

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Case No. 2022-CP-42-03123
Appellate Case No. 2023-001752

MECO, Inc. of Augusta.....
Appellant,

v.

Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures LLC; NEPA Trading &
Investments, LLC.....
Respondents.

**RESPONDENTS’ MOTION TO STRIKE MATTERS FROM APPELLANT’S
DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL
AND
MOTION FOR EXTENSION OF TIME**

Pursuant to Rules 209 and 210, SCACR, Respondents respectfully move before this Honorable Court for an order striking certain matters from Appellant’s Designation of Matter to be Included in the Record on Appeal (hereinafter, “Designation”) and all references to them in Appellant’s brief for the following reasons:

1. Appellant’s Designation includes the Deposition of “Alex” Sayed (Vol. I taken April 12, 2023 & Vol. II taken August 7, 2023) pp. 17-20, 22-27, 29, 40-41, 44, 61-62, 66, 76, 86, 147-149 and Deposition of Brad Burke, on behalf of MECO, Inc. (taken June 7, 2023), pp. 54-55,

57-58, 126, 129, 141-143 & Exs. 28, 29 (collectively the “Improperly Designated Material”). These deposition excerpts and accompanying exhibits were not presented to the trial court.

2. Rule 210(c), SCACR, prohibits the inclusion in the record on appeal of “matter which was not presented to the lower court or tribunal.” *Accord State v. White*, 372 S.C. 364, 387, 642 S.E.2d 607, 619 (Ct. App. 2007); *Sanders*, 283 S.C. at 460; *see also Noorai v. School Dist. Of Pickens County*, 2016 WL 1367066 (Ct. App. 2016) (“We considered only the portions of Appellant’s deposition that were actually presented to the circuit court”). The purpose of an appeal is for the appellate court “to review the judgment of the circuit court for reversible error based on the issues and evidence presented to that court.” *Sanders v. Salley*, 283 S.C. 458, 460, 322 S.E.2d 829, 830 (Ct. App. 1984). The Court of Appeals does not “sit as a trial court to receive evidence on disputed issues of fact[.]” *Id.* “[A]ppellate review should be limited to the record in the trial court.” *Id.* at 461.

3. Rule 209(b), SCACR, provides that a designation of matter for inclusion in the record on appeal “may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the record on appeal.”

4. The only deposition excerpts Appellant presented to the lower court from the 30(b)(6) deposition of MECO, Inc. of Augusta’s designee, William Bradley Burke, were attached as Exhibit 3 to its Memorandum in Opposition to Defendants’ Motion for Summary Judgment. Additionally, the only deposition excerpts Respondent presented to the lower court from the same deposition were attached as Exhibit B to its Motion for Summary Judgment. No further excerpts from the 30(b)(6) deposition of MECO, Inc. of Augusta were provided to or considered by the trial court. A true and accurate copy of Exhibit 3 and Exhibit B are attached as **Exhibits A and B**, respectively.

5. The only deposition excerpts Appellant presented to the lower court from the deposition of Alex Sayed were attached as Exhibit 8 to its Memorandum in Opposition to Defendants' Motion for Summary Judgment. No further deposition excerpts from the deposition of Alex Sayed were provided to or considered by the trial court. A true and accurate copy of this Exhibit 8 is attached as **Exhibit C**.

6. In their Initial Brief, Appellant refers to and relies on the Improperly Designated Material. However, because Appellants failed to bring these excerpts and exhibits before the trial court so that it could rule on the issue with these materials, it would be inequitable to allow Appellants to rely on these deposition excerpts and associated exhibits in this appeal.

Therefore, Respondents ask the Court to enter an Order striking the Improperly Designated Material from Appellant's Initial Designation and Initial Brief and requiring Appellant to refile its Initial Designation and Initial Brief without these materials. Additionally, pursuant to Rule 263(b), SCACR, Respondent requests an extension of time to file Respondents' Initial Brief until thirty (30) days from the date this motion is resolved. The deadline to file the Initial Brief of Respondents is currently February 21, 2024.

Respectfully submitted,

/s/ Zachary A. Turner

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Attorneys for Respondents

February 16, 2024
Greenville, South Carolina

Exhibit A

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

MECO, INC. OF AUGUSTA,)
)
 Plaintiff,)
)
 vs.)
) CIVIL ACTION FILE
) NO. 2022-CP-42-03123
)
 ALEX SAYED a/k/a ARSHAD M.)
 SAYED a/k/a ARSHED SAYED; NEPA)
 VENTURES LLC; NEPA Trading &)
 Investments, LLC,)
)
 Defendants.)

ORIGINAL

DEPOSITION OF

30(b)(6) MECO, INC. OF AUGUSTA DESIGNEE
WILLIAM BRADLEY BURKE

June 7, 2023
10:11 a.m.

One Tenth Street, Suite 700
Augusta, Georgia 30901

Jasmine Cintron, CCR
6735-9936-9301-1968

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21
22
23
24
25

INDEX TO EXAMINATIONS

Page

Examination by Mr. Bach	6
Examination by Mr. Kelly	145

READ AND SIGN
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1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX TO EXHIBITS

Defendants' Exhibits	Description	Page
1	Notice of Deposition	20
2	Contract Agreement, MECO 00509-514	55
3	Scope of Work, MECO 00516-517	65
4	Diagram, MECO 00842-844	71
5	Mike Long & Associates, MECO 00791-792	72
6	Pictures, Sayed 901000578-854	75
7	E-mail, MECO 00022	80
8	Wayne Fueling documents, MECO 00558-586	81
9	E-mail, MECO 00172-173	85
10	E-mail, MECO 00174	91
11	E-mail, MECO 00176-177	91
12	E-mail, MECO 00178	93
13	E-mail, MECO 00180-182	97
14	E-mail, MECO 00155-157	98
15	Time clock, MECO 00931-937	99
16	E-mail, MECO 00050-051	102
17	E-mail, MECO 00052-053	107
18	E-mail, MECO 00186-190	108
19	E-mail, MECO 00166-171	110
20	E-mail, MECO 00054	111
21	E-mail, MECO 00055-059	113
22	E-mail, MECO 00062-064	115

1	23	E-mail and Invoices, MECO 00117-140	117
2	24	E-mail, MECO 00263	119
3	25	E-mail, MECO 00282	120
4	26	Spreadsheet, MECO 00356-357	120
5	27	E-mail, MECO 00287-290	125
6	28	E-mail, MECO 00158-162	129
7	29	E-mail, MECO 00298-303	132
8	30	Text Messages, Sayed 901000589-0623	134

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Original Exhibits 1 through 30 have been attached to the original transcript.)

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1 P R O C E E D I N G S

2 (Court reporter disclosure made pursuant to Article
3 10.B of the Rules and Regulations of the Board of Court
4 Reporting of the Judicial Council of Georgia.)

5 WILLIAM BRADLEY BURKE,
6 after having been first duly sworn, testified as follows:

7 EXAMINATION

8 BY MR. BACH:

9 Q. Mr. Burke, my name is Adam Bach, and I'm an attorney
10 representing the defendants in a lawsuit that was brought in
11 Spartanburg County, South Carolina, by MECO, Inc. of Augusta.
12 We're here today for the 30(b)(6) deposition of MECO. Before
13 we begin, you understand that this an action pending in South
14 Carolina and is subject to the South Carolina Rules of Civil
15 Procedure?

16 A. Yes, sir.

17 Q. So those rules require me to explain a few things to
18 you at the beginning of the deposition. The primary one -- or
19 rules required I'm gonna explain to you is that unlike some
20 other states, in South Carolina, once you're under oath, you
21 cannot discuss your testimony with anyone else off the record.
22 Do you understand that?

23 A. Yes, sir.

24 Q. That would include your attorneys or, you know, call
25 back to the office or anything like that. Do you understand

1 conversation six years ago.

2 Q. Was there anything else that you recall?

3 A. Not that I can remember.

4 Q. Getting back to -- so I want to -- I want to get back
5 to some more general questions about MECO. What does MECO do?

6 A. We are a sales, service, and installation company for
7 petroleum equipment products.

8 Q. Okay. So do you-all manufacture any petroleum
9 equipment products?

10 A. No, sir.

11 Q. Okay. So you don't do any manufacturing; is that
12 correct?

13 A. Correct.

14 Q. So -- so MECO's role is to purchase from third
15 parties and then you handle the installation; is that correct?

16 A. Correct.

17 Q. So sort of like a contractor for a house; is that
18 accurate?

19 A. Correct.

20 Q. Where the contractor -- he's not cutting the wood or,
21 you know, forging the doorknob, he is supplying the materials
22 and then what he's doing is the service of putting it all
23 together; is that accurate?

24 A. Yes, sir, that is.

25 Q. That's what MECO does, correct?

1 A. Correct.

2 Q. Is that -- and that's what MECO did on this project,
3 correct?

4 A. Correct.

5 Q. Okay. Let me -- I'm gonna mark this as Exhibit
6 Number 1.

7 MR. BACH: This is your copy.

8 MR. KELLY: Thanks, Adam.

9 (Defendants' Exhibit Number 1 was marked for
10 identification purposes.)

11 Q. (By Mr. Bach) I'm gonna hand you -- I'm gonna hand
12 you what's been marked as Exhibit Number 1. This is the
13 30(b)(6) notice that my office sent that we are here on today,
14 and you are MECO's designee to testify about the topics that
15 are listed 1 through 13. Do you understand that?

16 A. Yes, sir, I do.

17 Q. Have you seen this notice before and these topics?

18 A. Yes, sir, I have.

19 Q. Have you reviewed them?

20 A. Yes, sir, I have.

21 Q. Have you taken some time to go and become educated on
22 these topics and to determine what knowledge MECO might have
23 about these topics?

24 A. Yes, sir, I have.

25 Q. Okay. And throughout -- I've got -- this has a

1 definition of the property as the Westar Travel Plaza. That is
2 what we're here about today, correct -- the work MECO did
3 there?

4 A. Yes, sir, it is.

5 Q. During the deposition, I may refer to it as the
6 property or the project. We're clear that in each instance I'm
7 referring to the work that MECO did at 175 Truck Stop Road in
8 Cowpens. Is that --

9 A. Yes, sir.

10 Q. Okay. Other than -- other than talking to your
11 attorneys -- discussing things with your attorneys, what did
12 you do to prepare to testify on these topics?

13 A. I reviewed all the documents that I provided.

14 Q. Okay. So you went through all the documents?

15 A. Yes, sir.

16 Q. Did you have any conversations with any employees?

17 A. Yes, sir, I did.

18 Q. Okay. Who did you -- who did you talk with to
19 prepare?

20 A. My managing director.

21 Q. Who is that?

22 A. John Magee.

23 Q. Why'd you talk to him?

24 A. He is our -- also our installation manager, and he
25 was one of the ones that was part of this project.

1 MR. KELLY: For the record, Magee is spelled
2 M-a-g-e-e.

3 Q. (By Mr. Bach) Okay. What -- what does an install
4 manager do?

5 A. He handles scheduling, oversight.

6 Q. Oversight of who?

7 A. Of the installation department.

8 Q. Okay. Is he in -- installation department within
9 MECO?

10 A. Yes, sir.

11 Q. Are they the people who are actually providing the
12 service like putting their hands -- shovels in the ground, that
13 sort of thing?

14 A. Yes, sir.

15 Q. Okay. And so as they are work -- so did -- well, let
16 me ask you this way. Is there one installation department or
17 are there multiple installation departments in MECO?

18 A. There is one installation department in Augusta that
19 is in-house. Our Greenville branch uses subcontractors.

20 Q. Okay. So -- and I'm primarily interested in the
21 project at issue. Since Westar is near the Greenville branch,
22 would this have been done by subcontractors?

23 A. No. It was done in-house in Augusta because it was a
24 very detailed project, and we took on that responsibility with
25 our branch down here.

1 Q. So explain that to me. So when you say it was done
2 here in Augusta -- from somebody who doesn't know anything
3 about your business, what does that mean?

4 A. The Augusta branch is a larger branch. We do much
5 more construction out of this branch. That's a smaller branch
6 up there. The expertise of the crew down here handles larger
7 projects. Most of the smaller projects and retrofits out of
8 the Greenville branch are handled by subcontractors because
9 they're not as in depth.

10 Q. When you say it was handled here in-house, do you
11 mean that there was actual work done here or you're just saying
12 that it was the crew from here?

13 A. I'm saying it was my crew from Augusta that did the
14 work in Cowpens.

15 Q. Okay. So they traveled to Cowpens?

16 A. Correct.

17 Q. Is there -- is there one crew in Augusta? When you
18 say crew, I'm just trying to figure out how many people -- is
19 it multiple crews? Is it...

20 A. Today, I have multiple crews. Then, it was one
21 four-man crew.

22 Q. That did the install for complicated projects?

23 A. Correct.

24 Q. Okay. I gotcha. And then if there was something
25 more minor in that area, you would handle with subcontractors?

1 A. Correct.

2 Q. How much of this install was handled by your four-man
3 crew out of Augusta?

4 A. 80 percent.

5 Q. And the other 20 percent was by subs?

6 A. Correct.

7 Q. So when this project began -- well, let me ask you
8 this. What made this a more complicated project?

9 A. It's a large truck stop. It had existing equipment
10 that we were adding to and replacing. There's unforeseen
11 things that we cannot see with the naked eye underground, under
12 concrete. And when you're dealing with preexisting conditions,
13 we wanted to make sure we had people that were very
14 knowledgeable with that that worked inside the organization
15 handling it.

16 Q. Okay. So then help me differentiate. How was that
17 different from a more standard project so I can understand?

18 A. A new site that's coming on board, it's not currently
19 generating revenue, it's not currently being used, it's all
20 new, all the parts go together the way they're supposed to,
21 you're starting from scratch. It's a much easier project to
22 do. When you have existing equipment that has been there, that
23 has corrosion, has issues, has been used, and you're adding to
24 it, it brings a different level of difficulty to a project.

25 Q. Okay. I think I understand. You said -- so an

1 fertilizer. It's highly corrosive. It's the opposite. What
2 it is stored in corrodes and affects the fluid itself.

3 So if you took a penny and dropped it in
4 8,000 gallons of DEF underground, it would null and void that
5 entire tank of DEF. It would no longer be any good. So normal
6 applications, diesel is dropped directly into a belowground
7 tank through an adaptor and a bucket straight off a truck.
8 DEF, if you did that, every time they open the lid, water and
9 contaminants could go straight into the tank, and it would ruin
10 the fluid that it is stored in. So we call it a remote fill
11 because we have to have a box away from the tank that the truck
12 can directly hook into. That way we know that no contaminants
13 can run down into the -- into the tank.

14 Q. Okay. And so you worked on that portion too?

15 A. Yes, sir, I did.

16 Q. All right. If you could then in your own words just
17 explain -- provide to me what did -- what was MECO hired to do
18 at the -- at the plaza -- the travel plaza?

19 MR. KELLY: Let me object to the form of the
20 question, and ask for clarification of when.

21 Q. (By Mr. Bach) Initially.

22 A. My understanding from Roger was that he had older
23 dispensers that did not take cards and communication at the
24 pumps. So when the trucks pulled in, they had to get out and
25 go inside to a register and tell them what account they were.

1 And then they would authorize them to have fuel and trucks
2 would stack up. So this was also the time where the credit
3 card chips were starting to come out, and everybody was having
4 to upgrade to a different type of authorization to be able to
5 take payment.

6 He had older existing tanks and outdated piping that
7 was not up to code. And, originally, he just wanted to upgrade
8 the dispensers. And he had a small DEF tank at the very first
9 island closest to the building. And they were doing more
10 volume because more trucks had started to have this DEF on
11 them, and they were running out.

12 And so he wanted to make it where he had
13 communication where the truck drivers did not have to go back
14 inside to communicate. He wanted them to be able to punch a
15 code on the dispensers and it speed up transactions. And he
16 needed a larger capacity for DEF because there was only one
17 island that could have the DEF, and he wanted DEF in all the
18 islands so that he could increase his DEF sales.

19 MR. KELLY: For the record, when he refers to DEF,
20 it's an acronym, D-E-F. All capitalized.

21 THE WITNESS: So we were going to take the existing
22 diesel tank. We had to tear of a portion of it to be able
23 to get into the underground containment to take out the
24 old pipe. We had to bring it up to code with new
25 containment because the motors themselves were sitting in

1 dirt, and that was not to code. It has to be inside of a
2 containment in case there was a spill. We had to put in
3 the new piping to all the new dispensers, and we were
4 putting new dispensers with new communications at every --
5 every lane.

6 Q. (By Mr. Bach) And -- and just to make sure that I'm
7 clear about your answer, this is what the defendants originally
8 requested MECO to do; is that accurate?

9 A. When I was brought into it, this is what Roger
10 Carpenter and Alex was discussing. I didn't have the original
11 conversations with Alex on the project, so I can't speak on
12 that behalf on what originally was discussed between Roger and
13 him on the project.

14 Q. But your understanding -- or MECO's testimony today
15 is the things that you -- I don't have to go back over all of
16 it.

17 A. Sure. Sure.

18 Q. The things that you just described is what MECO was
19 hired to do initially?

20 A. That is exactly what MECO was hired to do.

21 Q. Was -- was keeping some of the pumps open so the
22 trucks could continue to come through and get gas part of the
23 conversation at that time?

24 A. We would never take a site half down if we could take
25 it fully down. It turns into two projects. It's much more

1 Q. Had y'all ever done a project like this before where
2 you've taken half down?

3 A. Yes, we have.

4 Q. In that area?

5 A. Not in that area. Many times in the Augusta area.

6 Q. So it's something y'all had a fair amount of
7 experience with?

8 A. A large amount of experience with.

9 Q. And you were familiar with the variables before you
10 ever met Mr. Sayed, correct?

11 A. Correct.

12 Q. Okay. Was -- one of the things I want to ask you,
13 you said dates equipment will arrive. Do y'all order the
14 equipment that's gonna be installed before it's set to be
15 installed and then try to time the arrival, or are you able to
16 warehouse it?

17 A. We warehouse the smaller equipment. The larger
18 equipment -- the tank comes direct from the manufacturer
19 straight to the site, and sometimes we get the dates we want.
20 Sometimes they give us the date that they can make it.

21 Q. And then in order for the tank to go in the -- well,
22 let me ask you this: Is there any way to keep the tank at the
23 project before it's installed, or does it have to go straight
24 from the manufacturer into the ground?

25 A. If it is a diesel or gas tank, we could store it on

1 rock at the site if it wasn't ready to go in. With a
2 fiberglass DEF tank, because of the volatility of the tank
3 being clean, it has to go straight off the truck straight into
4 the ground.

5 Q. Is -- okay. So -- so you have to have your work --
6 the dig or whatever else --

7 A. I have to have the dig ready to go for it to come in.

8 Q. And is that MECO's standard practice with regard to
9 all of the tanks, or do y'all sometimes store the tanks at the
10 site?

11 A. We try to go in and have the tank hole ready way
12 before the tank is ready to arrive.

13 Q. How about the pumps? Do y'all warehouse the pumps or
14 do you --

15 A. We warehouse the pumps.

16 Q. Here in Augusta?

17 A. Yes, sir.

18 Q. Do you do any of that in -- at Piedmont?

19 A. Yes, sir, we do.

20 Q. Do you know where -- were these warehoused -- were
21 the pumps for this one warehoused?

22 A. The equipment was warehoused in Greenville.

23 Q. In Piedmont?

24 A. Yes, sir.

25 Q. You said that he gave you a competitor's quote to

1 A. Correct.

2 Q. Was there anything that arose as the project went on?
3 And we're gonna look at documents. I'm just trying to get your
4 memory -- what you know without -- but anything went -- as the
5 project went on that was not anticipated at the time you quoted
6 the work?

7 A. Yes. There's things.

8 Q. Okay. What were some of those?

9 A. From the very beginning we were held up on ordering
10 equipment and the tanks because there's a significant amount of
11 time between when the funding was released to us and when we
12 could order the equipment. The dispensers and the tanks, we
13 never order unless we have the existing down payment because
14 they're specialized, and we cannot return them. Other things
15 that arose was we faced -- we faced obstacles with weather,
16 holidays, other things that originally if the project would
17 have started sooner, would not have such an impact.

18 We had concrete that was poured at a portion of the
19 project and it was flagged off and a truck drove through it
20 while it was still wet. And we had to tear out a whole portion
21 and start back over. The way the original piping was run. The
22 reason we didn't realize that that line that was going to the
23 front of the store for the diesel for the one dispenser -- we
24 didn't find out about that issue until we did the second phase
25 of the fueling project.

1 **Q. What issue?**

2 A. The piping that ran to the dispenser. So the -- let
3 me see how I can explain this. You can run -- you can run
4 pipe -- product piping to dispensers two ways. You can run it
5 in sections, or you can run it all in one. Some customers
6 prefer you have one product pipe that goes to every dispenser
7 and it's T'd off and goes into them. The problem with that is
8 if one -- if anything fails, everything's down. If you run it
9 in two sections and say four of the dispensers have a product
10 line running back to the tank and the other four dispensers
11 have a product line running back to the tank, if one section
12 fails, the other section can still run at a later date. That
13 was the way the original piping was run.

14 What we did not know is -- and Alex didn't know it,
15 nobody knew it -- is instead of running from the tank to the
16 front set of auto diesels -- we call it auto because it's small
17 trucks. Instead of them running the line from the existing
18 tank to the front of the building, they tied into one of the
19 product lines on the truck diesel on the back.

20 **Q. So how did that complicate things?**

21 A. When we went to -- to disconnect and start on the
22 second phase of the project closest to the building, he no
23 longer had fuel -- the diesel fuel -- at his pump in the front.

24 **Q. Because it was running to the back?**

25 A. Because it was running to that back piping that we

1 had just disconnected to tear out and redo.

2 **Q. That was the beginning of phase two?**

3 A. Correct.

4 **Q. Okay. Anything else not anticipated at the time of**
5 **your quote?**

6 A. Communication and network issues.

7 **Q. Okay. What do you mean by that?**

8 A. He had existing -- the manufacturer's called Comdata.
9 It's what handles high-volume truck accounts. So a trucking
10 company might have an account with Comdata. And so they give a
11 PIN number when they pull up to a site that has that, and they
12 can buy fuel, but they don't have to give a card every time
13 because it's a network. He had an existing network. We were
14 tying new card readers and new communications on the new
15 dispensers to that existing point of sale. And we were
16 informed by Alex that it would work, and it did not. It had to
17 be upgraded.

18 **Q. Okay. What else?**

19 A. I can't think of anything else.

20 **Q. On the gap in funding --**

21 MR. KELLY: Hold up. Hold on. I think -- are you --
22 are you done? I thought you were thinking and then you
23 moved on. I looked down and so...

24 MR. BACH: No. He said he couldn't think of anything
25 else.

1 gotten permission to send the \$250,000 deposit or \$257,000
2 deposit, correct?

3 A. Yes.

4 Q. All right. And so at that point, nothing else was
5 due from -- from Mr. Sayed, correct? From --

6 A. At that point in time, no.

7 (Defendants' Exhibit Number 14 was marked for
8 identification purposes.)

9 Q. (By Mr. Bach) Okay. This is Exhibit 14. All right.
10 So this is -- this is an e-mail that are from -- this is
11 fast-forwarding a couple months. This is from October, and it
12 says, "Please see the revised estimate for the upgrade kits for
13 your gas dispensers at Westar." What -- what is this
14 referencing, do you know?

15 A. It's the credit card units that we put on the front
16 of the store that had nothing to do with the original contract
17 that he asked us to do in the middle of the project.

18 Q. Okay. So this is -- this is October 18, 2018, and
19 this is for the front of the store?

20 A. Front of the store, those credit card communications.

21 Q. All right. And he replied two days later and said,
22 let's -- "Let's confirm this and start work ASAP" and then
23 signature on this one. So it was approved, correct?

24 A. Correct.

25 Q. All right. Had y'all already started work on the

1 it's Westar Excel sheet showing contract amounts, payment
2 balances, what is owed 8/7/19 [sic]. Do you see that?

3 A. I do.

4 Q. Okay. And if you look at 26 --

5 MR. BACH: Did I hand you this; did I give you a
6 copy?

7 MR. KELLY: No. It's okay though.

8 Q. (By Mr. Bach) When I -- if you look at 26, is that
9 the spreadsheet that was attached?

10 A. That looks like the spreadsheet that was attached.

11 Q. Okay. So the -- so you e-mailed Alex and said, "I've
12 attached the spreadsheet with contract amounts, invoices,
13 payments, and outstanding invoices." You also attached the
14 contracts. You said you wanted payment by the end of business
15 tomorrow through wire transfer.

16 So was it MECO's position -- or is it MECO's position
17 that all of these amounts were owed and due as of August 7,
18 2019, that are shown on the spreadsheet?

19 A. State that one more time.

20 Q. Is it MECO -- is it MECO's position that all of the
21 amounts that are shown on the spreadsheet were -- so it's a
22 total balance owed, \$117,142, but that was due and owed as of
23 August 7, 2019? I'm just trying to find out what -- what MECO
24 claims the outstanding balance was as of that date.

25 A. As of 8/8/2019, that was the dollar value.

1 Q. That was what was owed under the contract?

2 A. Not under the -- that was what was owed to MECO for
3 everything.

4 Q. Okay. As of that date?

5 A. As of that date.

6 Q. An easier way of saying it would be to say -- or what
7 I'm -- what I'm trying to ask is that it was MECO's position
8 that as of August 8, 2019, my clients owed this amount on page
9 two pursuant to the contract?

10 A. Not pursuant to the --

11 Q. I mean, pursuant to their agreements with MECO?

12 A. To all agreements and all the work that had been
13 done, not just the original contract.

14 Q. Okay. And that's based on the change orders, the net
15 30 terms on the invoices, the terms in the actual -- the
16 original contract we looked at, correct?

17 A. That and other things.

18 Q. What other things?

19 A. The upgrade kits up front, service tickets, and work
20 that had already been done throughout that time period.

21 Q. And it was not -- it was not like you were sending
22 this saying, hey, this amount of money is coming due or this
23 amount of money may be due in the future. It was due right
24 now?

25 A. It was way past due.

Exhibit B

Deposition Excerpts

Page 50

1 A. Correct.

2 Q. Was there anything that arose as the project went on?

3 And we're gonna look at documents. I'm just trying to get your

4 memory -- what you know without -- but anything went -- as the

5 project went on that was not anticipated at the time you quoted

6 the work?

7 A. Yes. There's things.

8 Q. Okay. What were some of those?

9 A. From the very beginning we were held up on ordering

10 equipment and the tanks because there's a significant amount of

11 time between when the funding was released to us and when we

12 could order the equipment. The dispensers and the tanks, we

13 never order unless we have the existing down payment because

14 they're specialized, and we cannot return them. Other things

15 that arose was we faced -- we faced obstacles with weather,

16 holidays, other things that originally if the project would

17 have started sooner, would not have such an impact.

18 We had concrete that was poured at a portion of the

19 project and it was flagged off and a truck drove through it

20 while it was still wet. And we had to tear out a whole portion

21 and start back over. The way the original piping was run. The

22 reason we didn't realize that that line that was going to the

23 front of the store for the diesel for the one dispenser -- we

24 didn't find out about that issue until we did the second phase

25 of the fueling project.

Page 51

1 Q. What issue?

2 A. The piping that ran to the dispenser. So the -- let

3 me see how I can explain this. You can run -- you can run

4 pipe -- product piping to dispensers two ways. You can run it

5 in sections, or you can run it all in one. Some customers

6 prefer you have one product pipe that goes to every dispenser

7 and it's T'd off and goes into them. The problem with that is

8 if one -- if anything fails, everything's down. If you run it

9 in two sections and say four of the dispensers have a product

10 line running back to the tank and the other four dispensers

11 have a product line running back to the tank, if one section

12 fails, the other section can still run at a later date. That

13 was the way the original piping was run.

14 What we did not know is -- and Alex didn't know it,

15 nobody knew it -- is instead of running from the tank to the

16 front set of auto diesels -- we call it auto because it's small

17 trucks. Instead of them running the line from the existing

18 tank to the front of the building, they tied into one of the

19 product lines on the truck diesel on the back.

20 Q. So how did that complicate things?

21 A. When we went to -- to disconnect and start on the

22 second phase of the project closest to the building, he no

23 longer had fuel -- the diesel fuel -- at his pump in the front.

24 Q. Because it was running to the back?

25 A. Because it was running to that back piping that we

Page 52

1 had just disconnected to tear out and redo.

2 Q. That was the beginning of phase two?

3 A. Correct.

4 Q. Okay. Anything else not anticipated at the time of

5 your quote?

6 A. Communication and network issues.

7 Q. Okay. What do you mean by that?

8 A. He had existing -- the manufacturer's called Comdata.

9 It's what handles high-volume truck accounts. So a trucking

10 company might have an account with Comdata. And so they give a

11 PIN number when they pull up to a site that has that, and they

12 can buy fuel, but they don't have to give a card every time

13 because it's a network. He had an existing network. We were

14 tying new card readers and new communications on the new

15 dispensers to that existing point of sale. And we were

16 informed by Alex that it would work, and it did not. It had to

17 be upgraded.

18 Q. Okay. What else?

19 A. I can't think of anything else.

20 Q. On the gap in funding --

21 MR. KELLY: Hold up. Hold on. I think -- are you --

22 are you done? I thought you were thinking and then you

23 moved on. I looked down and so...

24 MR. BACH: No. He said he couldn't think of anything

25 else.

Page 53

1 THE WITNESS: We...

2 MR. KELLY: I don't know. I'm just asking you if

3 there's -- take a minute and think if there's anything

4 else.

5 THE WITNESS: There was weather, there was timing,

6 there was payment issues. It was many times where we

7 requested payment and it would be a significant amount of

8 days before we would hear anything. We were held at the

9 jeopardy of the third-party banking for all of our

10 financing.

11 Q. (By Mr. Bach) Did y'all ever stop work because of

12 delays in payment?

13 A. We drug our feet at times because we weren't getting

14 paid.

15 Q. Because you weren't getting paid in accordance with

16 the terms of the contract. Is that what you're saying?

17 A. Way outside the terms of the contract.

18 Q. And you drug your feet because of that?

19 A. At times.

20 Q. When you said earlier -- and I'm sorry. I don't want

21 to stop your list. Anything else?

22 A. We had a completely separate request for the very

23 front of the property. The existing pumps could not take the

24 new credit cards with the chips, and he had to upgrade them due

25 to CITGO's rules because the front of the house was CITGO. The

Page 66

1 A. I do.

2 Q. Okay. And -- and that's something MECO was to

3 provide, correct? I mean, just trying to define terms here.

4 The defendants are customer in that sentence?

5 A. Correct.

6 Q. All right. And they -- so MECO is to provide the

7 defendants a "detailed construction schedule for a 16 day

8 project." What does that mean?

9 A. This is a -- we use a standard scope of work on

10 retail sites because they're mostly the same. It just might be

11 certain different piece of equipment that are being used and

12 moved. I have two copies of this. I have one that has the

13 16-day on it, and I have one that doesn't have the 16-day on

14 it. And they're both identical.

15 Q. Are they both signed?

16 I'll tell you what. Let's do this, we'll take a

17 break for lunch in about an hour, and you can flip through then

18 and see if you can find it.

19 A. Okay. It --

20 Q. And if so just --

21 A. It is. Both of them are signed.

22 Q. Why is -- why were there two different versions?

23 A. I believe that was a grammatical error that was not

24 caught when he was using Word to write up a scope of work to

25 match the contract.

Page 67

1 Q. The 16-day project?

2 A. Correct.

3 Q. Okay.

4 A. Because it's 28 days just for the concrete alone, and

5 so that's just a grammatical error that occurred.

6 Q. Okay. So you think that the "for 16 day project" was

7 inserted by mistake?

8 A. I believe it could have been inserted by mistake, or

9 it was from an existing scope of work that he was changing and

10 just did not see that portion.

11 Q. Was there anything else in here that was included by

12 mistake that you -- that you see?

13 A. There was one other thing where it says, "Install

14 bollards around remote fill and tank." It should have just

15 said remote fill. The tank itself is in the middle of a drive

16 lane and you cannot have metal bollard posts sticking up out of

17 the ground in the middle of a parking lot. Those are used for

18 around aboveground structures that are not in a drive lane.

19 Q. All right. So did Mr. Carpenter draft this document?

20 A. Yes, he did.

21 Q. Did you talk to him about whether or not those two

22 terms were included by mistake?

23 A. I have not had that conversation with him.

24 Q. Do you know whether or not Mr. Sayed was informed

25 that those were a mistake?

Page 68

1 A. I can't answer that.

2 Q. So -- well, you would agree with me that the "provide

3 customer detailed construction schedule," that was not by

4 mistake?

5 A. That was not by mistake, no.

6 Q. Okay. Was a detailed construction schedule provided

7 to the customer here?

8 A. There's documentation we provided where we discussed

9 the parameters of the construction schedule.

10 Q. Was that -- is that what you're referring to when you

11 say detailed construction schedule?

12 A. Correct.

13 Q. How long is that schedule? How long would a

14 construction schedule for this project -- how long should it

15 have been if not 16 days?

16 A. There's a lot of variables. The way we did it, it

17 would've been a minimum of three months because you have two

18 28-day pours on top of all of the work that had to be done.

19 Q. Three months?

20 A. That would have been a minimum because there was

21 two -- we made it into two projects.

22 Q. Okay. So 28 -- so 56 days for the concrete to set

23 and then an additional 34 days for the rest of the -- rest of

24 the project?

25 A. Yes. Giving in weather and everything else we would

Page 69

1 have figured in that much time.

2 Q. So about 90 days?

3 A. Uh-huh.

4 Q. Is that a yes?

5 A. Yes, sir. If everything went exactly as planned.

6 Q. I just want to -- if we look down -- I don't know how

7 to define -- there's a -- there's one that says, "Verify that

8 all systems are working properly before leaving site." Do you

9 see that?

10 A. I do.

11 Q. Okay. Do you know if that was done on this project?

12 A. It was because we can't do startup from the

13 manufacturer of the dispensers, and we can't get DHEC approval

14 that we provided unless it's working properly.

15 Q. How do you define the end of a project like where it

16 says here or before leaving site? How do you -- how do you

17 define that?

18 A. If everything is up and running and they are pumping

19 fuel and taking transactions.

20 Q. Do you know about when that occurred on this project?

21 A. I do not know.

22 Q. It says, "Provide a 'close out book' complete with

23 photos, inspection reports, and permits." Do you know if that

24 was provided?

25 A. It was not.

Page 90

1 A. From the time he signed the contract to the time
2 Patriot Capital paid us was an extended period of time. We had
3 to fight to get Patriot to release the first funding before the
4 project ever started.

5 Q. Okay. So before the project started, okay. So
6 you've -- you've -- you place an order with, I just wrote --

7 A. Wayne.

8 Q. Wayne, sorry. I called it Dover. You place an order
9 with Wayne before Patriot provided funding, correct?

10 A. Correct. We placed the order when the contract was
11 signed in good faith because we were told Patriot was sending
12 the money over.

13 Q. Okay. Who told you that?

14 A. Alex told Roger that the money would be funded after
15 the contract was signed. There's e-mails showing that in the
16 documentation that I can pull up if you need me to.

17 Q. And it is not MECO's general practice to order things
18 before they get paid, correct? That's --

19 A. Correct.

20 Q. You said that earlier, all right. But you did in
21 this instance?

22 A. Because Patriot Capital was funding it.

23 Q. And then Alex wants an install date before he will
24 sign off on Patriot releasing the first payment, correct?

25 A. Correct.

Page 91

1 Q. And he -- this is Roger's attempt to provide that
2 install date, an estimate, and you are concerned, I guess, or
3 want an answer on why Patriot can't just send you the money
4 without Alex's approval?

5 A. Correct.

6 Q. All right. With all of this knowledge as it existed
7 on August 21, 2018, you-all continued to move forward with the
8 install, correct?

9 A. Correct.

10 (Defendants' Exhibit Number 10 was marked for
11 identification purposes.)

12 Q. (By Mr. Bach) And it looks like -- and I'm just
13 gonna mark this as 10. So it looks like you sent that e-mail
14 at 2:37 on 9, and then about a hour later it looks like Roger
15 sends that to Alex and copies you; is that correct?

16 A. That is correct.

17 (Defendants' Exhibit Number 11 was marked for
18 identification purposes.)

19 Q. (By Mr. Bach) All right, and then this is 11. All
20 right. I've just handed you what's been marked as Exhibit 11.

21 MR. KELLY: Thank you.

22 Q. (By Mr. Bach) And this is --

23 MR. KELLY: Did we just not do 10? No, we didn't,
24 okay.

25 MR. BACH: Yeah. We marked 10, didn't we?

Page 92

1 MR. KELLY: Okay. This must be 10.

2 MR. BACH: Yeah.

3 MR. KELLY: I apologize. My bad.

4 Q. (By Mr. Bach) So this is 11, and this is -- this is
5 actually three days later. It looks like Roger follows up
6 again about the estimated install date. And says, "I want to
7 update you from our phone conversation today." So first
8 question, were you on that conversation?

9 A. I was not.

10 Q. So I would have to ask Alex or Roger about that,
11 correct?

12 A. Yes, sir.

13 Q. "I want to let you know that we blocked off these two
14 weeks." So is that the two weeks you-all were planning to
15 begin the install?

16 A. Correct.

17 Q. All right. Were you planning to complete the install
18 in those two weeks?

19 A. No, we were not.

20 Q. All right. Why only two weeks blocked off there?

21 A. We have multiple jobs that are going on at all times.
22 So we blocked off two weeks to get the project started, saying
23 that we weren't gonna have our install crew on any other job.
24 We went ahead and put it on the calendar that these two weeks
25 we were gonna be at Westar to start the project. There's many

Page 93

1 phases of it, and so that was our window where we were blocking
2 it off. And the tank manufacturer was telling us that was
3 around about the time that the tank would be available.

4 Q. Okay. Was any of that communicated to Alex?

5 A. I did not communicate with Alex, so I can't speak on
6 that.

7 Q. All right. Because you would agree with me this
8 sentence says, "I want to let you know we have blocked off
9 these two weeks for the install at Westar." Do you know
10 whether or not there was any other communication with him to
11 say, you know, that this is the start of the install, this is
12 the beginning of the schedule, it should be 90 days from this
13 date?

14 A. I provided every communication I have, and we can go
15 through the e-mails, but --

16 Q. Okay.

17 A. -- I can't speak on that.

18 Q. So there's no other -- other than the communications
19 that you've provided, there's no other communication that you
20 remember with Alex about that?

21 A. No, sir.

22 (Defendants' Exhibit Number 12 was marked for
23 identification purposes.)

24 Q. (By Mr. Bach) All right. Exhibit Number 12. All
25 right. So this is the next -- I think this is the next day.

Page 94

1 So this is August 24. So this is the next Tuesday. Roger
 2 e-mails Liz Beatty; do you know who Liz Beatty is?
 3 A. I do not.
 4 Q. All right. Liz has a CSI Products domain name e-mail
 5 address. Do you know what that is? Oh, there it is,
 6 Containment Solutions.
 7 A. Containment Solutions.
 8 Q. What is Containment Solutions?
 9 A. That's the manufacturer for the fiberglass DEF tank.
 10 Q. All right. So she -- she is saying there in her
 11 first e-mail on August 20, 2018, "Please confirm the tank
 12 delivery date of September 6, 2018, for the following." And
 13 then it has my client's address. So -- and then it looks like
 14 Roger responds. It says, "The tentative start date for the
 15 project is October 15th, so we will not need the tank till that
 16 time. I will keep you posted as it gets closer and we have a
 17 firm date." Do you see that?
 18 A. Yes, I do.
 19 Q. Okay. So the DEF tank was ready for delivery
 20 September 6, 2018. Roger saying, you know, essentially we --
 21 we plan to begin it October 15th. And I think you said earlier
 22 they can't move it until it's ready to go in the ground, right?
 23 A. That is correct. This e-mail is not confirming that
 24 the tank is ready to be delivered. It is confirming that the
 25 day he put on the original purchase order to Containment

Page 95

1 Solutions is the date that we needed it because you have to put
 2 a date in for them to process an order.
 3 Q. Okay. So when she says, "Please confirm the tank
 4 delivery date of 9/6/18," and then she -- he responds and says,
 5 the tentative date isn't until six weeks later, so we won't
 6 need it until that time. They weren't going to deliver it on
 7 September 6 if y'all were ready?
 8 A. I can't answer one way or another. She's asking if
 9 the date that we originally put in on the purchase order is the
 10 date that we're gonna be ready for delivery.
 11 Q. Would you agree that -- that the earliest y'all would
 12 be ready until -- would not be ready until sometime around the
 13 end of October?
 14 A. Till that 10/15.
 15 Q. Okay. It -- this may be a question for Roger, but it
 16 looked like -- that your crew had been blocked beginning on
 17 10/15. Any idea why he's telling Liz that as it gets closer
 18 we'll let you know a firm date?
 19 A. Things move, things change, weather.
 20 Q. How -- how long does it take for the tank, generally,
 21 to come from Containment Solutions?
 22 A. Back then it was six -- six to eight weeks. Now, in
 23 today's market, 42 to 60 weeks.
 24 Q. Almost a year or?
 25 A. Yes. We have orders for 2024 right now.

Page 96

1 Q. Do you know when the order was placed with
 2 Containment Solutions for this project?
 3 A. It's in the documents that we provided.
 4 Q. Okay. Well, actually, while we're talking about
 5 this, so we got this from Containment Solutions or y'all
 6 produced this. And I'm just gonna identify it by Bates. I'm
 7 not gonna mark it yet, but its MECO 793 through 797.
 8 MR. KELLY: Thanks. And you're not marking this as
 9 an exhibit?
 10 MR. BACH: Well, not yet because let me -- let me --
 11 let me see what the answer --
 12 MR. KELLY: Okay.
 13 MR. BACH: -- to this question is.
 14 Q. (By Mr. Bach) The date on this quote or whatever it
 15 is, is a year prior to this. It's October 19, 2017. And I
 16 don't see anything that would necessarily associate it with our
 17 project -- with this project. And I was wondering if it was
 18 produced in error. Is this -- does this relate at all?
 19 A. This is from MLA. It's how we receive pricing on
 20 tanks.
 21 Q. Okay. So -- so even though the date is -- is a year
 22 prior, October 19, 2017, and the quote number I don't think
 23 matches up -- maybe it does actually. Where's the quote? No.
 24 A. This is direct from the manufacturer to us so that we
 25 have a price --

Page 97

1 Q. All right.
 2 A. -- to bid a project.
 3 Q. So this is just the price list?
 4 A. This is a price list from the manufacturer.
 5 Q. Okay. All right. Let me hand you what I've marked
 6 as 13.
 7 (Defendants' Exhibit Number 13 was marked for
 8 identification purposes.)
 9 MR. KELLY: Adam, just -- we provided what we thought
 10 was responsive to your request.
 11 MR. BACH: Yeah. That's fine.
 12 MR. KELLY: That's why I do think it's responsive
 13 notwithstanding the point you made.
 14 MR. BACH: I mean --
 15 MR. KELLY: We tried to give you everything we could.
 16 MR. BACH: It sounds like it is. I just wanted to
 17 make sure.
 18 MR. KELLY: Right.
 19 MR. BACH: You know, I didn't exactly understand it.
 20 Q. (By Mr. Bach) All right. So, okay. So it looks
 21 like, this is, again, following the same e-mail chain. So this
 22 is August 30, 2018. This is in response to the e-mail from
 23 Roger on August 24, 2018, saying, "Patriot has gotten an okay
 24 from us to send the deposit as requested." And then Roger said
 25 to you, "Please see Alex's comments (finally)." So Patriot had

Page 98

1 gotten permission to send the \$250,000 deposit or \$257,000
 2 deposit, correct?
 3 A. Yes.
 4 Q. All right. And so at that point, nothing else was
 5 due from -- from Mr. Sayed, correct? From --
 6 A. At that point in time, no.
 7 (Defendants' Exhibit Number 14 was marked for
 8 identification purposes.)
 9 Q. (By Mr. Bach) Okay. This is Exhibit 14. All right.
 10 So this is -- this is an e-mail that are from -- this is
 11 fast-forwarding a couple months. This is from October, and it
 12 says, "Please see the revised estimate for the upgrade kits for
 13 your gas dispensers at Westar." What -- what is this
 14 referencing, do you know?
 15 A. It's the credit card units that we put on the front
 16 of the store that had nothing to do with the original contract
 17 that he asked us to do in the middle of the project.
 18 Q. Okay. So this is -- this is October 18, 2018, and
 19 this is for the front of the store?
 20 A. Front of the store, those credit card communications.
 21 Q. All right. And he replied two days later and said,
 22 let's -- "Let's confirm this and start work ASAP" and then
 23 signature on this one. So it was approved, correct?
 24 A. Correct.
 25 Q. All right. Had y'all already started work on the

Page 99

1 other part of the project, on the -- on the original project at
 2 that point?
 3 Yeah. Let me mark this.
 4 A. I would say yes because we --
 5 Q. Let me mark this as --
 6 A. It was both, so yes, because it was October.
 7 (Defendants' Exhibit Number 15 was marked for
 8 identification purposes.)
 9 Q. (By Mr. Bach) All right. And so -- this -- this is
 10 how it was produced to us. I don't have one without the -- the
 11 thing in the middle, but the main thing that I wanted to ask
 12 about this is -- well, first of all, what is this document;
 13 what is this packet of documents?
 14 A. Looks like my branch manager in Greenville. It is
 15 written time clocks for installation technicians out of the
 16 Greenville branch.
 17 Q. Out of the Greenville branch?
 18 A. Yes.
 19 Q. Okay. So these aren't Augusta?
 20 A. No. Danny's on the installation crew in Greenville.
 21 Q. So would you have these for Augusta too?
 22 A. No.
 23 Q. Okay. Why not?
 24 A. We don't do these in Augusta.
 25 Q. So y'all don't do these for internal?

Page 100

1 A. No. We have a time clock system in Augusta that's
 2 used. My branch manager in Greenville is a little more OCD, so
 3 he does time clock and does paper copies.
 4 Q. So do y'all keep those time clocks?
 5 A. We keep the time clocks of how many hours they
 6 worked. It is not dedicated to what project they are on when
 7 we were doing this project.
 8 Q. Okay.
 9 A. It is now.
 10 Q. So you could see how many hours the employee worked,
 11 but you can't see where they were working?
 12 A. Correct. The software didn't allow that then.
 13 Q. All right. So -- so far as dates and times of work,
 14 this is what we have for that project, correct?
 15 A. What I have for that one technician on the project.
 16 Q. Oh, it's just for Danny?
 17 A. Correct.
 18 Q. And is Danny -- who is Danny?
 19 A. He is one of my installation helpers in my Greenville
 20 branch.
 21 Q. So looks like he was there -- at least the documents
 22 we have -- from 10/15 to 10/25?
 23 A. Correct.
 24 Q. And then it says -- this note says, sent to John or
 25 to Joan?

Page 101

1 A. Sent to John Magee.
 2 Q. On 10/28/18. Any idea why that note's on there?
 3 A. I have no idea why that note's on there.
 4 Q. All right. So -- and what -- what would Danny have
 5 been doing at the project?
 6 A. He would have been hands-on in the installation
 7 department.
 8 Q. Okay. So he would've been working?
 9 A. He would have been in the ditches. He'd have been a
 10 worker in the ditches.
 11 Q. Did he ever come back to the project?
 12 A. He did at some point. I don't have those dates.
 13 Q. He didn't do one of these when he came back?
 14 A. I've never even seen this until you just showed it to
 15 me.
 16 Q. Is there any way for us to determine what dates and
 17 what times MECO employees were working on this project?
 18 A. I don't have any of that information, no.
 19 Q. Like, with you or MECO doesn't?
 20 A. I don't -- I've not found anything on MECO's servers
 21 or anything that we've gone through that would validate that.
 22 Q. So there's no way to confirm where an employee is
 23 working on a particular day during this time period?
 24 A. The only things that I have is service-related calls
 25 where it shows the date that the service order was sent to a

Page 106

1 THE WITNESS: Now, the invoice dates are not always
2 the date the work was done. Sometimes the work is done
3 and it's sent days later.
4 MR. BACH: What did you say that Bates was? MECO
5 what?
6 MR. KELLY: MECO 124. Just happens to also coincide
7 with what you've been asking him about time-wise.
8 MR. BACH: Okay. Is it an invoice; what is it?
9 MR. KELLY: Yeah. It's an invoice.
10 THE WITNESS: Our invoice to -- for a portion of the
11 project.
12 Q. (By Mr. Bach) Okay. Well, what -- so let me ask
13 you, so are we saying that --
14 MR. KELLY: Here. I'll just pull it out so you can
15 look at it. And he's -- he's got it right there, but
16 that's --
17 MR. BACH: All right. So --
18 MR. KELLY: It's a two-page invoice.
19 MR. BACH: Okay.
20 MR. KELLY: Adam.
21 Q. (By Mr. Bach) So it's MECO 124 and 125. And we're
22 saying -- and this is an invoice date of 1/25/19. And the
23 concrete here, 4000 -- I'm sorry. You can't see that. 4000
24 psi.
25 MR. KELLY: There's also -- also, let me show you

Page 107

1 one -- I -- I -- you can show him this too. I mean, I'm
2 just trying to help you move it. But 126 and 127, is
3 another invoice about a week later that also references
4 concrete work, so...
5 Q. (By Mr. Bach) Would this have been the concrete pour
6 for the end of phase one; is that what we're saying?
7 A. It's the invoice for the end of phase one. It's not
8 clarifying the date because at that point in time, we invoice
9 stuff at the end of months, not the day or the day right after
10 something happened. We didn't have enough staffing to do that.
11 Q. Okay. So it could have -- it would have been the end
12 of the month, so it would have been sometime in January?
13 A. Sometime in January, correct.
14 Q. All right. So at the -- so -- so sometime in January
15 phase one ended, January 2019. Phase one ended and phase two
16 began?
17 A. Correct.
18 MR. BACH: Thank you.
19 MR. KELLY: Sure.
20 (Defendants' Exhibit Number 17 was marked for
21 identification purposes.)
22 Q. (By Mr. Bach) All right. And this is 17. All
23 right. So -- and I've just handed you what was marked as
24 Exhibit 17, and this is the same day, February 7, 2019. And it
25 says it's concerning the change order for the Auto Diesel Line.

Page 108

1 It says, "Please know materials are ordered and ready for next
2 week to continue with the project like we spoke about." And so
3 the -- the idea was to -- to go ahead and get the materials
4 ordered. Phase two will continue the following week, correct?
5 A. Correct.
6 (Defendants' Exhibit Number 18 was marked for
7 identification purposes.)
8 Q. (By Mr. Bach) All right. So this is 18. So I just
9 handed you what's been marked as Exhibit 18. This is Monday,
10 the -- the last e-mail -- unfortunately, there's just no great
11 way to do e-mail chains in discovery. So the last e-mail is
12 February 11, 2019, and that is -- it's kind of up an e-mail
13 chain. You e-mail Jason, "Alex told me over a week ago he
14 approved approximately 75,000 to be released to us. Can you
15 tell me what's going on? I'm going to pull off the job
16 indefinitely if payment is not received." Do you see that?
17 A. Yes, I do.
18 Q. Okay. Had you pulled off the job at that point and
19 you're saying I'm not coming back? What are you saying there?
20 A. I'm saying if we don't receive money, I'm going to.
21 Q. Okay.
22 A. Because we had two other change orders that had just
23 been assigned, and I had not received money for work that was
24 already being done for anything else that he had signed for.
25 Q. All right. How much was owed at this point?

Page 109

1 A. I do not know. I would have to look in the records.
2 Let me pull it up again.
3 Q. (By Mr. Bach) All right. And we looked at -- we
4 just looked at that 124 through 120 MECO that your counsel
5 showed us. That was that invoice from the end of January,
6 correct?
7 A. Correct.
8 Q. And so it's MECO's position that that was due 30 days
9 from the invoice, correct?
10 A. Restate that.
11 Q. Well, as y'all invoice throughout, you expected to be
12 paid 30 days -- net 30, correct? I'm trying to figure out how
13 y'all got up to this \$75,000 figure as the project is ongoing.
14 So -- so y'all invoiced and expect payment within 30 days. So
15 was there \$75,000 of invoices?
16 A. Alex -- Alex was dictating how much money was coming
17 to us.
18 Q. Right.
19 A. So he came up with that \$75,000.
20 Q. Okay. Were y'all owed \$75,000 at that point?
21 A. We would have to look at the books with the date and
22 it -- I -- I can't know off the top of my head.
23 Q. Okay. All right. Well, we'll look -- I've got your
24 spreadsheet that I think you did it in August that year, and I
25 think it's easier to walk through that than to try to walk

Page 110

1 through all the invoices, but --
2 A. Correct.
3 Q. But fair to say MECO was timely invoicing Alex for
4 work done, correct?
5 A. Correct.
6 Q. And expected to be paid in 30 days?
7 A. Correct.
8 Q. Per the contract terms?
9 A. Correct.
10 Q. And so you are -- you're saying if we don't get some
11 money that we're owed for our invoicing, we're gonna pull off
12 the job, correct?
13 A. Correct.
14 Q. And it looks like in February 2019, he authorized a
15 payment of \$70,000, correct?
16 A. That is correct.
17 Q. And then y'all -- at this point, you guys are sort of
18 in between phase one and phase two, correct?
19 A. That is correct.
20 Q. And then you got this payment for 70 and proceeded on
21 into phase two; is that correct?
22 A. That is correct.
23 (Defendants' Exhibit Number 19 was marked for
24 identification purposes.)
25 Q. (By Mr. Bach) Mark this as Exhibit 19. And this is

Page 111

1 just more housekeeping, but here you go. You can see it's not
2 really -- so then it looks like Alex sent the signature on
3 February 14, and Patriot sent the confirmation that they were
4 sending -- well, actually, maybe -- maybe more of a question
5 for Patriot, although Roger's copied here too. But on MECO
6 168 -- this is from February 13. It says, "We have been
7 notified by MECO that they have fully completed the work." I
8 mean, had y'all told them that or is that just standard
9 language?
10 A. I think that's standard language.
11 Q. All right. Says, "Please respond to this e-mail,
12 that per -- you confirm the partial release of the total and
13 final funding deposit in the amount of \$70,000 on February
14 13th." And then Alex responds next day, and then it looks like
15 Roger forwards to you with the attachment. It says the
16 remaining balance due is \$50,076. Do you know if that's right
17 or not?
18 A. I'd have to look through that invoice sheet we just
19 talked about.
20 Q. Yeah. Let's look through that. That'll make it a
21 little bit easier. We'll get there.
22 All right. This is 20.
23 (Defendants' Exhibit Number 20 was marked for
24 identification purposes.)
25 MR. KELLY: Thank you.

Page 112

1 Q. (By Mr. Bach) All right. So this is about a month
2 later. Alex e-mails Roger and says that "we see the concrete
3 was poured Monday." Do you know what concrete he's talking
4 about?
5 A. I do not. There was many different places that
6 concrete was poured.
7 Q. All right. And is this -- this is end of phase two,
8 correct? And let me ask you this, at -- at the end of the
9 e-mail it's asking for a schedule; is that correct, again?
10 A. Let me read this one.
11 Q. Sure.
12 A. I am now -- ask your question, please.
13 Q. Okay. So this is talking about the work in phase
14 two; is that correct?
15 A. I can't answer that. I didn't write this e-mail. I
16 can't speak on behalf on what it's all about. I understand it
17 the exact same way you do.
18 Q. All right.
19 A. I wasn't copied on it. I have nothing to do with it.
20 Q. It says, "Please call me first thing Wednesday
21 morning on an exact schedule." Do you know whether or not any
22 further schedule was provided to Alex by MECO?
23 A. I didn't have anything to do with this communication.
24 Don't know anything about it.
25 Q. Okay. But MECO did, so I'm asking on behalf of MECO.

Page 113

1 A. On behalf of MECO, you are asking -- you would have
2 to ask Roger Carpenter about that communication. I can't speak
3 on his behalf because I didn't know anything about it.
4 Q. So let me -- let me paraphrase this for 30(b)(6)
5 purposes. As the representative of MECO, you don't have any
6 knowledge as to whether or not MECO ever provided an updated
7 schedule as requested by Alex?
8 A. If it has not been provided in these documents, then
9 I wouldn't know about it.
10 (Defendants' Exhibit Number 21 was marked for
11 identification purposes.)
12 Q. (By Mr. Bach) I'll hand you what's been marked as
13 Exhibit 22 [sic]. All right. This is the change order for the
14 Comdata. So now this is about another month later. This is
15 April 2019. So this was for what just -- well, actually, let
16 me just ask you: What was this for; what was the change order
17 for the Comdata for?
18 A. Comdata is the point-of-sale system for the truck
19 side, for the guys not to have to go inside to pay for with
20 their codes. They can do it at the pump with the codes. One
21 of the main reasons he upgraded the dispensers outside.
22 Q. Right.
23 A. We were originally told from the manufacturer -- and
24 we will have to go through the e-mails here -- that he had what
25 was necessary to make the new equipment work. We then were

Page 114

1 notified by the manufacturer that the system had to be updated
 2 to do everything Alex wanted to do.
 3 Q. Was this for all of the pumps that y'all had
 4 installed or just phase two?
 5 A. This was the communication for the pumps.
 6 Q. For all of them?
 7 A. For all of them. He had an existing system --
 8 Comdata system in place. The software had to be upgraded.
 9 Q. Okay. And that information came from Comdata or from
 10 Wayne?
 11 A. It came from Comdata.
 12 Q. Is Wayne -- this is trying to get the Wayne pumps to
 13 communicate with the point-of-sale system?
 14 A. They -- it authorizes payment.
 15 Q. All right. Okay. And the software had to be
 16 upgraded where? In the -- in the pumps or in the point of
 17 sale?
 18 A. In the point of sale.
 19 Q. All right. And did that ultimately -- did that
 20 ultimately have to be done or -- so Alex -- which says -- okay.
 21 Let me -- skipped a little. Alex says, "We've checked with
 22 Comdata before and there was no need for an upgrade. When can
 23 you have your guy at the location?" Do you know if an upgrade
 24 actually had to be done?
 25 A. He argued with us that it didn't need to be done, and

Page 115

1 it actually did have to be upgraded.
 2 Q. Okay. And he says, "We have a contract with Comdata"
 3 and then, you know -- look at MECO 57 real quick. Let me ask
 4 you about this.
 5 MR. KELLY: Here you go. Oh, you've got those in
 6 this exhibit already?
 7 MR. BACH: Yeah.
 8 MR. KELLY: Okay. I was gonna say there's --
 9 MR. BACH: It's all part of the same.
 10 MR. KELLY: Right.
 11 Q. (By Mr. Bach) Alex says, you know, "Please send me
 12 the contract -- contact person. We have a contract with
 13 Comdata." And then he says, "When is the DEF going to -- going
 14 to up? We are not able to pump DEF." Do you know what he's
 15 talking about there?
 16 A. There was a manufacturer issue with this immersible
 17 pump that we put in. I don't know if this is the exact date
 18 line, but it was a manufacturer issue, and we had to get a
 19 replacement pump. It was DOA when it was arrived.
 20 Q. Okay. So is that something that was working and then
 21 went down and had to be --
 22 A. Correct. It was a manufacturer's defect that we had
 23 to replace.
 24 MR. KELLY: Thank you.
 25 MR. BACH: All right.

Page 116

1 (Defendants' Exhibit Number 22 was marked for
 2 identification purposes.)
 3 Q. (By Mr. Bach) I just handed you Exhibit 21 [sic].
 4 All right. So this is an e-mail from Trevor Benton at BLE
 5 Corp.?
 6 A. Uh-huh.
 7 Q. Okay. What -- who -- who is that?
 8 A. Who is Trevor?
 9 Q. Yeah. I mean, what's this e-mail about? It's to
 10 Denise Place at DHEC.
 11 A. Whenever you remove existing underground structures
 12 like piping, it is required by DHEC and by state law that you
 13 have to take samples of the soil where the piping was removed
 14 to verify contamination. So BLE was taking environmental
 15 samples per DHEC regulations.
 16 Q. So would this have indicated that we were at the end
 17 of project two or phase two? And look at the first e-mail from
 18 Roger to Alex. That might be better.
 19 A. Yes. This was -- so the cutting of the tags -- DHEC
 20 does what they call red tags. So they tagged the fills on the
 21 tanks. And until they have approval that the soil samples have
 22 been done and all of the testing to make sure the lines are
 23 tight and meet their standards, they will not cut the tags and
 24 allow a delivery company to deliver fuel.
 25 Q. Okay. So can we use this e-mail -- I mean, it

Page 117

1 doesn't -- it doesn't say that they've been cut yet, but
 2 they're going -- they're -- and it -- well, it is giving you
 3 the go-ahead to cut the tags and continue to receive -- to
 4 order fuel. So does that mean this is the end of phase two?
 5 A. Correct.
 6 Q. Okay.
 7 MR. BACH: All right. We've been going about an hour
 8 since lunch. Let's take a five-minute break.
 9 (Off the record from 2:27 p.m. to 2:33 p.m.)
 10 (Defendants' Exhibit Number 23 was marked for
 11 identification purposes.)
 12 Q. (By Mr. Bach) All right. I just handed you what's
 13 been marked as Exhibit Number 23. This is an e-mail from Roger
 14 to Alex dated July 17, 2019. It says, "Here are the
 15 standing -- outstanding invoices we need to get resolved," and
 16 it's got a number of invoices attached; is that correct?
 17 A. That is correct.
 18 Q. Okay. It looks like -- it looks like these invoices
 19 range in time from -- actually, I'm sorry, 141 is attached to
 20 the back of this on accident. So let's just -- it's okay.
 21 It's the IOTV contract. We'll pull that off.
 22 MR. KELLY: Tear off 141?
 23 MR. BACH: Yeah.
 24 MR. KELLY: Gotcha. MECO 141, gotcha. Removed.
 25 Q. (By Mr. Bach) So it looks like these are invoices

Page 118

1 that MECO is saying are due, and they all contain either due
2 upon receipt or net 30 terms, correct?
3 A. That is correct.
4 Q. All right. And these go in time from it looks like
5 the earliest unpaid is September 12th, 2018. That's MECO 137.
6 And they range until April 18th -- I'm sorry, May 18th -- April
7 18th, 2019, correct?
8 A. Correct.
9 Q. So MECO received a payment in the interim here, the
10 \$70,000 that we talked about, correct?
11 A. Correct.
12 Q. How did MECO decide how to allocate that payment?
13 A. We would have allocated it to the earliest invoice
14 installation documents that we had.
15 Q. Okay. So it would have gone early installation
16 first?
17 A. Correct.
18 Q. Change orders came after installation?
19 A. Correct. And the one that you referenced, 137, that
20 is a service call before any of the projects started. That's
21 something we were doing on the site way before any project
22 started. That was just a standard service call.
23 Q. Okay. Okay. But you didn't apply the 70 to that?
24 A. No. Because it had nothing to do with this job.
25 Q. And then you had some in here -- like if you look at

Page 119

1 MECO 139, it said, nozzle dripping, replace nozzle. And that
2 looks like a couple of work orders from March of 2019 or --
3 A. Those are for premium and regular on the front of the
4 store. So we were still servicing the store on the front side
5 for other equipment other than the phase project.
6 Q. So this wasn't part of the project either?
7 A. No.
8 Q. All right. How about 138?
9 A. This was a service that they called in. The E-stop
10 shuts power to the fuel. Sounds like somebody had to use the
11 E-stop for some reason, and we had to go reset it. It was a
12 service call for the facility.
13 Q. Okay. So that wasn't on the project either?
14 A. No, it was not.
15 Q. So as of July 2019, was this all the outstanding
16 invoices that were owed?
17 A. I would have to look through the invoice document --
18 Q. All right.
19 A. -- that we have, but these are some of them.
20 Q. Okay. Then there's -- I don't know if these go
21 together or not.
22 (Defendants' Exhibit Number 24 was marked for
23 identification purposes.)
24 Q. (By Mr. Bach) I'm gonna mark this as 24.
25 All right. I just handed you what's been marked as Exhibit 24.

Page 120

1 All right. And this is another e-mail. This one's from
2 Roger -- I'm sorry. This is the -- I apologize. This is the
3 same e-mail with the outstanding invoices, and then he forwards
4 it to you on August 6th; is that correct?
5 A. That is correct.
6 Q. Okay. Why did he send this to you?
7 A. Because I called him and asked him to send me a copy
8 of all the invoices that he had sent him because I was working
9 with my lady in the office to try to figure out exactly how
10 much outstanding money was still owed on the project because I
11 wanted to put my eyes on it and make sure it all matched the
12 job.
13 Q. At this point in time, had you received any payment
14 from the defendants since the February \$70,000?
15 A. No, I had not.
16 (Defendants' Exhibit Numbers 25 and 26 were marked
17 for identification purposes.)
18 MR. BACH: I'm just gonna mark these together. I'm
19 gonna mark these as 25 and 26. So here's 25.
20 MR. KELLY: Thank you.
21 Q. (By Mr. Bach) Here's 26. And so this is an e-mail
22 that was sent by you on -- to Alex on August 7, 2019; is that
23 correct?
24 A. That is correct.
25 Q. And it -- and it refers to an attachment there, and

Page 121

1 it's Westar Excel sheet showing contract amounts, payment
2 balances, what is owed 8/7/19 [sic]. Do you see that?
3 A. I do.
4 Q. Okay. And if you look at 26 --
5 MR. BACH: Did I hand you this; did I give you a
6 copy?
7 MR. KELLY: No. It's okay though.
8 Q. (By Mr. Bach) When I -- if you look at 26, is that
9 the spreadsheet that was attached?
10 A. That looks like the spreadsheet that was attached.
11 Q. Okay. So the -- so you e-mailed Alex and said, "I've
12 attached the spreadsheet with contract amounts, invoices,
13 payments, and outstanding invoices." You also attached the
14 contracts. You said you wanted payment by the end of business
15 tomorrow through wire transfer.
16 So was it MECO's position -- or is it MECO's position
17 that all of these amounts were owed and due as of August 7,
18 2019, that are shown on the spreadsheet?
19 A. State that one more time.
20 Q. Is it MECO -- is it MECO's position that all of the
21 amounts that are shown on the spreadsheet were -- so it's a
22 total balance owed, \$117,142, but that was due and owed as of
23 August 7, 2019? I'm just trying to find out what -- what MECO
24 claims the outstanding balance was as of that date.
25 A. As of 8/8/2019, that was the dollar value.

Page 122

1 Q. That was what was owed under the contract?
2 A. Not under the -- that was what was owed to MECO for
3 everything.
4 Q. Okay. As of that date?
5 A. As of that date.
6 Q. An easier way of saying it would be to say -- or what
7 I'm -- what I'm trying to ask is that it was MECO's position
8 that as of August 8, 2019, my clients owed this amount on page
9 two pursuant to the contract?
10 A. Not pursuant to the --
11 Q. I mean, pursuant to their agreements with MECO?
12 A. To all agreements and all the work that had been
13 done, not just the original contract.
14 Q. Okay. And that's based on the change orders, the net
15 30 terms on the invoices, the terms in the actual -- the
16 original contract we looked at, correct?
17 A. That and other things.
18 Q. What other things?
19 A. The upgrade kits up front, service tickets, and work
20 that had already been done throughout that time period.
21 Q. And it was not -- it was not like you were sending
22 this saying, hey, this amount of money is coming due or this
23 amount of money may be due in the future. It was due right
24 now?
25 A. It was way past due.

Page 123

1 Q. Way past due?
2 A. Months and months and months past due.
3 Q. Under the defendants' obligations to MECO?
4 A. Correct.
5 Q. They were in breach of it?
6 A. In all of them.
7 Q. Breach of their obligation to pay you?
8 A. Correct. In every -- in every single line item.
9 Q. And there's -- if we look at this spreadsheet, there
10 is -- I don't think there's any notation. Is there a notation
11 for the payments? I don't see a notation for the payments if
12 there is. Is there a notation for the payments?
13 A. It says posted if money was applied to --
14 Q. Okay.
15 A. -- those invoices.
16 Q. Well, where does it show -- so are -- let me say it
17 this way. Looking through these documents and our records, the
18 last payment that the defendants made was the February payment?
19 A. Correct. That is --
20 Q. They never paid another dime, correct?
21 A. Correct.
22 Q. And if you look at, for example, on about midway down
23 the page, there is three notations that say credit, credit,
24 credit. Do you see that?
25 A. Correct.

Page 124

1 Q. But those are all -- if you look at the description,
2 the first one is a credit that MECO gave for items not used.
3 They're all credits that MECO gave for returned materials,
4 correct?
5 A. Correct.
6 Q. That doesn't show in -- on -- like, you didn't get
7 any payment from the defendants on July 29, 2019, correct?
8 A. Correct. That was in-house stuff we were using.
9 Other parts and pieces.
10 Q. The last payment that you-all received for anything
11 was the February 14th payment that we looked at a second ago?
12 A. I need to look in the records, but that is what mine
13 shows for the contracted amount.
14 Q. Okay. And were there any other payments that you
15 recall?
16 A. They would have to be in here if they were. I don't
17 have that in front of me. I can look.
18 Q. All right. Well, let me represent to you, I've
19 looked. I don't see any other ones, and my clients looked --
20 A. There might -- there might have been a payment for a
21 service ticket because we continued to regularly do service,
22 and there might have been payments made for small service --
23 Q. But no --
24 A. -- work orders.
25 Q. No payments on a project after February 29th?

Page 125

1 A. No payments.
2 (Defendants' Exhibit Number 27 was marked for
3 identification purposes.)
4 Q. (By Mr. Bach) I'll hand you what's been marked as
5 Exhibit 27. I'll mark this as Exhibit Number 27. So this
6 is -- this is the rest of that e-mail chain. I think I got it
7 all. It looks like he responds on August 7, 2019, and says, "I
8 think you are misinterpreting the situation and taking a
9 direction that goes nowhere. You breached the contract five
10 months ago by not completing the job in a timely manner and
11 making us incur \$175,000 in losses. We've not threatened you
12 once for legal action but discussed amicable solution." Have
13 you had any conversations with Alex about a "amicable
14 solution"?
15 A. We had one conversation.
16 Q. Okay.
17 A. And I believe it was around about when he sent this
18 e-mail back to me.
19 Q. What did y'all discuss; do you recall?
20 A. I wanted the payments, and I felt like we had held up
21 our end of the deal and finished the job even when there was
22 multiple times where I didn't have to. We continued to still
23 send guys out there for manufacturer's issues because that's
24 how I am. That's how we run the company. And he told me over
25 the phone call, I will give you \$60,000, but you're gonna get

Page 130

1 A. We were the one doing service work for them, and so
 2 DHEC had us as the last record of people at the site.
 3 Q. Okay. And then it looks like there were -- part two,
 4 violations noted by the inspector. It says, "Failure to
 5 correct deficiencies identified with the underlined tank system
 6 locations. May lead to delivery prohibition." And it's got a
 7 number of issues. Do you see all of that?
 8 A. Correct. And this was for the whole site.
 9 Q. Okay. Were some of these on the -- on the truck
 10 plaza that y'all worked on?
 11 A. Correct. Some of it was for the gas. That's most
 12 for the diesel side.
 13 Q. All right. Which ones were for the work that y'all
 14 performed or on the area where y'all performed work?
 15 A. Do you want the ones that says actions required or
 16 all of them?
 17 Q. I guess just all of them.
 18 A. Failure to maintain and operate corrosion protection
 19 system. 280.31 is -- these original diesel tanks were very
 20 old, and they were grandfathered in. And they didn't have
 21 up-to-date containment, and they were not double-walled. So
 22 you have to have anodes and grounding equipment to make sure
 23 that they're not out-of-date. And it was saying that some of
 24 those components did not meet the criteria, but that -- it's
 25 talking about the diesel tanks, but that doesn't have anything

Page 131

1 to do with the piping.
 2 Q. All right. So would it be the ones that say diesel?
 3 A. It is, but some of these are parts of the tank that
 4 has nothing with what we touched.
 5 Q. Oh, I gotcha.
 6 A. 280.40 is us. The leak detector was not detecting
 7 like it was supposed to.
 8 Q. Okay.
 9 A. There are times where we put stuff in and it
 10 doesn't -- that was an existing piece of equipment that we took
 11 out of the tank and we put back in when we redid it. It wasn't
 12 a new piece of equipment. So it could fail at any point in
 13 time. I could put a brand new one in and it fail in a week,
 14 but that's a violation because the leak detector did not trip
 15 like it was supposed to. I don't have the rest of the notes
 16 for some of this. It says, "See inspector notes." I don't
 17 have the notes.
 18 280.40 is saying that the sensor was placed too high,
 19 so it didn't cause the system not to work. It didn't cause
 20 them not to be able to pump fuel. They just wanted the sensor
 21 to be lowered inside of the containment so that it would
 22 commence faster. That one's gas. 280.43, I need to see the
 23 inspector's notes because I don't know what he said. Automatic
 24 line leak -- (sotto voce).
 25 Some of these -- some of this stuff had not been done

Page 132

1 by him. As you can see some of the dates of the last time it
 2 was done were in '20. Some of them were '89. Some of them
 3 were '19. So some of these violations were stuff that he did
 4 not have his annual compliance done for. A couple of these
 5 items -- like I said, the sump sensor that was too high was
 6 when we reinstalled it. We reinstalled it too high, and we
 7 went back out there and fixed it.
 8 (Defendants' Exhibit Number 29 was marked for
 9 identification purposes.)
 10 Q. (By Mr. Bach) All right. Let me hand you what's
 11 marked as Exhibit 29. So it looks like -- if you flip to the
 12 last page of this looks like there's an e-mail from -- well,
 13 it's from Jason Raffensperger, with Pat Cap Finance, September
 14 12, 2019. So did you reach out to Patriot Financing -- Patriot
 15 Capital about getting paid?
 16 A. Yes, I did.
 17 Q. Okay. Was this their response on MECO 303, the last
 18 page here?
 19 A. Correct.
 20 Q. All right. And he confirms that they borrowed
 21 \$378,000, which was the original contract amount, correct?
 22 A. Correct.
 23 Q. And that you-all received \$257,000 on 8/29, which we
 24 looked at, and then 70k on 2/14/19, correct?
 25 A. Correct.

Page 133

1 Q. And that total balance of \$50,076 was what was left
 2 for that project?
 3 A. Was what was left for the original signed amount, not
 4 the change orders, not the other service tickets, not the kits
 5 out front.
 6 Q. Okay.
 7 A. Just that original amount.
 8 Q. All right. And that amount the -- and, again, the
 9 last payment was the \$70,000 that he references here?
 10 A. Correct.
 11 Q. And then if you flip to the front, it says -- I'm
 12 sorry. Let's look at MECO -- oh, I'm sorry. On the last page
 13 it says that, "Alex will have to sign our final form and he
 14 says, 'that the job was not up to satisfaction.'" Had you guys
 15 had any further conversations at this point with Alex about any
 16 corrective measures or resolving the balance or anything like
 17 that?
 18 MR. KELLY: At -- at which point?
 19 (Simultaneous speaking.)
 20 Q. (By Mr. Bach) At the point this e-mail was sent,
 21 September of 2019.
 22 A. The last conversation I had was in the other exhibit
 23 where we had the communication that day.
 24 Q. Okay. And the front page is another one -- it looks
 25 like from Patriot Capital. This time to Roger. Were you guys

Exhibit C

In The Matter Of:
MECO, INC. OF AUGUSTA v.
ALEX SAYED

ALEX SAYED
April 12, 2023

Augusta Scribes Court Reporters, LLC
4 George C. Wilson Ct.
Suite A
Augusta, GA 30909

Original File 041223 Sayed.txt

Min-U-Script® with Word Index

1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
 2 COUNTY OF SPARTANBURG) CASE NO.: 2022-CP-42-03123
 3)
 4 MECO, INC. OF AUGUSTA,)
 5 Plaintiff,)
 6 vs.)
 7 ALEX SAYED a/k/a)
 8 ARSHAD M. SAYED a/k/a)
 9 ARSHED SAYED;)
 10 NEPA Ventures, LLC; and)
 11 NEPA Trading & INVESTMENTS,)
 12 LLC,)
 13 Defendants.)
 14 _____)

14 VIDEOCONFERENCE DEPOSITION BY ZOOM OF
 15 ALEX SAYED

19 April 12, 2023
 20 10:05 a.m.

24 Kimbely Griffin, CCR, CVR
 25 5409-4423-1615-6928

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APPEARANCES

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Also present:

Mr. Brad Burke, MECO (By Zoom)
Mr. John McGee, MECO (By Zoom)
Mr. Tyler Tam, Videographer (By Zoom)

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INDEX TO EXAMINATIONS

EXAMINATION	PAGE
Cross-Examination by Mr. Kelly	07

INDEX TO EXHIBITS

PLAINTIFF'S EXHIBIT NO.	DESCRIPTION	PAGE
MECO-320	8/21/18 Invoice Request	21
MECO-307	Contract	34

1
2
3
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PROCEEDINGS

THE VIDEOGRAPHER: We are on the record at 10:05. Today's date is April 12, 2023. This is the beginning of Media 1 in the deposition of Alex Sayed in the matter of MECO, Inc. of Augusta versus Alex Sayed, et al. Filed in the Court of Common Pleas, State of South Carolina, County of Spartanburg. Case number 2022-CP-42-03123.

This deposition is taking place via Zoom. My name is Tyler Tam and I'm the videographer. The court reporter is Kim Griffin. Counsel, please state your appearance including who you represent, beginning with the plaintiff's counsel.

MR. KELLY: This is Scott Kelly and Logan Brown. Along with us are Brad Burke and John McGee with MECO.

MR. TURNER: This is Zach Turner and also online is Adam Bach, and we represent Mr. Sayed and NEPA Ventures and NEPA Trading.

THE VIDEOGRAPHER: Will the court reporter, please swear in the witness?

THE COURT REPORTER: Yes. Before I do, I just need counsel to agree on the record that it is okay for me to administer the oath to the witness via Zoom.

MR. TURNER: Agreeable.

THE COURT REPORTER: Mr. Brown.

1 MR. BROWN: Scott Kelly and I both agree that the
2 oath can be administered to Mr. Sayed via Zoom.

3 THE COURT REPORTER: Okay. Thank you.

4 Whereupon,

5 ALEX SAYED,
6 was called as a witness herein, and having been duly sworn,
7 testified as follows:

8 MR. KELLY: This will be the deposition of Alex
9 Sayed -- did I pronounce that correctly, Mr. Sayed?

10 THE WITNESS: Yes.

11 MR. KELLY: All right. Taken pursuant to notice
12 and agreement of counsel in accordance with the
13 South -- South Carolina Rules of Civil Procedure. We,
14 on behalf of the plaintiff, we agree -- stipulate to
15 the qualifications of the court reporter and that our
16 usual and customary fees apply equally to all parties,
17 and that she's not under a special contract or
18 arrangement with either side. Is that agreeable with
19 you, Zach, and Adam? I can see Zach, so...

20 MR. TURNER: That's agreeable to both.

21 MR. KELLY: And -- and by saying, were taken under
22 the South Carolina Rules of Civil Procedure it is
23 agreeable to us to waive the formalities of taking,
24 filing, notice, and transcribing. Is that okay with
25 you, Zach?

1 MR. TURNER: What was that? Sorry.

2 MR. KELLY: I tell you what, let's just -- we'll
3 agree to stipulate -- well, I said to the
4 qualifications of the court reporter. Do you want to
5 reserve objections except to the form of the question
6 and responsiveness of the answer until the use of the
7 deposition?

8 MR. TURNER: I mean, I would like to object as --
9 as we go.

10 MR. KELLY: Okay. That's -- that's fine with me.
11 All right. So all objections unless stated on the
12 record are waived. Is that it?

13 MR. TURNER: Just objection -- the only objections
14 I'll make are to the form. All other --

15 (Cross talk).

16 MR. KELLY: Yeah. So -- right. Exact -- well, all
17 I'm trying to say, is that consistent with, I think,
18 the South Carolina Rules of Civil Procedure, if you
19 have an objection, say to relevance or something like
20 that, by saying that the only objections we have to
21 place on the record are those as to the form of the
22 question or responsiveness of the answer. Other
23 objections, for example, relevance and things like
24 that, those can be raised later when the deposition is
25 used. Is that agreeable, Zach?

1 MR. TURNER: Correct.

2 MR. KELLY: Great. That's what I meant. Okay.

3 The witness has been sworn.

4 CROSS-EXAMINATION

5 BY MR. KELLY:

6 Q. Mr. Sayed, would you please tell me your full
7 name?

8 A. My full name is Arshed Sayed, also known as Alex
9 Sayed.

10 Q. And would you spell your first name and your last
11 name?

12 A. A-r-s-h-e-d. Last name, S-a-y-e-d.

13 Q. And tell me, do you go by any names other than
14 Arshed or Alex?

15 A. No.

16 Q. Have you ever gone by any names other than Arshed
17 or Alex, nicknames included?

18 A. No.

19 Q. What languages do you speak fluently?

20 A. English and Hindi.

21 Q. Are you an American citizen?

22 A. Yeah.

23 Q. Were you born here or were you born overseas?

24 A. In India.

25 Q. Okay. And your date of birth, please.

1 A. 1/1/71.

2 Q. A New Year's baby.

3 A. That's correct.

4 Q. And when did you immigrate to the United States?

5 A. 2000 -- well, I don't remember accurately. I
6 think sometime in 2000s.

7 Q. Okay. And when did you become a citizen?

8 A. How is that relevant, so I'll understand?

9 Q. Yeah. I'm just asking the questions. It's really
10 not my job to answer your questions. I'm just asking when
11 you became a citizen. You testified you are. I don't need
12 the exact date if you don't know it. I'm just trying to
13 find out the year.

14 A. Around 8 or 10 years.

15 Q. I'm sorry.

16 A. 10 years ago.

17 Q. Okay. So about 2013. Is that what you're telling
18 me?

19 A. Yeah.

20 Q. What is your home address, sir?

21 A. 75 Sutton Farms Road, Shavertown, Pennsylvania.

22 Q. And I'm going to ask you to spell that street name
23 because I couldn't quite understand it and I want to make
24 sure the court reporter understands it.

25 A. S-u-t-t-o-n Farms Road, Shavertown, Pennsylvania.

1 Q. Shavertown. S-h-a-v-e-r-t-o-w-n --

2 A. Yes.

3 Q. -- correct. All right. And how long have you
4 lived at that address in Shavertown?

5 A. 3 years.

6 Q. 2 years.

7 A. 3 years approximately.

8 Q. 3. That's why I repeated it, I wasn't sure which
9 one you said.

10 Who lives with you at that residence?

11 A. My wife and 2 children.

12 Q. Okay. Do you have any family, blood or -- anybody
13 related to you by blood or marriage living in South
14 Carolina?

15 A. No.

16 Q. Have you ever had to give testimony before, like
17 in a deposition or in court?

18 A. Yes.

19 Q. Tell me what that -- what that was in connection
20 with?

21 A. I had to collect money from some customer.

22 Q. Okay. And where -- where was that?

23 A. Pennsylvania.

24 Q. And was that a lawsuit that was filed on your
25 behalf or a company that you owned or operate?

1 Q. And what did Westar -- what did the travel plaza
2 need? What did you want done to improve the travel plaza?
3 What was -- what needed to be done? Just -- you don't have
4 to give me all of the details, but just tell me, generally,
5 what you thought needed to be done from an improvement
6 standpoint?

7 A. Now, this is pertaining to this particular
8 instance you're saying; right? (Unintelligible.)

9 Q. Right. Let me -- let me do this, what I'm asking
10 you is in some time in early 2018 you communicated with
11 Robert Carpenter of MECO about doing some work to improve
12 the facilities at the Westar Travel Plaza; right.

13 A. (No audible response.)

14 Q. I mean, you wanted to be able to make it more
15 modern and efficient. You needed a new DEF system and some
16 other work. Some physical improvements had to be made so
17 that you could make the Westar Travel Plaza more profitable;
18 correct?

19 A. We wanted to upgrade the equipment. That is
20 correct.

21 Q. Right. And the whole purpose of that was so that
22 you could draw more customers and make it more successful
23 from a financial standpoint; correct?

24 A. Yes.

25 Q. Was that a yes?

1 going to have to upgrade the Comdata system in order to have
2 pay-at-the-pump on the diesel side.

3 A. I don't know what you mean by upset. We -- we
4 just got the new system.

5 Q. Well, you -- you communicated with MECO about it,
6 multiple times, and finally they had to refer you to Comdata
7 so you could verify that, in fact, you did have to upgrade
8 your equipment to have pay-at-the-pump?

9 A. I don't know if -- but, how is that related?
10 Because here it is -- this was not discussed with us in the
11 beginning of the job that they would be any communication
12 issues between POS and the dispensers they're installing,
13 and then --

14 (Cross-talk.)

15 Q. MECO wasn't --

16 A. (Unintelligible.) Let me complete what I'm
17 saying.

18 I remember the instance now, then Michael came and
19 they told us that, okay, you have to buy a new Comdata
20 system. We said -- we said, okay, that's fine. We paid
21 them and we got the new Comdata system. So what has this
22 got to do with anything?

23 Q. Right. Do -- you don't understand the difference
24 between what MECO, for example, and what Comdata provided
25 for you; isn't that right?

1 A. No. I don't know what you mean by I understand.
2 Do you understand?

3 Q. The important thing is whether -- whether you
4 understand and whether MECO understands. You want to blame
5 MECO for a lot of issues with software and --

6 A. Not true. Not true. Not true.
7 (Cross-talk.)

8 Q. -- (unintelligible) they are not responsible for;
9 isn't that right?

10 A. That's not true.

11 Q. One of the things you complained about is that you
12 say that MECO didn't properly instruct Westar Travel Plaza
13 customers -- personnel, excuse me. This just doesn't make
14 sense. Hold on. Well, looking at this interrogatory
15 response that's on your screen, one of the things you
16 complained about is that they -- that MECO, not instructing
17 Westar Travel Plaza customers personnel in the proper
18 operation of equipment supplied by MECO. What are you
19 talking about?

20 A. The POS system installed by -- by MECO. They
21 didn't train the new -- we bought new POS system, which is,
22 I think, Topaz. No, not Topaz. Verifone POS system from
23 them, and they -- they didn't train the employees. Show
24 them exactly how everything works before they left.

25 Q. So your folks -- it's your testimony that the

RECEIVED

Feb 16 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Case No. 2022-CP-42-03123
Appellate Case No. 2023-001

MECO, Inc. of Augusta.
Plaintiff,

v.

Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures LLC; NEPA Trading &
Investments, LLC.....
Defendants,

OF WHOM

MECO, Inc. of Augusta is
Appellant, and

Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures LLC; NEPA Trading &
Investments, LLC.....
Respondents.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the Respondents' Motion to Strike Matters from Appellant's Designation of Matter to Be Included In Record On Appeal and Motion for Extension of Time was served upon counsel of record in the above-entitled action by electronic mail on February 16, 2024, as follows:

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February 16, 2024

Greenville, South Carolina