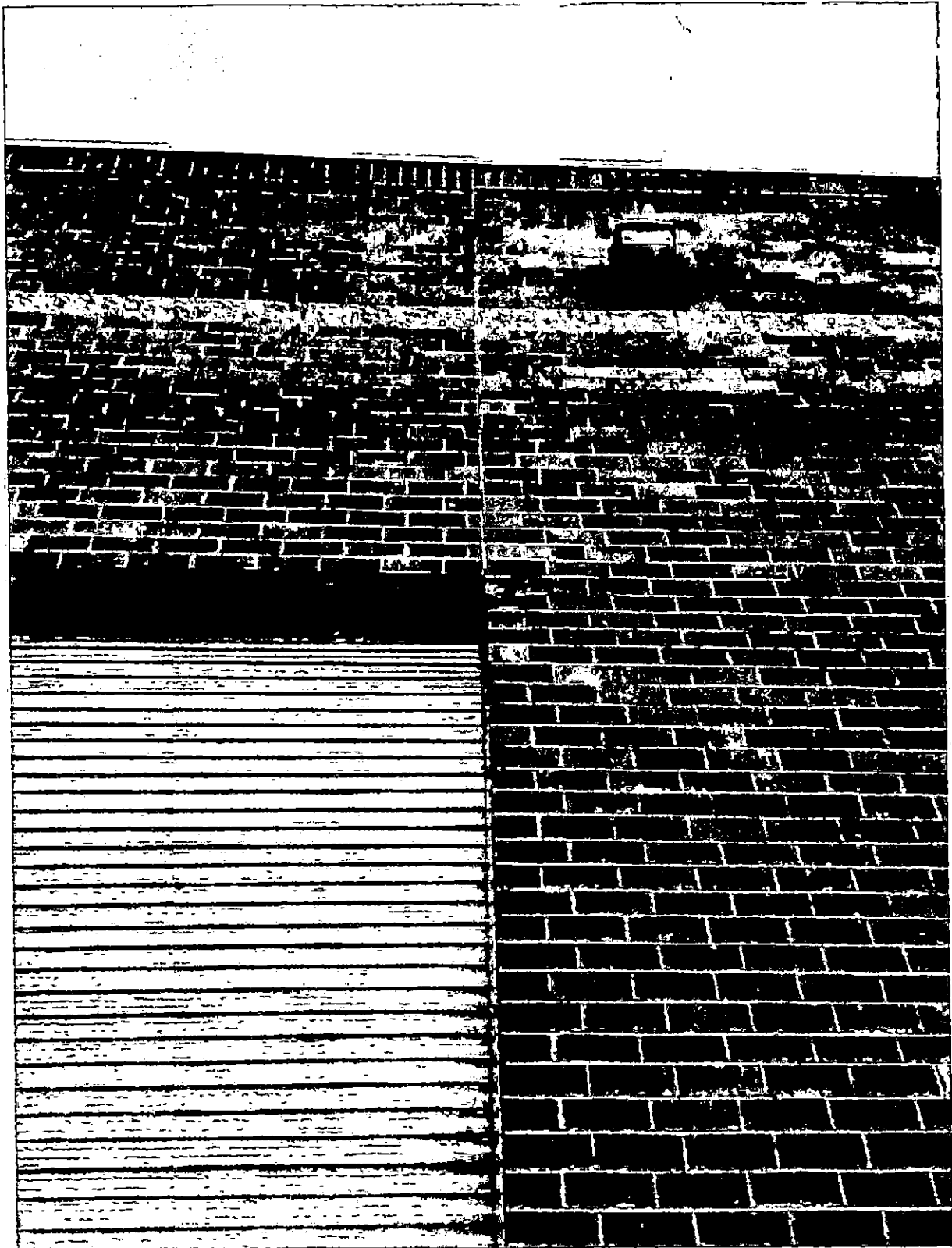
QTY.	UNIT	DESCRIPTION	UNIT PRICE	EXT. PRICE
1.00	EACH	REPAIR BROKEN BRICK AT GARAGE DOOR	280.0000	280.00
			TOTAL	280.00

DEFENDANT'S
EXHIBIT

5

DEFENDANT'S
EXHIBIT
6







Countywide Commercial

Charlotte's Pavement Solutions Company

PROPOSAL & CONTRACT

April 1st 2019

Proposal# I190102

Wayne Schulte
 Carolina Real Estate Holdings, LLC
 Goose Creek, SC
www.carolinarealestateinternational.com



Thank you for providing us an opportunity to provide a quote for your project. Countywide Commercial Inc. is pleased to submit the following proposal. We would like to bring to your attention the following facts about Countywide Commercial.

1. Over twenty years of experience, and an A+ rated BBB company
2. A vast customer base of Property Management Companies, Hotels, Apartments, Churches, Shopping Centers, Offices and other Commercial Complexes in Charlotte and surrounding areas
3. Your One Stop Shop for all Asphalt and Concrete needs
4. We are certified (NC DOT) DBE/MBE.
5. North Carolina General Contractor License # 73570 Highway

Scope of work: Decker National Building, 2180 Carolina Pl Dr, Fort Mill SC

Milling and Paving 25793 SF

- Mill area to be paved to Haul old milling/dirt to offsite landfill.
- Clean and remove all debris and vegetation from area to be resurfaced.
- Install ABC stone on entire area. (Wet compact for proper compaction)
- Surface course will be uniformly placed at and properly compacted to achieve a smooth and uniform surface.
- All resurfaced areas will be marked with appropriate parking spaces, directional arrows, fire lanes, handicapped stalls and any other item currently painted with traffic paint.
 - On left entrance and side: 6' ABC stone and 4" asphalt
 - Rest of parking lot 4" ABC stone and 2" asphalt

GRAND TOTAL \$ 97,500.00

1/3 - \$ 32,175
 1/3 - \$ 32,175
 1/3 - \$ 33,150

PROJECT EXCLUSIONS & CLARIFICATIONS

PICTURES, PROJECT EXCLUSIONS & CLARIFICATIONS ON FOLLOWING PAGES

CONTRACT TERMS & CONDITIONS

1. This Proposal and Contract becomes effective as a contract, after the Customer/Purchaser, and the Seller have both executed its acceptance. Conditions which are not incorporated in this contract will not be recognized unless made in writing and approved by both the Customer/Purchaser and the Seller's signature. No modification or transfer of this contract after its acceptance shall be binding upon the Seller, unless made in writing and signed by the Seller or by one of the Sellers Officers.
2. This proposal may be withdrawn pending the results of a credit investigation, or it may be necessary to post a bond or establish an escrow account with sufficient funds, and a guarantee of payment upon completion of our work, or established contract payment terms as detailed above.
3. Quantities stated above are approximate only. Payment will be based on actual field measurements. A reduction in quantities may result in an increase in unit prices.
4. Prices listed in this proposal and contract shall be valid for 30 days.
5. Prices do include sales tax. (If applicable)
6. Invoices will be rendered as detailed above, or monthly whichever comes first. Payments not received within 30 days of invoice date will be subject to a 1 1/2% monthly and 18% annual interest charge, which will be added to monthly statements. Full payment for principal and interest is personally guaranteed by the individual signatory purchaser of this contract, as well as the company they represent.
7. Withholding of retainage on invoiced work will constitute a breach of contract unless retainage is specifically detailed in the payment terms listed above.
8. Final payment in full is required within 7 days net of contract completion invoice, unless detailed earlier above. Payments not received within 30 days of invoice date will be subject to a 1 1/2% monthly and 18% annual interest charge, which will be added to monthly statements. Again, full payment for principal and interest is personally guaranteed by the individual signatory Customer/Purchaser of this contract, as well as the company they represent.
9. In the event of non, or late payment by the Customer/Purchaser, the contract shall be considered breached by the Customer/Purchaser, and any and all legal means will be pursued to the fullest extent of NC law to recover any uncollected funds, additionally the signatory of this Proposal and Contract agrees that by signing and authorizing this contract accept that they will be responsible for and reimburse any legal, or collection agency fees incurred by the Seller, as per NC GS 44A-35.

Understanding and Acceptance of Above Contract Terms & Conditions _____
Initial Above

ESTIMATED CONTRACT WORK DATES AND DURATION

Contract Start Date: _____	Purchaser Initials _____	CCI Initials _____
Contract Duration: _____	Purchaser Initials _____	CCI Initials _____
Contract Completion Date: _____	(Weather Permitting) Purchaser Initials _____	CCI Initials _____

CONTRACT ACCEPTANCE ON FOLLOWING PAGE
CONTRACT ACCEPTANCE PAGE



SMI Paving
1702 Charlotte Hwy.
Lancaster, SC 29720
803.548.7772
704.587.9188
803.286.8021 (f)



CONTRACT

CONTRACT REVISED 3/16/2020

March 11, 2020

Bryon Russell
Brilin Electric
P: 704-904-1775
E: bryon@brilinelectric.com; brilinelectric@aol.com

Job Site: 2180 Carolina Place Dr., Fort Mill SC 29708

Thank you for the opportunity to bid your paving needs. Please refer to our website to view photo samples of our work (www.smipaving.net). We propose to complete the following:

PATCH AREA TO LOADING DOCK

- Dig out approx. 30'X12' existing asphalt area and compact sub-grade
- Patch back same area with approx. 2.5" of hot mix asphalt
- Compact asphalt

TOTAL: \$2,900.00

***** 30% Mobilization Deposit Due Upon Signing of Contract *****
Credit Cards can be taken with a minimum 4% service fee
\$2,500.00 remobilization fee due to delays caused by client
***** Balance due upon completion *****

Please continue to next page:

All Equipment, Labor, and Materials shall be supplied by SMI Paving and guaranteed with a 1-year warranty.

Asphalt Price increases will be followed by the NCDOT Asphalt Liquid Index (www.ncdot.org)

For inadequate sub-grade areas in question, SMI Paving will post pone construction and request an onsite field meeting with the client representative or designee to discuss the sub-grade failures that will impact and compromise the final asphalt surface. Possible change orders for unanticipated work will be written for additional repair costs, agreed upon and signed by all parties involved in this contract before work continues. Client will be responsible to make payment for all mutually agreed upon and signed change orders at the completion and satisfaction of the project.

For extra stone or select back fill material required due to inadequate sub-grade, the price will be \$49.50 per ton plus excavation, grading & dumping fees.

SMI Paving will call for Utility Locates before starting work on projects and will not be responsible for any unmarked utilities or utilities that have been installed at improper depth regulations

SMI PAVING IS NOT RESPONSIBLE FOR;

- Work delays due to weather
- Damages created by acts of God
- Pre-existing cracks in asphalt surface due to inadequate asphalt thickness and or poor sub-grade condition
- Rough asphalt due to asphalt product defect or manufacturing
- Tire marks created by vehicles turning on new asphalt surface
- Underground utilities; power lines, gas lines, water/sewer lines, communication lines under the areas for asphalt resurfacing, asphalt milling, asphalt repair
- Inadequate sub-grade condition that has created existing asphalt surface failures
 1. Inadequate or poor storm water drainage in underground pipes or open ditches, including puddles/ standing water
 2. Soils that do not drain well or are saturated with ground water. SMI can't guarantee 100% drainage
 3. Bio-degradable materials i.e., stumps, construction building materials, etc.
- Pre-existing and or final grading of sub-grade prior to resurfacing
- Permits, survey fees, testing fees, or inspection fees

Any part of your scope of work that is overlooked is the client's responsibility to bring to SMI's attention immediately. Acceptance of contracts for the above prices and specifications are satisfactory & accepted. If not satisfied and legal action is necessary, Lancaster, South Carolina will be the legal jurisdiction and purchaser will be responsible. Both parties agree that SMI Paving will complete the above work as specified.

CONTRACT PRICE WILL ONLY BE GOOD FOR 30 DAYS FROM DATE OF QUOTE

-SMI PAVING RESERVES THE RIGHT TO WITHDRAW CONTRACT AT ANY TIME FOR ANY REASON-

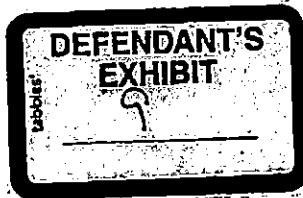
Please sign and return by fax or email. Thank you.

Accepted by: _____ Date: _____

Accepted by: *Gail M. Smith*

Date: 3/11/2020

Gail M. Smith, Owner



Decker Inspections and Contracting Services, Inc.
15105-D John J. Delaney Drive, Suite 347
Charlotte, NC 28277-2741

Estimate

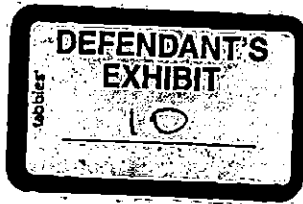
Ref. 2180 Carolina place

Brilin electric

3/13/2020

- | | |
|--|------------|
| 1. Repair of drywall in warehouse area | \$1500.00 |
| 2. Painting of office area | \$ 1200.00 |

Total	\$2700.00
-------	-----------



WELLS FARGO

Check Details

Check Number 5229
 Date Posted 09/11/19
 Check Amount \$3,182.70

PLEASE POST THIS PAYMENT FOR OUR MUTUAL CUSTOMER

Account: **BILIN ELECTRIC** **\$3,182.70**

BRYON RUSSELL
 351 THORNHILL ST
 FORT MILL, SC 29711-7806

Please Direct Any Questions
 To: Online Bill Payment Processing Center
 (800) 243-2500

77&632 000005229
September 03, 2019

WELLS FARGO BANK

MEMO: Bilin Electric

Pay **THREE THOUSAND ONE HUNDRED EIGHTY TWO AND 70/100** Dollars **\$3,182.70**

To The Order Of **CAROLINA REAL ESTATE HOLDINGS**
 15105D JOHN J DELANEY DR BTE 347
 CHARLOTTE, NC 28277-2741

Valid After 180 DAYS.
 Signature Or Pin
 The check has been authorized
 by your depositor

50146471

Seq: 135
 Batch: 410345
 Date: 09/11/19

Seq: 98198 09/11/19
 DAT: 410345 CC: 0057470136
 RT: 41 LTPS: Allentown ST
 SC: North Kings Highway SC 291-751

DO NOT WRITE IN THESE SPACES

FOR DEPOSIT ONLY
 BRANCH OF AMERICA
 FORT MILL, SC 29715-7806
 EQUAL DEPOSIT ONLY
 CAROLINA REAL ESTATE HOLDINGS LLC
 2228 HERRING
 DO NOT WRITE STAMP OR SIGN BEHIND THIS IS
 RESERVED FOR RESERVATION AUTHORITY USE

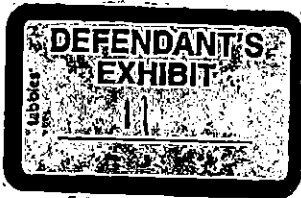
FOR DEPOSIT HERE

PAY TO THE ORDER OF

BRILIN ELECTRIC

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender



BANK OF AMERICA, N.A.
EAST RETURN ITEMS

Page 001 of 001
Bank : 00005
Center :
Divider: 141
Code : 5 M.

H

0000436 4616406 0001 008239 102
CAROLINA REAL ESTATE HOLDINGS LLC
15105-D JOHN J. DELANEY DR STE 347
CHARLOTTE NC 28277
US

Deposit account:XXXXXXXXXX3810
Charge account :XXXXXXXXXX3810
Store/Reference:00000000000000

FORM 1042-001 (REV. 03/2000) MAILING PERMIT NO. 1042

Dear Valued Customer:

Date of Notice: 07-27-2020

We're writing to notify you that the item or items listed below, which were deposited to your account, have been returned unpaid. As a result, we've deducted them from your account. Please adjust your account records by subtracting the total shown below.

Number of returned items: 1
Amount of returned items: 3,182.78
Return item fee: 12.99
Total: 3,195.78

Sequence/ Dep Date	ABA Number/ Dep Amount	Maker Name/ Check Date	Return Reason/ Additional Data	Amount
2633127655 7/23/2020	0710-0080 3,182.70		Stop Payment	3,182.70

If you have any questions or need additional information, please contact one of our Customer Service Representatives at 1.800.432.1000. We appreciate your business and look forward to serving you in the future.

Sincerely,
Returns & Exceptions



From: Bryon <bryon@briliselectric.com>
Sent: Wednesday, April 22, 2020, 11:11 AM
To: Nathan White
Subject: FW: Text received

[EXTERNAL EMAIL]

From: Frank Jackson <frank@deckernational.com>
Sent: Monday, August 12, 2019 3:59 PM
To: Bryon <bryon@briliselectric.com>
Cc: brad@deckernational.com
Subject: RE: Text received

Bryon,

The deduction for the rental of a lift during the paving project is a violation of the terms of your lease and that is why you were sent the eviction notice.

We told you this on several occasions during the parking lot repaving. This could have been avoided had you decided to work with us.

Please refer to section 3 (late charge) and Events of Default and Remedies thereof in sections 17 and 19.

Sent from Mail for Windows 10

From: Bryon
Sent: Monday, August 12, 2019 2:47 PM
To: Frank
Subject: RE: Text received

2,037.95

Deducting for the lift -1,144.75

She should have sent you paperwork but she paid you though ach.

Would you like me to send you the paid receipt?

Bryon

-----Original Message-----

From: Frank <frank@deckernational.com>
Sent: Monday, August 12, 2019 12:34 PM
To: Bryon <bryon@briliselectric.com>
Subject: Re: Text received

How much was your August rent check?

Sent from my iPhone
Frank Jackson

> On Aug 12, 2019, at 11:45 AM, Bryon <bryon@brillinelectric.com> wrote:

>

> I just received this from Brad not sure why?

>

> (1/4) This notice serves as your eviction notice due to short paid

> rent, damages to our property both inside and out. Please be advised

> that our attorney is tak

> (2/4) ing all the necessary steps to enforce the leased and your violations with the courts.

> Should you like to resolve your outstanding issues to avoid additional

> (3/4) fees per your lease

> Along with damages please contact Frank Jackson ASAP failure to here

> from you by will Only secure our Petition Petition To the

> (4/4) courts.

>

>

> Please advise there are no damages outside and everything inside will be taken care of before we move out?

>

>

> Thanks

>

>

> Bryon,

>

>

>

>

>

>

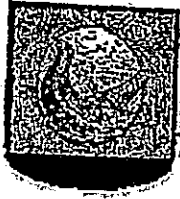
>

>

>

> Sent from my iPhone

DEFENDANT'S
EXHIBIT
13



Countywide Commercial

Charlotte's Pavement Solutions Company

September 18, 2019

Wayne Schulte
Carolina Real Estate Holdings, LLC
Goose Creek, SC
wayne@deckernational.com

The cost of the repair that you ask about is \$1,500.00 per what I saw in the pictures that were forwarded to me. This cost is subject to change once we get on site to make the repairs if the work is more extensive.

Regards,

Satwinder Singh

Asphalt Charlotte, Com
3514 Robinson Cir, Charlotte, NC 28206
Mailing address: 2033 Seefin Ct Indian Trail, NC 28079
Tel: 704-344-8485 Fax: 704-296-2579

PICTURES, PROJECT EXCLUSIONS & CLARIFICATIONS ON FOLLOWING PAGES

1 | Page

ROA00977



From: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com>
Sent: Tuesday, April 14, 2020 8:47 PM
To: Nathan White
Cc: Ryan Hoffman
Subject: FW: Fwd: CREH v. Brillin Electric
Attachments: Countrywide Commercial Paving Contract.pdf

[EXTERNAL EMAIL]

Nathan:

Please see the attached contract from Countywide Commercial from when CREH first had the asphalt work done last year. Provision #36 of the attached contract, according to my client, contains the warranty language related to the one-year warranty that I mentioned yesterday.

Thanks,

Steve

From: Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>
Date: April 13, 2020 at 9:26:00 AM EDT
To: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com<mailto:steve.dluzneski@hamiltonmartens.com>>
Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>, Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>
Subject: Re: CREH v. Brillin Electric

Steve,

Additional info - your client's quote was only for 1 door. My client is replacing two doors for less than Overhead's quote for one and it's a superior product.

Do we have LL's permission to install the doors?

Also, would you like Tenant to do the asphalt patch?

We need answers today.

R, Nathan

On Apr 9, 2020, at 3:52 PM, Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>> wrote:

Hi Steve,

I got my answers quicker than I anticipated.

I spoke with our garage door installer and he compared his model and the model Overhead quoted your client. Both doors are made of the same 26 gauge steel, but there are differences which make the Amari doors the better choice. The doors my client has ordered and is ready to install are the same type as the doors currently installed, rolling sheet doors, they will be the same color, and they are both insulated. The DuraServ Model 600 doors are a different type, slats, come in only brown or white, and are not insulated. In sum, my client's doors will be the same in every way to what is already on there and the doors your client was to install will look different, be a different color, and will not be insulated.

Based on this, I am asking again that your client approve the installation of the doors my client has purchased and that are ready to be installed next Wednesday.

R, Nathan

Nathan A. White

Counsel

<image001.jpg>

1420 E. 7th Street, Suite 100

Charlotte, NC 28204

Direct: (980) 498-6105

Main: (704) 365-3656

Fax: (704) 365-3676

E-mail: nathan@AlexanderRicks.com<mailto:nathan@AlexanderRicks.com>

Website: www.AlexanderRicks.com<http://www.AlexanderRicks.com/>

Licensed in North Carolina and South Carolina

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From: Nathan White

Sent: Thursday, April 09, 2020 3:36 PM

To: Steve Dlużneski <steve.dluzneski@hamiltonmartens.com<mailto:steve.dluzneski@hamiltonmartens.com>>

Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>; Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>

Subject: RE: CREH v. Brillin Electric

Steve,

I'll get back to you on the garage doors. My understanding is what Brillin intends to install are comparable and like-quality to the doors being replaced. Let me get more color and follow-up with you. I'm also trying to get an understanding of whether Overhead's doors are like-quality or greater than what is already in place.

Also, in addition to the other invoices, you were going to send me COIs that needed additional insureds added to them. Please send those over so we can take care of those.

R, Nathan

Nathan A. White

Counsel

<image001.jpg>

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From: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com><<mailto:steve.dluzneski@hamiltonmartens.com>>>
Sent: Wednesday, April 08, 2020 4:34 PM
To: Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Cc: Ryan Hoffman <ryan@alexanderricks.com><<mailto:ryan@alexanderricks.com>>>
Subject: RE: CREH v. Brillin Electric

[EXTERNAL EMAIL]

Nathan:

I've forwarded your email below to my clients to review and discuss amongst themselves and then to discuss with me. Once I speak with my clients about the various issues raised in your email below, I will follow up with you. However, regarding the roll up doors that your client proposes to install at the warehouse, my clients have forwarded a copy of the invoice and brochure that you sent to me to Overhead Doors, and it sounds like the doors that your client wants to install are "light duty" doors that are commonly installed on storage units, etc. They are apparently not the commercial-grade doors that your client damaged and that the damaged doors need to be replaced with. I've asked my clients to send me documentation/ a statement from Overhead Doors confirming all of this, but this is the information that I just received from my client on the phone. If the doors that your client proposes to install at the warehouse are

not like-quality doors to the ones that were damaged, I believe that that would be a reasonable basis for my clients to withhold their consent. What is your client's objection to having the roll up doors replaced by Overhead Doors, which is the company that my clients would prefer to complete the work? I'll follow up with you on the other points in your email as soon as I hear back from my clients.

Thank you,

Steve D. Dluzeski

Hamilton Martens, LLC

Attorneys at Law
241 Oakland Avenue (29730)
Post Office Box 10940 (29731)
Rock Hill, South Carolina
Direct Dial: 803.329.7672
Facsimile: 803.329.7678

www.hamiltonmartens.com<<http://www.hamiltonmartens.com/>>

steve.dluzeski@hamiltonmartens.com<<mailto:steve.dluzeski@hamiltonmartens.com>>

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From: Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Sent: Wednesday, April 8, 2020 4:08 PM
To: Steve Dluzeski <steve.dluzeski@hamiltonmartens.com><<mailto:steve.dluzeski@hamiltonmartens.com>>>
Cc: Ryan Hoffman <ryan@alexanderricks.com><<mailto:ryan@alexanderricks.com>>>; Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Subject: RE: CREH v. Brilin Electric

Steve,

Checking in on approval for installation of the doors. We have the contractor lined up ready to go next week, Wednesday.

I had an opportunity to inspect the premises today and I have to tell you honestly that I don't understand why we are in litigation. The doors will be repaired next week, and the asphalt if your client so desires (more below), the drywall is done, and the carpets and walls in the office area will be good as new once Tenant moves out.

My client today lined up the asphalt person to come next Tuesday. Tenant would still like to patch the asphalt as a good-faith gesture to rectify this matter and have you drop the lawsuit. Our position is that the asphalt is a capital

Improvement and it deteriorated through normal wear and tear because the base (if there is any) and asphalt depth was not sufficient for commercially reasonable and known uses of that surface area by Tenant. I also personally think it was a bad install job. It's clear water was ponding where there's deterioration, which basically wore down over a short period of time due to normal use. I think it's a bad install job because the ponding areas are in random spots in the middle of the surface. That tells me someone didn't properly level the subgrade and/or put down an improper subgrade. One where there's rutting, I can't tell if it's dirt from sediment accumulation or if that is the actual subgrade, meaning the contractor didn't even put down a base.

If you do not want us to patch that asphalt, then please let me know immediately so I can have my client cancel the job.

Please let me know if you will be sending the \$18K in quotes/invoices.

Once we have everything fixed up mentioned above, that leaves those three cracked bricks at the top right corner of the side garage door and who knows what caused those, but they're so high up, I can't imagine our client had anything to do with that or how you would even prove our client had something to do with that. And did I mention it's three bricks?

Would your client directly or through the property manager like to come inspect the drywall? If your client doesn't want to come up from Charleston, that's fine, but the PM can come over anytime and inspect.

R, Nathan

Nathan A. White

Counsel

<Image001.jpg>

1420 E. 7th Street, Suite 100

Charlotte, NC 28204

Direct: (980) 498-6105

Main: (704) 365-3656

Fax: (704) 365-3676

E-mail: nathan@AlexanderRicks.com<<mailto:nathan@AlexanderRicks.com>>

Website: www.AlexanderRicks.com<<http://www.AlexanderRicks.com>>

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From: Nathan White

Sent: Monday, April 06, 2020 10:08 AM

To: Steve Dłużneski <steve.dluzneski@hamiltonmartens.com><<mailto:steve.dluzneski@hamiltonmartens.com>>>

Cc: Ryan Hoffman <ryan@alexanderricks.com><<mailto:ryan@alexanderricks.com>>>

Subject: RE: CREH v. Brilin Electric

Thanks, Steve.

R, Nathan

Nathan A. White

Counsel

<image001.jpg>

1420 E. 7th Street, Suite 100

Charlotte, NC 28204

Direct: (980) 498-6105

Main: (704) 365-3656

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From: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com><<mailto:steve.dluzneski@hamiltonmartens.com>>>
Sent: Monday, April 06, 2020 10:07 AM
To: Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Cc: Ryan Hoffman <ryan@alexanderricks.com><<mailto:ryan@alexanderricks.com>>>
Subject: RE: CREH v. Brillin Electric

[EXTERNAL EMAIL]

Nathan:

That is what I understand from my phone call with Brad Decker this morning. If that position changes, I will let you know.

Thank you,

Steve D. Dluzneski

Hamilton Martens, LLC

Attorneys at Law
241 Oakland Avenue (29730)
Post Office Box 10940 (29731)
Rock Hill, South Carolina
Direct Dial: 803.329.7672
Facsimile: 803.329.7678

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steve.dluzneski@hamiltonmartens.com<<mailto:steve.dluzneski@hamiltonmartens.com>>

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From: Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Sent: Monday, April 6, 2020 10:02 AM
To: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com><<mailto:steve.dluzneski@hamiltonmartens.com>>>
Cc: Ryan Hoffman <ryan@alexanderricks.com><<mailto:ryan@alexanderricks.com>>>; Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Subject: RE: CREH v. Brilin Electric

Steve,

So if'm clear, your clients do not want to have an on-site meeting at any point, correct?

We'll look at for your note on the doors later today.

R, Nathan

Nathan A. White.

Counsel

<image001.jpg>

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From: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com><<mailto:steve.dluzneski@hamiltonmartens.com>>>
Sent: Monday, April 06, 2020 9:58 AM
To: Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Cc: Ryan Hoffman <ryan@alexanderricks.com><<mailto:ryan@alexanderricks.com>>>
Subject: RE: CREH v. Brillin Electric

[EXTERNAL EMAIL]

Hi Nathan:

I just got off of the phone with my client, and it sounds like we won't be able to have the meeting today. I understand that Brad Decker, the president of Carolina Real Estate Holdings who was present for the site visit last fall, is not local, and with the current COVID-19 situation, they would feel more comfortable keeping everything remote at this point. So, unfortunately, the site meeting is not going to happen. We are still looking into the roll up door point based on

the brochure and the invoice that you emailed to me on Friday, and I hope to have an answer to you on that later on today.

Thank you,

Steve D. Dluzeski

Hamilton Martens, LLC

Attorneys at Law
241 Oakland Avenue (29730)
Post Office Box 10940 (29731)
Rock Hill, South Carolina
Direct Dial: 803.329.7672
Facsimile: 803.329.7678

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steve.dluzeski@hamiltonmartens.com<<mailto:steve.dluzeski@hamiltonmartens.com>>

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From: Nathan White <Nathan@alexanderricks.com<<mailto:Nathan@alexanderricks.com>>>
Sent: Monday, April 6, 2020 9:24 AM
To: Steve Dluzeski <steve.dluzeski@hamiltonmartens.com<<mailto:steve.dluzeski@hamiltonmartens.com>>>
Cc: Ryan Hoffman <ryan@alexanderricks.com<<mailto:ryan@alexanderricks.com>>>; Nathan White <Nathan@alexanderricks.com<<mailto:Nathan@alexanderricks.com>>>
Subject: RE: CREH v. Brilln Electric

Hi Steve,

How are we looking for meeting today?

R, Nathan

Nathan A. White

Counsel

<image001.jpg>

1420 E. 7th Street, Suite 100

Charlotte, NC 28204

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From: Nathan White <Nathan@alexanderricks.com<<mailto:Nathan@alexanderricks.com>>>

Sent: Friday, April 03, 2020 5:00 PM

To: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com<<mailto:steve.dluzneski@hamiltonmartens.com>>>

Cc: Ryan Hoffman <ryan@alexanderricks.com<<mailto:ryan@alexanderricks.com>>>; Nathan White <Nathan@alexanderricks.com<<mailto:Nathan@alexanderricks.com>>>

Subject: RE: CREH v. Brilln Electric

Steve,

Anytime between 10 & 5 will work on Monday. Let me know what works for your side.

R, Nathan

Nathan A. White

Counsel

<image001.jpg>

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Charlotte, NC 28204

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Main: (704) 365-3656

Fax: (704) 365-3676

E-mail: nathan@AlexanderRicks.com<<mailto:nathan@AlexanderRicks.com>>

Website: www.AlexanderRicks.com<<http://www.AlexanderRicks.com>>

Licensed in North Carolina and South Carolina

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From: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com<mailto:steve.dluzneski@hamiltonmartens.com>>
Sent: Friday, April 03, 2020 3:20 PM
To: Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>
Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>
Subject: RE: CREH v. Brillin Electric

[EXTERNAL EMAIL]

Thank you.

Steve D. Dluzneski

Hamilton Martens, LLC

Attorneys at Law
241 Oakland Avenue (29730)
Post Office Box 10940 (29731)
Rock Hill, South Carolina
Direct Dial: 803.329.7672
Facsimile: 803.329.7678

www.hamiltonmartens.com<<http://www.hamiltonmartens.com/>>

steve.dluzneski@hamiltonmartens.com<<mailto:steve.dluzneski@hamiltonmartens.com>>

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From: Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>
Sent: Friday, April 3, 2020 3:19 PM
To: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com<mailto:steve.dluzneski@hamiltonmartens.com>>
Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>
Subject: RE: CREH v. Brillin Electric

Here it is.

R, Nathan

Nathan A. White

Counsel

<Image001.jpg>

1420 E. 7th Street, Suite 100

Charlotte, NC 28204

Direct: (980) 498-6105

Main: (704) 365-3656

Fax: (704) 365-3676

E-mail: nathan@AlexanderRicks.com<mailto:nathan@AlexanderRicks.com>

Website: [www.AlexanderRicks.com](http://www.alexanderricks.com/)<http://www.alexanderricks.com/>

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From: Steve Dluznieski <steve.dluznieski@hamiltonmartens.com<mailto:steve.dluznieski@hamiltonmartens.com>>
Sent: Friday, April 03, 2020 3:18 PM
To: Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>
Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>
Subject: RE: CREH v. Brilin Electric

[EXTERNAL EMAIL]

Nathan:

The garage door quote was not attached to this email. Would you please resend it? I'm also still waiting for a response from my side about the site visit on Monday, but I will let you know as soon as I hear from them.

Thank you,

Steve D. Dluzneski

Hamilton Martens, LLC

Attorneys at Law
241 Oakland Avenue (29730)
Post Office Box 10940 (29731)
Rock Hill, South Carolina
Direct Dial: 803.329.7672
Facsimile: 803.329.7678

www.hamiltonmartens.com<<http://www.hamiltonmartens.com/>>

steve.dluzneski@hamiltonmartens.com<<mailto:steve.dluzneski@hamiltonmartens.com>>

This message is intended solely for the addressees and may contain confidential and privileged information. If you have received this message in error, please notify me immediately by electronic mail or telephone.

From: Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Sent: Friday, April 3, 2020 2:50 PM
To: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com><<mailto:steve.dluzneski@hamiltonmartens.com>>>
Cc: Ryan Hoffman <ryan@alexanderricks.com><<mailto:ryan@alexanderricks.com>>>; Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Subject: RE: CREH v. Brillin Electric

Steve,

Here is the garage door quote, as promised. I'm still confirming Monday for the site visit.

R, Nathan

Nathan A. White

Counsel

<image001.jpg>

1420 E. 7th Street, Suite 100

Charlotte, NC 28204

Direct: (980) 498-6105

Main: (704) 365-3656

Fax: (704) 365-3676

E-mail: nathan@AlexanderRicks.com<mailto:nathan@AlexanderRicks.com>

Website: [www.AlexanderRicks.com](http://www.alexanderricks.com/)<http://www.alexanderricks.com/>

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From: Steve Dluzniski <steve.dluzniski@hamiltonmartens.com<mailto:steve.dluzniski@hamiltonmartens.com>>

Sent: Friday, April 03, 2020 2:05 PM

To: Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>

Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>

Subject: RE: CREH v. Brillin Electric

[EXTERNAL EMAIL]

Thank you, Nathan, and it was very nice to speak with you, too. I have relayed the content and substance of our phone conversation this morning to my clients, and I will be back in touch with you once I've heard back from them.

Steve D. Dlugneski

Hamilton Martens, LLC

Attorneys at Law
241 Oakland Avenue (29730)
Post Office Box 10940 (29731)
Rock Hill, South Carolina
Direct Dial: 803.329.7672
Facsimile: 803.329.7678

www.hamiltonmartens.com<<http://www.hamiltonmartens.com/>>

steve.dlugneski@hamiltonmartens.com<<mailto:steve.dlugneski@hamiltonmartens.com>>

This message is intended solely for the addressees and may contain confidential and privileged information. If you have received this message in error, please notify me immediately by electronic mail or telephone.

From: Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Sent: Friday, April 3, 2020 12:05 PM
To: Steve Dlugneski <steve.dlugneski@hamiltonmartens.com><<mailto:steve.dlugneski@hamiltonmartens.com>>>
Cc: Ryan Hoffman <ryan@alexanderricks.com><<mailto:ryan@alexanderricks.com>>>; Nathan White <Nathan@alexanderricks.com><<mailto:Nathan@alexanderricks.com>>>
Subject: RE: CREH v. Brilln Electric

Steve,

Very good talking to you. Here's where we are on documents to exchange and other to-do's.

You:

1. Send me the COI(s) that need(s) your folks added as an additional insured
2. Invoices/Estimates for the damages alleged in the Complaint

Me:

1. Get your folks added as additional insured on any COIs
2. A quote for repairing/replacing the doors
3. Paving Quote, if my folks will approve
4. Permission from my folks for LL to come on site for an inspection (preferably Monday)

Per #2, I am attaching a brochure from the contractor Brilin has engaged to fix the doors. Southern Fireplace & Garage Door is the contractor. Pursuant to Section 11(a) of the Lease, Tenant requests Landlord's approval of this contractor to proceed with the repairs, which are estimated in excess of \$3,000. As noted in our call, while not expressly stated, we believe LL may not unreasonably withhold its approval and any unreasonable withholding of approval will be treated as a breach of the lease or, alternatively, of the implied covenant of good faith and fair dealing. Please let me know as soon as possible whether LL approves use of Southern Fireplace & Garage Door. If you need the invoice before approval, understood. I'll get that as soon as I have it. FYI, the color of the new will be buckskin (see .pdf page 3).

I'll follow-up on points #3 and #4 today.

R, Nathan

Nathan A. White
Counsel

<image001.jpg>

1420 E. 7th Street, Suite 100
Charlotte, NC 28204

Direct: (980) 498-6105

Main: (704) 365-3656

Fax: (704) 365-3676

E-mail: nathan@AlexanderRicks.com<mailto:nathan@AlexanderRicks.com>

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From: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com<mailto:steve.dluzneski@hamiltonmartens.com>>
Sent: Friday, April 03, 2020 10:10 AM
To: Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>
Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>
Subject: RE: CREH v. Brillin Electric

[EXTERNAL EMAIL]

Yes, I am.

Steve D. Dluzneski

Hamilton Martens, LLC


Attorneys at Law
241 Oakland Avenue (29730)
Post Office Box 10940 (29731)
Rock Hill, South Carolina
Direct Dial: 803.329.7672
Facsimile: 803.329.7678

[www.hamiltonmartens.com<http://www.hamiltonmartens.com/>](http://www.hamiltonmartens.com/)

[steve.dluzneski@hamiltonmartens.com<mailto:steve.dluzneski@hamiltonmartens.com>](mailto:steve.dluzneski@hamiltonmartens.com)

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From: Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>
Sent: Friday, April 3, 2020 10:09 AM
To: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com<mailto:steve.dluzneski@hamiltonmartens.com>>
Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>; Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>
Subject: RE: CREH v. Brillin Electric

 Steve,


Are you free to chat at 11am?

R, Nathan

Nathan A. White

Counsel

<image001.jpg>

 1420 E. 7th Street, Suite 100
Charlotte, NC 28204

Direct: (980) 498-6105


Main: (704) 365-3656

Fax: (704) 365-3676

E-mail: nathan@AlexanderRicks.com<mailto:nathan@AlexanderRicks.com>

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From: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com<mailto:steve.dluzneski@hamiltonmartens.com>>
Sent: Friday, April 03, 2020 10:08 AM
To: Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>
Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>
Subject: RE: CREH v. Brillin Electric
Importance: High

[EXTERNAL EMAIL]

Nathan:

I hope that your week has gone well. I just received an email and a phone call from my client, and I have been informed that your client, Brillin Electric, is doing some drywall repairs in the building at the leased premises as we speak. My client's property manager just called me from the leased premises, and he told me that he personally observed them doing the work. This is very concerning for my client, especially since my client, as the landlord, has a duty to ensure that any repair work at the leased premises is performed correctly for future tenants. Please instruct your client to immediately cease the drywall repairs and any other repairs that it is in the process of making.

Thank you,

Steve D. Dluzneski

Hamilton Martens, LLC

Attorneys at Law
241 Oakland Avenue (29730)
Post Office Box 10940 (29731)
Rock Hill, South Carolina
Direct Dial: 803.329.7672
Facsimile: 803.329.7678

www.hamiltonmartens.com<<http://www.hamiltonmartens.com/>>

steve.dluzneski@hamiltonmartens.com<<mailto:steve.dluzneski@hamiltonmartens.com>>

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From: Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>

Sent: Monday, March 30, 2020 10:35 AM

To: Steve Dluzneski <steve.dluzneski@hamiltonmartens.com<mailto:steve.dluzneski@hamiltonmartens.com>>

Cc: Ryan Hoffman <ryan@alexanderricks.com<mailto:ryan@alexanderricks.com>>; Nathan White <Nathan@alexanderricks.com<mailto:Nathan@alexanderricks.com>>

Subject: CREH v. Brilin Electric

Hi Steve,

I will be working with Ryan defending this matter. I look forward to working with you.

I had the client double check with his carrier re: the suit and coverage was denied as of this AM. I will e-file the acceptance of service today, accepting service today. May I have an additional 30 days to answer the complaint, with the answer due May 29th?

Ryan also forwarded your note on all communications going through counsel. Our client has been so advised. If we believe we need to provide any formal notices per the Lease, we will continue to adhere to those notice provisions (with a courtesy heads up to you), but otherwise we will have communications go through your counsel until you or your client advise direction communications may be acceptable.

Let me get up to speed and I'll reach back out to you this week by phone to make a more proper introduction.

R, Nathan

Nathan A. White

Counsel

<image001.jpg>

1420 E. 7th Street, Suite 100

Charlotte, NC 28204

Direct: (980) 498-6105

Main: (704) 365-3656

Fax: (704) 365-3676

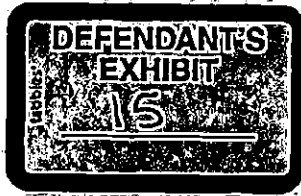
E-mail: nathan@AlexanderRicks.com<mailto:nathan@AlexanderRicks.com>

Website: [www.AlexanderRicks.com](http://www.alexanderricks.com/)<http://www.alexanderricks.com/>

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INVOICE

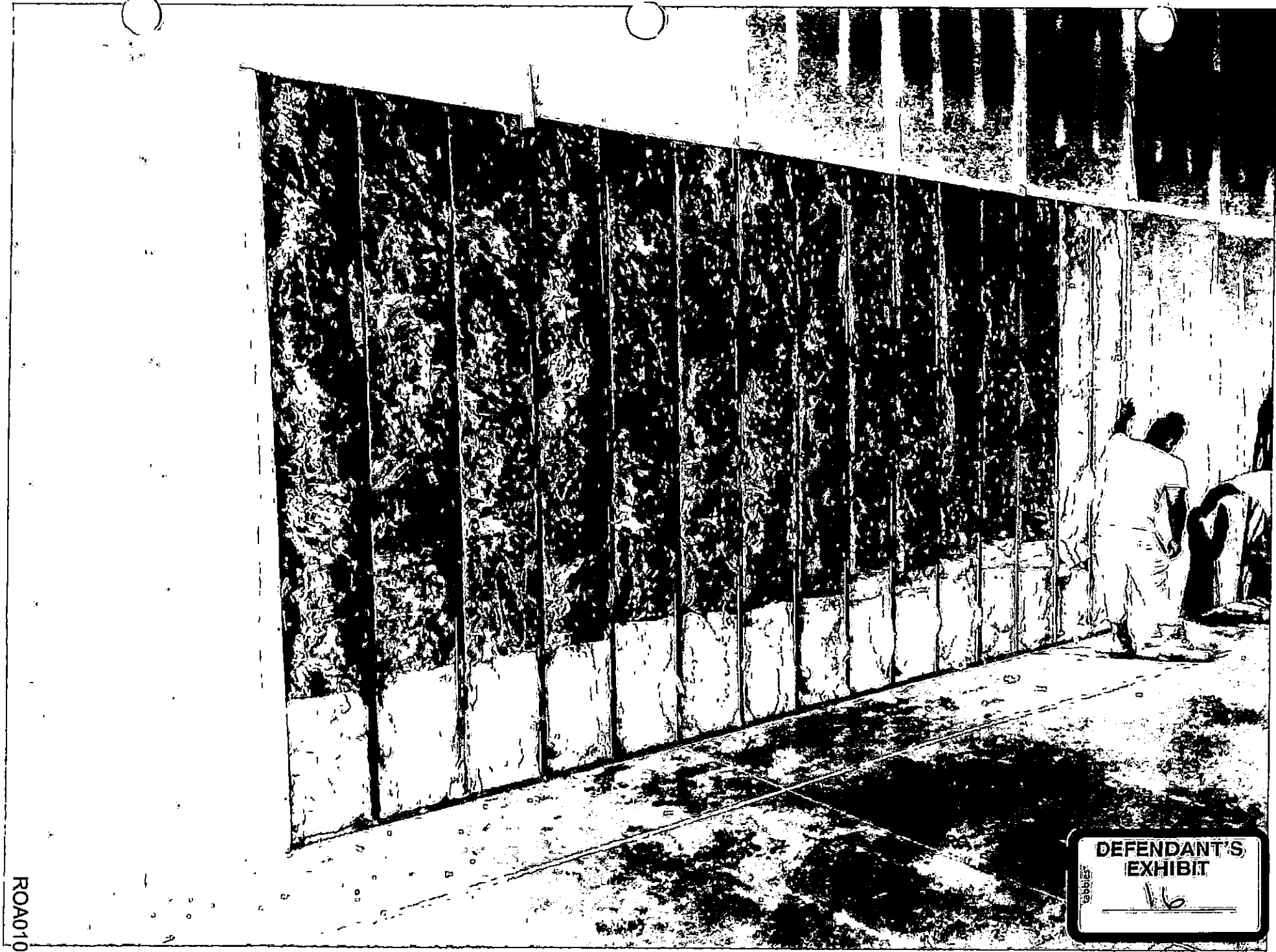


Invoice Number 37
Creation Date June 20, 2019

Luis Torres Hetrda
2047 Sofley rd,
Charlotte NC 28206
7049778122
luisheredia79@gmail.com

INVOICE TO:
Brilin electric
2180 Carolina place dr
Suite 111
Fort mill sc 29710

DESCRIPTION	QUANTITY	RATE (\$)	TOTAL (\$)
Labor to fix wall that had been knocked out of bottom plate	1	1,800.00	1,800.00
		SUBTOTAL	\$1,800.00
		GRAND TOTAL	\$1,800.00



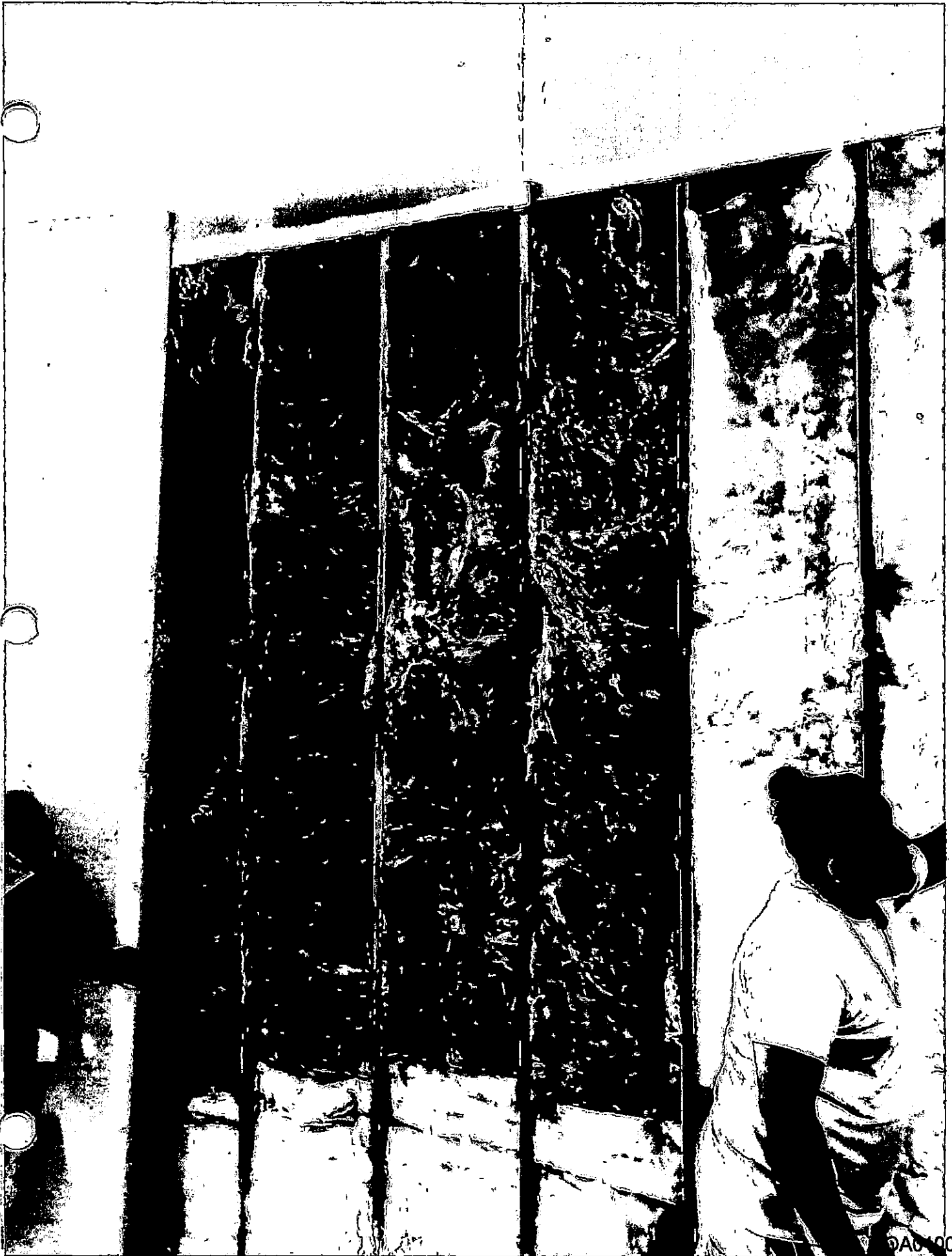
ROA01003

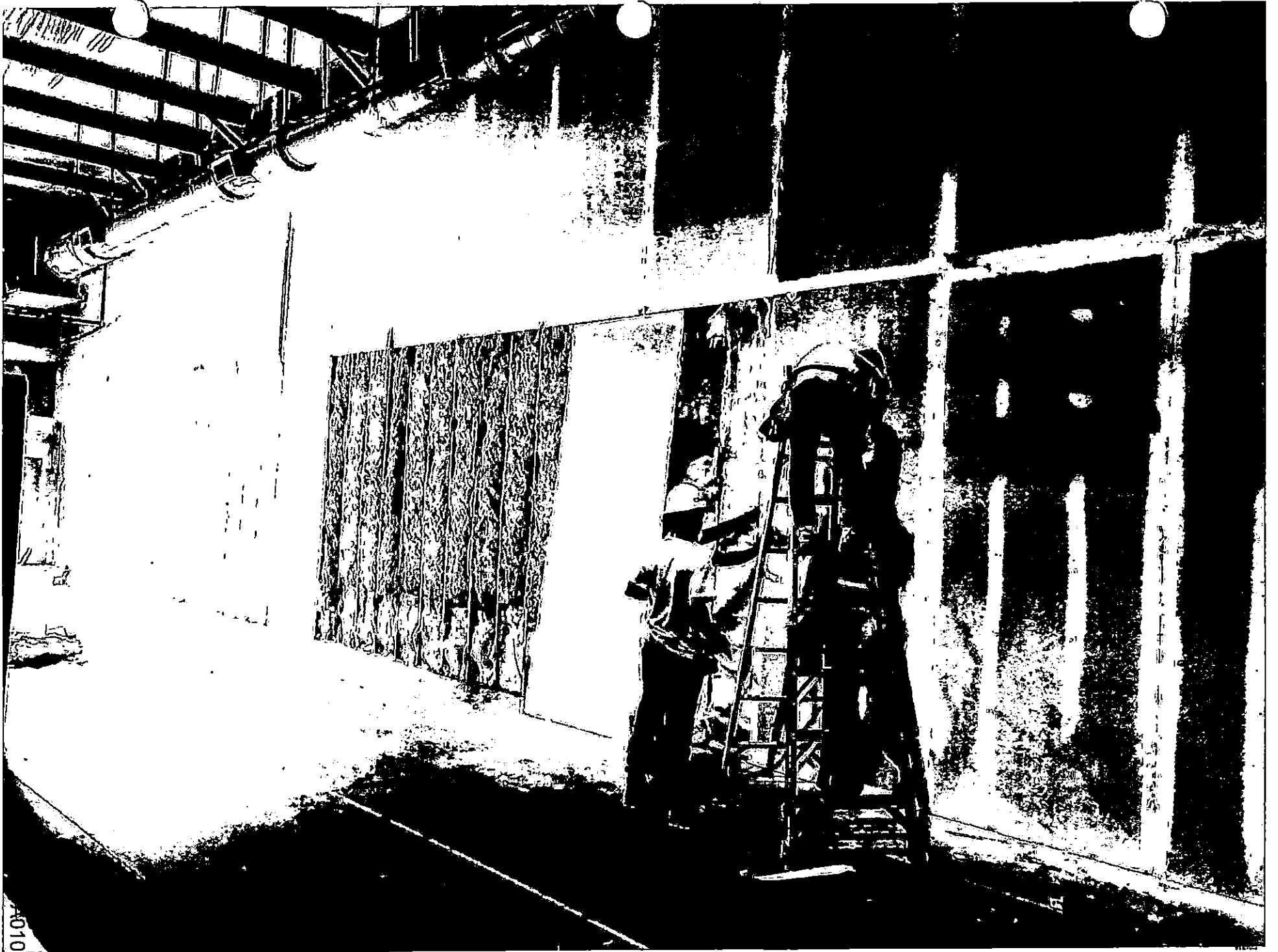
DEFENDANT'S
EXHIBIT
16



ROAD1004







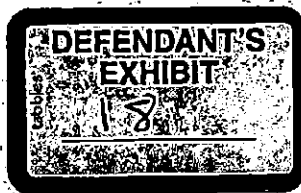
401007



DEFENDANT'S
EXHIBIT
17

ROAD01008





From: Nathan White
 Sent: Friday, July 15, 2022 11:50 AM
 To: Karen Sentelle
 Subject: Fwd: Receipt from Southern Dry Carpet Cleaning Services, LLC

Begin forwarded message:

From: Bryon <bryon@brillinelectric.com>
 Date: July 14, 2022 at 4:25:47 PM EDT
 To: Nathan White <Nathan@alexanderricks.com>
 Subject: FW: Receipt from Southern Dry Carpet Cleaning Services, LLC

[EXTERNAL EMAIL]

From: Jennifer <jennifer@brililinelectric.com>
 Sent: Thursday, July 14, 2022 2:47 PM
 To: Bryon <bryon@brillinelectric.com>
 Subject: Fwd: Receipt from Southern Dry Carpet Cleaning Services, LLC

Begin forwarded message:

From: "Southern Dry Carpet Cleaning Services, LLC" <notifications@housecallpro.com>
 Date: April 23, 2020 at 10:06:56 AM EDT
 Subject: Receipt from Southern Dry Carpet Cleaning Services, LLC
 Reply-To: info@southerndrycarpet.com



Invoice Number: 1990

ROA01010

Service Date: Apr 22, 2020
Invoice Date: Apr 22, 2020
Customer Name: Brillin Electric
Service Address: 2180 Carolina Pl Dr, Ste 111 Fort Mill, SC 29708

Services

Commercial Carpet Cleaning - C- <u>Reception Area</u> Receptionist Area - 140sf	\$42.00
Commercial Carpet Cleaning - C- <u>Offc 1</u> Office - 107sf	\$32.10
Commercial Carpet Cleaning - C- <u>Offc 2</u> Office (workstations) - 204sf	\$61.20
Commercial Carpet Cleaning - C- <u>Offc 3</u> Office - 116sf	\$34.80
Commercial Carpet Cleaning - C- <u>Offc 4</u> Office - 119sf	\$35.70
Commercial Carpet Cleaning - C- <u>Brk Rm 1</u> Break Room - 80sf	\$24.00
Commercial Carpet Cleaning - C- <u>Hall 1</u> Hallway - 132sf	\$39.60
Commercial Carpet Cleaning - C- <u>CL</u> Closet	\$11.10
<hr/>	
Subtotal	\$280.50

Amount Paid

\$280.50

Payment Method

April 23, 2020

visa.x1497

10:06am

ROA01011

Each cleaning visit is backed by our 100% Clean Guarantee. We guarantee to clean your floors, rugs and/or upholstery to your complete satisfaction, or we will return and re-clean your furnishing(s) at no cost. Please note, though, we are not responsible for pre-existing conditions, whether attributed to manufacturing and/or improper care, that may cause damage to your furnishings. These conditions include, but are not limited to, harsh detergent residue, pet-related stains, discoloration, delamination, abrasion, and UV damage. Contact us within 14 days of your cleaning if you feel any furnishing we've cleaned needs additional attention.

(803) 810-1635 | Info@SouthernDryCarpet.com

www.southerndrycarpet.com

2764 Pleasant Rd, Ste A PMB 10935
Fort Mill, SC 29708

[Terms & Conditions](#)

Powered by
Housecall Pro



ESTIMATE	#372
ESTIMATE DATE	Sep 10, 2019
SCHEDULED DATE	Tue Sep 10, 2019 2:00pm
TOTAL	\$235.20

Jennifer Williams
 2180 Carolina Pl. Dr, Ste 111
 Fort Mill, SC 29708

(803) 322-2087
 jennifer@brilnelectric.com

CONTACT US

2764 Pleasant Rd, #A10935
 Fort Mill, SC 29708

(803) 810-1635
 Info@SouthernDryCarpet.com

ESTIMATE

Services	Qty	Unit Price	Amount
Commercial Carpet Cleaning - C- Reception Area Receptionist Area - 140sf	135.0	\$0.32	\$43.20
Commercial Carpet Cleaning - C-Offic 1 Office - 107sf	85.0	\$0.32	\$27.20
Commercial Carpet Cleaning - C-Offic 2 Office (workstations) - 204sf	120.0	\$0.32	\$38.40
Commercial Carpet Cleaning - C-Offic 3 Office - 116sf	100.0	\$0.32	\$32.00
Commercial Carpet Cleaning - C-Offic 4 Office - 119sf	95.0	\$0.32	\$30.40
Commercial Carpet Cleaning - C-Brk Rm 1 Break Room - 80sf	80.0	\$0.32	\$25.60
Commercial Carpet Cleaning - C-Hall 1 Hallway - 132sf	120.0	\$0.32	\$38.40
	Subtotal		\$235.20
	Total		\$235.20

Each cleaning visit is backed by our 100% Clean Guarantee. We guarantee to clean your floors, rugs and/or upholstery to your complete satisfaction, or we will return and re-clean your furnishing(s) at no cost. Please note, though, we are not responsible for pre-existing conditions, whether attributed to manufacturing and/or improper care, that may cause damage to your furnishings. These conditions include, but are not limited to, harsh detergent residue, pet-related stains, discoloration, delamination, abrasion, and UV damage. Contact us within 14 days of your cleaning if you feel any furnishing we've cleaned needs additional attention.

9/10/2019

Southern Dry Carpet Cleaning

**235.20

Two Hundred Thirty-Five and 20/100*****

Southern Dry Carpet Cleaning
2764 Pleasant Rd. #A10935
Fort Mill, SC 29708

Southern Dry Carpet Cleaning

9/10/2019

235.20

New Wells Checking -

235.20

Southern Dry Carpet Cleaning

9/10/2019

235.20

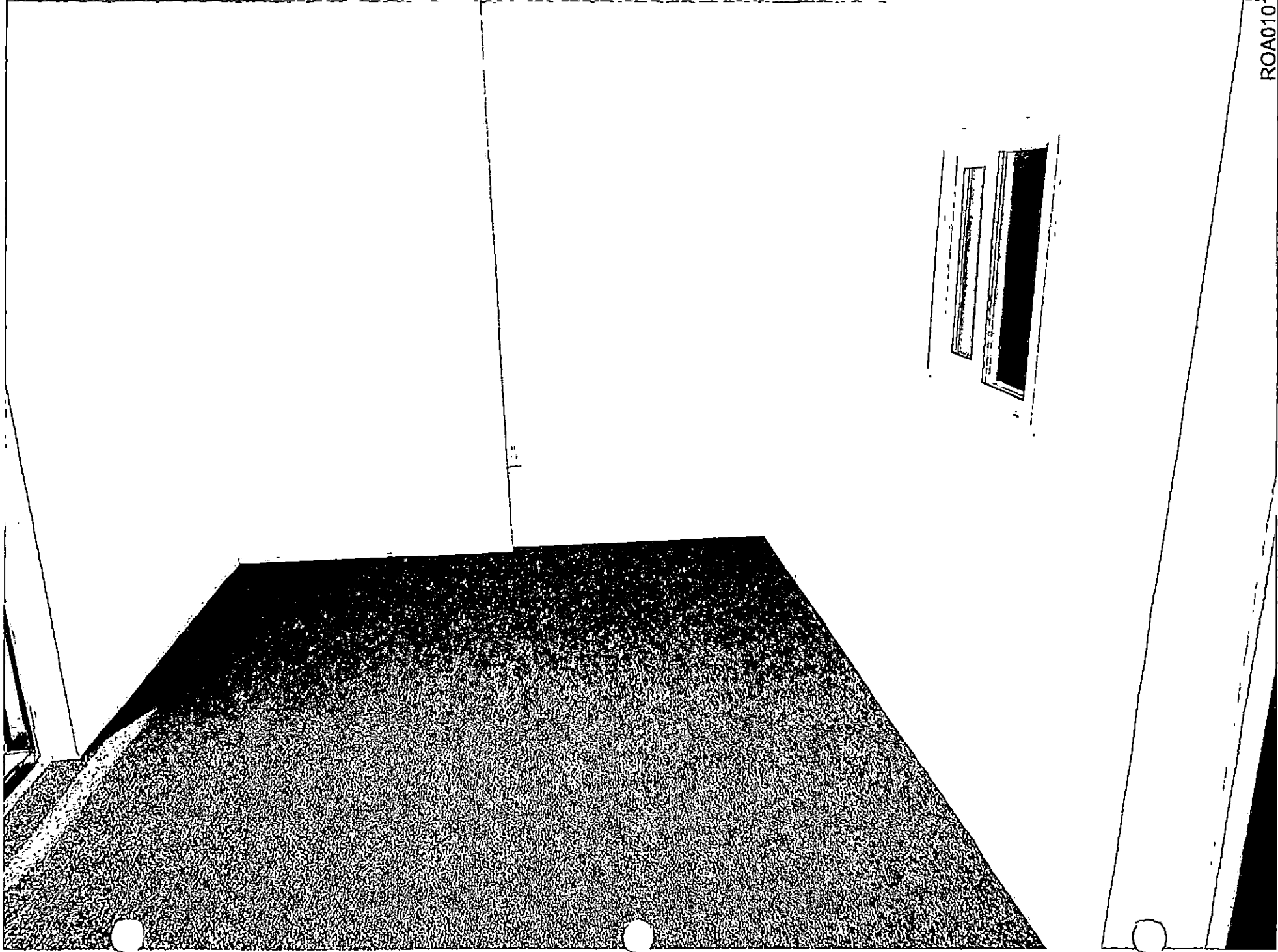
New Wells Checking -

235.20

ROA01014

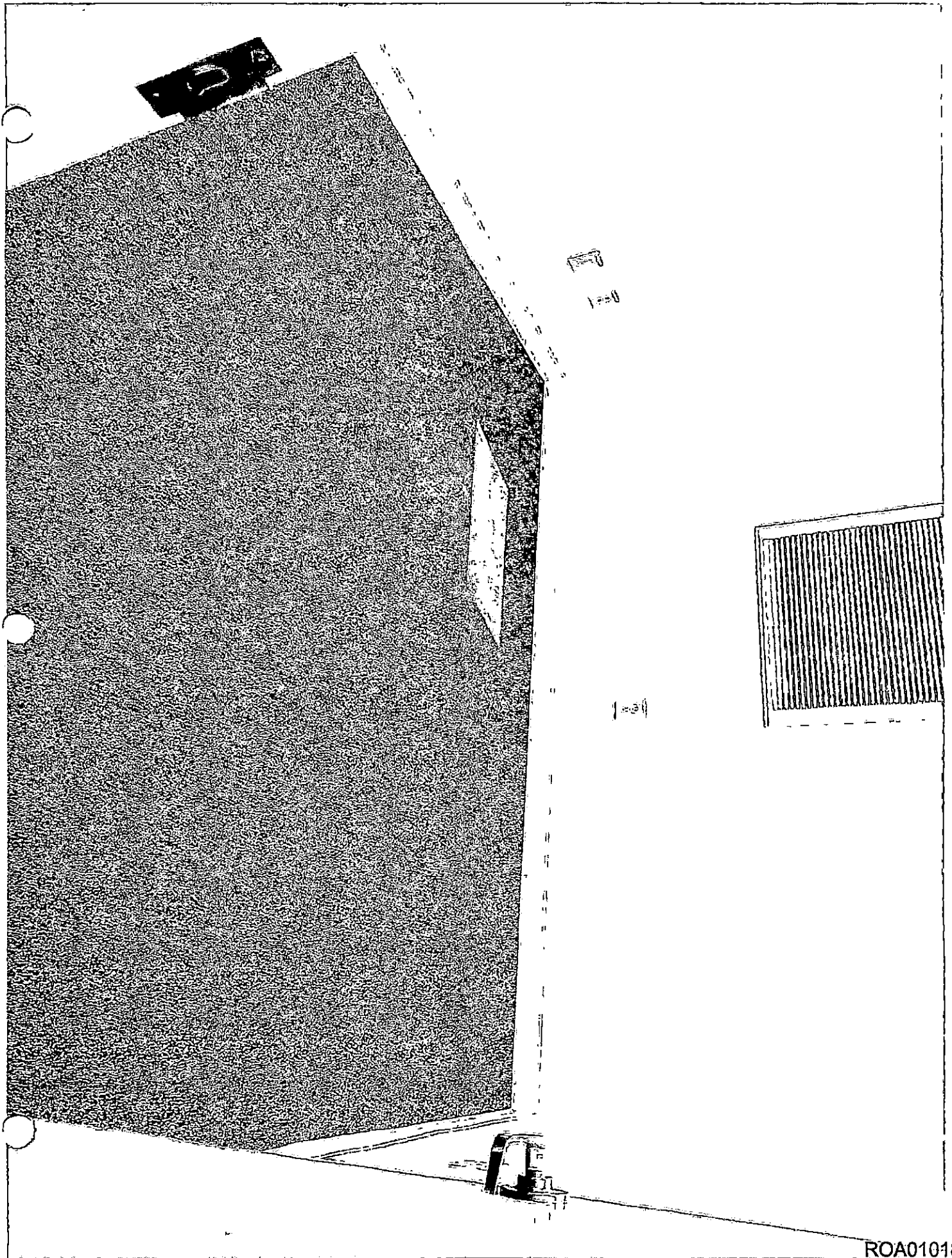


DEFENDANT'S
EXHIBIT
19
EPPK



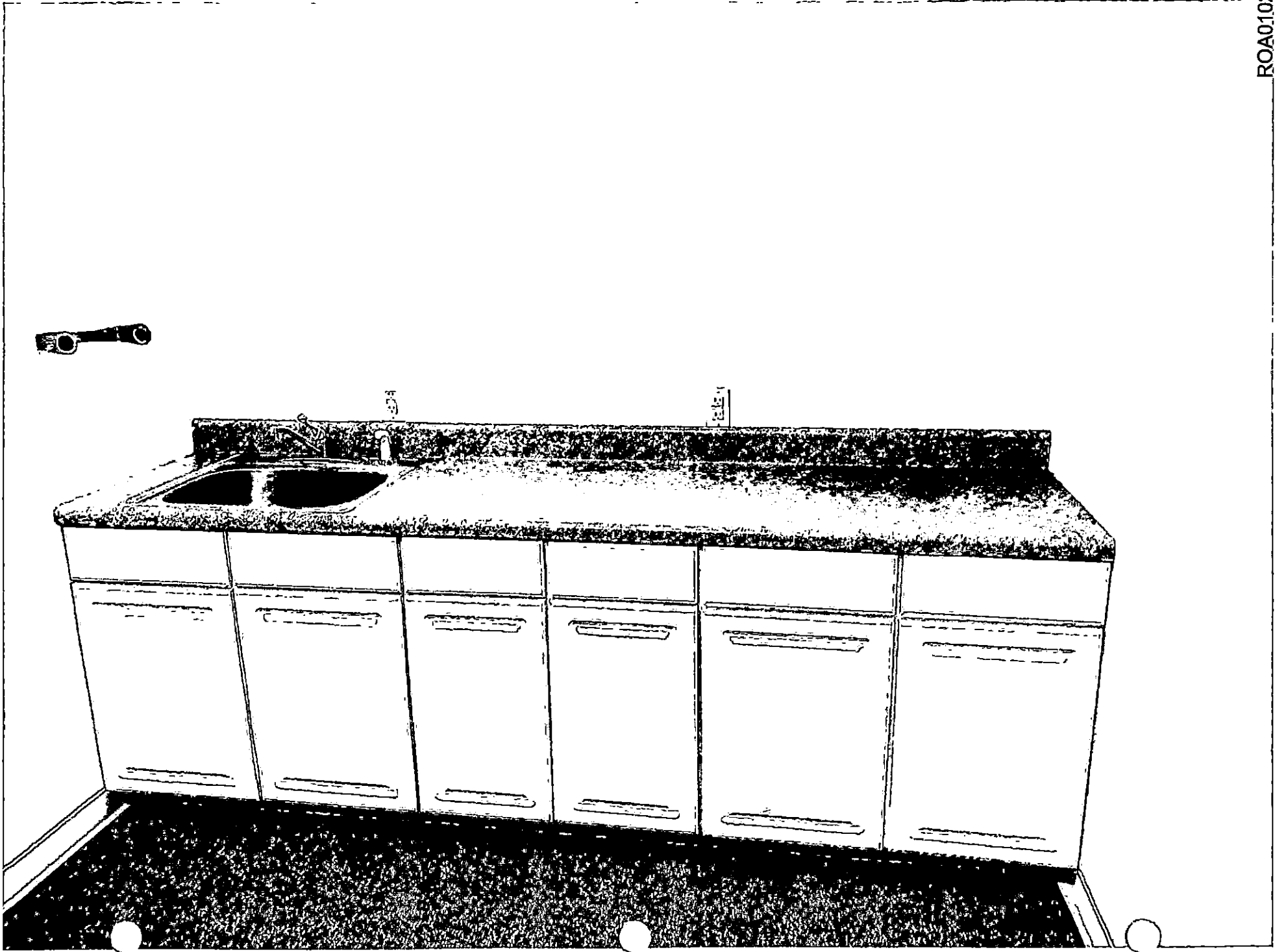
ROA01016

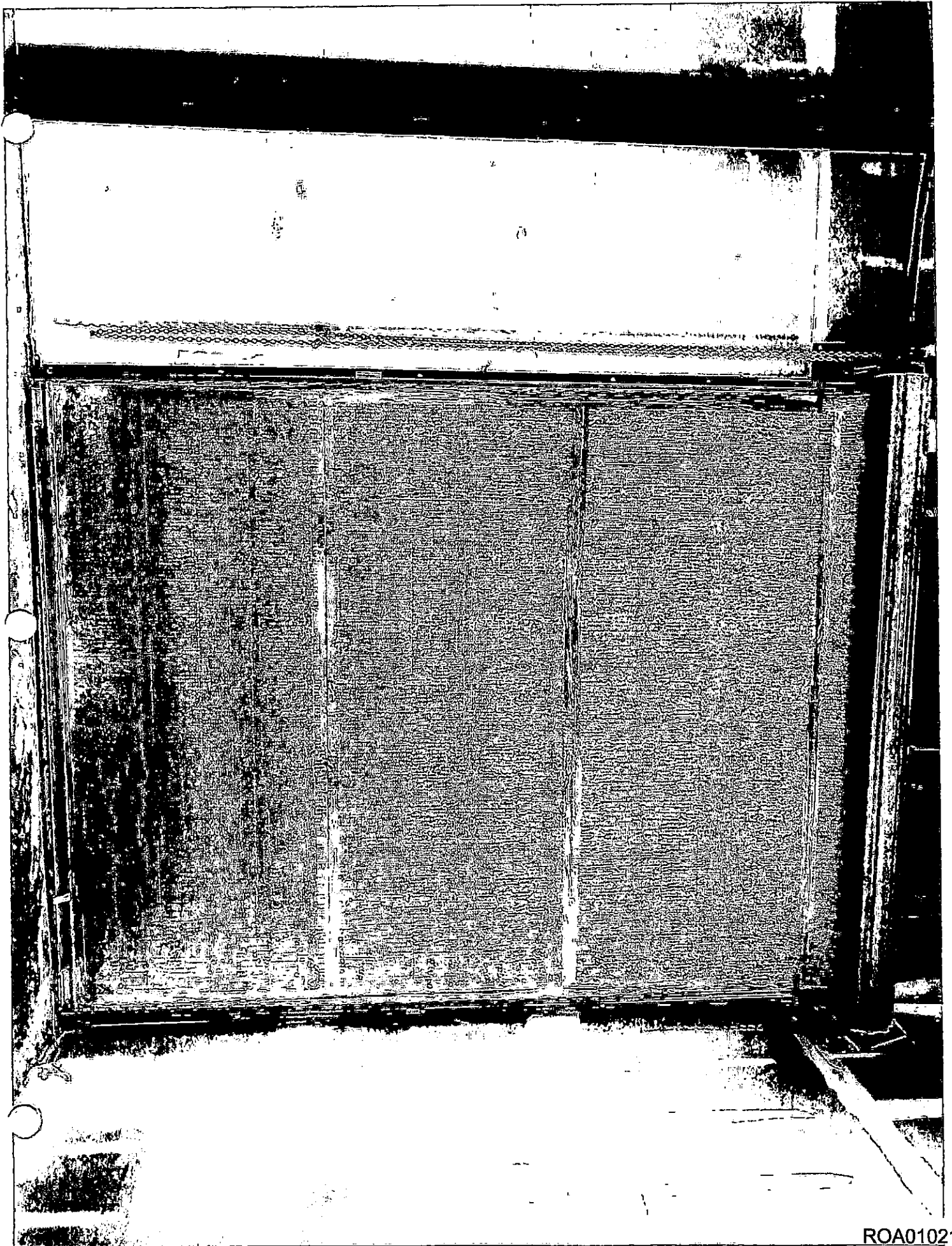




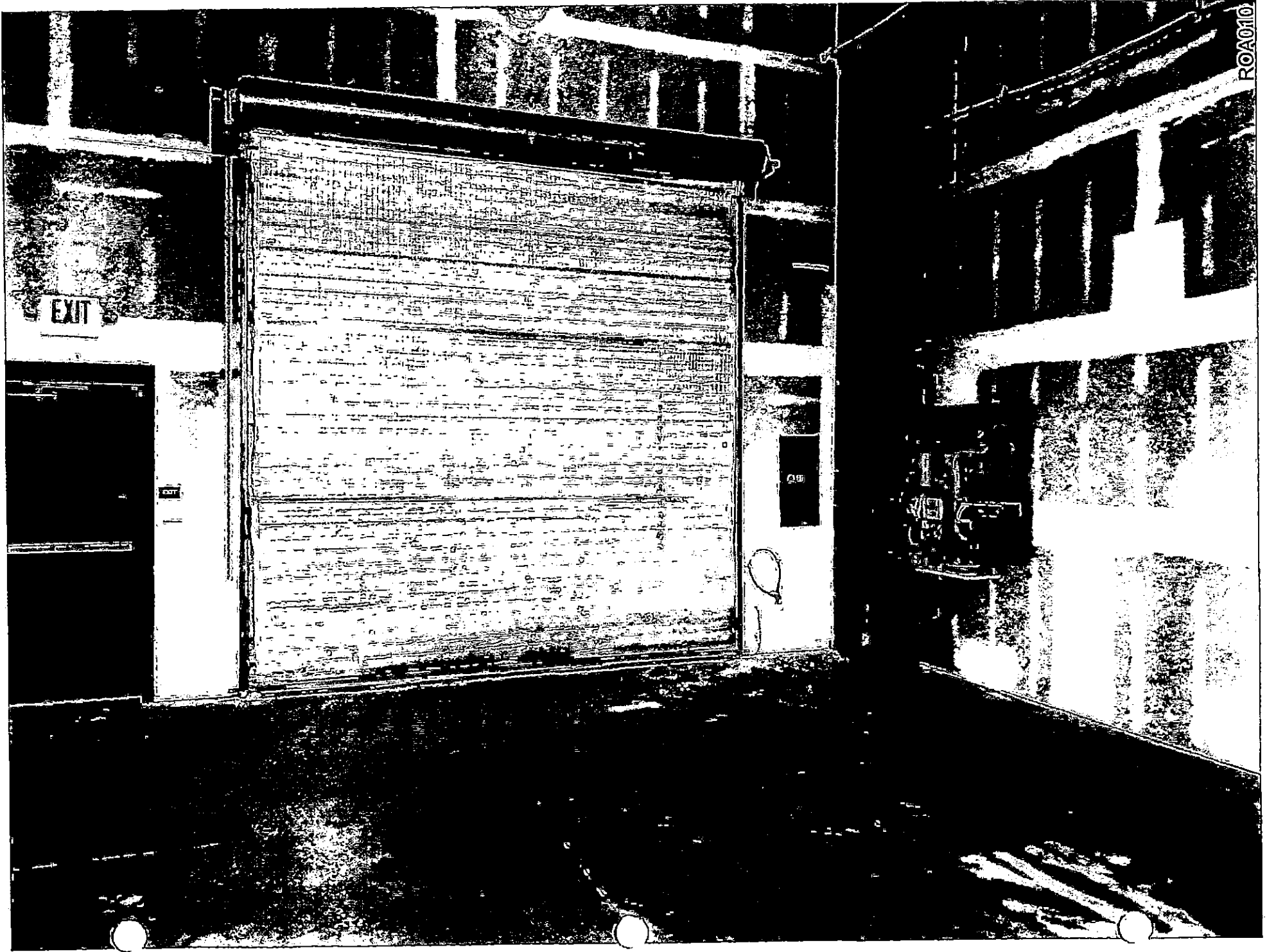


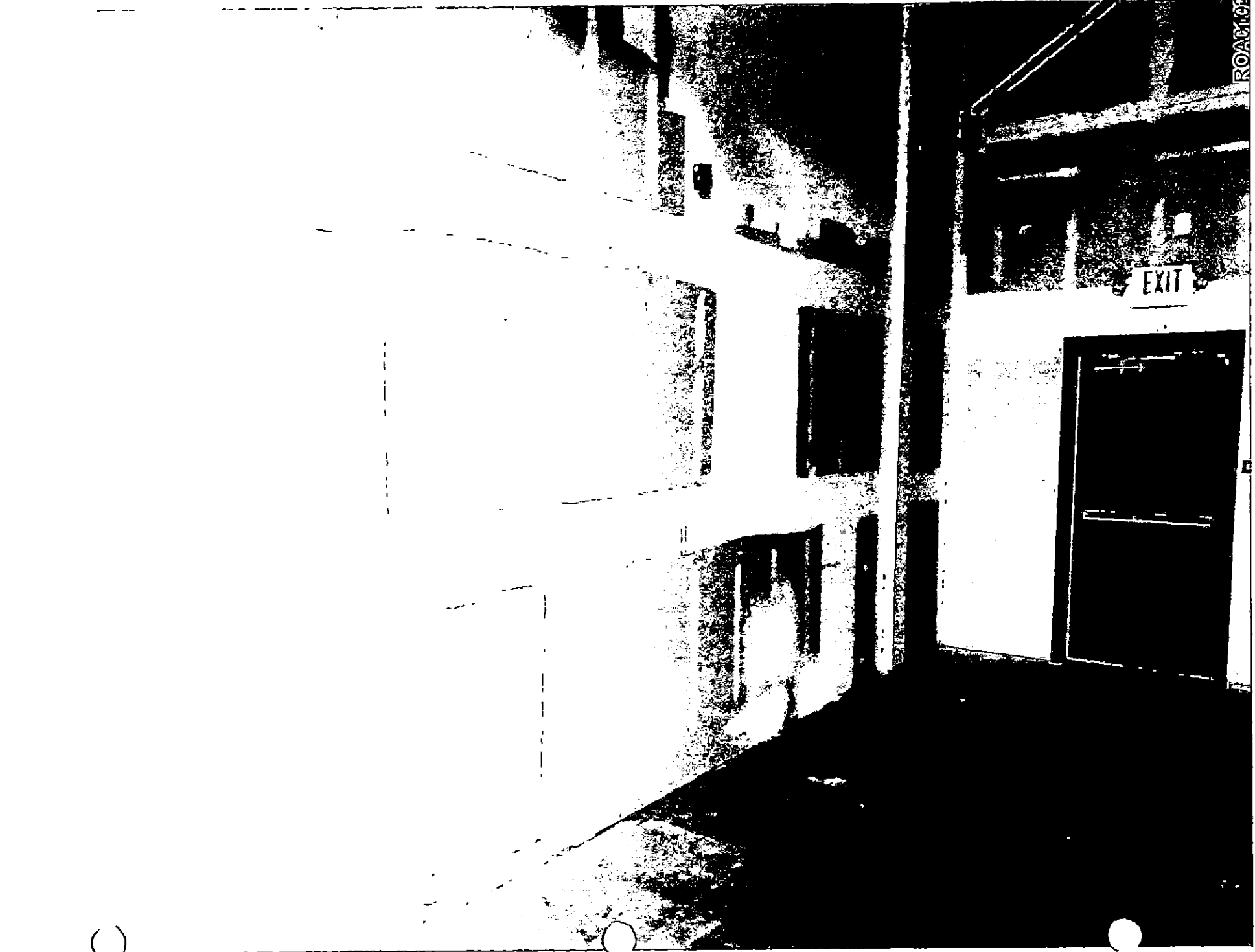
ROA01019





ROA01021



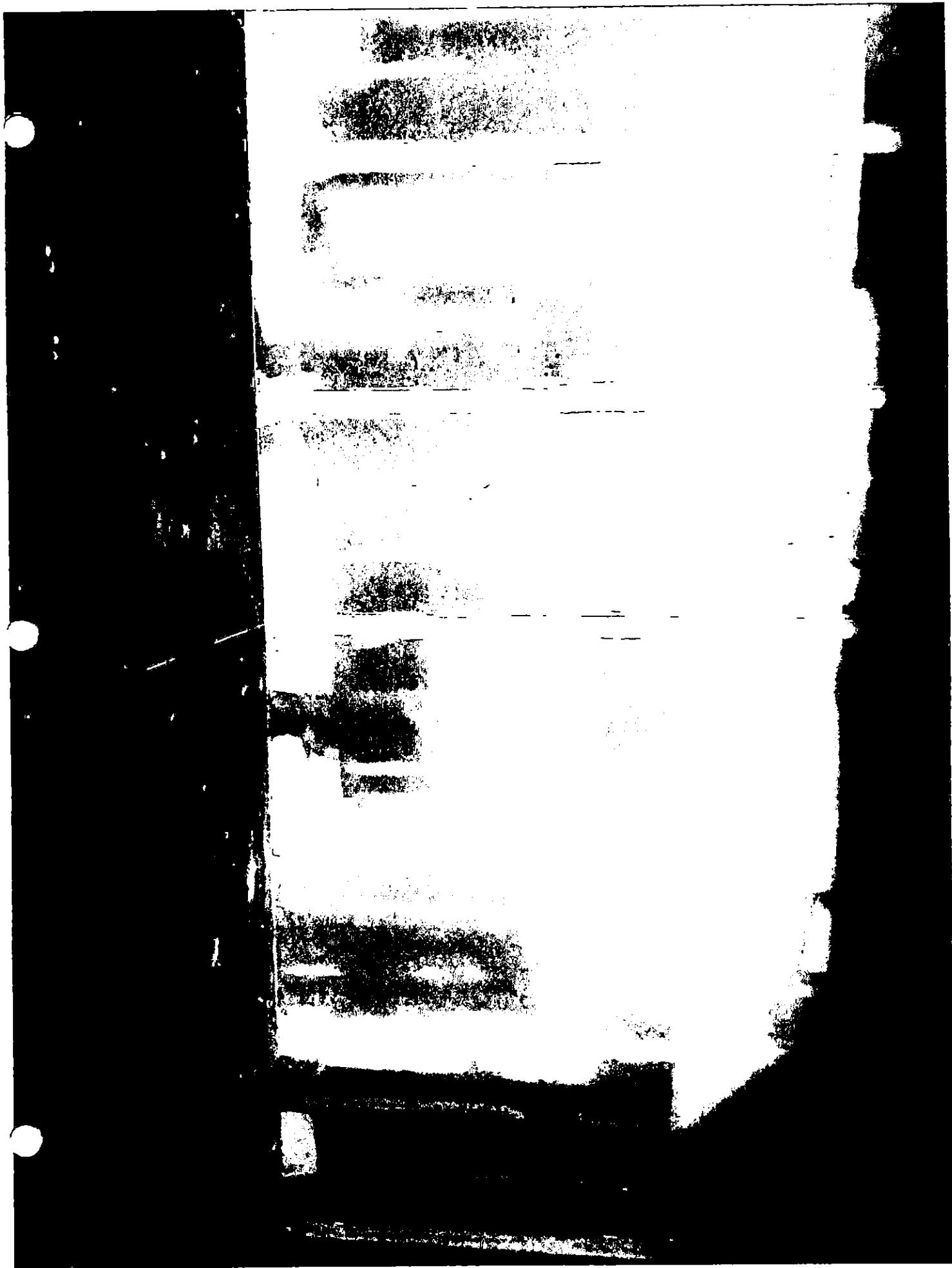


EXIT

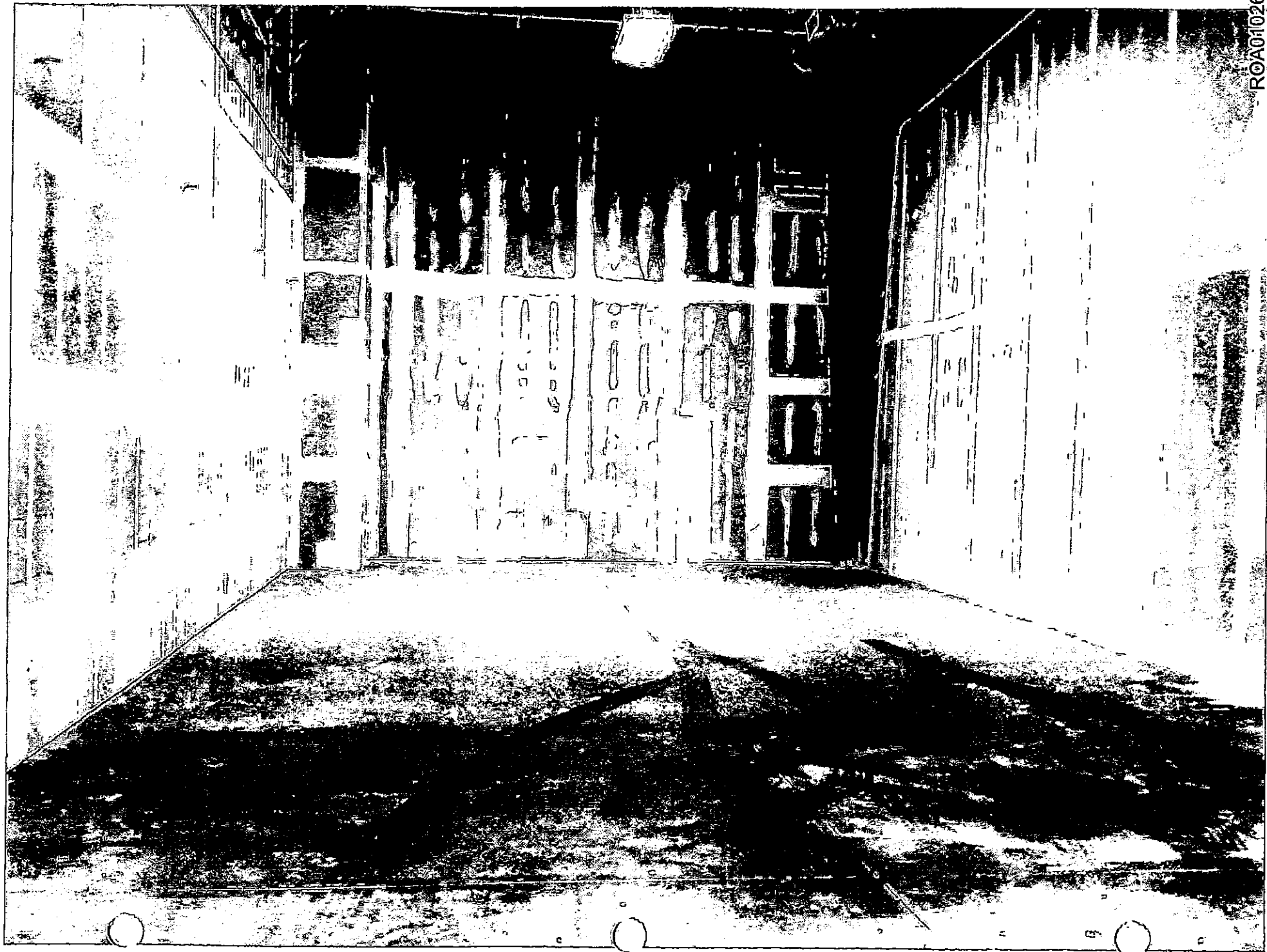
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()

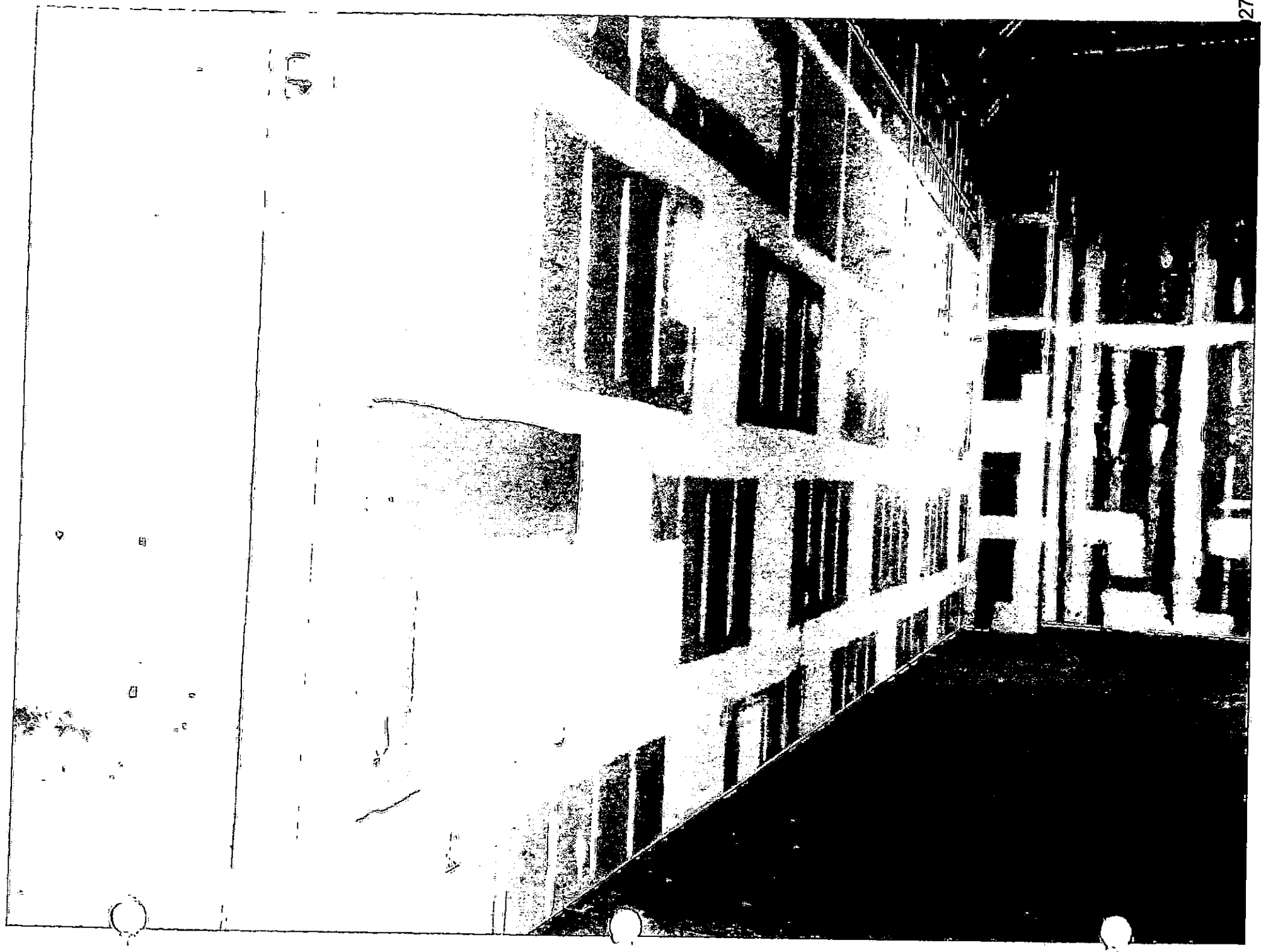
()







LP





agent(s)/ representative(s) of COIT Cleaning & Restoration Services that are called by Plaintiff to testify during the trial of this case.

4. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of Plaintiff, or its counsel, that relate to any of the claims or defenses in this case.

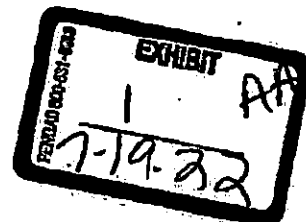
ANSWER: Plaintiff, by and through its undersigned counsel, objects to this request to the extent that it seeks the disclosure and/or production of documents or other things that are protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waiving this objection, all responsive, non-privileged documents were produced and sent to Defendant's counsel on or about December 17, 2020, as part of Plaintiff's responses to Defendant W & L Services, LLC's first discovery requests.

5. For each expert witness whom you propose to use as a witness at the trial of the case, state:

- (a) the qualifications of the proposed expert;
- (b) the subject matter on which the expert is expected to testify;
- (c) the substance of the facts and opinions to which the expert is expected to testify;
- (d) a summary of the grounds for each opinion; and
- (e) identify any documents or reports the expert has prepared for this case.

ANSWER: See answers to Interrogatories numbers 1 and 3 herein. See also the documents produced and sent to Defendant's counsel on or about December 17, 2020, as part of Plaintiff's responses to Defendant W & L Services, LLC's first discovery requests.

6. Set forth an itemized statement of all damages claimed to have been sustained by the Plaintiff as a result of the alleged causes of action against Brilin or co-Defendant W & L Services, LLC ("W & L").



ANSWER:

- a. **Countywide Commercial – cost to properly repair damaged asphalt at the Subject Property that was damaged by Defendant Brillin Electric, LLC - \$5,950.00 (see quote dated February 11, 2020)**
 - b. **COIT Cleaning & Restoration Services – cost to clean soiled carpets inside the building at the Subject Property after Defendant Brillin Electric, LLC vacated the same - \$250.00 (see estimate dated May 6, 2020)**
 - c. **B. Philemon LLC – cost to repair damaged portion of brick wall at top right corner of overhead door of the building at the Subject Property - \$1,600.00 (see estimate dated February 20, 2020)**
 - d. **Overhead Door Company of Charlotte – cost to replace two (2) damaged roll up doors on the building at the Subject Property that were damaged by Defendant Brillin Electric, LLC - \$7,913.51 (see quotation dated March 5, 2020)**
 - e. **Decker Inspections and Contracting Services, Inc. – cost for repairing damaged drywall in the warehouse area at the Subject Property and painting the interior office area inside the building at the Subject Property - \$2,700.00 (see estimate dated March 13, 2020)**
 - f. **Mark Robinson and Integrity Consulting Group, PLLC - cost to assess damages and make repairs to damaged demising wall inside the building at the Subject Property (in accordance with professional engineer's recommendations) - \$10,739.27**
 - g. **Plaintiff's attorney's fees and costs, as authorized by Provision #28(g) of the commercial lease agreement at issue in this litigation – as of December 8, 2020, Plaintiff's attorney's fees and costs in connection with this matter are \$13,447.05. This figure is expected to increase significantly as the litigation in this matter proceeds.**
7. **Describe in detail any and all lawsuits in which CREH has been involved. In describing such lawsuits, provide the case number of the lawsuit; the state, county, and court in which the lawsuit was filed; CREH's role in each such lawsuit (i.e., plaintiff or defendant); and the outcome of each such lawsuit.**

ANSWER: Plaintiff, by and through its undersigned counsel, objects to this request on the bases of being overly-broad, unduly burdensome, and unlikely to lead to the discovery of admissible evidence. Subject to and without waiving

The jurors are easily
distracted by the noise
and movements by the
plaintiff area

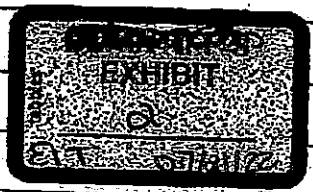
Thank you

Pete Boudreau #65



Can we get a copy of the
Judge's instructions?

Mostly points of law -
Patterson # 65



We have reached a
verdict

Pete Anderson #65

