

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

Blue Ridge Electric Cooperative, Inc.,

Plaintiff(s)

CIVIL ACTION COVERSHEET

vs.

Kathleen J. Gresham & Steve Gresham,

Defendant(s)

(Please Print)

Submitted By: Larry C. Brandt

Address: Larry C. Brandt, P.A.
P.O. Box 738, Walhalla, SC 29691SC Bar #: 856
Telephone #: 864/638-5406
Fax #: 864/638-7873

Other:

E-mail: lcbrandt@mindspring.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action Is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts**
☐ Constructions (100)
☒ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199)

- Torts - Professional Malpractice**
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
☐ Notice/ File Med Mal (230)
☐ Other (299)

- Torts - Personal Injury**
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399)

- Real Property**
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499)

- Inmate Petitions**
☐ PCR (500)
☐ Sexual Predator (510)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599)

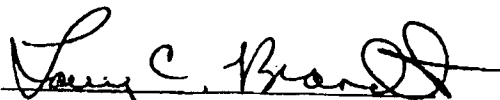
- Judgments/Settlements**
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Other (799)

- Administrative Law/Relief**
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture (840)
☐ Other (899)

- Appeals**
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Administrative Law Judge (980)
☐ Public Service Commission (990)
☐ Employment Security Comm (991)
☐ Other (999)

- Special/Complex /Other**
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)
☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)

Submitting Party Signature:



Date: JULY 11, 2008

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS

Blue Ridge Electric)
Cooperative, Inc.,)
Plaintiff,)

vs.)

Kathleen J. Gresham and)
Steve Gresham,)
Defendants.)

"NON-JURY"

SUMMONS
(Complaint Served)

CASE #2008-CP-23-

5245

2008 JUL 15 A 11:36

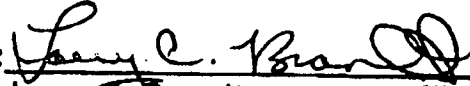
FILED - CLERK OF COURT
GREENVILLE, S.C.

TO: THE DEFENDANTS ABOVE NAMED

YOU ARE SUMMONED AND REQUIRED to answer the Complaint in this action, copy of which is herewith served upon you, and to serve a copy of your Answer on the subscribed at P.O. BOX 738, 3691 BLUE RIDGE BOULEVARD, WALHALLA, SOUTH CAROLINA 29691, within THIRTY (30) DAYS after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the prescribed time, a judgment by default may be entered against you for the amount or other remedy requested in the attached Complaint may be granted.

LARRY C. BRANDT, P.A.
P.O. BOX 738
3691 BLUE RIDGE BLVD.
WALHALLA, SC 29691
864/638-5406

BY:



Larry C. Brandt
Attorney for Plaintiff

July 11, 2008
Walhalla, South Carolina

2008 AUG 11 P 1:29

GREENVILLE COUNTY
SHERIFF'S OFFICE
CIVIL DIVISION

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS

Blue Ridge Electric Cooperative,)
Inc.,)

Plaintiff,)

vs.)

Kathleen J. Gresham and)
Steve Gresham,)

Defendants.)

"NON-JURY"

COMPLAINT

CASE #2008-CP-23-00-

FILED CLERK OF COURT
GREENVILLE CO S.C.
JUL 15 2008

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5245

Plaintiff, complaining of the Defendants, jointly and severally, would respectfully show unto the Court:

1. The Plaintiff, Blue Ridge Electric Cooperative, Inc., hereinafter merely referred to as **"the Cooperative"** or **"Blue Ridge,"** is an electric cooperative organized and existing pursuant to the laws of the United States and/or the State of South Carolina, serving electrical power to customers within its assigned areas of Oconee, Anderson, Pickens and Greenville Counties, South Carolina.

2. Defendants are, upon information and belief, residents of Greenville County, South Carolina, and are members/customers of Blue Ridge Electric Cooperative whom Blue Ridge is presently serving, and has for many years prior hereto served, electrical power to their property located at 1524 Highway 11, Landrum, Greenville County, South Carolina.

3. All matters hereinafter complained of occurred in Greenville County, South Carolina, and are within the appropriate venue and jurisdiction of this Court.

4. For many continuous years, the Defendants have been members of Blue Ridge having made application for membership as required and having agreed to comply with and be bound by the Articles of Incorporation and By-Laws of the Cooperative and any rules and regulations adopted by the Board of Trustees as provided in the By-Laws. Accordingly, Blue Ridge has furnished, and Defendants have received from Blue Ridge, electric service at their property located at 1524 Highway 11, Landrum, Greenville County, South Carolina, continuously since 1987 and have been and are liable for the payment of same at the rates which have been fixed from time to time by the Board of Trustees of the Cooperative.

5. As required by **Article ii, Section 3, of the By-Laws of Blue Ridge Electric Cooperative**, Defendants are and have been obligated through their membership in the Cooperative to allow all of Blue Ridge's authorized employees, agents and independent contractors to have access to their property at 1524 Highway 11, Landrum, Greenville County, South Carolina, at all reasonable times for inspection, maintenance, replacement, relocation or repair of all equipment and service to the property including, but not limited to, access to the property for the purpose of reading the electrical meters in order to allow Blue Ridge to bill for the electricity consumed on the premises; however, throughout Defendants' membership, they have failed and refused to allow access and have done numerous things to

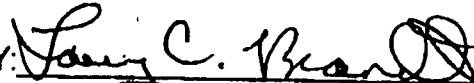
thwart and even prevent Blue Ridge from coming onto the property for any purpose when needed by Blue Ridge and, particularly, for the reading of electric meters so that Blue Ridge could accurately bill Defendants for the electricity used and/or consumed thereon.

6. During the period of June 25, 2003 through May 16, 2007, Defendants absolutely refused and made it impossible for Blue Ridge to enter upon the premises at 1524 Highway 11, Landrum, Greenville County, South Carolina, to read the meters and, as a result, Blue Ridge was forced to estimate the electricity consumed and bill Defendants based upon the estimates rather than upon the actual metered usage. Finally, on or about May 16, 2007, Blue Ridge gained access to the meters and found that it had underestimated the electricity consumption and that Defendants had not paid for all of the electricity used. Blue Ridge then billed Defendants for the unpaid service and/or electricity that had been consumed by them during that period in the amount of **EIGHT THOUSAND FIVE HUNDRED EIGHTY FIVE AND 73/100 (\$8,585.73) DOLLARS**; however, Defendants failed and refused, and have continued to fail and refuse, without just cause or excuse, to pay for the service to present day and the account has incurred additional charges for late penalties in the amount of **EIGHTY ONE AND 91/100 (\$81.91) DOLLARS**, making the total sum due to Blue Ridge, as of present date, the amount of **EIGHT THOUSAND SIX HUNDRED SIXTY SEVEN AND 64/100 (\$8,667.64) DOLLARS**. As a result, Blue Ridge is informed and believes that it is entitled to an Order of this Court granting to it judgment against

Defendants, jointly and severally, in the amount of **EIGHT THOUSAND SIX HUNDRED SIXTY SEVEN AND 64/100 (\$8,667.64) DOLLARS**, together with all costs and attorney fees incurred in the bringing and prosecution of this action.

WHEREFORE, Blue Ridge prays for an Order of this Court requiring Defendants to immediately pay to Blue Ridge the sum of **EIGHT THOUSAND SIX HUNDRED SIXTY SEVEN AND 64/100 (\$8,667.64) DOLLARS**, plus all costs and attorney fees incurred in the bringing and prosecution of this action and, in the event Defendants fail or refuse to do so, that judgment be rendered against them accordingly, together with such other and further relief as to this Court seems just and proper.

Respectfully submitted,
LARRY C. BRANDT, P.A.
P.O. BOX 738
3691 BLUE RIDGE BOULEVARD
WALHALLA, S.C. 29691
864/638-5406

BY: 
Larry C. Brandt
Attorney for Plaintiff

July 11, 2008
Walhalla, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

2008 SEP 16 10:04 AM CP-23-5245

) IN THE COURT OF COMMON

) PLEAS

Blue Ridge Electric Cooperative, Inc.,

Plaintiffs,

-vs-

Kathleen J. Gresham and Steve Gresham,

Defendants.

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
JAMES R. WICKENS

) NOTICE OF MOTION AND

) MOTION TO DISMISS AND

) FOR COSTS AND SANCTIONS

To: Larry C. Brandt, P.A., Attorney for Plaintiffs and to Plaintiffs herein named:
(P. O. Box 738, 3691 Blue Ridge Blvd., Walhalla, SC 29691)

You are hereby noticed that the named Defendant, Steve Gresham, herein named, will move before this Honorable Court for dismissal of this action against him and for all costs associated therewith and incurred by him and for sanctions as set out below. Defendant's Answer and Counterclaim is attached hereto with reserve to amend and/or supplement same, depending on the result of said motion hearing.

Defendant moves for dismissal with prejudice as to this matter for the following reasons:

1. That Defendant Steve Gresham has never had a contractual or other such business relationship with Plaintiffs and has never been a "member" of the said Cooperative nor ever agreed or had knowledge of any By-laws of said Coop.;
2. That the Defendant herein owns no property as set forth herein and does not agree to the jurisdiction of this Court as to this matter and challenges same;
3. That it was an elementary matter for Plaintiffs to have determined that said Defendant was not a Coop. member and that joining this Defendant in such matter was designed to harass, embarrass and punish this Defendant and to abuse the Court process for which Plaintiffs should be sanctioned and should pay all costs, including time off from work, for this Defendant in having to respond and answer same;
4. That Plaintiffs knew fully well that this Defendant was not a Blue Ridge Coop. member and has so known for several years and has repeatedly refused to discuss this or any other electrical power matter with this Defendant, citing that he was not a member and had no input as to this account or any other account within their control.
5. That the actions of Plaintiffs were retaliatory and poorly considered as well as punitive and designed to harass and embarrass this Defendant(s) to extort monies for an account which were paid in full each and every month in a timely and responsible manner, without any delay for many years, paid without fail in accordance with the billings of Plaintiff themselves and received by them.

6. That this matter should be stricken in full and Defendant(s) name(s) removed completely from the rolls of this Court.

7. That, as a result of Plaintiff's false, misleading, wrongful and vindictive filing, this Defendant has suffered loss time from work, loss of income and vacation hours, embarrassment, distress, financial costs and further, that his attempts to amiably resolve the matter in assistance to Plaintiffs, prior to their filing, were ignored by Plaintiffs. Thus, this Defendant believes that Plaintiffs have not acted in good faith and, in fact, proceeded with this action in a frivolous manner especially in light of this Defendant and should be subject to sanctions pursuant to SCRCF, Rule 11 and the South Carolina Frivolous Civil Proceedings Sanctions Act, and that this matter be immediately dismissed with prejudice fully, and for costs associated with this matter and for such other relief as this Court determines just and proper and in accordance with other procedures and rules of the Court.

I so move.



Steve Gresham

Defendant set forth herein

1524 Highway 11, Landrum, SC 29356

864-895-4222

This 15th day of September, 2008

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

☐ Plaintiff Blue Ridge Electric
Cooperative, Inc.
v.

CASE NO.

2008 - CP - 23 - 5245

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

☒ Defendant. Kathleen J. Gresham
and Steve Gresham

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL R. WICKENS, CLERK

Plaintiff's Attorney: <u>Larry Brandt</u> , Bar No. Address: <u>3691 Blue Ridge Blvd</u> <u>Walhalla, S.C. 29691</u> phone: <u>864.638.5406</u> e-mail: <u>other:</u>	Defendant's Attorney: <u>N/A</u> <u>pro se</u> , Bar No. <u>Steve Gresham</u> Address: <u>1524 Hwy. 11</u> <u>Landrum, S.C. 29356</u> phone: <u>864.895.4222</u> e-mail: <u>other:</u>
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- ☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: 30 min.
Estimated Time Needed: 30 min. Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Steve Gresham
Signature of Attorney for ☐ Plaintiff / ☒ Defendant

9-15-08
Date submitted

SECTION III: Motion Fee

- ☒ PAID - AMOUNT: \$25.00
☐ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support
(check reason) ☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

JUDGE

CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

- ☐ MOTION FEE COLLECTED: _____
☐ CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA 2008 SEP 16) IN THE COURT OF COMMON PLEA.
COUNTY OF GREENVILLE) 2008-CP-23-524.

Blue Ridge Electric Cooperative, Inc. FILED-CLERK OF COURT
Plaintiffs. GREENVILLE CO. SC
PAID BY WORKERS

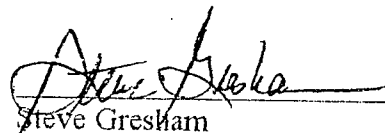
Versus

Kathleen J. Gresham, Steve Gresham,
Defendants.

SEMONS
) ANSWER AND COUNTERCLAIM
) (reserving right to supplement or modify
) following Court's motions hearing)
)
) JURY TRIAL DEMANDED

TO: Larry C. Brandt, P. A. Attorneys for Plaintiffs
P. O. Box 738, 3691 Blue Ridge Blvd., Walhalla, SC 29691
From: Steve Gresham, Defendant named, pro se
1524 Highway 11, Landrum, SC 29356

You are summoned and required to reply to the within Answer and Counterclaim in this action, copy of which is herewith served upon you, and to serve a copy of your Reply on the subscribed at 1524 Highway 11, Landrum, SC 29356 (Greenville County), within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Counterclaim within the prescribed time, a judgment by default may be entered against you for the relief sought by Defendant or other remedy requested in the attached Counterclaim and motions which may be granted.



Steve Gresham

Pro se

1524 Highway 11
Landrum, SC 29356
864-895-4222

Sept. 15, 2008
Landrum, SC (Greenville County)

STATE OF SOUTH CAROLINA 2008 SEP 16 IN THE COURT OF COMMON PLEAS

) 2008-CP-23-5245

COUNTY OF GREENVILLE

) JURY TRIAL DEMANDED

Blue Ridge Electric Cooperative, Inc.

Plaintiffs,

Versus

Kathleen J. Gresham, Steve Gresham,
Defendants.

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
MICHAEL B. WICKENS

) ANSWER AND COUNTERCLAIM

) (*SUBJECT TO COURT'S RULING

) ON MOTIONS-RESERVE MADE)

)

)

TO: The Plaintiffs above named and subject to motions herein made with leave to amend

The Defendant, Steve Gresham, as Answer and as Counterclaim to the Complaint of Plaintiffs, would respectfully show unto this Honorable Court:

FOR A FIRST DEFENSE

1. That all matters not herein admitted or denied or qualified or explained, are herein denied and strict proof demanded thereof.
2. That Defendant admits that to the best of his knowledge, Plaintiff, Blue Ridge Electrical Cooperative, Inc. is an electrical coop. which should exist at all times in accordance with the laws of this State, this nation and this county.
3. That as to paragraph number 2, Defendant Steve Gresham denies that he is a member of said coop. as is known to Plaintiff and demands strict proof thereof.
4. That as to paragraph number 3, Defendant herein denies same.
5. That as to paragraph number 4; Defendant has no specific knowledge and demands strict proof thereof.
6. That as to paragraph number 5; Defendant denies same, has knowledge of great cooperation with Blue Ridge by Defendants and thus, demands strict proof thereof.
7. That as to paragraph number 6; Defendant denies same and demands strict proof thereof.

FOR A SECOND DEFENSE AND AS COUNTERCLAIM

1. That all matters as set forth in the First Defense are incorporated and merged herein as if fully repeated here.
2. That Plaintiffs Blue Ridge Electric Coop. is a membership organization doing business in this county, state and nation in accordance with specific laws, duties and responsibilities to the public and to the membership which duties and responsibilities should be carefully adhered to and proper business practices also followed at all times.

3. That Defendant Steve Gresham is the husband of Defendant Kathleen Gresham and lives in the property owned by wife who had power supplied by Blue Ridge long prior to Defendant's marriage to co-Defendant. That Defendant Steve Gresham has never executed or contracted a business relationship with Plaintiffs and in fact, has been refused communication about wife's account by Plaintiffs, all known to Plaintiffs and its agents. That Defendant is improperly before this Court and improperly named as Defendant by Plaintiffs and should be dismissed immediately, with prejudice, with sanctions against Plaintiffs, with costs assessed against Plaintiffs and with all reference to this Defendant(s) removed entirely from this Court's and all other records, which Defendant seeks.
4. That Defendant seeks punitive and actual damages from Plaintiffs for bringing this action especially in that Plaintiffs were aware and/or should have been aware of their membership and contractual records and that Defendant, further, made Plaintiffs aware of same prior to any Court filing of any action in a bona fide attempt to amiably resolve Plaintiff's concerns and that further, Plaintiffs were allowed to inspect the power lines, were furnished information in this regard and that cooperation was extended in every way whereupon, this matter should have been ended which Defendant now seeks, with prejudice, costs and sanctions.
5. That Plaintiffs knew that Defendants lived elsewhere during periods of this time alleged and have been provided information to supplement such knowledge prior to this action's filing.
6. That Plaintiffs billed Defendant monthly for power bills which were always paid promptly, fully and responsibly by Defendant according to the statements provided by Plaintiffs.
7. That Defendant's bill(s) is and has/have been monthly paid in full, each and every year of service to said property.
8. That Plaintiffs did not notify Defendant in writing at any time during the time period complained of, from June 25, 2003 through May 16, 2007, that there was a problem with their account.
9. That Plaintiffs cashed the full and multiple payments of Defendant for all these years in accordance with their billings with said payments marked "payment in full."
10. That Plaintiffs had more than forty-five (45) opportunities in monthly billings at a minimum to notify Defendant of any problem with their billing which Plaintiffs failed to do.
11. That Plaintiffs have sought monthly to terminate the power service of Defendant without justification thus caused distress and embarrassment to Defendant as Plaintiffs had been fully paid in accordance with their billings, promptly, each and every month and paid in full.
12. That Plaintiffs have known at all times how to contact Defendant and failed to do so until a disconnect notice was included on Defendant's bill for alleged (and inaccurate) failure to pay, which prompted contact by Defendant to Plaintiffs on multiple occasions.
13. That Plaintiffs have wrongfully marked Defendant as "debtors" and "owing money" and subjected Defendant to debt collection.
14. That efforts by Plaintiffs classifying Defendant as a "debtor," are wrong as Defendant paid in full each month by Plaintiff in accordance with their bills and that Defendant deserves and requests a written apology with inclusion of same in their file and any and all credit records/reports, together with all costs associated therewith.

15. That Defendants seek that Plaintiff improve their billing system immediately and publish same in their monthly newsletters so that if other Defendant(s) in the same or similar position are affected, their concerns can be immediately addressed by the Coop.
16. That Plaintiffs should pay to Defendant monetary damages and all costs associated with this action including missed time from work and all Court costs and costs of any discovery and/or use of experts for this matter which Defendant seeks.
17. That Plaintiffs should be prohibited from any disruption of power service to Defendant immediately and ongoing and for Defendant's account with Plaintiff to be cleared which Defendant seeks.

FOR A THIRD DEFENSE

1. That all matters as set forth in the above defenses are reiterated, incorporated, merged and referenced herein as if fully repeated.
2. That Plaintiffs are estopped from claiming past monies due from Defendant as Plaintiffs monthly billed Defendant which bills Defendant paid promptly in full, each and every month without fail.
3. That it was Plaintiffs who selected and installed the monitoring and usage meter and all equipment and declared to Defendant through the top leadership, Charles Dalton, head of Blue Ridge Power, that the equipment was "state of the art," and that Defendant was not to call in any information which had been the habit of Defendant from approximately 1987 continuing for multiple years until said courtesy by Defendant was halted by direction of Plaintiffs.
4. That Plaintiffs never told Defendant that such meter/equipment was faulty or could not be trusted or that Defendant's billings were "estimates."
5. That Defendant relied upon Plaintiff for proper, correct service and billing and paid for same each and every month for many years promptly and fully becoming an excellent customer of Blue Ridge Power.
6. That Blue Ridge Power charged Defendant for buried power and for special equipment for which Defendant now seeks reimbursement and repayment from Blue Ridge.

FOR A FOURTH DEFENSE

1. That all matters as set forth in the above defenses are reiterated, incorporated, merged and referenced herein as if fully repeated.
2. That Plaintiffs have committed an act of trespass upon the property of Defendant Kathleen Jennings labeled as Kathleen Gresham in the complaint as Plaintiffs have installed support or other such pole upon the land of Defendant without written permission or rental from said property owner and that said property owner is entitled to damages and costs associated with same and/or for the immediate removal of said item(s) with all repairs made to owner's land along with monetary damages and costs for this and any other such necessary actions associated therewith.

FOR A FIFTH DEFENSE

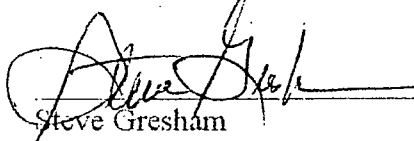
1. That all matters as set forth in the above defenses are reiterated, incorporated, merged and referenced herein as if full repeated.
2. That Plaintiffs and their agent quoted to Defendant property owner a monthly price for power to be run to Defendant's run-in stall/barn area of not more than \$10.00 (ten dollars) per month if little to no power was used which was and continues to be the plan of landowner. That Defendant property owner paid the required fee, up front, to Plaintiffs for such power as demanded by Plaintiffs prior to any work being commenced. That such power meter to the stall area was installed and virtually no power usage occurred for the months said meter was active as there is no well, no running plumbed water, no lights used, no security lights, no electrical uses but rather, the power was run as a future use as explained to and understood by the Plaintiffs and their installers. That, however, the monthly power bills often tripled the amount quoted to Defendant property owner by Plaintiffs which Defendant now believes was retaliatory by Plaintiffs in light of the wrongful action/ lawsuit brought by Plaintiffs and in an attempt to extract monies from Defendant property owner for services not used. That this lawsuit was brought by Plaintiffs immediately on the heels of the barn/shed power cancellation made by Defendant property owner when reasonable attempts to examine the bill, billing practices, the representation made to property owner by Plaintiff's agent and Plaintiffs' failure to extract more monies wrongfully from Defendant, justly failed. Defendant, thus, seeks that the power service to the barn/shed be reestablished, without cost to Defendant property owner and that the monthly bill be in accordance with that told to property owner and relied upon by said property owner in paying for such electrical installation. Defendant also seeks the costs of such electrical installation from Plaintiffs.
3. That when Plaintiffs disconnected the power service to the barn/shed area, Plaintiffs agent(s) wrongfully entered Defendant's property, failed to allow Defendant to give them access in a reasonable time, did damage to fencing of Defendant and alarmed Defendant concerned for the safety of the premises and horses maintained therein, for which Defendant seeks damages, all costs or repair and replacement and costs of this action from Plaintiffs.
4. That Defendant seeks that Plaintiff cease from any and all current and future harassment of Defendant and from uttering, printing, declaring or publishing in any form or manner, bad or derogatory things about Defendant at any time and for submitted proof thereof to Defendant.

NOW, THEREFORE, HAVING FULLY ANSWERED THE COMPLAINT OF PLAINTIFFS AND FOR SETTING FORTH THE WITHIN COUNTERCLAIMS, Defendant seeks as follows from Plaintiffs:

1. That Plaintiff's Complaint be dismissed immediately, with prejudice and for all costs associated therewith be awarded to Defendant;
2. That the Counterclaims of Defendant be granted as specifically set forth above;
3. That Plaintiffs cease all harassment of Defendant;
4. For all costs of this action be awarded to Defendant
5. For sanctions against Plaintiffs as set forth above;

6. For such other and further relief as determined just by this Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Steve Gresham', is written over a horizontal line.

Steve Gresham

Pro se, Defendant, subject to motions pending

Kathleen J. Gresham (Kathleen Jennings)
Pro se, Defendant (not yet personally served)

1524 Highway 11, Landrum, SC 29356
(Greenville County) 864-895-4222

September 15, 2008

STATE OF SOUTH CAROLINA

) IN COURT OF COMMON PLEAS

) 2008-CP-23-5245

COUNTY OF GREENVILLE

2008 NOV -5 A 9 09

Blue Ridge Electrical Coop., Inc.

) AFFIDAVIT IN SUPPORT OF

Versus

) MOTION TO DISMISS

Steve Gresham and Kathleen J. Gresham

CLERK OF COURT
GREENVILLE CO. S.C.
DAVID P. WICKENSIMMER

PERSONALLY APPEARED BEFORE ME, STEVE GRESHAM, being duly sworn,
attests as follows:

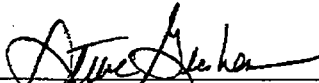
1. I have been named as a Defendant by Blue Ridge Electrical Coop. in their lawsuit seeking \$8,600 + and lawyers' fees. This lawsuit is ridiculous and frivolous as this power bill has been paid in full, each and every month, for all the years Blue Ridge has had power to the Highway 11 house. This lawsuit is purely for harassment in my opinion and because Blue Ridge has failed to follow proper business practices.
2. My wife, Kathleen, has been the long-standing account holder with Blue Ridge and she had this account long before we married. My name has never been on the account and I NEVER had a business or contractual relationship with Blue Ridge which they well know.
3. In fact, Blue Ridge Power employees have consistently refused to provide me information about my wife's account and refused to discuss simple matters with me regarding the power service, even as elementary as when the power would be back on, or other such questions when we had frequent power outages.
4. The power outages from Blue Ridge especially during the time period which they complain of in their lawsuit, were numerous and the power to the house was frequently being cut or out for many reasons. I tried calling on several occasions without success since I was not the account owner so my wife would have to call. After a while, she just called herself because she was the only one Blue Ridge would talk to. I remember her having to call a lot as our burglar alarm would go off when the power was cut and we would be notified. It was quite a hassle and led to monetary losses for our family.
5. I should be removed from this lawsuit and should never have been included in the first place. In fact, the lawsuit should never have been brought in the first place as we tried to show Blue Ridge representatives which they sent to the property and through our hiring of David Thomas, Attorney, who also showed Blue Ridge that their billing procedures were in error.
6. I have been embarrassed by this action and the harassment of being served by the Sheriff's Department and it has caused me embarrassment at work and in the community.
7. My payment record with my accounts is solid. I also know that my wife's payment record with Blue Ridge Power is solid too and that their bills were paid IMMEDIATELY, promptly, and in full each and every month for decades. She is an excellent customer of Blue Ridge and this bill was paid even when we faced HUGE medical expenses and difficulties.
8. We did not live at the Highway 11 house for many years and it was shut down, the water lines drained because we had residence elsewhere for medical and other reasons, all of which Blue Ridge knew. Blue Ridge took the meter from this Highway 11 property and we believe it was altered, broken or misread. We have ALWAYS been cooperative

with Blue Ridge even when they locked us out of the house when they set the burglar alarm off. This property was my wife's before we married 18 years ago.

9. I ask the Court to dismiss me as a party. In fact, I ask that the whole lawsuit be dismissed as wrongly brought and as pure harassment because of Blue Ridge's errors.

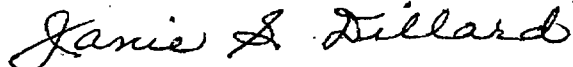
10. I have had to spend days away from my work at loss to me because of this frivolous lawsuit when Blue Ridge has known all along that I was never a member of their Cooperative or ever had a written relationship with them. I should be awarded money from Blue Ridge for this harassment and for them bringing a frivolous case in the first place. I think that \$1,000.00 in missed time from work at this point if it ends now by the Court would be low and fair for Blue Ridge to pay me plus other sanctions against them by the Court for taking the Court's time in such a manner and so unjustly.

Please, Your Honor, do the right thing in dismissing me as a party and in penalizing Blue Ridge for their rash actions.


Steve Gresham

Sworn to before me this 4TH day of November, 2008

Notary Public for SC My comm. expires: 31 MARCH 2018


JANIE S DILLARD

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Blue Ridge Electrical Coop. Inc.

-versus-

Steve Gresham and Kathleen J. Gresham

) IN THE COURT OF COMMON PLEAS
) 2008-CP-23-5245
)

) AFFIDAVIT IN SUPPORT OF
) DEFENDANT'S MOTION TO DISMISS
) AND FOR SANCTIONS
)

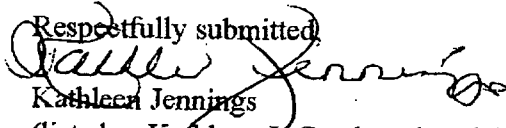
2008 NOV -5 A 9 09
FILED-CLERK OF COURT
GREENVILLE CO. S.C.
Kathleen J. Gresham

PERSONALLY APPEARED BEFORE ME, Kathleen Jennings, listed as Kathleen J. Gresham by Plaintiffs in this action, who being duly sworn, attests as follows:

1. I support Steve Gresham's motion for dismissal as a Defendant in this action as Steve has never had an account with Blue Ridge Electrical Cooperative, Inc. and is wrongfully a party Defendant.
2. Steve Gresham is named as a Defendant solely in that he is married to me. He has never had responsibility for my power bill and is being added to this lawsuit because he is a man, in my opinion, and to harass and embarrass him by Blue Ridge Electrical Coop.
3. In fact, I know for fact, that Blue Ridge Coop. has steadfastly refused to give any information about my account to him when, over the years, he has called about the multiple power outages which has resulted in a large number of burglar alarm false calls when the power was cut or off to my Highway 11 property. Steve has been very frustrated that Blue Ridge refused to give him information or talk with him about this account over the years yet now insists on suing him and making him party to this unjust lawsuit when our power bill has been PAID IN FULL, EACH AND EVERY MONTH WITHOUT FAIL.
4. Steve is a retired Air Force Lt. Colonel and has a responsible job as Administrator of the Greenville Hospital System and this action was taken by Blue Ridge Electric, knowing this information because we have told them multiple times, to harass, embarrass and bully him and me. They have been shameless in saying untrue things about us when I have been an excellent customer and excellent payer of my Blue Ridge power bills for decades, since the 1980's.
5. Blue Ridge President Charles Dalton told me personally several times that he had seen to it that "state-of-the-art equipment" was installed on my highway 11 property and that it was not necessary for me to call in the meter reading each month as I had faithfully done for many years. This was Blue Ridge Power's plan and idea, not mine. He told me clearly that his company could read my meter from off-site and this would help them and keep me from having to call in or write meter readings. It was one less thing for me to worry about so I was pleased with his/their plan. Now, Blue Ridge Power is blaming us because they now claim that their system did not work properly. We relied on Blue Ridge and I relied on the representations of Charles Dalton and his employees. Now, they are suing us and holding our family to harsh tactics and threatening to cut off our power each and every month when WE HAVE PAID OUR BILL IN FULL AS THEY BILLED US EACH AND EVERY MONTH AND ALWAYS, ON TIME.

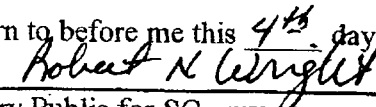
6. The account as ALWAYS been in my name and NEVER in Steve Gresham's name as he NEVER had a contractual or membership relationship with Blue Ridge Electric Coop.
7. Steve and I married in 1990 and I owned this property before our marriage and I had an account with Blue Ridge Electrical Coop. years BEFORE our marriage. Mere marriage without contractual membership does not AUTOMATICALLY mean membership in Blue Ridge Coop. and I doubt Blue Ridge has treated others this way. Steve did not marry Blue Ridge Electrical Coop. when he married me!
8. I hired David Thomas to help us when Blue Ridge put a power termination notice on our front gate which shocked us as I had always made sure the power bill was paid in full each and every month even when we did not live on the highway 11 property for many years when our son was dying of leukemia. Senator Thomas met with Blue Ridge power people and thought he had shown them the errors in their system and that their meters were at fault. He also showed them that Steve Gresham was NOT a Coop. member and never had been and had NEVER entered into any contractual arrangement with Blue Ridge Electrical Coop. Thus, Blue Ridge Coop. knew ALL these things LONG BEFORE they ill-advisedly filed this lawsuit.
9. Steve Gresham should be immediately dismissed as a party Defendant and his name stricken from all files in this matter. Actually, this whole matter is preposterous and, scandalous and the Plaintiffs should be sanctioned in the strongest measure by this Court for taking up the Court's time and our time and the taxpayers' time in bringing such an action in the first place when my power bill has always been paid ON TIME, IN FULL AS BILLED and ACCORDING TO THE SYSTEM WHICH BLUE RIDGE, THE PLAINTIFFS, ALONE ESTABLISHED AND PUT INTO PLACE. We relied on them and any error is theirs, not ours!
10. I have asked for a jury trial but the whole matter is unjust and unfair. Please do the right thing, Your Honor, and dismiss Steve Gresham as a Defendant and impose sanctions upon the Plaintiffs for causing all this turmoil by including Steve as a party when they clearly knew he was not. It is a matter of law and I support Steve's motion fully.

Respectfully submitted,


Kathleen Jennings

(listed as Kathleen J. Gresham by Plaintiffs in this lawsuit)

Sworn to before me this 4th day of Nov., 2008


Notary Public for SC my comm. expires:

My Commission Expires
December 6, 2014

September 18, 2008

Larry C. Brandt, P. A.
Attorneys
P. O. Box 738
3691 Blue Ridge Blvd.
Walhalla, SC 29691

Re: Blue Ridge vs. K. and S. Gresham
2008-CP-23-5245

Dear Mr. Brandt,

This is to advise that the motion hearing in the above matter filed and served upon you by Steve Gresham, defendant, is scheduled by the Court for November 5, 2008 at 10:00 a.m. at the Greenville County Courthouse.

Thank you.

Yours very truly,



Steve Gresham
1524 Highway 11
Landrum, SC 29356

✓ cc: file
Greenville County Clerk of Court

Blue Ridge Electric Corp.

2008 SEP 18 A 9 39

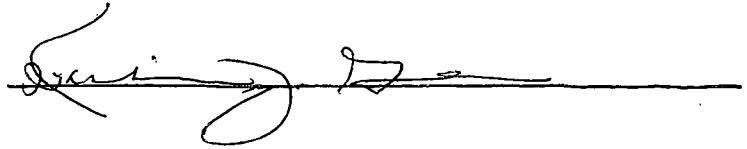
vs.

Larry G. Gresham
Steve Gresham

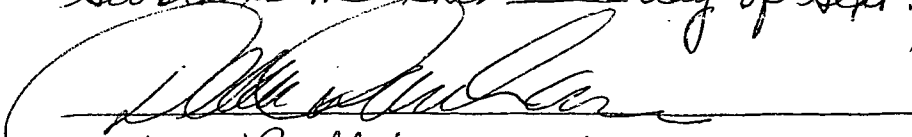
FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER

Certificate of Mailing

I certify that I placed in The U.S. Mail certified copy of Notice of Motions and Motions to Dismiss and for Costs and Sanctions in addition to Summons and Answer and Counterclaim, Jury Trial Demanded to Plaintiff's counsel, Larry C. Brandt, P.A., Attorney, P.O. Box 738, 3691 Blue Ridge Blvd., Walhalla, S.C. 29691 together with sufficient postage for this delivery, this 16 day of September, 2008.



Sworn to me this 16 day of Sept., 2008


Notary Public for S.C.
My Comm. expires August 22, 2011

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2008CP2305245

Blue Ridge Electric Cooperative Inc vs. Kathleen J Gresham

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER

CHECK ONE:

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other:
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRCP; ☐ Bankruptcy:
- ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- ☐ Other: _____

IT IS ORDERED AND ADJUDGED:

☐ See attached order;

☒ Statement of Judgment by the Court:

The motion of the defendant, Steve Gresham, to dismiss is denied. Pursuant to a 12 b 6 motion the court may only consider the face of the pleading and any reasonable inferences from the pleadings. If Plaintiff is entitled to any relief from the allegations in the pleadings the motion must be denied. JRP

Dated at Greenville, South Carolina, this 5th of November, 2008.

Court Reporter:

Digirolamo

PRESIDING JUDGE - LARRY R. PATTERSON

This judgment was entered on _____, and a copy mailed first class on _____, to attorneys of record or to parties (when appearing pro se) as follows:

Larry C. Brandt Larry C. Brandt, PA P.O. Box 738
Walhalla, SC 29691

Steve Gresham 1524 Highway 11 Landrum, SC 29356
Kathleen J Gresham

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
2008 SEP 30 P 3: 35) 2008-CP-23-5245

COUNTY OF GREENVILLE)

Blue Ridge Electrical Coop, Inc.)
FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL R WICKENSIMER

-vs-

SUMMONS

(Answer and Counterclaim served)

K. J. Gresham and Steve Gresham)

TO: The Plaintiffs, above named, and their counsel

YOU ARE SUMMONED AND REQUIRED to answer the **Counterclaim of both** Defendants (counterclaim of Defendant Steve Gresham, previously served upon you) and the Counterclaim of Defendant K. J. Gresham, now served upon you, and to serve a certified copy of your Reply/Answer on the subscribed at 1524 Highway 11, Landrum, SC 29356, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the within Counterclaim within the prescribed time, a judgment by default may be entered against you for the amount and/or other remedy requested in the attached Counterclaim and in the Counterclaim previously submitted by the co-Defendant, may be granted.



Kathleen Jennings

(listed by Plaintiff as K. J. Gresham)

Pro se

1524 Highway 11

Landrum, S. C. 29356

864-895-4222

This 29th day of September, 2008

STATE OF SOUTH CAROLINA 30 P 3: 35 IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE) 2008-CP-23-5245
FILED CLERK OF COURT
Blue Ridge Electric Cooperative, Inc.)
Plaintiffs,) ANSWER AND COUNTERCLAIM
- vs-) JURY TRIAL DEMANDED
Kathleen J. Gresham and Steve Gresham)
Defendants.)

To: Larry C. Brandt, Attorney for Plaintiffs and to Plaintiffs herein:
(P. O. Box 738, 3691 Blue Ridge Blvd., Walhalla, SC 29691)

The Defendant, K. J. Gresham, as Answer and Counterclaim to the
Complaint of Plaintiffs, would respectfully show until this Honorable Court:

FOR A FIRST DEFENSE

1. That all matters not herein admitted or denied or qualified or explained, are herein denied and strict proof demanded thereof.
2. That Defendant admits that to the best of her knowledge, Plaintiff, Blue Ridge Electrical Cooperative, Inc. is an electrical coop. which should exist at all times in accordance with the laws of this State, this county of operation and of this country.
3. That as to paragraph number 2, Defendant admits that she is a lifelong resident of Greenville County, SC and has been an excellent customer of Blue Ridge Electrical Cooperative since the 1980's at her property listed therein.
4. That as to paragraph number 3; Defendant admits that her property is located in Greenville County, SC.
5. That as to paragraph number 4, Defendant admits that she has used and paid for the services of Blue Ridge Electrical Coop, which is the only power company serving the upper part of Greenville County, since the 1980's. Defendant denies that her husband, the co-defendant listed by Plaintiffs, has

ever been a member of the Blue Ridge Cooperative as the power was established in Defendant's name alone, she being unmarried at the time, and has so continued in Defendant's name alone, all well known to Plaintiff which has refused to provide any information previously about payments, credits and outage occurrences and repair time tables, to co-Defendant Steve Gresham. That Defendant has no specific knowledge of membership application or signature for Articles of Incorporation or By-Laws and requests proof of same, while admitting that she has diligently paid monthly power bills to Blue Ridge in a timely, prompt, responsible manner since the 1980's. The remainder thereof is denied and proof demanded.

6. That as to paragraph 5, Defendant has no knowledge of said Articles, nor has copies of same, nor have any such executed copies ever been provided to Defendant by Plaintiffs. Defendant has not knowingly granted any right-of-way or easement to Plaintiffs and in fact, Plaintiff has required this Defendant to provide tree limb removal, limb maintenance and storm damage tree limb removal from Plaintiff's power poles at her own expense during the period of Blue Ridge electrical power purchase to Defendant's property without reimbursement or participation by Blue Ridge. Defendant would show that for many years, at Plaintiffs' request, she reported in the monthly power usage to Blue Ridge employee(s) as requested by Plaintiffs without fail, only ceasing such reporting at the direct instruction of the head of Blue Ridge and his agent(s) as Blue Ridge established equipment declared by Plaintiff as "state of the art," which no longer required this Defendant to report the meter reading and was insisted upon by Plaintiffs as able to be read without access and as accurate and state of the art, removing any responsibility from Defendant. The remainder thereof is strongly denied and strict proof demanded.

7. That as to paragraph number 6; Defendant denies same and demands strict proof thereof.

FOR A SECOND DEFENSE AND AS COUNTERCLAIM

1. That all matters as set forth above in the First Defense are incorporated and merged herein by reference as if fully repeated herein verbatim.
2. That Plaintiffs Blue Ridge Electrical Cooperative is a membership organization doing business in this county, state and nation in accordance with specific laws, duties and responsibilities to the public and to the membership and users of its electrical services which services are a virtual monopoly in the area of service and that consequently, Blue Ridge Electrical Coop. should carefully, diligently and properly follow good business practices and good customer relations at all times.

3. That co-Defendant Steve Gresham is the husband of Defendant herein, and that co-Defendant has never been in a contractual or membership relationship with Plaintiffs and owns no property upon which Blue Ridge supplies electrical power for its monthly billings. That, in fact, co-Defendant has been repeatedly refused communication about wife's account by Plaintiffs requiring this Defendant wife to make any necessary calls to Plaintiff or communications about power outages, disruptions in service and other account-related matters. That the inclusion of co-Defendant in this suit was a poorly-considered, improper action by Plaintiffs as their records would reveal that co-Defendant had no written contract with Plaintiffs and that he should be dismissed with prejudice and with all costs and sanctions from this Court to be assessed against Plaintiff.
4. That all references to co-Defendant should be stricken by this Court and all references to him be removed by Plaintiff and by this Court with written apology and all costs be made to co-Defendant by Plaintiffs.
5. That Plaintiffs were made aware that Defendant would not be residing in the Highway 11 house for an extended period of time due to the grave illness due to cancer of her stepson who lived with her and her husband full time and his necessary medical care.
6. That Plaintiffs had called upon Defendant for many years from the 1980's continuously until into 2000's to report her power usage which Defendant diligently did until she was instructed by Plaintiffs to cease this reporting as Plaintiffs were installing a state-of-the-art meter which allowed Plaintiffs to read from elsewhere. That Defendant never was informed that any of her power bills were estimates or that the bills which she diligently paid, monthly, were in error.
7. That Defendant promptly paid each and every monthly power bill sent via regular mail to her without fail and that each and every bill was paid on time and in full.
8. That Defendant cooperated with Plaintiffs in every way in a professional and friendly manner and allowed access to her property whenever coordinated by Plaintiffs with her.
9. That Defendant paid a substantial premium fee for Plaintiffs to establish underground power to her residence at her own expense with Plaintiffs.
10. That Defendant maintained the few power poles to her property in good shape, keeping tree limbs trimmed, at her own expense which should have been

provided by Plaintiffs. That as part of the Blue Ridge cooperative services, Plaintiffs should have scheduled tree trimming and removal of any possible tree obstruction from Defendant's property and that Plaintiffs should have paid for same. That, Defendant seeks full and complete reimbursement of all tree trimming, maintenance and upkeep from Plaintiffs for the amounts she has paid which should have been the responsibility of Plaintiffs, plus interest and a reasonable fee for her time.

11. That Defendant seeks that Plaintiffs cease from terminating her power as her bills have been paid responsibly, fully and in accordance with Plaintiff's own billings on a monthly basis without fail from the time of which Plaintiffs complain, that is from June 25, 2003 until May 16, 2007 which is a minimum of forty-five (45) monthly billings payments to Plaintiffs.

12. That Plaintiffs have cashed each and every check of Defendant at a minimum of forty-five (45) times in accordance with the period in question and continuing, without complaint and without any notification to Defendant of any problem.

13. That each and every check of Defendant to Plaintiffs, cashed by Plaintiffs, has been marked "paid in full," as to Defendant's account.

14. That Plaintiffs have repeatedly sought to terminate the power service to Defendant's residence causing hardship, embarrassment and distress to Defendant and to her family for which Defendant now seeks damages and monetary judgment from Plaintiffs and seeks punitive damages.

15. That Plaintiffs have known at all times how to contact Defendant and that no messages have been sent via mail or to the same phone number listed publicly to Defendant since the 1980's. That additionally, employees of Plaintiff have had Defendant's cell phone number for many years in case any emergency should arise.

16. That Plaintiffs have wrongly marked Defendant and her husband as "debtors" and "owing money" and subjected Defendants to debt collection when their account with Plaintiffs was paid fully as billed, each and every month. Defendant thus seeks damages, recovery of all costs, payment for time spent by Defendants and punishment damages from Plaintiffs in addition to a written apology.

17. That Defendant seeks that her electrical account be cleared immediately without continued reference to "past due" amounts by Plaintiffs.

18. That Defendant seeks that all internal notifications or notations on her account or records be cleared and totally expunged of all reference to this "past due" amount wrongfully sought by Plaintiffs and her account be marked in good standing.
19. That Plaintiffs be required to notify all credit agencies to which they have reported that Defendants are in and have always been, in good standing with no outstanding balances, ever, and proof thereof provided to Defendant.
20. That Plaintiff reimburse Defendant for any and all costs of the buried power to her property which Defendant seeks from Plaintiffs to be paid immediately.
21. That Defendant seeks that Plaintiffs pay for damage to her property from the process server chosen by Plaintiffs including, but not limited to, damage to fencing, damage to gate, damage to mailbox, damage to dog and for the time of Defendant in coordinating repairs to same and for punitive and special damages.
22. That Defendant seeks that Plaintiffs improve their billing system immediately and publish the results in their monthly newsletter so that if other Defendants are in the same or similar position as Defendant, such concerns can be immediately known and addressed.
23. That Plaintiffs have prevented Defendant's own elected Blue Ridge coop. Board member from following through with Defendant on this matter and have worked against Defendant in her attempts to resolve this matter with Plaintiffs. That Defendant allowed a Blue Ridge Power company employee, designated by Plaintiffs, to view the power source and how Defendant had turned off the power when the family closed up the house for an extended period of time while living elsewhere due to the cancer treatment of their son and necessity of closer proximity to medical care. That Defendant communicated with Plaintiffs and counsel on several occasions to resolve the matter including using others to make additional communications. That Plaintiffs pursued this matter despite such, thus Defendant seeks monetary damages and special damages from Plaintiffs together with payment for all costs associated with this action including court costs, costs of discovery and costs of all court preparation and for any expert and other witness fees.
24. That Defendant seeks that Plaintiffs be prohibited from any disruption of power service to her home; that her account be cleared without blemish and that proof of same be provided to Defendant.

FOR A THIRD DEFENSE

1. That all matters as set forth in the above defenses are incorporated, reiterated and merged herein as if fully repeated verbatim.
2. That Defendant raises and pleads the equitable remedy of estoppel as to Plaintiffs as Plaintiffs alone controlled their billings and as it was Plaintiffs who selected and installed their equipment and declared same to be "state-of-the-art," and upon which Defendant could rely.
3. That Plaintiffs never told Defendant that such meter/equipment was faulty or could not be trusted or that Defendant's billings were "estimates."
4. That Defendant relied on such billings by Plaintiff for their accuracy and paid same in full each and every month for many, many years and was an excellent customer of Blue Ridge Power.

FOR A FOURTH DEFENSE

1. That all matters as set forth in the above defenses are incorporated, reiterated and merged herein as if fully repeated verbatim.
2. That Defendant raises the equitable defense of laches as Plaintiffs knew or should have known of any problems with the account of Defendant long prior to bringing any action against Defendant and were in the position to correct same if any problem had occurred. That Defendant relied upon the expertise of Plaintiffs.

FOR A FIFTH DEFENSE

1. That all matters as set forth in the above defenses are incorporated, reiterated and merged herein as if fully repeated verbatim.
2. That Defendant raises the defense of the statute of limitations as to complaint of Plaintiffs and seeks that all allegations outside the statute of limitations be dismissed with prejudice by this honorable Court.
3. Defendant seeks all costs of this matter plus sanctions from the Court from Plaintiffs.

FOR A SIXTH DEFENSE

1. That all matters as set forth in the above defenses are incorporated, reiterated and merged herein as if fully repeated verbatim.
2. That Plaintiffs have committed the act of TRESPASS upon her land in establishing a power pole(s) for power service across the street (i.e. Highway 11) which provides power primarily to other customers of Plaintiffs and that Plaintiffs have trespassed upon Defendant's property for a support pole and guy-wires and lines to shore up said pole(s) as a convenience to themselves and their service; and without the express, written authorization for same from Defendant, thus trespassing upon Defendant's land. That said power pole does NOT provide service to Defendant's property per se but was erected by Plaintiffs due to their own design, crossing the street/highway, onto Defendant's property, trespassing upon her land.
3. Defendant seeks full and complete damages and fees from Plaintiffs for same, retroactive from the time of installation and continuing, or in the alternative, for damages and fees for its installation and fully, until its complete removal and clean-up and costs by Plaintiffs.

FOR A SEVENTH DEFENSE

1. That all matters as set forth in the above defenses are incorporated, reiterated and merged herein as if fully repeated verbatim.
2. That Defendant seeks that Plaintiffs cease from any and all current and future harassment of Defendant and from uttering, printing, declaring or publishing in any form or manner, bad or derogatory things about Defendant at any time for proof of same from Plaintiff or from taking any retaliatory action against Defendant.

NOW, THEREFORE, HAVING FULLY ANSWERED THE COMPLAINT OF PLAINTIFFS AND HAVING SET FORTH COUNTERCLAIMS AGAINST PLAINTIFFS HEREIN, DEFENDANT SEEKS AS FOLLOWS FROM PLAINTIFFS:

1. That the Complaint of Plaintiffs be dismissed with prejudice immediately and for all costs associated therewith to be awarded to Defendant;
2. That the Counterclaims of Defendant be granted as set forth for all costs, damages and monetary matters to be awarded to Defendant;

3. That Plaintiffs cease all harassment of Defendant and clear her account, with written apology, immediately and that her electrical power not be disrupted;
4. That Plaintiffs cease their act of trespass upon Defendant's land and for all damages and costs associated therewith be awarded to Defendant;
5. For all costs of this action to be awarded to Defendant;
6. For sanctions from this Court against Plaintiff;
7. For such other relief as determined by this Court.

Respectfully submitted,



Kathleen Jennings

(listed by Plaintiffs as K.J. Gresham)

Pro se

1524 Highway 11, Landrum, SC 29356
864-895-4222

This 29th day of September, 2008

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS

Blue Ridge Electric Cooperative,)
Inc.,)

Plaintiff,)

vs.)

Kathleen J. Gresham and)
Steve Gresham,)

Defendants.)

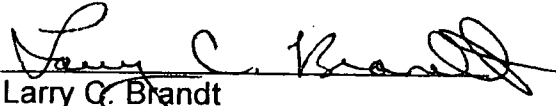
**PLAINTIFF'S REPLY TO
MOTION TO DISMISS AND
FOR COSTS AND SANCTIONS**

Case #2008-CP-23-5245

TO: DEFENDANTS, KATHLEEN J. GRESHAM AND STEVE GRESHAM

YOU ARE HEREBY NOTICED that Plaintiff, responding to the Motion of the Defendants, denies that the Defendants are entitled to the relief as requested in that the allegations of the Motion are false, misleading and certainly premature at the present time. It is, therefore, submitted that the Motion should be dismissed and that the trial should proceed forward on the merits of the claim.

Respectfully submitted,
LARRY C. BRANDT, P.A.
P.O. BOX 738
3691 BLUE RIDGE BOULEVARD
WALHALLA, S.C. 29691
864/638-5406

BY: 
Larry C. Brandt
Attorney for Plaintiff

OCTOBER
~~September~~ 7TH, 2008
Walhalla, South Carolina

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS

Blue Ridge Electric Cooperative,)
Inc.,)

Plaintiff,)

vs.)

Kathleen J. Gresham and)
Steve Gresham,)

Defendants.)
_____)

**PLAINTIFF'S REPLY TO
COUNTERCLAIM OF
DEFENDANT, STEVE GRESHAM**

Case #2008-CP-23-5245

Plaintiff, replying to the Counterclaim of the Defendant, Steve Gresham, would respectfully show unto this Court:

**REPLY TO ALL DEFENSES AND COUNTERCLAIMS
PLED BY DEFENDANTS IN THE ANSWER**

1. All matters set forth in the original Complaint are again restated and incorporated herein by reference as if set forth verbatim.

REPLY TO SECOND DEFENSE & COUNTERCLAIM

2. All matters set forth in the Second Defense and Counterclaim, not hereinafter specifically admitted, modified or otherwise explained, are emphatically denied.

3. Answering Paragraph 2 of the Second Defense and Counterclaim, it is admitted that Blue Ridge Electric Cooperative, Inc. is a membership organization doing business in this county, state and nation in accordance with specific laws, duties and responsibilities to the public and to the membership, and that it endeavors to adhere to its

duties and responsibilities and to conduct its business in a proper manner at all times. Any and all other allegations of said paragraph that are inconsistent herewith are denied.

4. Answering Paragraph 3 of the Second Defense and Counterclaim, it is admitted that, upon information and belief, Steve Gresham is the husband of Defendant, Kathleen Gresham, and that he lives in and/or on property with his wife whereupon the subject electrical utility service was consumed; however, Plaintiff is also informed and believes that Defendant, Steve Gresham, has an equitable interest in said real estate whether his name is on the title or not; that he has benefitted from the consumption of electrical power for which Defendants have refused to pay; that he has, on numerous occasions, personally paid the charges for a portion of the electrical service consumed on the property; and that, although Steve Gresham has not executed any contractual documents with the Plaintiff, he has, directly and indirectly, exercised and enjoyed a business relationship with Plaintiff, particularly in regards to the consumption of electrical service consumed on the subject property. Based upon this information, Plaintiff is informed and believes that he is properly named as a Defendant, and that he has joint and several liability with his wife for the payment of the debt to the Plaintiff. All other allegations of Paragraph 3, inconsistent herewith, are emphatically denied.

5. Answering Paragraph 4 of the Second Defense and Counterclaim, it is obvious from the reading of the pleadings that Defendant is seeking punitive and actual damages from Plaintiff for bringing this action; however, Plaintiff is informed and believes that he has not been damaged in any manner or form whatsoever and that such claim is without merit and should be denied. Further answering said paragraph, it is emphatically denied that Defendants allowed Plaintiff to inspect the power lines and/or to read the

meters during the period of time when the electricity was being consumed upon the premises as the Defendants, have, in fact, conspired together to shut Plaintiff out of the property and have knowingly and intentionally prevented it to go upon same for the purpose of reading the meters and preparing an accurate bill based upon the actual electrical consumption as it was consumed. It is further emphatically denied that Defendants have cooperated in any way with the Plaintiff in attempting to resolve this matter as information was requested of Defendants and same was not furnished. All other allegations of Paragraph 4, inconsistent herewith, are emphatically denied.

6. Answering Paragraph 5 of the Second Defense and Counterclaim, it is admitted that Defendants have claimed they have lived elsewhere during periods of the time that electrical utility service was consumed which is the subject of this action; however, Plaintiff has no actual knowledge of same and, in fact, has requested that Defendants furnish to it proof of living elsewhere but Defendants have failed and refused to present the information requested. All other allegations of Paragraph 5, inconsistent herewith, are emphatically denied.

7. Answering Paragraphs 6 and 7 of the Second Defense and Counterclaim, it is admitted that the Plaintiff billed Defendants monthly for power bills and that those power bills were paid by Defendants; however, said bills were merely estimates of power consumption and not bills of actual meter readings or the actual electrical utility service consumed on the premises because the Defendants, jointly and severally, locked Plaintiff out of the property and refused to allow reasonable access for the reading of meters so that a bill based on actual consumption of electrical utility service could be prepared. All other allegations of Paragraphs 6 and 7, inconsistent herewith, are emphatically denied.

8. Answering Paragraph 8 of the Second Defense and Counterclaim, Plaintiff emphatically denies same and would show that, on numerous occasions, it attempted to contact the Defendants to gain access to the property for the reading of the meters, but Defendants intentionally avoided the Plaintiff and would not respond to or cooperate with Plaintiff in resolving the issues giving rise to this Complaint and/or allowing it access to the property for an accurate reading of the electrical meters thereon and preparing a bill on actual electrical utility service consumption.

9. Answering Paragraph 9 of the Second Defense and Counterclaim, it is admitted that the Plaintiff accepted payments for those amounts that were billed based on estimated billings, but, again, reiterates that those billings were merely estimates of electrical utility service consumption on the premises rather than the actual consumption of electrical utility service. Plaintiff will further show that billing customers based on estimated power consumption when access to the property cannot be obtained by Blue Ridge is a common practice for Blue Ridge, as well as all other electrical utility services, coops and power companies, and that it is common business practice that when an actual meter reading is finally obtained, that the difference between the amounts already paid and the charges for electrical utility service consumed is billed. All other allegations of Paragraph 9, inconsistent herewith, are emphatically denied.

10. Answering Paragraph 10 of the Second Defense and Counterclaim, Plaintiff denies the allegations contained therein and, again, reiterates that on numerous instances it has attempted to contact Defendants and obtain access to the property for the purpose of reading the meters and preparing an accurate bill based upon the actual electrical utility service consumed on the premises, but Defendants have failed and refused to return

messages, calls, etc. and have taken all actions they could to avoid the Plaintiff and/or refuse to even respond to Plaintiff to inquire of what problems were being encountered and how they could rectify same.

11. Answering Paragraph 11 of the Second Defense and Counterclaim, Plaintiff would show that because of the difficulties that it has had in dealing with the Defendants that it desires to terminate the power service of Defendants because of Defendants' extreme and unreasonable actions in dealing with Plaintiff; however, Plaintiff has not terminated any power service to the premises, and has attempted in every way to work out the problem without interrupting the power service to the Defendants. Plaintiff would further show unto the Court that the numerous allegations contained in this Second Defense and Counterclaim are inconsistent with each other. Defendant, Steve Gresham, alleges in some parts that he has no contractual or business relationship with the Coop, but then alleges that he has the right to have power supplied to him by the Plaintiff and that the termination of power service to him has violated some duty thereby causing distress and embarrassment to him for which he seeks damages.

12. The allegations of Paragraph 12 of the Second Defense and Counterclaim are emphatically denied inasmuch as the Plaintiff has attempted to contact Defendants on numerous occasions but Defendants have failed and refused to respond to any notices, return phone calls, etc. and/or to deal with the Plaintiff in any manner or form in an effort to resolve the issues.

13. The allegations of Paragraphs 13 and 14 of the Second Defense and Counterclaim are denied.

14. Answering Paragraph 15 of the Second Defense and Counterclaim, Plaintiff submits that same has already been done to its Cooperative members, information has been sent to them and that each and every Cooperative member understands the method and manner in which they are being billed and that the statement and/or allegation of Paragraph 15 is without reason or basis.

15. The allegations of Paragraphs 16 and 17 of the Second Defense and Counterclaim are denied.

REPLY TO THIRD DEFENSE

16. Replying to the Third Defense, as set forth in Defendants' pleading, Plaintiff, again, incorporates all prior averments set forth in the Complaint and this Answer by reference as if fully restated.

17. The allegations of Paragraph 2 of the Third Defense are denied.

18. Answering Paragraph 3 of the Third Defense, Plaintiff admits that it was the party who selected and installed the electrical utility service equipment, including any meters, etc., and, at the time the equipment was installed, it was the state of the art; however, all other allegations of Paragraph 3 are denied.

19. The allegations of Paragraph 4 of the Third Defense are denied.

20. Answering Paragraph 5 of the Third Defense, Plaintiff would show that it did provide proper and correct service and billing pursuant to good business practices of cooperatives and other utility companies under the attendant facts and circumstances of this matter, but denies that Defendants have ever been excellent customers of Blue Ridge Power, although it is admitted that the estimated bills were paid by Defendants.

21. The allegations of Paragraph 6 of the Third Defense, are denied.

REPLY TO FOURTH DEFENSE

22. Replying to the Fourth Defense, as set forth in Defendants' pleading, Plaintiff, again, realleges and reincorporates all allegations of the Complaint and prior averments of this pleading as if restated verbatim.

23. The allegations of Paragraph 2 of the Fourth Defense are emphatically denied.

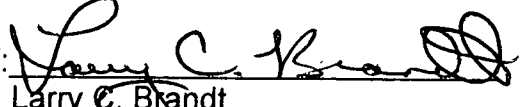
REPLY TO FIFTH DEFENSE

24. Replying to the Fifth Defense, as set forth in Defendants' pleading, Plaintiff, again, realleges and reincorporates all allegations of the Complaint and prior averments of this pleading as if restated verbatim.

25. The allegations of Paragraphs 2, 3 and 4 are denied.

WHEREFORE, Plaintiff, having fully responded to the defenses and counterclaims of the Defendants, would respectfully pray that the Court issue its Order granting judgment as set forth in the Complaint.

Respectfully submitted,
LARRY C. BRANDT, P.A.
P.O. BOX 738
3691 BLUE RIDGE BOULEVARD
WALHALLA, S.C. 29691
864/638-5406

BY: 
Larry C. Brandt
Attorney for Plaintiff

October 7th, 2008
Walhalla, South Carolina

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS

Blue Ridge Electric Cooperative,)
Inc.,)

Plaintiff,)

vs.)

Kathleen J. Gresham and)
Steve Gresham,)

Defendants.)
_____)

**PLAINTIFF'S REPLY TO
COUNTERCLAIM OF
DEFENDANT, KATHLEEN J. GRESHAM**

Case #2008-CP-23-5245

Plaintiff, replying to the Answer and Counterclaim of the Defendant, Kathleen J. Gresham, would respectfully show unto this Court:

**REPLY TO ALL DEFENSES AND COUNTERCLAIMS
PLED BY DEFENDANT IN HER ANSWER**

1. All matters set forth in the original Complaint are again restated and incorporated herein by reference as if set forth verbatim.

2. All matters set forth in Answers and Counterclaims of the Defendant, Kathleen J. Gresham, that are not refuted by the allegations of the original Complaint and/or specifically admitted, modified or otherwise explained herein, are emphatically denied.

REPLY TO FIRST DEFENSE

3. Plaintiff emphatically denies the allegations of Paragraph 3 alleging that Defendant has been an excellent customer of Blue Ridge Electrical Cooperative since the 1980's at her property listed therein.

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Set
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4. Plaintiff specifically denies those allegations of Paragraph 5 alleging that Defendant, Kathleen J. Gresham, has diligently paid monthly power bills to Blue Ridge Electrical Cooperative in a timely and responsible manner since the 1980's.

5. The allegations of Paragraph 6, as stated, are emphatically denied.

REPLY TO SECOND DEFENSE AND COUNTERCLAIM

6. Answering Paragraph 2 of the Second Defense and Counterclaim, it is admitted that Blue Ridge Electric Cooperative, Inc. is a membership organization doing business in this county, state and nation in accordance with specific laws, duties and responsibilities to the public and to the membership, and that it endeavors to adhere to its duties and responsibilities and to conduct its business in a proper manner at all times. Any and all other allegations of said paragraph that are inconsistent herewith are denied.

7. Answering Paragraph 3 of the Second Defense and Counterclaim, it is admitted that, upon information and belief, Steve Gresham is the husband of Defendant, Kathleen Gresham, and that he lives in and/or on property with his wife whereupon the subject electrical utility service was consumed; however, Plaintiff is also informed and believes that Defendant, Steve Gresham, has an equitable interest in said real estate whether his name is on the title or not; that he has benefitted from the consumption of electrical power for which Defendants have refused to pay; that he has, on numerous occasions, personally paid the charges for electrical service consumed on the property; and that, although Steve Gresham has not executed any contractual documents with the Plaintiff, he has, directly and indirectly, exercised and enjoyed a business relationship with Plaintiff, particularly in regards to the consumption of electrical service on the subject

property. Based upon this information, Plaintiff is informed and believes that he is properly named as a Defendant, and that he has joint and several liability with his wife for the payment of the debt to the Plaintiff. All other allegations of Paragraph 3, inconsistent herewith, are emphatically denied.

8. The allegations of Paragraphs 4, 5 and 6 are denied.

9. Answering Paragraph 7 of the Second Defense and Counterclaim, Plaintiff admits that Defendant paid each and every monthly power bill sent by way of regular mail to her during the period of time in question; however, the remaining allegations of Paragraph 7 are emphatically denied. Plaintiff would further show that, at all times, the Defendant, Kathleen J. Gresham, knew that the power bill was an estimated bill as same was marked thereon and that, at some point in time, the actual meter reading would have to be reconciled with the estimated usage of electrical service and payments adjusted to reconcile to same.

10. The allegations of Paragraphs 8, 9 and 10 are emphatically denied.

11. Answering Paragraph 11, Plaintiff would show that, due to the difficulties that it has had in dealing with the Defendants, it desires to terminate the power service to Defendant because of Defendant's extreme and unreasonable actions in dealing with Plaintiff and its employees; however, Plaintiff has not terminated any power service to the premises and has attempted in every way to work out all problems without interrupting the power service to the Defendant. Plaintiff admits that the estimated monthly bills that were sent during the period of June 25, 2003 until May 16, 2007, were paid but, again, reiterates that those were billings based on estimated consumption of power on the premises which was known to the Defendant.

12. Answering Paragraph 12 of the Second Defense and Counterclaim, it is admitted that Plaintiff has cashed each and every check of Defendant for the period in question but denies that it was without complaint and without any notification or, at least, an attempt to notify the Defendant of problems and its desire to enter the property to obtain an actual reading of the meter.

13. The allegation of Paragraph 13 is denied inasmuch as it infers or intimates that the Plaintiff marked the checks as paid in full, but that the checks were accepted and were marked in such manner as to constitute full payment for the electrical power actually consumed on the premises; however, Defendant knew full well that the bills were estimated and that there would need to be a reconciliation at some point in time when the actual meter readings could be obtained.

14. As aforesaid, replying to Paragraph 14, the Plaintiff would love to terminate the power service to Defendant's residence; however, it has not done so and it is not now asking this Court to allow it to do so and, therefore, denies all allegations of Paragraph 14.

15. The allegations of Paragraph 15 are denied as stated. Further answering, Plaintiff would show that it has attempted to call the Defendant on her business phone and residence phone that has been publicly listed since the 1980's. Plaintiff does not recall ever having a cell phone number for the Defendants; however, the Defendants have always, for the most part, failed and refused to return its calls. It is admitted that the Defendant has had the same residence, mailing address and the same home phone number since the 1980's.

16. The allegations of Paragraph 16 are emphatically denied as stated, as the Plaintiff has only sought to collect money owing to it, has not turned the Defendants' accounts over to any debt collection service, and has not publicly nor privately marked them as debtors or owing money on any records but its own. All other allegations of Paragraph 16 are emphatically denied.

17. The allegations of Paragraphs 17 and 18 are denied.

18. Answering Paragraph 19, the Plaintiff would show that it has not notified any credit agencies of any information concerning the Defendants and/or reported them as delinquent debtors to anyone; therefore, any allegations and/or requests for the relief contained in Paragraph 19 are denied.

19. Answering Paragraph 20, Plaintiff would show that the power to Defendants' property was done pursuant to an agreement with the Defendant, Kathleen Gresham; that Defendant, Kathleen Gresham, agreed to pay for having same placed under ground; and that it was done at Defendant's insistence; therefore, Defendant would not be entitled to any reimbursement for the cost of the buried power to her property. Consequently, the allegations of Paragraph 20 are denied.

20. The allegations of Paragraphs 21, 22, 23 and 24 are denied.

REPLY TO THIRD DEFENSE

21. The allegations of Paragraph 2 of the Third Defense are denied.

22. The allegations of Paragraph 3 are admitted inasmuch as Plaintiff has never told Defendant that such meter equipment was faulty or could not be trusted as the equipment was not, in fact, faulty and was not untrustworthy; however, the road where Plaintiff was forced to place the equipment because Defendants would not provide access

to their property was too far away for the meter equipment to read the meter. Plaintiff also fully advised Defendant that the billings were estimates and Defendant, in fact, knew they were estimates; therefore, any allegation to the contrary is emphatically denied.

23. The allegations of Paragraph 4 that allege that the Defendants paid each monthly power bill as billed is admitted; however, all other allegations of Paragraph 4 are denied.

REPLY TO FOURTH DEFENSE

24. Plaintiff denies Paragraph 2 of the Fourth Defense inasmuch as the defense of laches does not apply and further that, due to the Defendants' conduct, it was impossible for Plaintiff to send an actual reading to the Defendants and/or to correct any problems occurring.

REPLY TO FIFTH DEFENSE

25. The allegations of Paragraphs 2 and 3 of the Fifth Defense are denied.

REPLY TO SIXTH DEFENSE

26. The allegations of Paragraphs 2 and 3 of the Sixth Defense are denied.

REPLY TO SEVENTH DEFENSE

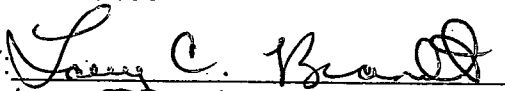
27. The allegations of Paragraph 2 are denied.

WHEREFORE, Plaintiff, having fully responded to the defenses and counterclaims of the Defendant, would respectfully pray that the Court issue its Order granting judgment

as set forth in the Complaint, and that all Counterclaims of Defendant be dismissed with costs.

Respectfully submitted,

LARRY C. BRANDT, P.A.
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864/638-5406

BY: 
Larry C Brandt
Attorney for Plaintiff

October 13, 2008
Walhalla, South Carolina

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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

BLUE RIDGE ELECTRIC :

COOPERATIVE, INC. :

:

-vs-

:

TRANSCRIPT OF RECORD

:

KATHLEEN JENNINGS GRESHAM :

August 26, 27 and 28, 2009

Greenville, South Carolina

B E F O R E:

HONORABLE R. LAWTON McINTOSH, Judge.

A P P E A R A N C E S:

LARRY C. BRANDT, ESQ.

Attorney for the Plaintiff

MARY E. DIGIROLAMO

Court Reporter

1 stand?

2 (No response from the jury panel.)

3 THE COURT: Any member of the jury panel know of any
4 reason whatsoever why they couldn't give both these
5 parties a fair and impartial trial, if so, please stand?

6 (No response from the jury panel.)

7 THE COURT: Has any member of the jury panel ever
8 had a dispute with an electrical utility supplier over a
9 bill, if so, please stand?

10 (No response from the jury panel.)

11 THE COURT: Mr. Brandt, you ready to strike the
12 jury?

13 MR. BRANDT: Plaintiff is ready.

14 THE COURT: Ms. Jennings, Mr. Gresham?

15 MS. JENNINGS: We're ready, Your Honor.

16 MR. GRESHAM: Ready, Your Honor.

17 THE COURT: Plaintiff starts out. Be four and four.
18 Four jointly for the defendants, Ms. Jennings.

19 MR. BRANDT: How many are you going to?

20 THE COURT: We're going one through 24, is that
21 right? One through 20 for the first strikes. And then
22 the alternate 21 through 23. Ms. Jennings, you and Mr.
23 Gresham will have to split two and two.

24 MR. BRANDT: Plaintiff strike number nine.

25 THE CLERK: Plaintiff strikes nine.

1 not have been through it before. Number one, I'm going
2 to ask y'all to refrain from any note taking. This is
3 not an exceedingly complex case and I don't think note
4 taking would help you out. In fact, I think it would be
5 a hindrance and a distraction to you. Do not take any
6 notes during this trial. But you have been selected by
7 both these parties in this case because they think that
8 all of you could be fair and impartial.

9 During this case at trial it's going to be your duty
10 to be the finders of the facts. The law refers to you as
11 the sole judges of the facts. Myself, nor I as the judge
12 included, has any right to invade your function as being
13 the judges of the facts. So if at any time during these
14 proceedings I make a comment, I make a gesture, or do
15 anything that may lead you to believe that I have feeling
16 one way or the other about what the verdict in this case
17 should be, I'm going to instruct you to disregard it. I
18 have no such feelings I can assure you. My job as the
19 judge is to make sure that the process is followed and
20 that the proceedings go along according to our rules of
21 evidence, rules of order.

22 But as I told you earlier, although especially with
23 pro se parties, the evidence that you're going to hear is
24 not opening statements, or closing statement, or their
25 comments from the floor. The only evidence that y'all

1 hear from what you're going to make your decision from
2 will come from this witness stand. Okay. It will come
3 from live sworn testimony. It will come from exhibits
4 that which are properly admitted. It's important
5 throughout this trial, if you would, to be conscience, to
6 be diligent, to listen to both parties, because normally
7 there is no way to correct a factual error by a jury,
8 although people have an idea you can appeal a case. Once
9 you make a finding of fact normally that cannot be
10 corrected.

11 On the other hand, the law that makes you the sole
12 judges of the facts makes me the sole judge of the law.
13 And so I will at the end of the trial charge you on the
14 law that will be applicable to your deliberations. You
15 may not agree with it. You make think it should be
16 something else, but I'm going to tell you now that you're
17 not to entertain those thoughts. Whether I'm right or
18 wrong that can be corrected on another day, but you are
19 mandated to accept the law as I charge it to you and
20 apply it to the facts as you determine those to be.

21 Throughout this trial there will be breaks.
22 Normally we try to run court on the one, two hour
23 segments. It may be longer, it may shorter, depends a
24 lot on the trial. There maybe matters of law that we'll
25 have to contend with however when we ask you step back.

1 I'm sure there will be occasions throughout this trial.

2 You're not to talk about this case until you begin
3 your deliberations, until I instruct you to do at the end
4 of this trial. That means that you can't talk about it
5 among yourselves, okay. You cannot make comments about
6 what you thought you heard or didn't hear until such time
7 as your deliberations are to begin. And that's not only
8 limited to your fellow jurors in this case that has the
9 potential of going into tomorrow and as such during
10 breaks or during times we are not in trial, you're not to
11 discuss this case with your friends, your spouses or
12 other family members, and you're certainly not to discuss
13 this case with any of these parties involved with this
14 case. That includes not only oral communications but
15 also includes e-mails, computer messages. My daughter
16 calls them text messages, whatever. But any and all
17 communications about this case are prohibited without --
18 or discussions among yourselves until -- you know, until
19 I tell you to begin your deliberations.

20 In addition, you are not to try to seek any outside
21 information about this case. I recently received -- all
22 circuit judges recently received a notice from our Chief
23 Justice that said that we are to instruct the juries that
24 they are not to try to do any of their own research about
25 the case. That means doing research about any of these

1 in the favor of plaintiff then it's your obligation to
2 find for the plaintiff, find that the defendant did not
3 meet its burden of proof. On the other hand, if the
4 scales tip ever so slightly in favor of the defendants
5 then they would have met their burden and it will be your
6 obligation to find for the defendants.

7 Before we begin I'm going to ask you if you would to
8 step back to your jury room because I need to go over
9 with these parties any exceptions or additions to my
10 instructions to you. Thank you.

11 (The jury exited the courtroom at 10:36 p.m.)

12 THE COURT: Mr. Brandt, any exceptions or additions
13 from the plaintiff?

14 MR. BRANDY: None.

15 MS. JENNINGS: None from us, Your Honor.

16 THE COURT: Let me ask y'all, just before we get
17 started, are you going to be the spokesperson for both?

18 MS. JENNINGS: Well ---

19 MR. GRESHAM: I would vote for that, Your Honor.

20 THE COURT: Sir?

21 MR. GRESHAM: I would vote for that, but there might
22 be things that I might be able to clarify.

23 MS. JENNINGS: A lot of times -- I'm just -- for the
24 sake of saving time, but there is times when he may want
25 to ask questions, and I don't want to take that right

1 away from him.

2 THE COURT: I think you could be either party, but
3 let's do this, let's try to keep it from getting
4 accumulative.

5 MS. JENNINGS: Right.

6 THE COURT: Very well. If there's nothing further
7 then let's go ahead and give them a minute, give them a
8 minute. Could -- you might tell the jury that, so they
9 don't think we're just sitting here with our finger in
10 our ear, tell them that. If you have an opening
11 statement, who's going to make it?

12 MS. JENNINGS: I'll do that, okay.

13 THE COURT: Do y'all need to take a break? I think
14 I do.

15 (A short recess was taken, after which, the trial
16 continued as follows:)

17 MR. BRANDT: Your Honor, before we start ---

18 THE COURT: Before we get started, I'm going to
19 remind Ms. Jennings, I don't need to remind Mr. Gresham,
20 I will though, you are appearing pro se. I'm going to
21 expect you to follow the rules of procedure and evidence
22 in this case. Okay, sir? Same for you, Ms. Jennings.
23 You know that, I don't need to tell you.

24 MS. JENNINGS: We're going to try.

25 THE COURT: You are going to do it. Okay. Go ahead

1 and bring them in.

2 (The jury entered the courtroom at 10:46 p.m.)

3 THE COURT: Ready to proceed?

4 MR. BRANDT: I am.

5 THE COURT: Mr. Brandt.

6 MR. BRANDT: Thank you. Let me thank you ---

7 THE COURT: I'm sorry. I forgot to swear the jury.
8 Thank you. That's my fault, ladies and gentlemen. Thank
9 you. That's why we have a good clerk here. Please stand
10 and raise your right hand. The proper response will be I
11 will.

12 (The jury was sworn to well and truly try this case
13 at 10:47 a.m.)

14 THE CLERK: Thank you. Please be seated.

15 THE COURT: Excuse me, Mr. Brandt. Go ahead.

16 MR. BRANDT: Thank you, Your Honor. Ladies and
17 gentlemen, I was introduced previously, but I'll
18 reintroduce myself. I'm Larry Brandt. I practice law in
19 Walhalla. I represent Blue Ridge Electric. I have
20 represented them on some electrical matters for a number
21 of years.

22 And today seated at the table here is Ms. Denise
23 McCormick, the first witness for the Coop. Alan Blackmon
24 is absent right now, but he'll be back shortly. He also
25 may have some information to give you.

1 This case is a case basically about a bill
2 collection. Coop members when they come in and they sign
3 up for electrical service, they sign an agreement
4 according to the bylaws. The bylaws provide and says,
5 any cooperative member has to allow Blue Ridge on their
6 property to maintain existing lines, perform any kind of
7 repairs, maintenance and basically read the meters so
8 they will know what to bill.

9 Now, Ms. Gresham signed that agreement with the Coop
10 years ago. They agreed basically to give to Blue Ridge
11 Electric Coop's agents and employees the right to enter
12 their property for those purposes set forth. Again, for
13 them to read the meter, maintain the lines.

14 Mr. Gresham did not sign an agreement with the Coop
15 but our position there is that he in fact dealt with the
16 Coop on this very account. He's even made payments on
17 the account. He lives in the home with his wife, has an
18 equitable interest in the property there. He's basically
19 jointly and severally liable. He gained the benefit of
20 the consumption of electric service which we're billing
21 for.

22 The Greshams live at 1524 Highway 11, Landrum, here
23 in Greenville County. It's in a rural area. Blue Ridge
24 of course is the only electric coop supplier out there to
25 serve the premises. They have been serving them for a

1 were -- that their primary resident they were living at
2 in the home they were consuming power at. They say we
3 turned everything off. We moved out. They never
4 notified the Coop. The Coop never had a cell phone,
5 never had a cell phone for anybody. They didn't return
6 phone calls. Even before they didn't return phone calls,
7 didn't respond in any way. The first time we know their
8 allegation was they were not in the house during any
9 period of time was when bills were sent and a dispute
10 over payment of the bill.

11 But one thing that you're going to hear Ms.
12 McCormick explain is how the bill was figured and why we
13 ended up with 8500. She'll testify to that. I don't
14 think there is any dispute that Blue Ridge sent the bill
15 to the Greshams for that amount. It is whether or not it
16 was owed.

17 Those meters, they turn like an automobile on
18 odometers. If it goes over 100,000 watts it has to start
19 over. Well, we say it rolled over and it started over.
20 From the consumption at the last known meter reading
21 until the time we got in there on May 16, 2007 it had to
22 have rolled over with normal household consumption based
23 on their consumption of electricity during the period of
24 time that we're talking about. In essence, had they been
25 there, how much had they been using?

1 the pole has been there with no complaint, but there was
2 no complaint until this case came up. They have also
3 claimed damages to their property. You will have to
4 listen to the counterclaim. We deny we caused them any
5 problem. We have done what we do for any customer, is
6 try to service their account, supply electrical utility
7 service to the premise and expect to be paid for what was
8 consumed.

9 We'll try to be as brief as we can presenting this
10 case. It's basically the kind of case I find not quite
11 as exciting as some other kinds of cases because we are
12 dealing with numbers and whatever. But we'll try to
13 speed it along and not drag it out. We'll try to get
14 this -- give you the information that you need to make
15 your decision at the end of the day.

16 If during the course of this presentation I say or
17 do anything that would offend anybody, please do not take
18 it out against my client. I'm trying to do my job and do
19 it the best I can and present their case for you to
20 decide.

21 Again, we are only here asking what is rightfully
22 Blue Ridge Electric Coop's, the Coop members. All power
23 users in the Coop system are the owners of the Coop. So
24 we're trying to be fair to each and every member, protect
25 each and every member and enforce the rules against each

1 I'd clear up a little uncertainty just so y'all won't
2 wonder what is going on with these people there.

3 We are here pro se. That means we don't have a
4 lawyer to represent us. We are representing ourselves.
5 Obviously Blue Ridge is asking for a lot of money, right
6 up to \$9,000. That's a lot of money to hit somebody
7 with. When you hear the circumstances, I want to tell
8 you what our overview of the case is going to be, you're
9 going to hear -- it's going to be confirmed when you hear
10 the testimony, when you hear -- when I actually get on
11 the stand, raise my right hand and swear to tell the
12 whole truth, when you hear Steve Gresham get on the
13 stand, raise his right hand and swear to tell the whole
14 truth, when you hear our other witnesses get on the stand
15 and swear to tell whole truth you're going to -- the
16 things I have told you here, I have tried to just give
17 you an overview, so you know the situation, what's been
18 going and that helps you understand what to be looking
19 for in the testimony.

20 It is true that I have been a customer of Blue Ridge
21 Electrical Coop since the 1980s. Long ago when I was a
22 young single women, I like Glassy Mountain. Now,
23 remember, before Jim, and then the vision of the Cliffs
24 before anything happened -- in fact I have always teased
25 Jim that he got the best part of Glassy Mountain, which

1 was left over. But I'm just teasing. I loved living on
2 the Mountain. In the 80s I moved up there. You're going
3 to hear some things, that I spent several years trying to
4 make Glassy Mountain a real different place.

5 Then I came to have a relationship with Blue Ridge.
6 I'll tell you it's been a very nice relationship. It has
7 been, I thought, a nice relationship for an awfully long
8 time. This obviously is something that surprised us.
9 You will hear this when the testimony comes out. Blue
10 Ridge -- I lived in the trailer when I sold my house in
11 the city. As a single woman, moved out to the mountains.
12 I found a tract of land, several years to put together,
13 and I moved. Everyone thought I had absolutely lost my
14 mind, including my parents, because I was living so far
15 away from anybody. Nobody knew where the heck that was.

16 So I put trailer on the property, just me and the
17 dogs. We lived there for a long, long time. And that's
18 when I had relationship with Blue Ridge. In other words,
19 I have had to pay bills from Blue Ridge every month since
20 the 1980s forward. I'll tell you unequivocally, y'all
21 will hear it on the stand, that that bill has been paid
22 immediately, timely, promptly and for exactly what the
23 bill said, for the whole -- many years.

24 Our contention is that we have been excellent
25 customers of Blue Ridge. Frankly, this lawsuit has hurt

1 our feelings. It's hurt them a lot. It's also
2 jeopardized us because of our standing in the community,
3 because of work considerations, because of you having to
4 be here to hear about this. It's obviously embarrassing.
5 This is embarrassing for us.

6 And there comes a time when you have to decide
7 you're going to stand up and speak up for what is right,
8 or just roll on. We have been the kind who stand up.
9 They are contending, they being Blue Ridge, not being
10 fair, but they're they and us, that from June 25th of
11 2003 to May 26 of 2007 that we did not pay the power
12 bill. Trust me, we paid our bill every month when we got
13 it, usually within a couple days, or it might be four or
14 five days but clearly well within 30 days. They never
15 had to call us, write collection letters, bellyache about
16 now paying our bills. You're going to hear about that.

17 We have had trouble with the meter for a long time.
18 In fact, you're going to hear testimony that where was
19 like four meters put on the thing when I was trying to
20 develop the house site that took many, many years. I had
21 to save a lot of money. After a period of living in the
22 trailer, I call it the little house, you'll hear me call
23 it, it was still there for many years, over five. When
24 we first married we lived there while we were building.
25 Then we moved up the hill, down a drive, up the hill.

1 It's still on the same property.

2 There was a lot of trouble in that neighborhood for
3 a while with people doing drugs on the property. The
4 gates stay locked. Remember, I lived by myself for a
5 long time. I locked my -- have my gates locked. Blue
6 Ridge through the course of that has cut the locks to our
7 gates three or four times, even been times when I have
8 come home and can't even get into my house because I
9 couldn't get in the property because they put their lock
10 on the gate, replacing mine. Which several times the
11 burglar alarm went off, one in which particular I
12 couldn't even get in and answer the burglar alarm because
13 but I couldn't get in because of Blue Ridge.

14 We did try. You're going to hear a life story.
15 Court is an expose of life. The things I'm telling you
16 today you're going to hear confirmed in testimony are a
17 life story. Could easily have been you standing here,
18 or -- where I am. Could be your mother, your next door
19 neighbor, your sister. This could easily be you. And
20 that's why I want you to consider this.

21 MR. BRANDY: Objection, Your Honor. It's closing
22 statements maybe but not an opening.

23 THE COURT: Just -- ladies and gentlemen of the
24 jury, we have a thing called the besides closing
25 statement and well defined rules. And if you would

1 something. I loved the farm, put a lot of my sole in it.
2 We decided to close it up and hope we could hold onto it.
3 So I looked for a house in the city. We found one that
4 was over near Memorial Hospital. I closed down this
5 mountain house. I name everything. We moved from that
6 house to the city house, 48 Ridgeland Drive, where we
7 lived for approximately 13 years.

8 The reason this is important is because this house
9 was closed down. I don't mean just like go off for
10 vacation. I mean pipes are drained. When we went up
11 there to check the mail or the burglar alarm, whenever we
12 could, we couldn't even go to the restroom because the
13 water wasn't running. We didn't want anything to happen
14 in the time that we were away. You will hear testimony
15 about that. So we actually were not there.

16 We were assured by the very top of Blue Ridge
17 Electrical on a number of occasions, a fellow named
18 Charles Dalton, I have subpoenaed him, he'll be here,
19 he's the CEO of Blue Ridge, he said they had state of the
20 art meters for many years. I called in meters readings
21 because they asked me to do that. I'd get to the house
22 and ready the meter and this went on for a number of
23 years. In fact now when I called up I would just say,
24 this is Kathleen, here's the meter reading.

25 Then they told me not to do that they had state of

1 the art. So I said, good, that's just another thing for
2 me not to have to do. They put those meters there. We
3 obviously relied on that. Relied on it very much. Just
4 like you rely on Duke Power, anybody relies on their
5 power company, whomever, to do what they're supposed to
6 do. When the bills came every month, we have paid them.
7 We didn't get behind even when our son was dying. We
8 didn't get behind. We kept up with the bills.

9 This is critical for you to understand. Remember, I
10 have been with Blue Ridge since the 80s. Steve Gresham,
11 my husband, has never been a member of the Blue Ridge
12 Coop. Blue Ridge has joined him in this dribble about
13 this lawsuit. They put his name in the lawsuit and hear
14 this very carefully when I say this, Steve Gresham did
15 not become a member of Blue Ridge Coop. He is not a
16 member of the Coop today. He's never been a member of
17 the Coop. And it's just they want to drag everybody in
18 on this case. You're going to hear testimony about that.

19 I told you I married Steve in the 90s. We moved up
20 to what I call the other house, the house on top of the
21 hill, Cliffs Hills in '91. We moved out for David. When
22 I started looking for the house, we moved out to the
23 city. Mr. Brandt says he did not know how to contact us.
24 In fact, for many, many years they sent the power bill to
25 the Ridgeland address. They knew how to contact us.

1 They knew exactly what the mailing address was, because I
2 gave it to them. Why did I do that? So we wouldn't lose
3 the power bills. We wanted to pay the power bills so the
4 power was still on at the house even though it was shut
5 down. We wanted -- the burglar alarm, the refrigerator
6 running even though it was at high settings. We could
7 have an answering machine there. We've had the same
8 telephone number since the 80s. So those things have not
9 changed except nobody was there. They knew how get us.
10 They have known how to get us. And we've always been
11 very up front.

12 I have always thought I was a friend of Blue Ridge.
13 In fact, when I had a little cottage at Flat Rock, what I
14 did was I picked up the security system up there at Blue
15 Ridge Coop. So this -- this has been an absolute
16 nightmare.

17 And we relied on Blue Ridge when they said they had
18 state of the art equipment. We relied in paying our
19 bill. We relied to being good citizens. We relied to
20 doing what was right. We've continued to do what was
21 right. You're going to hear the testimony about it
22 today. And I ask that you listen very carefully. Just
23 because it is a big company doesn't mean a big company
24 cannot make mistakes. Just because it has computers and
25 lots of things, it doesn't mean that those computers and

1 the information and companies can be make mistakes. That
2 company, good employees, they made a mistake. And now
3 they're not wanting to go back, and they have sent us
4 over 26 or so disconnect notices. So for two years every
5 month we have been living with another cancer, that is is
6 our power going to be disconnected. We hope we don't
7 wake up one morning and don't have any power or
8 something. And that's the stress that has been in this
9 family.

10 Then contrary to what Mr. Brandt said you will hear
11 testimony that approximately two years ago they erected a
12 pole on our property without permission. It wasn't
13 anything that served us. Didn't provide service to our
14 property or for us. And it had not -- had not been there
15 even before. It wasn't an old pole that was replaced.
16 It was a pole they could have put on the other side of
17 the metal guy wires, along the road. Y'all have them
18 seen go up on Highway 11. They're everywhere. But they
19 metal guy line wires to help over to that side, across
20 our own property with the guy line wires on our property.
21 It was put there without asking, without compensation,
22 and without anything, other than where are they going to
23 put this. And that's what we have brought the trespass
24 action for.

25 You're going to hear that for a year or so we tried

1 to work it out so it wouldn't come to this, that I asked
2 family member, a constituent of his, to help intervene a
3 second time. I just figured if it was just explained
4 then it would go away. That's not been the case at all.
5 It doesn't just get explained which is why we're asking
6 you to pay attention. This is a big day for us. It
7 would be big day for you. And to return a verdict. What
8 does verdict mean? To speak the truth. Thank you so
9 much.

10 MR. GRESHAM: Nothing additional, Your Honor.

11 THE COURT: Mr. Brandt.

12 MR. BRANDT: I call Denise McCormick.

13 THE CLERK: Place your left hand on the Bible and
14 raise your right hand.

15 DENISE MCCORMICK

16 Having been first duly sworn, testified as follows:

17 THE CLERK: State your name, please.

18 THE WITNESS: Denise McCormick.

19 THE CLERK: Thank you. Please be seated.

20 DIRECT EXAMINATION

21 BY MR. BRANDT:

22 Q Denise, give us your age please?

23 A I'm 57.

24 Q And where do you presently reside?

25 A I live in West Minister.

1 Q Street?

2 A 301 East Abby Street.

3 Q And where do you presently work?

4 A I work at the Blue Ridge Electric Coop.

5 Q Which office of Blue Ridge do you work out of?

6 A Primarily out of the Oconee office, but I do have
7 some system wide responsibility, so I have an office also
8 in Pickens.

9 Q What area of the country does the Coop, Blue Ridge
10 Electric Coop cover?

11 A It covers Oconee, Pickens and Greenville. We also
12 have about 608 customers in Spartanburg.

13 Q And how long have you worked for the Coop?

14 A I have been with them for 21 years.

15 Q What is your job title?

16 A I'm the manager of customer service and marketing.

17 Q How long have you had that position?

18 A About 15 years.

19 Q And during this period of time that this bill that
20 we have here subject to before the Court, was that your
21 title, or was that the job responsibility you had?

22 A Yes, sir, it was.

23 Q And tell us a little bit about what all that job
24 entails? What you're required to do in the normal course
25 of your business?

1 A Okay. Blue Ridge has four offices. We also have a
2 customer service center at those locations. Of course
3 customer service just takes phones calls, but the other
4 four locations we do accept payments, do service orders,
5 sign up new members, new customers. We also have about
6 12 people who read meters on a monthly basis. And of
7 course that has developed over time. We used to have as
8 many as 17. But I also supervise meter readers. I
9 supervise the billing, collection of payments, making
10 sure the bills go out in a timely manner. All of the
11 customer service representatives.

12 Q Are delinquent bills, do they cross your desk too?

13 A Yes, sir, I get them.

14 Q Are you involved in the collection process of the
15 delinquent accounts?

16 A Yes, sir.

17 Q And in this case how about the situation where bills
18 have been estimated then basically a meter reading is
19 obtained and the bills are reconciled, do you review
20 those too?

21 A Yes, sir.

22 Q All that is done under your basic supervision,
23 direction and control?

24 A Yes, sir, it is.

25 Q And this incident with Kathleen Jennings and Mr.

1 Gresham, was that her billings with -- and this
2 reconciliation of estimated bills, was that also done
3 under your direction and control of the Coop?

4 A Yes, sir.

5 Q Have you been intimately involved in those, the
6 billing as well as any type of negotiation or trying to
7 resolve them?

8 A Yes, sir, I have.

9 Q During the period of time Ms. Jennings and Mr.
10 Gresham have been customers of the Coop -- let's clear it
11 up, who signed the membership agreement with the Coop?

12 A Kathleen Jennings.

13 Q When was the account established, do you recall?

14 A I'm sorry we've had several accounts.

15 Q They said they have been customers since 1980.
16 Would you dispute that?

17 A One account was in 1987, I believe. But then
18 there's evidence of another account since this on another
19 structure on that property.

20 Q Do you have any record before you or do you recall
21 right now when the account was established at this Blue
22 Ridge home?

23 A I'm sorry, I don't have that exact date.

24 Q At 1524 Highway 11?

25 A I don't have that date.

1 Q Does that note on there say as to why the meter was
2 not read or the -- I think it's called a Centron?

3 A Yes, sir, it's a Centron meter. A Centron meter is
4 a remote meter for varying distances, depending on the
5 terrain. But that was the meter we used at the time. We
6 had a handheld device that could read them remotely if
7 they weren't too far away.

8 Q Okay. Had you been attempting to read her account
9 using that Centron meter?

10 A We had hoped to -- we had installed one but
11 immediately we found out we couldn't pick it up. It was
12 too far off the main road.

13 Q So that was outside her locked gate?

14 A Outside her locked gate, yes, sir, it wouldn't pick
15 it up.

16 Q There was too far a distance between the locked gate
17 and her meter?

18 A Right. Where it was on the house.

19 Q Was there any agreement out there that she would
20 meet on any particular day, or meet a representative to
21 meet on any particular day to gain access to the
22 property?

23 A Yes, sir, she agreed to meet someone out there on
24 the 25th of June to have the meter read.

25 Q Was that done?

1 A It was.

2 Q And at that point in time do you recall what the
3 result was of the meter read, was it over or under?

4 A Yes, it was -- had been over estimated. I think a
5 refund was around \$225 dollars. And the refund -- a
6 refund check was mailed to her at 608 South Main Street
7 in Greenville.

8 Q Did you refund money on that?

9 A She was due a refund.

10 Q And y'all -- was there any problem with adjusting
11 the bill once you got to read your meter?

12 A No, sir.

13 MR. BRANDT: Let the record reflect that Exhibit
14 Number 1 was handed to the foreman of the jury. It is
15 being perused by the jurors as we go through the
16 testimony.

17 THE COURT: So reflected.

18 BY MR. BRANDT:

19 Q Now, after estimating -- if y'all are having to
20 estimate the bill?

21 A Yes, sir.

22 Q Was there anything else done with that meter or
23 account issues?

24 MS. JENNINGS: Object to anything that was hearsay
25 that she's aware of. She can't testify to anyone's state

1 difference between -- or the difference between the
2 estimated consumption and the actual consumption?

3 A Yes, sir.

4 Q Is that giving her credit on what the total
5 consumption for what she already paid?

6 A Yes, sir.

7 Q Is there any way you can go into that meter and
8 determine whether or not it rolled?

9 A No, sir.

10 Q Have you done anything to try to check with the
11 manufacturer, or producer of the meter as to whether it
12 could be done?

13 A Yes, sir.

14 Q And to the best of your knowledge and belief can you
15 go out there and physically prove that the meter rolled
16 over?

17 A No, sir.

18 Q The Coop has bylaws that each member is required to
19 agree to abide by, do they not?

20 A Yes, sir.

21 Q Do those bylaws make all members make their property
22 available at all times?

23 A Yes, sir.

24 Q To your knowledge have you ever had another account
25 with a member, with estimated billings on it, had over a

1 questions. Answer any questions Mrs. ---

2 THE COURT: Okay. Just one second, please. Ms.
3 Jennings is going to be a few minutes. We're going to go
4 ahead and take a break. Just take a break until five
5 after and then we'll come back. I know I need to take a
6 break myself. Until about five after.

7 (The jury exited the courtroom at 11:55 a.m.)

8 (A short recess was taken, after which, the trial
9 continued as follows:)

10 THE COURT: Ms. Jennings, you ready to proceed with
11 the cross?

12 MS. JENNINGS: I am.

13 MR. BRANDT: Let the record reflect I have retrieved
14 Exhibit Number 2 and it's back here on -- with the court
15 reporter.

16 THE COURT: So reflected.

17 (The jury entered the courtroom at 12:08 p.m.)

18 MS. JENNINGS: Please the Court, Your Honor?

19 THE COURT: Yes, ma'am.

20 CROSS-EXAMINATION

21 BY MS. JENNINGS:

22 Q Ms. McCormick, how many meters have been on the 1524
23 Highway 11 house? Not the trailer but I think that's
24 1524 also. How many meters on the house on the hill,
25 1524?

1 A I'm sorry. I don't know the answer to that. From
2 2001 on I can't tell you.

3 Q Did you look at your records ---

4 A I would have to look and see.

5 THE COURT: Just one second. You need to let the
6 lady ask her question before you respond, okay.

7 THE WITNESS: Okay.

8 THE COURT: Fine. Thank you.

9 BY MS. JENNINGS:

10 Q If you had learned that the records reflected that
11 there had been eight meters, would that surprise you?

12 A No, ma'am.

13 Q If there had been four meters, would that surprise
14 you?

15 A No, ma'am.

16 Q Okay. And just to clear something in my mind, the
17 account that we're talking about is account number
18 7110202?

19 A Yes, ma'am.

20 Q And that's listed to whom?

21 A Kathleen Jennings.

22 Q Okay. And then does -- is it fair to say, just to
23 sort of get through this jumble, does each meter have a
24 number?

25 A Yes, ma'am.

1 Q Is that meter number sort of like a fingerprint?

2 A Yes, ma'am.

3 Q Sort of that meter has that number and no other
4 number?

5 A Yes, ma'am.

6 Q Okay. And what was the number on the meter that
7 your fellow removed I think you said back on May of 2007?

8 A I don't have that with me.

9 Q Do you have it back here where we can get it for
10 you?

11 A Possibly.

12 Q I don't mind taking a look.

13 A I'm not sure I brought that with me.

14 Q Okay. But that meter had a number?

15 A Yes, ma'am.

16 Q A meter number wherever?

17 A Yes, ma'am.

18 Q Okay. And when that meter was removed, where did
19 that meter go?

20 A Back to our meter lab.

21 Q What meter lab?

22 A We bring meters back in out of the field and we hold
23 them for a period of time in case there is any question
24 about the readings so they can be tested in a general
25 period of about 90 days. They stay at the meter lab and

1 then they are sent back out into the field.

2 Q Now, you told us that this meter, this location you
3 had more trouble with anymore (sic)?

4 A Just with estimated bills.

5 Q Okay. So then I take it you held that meter?

6 A Yes, ma'am.

7 Q Okay. Where is that meter now? The number we did
8 not know, but where is that meter?

9 A I'm sorry, I don't know.

10 Q Well, do you even have it?

11 A I'm sorry, our meter lab would have to answer that.

12 Q Would it surprise you to know that I was told it was
13 lost?

14 A Yes, ma'am.

15 Q That would surprise you?

16 A Yes, ma'am.

17 Q Have meters gotten lost?

18 A I don't know.

19 Q Have meters gotten misplaced?

20 A I don't exactly know what you're asking.

21 Q Have you had meters that have gotten misplaced, and
22 you could not find them?

23 A When we change out meters, when we have meters,
24 routine test meters we're required to do this before. We
25 test a certain percentage of our meters every year, but

1 the meter that came in from your premises was kept. But
2 some meters are sent back into the field after they are
3 tested and cleaned. Some meters are never used again.
4 Because we change out the type of meter we use
5 periodically, if it's an old meter we may have it
6 destroyed.

7 Q It's fair to say that you don't know where the meter
8 is or if it was kept or by whom, or ---

9 A It was kept for a period of time because I know that
10 we had -- we had it tested. We also talked to the
11 manufacturer to see if there was any way to tell if it
12 rolled over.

13 Q You got plenty of storage, you could continue to
14 keep it?

15 A I don't -- we have 64,000 accounts. Nope, we don't
16 have that much storage room.

17 Q Okay. Now, what is the -- so now there is a new
18 meter on May of 2007. So today there is a new meter?

19 A Yes, ma'am.

20 Q Do you have that meter number?

21 A I don't.

22 Q You don't have that meter number?

23 A I don't.

24 Q There is a system of regulations that are set forth,
25 they're called something like a calibration service?

1 A Yes, ma'am.

2 Q The word calibration something means you test the
3 meter to see if it's accurate?

4 A Yes, ma'am.

5 Q And you perform certain standard tests on the meter
6 to see if it is accurate?

7 A Yes, ma'am.

8 Q Kind of like a breathalyzer examination where you
9 test the breathalyzer to make sure it is right?

10 A Yes, sir -- yes, ma'am.

11 Q Did you ever test the meter you removed on May of
12 2007?

13 A Yes, ma'am.

14 Q When?

15 A When it was brought back from the field.

16 Q Ever test it for the three or four years prior? You
17 said there was -- you were having trouble with ---

18 A No, ma'am, we didn't have access to it.

19 Q Okay. Did you ever ask me to test it?

20 A No, ma'am.

21 THE COURT: I didn't hear the question, I'm sorry.

22 BY MS. JENNINGS:

23 Q Did you ever ask me to test it?

24 A No, ma'am.

25 Q Every ask -- write me a letter saying you would like

1 to test it?

2 A No, ma'am.

3 Q Okay. The meter placed on our house in May of 2007,
4 did you ever ask to test that meter?

5 A No, ma'am.

6 Q Ever write a letter asking to test that meter?

7 A No, ma'am.

8 Q Fair to say then, Ms. McCormick, the meter is
9 totally the property of Blue Ridge Electrical and you
10 don't let customers test meters?

11 A No, ma'am.

12 Q You don't expect customers to know about that
13 process, do you, until they happen to be sued?

14 A No, ma'am. As I said we test a certain percentage
15 of our meters each year. We are required to do that, to
16 make sure that the meters are accurate. We cannot go out
17 and test every meter every year, but we are required, we
18 do test a certain percentage of our meters to make sure
19 that they are -- and our meter accuracy is like 99.6
20 percent.

21 Q Well, since this house you said has more problems
22 than any other, when you say you have 60 something
23 thousand customers, did you ever test this meter?

24 A Which meter?

25 Q Any of them?

1 A No. We didn't have access to the house.

2 Q Well, I think I asked you about did you ever ask for
3 access and I said no?

4 A No, ma'am.

5 Q Okay. Now, was there a time, Ms. McCormick, when in
6 fact people sort of as a last resort, I had called
7 myself, because some people came out and clipped the lock
8 and made their own access up to the house?

9 A Yes, ma'am, there was.

10 Q How many times did that happen?

11 A I know of one.

12 Q Could there have been more?

13 A I suppose.

14 Q Okay. And one of the documents that Mr. Brandt
15 introduced, I think it was Plaintiff's Exhibit Number 1,
16 let me just take a peak. Look please, ma'am, and tell me
17 what address you see under Kathleen P. Jennings?

18 A That address was 48 Ridgeland Drive in Greenville.

19 Q 48 Ridgeland Drive. Now, this is something that was
20 entered on this -- this record, kept in the normal course
21 of business, I think you testified to that and that was
22 yes?

23 A Yes.

24 Q Okay. Did you know Kathleen Jennings lived at 48
25 Ridgeland Drive, that being a house in the city in

1 Greenville?

2 A No, ma'am.

3 Q Well, did that ever strike you as peculiar why you
4 were sending the bills to 48 Ridgeland Drive?

5 A We sent a refund check down to an address in
6 Greenville.

7 Q Okay. Was there a downtown address other than 48
8 Ridgeland Drive on this document?

9 A We mailed a refund of 225.71 to 608 South Main
10 Street, Greenville, South Carolina, 29601 as the customer
11 requested.

12 Q Okay. Did you learn in fact that the 608 South Main
13 Street dwelling was Kathleen Jennings', the South Main
14 Street?

15 A No, ma'am.

16 Q But no doubt I gave you that address?

17 A Yes, ma'am.

18 Q No doubt you had an address of 48 Ridgeland Drive?

19 A Yes, ma'am.

20 Q Now, is it fair to say, Ms. McCormick, for a period
21 of some 10, 11, 12, at least over a decade, you mailed
22 bills for the 1524 Highway 11 residence to 48 Ridgeland
23 Drive?

24 A I don't know that.

25 Q You're a customer service rep?

1 A Yes, ma'am.

2 Q Maintain all those records?

3 A We maintain the records, yes, ma'am.

4 Q You don't have this information?

5 A All I know is on October of '05 we did an address
6 change to the Highway 11 address. I don't know how long
7 ago that we changed to the Ridgeland Drive address.

8 Q If a customer had in fact more or less moved out
9 from a residence and give Blue Ridge a new address so
10 they can get a bill to them in a proper fashion so Blue
11 Ridge could be paid, would you say that is a pretty good
12 customers?

13 A Yes, ma'am.

14 Q In fact, some customers just move out and don't tell
15 you where the heck they are and hope you never find them,
16 is that fair to say?

17 A Yes, ma'am.

18 Q That hasn't been the case with Kathleen Jennings,
19 has it?

20 A No, ma'am.

21 Q Now, Ms. McCormick, there is a little booklet y'all
22 were kind of enough to give me for this trial, called
23 bylaws of Blue Ridge electrical Coop. This is a public
24 book you put out?

25 A Yes, ma'am.

1 Q Is this a publication that you gave me?

2 A Yes, ma'am.

3 Q Okay. Fair to say this is it? I'm just going to
4 have you identify it because I'm going to introduce it
5 into evidence.

6 A Yes, ma'am.

7 MS. JENNINGS: I'm going to -- it's been marked as
8 Defendant's Exhibit Number 1 for identification, Your
9 Honor. I would like to make -- move it into evidence and
10 then I'm going to quote some things from it.

11 THE COURT: Any objection, Mr. Brandt?

12 MR. BRANDT: I don't have any objection to that.

13 THE COURT: Entered without objection. This will be
14 Defendant's Exhibit Number 1.

15 (Defendant's Exhibit Number 1 was filed.)

16 BY MS. JENNINGS:

17 Q Mr. McCormick, Defendant's Exhibit 1, fair -- I'm
18 paraphrasing to try to move it along. That specifies at
19 the very beginning of this document that it talks about
20 membership?

21 A Yes, ma'am.

22 Q Now, let me get it straight just for the jury, you
23 know, not all of them might be with Blue Ridge, they
24 might be with Duke Power. Blue Ridge is a Cooperative,
25 is that right?

1 A Yes, ma'am.

2 Q Now, a cooperative is a group of people that have
3 bound together to do a service like this one, for
4 electrical service, is that right?

5 A Yes, ma'am.

6 Q Okay. And in fact, the people who are members of
7 the cooperative are the owners of the cooperative, is
8 that fair to say?

9 A Yes, ma'am.

10 Q Okay. Is this cooperative a profit cooperative or
11 non-profit?

12 A It's non-profit.

13 Q You do not expect it to make any money?

14 A No, ma'am.

15 Q Okay. And the members get a certificate of
16 membership, is that fair to say?

17 A Yes, ma'am.

18 Q Pay a membership fee?

19 A Yes, ma'am.

20 Q Okay. All that is specified in this if somebody
21 wants to sit down and read it?

22 A Yes, ma'am.

23 Q It's right sort of a more formal process, is that
24 fair to say, to get a certificate?

25 A No, ma'am, not anymore.

1 Q But you used to get a certificate?

2 A Maybe.

3 Q Okay. You're bylaws speak to the certificate?

4 THE COURT: You have to say yes or no for the court
5 reporter.

6 THE WITNESS: Yes.

7 BY MS. JENNINGS:

8 Q If it speaks about a certificate, and you don't get
9 them anymore, then would be the bylaws say you get one,
10 you're saying you don't, then obviously that wouldn't
11 conform with the bylaws?

12 A Obviously.

13 Q Okay. It says in here, I'm quoting on page three,
14 section two, member certificate, member in the
15 cooperative will be evidenced by a member certificate
16 which in such form and contain such provisions as shall
17 be determined by the board of trustees. The certificate
18 shall be signed by the president, known as the chairman,
19 and by the secretary of the cooperative, and the
20 corporate seal should be affixed thereto. Now, I'm going
21 to ask you. Do you have in your membership records any
22 application for membership from Steve Gresham?

23 A No, ma'am.

24 Q In fact, has Steve Gresham ever been issued a member
25 certificate?

1 A No, ma'am.

2 Q And he hasn't asked for one either, has he?

3 A No, ma'am.

4 Q And is it Blue Ridge's usually keep up with whom
5 people marry?

6 A No, ma'am.

7 Q I mean, did you know when I married Steve Gresham?

8 A No, ma'am.

9 Q Did you automatically put him on the membership when
10 I married Steve Gresham back on September 8, 1990, that
11 Steve Gresham was a member of the cooperative?

12 A No.

13 Q In fact, he wasn't a member of cooperative, and has
14 never been a member of the cooperative?

15 A No, ma'am.

16 Q He doesn't have any authority to even ask questions
17 about this account really unless somebody is just nice if
18 he called to tell him?

19 A No, ma'am.

20 Q In fact, the cooperative member has solely been
21 Kathleen Jennings?

22 A Yes, ma'am.

23 Q Would you say it's solely been Kathleen Jennings
24 since the '80s?

25 A Yes, ma'am.

1 Q And have you ever had any trouble, other than this
2 arrearage that you are alleging, or this amount in
3 dispute, ever had -- has Kathleen Jennings ever been late
4 over 30 days from paying a bill from Blue Ridge?

5 A No, ma'am.

6 Q Have done so for several decades?

7 A Yes, ma'am.

8 Q Let me ask you something, Ms. McCormick, do you
9 think a citizen who gets power from an electrical coop
10 has a right at some point to think when they paid the
11 bill that the bill is done?

12 A Yes, ma'am.

13 Q Now, is it fair to say that there have been some
14 approximately 26 disconnect notices sent out with
15 Kathleen Jennings' bill?

16 A Yes, ma'am.

17 Q And is it fair to say that disconnection has -- is
18 disconnect like cutting off all your power?

19 A Yes, ma'am.

20 Q No electricity, no hot water, no air-conditioning,
21 no heat, and you have sent that notice at least 26 times?

22 A As there continues to be a past due amount in this
23 bill, yes, ma'am.

24 Q So yes is the answer? Now, is that ---

25 MR. BRANDT: Objection, Your Honor. Let her answer

1 the question. I think she talked on it.

2 THE COURT: I have to remind both of you, please.

3 THE WITNESS: I didn't mean to.

4 THE COURT: That's okay. Just make sure you let her
5 finish her question and you let her finish her answer.
6 Okay.

7 THE WITNESS: Thank you.

8 THE COURT: Thank you, ma'am.

9 BY MS. JENNINGS:

10 Q Now, is it fair to say disconnecting power to
11 customers, like an offense, a local crime, is the most
12 you can do to somebody?

13 A I suppose.

14 Q And who is this CEO head honcho? Who is the head of
15 Blue Ridge Electrical?

16 A Charles Dalton.

17 Q Since I have read them, northern Greenville County,
18 where Kathleen Jennings' house is, has one trustee on the
19 board, is that correct?

20 A Yes, ma'am.

21 Q Who is that person?

22 A That person is Kenneth Southerlin.

23 Q Is that person elected?

24 A Yes, ma'am.

25 Q That person -- would you say that person is sort of

1 like the house of representative member for the people
2 who live in that district?

3 A I suppose.

4 Q Kind of like an advocate, or champion, or their
5 shoulder to try to -- it's their designated hitter, is
6 that right? He's the one that represents that group of
7 people?

8 A Yes, ma'am.

9 Q Are those people paid?

10 A I'm sorry, I don't have access to that information.

11 Q You don't know if the trustees on the board you work
12 for are paid?

13 A I don't.

14 Q Would it surprise you to know that section five says
15 they receive compensation, including travel expenses and
16 other benefits?

17 A No, ma'am.

18 Q Now, have you ever talked to Steve Gresham?

19 A No, ma'am.

20 Q In fact, if Steve Gresham had called and said, I'm
21 Steve Gresham, I want to talk about account number 77102,
22 he probably what would have been told what?

23 A He's not on the account. It can only be discussed
24 with the account holder.

25 Q He wouldn't even be given any information?

1 A No, ma'am.

2 Q In fact, was there approximately a period of a year
3 when a discussion went on back and forth and you were
4 involved?

5 A Yes, ma'am.

6 Q Me, involved other people, involved trying not to
7 have to come to this stage?

8 A Yes, ma'am.

9 Q And during those discussions you still maintained
10 the record?

11 A Yes, ma'am.

12 Q Steve Gresham still had no role in it?

13 A No, ma'am.

14 Q We were trying to have a motion hearing to have him
15 dismissed as a party, were you aware of that?

16 A Yes, ma'am.

17 Q But yet he's still a party, isn't he?

18 A Yes, ma'am.

19 Q Now, let me return this to the court reporter. Now,
20 marked for identification is two, Ms. McCormick, Blue
21 Ridge Electrical Coop Services rules and regulations. Do
22 you recognize these -- this thick document?

23 A Yes, ma'am.

24 Q It's marked as Defendant's Exhibit Number 2 for
25 identification. Do you need to look to see if it's ---

1 A It is our document.

2 MS. JENNINGS: Well, I'd like to move Defendant'
3 Exhibit Number 2 after we've had it marked for
4 identification.

5 THE COURT: Mr. Brandt, any objection?

6 (Defendant's Exhibit Number 2 was filed.)

7 MS. JENNINGS: Thank you, ma'am.

8 BY MS. JENNINGS:

9 Q Ms. McCormick, Defendant's Exhibit Number 2 is the
10 rules and regulations. Provided in there are numerous
11 categories. Is it fair to say one of them is on number
12 403, page 40, it talks about incorrect reading of meter.
13 Now, wouldn't you say if it was knowledgeable enough or
14 preventable enough, a whole section of it would be
15 devoted one of your rules and regulations, that you have
16 incorrect readings of meters?

17 A Yes, ma'am.

18 Q So if happy owners said, you know, this doesn't look
19 right, that home owner would have a right for Blue Ridge
20 to take a look, they're one of the owners of Blue Ridge,
21 is that not right?

22 A Yes, ma'am.

23 Q Now, so really his it -- I'm not trying to be cute,
24 but you sort of work for me?

25 A Yes, ma'am.

1 Q Okay. Mr. Brandt sort of works for me?

2 A Yes, ma'am.

3 Q Mr. Alan Blackmon works for me?

4 A Yes, ma'am.

5 Q And Mr. Charles Dalton kind of works for me?

6 A Yes, ma'am.

7 Q Would it be fair to say that other than this
8 dispute, that I have been an excellent customer?

9 A Yes, ma'am.

10 Q You don't know what kind of customer Steve Gresham
11 has been because he's not been a customer?

12 A No, ma'am, just pays the bill.

13 Q Well, he's paid the bill for the last little bit,
14 but if you look back a couple decades before? Since he's
15 involved since this has been going on -- you wouldn't
16 think that it would be too bad of a husband and wife, if
17 they split up the bills, one pays one and one pays the
18 other?

19 A Absolutely not.

20 Q And in fact, did you bring the bills today, that's
21 the big thing in question?

22 A No, ma'am, I did not.

23 Q You didn't bring any of the bills today?

24 A No, ma'am.

25 Q Well, just happens I have a few.

1 A Yes, ma'am.

2 Q Let me just show you so we can kind of get an idea.
3 This is a kind of a ---

4 THE COURT: Counsel, let me stop you. Have you
5 marked those?

6 MS. JENNINGS: No, sir.

7 THE COURT: Why don't you go ahead and mark them.

8 MS. JENNINGS: I don't have to, I think, introduce
9 them.

10 THE COURT: Let's go ahead and mark them.

11 MS. JENNINGS: It's a folder collectively of bills
12 from '04 running through ---

13 MR. BRANDT: Let me look.

14 MS. JENNIFER: --- August of '09.

15 MR. BRANDT: I'll stipulate these are portions of
16 billing statements that basically a customer normally
17 would keep. You tear off a portion down here at the
18 bottom, that is missing, so it's not a complete document.
19 But with that qualification I don't have any objection to
20 her using them, or admitting them into evidence.

21 THE COURT: Do you agree to that stipulation, Mrs.
22 Jennings?

23 MS. JENNINGS: I agree it's not complete. I'm not
24 sure I'm going to introduce it yet.

25 THE COURT: Well, here's my concern. I just want to

1 make sure that we have the record clear. When you start
2 discussing documents on the record I'd prefer, if you
3 want to, just mark the folder as a group exhibit.

4 MS. JENNINGS: Yes, sir.

5 THE COURT: Okay. That would be good. Ladies and
6 gentlemen, the parties have stipulated that these bills
7 don't contain the bottom portion that you maybe rip off
8 and send back with your payment, but that Exhibit Number
9 3 (sic) will be admitted as a group.

10 (Defendant's Exhibit Number 6 was marked and filed.)

11 BY MS. JENNINGS:

12 Q Ms. McCormick, I'm going to clarify a little bit.
13 Mr. Brandt said this would be -- the bill would be kept
14 but the bottom portion or something would be stuck in an
15 envelope with the check and mailed back to Blue Ridge?

16 A That's correct.

17 Q It wouldn't be complete because of that, is that
18 right?

19 A Yes, ma'am.

20 Q Okay. And just referring to this stack then of
21 documents, each one was paid in full, is that right?

22 A Yes, ma'am.

23 Q I mean, whatever the bill says was owed then it was
24 paid in full, would that be fair to say, within a few
25 days or so, not long of getting it?

1 A I suppose.

2 Q Okay. Then is it fair to say disconnect notices
3 started somewhere around July of '09?

4 A Yes, ma'am.

5 Q And each and every month there would be a disconnect
6 notice sent to this family, Kathleen Jennings,
7 continuously?

8 A Yes, ma'am.

9 Q And in fact, gives a date when it was going to be
10 disconnected?

11 A Yes, ma'am.

12 Q In fact, this bill from July 11, '09 says
13 disconnection is going to have happen July 24, '09, is
14 that right? Here, I'm sorry.

15 A Yes, ma'am, that's correct.

16 Q This bill was paid but then what's it got over there
17 is what is not paid?

18 A Yes, ma'am.

19 Q Is it fair to say there was multiple correspondences
20 from Kathleen Jennings to Blue Ridge about that amount of
21 money?

22 A Yes, ma'am.

23 Q And you and I never met prior to meeting with
24 litigation before this?

25 A No, ma'am.

1 MR. BRANDT: Objection, Your Honor. Want to
2 approach, Ms. Jennings?

3 MS. JENNINGS: Oh, sorry.

4 (A bench conference was held.)

5 MR. BRANDT: Thank you, Your Honor.

6 THE COURT: Yes, sir.

7 BY MS. JENNINGS:

8 Q Now, really, Ms. McCormick, I don't mean to be
9 flippant, but if Blue Ridge gets paid checks, cashes it
10 and it's good, do you really care who writes the check?

11 A No.

12 Q I mean, if Donald Trump wanted to pay for Kathleen
13 Jennings, it would be all right with you if it would be
14 all right with me?

15 A Yes, ma'am.

16 Q Is -- did there to come a time, Ms. McCormick, in
17 response to my inquiry that you met with David Thomas?

18 A Yes, ma'am.

19 Q Was that prior to any of this litigation being
20 filed?

21 A Yes, ma'am.

22 Q And did you compile for him, at my request, to let
23 him see what you had? I gave you no restrictions?

24 A No, ma'am.

25 Q And did he come and meet with you?

1 MS. JENNINGS: Bear with me just a minute. Put this
2 up there. Sorry, Your Honor, I'm a little slow.

3 BY MS. JENNINGS:

4 Q Now, just because Kathleen Jennings got married,
5 under the regulations, the spouse could make a special
6 application to Blue Ridge that they got married or
7 something like that?

8 A No, ma'am, he could added to the account at the
9 request of the account holder, but no.

10 Q No such request was made in this circumstance?

11 A No, ma'am.

12 Q Now, on that little sheet I think it was defendant's
13 exhibit -- Plaintiff's Exhibit Number 1 that you compiled
14 in the course of business, where it says 48 Ridgeland
15 Drive, it has a telephone number. Let's see. Is that up
16 there with you?

17 A No.

18 Q Look down at the bottom of that, and that number is
19 895-4222?

20 A Yes, ma'am.

21 Q Okay. In fact, going back and looking at your
22 records, the customer service person, that, in fact,
23 895-4222, had been the telephone number for Kathleen
24 Jennings for several decades?

25 A I haven't checked the records back, I don't know.

1 Q Would that surprise you?

2 A It wouldn't surprise me. We have had some other
3 numbers to call.

4 Q Like work numbers?

5 A I'm not sure.

6 Q Like Ridgeland Drive house number, I have a
7 telephone number 242-1884. I don't know where that is.
8 242-1884 for 48 Ridgeland drive?

9 A I have no idea, it's in a note on the account.

10 Q There is no such thing on membership that just by
11 residing in the household that service by Blue Ridge
12 Electric is there?

13 A No, ma'am.

14 Q Blue Ridge Electric did not do a census to see who
15 lives in the house, they just care who has power, I
16 reckon?

17 A No.

18 Q And on the May date, May of 2007, in the afternoon,
19 2:30, somewhere around there, when the two fellows came
20 from Blue Ridge and came to the driveway, there was no
21 advance notice given to Kathleen Jennings was there for
22 that episode?

23 A No, ma'am.

24 Q Did I have anything to do with the pole being
25 recollected on the Kathleen Jennings's property on the

1 other side of the railing the highway department puts up?

2 A No, ma'am.

3 Q Didn't know anything about it?

4 A I don't.

5 Q Don't know whether it was new or old?

6 A I don't.

7 Q Don't anything about Kathleen Jennings maintaining
8 the power right of way, cutting trees, keeping things
9 trimmed, doing whatever it took, she has taken out of her
10 own pocket, talking about myself in the third person
11 sounds silly but ---

12 A I'm sorry, I don't.

13 Q Do you know if I have kept the power right of way
14 clear? You don't know anything about it, I'm sorry, or
15 didn't know the question or ---

16 A I don't know. I haven't been out there. I haven't
17 seen that. I don't know that, no, ma'am.

18 Q If the record reflects that Kathleen Jennings made
19 some -- spent thousand of dollars to have the power
20 buried up the driveway?

21 A Yes, ma'am.

22 MR. BRANDT: Your Honor, object to relevance. All
23 that is ---

24 MS. JENNINGS: It will be clear when testimony is
25 presented.

1 THE COURT: I'll give her some leeway. But go ahead
2 and tie it up, please. Here's this exhibit.

3 BY MS. JENNINGS:

4 Q The meters readings done by Blue Ridge, did y'all
5 use the same meter reader each time, or are they
6 contracted out, subcontractors?

7 A No, they are contracted. They are their employees.
8 We try to until someone has vacation or is sick,
9 generally the same person reads it each month.

10 Q Do you know Ann Garnett (phonetically)?

11 A I do.

12 Q And do you know about multiple conversations
13 Kathleen Jennings had with Ann Garnett?

14 A I do.

15 Q Do you know Beverly -- I can't remember the last
16 name.

17 A I do.

18 Q What is Beverly's last name?

19 A Crenshaw.

20 Q So other people could have conversations with Blue
21 Ridge customers, not just you?

22 A Oh, certainly.

23 Q You have never been to this house, 1524 Highway 11,
24 have you?

25 A No, ma'am.

1 Q Since this was determined, has there a bill been
2 sent most -- each and every month showing an arrearage?

3 A Yes, sir.

4 Q The bylaws that were entered into evidence as
5 Defendant's Exhibit Number 1 and in article 2 section 3,
6 that section there is that the section that talks about
7 access to property?

8 A Yes, sir.

9 Q That's in evidence and it talks about allowing
10 access to get replacement, relocation, repair at all
11 reasonable times, correct?

12 A Yes, sir.

13 Q And also in the bylaws does it requires you to give
14 prior notice before you go on the premises and read a
15 meter?

16 A No, sir.

17 Q Do you do that as a normal course?

18 A No, sir.

19 Q The service rules and regulations, I think this --
20 she said section 4 point -- the page about incorrect
21 meter readings?

22 A Yes, sir.

23 Q Why is that in there?

24 A We are human. Before -- and particularly before we
25 were able to read meters remotely or before they were

1 picked up from radio transmitters, we were reading them
2 by hand. We went out and read them. Employees put a
3 meter reading in a device. Very easy for someone to make
4 a mistake, put a number in backward, just human error.

5 Q Was there -- did you give the customer the
6 opportunity to correct it if it did occur?

7 A Absolutely. We do a number of rereads still each
8 month.

9 Q Then to your knowledge is there any evidence that
10 exists that basically told you that any of these meters
11 were removed from the premises out there were
12 malfunctioning, or were incorrect that you know of, to
13 your knowledge?

14 A No, sir.

15 Q Do you understand there was a meter that was taken
16 off the home on I believe the 25th of May of '07 --
17 excuse me, May 16, '07 where that meter -- was there any
18 evidence that indicates that that meter malfunctioned or
19 was inaccurate?

20 A No, sir.

21 Q Just to your knowledge?

22 A No, sir.

23 Q Now, the person that would know more about meters
24 than you in the Coop would be who?

25 A Mr. Blackman.

1 meter?

2 A Are you talking about one of our people coming out
3 to take it?

4 Q Yes, when the two fellow reps came out May whatever
5 it was, 2007, they left with the meter?

6 A Yes, ma'am.

7 Q And you don't know where it is now?

8 A I don't know. I know at that point somebody tested
9 it when it was brought in. I don't know where it is,
10 ma'am.

11 Q Were you there when they tested it? You don't know
12 who tested it when they brought it in, do you?

13 A No, ma'am, not personally.

14 Q And the people that took the meter are still
15 employees of Blue Ridge?

16 A Oh, yes, ma'am.

17 Q They are not here?

18 A No, ma'am.

19 Q And so you don't have any knowledge whether it was
20 tampered with, broken, run up, run down, sent somewhere,
21 changed out with another meter, you have no idea?

22 A No, ma'am, but I'm sure they would check the number
23 when it came in.

24 Q Were you there?

25 A No, ma'am.

1 Q You don't know whether they checked it or not?

2 A No, ma'am.

3 Q You stated it happens that Blue Ridge has to go back
4 and reread meters multiple times because y'all are human?

5 A Yes, ma'am.

6 Q And wouldn't it make sense if somebody lived off the
7 road with a gate, if you wanted to go check their meter,
8 y'all would ring the telephone and say, I'm going to go
9 down and check, wouldn't that be common sense?

10 MR. BRANDT: I'm not sure this is recross.

11 MS. JENNINGS: You asked about it.

12 MR. BRANDT: She can go back once. She can go back
13 and she -- you know, that's where it should be ended
14 but ---

15 THE COURT: I'm going to allow it.

16 BY MS. JENNINGS:

17 Q Wouldn't that be common sense?

18 A I'm sorry, could you clarify what you're asking?

19 Q Yeah. If somebody lived on the road and behind a
20 gate, and you wanted to check the meter, wouldn't it sort
21 of be common sense that you would give the home owner a
22 ring on the phone and say, I'd like to check your meter?

23 A We are not to have access to this property and for
24 the majority of the them we have a key that unlocks their
25 lock that allows us onto the property. We don't normally

1 have to call. As I said, we have 64,000 members and
2 about 12 people to read meters.

3 Q Most people don't live off the road I reckon.

4 Doesn't the bylaws say be reasonable. Is it reasonable
5 to go clipping somebody's lock and go uphill and read it
6 when a telephone call probably -- would probably work?

7 A We obtained a reading. We did not clip the lock.
8 The gate was open on this day.

9 Q But you've clipped the lock before?

10 A Yes, ma'am.

11 MS. JENNINGS: That's all the questions I have.

12 MR. BRANDT: Nothing further.

13 THE COURT: Ms. McCormick, you may step down.

14 Ladies and gentlemen, this is going to be good time for
15 us to take a lunch break. I believe what time we'll come
16 back here, if you'll be back in the jury room at 2:30.
17 Give the Court staff and everybody time to do what they
18 need to do. I'm going to instruct you not to talk about
19 the case while you're out. But you're free to have lunch
20 on your own. Okay.

21 (The jury exited the courtroom at 12:52 p.m.)

22 MS. JENNINGS: Your Honor, is this stuff going to
23 all be safe?

24 THE COURT: All right. Ms. Jennings, you had a
25 question?

1 MS. JENNINGS: We can just leave this junk here?

2 THE BAILIFF: The courtroom will be locked.

3 THE COURT: Mine has been here all week and has been
4 undisturbed.

5 (A short recess was taken, after which, the trial
6 continued as follows:)

7 THE COURT: Mr. Brandt, you ready to proceed?

8 MR. BRANDT: Plaintiff is ready.

9 THE COURT: Ms. Jennings?

10 MS. JENNINGS: Yes, sir.

11 (The jury entered the courtroom at 2:30 p.m.)

12 THE COURT: I hope you guy had a good lunch. Good,
13 good. Mr. Brandt, we'll proceed with the next witness.

14 MR. BRANDT: Call Alan Blackmon.

15 THE CLERK: Place your left hand on the Bible and
16 raise your right hand.

17 ALAN BLACKMON

18 THE CLERK: State your name please.

19 THE WITNESS: Charles Alan, A-l-a-n, Blackmon.

20 THE CLERK: Thank you. Please be seated.

21 DIRECT EXAMINATION

22 BY MR. BRANDT:

23 Q Mr. Blackmon, state your full name again for the
24 record?

25 A Charles Alan Blackmon.

1 he actually did it. It's more like we who did the
2 testing, was he there present when it was done, the
3 circumstances under which it was done, because giving the
4 results just kind of puts the cart a little bit ahead of
5 the horse until a foundation has been properly laid for
6 that document.

7 MR. BRANDT: Again, a business record report kept in
8 the normal course of business under his jurisdiction and
9 control. This is a meter lab.

10 THE COURT: I'm going to allow it.

11 BY MR. BRANDT:

12 Q Please go ahead and finish. What was the test
13 result?

14 A It was 100.06 percent, which is just a tad bit fast
15 for no load and for full load -- light load, excuse me,
16 full load, I'm sorry.

17 Q Can you tell what the ranges are?

18 A Normal utilities from 99 percent to 101 percent.
19 Most all meters have been somewhere between 99 and 101
20 percent.

21 Q Is this the report for that test for that meter,
22 this one -- I guess this little area, are you here?

23 A Yes, sir, that's correct.

24 Q That's it. There were other meters tested also?

25 A All at the same time.

1 which included the pole in question.

2 Q The line to the barn, was that service line to her
3 barn?

4 A That was a service line to her barn.

5 Q To get electricity there?

6 A That's right.

7 Q And you say the total cost of the Coop running that
8 line was how much?

9 A No, that's not the total cost. The total cost had
10 been a lot more than that the cost of boring and the
11 construction. And what should have been paid on the
12 boring part would have added up to \$2400 and that was
13 waived.

14 Q Did the Coop charge her for that?

15 A No.

16 Q That was in exchange for putting the pole where it
17 is?

18 A Yes, sir.

19 Q Was the pole -- how close to the road is that pole,
20 do you know?

21 A If it's as Mr. Jennings said, close to the
22 guardrail, I don't remember a guardrail when I rode
23 through there, but it's -- I would say it's on the
24 highway easement.

25 Q The highway right of way?

1 A Yes.

2 Q Why was it, please, sir, that you waited until July
3 27th to test that meter, some four months later?

4 A It takes a while to go through the system.

5 Q So where has that meter been during -- while waiting
6 to go to them?

7 A In Mr. Drake's possession.

8 Q Totally in Mr. Drake's possession?

9 A You'd have to ask him that.

10 Q Well, I will if he's going to be put up as a
11 witness. So you haven't had the meter?

12 A I haven't been to your house.

13 Q No one has been in your office?

14 A No.

15 Q Hasn't been in your hands, been under your control?

16 A No, it might have crossed my office one day when Mr.
17 Drake came in to show it to me, but ---

18 Q Is it fair to say you don't know where the heck the
19 meter has been?

20 A I think it's been in Mr. Drake's possession.

21 Q Now, this is an electronic meter?

22 A Yes.

23 Q It's fair to say when its bills were generated it
24 had E on it, to the best of your recollection, the basic
25 bills should be electronic, couldn't it?

1 A I have -- I'm not in the billing side of it.

2 Q Now, do you know in the four months that meter was
3 somewhere, before it got tested according to this sheet
4 that you have introduced, if it was repaired?

5 A I do not know for that two months.

6 Q Was it reconditioned?

7 A I don't know.

8 Q Was it touched up?

9 A I don't know.

10 Q Was it cleaned up?

11 A I don't know.

12 Q Was it recalibrated?

13 A Don't know.

14 Q Was it refurbished?

15 A I don't know.

16 Q Painted in any way?

17 A Mr. Drake can answer all those.

18 Q Was it cleaned out?

19 A I don't know.

20 Q Was it removed to any facility, or anybody else's
21 house, or anywhere, or sent back to the manufacturer, or
22 anything of that nature?

23 A It was in Mr. Drake's possession.

24 Q Why would be -- do you recall that -- the meter
25 being of importance? Did you not chat with Ms. McCormick

1 about it?

2 A No.

3 Q Now, this -- is it fair to say this is a Slumberger
4 meter?

5 A I-front meter.

6 Q Is it a, I-front Slumberger meter?

7 A No, I think that is Slumberger J. Itron bought
8 Slumberger J.

9 Q It is in fact a company from Slumberger?

10 A Well, Slumberger J, they were bought out.

11 Q Well, I mean, I know nothing about meters but I've
12 sure learned a lot about Slumberger. Now, it's an Itron
13 meter, is that right?

14 A That's right.

15 Q Also, there are a lot off Slumbergers, it's kind of
16 like a Chrysler and Dodge, whatever, they are all under
17 the same little umbrella?

18 A Well, this meter was manufactured when it was Itron,
19 I'll just say it that way.

20 Q Isn't it true that the Slumberger meters from 1995
21 until 2004, which meter companies in a category were in
22 fact kind of considered antiquated, they were pulled and
23 you were sort of intended or encouraged to use something
24 else?

25 A No.

1 Q That's not true?

2 A Huh-uh. Now, let me rephrase that. The -- the
3 manual read meters, Slumberger J, the J5s and some of
4 those, yes, they were. But this meter here was state of
5 the art when it was made. In fact, there were more
6 suppliers who supplied -- heck, that might be the case
7 meet when we purchased this one (sic).

8 Q Let me ask you this, that's curious, state of the
9 art is what you understood was taken off the house in the
10 first place?

11 A Because that's what we did.

12 Q What we did?

13 A That's what we did.

14 Q Who is we?

15 A The person who went out there changing them.

16 Q Just on his own he decided he was going to take off
17 that meter?

18 A Oh, let -- no, what he changed was we were going to
19 a pilot program on a S gas system. It's a system that we
20 can read the meter over the power line. This meter won't
21 do that. So we put another meter in there at that time
22 to do that through the power line.

23 Q Well, Mr. Blackmon, did it ever occur to you to give
24 a holler on the telephone to the property owner and say,
25 we've had problems with the meter, we need to calibrate

1 it, remove it, and give you a heads up?

2 A Huh-uh.

3 Q No. Because in fact the Slumberger, I'm probably
4 saying it wrong, but which became Itron meters, from 1995
5 through 2004, were in fact encouraged to be pulled, not
6 put in use any more?

7 A Not -- no, I don't know of any. We had some bad
8 experiences with the Slumberger meters that we had. We
9 quit buying them quite -- I mean, probably in the 90s we
10 quit buying them.

11 Q You had bad experiences with these too, didn't you?

12 A No, we did not.

13 Q Bad such -- didn't you have such bad experiences
14 that's why you were testing the 50 meters?

15 A Because that's normally what comes in. We connect
16 probably 100 to 200 new services. We change people
17 having relocates, disconnects on the system. There is
18 meters flowing through. We probably do 2400 tests a year
19 on the meters for various reasons.

20 Q It wasn't because that was the Jennings household?

21 A No, we changed your meter on May 16th and put in
22 that other meter.

23 Q And what was the reason? I'm trying to get to that
24 state of art. You said you hadn't had no problems with
25 it, you said it was fine, maybe he had had a highway

1 change?

2 A This here didn't function well with the gauge remote
3 reading system we were using.

4 Q Did you ever let Kathleen Jennings, me, know that
5 that did not function well?

6 A No.

7 Q Did you allow them to put a support pole, guy wire
8 on my property?

9 A Yes, we did -- you did.

10 Q Um-hm. Did you ever rode -- you rode by there
11 several times? Ever meet me?

12 A No.

13 Q So you never had any discussion with me about the
14 power pole?

15 A No.

16 Q Ever had any discussions with me prior to your
17 litigation about the meter?

18 A No.

19 Q Did you ever call and ask to meet with me?

20 A No, didn't have reason to.

21 Q But the fact was, the problem household, according
22 to Ms. McCormick, the worse prodigal of them, all this
23 wouldn't give a reason for the Sr. Engineer want to chat
24 and see what you can do resolve the problem?

25 A No, but I like say, I'm not in the billing side of

1 it..

2 Q But you're a function of it? It's the engineer's
3 responsibility for the power to work properly, right?

4 A Right.

5 Q You want people to get what they pay for, pay for
6 what they get, but not to be over billed or gouged?

7 A Right.

8 MS. JENNINGS: I think that's all I have.

9 REDIRECT-EXAMINATION

10 BY MR. BRANDT:

11 Q Mr. Blackmon, that meter right there was the one
12 that was removed in May of 2007, correct?

13 A Correct.

14 Q Been there since 2001?

15 MS. JENNINGS: That wasn't raised. That was already
16 asked and answered.

17 THE WITNESS: Yes, since 2001.

18 THE COURT: Hold on. Stop. Stop. Let me -- she
19 raised an objection. She is correct that's been asked
20 and answered so just move on.

21 BY MR. BRANDT:

22 Q Okay. Now she asked you why the meter was basically
23 changed out. That meter there, were y'all being able to
24 read that meter from the road?

25 A This meter, the original meter was put in place

1 Q Did you not tell him the meter was missing?

2 A No.

3 Q What did you tell him?

4 A I don't think the meter even came up.

5 Q Now, you said you put the meter in in 2001?

6 A Um-hm.

7 THE COURT: Hold you. Stop. No, this has been
8 asked and answered. We're going to move on. That's
9 not responsive to his redirect. I'm going to stop you
10 there.

11 MS. JENNINGS: In 2003 ---

12 THE COURT: Stop. I'm going to stop you there.

13 MS. JENNINGS: Stopping me altogether? I'm sorry,
14 it wasn't clear.

15 THE COURT: You may step down, sir.

16 THE WITNESS: Thank you.

17 MR. BRANDT: Plaintiff rests their case.

18 THE COURT: Ms. Jennings? Tell you what, ladies and
19 gentlemen of the jury, we are probably going to have some
20 matters of law to take care of right now. So if you
21 would retire back to your jury room. I imagine it will
22 probably be about 15 minutes or so.

23 (The jury exited the courtroom at 2:54 p.m.)

24 MS. JENNINGS: Your Honor, I rise to make a motion
25 for a directed verdict as to Mr. Gresham. He has no

1 MR. BRANDT: Nothing further.

2 (The jury entered the courtroom at 3:05 p.m.)

3 THE COURT: All right. Ladies and gentlemen, we are
4 about to begin the defendant's side of this case. While
5 you were out the complexity or the complexion of this
6 case has changed just a little bit. I have dismissed the
7 plaintiff's claim against Steve Gresham. He has a claim
8 back against the plaintiff and that is still there, as
9 well as Ms. Jennings' claim against -- back against Blue
10 Ridge is still there. Blue Ridge's claim against Steve
11 Gresham has been dismissed. You may proceed, Ms.
12 Jennings.

13 MS. JENNINGS: Your Honor, for the convenience of
14 two witnesses I have called, if you don't mind I was
15 going to call them out of order ahead of me just to save
16 time since our side wouldn't be ---

17 THE COURT: You choose the order you want this.

18 MS. JENNINGS: The defense calls Mr. Dalton.

19 THE CLERK: Place your left hand on the Bible and
20 raise your right hand.

21 CHARLES DALTON

22 Having been first duly sworn, testified as follows:

23 THE CLERK: State your name, please.

24 THE WITNESS: Charles Dalton.

25 THE CLERK: Thank you. Please be seated.

DIRECT EXAMINATION

BY MS. JENNINGS:

Q You are Charles Dalton?

A Correct.

Q Mr. Dalton, you are the CEO of Blue Ridge Electrical Coop, is that correct?

A That's right.

Q And Mr. Dalton, thank you for coming pursuant to my subpoena. Thank you very much.

A Sure.

Q You hadn't planned to be here?

A No.

Q Mr. Dalton, you and I, is it fair to say, have had several telephone calls about meters and business dealings, power usage and such between my house at 1524 Highway 11, Greenville, and the services provided by Blue Ridge?

A That is correct.

Q Did there come a time when you received a frantic telephone call from me giving the District notice as to the -- this residence, our residence down on Highway 11?

MR. BRANDT: I'll object to leading. It's her witness.

MS. JENNINGS: Well, I didn't mean to but it's just moving ---

1 in front of the jury.

2 MR. BRANDT: Okay.

3 THE COURT: Go ahead.

4 (The jury entered the courtroom at 3:10 p.m.)

5 MS. JENNINGS: May it please the Court?

6 BY MS. JENNINGS:

7 Q Mr. Dalton, you identified the letter as one you
8 received from me, it's dated August 10, 2007?

9 A Yes, ma'am.

10 Q Now, it happens to be some -- approximately one year
11 before this action was commenced in a lawsuit?

12 THE COURT: You will have to answer instead of
13 nodding.

14 THE WITNESS: Yes.

15 BY MS. JENNINGS:

16 Q He wants you to say yes or no. Your answer is yes?

17 A Yes.

18 Q And you received this letter?

19 A Yes.

20 Q Is it an accurate reflection of our telephone
21 conversation?

22 A Well, that's hard for me to say for sure.

23 THE COURT: Mr. Dalton, I'm going to ask you to
24 speak up just a little bit. I'm having a hard time
25 hearing you.

1 A What's the date of that letter?

2 Q August 10, 2007.

3 A I probably did. Again, I don't remember, but I
4 probably did.

5 Q But could it be that you did not?

6 A It could be.

7 Q Now, is it fair to say, Mr. Dalton, you knew there
8 had been some meter readings problems historically to
9 this account, not just from 2007 forward, but some years
10 prior to 2007?

11 A Yes.

12 Q We had conversations, you and I on another occasion
13 about this very situation, is that fair to say, of not
14 accurate meter readings called in?

15 A Yes.

16 Q And in an attempt to try to help the situation as
17 you did, did you assure me that you were putting --
18 making sure that there was a state of the art, your
19 phrase, a state of the art meter placed on my house?

20 A Yes.

21 Q And that state of the art meter required that I
22 wouldn't have to call in anymore and tell you the meter
23 reading?

24 A That was our understanding with that technology at
25 that time, yes.

1 Q Okay. And did you have an occasion, Mr. Dalton, on
2 June the 27th of 2007, to also have a letter from me?

3 A Yes, to my knowledge I did receive that. It's not
4 addressed to me, but I'm assuming.

5 Q But it came to you?

6 A I don't know if it came to me, but I'm assuming I
7 saw this.

8 Q Is this copy of that letter?

9 A Um-hm.

10 MS. JENNINGS: We'd like to introduce this letter as
11 well, Your Honor.

12 THE COURT: Is there ---

13 MR. BRANDT: Same objection.

14 THE COURT: What's the date? June 27, 2007.

15 (Defendant's Exhibit Number 8 was marked and filed.)

16 BY MS. JENNINGS:

17 Q Mr. Dalton, have you discussed me at a Blue Ridge
18 Board meeting?

19 A Not to my knowledge.

20 MS. JENNINGS: Would you bear with me just one
21 minute while I find it?

22 THE COURT: Yes, ma'am.

23 BY MS. JENNINGS:

24 Q Mr. Dalton, are you aware that I have been a
25 customer of Blue Ridge's since the 1980s?

1 A That sounds right, yes, ma'am.

2 Q And virtually one of the earliest customers to Blue
3 Ridge up on the Highway 11 area, is that fair to say?

4 A Probably not. We have had folks up there since
5 1940.

6 Q But long before like Cliffs, Glassy people, and all
7 those?

8 A Yes, ma'am.

9 Q Long before these people came -- to come there, I
10 was?

11 A Yes, ma'am.

12 Q Do you ever rent land from people to erect support
13 poles?

14 A Not -- no, I don't think we rent land now.

15 Q How much did you pay for support poles to be placed
16 on property and guy wires to be placed on a person's
17 property when that support pole and those guy wires do
18 not serve that customer that's living there? In other
19 words, it's a convenience provided by a land owner to
20 have a power conglomerate ---

21 A We did not pay for distribution right of ways or
22 distribution easements.

23 Q You just put them there?

24 A With their approval, with the signing of an
25 easement.

1 Q And do you have a document executed?

2 A Generally we do, yes.

3 Q Now, this is an electrical coop, that means in all
4 due respect, you for work me?

5 A Yes, ma'am, and other members.

6 Q Mr. Blackmon works for me? Ms. McCormick works for
7 me? Mr. Brandt works for me?

8 A I let him answer that.

9 MS. JENNINGS: That's all I have, Your Honor. Thank
10 you.

11 CROSS-EXAMINATION

12 BY MR. BRANDT:

13 Q Mr. Dalton, they have talked about this one letter,
14 talked about where she says you told her you were putting
15 in state of the art equipment. Do you recall that?

16 A I think I made reference that that meter at the time
17 it was the best technology we had.

18 Q Okay. That was the best you had, but it didn't
19 work, did it?

20 A No.

21 Q Because it was still too far away from it, wasn't
22 it?

23 A Yeah. If I might address that. The meter itself
24 worked properly. The communication reading the meters
25 did not work. The meter worked perfectly. The

1 A I was aware of a problem, yes.

2 Q Okay. Did I even see you personally one time at the
3 Traveler's Rest Feed and Seed?

4 A Yes, ma'am.

5 Q Talked about if you could give me help in that
6 regard to see what we could do about the meter reading
7 situation?

8 A Yes.

9 Q Did you do that?

10 A I made sure everyone was aware of the problem. I
11 did not feel like it was my responsibility as a trustee
12 or director to get involved in any way with the
13 technical part of the problem. But I was aware of the
14 problem and people that could look into it were aware of
15 the problem.

16 Q When you became aware of the problem, in other words
17 you sort of gave a directive or high suggestion ---

18 A That's right ---

19 Q That it be taken care of?

20 A Under my role I'm involved in the policy. I'm not
21 involved in the day to day operations.

22 Q In fact, at board meetings has this situation been
23 discussed?

24 A We were briefed. We were aware of it, but as far as
25 any technical things, no.

1 people -- lawyers like to talk. So if you can just tell
2 the jury what you did.

3 A Well, Kathleen, at first I know there was a dispute
4 with the Coop and I figure the Coop was probably going to
5 be right. And so I actually looked and tried to convince
6 you to go ahead and somehow pay the money because they
7 are probably going to be right. But you were very
8 insistent there had been a terrible mistake made. So I
9 took it upon myself to try to meet with and discuss this
10 with, I don't recall call, Charles Dalton. Charles and I
11 go back a ways, old friends, from goodness, Pickens days,
12 I mean years ago, to try to figure this out, if there was
13 a way it could be worked out. I thought probably a
14 negotiated settlement might be the thing to do. That
15 comes from lawyering too, I guess. But in any case, I
16 think after a couple conversations, and Kathleen, I'm
17 sorry I can't remember this now two and a half years ago
18 just about, and I recall from one of the letters that I
19 viewed two days ago, I haven't had time to go through all
20 the calculated stuff that gave rise to that final letter
21 to Mr. Dalton where I had analyzed everything as best I
22 could with a fine tooth comb, but it was a fairly
23 indirect analysis had produced that. And actually after
24 that Mr. Dalton and Denise were kind enough to see me and
25 show me how this meter worked. And so I went out there

1 and actually looked and sat down, I believe Steve Hand
2 was there whose the -- also the attorney for the
3 associate.

4 Q Not to interrupt you, what led to the visit with you
5 and Mr. Dalton, and Ms. McCormick?

6 A Yes, ma'am.

7 Q You went to try to find out what the heck was going
8 on?

9 A That's right.

10 Q A better phrase?

11 A That's right.

12 Q You have any particular agenda there?

13 A Just to gather facts. I had wanted to actually see,
14 first of all, was there somehow we could take the meter
15 that had been used at your place and if the meter could
16 tell a story, the meter is like a clock if it rounded 12,
17 started at 12 and went all way the around then there was
18 some point in the meter where it clicked at 12, you've
19 gone all the way around, because how do you know what
20 time of day it is, morning or is it afternoon, 3:30 in
21 the afternoon, or 3:30 in the morning. You didn't know.
22 Maybe it went all the way around. I think that was what
23 Blue Ridge was assuming, it went all the way. And I
24 asked at that meeting, well, if there's nothing on the
25 clock meter to show you that it rounded all the way

1 around, how do you know it rounded all the way around to
2 12? How do you know whether it's at 330? How do you
3 know it started at 12 and then went completely around to
4 12, 230, 330, is there any indication? The answer was
5 no. Well, how then how do you know this was the usage, a
6 small amount of electricity her being gone as opposed to
7 using a lot electricity when they weren't in the house,
8 because her contention is that she was not in the house,
9 and Mr. Gresham was not in the house. Does that answer
10 all what I did. I'm sorry, excuse me. I'm showing my
11 old age. They were saying that Mr. Gresham was in the
12 house, and therefor a minimalist amount of electricity
13 would be used to which there was calls of what they had
14 used. And the calls ultimately was that -- this may come
15 in follow up but the call was -- there was an estimated
16 number but the estimate was based on one taking vacation.
17 In this case my argument was that, no, they weren't
18 taking vacation with two or three items running. We know
19 that because we had -- I mean propane evidence. We had
20 produced a number of things like that plus their own
21 explanation to me of what had happened. Well, after that
22 letter I thought well surely will end this. I don't
23 think, Kathleen, I got an answer back to the letter. I
24 don't believe -- I have looked quickly through my file
25 and I didn't -- I don't believe I had one.

1 Q In fact we've marked that letter. Let me stop here
2 and get that letter. Is -- here it is. Let's talk about
3 your pay -- reference letter. Now, let's get a time, was
4 this before any lawsuit occurred?

5 A Yes, ma'am, none had been discussed. No Blue Ridge,
6 nobody had sued Kathleen Jennings, we were trying to
7 avoid all that.

8 Q I show you Defendant's Exhibit Number 4 that's been
9 marked for ID. Is that the letter?

10 A Dear Charles.

11 Q The letter you wrote?

12 A Yeah.

13 Q To Charles Dalton, CEO, Blue Ridge Electrical Coop?

14 A It's a long letter, longer than I thought. I
15 reviewed it, I didn't know it was two pages.

16 Q Okay.

17 A Down to two pages, okay.

18 Q That letter is dated August 28, 2007?

19 A Yes, ma'am.

20 Q And that is regarding this situation that we are
21 here giving testimony about today?

22 A Yes.

23 MS. JENNINGS: I'd move this in as an exhibit at
24 this stage.

25 MR. BRANDT: Just one letter? What letter is it?

1 see that. I wrote a letter to Charles because I thought
2 that this would real helpful to him. Now realizing
3 really how he wanted to treat the case -- the situation,
4 because there was one way to extrapolate the numbers out
5 as I recall that would demonstrate -- would demonstrate
6 the use, how many hours were being used when you were
7 there. It couldn't calculate out to where the new
8 arrival time was. As you rounded the circles, but as I
9 recall it it was sort of a clock mechanism somehow in my
10 mind, that that's how it was. Then another way to
11 analyze it was by time when I knew you had been there,
12 how many hours should have been used, where the clock
13 would have been then. And both ways as I looked at it, I
14 said, Charles, the numbers aren't working out from what
15 you're arguing, so please take another look from both
16 directions. It's got to be wrong. It simply did not
17 happen like you thought.

18 Q Okay. Based upon your investigation, did you then
19 come to a conclusion about whether or not the meter
20 rolled over as Blue Ridge contended that it had?

21 A It did not.

22 Q Is there any way from the power usage you saw it
23 could have been?

24 A Couldn't have.

25 Q Okay. And based upon coming to that conclusion did

1 you share that with Mr. Dalton?

2 A Yes, ma'am, I wrote this letter.

3 Q Okay. Did you talk any more to Ms. McCormick about
4 it?

5 A I don't recall. The very nice lady was very
6 helpful. And by the way with all due respect, Coops are
7 wonderful. I love all the Coops. This not -- this is
8 not a put down to the Coop but just I think they made a
9 mechanical mistake. If they had had something on that
10 mechanism that racked up a number, as to click a gun one
11 time, you know, we are on round two, all this could be
12 avoided, but that wasn't there from the machine they
13 showed me?

14 Q To no fault of Kathleen Jennings?

15 A Absolutely not.

16 Q And as a result of that conclusion was ---

17 A Yes, ma'am.

18 Q --- did you make a suggestion to me?

19 MR. BRANDT: Objection.

20 BY MS. JENNINGS:

21 Q What did you suggest? Did you suggest to test it?

22 A Yeah, I said, why don't you -- let's see if we can
23 make the offer of, I can't recall, having someone come
24 out and you reproduce exactly -- it was Mark, I think
25 Mark was the gentleman who came out, I believe I might

1 Q And the only thing you recall maybe sending me was
2 Randy McClure's note?

3 A That's correct. Yeah, that's the propane issue, I
4 think.

5 Q But she furnished you with that note, you did not go
6 and talk to Randy McClure?

7 A No, sir, that's correct.

8 Q And in that regard then -- but you did give her a
9 copy of this letter?

10 A Yes, sir.

11 Q You did?

12 A I'm pretty sure I did. She would have moved onto
13 her own then.

14 Q She would have known what I was asking for?

15 A Exactly.

16 MR. BRANDT: I move this letter into evidence as
17 exhibit number 4.

18 MS. JENNINGS: I don't have any objection.

19 THE COURT: Admitted without objection.

20 (Plaintiff's Exhibit Number 4 was filed.)

21 BY MR. BRANDT:

22 Q Now, did she discuss with you any other problems she
23 was having with the Coop at that time, other than
24 contesting this bill?

25 A The issue -- there was a trespass issue. I think

1 she was concerned about -- she was very concerned that
2 they were threatening to turn her power off, the
3 potential death of the horses, and the value of the
4 horses, and then I think that was the time frame she was
5 back -- I can't tell exactly when, '07, '08, somewhere in
6 there, but she was scared to death the horses would die.

7 Q Okay. And other than that do you recall any other
8 complaints that she had?

9 A There was a trespass issue I think concerning a pole
10 as I recall, but again, I'm sorry, it's been two and a
11 half years, I can't remember this.

12 Q That's all right. Did you try to discuss that issue
13 with the Coop?

14 A I don't believe so. I don't believe so, no, sir. I
15 just thought that if this issue got resolved it would all
16 go away, yes, sir.

17 Q Clear up?

18 A Yes, sir.

19 Q So you thought if you could resolve the bill issue
20 the trespass issue would go away?

21 A I thought so, yeah.

22 Q It's just ---

23 A Yes, sir, the trespass issue was being tailed into
24 this.

25 Q Was all mixed together?

1 A That's right.

2 MR. BRANDT: Okay. Nothing further.

3 MS. JENNINGS: Just a couple questions.

4 REDIRECT-EXAMINATION

5 BY MS. JENNINGS:

6 Q Senator Thomas, now as to real estate, real estate
7 with people only Greenville or any county in South
8 Carolina, it's available on line, you can access it to
9 see who owns what?

10 A That's right.

11 Q Okay. If Mr. Brandt wanted to know what residences
12 Kathleen Jennings had, or David Thomas had, or Judge
13 McIntosh had, he could look it up on line himself,
14 couldn't he, and see on ownership?

15 A Yes, for ownership.

16 Q Just a matter of a second?

17 A Right.

18 Q Ownership, yeah. There is occupancy issue and owner
19 issue. So if I have owned 48 Ridgeland Drive for 13 or
20 so years, he could access that himself?

21 A Yeah.

22 Q And he could access to see in fact what taxes were
23 being charged, whether there was a bill at four percent
24 as the primary residence or six percent?

25 A Well, that's a good point. That's true. That's

1 true.

2 Q If he couldn't have, you could have done it for him?

3 A Right. Four percent would be the primary residence,
4 that's right.

5 Q And you could only have one primary residence, you
6 understand?

7 A Try to do more than that and you're in trouble.

8 Q If you have one primary at four percent and at six
9 percent, the particular county and State would take your
10 money?

11 A They will take 50 percent or higher rate.

12 Q You don't want to do that?

13 A Oh, no, you don't really want a homeowner to do
14 that.

15 Q Okay. So any property, cars, anything that Kathleen
16 Jennings or any other citizen owned would have been
17 available in his office for him to come forth with?

18 A Cars, ownership, you're talking about? Ownership,
19 yes, ma'am, cars, that's right.

20 Q Okay. Your job was really just to try to help. If
21 it got to be legal you were -- if a lawsuit was going to
22 be you were out of there?

23 A Out unless there was some arrangement to compensate.
24 If it turned about to be a deposition and interrogatories
25 then it gets into a whole other world.

1 on, hold on, please.

2 MS. JENNINGS: Yes, sir.

3 THE COURT: Your preliminary, we'll give you some
4 leeway, but the same rules apply.

5 MS. JENNINGS: Right. I understand.

6 THE WITNESS: We did live on the property while we
7 were building our home, which was about 1991. We moved
8 into our new home we had been building and we lived there
9 until about 1993ish, and that's when my son got sick with
10 cancer and we decided we needed to be closer to the city.
11 So we found a home in the city and moved there and at
12 that point we remained there until about 2005.

13 BY MS. JENNINGS:

14 Q Okay. Tell the jury if you would please, Steve,
15 during the time when we moved from the 1524 Highway 11
16 house, what you did -- what we did to this house?

17 A We closed it up because we knew we weren't going to
18 be there so we cleaned the water line and just -- we had
19 all the furniture probably moved out with our new home.
20 So it set there kind of empty with the exception of there
21 was a refrigerator and a couple other things such as a
22 dehumidifier, I think we left the pool table there. And
23 it's just some more -- some furnishings such as that, but
24 it was basically closed up.

25 Q Okay. And how much if you can estimate did we check

1 on it? Was somebody there every day?

2 A No, nobody was there every day. I went up
3 occasionally just to do some minimum maintenance, cut
4 grass, trim hedges, those kind of things, check the
5 dehumidifier from time to time, but it was not on a
6 routine basis. It was seldom actually.

7 Q Okay. And during that time the account at Blue
8 Ridge, who was it listed with?

9 A It's always been listed with you.

10 Q Okay. And did there -- where did the family move
11 during that period of time that you're testifying?

12 A 48 Ridgeland Drive.

13 Q Is ---

14 A In Greenville.

15 Q --- that in the city of Greenville?

16 A In the city of Greenville about two blocks from
17 here.

18 Q In fact, there came a time when David, our son
19 passed away?

20 A Correct.

21 Q And where were we living at that time?

22 A We were living at 48 Ridgeland Drive.

23 Q Okay.

24 A We remained there.

25 Q And when you were called up to the Gulf Way, do you

1 recall how old Jay was, our third child that we have?

2 A When I was called up to the Gulf War he wasn't born.
3 He was born in 1992 after I returned from the gulf war.

4 Q That's right. And when David was diagnosed with
5 Leukemia do you recall how old Jay was?

6 A Four months old. David was diagnosed June of '92,
7 June 5th of '92.

8 Q How long did the hospitalizations and treatment for
9 the Leukemia go on?

10 A Eight years.

11 Q During that eight years where did we live?

12 A We lived at 48 Ridgeland Drive.

13 Q Okay. And why was that?

14 A To be close to the hospital. He was in and out so
15 much of the time, even when he wasn't we were afraid he
16 might get sick and need to go back to the hospital.

17 Q You have told about your military service. I'm
18 sorry, what do you currently do?

19 A I'm the administrator at Memorial Hospital,
20 responsible for the cancer program at the children's
21 hospital, several other programs in the hospital.

22 Q How long have you worked at the Greenville Memorial
23 Hospital?

24 A Nineteen years in November.

25 Q Of course you're married?

1 A Yes..

2 Q And in your position at the hospital just tell the
3 jury real quickly what departments that you are
4 responsible for?

5 A The Cancer Center, the Children's Hospital,
6 Neuroscience, Trauma Center, support medicine and a few
7 other areas in the hospital.

8 Q Approximately how many people do you supervise?

9 A About 300.

10 Q Okay. While you were in the Air Force, did you have
11 any accommodations, medals or honors?

12 A Received Meritous Service Medal with the three oak
13 leave cluster, the Air Force accommodation medal with the
14 thee oak leave cluster, several others.

15 Q Has there ever been a time that I ignored my bills
16 from Blue Ridge Power?

17 A No, as a matter of fact that was one of the ones
18 that we paid as quickly as we got it. I think if you
19 look at some of the records I think Blue Ridge even
20 acknowledges they were made within, you know, a week or
21 so of receiving the bill.

22 Q Let me show you something that's been marked as
23 Defendant's Exhibit Number 9 for identification. These
24 are two bills that were put together. Does that two
25 bills I have indicated one from September and one from

1 October of 1908 (sic)?

2 A Of 2008.

3 Q I mean 2008?

4 A Yeah, this is them, yeah.

5 Q And does it show you checked paid for those
6 accounts?

7 A The billing date on this one was September the 12th,
8 2008, and a check was written and mailed on the 22nd. So
9 10 days from it being generated to us and we returned the
10 check.

11 Q What about the next one?

12 A The next one is the 14th of October. The check was
13 written on the 19th of October and sent back to them.

14 Q So it went out on the 14th of October in the mail to
15 get to you, and then a check on the 19th, basically the
16 pattern was followed for ---

17 A For 19 years.

18 MS. JENNINGS: We'd like to complete the
19 introduction of this, move it into evidence.

20 MR. BRANDT: I don't have any objection.

21 THE COURT: Admitted without objection.

22 (Defendant's Exhibit Number 9 was filed.)

23 BY MS. JENNINGS:

24 Q Let's move to this power bill situation. When did
25 we become aware that there was a claim from Blue Ridge

1 that there was a dramatic amount of money owed?

2 A It seems like it was October of 2007. I think
3 that's right. I don't remember. I really just remember
4 opening the power bill and there was an 8,000 and
5 something dollar bill there and that shocked me of
6 course.

7 Q And was there a disconnect notice on the bill?

8 A Yes, there was. /

9 Q Approximately how many disconnect notices have
10 occurred during this period of time?

11 A I think I remember counting something on the order
12 of 25 or 26.

13 Q Okay. And did that occur each and every month?

14 A Every month.

15 Q ,Occurred each and every month even prior to this
16 lawsuit?

17 A I can't remember exactly when it started, but yes, I
18 do remember that.

19 Q Prior to this time had the bill tell -- I can't lead
20 but tell the Court and the jury the arrangement when the
21 bill came in it was paid according to when it was billed
22 by Blue Ridge?

23 A Whatever the current billing was for Blue Ridge that
24 was the amount that was paid. It was paid in full every
25 month. It was sent to them before the due date.

1 Q And as to Blue Ridge's contention that these bills
2 were estimates, do you know anything about those bills
3 being estimates for the past several years?

4 A The only thing I knew -- no, I don't. The only
5 thing I knew was that the meter put on the house we were
6 told was a state of the art meter, that we did not need
7 to call it in. So I didn't know it was an estimate. I
8 just assumed that was it.

9 Q How long had it been a state of the art meter?

10 A Since 2001.

11 Q Okay. And did you ever during the course of some of
12 these -- did you ever have conversations with Mr. Dalton,
13 Charles Dalton, the CEO?

14 A I did not until we received the 8,000 something
15 dollar bill and then I did.

16 Q Okay.

17 A No one else at Blue Ridge would talk with me.

18 Q And had you made telephone calls to Blue Ridge for
19 power outages or other thing prior to the lawsuit?

20 A I had. Not routinely but when the power outages
21 occurred, whatever, then I would call.

22 Q Would they ever discuss anything with you?

23 A I was not a member so they wouldn't talk to me. I
24 was not the account owner, that's what was expressed to
25 me.

1 Q So did you have any information about those earlier
2 calls?

3 A No.

4 Q And did -- this would have been the first person you
5 were able to talk to at Blue Ridge, was Mr. Dalton?

6 A That's correct.

7 Q Tell us about that conversation?

8 A I called Mr. Dalton and told him about this bill
9 that we had, and I said there must have been an error.
10 And long story short, basically he said there wasn't an
11 error and they had their state of the art equipment and
12 that it was whatever they had billed us, and at that time
13 it was like \$8,585.85 and I think since that time it's
14 gone up a little bit each month by some interest percent
15 rate.

16 Q Okay. The bill is approximately 88 or 8900?

17 A Almost \$9,000.

18 Q Okay. And you told us about going to Charleston.
19 Do you have any post graduate education?

20 A I have an MBA.

21 Q You have an MBA from what university?

22 A Pacific Western University.

23 Q Okay. And did you have an occasion to go over the
24 records regarding our accounts?

25 A I did. Senator Thomas obviously was able to get

1 some information from Blue Ridge which he shared with us
2 in which they had actually I think been introduced
3 yesterday to a summary of those documents. He was able
4 to look at some document readings from 2003 to 2007, the
5 period that which we're being sued and was looking at
6 those. I didn't understand all of the wattages and those
7 things. I looked at the dollars. If you average up all
8 the dollars we've paid to Blue Ridge during the period of
9 time, it averaged out to about \$60 a month for -- for the
10 power we used while we weren't even there. So that's
11 basically what I saw from what Mr. Thomas had been able
12 to gather.

13 Q How did that apply for the time that we weren't
14 living there? How did that apply in light of the time
15 when the three of us, the two of us and the child were
16 living there now?

17 A Well, if you look at what the latest state of the
18 art meter says, and it was installed July of 2007, it
19 averages about \$144 a month.

20 MR. BRANDT: Excuse me, I didn't hear the number.

21 THE WITNESS: 144. Some months are more. Some
22 months are less. But if average those -- I think there
23 were 26 of those. If you average that out it comes out
24 to about \$144 a month.

25 BY MS. GRESHAM:

1 Q And did you -- were you able to make any type of an
2 analysis from your educational background and being one
3 ---

4 A Well, at Clemson we did simple math, but if you do
5 the math, like the \$900 that we were being billed, you
6 void out November, four months that's about 15 dollars a
7 month that Blue Ridge said that they are owed. If you
8 add that to what was already paid, which was the \$60 a
9 month. It comes out to something around 240ish dollars a
10 month for electrical use. Of course the 144 which we are
11 currently paying according to their new meter, that's a
12 \$100 a month more we would owe if we had been there.

13 Q You're saying the bill -- they're saying it's higher
14 when we weren't there than when we were actually there
15 and actually being ---

16 A About \$100 a month.

17 Q Do you feel as one of the former defendants that
18 this was bill is justified, that this is owed by Kathleen
19 Jennings?

20 A I think Blue Ridge owes you a refund.

21 Q Okay. Have you had a chance as of yesterday when
22 the meter arrived to look at the meter?

23 A Yes.

24 Q And did you hear testimony that the meter couldn't
25 tell whether it turned over or not?

1 A Correct.

2 Q Do you have an opinion about whether it turned over
3 or not?

4 A No, obviously I don't think it did. I don't even
5 know if it worked.

6 Q Okay. Did you -- we have any of that knowledge
7 prior to any of this litigation?

8 A No.

9 Q Did you rely on Blue Ridge's assurances that it was
10 a state of the art, that the bill was what it was, and us
11 making payments?

12 A Absolutely, every month since 2001.

13 Q Did do you know of any effort, conscious or
14 otherwise, to keep Blue Ridge out of this property, or
15 keep them from getting to the meter?

16 A I do not. I know that you were called and you
17 responded to their call. I think it even says in the
18 records sometime in the June 2003, so that they could
19 come to the property. Prior to that, or sometime
20 thereabouts they had put a lock on our gate. We have a
21 chain that locks the gate, closes the double gates that
22 close. There is a chain that keeps the two closed and we
23 have a lock on that. And Blue Ridge had cut the chain
24 and put their lock on it. But it was locked in such a
25 way as we could not even open our lock. So the burglar

1 alarm had gone off and we had spoken to them about that
2 and couldn't even get in to let the deputy get to the
3 house.

4 Q Locked out of our own property?

5 A Yeah.

6 Q Where was our lock placed?

7 A Our lock was on the chain but was in such a way that
8 it was not operational.

9 Q How many times do you recall we were locked out of
10 our property?

11 A At least twice. There may have been a third time
12 but I can remember twice.

13 Q Okay. And did you call Blue Ridge about it, or were
14 would you given any ---

15 A Well, I tried, but no one would talk.

16 Q Let me just show you some pictures for ease in
17 helping in this description. Larry, is that all right?

18 MR. BRANDT: I have seen them and don't have a
19 problem with them.

20 BY MS. JENNINGS:

21 Q I'm going to show you a series of five pictures. Do
22 these show the gate in reference, the chain in reference,
23 side entrance, and what you would see immediately at the
24 gate?

25 A I can just say, yes, yes. Yes, they do.

1 MS. JENNINGS: I would mark these collectively then.

2 THE COURT: Without objection?

3 MR. BRANDT: I don't have any objection.

4 (Defendant's Exhibit Number 12 was marked and
5 filed.)

6 BY MS. JENNINGS:

7 Q The telephone number we had at the Highway 11 house,
8 is -- how long have we had that telephone number?

9 A Since you and I have been married. You probably had
10 it before that.

11 Q Okay. That's the 895-4222 number?

12 A Correct.

13 Q And you heard the telephone number that Ms.
14 McCormick gave, 242-1884?

15 A That was our Ridgeland telephone number.

16 Q How long have you had that telephone number?

17 A Fourteen years, 15 years.

18 Q About how long we've lived on Ridgeland?

19 A Yes.

20 Q When did we move from Ridgeland?

21 A Right, we had another little cottage in Flat Rock.

22 Q How long did we have that cottage, if you remember?

23 A Six or seven years.

24 Q That was before David?

25 A Before he passed away.

1 Q And we were able to stay there?

2 A Yes.

3 Q Were you aware that I made Blue Ridge aware of the
4 48 Ridgeland Drive address that's on the record they ---

5 MR. BRANDT: Objection, leading.

6 BY MS. JENNINGS:

7 Q Tell us about that.

8 A Blue Ridge was made aware of the Ridgeland address
9 that we lived at. Blue Ridge sent bills there for many
10 years, as well as I think Ms. McCormick mentioned
11 yesterday they had sent some correspondence to your
12 business at South Main Street.

13 Q What do we heat up the Highway 11 house with,
14 electric or other?

15 A It is other guys just as is our current ---

16 Q Propane?

17 A Yes.

18 Q It's a buried tank?

19 A A buried tank which was purchased and buried when we
20 built the house.

21 Q Okay. And when the house was closed up for a period
22 of time, what was the heat left at, temperature?

23 A The lowest setting on the thermometer -- or the
24 thermostat.

25 Q Why was that?

1 A Well, that's as low as it could go.

2 Q Why were you leaving the heat like that?

3 A It keep the walls from cracking and that kind of
4 thing.

5 Q Did there come a time that we moved back, the three
6 family members moved back to the Highway 11 house?

7 A Yes, it was after we sold the Flat Rock -- yeah, the
8 cottage at Flat Rock.

9 Q Prior to the house at Ridgeland being sold?

10 A Yes.

11 Q During David's illness was there a time the Highway
12 11 house was put up for sale?

13 A It was up for sale a number of years, as was the
14 Ridgeland house.

15 Q The cottage in Flat Rock, were we thinking about
16 that?

17 A Well, we were trying to liquidate as much of our
18 property, or any of the property we could in order to get
19 out from some of the debt.

20 Q Okay. During that time did we keep obligations
21 paid?

22 A Yes.

23 Q Including to Blue Ridge?

24 A Every month.

25 Q Do you know if efforts were made prior to this

1 lawsuit being filed to resolve this matter?

2 A On numerous occasions. Telephone calls were made.
3 You tried to talk to Mr. Brandt but didn't have a lot of
4 success on doing that. As well Mr. Dalton we talked
5 about a couple times.

6 MS. JENNINGS: Now, you're -- you have been a
7 defendant. So Your Honor, I would stop asking questions
8 on my behalf. If he has anything he wants to say about
9 the counterclaim I feel like I shouldn't lead him through
10 and do all the inquiry. See what I mean? He's brought a
11 counterclaim too. I'm going let him question himself if
12 he wants to.

13 THE COURT: Okay.

14 MR. GRESHAM: Well, we tried to resolve this matter
15 in every way that we could. Obviously it wasn't
16 successful. And we had some concerns about what Blue
17 Ridge had done to some of our property since that point
18 in time. So we have some concerns about a power pole
19 that was placed on our property, and some of the things
20 related to that.

21 BY MS. JENNINGS:

22 Q Well, you have seen that property -- just point to
23 that, that power pole. Is it -- whose property is that
24 on?

25 A It sits on our property. It's on the Highway 11.

1 It's the interior of the highway department's guardrail
2 that sits right on the corner along the side of our
3 property. If the guy wires are correct, that pole --
4 connecting that pole onto our property are actually
5 anchored onto our property.

6 Q I'm going to show you some pictures, defendant's
7 Exhibit Number 5 for identification. Did -- do these
8 pictures depict that pole, the number, the guy wires,
9 just collectively of what you have said?

10 A Yes.

11 MS. JENNINGS: I'd like to move the introduction of
12 these.

13 MR. BRANDT: I don't have any problem with that
14 picture.

15 THE COURT: Be without objection.

16 (Defendant's Exhibit Number 5 was filed.)

17 BY MS. JENNINGS:

18 Q Your participation in answering -- you had a motion
19 on behalf of yourself to dismiss you as a party about a
20 year ago?

21 A Yes, I did.

22 Q Your participation in the hearings and the motions
23 has -- what has that caused in time from work?

24 A At least -- I have spent at least if not more than
25 an hour a week away from work to try to resolve the issue

1 with Blue Ridge when actually I wasn't even a member of
2 the Coop. And it's caused not only strain personally on
3 me but from the hospital, spending time away from my duty
4 and responsibility there. So it's been a huge
5 inconvenience.

6 Q Well, we heard about an hour approximately. Total
7 what time have you spent, if you can determine, of days,
8 or hours, or ---

9 A With all of the meetings held, phone calls,
10 preparation for this, it's been in excess of a week's
11 time. So more than 45 or 50 hours I have spent on this.

12 Q Have you taken personal leave time, other vacation
13 to do this?

14 A I'm here on my vacation today.

15 Q And did you make Blue Ridge aware of this by
16 affidavit in fact prior to this matter?

17 A Yes, I have.

18 Q You have had an occasion to review and you met with
19 David Thomas and reviewed his letter where he summarized
20 the usages. Do you agree with that letter?

21 A I do.

22 Q I'm trying to save time.

23 A Yes, I do.

24 Q Would that be the analysis you would reach?

25 A It is. He dealt -- mine dealt with the dollar

1 piece, but I concur with his finding.

2 Q How many meters are you aware have been on the
3 Highway 11 property?

4 A Four.

5 Q And did we as a family have any input into the
6 meter, the type, where it was?

7 A I wouldn't know one meter from another. No, we did
8 not.

9 Q And was there a time when we asked for that meter
10 that was removed in May of 2007?

11 A Yes, we did. As a matter of fact, Senator Thomas
12 asked for it but was told it wasn't available.

13 Q First time was yesterday?

14 A Correct.

15 MS. JENNINGS: I think that's all I have.

16 THE COURT: Mr. Brandt?

17 CROSS-EXAMINATION

18 BY MR. BRANDT:

19 Q You made a motion you said about a year ago to
20 have -- be dismissed from this lawsuit, correct?

21 A That's correct.

22 Q And that motion came before Judge Patterson who
23 was ---

24 A I don't remember. I'll take your word.

25 Q He denied the motion to dismiss you at that time?

1 A Yes.

2 Q Okay. And that was a summary judgement motion,
3 correct?

4 A I don't know, I guess.

5 Q But he heard the arguments and decided that at least
6 at that point there was just cause to leave you in this
7 lawsuit?

8 A Apparently.

9 Q Okay. Now, the property, that 1524 Highway 11,
10 whose name is it titled in?

11 A Kathleen.

12 Q You don't have any interest in that property, do
13 you?

14 A I do not.

15 Q So any damages would not go to you on that trespass,
16 or property, because you don't have an ownership in the
17 property, do you?

18 A I do not have an interest in the property.

19 Q Now, you talked about the chain being cut, or broken
20 by Blue Ridge and their own chain and you were locked out
21 at least twice?

22 A That I remember. There could be some -- there could
23 have been a third time but I honestly don't remember
24 that.

25 Q But all that occurred back prior to 2003, did it

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CIVIL—GENERAL CHARGE

JURY INSTRUCTIONS

MEMBERS OF THE JURY...NOW THAT YOU HAVE HEARD ALL THE EVIDENCE AND ARGUMENTS OF THE LAWYERS, IT IS MY DUTY TO INSTRUCT YOU ON THE LAW WHICH APPLIES TO THIS CASE. THESE INSTRUCTIONS WILL BE IN THREE PARTS:

1. THE INSTRUCTIONS ON GENERAL RULES THAT DEFINE AND CONTROL THE JURY'S DUTIES
2. THE INSTRUCTIONS THAT STATE THE RULES OF LAW YOU MUST APPLY, I.E. WHAT THE PLAINTIFF MUST PROVE TO MAKE HIS/HER CASE; AND
3. SOME RULES FOR YOUR DELIBERATIONS

IT IS YOUR DUTY TO FIND THE FACTS FROM ALL THE EVIDENCE IN THE CASE. TO THOSE FACTS YOU MUST APPLY THE LAW AS I GIVE IT TO YOU. YOU MUST FOLLOW THE LAW AS I GIVE IT TO YOU. YOU SHALL NOT BE CONCERNED WITH WHAT THE LAW SHOULD BE, BUT WHAT IT IS. AND YOU MUST NOT BE INFLUENCED BY ANY PERSONAL DISLIKES, OPINIONS, PREJUDICES, OR UNDUE SYMPATHY. THAT MEANS THAT YOU MUST DECIDE THE CASE SOLELY ON THE EVIDENCE BEFORE YOU ACCORDING TO THE LAW. YOU WILL RECALL THAT YOU TOOK AN OATH PROMISING TO DO JUST THAT AT THE BEGINNING OF TRIAL.

IN FOLLOWING MY INSTRUCTIONS, YOU MUST FOLLOW ALL OF THEM AND NOT SINGLE OUT SOME AND IGNORE OTHERS: THEY ARE ALL EQUALLY IMPORTANT. AND YOU MUST NOT READ ANYTHING INTO THESE INSTRUCTIONS OR INTO ANYTHING I HAVE SAID OR DONE, AS ANY SUGGESTION AS TO WHAT VERDICT YOU SHOULD RETURN-THAT IS A MATTER ENTIRELY FOR YOU TO DECIDE, BECAUSE UNDER OUR CONSTITUTION, I AM NOT ALLOWED TO HAVE AN OPINION AS TO THE FACTS OF THIS

CASE. YOU, AND YOU ALONE, ARE THE JUDGES OF WHAT THE FACTS ARE.

YOU DECIDE WHAT THE FACTS ARE BY EVALUATING BY WEIGHING THE EVIDENCE YOU HAVE HEARD DURING THIS TRIAL

DUTIES OF JURY AND JUDGE

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL. YOU ARE TO CONSIDER ONLY THE EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM THE RECORD DURING THIS TRIAL, YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, ANY EXHIBITS WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND ANY STIPULATIONS OF COUNSEL.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU THINK YOU HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I TELL YOU THE LAW IS,

YOU MUST FORGET THAT IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS.¹ A TRIAL JUDGE CANNOT COMMENT ON OR MAKE ANY STATEMENT ABOUT THE FACTS IN A CASE. SINCE YOU ARE THE SOLE JUDGES OF THE FACTS, DO NOT THINK BY ANYTHING I HAVE SAID DURING THE TRIAL THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS.

¹ Day v. Kilgore, 314 S.C. 365, 444 S.E.2d 515 (1994).

PREPONDERANCE OF THE EVIDENCE

THE BURDEN OF PROOF IN THIS CASE IS BY A PREPONDERANCE OF THE EVIDENCE. A PREPONDERANCE OF THE EVIDENCE SIMPLY MEANS THE GREATER WEIGHT OF THE EVIDENCE. IT IS EVIDENCE WHICH, AS A WHOLE, SHOWS THAT THE FACT SOUGHT TO BE PROVED IS MORE LIKELY TRUE THAN NOT TRUE.²

THIS CAN BE ILLUSTRATED BY IMAGINING A SET OF SCALES. WHEN THE CASE BEGINS, THE SCALES ARE EVEN. AFTER ALL OF THE EVIDENCE HAS BEEN PRESENTED, IF THE SCALES REMAIN EVEN OR IF THEY TIP EVEN SLIGHTLY IN FAVOR OF THE DEFENDANT, THEN THE PLAINTIFF HAS FAILED TO MEET THE BURDEN OF PROOF AND WOULD NOT BE ENTITLED TO RECOVER IN THIS CASE. IF, ON THE OTHER HAND, THE SCALES TIP EVEN SLIGHTLY IN FAVOR OF THE PLAINTIFF, THE PLAINTIFF WILL HAVE MET THE BURDEN OF PROOF AND YOU SHOULD RETURN A VERDICT FOR THE PLAINTIFF.

² Metropolitan Stevedore Co. v. Rambo, 521 U.S. 121, 117 S. Ct. 1953, 138 L. Ed. 2d 327 (1997).

THE PREPONDERANCE OF THE EVIDENCE IS NOT DETERMINED BY THE NUMBER OF WITNESSES. INSTEAD, IT MUST BE DETERMINED BY THE GREATER WEIGHT OF ALL OF THE EVIDENCE.

EVIDENCE

THE EVIDENCE FROM WHICH YOU ARE TO DECIDE
WHAT THE FACTS ARE CONSISTS OF:

1. THE SWORN TESTIMONY OF WITNESSES,
BOTH ON DIRECT AND CROSS-EXAMINATION,
REGARDLESS OF WHO CALLED THE
WITNESS;
2. THE EXHIBITS THAT HAVE BEEN RECEIVED
INTO EVIDENCE; AND
3. ANY FACTS TO WHICH ALL THE LAWYERS
HAVE AGREED OR STIPULATED OR THAT I
INSTRUCT YOU TO FIND.

WHAT IS NOT EVIDENCE

CERTAIN THINGS ARE NOT EVIDENCE AND YOU MAY
NOT CONSIDER THEM IN DECIDING WHAT THE FACTS ARE.
I WILL LIST THEM FOR YOU:

1. ARGUMENTS AND STATEMENTS BY LAWYERS ARE NOT EVIDENCE. THE LAWYERS ARE NOT WITNESSES. WHAT THEY HAVE SAID IN THEIR OPENING STATEMENTS, CLOSING ARGUMENTS AND AT OTHER TIMES IS INTENDED TO HELP YOU INTERPRET THE EVIDENCE, BUT IT IS NOT EVIDENCE. IF THE FACTS AS YOU REMEMBER THEM DIFFER FROM THE WAY THE LAWYERS HAVE STATED THEM, YOUR MEMORY OF THEM CONTROLS
2. QUESTIONS AND OBJECTIONS BY LAWYERS ARE NOT EVIDENCE. ATTORNEYS HAVE A DUTY TO THEIR CLIENTS TO OBJECT WHEN THEY BELIEVE A QUESTION IS IMPROPER UNDER THE RULES OF EVIDENCE. YOU SHOULD NOT BE INFLUENCED BY THE OBJECTION OR BY THE COURT'S RULING.
3. TESTIMONY THAT HAS BEEN EXCLUDED OR STRICKEN, OR THAT YOU HAVE BEEN INSTRUCTED TO DISREGARD, IS NOT EVIDENCE AND MUST NOT BE CONSIDERED. IN ADDITION, IF

TESTIMONY OR EXHIBITS HAVE BEEN RECEIVED ONLY FOR A LIMITED PURPOSE, YOU MUST FOLLOW THE LIMITING INSTRUCTIONS I HAVE GIVEN.

4. ANYTHING YOU MAY HAVE SEEN OR HEARD WHEN THE COURT WAS NOT IN SESSION IS NOT EVIDENCE. YOU ARE TO DECIDE THE CASE SOLELY ON THE EVIDENCE RECEIVED AT TRIAL.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

THERE ARE TWO TYPES OF EVIDENCE GENERALLY PRESENTED DURING A TRIAL - DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED.³

CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON PERSONAL

³ State v. Salisbury, 343 S.C. 520, 541 S.E.2d 247 (2001); Moriarty v. Garden Sanctuary Church of God, 341 S.C. 320, 534 S.E.2d 672 (2000).

KNOWLEDGE OR OBSERVATION.⁴ IT IS PROOF THAT DOES NOT ACTUALLY ESTABLISH THE FACT IN QUESTION, BUT THAT ASSERTS OR DESCRIBES SOMETHING ELSE FROM WHICH YOU MAY EITHER REASONABLY INFER THE TRUTH OF THE FACT OR AT LEAST REASONABLY INFER AN INCREASE IN THE PROBABILITY THAT THE FACT IS TRUE.⁵ FOR CIRCUMSTANTIAL EVIDENCE TO BE SUFFICIENT TO WARRANT THE FINDING OF A FACT, THE CIRCUMSTANCES MUST LEAD TO THAT FACT WITH REASONABLE CERTAINTY. THE FACTS AND CIRCUMSTANCES SHOULD BE CONSIDERED IN LIGHT OF ORDINARY EXPERIENCE AND COMMON SENSE. THE EXISTENCE OF A FACT CANNOT BE BASED ON SPECULATION, SURMISE, OR CONJECTURE.⁶

THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A

⁴ State v. Salisbury, 343 S.C. 520, 541 S.E.2d 247 (2001).

⁵ Gastineau v. Murphy, 323 S.C. 168, 473 S.E.2d 819 (Ct. App. 1996), rev'd on other grounds, 331 S.C. 565, 503 S.E.2d 712 (1998).

⁶ Holland v. Georgia Hardwood Lumber Co., 214 S.C. 195, 51 S.E.2d 744 (1949).

GREATER DEGREE OF CERTAINTY REQUIRED OF
CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE.

CREDIBILITY OF WITNESSES

IN DECIDING WHAT THE FACTS ARE, YOU MUST
CONSIDER ALL THE EVIDENCE. IN DOING THIS, YOU MUST
DECIDE WHICH TESTIMONY TO BELIEVE AND WHICH
TESTIMONY NOT TO BELIEVE. YOU MAY DISBELEIVE ALL
OR PART OF ANY WITNESS'S TESTIMONY. YOU MAY
BELIEVE ALL OF IT. IN MAKING THAT DECIISON, YOU MAY
TAKE INTO ACCOUNT A NUMBER OF FACTORS INCLUDING
THE FOLLOWING:

1. WAS THE WITNESS ABLE TO SEE, OR HEAR, OR
KNOW THE THINGS ABOUT WHICH THE WITNESS
TESTIFIED?
2. HOW WELL WAS THE WITNESS ABLE TO RECALL
AND DESCRIBE THOSE THINGS?

3. WHAT WAS THE WITNESS'S MANNER WHILE TESTIFYING?
4. IS THERE SOME REASON A WITNESS WOULD WANT TO GIVE TESTIMONY THAT WOULD HELP—OR HURT—ONE SIDE OR THE OTHER? DID THE WITNESS HAVE AN INTEREST IN THE OUTCOME OF THIS CASE OR ANY BIAS OR PREJUDICE CONCERNING ANY PARTY OR ANY MATTER INVOLVED IN THE CASE?
5. HOW REASONABLE WAS THE WITNESS'S TESTIMONY CONSIDERED IN LIGHT OF ALL OF THE EVIDENCE IN THE CASE?
6. WAS THE WITNESS'S TESTIMONY CONTRADICTED BY WHAT THAT WITNESS HAS SAID OR DONE AT ANOTHER TIME, OR BY THE TESTIMONY OF OTHER WITNESSES, OR BY OTHER EVIDENCE?

THESE ARE SOME OF THE FACTORS YOU MAY CONSIDER IN DECIDING WHETHER TO BELIEVE

TESTIMONY. AND OF COURSE, YOU DID NOT CHECK YOUR COMMON SENSE AT THE DOOR WHEN YOU REPORTED FOR JURY DUTY, SO YOU CAN AND SHOULD ALSO TAKE INTO ACCOUNT THE THINGS THAT IN YOUR DAY-TO-DAY EXPERIENCES YOU FIND INDICATIVE OF TRUTHFULNESS.

IN DEDICING CREDIBILITY OR BELEIEVABILITY, YOU MAY BELIEVE AS MUCH OR AS LITTLE OF EACH WITNESS'S TESTIMONY AS YOU THING PROPER: YOU MAY BELIEVE ALL OR PARTY OR NONE OF A WITNESSES' TESTIMONY, OR YOU MAY BELEIEVE ONE WITNESS OVER SEVERAL, OR SEVERAL OVER ONE. MOST CERTAINLY, THOUGH, YOU DO NOT DETERMINE THIS MATETR OF CREDIBILITY BY COUNTING UP THE NUMBER OF WITNESSES WHO MAY HAVE TESTIFIED ON BEHALF OF THE PARTIES IN THIS CASE BECAUSE YOUR SOLE OBJECTIVE IS TO FIND THE TRUTH. AND IT DOES NOT MATTER TO YOU WHETHER THAT TRUTH COMES FROM A WITNESS FOR THE PLAINTIFF OR A WITNESS FOR THE DEFENDANT.

CLAIM

IN THIS CASE, THE PLAINTIFF CLAIMS THAT THE DEFENDANT BREACHED A CONTRACT THAT EXISTED BETWEEN THE PARTIES. IN ORDER TO RECOVER FOR A BREACH OF CONTRACT, THE PLAINTIFF MUST PROVE THE CLAIM BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE.

BREACH

THE PLAINTIFF MUST SHOW BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE DEFENDANT UNJUSTIFIABLY BREACHED THE CONTRACT. THE WORD BREACH MEANS THE FAILURE, WITHOUT LEGAL EXCUSE, TO PERFORM ANY PROMISE THAT FORMS THE WHOLE OR A PART OF THE CONTRACT. THIS INCLUDES THE REFUSAL OF A PARTY TO RECOGNIZE THE EXISTENCE OF THE CONTRACT OR THE DOING OF SOMETHING INCONSISTENT WITH THE EXISTENCE OF THE CONTRACT. A PARTY BREACHES A CONTRACT WHEN THAT PARTY DOES NOT PERFORM AS AGREED UNDER THE CONTRACT BY FAILING TO CARRY OUT A TERM, PROMISE, OR CONDITION OF THE CONTRACT.

DAMAGES

THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE PLAINTIFF SUFFERED DAMAGES WHICH WERE CAUSED BY THE DEFENDANT'S BREACH OF THE CONTRACT. THE PLAINTIFF MUST PROVE DAMAGES BY THE PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE. THIS DOES NOT MEAN THAT THE PLAINTIFF MUST PROVE DAMAGES TO A MATHEMATICAL CERTAINTY⁷ OR PRODUCE EVIDENCE OF THE EXACT AMOUNT OF DAMAGES SUFFERED.⁸ HOWEVER, THE AMOUNT OF DAMAGES CANNOT BE LEFT TO GUESSWORK OR SPECULATION.⁹ INSTEAD, THE EVIDENCE PRESENTED BY THE PLAINTIFF MUST BE ENOUGH TO ALLOW YOU TO DETERMINE THE AMOUNT OF DAMAGES WITH REASONABLE CERTAINTY AND ACCURACY.

DAMAGES FOR BREACH OF CONTRACT ARE THOSE THAT MAY FAIRLY AND REASONABLY BE CONSIDERED TO ARISE NATURALLY FROM THE BREACH OF CONTRACT ITSELF, OR

⁷ Whisenant v. James Island Corp., 277 S.C. 10, 281 S.E.2d 794 (1981).

⁸ Jones v. Thomas & Hill, Inc., 265 S.C. 66, 216 S.E.2d 871 (1975).

⁹ Whisenant v. James Island Corp., 277 S.C. 10, 281 S.E.2d 794 (1981).

THOSE THAT MAY BE REASONABLY SUPPOSED TO HAVE BEEN IN THE MINDS OF THE PARTIES AT THE TIME THE CONTRACT WAS MADE.

THE PLAINTIFF MAY NOT RECOVER DAMAGES FOR BREACH OF CONTRACT UNLESS THE PLAINTIFF SHOWS THAT HE [SHE] HAS PERFORMED HIS [HER] PART OF THE CONTRACT, OR AT LEAST WAS ABLE, READY, AND WILLING TO PERFORM AT THE APPROPRIATE TIME.¹⁰

ACTUAL DAMAGES

ACTUAL DAMAGES ARE DAMAGES TO COMPENSATE THE PLAINTIFF AND PUT HIM [HER], AS CLOSELY AS POSSIBLE, IN THE SAME POSITION HE [SHE] WAS IN BEFORE THE BREACH OF CONTRACT.¹¹ IN OTHER WORDS, ACTUAL DAMAGES ARE THE ACTUAL LOSSES AND EXPENSES WHICH THE PLAINTIFF HAS SUFFERED BECAUSE THE DEFENDANT BREACHED THE CONTRACT.¹² GENERALLY, ACTUAL DAMAGES ARE THE OUT-OF-POCKET COSTS ACTUALLY PAID BY THE PLAINTIFF AS A RESULT OF THE BREACH OF CONTRACT AND THE GAIN ABOVE THE COSTS

¹⁰ Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469, 514 S.E.2d 126 (1999).

¹¹ Jones v. Bates, 241 S.C. 189, 127 S.E.2d 618 (1962).

¹² Holmes v. Nationwide Life Ins. Co., 273 S.C. 711, 258 S.E.2d 924 (1977).

THAT WOULD HAVE BEEN REALIZED IF THE CONTRACT HAD BEEN PERFORMED.¹³

COUNTERCLAIM

TRESPASS

THE DEFENDANT CLAIMS THAT THE PLAINTIFF TRESPASSED ON THE DEFENDANT'S PROPERTY. IN ORDER TO RECOVER FOR TRESPASS, THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE PLAINTIFF WAS IN LEGAL POSSESSION OF THE PROPERTY; THAT THE PLAINTIFF OR THE PLAINTIFF'S AGENT VOLUNTARILY ENTERED THE DEFENDANT'S PROPERTY OR COMMITTED AN INTENTIONAL PHYSICAL INTERFERENCE WITH THE DEFENDANT'S PRESENT RIGHT TO POSSESS THE PROPERTY; AND THAT THE ENTRY OR INTERFERENCE WAS MADE WITHOUT THE DEFENDANT'S PERMISSION.¹⁴

THE ENTRY OR INTERFERENCE BY THE PLAINTIFF MUST BE INTENTIONAL. INTENT IS PROVED BY SHOWING THAT

¹³ Collins Holding Corp. v. Landrum, 360 S.C. 346, 601 S.E.2d 332 (2004); South Carolina Fed. Sav. Bank v. Thornton-Crosby Dev. Co., 303 S.C. 74, 399 S.E.2d 8 (Ct. App. 1990).

¹⁴ Ravan v. Greenville County, 315 S.C. 447, 434 S.E.2d 296 (Ct. App. 1993).

THE PLAINTIFF ACTED VOLUNTARILY AND KNEW OR SHOULD HAVE KNOWN THAT THE RESULT WOULD FOLLOW THE ACT. MOTIVE OR MALICE ON THE PART OF THE PLAINTIFF IS NOT REQUIRED.¹⁵ THE PLAINTIFF DOES NOT HAVE TO INTEND DAMAGING CONSEQUENCES, BUT ONLY MUST INTEND THE ACT WHICH CONSTITUTED THE UNWARRANTED ENTRY ON THE DEFENDANT'S PROPERTY OR THE INTERFERENCE WITH THE DEFENDANT'S RIGHT OF POSSESSION.¹⁶

THE ENTRY OR INTERFERENCE MAY BE THE RESULT OF NEGLIGENCE OR A WILLFUL, DELIBERATE, OR WANTON ACT. A NEGLIGENT ACT IS ONE WHICH LACKS THE CARE WHICH A PERSON OF ORDINARY REASON AND PRUDENCE WOULD USE UNDER THE SAME OR SIMILAR CIRCUMSTANCES.¹⁷

A WILLFUL ACT IS ONE THAT IS DONE THROUGH CONSCIOUS CHOICE OR WRONGFUL CONDUCT WHICH IS CONSCIOUSLY DONE WITHOUT REGARD TO THE POSSIBLE CONSEQUENCES. A RECKLESS ACT IS ONE OF CONSCIOUS LACK OF CONCERN FOR THE RIGHTS AND SAFETY OF OTHERS.

¹⁵ Snow v. City of Columbia, 305 S.C. 544, 409 S.E.2d 797 (Ct. App. 1991).

¹⁶ Mack v. Edens, 320 S.C. 236, 464 S.E.2d 124 (Ct. App. 1995).

¹⁷ Hinson v. A.T. Sistare Contr. Co., 236 S.C. 125, 113 S.E.2d 341 (1960), overruled on other grounds, McCall by Andrews v. Batson, 285 S.C. 243, 329 S.E.2d 741 (1985).

IF YOU FIND THAT THE PLAINTIFF COMMITTED AN UNAUTHORIZED ENTRY ONTO THE DEFENDANT'S PROPERTY OR AN INTENTIONAL INTERFERENCE WITH THE DEFENDANT'S RIGHT OF POSSESSION OF THE PROPERTY, YOU MUST DETERMINE THE DAMAGES THE DEFENDANT SUFFERED AS A DIRECT AND PROXIMATE RESULT OF THE PLAINTIFF'S ACTS. THE DEFENDANT IS ENTITLED TO AT LEAST NOMINAL DAMAGES.¹⁸ NOMINAL DAMAGES MAY BE A TOKEN SUM SUCH AS ONE CENT OR ONE DOLLAR.

HOWEVER, YOU MAY ALSO FIND THAT THE DEFENDANT SUFFERED ACTUAL DAMAGES. THESE WOULD INCLUDE DEPRECIATION, INJURY OR DAMAGE TO THE PROPERTY, OR LOSS OF USE OR ENJOYMENT OF THE PROPERTY. DAMAGES MAY ALSO INCLUDE MENTAL PAIN AND SUFFERING, DISCOMFORT, OR ANNOYANCE WHICH ARE REASONABLE AND NATURAL CONSEQUENCES OF THE TRESPASS.

THE AMOUNT OF DAMAGES FOR INJURY OR DAMAGE TO THE PROPERTY WOULD BE THE DIFFERENCE BETWEEN THE FAIR MARKET VALUE OF THE PROPERTY IMMEDIATELY BEFORE THE TRESPASS AND THE VALUE OF THE PROPERTY IMMEDIATELY AFTER THE TRESPASS. FAIR MARKET VALUE IS THE PRICE A WILLING BUYER

¹⁸ Snow v. City of Columbia, 305 S.C. 544, 409 S.E.2d 797 (Ct. App. 1995).

WOULD PAY AND A WILLING SELLER WOULD TAKE IN THE ORDINARY COURSE OF BUSINESS IF A SALE WERE NOT REQUIRED.¹⁹

THE DAMAGES FOR LOSS OF USE OR ENJOYMENT OF PROPERTY MAY INCLUDE RECOVERY FOR THE LOSS OF VALUE OF THE USE AND ENJOYMENT OF THE PROPERTY DURING THE TIME THAT THE INJURY TO THE PROPERTY EXISTS. THIS SHOULD BE MEASURED BY THE LOSS OF USE OR ENJOYMENT AN ORDINARY PERSON ACTING REASONABLY UNDER THE SAME OR SIMILAR CIRCUMSTANCES WOULD SUFFER.

¹⁹ Ravan v. Greenville County, 315 S.C. 447, 434 S.E.2d 296 (Ct. App. 1993).

I INSTRUCT YOU LADIES NAD GENTLEMEN OF THE JURY THAT IN THIS CASE YOU MAY ONLY FIND PLAINTIFF COMMITTED TRESPASS ON DEFENDANT'S PROPERTY IF YOU FIND THAT PLAINTIFF'S POLE ON GUY WIRE WAS ERECTED ON DEFENDANT'S PROPERTY OUTSIDE OF THE STATE HIGHWAY'S RIGHT OF WAY.

IF, ON THE OTHERHAND, YOU FIND THAT PLAINTIFF ERECTED ITS POLE AND GUY WIRE ENTIRELY WITHIN THE STATE HIGHWAY RIGHT OF WAY, I INSTRUCT YOU THAT A TRESPASS HAS NOT OCCURRED AND YOU MUST FIND FOR THE PLAINTIFF ON THE DEFENDANT'S CLAIM OF TRESPASS.

RIGHT-OF-WAY

A RIGHT-OF-WAY IS A PRIVILEGE TO USE THE LAND. IT DOES NOT INVOLVE THE TRANSFER OF OWNERSHIP OF THE LAND. THE LANDOWNER STILL HAS TITLE TO THE PROPERTY WHICH IS SUBJECT TO THE RIGHT-OF-WAY AND MAY CONTINUE TO USE THE PROPERTY FOR ANY PURPOSE THAT DOES NOT INTERFERE WITH THE PURPOSE OF THE RIGHT OF WAY.

A RIGHT OF WAY IS A SERVITUDE IPOSED BY LAW OR BY CONVENTION AND BY VIRTUE OF WHICH ONE HAS A RIGHT TO PASS ON AND USE THE PROPERTY OF ANOTHER. IT IS AN EASEMENT ON THE LANDS OF OTHERS.

FINAL FEW POINTS

You don't serve as jurors to be partisans or advocates for either side — you were chosen because both side believed you could be fair and impartial and decide the case solely on the evidence, and without bias or prejudice. That means you are to use:

- (1) your experiences in life,
- (2) your good common sense, and
- (3) your sense of logic and reason.

You bring those things to bear on what you have heard in the courtroom. And once you do that, you will be able to determine the truth of this case. Once you have decided the truth, you take it and apply the law I have just given you to it; and when you have done that, you will be able to reach a verdict that will speak the truth of this case.

Duty To Deliberate

Let me say something about your deliberations. Deliberation is defined as “careful consideration, weighing up with a view to decision.”

The genius of our jury system is that it allows 12 good men and women, from 12 different backgrounds, life experiences, and perspectives to consider the evidence, talk about it, and ultimately, reach a verdict.

We call them deliberations for a reason — you are to consider the evidence in this case carefully and deliberately — and discuss it in a calm, thorough, and courteous manner.

Remember — you are not partisans or advocates for either side, favoring one side over the other. You are judges — JUDGES OF THE FACTS. Your sole interest is to find the truth from the evidence you have heard in this courtroom.

Listen to the views of all of your fellow jurors; consider other people's points and points of view, and talk through and discuss the evidence. And remember, if you are doing something deliberately, you are not in a big hurry, and you should not be in a hurry here. This case is very important to both sides, and this is their only day in court.

When you retire to the jury room, you should discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have impartially considered all the evidence, discussed it fully with the other jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinion if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right.

It is important that you attempt to reach a unanimous verdict but, of course, only if each of you can do so after having made your own decision. Do not change an honest belief about the

weight and effect of the evidence simply to reach a verdict. In other words, do not change your opinion solely for the sake of reaching a unanimous verdict.

Return of Verdict

After you have reached unanimous agreement on a verdict, your foreperson is then authorized to fill in the verdict form that has been given to you, sign and date it and advise the bailiff outside your door that you are ready to return to the courtroom.

Communicating with the Court

If it becomes necessary during your deliberations to communicate with me, you may send a note through the bailiff, signed by your foreperson or by one or more members of the jury. No member of the jury should ever attempt to communicate with me except by a signed writing; and I will communicate with any members of the jury on anything concerning the case only in writing, or only here in open court. [Remember that you are not to tell anyone — including me — how the jury stands, numerically or otherwise, until after you have reached a unanimous verdict or have been discharged.]

Final Instruction

- ___(1) [Go over verdict form].
- ___(2) The order of the verdict form is of no significance. You must consider each defendant separately.
- ___(3) Your verdict on each item must be unanimous.
- ___(4) Please retire now to your jury room, but do not begin your deliberations until I take up one additional matter with the attorneys. We will send you word when you begin your deliberations
- ___(5) You are bound by the Record; you have heard all of the evidence.

___Alternate___

COUNTERCLAIM

TRESPASS

THE DEFENDANT CLAIMS THAT THE PLAINTIFF TRESPASSED ON THE DEFENDANT'S PROPERTY. IN ORDER TO RECOVER FOR TRESPASS, THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE PLAINTIFF WAS IN LEGAL POSSESSION OF THE PROPERTY; THAT THE DEFENDANT OR THE PLAINTIFF'S AGENT VOLUNTARILY ENTERED THE DEFENDANT'S PROPERTY OR COMMITTED AN INTENTIONAL PHYSICAL INTERFERENCE WITH THE DEFENDANT'S PRESENT RIGHT TO POSSESS THE PROPERTY; AND THAT THE ENTRY OR INTERFERENCE WAS MADE WITHOUT THE DEFENDANT'S PERMISSION.⁸ ←

THE ENTRY OR INTERFERENCE BY THE PLAINTIFF MUST BE INTENTIONAL. INTENT IS PROVED BY SHOWING THAT THE PLAINTIFF ACTED VOLUNTARILY AND KNEW OR SHOULD HAVE KNOWN THAT THE RESULT WOULD FOLLOW THE ACT. MOTIVE OR MALICE ON THE PART OF THE PLAINTIFF IS NOT REQUIRED.⁹ THE PLAINTIFF DOES NOT

⁸ Ravan v. Greenville County, 315 S.C. 447, 434 S.E.2d 296 (Ct. App. 1993).

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BREACH

THE PLAINTIFF MUST SHOW BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE DEFENDANT UNJUSTIFIABLY BREACHED THE CONTRACT. THE WORD BREACH MEANS THE FAILURE, WITHOUT LEGAL EXCUSE, TO PERFORM ANY PROMISE THAT FORMS THE WHOLE OR A PART OF THE CONTRACT. THIS INCLUDES THE REFUSAL OF A PARTY TO RECOGNIZE THE EXISTENCE OF THE CONTRACT OR THE DOING OF SOMETHING INCONSISTENT WITH THE EXISTENCE OF THE CONTRACT. A PARTY BREACHES A CONTRACT WHEN THAT PARTY DOES NOT PERFORM AS AGREED UNDER THE CONTRACT BY FAILING TO CARRY OUT A TERM, PROMISE, OR CONDITION OF THE CONTRACT.

~~DAMAGES~~

*Read in jury charge
8-28-09 am
by J. McIntosh*

- 242 -

Rec at end of case from Judge McIntosh B1

DAMAGES

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ACTUAL DAMAGES

ACTUAL DAMAGES ARE DAMAGES TO COMPENSATE THE PLAINTIFF AND PUT HIM [HER], AS CLOSELY AS POSSIBLE, IN THE SAME POSITION HE [SHE] WAS IN BEFORE THE BREACH OF CONTRACT.⁵ IN OTHER WORDS, ACTUAL DAMAGES ARE THE ACTUAL LOSSES AND EXPENSES WHICH THE PLAINTIFF HAS SUFFERED BECAUSE THE DEFENDANT BREACHED THE CONTRACT.⁶ GENERALLY, ACTUAL DAMAGES ARE THE OUT-OF-POCKET COSTS ACTUALLY PAID BY THE PLAINTIFF AS A RESULT OF THE BREACH OF CONTRACT AND THE GAIN ABOVE THE COSTS THAT WOULD HAVE BEEN REALIZED IF THE CONTRACT HAD BEEN PERFORMED.⁷

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HAVE TO INTEND DAMAGING CONSEQUENCES, BUT ONLY MUST INTEND THE ACT WHICH CONSTITUTED THE UNWARRANTED ENTRY ON THE DEFENDANT'S PROPERTY OR THE INTERFERENCE WITH THE DEFENDANT'S RIGHT OF POSSESSION.¹⁰

THE ENTRY OR INTERFERENCE MAY BE THE RESULT OF NEGLIGENCE OR A WILLFUL, DELIBERATE, OR WANTON ACT. A NEGLIGENT ACT IS ONE WHICH LACKS THE CARE WHICH A PERSON OF ORDINARY REASON AND PRUDENCE WOULD USE UNDER THE SAME OR SIMILAR CIRCUMSTANCES.¹¹

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IF YOU FIND THAT THE PLAINTIFF COMMITTED AN UNAUTHORIZED ENTRY ONTO THE DEFENDANT'S PROPERTY OR AN INTENTIONAL INTERFERENCE WITH THE DEFENDANT'S RIGHT OF POSSESSION OF THE PROPERTY,

¹⁰ Mack v. Edens, 320 S.C. 236, 464 S.E.2d 124 (Ct. App. 1995).

¹¹ Hinson v. A.T. Sistare Contr. Co., 236 S.C. 125, 113 S.E.2d 341 (1960), overruled on other grounds, McCall by Andrews v. Batson, 285 S.C. 243, 329 S.E.2d 741 (1985).

YOU MUST DETERMINE THE DAMAGES THE DEFENDANT SUFFERED AS A DIRECT AND PROXIMATE RESULT OF THE PLAINTIFF'S ACTS. THE DEFENDANT IS ENTITLED TO AT LEAST NOMINAL DAMAGES.¹² NOMINAL DAMAGES MAY BE A TOKEN SUM SUCH AS ONE CENT OR ONE DOLLAR.

HOWEVER, YOU MAY ALSO FIND THAT THE DEFENDANT SUFFERED ACTUAL DAMAGES. THESE WOULD INCLUDE DEPRECIATION, INJURY OR DAMAGE TO THE PROPERTY, OR LOSS OF USE OR ENJOYMENT OF THE PROPERTY. DAMAGES MAY ALSO INCLUDE MENTAL PAIN AND SUFFERING, DISCOMFORT, OR ANNOYANCE WHICH ARE REASONABLE AND NATURAL CONSEQUENCES OF THE TRESPASS.

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PUNITIVE DAMAGES - TRESPASS

IF YOU FIND THAT THE TRESPASS WAS THE RESULT OF A WILLFUL, WANTON, RECKLESS, OR DELIBERATE ACT, YOU MAY AWARD THE PLAINTIFF PUNITIVE DAMAGES.

RECKLESS, WILLFUL, WANTON, OR DELIBERATE CONDUCT SHOWS THE CONSCIOUS, KNOWING DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE.

PUNITIVE DAMAGES ARE GIVEN TO PUNISH THE DEFENDANT AND TO DISCOURAGE THE DEFENDANT AND OTHERS FROM COMMITTING THE SAME OR SIMILAR ACTS.¹

Judge Ammons
Up
Charge
Aug 28, 2009
Object

¹ Hinson v. A.T. Sistare Contr.Co., 236 S.C. 125, 113 S.E.2d 341 (1960), overruled on other grounds, McCall by Andrews v. Batson, 285 S.C. 243, 329 S.E.2d 741 (1985).

Read this

I instruct you Ladies + Gentlemen of
The Jury that in this case you
may only find Plaintiff committed
Trespass on Defendant's property if
you find that Plaintiff's pole or
guide wire was erected on Defendant
property outside of the state highway
right of way.

If, on the other hand, you find
that Plaintiff erected its pole
and guide wire entirely within the
State highway right of way, I instruct
you that a trespass has No Occurred

~~you~~ who you must find for the
Plaintiff on Defendant's Claim of
Trespass.

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

Blue Ridge Electric Cooperative Inc.)

VERDICT

Plaintiff)

2008-CP-23-005245

vs.)

Kathleen J Gresham)

Defendant.)

In the matter of Blue Ridge Cooperative Inc., Plaintiff, vs. Kathleen J Gresham, Defendant, et al, case number 2008-CP-23-005245:

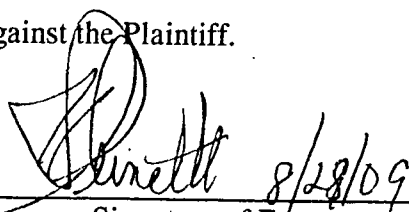
I. On the Issue of the Plaintiff's Breach of Contract Claim:

We, the Jury, find for the Plaintiff against the Defendant in the amount of _____

_____ actual damages..

Signature of Foreperson

We the Jury find for the Defendant against the Plaintiff.



Signature of Foreperson

II. On the Issue of the Defendant's Counterclaim against the Plaintiff for Trespass

We the Jury find for the Defendant against the Plaintiff on the counterclaim for Trespass in

the amount of \$ 0.01 actual damages.

[Signature]
Signature of Foreperson

zero dollars and one cent

[Signature] 8/28/09

We the Jury find for the Plaintiff against the Defendant on the counterclaim of Trespass.

Signature of Foreperson

August 28, 2009

A Certified Copy

[Signature]
B. W. W. W. W.
Clerk of Court C.P. & G.S.

Greenville County, SC

Dated

8/31/09

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2008CP2305245

Blue Ridge Electric Cooperative Inc vs. Kathleen J Gresham

CHECK ONE:

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

IT IS ORDERED AND ADJUDGED:

☐ See attached order;

☐ Statement of Judgment by the Court:

Plaintiff dismissed its claim against Stephen Gresham & Stephen Gresham dismissed his counterclaim. Plaintiff and remaining Defendant Kathleen Gresham given ten(10) days to file post-trial motions.

Dated at Greenville, South Carolina, this

Court Reporter: *Mary DiGirolamo*

[Signature]
PRESIDING JUDGE - R. Lawton McIntosh

This judgment was entered on the *31 day Aug, 2009*, and a copy mailed first class this *31 day Aug, 2009*, to attorneys of record or to parties (when appearing pro se) as follows:

Larry C. Brandt Larry C. Brandt, PA P.O. Box
738 Walhalla, SC 29691

✓ Steve Gresham 1524 Highway 11 Landrum,
SC 29356
Kathleen J Gresham 1524 Highway 11
Landrum, SC 29356

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

SCRCP APP-24/FORM 4

Paul B. Wickensimer - Clerk of Court

II. On the Issue of the Defendant's Counterclaim against the Plaintiff for Trespass

We the Jury find for the Defendant against the Plaintiff on the counterclaim for Trespass in

the amount of \$0.01 actual damages.

Signature of Foreperson

zero dollars and one cent

[Signature] 8/28/09

We the Jury find for the Plaintiff against the Defendant on the counterclaim of Trespass.

Signature of Foreperson

August 28, 2009

A Certified Copy

Paul B. Wickens
Clerk of Court C.P. & G.S.
Greenville County, SC

Clerk of Court C.P. & G.S.

Greenville County, SC

Dated

83109

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

Blue Ridge Electric Cooperative Inc.)

VERDICT

Plaintiff)

2008-CP-23-005245

vs.)

Kathleen J Gresham)

Defendant.)

FILED-CLERK OF COURT
GREENVILLE, SOUTH CAROLINA
2009 AUG 31 A 9 41

In the matter of Blue Ridge Cooperative Inc., Plaintiff, vs. Kathleen J Gresham, Defendant, et al, case number 2008-CP-23-005245:

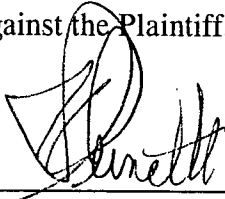
I. On the Issue of the Plaintiff's Breach of Contract Claim:

We, the Jury, find for the Plaintiff against the Defendant in the amount of _____

_____ actual damages..

Signature of Foreperson

We the Jury find for the Defendant against the Plaintiff.

 8/28/09

Signature of Foreperson

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2008CP2305245

Blue Ridge Electric Cooperative Inc vs. Kathleen J Gresham

CHECK ONE:

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

IT IS ORDERED AND ADJUDGED:

☐ See attached order;

☐ Statement of Judgment by the Court:

Plaintiff dismissed its claim against Stephen Gresham & Stephen Gresham dismissed his counterclaim. Plaintiff and remaining Defendant Kathleen Gresham given ten(10) days to file post-trial motions.

Dated at Greenville, South Carolina, this

Court Reporter: *Mary DiGirolamo*

[Signature]
PRESIDING JUDGE - R. Lawton McIntosh

This judgment was entered on the 31 day Aug, 09 and a copy mailed first class this 31 day Aug, 09 to attorneys of record or to parties (when appearing pro se) as follows:

Larry C. Brandt Larry C. Brandt, PA P.O. Box 738 Walhalla, SC 29691

Steve Gresham 1524 Highway 11 Landrum, SC 29356

☒ **Kathleen J Gresham** 1524 Highway 11 Landrum, SC 29356

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

SCRPC APP-24/FORM 4

Paul B. Wickensimer - Clerk of Court

1 business in this lawsuit. Perhaps I'm not a very good
2 legal representative, but he's not a party to Blue Ridge.
3 He has no contractual or other membership with Blue
4 Ridge. He has absolutely nothing -- and their witnesses
5 say that he does, which is amazing to me that it's been
6 allowed to go this long. We ask that it be ---

7 THE COURT: You're asking the claim against Mr.
8 Gresham to be dismissed?

9 MS. JENNINGS: Exactly.

10 THE COURT: She's asking for a directed verdict, Mr.
11 Brandt.

12 MR. BRANDT: I don't think as a pro se she can
13 represent him.

14 THE COURT: He's got to speak for himself.

15 MS. JENNINGS: Well, can I speak -- I was trying to
16 do as Your Honor said earlier, to try -- but I can ---

17 MR. BRANDT: However ---

18 MR. GRESHAM: Same motion.

19 MR. BRANDT: To resolve any problem I'll agree to
20 let him go.

21 THE COURT: I was going to if you didn't. Now, he
22 still has claims back against the company you understand
23 that.

24 MR. BRANDT: Yes, sir.

25 THE COURT: So I'll grant Mr. Gresham's motion for

1 directed verdict as to the complaint against him.

2 MR. GRESHAM: Thank you, Your Honor.

3 THE COURT: Yes, sir. Any other motions, Ms.
4 Jennings?

5 MS. JENNINGS: Just one, Your Honor. There was a
6 few -- reach back and remember Ms. McCormick's testimony
7 where I paid money to Blue Ridge because of a similar
8 problem, because of the meter irregularity trouble, so I
9 suspect that I've got to dust off a lot to remember what
10 was accord and satisfaction. This in fact has been
11 litigated previously. I have paid for this previously.
12 And here we are back on the same page once again going
13 over the same type things when it has already been paid
14 and the parties were on notice this was paid.

15 THE COURT: Are you referring back to them saying
16 they gave you a refund for the over payment of your
17 estimates, is that what you're referring to?

18 MS. JENNINGS: No, no, sir. It goes deeper than
19 that. Some of the testimony hadn't come out, I may have
20 to make this motion ---

21 THE COURT: Okay. I'm just trying to follow. If
22 you'll be a little more ---

23 MS. JENNINGS: There was a time when I paid 900 some
24 to Blue Ridge for a meter error, very similar to this
25 where they said that meter wasn't reading right, they

1 were going to sue me if I didn't pay up this money. So
2 they had been on notice for some time there had been a
3 meter problem. I paid with reluctance under protest but
4 did. And I think that accounts for accord and
5 satisfaction. Where this is the same type thing, here we
6 are back again doing the same thing. I think the case
7 should be dismissed based upon that.

8 THE COURT: I'm going to deny that motion.

9 MS. JENNINGS: The meter got put in the house during
10 that time, May 16. That would be 2001.

11 THE COURT: I'm stopping you, please.

12 MS. JENNINGS: That would be in 2001. When -- or
13 sometime further back when payment was made to me because
14 same type situation under protest and here we are again
15 doing the same thing. I think that falls into the
16 definition of accord and satisfaction, which I am not
17 familiar with as you but ---

18 THE COURT: I'm going to deny that. Okay. Any
19 other motions from you, Ms. Jennings?

20 MS. JENNINGS: Any motion just clarification for me
21 as pro se, Your Honor.

22 THE COURT: You've practiced law before. You're not
23 pro se. You may appear ---

24 MS. JENNINGS: Well, you know, I did child custody
25 and family law. I'm from burping a baby to coming up

1 here and doing this, Your Honor. Please the Court? But
2 as to the request for cost and fees and sanctions that
3 Mr. Gresham has made regarding this matter for being
4 included as a party when clearly he was erroneously
5 included from the very beginning, do you hold that to the
6 end? What I'm asking ---

7 THE COURT: I would hold it in abeyance and consider
8 it.

9 MS. JENNINGS: Yes, sir, thank you.

10 THE COURT: And anything from you, Mr. Brandt?

11 MR. BRANDT: No, sir.

12 THE COURT: You ready to proceed?

13 MS. JENNINGS: May I ask one more question?

14 THE COURT: You certainly may.

15 MS. JENNINGS: I don't want to be jumping up and
16 down.

17 THE COURT: No, you're fine.

18 MS. JENNINGS: When the jury comes back do you want
19 to tell them Mr. Gresham has been dismissed as a party,
20 you have granted that motion, how ---

21 THE COURT: Yeah.

22 MS. JENNINGS: Thank you.

23 THE COURT: Anything else?

24 MS. JENNINGS: No, I think that's it.

25 THE COURT: Anything else?

From: Trials53@aol.com

To: Trials53@aol.com

Subject: Fwd: document requested from Kathleen Jennings re: jury trial

Date: Mon, Sep 7, 2009 8:35 pm

2009 SEP - 9 A 10:24

Attached Message

From: Trials53@aol.com

To: lmcintosh@sccourts.org

Cc: Trials53@aol.com

Subject: document requested from Kathleen Jennings re: jury trial

Date: Mon, 7 Sep 2009 8:12:02 PM Eastern Daylight Time

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER

Dear Judge McIntosh,

as requested, I am attaching a shortened version of my motions in the referenced case heard by jury. Please advise if anything further is required. Sincerely, Kathleen Jennings

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Blue Ridge Electrical Coop.
Plaintiffs,

-versus-

Kathleen J. Gresham, Steve Gresham,
Defendants.

) IN THE COURT
) OF COMMON PLEAS
) 2008-CP-23-5245

) MOTION TO COURT
) FOLLOWING JURY VERDICT
) FOR DEFENDANT

)
)
)

The Defendant, Kathleen J. Gresham, as captioned by Plaintiff, moves before this Court as follows:

1. That the jury verdict, delivered unanimously by the 12-member jury on Friday, August 28, 2009, in the Court of Common Pleas, 13th Circuit, in short time, in favor of the Defendant on Plaintiff's Complaint and in favor of Defendant Kathleen J. Gresham in her counterclaim against Plaintiffs, was well supported by the evidence. The jury, further signified that the verdict was unanimous by their show of hands in favor of Kathleen J. Gresham, as requested by the Court, against Blue Ridge. Said verdict should be upheld.
2. The Trial Court, however, erred in the abrupt changing of his mind from August 27, 2009 to August 28, 2009 when he decided, without stated reason, to NOT charge the issue of "punitive damages," to the jury which he had previously stated he would so charge. The trial judge had previously announced his intention to charge punitive damages as to Defendant's counterclaim of trespass (see counterclaim as filed) and even produced the charge as to this issue which he planned to charge the jury. However, immediately before the jury was brought in for closing arguments and jury charge, trial judge announced his unilateral decision not to charge punitive damages. Such action was objected to by Defendant. The result not to charge punitive damages as pled and as earlier agreed, was highly prejudicial to Defendant and contrary to the evidence presented. It also served to

circumvent the jury process and to take from the jury their role as the finders of the facts. Such action severely damaged Defendant's case and prevented the jury from a likely award which would have been reasonable and expected in light of their unanimous verdict reached in short measure in favor of Defendant in her counterclaim. Therefore, Defendant makes motion for this Court to undue his damage and award Defendant punitive damages for the trespass and actions of Plaintiffs as shown clearly in the testimony which jury was allowed to hear. Such punitive damages are also called for in light of Plaintiff's reprehensible conduct in adamantly maintaining that Defendant Steve Gresham was and had been a member of Blue Ridge Electric Coop. when he had never so been, fully known to Plaintiffs for over 2 ½ years yet they doggedly pursued him and insisted to the court that he was such a member thus misleading the court. Finally, under oath, Plaintiff's primary witness-in-chief admitted that Mr. Gresham was and had NEVER been a member of Blue Ridge Electrical Coop and that official records, of which she was custodian, confirmed same.

3. Defendant, therefore, renews her motion for sanctions against Plaintiff Blue Ridge Electrical Coop, which were made also in 2008, when Plaintiffs assured the Court that Mr. Gresham was, in fact, a coop. member, this being blatantly a fabrication known to Plaintiffs. Defendant sought sanctions on her own and did not dismiss her claim for sanctions. The Court, should **on its own motion**, issue and grant same as to Plaintiffs in the interest of justice, to serve as deterrent for misleading this Court, for wrongly using taxpayers' monies in court and jury time; and for failing to present truthful pleadings to this Court and for causing severe detriment to Defendants. Defendant so moves this Court.

4. The trial court erred in limiting the testimony of Defendant in answering questions of Plaintiff especially as to "good faith" efforts she had made with Blue Ridge which compelled the trial court to excuse the jury, chastise Defendant and announce to her while she was on the witness stand that he had had problems with her when he was in private practice in Anderson. This behavior served to prevent the jury from hearing all the efforts Defendant had made toward Plaintiffs in this matter which would also bolster the demand for punitive damages. Defendant moves for the Court's award of punitive damages to supplement the jury verdict.

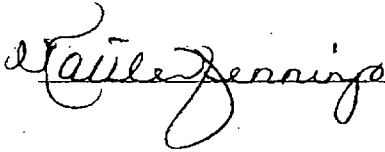
5. Defendant submits that the jury verdict would have been substantially higher had the trial court allowed all the evidence and testimony sought to be presented by Defendant especially in light of the jury's unanimous and rapid verdict in favor of Defendant despite the adverse rulings of the court. Defendant, therefore, moves that this Court increase the jury's verdict in light of the evidence and law AND impose sanctions and costs against Plaintiffs for their egregious conduct toward the Court and toward Defendants, both of whom suffered as a result of it.

6. Defendant also seeks that the trial court issue its full ORDER dismissing Defendant Steve Gresham as a party Defendant with reasons set forth that he had never been a member of Blue Ridge Electrical Coop, contrary to the pleadings of Plaintiff and that he should never have been a party in the first place, thus seeking to right some of the wrong done to Defendant S. Gresham merely because he was married to a Blue Ridge Coop. member. Such actions by Plaintiffs in naming this Defendant in a public lawsuit has damaged Defendant, violated proper rules of this Court and undermined the integrity of the judicial system. Defendant Kathleen J. Gresham so moves.

7. The trial court erred in failing to allow her and others to testify to the damages done by Plaintiff's hand-selected process server as plead by Defendant for damages to her property and to her pet which was part of Plaintiff's common scheme and design to intimidate and embarrass Defendant. Defendant moves for the court to determine damages in this regard and to consider same in sanctions against Plaintiffs.

Therefore, Defendant Kathleen J. Gresham, as captioned by Plaintiff, respectfully moves as to

these matters, pro se, in supplement to the jury verdicts.

A handwritten signature in cursive script, appearing to read "Kathleen Jennings", written over a horizontal line.

Kathleen Jennings, captioned as Kathleen J. Gresham
Pro se September 4, 2009 (signed)

From: trials53@aol.com

To: lmcintosh@sccourts.org; trials53@aol.com

Subject: supplement to Defendant's memo/motions 2008-CP-23-5245 Blue Ridge. vs. Gresham

Date: Wed, Sep 9, 2009 9:21 am

AS SUPPLEMENT TO DEFENDANT'S MOTIONS IN THE ABOVE CAPTIONED CASE, DEFENDANT FURTHER SHOWS AND MOVES:

8. That sufficient testimony was presented from at least two witnesses, including property owner, Defendant Kathleen Jennings, captioned as Gresham, that Plaintiff's NEW power pole and guy wires were within her property lines, well outside and within the property lines of Jennings which she has owned since the 1980's. It is well established that a property owner may present testimony of his/her property lines, their upkeep of same, familiarity with, use of, and knowledge of as was clearly presented by testimony in this case. Further, the court and jury were purposefully misled by Plaintiff's attorney in his repeated arguments including in opening statement that the SUPPORT POLE and guy wires of considerable distance were OLD and established which was definitely NOT THE CASE. The support pole and long accompanying guy wires were NEW, just established by Plaintiff Blue Ridge close in proximity to the time of this lawsuit and which had brought complaints from Defendant property owner to Mr. Brandt, Plaintiff's attorney, who refused to take her calls. It appears, as the jury could also conclude, that the support pole and long guy wires were additionally punishment and harassment toward Defendant whose wishes, property lines and position did not matter in the least to Plaintiff who clearly and doggedly continued on their own selfish course of conduct without regard to the property owner or her rights. As noted in testimony, the support pole does not serve Defendant but rather serves new customers anticipated further along the road in a new section of development being constructed on Oak Grove Road and apparently helps in the positioning of new power poles along Highway 11, the Scenic Highway of S.C. The choice of this location for the NEW support pole was random and repositioning could have occurred by Blue Ridge. Any trick or misrepresentation to compel the jury to think this was an old support pole and wiring was totally refuted by property owner and former fire department commissioner and long time area resident and electrician, Steve Austin, who also gave sworn testimony. It is likely that Mr. Gresham provided such testimony as well along with that of property owner, Jennings. Clearly, the intent was to mislead the jury that it was old equipment which was totally dispelled and refuted by competent testimony and later admitted to by Blue Ridge employee as well."

The jury had considerable facts to consider from acknowledgeable testimony and was able to give weight of testimony and credibility to the witnesses including the witness brought in hastily from the field of the Blue Ridge worker who produced a work sheet of drawing of questionable time preparation showing the support pole was, in fact, NEW, contrary to the assertions of the Plaintiff attorney, officer of the court, and that HE had positioned the support pole on Defendant's property which he admitted. He also admitted that he did not meet with landowner on this occasion or about this installation. The trespass was therefore, intentional, planned, and notedly without Defendant's written permission or involvement and would fall into the statute of frauds for such involved a taking of Defendant's land without compensation and out side the scenic highway right of way and in side the fencing of Defendant which had been in place for 20 plus years. Such conduct by Plaintiff was reckless, in disregard of property rights, careless, planned and intentional which should have resulted in jury charges of both actual and punitive damages as initially and correctly opined and stated by the trial judge at the close of evidence and at the end of the day on Thursday, August 27, 2009 and upon which the court was adjourned for the day until closing statements and charge for the following day. The case could have been concluded on August 27th as the hour was not yet 4:00 p.m. as Defendant recalls but the judgement to wait was solely determined by the trial judge. If the case had been allowed to go forward and conclude on the 27th as Defendant requested on the record, the issue of punitive damages would have been charged and Defendant submits, the jury verdict would have included punitive damages especially in light of the jury's unanimous verdict for Defendant in all matters.

The jury was composed of individuals selected by both sides and consisted from the jury sheets provided to both sides by the Clerk, of educated, conscientious, reasonable people with both considerable colleges, work and life skills. Additionally, they were sounded extensively by Plaintiff and faced additional voir dire questions of Plaintiff. He struck one juror (Tom Marchant) who Defendant disclosed was known to her and who this potential juror thereafter and later, disclosed to the Court, the same thing. The juror whom now Plaintiff's counsel seeks to throw out, was clearly asked if going to the same church as Mr. Thomas, would affect his decision or ability to be fair and impartial and the juror clearly responded immediately that it would not. This church is a large one and it is likely that the people do not even know the other. Mr. Brandt knew that Mr. Thomas was long on the witness list of Defendant and had been so for more than 2 years as Mr. Thomas was involved, fully disclosed and communicated with both Mr. Brandt and Blue Ridge officials PRIOR to the lawsuit in his attempts to show Blue Ridge that their reasoning and guesswork was significantly flawed and in error from his own independent

evaluation. Thomas' letter to CEO Dalton went unrefuted as did Ms. Jennings' letters with same placed into evidence. These letters were admitted to by Plaintiff's own CEO and Blue Ridge President, Charles Dalton, who was called by Defendant.

The Jury observed the demeanor of the witnesses, weighed their credibility, had all the exhibits and assigned them the weight along with the testimony they considered proper, actively participated, paid attention and returned the verdict, as sole triers of the fact, they unanimously believed reflected the truth. The verdict was sound and properly made. It would be a travesty of justice to overturn their carefully - considered verdict. Defendant submits that at the proper issue of punitive damages been allowed and charged as the judge had led all to believe and upon which Defendant had relied and as was requested in her pleading of over one year previous, the jury would have returned with a punitive damage award as well. Thus, the Defendant requests that the trial court issue its award of punitive damages in favor of Defendant in light of all the evidence, clearly in favor of Defendant.

Plaintiff cannot hide behind the consequences of their actions in trespass and cannot speculate in the distant future as their motion so relies upon. The Jury, after a long three day trial with issues known to Plaintiff for over two years and significant discovery provided Plaintiffs by Defendants along with Requests for Admission which Plaintiff declined to fully answer hiding behind court rules for a specific number of such questions, cannot now complain that he lost on all issues when the actual truth and the facts had been known to him and all Plaintiffs since PRIOR to the commencement of the lawsuit. The lawsuit was improvidently brought by Plaintiffs on a mere GUESS with which the jury apparently agreed. Defendant requests her motions be granted and the jury verdict in support of Defendant and justice, stand.

Repectfully submitted, Kathleen Jennings (captioned Gresham) Defendant, pro se



STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

) IN THE COURT
) OF COMMON PLEAS
) 2008-CP-23-5245

Blue Ridge Electrical Coop.

Plaintiffs,

-versus-

Kathleen J. Gresham, Steve Gresham,
Defendants.

) MOTION TO COURT
) FOLLOWING JURY VERDICT
) FOR DEFENDANT
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2. The Trial Court, however, erred in the abrupt changing of his mind from August 27, 2009 to August 28, 2009 when he decided, without stated reason, to NOT charge the issue of "punitive damages," to the jury which he had previously stated he would so charge. The trial judge had previously announced his intention to charge punitive damages as to Defendant's counterclaim of trespass (see counterclaim as filed) and even produced the charge as to this issue which he planned to charge the jury. However, immediately before the jury was brought in for closing arguments and jury charge, trial judge announced his unilateral decision not to charge punitive damages. Such action was objected to by Defendant. The result not to charge punitive damages as pled and as earlier agreed, was highly prejudicial to Defendant and contrary to the evidence presented. It also served to circumvent the jury process and to take from the jury their role as the finders of the facts. Such action severely damages Defendant's case and prevented the jury from a likely award which would have been reasonable and expected in light of their unanimous verdict reached in short measure in favor of Defendant in her counterclaim. Therefore, Defendant makes motion for this Court to undue his damage and award Defendant punitive damages for the trespass and actions of Plaintiffs as shown clearly in the testimony which jury was allowed to hear. Such punitive damages are also called for in light of Plaintiff's reprehensible conduct in adamantly maintaining that Defendant Steve Gresham was and had been a member of Blue Ridge Electric Coop. when he had never so been, fully known to Plaintiffs for over 2 1/2 years yet they doggedly pursued him and insisted to the court that he was such a member thus misleading the court. Finally, under oath, Plaintiff's chief witness-in-chief admitted that Mr. Gresham was and had NEVER been a member of Blue Ridge Electrical Coop and that records, of which she was custodian, confirmed same.

3. Defendant, therefore, renews her motion for sanctions against Plaintiff Blue Ridge Electrical Coop, which were made also in 2008, when Plaintiffs assured the Court that Mr. Gresham was, in fact, a coop. member, this being blatantly a fabrication known to Plaintiffs. Defendant sought sanctions on her own and did not dismiss her claim for sanctions. The Court, should on its own motion, issue and grant same as to Plaintiffs in the interest of justice, to serve as deterrent for misleading this Court, for wrongly using taxpayers' monies in court and jury time; and for failing to present truthful pleadings to this Court. Defendant so moves this Court.
4. The trial court erred in limiting the testimony of Defendant in answering questions of Plaintiff especially as to "good faith" efforts she had made with Blue Ridge which compelled the trial court to excuse the jury, chastise Defendant and announce to her while she was on the witness stand that he had had problems with her when he was in private practice in Anderson. This behavior served to prevent the jury from hearing all the efforts Defendant had made toward Plaintiffs in this matter which would also bolster the demand for punitive damages. Defendant moves for the Court's award of punitive damages to supplement the jury verdict.
5. Defendant submits that the jury verdict would have been substantially higher had the trial court allowed all the evidence and testimony sought to be presented by Defendant especially in light of the jury's unanimous and rapid verdict in favor of Defendant despite the adverse rulings of the court. Defendant, therefore, moves that this Court increase the jury's verdict in light of the evidence and law AND impose sanctions and costs against Plaintiffs for their egregious conduct toward the Court and toward Defendants, both of whom suffered as a result of it.
6. Defendant also seeks that the trial court issue its full ORDER dismissing Defendant Steve Gresham as a party Defendant with reasons set forth that he had never been a member of Blue Ridge Electrical Coop, contrary to the pleadings of Plaintiff and that he should never have been a party in the first place, thus seeking to right some of the wrong done to Defendant S. Gresham merely because he was married to a Blue Ridge Coop. member. Such actions by Plaintiffs in naming this Defendant in a public lawsuit has damaged Defendant, violated proper rules of this Court and undermined the integrity of the judicial system. Defendant Kathleen J. Gresham so moves.
7. The trial court erred in failing to allow her and others to testify to the damages done by Plaintiff's hand-selected process server as plead by Defendant for damages to her property and to her pet which was part of Plaintiff's common scheme and design to intimidate and embarrass Defendant. Defendant moves for the court to determine damages in this regard and to consider same in sanctions against Plaintiffs.

Therefore, Defendant Kathleen J. Gresham, as captioned by Plaintiff, respectfully moves as to these matters, pro se, in supplement to the jury verdicts.

Kathleen Jennings, captioned as Kathleen J. Gresham
Pro se September 4, 2009

From: trials53@aol.com

To: lmcintosh@sccourts.org; trials53@aol.com

Subject: suppliment to Defendant's memo/motions 2008-CP-23-5245 Blue Ridge. vs. Gresham

Date: Wed, Sep 9, 2009 9:21 am

AS SUPPLEMENT TO DEFENDANT'S MOTIONS IN THE ABOVE CAPTIONED CASE, DEFENDANT FURTHER SHOWS AND MOVES:

8. That sufficient testimony was presented from at least two witnesses, including property owner, Defendant Kathleen Jennings, captioned as Gresham, that Plaintiff's NEW power pole and guy wires were within her property lines, well outside and within the property lines of Jennings which she has owned since the 1980's. It is well established that a property owner may present testimony of his/her property lines, their upkeep of same, familiarity with, use of, and knowledge of as was clearly presented by testimony in this case. Further, the court and jury were purposefully misled by Plaintiff's attorney in his repeated arguments including in opening statement that the SUPPORT POLE and guy wires of considerable distance were OLD and established which was definitely NOT THE CASE. The support pole and long accompanying guy wires were NEW, just established by Plaintiff Blue Ridge close in proximity to the time of this lawsuit and which had brought complaints from Defendant property owner to Mr. Brandt, Plaintiff's attorney, who refused to take her calls. It appears, as the jury could also conclude, that the support pole and long guy wires were additionally punishment and harassment toward Defendant whose wishes, property lines and position did not matter in the least to Plaintiff who clearly and doggedly continued on their own selfish course of conduct without regard to the property owner or her rights. As noted in testimony, the support pole does not serve Defendant but rather serves new customers anticipated further along the road in a new section of development being constructed on Oak Grove Road and apparently helps in the positioning of new power poles along Highway 11, the Scenic Highway of S.C. The choice of this location for the NEW support pole was random and repositioning could have occurred by Blue Ridge. Any trick or misrepresentation to compel the jury to think this was an old support pole and wiring was totally refuted by property owner and former fire department commissioner and long time area resident and electrician, Steve Austin, who also gave sworn testimony. It is likely that Mr. Gresham provided such testimony as well along with that of property owner, Jennings. Clearly, the intent was to mislead the jury that it was old equipment which was totally dispelled and refuted by competent testimony and later admitted to by Blue Ridge employee as well.

The jury had considerable facts to consider from acknowledgeable testimony and was able to give weight of testimony and credibility to the witnesses including the witness brought in hastily from the field of the Blue Ridge worker who produced a work sheet of drawing of questionable time preparation showing the support pole was, in fact, NEW, contrary to the assertions of the Plaintiff attorney, officer of the court, and that HE had positioned the support pole on Defendant's property which he admitted. He also admitted that he did not meet with landowner on this occasion or about this installation. The trespass was therefore, intentional, planned, and notably without Defendant's written permission or involvement and would fall into the statute of frauds for such involved a taking of Defendant's land without compensation and out side the scenic highway right of way and in side the fencing of Defendant which had been in place for 20 plus years. Such conduct by Plaintiff was reckless, in disregard of property rights, careless, planned and intentional which should have resulted in jury charges of both actual and punitive damages as initially and correctly opined and stated by the trial judge at the close of evidence and at the end of the day on Thursday, August 27, 2009 and upon which the court was adjourned for the day until closing statements and charge for the following day. The case could have been concluded on August 27th as the hour was not yet 4:00 p.m. as Defendant recalls but the judgement to wait was solely determined by the trial judge. If the case had been allowed to go forward and conclude on the 27th as Defendant requested on the record, the issue of punitive damages would have been charged and Defendant submits, the jury verdict would have included punitive damages especially in light of the jury's unanimous verdict for Defendant in all matters.

The jury was composed of individuals selected by both sides and consisted from the jury sheets provided to both sides by the Clerk, of educated, conscientious, reasonable people with both considerable colleges, work and life skills. Additionally, they were sounded extensively by Plaintiff and faced additional voir dire questions of Plaintiff. He struck one juror (Tom Marchant) who Defendant dislosed was known to her and who this potential juror thereafter and later, disclosed to the Court, the same thing. The juror whom now Plaintiff's counsel seeks to throw out, was clearly asked if going to the same church as Mr. Thomas, would affect his decision or ability to be fair and impartial and the juror clearly responded immediately that it would not. This church is a large one and it is likely that the people do not even know the other. Mr. Brandt knew that Mr. Thomas was long on the witness list of Defendant and had been so for more than 2 years as Mr. Thomas was involved, fully disclosed and communicated with both Mr. Brandt and Blue Ridge officials PRIOR to the lawsuit in his attempts to show Blue Ridge that their reasoning and guesswork was significantly flawed and in error from his own independant

evaluation. Thomas' letter to CEO Dalton went unrefuted as did Ms. Jennings' letters with same placed into evidence. These letters were admitted to by Plaintiff's own CEO and Blue Ridge President, Charles Dalton, who was called by Defendant.

The Jury observed the demeanor of the witnesses, weighed their credibility, had all the exhibits and assigned them the weight along with the testimony they considered proper, actively participated, paid attention and returned the verdict, as sole triers of the fact, they unanimously believed reflected the truth. The verdict was sound and properly made. It would be a travesty of justice to overturn their carefully - considered verdict. Defendant submits that at the proper issue of punitive damages been allowed and charged as the judge had led all to believe and upon which Defendant had relied and as was requested in her pleading of over one year previous, the jury would have returned with a punitive damage award as well. Thus, the Defendant requests that the trial court issue its award of punitive damages in favor of Defendant in light of all the evidence, clearly in favor of Defendant.

Plaintiff cannot hide behind the consequences of their actions in trespass and cannot speculate in the distant future as their motion so relies upon. The Jury, after a long three day trial with issues known to Plaintiff for over two years and significant discovery provided Plaintiffs by Defendants along with Requests for Admission which Plaintiff declined to fully answer hiding behind court rules for a specific number of such questions, cannot now complain that he lost on all issues when the actual truth and the facts had been known to him and all Plaintiffs since PRIOR to the commencement of the lawsuit. The lawsuit was improvidently brought by Plaintiffs on a mere GUESS with which the jury apparently agreed. Defendant requests her motions be granted and the jury verdict in support of Defendant and justice, stand.

Respectfully submitted, Kathleen Jennings (captioned Gresham) Defendant, pro se

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. : 2008-CP-23-5245

Blue Ridge Electric Cooperative, Inc. vs. Kathleen J. Gresham

CHECK ONE:

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

IT IS ORDERED AND ADJUDGED:

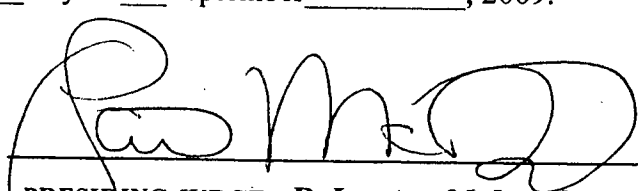
☐ See attached order;

☒ Statement of Judgment by the Court:

The Plaintiff's Motion for a Judgment NOV or, in the alternative for a New Trial Absolute is DENIED.
The Defendant's Motion to Court following Jury Verdict for Defendant is DENIED

Dated at Greenville, South Carolina, this 10th day of September, 2009.

Court Reporter: _____


PRESIDING JUDGE - R. Lawton McIntosh

his judgment was entered on the 11 day of Sept, 2009, and a copy mailed first class this 11 day of Sept, 2009 to attorneys of record or to parties (when appearing pro se) as follows:

Larry C. Brandt, P.A.
3691 Blue Ridge Boulevard
Walhalla, SC 29691

✓ Kathleen J. Gresham, Pro Se
1524 Highway 11
Landrum, SC 29356

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CRCP APP-24/FORM 4 (Rev. 6/02)

Paul B. Wickensimer - Clerk of Court

FedEx Office Charleston West Ashley

From: Kathleen Gresham [REDACTED]
Sent: Thursday, November 15, 2012 1:32 PM
To: usa1572@fedex.com
Subject: Also testifying Fred Smith

Also testifying omitted from transcript is witness Fred Smith manager of Freeman Gas in Landrum, SC. He was subpoenaed by Plaintiffs and not called at trial but put up by Defendant.

Mr Smith testified he has been manager of Freeman Gas since 1986 and is well aware of Ms Jennings as a long standing and valued customer. He testified that he knows she heats only with buried propane gas which his company delivers and has for many years when she calls them. He testified as to records kept in his possession and her bill and status. He testified that Jennings has always paid promptly, immediately and in full and is considered an excellent customer. He testified that there has never been a problem with her, her husband or her account and that the account has always been in her name for over 20 years. He testified there was never a problem reaching or communicating with her. He testified that she unlocked her gate when deliveries occurred, kept locked due to animals. He testified that she was on the regular payment plan and even had a credit to date of \$732.00 with their company.

He testified that he drove from Landrum to court upon Subpoena. He identified plaintiffs pre marked exhibits numbers 13 and 14 which were then introduced by Defendant Jennings during Smiths testimony without objection. These exhibits showed Jennings gas usage and payments. Mr Smith testified he was aware that Jennings had lived away from the home for a period of time due to the illness of a child but did not know the details.

He testified he believed Jennings to be dependable, honest in business dealings over many years experience, and an excellent, valued customer.

He was, thereafter, excused following his testimony by both parties.

This testimony summary is to be included in appeal.

Reconstruction Record, page 8-12, 15-17

Kathleen Sent from my iPhone

1 would then be not only my testimony, but it would be ---

2 THE COURT: Some reply witnesses?

3 MS. JENNINGS: Yes, sir. Yes, sir. In reply
4 to what ---

5 THE COURT: Okay. And closing argument and
6 charge.

7 MS. JENNINGS: And there's one thing that I
8 think could save time. I know that your secretary said
9 for us just to bring back the witnesses that we had
10 brought to the trial. That was a verbal -- and I've
11 tried my best to comply with that. I brought my husband
12 and Mr. Austin who had testified in reply. They had
13 brought as a witness that I -- that his testimony isn't
14 on there. They had subpoenaed a Fred Smith who was the
15 manager of Freeman Gas in Landrum. He testified. His
16 testimony is not in the transcription, so I anticipated
17 they would bring Mr. Smith today since that was their
18 witness that they had subpoenaed. I have done a summary
19 of what I believed his testimony was. I am willing to
20 stipulate that as I don't see Mr. Smith here. And I'll
21 pause and see if Mr. Brandt's bringing him.

22 MR. BRANDT: No. Fred Smith testified on the
23 issue of the debt. He didn't testify as to the issue
24 that's on appeal.

25 THE COURT: Of what, please?

1 MR. BRANDT: On appeal. Mr. Smith testified as
2 to gas reading as far as where we were alleging that she
3 was there and we were making comparative usage when she
4 was occupying the home and whatever. We tried to use
5 other utility comparables to show that she had, in fact,
6 inhabited the home during the period she said that she
7 was absent. I didn't bring Mr. Smith because his
8 testimony doesn't bear at all on the placement of the
9 pole on the trespass issue. The only witness testimony
10 that we need on a trespass issue that is missing is Ms.
11 Jennings and Mr. Alexander.

12 THE COURT: All right.

13 MS. JENNINGS: Well, that is a nice thought.
14 But of course, the whole matter is on appeal. We have a
15 cross-appeal. And the cross-appeal goes to also the
16 wisdom and the fact that this was brought, in our
17 estimation, erroneously because the bill had been paid in
18 full every month without failing. So consequently, that
19 testimony is missing from trial. In order to have an
20 accurate record that is preserved for the trial court to
21 consider all the issues because we've not abandoned any
22 issues since it's going forward, his testimony would be
23 essential.

24 And when we received the order from you to have all
25 the witnesses here, I took that very seriously and said

1 to your secretary that I understand that Mr. Brandt would
2 be bringing those witnesses that he had under subpoena.
3 And she said, well, she guessed so, that that was what,
4 you know, your order anticipated. So of course, I
5 anticipated he would be here.

6 But after our hearing on September 25th when we were
7 here with Your Honor in this very courtroom, we had a
8 tentative settlement proposal. And as a result of that
9 when the record was then constructed, I constructed his
10 testimony from what I believed him to have testified in
11 court. I am willing, as I indicated, to put that in in
12 lieu of his testimony. Otherwise, to have the record
13 complete, he must be here to present the testimony that
14 is missing from the transcript, though I understand Mr.
15 Brandt has abandoned that issue as of September 25th
16 which he notified us and put that on the record at that
17 time. It still is an issue for us that must be seen and
18 the Court must have that testimony in order to make a
19 proper disposition of the entire case and all the issues
20 that are pending.

21 THE COURT: All right. Let me make sure first,
22 the testimony, Ms. Jennings, you contend is missing from
23 the record is your testimony, correct?

24 MS. JENNINGS: Yes, sir.

25 THE COURT: And whom else?

1 MS. JENNINGS: My testimony, Mr. Smith's
2 testimony.

3 THE COURT: What's his ---

4 MS. JENNINGS: His name is Fred. I'd have to
5 go back and look it up. Fred Smith, the manager of
6 Freeman Gas in Landrum, subpoenaed by the plaintiffs.

7 THE COURT: Did he testify in the trial?

8 MS. JENNINGS: He testified. I called him, but
9 he was here under their subpoena and waited throughout
10 the trial. And then they rested without calling him. I
11 put him up.

12 THE COURT: Okay. So would his testimony not
13 be in the record?

14 MS. JENNINGS: No, sir, it's not.

15 THE COURT: Okay. And it was your witness?

16 MS. JENNINGS: It was my witness called by
17 them.

18 THE COURT: Oh, okay.

19 MS. JENNINGS: He was subpoenaed by them.

20 MR. BRANDT: I had subpoenaed him, but we chose
21 not to put him up ---

22 MS. JENNINGS: Right.

23 MR. BRANDT: --- is what she's saying.

24 THE COURT: All right. So that would have been
25 your witness?

1 MR. BRANDT: And then she put him up. But
2 again, it goes to that issue. I didn't interpret your
3 instruction to be except bring the missing witnesses
4 whose testimony you feel are necessary to this issue.
5 And obviously, what we wanted to put in was Ronnie
6 Alexander. And the other issue, she got a -- it was a
7 defense verdict on that issue of the money. And my
8 interpretation was that's unnecessary to this ---

9 MS. JENNINGS: Well, that's why I specifically
10 asked the question of your secretary because I knew I had
11 not subpoenaed this gentleman, that they had in fact.
12 And that I understood we were under an obligation to
13 bring back. Obviously, Mr. Gresham had been dismissed as
14 a party defendant. But since we were reconstructing the
15 record and the order was directed to both of us, I told
16 him I thought it was imperative that he come and that he
17 take off work and be here, which he did. I had to find
18 Mr. Austin who was a reply witness. But like I say, I am
19 willing to put in what I have testified, what I have
20 stated.

21 THE COURT: Well, let me get first -- I want to
22 get it in my mind first because we have Ms. Jennings,
23 allegedly Mr. Smith. And whom else, if anyone, is
24 missing from the record that needs to be put on the stand
25 to testify? In other words, both of you have told me

1 on. I understand Mr. Austin being somebody that you put
2 back up.

3 MS. JENNINGS: Right.

4 THE COURT: And it came after your testimony?

5 MS. JENNINGS: That's right.

6 THE COURT: Mr. Smith appears to have been
7 excused from the proceedings and was not placed on -- and
8 his testimony was not put up anywhere after the time he
9 was excused.

10 MS. JENNINGS: Your question was who's missing.

11 THE COURT: No. What I'm looking for is actual
12 testimony, not somebody who may have testified that could
13 have testified but didn't.

14 MS. JENNINGS: Oh, it's definitely missing ---

15 THE COURT: But I'm talking about actual people
16 who did testify ---

17 MS. JENNINGS: Right.

18 THE COURT: --- whose testimony is not included
19 in the record. That's what I'm looking for.

20 MS. JENNINGS: Mr. Smith. Just what I said. I
21 stand by actually what I said.

22 THE COURT: And you called him in your case?
23 He was under subpoena by Larry Brandt, but you called him
24 in your case and Mr. Brandt did not call him in his?

25 MS. JENNINGS: Right, I was surprised Mr.

1 Brandt hadn't called him, and I called him in my ---

2 THE COURT: Is that the question?

3 MS. JENNINGS: Yes.

4 THE COURT: Okay. And it would seem to me then
5 it would have been up to you to bring him here since he
6 ---

7 MS. JENNINGS: Well, that's why I asked your
8 secretary. She said whoever brought the original ones
9 would bring because I said I don't have subpoena power to
10 bring. And we had this little discussion, she and I.
11 And I said, I don't have subpoena power to bring. It's
12 short notice. But I have presented a -- I did ---

13 THE COURT: Mr. Brandt, this is the third time
14 she's brought this up about this proposed testimony from
15 Mr. Smith. Have you looked at that?

16 MR. BRANDT: No, I haven't looked at it.

17 THE COURT: Would you show it to him, please?

18 MR. BRANDT: I want to add as far as Mr. Austin
19 goes, if you go to page 251 through 254, I crossed him on
20 the right-of-way measurements. What happened was, I put
21 up testimony as to the debt.

22 THE COURT: Well, hold on. I don't want to ask
23 that. I want to know who the parties are contending had
24 actually testified.

25 MR. BRANDT: Actually testified.

1 THE COURT: And whose testimony is excluded or
2 is missing from the record. That's what I'm looking for.

3 Just one minute.

4 MR. BRANDT: I don't have any problem with the
5 testimony.

6 THE COURT: That's fine. Okay. Let's make
7 that a Court Exhibit Number 1 of this hearing, and that's
8 stipulated that is the substance of Mr. Smith's
9 testimony; is that correct?

10 MR. BRANDT: Mr. Smith's testimony.

11 MS. JENNINGS: And it would in case of an
12 appeal match one of the exhibits that Your Honor has.

13 MR. BRANDT: Yeah. It's in the record.

14 THE COURT: All right. Well, go ahead and
15 let's make that Court Exhibit Number 1, please.

16 MR. BRANDT: I think that was 13 and 14 that he
17 -- the exhibits I think that he testified to. Yeah,
18 they're in the record.

19 (WHEREUPON, Court's Exhibit Number 1 was marked for
20 identification.)

21 MR. BRANDT: I don't think she lost the
22 exhibits. The exhibits are in the record.

23 THE COURT: So that leaves us with Ms.
24 Jennings' and Mr. Austin's testimony that's missing from
25 the record; is that correct?

1 When I got power from Blue Ridge, which was in the
2 early 1980s, I'd been a coop member for, at that time,
3 for in excess of twenty-five years when we -- when I
4 presented testimony. I got a coop membership myself. I
5 signed the documents becoming a coop member.

6 And I testified that Mr. Gresham, my husband, had
7 never been a member of the Blue Ridge Electrical Coop at
8 no time whatsoever and was not a member at the time the
9 pleading was initiated nor was a member at any time
10 thereafter. I testified that we had tried to have him
11 dismissed as a party before the matter commenced to trial
12 because he had never been an electrical coop member.
13 That had been stringently opposed by Plaintiff who said
14 that he was a Blue Ridge Coop member.

15 I testified that I worked with Blue Ridge Electrical
16 Coop and that I had an aversion to power poles and
17 thought that they upset the landscape. It was a big deal
18 for me. So I paid Blue Ridge Coop an extra sizable
19 amount of money to bury my power up the driveway. I
20 lived in a trailer on the corner of my property for a
21 period of years so as I could save the money to bury the
22 power up the right-of-way of what was to become and now
23 is and establishes my driveway to the main house.

24 And that we entered in a separate contract that
25 included burying the power and also for rock removal to

1 all times kept them appraised of my address and contact
2 information.

3 There was a period of time that we left the home
4 which I testified to because our son developed, in the
5 summer of 1992, in July of 1992, A.L.L. leukemia. And as
6 a result of that dire, life-threatening condition, we
7 wanted to be and were advised to be closer to hospital
8 facilities. And in 1992, that area of South Carolina was
9 very rural indeed. Nobody was there. No hospital
10 facilities were there. It was not at all like it is in
11 2009 when we were in trial.

12 So we proceeded to secure a residence at 48
13 Ridgeland Drive in Greenville City. I notified Blue
14 Ridge of this. No mail that we could stop came to the
15 Highway 11 address. We lived at the Ridgeland Drive
16 address for approximately thirteen years. We virtually
17 shut down the Highway 11 home. We'd drained the water
18 pipe. When you went up there to cut the grass -- we
19 could check on it -- you actually couldn't even use the
20 bathroom because there was no running water. We did that
21 because we were worried about freezing and something
22 would happen and the property would flood or there would
23 be damage while we were away.

24 There were many times we didn't go up there for long
25 periods of time. Our son suffered with leukemia for

1 eight years, and he passed away on June 21st, of 2000.

2 And Blue Ridge was aware of that, in fact. I know they
3 were aware of that fact.

4 There was a period of time, also, that I testified
5 that I continued to have contact with Blue Ridge because
6 I selected them to do my security system. That a cottage
7 we had in Flat Rock, North Carolina, we used Blue Ridge
8 Security. They had -- continue to have my information.
9 All the billings were made to wherever I was.

10 There was a question from Mr. Brandt about paying --
11 what taxes did I pay. I -- not meaning to characterize
12 his, but he seemed to me that he was claiming that I was
13 paying four percent. We paid six percent on the mountain
14 house during the time that I was there, living there.
15 And we paid four percent on the Ridgeland house when I
16 live there before. You can only take one primary
17 residence as a four percent, and we complied with those
18 laws fully. That was a question that I distinctly
19 remember.

20 I testified that we heated with propane at the
21 Highway 11 home. That when I built that home, I built it
22 myself. I supervised every stick of it, every day. In
23 fact, I carried some of the workers up there every day
24 because their cars wouldn't negotiate the hill.

25 That I met with Blue Ridge and had them come out and

1 look at my house and they told me it was one of the most
2 energy efficient homes they'd ever seen. I insulated
3 around every room with R-23 -- I forgot the number -- or
4 30, one of those high insulation numbers, but around
5 every room. Not in-between each floor, but around every
6 room. And they told me, as a result of that, I got the
7 lowest power rateage or whatever that word would be
8 because of the incredibly well-built home. And the house
9 has twelve foot ceilings, purposefully done which I
10 testified, in order allow a lot of cross-ventilation
11 since we were up on a mountain.

12 So the heat and the water heater was done by propane
13 which I buried. And I had the propane brought up. And
14 that's where the issue of Freeman Gas came into question,
15 why he was there. The agreement I had with Freeman Gas
16 -- and is also indicated in the testimony that's now been
17 submitted and marked, I think they said 13, whatever
18 exhibit number that was -- was that I would call them
19 when I needed propane, and they would -- we would
20 coordinate delivery. I would make the gate look locked
21 or come there and meet them and let them in and there
22 never was any difficulty in that regard. And that we
23 currently -- not only had we paid the bill monthly on
24 time, we were excellent customers there as we were with
25 Blue Ridge. And I even had a credit of some seven

1 hundred sixty dollars with Freeman Gas because we hadn't
2 used what they anticipated that we would use.

3 As to Blue Ridge, I testified not only was I
4 accessible and readily available, but there were times
5 when several Blue Ridge workers called me and would ask
6 me if they could come see my horses. I have Clydesdales
7 which was unusual. And that I let them and one had asked
8 me to fish which, unfortunately, I could not do. But
9 that I had an excellent relationship with Blue Ridge and
10 was thusly greatly surprised when we received twenty-
11 eight or so termination notices that our power was going
12 to be cut off. And that it occurred every month and
13 they, they being Blue Ridge, indicated to us that the
14 power was to be cut off and that we had not paid our
15 bill.

16 We went -- as I testified, I had talked to the
17 commissioner prior to Mr. Sutherland, a gentleman's name,
18 I'm sorry, I could not remember then and I don't remember
19 now. But a gentleman who has since passed away that was
20 a Blue Ridge commissioner. And I found out he was our --
21 the commissioner for my particular area.

22 Had communicated with him about it because I had
23 come home several times and found that my lock that
24 chained my gate shut -- I have two wrought iron gates at
25 the entrance that are approximately twelve feet wide

1 total. And I found that those locks had been cut and
2 that I, in fact, was chained out of my own property.
3 Because one time I hurried thirty miles home from
4 Greenville and found that my gate had been locked because
5 my burglar alarm was activated and I was receiving calls
6 from law enforcement. And the sheriff was waiting for me
7 at the gate. And my lock had been cut. I could not gain
8 access to my property and found that it had been cut by
9 Blue Ridge, and they had put their own security lock on
10 the property which prohibited me from accessing my
11 property. It was evening. It was embarrassing.

12 And that happened on several occasions such that I
13 finally called Mr. Charles Dalton who was the C.E.O. or
14 president, the highest up at Blue Ridge, and spoke with
15 him. He was always a gentleman on the telephone. He
16 promised that that would -- he was astounded to hear that
17 it had happened. And then he was further astounded to
18 hear it happened on several occasions. And he was the
19 one who came up with the idea to put the remote control,
20 if that's the right terminology, where it could be read
21 off-site. And he said he would personally assure us that
22 he would put a meter or some kind of reading that would
23 be remote controlled, that there would be no access
24 problems and nothing would come up about that again. And
25 I remember saying to him, one less thing to worry about

1 because at that point we had a child with cancer, and
2 that was one less thing to worry about.

3 And that was exactly how it proceeded and that we
4 paid our bill in full every month without fail, often
5 within forty-eight hours of receiving it, even during the
6 period we weren't there. And that we objected very much
7 to being classified as debtors and having not paid our
8 bill.

9 I testified also that I had never executed any
10 written documents to Blue Ridge to allow them unlimited
11 access to my property. That I had never executed any
12 documents allowing them to place any pole or wires on my
13 property. Most of my testimony was concerning the bill
14 and the circumstances of the bill because that was the
15 main thrust, the thrust of the Blue Ridge case suing me,
16 was for -- they said it was for a debt collection.

17 I was proceeding to give more information about
18 that, in all candidness, when Your Honor interrupted me
19 on the stand and told me that you remembered me from
20 domestic cases that I had done in Anderson County and
21 that there had been some problems with me talking too
22 much or something you were going into, quite frankly --
23 and with all respect here today, that you were very
24 aggravated. You stood up at the bench and you dressed me
25 down very vehemently which almost made me cry. And it

1 was in front of the jury.

2 I turned to you -- the witness stand was on the
3 other side of the courtroom in that proceeding. I turned
4 to you at that point and said, Your Honor, I don't
5 appreciate those comments to me, particularly in front of
6 the jury. And I said, you're -- I think you're showing
7 your bias against me. And at that point you said, okay,
8 ladies and gentlemen, I'm going to send you out. You
9 abruptly stopped. You sent the jury out of the room with
10 the bailiffs. They were secured off-site out of the
11 courtroom. Then you turned to me and let me have it
12 pretty hard about what I needed to do.

13 The reason I was going into that testimony -- which
14 I'm not going to anymore because I didn't say any more
15 than that -- was to establish that I had an excellent
16 relationship with Blue Ridge, that they had always known
17 how to contact me because their case-in-chief had accused
18 me of being unable to be reached. And they made it look
19 like I was a phantom, some person that lived totally
20 somewhere else and they couldn't get in touch with me
21 which couldn't have been further from the case.

22 I was very vested in -- I knew those people. They
23 would toot at me when they went by and wave their hands
24 at me. So they knew me that well. If either one of them
25 had a child that was sick, I sent things to them. That's

1 what I was -- but I was cut short from doing that. And I
2 thought it severely prejudiced me in front of the jury,
3 and it hurt my feelings a great deal. And it took a
4 little bit for me to compose myself to go forward because
5 I was tearful. Not in front of the jury. They had been
6 removed. But I was tearful from myself that that had
7 occurred.

8 The reason that struck me as particularly harmful
9 and the reason I had made it part of my appeal, that
10 issue, was at the beginning of the case before the case
11 commenced, you, Your Honor, called me up to the bench and
12 told me -- and I'm going to give you the quote that I
13 remember that has lived with me daily since that first
14 hearing on August 26th of 2009. You told me as you
15 leaned over the bench and pulled me close here and said,
16 just pay your damn bill. And that's when I said, Your
17 Honor, if you believe that, you might not be the one to
18 hear this because you obviously haven't read these
19 proceedings.

20 I had paid my bill every month diligently without
21 fail and never failed to pay my bill, as was indicated in
22 the testimony of Ms. McCormack when she testified and Mr.
23 Dalton when he testified. So the reason I was indignant
24 in this and wanted to bring the circumstances out was
25 this action was brought as a debt collection against

1 someone that never owed the debt, that had paid it fully
2 all along and that I felt very strongly. It was a
3 principle in proceeding with this action. And that
4 because this action was brought to court, I then filed a
5 counterclaim for what was truthful, and that was that the
6 pole and the guy wire erected by Blue Ridge, without any
7 written permission or permission from me, was on my
8 property and was consequently in trespass on my property.
9 Would I have brought that up had this not been initiated
10 against me? Likely not, though I had advised Blue Ridge
11 immediately when it was established that it was on my
12 property and needed to be removed.

13 I testified that this was not a power pole, per say,
14 power pole being in quotations, that this was a support
15 pole that was used to carry power, were it to ever occur,
16 to some unknown in the distant perhaps to-be-built
17 houses, not any that were currently in existence. That
18 this was projection poles, in other words, for power that
19 was to be run past at some date in the future. And with
20 the economy having been as we know, obviously that didn't
21 occur. But that this pole put on my property, called a
22 power pole for the sake of terminology, did not serve
23 anyone, nor did it serve me. For remember, I had paid
24 multi thousands of dollars to have my power buried and to
25 see no power utility poles.

1 board meeting on several occasions and that he did not
2 realize that that was me that they were talking about and
3 seemed rather upset about that, but I never heard back
4 from him. He did testify as I subpoenaed him to the
5 court hearing, and the reason why I did that was to
6 further support what I am testifying to then as I am now.

7 I have known him as principal of a Blue Ridge school
8 where I was active in P.T.A. because my stepdaughter was
9 active in that school and graduated from Blue Ridge and
10 been in multiple plays. And I have done the child safety
11 program at that school. So he had known me since the
12 1970s.

13 I testified that I had worked with Blue Ridge over a
14 year when they threatened to sue me that if I didn't pay
15 them some amount nearing ten thousand dollars for what
16 they said was a bill that I had not paid. I testified --
17 Mr. Brandt asked me if I knew the bills were estimated.
18 I said absolutely not. I never heard that the bills were
19 estimated, that Mr. Dalton had told me the state of the
20 art equipment, et cetera, that I didn't have to call it
21 in as I had for a number of years, particularly in the
22 '80s and a good bit of the '90s when I called in the
23 power meter reading.

24 I testified that there had been approximately to my
25 best recollection four meters on my property which was a

1 After that meeting, he seemed to indicate that he
2 thought that there wouldn't be a lawsuit, that it would
3 not go to that stage, that he thought that it would all
4 be worked out which I was glad to hear. Once again, one
5 less thing to worry about.

6 We moved back to that house. I believe it was in
7 2006. After we sold the house in Ridgeland, we voted
8 where we wanted to live. There were only three of us at
9 that time. My husband, my younger son and myself. And
10 my husband wanted to stay in the city and we wanted to
11 move to the country and so he lost. We moved back to the
12 country and lived in the Highway 11 house and resulted in
13 commuting back and forth.

14 The lawsuit was commenced against me despite my
15 attempts to stop it. Let's see. I testified that Blue
16 Ridge had had an occasion similar to this one when our
17 son was desperately ill and in the hospital and that they
18 had told me they were going to cut off my power because
19 of the meter.

20 And that during that time, I gave them -- they
21 wanted a thousand dollars, and my best recollection is I
22 paid them somewhere around a thousand dollars -- it was
23 nine hundred to a thousand dollars -- and then they just
24 dropped it. It was after that I had another meeting with
25 -- I think that's when the meeting was with Mr. Dalton

1 about I couldn't keep going through this. And that's
2 when he assured me it was a state-of-the-art meter, that
3 we would never have to worry about that issue again. And
4 that I felt this was a retaliatory-type action. When he
5 assured me it was a state-of-the-art meter, his words was
6 the meter on my house was something I would never have to
7 worry about again as it could be read from the road with
8 no trouble. I said, great. We installed a time to --
9 picked a time to install that meter, and I considered it
10 was done.

11 I never heard anything about an estimated bill until
12 after this lawsuit commenced. It was my testimony that
13 that was their invention. I think I paid before -- in
14 fact, I think that Blue Ridge owed me money back because
15 I frankly had written several times during the course of
16 the bill, especially when we weren't there, because I
17 thought the bill was high considering the only thing we
18 left on, as I testified, was the refrigerator -- and that
19 was a minimal power rating -- and the burglar alarm.
20 Nothing else. There were no lights left on. The air
21 wasn't on. The heat was cut down to minuscule, but
22 remember that was propane. So the house was virtually
23 freezing if you went up there during that time.

24 And like I say, you couldn't even flush the toilets
25 or have any water. I had my own water source. I had my

1 own well, so there's nothing except, of course, the power
2 to move it up. But remember, that was turned off.

3 Let's see. On the times when Blue Ridge cut my lock
4 and activated my burglar alarm, I had to pay a fee to the
5 sheriff's department for false alarms.

6 I testified I'd never received any coop checks from
7 Blue Ridge.

8 Let's see. I testified when I found Mr.
9 Sutherland's house, I left the telephone number through
10 other means. I left several messages for him to call me
11 back. He did not. I told you about the Traveler's Rest
12 Feed in-person meeting.

13 I subpoenaed Mr. Sutherland and Mr. Dalton. I knew
14 Mr. Dalton knew more about it than anybody from Blue
15 Ridge because he was really the only one I'd basically
16 communicated with besides Ms. McCormack limitedly.
17 Mostly Mr. Dalton. He had not planned to be at the
18 hearing where they sued me, but I served him to make sure
19 that he was which took a great deal of time.

20 I testified that my phone number had been in the
21 telephone book without fail for twenty-five years. It's
22 in there now. It had never changed. My telephone number
23 hadn't changed. It was always accessible. Not only do
24 they have my cell phone number, but if they per chance
25 had lost that, then all they had to do was look in the

1 telephone book.

2 I think my testimony was that we didn't live at the
3 house for approximately thirteen years. Nobody lived
4 there. It wasn't rented. It was not lived there. We
5 would come do yard upkeep and check on it.

6 I testified that my husband worked at -- is the
7 administrator at Greenville Memorial Hospital. I
8 testified that I was -- that this case had taken time
9 from my life, that I was supposed to have knees replaced
10 in a right-away fashion, but I'd put off doing all of
11 that surgery because this trial was pending.

12 I testified that we couldn't afford to spend monies
13 on a lawyer, so we proceeded pro se.

14 I was asked by Mr. Brandt if I had been disbarred.
15 I testified that I had. Since then I have additional
16 information, but as it was not asked and that I did not
17 have in the course of the 2009 testimony, I won't give it
18 now.

19 I testified that I'd started the Missing Children's
20 Center in South Carolina and was the -- after he asked me
21 about that and asked me what all work I had done when he
22 was questioning me, I testified that I had been an
23 assistant solicitor and was one of the first women in the
24 state to be that. Very active in child abuse
25 prosecutions and had won the Jefferson Award and Career

1 Woman of the Year Award. Not much testimony was given
2 about credentials.

3 Let's see. I testified about the mediation, that
4 we'd been called into mediation. Not much was given
5 about that either. In fact, I think just that was said.

6 If I could have just a minute and look over, Judge,
7 to see if I left anything out?

8 THE COURT: Yes, ma'am.

9 MS. JENNINGS: Most of the testimony that I
10 gave was in response to the bill. I know I testified
11 well over an hour. It was a long period of time. It
12 might have even been two hours. It was long. But most
13 of it was about the bill and identifying exhibits that
14 were put in that I'm not going into now because I don't
15 really remember what all they were, Judge, but you've got
16 them all. They were -- so I understand. They were
17 checks and identifications of bills and things of that
18 nature. The other documents had been put in through
19 witnesses like the Blue Ridge manual that talked about
20 membership and how you secured membership.

21 I testified that this case had been fully pled for
22 some period of time, years before it commenced to court,
23 well over a year. And I think -- and pardon me if I've
24 left anything out. I think that's pretty much the
25 summary of what I testified to.

1 jury trial following the Court's jury verdict for the
2 Defendant.

3 THE COURT: We're going to deal with the post-
4 trial motions in just a second.

5 MS. JENNINGS: So don't put that in?

6 THE COURT: Not yet. I'm going to keep this in
7 order. But any writings. And I'm thinking probably
8 along the line of proposed testimony for whatever purpose
9 it may be in there. I don't ---

10 MS. JENNINGS: Then do I hold these jury
11 instructions that you made? I mean, just a moment later
12 or I'll put this collectively if you already have this.

13 THE COURT: Well, go ahead and do your proposed
14 jury instructions. And I know your objection was I would
15 not allow you to go to the jury on the punitive damages.

16 MR. HAMM: Your Honor, that document would be
17 Court Exhibit Number 3?

18 THE COURT: Yes, sir.

19 (WHEREUPON, Court's Exhibit Number 3 was marked for
20 identification only.)

21 MS. JENNINGS: Then I would put in the jury
22 charge that Judge McIntosh gave to us, that is to Mr.
23 Brandt and myself. I received it on 8/28/09 a.m. And
24 there's a -- I've got them numbered B-1 through B- -- it
25 looks like B-8. So I'd add that to it. I may have to

1 get a copy of this back since I didn't make copies. And
2 then you also did a handwritten charge that this
3 obviously is your handwriting. Can I approach?

4 THE COURT: Yes, ma'am. That is my
5 handwriting.

6 MS. JENNINGS: This is your handwriting.

7 This is Judge McIntosh's handwriting that he gave us
8 in court on 8/28/2009. No one has mentioned this or
9 seems to have it. And I don't know if you were going to
10 make it part of the record or you even -- do you have it,
11 Your Honor?

12 THE COURT: It's not my job to make a record.
13 I'm allowing you the opportunity to do so and Mr. Brandt
14 the opportunity to do so.

15 MS. JENNINGS: But this is your handwriting and
16 you acknowledge this? This is an additional instruction
17 that he gave on the issue of trespass, which I would
18 offer this.

19 MR. HAMM: Your Honor, could we look at it
20 before it's tendered?

21 MS. JENNINGS: Yeah.

22 MR. HAMM: (Reviewed proposed exhibit)

23 MS. JENNINGS: These are jury instructions that
24 you read and gave copies. I want to make sure they're
25 all in there. And then the extra one you did in your own

1 handwriting, but I'm going to put it in all together.
2 You gave it to Mr. Brandt as well, but I'm giving you my
3 only copy. And then I think that's everything if you'd
4 allow me to ...

5 (WHEREUPON, Court's Exhibit Numbers 4, 5 and 6 were
6 marked for identification only.)

7 THE COURT: All right. Let me ask this. Ms.
8 Jennings, you referenced the fact that you filed some
9 post-trial motions. In checking with my office, I don't
10 recall and I don't have any notes that they were served
11 on me. Did you serve those post-trial motions on me?

12 MS. JENNINGS: I mailed them.

13 THE COURT: You mailed them?

14 MS. JENNINGS: Yes, sir.

15 THE COURT: Was there an affidavit of mail with
16 those?

17 MS. JENNINGS: I'm sure there is one if I can
18 dig it out. I put in what was sent.

19 MR. BRANDT: She sent them to me.

20 MS. JENNINGS: Yeah.

21 THE COURT: Well, I mean, I'm not saying she
22 didn't. I'm not even suggesting she didn't. I'm just
23 saying I don't have a record of having received those.
24 And it's certainly -- I don't believe there's been any
25 ruling on the post-trial motions.

1 MS. JENNINGS: That is exactly what happened.
2 And that I had also required -- filed requests for
3 admissions which are clocked-in in the court record where
4 Blue Ridge indicated that Mr. Gresham was a part of this
5 proceeding and that I was given five minutes prior to
6 closing argument on the Friday, August 28th, to modify my
7 closing remarks which I had written because of the
8 admonishment to keep it within forty-five minutes. That
9 I deleted anything about punitive damages because Your
10 Honor directed me not to say anything about them with my
11 running objection made on that point.

12 The jury consequently was unable to hear the issue
13 of punitive damages. They became, of course, the triers
14 of fact and of law. They took all the evidence, and they
15 saw us extensively. And they came back, even eating
16 lunch, in a relatively short period with a unanimous
17 verdict in favor of the Defendant on all particulars.

18 Nobody wishes the transcript existed more than I
19 because I think that my testimony was much better then
20 than it was four something years ago. Nobody wishes more
21 than I because it very clearly captured everything that I
22 testified to without a doubt and I stand by unequivocally
23 here today.

24 If I had -- I know that Mr. Brandt, with all respect
25 to him, sought to embarrass me that day. I would like to



Re destroyed
transcript
note I'm prose - no case worker
and not Mr. Jennings or lawyer

South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

October 27, 2010

Mr. Jennings
1524 Highway 11
Landrum, SC 29356

Dear Mr. Jennings:

Your inquiry has been received by this office and has been forwarded to this section for response.

This office does not have any authority in the types of matters described in your letter. You should work with your caseworker and/or attorney to resolve these issues.

Sincerely,
Court Services Section

July 27, 2013

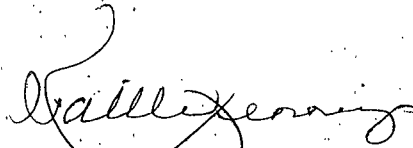
Ms. Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RE: Blue Ridge Electrical Cooperative, Inc. vs.
Kathleen Gresham (should be captioned Jennings)
CA No. 2008-CP-23-5245 *(and Steve Gresham)*

Dear Ms. Kitchings:

Enclosed please find the initial filing of Defendant Kathleen Jennings', *and Steve Gresham* pro se, in the captioned matter in accordance with the Court deadline. A certificate of mailing is also enclosed reflecting delivery to you along with my same submission of the same material to Larry Brandt, attorney for Plaintiffs.

Thank you.



Kathleen Jennings
pro se
1524 Highway 11
Landrum, SC 29356

Enclosures

cc: Larry Brandt with enclosures

RECEIVED

AUG 02 2013

SC Court of Appeals

State of South Carolina
In The Appellate Court
Case no. 2008-CP-23-5245

Blue Ridge Electrical Cooperative, Inc.

Appellant/Respondent,

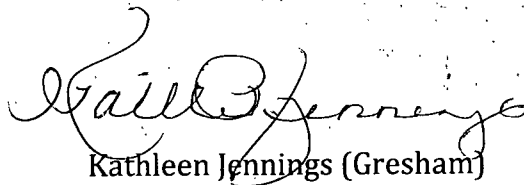
-vs-

Kathleen J. Gresham and Steve Gresham,

Respondent/Appellant.

PROOF OF SERVICE

I certify that I have served the Initial Brief of Respondent/Appellant to The SC Court of Appeals and with copy to Appellant/Respondent (through the office of Larry Brandt, Attorney for Plaintiffs Blue Ridge Coop., now Appellant/Respondent), by depositing a copy of it to each in the United States Mail/parcel service, postage prepaid, costs prepaid, on August 1, 2013, addressed as follows: THE SC Court of Appeals, Att: Clerk Jenny Abbott Kitchings, P.O. Box 11629, Columbia, SC 29211; and to Mr. Larry Brandt, Attorney, P. O. Box 738, 3691 Blue Ridge Blvd, Walhalla, SC 29691, And that submission of this Initial Brief is well within the deadline for submission, imposed by this Court.



Kathleen Jennings (Gresham)

pro se

Respondent/Appellant

1524 Highway 11 (Greenville County)

Landrum, South Carolina 29356

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AUG 02 2013

SC Court of Appeals

Mr. Larry Brandt
Attorney
3691 Blue Ridge Blvd.
Walhalla, SC 29691

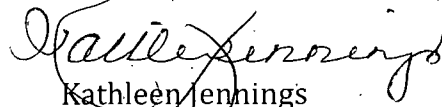
July 27, 2013

RE: Blue Ridge Electrical Coop. v. Gresham
2008-CP-235245

Dear Mr. Brandt,

Enclosed is a copy of my initial issues information submitted to the SC Court of Appeals along with my certificate of mailing.

Yours very truly,



Kathleen Jennings
1524 Hwy. 11
Landrum, SC 29356

Enclosures

copy

RECEIVED

AUG 02 2013

SC Court of Appeals

State of South Carolina)
County of Greenville)

In the Court of Appeals

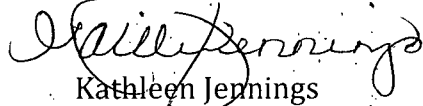
Blue Ridge Electrical)
Cooperative, Inc.)

-vs-

Kathleen Gresham)
Steve Gresham.)

Initial Issues and Brief of Defendant
and Cross Appellant

I certify that I have placed in the U.S. Mail the initial issues and brief of Defendant/cross appellant captioned as Kathleen Gresham, along with sufficient postage to the SC Court of Appeals with copy, also sufficiently posted, to Larry Brandt, attorney for Plaintiffs at the address in Walhalla, SC he provided.



Kathleen Jennings
Incorrectly captioned as Gresham
pro se
1524 Hwy. 11
Landrum, SC 29356

copy

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AUG 02 2013

SC Court of Appeals