

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Clifton Newman, The Honorable Walton J. McLeod, IV
Lexington County

Trial Court Case No.: 2017CP3202204

ARM Quality Builders LLC d/b/a, ARM Quality Builders..... Appellant.

v.

Joseph A. Golson and Lycia B. Golson and Branch Banking and Trust Company.. Respondents.

AND

Joseph A. Golson and Lycia B. Golson.....Third-Party Respondents.

v.

Ahmad Mazloom..... Third-Party Appellant.

Appellate Case No. 2020-001406

RECORD ON APPEAL VOLUME II

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BY: /s/ James Randall Davis

James Randall Davis, SC Bar No. 1580

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AND THIRD-PARTY APPELLANT

Lexington, South Carolina
June 24, 2021

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STATE OF SOUTH CAROLINA)

IN THE CIRCUIT COURT

COUNTY OF LEXINGTON)

11TH JUDICIAL CIRCUIT
LEXINGTON, SOUTH CAROLINA

ARM QUALITY BUILDERS LLC,)
d/b/a ARM QUALITY BUILDERS)

PLAINTIFF,)

DOCKET NO. 2017-CP-32-2204

V.)

SEPTEMBER 10, 2018

JOSEPH A. GOLSON,)
LYCIA B. GOLSON,)
BRANCH BANKING AND TRUST)
COMPANY,)

DEFENDANTS.)

JOSEPH A. GOLSON,)
LYCIA B. GOLSON,)
THIRD-PARTY PLAINTIFFS,)

V.)

AHMAD MAZLOOM,)

THIRD-PARTY DEFENDANT.)

BEFORE THE HONORABLE CLIFTON NEWMAN, JUDGE

JAMES RANDALL DAVIS, ESQUIRE
REPRESENTING PLAINTIFF

CAITLYN C. HEYWARD, ESQUIRE
REPRESENTING DEFENDANTS

EDWARD WADE MULLINS, ESQUIRE
REPRESENTING DEFENDANTS

PATRICIA A. NYE
OFFICIAL COURT REPORTER FOR
THE THIRD JUDICIAL CIRCUIT

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EXHIBITS

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NONE OFFERED

1 (WHEREUPON COURT WAS CONVENED WITH ALL PARTIES PRESENT.)

2 THE COURT: All right, Ms. Heyward.

3 MS. HEYWARD: Yes, this is my motion to resolve the
4 Plaintiff's claim in this action. The Plaintiff built a new house
5 for my clients, the Golsons, and on May 11, 2011 filed a
6 mechanic's lien in excess of \$55,000. I deposed the Defendant and
7 there are several bases for the matter to be resolved. One is
8 that the lien was filed untimely. The Defendant testified that
9 the last day of work was in early January, and as you know, liens
10 must be filed within 90 days of the last day of work. So, even if
11 we calculate that would be the last date of January 2017, the
12 lien -- they would have had to file a lien on or before April 30th
13 of 2017.

14 THE COURT: When was it filed?

15 MS. HEYWARD: May 11, 2017. Nevertheless, to this day, my
16 clients have not been served a copy of the mechanic's lien in
17 accordance to the statute. Complaint was filed on May 31, 2017. I
18 believe, you know, counsel sent a copy of the lien over to our
19 office on May 15, 2017. No appearance was made in that case on
20 behalf of the Plaintiffs by anybody as counsel. The lien itself
21 that was filed with the Clerk of Court attached to it is an
22 affidavit of non-service. I received today an affidavit from a
23 process server that was submitted with a brief filed by Mr. Davis
24 around noon dated today, stating that on May 9th the mechanic's
25 lien was taped to the front door of the house. As you know,

1 taping a document to a house is not proper service. So, for that
2 reason, we request attorney's fees. Attorney's fees are
3 mandatory. I have a couple of documents I'd like to hand up to
4 the Court if you would allow me to. This is sort of my summary of
5 what the law is in this case, I copied the law directly. There
6 are plenty of cases out there that say that mechanic's liens or a
7 creature of statute that must be strictly construed. There are
8 some pretty harsh rulings on that point. If you don't comply with
9 the mechanic's lien statute, it must be dismissed. Service and
10 process, this second page here is taken out of The South Carolina
11 Construction Law Handbook. It's sort of a layman's way of
12 explaining the foreign language as to how service of process must
13 be made. It must be filed within 90 days, unless the person can't
14 be found, and then you have to get an affidavit to the sheriff
15 stating that the owner of the property can't be found. The
16 purpose of that is to show that there has been a diligent search.
17 The complaint was served on my clients at their residence on June
18 2017. So, the fact that the process server went there one or two
19 times, they were living in the house just a month or so later.
20 So, I've also included a copy of the mechanic's lien code that
21 provides for attorney's fees. I've highlighted the relevant
22 sections for you.

23 THE COURT: What does it say about it?

24 MS. HEYWARD: It says the cost may arise in enforcing or
25 defending against the lien under this chapter, including

1 reasonable attorney's fee may be recovered by the prevailing
2 party. The fee must be determined by the Court in which the
3 action is brought but the fee and court costs may not exceed the
4 amount of the lien. This afternoon, I filed an affidavit of
5 attorney's fees. So, if this Court rules that the mechanic's lien
6 must be dissolved, I can address to the Court why those fees are
7 reasonable. They are rather large, but there are several reasons
8 for that. I won't go into that unless Your Honor would like me
9 to, but if you would like to rule on the issue of service, you
10 know, you might be able to save some time that way.

11 THE COURT: All right. I'll hear from opposing counsel.

12 MR. DAVIS: Your Honor, may it please the Court, Randy Davis
13 for the Plaintiff. This is a mechanic's lien case that was filed
14 by the Plaintiff. The mechanic's lien is for the sum of \$55,000
15 plus dollars. The notice of mechanic's lien was filed on May 11,
16 2017. The last work done on the project was February 16, 2017.
17 That's evidenced by a materials invoice that was part of
18 discovery in this case that's been presented to the Defendant
19 here showing that material was being shipped to the site on that
20 date, February 16, 2017 by one of the suppliers on this project.
21 Therefore, we feel like that evidence is undisputed based on
22 discovery in the case. It's part of the record, it's been Bates
23 numbered, and I've given a copy of that to the Court.

24 THE COURT: Does that bring you within the 90 days?

25 MR. DAVIS: Yes, Your Honor, it does. Because it was filed

1 May 11, 2017. The invoice says February 16, 2017, so that would
2 be within the 90 days based on that invoice.

3 THE COURT: The invoice is on what?

4 MR. DAVIS: It's materials for -- it's like three pages of
5 items totaling about \$1,000. Secondly, the attempted service --
6 so, we feel like we're within the 90 days. The second item is the
7 service item. Service was attempted on May the 9th on one trip by
8 the process server. He went back on the second trip and he
9 indicated the house was unoccupied. So, he posted the property
10 with the notice of the mechanic's lien and the affidavit and so
11 forth. That was done on May 9, 2017. The statute says if you
12 can't find the person there, after due diligence, you can file
13 the lien which we did on May 11, 2017 within that 90 days. He
14 indicated an affidavit of non-service. He has, in the last day or
15 two, when I talked to him again about the service issue when I
16 saw this was coming up, he did indicate by subsequent affidavit,
17 which is part of the record, that he did post the property on
18 that date. The question here is in reference to the statute
19 itself, saying you can file even though you haven't served after
20 due diligence -- it says by the sheriff's department. My position
21 on that is this, that is there for the purpose of making sure
22 that individual lives in Lexington County where this property is.
23 There's a statute that deals with real estate matters as to how
24 you serve people which I've cited in the brief 15-67-30 or
25 whatever it is, which indicates that if you want to publish

1 papers involving real estate, you have to turn it over to the
2 sheriff's department for the purpose of seeing if that person
3 lives in Lexington County in this case. In this case, that is
4 unnecessary because in the depositions in this case, it is
5 crystal clear that the Defendants lived in this house where the
6 process server served the papers. They lived in this house
7 starting January of 2017, and I have cited those pages from the
8 deposition of the Defendants, that's number one.

9 Secondly, the Defendants listed on their tax records the
10 legal residence exemption as this residence for 2017, and the
11 certificate of occupancy was issued in January. This, again, is
12 testimony by the Defendants saying they had the right to be there
13 by certificate of occupancy. They were living there, and they
14 claimed that as their residence. I feel like by that evidence in
15 this case would in effect comply with any requirement as to due
16 diligence to prove that the people lived in Lexington County. In
17 this case, lived in this particular house and there's no question
18 they did.

19 Furthermore, I have not found any case that says - counselor
20 is correct that under the mechanic's lien statute you have to
21 perfect things, but that deals with the time-feature of the 90
22 days and filing this suit within six months, which again was
23 done. Furthermore, on the issues -- what you're really looking
24 for is notice to Defendants. We've got posting, there's been
25 diligence proven based on the deposition as I indicated, but

1 also, the Defendants had counsel retained prior to the lien being
2 filed. I communicated with their office prior to the lien being
3 filed in April where there were discussions about invoices and so
4 forth, and there's a letter from counsel to the Defendants saying
5 they represent these people. I also told them by correspondence,
6 which is part of this record, that I had to file the lien at some
7 point, and that was communicated with them. After the lien was
8 filed, we emailed that lien to those attorneys for the Golsons.
9 We sent it to them on May 15, 2017 which is still within the 90
10 days. They were sent the notice of mechanic's lien, and
11 affidavits, and so forth. I read rule 5(a), and 5(b)(1) of the
12 Rules of Civil Procedure indicate that there are certain
13 documents that have to be served on the party. And one of those
14 categories is notices, is what it says. And then it says, in
15 5(b)(1) that you can serve the party, but if they have a lawyer,
16 you can serve the lawyer. I take the position that again there's
17 been proper service based on Rule 5(a) and 5(b)(1).

18 The other matter is that this is filed as a motion to
19 dismiss. I did not see a particular paragraph of the rules of
20 civil procedure quoted in the motion to dismiss. What I know is,
21 if there is normally an insufficiency of service of process, it
22 would be a 12(b)(6) motion. That was not done here. So, what's
23 left is a motion for summary judgment and that's not what's
24 before us. So, I asked in my brief for clarification as to what
25 rule or motion this thing was filed under, because it makes a

1 difference as to whether we're dealing with a motion of fact, or
2 what we're dealing with here. So, I just make that point. For the
3 reasons that I have stated, I think the motion should be denied.

4 MS. HEYWARD: Your Honor, in brief response. As to the last
5 point, the motion is based upon the statute 29-5-90, inclusion of
6 a lien and failure to serve file a statement. The award of
7 attorney's fees is also statutory. I don't understand the
8 confusion there, but it's based on the statute as a matter of
9 law. Just a couple of points raised by Mr. Davis. Number one is
10 an issue as to whether the lien was filed timely in the first
11 place. Number two, regardless whether it was timely filed there's
12 still no affidavit of service in the lien in this case. As to the
13 first point as to the last date of work, Mr. Davis included an
14 email to the Court a copy of this invoice. I'm just going to hand
15 it up to you if you don't mind. It has no address on it, so
16 there's really no way to know whether or not that relates to the
17 property at hand. What I did do, is take Mr. McWilliams
18 deposition, and I asked him specifically on this point. I
19 highlighted the relevant testimony here for you where I asked him
20 when did he finish the project on several occasions throughout
21 the deposition. Beginning of January was the answer every time.
22 The complaints states that the last date of work was February 11,
23 2017. If you'll turn to the third page, you'll see that I clarify
24 there February 11, 2017 was the date the final bill was presented
25 to my client, but he testifies that he finished the house in

1 January 2017. So, the final bill was about a month before the
2 house was completed, yes. And so, all we have is some invoice
3 that was produced in discovery that postdates the date of the
4 final bill that was produced to my clients. The final bill was
5 produced on February 11th, the materials invoice that has no
6 address on, it is dated February 16th. So, I think it's clear from
7 the Plaintiff's own testimony when the last date of work was
8 which was sometime in early January 2017. You can not then inject
9 an issue of fact that a document that posted the final bill and
10 contradicts his sworn testimony. Therefore, the lien was never
11 timely, regardless. It doesn't matter because it was never
12 served. What Mr. David is asking you to do is disregard 29-5-90
13 and say you don't have to file an affidavit of service if the
14 register of deeds is provided in the statute and we can tape a
15 copy of the mechanic's lien to the Defendant's house if the
16 Defendants reside in the county where the lien is filed. That's
17 just simply not this case. It is not supported by a myriad of
18 case laws where you must strictly comply with the statute. If you
19 read 29-5-90, it requires that the liens be served upon the owner
20 and shall be recorded in a book kept by the register. It says you
21 must serve upon the owner and in the event the owner cannot be
22 found, upon the person in possession and filed with the Office of
23 Register of Deeds or with the Clerk of Court in the County where
24 the building is situated. You must file a just and true statement
25 of accounting with the amount due with all just credits given,

1 the description of the property, sufficiently identify it with
2 the name of the owners of the property, etcetera, etcetera, and
3 it shall be recorded. So, never served, not only was it never
4 served, even if we could construe this, which is a stretch. I can
5 hand up Ferguson, Friar and Fabrication, Inc. versus Preferred
6 Fire Protection which is just, you know, another good case. To
7 the extent Rule 5 is applicable, that rule doesn't apply once an
8 appearance has been made by an attorney in the case, and no
9 appearance had been made at that time. So, I don't see Mr.
10 Davis's position and respectfully answer any questions the Court
11 may have.

12 THE COURT: All right, anything further?

13 MR. DAVIS: Yes, Your Honor, just three things. First of all
14 on the invoice, if you look on each page in the left-hand corner
15 about a third of the way down it says delivery spot and it says
16 Chapin. It says Chapin which is a city in Lexington County which
17 is the city where the property is where the Defendant owns. The
18 second thing in reference to the appearance and counselor
19 indicated that it doesn't count unless there's been an
20 appearance, I take a letter from opposing counsel in April of
21 2017 saying I have been retained by the Golsons in this matter, I
22 consider that to be an appearance in the case by the attorneys
23 under the rule, it's crystal clear you can serve a lawyer at that
24 point. The third matter is, I did find the case - I'd like to
25 make an argument in reference to strictly construing the statute.

1 I don't see a case on the issue of service, except I did find a
2 case which is a case that says this, the mechanic's lien they
3 tried to serve the owner and you serve some guardsman at the gate
4 of the subdivision. The Court said that won't work. But then in
5 that case the question came up where they tried to serve by
6 certified mail within the time period, and the owner said I never
7 got the letter. The Court went on to say that since there's a
8 summary judgment involved, they were denying the motion for
9 summary judgment because there was issue there of service. And
10 that case deals with attempting to serve by certified mail which
11 is an indication that the Court recognizes that sometimes you may
12 not have the personal service, as I see it. They were arguing
13 certified mail would take care of it. So, I think there is some
14 flexibility by the Court in regard to notice to the parties
15 because the key to it is proper notice. In this case they lived
16 there, they got posted and the lawyers got it, and I feel like
17 there is no surprise to the Defendants because of non-service.
18 Thank you, Your Honor.

19 MS. HEYWARD: If I may respond briefly. Your Honor, my
20 clients testified in their deposition that he was never served.
21 They never mentioned to me ever -- today is the first day I've
22 heard that anything was taped to the door. My clients never
23 mentioned that to me, so, there's a good chance, and I have not
24 had the opportunity to verify that, but they never even saw that.
25 Also, the mechanic's lien wasn't attached to the complaint, so

1 you can't say that service of the complaint for that service of
2 the mechanic's lien. And also, if I write a letter to opposing
3 counsel, Mr. Mullins in this case, saying that we represent
4 clients in an effort to resolve and issue pre-litigation, that
5 does not mean that you can essentially serve me or just send me a
6 summons and complaint and not effect service for the process for
7 the purpose of initiating a civil action. Same with a mechanic's
8 lien, especially when you have a very specific statute on point.
9 And furthermore, Mr. Davis never asked our office if we would
10 accept service on the mechanic's lien, it just appeared. We
11 always - there's no evidence that we agreed to accept service of
12 our client, nor would we ever do that. Thank you, Your Honor.

13 THE COURT: All right. Was this invoice referenced in the
14 deposition?

15 MR. DAVIS: The invoice is in discovery to the opposing
16 counsel is where that came into play.

17 THE COURT: Then it's post-deposition?

18 MR. DAVIS: Pre-deposition.

19 THE COURT: Pre-deposition.

20 MS. HEYWARD: Just a little bit of background, we've taken
21 several depositions of several contractors that have testified
22 the Plaintiff has modified invoices and inflated invoices and
23 those were not the costs in fact incurred on the project. And so,
24 I did not specifically ask him about this issue which is that he
25 submitted a bill for materials after the date the final bill was

1 submitted. It says they were shipped on February 15, 2017 and the
2 final bill was submitted February 11, 2017. Just because he has
3 engaged in consistent practice of trying to manipulate documents
4 and contacting witnesses in advance of their depositions, coming
5 out with new documents after the fact. So, I did not ask him
6 specifically about that document in that deposition for that
7 reason, but I did not need to.

8 MR. DAVIS: Your Honor, may I respond to that? In that
9 deposition it was 210 pages. In this case there were 29 suppliers
10 and materialing, and that invoice was in the discovery. It could
11 have been asked about that invoice, but it was not. But it
12 shipped to that Chapin site. That's part of the record here to
13 show timely filing. Now, the second thing counsel has indicated
14 as to my client as to what he's done. He has checks or receipts
15 for all payments paid to subs and materialment. Checks or
16 receipts. There are allegations about whatever counselor has said
17 about that stuff here. Receipts or checks, and this is a \$388,000
18 project, this is what it was.

19 MS. HEYWARD: Your Honor, the Plaintiff also resides in
20 Chapin, and there's evidence in the record that that he did work
21 on a lot of projects in Chapin, there's no address on that
22 invoice and it doesn't matter, my clients have not been served.

23 THE COURT: Procedurally, is this being filed as a motion to
24 be dismissed?

25 MS. HEYWARD: It's a motion to dismiss or in the alternative

1 to dissolve the mechanic's lien in accordance to the statute.

2 THE COURT: Yes, sir.

3 MR. DAVIS: I don't know in reference to the motion to
4 dismiss. My reading of the rule is - normally the service of
5 process insufficient via 12(b)(6). That was not done. You either
6 have a motion for judgment on the pleadings or a motion for
7 summary judgment, and I'm not sure what else is there. So, I
8 don't know how this motion to dismiss gets presented, so I have
9 an issue on that fact here as to being a proper motion with this
10 issue before the Court at this point.

11 THE COURT: It's an issue to dismiss or dissolve.

12 MR. DAVIS: That would be to eliminate my client's claim for
13 monies owed, there's no real difference here. In other words, are
14 you obligated to file a motion for summary judgment here? It
15 obviously would be the pleadings alone. I don't know what else is
16 out there at this point. If you don't 12(b)(6) it as to the --

17 THE COURT: So first of all, we're dealing with a mechanic's
18 lien.

19 MR. DAVIS: Yes, sir. It does, and it involves factual
20 issues as to proper service. There was proper filing here and
21 there was attempted service, and the question is the language
22 about the due diligence and you've got the factual issues of
23 service on counsel under rule 5(a) and 5(b)(1), as well as the
24 people that live there. They have a certificate of occupancy.
25 There's no notice of issue here because of what we've said.

1 That's compliance with that statute. No case has been presented
2 as to service being limited by one way.

3 MS. HEYWARD: Your Honor, you may consider matters outside
4 the scope of the pleadings and convert this to a motion for
5 summary judgment if you would like. I don't care about the dates
6 the mechanic claim was triggered. Taking everything that Mr.
7 Davis is saying is true, my client was never served with the
8 mechanic's lien in accordance with the statute, and you have the
9 facts before you to make that ruling. Respectfully, I do not
10 believe that sending an unsolicited copy of a mechanic's lien to
11 my office when nobody in my office agreed to accept service of
12 that on behalf of my client in compliance to the statute.

13 THE COURT: All right.

14 MR. DAVIS: Fifteen seconds. The initial letter from the law
15 firm came from them to me. Indicating let's have an accounting
16 there. They initiated it and saying they are representing the
17 party. And I go back to Rule 5(a) and (b)(1) saying if they have
18 a lawyer, you can serve the notice. And notice is specifically
19 mentioned as number 4 on what can be served on the party of a
20 lawyer. In reference to service, we sent it to them because they
21 had a lawyer.

22 MS. HEYWARD: Your Honor, Rule 5 requires the pleadings
23 subsequent to the original summons and complaint.

24 MR. DAVIS: Your Honor, this was not a summons and
25 complaint. This was notice of mechanic's lien which fits under

1 paragraph four of 5(a).

2 MS. HEYWARD: I just ask the Court, if you are inclined to
3 grant my motion to dissolve the lien that I be given an
4 opportunity to discuss affidavit of attorney's fees, and I can
5 discuss that with you at the appropriate time.

6 THE COURT: I'm going to have the parties submit proposed
7 orders in the case and share with the other. Submit to the Court
8 and you can respond within five days whatever is submitted by
9 opposing side. How much time do y'all need to submit them?

10 MR. DAVIS: I would ask this, I am going out of the country
11 October 23rd for seven days, so if I could have some sort of --
12 let's see, today's the 10th and I'm leaving here the 22nd, so ---

13 THE COURT: Of October?

14 MR. DAVIS: No, September.

15 THE COURT: Let's see, 30 days?

16 MS. HEYWARD: Yes sir, I don't need 30 days, but ---

17 THE COURT: But he's leaving the 22nd that's in ten days.

18 MS. HEYWARD: I can get it to you in ten, but ---

19 MR. DAVIS: And if I happen to be out of the country when
20 hers comes in, I'll be back on the third.

21 THE COURT: She's going to submit hers in 10. Can you submit
22 yours in ten?

23 MR. DAVIS: After she does her 10 days?

24 THE COURT: Well, no I'm considering each person's proposed
25 order independently and give you an opportunity to critique,

1 respond, say anything you want about the other's proposal. But if
2 the time for your ten days. If you can get it in before you go
3 and then if you need more time to do the replying to her just let
4 me know that will be fine.

5 MS. HEYWARD: Thank you, Your Honor.

6 (WHEREUPON, THE PROCEEDINGS IN THE ABOVE CAPTIONED CASE WERE
7 CONCLUDED.)

1
2 CERTIFICATE OF REPORTER

3 I, the undersigned PATRICIA A. NYE, Official Court Reporter
4 for the Third Judicial Circuit of the State of South Carolina, do
5 hereby certify that the foregoing is a true and accurate
6 transcript of record of all the proceedings had and evidence
7 introduced in the trial of the captioned case, relative to
8 appeal, in the Circuit Court for Lexington, South Carolina, on
9 the 10th day of September, 2018.

10 I do further certify that I am neither of kin, counsel, or
11 interest to any party.

12
13
14 October 20, 2020

15
16 Patricia A. Nye

17 Patricia A. Nye
18
19
20
21
22
23
24



Patsy Nye
Court Reporter, Family Court
1680 Shady Lane
Columbia, South Carolina 29206
(803) 960-3997
Pnye@sccourts.org

FROM: Patsy Nye, Court Reporter, Family Court

DATE: October 21, 2020

RE: Transcript of Record – Arm Quality Builders v Golsons

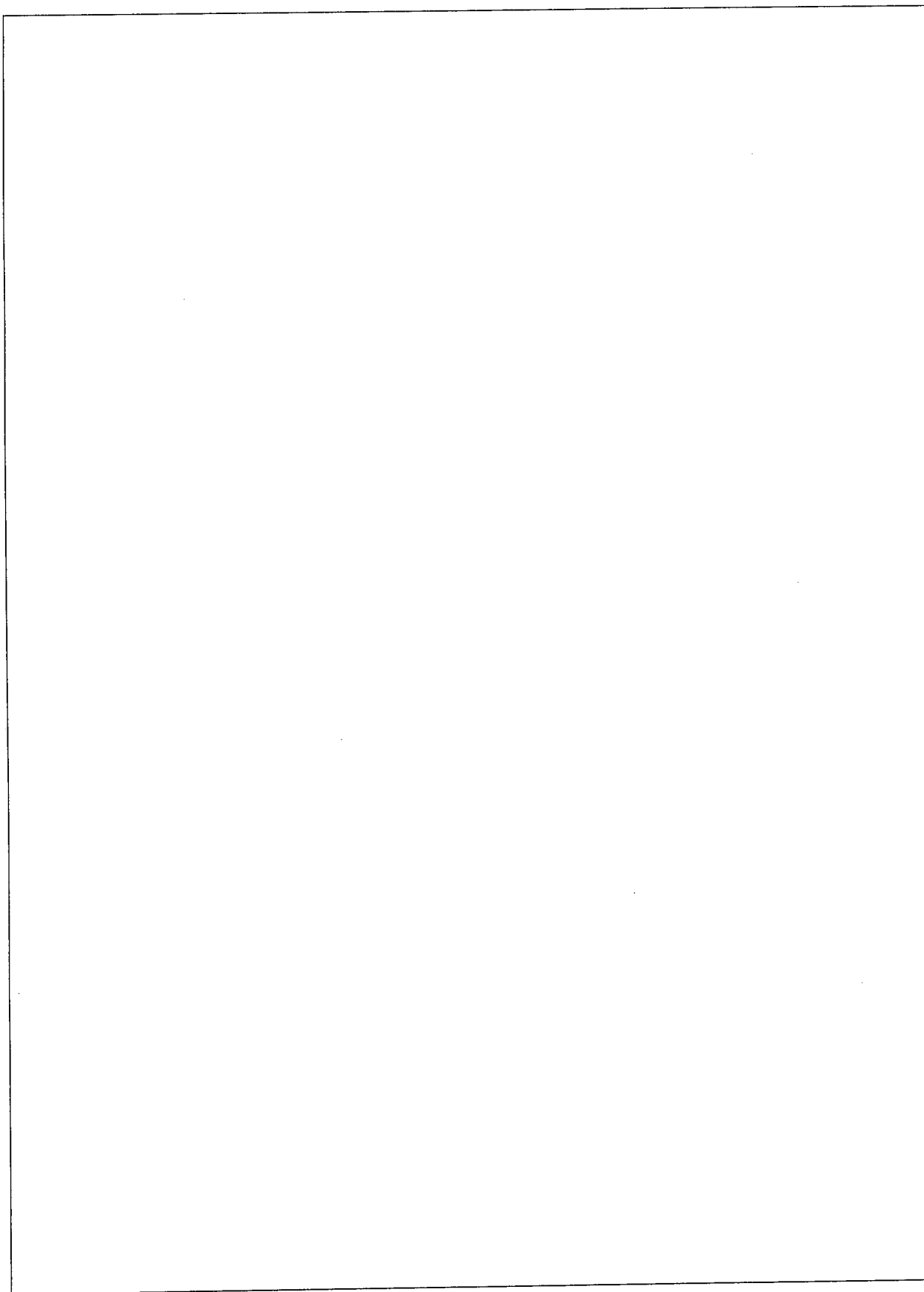
2017-CP-32-02204

September 10, 2018

Pages	20
Page rate fee	<u>\$1.00</u>
Total	<u>\$20.00</u>

Pursuant to Rule 607(h), SCACR, a copy of this original transcript can be provided at the rate of seventy-five cents (\$1.00) per page. Please be advised that opposing counsel, litigants or other parties to the action must request the copy in writing and pay the copy fee per page.

Thank you,
Patsy Nye
Official Court Reporter
State of South Carolina



State of South Carolina
County of Lexington

Court of Common Pleas

ARM Quality	)	
Builders, LLC,	)	
	)	
Plaintiffs,	)	Transcript of Record
v.	)	2017-CP-32-02204
	)	
Joseph and Lycia Golson,	)	
	)	
	)	
<u>Defendants.</u>	)	

December 18 - 20, 2019
Lexington, South Carolina

B E F O R E:

The Honorable Walton J. McLeod, IV, Judge.

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

James R. Davis, Esquire
Attorney for the Plaintiff

Edward Wade Mullins, III, Esquire
Caitlin Heyward, Esquire
Attorneys for the Defendants

Bethanie K. Creppon
Circuit Court Reporter

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24	REDIRECT EXAMINATION		330
25	BY MS. HEYWARD		

1	RE CROSS-EXAMINATION	335
2	BY MR. DAVIS	
3	<u>JOSHUA HALL</u>	337
4	DIRECT EXAMINATION	337
5	BY MS. HEYWARD	
6	CROSS-EXAMINATION	359
7	BY MR. DAVIS	
8	<u>JOSH JOYNER</u>	371
9	DIRECT EXAMINATION	371
10	BY MS. HEYWARD	
11	CROSS-EXAMINATION	377
12	BY MR. DAVIS	
13	REDIRECT EXAMINATION	385
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15	RE CROSS-EXAMINATION	388
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17	<u>AHMAD MAZLOOM</u>	390
18	DIRECT EXAMINATION	391
19	BY MR. MULLINS	
20	CROSS-EXAMINATION	420
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22	<u>JOSEPH GOLSON</u>	422
23	DIRECT EXAMINATION	423
24	BY MR. MULLINS	
25	CROSS-EXAMINATION	478

1	BY MR. DAVIS	
2	REDIRECT EXAMINATION	511
3	BY MR. MULLINS	
4	RECROSS-EXAMINATION	525
5	BY MR. DAVIS	
6	<u>LYCIA GOLSON</u>	526
7	DIRECT EXAMINATION	527
8	BY MR. MULLINS	
9	CROSS-EXAMINATION	569
10	BY MR. DAVIS	
11	<u>AHMAD MAZLOOM</u>	609
12	REBUTTAL EXAMINATION	610
13	BY MR. DAVIS	
14	Certificate of Reporter	645
15		
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25		

E X H I B I T S				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	<u>PLAINTIFF'S</u>			
1	1	BMC	10	70
2	1A	1/17 Invoice	10	70
3	1B	10/16 Invoice	10	70
4	1C	9/16 Invoice	10	70
5	1D	8/16 Invoice	10	70
6	1E	7/16 invoice	10	70
7	2	Barnhills Invoice	10	70
8	3	GTG Invoice	10	73
9	4	Lowe's Receipt	10	79
10	5	Stier Invoice	10	80
11	6	Allwaste Invoices	10	81
12	7	SCE&G Invoices	10	82
13	8	Winsupply Invoice	10	83
14	9	Harvey Wise Invc/Check	10	107
15	10	Jim Pasko Invc/Check	10	111
16	11	Bilt Rite Invoice	10	83
17	12	Jaime Huerta Email/Check	10	115
18	13	Adams Goings Invc/Check	10	120
19	14	Crystalline Check/Invc	10	89
20	15	D. Daniels Check/Invc	10	90
21	16	Billy Kelly Invc/Check	10	124
22	17	Complete Septic Check	10	84

1	18	White Knoll Check/Invc	10	125
2	19	Jason Kyzer Check/Invc	10	91
3	20	Bubba Morrell Checks	10	128
4	21	Vacuum Ctr Check/Invc	10	140
5	22	City of Lex Check/Permit	10	85
6	23	PF&G Check/Invc	10	130
7	24	Lucios Cobb Check/Invc	10	86
8	25	Cayce Exterm. Invc	10	87
9	26	Columbia Shelving Invc	10	88
10	27	RNG Contracting Invoices	10	134
11	28	Josh Hall Checks/Invc	10	136
12	29	A&D Checks/Invoices	10	138
13	30	Mazloom Credit Card Stmt	10	93
14	31	Contract to Build	10	42
15	32	Contract For Services	10	44
16	33	Builder to Provide List	10	48
17	34	Final Bill	10	
18	35	Billy Kelly Invoice	10	
19	36	Vacuum Center Checks	10	
20	37	B&R Electric Invoice	10	151
21	38	White Knoll Receipt	10	151
22	39	Double R Cab. Receipt	10	151
23	40	A&D Invoice	10	151
24	41	Eagle Excavating Invc	10	
25	42	RNG Contracting Invc	10	151

1	43	Harvey Wise Invc	10	
2	44	Contractor Amt. Totals	76	153
3		<u>DEFENDANT'S</u>		
4	1	Contract	10	604
5	2	Mechanic's Lien	10	604
6	3	Final Bill	10	604
7	4	Checks to Subs	10	604
8	5	Cash Receipts	10	609
9	6A	Mazloom Backup	10	609
10	6B	A&D Subpoena Re.	10	609
11	6C	Check to A&D	10	609
12	6D	Cash Receipt 3/19/18	10	609
13	7A	Mazloom Backup	10	609
14	7B	Double R Subpoena Re.	10	609
15	7C	Check to Double R	10	609
16	7D	Cash Receipt 3/19/18	10	609
17	7E	Text Messages	10	609
18	7F	Depo Subpoena	10	609
19	8A	Mazloom Backup	10	609
20	8B	White Knoll Subpoena Re.	10	609
21	8C	Check to White Knoll	10	609
22	8D	Cash Receipt 3/19/18	10	609
23	8E	HVAC Photos	10	609
24	9A	Mazloom Backup	10	609
25	9B	Rodas Subpoena Re.	10	609

1	9C	Check to RNG	10	609
2	9D	Cash Receipt 3/19/18	10	609
3	9E	\$20,000 Checks - Rodas	10	609
4	10A	Mazloom Backup	10	609
5	10B	J&M Subpoena Re.	10	609
6	10C	Check to J&M	10	609
7	10D	Cash Receipt 3/19/18	10	609
8	10E	E-mails	10	609
9	10F	Text Messages	10	609
10	10G	First Citizen Checks	10	609
11	11A	Mazloom Backup	10	609
12	11B	Harvey Wise Subpoena Re.	10	609
13	11C	Check to Harvey Wise	10	609
14	11D	Cash Receipt 3/19/18	10	609
15	12A	Mazloom Backup	10	609
16	12B	PF&C Subpoena Re.	10	609
17	12C	Check to PF&C	10	609
18	13A	Mazloom Backup	10	609
19	13B	Bill Kelly Subpoena Re.	10	609
20	13C	Check to Bill Kelly	10	609
21	13D	Cash Receipt 3/19/28	10	609
22	14A	Mazloom Backup	10	609
23	14B	Vacuum Ctr. Subpoena Re.	10	609
24	14C	Check to Vacuum Center	10	609
25	14D	Cash Receipt 3/19/18	10	609

1	15A	Mazloom Backup	10	609
2	15B	Check to B&R Electric	10	609
3	15C	Cash Receipt 3/19/18	10	609
4	16A	Mazloom Backup	10	609
5	16B	Eagle Excavating Sub. Re.	10	609
6	16C	Check to Eagle Excavating	10	609
7	16D	Cash Receipt 3/19/18	10	609
8	17	Golson Receipts	10	609
9	18	2/28/17 Letter to Mazloom	10	609
10	19	3/22/17 Letter from Davis	10	609
11	20	4/17/17 Letter from Davis	10	609
12	21	4/3/17 Letter from Mullins	10	609
13	22	Mazloom Check No. 511	10	609
14	23	Gore Check No. 1113	10	609
15	24	B&R Electric	10	609
16	25	B&R Invoice	10	609
17	<u>JOINT</u>			
18	1	4/17/17 Project Cost	10	12
19	2	First Citizens Docs.	10	12
20	3	ARM QB Checks	10	12
21	4	Backup & Receipts	10	12
22				
23				
24				
25				

P R O C E E D I N G S

* * *

(Plaintiff's Exhibit Nos. 1 - 43 premarked for identification.)

(Defendant's Exhibit Nos. 1 - 22 premarked for identification.)

(Joint Exhibit Nos. 1 - 4 premarked for identification.)

THE COURT: All right. This is the matter of ARM Builders vs. Joseph A. Golson and Lycia B. Golson. Is the Bank out?

MR. DAVIS: The Bank is out.

THE COURT: The Bank is out. All right.

And a third-party claim by the Golsons against Amahd Mazloom and counterclaims by the Golsons against ARM Quality Builders. Is that correct?

MR. MULLINS: That's correct, Your Honor.

THE COURT: If everyone will announce themselves for the record.

MR. DAVIS: Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. DAVIS: Randy Davis for the plaintiff, Mr. Amahd Mazloom. He's the owner of the corporation ARM Quality Builders, LLC. With me is

1 Nicole Price, paralegal in the office for 21 years.

2 MR. MULLINS: Wade Mullins on behalf of the
3 Golsons, who are here, Joe and Lycia Golson, who are
4 sitting behind me. And Caitlin Heyward, who is
5 really going to be driving the ship.

6 THE COURT: Good morning.

7 MS. HEYWARD: Good morning.

8 THE COURT: We discussed, in chambers, some
9 joint exhibits. I'd like those noted for the
10 record.

11 MR. MULLINS: Your Honor, I have a notebook
12 here that contains -- and I'm just now realizing,
13 but I don't think this will be an issue, and we can
14 correct this, some joint stipulations and -- that
15 actually contain some stipulations of fact and some
16 exhibits that I'm prepared to hand up to you.

17 I only have three copies of this. But I think
18 each of us -- the actual exhibits are being used
19 within -- we've both handed up exhibits that we plan
20 to use.

21 THE COURT: Okay.

22 MR. MULLINS: These are just the total
23 package of documents.

24 THE COURT: Okay. So --

25 MR. MULLINS: And I can get another set.

1 THE COURT: -- that's all the potential
2 exhibits, not just the ones y'all have agreed upon?

3 MR. MULLINS: No. These are -- we've
4 stipulated as to these --

5 THE COURT: Okay. All right.

6 MR. MULLINS: -- exhibits.

7 MR. DAVIS: Those are the joint.

8 MR. MULLINS: So, probably, what I should -- I
9 mean, we can give the court reporter one and we can
10 give you one. And we'll just go without for right
11 now.

12 THE COURT: Is that Exhibit 1 or is that a
13 laundry list of 1, 2, 3, 4 --

14 MR. MULLINS: It is four exhibits.

15 THE COURT: Okay. So the record will
16 reflect that counsel for both parties have conferred
17 prior to trial and they have jointly stipulated to
18 the admissibility of Joint Exhibits 1, 2, 3, and 4.
19 Is that correct?

20 MR. DAVIS: Yes, sir.

21 THE COURT: All right. So admitted.

22 (Joint Exhibit Nos. 1, 2, 3, and 4 admitted
23 into evidence.)

24 MR. MULLINS: For record purposes, just so we
25 refer -- and I -- that we'd call those Joint

1 Exhibits 1, 2, 3, and 4. And then we'd have
2 Plaintiff's exhibits and Defendant's exhibits.

3 THE COURT: I think that's fine.

4 MR. MULLINS: Okay.

5 THE COURT: Okay. Now, obviously, we don't
6 have a jury here. But I would like a brief synopsis
7 of what you intend to prove from both sides before
8 you call your first witness.

9 MR. DAVIS: Your Honor, may it --

10 MR. MULLINS: Well, just a point of
11 clarification, Your Honor, I know we, in chambers,
12 discussed the motion in limine that we had filed.
13 Are we --

14 THE COURT: I actually was going to take that
15 up when it came up. But --

16 MR. MULLINS: We can --

17 THE COURT: -- we can discuss it -- we can make
18 a record now. Well, I'll see how he responds. I
19 thought you had an actual -- a memorandum in reply
20 to them. Is that not the case?

21 MR. DAVIS: That's correct.

22 THE COURT: Okay. Well, we can discuss it. We
23 can discuss it, but I may hold final ruling. But
24 there's no harm in starting the discussion now. So
25 this is Golsons' motion to exclude records from

1 being classified as business records under the
2 hearsay exception. Is that correct?

3 MR. MULLINS: That's correct, Your Honor. And,
4 you know, I think we've -- I'm not sure. And I'm
5 certainly prepared to address -- I think our brief
6 lays out, you know, what our argument is.

7 I don't -- if there were any specific questions
8 and what we've also -- what we've already discussed
9 and just what I would remind the Court is that the
10 sole basis -- I mean, we understand the business
11 record exception to the hearsay rule. But there is
12 an analysis that needs to be done in order for that
13 to apply. And one of those factors is the
14 trustworthiness of the documents.

15 And, you know, we've briefed that issue. And
16 we've also provided you examples of the invoices
17 that we anticipate because it's really the only way
18 that the plaintiff is going to be able to present
19 its case. We anticipate that invoices are going to
20 be sought to be introduced which, in and of
21 themselves, are hearsay. And we anticipate that
22 Plaintiff will seek or rely on the business record
23 exception.

24 And so we believe, because of what we have
25 asserted in our brief and what we believe are

1 uncontroverted facts and evidence that calls into
2 question, at the very least, the trustworthiness of
3 those documents, that the Court should be -- the
4 Court would be remiss in allowing these documents in
5 under the business record exception and that the
6 best evidence would be, given the facts of this
7 case, to require the plaintiff to present its case
8 and, if it anticipates admitting invoices as
9 evidence, that there be a foundation laid by a
10 witness and authentication made of the document.
11 And proper admission through a live witness that is
12 not hearsay would be the proper way for this case to
13 unfold. So that's the basis of our motion.

14 THE COURT: And in that -- well, Mr. Davis?

15 MR. DAVIS: Your Honor, may it please the
16 Court?

17 The ruling on the motion in limine, as I see
18 it, would be premature at this time. There's been
19 no testimony in this case on the subject. We
20 have -- just based on what's been given to the Court
21 here as to exhibits, we have 35 to 40 exhibits,
22 which are invoices from the material people as well
23 as the labor people on this case. And there's
24 documentation here that -- paper-wise, that explains
25 Mr. Mazloom's position on this; meaning, checks,

1 invoices, payment of invoices, and receipts. So I
2 think it would be premature now to say, hey, this is
3 not going to be accepted. Let's have a chance for
4 him to testify and let the Court make a decision at
5 that point in time.

6 THE COURT: Well, when we refer to invoices,
7 we're referring to Mr. Mazloom's invoices?

8 MR. DAVIS: Yes. These would be invoices
9 submitted by these -- either the material people or
10 the subcontractors to him.

11 THE COURT: Okay. Well, he can certainly
12 testify as to the invoices he generated. But, as
13 far as invoices another subcontractor did, he didn't
14 create the record, did he?

15 MR. DAVIS: He would be testifying as to checks
16 that he wrote to them --

17 THE COURT: Okay.

18 MR. DAVIS: Checks that he wrote to them for
19 their services rendered, as well as documentation
20 for cash payments. And we have the invoices. We
21 have -- the invoices will be part of the record that
22 we received from those subs. So they would be
23 something he received from them that he would
24 testify that he received these.

25 THE COURT: Perhaps it would be beneficial just

1 to go ahead and have a hearing with testimony from
2 Mr. Mazloom now and put those records up, not just
3 for the Court's view, and -- I mean, we can
4 assume -- I think we can assume that he's going to
5 offer those into evidence. And, frankly, it can
6 give you a chance to have a motion in limine of
7 where you can cross him on the records now.

8 I mean, that's -- it's just tough to make a
9 final decision without having heard what he is going
10 to say. Now, obviously, the deposition is noted;
11 the testimony from Joshua Hall and --

12 MR. MULLINS: Mr. Crolley.

13 THE COURT: Mr. Crolley. Okay. They're right
14 next to each other. Makes -- certainly those are
15 subcontractor representations made at deposition
16 certainly goes to the reliability and
17 trustworthiness of the records. But I didn't see
18 anything specifically from Mr. Mazloom in the brief.

19 And I will say also that we discussed this in
20 chambers: There appears to be some grounds to
21 exclude those records, perhaps. But I also think
22 it's -- it cuts both ways. You know, Ms. Heyward
23 and Mr. Mullins both drafted a very good memorandum
24 on this issue as far as the trustworthiness. But it
25 also noted they wanted to use those, if I understand

1 correctly, in their counter-claim case in chief --
2 and you can tell me, Ms. Heyward, if I'm speaking --
3 if I'm accurate here from our discussion this
4 morning. But to support the counterclaims by saying
5 that they're not true and, therefore, it wouldn't be
6 going to the truthfulness.

7 But I think, inherently, in counterclaim, it
8 has to be proven; it has a burden of proof and it
9 has to convince a factfinder of what they say is
10 true. So, you know, that is my concern as far as
11 looking down the road to your case in chief as far
12 as excluding it now. Would it essentially be used
13 in another party's case in chief?

14 MS. HEYWARD: That's right, Your Honor. And my
15 only response would be that a piece of evidence
16 could be hearsay and not hearsay, the same piece of
17 evidence, depending on the purpose that it's being
18 presented for. And so if it's being presented for
19 the truth of the matter asserted therein, it's
20 hearsay, and there either has to be an exception
21 applied or they need to call a witness.

22 If it's not being produced for the truth of the
23 matter asserted, if it's being used to show a
24 fraudulent scheme, a pattern, then that is not
25 hearsay. So, therefore, those documents are

1 admissible for that purpose, although they're
2 inadmissible for another purpose. And this is the
3 reason we have the hearsay rule: So we don't have
4 people coming in using manipulated documents without
5 calling witnesses to testify about them as proof of
6 a -- as truth of the matter asserted therein.

7 THE COURT: And which rule are you relying on
8 for the common scheme asserted?

9 MS. HEYWARD: Well, there's some case law on
10 that. Most of it is fleshed out in the federal
11 courts. We don't have a lot of case law in South
12 Carolina on this --

13 THE COURT: Always convenient.

14 MS. HEYWARD: Right. And I can get you a
15 citation.

16 THE COURT: Well -- and the reason I ask
17 that -- I'm trying to look through the book. But I
18 know I've had cases where obviously -- I may be
19 wrong. I know it's been used in general sessions
20 cases. But, you know, you're not getting a
21 character witness; you're just showing they had a
22 plan --

23 MS. HEYWARD: Right.

24 THE COURT: -- an operation, or a scheme.

25 MS. HEYWARD: Exactly.

1 THE COURT: And that's kind of what you're
2 couching that on?

3 MS. HEYWARD: Right. Yes. And then there's a
4 second piece. There are the invoices that were
5 produced in April of 2017 as part of the backup, and
6 then there are additional cash receipts that were
7 later produced in March of 2018.

8 And a little bit of a side issue is, to qualify
9 under the business record exception, the document
10 must be created -- prepared at or near the time of
11 the event recorded. And Mr. Mazloom testified that
12 those were prepared in 2018 and related to events in
13 2016 and 2017. So --

14 THE COURT: The event you -- it would have to
15 be prepared around when the actual construction job
16 itself --

17 MS. HEYWARD: Right. Correct. So, therefore,
18 they're not business records. So some of the
19 documents aren't business records and -- and, in
20 addition, they're not trustworthy.

21 We're happy to take up each document as it
22 comes, if the Court is more comfortable approaching
23 it that way.

24 THE COURT: Well, I mean, I -- to do so now
25 would be a pretty broad ruling when we haven't heard

1 anything.

2 MS. HEYWARD: Right.

3 THE COURT: But, also, and mindful, I don't
4 want to have 40 authentication hearings where we go
5 down the test. So, again, y'all clearly can't agree
6 on it, so I guess that's what we'll have to do.
7 But --

8 MR. MULLINS: Judge, I mean, I think -- and not
9 knowing how they're going to present their case, but
10 when one of these issues comes up and we argue it
11 and we hear your ruling on it, hopefully that
12 will -- we may want to have a standing objection or
13 something like that. But --

14 THE COURT: That's true.

15 MR. MULLINS: -- I think there's a couple
16 different categories. And once we understand the
17 Court's position, we'll be happy to move through.

18 MR. DAVIS: Having heard what you said about
19 listening to 40 different invoices -- labor
20 invoices, it may be as -- because they raised the
21 issue as to the legitimacy of these invoices and so
22 forth, we do intend to put them up each so there's a
23 record of what he has paid and what invoices have
24 come to him.

25 But it may be that because we've worked this

1 case so much, both sides, if I say BMC Supply, y'all
2 might be able to say, okay, don't go through the
3 drill of proving that, or maybe we can't. We'll
4 see.

5 MS. HEYWARD: Correct.

6 Your Honor, we can simplify this somewhat. We
7 are --

8 THE COURT: There were eight subs that you were
9 really concerned with, right?

10 MS. HEYWARD: There's -- I think there's ten.
11 Maybe there's -- there's eight or ten that we're
12 concerned about. The rest -- you know, I'm not
13 going to ask that he bring the Lexington County
14 permit person to come in and testify that the permit
15 was paid for. I'm not concerned with that. So it's
16 just limited to those eight or ten subcontractors.

17 THE COURT: All right. Well, we don't have to
18 worry about taking breaks for matters of law. Okay?
19 So we'll just keep pushing along and have, you know,
20 discussions on the record about it when it comes up.
21 Okay? So we'll come back to that, Mr. Mullins.

22 MR. MULLINS: Thank you.

23 THE COURT: If you would, just give me a brief
24 intro and I'll allow them to do the same.

25 MR. DAVIS: Thank you, Your Honor.

1 Mr. Mazloom, who owns ARM Quality Builders,
2 Inc., is a licensed contractor in South Carolina and
3 has been since 1988. And he builds residential
4 homes in the Lexington County area. He had prior
5 knowledge of the Golsons prior to agreeing to build
6 a house for them. They had been neighbors for some
7 time and then continued to be friends. And they
8 asked him to build them a house, which he agreed to
9 do.

10 There are two documents as -- contractually as
11 to the house. It's a contract to build and a
12 contract for his services as the builder. Those
13 contracts were entered into in February of 2016.
14 And because the Golsons wanted to clear their lot,
15 the work actually started in July of 2016 and
16 continued some time in 2017.

17 The contract to build set a dollar figure for
18 the cost of the house based on specificity as to the
19 specific things to be built in the house. The issue
20 in the case is that the Golsons went beyond the
21 agreed-upon specifications, which increased the
22 cost.

23 We will have testimony by him as to the bills
24 he got -- the invoices he got in from the different
25 material companies, as well as from the

1 subcontractors and testify what the total cost was.
2 He had a commission of 15 percent, which he is
3 charging in the case. And it -- bottom line is,
4 it's his position he's owed \$55,000 based on what
5 the final cost was on the house and getting a
6 15-percent commission for his services under the
7 contract for services. That's basically a summary
8 of where we are.

9 THE COURT: Ms. Heyward? Mr. Mullins?

10 MS. HEYWARD: Thank you, Your Honor. In 2016,
11 the Golsons were excited to build their dream home
12 they had been waiting to build for 24 years.
13 Mr. Golson inherited some property from his father.
14 They had been longtime friends with Ahmad who is a
15 local contractor. They decided to hire him to build
16 their new home because they trusted him.

17 They were excited and they were happy to have
18 the opportunity to work with someone who they could
19 trust and handle the largest investment of their
20 lives and build the home they planned to retire in.

21 We now know that Ahmad did not see this project
22 the same way. He saw it as an opportunity to take
23 advantage of the Golsons' trust, and he took it.
24 The Golsons showed Ahmad the property, and Ahmad
25 helped them engage an engineer and design

1 professional.

2 Before they took out the construction loan, the
3 Golsons consulted with Ahmad about what their
4 expectations were and how much the project would
5 cost. Ahmad told the Golsons that the project would
6 not cost more than \$395,000 to build and would most
7 likely come in under budget.

8 Based on that conversation, the Golsons entered
9 into a contract with ARM Quality Builders and Ahmad
10 to build the house for cost plus a 15 percent fee
11 with the guaranteed maximum price of 395 and
12 obtained the construction loan for \$395,000.

13 From the outset, there were several items that
14 were very important to the Golsons. Number one was
15 that the project stay at or below budget. Number
16 two, they wanted mini-split HVAC system similar to
17 what you see in hotel rooms installed in every room
18 in the house as opposed to a centralized air unit.
19 This was particularly important to Lycia to help
20 manage the symptoms of her leukemia, a disease that
21 she lives with today.

22 Joe, Lycia, and Ahmad talked about the
23 mini-split system at length before signing the
24 contract. Ahmad pushed back initially and did not
25 want to do it, but he ultimately agreed when the

1 Golsons insisted. He knew all along how important
2 that was to them. And the requirement was
3 formalized in the written agreement between the
4 parties. Ahmad made a promise, and the Golsons
5 believed he would keep it.

6 Construction began and costs were incurred on
7 the project. And, from time to time, Joe or Lycia
8 would inquire about the budget and how things were
9 going. Over and over again, Ahmad told the Golsons
10 not to worry about the cost. They trusted him.

11 He said, don't worry about the cost; I'm taking
12 care of everything. He gave them constant
13 reassurance that everything was fine and nothing was
14 going over budget. However, the relationship became
15 strained when the HVAC system was installed, because
16 that was the most important thing to them. Ahmad
17 installed a central HVAC unit. There was only one
18 mini-split installed in the sunroom, and that really
19 upset the Golsons.

20 At that point, the relationship started to
21 dissolve. The Golsons did not feel like they could
22 trust Ahmad, that Ahmad was going to do what he said
23 he was going to do, so they started to take control
24 of some of the costs themselves by purchasing
25 materials and delivering them to the project.

1 The Golsons will testify that the parties
2 agreed that any materials they purchased would be
3 credited to them as a reduction in the 395,000 GMP
4 and that there was no expectation that Ahmad would
5 be entitled to a 15-percent fee on those materials
6 that he did not purchase or handle, and that's --
7 that is about \$18,000 worth of materials that were
8 purchased by the Golsons out of pocket.

9 The project was completed in January of 2017
10 and Ahmad accepted the final draw on the Golsons'
11 \$395,000 construction loan from BB&T without
12 crediting them for the \$18,000 in materials they
13 purchased themselves.

14 Then, in February of 2017, Ahmad presented the
15 Golsons with a final bill seeking an additional
16 \$55,000, an amount well over the GMP. The bill did
17 not credit the Golsons for the 18,000 and included a
18 15-percent fee on the materials. The Golsons also
19 had significant concerns about the accuracy of the
20 construction costs. They refused to pay the bill.
21 Ahmad filed a mechanic's lien, and litigation
22 ensued.

23 Most cases that get to this point are not black
24 and white, and we think that there are very clear
25 areas of fraud and breach on behalf of ARM and

1 Ahmad. But there's some element of confusion with
2 regard to the written agreement.

3 Our position is that it's a cost plus a GMP,
4 which is the more rational interpretation in view of
5 all the documents as a whole. ARM will take the
6 position that it's a cost-plus with no GMP. But I
7 ask that you pay attention to the testimony and
8 consider what is the more reasonable interpretation.

9 Regardless of what you decide, cost-plus or
10 GMP, it is the plaintiff's burden to present what
11 the costs are with regard to the contract. The
12 central issue in this case is the cost, and those
13 have been misrepresented.

14 Not only is the 55,000 not owed, but the
15 Golsons have been damaged and paid more than what is
16 owed. The balance of the contract is not due. And
17 the reason it is not due is because ARM Quality
18 Builders and Mr. Mazloom engaged in a multifaceted
19 scheme to create the appearance that costs were
20 incurred. And we'll present evidence that that is
21 not the case.

22 Conservatively, today, I believe a minimum of
23 \$21,000 has been irrefutably and fraudulently
24 claimed. And I expect we'll establish that tens of
25 thousands of additional dollars claimed by Ahmad

1 were not actually spent on the project. It's only
2 because of the convoluted accounting mechanisms and
3 records employed by ARM, which are specifically
4 designed to misrepresent the costs on this project,
5 but I cannot give you a hard-and-fast figure of what
6 I suspect is approximately 30- to \$50,000 of
7 additional fraud. That figure will become more
8 clear and more defined as we hear testimony from the
9 subcontractors who worked on the job.

10 Nevertheless, ARM is the plaintiff; they
11 brought the case; they're asking for the contract
12 balance. It is not sufficient for them -- for ARM
13 and Mr. Mazloom to generally conclude that it is
14 owed an additional \$55,000 in an attempt to shift
15 the burden on the Golsons to disprove their claim.
16 It is up to the plaintiff to present reliable and
17 credible evidence to prove its actual costs to the
18 satisfaction of this Court.

19 That notwithstanding, we will show that Ahmad
20 altered and inflated invoices. In some cases, he
21 relentlessly harassed his subcontractors until they
22 agreed to write inflated invoices and cash receipts
23 for him. Those subcontractors will testify that
24 they reluctantly relented and created their receipts
25 so Ahmad would leave them alone.

1 In April of 2017, as you know, as we mentioned
2 earlier, Ahmad gave the Golsons copies of fake,
3 altered, or inflated invoices along with copies of
4 checks payable to the subcontractors to prove the
5 costs incurred. Included in that backup were 12
6 fake checks payable to 12 fake subs for various
7 inflated amounts.

8 The fake checks represent inflated costs, costs
9 for work not incurred on the job; at least on one
10 case, costs actually invoiced but not paid by Ahmad,
11 and costs incurred on other projects he had going at
12 the same time. He was renovating his own house; he
13 was renovating his brother's house, and he had
14 another job going on, on Old Cherokee Road.

15 The subcontractor testimony will establish that
16 other legitimate checks included -- well, I just
17 mentioned that. So there are other legitimate
18 checks included in the backup, meaning that they
19 were actually drawn on the bank account, but they do
20 not relate to this project.

21 As we uncovered the fraudulent schemes through
22 the course of discovery, Ahmad doubled down on his
23 attempt to cover them up. For example, after
24 receiving a copy of the document subpoenas, Ahmad
25 contacted several subs and told them to produce

1 false invoices in response to the subpoenas.

2 You will hear that Ahmad contacted these
3 witnesses over and over again throughout the course
4 of litigation in advance of their depositions and
5 even recently in advance of this trial asking them
6 to create false documents on his behalf and
7 pressuring them to lie in an attempt to influence
8 their testimony.

9 Ahmad constantly texted and called witnesses
10 and would even show up in person at their shop to
11 demand the additional documents. For example, Bubba
12 Morrell will testify that Ahmad actually tracked him
13 down at his personal residence while he was at home
14 with his wife to demand that he create fake records
15 for the project.

16 The only way to make Ahmad go away was to give
17 him what he wanted, and many of the subcontractors
18 did just that. However, they will come here and
19 testify as to what they were paid and what costs
20 were legitimately invoiced to ARM.

21 After he became aware that the Golsons obtained
22 his bank records in response to his subpoena that
23 proved that the 12 checks were never drawn on the
24 ARM account, Ahmad continued to harass several subs
25 into falsifying cash receipts for the exact amount

1 of the fake checks.

2 Ahmad will ask this Court to believe that the
3 fake checks were not intended for the subs, that
4 they were simply reminder notes that those subs were
5 paid in cash. Despite it being a reminder note, he
6 presented it in an accounting in a check. I just
7 want you to remember that it's unbelievably absurd.
8 The explanation is not even remotely credible. And
9 you'll hear from the subs who will say that Ahmad
10 did not pay them in cash on this project.

11 The whole ordeal has caused a great deal of
12 stress for Joe and Lycia Golson. This behavior is
13 brazen; it's shocking. But, most importantly, it's
14 sloppy and unsophisticated. We don't have to be
15 experts in accounting to see what Ahmad is doing.
16 The subcontractor testimony will be enough; they
17 will be the nails in the coffin. There's no way
18 that Ahmad's will claim survive evidence that we
19 plan to present to you today and tomorrow.

20 At the conclusion of trial, I will present to
21 you what we believe the evidence has shown in terms
22 of damages to the Golsons. And I ask that you enter
23 an order awarding the Golsons that amount. I
24 understand the Courts' hesitation in their
25 consideration of fraud. But if there was ever a

1 case for fraud, we'll show it to you in this trial.
2 We ask that you consider that. And we'll be asking
3 for punitive damages. Thank you.

4 THE COURT: Mr. Davis, you may call your first
5 witness.

6 MR. DAVIS: Your Honor, may it please the
7 Court? I'm ready to call Mr. Mazloom as a witness.

8 I feel like I have an obligation to respond.
9 You asked for a brief statement. And we got very
10 detailed information that's been presented to this
11 Court, not in the form of sworn testimony. And I
12 just feel like I have -- I need to fill in --

13 THE COURT: Well, she -- counsel --

14 MR. DAVIS: Yes, sir.

15 THE COURT: She went on a little longer than
16 you. But she told me what she expected to prove.

17 MR. DAVIS: Okay.

18 THE COURT: And that's not admissible evidence
19 and what attorneys say is not evidence.

20 MR. DAVIS: Okay. Well, I appreciate that.

21 We'll call Mr. Mazloom.

22 AHMAD MAZLOOM

23 being first duly sworn, testified as follows:

24 THE WITNESS: Yes.

25 THE COURT: To be clear, I don't find anything

1 wrong with --

2 THE CLERK: State your name, spelling your last
3 name for the record.

4 DIRECT EXAMINATION

5 BY MR. DAVIS: |

6 Q. Please state your full name.

7 A. Ahmad Mazloom.

8 Q. Okay. And your first name is spelled how?

9 A. A-H-M-A-D.

10 Q. And your home address is what?

11 A. 125 Sweet Melody Lane, Lexington 29073.

12 Q. Okay. And how long have you lived at that
13 address?

14 A. Since 1988.

15 Q. Are you married?

16 A. Yes.

17 Q. And your wife's name?

18 A. Robin.

19 Q. Okay. And how long have y'all been married?

20 A. 42 years.

21 Q. Okay. What is your occupation?

22 A. Residential builder.

23 Q. Are you licensed in South Carolina?

24 A. Yes.

25 Q. And how long have you been licensed in South

1 Carolina?

2 A. Since '91, I believe.

3 Q. Okay.

4 A. I don't remember.

5 Q. And you build in any particular geographical

6 area of Lexington County or in the state?

7 A. No.

8 Q. I mean, do you build in a particular area?

9 A. Just Lexington County.

10 Q. Okay. And since you have had a license, how

11 many homes have you built since you obtained your

12 license?

13 A. I build around 80 -- I don't remember exactly.

14 Around 80 spec houses; in all, 15 or 16 custom

15 house.

16 Q. You ever had a lawsuit against you because of a

17 house building?

18 A. No, sir.

19 Q. All right.

20 A. This is the first time I'm in the court.

21 Q. All right. What is the name of your company?

22 A. ARM Quality Builders, LLC, South Carolina.

23 Q. All right. It's a limited liability company?

24 A. Yes.

25 Q. How long has it been in existence?

1 A. Since 2006.

2 Q. Okay. And who is the owner of that company?

3 A. I am.

4 Q. Does anybody else have any interest in it?

5 A. No.

6 Q. Okay. You built a home for Mr. and

7 Mrs. Golson?

8 A. Yes.

9 Q. Okay. Did you know them prior to agreeing to

10 build a home for them?

11 A. Yes, for 34 or -5 years. They were family

12 friends. And I know them --

13 Q. For how many years?

14 A. Almost 34, 35 years.

15 Q. Okay. When did you first know them?

16 A. 1981, they moved in my neighborhood --

17 Q. Okay.

18 A. -- in Columbia.

19 Q. Okay. How long were y'all neighbors?

20 A. Until '88.

21 Q. Okay. Did you move elsewhere?

22 A. Pardon me?

23 Q. Did you move elsewhere?

24 A. Yes. I moved to where I'm living now.

25 Q. Okay. Did the relationship with the Golsons

1 continue after 1988?

2 A. Yes; a lot. I was -- we are friends with their
3 friends, kids friends, and almost more than 20 times
4 they come in my house and eat.

5 Q. How long has that relationship lasted?

6 A. Until I finished that house.

7 Q. Okay. They asked you to build the home?

8 A. Yes, sir.

9 Q. Okay. Where was the home built?

10 A. In Chapin.

11 Q. All right. Chapin, South Carolina?

12 A. Yes, sir.

13 Q. All right. Who owned the land where the home
14 was built, if you know?

15 A. They do.

16 Q. They being?

17 A. Joe and Lycia Golson.

18 Q. Okay. And what -- did you agree to build a
19 house for them?

20 A. Yes, sir.

21 Q. Okay. And it was a new home for them?

22 A. Yes, sir.

23 Q. Okay. And what was the square footage,
24 roughly?

25 A. Around 32-, 3300 square feet.

1 Q. How many?
2 A. 3200 square feet.
3 Q. What did you tell them that you needed to start
4 coming up with a price for the home?
5 A. I told them, first, we needed a house plan.
6 Q. Okay. Did they obtain house plans?
7 A. I sent them to the architect, an old friend of
8 mine.
9 Q. And his name is?
10 A. Lloyd Higby.
11 Q. Okay. So you knew Mr. Higby?
12 A. Yes; for many years.
13 Q. Did they go to see Mr. Higby?
14 A. Yes.
15 Q. Did he draw house plans?
16 A. Yes, sir.
17 Q. All right. And did you have any conversations
18 with Mr. Higby yourself about the Golsons?
19 A. Yes. I called him. I said, they're coming.
20 And I take them to his office, his house.
21 Q. Okay. Did they appreciate that, the Golsons?
22 A. I don't know. They didn't share any
23 appreciation. But they were happy because the other
24 architect, they're charging a dollar a square
25 foot --

1 Q. Yes?

2 A. -- to draw the plan. And Mr. Higby charged
3 them 800 or \$900.

4 Q. All right. And --

5 A. And I wanted to save, for them, the money.

6 Q. What was that you said?

7 A. I wanted to save money for them.

8 Q. Certainly. Did you receive the house plans?

9 A. Yes.

10 Q. Okay. Could you then determine what the cost
11 of the home would be?

12 A. Yes.

13 Q. Okay. And did you relay that figure to Mr. and
14 Mrs. Golson?

15 A. Yes.

16 Q. Okay. And what was -- what was that figure?

17 A. 395 --

18 Q. Okay.

19 A. -- thousand dollars. Because they told me --

20 Q. They being?

21 A. The Golsons --

22 Q. Okay.

23 A. -- told me, low as you can because maybe they
24 cannot get the construction loan.

25 Q. Who said that?

1 A. Golsons.

2 Q. Both of them?

3 A. Yes.

4 Q. Okay. Did they get a loan?

5 A. I introduced them to BB&T, the people I deal

6 before with them. And they -- I took them to the

7 BB&T, actually, in Lexington --

8 Q. Yes.

9 A. -- and meet the person that give a construction

10 loan.

11 Q. Okay. And did they get a construction loan?

12 A. Yes.

13 Q. Okay. What was that construction loan for?

14 A. Building a house with my contract.

15 Q. What was the amount? What was the amount of --

16 A. \$395,000.

17 Q. Okay. Did you submit a contract for the

18 purchase of the home to the bank?

19 A. Yes. If I didn't have a contract, they don't

20 give them a loan, construction loan.

21 Q. All right. So the loan was for the exact price

22 of the house, the 395; is that correct?

23 A. Yes, sir.

24 Q. All right. The bank also took a mortgage on

25 the land?

1 A. Yes. I believe so. Yeah.

2 Q. All right.

3 MR. DAVIS: May I approach the bench?

4 THE COURT: Yes, sir.

5 MR. DAVIS: I'm going to hand up all the

6 exhibits so I won't have to come up here each time.

7 BY MR. DAVIS:

8 Q. Mr. Mazloom, let me show you this that has been

9 marked as Plaintiff's Exhibit 31 and ask you to

10 identify that document. May I see this one second?

11 Yeah. Ask you to identify that document.

12 A. It's a contract for the -- building the house

13 for the Golsons.

14 Q. Okay.

15 A. Yes. It's the same thing. Yeah.

16 Q. And is that contract signed by both parties?

17 A. Yes.

18 Q. You signed it? They signed it?

19 A. Yes, sir.

20 Q. What is the date on the contract?

21 A. The date on the contract is February 29, 2016.

22 Q. Okay. And what was the purchase price?

23 A. \$395,000.

24 Q. Okay. What was the time period to build the

25 house?

1 A. They said 120 days or 160 -- 180 days.

2 Q. 180 days.

3 Okay. And the funds to go towards paying for
4 the house construction came from BB&T?

5 A. Yes.

6 Q. Okay. Does the contract indicate, paragraph 5,
7 the distribution came from BB&T?

8 A. Paragraph 5?

9 Q. Second page, paragraph 5.

10 A. Yes.

11 Q. Did you give them a warranty on the house?

12 A. Yes.

13 Q. Okay. You prepared this contract?

14 A. Yes, sir.

15 Q. You gave it to the Golsons?

16 A. My wife did.

17 Q. Did they review it, as far as you know?

18 A. Yes.

19 Q. Okay. And this contract was signed by ARM
20 Quality Builders?

21 A. Yes, sir.

22 Q. Okay.

23 MR. DAVIS: Your Honor, we'd move to introduce
24 that as Plaintiff's Exhibit 31.

25 THE COURT: Any objection?

1 MS. HEYWARD: No objection.

2 THE COURT: All right. Plaintiff's Exhibit 31
3 admitted into evidence.

4 (Plaintiff's Exhibit No. 31 admitted into
5 evidence.)

6 BY MR. DAVIS:

7 Q. Let me show you what's marked as Plaintiff's
8 Exhibit 32 --

9 A. Okay.

10 Q. -- and ask you to identify that. 32.

11 A. Yes.

12 Q. What is that?

13 A. For the 15 percent, my commission, plus costs.

14 Q. Plus costs.

15 All right. So your commission was what?

16 A. 15 percent.

17 Q. And when you say plus costs, how do you
18 determine your commission based on the cost? The
19 true cost?

20 A. Yes.

21 Q. Okay. And is that your normal commission?

22 A. No.

23 Q. What is your normal commission?

24 A. Normally, I charge 20 percent.

25 Q. And you charged here what?

1 A. 15 percent, because they're friends, old
2 friends.

3 Q. All right. Is that contract -- that particular
4 contract, which is Exhibit 32, is it signed by you?

5 A. Yes.

6 Q. And signed by the Golsons?

7 A. Yes, sir.

8 Q. Okay. What is the date on that contract?

9 A. The same day of the actual contract,
10 February 29, 2016.

11 Q. Okay. Did you give that contract to the
12 Golsons to review before they signed?

13 A. Yes.

14 Q. Okay.

15 A. They came to my house and read it and they
16 signed it.

17 Q. Okay. In paragraph 4 -- strike that.

18 MR. DAVIS: Your Honor, we move to introduce
19 Exhibit 32.

20 MS. HEYWARD: Without objection.

21 THE COURT: Without objection, Plaintiff's
22 Exhibit 32 admitted into evidence.

23 (Plaintiff's Exhibit No. 32 admitted into
24 evidence.)

25 BY MR. DAVIS:

1 Q. Let me show you Plaintiff's Exhibit No. 33 --

2 A. Okay.

3 Q. -- and ask you to identify that.

4 A. That one is the specification list for the --
5 what they want in the house.

6 Q. When was that prepared, the typed portion?

7 A. The typed portion is the same day, I believe,
8 we signed the contract.

9 Q. Okay. And that is a two-page document?

10 A. Yes, sir.

11 Q. All right. And what does that document -- how
12 is that -- strike that.

13 How is that document related to the contracts?
14 What does that document do?

15 A. It's meaning what they want in the house.

16 Q. Okay. And where did the typed information come
17 from?

18 A. From them.

19 Q. Them is --

20 A. Yes.

21 Q. Them being the Golsons?

22 A. Golsons.

23 Q. Okay. And when you quoted the figure of 395,
24 it was based on these specifications given to you?

25 A. Yes.

1 Q. Okay. Now, there is handwritten information on
2 that document, correct?

3 A. Yes, sir.

4 Q. That was entered later; is that correct? The
5 handwritten information was entered later?

6 A. Yes.

7 Q. And what is that?

8 A. It's the extra -- what they added to the --
9 they're changing their mind --

10 Q. Okay.

11 A. -- several times. And those is extra --

12 Q. Okay.

13 A. -- is handwritten.

14 Q. All right. On the second page, there is some
15 print, bigger print --

16 A. Yes.

17 Q. -- and some initials. What is that?

18 A. Any extra for changes will be at the owners'
19 expenses.

20 Q. Okay. And what is below there?

21 A. We initialed it.

22 Q. We being who?

23 A. Golsons and me.

24 Q. Okay. All right. And you said this was done
25 at the time the contracts were signed?

1 A. Yes, sir.

2 MR. DAVIS: We move to introduce 33 --

3 MS. HEYWARD: I'd just like to clarify for the
4 record, this document wasn't signed in this form.
5 The writing was added after the litigation
6 commenced. We do have a clean copy without the
7 writing, if he wants -- if Mr. Davis wants to --

8 THE WITNESS: Yes.

9 MS. HEYWARD: -- introduce that as part of the
10 contract, and this document as a separate exhibit
11 that Mr. Mazloom can testify as to what he alleges
12 is the extra cost. But I just want to clarify for
13 the record that my client's initials on the bottom
14 of this page are not initials that relate in any way
15 to these --

16 MR. DAVIS: We'd stipulate to that.

17 THE COURT: And the Court understood that --

18 MR. DAVIS: We'd stipulate to that.

19 THE COURT: -- from the testimony --

20 MR. DAVIS: We'd stipulate to that.

21 THE COURT: -- thus far. So I will note that
22 Plaintiff's Exhibit 33, the typed portion and the
23 initial portion, was done with the contract and that
24 the -- Mr. Mazloom testified that the handwritten
25 additions were done at a subsequent date.

1 MR. DAVIS: That's correct.

2 MS. HEYWARD: Thank you, Your Honor.

3 MR. DAVIS: That's correct.

4 THE COURT: And so Plaintiff's Exhibit 33 is
5 admitted into evidence --

6 MR. DAVIS: All right.

7 THE COURT: -- with the notes on the record as
8 stated.

9 (Plaintiff's Exhibit No. 33 admitted into
10 evidence.)

11 BY MR. DAVIS:

12 Q. All right. When did you -- well, strike that.

13 Did you commence construction of the house?

14 A. When I started?

15 Q. Yes, sir.

16 A. In July --

17 Q. Of what year?

18 A. -- 2016.

19 Q. Of what year?

20 A. 2016.

21 Q. Okay. This contract was signed in February of
22 2016. What transpired between February 2016 and
23 July 2016?

24 A. First, I told them --

25 Q. Told who?

1 A. Told the Golsons. And I cannot start it now
2 because I'm building my son's house.

3 Q. Okay.

4 A. And because I cannot be two places. And I --
5 usually, I stay every day, watching every
6 subcontractor and worker.

7 Q. All right. And when did you finish -- what is
8 your son's name?

9 A. Shah Mazloom.

10 Q. S-H-A-H?

11 A. S-H-A-H.

12 Q. Okay. And when did you finish his house?

13 A. In May.

14 Q. Of what year?

15 A. 2016.

16 Q. Did you have any other houses under
17 construction --

18 A. No, sir.

19 Q. -- as of February of 2016, except your son's
20 house?

21 A. Yes.

22 Q. That's it?

23 A. Yeah.

24 Q. All right. So you finished your son's house in
25 May. What happened between May and July?

1 A. The land wasn't ready, the lot, because, to
2 have a house, they have to tear it down, old house,
3 and get all the trees cleared off. And they did
4 it -- Golsons did it.

5 Q. They did it.

6 Okay. And when did they finish that aspect of
7 the project?

8 A. As soon as I finish. I started in July.

9 Q. Okay. Now -- so you commenced the work
10 starting in July?

11 A. Yes.

12 Q. And it was finished sometime in 2017?

13 A. Actually --

14 Q. 20- -- I'm sorry.

15 A. Actually, I could finish it in -- actually can
16 finish in December 2016. But I finished it in
17 beginning of February because they told me don't
18 finish it, don't get the -- the -- the final proof
19 from the County, what they call it? The --

20 Q. Certificate of occupancy?

21 A. Huh?

22 Q. You're referring to a certificate of occupancy?

23 A. Yeah, certificate of occupancy, because they
24 don't want to pay for the house in 2017 taxes.

25 Q. All right.

1 A. And I finish it.

2 Q. Okay. In February?

3 A. January, I get the occupation --

4 Q. Okay.

5 A. Certificate of occupancy.

6 Q. All right. While you were building the house,

7 did extra charges occur?

8 A. Yes.

9 Q. Okay. Let's go to that exhibit. You still

10 have 33 in your possession or don't?

11 A. Yes, sir.

12 Q. That's the --

13 A. 33.

14 Q. 33, is that the specifications or what is that

15 right in front of you? Let's see that.

16 A. The specifications --

17 Q. Let's see that.

18 A. -- and handwriting.

19 Q. Okay. Very good.

20 A. I have a clear one.

21 Q. All right. That's -- we're on specifications,

22 the paragraph -- or Exhibit No. 33.

23 Now, what is the handwritten information on

24 that specification sheet?

25 A. It was extra. They changed their mind.

1 Q. Okay. I --

2 A. Extra.

3 Q. -- want you to take each handwritten note and
4 tell this Court what the contract called for and
5 what the Golsons asked for you to do.

6 A. Okay. The first one was a half-inch OSB on
7 exterior wall and roof. And they changed their mind
8 when it came to the time. They wanted 7/16 ZIP
9 panel walls.

10 Q. All right. Let's do this: So, I mean, you've
11 stated what that says. But so we nonconstruction
12 people can understand, what does that really mean
13 that was done there?

14 A. It's a green board -- it was OSB.

15 Q. Yeah.

16 A. But the outside is green. They waterproof it.
17 And everything, they have to put the tape on it.

18 Q. Okay. So this -- the change was waterproofing
19 sheeting or whatever?

20 A. And the roof is -- they want it be a -- one
21 side of the plywood be -- what they call it? Like
22 an aluminum foil --

23 Q. Yes.

24 A. -- to reflecting the heat out.

25 Q. Okay.

1 A. It costs more money.

2 Q. Costs more money.

3 What's next?

4 A. Next? Interior -- no. Vinyl posts and rails

5 on the front porch and the back deck --

6 Q. So what did --

7 A. -- vinyl.

8 Q. Excuse me.

9 What did they ask for in a change?

10 A. They asked for the aluminum and the

11 powder-coated.

12 Q. Powder-coated?

13 A. Yes.

14 Q. What is that?

15 A. It's when they paint it and they put it in the

16 oven and cook it --

17 Q. Okay.

18 A. -- like a caulk.

19 Q. Okay.

20 A. And those cost more money.

21 Q. More money.

22 A. And every time they change, they said costs

23 more. I didn't say anything. And they tell each

24 other, Golsons, and say, oh, costs more money.

25 Q. Who said that?

1 A. Golsons --
2 Q. Golsons.
3 A. -- talking to each other.
4 Q. Okay. All right. What's the next item?
5 A. Next item: Interior wall and ceiling
6 Sheetrock -- no. I'm sorry. Vinyl window with the
7 double hung.
8 Q. Would you say that last word again?
9 A. Double hung.
10 Q. Double hung?
11 A. Yeah.
12 Q. Okay. Yeah.
13 A. And they choose, for the sunroom, crank
14 windows.
15 Q. What kind of --
16 A. Yes. Goes outside.
17 Q. What kind of windows --
18 A. Yes. Golsons.
19 Q. What kind -- what does initial specification
20 call for?
21 A. Yeah. It has a crank; open it outside --
22 THE COURT: To be clear, the witness looked at
23 the Court and wound his hand in a cranking motion.
24 MR. DAVIS: All right.
25 BY MR. DAVIS:

1 Q. But the initial specifications called for some
2 other type of window?

3 A. They said wanted windows with the double hung.

4 Q. Okay. But --

5 A. No; white double hung.

6 Q. What was put in was the crank windows?

7 A. For the sunroom, 15 windows.

8 Q. Is that more or less?

9 A. Much more.

10 Q. Okay. What's next?

11 A. Next, interior wall and ceiling Sheetrock.

12 Q. Okay.

13 A. And they want ceiling beaded wood -- beaded
14 wood. It's a tongue-and-groove --

15 Q. Bead wood -- beading wood?

16 A. Beaded wood.

17 Q. Beaded wood?

18 A. Yeah.

19 Q. Okay.

20 A. It's a tongue-and groove.

21 Q. Gotcha.

22 A. Whole ceiling. Living room, sunroom, foyer,
23 front porch, beaded wood in the ceiling.

24 Q. Okay. What's next?

25 A. And they wanted ceiling -- in the sunroom, they

1 want it to be a -- what they call it? Penny wood.
2 Q. Penny?
3 A. Yeah. They put the penny between them and the
4 wood. But there's -- they didn't say anything about
5 it. Wall painted, ceiling planted -- painted.
6 Q. Painted.
7 A. With wash -- we added wash white ceiling --
8 whitewash ceiling with the Duration paint.
9 Q. What does that mean, Duration paint?
10 A. Duration paint, the paint -- regular paint is
11 \$22 a gallon.
12 Q. Yeah.
13 A. And Duration paint is \$65 a gallon.
14 Q. Who asked for that?
15 A. Golsons.
16 Q. All right. What's next on the list?
17 A. And paint through the house, that Duration.
18 Q. Okay.
19 A. Next, interior door, paint gray. Paint gray.
20 Q. What's that last word? Paint what?
21 A. Paint gray.
22 Q. Okay. Very good. Okay.
23 A. They wanted Duration.
24 Q. Okay.
25 A. Bath and kitchen cabinet, paint or a stain;

1 custom restore cabinets.

2 Q. All right. What's that about?

3 A. Meaning, the house they live, they have some

4 wall mount cabinet --

5 Q. Excuse me. You said the house they lived.

6 What house are you talking about?

7 A. That time I building it, they live in another

8 house --

9 Q. Okay.

10 A. -- in Rockwood.

11 Q. Okay.

12 A. And her father, several years ago, build a

13 cabinet for that house, the old house.

14 Q. Gotcha.

15 A. And they want to remove that one to this new

16 house.

17 Q. Cabinets from the existing house over to this

18 house you're building?

19 A. Yes.

20 Q. Okay. Go ahead. Sorry.

21 A. And my cabinet man, they have to go take it off

22 and bring it to the new job --

23 Q. Yes.

24 A. -- and they didn't have enough cabinet. He has

25 to go to Clemson --

1 Q. Clemson University?

2 A. No. Clemson city --

3 Q. Okay.

4 A. -- and get the log from her father, Golson's --

5 Lycia's father.

6 Q. For what purpose?

7 A. Because they wanted to have a door there and

8 install. And they wanted the same thing, walnut.

9 Q. Who actually did that -- that --

10 A. My cabinet man.

11 Q. What's his name?

12 A. Josh Hall.

13 Q. Okay.

14 A. And he brought the log and he have to put that

15 in the machinery, cut it until the thickness of the

16 cabinet, and build the rest of the cabinet.

17 Q. Okay. Next?

18 A. Next is tub and shower --

19 Q. Okay.

20 A. -- fiberglass unit. Tile master shower, but

21 they wanted cultured marble.

22 Q. Cultured?

23 A. Cultured marble, not the fiberglass.

24 Q. Gotcha. Okay. That's more money?

25 A. Master shower. Yes.

1 Q. Okay. What's next?

2 A. Next, plumbing faucet to be standard. Chosen
3 by the owner, standard. And they went -- usually, I
4 pay them allowances for the light fixture and the
5 plumbing fixture. And they went and choose it; they
6 didn't ask for the -- how much can I expect? I
7 could finish, get the standard everything, by 11-,
8 \$12,000 of what they bought some tile and those, and
9 they bought it \$18,000.

10 Q. Okay. Next?

11 A. Next, the standard seal kitchen sink. Kitchen
12 sink is -- usually has two compartments. And they
13 wanted a big one.

14 Q. Gotcha.

15 A. One full size.

16 Q. Gotcha. More money?

17 A. Yes.

18 Q. Anything else on there?

19 A. Yes, sir. Insulation.

20 Q. Okay.

21 A. All 15 walls, all 19 floors, all 35 in attic,
22 what they want.

23 Q. Uh-huh.

24 A. And when is the time coming, they said, yeah,
25 put the 38; all 38 for ceiling.

1 Q. That's better insulation?

2 A. Yes.

3 Q. More money?

4 A. But more money.

5 Q. Okay.

6 A. Shower door. That's only thing they say,

7 shower door.

8 Q. Okay.

9 A. They changed their mind and they say unframed

10 glass door, master bath.

11 Q. Okay.

12 A. Costs more money --

13 Q. More money.

14 A. -- because the hinges, you have to secure it to

15 the wall, just the glass.

16 Q. Okay.

17 A. They said sidewalk.

18 Q. Sidewalk?

19 A. Yeah.

20 Q. Okay.

21 A. Usually we put the three-foot sidewalk from the

22 garage to the house from the driveway. When we put

23 the three-foot, they want five-foot wide.

24 Q. Okay.

25 A. More concrete.

1 Q. Gotcha.

2 A. Mirror and shelving custom built through the
3 house, custom built.

4 Q. Gotcha.

5 A. They didn't say shelving. We have a
6 shelving -- a process for the wire one. And they
7 wanted wood.

8 Q. Okay.

9 A. Appliances. That one is not -- they didn't
10 bring any appliances.

11 Q. I gotcha.

12 A. They didn't buy any appliances.

13 Q. Flip back to the first page. And there's --

14 A. I'm still not finished.

15 Q. I'm sorry. You got extra. Continue with the
16 extra stuff. Sorry.

17 A. Permanent driveway. Usually we put the, what I
18 quoted them, 16-foot-wide driveway to the garage
19 from the road. No. They wanted much wider. I
20 believe it's a 27 or -6. And all the way to the big
21 path to the three-car garage and all the way
22 driveway goes through the ramp to the lake wall.

23 Q. Uh-huh.

24 A. And I put a -- we have to spend almost 200
25 sandbags to just stop the water where can go to the

1 concrete to the water --

2 Q. I gotcha.

3 A. -- for the ramp.

4 Q. Gotcha.

5 A. Utility connection for hood cap. That one
6 is septic tank. They told me they going -- the
7 Golsons --

8 Q. Yes.

9 A. -- told me they're going to use the old tank
10 that is in the -- that was in the house. Okay?

11 Q. Yes.

12 A. But I got to go get the building permit. They
13 ask me --

14 Q. Who asked you?

15 A. The company --

16 Q. Yeah.

17 A. -- when they want to issue the building permit,
18 they ask me, where is your permit for the septic
19 tank? I said they're going to use the old tank and
20 doesn't need a permit. When I call the people when
21 I'm supposed to put the -- just -- they said septic
22 tank system. It's meaning just the drain line. And
23 I called the people coming to put the drain line and
24 they give me \$1,200 for the drain line --

25 MS. HEYWARD: Your Honor, we'd just object to

1 the testimony to the extent that it includes hearsay
2 statements by witnesses who are not present at
3 trial.

4 BY MR. DAVIS:

5 Q. Don't say what they --

6 THE COURT: Thank you.

7 Q. -- told you. That would be just -- what they
8 told you. Just go ahead with what you were
9 testifying to about the drain line.

10 A. Yes. Because if I knew we were going to put a
11 new tank, I don't lie, say no, because it's -- my
12 license is in jeopardy. And when they come and put
13 the drain line, Joe Golson was over there.

14 Q. Yes.

15 A. He even talked to the people who are supposed
16 to do the job and talked to them. And they came
17 back and say --

18 MS. HEYWARD: Your Honor --

19 MR. DAVIS: Don't say what they said; just say
20 what happened.

21 THE COURT: Sustained.

22 Just -- you can't testify to what someone else
23 told you. Okay?

24 THE WITNESS: Okay.

25 THE COURT: You can rephrase your question.

1 BY MR. DAVIS:

2 Q. What was the end result on the drain line?

3 A. The workers charged -- septic tank people --

4 Q. Yes.

5 A. -- came to me and say --

6 MS. HEYWARD: Your Honor --

7 A. -- the owner --

8 THE COURT: Stop. Let her note her objection,
9 please.

10 Same objection?

11 MS. HEYWARD: Same objection.

12 THE COURT: Okay. Let's try to -- take a
13 second, Mr. Davis, and see if you can rephrase the
14 question.

15 BY MR. DAVIS:

16 Q. What was the end result of the drain line?
17 Don't say what somebody said. What did you do in
18 regards to the drain line?

19 A. They end up with the new tank.

20 Q. Okay. All right.

21 A. And price, \$3,500 --

22 Q. Okay.

23 A. -- comparing to \$1,200.

24 Q. Okay. Is there anything else there of changes?

25 A. No, sir.

1 Q. Okay. Now go back to the first page of that
2 exhibit and look at the entry towards the bottom
3 about heat pump mini-split. What is that?

4 A. Okay. They want a mini-split with a heat pump,
5 mini-split A/C. Mini-split is meaning those put in
6 the wall. And mini-split means one air conditioner
7 and they split it because it's a -- half of it go --
8 heat pump go to the attic and condenser go outside
9 of the house.

10 Q. Okay. That's what the contract called for?

11 A. Yes.

12 Q. Is that what you did?

13 A. Yes.

14 Q. Okay. All righty.

15 A. Excuse me. The heat pump is mini heat pump.

16 Q. It's a what?

17 A. The heat pump is that unit condenser go out and
18 heat pump goes in the attic, the heat.

19 Q. Okay.

20 A. And the other one, mini-split. Mini-split is
21 those -- you see it in the hotel and just go to the
22 wall. And they wanted Mitsubishi. And we put the
23 Mitsubishi --

24 Q. Okay. That's what --

25 A. -- in the sunroom.

1 Q. That's what you put in?

2 A. Yes, sir.

3 Q. All right. Okay. On these changes, did you

4 notify the Golsons when the changes occurred, talk

5 to them about the changes that they requested?

6 A. Yes.

7 Q. Okay. They understood there were extra

8 charges?

9 A. Yes.

10 Q. Okay. Was -- did you receive all of the

11 disbursements from BB&T on the loan?

12 A. Yes.

13 Q. Did anybody have to consent to those

14 disbursements?

15 A. No.

16 Q. How about the Golsons?

17 A. Every time they wanted a release, the person

18 did what job be done. They call them --

19 Q. Yes.

20 A. -- and they prove it and -- because they sent

21 the inspector -- inspector --

22 Q. Right.

23 A. -- from the bank. And they called them when

24 they want to release the money.

25 Q. Okay.

1 A. And they release the money, put in my account.

2 Q. Okay. When the home is finished, did you have
3 a walkthrough with the Golsons?

4 A. Yes.

5 Q. Okay. Tell me about that.

6 A. And I told them walk through and nitpicking --
7 do the nitpicking.

8 Q. Yes.

9 A. And don't put the tape -- if you see the
10 wall -- any places have a problem, don't put the
11 tape on it. Get a pencil and mark it, because if
12 the subcontractor worker take it off the paint, we
13 don't know what was the problem. And when they fix
14 it, that pencil mark will disappear.

15 Q. Did they have any complaints?

16 A. No.

17 Q. Okay.

18 A. They have some -- a little bit here, paint this
19 here, and we fix it.

20 Q. Okay. Did you receive all the payments from
21 BB&T?

22 A. Yes.

23 Q. Okay. Now, on the project, I take it you had
24 to order certain materials and you had to have
25 subcontractors working; is that correct?

1 A. Yes.

2 Q. Okay. All right.

3 MR. DAVIS: Any issue with Plaintiff's 1-A,
4 which is BMC East?

5 THE COURT: 1-A?

6 MR. DAVIS: Yes. There's a 1-A, Your Honor,
7 and everything. It's 1-A, 1-B, 1-C, 1-D, 1-E, based
8 on invoices.

9 MS. HEYWARD: No objection.

10 MR. DAVIS: Okay.

11 BY MR. DAVIS:

12 Q. Okay. Let me show you this Exhibit 1-A
13 through --

14 A. The invoices?

15 Q. Yes; through 1-E.

16 And this was a company that provided materials
17 on this job.

18 A. Yes, sir.

19 Q. Okay. And, generally, what do they provide?
20 What did you get from them?

21 A. Construction material.

22 Q. Yes.

23 A. Doors, windows, lumber, shingles, everything
24 construction.

25 Q. Okay. And does the invoice -- the invoices

1 reflect the project?

2 A. Yes.

3 Q. Okay. And what do -- the project reflected

4 what, the location?

5 A. Location, the 207 Libby Ariaail.

6 Q. A-R-I-E-L [sic] Lane?

7 A. Yes.

8 Q. And where is the city or town?

9 A. Chapin.

10 Q. Okay. And they were -- the billing for these

11 invoices came to whom? Who got these bills on the

12 invoice? Who were the bills submitted to?

13 A. To ARM Quality Builders.

14 Q. Okay. Yeah.

15 All right. And the -- how did you pay for --

16 strike that.

17 Did you pay all these bills?

18 A. Yes, sir.

19 Q. Okay. And how did you -- how did you -- by

20 what method did you pay these bills?

21 A. By credit card.

22 Q. And what was the credit card name that you

23 used?

24 A. My name.

25 Q. All right. But what was the name of the credit

1 card? Like, Mastercard? Visa? What --

2 A. Mastercard.

3 Q. Okay. All right.

4 A. There's a reason. Can I say the reason?

5 Q. Sure.

6 A. Because I have to, after each step, finish the
7 job --

8 Q. Yes.

9 A. -- and when I finish it, I have to pay for the
10 material until the bank release the money.

11 Q. Okay. All right. Let's go to Plaintiff's
12 Exhibit 2.

13 MR. MULLINS: All right. So, just to be clear,
14 1-A is all that was --

15 MR. DAVIS: No. 1-A through 1-E. There's a --
16 it should be 1-A through 1-E.

17 THE COURT: To be clear, these are all BMC
18 invoices?

19 MR. DAVIS: B -- yes.

20 MS. HEYWARD: No objection.

21 MR. DAVIS: Okay.

22 THE COURT: So Exhibits 1-A through 1-E are
23 admitted into evidence without objection.

24 (Plaintiff's Exhibit Nos. 1-A through 1-E
25 admitted into evidence.)

1 MR. DAVIS: All right. The -- next would be
2 Plaintiff's No. 2.

3 MS. HEYWARD: No objection.

4 MR. DAVIS: Okay.

5 (Plaintiff's Exhibit No. 2 admitted into
6 evidence.)

7 BY MR. DAVIS:

8 Q. Okay. So we don't spend the next couple days
9 saying the same thing, what -- let me ask this way:
10 What did Barnhill's Services, Inc. --

11 A. Portable John.

12 Q. What?

13 A. Portable John.

14 Q. Okay.

15 THE COURT: What?

16 MR. DAVIS: Porta-John.

17 THE COURT: Oh, Porta-John.

18 BY MR. DAVIS:

19 Q. And the location of where the Porta-Johns went?

20 A. In the yard. Yard of the --

21 Q. You mean the Golsons' house in Chapin?

22 A. Yes; in the yard.

23 Q. And the billing was to ARM Quality Builders?

24 A. Yes.

25 Q. It was billed to you?

1 A. Yes.

2 Q. Was this invoice paid?

3 A. Yes.

4 Q. Does the invoice show it was paid?

5 A. Yes.

6 Q. Do you have Plaintiff's No. 2?

7 A. No. I don't have any.

8 Q. Here we go.

9 A. Yes.

10 Q. It shows as paid?

11 A. Yes, sir.

12 Q. And it says paid by what method?

13 A. Credit card.

14 Q. Okay. Backing up to Plaintiff's No. 1, did

15 that -- the front of that Plaintiff's No. 1 to your

16 right, on your right hand, did it show the invoices

17 were paid, Plaintiff's No. 1 to your right?

18 A. This one?

19 Q. Yes, sir.

20 A. Yes.

21 Q. Paid by card?

22 A. Yes.

23 Q. Okay. Just kind of keep a stack there so we

24 won't --

25 A. Okay.

1 Q. All right. Let's move on. Plaintiff's
2 No. 3.

3 THE COURT: Did I -- Plaintiff's Exhibit 2 is
4 admitted into evidence without objection.

5 MR. DAVIS: Yeah. I'm sorry.

6 THE COURT: Thank you, Madam Court Reporter.

7 MR. MULLINS: Are you waiting for us?

8 MR. DAVIS: Yes.

9 MS. HEYWARD: No objection.

10 MR. DAVIS: No objection. Okay.

11 BY MR. DAVIS:

12 Q. What is that -- what is that Plaintiff's No. 3
13 for?

14 A. GTG Company for insulation.

15 Q. Okay. And was that paid?

16 A. By card.

17 Q. Related to this project?

18 A. Yes, sir.

19 Q. And was billed to ARM Builders?

20 A. Yes.

21 Q. Okay.

22 THE COURT: Are you offering that?

23 MR. DAVIS: Yes.

24 THE COURT: Okay. Plaintiff's Exhibit 3 is
25 admitted in evidence without objection.

1 (Plaintiff's Exhibit No. 3 admitted into
2 evidence.)

3 BY MR. DAVIS:

4 Q. And number 4?

5 THE COURT: You want to go ahead and identify
6 it while they're looking at it?

7 MR. DAVIS: Yes, sir.

8 BY MR. DAVIS:

9 Q. What is number 4?

10 A. Number 4, from the Lowe's.

11 MR. DAVIS: No. Let's see here.

12 THE COURT: Huh?

13 MR. DAVIS: No. Hold on a minute. We're
14 getting them wrong. The last one we had is number
15 3 --

16 THE COURT: Hold on a second.

17 Mr. Mullins?

18 MR. MULLINS: Yeah. Can I just get a point of
19 clarification? Is it -- each one of these that
20 you're going through -- and I don't know if this is
21 appropriate right now. Hopefully, it is.

22 THE COURT: Well, do y'all want to talk first?

23 MR. MULLINS: Yeah.

24 MR. DAVIS: Yeah. Yeah.

25 (Off-the-record discussion.)

1 THE COURT: Okay. If you want to clarify that,
2 now you can. You've discussed it and --

3 MR. MULLINS: Well, I just wanted -- what I've
4 clarified for the record is -- and I think he's
5 going to go through these exhibits -- have a
6 handwritten on the front of it. And then there's
7 pages -- and I -- I mean, the -- I think what
8 they're suggesting is that these invoices should add
9 up to what is handwritten and circled on the front
10 of each of these --

11 THE COURT: And if I understand your point,
12 Mr. Mullins, as to Plaintiff's Exhibit 4, you're
13 noting that --

14 MR. MULLINS: This doesn't --

15 THE COURT: -- in handwritten writing, it says
16 \$315.80. And you're just confirming with counsel
17 that the Lowe's receipts that are all attached
18 together add up to that handwritten amount?

19 MR. MULLINS: Right.

20 MR. DAVIS: To simplify -- if I may, Your
21 Honor. To simplify this, I have a summary sheet
22 that shows the dollar figure -- the total dollar
23 figure of each one of these invoices. I'll be glad
24 to share --

25 THE COURT: What -- if you can simplify it,

1 perfect. Take those exhibits to him --

2 MR. DAVIS: Okay.

3 THE COURT: -- and her. And look over those.

4 And I'm going to take a very short break.

5 MR. MULLINS: All right.

6 MR. DAVIS: Perfect.

7 THE COURT: Thank you.

8 (Short recess.)

9 MR. DAVIS: Continue on the way we're going?

10 MR. MULLINS: Well, I mean, you're going to use
11 that as --

12 MR. DAVIS: Yes.

13 MR. MULLINS: Yeah. We tried to discuss ways
14 to maybe move it along, which I think is going to
15 be, continue the way we're going, but, hopefully,
16 it's going to pick up speed here --

17 THE COURT: Okay.

18 MR. MULLINS: -- until we -- we're going to hit
19 one where we got issues with.

20 THE COURT: Well, I would say this: Let's try
21 to focus on the ones where we're not going to have
22 issues. And then it will be a good time for a lunch
23 break.

24 MR. DAVIS: Okay. We'll mark this for
25 identification.

1 (Plaintiff's Exhibit No. 44 marked for
2 identification.)

3 BY MR. DAVIS:

4 Q. Okay. Mr. Mazloom, look at this. We marked
5 this as Plaintiff's Exhibit 44 for identification.
6 This is -- is this a list of your material people
7 and your subcontractors here?

8 A. Yes, sir.

9 Q. Okay. And there's a dollar figure off to the
10 left.

11 A. Yes.

12 Q. Okay. Now, on -- we've introduced Plaintiff's
13 Nos. 1, 2, and 3. Is there a dollar figure on
14 Exhibit No. 44? What was the dollar figure that you
15 were billed by BMC?

16 A. \$46,246.83.

17 Q. And then Bilt Rite?

18 A. 5,000 --

19 MR. DAVIS: Your Honor, here. You don't have a
20 copy of that. Sorry. Here.

21 THE COURT: Okay. So we have a --

22 BY MR. DAVIS:

23 Q. Okay. And then Bilt Rite was --

24 A. 5,670.

25 Q. And Exhibit 3, what was that?

1 A. Exhibit 3?

2 Q. Right here. Third item there.

3 A. Okay. 400 --

4 Q. What's the company name?

5 A. Barnhill's Services.

6 Q. Okay. How much money there?

7 A. \$454.20.

8 Q. On those three, you paid those figures?

9 A. Yes, sir.

10 Q. Okay. Now we're on number 4.

11 A. GTG.

12 Q. Okay.

13 A. Insulation.

14 Q. All right. And what was it that you paid them?

15 A. \$6,950.

16 Q. And that was related to this project?

17 A. Yes.

18 Q. Okay. Let me show you Exhibit No. 5 --

19 MR. MULLINS: I'm sorry. Bilt Rite, have we

20 talked about that?

21 MR. DAVIS: Let's see --

22 THE COURT: We have not.

23 MR. DAVIS: This is --

24 THE COURT: We have BMC, Barnhill, GTG --

25 MR. DAVIS: Yeah. My mistake. Bilt Rite is

1 coming up. My mistake.

2 MR. MULLINS: Okay.

3 BY MR. DAVIS:

4 Q. We're on Exhibit No. 5.

5 A. Yes, sir.

6 Q. Okay. What is -- who is that, Exhibit No. 5?

7 A. This one is a lumber corporation.

8 Q. Now, what's the name of the company?

9 A. Stier.

10 Q. S-T-I-E-R?

11 A. Yes.

12 Q. Okay. And --

13 THE COURT: And I'm sorry to stop you. But did
14 we move 4 in?

15 MR. DAVIS: Move to introduce.

16 THE COURT: Okay. I think number 5 is the
17 Lowe's receipt.

18 All right. So Plaintiff's Exhibit No. 4 is
19 admitted into evidence.

20 (Plaintiff's Exhibit No. 4 admitted into
21 evidence.)

22 BY MR. DAVIS:

23 Q. The -- do you have number 5 there, Mr. Mazloom?

24 A. Yes.

25 Q. Who is that?

1 A. The lumber company.

2 Q. What's the --

3 A. Stier Supply.

4 Q. Okay. And how much was -- look at the other
5 sheet and see how much you paid them.

6 A. \$3,475.44.

7 Q. Okay. We move to introduce that one.

8 A. It was for the --

9 Q. Go ahead.

10 A. It was for the paneling for the ceiling.

11 MR. DAVIS: Okay. Move to introduce that.

12 MS. HEYWARD: No objection.

13 MR. DAVIS: Okay.

14 THE WITNESS: Tongue-and-groove.

15 THE COURT: Plaintiff's Exhibit 5 is admitted
16 into evidence without objection.

17 (Plaintiff's Exhibit No. 5 admitted into
18 evidence.)

19 BY MR. DAVIS:

20 Q. All right. Plaintiff's Exhibit No. 6, who is
21 that, Mr. Mazloom?

22 A. The --

23 Q. What is the company's name?

24 A. The Allwaste --

25 Q. Yeah. What do --

1 A. -- Services.

2 Q. What do they do?

3 A. They put the container for the construction
4 site.

5 Q. Construction debris?

6 A. Yes.

7 Q. Okay. What was the payment to them by you,
8 this other sheet, 44 over here to the right, right
9 here. No, right here.

10 A. Okay. \$1,541.

11 MR. DAVIS: Okay. Move to introduce that one.

12 THE COURT: Which one are we on?

13 MR. DAVIS: That was Allwaste.

14 THE COURT: Allwaste. Okay. So all the
15 exhibits in -- excuse me. All the invoices in
16 Plaintiff's Exhibit 6 -- okay. And I see on the
17 next to last page, you have the handwritten summary
18 of what the total cost was, right?

19 MR. DAVIS: Right. Right.

20 THE COURT: Counsel, any objection?

21 MS. HEYWARD: No objection.

22 THE COURT: All right. Plaintiff's Exhibit 6
23 is admitted into evidence without objection.

24 (Plaintiff's Exhibit No. 6 admitted into
25 evidence.)

1 BY MR. DAVIS:

2 Q. Okay. Number 7, Plaintiff's 7?

3 A. South Carolina Electric & Gas.

4 Q. What was that for?

5 A. For the electricity used, temporary power.

6 Q. Okay. And what is the total bill on that?

7 A. It is \$1,040.

8 Q. Okay.

9 MR. DAVIS: Move to introduce that.

10 MS. HEYWARD: No objection.

11 THE COURT: All right. Plaintiff's Exhibit 7
12 is admitted into evidence without objection.

13 (Plaintiff's Exhibit No. 7 admitted into
14 evidence.)

15 BY MR. DAVIS:

16 Q. Number 8, who -- name that company.

17 A. Winsupply. Plumbing company.

18 Q. Okay. What did they do for you on this
19 project?

20 A. They bring plumbing material.

21 Q. Okay. And did you pay them?

22 A. Yes.

23 Q. And what did you pay them?

24 A. \$4,329.40.

25 Q. Okay.

1 MR. DAVIS: And move to introduce that one.

2 MR. MULLINS: Give us a second on this one.

3 MR. DAVIS: Sure. Sure.

4 THE COURT: Mr. Davis, I don't see it in here,
5 but we have a handwritten amount of the total
6 addition of these invoices; is that correct?

7 MR. DAVIS: Yes. Yes.

8 THE COURT: Okay. So I think they're adding
9 them up.

10 MR. DAVIS: Yes. Sure. I understand.

11 MS. HEYWARD: No objection.

12 THE COURT: All right. Plaintiff's 8 admitted
13 into evidence without objection.

14 (Plaintiff's Exhibit No. 8 admitted into
15 evidence.)

16 BY MR. DAVIS:

17 Q. Plaintiff's No. 11. Let me show you 11.

18 That's the Bilt Rite?

19 A. Yes.

20 Q. That's the second item on that sheet. Bilt
21 Rite, what is that for?

22 A. Garage door.

23 Q. Okay. And --

24 A. \$5,670.

25 Q. And you paid them?

1 A. Yes, sir.

2 MR. DAVIS: Move to introduce Bilt Rite.

3 MS. HEYWARD: No objection.

4 THE COURT: All right. Plaintiff's Exhibit 11
5 admitted into evidence without objection.

6 (Plaintiff's Exhibit No. 11 admitted into
7 evidence.)

8 BY MR. DAVIS:

9 Q. Plaintiff's No. 17, who is that, Mr. Mazloom?

10 A. Septic tank people.

11 Q. Okay. How much money?

12 A. \$3,500.

13 Q. Okay. You pay them?

14 A. Yes.

15 Q. Okay.

16 A. Complete Septic Tank, LLC.

17 Q. Okay.

18 MS. HEYWARD: No objection.

19 MR. DAVIS: Okay.

20 THE COURT: 17. Hold on. Okay.

21 (Plaintiff's Exhibit No. 17 admitted into
22 evidence.)

23 BY MR. DAVIS:

24 Q. Number -- Plaintiff's No. 22, what is that?

25 A. For the permit.

1 Q. What kind of permit?

2 A. Building permit.

3 Q. For this project?

4 A. Yes, sir.

5 Q. You pay that one?

6 A. Yes, sir.

7 MR. DAVIS: Move to introduce 22.

8 MS. HEYWARD: No objection.

9 MR. DAVIS: Okay.

10 THE COURT: Hold on. Let me make sure I got it
11 here.

12 MR. DAVIS: Okay.

13 THE COURT: Mine goes from 21 to 23.

14 MR. DAVIS: Okay. The last one, Your Honor,
15 was number, let's see, 22. That was County of
16 Lexington. Should be --

17 THE COURT: Since they don't object, I mean,
18 just give me a copy of it later.

19 MR. DAVIS: Sure.

20 THE COURT: Okay. Plaintiff's Exhibit 22 will
21 be admitted in evidence.

22 (Plaintiff's Exhibit No. 22 admitted into
23 evidence.)

24 BY MR. DAVIS:

25 Q. Okay. Plaintiff's No. 24, what is that one?

1 A. The surveyor.

2 Q. The surveyor?

3 A. Yes, sir. Mr. Cobb.

4 Q. What did he do?

5 A. Survey the lot.

6 Q. Okay. He's been paid?

7 A. Yes, sir.

8 MR. DAVIS: Move to introduce that one.

9 MS. HEYWARD: No objection.

10 THE COURT: Who was that?

11 MR. DAVIS: Mr. Cobb. That was number 24.

12 THE COURT: All right. Plaintiff's Exhibit 24

13 admitted into evidence without objection.

14 (Plaintiff's Exhibit No. 24 admitted into

15 evidence.)

16 BY MR. DAVIS:

17 Q. All right. Number 25, what is that?

18 A. That one, exterminator.

19 Q. They did work --

20 A. Cayce Exterminator.

21 Q. They terminated -- I mean, termite the --

22 A. Yes.

23 Q. -- subterranean area?

24 A. Yeah.

25 Q. Okay. How much?

1 A. \$256.41.

2 Q. Okay.

3 A. They had to do treatment for the soil before
4 you put anything on it.

5 Q. Say that again.

6 A. They have to -- pretreatment for the soil
7 before we build on it.

8 MR. DAVIS: Number -- oh, I move to introduce
9 that -- that one.

10 MS. HEYWARD: No objection.

11 THE COURT: Plaintiff's Exhibit 25 is admitted
12 into evidence without objection.

13 (Plaintiff's Exhibit No. 25 admitted into
14 evidence.)

15 MR. DAVIS: Just in case I didn't do it, I move
16 to introduce Lucius Cobb's survey.

17 THE COURT: That's Exhibit 24. I show it as
18 admitted.

19 MR. DAVIS: Okay. Okay.

20 THE COURT: But, if I didn't, 24 is admitted
21 now.

22 MR. DAVIS: Okay. Thank you.

23 BY MR. DAVIS:

24 Q. Number 26, what is the company's name?

25 A. Columbia Shelving.

1 Q. Columbia what?
2 A. Shelving.
3 Q. Shelving.
4 What was that for?
5 A. For the shower door.
6 Q. Shower door. Okay. How much was that?
7 A. \$375.
8 Q. Okay.
9 MS. HEYWARD: No objection.
10 MR. DAVIS: Okay.
11 THE COURT: Plaintiff's Exhibit 26 admitted
12 into evidence without objection.
13 (Plaintiff's Exhibit No. 26 admitted into
14 evidence.)
15 MR. DAVIS: May I have one second with opposing
16 counsel?
17 THE COURT: Sure.
18 MR. DAVIS: Okay.
19 THE COURT: You can take ten seconds.
20 (Off-the-record discussion.)
21 MR. DAVIS: Move to introduce number 14.
22 BY MR. DAVIS:
23 Q. What is that? Who is the company?
24 A. Crystalline Products.
25 Q. What do they do?

1 A. They made granite countertop --.

2 Q. Okay.

3 A. -- and the cultured marble.

4 Q. Okay. You pay them?

5 A. Yes, sir.

6 Q. How much?

7 A. 9,154.

8 Q. Okay.

9 MR. DAVIS: Move this in. Any objection on --

10 move to introduce that one.

11 MS. HEYWARD: No objection.

12 MR. DAVIS: Okay.

13 THE COURT: Plaintiff's Exhibit 14 is admitted

14 without objection.

15 (Plaintiff's Exhibit No. 14 admitted into

16 evidence.)

17 BY MR. DAVIS:

18 Q. Show you Plaintiff's Exhibit 15 and ask

19 you what was -- who is that?

20 A. Donald Dennis.

21 Q. What's his name?

22 A. Donald.

23 Q. Yes. Full name?

24 A. Dennis.

25 Q. Dennis. Okay. What was that for?

1 A. For the hardwood floor.

2 Q. Hardwood floor?

3 A. Yes, sir.

4 Q. Okay. How much was paid to him?

5 A. The labor --

6 MS. HEYWARD: No objection.

7 THE COURT: All right.

8 A. -- \$6,700.

9 BY MR. DAVIS:

10 Q. Okay.

11 THE COURT: All right. I was going to let him

12 answer the question. But Plaintiff's Exhibit 15

13 will be admitted without objection.

14 (Plaintiff's Exhibit No. 15 admitted into

15 evidence.)

16 BY MR. DAVIS:

17 Q. Plaintiff's 19?

18 A. Jason Kyzer.

19 Q. Okay.

20 A. He's a brick -- he provide the --

21 Q. Brick?

22 A. -- brick.

23 Q. Okay. This was on --

24 A. And blocks.

25 Q. On this project here?

1 A. Yes, sir.

2 Q. And you paid him what?

3 A. \$16,900.

4 Q. Okay.

5 MR. DAVIS: We move to introduce that one.

6 MS. HEYWARD: No objection.

7 THE COURT: Plaintiff's Exhibit 19 is admitted
8 into evidence --

9 MR. DAVIS: Okay.

10 THE COURT: -- without objection.

11 (Plaintiff's Exhibit No. 19 admitted into
12 evidence.)

13 MR. DAVIS: Your Honor, I think, probably, the
14 rest of them, there may be issues or disputes.

15 THE COURT: Okay. Are you sure?

16 MR. DAVIS: Well --

17 MS. HEYWARD: Do you mind if I just do a quick
18 review? If there's anything that we can agree to,
19 I --

20 THE COURT: Okay. Because what I'd like to do
21 is take up all the contested exhibits at lunch,
22 review them all at once, and then I will try to come
23 up with a global -- relax and take your time.

24 MR. DAVIS: Your Honor, I may sit down, if
25 that's okay.

1 THE COURT: Just stand easy.

2 In fact, Ms. Heyward, do you want to take five
3 minutes?

4 MR. DAVIS: Okay.

5 THE COURT: Ms. Heyward, you want us to take
6 five minutes?

7 MS. HEYWARD: That's fine.

8 THE COURT: All right. We'll be in a short
9 recess.

10 MS. HEYWARD: I don't think there's anything
11 else I can agree to.

12 THE COURT: Okay.

13 MS. HEYWARD: Yeah.

14 THE COURT: Well, I said I was going to take a
15 short recess. We'll take five minutes.

16 (Brief recess.)

17 THE COURT: Okay. Now we've reached the point
18 where, I believe, the next group of records are the
19 ones that y'all have objections to which have been
20 briefed, correct?

21 MR. DAVIS: We have one more before that.

22 THE COURT: Okay.

23 MR. DAVIS: Okay. This is Plaintiff's 30.

24 THE COURT: I'm struggling to find this on the
25 summary.

1 MR. DAVIS: It's not, Your Honor, because it's
2 not a -- this is not a sub or material invoice.
3 This is something else, which I'll be glad to
4 explain what it is.

5 THE COURT: Okay. All right.

6

7 BY MR. DAVIS:

8 Q. Mr. Mazloom, on Plaintiff's No. 30 that you
9 have there --

10 A. Yes, sir.

11 Q. -- what is that?

12 A. This from Mastercard -- Sam's Mastercard.

13 Q. And on the invoices where you entered "paid by
14 card," is this a monthly summary from that
15 Mastercard as to how you made those payments?

16 A. Yes, sir.

17 Q. Okay. And this is for during the time the
18 house is being built?

19 A. Yes, sir.

20 Q. Okay.

21 MR. DAVIS: Move to introduce that.

22 MS. HEYWARD: No objection.

23 MR. DAVIS: Okay.

24 THE COURT: Plaintiff's Exhibit 30 admitted
25 without objection.

1 (Plaintiff's Exhibit No. 30 admitted into
2 evidence.)

3 MR. DAVIS: All right. The next -- the rest of
4 them, Your Honor, will probably be issues with them.
5 So proceed forward?

6 THE COURT: Well, let's -- why don't we mark
7 them all for identification?

8 MR. DAVIS: Okay.

9 THE COURT: And then let's go --

10 MR. DAVIS: We've got them marked. So we
11 just --

12 THE COURT: Okay.

13 MR. DAVIS: Whenever you -- you're telling me
14 to proceed or --

15 THE COURT: Anything you want to tell --

16 MS. HEYWARD: No. I just -- I just think
17 that we can handle them all together, I think,
18 easily, because --

19 THE COURT: Well, I think we can. I haven't
20 looked at every one. But this one is another ARM
21 check --

22 MR. DAVIS: Okay. Maybe what we'll do here is
23 we --

24 THE COURT: Do each of these exhibits have a
25 check written by Mr. Mazloom?

1 MR. DAVIS: These, Your Honor -- if y'all
2 agree, these have -- these are the subcontractors.
3 And this is where checks would have been written to
4 the subcontractors. But each one of these would
5 have a cash -- sort of a cash payment, besides the
6 checks that was paid to them. And you would have
7 with these a check that Mr. Mazloom had written to
8 acknowledge there was a cash payment. That's -- all
9 of these would fit in that category. Does that make
10 sense?

11 In other words, on each of these exhibits, you
12 would -- where he made a cash payment, they're
13 there. Okay? And then on these, there is -- strike
14 that.

15 On each exhibit here would be the checks that
16 he wrote to the pay this subcontractor. But also on
17 these, there was a cash payment made to the
18 subcontractor which would have been part of what
19 they were paid for what they did on the project, if
20 that makes sense.

21 THE COURT: Okay. We'll try to get through
22 this. Some of the subcontractors are here?

23 MR. DAVIS: Some of them have been subpoenaed.

24 THE COURT: Okay.

25 MR. DAVIS: But we -- we --

1 MR. MULLINS: By us.

2 MR. DAVIS: Yeah.

3 But what I want to do is have him testify that
4 he has made these payments in cash payments.

5 THE COURT: Okay.

6 MR. DAVIS: Okay?

7 THE COURT: All right. So I'll let you proceed
8 as far as laying foundation for each of these
9 payments.

10 MR. DAVIS: Okay. All right.

11 THE COURT: Just make sure I know what exhibit
12 we're talking about.

13 MR. DAVIS: All right. We'll be talking about
14 Exhibit 9, 10, 12, 13, 16, 18, 20, 22 -- that's not
15 true; 23, 27, 28, and 29.

16 THE COURT: All right. That's Exhibit 9, 10,
17 12, 13, 16, 18, 20, 23, 27, 29. Is 28 in there,
18 too?

19 MR. DAVIS: Yes, sir.

20 MS. HEYWARD: I believe 20 is -- not to confuse
21 the issue; on your summary sheet, I believe 20 is
22 listed twice, Bubba Morrell and B&R Electric.

23 MR. DAVIS: It's the same. I agree.

24 MS. HEYWARD: It's the same, yeah.

25 MR. DAVIS: It's the same. I agree.

1 MS. HEYWARD: Just a point of clarification.

2 MR. DAVIS: All righty.

3 THE COURT: The one that you scratched out?

4 MR. DAVIS: It should be listed as B&R.

5 THE COURT: Bear with me. I'm -- somehow, I'm
6 missing 20. I'm not saying it's not up here.

7 MR. DAVIS: Okay. Here.

8 BY MR. DAVIS:

9 Q. Plaintiff's No. 9, I ask you, Mr. Mazloom, to
10 identify that document. It's three or four pages.

11 A. Harvey Wise.

12 Q. Okay. And what did he do in this project?

13 A. Tile person, laying tile.

14 Q. Okay. And what was his invoice on this project
15 or invoices?

16 MS. HEYWARD: Your Honor, I'm sorry. But I
17 have to object. The rule is that if you're going to
18 exclude the document on the basis of hearsay, not
19 only is the document excluded, but the content --
20 the testimony of what the content of the document is
21 saying is also excluded pursuant to the 2015 Court
22 of Appeals case that I cited in my memorandum.

23 THE COURT: Let's focus -- I'll try to address
24 that. Let's focus on creation of the document and
25 when --

1 MR. DAVIS: Okay.

2 BY MR. DAVIS:

3 Q. So it's clear to the Court, there is an invoice
4 here -- well, I'll try to go through the witness.

5 Okay. Mr. Wise was the tile man?

6 A. Yes.

7 Q. Okay. Did he submit invoices on this project?

8 A. Yes.

9 Q. Okay. Do you have those invoices there?

10 A. Yes, sir.

11 Q. All right. What's -- tell me, how many
12 invoices?

13 A. One and two.

14 Q. Okay. Tell me what's on Invoice No. 1 --

15 MS. HEYWARD: Your Honor, same objection. To
16 testify to what's on the invoice is testifying as to
17 hearsay. And the only way that he can get it in is
18 if he gets it in under an exception to the hearsay
19 rule. And it's our position that this document must
20 be excluded because it is untrustworthy.

21 And, also, the second page of the Harvey Wise
22 documents is a cash receipt that Mr. Mazloom
23 testified in his deposition wasn't created until
24 early 2018; therefore, it was not created at or
25 around the time indicated on the invoice, which is

1 March of 2017 and, therefore, that is not a business
2 record and that is just straight-up hearsay.

3 The other ones, to the extent they could
4 arguably be considered a business record, you know,
5 the only thing I can consent to is the last page,
6 these checks. That's the only thing in this exhibit
7 that is not objectionable.

8 THE COURT: Just so I'm clear, the last page,
9 those are printouts of the bank subpoena -- or bank
10 record?

11 MS. HEYWARD: This is a printout of a bank
12 record that the parties have already stipulated is
13 admissible in this case. It's just a page taken
14 from that. It's the actual bank record. So I'm
15 fine with that.

16 But as far as pages 2 and 3 of this exhibit,
17 Mr. Mazloom didn't create these documents. The
18 second one is -- is not a business record --

19 THE COURT: Well, he created the check, didn't
20 he?

21 MS. HEYWARD: The check -- I suppose he can
22 testify as to the check, the first and the last
23 page, the middle two pages.

24 THE COURT: Well, just to be clear, we spent
25 some time talking about what Mr. Mazloom paid in his

1 role as the contractor. We agree on that?

2 MR. DAVIS: Yes.

3 THE COURT: And Exhibit 9 appears to show
4 checks signed by Mr. Mazloom, paid to Mr. Harvey
5 Wise.

6 Your objection is that the invoice from this
7 subcontractor -- I think, based in part because this
8 guy was deposed, correct?

9 MS. HEYWARD: Correct.

10 MR. DAVIS: No. No, Your Honor. This -- oh,
11 excuse me.

12 MS. HEYWARD: No. Sorry. This was not
13 deposed -- this individual was not deposed. It's
14 just that if you read the deposition transcripts
15 that I attached to my memorandum in support, it fits
16 the pattern of submitting a fake check and then
17 going back and getting a cash receipt and then,
18 basically, ginning up invoices.

19 So just based on the pattern that's established
20 through some of these other documents that Mr. Davis
21 is going to try to get in, that pattern flows
22 through everything else. We weren't able to depose
23 every sub. I subpoenaed them, but not all of them
24 could appear or could be served.

25 And it is their burden to prove their case.

1 They should have subpoenaed these witnesses; they
2 should have provided them today, for you, to testify
3 on the stand about the projects -- the costs that
4 were incurred on the project. That is their burden.
5 And so --

6 THE COURT: Are you asserting that the check
7 itself wasn't written?

8 MS. HEYWARD: This check was not drawn on the
9 First Citizens account. And that is stipulated in
10 the joint exhibits.

11 The last page are checks that were actually
12 drawn. That's an actual First Citizens record.
13 We've stipulated that that's admissible. So the
14 first and the last page can be testified to by
15 Mr. Mazloom. The second page is a cash receipt that
16 was generated in 2018, so it's not a business
17 record. And then the third page is straight
18 hearsay.

19 THE COURT: Do you intend to use Harvey Wise's
20 invoice in your case in chief?

21 MS. HEYWARD: To prove a pattern of fraud, yes.

22 THE COURT: And this is, you know, the
23 discussion we had off the record. And I think
24 it's -- you know, Mr. -- well, the plaintiff here is
25 asserting to put this check into evidence to show he

1 paid somebody for the work for this --

2 MR. DAVIS: That's correct.

3 THE COURT: -- and be supported in the
4 construction of the house. I haven't heard
5 testimony about Mr. Wise. But I think I can assume
6 that's what it's going to be about.

7 Now, the invoice, to the extent that it's
8 Mr. Wise's out-of-court statement, he hadn't been
9 deposed, I can see why you say it's hearsay. But I
10 want to be clear that I think it cuts both ways.
11 Okay?

12 We discussed that -- and I'm not trying to try
13 your case before you try your case. But I do think
14 it's -- I think the fairest thing to both sides --
15 if you need to tell her something, go ahead.

16 MS. HEYWARD: I'm sorry.

17 THE COURT: But the way I thought you phrased
18 it was for the support of your counterclaims, you
19 say that these invoices -- you wouldn't be offering
20 them to say that they're true, for the truth of the
21 matter, but offer them for the purpose of saying
22 they're not true. But -- but you, inevitably, were
23 offering them to support your factual allegations as
24 being accurate.

25 Now, maybe I'm wrong about that. But it just

1 seems like it would also be offered by you as the
2 truth of your claims. So that's why I've talked
3 with y'all before. Generally, I'm of the opinion
4 that I would rather see everything than not
5 everything. But, also, if I were to decide to
6 exclude these records, based in part on your
7 memorandum, I'm not going to allow anybody else to
8 use them either. So that's something for y'all to
9 consider.

10 And I realize that this is a bench trial. But
11 if we were here for a jury trial, the jury would be
12 out right now and this testimony wouldn't be part of
13 the record. And it's on me to hear the foundation
14 of the testimony, and if it's not admitted, then
15 it's not admitted. And whenever something is not
16 admitted, we disregard the testimony that was
17 objected to, forget as if it ever happened.

18 But I can't make a decision in a vacuum without
19 hearing all the testimony. So with that --

20 MS. HEYWARD: We understand the Court's
21 position. We can handle this on cross. I just ask,
22 just for the record, when it's admitted, that it be
23 subject to our objection.

24 THE COURT: Certainly.

25 MS. HEYWARD: And we can do that going forward

1 with the remaining, if that's how the Court wants to
2 handle it.

3 THE COURT: I think what you're saying makes
4 sense. But, to be candid, I haven't looked at every
5 exhibit.

6 MS. HEYWARD: Okay. Yes, Your Honor.

7 THE COURT: So, generally, that may be what
8 happens.

9 MS. HEYWARD: Okay. But we'll take it -- we'll
10 try to do it quick. Let's see if we can get through
11 this and then give y'all a chance to have some
12 sustenance.

13 BY MR. DAVIS:

14 Q. Mr. Mazloom, the -- you testified this was a --
15 Mr. Wise was subcontracting in tile work.

16 A. Yes, sir.

17 Q. Okay. He did tile work on this project?

18 A. Yes, sir.

19 Q. This is an invoice from him for that tile work?

20 A. Yes, sir.

21 Q. Just like invoices you got from the materialman
22 were invoices that came into evidence and that you
23 paid; is that correct?

24 A. Yes, sir.

25 Q. Okay. This was just a subcontractor?

1 A. Yes.

2 Q. Okay. And what were his bills?

3 A. His bill was 12,586.50.

4 Q. Okay. And do you have -- how many invoices do

5 you have for that?

6 A. I have two.

7 Q. Okay. And what have you paid to him on those

8 invoices and by what method?

9 A. I paid him two checks. Each of them is \$6,000.

10 Q. Okay.

11 A. And they are March 20th of '17 and March 20th

12 '17.

13 Q. All right. And --

14 A. He wanted two different checks because -- it's

15 his reason. I don't know.

16 Q. So you paid him by two checks that he cashed?

17 A. Yes.

18 Q. Okay. For 12,000.

19 How about the other \$586?

20 A. I got that because he did the backslash. And

21 I have the receipt for it. It's the difference

22 between the 12,000 receipt. 12,586.50. I give him

23 the rest of it cash.

24 Q. Okay. And when was that done?

25 A. In March.

1 Q. March of what year?

2 A. 2017.

3 Q. Okay. And the house had been completed by

4 then?

5 A. Yes, sir.

6 Q. What was the very last item that was done on

7 that house?

8 A. When?

9 Q. Who or what was the last item?

10 A. The Harvey Wise.

11 Q. And what did he do?

12 A. He put the backsplash in the kitchen.

13 Q. And what invoice reflects that?

14 A. That \$480.

15 MR. DAVIS: Move to introduce that invoice.

16 MR. MULLINS: I'm sorry. What?

17 MR. DAVIS: Subject to the objection.

18 THE COURT: All right. So this is Exhibit 9,

19 which includes everything. And this is for the tile

20 work and the backsplash?

21 MR. DAVIS: Yes.

22 THE COURT: For whatever the invoice is.

23 MR. DAVIS: The tile work. And the second

24 invoice is the backsplash.

25 THE COURT: All right.

1 MR. DAVIS: Okay.

2 THE COURT: I'm going to admit it over
3 counsel's objection. I do want to note that she did
4 point out the trustworthiness issues that they have
5 with the records. I did want to respond just for
6 the record. I understand the trustworthiness point.
7 But I think this really may also be an issue of
8 credibility of the document, not just the
9 trustworthiness. And so, obviously, credibility is
10 an issue for the factfinder. And that's really, in
11 part, my basis. Thank you.

12 (Plaintiff's Exhibit No. 9 admitted into
13 evidence.)

14 BY MR. DAVIS:

15 Q. Okay. Exhibit No. 10, what is that?

16 A. From the Eagle Excavating, Jim Pasko.

17 Q. Okay. Jim Pasko, P-A-S-K-O?

18 A. Yes.

19 Q. Okay. What did he do --

20 A. He --

21 Q. -- for this project?

22 A. -- do the grading. And that's it. He do the
23 leveling of the yard, grading, final grading, rough
24 grading. And that's it, what his job do.

25 Q. Okay. Did he submit invoices to you during --

1 invoices for that work while you were building this
2 house?

3 A. Yes, sir.

4 Q. Okay. And those invoices are reflected in that
5 Exhibit No. 10?

6 A. Yes.

7 Q. Give me the dates and the amounts on the
8 invoices.

9 A. Okay. 600 in January 19 of '17 --

10 Q. Okay.

11 A. -- is the final grading.

12 Q. Final what?

13 A. Final grading.

14 Q. Okay.

15 A. And the other one is January 10, '17. Another
16 one doesn't have a date on it.

17 Q. How much is that invoice?

18 A. Yeah. 10/6/16.

19 Q. How much is that invoice?

20 A. This one is 1,650.

21 Q. And these were received by you?

22 A. Yes.

23 Q. And were kept in your records?

24 A. Yes, sir.

25 Q. Okay. And was any --

1 A. Another 7/19/16 --
2 Q. Okay.
3 A. -- for \$400.
4 Q. Okay. And that was kept in your records of --
5 A. Yes, sir.
6 Q. To have --
7 A. Yes, sir.
8 Q. -- verification of bills?
9 All right. Was any of those bills paid by
10 cash?
11 A. Yes.
12 Q. How much?
13 A. 600, I believe. Let me see.
14 Q. 600? I'll let you look at that.
15 A. Yes, 600.
16 Q. Okay. Why cash?
17 A. He did the final grading --
18 Q. Yes.
19 A. -- and he asked me for cash.
20 Q. Okay. All right.
21 THE COURT: And you're referring to which page
22 of this invoice for cash? The first page of Exhibit
23 10?
24 THE WITNESS: Yes, sir.
25 THE COURT: Okay.

1 BY MR. DAVIS:

2 Q. Mr. Mazloom, how did you keep records on the
3 cash payments?

4 A. I had a note on when I paid the people cash.

5 Q. Yes.

6 A. And I write it down and -- for the -- my
7 record. And --

8 Q. For the what? For the what?

9 A. For my record.

10 Q. Sure.

11 A. And because end of the --

12 MR. DAVIS: For his records.

13 THE COURT: Sorry. Tell me what you were
14 telling me.

15 MR. DAVIS: I asked the question, how did you
16 keep records of the cash payments.

17 BY MR. DAVIS:

18 Q. And you said -- I'm not going to put words in
19 your mouth. What do you do to keep records on the
20 cash payment?

21 A. What I do?

22 Q. Yes.

23 A. Yeah. I -- end of the -- I just -- I sit down
24 and write a blank check, put it in my file for the
25 IRS record.

1 Q. Okay. So you -- if it's -- when you -- if a
2 cash payment is made, are you saying you made a
3 notation then?

4 A. Yes.

5 Q. Okay. And then, at some point, you would
6 convert -- convert that into that check --

7 A. Yes.

8 Q. -- for that amount that was paid as cash?

9 A. Yes, sir.

10 Q. And when was that done?

11 A. It depends.

12 Q. Okay.

13 A. The checks, one time...

14 Q. But you wrote a check for the amount?

15 A. Yes.

16 Q. Okay. Very good.

17 A. Because I have to show the IRS --

18 Q. Okay.

19 A. -- my expense.

20 Q. Okay.

21 MR. DAVIS: Move to introduce, subject to
22 objection.

23 MS. HEYWARD: Subject to my objection.

24 MR. DAVIS: Yes.

25 THE COURT: Plaintiff's Exhibit 10 will be

1 admitted into evidence subject to objection.

2 (Plaintiff's Exhibit No. 10 admitted into
3 evidence.)

4 BY MR. DAVIS:

5 Q. Plaintiff's No. 12, what is that?

6 A. For the concrete man, Jaime Huerta.

7 Q. Okay. And that's number 12.

8 And you have invoices --

9 MS. HEYWARD: Excuse me, Your Honor.

10 THE COURT: Ma'am?

11 MS. HEYWARD: Exhibit No. 12 is not an invoice.
12 It's an e-mail.

13 THE COURT: Uh-huh.

14 MS. HEYWARD: And there's plenty of case law
15 out there, particularly in the federal court arena,
16 regarding e-mails. E-mails are, unquestionably,
17 hearsay. They're not even considered business
18 records.

19 THE COURT: Okay.

20 MS. HEYWARD: We plan on calling Mr. Huerta
21 himself as a witness in this case. So I'm happy to
22 just solely rely on his testimony.

23 THE COURT: What about the checks?

24 MS. HEYWARD: The checks, that is something
25 that Ahmad wrote. So I believe that he can properly

1 testify about it.

2 THE COURT: Okay.

3 MR. DAVIS: Your Honor, my response on that is
4 the -- in reference to the e-mail on Plaintiff's
5 No. 12, it is an e-mail form. But on there it says
6 invoice -- misspelled as E-N-V-O-C-E -- and it lists
7 207 Libby Ariaail Lane; garage, three porch, porch
8 square footage, extra yards of concrete, one roll of
9 wire.

10 I think a literal interpretation of that is an
11 invoice, would be my interpretation.

12 THE COURT: Okay. Well, the Court would
13 prefer, frankly, you know, a higher level of
14 formality with that invoice.

15 MR. DAVIS: Yes.

16 THE COURT: So I would -- he can testify about
17 the checks --

18 MR. DAVIS: Okay.

19 THE COURT: -- what he paid, and why he paid
20 it.

21 MR. DAVIS: Okay, Your Honor.

22 BY MR. DAVIS:

23 Q. What -- you said this person did the concrete?

24 A. Yes.

25 Q. Okay. And what did you pay him, the dollar

1 figure?

2 A. How much I paid?

3 Q. Yes, sir.

4 A. Okay. \$22,483.56.

5 Q. And where did that figure come from?

6 A. Come from the invoices.

7 Q. That you have --

8 A. Yes.

9 Q. -- as part of that exhibit?

10 A. Yes, sir.

11 Q. Okay. And this was received while you were
12 doing work on the house? This -- the invoices --

13 A. This job?

14 Q. Yeah. This -- these --

15 A. No. That one is almost end of it because I
16 have to put the driveway, walkway, all those
17 things --

18 MS. HEYWARD: Your Honor, if --

19 THE WITNESS: I pay two times.

20 MS. HEYWARD: If Mr. Mazloom is testifying as
21 to the content of the documents you just excluded, I
22 would object to that.

23 THE COURT: He was testifying about what the
24 check was for earlier.

25 MR. DAVIS: Yes.

1 THE COURT: So, just to be clear, and I'm sure
2 it's subject to objection, I'll admit the checks as
3 Exhibit 12. But I will exclude the e-mail itself.
4 So Exhibit 12 will just be offered to be the checks
5 on --

6 MR. DAVIS: Okay.

7 THE COURT: It shows who the checks were made
8 to and by whom, Mr. Mazloom. And he testified he
9 poured the concrete and that's why he got paid.

10 MR. DAVIS: Okay.

11 (Plaintiff's Exhibit No. 12 admitted into
12 evidence.)

13 BY MR. DAVIS:

14 Q. All right. And the -- was any cash paid to
15 this gentleman in regards to his documents that he
16 sent to you?

17 A. Yes, sir.

18 Q. How much?

19 A. I don't remember. Let me look at the receipt.
20 \$3,683.56.

21 Q. Okay. And why that figure?

22 A. Because the rest of them I have to pay. And he
23 asked for cash. Actually, I paid him \$3,683. I
24 didn't pay him the pennies --

25 Q. Right.

1 A. -- 56 cents.

2 Q. Sure.

3 A. Yeah. And I have a receipt for it.

4 Q. All right. Was extra work done -- extra
5 concrete committed to this project beyond the --

6 A. A lot.

7 Q. Okay. And what was -- what was that? That was
8 the extra concrete?

9 A. Extra concrete for -- the driveway was wider --

10 Q. Yes.

11 A. -- walkway was wider.

12 Q. Yes.

13 A. And in my contract, it wasn't all the way to
14 the ramp to the lake.

15 Q. Okay. On the cash payment, did you write one
16 of those checks for IRS purposes?

17 A. Yes.

18 Q. Okay. And that's been provided to the opposing
19 party?

20 A. Yes.

21 Q. Okay. All right.

22 THE COURT: Is that in this exhibit?

23 MR. DAVIS: The -- we got another separate
24 exhibit that is going to have a listing of those
25 checks for each one of these parties as a separate

1 exhibit.

2 THE COURT: Okay.

3 MR. DAVIS: In other words, I have a joint
4 exhibit which lists the parties, what the cash
5 payment was, and the check.

6 THE COURT: Okay. Just for the Court's
7 benefit, the checks that are in Exhibit 12 are being
8 provided as checks that were written and paid, not
9 proof of cash payment?

10 MR. DAVIS: The answer to that question is, the
11 one dated -- on the last page of this exhibit on
12 January 27th of 2017 --

13 THE COURT: Check No. 841?

14 MR. DAVIS: -- that's the IRS check.

15 THE COURT: Check 841?

16 MR. DAVIS: Yeah. Yeah.

17 THE COURT: So that's -- Check No. 841 is -- I
18 don't want to testify for him. But what's the
19 purpose of it?

20 MR. DAVIS: Yes. Yes.

21 THE COURT: This is what you're saying was done
22 for cash documentation?

23 MR. DAVIS: That's correct.

24 THE COURT: Okay.

25 MR. DAVIS: Move to introduce, subject --

1 THE COURT: Subject to redaction of first two
2 pages and previous objection.

3 MR. DAVIS: Your Honor, in reference to
4 your decision on that, the -- so the record --
5 because the -- it was -- it was an e-mail; I agree.
6 But it did say invoice. And it did list that --
7 what -- the work was done. Our position --

8 THE COURT: Well -- and Mr. Mazloom testified
9 in part, probably from the e-mail, but also --

10 MR. DAVIS: Gotcha.

11 THE COURT: -- why the funds were expended.
12 There's certainly no mention in the e-mail about the
13 additional work and what purpose it served.

14 MR. DAVIS: Gotcha. Okay. .

15 BY MR. DAVIS:

16 Q. All right. Plaintiff's No. 13, what is that
17 for, Mr. Mazloom?

18 A. Adam Goings.

19 Q. Mr. Goings?

20 A. Yeah.

21 Q. Uh-huh.

22 A. He installed two big sliding doors. One of
23 them was 12-something-foot wide and another one was
24 8-foot wide. He actually installed them.

25 Q. Okay. And did you get -- and he installed this

1 on this project?

2 A. Yes.

3 Q. Okay. And did you receive invoices from him?

4 A. Yes, sir.

5 Q. Do you have those there before you?

6 A. Yes, sir.

7 Q. And tell the Court what the invoices are, the

8 dates and the amount and what was done.

9 A. They said the sliding door --

10 Q. Okay.

11 A. -- and January 15, 2017.

12 Q. Okay. And is there any other invoices?

13 A. No.

14 Q. Just that one?

15 A. Yes, sir.

16 Q. Okay. Was a cash payment -- was a check

17 payment made and a cash payment made?

18 A. Yes, both of them.

19 Q. Okay. What was the check amount?

20 A. Check amount was 600.

21 Q. Yes.

22 A. Another one, I paid cash for 440.

23 Q. Okay. Why that cash?

24 A. Because he asked for it --

25 Q. Yes.

1 MS. HEYWARD: Your Honor --

2 A. -- on two different times.

3 MS. HEYWARD: -- I object to the extent
4 Mr. Mazloom is testifying as to what Mr. Goings
5 said.

6 BY MR. DAVIS:

7 Q. Okay. Don't testify to what he said.

8 Let me ask you this: The -- did you note --
9 did you make a notation -- when you made the cash
10 payment, did you make a notation of that?

11 A. Yes, sir.

12 Q. Did you do the -- what I'd call the IRS check
13 also?

14 A. Yes.

15 MR. DAVIS: Move to introduce.

16 THE COURT: Subject to previous objection, so
17 admitted.

18 (Plaintiff's Exhibit No. 13 admitted into
19 evidence.)

20 THE WITNESS: Can I say something?

21 THE COURT: Please answer the questions of your
22 attorney.

23 BY MR. DAVIS:

24 Q. All right. Plaintiff's Exhibit No. 16, who is
25 that and what did he do on this project?

1 A. Billy Kelly is a plumber.

2 Q. Okay. What did he do?

3 A. He did all the plumbing for everything, final.

4 Q. And what were -- what did you do -- you have

5 invoices for that?

6 A. Pardon me?

7 Q. Do you have invoices for that work?

8 A. Yes, sir.

9 Q. How many?

10 A. Just one.

11 Q. One. And what is the date on that and the

12 amount?

13 A. The date of it is January -- I cannot read his

14 handwriting.

15 Q. Okay. What year?

16 A. What date was it? January 15th, it says.

17 Q. What year?

18 A. 2017.

19 Q. Okay. And was --

20 A. \$2,400.

21 Q. Okay. How did you pay him?

22 A. I paid him --

23 THE COURT: The question was, is there a date

24 on the invoice or the check?

25 MR. DAVIS: Invoice.

1 THE COURT: Where is the date on the invoice?

2 THE WITNESS: I couldn't read it, Judge.

3 THE COURT: Oh, okay.

4 BY MR. DAVIS:

5 Q. You said January 2017?

6 A. January sometime. January --

7 MR. MULLINS: I have a copy. I don't see any
8 date on there.

9 THE COURT: I see a 1, dot, 1, 5 -- it's -- I
10 think I see what you're talking about.

11 MR. DAVIS: Okay.

12 MR. MULLINS: Can I see the exhibit?

13 THE COURT: Sure.

14 MR. MULLINS: Maybe I'm looking at something
15 different.

16 THE COURT: Y'all can come on up.

17 (Sidebar conference.)

18 BY MR. DAVIS:

19 Q. On the invoice there, Mr. Mazloom, the dollar
20 figure is what?

21 A. \$2,400.

22 Q. Okay. Is there a check issued to him by you?

23 A. Yes.

24 Q. What is that amount?

25 A. One of them is \$1,600. And I paid him cash

1 \$800.

2 Q. Okay. And on that cash payment the reason for

3 that was what?

4 A. Because they did extra work --

5 Q. Extra work?

6 A. -- on that house. Yes, sir.

7 Q. Okay. All right. Do you remember what he did?

8 A. He have to install -- add something. They call

9 it hand bidet -- the faucet for the hand bidet. It

10 wasn't in the plan. And even I have a hose for it

11 from back home in my home in the storage. And I

12 brought it. I didn't charge them anything for it --

13 Q. Okay.

14 A. -- just -- I paid the plumber.

15 Q. Okay. All right. And you paid him, in cash,

16 \$800?

17 A. Yes, sir.

18 Q. Okay. And did you make a notation of that

19 payment?

20 A. And he add, I believe, some -- they wanted this

21 different area, the faucet and hose bidet, outside

22 more. It all came to what he charged.

23 Q. Charged. Okay. And did you do the check to

24 reflect the dollar figure of the cash?

25 A. Yes.

1 Q. Okay. All right.

2 MR. DAVIS: Judge --

3 THE COURT: You're admitting that?

4 MR. DAVIS: Yes.

5 THE COURT: All right.

6 MR. DAVIS: Move to introduce.

7 THE COURT: Plaintiff's Exhibit 16 is admitted,
8 subject to previous objection.

9 (Plaintiff's Exhibit No. 16 admitted into
10 evidence.)

11 BY MR. DAVIS:

12 Q. Okay. Number 18, what is that one?

13 A. It's air conditioner. White Knoll Heating &
14 Air.

15 Q. White Knoll --

16 A. Heating & Air.

17 Q. What's that exhibit number?

18 A. 18.

19 Q. Okay. You have invoices from them --

20 A. Yes, sir.

21 Q. -- that they submitted on this job?

22 A. Yes, sir.

23 Q. Okay. And what is the invoice on that?

24 A. What is it?

25 Q. What -- the amount.

1 A. Amount, 25,000.

2 Q. Okay. How did you pay him?

3 A. I have a cash receipt from him.

4 Q. How about the -- we'll tackle that last. How

5 about checks paid to him?

6 A. I paid one, 10,000; one, 5,000; and one 4,500

7 by check, and 5,500 cash.

8 Q. Cash?

9 A. Yes, sir.

10 Q. Did you make a notation of that amount --

11 A. Yes, sir.

12 Q. -- and issue that IRS check?

13 A. Yes, sir.

14 Q. Okay.

15 MR. DAVIS: Move to introduce.

16 THE COURT: All right. Plaintiff's 18

17 admitted, subject to previous objection.

18 (Plaintiff's Exhibit No. 18 admitted into

19 evidence.)

20 BY MR. DAVIS:

21 Q. All right. This is Exhibit 20.

22 A. Electric.

23 Q. All right. And what did he do at the house?

24 A. He did all the wiring.

25 Q. Wiring?

1 A. Yeah; rough, what we call it, and the trim --
2 Q. Okay.
3 A. -- hanging the light fixture and all those,
4 like a ceiling fan, ceiling light, recessed light.
5 Q. Did you have invoices from him?
6 A. Yes.
7 Q. What were the invoices for? How much?
8 A. 23,000 -- one was \$23,098.51.
9 Q. That's the invoice?
10 A. Yes, sir.
11 Q. Okay. How about checks that were written to
12 him to pay him?
13 A. And I have another invoice.
14 Q. Okay.
15 A. And I write a check to him, \$18,000; another
16 one, 900.
17 Q. Yes.
18 A. And I pay him cash, 4,100.
19 Q. Okay. On this project, was there any
20 additional work he had to do on this project --
21 A. Yes.
22 Q. What --
23 A. A lot.
24 Q. Tell the Court what he had to do which was
25 beyond --

1 A. Okay.

2 Q. -- what was in the specification.

3 A. The house plan showing four recessed lights.

4 Q. Reset.

5 A. Recessed.

6 Q. Okay.

7 A. It show four --

8 Q. Okay.

9 A. -- in the house plan. But they choose it.

10 They put the 39.

11 Q. How many?

12 A. Three nine.

13 Q. Okay.

14 THE COURT: 39 recessed lights?

15 THE WITNESS: Yes.

16 THE COURT: Okay.

17 BY MR. DAVIS:

18 Q. Okay. This gentleman did that?

19 A. Yes.

20 Q. Okay. All right.

21 A. And it's more receptacle and more switches and

22 three-way switches. And it's not in the plan.

23 Q. Okay. Did you make a notation of the cash

24 payment --

25 A. Yes.

1 Q. -- and do the IRS check?

2 A. Yes.

3 Q. So you paid him the 23,000?

4 A. Yes.

5 MR. DAVIS: Move to introduce.

6 THE COURT: You mentioned the IRS check. Can
7 you tell me which one?

8 MR. DAVIS: I'm sorry.

9 BY MR. DAVIS:

10 Q. The cash check there, Mr. Mazloom, is for what
11 amount, where you paid him cash?

12 A. 4,100.

13 MR. DAVIS: 4,100.

14 THE COURT: All right. Plaintiff's Exhibit 20
15 will be admitted into evidence, subject to previous
16 objection.

17 (Plaintiff's Exhibit No. 20 admitted into
18 evidence.)

19 BY MR. DAVIS:

20 Q. Okay. Number -- Plaintiff's No. 23, what is
21 that for?

22 A. The concrete for foundation for the footing --
23 footing.

24 Q. Okay. And what company did that?

25 A. PFC [sic].

1 Q. And did you get an invoice from them?

2 A. Yes, sir.

3 Q. And how much is that invoice -- did you get

4 invoices from them?

5 A. Yes, sir.

6 Q. And they -- how many invoices?

7 A. One.

8 Q. What's the dollar figure from them?

9 A. 10,000 even.

10 Q. Okay. And your -- how did you pay them?

11 A. I paid him -- one check is 5,500.

12 Q. Uh-huh.

13 A. Another check, 3,500. And I pay him cash, a

14 thousand dollars.

15 Q. Okay. Did he have to do extra work?

16 A. Yes.

17 Q. What did he do?

18 A. He -- because we have a problem --

19 Q. Excuse me. Let me re- -- did he have to do

20 extra work beyond the initial specifications?

21 A. Yes.

22 Q. Okay. What?

23 A. Yes. Because when we dig it for footing, we

24 don't know what kind of soil we get --

25 Q. Yes.

1 A. -- because they pull that out of big, huge
2 trees from the lot. And -- with the roots. They
3 cultivate it. And when we came to dig the footing,
4 and one side, they have an old tank in the ground.
5 We have to make a hole in the old tank and fill it
6 up because it goes by the footing. Fill it up with
7 the concrete.

8 And then other side of the house, because they
9 pulled the trees, we dig it and dig it until we get
10 to the dry soil. We went eight foot down --

11 Q. Eight feet.

12 A. Eight foot down until we get to dry soil.

13 Q. Okay.

14 A. And we fill it up, that hole, with the
15 concrete.

16 Q. I gotcha.

17 A. All those is -- and everybody put it at 8
18 inches by 12 because the soil wasn't good. I put it
19 16 by 18, that footage.

20 Q. Okay. All right. Now, the \$1,000 cash
21 payment, you noted that in your records?

22 A. Yes.

23 Q. And you did the check for a thousand -- IRS
24 check --

25 A. Yes. Yes.

1 Q. You did it for -- all right.

2 MR. DAVIS: Move to introduce.

3 MS. HEYWARD: Standing objection.

4 THE COURT: Plaintiff's Exhibit 23 is admitted
5 into evidence, subject to previous objections.

6 (Plaintiff's Exhibit No. 23 admitted into
7 evidence.)

8 MR. MULLINS: Your Honor, I just -- we just
9 object. And I know you can take it for what it --
10 this characterization of the testimony and the
11 documents as the IRS check -- I mean, it's not a
12 check to the IRS. And we've just kind of slipped --
13 Mr. Davis has kind of slipped into this, you know,
14 continuous characterization of the IRS check.
15 And --

16 THE COURT: I understand your statement. And
17 I -- I'm sure you will address that on
18 cross-examination at length.

19 MR. MULLINS: Thank you.

20 THE COURT: But I concur; I don't see the word
21 IRS written on any checks, if that's how he refers
22 to it. I'll allow you to address that on cross.

23 MR. MULLINS: Thank you.

24 BY MR. DAVIS:

25 Q. All right. Number 27, who is that

1 subcontractor?

2 A. R&G Construction, LLC. And I have an invoice.

3 Q. I'm sorry?

4 A. I have an invoice from him.

5 Q. Okay. But what did he do on this project?

6 A. He put the foundation.

7 Q. Yes.

8 A. He put the floor system, framing, whole house.

9 Q. Okay.

10 A. Roofing, sheet rock, and painting.

11 Q. Okay.

12 A. And he installed those wood in the ceiling and

13 the wall in the sunroom. And he did a lot of --

14 installed all the windows and doors beside the

15 sliding door.

16 Q. Okay. And he submitted invoices for that work?

17 A. Yes, sir.

18 Q. Are those invoices -- what is the exhibit

19 number there?

20 A. 27.

21 Q. Are those attached to that Exhibit 27?

22 A. Yes, sir.

23 Q. Okay. How many invoices you got?

24 A. I have ten invoices.

25 Q. Ten invoices?

1 A. I believe it's ten.

2 Q. What is the -- and these were submitted to you

3 by that company?

4 A. Yes, sir.

5 Q. Okay. And what is the time span on those

6 invoices? What's the -- or what's the earliest

7 invoice during the time the house was being built?

8 A. 7/20/2016.

9 Q. And the last invoice?

10 A. January 26, 2017.

11 Q. Okay. And what was the total amount paid to

12 him?

13 A. \$148,953.52.

14 Q. Okay. And how did you pay him?

15 A. I pay him some -- majority check --

16 Q. Yes.

17 A. -- and some cash.

18 Q. Okay.

19 A. Several times.

20 Q. Are the checks that you paid him by check

21 attached to that exhibit?

22 A. Yes.

23 Q. Okay. And how much did you pay him in cash?

24 A. Let me find it. I have two cash receipts.

25 Q. Okay. Strike that question.

1 Let me ask you this: How many checks did you
2 write to him for payment? Read off the dollar
3 figure.

4 A. 6,000.

5 Q. Yes.

6 A. 3,000 -- no. 30,000; 10,000; 19,200.

7 Q. Okay.

8 A. 10,000; 12,000; 9,000; 20,000; 6,000; 30,000;
9 10,000; 19,200.

10 Q. This gentleman was a major subcontractor?

11 A. Yes.

12 Q. How long have you been working with him?

13 A. Almost five years, four years.

14 Q. Okay. And how much were the cash payments
15 again?

16 A. I don't see an invoice for the cash receipts.
17 I don't remember what --

18 Q. But there was a cash payment?

19 A. Yes.

20 Q. Okay. We'll take care of that in another
21 exhibit.

22 MR. DAVIS: Move to introduce.

23 THE COURT: All right. Subject to counsel's
24 previous objection, it will be admitted in evidence.

25 Let's try to get through the next two.

1 MR. DAVIS: Okay.

2 (Plaintiff's Exhibit No. 27 admitted into
3 evidence.)

4 BY MR. DAVIS:

5 Q. This is Plaintiff's No. 28. What did this
6 gentleman do?

7 A. Cabinet.

8 Q. Okay. And do you have invoices from him on
9 this project?

10 A. Yes.

11 Q. Okay. Are they attached to your exhibit?

12 A. Yes, sir.

13 Q. And what's those amounts that you paid by
14 check?

15 A. Okay. One, 2,000. I pay him 12,000 -- 13,990.

16 Q. Okay. Any by cash?

17 A. Yes.

18 Q. What was that amount?

19 A. I believe it's 4,299.

20 Q. Okay. And this would be -- you noted that when
21 you made cash payment?

22 A. Yes.

23 Q. Okay. And you -- we'll call it the cash check.
24 And the -- those were submitted while -- those were
25 submitted while he was working?

1 A. Yes.

2 Q. All right. Is this the gentleman that did the
3 major work in the kitchen?

4 A. Cabinets. Yeah.

5 Q. Cabinets. Okay.

6 A. And the extra on the --

7 Q. What was the --

8 A. -- trim and the ceiling.

9 Q. Okay. How did he get along with the Golsons?

10 A. I don't know. Because they took him to Clemson
11 and they brought him back. He went to their
12 house --

13 Q. Okay.

14 A. -- and took the old cabinets to his shop. And
15 they went, one weekend, scraping the varnish and the
16 stain. Golsons did.

17 Q. Okay.

18 A. The scraping in his shop.

19 Q. Okay.

20 A. And it looks like they were very friendly to
21 each other.

22 MR. DAVIS: Move to introduce.

23 THE COURT: All right. That will be
24 Plaintiff's Exhibit 28 admitted into evidence,
25 subject to objection.

1 (Plaintiff's Exhibit No. 28 admitted into
2 evidence.)

3 BY MR. DAVIS:

4 Q. Number 29, who is that?

5 A. Lee Corley.

6 Q. What did he do?

7 A. He do the ironwork.

8 Q. Okay. And did he submit invoices?

9 A. Yes.

10 Q. Okay. And what do they total?

11 A. 13,000.

12 Q. Did you pay those?

13 A. Some of them cash. And majority is check.

14 Q. Okay. Are the checks that you paid him
15 attached to that exhibit? The checks where you paid
16 him are attached to that exhibit there?

17 A. Yes.

18 Q. Okay. And what was the amount that was paid to
19 him by cash?

20 A. 3,600.

21 Q. Okay. You denoted that in your records?

22 A. Yes.

23 Q. And you issued that check?

24 A. Check, yes.

25 THE COURT: Where is he on this sheet?

1 MR. DAVIS: He is at the -- next to the bottom.

2 THE COURT: Okay.

3 MR. DAVIS: Okay. Your Honor, I've got Exhibit
4 No. 22 on my podium here. I think we introduced 22.
5 I want to make sure we introduced it. It's the
6 County of Lexington 668.

7 THE COURT: Sounds very familiar. Yep. I got
8 it.

9 MR. DAVIS: Okay. Very good.

10 THE COURT: All right.

11 MR. DAVIS: That ends the --

12 THE COURT: You're offering 29 into evidence?

13 MR. DAVIS: Yes, sir.

14 THE COURT: Okay. 29 is admitted, subject to
15 counsel's objection.

16 (Plaintiff's Exhibit No. 29 admitted into
17 evidence.)

18 MS. HEYWARD: I have to -- did we discuss
19 Exhibit 21?

20 MR. DAVIS: What is that?

21 MS. HEYWARD: Tony Bearden, Vacuum Center.

22 MR. DAVIS: No, we did not. Okay.

23 Your Honor, just one second.

24 MS. HEYWARD: We don't have to.

25 BY MR. DAVIS:

1 Q. Okay. This is Exhibit 21.
2 A. Okay.
3 Q. Who is that?
4 A. Vacuum.
5 Q. What did they do?
6 A. Put the central vac -- central vacuum.
7 Q. Okay. And what was the -- and this was done on
8 this house?
9 A. Yes.
10 Q. Okay. And what was the price?
11 A. The price for everything was -- we have another
12 one, invoice.
13 Q. What is the invoice there? What do the
14 invoices show?
15 A. Invoice showing -- yeah. I believe it's only
16 one. 2,800.
17 Q. Okay. And you have checks there showing you
18 paid him?
19 A. I have two checks --
20 Q. Yes.
21 A. -- each of them 1,200.
22 Q. Okay.
23 A. Another check to cash I pay --
24 Q. How much?
25 A. -- 400. And, actually, I bought the nail gun

1 for him.

2 Q. Gotcha. A nail gun for --

3 A. He --

4 Q. For this project?

5 A. Yes -- no. It's his tools. He wanted a nail
6 gun, framing nail gun. And I went to the Home Depot
7 and got a nail gun, took it to him.

8 Q. Okay.

9 A. And he forgot about it.

10 Q. Okay.

11 A. And I got an invoice for it.

12 MR. DAVIS: Move to introduce that.

13 THE COURT: All right. That's Plaintiff's
14 Exhibit 21 admitted into evidence, subject to
15 objection.

16 Off the record for a moment.

17 (Off-the-record discussion.)

18 (Plaintiff's Exhibit No. 21 admitted into
19 evidence.)

20 THE COURT: All right. We'll be in recess
21 until 2:30. Thank you.

22 You may step down, sir. Just don't discuss
23 your testimony with your attorney during the lunch
24 break.

25 (Luncheon recess 1:32 PM - 2:31 PM.)

1 THE COURT: Okay. Are we ready to pick up
2 where we left off?

3 MR. DAVIS: Yes, Your Honor.

4 THE COURT: All right. Mr. Davis, you can
5 proceed.

6 BY MR. DAVIS:

7 Q. All right. Mr. Mazloom, you're still under
8 oath.

9 A. Yes.

10 Q. All right.

11 MR. DAVIS: Your Honor, this is a joint
12 exhibit.

13 THE COURT: Okay. Joint exhibit what? Is it
14 in the binder?

15 MR. DAVIS: Yes, sir. Here it is. It's that.

16 THE COURT: Okay. 3.

17 BY MR. DAVIS:

18 Q. Okay. This is Exhibit 3.00001. And I'll let
19 you, Mr. Mazloom, look at this for a second.

20 A. Yes.

21 Q. And then I'll ask you questions about it.

22 A. Yes.

23 Q. Okay. The --

24 A. This one is wrong.

25 Q. The -- let's see. This is -- well, I'll let

1 you take care of that. The exhibit that I presented
2 to you, do you recognize what that is a summary
3 of -- what that is there?

4 A. Yes.

5 Q. Okay. Attached to that top document are
6 various checks.

7 A. Yes.

8 Q. Okay. You testified earlier today about when
9 cash was given, you would write a check --

10 A. Yes.

11 Q. -- for --

12 A. My records.

13 Q. -- your records.

14 Does that document with the checks show those
15 checks that you would have written?

16 A. Yes.

17 Q. Okay. Now, do you have any question about the
18 accuracy of the figures that are there on that
19 document?

20 A. One thing is wrong is Harvey Wise.

21 Q. Okay.

22 A. It should be 586.50 --

23 Q. Okay.

24 A. -- not 12,000.

25 Q. Okay. Outside that, it would be accurate?

1 A. Yes, sir.

2 Q. And the -- look at the checks. You're
3 comfortable that's a copy of what you -- were
4 written?

5 A. Yes.

6 Q. Okay. And those checks reflect the cash
7 payment?

8 A. Yes, sir.

9 MR. DAVIS: Move to introduce -- well, it's
10 already in.

11 MR. MULLINS: Yes.

12 MR. DAVIS: Okay.

13 THE COURT: All right.

14 MR. DAVIS: Okay. Your Honor, on this right --
15 I've got a number of exhibits that would be
16 introduced for the same purpose. And let me explain
17 what this is. This is Exhibits 35, 36, 37 --

18 THE COURT: Well, 36 is already in.

19 MR. DAVIS: Okay. 37, 38, 39, 40, 42 -- it
20 looks like two 42s here. Yep. We'll make it 42A --

21 THE COURT: Just so I'm clear, what are you
22 submitting?

23 MR. DAVIS: There's a Plaintiff's Exhibit 42
24 from RNG. And then the very next one I have --
25 maybe I'm not reading this right. Is that --

1 there's an Eagle Aviation exhibit -- that's 41.

2 THE COURT: I thought, how in the world did
3 Eagle Aviation get in here? Is there a helicopter
4 pad?

5 MR. DAVIS: Excavating. Eagle Excavating. I'm
6 sorry.

7 So it's 40, 41, 42, 43. Your Honor, these all
8 relate to receipts signed by the various subs. And
9 this is a primary issue here. So I guess the only
10 way to proceed is to proceed with maybe all of them
11 as a group to speed the process up. And I'll do it
12 that way, and we'll see what happens here.

13 THE COURT: All right. Some of these are
14 already admitted though.

15 MR. MULLINS: Yeah.

16 MR. DAVIS: The only one --

17 MS. PRICE: Are you sure?

18 MR. MULLINS: Yeah. They were parts of the
19 other --

20 MR. DAVIS: Okay. Okay.

21 THE COURT: I'm not saying all of them are.
22 But I recognize something in here. I mean --

23 MR. DAVIS: All right. To simplify it, let me
24 start with this one, Exhibit No. 35.

25

1 BY MR. DAVIS:

2 Q. Mr. Mazloom, would you identify that,
3 Exhibit 35?

4 A. Yes.

5 Q. And what is that?

6 A. Plumber.

7 Q. And his name is?

8 A. Billy Kelly.

9 Q. Okay. And was a cash payment made to him?

10 A. Yes, sir.

11 Q. Okay.

12 MS. HEYWARD: Your Honor, this appears to be a
13 cash receipt that was generated in 2018, not a
14 business record. It relates to work done in 2016.
15 It's a hearsay document that was -- we don't have
16 Billy Kelly here to testify, I don't believe.

17 THE COURT: Just a minute. And I also want to
18 look at what we admitted in, I believe it was, 17.

19 MS. HEYWARD: I haven't even heard from him in
20 response to our subpoena, I don't believe.

21 MR. DAVIS: I don't think that document has
22 been introduced, Your Honor.

23 THE COURT: No, it was not. But we did admit
24 the check that --

25 MR. DAVIS: Correct.

1 THE COURT: -- that Mr. Mazloom wrote to --

2 MR. DAVIS: That's correct.

3 THE COURT: -- Mr. Kelly, which that was a
4 check by his record that he wrote.

5 MR. DAVIS: His invoice -- his invoices have
6 been admitted in the checks and also the check that
7 was written for the cash payment. But this
8 particular document --

9 THE COURT: And counsel's objection is they
10 assert that --

11 MR. DAVIS: That the document is actually dated
12 2016, not 2018.

13 MS. HEYWARD: I have Mr. Mazloom's testimony
14 where he says -- he says that -- I have it here with
15 me -- and I'll present it to the Court if you'd
16 like -- where he testifies in his deposition that he
17 thought I wanted a cash receipt, so he went to the
18 subs in 2018 and got them to write a receipt and
19 that the date on the receipt doesn't indicate the
20 date it was created; it indicates -- it's kind of --
21 it's backdated to correspond with the fake check --
22 amounts of the fake checks.

23 So if you look at Plaintiff's Exhibit 16, the
24 first -- the check on the front page is a check that
25 was not drawn on the bank account.

1 MR. DAVIS: There's been no --

2 THE COURT: That was one of the quote, unquote,
3 checks for cash purposes?

4 MS. HEYWARD: Right.

5 MR. DAVIS: First thing is, there's been no
6 deposition of Mr. Kelly.

7 MS. HEYWARD: That's right. And we -- I
8 believe we subpoenaed him. But we haven't heard
9 from him as to whether he intends to --

10 THE COURT: I'll tell you what, just to move
11 along here, this is another person's invoice and I'd
12 like that -- I'd like Mr. Kelly to authenticate his
13 own invoice if we're going to put it in.

14 MR. DAVIS: Okay. Your Honor, may I ask, in
15 reference to him putting that in, that document
16 was -- Mr. Mazloom will testify he secured that from
17 Mr. Kelly and he -- Mr. Kelly signed it and
18 indicated he had received the cash.

19 And it's at the bottom, Your Honor. That would
20 be just like an invoice that came from the material
21 people and an invoice that came from the
22 subcontractors.

23 THE COURT: Well, to be clear, we've already
24 admitted into evidence the money that Mr. Kelly was
25 paid --

1 MR. DAVIS: Correct.

2 THE COURT: -- right?

3 MR. DAVIS: Yes.

4 THE COURT: Well, based off his checks -- based
5 off -- I'm sorry, the plaintiff's checks.

6 MR. DAVIS: Right.

7 THE COURT: Okay. Well --

8 MR. DAVIS: I'm trying to introduce this for
9 the purpose that a cash payment was made and
10 Mr. Mazloom denoted when he got a cash payment, he
11 issued a check to cover what that amount was, and
12 this is a receipt signed by that gentleman who got
13 the cash payment saying I received that cash
14 payment. I'm trying to get that into evidence as
15 the -- and that is --

16 THE COURT: I want Mr. Kelly to do that.

17 MR. DAVIS: Okay. Okay.

18 THE COURT: All right? I mean, he's testified
19 he did it, and that's fine.

20 MR. DAVIS: Okay.

21 THE COURT: If Mr. Kelly wants to say he
22 received it, then I need him to say that.

23 MR. DAVIS: Okay.

24 THE COURT: All right?

25 MR. DAVIS: All right. Thank you, Your Honor.

1 THE COURT: So that objection would be
2 sustained.

3 MR. DAVIS: Your Honor, then Exhibits 37, 38,
4 39 --

5 THE COURT: Half of 38 is already admitted --

6 MR. DAVIS: Okay. Fine.

7 THE COURT: -- if I'm not mistaken.

8 MR. DAVIS: Okay.

9 THE COURT: So the only part about 38 is this
10 additional sheet that just says cash.

11 MR. DAVIS: Yes. Let's do this: Your ruling,
12 Your Honor, on 38 was what has been admitted --

13 THE COURT: 35.

14 MR. DAVIS: If this was -- came in under the
15 previous introduction, then we have it covered, is
16 what you're saying?

17 THE COURT: Well, again, I know I recall seeing
18 a BNR Electric invoice and exhibit. I don't know if
19 both of these are there or not. I have a pile to go
20 through.

21 MS. HEYWARD: Your Honor, I will not object to
22 37, 38, and 39 because these witnesses are going to
23 appear to testify tomorrow, if that --

24 THE COURT: Well, that streamlines things.

25 MR. DAVIS: Yes.

1 MS. HEYWARD: So we don't have to rehash
2 tomorrow.

3 THE COURT: Okay. So where we stand now, 35 --

4 MR. DAVIS: Let me make sure which ones just
5 got introduced, so I have it clear --

6 MR. MULLINS: 37, 38, 39.

7 MR. DAVIS: Okay. How about 40?

8 THE COURT: All right. For the record --

9 MR. DAVIS: Yes.

10 THE COURT: -- Plaintiff's Exhibits 37, 38, and
11 39 will be admitted without objection.

12 MR. DAVIS: Correct.

13 THE COURT: And 35 was --

14 MS. PRICE: And 40.

15 THE COURT: -- excluded.

16 MR. DAVIS: 40 is coming in by agreement.

17 THE COURT: All right. Plaintiff's Exhibit 40
18 will be admitted without objection.

19 MR. DAVIS: 41? That's Eagle.

20 MS. HEYWARD: I can't -- for Eagle and Vacuum
21 Center, and Mr. Wise, which is 41, 36, and 43, those
22 witnesses I have not --

23 MR. DAVIS: Okay.

24 MS. HEYWARD: I don't know that we've
25 subpoenaed -- we've subpoenaed them, but we've not

1 heard anything from them. I would rather they
2 testify about cash receipts that they generated.

3 MR. DAVIS: All right. How about 42? That's
4 the last one I have.

5 MS. HEYWARD: Mr. Huerta? I believe he will
6 come and testify. I mean, I --

7 THE COURT: Wasn't one of these admitted
8 earlier?

9 MS. HEYWARD: I think that 42 is already part
10 of a prior exhibit.

11 THE COURT: Yes. That's --

12 MR. DAVIS: Okay. Very good. So what we've
13 got is 37, 38, 39, and 42 are in -- 37, 38, 39, 40,
14 and 42.

15 THE COURT: All right. So Plaintiff's 37, 38,
16 39, 40, and 42 admitted into evidence.

17 (Plaintiff's Exhibit Nos. 37, 38, 39, 40, 42
18 admitted into evidence.)

19 MR. DAVIS: Okay. And just so I'm clear with
20 opposing counsel, the ones that we're not agreeing
21 to is 35, 36, 41, and 43.

22 THE COURT: Again, I think 43 is already in.

23 MR. DAVIS: 43 is in? You're right. It is.

24 MS. HEYWARD: To the extent --

25 THE COURT: Yes. All right. Let me clarify a

1 few things --

2 (Off-the-record discussion.)

3 THE COURT: Your previous objections are still
4 noted.

5 MS. HEYWARD: Thank you.

6 THE COURT: Y'all can move forward.

7 MR. DAVIS: Thank you.

8 BY MR. DAVIS:

9 Q. All right. Mr. Mazloom, let me show you this.
10 What's the -- what is the exhibit number on what's
11 in your left hand there?

12 A. 44.

13 Q. All right. Exhibit 44.

14 MR. DAVIS: Y'all have that?

15 MS. HEYWARD: Yes.

16 MR. DAVIS: Okay.

17 BY MR. DAVIS:

18 Q. Is it not true that's the summary of the
19 expenses -- material expenses and labor costs you've
20 had --

21 A. Yes.

22 Q. -- on this project?

23 MR. DAVIS: Move to introduce.

24 MS. HEYWARD: I believe it was already
25 admitted.

1 THE COURT: It was marked for identification
2 purposes.

3 MS. HEYWARD: Oh.

4 THE COURT: But they've been -- all the numbers
5 have been --

6 MR. DAVIS: Testified to.

7 THE COURT: -- subject to objection, testified
8 to. So Plaintiff's Exhibit 44 would be admitted.

9 MR. DAVIS: Okay.

10 (Plaintiff's Exhibit No. 44 admitted into
11 evidence.)

12 BY MR. DAVIS:

13 Q. Let me show you Exhibit No. 34 and ask you to
14 identify that one.

15 A. Yes.

16 Q. Okay. What is that?

17 A. It's the final bill. I give it to them.

18 Q. Okay.

19 MR. DAVIS: Just one second, Your Honor.

20 BY MR. DAVIS:

21 Q. On that bill, is there a -- well, identify what
22 that is. Was that given to the Golsons?

23 A. Yes.

24 Q. Okay. And on that exhibit, that top figure is
25 what?

1 A. Construction cost.

2 Q. Total?

3 A. Yes.

4 Q. Okay. All right. And --

5 A. What I pay.

6 Q. Right. This is materials and labor costs?

7 A. What I paid.

8 Q. Right, what you paid.

9 A. Yes.

10 Q. Okay. In other words, if you look at Exhibit

11 No. 44, that's where you get that figure from?

12 A. Yes.

13 Q. And there's a -- okay.

14 And the second entry, it says: Paid by Joe and

15 Lycia -- Mrs. Golson. What is that figure?

16 A. \$18,247.05.

17 Q. All right. And what does that represent?

18 A. They bought the tile, plumbing fixture. That's

19 it.

20 Q. So this is a recognition of money they pulled

21 from their pocket?

22 A. Yes.

23 Q. Okay. To put in this project.

24 Okay. All right. The next figure, the one

25 about 15 percent, what is that?

1 A. 15 percent, my commission.

2 Q. Okay. And the -- and, that commission, how did

3 you figure that, the 15 percent?

4 A. The cost what I pay and I -- the Golsons pay

5 added together and 15 percent of the -- was really

6 \$415,247.05.

7 Q. So if you add number 1 and number 2 and

8 multiply it by 15 --

9 A. Yes.

10 Q. -- you would get that 61.

11 Okay. What is the next figure?

12 A. Total construction cost?

13 Q. Yes. What is that?

14 A. 468,33 -- 257 --

15 Q. Okay. And what does that represent?

16 A. That one is add my commission from their money

17 they put it in --

18 Q. Okay.

19 A. -- and the cost of the construction.

20 Q. Okay. And the next figure represents what, the

21 413?

22 A. 413 is 395 --

23 Q. From?

24 A. -- thousand dollars from the BB&T Bank. And

25 18,247 for -- they pay from their pocket.

1 Q. Okay. And so then the next figure is what?

2 A. Is what is left, what I got there. Total cost

3 plus that -- what I got, 395.

4 Q. So you subtract total --

5 A. On --

6 Q. -- construction cost -- I'm sorry. You go

7 ahead.

8 A. On this one, they owe me.

9 Q. Okay. So you subtract the monies you received

10 from the total construction cost to come to the 55?

11 A. Yes.

12 Q. All right. This was presented to them --

13 A. Yes.

14 Q. -- in or around February 11th, 2017?

15 A. Yes, sir.

16 Q. Okay. Was this paid? Was this paid by them?

17 A. Nothing.

18 Q. Okay. Nothing has been paid?

19 A. No.

20 Q. Okay. Payment was requested? You requested

21 payment?

22 A. Yeah.

23 Q. Okay. Does -- the LLC, it's always been owned

24 by you?

25 A. Yes.

1 Q. Okay. You have a bank account for the LLC?

2 A. Yes.

3 Q. Okay. When you get paid, do you get paid from
4 the LLC bank account? When you get paid --

5 A. Yes.

6 Q. Okay. Answer any questions counsel may have.

7 THE COURT: All right. Cross-examination?

8 MS. HEYWARD: All right. Your Honor, we have a
9 trial exhibit notebook that I'd like to hand up, if
10 you don't mind.

11 THE COURT: Okay.

12 MR. MULLINS: They have it.

13 MS. HEYWARD: They have a copy. Okay.

14 THE COURT: And he's going to go through it, as
15 well?

16 MS. HEYWARD: Yes. We've got a --

17 MR. MULLINS: Actually, we have two. If your
18 clerk -- we have two. There you go.

19 I would normally suggest to the Court, if the
20 Court wishes to do otherwise, that we work out of
21 this notebook. And they're numbered. And at the
22 conclusion, to the extent there is not any -- if we
23 don't refer to an exhibit or if you -- if there's an
24 objection and you exclude it, then we'll just take
25 those out.

1 THE COURT: All right. This is our baseline
2 and we'll see what's left.

3 MR. MULLINS: Right. And I'm going to hand up
4 a witness copy.

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MS. HEYWARD:

8 Q. Good afternoon, Mr. Mazloom. I want to start
9 by looking at Defendant's Exhibit No. 1, the
10 contract in this case. I'm not sure that I totally
11 understood you on direct examination with regard to
12 your position on how the payment was to be
13 structured for this contract.

14 Do you know what a cost-plus-a-fee contract is?

15 A. What you mean?

16 Q. Do you -- are you aware of the different ways
17 to structure a construction contract? You can have
18 cost plus a fee; you can have a cost plus a fee with
19 a guaranteed maximum price; you can have a
20 fixed-price contract. Are you familiar with
21 those --

22 A. Yes.

23 Q. -- three types of contracts?

24 Okay. Was this contract one of those three
25 types of contracts?

1 A. What is that three types of contract?

2 Q. Was this contract a --

3 A. A contract is a contract.

4 Q. That's right. But was it a cost plus a fee

5 with no ceiling as to the price? It could be as

6 much or as little -- it was just what the house

7 cost. Is that --

8 A. Yes.

9 Q. -- is that -- that's what was -- the contract

10 in play in this case?

11 A. Yes.

12 Q. Okay. So it's your testimony that there's no

13 guaranteed maximum price of \$395,000?

14 A. No.

15 Q. Okay. So what is the point of keeping track of

16 what is extra?

17 A. Extra?

18 Q. Right.

19 A. They add to the construction.

20 Q. Okay. But if it's a cost plus a fee with no

21 ceiling, it doesn't matter if something is an extra

22 or not; it's what it costs --

23 A. No, no, no.

24 Q. -- and they pay you. Is that correct?

25 A. No, it's not.

1 Q. Okay.

2 A. Because they give me extra specification list,
3 what they want in the house. And I price it with
4 that list. And when they change it, we have the
5 signature, and they say everything extra cost, they
6 have to pay for it.

7 Q. Okay. So it's your testimony --

8 A. Why you --

9 Q. -- that you incurred --

10 A. -- deny that?

11 Q. It's your testimony that you incurred costs on
12 this project, correct? You incurred costs on this
13 project?

14 A. Yes.

15 Q. Okay. And if you look at the final bill, which
16 is Plaintiff's -- I mean, Defendant's Exhibit Tab
17 3 --

18 A. Okay.

19 Q. -- it's your testimony that you incurred costs
20 in the amount of \$388,988.66; is that correct?

21 A. Yes.

22 Q. Okay. But it didn't matter how much money that
23 you incurred cost-wise, right? If you incurred more
24 than that or less than that, that's what the Golsons
25 were responsible for; is that right?

1 A. Yes. That much is cost if they didn't have
2 extra.

3 Q. Okay. Well --

4 A. Yes.

5 Q. -- what would the cost be if they had extra?

6 A. Include my commission. If they didn't have
7 extra, \$388,998.66.

8 Q. Okay. I'm not sure I understand --

9 A. Why?

10 Q. -- but we'll move on.

11 A. I'm talking straight English.

12 Q. Okay. Was it your understanding the Golsons
13 were to be credited for materials that they
14 purchased on the -- for the project themselves?

15 A. Yes, I did.

16 Q. And was it your understanding that they
17 wouldn't have to pay a fee on those materials, the
18 15 percent?

19 A. Yes.

20 Q. So they're not responsible to pay an additional
21 15 percent on \$18,247.05 of materials that they
22 purchased themselves?

23 A. Yes.

24 Q. Okay.

25 A. They should pay 15 percent of --

1 Q. So your testimony is --

2 A. -- because --

3 Q. -- they should --

4 A. They installed -- they bought the tile. And I

5 stand over there and I get the subcontractor

6 installing what they bought.

7 Q. Didn't you charge the Golsons for the labor for

8 the installation of the things like the tile?

9 A. Yes.

10 Q. So why would -- if you didn't go pick up the

11 materials from the store and bring them to the house

12 and you're already charging them the labor to

13 install it, why would you also be entitled to 15

14 percent on the actual material cost?

15 A. The same thing -- I call lumber company, bring

16 the material, and is included in that price and I

17 get my commission. What's the difference? They

18 deliver it with the customer or they deliver it with

19 the homeowner, what's the difference?

20 Q. The difference is that you didn't do any work

21 to procure the materials or pick them up.

22 A. I didn't --

23 Q. Is that correct?

24 A. Wait a minute. I didn't work any of the house,

25 building it. I supervised it. And I get a 15

1 percent for supervising it and use my license.

2 Q. Okay. So let's turn back to Defendant's
3 Exhibit 1, the contract. Where in the contract can
4 you point me to that says that you would be entitled
5 to 15 percent on materials that you did not
6 purchase?

7 A. Nowhere.

8 Q. Nowhere. Okay.

9 A. My contract says 395. If they didn't have
10 extra, that house, including my commission, would be
11 395.

12 Q. Is it your testimony that any costs incurred
13 over \$395,000 is automatically an extra?

14 A. Yes.

15 Q. Okay. Let's look at your sheet of extras. I
16 believe that was Plaintiff's Exhibit 33. Okay. I
17 heard you, on direct, go through with Mr. Davis each
18 of the items here in handwriting on this list. But
19 what I didn't hear are any prices associated with
20 what you consider to be extras.

21 Can you tell me how much extra the ZIP panel
22 and wall/roof moisture barrier was over and above
23 the one-half OSB on exterior walls and roof? Can
24 you tell me what the cost difference is for that?

25 A. No.

1 Q. You can't?

2 A. Because it's counted, the invoice.

3 Q. Okay.

4 A. And I'm not just picking up each item and how
5 much is the difference.

6 Q. So how do you know --

7 A. What I --

8 Q. -- what the extra was?

9 A. What I pay -- what I pay to the material and
10 subcontractor as a laborer, and I charge them for
11 that.

12 Q. Okay. So just -- you just charge them what
13 you -- the costs that you incurred. You didn't keep
14 track of what any of these items on here, what
15 the -- you didn't get a quote for the original and
16 compare it and then charge them the difference. You
17 just --

18 A. Yeah. I got the quote.

19 Q. Oh, you did?

20 A. Yes.

21 Q. Did you produce those to your lawyer?

22 A. But it's not in the price when I give it to
23 them, the money, the subcontractor.

24 Q. Well, where are those quotes?

25 A. Where is those quotes?

1 Q. Where are the quotes that you just referenced?

2 A. We're just talking. I don't get a contract

3 with them, none of them, because I know them and

4 they come and do work.

5 Q. Is a quote --

6 A. Why I have to --

7 Q. -- a contract?

8 A. What?

9 Q. Is a quote a contract?

10 A. Yes.

11 Q. A quote is a contract?

12 A. No contract --

13 Q. Okay.

14 A. -- just verbally.

15 Q. Okay.

16 A. Yeah.

17 Q. But you can't tell me exactly how much extra

18 this ZIP panel costs over and above the OSB on

19 exterior?

20 A. No.

21 Q. You can't tell me that --

22 A. No --

23 Q. -- and you can't tell me --

24 A. -- not individually.

25 Q. -- exactly how much --

1 THE COURT: Ladies and gentlemen, I know -- try
2 to let the witness answer the question in full. I
3 know that's going to be tough.

4 But when she's asking you a question, please
5 don't talk over her because it messes -- it's really
6 tough for the court reporter --

7 THE WITNESS: Okay.

8 THE COURT: -- to write down everything we're
9 saying --

10 THE WITNESS: Sure. Sure.

11 THE COURT: -- when we're talking over each
12 other.

13 THE WITNESS: Sure.

14 THE COURT: Okay? Thank you.

15 BY MS. HEYWARD:

16 Q. Okay. And you can't tell me how much the vinyl
17 posts and rails on the front porch and back deck,
18 how they -- changing that to aluminum, you can't put
19 a specific dollar figure on how much more that was,
20 can you?

21 A. No.

22 Q. And that's true with every other thing on this
23 list for Plaintiff's Exhibit 33; isn't that right?

24 A. Yes.

25 Q. Okay. So your testimony is, from what I

1 understand, correct me if I'm wrong, is that you --
2 you're just entitled to what you say you spent on
3 the project, and anything above \$395,000 is an extra
4 automatically. That's your testimony?

5 A. What it came together.

6 Q. Okay. And did the Golsons care about keeping
7 track of the costs on this project?

8 A. No.

9 Q. So if the project -- if you started to incur
10 costs and it got out of control, if you were
11 spending 50,000, \$100,000 more than what you had
12 originally planned, that's not something the Golsons
13 would want to know about in advance? They just had
14 huge pockets and could just pay whatever; was that
15 your understanding?

16 A. No. Everything they added extra, they knew,
17 because I told them this costs extra. And they talk
18 to each other and they tell each other this costs
19 extra.

20 Q. Okay. And what is the normal course of action
21 if you have an extra cost? Do you have anything in
22 writing?

23 A. No.

24 Q. Nothing in writing? You don't have --

25 A. I have those in writing over here, Exhibit 33.

1 Q. Okay. Did you tell them how much extra it was
2 going to be?

3 A. No.

4 Q. Okay.

5 A. They didn't ask.

6 Q. They didn't ask, so they didn't --

7 A. No.

8 Q. So it didn't matter?

9 A. Yes.

10 Q. Okay.

11 A. They didn't ask how much extra.

12 Q. So it's your testimony you just told them it
13 would be extra?

14 A. Yes.

15 Q. Okay. And by extra, you mean it's going to
16 cost more than \$395,000 or it's going to cost --
17 it's more expensive than one of the items on
18 Plaintiff's Exhibit 33.

19 So let me clarify that question. For example,
20 the ZIP panel here, when you're going to -- when you
21 tell them it's going to be extra, did you mean it
22 was going to be extra, over and above 395,000 or
23 extra, over and above what the original OSB on
24 exterior walls was going to cost?

25 A. They knew it costs extra. And I told them.

1 Q. Extra means what?

2 A. Price-wise.

3 Q. Extra in comparison to what?

4 A. I can say that day -- lumber go up and down;
5 the price-wise. How I can tell them today is -- OSB
6 costs \$7, and -- but ZIP panel, it costs \$24. It's
7 just --

8 Q. Okay. So what I'm hearing is extra in
9 comparison to the individual items on the list, not
10 the -- not that it would go over and above the
11 395,000. Is that right?

12 A. Yes. It go over.

13 Q. Okay.

14 A. Because they know. If you look at the exhibit,
15 the -- the -- I don't know where is it -- the
16 specification list. And they say in the bottom:
17 Anything extra, homeowner has to pay for it.

18 Q. I understand that that is what it says. But
19 these appear to be what you have characterized as
20 upgrades. Is that fair?

21 A. Yes.

22 Q. Upgrades. Okay. So a baseline product would
23 cost X --

24 A. Yes.

25 Q. -- and an upgraded product would cost X, plus

1 some extra money?

2 A. Yes.

3 Q. Okay. So you didn't communicate to them how
4 much extra money it was going to cost, right?

5 A. They didn't ask.

6 Q. And you didn't communicate to them that the
7 project was going to go over \$395,000?

8 A. They -- I already told them.

9 Q. When did you tell them?

10 A. I called him one night and -- to Joe Golson.
11 And I told him I think it's more than -- much more
12 than what I priced it to you. And he said, okay, I
13 talk to Lycia. And they didn't call me back and say
14 go over or not. And they want a -- what -- dream
15 house. Whatever they want, I put it in.

16 Q. Okay. So it's your testimony that they were
17 fine with it; that you had told them that it was
18 going over 395 and they were okay with that?

19 A. Yes. They didn't say anything.

20 Q. Did you tell them how much over?

21 A. No. I didn't know.

22 Q. You didn't know?

23 A. I didn't know how much extra --

24 Q. And they didn't care for --

25 A. -- they going to --

1 Q. -- you to ballpark it?

2 A. No.

3 Q. Okay. And you knew that they had a
4 construction loan for the \$395,000?

5 A. Yes.

6 Q. Okay. And you knew that that's how much money
7 that you were going to get from BB&T -- the most
8 money you could get from BB&T, right?

9 A. Yes.

10 Q. And it's your testimony that the Golsons were
11 fine just paying out of pocket an unknown amount of
12 extra?

13 A. Yeah. Every -- every regular person know, add
14 something and change something, it costs more.

15 Q. Okay.

16 A. Every regular person, if they have a right
17 mind.

18 Q. Okay. Let me direct your attention to Exhibit
19 -- Defendant's Exhibit 19. This is a letter from
20 your attorney. I'd like you to read that first
21 paragraph.

22 THE COURT: You want him to read it out loud
23 or --

24 MS. HEYWARD: No. He can just read it to
25 himself.

1 THE WITNESS: My writing is --

2 THE COURT: It's okay. I just wanted to make
3 sure.

4 THE WITNESS: Yes, sir.

5 BY MS. HEYWARD:

6 Q. Okay. Have you seen this letter before?

7 A. Maybe.

8 Q. Maybe?

9 A. Yeah.

10 Q. Okay.

11 A. This past --

12 Q. But you agree with your --

13 A. -- two years --

14 Q. Do you agree --

15 A. -- three years.

16 Q. -- with your attorney's characterization that
17 this was a cost-plus-a-fee contract?

18 A. Yes.

19 Q. You do? Okay. So no ceiling? There's no
20 ceiling on the price?

21 A. No.

22 Q. Okay. And so --

23 A. 395, what I give it to them.

24 Q. What does 395 mean?

25 A. 395 is the -- to build the house for them for

1 the -- whatever they give it to me, the list, what
2 they want in it.

3 Q. Okay. What is the point of the 395 if there's
4 no ceiling on the price if it doesn't matter?

5 A. It does matter.

6 Q. Why does it matter?

7 A. Because they want to change stuff. It's my
8 experience. I know I build house for anybody and
9 they come in and change it and they come in and say
10 this wall doesn't fit my -- our China cabinet. But
11 I build it like a -- exactly like how the house plan
12 say. But I have to tear it down, the walls, and
13 move it back and support to the roof.

14 Q. So in that scenario, what does \$395,000 have to
15 do with anything?

16 A. If they go by the -- the list, it's going to be
17 395. I wasn't going any penny top of that charge in
18 there.

19 Q. Okay. I think we can move on.

20 Okay. Let's go back to Plaintiff's Exhibit
21 No. 33. The last item --

22 A. I don't have that one.

23 Q. Plaintiff's Exhibit No. 33.

24 A. Yeah.

25 Q. The last item on that sheet is -- says

1 sidewalks. There's no handwriting next to that; is
2 that correct?

3 A. No. We forgot we already did that.

4 Q. Okay.

5 A. Actually, I give it to the -- Mr. Davis to
6 clear the -- all the extras besides this. I
7 complete it and give it to them --

8 Q. Okay.

9 A. -- with the printed.

10 Q. Is this your handwriting?

11 A. No; my daughter's handwriting.

12 Q. Okay. Your daughter's handwriting?

13 A. Yes.

14 Q. All right. How did she come up with what --
15 was she involved with the project?

16 A. No.

17 Q. Okay. How did she know what to write on this
18 paper?

19 A. What I told her --

20 Q. Okay.

21 A. -- step by step.

22 Q. But you didn't tell her anything -- to write
23 anything about sidewalks?

24 A. No.

25 Q. Okay. And that came out during your testimony

1 for the first time today; is that right?

2 A. Yes.

3 Q. Okay. And there were no written change orders
4 executed on this project; is that correct?

5 A. Yes.

6 THE COURT: Just to be -- for clarification
7 purposes, the question was: Were there any written
8 change orders --

9 MS. HEYWARD: That's right.

10 THE COURT: -- executed?

11 MS. HEYWARD: Right.

12 THE COURT: And your answer was: Yes, there
13 were orders or --

14 THE WITNESS: No.

15 THE COURT: Okay. I just want to make sure I
16 understood your response.

17 THE WITNESS: Not writing.

18 THE COURT: Okay. Thank you. Sorry. I just
19 want to make sure I understood you.

20 BY MS. HEYWARD:

21 Q. Did you work on any other projects in the year
22 2016 other than the Golsons' project?

23 A. Yes; my son.

24 Q. Okay. Your son was the only project?

25 A. Yes.

1 Q. What about your brother's house --
2 A. What about it?
3 Q. -- on Pompeii Lane?
4 A. What about it?
5 Q. You didn't have a project going on, on Pompeii
6 Lane?
7 A. I didn't work on it. I just sent the
8 subcontractor to them. They got the quote and they
9 pay for it.
10 Q. Okay.
11 A. Nothing to do with me.
12 Q. So you sent subcontractors over to your
13 brother's house?
14 A. Yes.
15 Q. Okay. When did that project take place?
16 A. I don't remember.
17 Q. Okay. Does December 2016 sound accurate?
18 A. I don't know. I don't have any idea --
19 Q. Okay.
20 A. -- because I didn't work on it. And I don't
21 have any idea when was it.
22 Q. And your brother didn't pay you for that job,
23 did he?
24 A. No, no, no.
25 Q. Okay.

1 A. Nothing to do with me at all.

2 Q. All right. What is your brother's name?

3 A. Abulee [phonetic].

4 Q. What is his last name?

5 A. Mazloom.

6 Q. What is his wife's name?

7 A. Therese.

8 Q. Okay. So you didn't pay any subcontractors for

9 work that was being done at your brother's house; is

10 that correct?

11 A. No.

12 Q. What work was he getting done over there?

13 A. I didn't know.

14 Q. You sent subcontractors over there --

15 A. Yes.

16 Q. -- didn't you?

17 Did you know what you were sending them over

18 for?

19 A. Yeah.

20 Q. What were you sending them over for?

21 A. I send them over there. What they want to do,

22 they do it.

23 Q. Okay. What subcontractors did you send over to

24 your brother's house?

25 A. Nery and -- who was it -- Josh.

1 Q. Which Josh? Joyner or Hall?

2 A. Hall.

3 Q. Okay.

4 A. I believe that Nery did the remodeling and
5 painting and those.

6 Q. Okay. So there was some remodeling being done.
7 What area of the house was being remodeled?

8 A. Living room area --

9 Q. Okay.

10 A. -- kitchen --

11 Q. Kitchen?

12 A. -- what they want to do.

13 Q. Okay. Anything else? Did you send the
14 electrician over there?

15 A. Yes, electrician too.

16 Q. Okay. So there -- so if your sister-in-law
17 Theresa and -- I can't -- I'll mispronounce your
18 brother's name, so I'll just call him your brother.
19 They wouldn't have been paying you large sums of
20 money as if they were a client of yours, would they?

21 A. No.

22 Q. Okay. I just want to direct your attention to
23 this check.

24 MS. HEYWARD: What number exhibit is this? I
25 want to go ahead and mark it.

1 MR. MULLINS: We can mark it as 23.

2 (Defendant's Exhibit No. 23 marked for
3 identification.)

4 BY MS. HEYWARD:

5 Q. Okay. What's the date on the check that I just
6 handed you?

7 A. December 19th, 2016.

8 Q. Okay. And is that your sister-in-law's
9 signature there at the bottom?

10 A. Yes.

11 Q. And that check is made out to you, correct?

12 A. Yes.

13 Q. And that check was deposited in that ARM
14 Quality Builders' bank account; is that right?

15 A. Yes.

16 Q. Okay. What was that check for?

17 A. For the material I ordered for them.

18 Q. Okay. So you were purchasing materials for
19 them?

20 A. Yes.

21 Q. And they were reimbursing you for that?

22 A. Yes.

23 Q. Okay.

24 A. I show them the invoice. They give me money --

25 Q. Okay.

1 A. -- check.

2 Q. And you just testified that -- so in
3 December -- on December 19th, 2016, this check for
4 \$25,776 represents reimbursement for materials you
5 paid for their renovation?

6 A. Just the materials.

7 Q. And what materials was that?

8 A. Lumber. Whatever they want.

9 Q. Okay.

10 A. The subcontractor give them a list and I order
11 it.

12 Q. Did you pay Nery Rodas on that project?

13 A. Me --

14 Q. Yes.

15 A. -- personally? No. They did.

16 Q. They paid Nery Rodas directly?

17 A. Yeah. Everything, they pay for it.

18 Q. Okay. What about the electrician?

19 A. They pay for it.

20 Q. Okay. Where did you buy the materials?

21 A. From there. What is that? Stock Builders.

22 Q. From Stock Builders?

23 A. It was Stock Builders.

24 Q. Okay.

25 A. Now it's a different name. I don't know.

1 Q. What materials were they exactly? You
2 mentioned the lumber. What else?

3 A. If you ask me what I ate two nights ago, I
4 don't remember. You asking me something, nothing to
5 do with me at all.

6 Q. Well, \$25,000 is a pretty large amount to be
7 reimbursed. It's a lot to pay out of pocket for
8 someone. I would think that that would be
9 something that would --

10 A. Are you --

11 Q. -- stick out in your mind.

12 A. Are you in the construction business? How do
13 you know --

14 Q. I'm the one asking the --

15 A. -- it's more money?

16 Q. -- questions, Mr. Mazloom.

17 A. Whatever he wants, he wants.

18 Q. All right.

19 A. They pay for it.

20 Q. All right. Were you, in November 2016,
21 involved in a project located at Old Cherokee Road?

22 A. No.

23 Q. You weren't? Do you know who Jessica Gore is?

24 A. Yes.

25 Q. Who is that?

1 A. I built their house.

2 Q. You built their house?

3 A. Yeah.

4 Q. All right.

5 A. It was my kids' friends.

6 Q. Your kids' friends. All right. When did you
7 build their house?

8 A. Seven years ago, six years ago.

9 Q. Okay. Have you done any work for them since?

10 A. Not me. They --

11 Q. Is there any --

12 A. Yeah. They worked; I hired. They want to add
13 to the porch. I don't know when. And they want to
14 close it in. And I sent Nery over there.

15 Q. Okay. You sent Nery over there?

16 A. Yes.

17 Q. Did you pay Nery directly and they reimburse
18 you or did you pay Nery?

19 A. I pay Nery and they reimburse me.

20 Q. Okay. And how soon after you paid Nery did you
21 get reimbursed by the Gores?

22 A. When I finish and give them the bill, how much
23 Nery charged.

24 Q. Okay. How long did that project last,
25 approximately?

1 A. I don't know. I don't remember. Ten days, 15
2 days.
3 Q. Okay. So we're talking about a short window of
4 time?
5 A. Yeah.
6 Q. Okay. Would it be unusual for you to receive a
7 large sum of money from the Gores?
8 A. Unusual?
9 Q. Yeah. Would you remember receiving --
10 A. Depends what you say usual or unusual.
11 Q. Okay. Well, I'll just go ahead and --
12 MS. HEYWARD: What number are we?
13 THE COURT: 24.
14 MS. HEYWARD: 24. This will be 24.
15 (Defendant's Exhibit No. 24 marked for
16 identification.)
17 BY MS. HEYWARD:
18 Q. Okay. Do you recognize this document?
19 A. Yes.
20 Q. What is that?
21 A. Yeah. They pay for that -- what they did on
22 their house.
23 Q. Okay. So that's for the renovation that you
24 managed at their house; is that correct?
25 A. Yes.

1 Q. And what is the date on that check?

2 A. 11/25th, 2016.

3 Q. So is it fair to say that project was ongoing
4 at the same time as the Golsons' project?

5 A. No.

6 Q. Okay. When did the Golsons' project finish up?

7 A. December.

8 Q. December of 2000- --

9 A. But he didn't get the final approval by the
10 County, the Certificate of Occupancy, because they
11 wanted to cheat the County; don't pay tax whole year
12 of 2017.

13 Q. Is it your testimony that no work -- that you
14 did no work at the Golsons' house in November of
15 2016?

16 A. What?

17 Q. Did you do any work on the Golsons' house in
18 November of 2016?

19 A. Yeah. I believe they did.

20 Q. So it's fair to say that the project that you
21 worked on for the Gores was ongoing at the same time
22 as the Golsons' project?

23 A. No.

24 Q. Okay.

25 A. We were waiting to build the cabinet almost two

1 months. They put my job behind for transferring
2 cabinet and bringing cabinet and installing.

3 Q. When you're referring to they and the cabinets,
4 are you referring to the Golsons' project or the
5 Gores' project?

6 A. Golsons' project.

7 Q. The Golson project?

8 A. Yes.

9 Q. Okay. So is it your testimony that the project
10 was just on hold in November of 2016 for the
11 Golsons?

12 A. That period of the time, yeah.

13 Q. Okay. But when I asked you earlier if you had
14 any other projects going on in 2016, you said you
15 built your son's house --

16 A. Yes.

17 Q. -- and you built the Golsons' house.

18 A. Yes.

19 Q. And that was it, right? But we just
20 established that you worked on --

21 A. You mention it and --

22 Q. -- the Gores' house --

23 A. -- I say it because I remember it.

24 Q. -- and --

25 THE COURT: Okay. I'd like you to let the

1 attorney finish her question and then she'll --

2 THE WITNESS: Sure.

3 THE COURT: -- let you respond in full.

4 BY MS. HEYWARD:

5 Q. Okay. But didn't we just establish that you
6 also did work on the Gores' house and on your
7 brother's house around the same time?

8 A. Yes.

9 Q. Okay.

10 A. And where does the money come from? I build
11 those. This comes from the Golsons' house.

12 Q. All right. Mr. Mazloom, let's --

13 A. I build that house very honestly. And I talked
14 to all my friends. Okay? I squeeze everything I
15 can in that house. And now, when they come to pay,
16 accuse me for a lot of things. Okay? And if I
17 build that house, they didn't have extras, for
18 \$395,000. But they have extra and they have to pay
19 for it.

20 Q. Okay. Mr. Mazloom, let's go to Tab 4 --

21 Defendant's Exhibit Tab 4. Okay? This is
22 stipulated -- these documents come from stipulated
23 Exhibit 3.

24 MS. HEYWARD: I'll represent to the Court that
25 they are the same; they just lack the stipulation

1 and Bates numbers at the bottom, with the exception
2 of the first page. This is a duplicate. I've
3 stipulated Exhibit 3.

4 THE COURT: You're on 4?

5 MS. HEYWARD: Yes. Tab 4.

6 BY MS. HEYWARD:

7 Q. I heard Mr. Davis ask you a couple questions
8 about the documents in Tab 4. And he asked you
9 specifically about the last check on this list,
10 Check No. 853 here, for 12,586.50. Do you see that?

11 A. Yeah. I said it's wrong.

12 Q. And you said it was wrong.

13 A. Yes.

14 Q. Will you please turn to the last page of this
15 exhibit. Okay. And your attorney has stipulated,
16 on your behalf, that this Check No. 853 was produced
17 to the Golsons in April 2017, but is a check that
18 was never drawn on --

19 A. The bank.

20 Q. -- the bank account. Is that correct?

21 A. Yes.

22 Q. Okay. And what is the amount of that check?

23 A. 12,586.50.

24 Q. Okay. Now if you'll turn back to the summary
25 page, which is the very first page in Tab 4.

1 A. Summary. Okay.

2 Q. Okay. And you see the check number written on
3 it for each check here?

4 A. Yes.

5 Q. All right. Those are in consecutive order.
6 But the date ranges on those checks start in July of
7 2016 and go all the way through March of 2017. Do
8 you see that?

9 A. Yes.

10 Q. There were other checks that were written out
11 of sequence that were actually drawn on the ARM
12 Quality Builders' bank account; isn't that right?

13 A. I don't know what that means.

14 Q. Well, explain to me why a check written in --
15 why these checks are in consecutive order.

16 A. Because I paid it cash to those people and I
17 write it down. In the time close to the end of the
18 year, I have to do the report in income tax --

19 Q. Okay. So you --

20 A. -- my records.

21 Q. So you wrote all these checks at the same time;
22 is that right?

23 A. Not really.

24 Q. Okay. When did you write Check No. 842?

25 A. July 25th.

1 Q. Okay. So you wrote out Check No. 842 on July
2 25th of 2016?

3 A. Yes.

4 Q. All right. And it's your testimony that you
5 did this to keep track of expenses for the IRS?

6 A. Yes.

7 Q. Okay. Then why did you sign the checks?

8 A. Because I have to show if they come in. And,
9 after me, the IRS, I show them the proof of the --
10 what I paid to the people.

11 Q. Okay. So how does you signing it do that?

12 A. Why not?

13 Q. I will not advise you on that point.

14 A. It's my check. I can sign it anywhere I want
15 to.

16 Q. Okay. Why wouldn't you write "paid in cash" on
17 the check?

18 A. Because it doesn't need it. I have a receipt
19 from the subcontractor.

20 Q. Okay.

21 A. Why I have to write it cash?

22 Q. All right. Well, just by way of example, let's
23 turn to Tab 9. And let's go to Sub-Tab A. This is
24 your backup that you submitted. And flip all the
25 way to the back where we have the last -- the last

1 three pages in the back --

2 THE COURT: For my benefit, can you explain
3 what you mean by backup?

4 MS. HEYWARD: Okay. So the backup would be the
5 accounting that was provided in April of 2017 --

6 MR. MULLINS: Go to the joint exhibit --

7 MS. HEYWARD: Joint Exhibit --

8 THE COURT: Okay. I just --

9 MS. HEYWARD: Joint Exhibit 1, that is the --
10 yeah. Joint Exhibit 1 is all the backup that was
11 provided. And what I've done, in my notebook, is
12 I've pulled them out by subcontractor to organize
13 it.

14 THE COURT: Just -- so, basically, when you say
15 backup, you mean provided prior to litigation?

16 MS. HEYWARD: Prior to litigation, yeah. So
17 this is what was presented in April of 2017 to show
18 the costs incurred on the project.

19 THE COURT: Okay.

20 MS. HEYWARD: And if you go to Tab 20, you'll
21 see the cover letter from Mr. Davis transmitting
22 those -- the accounting and the summary.

23 THE COURT: Thank you.

24 BY MS. HEYWARD:

25 Q. So if you go to Tab A -- 9A and you go to the

1 last three pages, we have the checks that were part
2 of the -- the larger stipulated Exhibit 1.

3 Can you point to me -- are you looking at it?
4 I think you're on the wrong page there. 9A, please.

5 A. You said last page.

6 Q. The last page of Tab 9A --

7 THE COURT: Try the Bates --

8 Q. -- it's ARM86.

9 A. Okay.

10 Q. Can you tell me, these last three pages, ARM86,
11 87, and 88, which checks represent the reminder --
12 which checks that were paid in cash?

13 A. I don't --

14 Q. Wouldn't it be pertinent for the IRS to --

15 MR. DAVIS: Your Honor, he --

16 THE COURT: Have you finished your answer?

17 THE WITNESS: No, sir.

18 THE COURT: Okay. Go ahead and finish your
19 response.

20 BY MS. HEYWARD:

21 Q. Mr. Mazloom, I ask that you reference only the
22 documents that I have in front of you, please.

23 A. What?

24 Q. Reference -- I'm asking you to only -- to look
25 at ARM86, 87, and 88 --

1 A. Yeah. I'm taking my time to --

2 Q. Okay. I just see --

3 A. -- look at it and --

4 Q. -- you flipping through other documents that
5 you have up there. I'm just asking you to look at
6 this document 86, 87, and 88 only and tell me if you
7 can identify, out of these checks, which one is the
8 cash reminder check or the IRS check, as your -- as
9 Mr. Davis calls it.

10 MR. DAVIS: Your Honor, may it please the
11 Court? He's got other documentation there that
12 deals with that subject. And I don't see the reason
13 that --

14 THE COURT: What documentation is that? Is
15 that copies of previous --

16 MR. DAVIS: No. There's the index list of who
17 was paid, sub-wise, and material. And that figure
18 is there.

19 THE COURT: Well, I would just say that, you
20 know, counsel is controlling cross --

21 MR. DAVIS: Okay. All right.

22 THE COURT: -- right now. And she's handed
23 him --

24 MS. HEYWARD: Well --

25 THE COURT: -- a document --

1 MR. DAVIS: Okay.

2 THE COURT: So I think it's reasonable for
3 him --

4 MR. DAVIS: Okay.

5 THE COURT: -- to concentrate --

6 MR. DAVIS: Okay.

7 THE COURT: -- on the binder --

8 MS. HEYWARD: Let the record reflect --

9 THE COURT: -- and on redirect --

10 MS. HEYWARD: -- that Mr. Mazloom is looking --

11 THE WITNESS: Yeah. And --

12 MS. HEYWARD: -- at the --

13 THE COURT REPORTER: Please stop talking over
14 each other. It's getting really difficult.

15 THE COURT: Thank you.

16 You were saying something about let the record
17 reflect --

18 MS. HEYWARD: Yes; that Mr. Mazloom referred to
19 the summary sheet a moment ago to --

20 THE WITNESS: Ask me the question again.

21 THE COURT: We're -- he's looking at the
22 binder --

23 THE WITNESS: Yes.

24 THE COURT: -- right now.

25 MS. HEYWARD: Right now, he is.

1 THE WITNESS: What is the question?

2 BY MS. HEYWARD:

3 Q. Can you tell me which one of those checks is
4 the cash reminder check?

5 A. The number 852, check number.

6 Q. Okay. 852. All right. Can you tell what
7 invoices that check relates to?

8 A. Total after the other invoice. We don't pay
9 contractors at the time by the invoice. They come
10 in and give the invoice when they need the money and
11 finish the -- some part of the job. And we look at
12 it, the invoice, and see how much I have to pay
13 them. I pay them.

14 Q. Okay. What --

15 A. Not individual invoice. I pay them.

16 Q. Okay. What invoice does the \$6,000 check, 7 --
17 number 757 on ARM86 relate to?

18 A. We're on the same page right now. I have three
19 checks up here -- copy of three checks here.

20 Q. Okay. I'm asking you to look at ARM86, Check
21 No. 757 for \$6,000.

22 A. 757.

23 Q. Okay. You see that? That's for \$6,000.

24 A. Yes, ma'am.

25 Q. What is the date on that check?

1 A. July 29th, '16.

2 Q. Okay. And what invoice is that related to?

3 A. I have to explain it again?

4 Q. Yes.

5 A. I don't pay by the invoice.

6 Q. Okay.

7 A. Whatever I have -- that time, actually, the

8 bank didn't release any money, and I have to pay

9 those people from my pocket, my account. I took

10 \$20,000 from my home equity to start the house

11 because the bank didn't release any money until I

12 have a foundation.

13 Q. Okay. So how did you come up with how much to

14 pay Mr. Rodas? The first check, how did you come up

15 with that number?

16 A. Because he asked me. He needed \$6,000, and I

17 write the check and give it to him.

18 Q. Okay. So go to the -- just for the record,

19 Check No. 757 is dated July 29th, 2016. And if you

20 flip back to the first page of Exhibit 9A, you see

21 there's an invoice there for putting the foundation

22 on, right?

23 A. Yes.

24 Q. And it's dated July 20th, 2016, right?

25 A. Yes.

1 Q. And that was nine days earlier; is that
2 correct?

3 A. Nine days earlier what?

4 Q. The date of the invoice --

5 A. 26.

6 Q. -- is July 20th, 2016. And the date of the
7 check is July 29th, 2016; is that correct?

8 A. Which invoice you talking about?

9 Q. I'm asking you to compare ARM76 and ARM86, the
10 first check, number 757.

11 A. ARM76. Yes.

12 Q. You see it says put foundation on --

13 A. It says \$6,000 --

14 Q. Sorry.

15 A. -- yeah.

16 Q. Okay. Did you add a 1 in front of that 6 on
17 that invoice?

18 A. No.

19 Q. You didn't? Okay.

20 What contractors worked on the foundation?

21 A. Nery Rodas.

22 Q. Is he the only one?

23 A. He hired other people.

24 Q. Okay. But you didn't pay those other people,
25 did you?

1 A. Huh?

2 Q. Did you pay anyone else for the foundation
3 other than Nery Rodas?

4 A. Yeah. I believe so.

5 Q. Who did you pay?

6 A. I don't remember.

7 Q. Okay. Did you submit backup for those charges?

8 A. Pardon me?

9 Q. Did you submit backup for those charges?

10 A. Yes.

11 Q. Okay. Where is the backup?

12 A. What does that mean?

13 Q. For foundation work, other than what you paid
14 Nery Rodas.

15 A. Backup? Yeah. That they -- when they put the
16 foundation, they put the dirt against the wall, is a
17 backup --

18 Q. Who is they?

19 A. -- and level the -- the brick people. I have
20 to pay extra to that -- to do that. It's not part
21 of the job.

22 Q. Okay. So are you referring to Kyzer Masonry?

23 A. No. Kyzer Masonry, they didn't work for me;
24 just they provide the brick.

25 Q. Okay. Who were the brick people?

1 A. Nery Rodas.

2 Q. Okay. Anyone else do foundation work?

3 A. I don't remember.

4 Q. Okay.

5 A. They work a lot of workers, not just Nery

6 Rodas. All the workers work over there.

7 Q. Does footings count as foundation?

8 A. No.

9 Q. Okay. Let's look at -- let's look at the Tab

10 9D. If you'd flip to that, please.

11 A. Okay.

12 Q. Do you recognize that document?

13 A. Yes.

14 Q. Okay. What is that document?

15 A. What I pay cash.

16 Q. So this is what you're representing is a cash

17 receipt from Mr. Rodas; is that right?

18 A. Yes.

19 Q. Okay. When did you obtain this receipt?

20 A. He put the date on it. 11/21st.

21 Q. Okay. So it's your testimony that you obtained

22 this receipt on November 21st of 2016.

23 A. (Nods head).

24 Q. Okay. Is that a yes?

25 A. Yes.

1 Q. Did you produce it in discovery?

2 A. What does that mean?

3 Q. Did you give it to your lawyer to produce in
4 the -- well, did you produce it in April of 2017
5 when you gave the Golsons their accounting?

6 A. I don't understand what you're saying.

7 Q. In April of 2017, you produced to the Golsons
8 invoices and checks.

9 A. No, not April.

10 Q. Okay. I'll direct your attention to --

11 A. February, they look at it.

12 Q. Please flip to Defendant's Exhibit 20.

13 A. 20.

14 Q. Okay. And you see this is a letter from your
15 lawyer --

16 A. Yes.

17 Q. -- saying: Enclosed, please find a copy of
18 invoices and checks on the transaction that my
19 client had with your clients. Do you see that?

20 A. Yes.

21 Q. Okay. So on April 17th [sic], our office
22 received, the same date, the date of the letter,
23 invoices and checks from you, right?

24 A. Yes.

25 Q. Okay. And if you go back to Defendant's

1 Exhibit 9D, is there a reason these cash receipts
2 were not produced at that time?

3 A. 9D, you say?

4 Q. Yes. The cash receipts for Nery Rodas.

5 A. Which one you talking about --

6 Q. Either the --

7 A. -- the 15,000 or the 17,000?

8 Q. Either one. These were -- these were not
9 produced in April of 2017, correct, neither one of
10 them?

11 A. No.

12 Q. Okay. Why?

13 A. Because you didn't ask for them.

14 Q. Because we didn't ask for it?

15 A. Yes.

16 Q. Okay. Do you recall that you had your
17 deposition taken in this case a few months ago,
18 maybe a year ago?

19 A. Few months ago?

20 Q. A year ago. Do you remember having your
21 deposition taken?

22 A. Yeah, I remember --

23 Q. Okay.

24 A. -- giving deposition.

25 Q. Do you recall, at your deposition, you

1 testified that the cash receipts were obtained in
2 2018? Do you recall that?

3 A. 2018?

4 Q. Yes.

5 A. For the cash receipts?

6 Q. Yes.

7 A. Maybe.

8 Q. Okay. Would it refresh your recollection to
9 review your deposition testimony?

10 A. Because they ask for it. Y'all ask for it and
11 I granted it. '18? I don't remember getting any
12 cash receipt in 2018.

13 Q. Okay. I'm looking at --

14 A. Where are you getting '18?

15 Q. -- Mr. Mazloom's deposition --

16 MS. HEYWARD: Do we have copies of the
17 deposition?

18 MR. MULLINS: Yeah.

19 BY MS. HEYWARD:

20 Q. I'd like you to turn to page 168, condensed
21 transcript. So it's going to be the bottom right
22 page here, page 168.

23 A. Would you please give me time to look at it?

24 Q. Yes. If you would, review that for me.

25 A. Page 168?

1 Q. Yes.

2 A. Okay.

3 Q. Okay. Do you see -- are you there?

4 A. Yes.

5 Q. Okay. 168. I'm looking at line 14. And there
6 I'm referencing this same invoice that's here on
7 Defendant's Exhibit 9D on -- dated 11/21/16. And I
8 say: I want you to tell me when you got this
9 receipt dated 11/21/16.

10 You say: I don't remember the date.

11 I say: What is the year?

12 This year, I believe so. I don't remember
13 really.

14 Did you receive this on November 21st of 2016?

15 And you respond: No.

16 Okay. Was it written on November 26th of 2016?

17 You respond: No.

18 And then if you flip over to page 169,
19 testimony continues.

20 A. Okay.

21 Q. You said: November 21st of 2016, I give it to
22 them, the cash, and I write it in my check. If you
23 look at those checks and go back to the bank, it's
24 the same, exactly like that. Yeah.

25 A. Okay.

1 Q. After I produced all of that information to
2 you, you would have been able to go back and see.
3 You see that?

4 A. Yeah.

5 Q. Okay. So after reviewing your testimony from
6 your deposition, is it still your position that this
7 cash receipt invoice from Nery Rodas --

8 A. Uh-huh.

9 Q. -- was drafted in November of 2016?

10 A. Okay. What is your point?

11 Q. I'm asking you. Is it still your position --
12 you testified earlier that this cash receipt was
13 generated in November of 2016. In your deposition,
14 you testified that it wasn't written in November of
15 2016. So which is it?

16 A. I don't know exactly what you're talking about.

17 Q. When was Defendant's Exhibit 9D created? When
18 was that document created? When did you receive it?

19 A. 9D. Okay. And what is your point?

20 Q. I just walked you through it, Mr. Mazloom. If
21 you go to page 168, which is the bottom --

22 A. You said 169 before.

23 Q. Well, we flipped over and continued.

24 A. Okay.

25 Q. Start on page 168, the bottom there, lines 20

1 to 25.

2 A. Okay.

3 Q. Okay. So --

4 A. What it say? I say: I believe so. But I say
5 it at the first, this year, I believe so, meaning
6 2018. Did you receive this November...

7 Q. All right. So can you tell me, Mr. Mazloom,
8 when did you obtain the cash receipt from
9 Mr. Rodas?

10 A. When?

11 Q. When.

12 A. There's a date on it.

13 Q. There is a date on it. Are you telling me that
14 that date represents the date that you obtained that
15 cash receipt?

16 A. Yes.

17 Q. Okay. So why didn't you include it in your
18 cost backup in April of 2017?

19 A. Because I include the cost.

20 Q. Why didn't you include it in the accounting and
21 backup that you, through your attorney, produced to
22 the Golsons in April of 2017?

23 A. Okay.

24 Q. If you had it in your possession --

25 A. Okay.

1 Q. -- why didn't you produce it?

2 A. Because I -- it was the checks. I didn't know
3 they wanted receipt -- invoice receipt. And they
4 told me and I went and find that in my file.

5 Q. Okay. Why didn't you produce it in response to
6 discovery prior to March of 2018?

7 A. What to do with the 2018?

8 Q. I'm just wondering why this document didn't
9 surface until March of 2018 if it was in your
10 possession and we had asked for it formally through
11 the process of issuing a request for production.

12 A. And what was my answer?

13 Q. I'm asking you to testify --

14 A. I'm reading the -- my deposition. And I want
15 to say what I said.

16 Q. Okay. We'll move on.

17 Let's go back to Tab A, shall we? And I want
18 you to look at -- just flip to page 88, the last
19 page in Tab A.

20 A. What?

21 Q. 9A. We're still on Rodas.

22 A. You said 8?

23 Q. Tab A.

24 A. Tab A. Okay.

25 Q. Okay. All right. It doesn't look like you're

1 on the right page there. It's ARM88. It should be
2 the bottom Bates number. It's a list of three
3 checks. It's 9A.

4 THE COURT: ARM88?

5 A. You said Tab, what, 8? You say --

6 Q. 9 -- Tab 9, Sub-Tab A.

7 THE COURT: You can approach the witness and
8 take him to the page, please.

9 BY MS. HEYWARD:

10 Q. Okay. Here -- the last page here.

11 A. Okay.

12 Q. Okay. And before we get started there, I have
13 a couple of questions. Did Nery Rodas ever pay you
14 money for any reason?

15 A. No.

16 Q. Okay. There would be no reason for him to pay
17 you anything?

18 A. No.

19 Q. Okay. And this Tab A represents the backup you
20 provided to the Golsons in April of 2017 for the
21 costs that you paid Mr. Rodas; is that correct?

22 A. Yes.

23 Q. Okay. Now, you see down here that the last
24 check, 791, is for \$20,000. Do you see that?

25 A. Yes.

1 Q. All right. I want you to flip to Tab E,
2 please.

3 A. Tab 8.

4 Q. And flip to the second page there -- the first
5 page.

6 A. Tab 8, you said?

7 Q. I don't think we have the right check here.

8 A. Tab 9? What?

9 Q. Okay. Tab 9E, the first page.

10 A. E.

11 Q. You see that?

12 A. E. Okay.

13 Q. Okay. And 9E is a check from RNG
14 Contracting --

15 A. Yeah.

16 Q. -- to the order of cash. That was cashed -- I
17 got this from your bank records, your First Citizens
18 bank records.

19 A. Okay.

20 Q. You deposited this \$20,000 check from
21 Mr. Rodas --

22 A. Yes.

23 Q. -- is that right?

24 Okay. Why did he write you a check for \$20,000
25 on November 23rd, 2016?

1 A. Because he needed money for another job he
2 doing. I give him the cash. And told me, by two
3 weeks, he get it from another builder and give it to
4 me. Nothing to do with the Golsons' job.

5 Q. Okay. So if you flip over, just for ease of
6 reference, I've already included that other check we
7 were just referencing.

8 So, next, flip over to the next page. There's
9 a November 16th -- no. This check here. This
10 November 16th, 2016 check --

11 A. Yeah.

12 Q. -- for \$20,000 --

13 A. Yes.

14 Q. -- to Nery Rodas --

15 A. Yes.

16 Q. -- was submitted to the Golsons as evidence
17 that they were paid on the job -- that you paid Nery
18 Rodas on the job, right?

19 A. Yes.

20 Q. Flip back over. You deposited a check just a
21 few days later from Mr. Rodas for the amount of
22 \$20,000?

23 A. Yes. That is nothing to do with the
24 construction and this check.

25 Q. Okay. But you testified --

1 A. Mr. Golson. This one, I pay for the Golsons'
2 house, November 16th.

3 Q. Okay. So when I asked you earlier if you ever
4 loaned Mr. Rodas money and you said no, did you mean
5 to say yes?

6 A. Loan?

7 Q. Yeah.

8 A. I do not understand your question.

9 Q. Okay.

10 A. What was the question?

11 Q. Well, I asked you if there was any reason
12 Mr. Rodas would pay you any money. And you said no.

13 A. No. For my work, no.

14 Q. Okay. But he paid you money?

15 A. Yes, because he borrowed money, cash money.

16 Q. Okay. Well, that's why I asked if you ever
17 loaned him money, right, and you said --

18 A. Yes.

19 Q. -- no.

20 A. I didn't have -- you said, you get the money
21 from Nery Rodas. I didn't get any money. I loaned
22 him and he give me back.

23 Q. Okay.

24 A. He did it -- almost four, five years, we do it.
25 He need the money; he come to me, call me. He has

1 to pay Saturday to the worker.

2 Q. Okay. So you pay him, on November 16th,
3 \$20,000?

4 A. Yes.

5 Q. And then on November 23rd, he pays you back
6 \$20,000? And it's your testimony, that \$20,000 he
7 paid you back was repayment for a loan; is that
8 right? Is that what I'm hearing?

9 A. No.

10 Q. Okay. Well, explain it to me.

11 A. I answer you. That one is nothing to do with
12 the construction.

13 Q. Well, what construction does it have to do
14 with? What project?

15 A. Nothing to do with me, with my project. He
16 borrow money and he bring a check to me, give it to
17 me.

18 Q. Okay. When did he --

19 A. That's it.

20 Q. When did he borrow the money from you?

21 A. Maybe two weeks before that.

22 Q. Okay. So we should see a check to Mr. Rodas
23 for \$20,000 two weeks earlier? And he was just
24 paying you back for that; is that right?

25 A. No.

1 Q. Okay. So explain to me how that process --
2 A. I don't know -- I add this 20,000 or not. Do
3 you have any invoice?
4 Q. I'm sorry. I need you to explain to me the
5 loan --
6 A. I --
7 Q. -- because the --
8 A. I don't remember. Okay?
9 Q. Okay.
10 A. It's a lot of -- I'm a businessman. A lot of
11 things going on. And nothing, no penny from any
12 job, get from Golsons' project or add any money.
13 Q. Okay.
14 A. I'm an honest person. And I never -- I have to
15 answer to him one day, sitting over there and
16 watching.
17 Q. Okay. What does --
18 A. Accuse me, they -- they have to answer, too.
19 Q. Okay. Are you finished with your answer?
20 A. Yes.
21 Q. Okay. So it's your testimony that you can't
22 recall the circumstances of your \$20,000 loan to
23 Mr. Rodas; is that correct? Is that what I'm
24 hearing?
25 A. I don't remember.

1 Q. Okay. But you think it was about two weeks
2 earlier; is that right?

3 A. Still, I don't remember.

4 Q. And you can't remember why he needed --

5 MR. DAVIS: Your Honor, I'm going to enter an
6 objection. He's -- it's been asked several times
7 and he's answered. He explained it initially and
8 then he said I don't remember at this point. But
9 it's like a -- numerous times, it's been asked.

10 THE COURT: Okay. Let's round out this
11 question.

12 MS. HEYWARD: Okay. We can move on.

13 THE COURT: Also, we've been going about an
14 hour and -- about 95 minutes. Let's take a
15 five-minute break so everybody can have a chance to
16 refresh themselves, and then we'll finish up.

17 (Brief recess.)

18 THE COURT: Are we ready to proceed?

19 MS. HEYWARD: We are ready to proceed.

20 THE COURT: All right.

21 BY MS. HEYWARD:

22 Q. All right. Mr. Mazloom, do you have a copy of
23 the joint stipulation exhibit notebook with you?

24 A. The what?

25 Q. The joint stipulation exhibit notebook. I'm

1 referring to this notebook. I'm referring to Joint
2 Exhibit 1.

3 All right. These are the documents that,
4 through your attorney, you produced to the Golsons
5 on April 17, 2017. We've established that and we've
6 stipulated to that, right?

7 A. Yes.

8 Q. And if you turn to Tab 20 of the other notebook
9 right there in front of you --

10 A. This one?

11 Q. Yeah.

12 A. 20?

13 Q. That's the cover letter that accompanied the
14 documents in Joint Exhibit 1. You see that?

15 A. Yes.

16 Q. We've established that and we've stipulated to
17 that.

18 A. Okay.

19 Q. Okay. Nowhere in here are the cash receipts
20 that you produced, and your attorneys stipulated you
21 produced, for the first time in March of 2018,
22 right? Nowhere in here are these cash receipts.

23 A. 2018? This was in 2017 --

24 Q. Okay.

25 A. -- not 2018.

1 Q. Okay. Stipulated Exhibit 4, right there: True
2 and correct copy of the additional backup and
3 project receipts produced by ARM Quality Builders on
4 March 19th, 2018, is attached as Exhibit 4.

5 And if you flip to Exhibit 4 of the joint
6 stipulation, those are the cash receipts that we
7 were just discussing --

8 A. Okay.

9 Q. -- right?

10 A. Yeah.

11 Q. And nowhere in Exhibit 1 --

12 A. What is that paper?

13 Q. -- Joint Exhibit 1 -- that is the index page.

14 But nowhere in Exhibit 1, which is the backup
15 that you produced in April 2017 are the cash
16 receipts; is that correct?

17 A. I believe so.

18 Q. Right. They're not in there. You want to look
19 at it? They're not in there, right?

20 A. Yeah, because I -- I don't think they need it.

21 Q. Okay. You don't think they need it --

22 A. I have the checks.

23 Q. -- right?

24 A. Those checks.

25 Q. And you produced a series of checks --

1 A. Yeah.

2 Q. -- right?

3 There's no way to -- included in --

4 A. In my records.

5 Q. Included in these checks are the fake checks or
6 the IRS checks, right, that you wrote --

7 MR. DAVIS: I object to the terminology of fake
8 checks we've described as IRS or cash checks. But I
9 just -- that hasn't been determined by the Court
10 yet.

11 THE COURT: Okay. Well --

12 MR. DAVIS: Yeah.

13 THE COURT: -- they've been referred to as IRS
14 checks; they've been discussed by counsel as fake
15 checks. We'll just refer to them as the checks.
16 Whatever they are, they are checks.

17 MS. HEYWARD: Okay.

18 MR. DAVIS: I'm okay with that.

19 BY MS. HEYWARD:

20 Q. The checks not drawn on the bank account were
21 included in the backup --

22 A. I give it to them, what I have in my record.

23 Q. Right? They were included in this backup in
24 April of 2017?

25 A. Yes.

1 Q. And there's no way to differentiate between the
2 checks that were drawn on the account and the checks
3 that weren't drawn on the account, is there?

4 A. What does that mean?

5 Q. There's no way for the Golsons to be able to
6 tell, looking at these checks that you've
7 provided --

8 A. Okay.

9 Q. -- who was paid in cash versus who was paid in
10 a check, right?

11 A. Yeah.

12 Q. Okay. And you produced the \$20,000 check to
13 Nery Rodas, that we discussed earlier in Tab 9, in
14 here, as well. And that was a check that was
15 actually drawn on your account, right?

16 A. Okay.

17 Q. Yes?

18 A. I think so.

19 Q. And so we're at 9E, Check No. 791, dated
20 November 16th, 2016, \$20,000. That was included in
21 your backup. But just a few days later --

22 A. Just -- we discussed it already.

23 Q. Right.

24 A. And I answered you.

25 Q. Well --

1 A. And --

2 Q. -- Mr. Mazloom, I'm not finished.

3 A. You're --

4 THE COURT: Which --

5 A. You're trying to confuse me. And I answered
6 you about those checks already.

7 THE COURT: Thank you. I just want to know
8 where we are --

9 MS. HEYWARD: Okay.

10 THE COURT: -- in the book.

11 BY MS. HEYWARD:

12 Q. Tab 9E. And these checks really should be
13 flipped so they're in date order. But the last one
14 was written on November 16th, 2016; was included in
15 here, in the backups, that in April of 2017, about
16 seven days later, Nery Rodas turned around and wrote
17 you a check back for \$20,000 --

18 MR. DAVIS: I object. This is repetitive; this
19 has been covered earlier, in the last 30 minutes,
20 this same subject. We're going through it again.
21 This is the --

22 MS. HEYWARD: I have one more --

23 THE COURT: You're leading to a point?

24 MS. HEYWARD: Yes. This is my point. I have
25 one last question, and then it's over.

1 BY MS. HEYWARD:

2 Q. And it's your testimony, right, that -- did you
3 write -- let me rephrase.

4 Did you write the \$20,000 check and did Nery
5 Rodas repay you the \$20,000 to make it appear like
6 those costs were incurred on the Golsons' project
7 and they were not?

8 A. They are not on the Golsons' project, whatever
9 it was.

10 Q. It was not for the --

11 A. And, yeah, I answer you. I pay cash to him.
12 He borrow money and he give me back.

13 Q. All right. We'll move on.

14 A. I didn't ask it, the project.

15 THE COURT: You know, I'm the one who has to
16 make the decision here at the end. I'd like the
17 question -- I don't think the question was answered.
18 I thought that was the -- maybe I'm wrong. But I'd
19 like -- I'd like to do that one again --

20 MS. HEYWARD: Okay.

21 THE COURT: -- because that's an important
22 question. I'd like to know what the response is.

23 BY MS. HEYWARD:

24 Q. Okay. Mr. Mazloom, we're looking at 9E.

25 A. Is it from Tab 9?

1 Q. 9E. There are two \$20,000 checks.

2 A. Yes.

3 Q. Did you write Check No. 791 for \$20,000 to
4 Mr. Rodas that you included in the April 2017
5 backup --

6 A. Yes.

7 Q. -- to make it appear like that money was spent
8 on the project when, in fact, it wasn't and Mr.
9 Rodas turned around, seven days later, and wrote you
10 a check back for \$20,000? Is that --

11 A. Yes.

12 Q. -- what happened?

13 That is what happened?

14 A. It's nothing to do with the project.

15 Q. Okay. So these checks weren't related to the
16 project?

17 A. No.

18 Q. Okay.

19 A. I didn't add it to the project because --

20 Q. So --

21 A. -- what I remember, is what happened.

22 Q. -- it's your testimony that the \$20,000 that --
23 for the check written to Mr. Rodas that was included
24 in the April 2017 backup was not actually spent on
25 the Golson project? That's your testimony?

1 A. That's right.

2 Q. Okay.

3 A. What I remember.

4 Q. All right. Let's turn to Tab 10E. This is an
5 e-mail produced by Mr. Huerta at his deposition,
6 10E.

7 A. You say 10E or 9?

8 Q. 10E.

9 A. All right.

10 Q. And I want you to --

11 A. Okay.

12 Q. And I want you to compare that to 10D, which is
13 a document that you produced in March 2018 as a cash
14 receipt from Mr. Huerta. So what we're doing is
15 we're flipping -- we're comparing 10D and 10E.

16 10D is a cash receipt you produced in March
17 2018. And 10E is an e-mail that Mr. Huerta produced
18 to me at his deposition. Do you see that?

19 A. Yeah, I see it.

20 Q. Okay. So if you're looking at D -- 10D --

21 A. Okay.

22 Q. -- when did you obtain this so-called cash
23 receipt from Mr. Huerta?

24 A. January 27, '17 -- 2017.

25 Q. Okay. So it's your testimony you obtained the

1 receipt January 27th, 2017?

2 A. Yeah --

3 Q. Okay.

4 A. -- cash receipt.

5 Q. All right. Now flip to Tab --

6 A. He got it from me.

7 Q. Okay. Flip to Tab 10E.

8 A. Okay.

9 Q. All right. Look to the middle of the page

10 there --

11 A. Yeah. You highlighted.

12 Q. Uh-huh. What is the date that Mr. Huerta's

13 e-mail to me shows that that cash receipt was

14 produced to you?

15 A. It's a date, March 3rd, 2018.

16 Q. That's right. So -- so is --

17 A. What you talking about?

18 Q. Are you misremembering? Did you really get the

19 cash receipt from Mr. Huerta in March of 2018 or did

20 you get it in January of 2017?

21 A. January 27th, '17.

22 Q. It's still your testimony that you got that --

23 A. Yes.

24 Q. Okay.

25 A. It show, black-and-white --

1 Q. Okay.

2 A. -- over here.

3 Q. I want you to flip --

4 A. And he said paid cash.

5 Q. Okay. Please flip to Tab F.

6 A. Where?

7 Q. Tab F, 10F.

8 A. 10F.

9 Q. Okay. All right. This is a copy of a text
10 message Mr. Huerta provided me at his deposition.
11 All right? And you see there's a text message
12 February 26th, 2018, from somebody in his phone
13 called Quality Builders, which he testified was you,
14 saying: Hi, I need a cash receipt for January 27th,
15 2017, for \$3,683.56 for your work on 207 Libby
16 Ariail Lane.

17 Do you see that? Do you recognize that text?

18 A. Yes.

19 Q. Okay. So when did you receive the cash receipt
20 from Mr. Huerta? Is it still your testimony you got
21 it in January of '17 or did you really get it in
22 March of 2018?

23 A. Maybe it's March. That -- January, I paid him
24 cash. And I asked him -- I need the receipt. And
25 he give me the date he got the cash.

1 Q. Okay. Is that true for all the subcontractors
2 for whom you produced a cash receipt? You got those
3 cash receipts in 2018, right?

4 A. No.

5 Q. So just for Huerta?

6 A. 2017, I got all the cash receipts from the --
7 all subcontractors.

8 Q. Okay. Then why are you asking Mr. Huerta for
9 one on February 26th, 2018 if you already had it?

10 A. It's not 2018.

11 Q. Okay. You see that read receipt down there at
12 the bottom where it says: Can I call you later?
13 What is the date on that?

14 A. 3/16.

15 Q. 2018, right?

16 A. But I got the receipt in 2017.

17 Q. Okay. But you did see the e-mail from
18 Mr. Huerta, Tab E, where he produced it on March
19 3rd, right, just a few days after your February 26th
20 text?

21 A. That one is different. Can I call you back is
22 different date in 2018. In that one, the March
23 16th -- February 16th, I asked him for the receipt.

24 Q. Okay. That's your testimony despite this?
25 You're still committed to you got the cash receipt

1 in 2017?

2 A. Yes.

3 Q. And this does not change your opinion at all?

4 Okay. We'll move on.

5 All right. Let's look at Tab 6. These are
6 records related to A&D Fabrication and Rick Crolley.

7 A. Okay.

8 Q. If we go to Tab A, that's the backup that you
9 submitted to the Golsons on April 17th -- or in
10 April of 2017; is that correct? This is the backup
11 that you produced to the Golsons in April of 2017
12 with respect to Mr. Crolley?

13 A. Yes.

14 Q. Okay. And are you aware that Mr. Crolley
15 submitted a subpoena response in this case? Is that
16 correct? Are you aware?

17 A. I know y'all got the subpoena --

18 Q. Yes.

19 A. -- when I saw it this morning.

20 Q. And the response from him is in Tab B. Flip --

21 A. Tab B.

22 Q. See that?

23 A. Yes.

24 Q. And what that document is, is a picture of the
25 invoice that you submitted --

1 A. Yes.

2 Q. -- that you asked Mr. Crolley to write for you
3 next to the actual invoice form that Mr. Crolley
4 uses, right? You recall that he testified about
5 this document? You were sitting there in his
6 deposition?

7 A. Yes.

8 Q. Okay. And he testified that you asked him --
9 did you ask him -- you asked him to create the
10 invoice --

11 A. No.

12 Q. -- deck for porch? You asked him to do that?

13 A. No.

14 Q. Okay. So you don't recall his testimony where
15 he said you did ask him to do that --

16 A. No.

17 Q. -- and that you came up with a number on it --

18 A. No.

19 Q. -- and that he provided me this photo as a
20 comparison of the invoice form that he normally uses
21 versus the one you gave him to write the invoice on?

22 A. It's the same thing --

23 Q. You don't --

24 A. -- \$13,000.

25 Q. You don't recall that?

1 A. He send that to you -- to y'all.

2 Q. This is the subpoena response that you sent me.

3 A. Yeah, this one --

4 Q. Correct.

5 A. -- you're talking about.

6 Q. Tab B. You see that?

7 A. Tab B, yeah.

8 Q. Okay. And included in Tab A -- go back to Tab

9 A. We're looking at the checks. Tab A -- 6A,
10 starting on ARM66 and ARM67, those are the checks
11 you represented to the Golsons you paid Mr. Crolley,
12 right?

13 A. Yes.

14 Q. Okay. Can you -- did you pay -- you paid
15 Mr. Crolley in -- or you testified you paid
16 Mr. Crolley in cash, right?

17 A. Yes.

18 Q. All right. Can you tell me how much you paid
19 him in cash? Without looking at anything else,
20 which of these checks is the check you paid
21 Mr. Crolley in cash?

22 MR. DAVIS: Your Honor, I'd enter an objection.
23 I think the client would have a right to look at
24 his -- the checks that he wrote to Mr. Crolley --

25 THE COURT: He is --

1 MR. DAVIS: -- to answer that question.

2 THE COURT: I think he is looking at the
3 checks. He's looking at --

4 THE WITNESS: I'm looking at --

5 MR. DAVIS: The counsel -- counsel indicated,
6 don't look at anything. I'm saying I think he can
7 look at that -- those checks, I believe, mainly.

8 THE COURT: Maybe I misunderstood counsel's
9 question.

10 MR. DAVIS: Okay.

11 THE COURT: He's looking at the checks that are
12 in -- Bates-stamped page 66 and 67. Is that
13 correct?

14 MR. DAVIS: As long as he's looking at that,
15 that's fine.

16 THE COURT: That's right. That's what he is
17 looking at. She has asked him to, in looking at
18 those checks, to tell her which ones were for cash.

19 BY MS. HEYWARD:

20 Q. Without referring to anything else, tell me
21 which one of these checks on ARM66 and 67 was paid
22 to Mr. Crolley actually in cash as opposed to a
23 check drawn on your account.

24 A. Check No. 850.

25 Q. 850.

1 A. \$3,600.

2 Q. Okay. So just looking --

3 A. I believe so.

4 Q. You believe so. Okay. But from looking at
5 these checks, how do you differentiate that? Are
6 you just basing that off of memory or can you
7 tell -- is there some kind of indication on these
8 checks that allows you to differentiate what's cash
9 and what's not?

10 A. Because I saw the list before --

11 Q. Because you -- okay.

12 A. -- the private -- provided for me.

13 Q. Okay. All right. For every subcontractor that
14 you contend you paid in cash, have you produced, in
15 this case, a cash receipt?

16 A. Yes.

17 Q. Okay. So there are no other subcontractors for
18 whom you paid in cash that we don't have a cash
19 receipt for?

20 A. No.

21 Q. Okay. And if you turn to Exhibit 5, these are
22 all the cash receipts that you submitted in March
23 2018. I want you to review them and just be sure
24 that I'm not missing anything.

25 A. You say 5?

1 Q. 5.

2 A. Okay. I see all of them.

3 Q. Okay.

4 A. Some of them are missing.

5 Q. Some are missing?

6 A. Yep.

7 Q. What's missing?

8 A. Where was it, 5? You say 5?

9 Q. Yes. Exhibit 5.

10 A. Okay. Let me look again.

11 Q. And to simplify it for you, we've got a

12 stipulation from your attorney, Stipulated Exhibit

13 4. It's the same thing as Exhibit 5 in my notebook.

14 And your attorney has stipulated that these are the

15 cash receipts produced on March 18th -- March 19th,

16 2018.

17 And I just want you to look at them and then

18 tell me that you're sure that there are no other

19 cash receipts out there that we don't have.

20 A. Well, you're talking about 2018. I didn't do

21 anything in 2018, any paper. I don't understand why

22 you --

23 Q. Okay.

24 A. -- telling me 2018 all the time.

25 Q. Okay. Let's go to Exhibit 12.

1 A. Are you trying to confuse me or what?

2 Q. No. I'm just moving on.

3 Let's go to Exhibit 12A.

4 A. A.

5 Q. Okay. Second page.

6 A. Okay.

7 Q. You produced three checks from Mark Proctor of

8 Proctor Foundation & Concrete to the Golsons in

9 April of 2017. Are any of these checks

10 representative of a cash payment?

11 A. We already talked to my counsel. And Mr. Davis

12 asked me the same question. I answered it.

13 Q. Answer it again, please.

14 A. I have to answer it again --

15 Q. Yes.

16 A. -- and again --

17 Q. No.

18 A. -- and again --

19 Q. No.

20 A. -- and again?

21 Q. No. Please answer the question.

22 A. Yeah.

23 Q. Yes. Which one?

24 A. \$1,000.

25 Q. Okay. Where is the cash receipt for that

1 \$1,000 check?

2 A. He doesn't have -- didn't give me a receipt.

3 Just -- but he give me quote on the amount.

4 Q. He gave you what?

5 A. The invoice, it say \$10,000.

6 Q. Well, that's interesting, because if you turn
7 to Tab B, Mr. Proctor submitted a subpoena response
8 that shows that -- if you look at it on -- I can
9 flip you to the page in just a minute, where he
10 produces -- Tab B, a check, right here, Check 754,
11 that you said you received for the Golsons' project.
12 You see that, for \$5,500?

13 A. Yeah.

14 Q. And then he also submitted a letter. And he
15 states that he --

16 MR. DAVIS: Objection, Your Honor, as to
17 hearsay as to that.

18 THE COURT: We're talking about what the letter
19 states?

20 MR. DAVIS: Yes.

21 THE COURT: All right. It will be Mark
22 Proctor's letter; is that correct?

23 MS. HEYWARD: Right. Well, I mean, it's
24 essentially the same as producing invoices from Mark
25 Proctor as hearsay. I mean, it's --

1 THE WITNESS: Your Honor, he asked me to --
2 5,500 --

3 MS. HEYWARD: And also, Your Honor, I'm using
4 this document for the purposes of impeachment,
5 because Mr. Mazloom -- we were talking about the
6 cash receipts. We have a thousand-dollar fake
7 check for which there's --

8 THE COURT: Thousand-dollar check.

9 MS. HEYWARD: Thousand-dollar check not drawn
10 on the ARM account for which there's no cash
11 receipt. And we have a subpoena response from
12 Mr. Proctor, which I'm using to impeach Mr. Mazloom
13 when he testified earlier that there is three checks
14 related to the Golsons' project. This letter
15 indicates that only two checks were paid. And
16 there's no cash receipt for the thousand dollars.
17 So that's essentially where we're going with this.

18 THE COURT: Well, essentially, you're not
19 offering it into evidence, but you are using it for
20 the purpose of essentially asking the witness why
21 there's a different number?

22 MS. HEYWARD: Right.

23 THE COURT: All right. I would ask -- I would
24 just keep it to the point of -- I don't want to tell
25 you how to ask your questions. But let's keep

1 exactly what he said in his letter. But you used
2 the meaning of the letter to pose the question I
3 think you're going to ask.

4 MS. HEYWARD: Right. Well --

5 BY MS. HEYWARD:

6 Q. Mr. Mazloom, you testified that you paid
7 Mr. Proctor with two checks -- well, three checks?

8 A. Two checks.

9 Q. Okay. Two checks. So which --

10 A. And in cash.

11 Q. And then in cash. Okay.

12 And have you seen the response, Tab 12B, from
13 Mr. Proctor?

14 A. Okay. What he say?

15 Q. Well, you can read it.

16 MR. DAVIS: Your Honor, I --

17 THE WITNESS: Can I read the --

18 THE COURT: He can review the document. And
19 the question of what did he say sort of defeats what
20 we were just talking about.

21 MS. HEYWARD: Just for the --

22 THE COURT: So he can review the document --

23 MS. HEYWARD: I didn't ask that question, for
24 the record.

25 THE COURT: And, again, in the spirit of -- you

1 know, we'll let them use these documents in their
2 examination to some extent. I would like you to
3 approach the witness and make sure we're focused on
4 the right document.

5 THE WITNESS: I'm reading it.

6 BY MS. HEYWARD:

7 Q. Okay. So you testified that you paid
8 Mr. Proctor three times: Once in cash and two
9 checks?

10 A. Yes.

11 Q. Okay. We received a response from
12 Mr. Proctor --

13 A. Okay.

14 Q. -- which you just reviewed. And has your --
15 has your opinion changed as to how he was paid?

16 A. One time he said 3,500 and 4,000. Okay? And
17 they cashed the check. I have a copy of it. One of
18 them is 3,500 and the other one is 5,500. It's not
19 400. He's wrong about the checks. He answered the
20 subpoena.

21 Q. Okay.

22 A. He is wrong, because we have proof he got a
23 check -- two checks and took it to the bank and
24 cashed it. It was \$9,000, not 7,500.

25 Q. Did you ask Mr. Proctor for a cash receipt?

1 A. No.

2 Q. Okay. But you testified that you --

3 A. Because I have an invoice for \$10,000. And I
4 pay him \$10,000. But he write it down, your
5 subpoena, I pay him 7,500. I have a check already.
6 He took it to the bank and it's \$9,000.

7 Q. Okay. Let's move on.

8 I want to go to Tab 8.

9 THE WITNESS: Do you understand, Judge, what I
10 say?

11 BY MS. HEYWARD:

12 Q. This is White Knoll Heating & Air.

13 THE COURT: I'm sorry, Mr. Mazloom --

14 THE WITNESS: Did you understand what I said?

15 THE COURT: I heard you. I heard you.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you.

18 BY MS. HEYWARD:

19 Q. Are you at Tab 8? Here we go, right here.

20 This is White Knoll Heating & Air. If you go to Tab
21 A, this is the backup submitted by you. You see
22 that?

23 A. Yes.

24 Q. All right. Tab A, we've got an invoice here
25 for \$25,000.

1 A. Yes.

2 Q. See that? And the -- what is the date on that
3 invoice?

4 A. Let me find it. March 23rd, 2017.

5 Q. What is it? I couldn't understand you. Could
6 you repeat that?

7 A. February 23rd, 2017.

8 Q. That's the due date, right? What's the date of
9 the invoice?

10 A. Due date, yeah. I didn't see that.
11 January 24, 2017.

12 Q. That's right. So this is the only invoice you
13 got from White Knoll Heating & Air, correct?

14 A. Yes.

15 Q. Okay. And if you flip to the next page, these
16 are the checks that you submitted to the Golsons --

17 A. Yes.

18 Q. -- as payment for the invoice for \$25,000.
19 The checks, number 768, the first one for
20 \$10,000 --

21 A. Yes.

22 Q. -- is dated August 26th, 2016. Do you see
23 that?

24 A. Yes.

25 Q. All right. If you flip back to the invoice,

1 the invoice is dated January 24th, 2017. And the
2 system costs \$25,000. So why didn't White Knoll
3 Heating & Air credit you the \$10,000 you paid in
4 August 2016 on this invoice?

5 A. Why they have to credit me?

6 Q. You see what I'm saying?

7 A. It costs \$25,000. I don't understand what
8 you're saying.

9 Q. Okay. Let me show you. We're looking at the
10 invoice. It's dated January --

11 A. Yes. I understand.

12 Q. -- 24, 2017.

13 A. Yeah.

14 Q. It's \$25,000.

15 A. Yeah.

16 Q. That's how much you contend you paid in total,
17 correct?

18 A. Yes.

19 Q. All right. That invoice was generated in
20 January of 2017. But you had paid, in August 2016,
21 \$10,000.

22 A. Yes.

23 Q. Which, I think we can all agree, is before
24 January of 2017.

25 A. Yes.

1 Q. Why isn't this invoice crediting you the
2 \$10,000?

3 A. Because I don't need the credit. I got the
4 money. Why they have to give me credit?

5 Q. Well, why wouldn't your --

6 A. He want to buy material and unit. I give him
7 another \$5,000. I give him another 4,500. And I
8 give him, end of it, cash money, 5,500.

9 Q. And that's --

10 A. I don't understand why are you asking me --

11 Q. That's a --

12 A. -- give me credit.

13 Q. -- good point. If the total you paid was
14 \$25,000 --

15 A. Yeah.

16 Q. -- and by the time that invoice was generated
17 in January 2017 --

18 A. The end of his job.

19 Q. -- you had already paid \$10,000 in August,
20 \$5,000 on December 6th --

21 A. Yes.

22 Q. -- and 4,500 on December 29th.

23 A. Yes.

24 Q. Why didn't they show that here --

25 A. What he do?

1 Q. -- as payment received?

2 A. What he do? He write the invoice one time at
3 the finish of job.

4 Q. Okay. That's your testimony?

5 A. Yes.

6 Q. So he wrote the invoice showing that you owed
7 \$25,000 with a due date of February 2017, even
8 though you had already paid it?

9 A. Actually, I don't care what he paid it. I paid
10 him money. And total, at end of it, I pay him
11 money.

12 Q. Okay.

13 A. It's not something, little by little, give me
14 credit.

15 Q. All right. Give me just a minute to confer
16 with Mr. Mullins. I may have a couple questions,
17 but I'm going to try to wrap it up.

18 Okay. Let's go to -- I just want to understand
19 a little more about the process of the cash
20 payments. I believe it's Exhibit 4. Turn to Tab 4.
21 So, if I understand your testimony correctly, you
22 paid subcontractors on this job \$69,812.58 in cash?

23 A. No.

24 Q. Okay. Well, with the exception of Mr. Wise --

25 A. Yes.

1 Q. -- where you say you paid him --

2 A. I pay \$57,812.58.

3 Q. Okay. You paid \$57,812.58 in cash on this job?

4 A. Yes.

5 Q. Okay. Where did the cash come from?

6 A. Is it relevant to this case?

7 Q. Where did the cash that you paid the
8 subcontractors come from?

9 A. It's not relevant to the case how I paid them.

10 THE COURT: Answer the question. Where did
11 the -- well, I'll let you go on --

12 BY MS. HEYWARD:

13 Q. So did it --

14 THE COURT: I mean, let's find out what's
15 really not relevant here.

16 BY MS. HEYWARD:

17 Q. Did the cash payments come out of your ARM
18 Quality Builders bank account?

19 A. No.

20 Q. Well, where did they come out of? If I wanted
21 to match up these cash payments to the subs --

22 A. From my safe.

23 Q. From your safe?

24 A. Yes.

25 Q. Okay. Do you keep an accounting of the cash

1 you keep in your safe?

2 A. Yes.

3 Q. Okay.

4 A. I keep all the time.

5 Q. And is that your personal money?

6 A. Yes.

7 Q. So it's not money that belongs to the company?

8 A. No.

9 Q. Okay. So does the company pay you back for the

10 cash that you pay personally?

11 A. Yes.

12 Q. Okay. So when we see --

13 A. Supposed to pay back if the homeowner pay me my

14 money.

15 Q. Okay.

16 A. Yes.

17 Q. All right. So, just by way of example, Check

18 852 here, you paid Mr. Rodas \$32,753.52 in cash,

19 right?

20 A. Two, three times --

21 Q. Okay.

22 A. -- not one time.

23 Q. Okay. And how much did you pay him the first

24 time?

25 A. You just asked me before.

1 Q. You told me that you paid him two or --
2 A. \$10,000 and...
3 Q. How many times did you pay Mr. Rodas in cash?
4 A. I don't remember.
5 Q. Okay.
6 A. I have a cash receipt for it.
7 Q. How did you deliver the cash? Did you have it
8 in a suitcase?
9 A. He did -- they come -- I didn't pay him \$32,000
10 at the time. He come in and asked \$10,000. He
11 wanted to pay the payroll. He asked for \$5,000. He
12 asked me another time, \$12,000.
13 Q. All right. Well, let's look at the cash
14 receipts that you produced. It's the next Tab over,
15 Tab 5, for Mr. Rodas. They're the first two there.
16 Here, you got one for \$17,753.52.
17 A. Yes.
18 Q. Did you pay him that much money at one time --
19 A. No.
20 Q. -- in cash?
21 A. No.
22 Q. No?
23 A. I pay 10,000, 7,000, 5,000. I don't remember.
24 Total was \$17,753.
25 Q. Okay. And did you --

1 A. And the other one, I paid him \$15,000 cash.
2 Q. At one time?
3 A. Yes.
4 Q. Okay. Did you deliver that to him in a
5 suitcase?
6 A. Why you talking about suitcase? I'm not buying
7 the drugs. He come in my house and I go to my safe
8 and I give him the money.
9 Q. Okay. So you just pull cash -- so when you pay
10 these subs, do they all get -- they all come to your
11 house and get paid? Is that how the transaction
12 occurred?
13 A. Yes. Sometimes in the job.
14 Q. Okay. So all of the subs for whom you paid
15 cash have been to your house?
16 A. All of them, they know my house. I don't
17 remember how many they came to my house, how much I
18 paid in the job.
19 Q. Okay. So you -- but you -- when you paid them
20 in cash, you paid them in cash at your house; is
21 that right?
22 A. You're trying to confuse me or what?
23 Q. Mr. Mazloom, I'm not --
24 A. You want an answer and I answered you already.
25 You coming another way to try to confuse me. I'm

1 too old for that.

2 Q. All right. We can go back to Tab 4 and go
3 through each of them, if you would like.

4 Mr. Proctor, \$1,000 in cash --

5 A. We talk about this already.

6 Q. How --

7 A. Why are you answering -- asking me the question
8 again?

9 MS. HEYWARD: Judge --

10 A. What is --

11 MS. HEYWARD: -- I'm being understanding here.
12 I've let this go on long enough.

13 THE COURT: Okay. The question, I believe,
14 was, have the subcontractors been to your home to
15 receive cash payment?

16 Is that correct?

17 MS. HEYWARD: Right.

18 THE WITNESS: Some of them.

19 THE COURT: Some of them. Okay.

20 THE WITNESS: Yes, sir.

21 THE COURT: What is your next question after
22 that?

23 BY MS. HEYWARD:

24 Q. And you testified in your deposition that you
25 paid all the subcontractors in cash, only on one

1 occasion, with the exception of Mr. Rodas. Is that
2 still correct?

3 A. What?

4 Q. Mr. Rodas is the only subcontractor you paid in
5 cash multiple times?

6 A. No. Several of them --

7 Q. Okay.

8 A. -- I paid cash before. All the time, I deal
9 with them.

10 Q. On the Golsons' project. For work on the
11 Golsons' project.

12 A. Okay. What?

13 Q. Mr. Rodas is the only one you've paid in cash
14 on more than one occasion. That was your testimony
15 during your deposition. Do you recall that?

16 A. I don't remember.

17 Q. Okay.

18 A. Okay?

19 Q. Let's go back to, briefly, the final bill,
20 which is Tab 3. All right. You understand that
21 it's the Golsons' position that this contract was a
22 cost plus a fee with a guaranteed maximum price of
23 \$395,000; isn't that correct? You understand that
24 that's their position, right?

25 A. I don't know what is their position. It's not

1 guarantee. It's a contract. Do you see anyplace --
2 is it guarantee this much money? Doesn't say in the
3 contract.

4 Q. It's your position that this is a cost plus a
5 fee with no ceiling; is that correct?

6 A. What does that mean, no ceiling?

7 Q. It doesn't matter how much money is spent on
8 the project, they just pay.

9 A. Pay by the specification. They give it to me.
10 Yes.

11 Q. Okay. So you understand --

12 A. Yes.

13 Q. -- that -- do you agree with me that if the
14 Court determines that the actual cost on this
15 project -- construction costs on this project do not
16 amount to that much money, \$3,388 -- \$388,998.66, if
17 the Court determines you didn't actually incur those
18 costs, you're not entitled to recover them and
19 you're not entitled to a fee on them, correct?

20 A. What now?

21 Q. If the Court determines you didn't actually
22 spend that much money on the project, they
23 determine, based on the evidence that they hear,
24 that that number is not correct --

25 A. But it is correct.

1 Q. Okay. But assuming that it's -- that the Court
2 determines it's not correct --

3 A. How am I assuming it's correct?

4 Q. -- you're not entitled to recover --

5 THE COURT: Don't talk over each other.

6 BY MS. HEYWARD:

7 Q. You're not entitled to recover the money that
8 wasn't incurred on the project; you agree with that?

9 A. I don't understand your question anyway.

10 Q. Do you agree that you're not entitled to
11 payment from the Golsons for money that were costs
12 that were not actually incurred on the project?

13 A. I'm entitled to it.

14 Q. It's your testimony that --

15 A. It's extra.

16 Q. Okay.

17 A. If they didn't have extra, \$395,000 covers --
18 includes my commission, 15 percent. But they have
19 extra. They have to pay for -- more for it.

20 Q. Okay. But you agree with me --

21 A. More for it.

22 Q. -- that you're not entitled -- the Golsons are
23 not required to pay you for materials you purchased
24 for other projects; you agree with that?

25 A. Yes.

1 Q. You agree that if costs were incurred on this
2 project, you're not entitled to recover them? You
3 can't -- you understand that your job is to prove
4 the construction costs in this case? That's your
5 job.

6 A. Yes..

7 Q. Okay. To the extent you can't prove them,
8 you're not entitled to recover them; you agree with
9 that?

10 MR. DAVIS: Your Honor, I object. That
11 requires this witness to draw a legal conclusion.

12 THE WITNESS: I don't understand this.

13 THE COURT: Well, he's asked to -- several
14 questions have been like, if the Court finds. I
15 think the point your question goes to, if you spent
16 expenses on another project, you're not entitled to
17 be -- do you agree you're not entitled to be
18 recovered, that's one thing.

19 But when you're asking him based upon what I --
20 I mean, he doesn't know what --

21 MS. HEYWARD: Yeah.

22 THE COURT: I don't know. That's --

23 BY MS. HEYWARD:

24 Q. If costs that were not incurred on the Golsons'
25 project are being sought in this case, you're not

1 entitled to recover those.

2 A. What does that mean?

3 Q. I don't know how else to --

4 A. I don't understand the question.

5 Q. Are you entitled to recover costs that were not
6 spent on this job?

7 A. What that mean?

8 Q. Are you entitled --

9 A. I'm not spending their job.

10 Q. If the money wasn't spent on the Golsons'
11 project, under the contract, do you have any legal
12 right to recover it?

13 A. If it's not go for that project?

14 Q. Yes.

15 A. No, I'm not entitled to it.

16 Q. All right. Thank you.

17 THE COURT: All right. We'll kick off redirect
18 first thing in the morning.

19 MR. DAVIS: Okay.

20 THE COURT: Do you anticipate you're going to
21 call an additional witness?

22 MR. DAVIS: No.

23 THE COURT: Okay. So you'll be up after the
24 plaintiff -- well, the plaintiff finishes their case
25 in chief. And then we'll have an opportunity to

1 hear your witnesses in your case in chief. Anything
2 for the record before we depart?

3 MR. MULLINS: No.

4 THE COURT: Okay. We'll see you-all in the
5 morning.

6 (The following proceedings were held
7 December 19, 2019.)

8 THE COURT: Mr. Mazloom, would you like to come
9 back up to the stand?

10 MR. MAZLOOM: Yes, sir.

11 THE COURT: And you're still under oath.

12 MR. MAZLOOM: Yes, sir.

13 THE COURT: Okay. Thank you.

14 When we broke yesterday, Mr. Davis was about to
15 do his redirect. You may proceed.

16 REDIRECT EXAMINATION

17 BY MR. DAVIS:

18 Q. Mr. Mazloom, yesterday -- you were asked about
19 a \$20,000 check from RNG yesterday afternoon.

20 A. Yes, sir.

21 Q. All right. Let me show you -- this is in
22 evidence -- copies of the invoices. This is a
23 portion of the invoices that were issued to you by
24 RNG --

25 MR. MULLINS: What?

1 MR. DAVIS: I'll explain.

2 THE COURT: You said these were already
3 admitted?

4 MR. DAVIS: Yes.

5 THE COURT: They're just excerpts, but not a
6 specific --

7 MR. DAVIS: Yes, sir. These are
8 chronologically dated.

9 THE COURT: Okay.

10 MR. DAVIS: Okay. And --

11 THE COURT: Just for my purposes, this is ARM
12 document 76 through 81.

13 MR. DAVIS: Right.

14 BY MR. DAVIS:

15 Q. Okay. On the -- Mr. Mazloom, there's the first
16 invoice. You should have there, a copy. It says --

17 MR. MULLINS: Your Honor, I'm -- we just got --
18 what exhibit are we --

19 MR. DAVIS: These are the invoices -- a portion
20 of the invoices submitted by RNG, which we
21 stipulated to. And they begin with the July 20th
22 invoice through the November 15th, 2016 invoice.

23 MS. HEYWARD: Is there a reason we can't work
24 from the stipulated exhibits or an exhibit that's
25 already been admitted?

1 MR. DAVIS: This is redirect questions in
2 regards to that \$20,000 check.

3 MS. HEYWARD: I understand. But instead of
4 readmitting, for, like, a second or a third time,
5 the same documents that are in the record, just for
6 ease of reference, can we just work from a set
7 either from the stipulated exhibit notebook...

8 THE COURT: I don't think the purpose is to
9 admit it in evidence. I think he's just -- I think
10 your purpose was to show that it's already been
11 admitted.

12 MR. DAVIS: Yes.

13 THE COURT: But let's just figure out what it
14 is first.

15 MR. MULLINS: Well, yeah. It's -- I mean --

16 THE COURT: Let's just take a --

17 MR. MULLINS: -- it looks familiar --

18 MR. DAVIS: Okay. Okay.

19 MR. MULLINS: -- but I just --

20 THE COURT: I'd like counsel to have a moment
21 to find exactly where we are.

22 MR. DAVIS: Okay.

23 THE COURT: And when you do, you can announce
24 which exhibit we are actually looking at.

25 MR. DAVIS: Let's see here. The total invoices

1 is Plaintiff's Exhibit 27, to clear up the matter.

2 BY MR. DAVIS:

3 Q. The first invoice you have there -- you should
4 have, Mr. Mazloom, is one, at the right-hand bottom,
5 dated July 20th, 2016; is that correct?

6 A. Yes, sir.

7 Q. Okay. Look at the next invoice.

8 THE COURT: Mr. Davis, give us just one second.

9 MR. DAVIS: Okay.

10 THE COURT: I appreciate everyone being here
11 early, but I got to find the document.

12 All right. There we go, 27. Okay. Got it.

13 BY MR. DAVIS:

14 Q. Flip to the next page and see the date of the
15 next invoice?

16 A. 8/20/16.

17 Q. And the next invoice?

18 A. 8/25/16.

19 Q. Next invoice?

20 A. 10/05/16.

21 Q. Next invoice?

22 A. 11/10/16.

23 Q. Next invoice?

24 A. 11/15/16.

25 Q. Okay. I'm going to hand up to you a tabulation

1 I did of those invoices. I would like for you to
2 look at my tabulation and look at the amounts on
3 these invoices. And, if you agree, tell me if this
4 tabulation reflects the total figure on those
5 invoices. Okay?

6 A. Okay.

7 THE COURT: What is that, a receipt?

8 MR. DAVIS: No, sir. It's a -- no, Your Honor.
9 It's just using a calculation --

10 MR. MULLINS: I have no idea what --

11 THE COURT: Just go show it to Mr. Mullins.

12 MR. DAVIS: Sure.

13 THE COURT: While they're reviewing, is there
14 intent to admit the tabulation?

15 MR. DAVIS: No, Your Honor. It was to speed up
16 what we're -- so I wouldn't have to hand him up a
17 calculator and do it.

18 BY MR. DAVIS:

19 Q. Okay. Carefully look at the invoices and see
20 if those calculations reflect --

21 A. Yes, sir.

22 Q. -- what's on those invoices.

23 A. Yes.

24 Q. Okay. And what is that figure?

25 A. \$107,080.16.

1 Q. 107,080. Okay. And those invoices, the one on
2 top, what's the date of it?

3 A. 7/20/16.

4 Q. Okay. And the last invoice, what's the date?

5 A. It was 11/15/16.

6 Q. What's that?

7 A. 11/15/16.

8 THE COURT: For the Court's benefit, could you
9 please repeat the amount it added up to.

10 BY MR. DAVIS:

11 Q. \$107,080; is that correct?

12 A. Yes, and 16 cents.

13 Q. Okay. And, what, 16 cents?

14 A. Yes.

15 Q. Okay.

16 THE COURT: Now, which exhibit is this?

17 MR. DAVIS: This is a portion of Plaintiff's
18 27.

19 THE COURT: Another portion?

20 MR. DAVIS: Yes.

21 THE COURT: Okay.

22 BY MR. DAVIS:

23 Q. All right. Mr. Mazloom, I've given you copies
24 of checks that were written to Mr. Rodas.

25 A. Yes, sir.

1 Q. Okay. On the first page, at the top of what
2 you have on the first page --
3 A. \$6,000.
4 Q. All right. What is the date of that invoice?
5 A. July --
6 Q. I mean -- strike that.
7 What is the date of that check?
8 A. July 29th, 2016.
9 Q. Okay. And the next check written is what date?
10 A. August 5, '16.
11 Q. And the next check?
12 A. September 2nd, '16.
13 Q. And the next one?
14 A. September 21st, '16.
15 Q. Flip to the second page.
16 A. October 1st, '16; October 5th, '16.
17 Q. Flip to the third page. And I want you to --
18 you just went through October. Are there any checks
19 on the third page in November?
20 A. Yes.
21 Q. Third page.
22 A. Yes.
23 Q. And what is the date --
24 A. November 16.
25 Q. November 16th, 2016?

1 A. Yes.

2 Q. Okay. I've done a calculation on this. I want
3 you to take my calculation and carefully make sure
4 that those -- what I've typed or whatever on this
5 piece of paper reflects the check amounts that were
6 written July 2016 through November 15th, 2016.

7 A. Yes.

8 Q. Okay.

9 A. Some of them are missing.

10 Q. Okay. We're only dealing with July through
11 November of 2016.

12 A. Yes, sir.

13 Q. And what is the amount of that?

14 A. \$107,200.

15 Q. Okay. So between July 2016 and November 2016,
16 what was -- the invoices and the checks match up
17 within \$100; is that correct?

18 A. Yes, sir.

19 Q. All right. Thank you, sir.

20 THE COURT: Mr. Davis, just so I'm clear, the
21 tabulation for the pictures of the checks --

22 MR. DAVIS: Yes.

23 THE COURT: -- 107,000 what?

24 MR. DAVIS: \$200.

25 THE COURT: 200?

1 MR. DAVIS: Yes, sir.

2 THE COURT: Okay.

3 BY MR. DAVIS:

4 Q. Mr. Mazloom, one of you --

5 THE COURT: Mr. Davis, if you would, once
6 again, just tell me what we're taking this excerpt
7 from.

8 MR. DAVIS: Yes, sir. Okay. Exhibit 23.

9 THE COURT: Thank you.

10 BY MR. DAVIS:

11 Q. Mr. Mazloom, in front of you is a document from
12 Proctor Foundation & Concrete, LLC, correct?

13 A. Yes, sir.

14 Q. And there's a numerical number on that document
15 up in the right-hand side.

16 A. Yes.

17 Q. What is the number, right-hand side top?

18 A. On the top?

19 Q. Yes, sir.

20 A. 8,000 --

21 Q. No, sir.

22 A. -- 900 -- 1452.

23 Q. Okay. And that was -- this document was billed
24 to your company?

25 A. Yes.

1 Q. Okay. How about read, if you can, the first
2 entry on that document, the -- as to the description
3 of work.

4 A. I cannot read it.

5 Q. How about if -- it looks like layout, dig, and
6 something footing.

7 A. Pool footing.

8 Q. Okay. Original price. And what is the dollar
9 figure there?

10 A. \$8,985.

11 Q. Okay. And what is the next entry?

12 A. Extra cement and labor for the bad dirt.

13 Q. Okay. For bad dirt. And what was the total
14 bill?

15 A. \$1,015.

16 Q. No, sir; at the bottom.

17 A. \$10,000.

18 Q. How much?

19 A. \$10,000.

20 Q. Okay. Flip to the second page. And there are
21 three -- there's, well, really three checks there.
22 And they total what figure?

23 A. 10,000.

24 Q. Okay.

25 MR. DAVIS: This is a joint stipulated exhibit.

1 THE COURT: Okay. Thank you. So this is from
2 Joint Stipulated Exhibit 3.

3 BY MR. DAVIS:

4 Q. I'll show you this. It's a joint stipulated
5 exhibit. Take a chance to look at it.

6 A. I did.

7 Q. Okay.

8 THE COURT: Timeout. The numbers are off.

9 MR. DAVIS: Okay. Let me -- let me find the
10 correct one and I'll -- so I won't slow the Court
11 down.

12 THE COURT: You can just take it out of the
13 binder, if you would like.

14 MR. DAVIS: Okay. It's this --

15 THE WITNESS: May I have a copy of it?

16 THE COURT: Sir?

17 THE WITNESS: May I have a copy of it?

18 THE COURT: He does have a copy of it.

19 MR. DAVIS: Okay. That's good.

20 THE COURT: Everybody understand where we are?

21 MR. MULLINS: We're looking at --

22 MR. DAVIS: It is, Mr. Mullins --

23 (Off-the-record discussion.)

24 THE COURT: And just since we're -- it's only
25 9:40 in the morning. Let's make an effort today to

1 try not to talk over each other and maintain the
2 sanity of the person who is taking down the record.

3 MR. DAVIS: Yes, Your Honor.

4 BY MR. DAVIS:

5 Q. Mr. Mazloom, this is a listing of various
6 subcontractors, correct?

7 A. Yes.

8 Q. Okay. On the right-hand side is an amount.
9 The right-hand side.

10 A. Yes.

11 Q. Okay. And you testified earlier that those
12 figures were correct except for the Harvey Wise --

13 A. Yes.

14 Q. -- portion.

15 Okay. And this would reflect those -- those
16 numbers would reflect those checks you wrote to --
17 for your purposes, to denote what the cash payment
18 was, correct?

19 A. Yes, sir.

20 Q. Okay. Left-hand side, there's a date category.
21 Okay? Correct?

22 A. Yes.

23 Q. And a lot of these checks, some at the very top
24 were done in late 2016; rest of them were in 2017.

25 Why that time period?

1 A. Because of what I paid them.

2 Q. That's what you paid them?

3 A. When I finished the house. During the
4 construction, they finish their job --

5 Q. Yes.

6 A. -- and I pay them money. And when I finished
7 the house, I paid the rest of what I owed them.

8 Q. Okay. And those checks were -- the check
9 numbers are in chronological order, are they not,
10 mostly?

11 A. Yes.

12 Q. Okay. All right. This is like your final
13 tabulation here?

14 A. Yeah. That number reflects to my cash money I
15 paid them.

16 Q. Right. The -- on the check number, they're in
17 chronological order, mainly: 843, 844, 845.

18 A. Yes, sir.

19 Q. Okay. All right. Yesterday there was some
20 testimony about -- I think the name was Gore; some
21 project by Mr. Gore.

22 A. Yeah.

23 Q. What was that again?

24 A. That was the -- they add to the porch --

25 Q. Okay.

1 A. -- and different job.

2 Q. And what was your involvement with that one?

3 A. Just I got the Nery and --

4 Q. You did what?

5 A. I got the subcontractor and -- over there. And
6 I buy the material for them.

7 Q. Okay. All right. So that subcontractor worked
8 on that project?

9 A. Yes.

10 Q. Not you?

11 A. No, because I built their house.

12 Q. I see.

13 MR. DAVIS: Your Honor, I think that's it.

14 THE COURT: All right. Any recross?

15 MS. HEYWARD: No, Your Honor.

16 THE COURT: All right. The witness may step
17 down.

18 Mr. Davis, you don't have any more witnesses,
19 correct?

20 MR. DAVIS: No, Your Honor.

21 THE COURT: All right. The plaintiff rests?

22 MR. DAVIS: Yes, Your Honor.

23 THE COURT: All right.

24 Anything we need to take up before the
25 defendant begins their case in chief?

1 MR. DAVIS: No.

2 MS. HEYWARD: Your Honor, Mr. Crolley is here
3 with A&D Fabrications. So we'd like to call him as
4 our first witness.

5 THE COURT: Very well.

6 Let me ask y'all a quick question up here.

7 (Sidebar conference.)

8 RICHARD CROLLEY

9 being first duly sworn, testified as follows:

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: Please be seated in the witness
12 stand. When you're seated, please state your name,
13 spelling your last name, for the record.

14 THE WITNESS: Richard Glen Crolley, Sr.,
15 C-R-O-L-L-E-Y.

16 THE COURT: Good morning.

17 THE WITNESS: Good morning.

18 DIRECT EXAMINATION

19 BY MS. HEYWARD:

20 Q. Good morning, Mr. Crolley.

21 A. Good morning.

22 Q. Would you please state your name for the
23 record.

24 A. Richard Glen Crolley, Sr.

25 Q. And are you owner of A&D Fabrication?

1 A. Half owner.

2 Q. Okay. Did you work on the Golsons' project?

3 A. Yes, ma'am.

4 Q. Okay. You worked on their house in 2016; is
5 that right?

6 A. I can't remember the date. But...

7 Q. Okay. What work did you do for the Golsons?

8 A. I did the handrails.

9 Q. Do you recall having your deposition taken in
10 this matter?

11 A. Uh-huh.

12 Q. Okay. When we have -- up here -- I know these
13 documents are a little bit all over the place.

14 MS. HEYWARD: Do you mind if I organize this
15 for him?

16 THE COURT: Go ahead. Take your time to do
17 what you need to do.

18 BY MS. HEYWARD:

19 Q. All right. I'd like you to turn to Tab 6. I
20 turned to it for you right there. But, for the
21 Court's benefit, we're looking at Tab 6 in
22 Defendant's exhibit notebook. Turn to Tab A in that
23 notebook, if you wouldn't mind.

24 A. All right.

25 Q. Then I want you to flip to the second page.

1 All right. Mr. Crolley, first, I want to ask you,
2 did Mr. Mazloom ever pay you in cash for the
3 Golsons' project?

4 A. No.

5 Q. And you're certain as to that?

6 A. Yes.

7 Q. How did he pay you?

8 A. It was a check.

9 Q. Do you remember how much he paid you?

10 A. No.

11 Q. Check No. 850 on ARM66, which is in front of
12 you, for \$3,600, do you recognize that check?

13 A. No, ma'am.

14 Q. Okay. You've never seen it before?

15 A. (Nonverbal response).

16 Q. Do you know what that \$3,600 check relates to?

17 A. No.

18 Q. Okay. What about the \$1,200 check above it?

19 A. That could have been for the handrails.

20 Q. Okay. And when you say the handrails, are you
21 referring to the handrails on the Golsons' project?

22 A. Yes.

23 Q. Okay. And what about the \$200 check at the
24 very bottom? Is that for the Golsons' project?

25 A. Yeah. To recollect, they did all the rails and

1 then wanted to add one on the front.

2 Q. Okay.

3 A. It could have been for that.

4 Q. All right. And did Mr. Mazloom always write
5 you a check out of the ARM Quality Builders'
6 account?

7 A. Yeah.

8 Q. Okay. So if you were paid any more on this
9 project, we would -- there would be some kind of
10 check available through a bank record, whether your
11 bank records --

12 A. Yeah.

13 Q. Okay. I want you to flip over to -- well, I'm
14 sorry. Let's -- let's flip to the next page.
15 There's a second page of checks there. Did you work
16 on any other projects for Mr. Mazloom in 2016?

17 A. Probably.

18 Q. Okay. Did you work on his son's house?

19 A. Yes.

20 Q. Okay. Did you work on his brother's house?

21 A. I don't remember.

22 Q. Okay. Does the address at Pompeii Road --

23 A. I can't remember.

24 Q. Okay. What did you do at his son's house?

25 A. The deck on the back porch.

1 Q. Do you recall about the time frame that you did
2 that work?

3 A. I don't have a clue.

4 Q. Okay. Do you recall how much -- did
5 Mr. Mazloom pay you in a check for that work?

6 A. He did.

7 Q. Okay. Check No. 767 here for \$2,000, do you
8 know what project that relates to?

9 A. All of them is dated the 16th -- the year,
10 2016. I can't remember that far back.

11 Q. Okay. Could it -- is it possible that that
12 check relates to a project other than the Golsons'?

13 A. It's possible.

14 Q. Okay. What about the other checks on this
15 page? Do you -- can you account for what projects
16 those relate to?

17 A. No, ma'am.

18 Q. Okay. So they -- so you can't say with any
19 certainty that they relate to the Golsons' project?

20 A. No, I can't.

21 Q. Okay. But you do remember the \$200 check on
22 the first page relates to the Golsons' project. But
23 that's all you can remember?

24 A. That's just a small handrail, three foot or
25 something. Shouldn't have been more than that.

1 Yeah.

2 Q. Okay. When you would go to the Golsons'
3 project to do the work, when would you send an
4 invoice for that work?

5 A. As soon as we got done.

6 Q. Okay. And you would only send one invoice; is
7 that right?

8 A. Yes, ma'am.

9 Q. Okay. And would that invoice have been paid
10 all at one time?

11 A. Yes.

12 Q. Yes. So there would be only one check per
13 invoice; is that correct?

14 A. Should be, yes.

15 Q. And do you remember issuing more than one
16 invoice on this project?

17 A. Well, it would have been two of them: One for
18 the side and the back and then one for the front.

19 Q. Okay. So is it fair to say that there would
20 only be two checks that relate to this project?

21 A. Yes.

22 Q. Okay. Can you ballpark -- do you recall how
23 much the work that you did would have cost?

24 A. No.

25 Q. Okay. You just don't have the records; is that

1 right?

2 A. Or the memory.

3 Q. Okay. You don't remember?

4 A. No.

5 Q. It was a long time ago?

6 A. Yeah.

7 Q. Okay. So we would only see two checks for this
8 one project?

9 A. Should be. Yeah.

10 Q. So it's fair to say that the checks here,
11 ARM66, ARM67, those relate to more than one project;
12 not all of them would be for the Golsons?

13 A. What do you mean 66, 67?

14 Q. I'm sorry. If you look at the bottom
15 right-hand corner of the page, there's some
16 identifying numbers.

17 A. Oh.

18 Q. Is it fair to say that these checks relate to
19 more than one project?

20 A. Oh, yes.

21 Q. Okay. Has Mr. Mazloom contacted you since you
22 finished your work on the project?

23 A. I haven't talked with him.

24 Q. You haven't talked to him.

25 Okay. What about since your deposition?

1 A. No.

2 Q. He hasn't. He hasn't called you or anything?

3 A. Huh-uh.

4 Q. Okay. Let's flip to Tab B, the next Tab over.

5 Do you recognize this document?

6 A. Not really. No.

7 Q. Okay. Do you remember sending me a subpoena
8 response in this case for documents?

9 A. Do I remember signing one?

10 Q. Sending me documents in response to a documents
11 subpoena.

12 A. No, I don't remember that.

13 Q. Okay. This is the document, I'll represent to
14 you, that you sent to me in response to subpoena.

15 And we deposed you about it. Would it be helpful
16 for you to review your testimony regarding that?

17 A. That would be fine.

18 Q. Okay. It would be helpful?

19 A. Anything would be.

20 Q. Okay. Sure.

21 MS. HEYWARD: Do you have a copy of his
22 deposition?

23 MR. DAVIS: I do.

24 MR. MULLINS: I think I'm supposed to make some
25 dramatic representation that I'm unsealing the

1 original.

2 THE COURT: Is there a copy for me to refer to
3 as well?

4 MR. MULLINS: I'm not sure, Judge.

5 MR. DAVIS: Let's see if we have a copy.

6 MS. HEYWARD: I've got a highlighted version.

7 THE COURT: That's okay. I --

8 MR. DAVIS: We have a condensed copy.

9 THE COURT: That's great. Thank you.

10 MS. HEYWARD: Okay. Judge, do you have a copy
11 of the --

12 THE COURT: I have a condensed version of the
13 deposition, yes. March 20th, 2018.

14 MS. HEYWARD: Yes.

15 All right. We're going to turn to page 70, so
16 everyone knows where we're going.

17 BY MS. HEYWARD:

18 Q. Okay. I've got an original copy of your
19 deposition and then an original copy of Exhibit 5
20 from your deposition.

21 THE COURT: Which page are we on?

22 MS. HEYWARD: We're on page 70.

23 BY MS. HEYWARD:

24 Q. Okay. Here, I say: Let me show you Exhibit 5.
25 If you want to go -- if you want to, read your

1 deposition and see if you can refresh your
2 recollection. Let me know when you're ready.

3 A. Oh, I'm fine.

4 Q. Okay. So do you recall now in your deposition
5 you -- we talked about your subpoena response, which
6 is your deposition Exhibit 5?

7 A. About this ticket here?

8 Q. No. Deposition Exhibit 5, this one right here.

9 A. Okay. Yeah. About which ticket I usually
10 write?

11 Q. Right.

12 A. Yeah.

13 Q. And you provided that to me, as you testified
14 in your deposition --

15 A. Yeah.

16 Q. -- in response to a subpoena, right?

17 A. Yeah.

18 Q. Okay. Do you recall -- well, is that a
19 photograph?

20 A. This?

21 Q. The Deposition Exhibit 5, yes, which is -- a
22 photocopy of it is provided in Tab B.

23 A. Yes.

24 Q. Okay. And what is this a photograph of?

25 A. Two tickets.

1 Q. Okay. And what are the two tickets? What does
2 each ticket represent?

3 A. When you sell something, you write a ticket.

4 Q. Okay. Are they your tickets?

5 A. The one to the left is.

6 Q. The one on the left is your ticket --

7 A. Yeah.

8 Q. -- the blank ticket?

9 Okay. Is the one on the right your ticket?

10 A. Don't look nothing like my tickets.

11 Q. Okay. Where did that come from?

12 A. I don't know.

13 Q. Okay. Did Ahmad give it to you?

14 A. It's possible.

15 Q. Okay. Did you -- did you -- is that your
16 handwriting on the ticket?

17 A. The ARM 207 Libby Lane deck for porch is.

18 Q. Okay. But you didn't write the 13,000?

19 A. No.

20 Q. Okay.

21 A. And the paid invoice, I didn't write that
22 either.

23 Q. Okay. And you provided me this photograph as a
24 comparison, correct?

25 A. Uh-huh.

1 Q. To compare the invoices that you normally
2 use --
3 A. Uh-huh.
4 Q. -- or the paper you normally write an invoice
5 on --
6 A. Yes.
7 Q. -- and Mr. Mazloom's invoice?
8 Okay. So it's your testimony you didn't write
9 the \$13,000 figure?
10 A. No, I didn't.
11 Q. Okay.
12 A. Except for the ARM and the deck, that was all.
13 Q. Okay.
14 A. That's my writing there.
15 Q. All right.
16 A. As far as the numbers and the paid and my name,
17 you see they don't match up.
18 Q. Do you recall when you wrote that ticket?
19 A. No.
20 Q. Was it after you finished work on the project?
21 A. I can't answer that.
22 Q. Okay.
23 A. Because I would...
24 Q. Okay. Did Mr. Mazloom ever ask you to write a
25 cash receipt for him?

1 A. No --

2 Q. He hasn't?

3 A. -- not that I remember.

4 Q. Not that you remember?

5 A. No.

6 Q. Okay. Would it be helpful for you to review

7 your deposition testimony regarding that?

8 A. Yeah. That's fine.

9 Q. All right. Let's see if I can point you to it.

10 It would be Exhibit 2. Let me look at my condensed

11 transcript so I can get you there quicker.

12 All right. I'm going to direct you to pages 12

13 through 19 of your deposition. I'd like you to read

14 those pages to yourself.

15 A. You're talking about writing this ticket,

16 right?

17 Q. Yes. This is the original Exhibit 2 to your

18 deposition.

19 A. Yeah.

20 Q. And if you go read page 12 -- just go ahead and

21 read, in full, pages 12 through 19. And let me know

22 when you --

23 A. Well, I don't need to read them because this

24 ticket is no good.

25 Q. Okay. And what is -- so if you turn to Tab --

1 A. And that's what I said in the deposition; it
2 wasn't no good.

3 Q. Right. And I just wanted to refresh your
4 recollection on that.

5 A. Yeah.

6 Q. This is what I represented to you was a cash
7 receipt. Is that what you understand it to be?

8 A. Okay. Well, I'll go with that then.

9 Q. Okay. This is Tab 6D of the notebook that I
10 gave you.

11 A. Uh-huh.

12 Q. If you don't need the deposition, you can just
13 set it to the side.

14 Okay. And this is a copy -- 6D is a copy of
15 your deposition Exhibit No. 2; is that right?

16 A. Yeah.

17 Q. Okay. And I'll go ahead and get you the 6D.

18 All right. When -- is this your handwriting on
19 6D?

20 A. Yes.

21 Q. Okay. When did you write that?

22 A. About three weeks before I come over to y'all's
23 deposition.

24 Q. Okay. So that -- so Ahmad contacted you after
25 the project; is that right?

1 A. Yes.

2 Q. Okay. How did he contact you? Did he call
3 you?

4 A. Called on the phone, come to the shop.

5 Q. Okay.

6 A. And I got tired of being aggravated, so I went
7 ahead and wrote the ticket.

8 Q. How many times did he call you?

9 A. Several.

10 Q. Okay. And how many times did he come to the
11 shop?

12 A. Just that once.

13 Q. Okay. And so, in advance of your deposition,
14 you wrote this ticket that he asked you to create;
15 is that right?

16 A. Yes.

17 Q. And who came up with the \$3,600 number on this
18 ticket?

19 A. He did.

20 Q. Okay. And who came up -- the date on this
21 ticket is January 29th, 2017.

22 A. He did.

23 Q. He came up with that date?

24 Okay. But you didn't write this on
25 January 29th, 2017?

1 A. Oh, no.

2 Q. Okay. And so you refer to this as a dead
3 ticket; is that right?

4 A. Yeah, because it don't have the invoice number
5 on it.

6 Q. Okay. And you -- when it says fabricated HR,
7 were you paid in cash? There's an indication there
8 that says it was paid in cash.

9 A. That's what he wanted me to write on it.

10 Q. Okay. But you testified earlier that you
11 weren't paid in cash.

12 A. I wasn't paid nothing. This -- there was -- he
13 just wanted this ticket. And he got in his truck
14 and he left. That was it.

15 Q. Okay. Did he tell you why he wanted the
16 ticket?

17 A. I really didn't ask.

18 Q. You didn't ask?

19 A. Huh-uh.

20 Q. Okay. And did he contact you about your
21 testimony here today in trial?

22 A. He was asking me about it, yeah, when I had to
23 fix a chair for him.

24 Q. Okay. What did he ask you?

25 A. Just -- I really can't remember, but it was

1 about the trial.

2 Q. Okay. Did he ask you to testify differently
3 than you did in your deposition?

4 A. If he did, I don't remember.

5 Q. Okay.

6 A. But I wouldn't have anyway because I'm not
7 going to lie for nobody.

8 Q. Okay. But you don't remember if he asked you
9 to lie?

10 A. No, I don't.

11 Q. Okay. When did that conversation occur?

12 A. I can't remember.

13 Q. Okay. Did you ever do work on Mr. Mazloom's
14 house?

15 A. Who?

16 Q. Ahmad's house.

17 A. Yeah.

18 Q. Okay. And you fabricated handrails around his
19 pool; is that correct?

20 A. Well, I did those and some, like, gates -- gate
21 things that go in the -- where his courtyard is.

22 Q. And you were paid in checks for that work; is
23 that correct?

24 A. Yes.

25 Q. And was that around the same time you were

1 working on the Golsons' project?

2 A. I don't know.

3 Q. Okay. It was just so long ago?

4 A. Yeah. Give me just a minute and I'll tell you

5 when it was. March 20th, 2018.

6 Q. Okay. So that's when you did the work on

7 Mr. Mazloom's house?

8 A. Whose house?

9 Q. Ahmad's.

10 A. Yeah.

11 Q. Okay.

12 A. There's pictures to it.

13 Q. All right. And do you have any other pictures

14 related to any other projects you worked on for

15 Ahmad?

16 A. My son does all that.

17 Q. Okay.

18 A. I just liked those, so I took it.

19 Q. So if I understand your testimony correctly,

20 you did not write \$13,000 on Tab 6A, ARM65? You

21 didn't write that figure?

22 A. Huh-uh.

23 Q. Okay. And you --

24 A. No.

25 Q. And you wrote --

1 A. I wrote this whole ticket.

2 Q. Tab D, you wrote this cash receipt. But that's
3 for work that you didn't do?

4 A. Oh, that was just to get him out my shop and
5 leave me alone.

6 Q. Okay. But it's, essentially, a fake ticket?

7 A. It's fake. Yeah. It ain't no good.

8 Q. And you weren't paid cash for that?

9 A. I wasn't paid nothing for it.

10 Q. Okay. And the most you were paid on this
11 project was two checks for the Golson project?

12 A. That's all I remember I got. Yeah.

13 Q. Okay. But there's no way that you were paid
14 one, two, three, four, five six, seven -- on seven
15 occasions on this project?

16 A. On her house?

17 Q. On the Golsons'?

18 A. It wasn't that much work to do.

19 Q. Thank you. Please answer any questions
20 Mr. Davis has.

21 THE COURT: Cross-examination?

22 MR. DAVIS: Thank you, Your Honor. May it
23 please the Court?

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

1 BY MR. DAVIS:

2 Q. You pronounce your last name what?

3 A. Crolley.

4 Q. Crolley. Mr. Crolley, you just testified --
5 this last question was, you didn't have that much
6 work, \$13,000, I believe, all these checks, is what
7 you said; is that correct?

8 A. Yeah. It wasn't that much out there.

9 Q. All right. But I want to make sure we're clear
10 on this.

11 A. Okay.

12 Q. You're saying -- I think counsel indicated
13 there were like five, six, seven checks, and you
14 didn't have that number -- you didn't have that
15 amount of money in this project?

16 A. No.

17 Q. Is that correct?

18 A. Yeah.

19 Q. Okay. What was your initial work you were to
20 do on this project?

21 A. We just did the handrails.

22 Q. Handrails on what?

23 A. Her house.

24 Q. Her house. And what was the handrail on?

25 A. It was on the side porch and the back porch.

1 Q. All right. And the initial work on this house,
2 your testimony is what, as to what you were hired to
3 do?

4 A. Do the handrail.

5 Q. Handrail on what?

6 A. On the side porch and the back porch.

7 Q. Okay. Was any additional work required?

8 A. Not as I know of.

9 Q. No additional work?

10 A. Except for that front rail.

11 Q. What about the garage?

12 A. That garage rail goes with the original house.

13 Q. Okay. You had a handrail on some sort of deck;
14 you had a handrail on the garage; you had a handrail
15 on the porch -- two porches, did you not?

16 A. It was a back porch and then the little side
17 porch.

18 Q. Okay. So you had additional work you had to do
19 on the house? You had to go back a second time; is
20 that correct?

21 A. To do the front porch.

22 Q. Okay. You remember, in your deposition, I
23 asked you on page 14 of your deposition, line --
24 here we go, page 14, line 18. Let me read it to
25 you.

1 A. Okay.

2 Q. There's a reference to a \$13,000 figure right
3 above there. And I asked you -- or counsel beside
4 me may have asked you: Is that how much you were
5 paid? I don't -- what was your answer?

6 A. I don't know.

7 Q. Look at it. It's right there, line 15.

8 A. I don't have a clue.

9 Q. You don't what?

10 A. I don't have a clue.

11 Q. Okay. So you don't know how much you'd been
12 paid; is that correct?

13 A. That's what it says.

14 Q. Okay. And look on this big notebook. Look
15 on -- under Tab -- these things are numbered.
16 There's a 9 and then there's an A.

17 THE COURT: You're in the Defense binder?

18 MR. DAVIS: On the trial notebook.

19 THE COURT: Okay.

20 MR. DAVIS: Trial exhibits, I should say.

21 MS. HEYWARD: Tab 9 refers to Mr. Rodas.

22 THE WITNESS: I got air condition ducts.

23 MR. DAVIS: Nope. I'm sorry. This thing here
24 I got says -- it's not a 9; it's a 6. I was upside
25 down there. So it's 6.

1 THE COURT: Okay.

2 BY MR. DAVIS:

3 Q. And look at 6A. Okay? You got that?

4 A. Yeah.

5 Q. Okay. It says: Invoice 048852. Correct?

6 A. Yep.

7 Q. Okay. It's handwritten in: Rick Crolley.

8 Correct?

9 A. Yes.

10 Q. And it says: Sold to ARM?

11 A. Yes.

12 Q. And it says: Deck for porch. Correct?

13 A. Yeah.

14 Q. \$13,000, paid September 23rd, 2016?

15 A. Yeah.

16 Q. Is that yours?

17 A. I wrote -- that's what I told her, that I wrote
18 the ARM, the 207 Libby Lane, and deck for porch.

19 Q. Okay. So you didn't have a clue what the bill
20 was, whether it was 13 or what; is that what you're
21 saying?

22 A. Yeah. I didn't write that in.

23 Q. Okay. Well, let's go over to -- if you'll flip
24 over to the next page which, at the bottom, it says
25 ARM66, 67, there are one, two, three, four, five,

1 six, seven checks.

2 A. Okay.

3 Q. Okay. Excluding the check on page -- on ARM66,
4 the second check, number 850, which is the \$3,600 --

5 A. Uh-huh.

6 Q. Exclude that check.

7 MR. DAVIS: Your Honor, this would be under --
8 under --

9 THE COURT: I'm with you.

10 BY MR. DAVIS:

11 Q. Okay. If you exclude the January 23rd, 2017
12 check of \$3,600, if you add up the other checks on
13 those two pages, ARM66 and 67, see if it comes to
14 \$13,000.

15 A. Comes up to ten-four.

16 Q. And then the 36 would be what?

17 A. More than 13.

18 Q. Okay. So you -- these are -- are you denying
19 that you got these checks on 66 and 67? I know you
20 denied number 850, the 3,600. Are you denying you
21 got these other checks?

22 A. No. I didn't say I denied it.

23 Q. Okay.

24 A. I just said it probably wasn't for their house.

25 Q. Counsel asked you the specific question that

1 there were, like, six or seven checks here. And you
2 said it wasn't that many, but maybe two or
3 something.

4 A. Yeah.

5 Q. So are you -- these checks, are you saying you
6 got them or you didn't get them?

7 A. If I got them, they were probably for different
8 jobs.

9 Q. Okay. Now, you indicated that Mr. Mazloom came
10 to you with what I'll mark as -- or came to see you
11 about a cash payment that he made to you. And
12 you've testified under oath that you did not receive
13 that cash payment.

14 A. Yeah.

15 Q. Okay. That's -- and he came to you. And you
16 know his testimony is that you did?

17 A. Well, I got a witness saying I didn't.

18 Q. I didn't ask you that question. I said --

19 A. Well, I thought I'd throw that in there.

20 Q. I'm just telling you he asked you -- he said
21 that he gave you a cash payment.

22 A. No.

23 Q. I want to know, on Exhibit 40, who prepared
24 this document.

25 A. I did.

1 Q. Okay. And who entered AD Fab on that document?
2 A. I did.
3 Q. And who dated that document?
4 A. I did. I did the whole ticket.
5 Q. Who put the \$3,600 figure in there?
6 A. I did, because that's what he --
7 Q. And you --
8 A. -- asked me to write.
9 Q. No. I -- who put it in there?
10 A. I did.
11 Q. And who wrote on there cash?
12 A. I did exactly what he asked.
13 Q. So you had a choice. And your -- and what
14 you've told me and what you've testified to is that
15 you got no cash. This gentleman said you did. And
16 what you did is not what you have said.
17 This -- don't you believe that this is a
18 fraudulent invoice and you didn't tell the truth
19 when you wrote this on that piece of paper?
20 A. I know it's a fraud because it ain't got no
21 invoice number on it.
22 Q. No. You wrote a fraudulent invoice; is what
23 you're saying?
24 A. And I didn't get paid for it either.
25 Q. All right. He says you did.

1 A. He lied.

2 Q. My question deals with, who did this document?

3 A. I did.

4 Q. Okay.

5 THE WITNESS: Am I on trial here or...

6 THE COURT: Just keep answering the questions.

7 THE WITNESS: Okay.

8 MR. DAVIS: That's all I have for this witness.

9 THE COURT: Any redirect?

10 MS. HEYWARD: Just one question, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. HEYWARD:

13 Q. Mr. Crolley, I'm sorry that you've had to go
14 through this and that you're in a position where you
15 have to come testify today. I just have one more
16 question for you.

17 If you turn to your notebook, look at Tab D,
18 that cash receipt that Mr. Davis was just talking to
19 you about. When Mr. Mazloom asked you to draft that
20 document, you told him that it was --

21 MR. DAVIS: Your Honor, may it please the
22 Court? Would they identify what document we're
23 talking about?

24 THE COURT: Tab D.

25 MR. DAVIS: Okay.

1 THE COURT: And I wanted to make sure he was
2 looking at the document.

3 MR. DAVIS: This would be what now? I'm sorry.

4 MS. HEYWARD: D, 6D.

5 BY MS. HEYWARD:

6 Q. You told Mr. Mazloom that that was a bad idea
7 at the time, didn't you?

8 A. Uh-huh.

9 MS. HEYWARD: No further questions.

10 THE COURT: Any recross?

11 RECCROSS-EXAMINATION

12 BY MR. DAVIS:

13 Q. What was a -- what was a bad idea?

14 A. To write this here.

15 Q. Okay.

16 THE WITNESS: Is that it?

17 THE COURT: Hold on.

18 Anything else?

19 MR. DAVIS: I was thinking a second.

20 THE COURT: All right. Take a moment.

21 MR. DAVIS: Thank you, sir.

22 BY MR. DAVIS:

23 Q. So it was a bad idea; is that what you said?

24 A. Uh-huh.

25 Q. Okay. But you've put your ink on a piece of

1 paper where you said you got a cash payment?

2 MS. HEYWARD: Your Honor, that's been asked and
3 answered. This witness has already answered the
4 question over and over again.

5 MR. DAVIS: No --

6 THE COURT: I'll allow it. Overruled.

7 BY MR. DAVIS:

8 Q. It's not verbal. You put it on paper that you
9 knew somebody would use that; is that correct?

10 A. I reckon.

11 Q. All right. Thank you, sir.

12 THE COURT: All right. Witness, you may step
13 down, sir.

14 THE WITNESS: So I can leave?

15 MR. MULLINS: Can this witness be excused?

16 MR. DAVIS: No objection.

17 THE COURT: You're free to go, sir. Thank you
18 for being here.

19 MS. HEYWARD: Should we take a short break
20 before our next witness?

21 THE COURT: We'll take five minutes.

22 (Brief recess.)

23 THE COURT: Are we ready to proceed?

24 MS. HEYWARD: We are, Your Honor.

25 THE COURT: You may call your next witness.

1 MS. HEYWARD: At this time, we call Bubba
2 Morrell.

3 BUBBA MORRELL

4 being first duly sworn, testified as follows:

5 THE WITNESS: Yes, ma'am.

6 THE CLERK: Please have a seat in the witness
7 stand. Once you're seated, state your name,
8 spelling your last for the record, please.

9 THE WITNESS: My name is Bubba Arnold Morrell.
10 Morrell is M-O-R-R-E-L-L.

11 DIRECT EXAMINATION

12 BY MS. HEYWARD:

13 Q. Good morning, Mr. Morrell. Can you hear me?

14 A. Yeah, I can hear okay. If I miss something,
15 I'll let you know.

16 Q. Okay. Thank you for being here today. Are you
17 familiar with the construction of the Golsons'
18 home on -- that's the subject of this case?

19 A. Yes, ma'am.

20 Q. Okay. Did you work on that project?

21 A. Yes, ma'am.

22 Q. What work did you do?

23 A. I was the electrical contractor on the job.

24 Q. Okay. Throughout your testimony, I'm going to
25 be referring to Tab 15 of this notebook --

1 A. Okay.

2 Q. -- which relates to some of your cost records
3 on the job. But I'm referring to Tab 15 in
4 Defendant's exhibit notebook. I'd like you to turn
5 to Tab A. Do you recognize --

6 A. Mine says backup.

7 Q. Second page.

8 A. Okay. Sorry.

9 Q. Do you recognize this document?

10 A. Yes, ma'am, I recognize this document.

11 Q. And what is it?

12 A. It is for the electrical on the job at 207
13 Libby Ariail Lane.

14 Q. Okay. Did you bring a copy of the original?

15 A. Yes, ma'am. I have a copy of this.

16 Q. Okay. And you draft these invoices on carbon
17 paper?

18 A. Ma'am?

19 Q. You draft these invoices on carbon paper; is
20 that right?

21 A. Yeah. Well, yeah, that's true. Yes, ma'am.

22 Q. Okay. And you have the original with you
23 today?

24 A. I have the original with me, yes, ma'am.

25 Q. Do you mind giving me a copy of that so I can

1 enter that into the record?

2 A. Oh, you want my copy?

3 Q. Yes.

4 A. That's the only copy I brought. But, okay,
5 that's fine.

6 Q. Will you need it back?

7 A. No. I hope this is done when I'm done with
8 this.

9 Q. Okay. So do you mind if the Court hangs onto
10 it?

11 A. You can have it --

12 Q. Okay.

13 A. -- as long as nobody else is going to call me
14 about it. That's the copy of that one. Yes, ma'am.

15 Q. Do you have the original carbon paper copy?

16 A. No, I don't have the carbon on that one.

17 Q. Okay. Well, I think we've got this one then.
18 This is the same -- the copy that you're referring
19 to that you brought with you today is the same as
20 ARM68 --

21 A. Yes, ma'am. It matches that. Yes, ma'am.

22 Q. Okay. You can --

23 MR. DAVIS: May I see that?

24 MS. HEYWARD: It's the same, so I don't think
25 we need to mark it.

1 MR. DAVIS: Okay.

2 BY MS. HEYWARD:

3 Q. How much did you invoice Mr. Mazloom for your
4 work on the project?

5 A. This was the invoice. The payment was \$18,000.

6 Q. Okay. So you invoiced Mr. Mazloom \$23,098.51?

7 A. That's what the invoice states. Yes, ma'am.

8 Q. Okay. But you were only paid \$18,000?

9 A. That was the check that I have. Yes, ma'am.

10 Q. Okay. Were you paid only in checks?

11 A. Yes, ma'am.

12 Q. Okay. Were you paid in cash?

13 A. Not that I can recall. He always gave me a
14 check so he had a copy and I had a copy.

15 Q. Okay. How many times did he pay you?

16 A. Whenever we did a job.

17 Q. Okay. Did he pay on one occasion in full or
18 did he pay you multiple times?

19 A. On this particular project, I did not -- I
20 normally cut my bills in 50/50. This particular
21 project, I did not bill him out until the end of the
22 project. So I did not receive a rough invoice and a
23 finished invoice; you have one complete invoice.

24 Q. So you were paid only one occasion; is that
25 fair to say?

1 A. Yes, ma'am.

2 Q. So if you'll turn to page 2 --

3 A. Here. I'll give you this, if you need it, to
4 bring it up.

5 Q. Okay. You just referred to a document that you
6 brought with you today --

7 A. Yes, ma'am.

8 Q. -- that you wanted to bring up.

9 A. Yes, ma'am.

10 Q. I'm going to mark this as Exhibit 25.

11 (Defendant's Exhibit No. 25 marked for
12 identification.)

13 MS. HEYWARD: This is not a document, Judge,
14 that I've seen before. Would the Court like us to
15 make copies for the --

16 THE COURT: Show it to opposing counsel first.

17 MS. HEYWARD: We're marking it as an exhibit.

18 MR. DAVIS: Is this part of the --

19 THE WITNESS: No one has that, sir.

20 MR. DAVIS: Your Honor, this is not part -- if
21 no one has had it up to this moment, then I object
22 to the introduction of this document.

23 THE COURT: Okay. Is it the same document
24 as -- is it -- bring it up. Let me look at it.

25 THE WITNESS: If you want me to clarify, I

1 will.

2 THE COURT: Are these his notes on it?

3 THE WITNESS: The notes on the bottom are mine.
4 That's the original invoice for this house. If you
5 notice, it matches up with the \$18,000 check that I
6 received.

7 The other numbers on there were the numbers
8 that he needed to get close. I fraudulently wrote
9 the invoice that you have on the document. And this
10 is the first time I've ever had to do this. That's
11 why we've separated ways. And it's going to be
12 between me and God when I answer this, that I
13 fraudulently wrote up a bill.

14 THE COURT: Just so I'm clear --

15 THE WITNESS: But that matches my check. Do
16 you understand that? I'm making that clear. If you
17 notice, the \$18,000 check that I received matches
18 that number there, within a few dollars, because
19 that's what I received on the job.

20 THE COURT: All right. What is the document
21 that's produced to here in the binder?

22 THE WITNESS: That document there was given to
23 Mr. Ahmad to make it to whatever he needed to do.
24 And I did not feel good about that. And then the
25 second document that you have that's a cash

1 document, I did not feel good about that. And I
2 have not talked to the man since then.

3 THE COURT: Just --

4 MR. DAVIS: Your Honor, may it --

5 THE COURT: Certainly.

6 MR. DAVIS: May I respond to this so I --

7 THE COURT: Certainly.

8 MR. DAVIS: Okay. This is about my -- number
9 one, this is a surprise, at this moment, to the
10 plaintiff in this case as to this particular
11 document. I have not seen that. This gentleman is
12 trying to -- his testimony is to attempt to vary a
13 document that he prepared when -- I haven't counted
14 the entries, but 20 entries on it. And it's
15 violation of the parol evidence rule -- parol
16 evidence rule because he's trying to vary a
17 document.

18 And I know they're alleging a fraud case, but
19 I -- this person just attempted to testify to
20 something -- he just said -- Your Honor, he used the
21 word fraud. This should not be -- our position,
22 this should not be admissible. This is a surprise
23 to us.

24 THE COURT: I think it's a surprise to the
25 Defense, too.

1 MS. HEYWARD: So this is the first time we've
2 seen this document. This case has been ongoing for
3 years. Mr. Davis could have taken Mr. Morrell's
4 deposition and he could have engaged in discovery
5 and had him appear and --

6 MR. DAVIS: Your Honor, may it please the
7 Court? Massive subpoenas were issued in this case
8 of every subcontractor. This has never been
9 produced. I've never seen it.

10 MS. HEYWARD: I haven't either. And the
11 witness brought this here today with him, prepared
12 to testify. He prepared the document. I don't know
13 what this means. I'm prepared to let him tell me
14 what this means and what the --

15 THE COURT: You can go with some foundational
16 questions and then I'll make a decision.

17 MS. HEYWARD: Okay.

18 BY MS. HEYWARD:

19 Q. All right. I'm going to hand you back the
20 document that you handed me.

21 A. Okay. We'll put it right here.

22 Q. Okay.

23 THE COURT: Mr. Morrell, just for my benefit
24 and the court reporter's benefit, you talk at a bit
25 of a high pace. So if you could just help me

1 with --

2 THE WITNESS: Okay.

3 THE COURT: When you're explaining --

4 THE WITNESS: Okay.

5 THE COURT: -- things --

6 THE WITNESS: Okay.

7 THE COURT: -- talk a little slower.

8 THE WITNESS: Okay. I'll talk a little slower.

9 Yes, sir. But this shames me. Okay? I did wrong
10 and I'm wanting to make it right.

11 BY MS. HEYWARD:

12 Q. Okay. So you brought a document here today
13 that shows an \$18,105.18 total figure on your
14 invoice for the Golsons' job, right?

15 A. Yes, ma'am. It goes up and matches up with
16 that.

17 Q. Okay. And when you say that, you're referring
18 to Check No. 812 for \$18,000 --

19 A. Yes, ma'am.

20 Q. -- made out to you, which is located on ARM69,
21 which is page 2 --

22 A. Yes, ma'am.

23 Q. -- of exhibit -- what number are -- 15A. Is
24 that correct?

25 A. Yes, ma'am.

1 Q. Okay. And this is the -- this yellow page
2 here, this is the carbon copy that goes behind the
3 original page; is that right?

4 A. Yes, ma'am.

5 Q. Okay. And in black ink -- this is written --
6 there's black ink that's written directly on top of
7 the carbon copy; is that what I see there?

8 A. Yes, ma'am. That was to come up with a number
9 that needed to be done on the document that I should
10 not have done.

11 Q. Okay. And when did you write those numbers in?

12 A. The date, I do not recall.

13 Q. Was it after you finished work on the project?

14 A. Yes, because I had received my check. Yes,
15 ma'am.

16 Q. Do you recall around when you performed work on
17 the project? What was the date? I know it's been a
18 few years.

19 A. Somewhere around the end of the date was
20 12/30/16.

21 Q. Okay.

22 A. And then I do not remember when we started the
23 project.

24 Q. Okay. So you drafted this invoice originally
25 in December of 2016?

1 A. Yep. What that date there is, yes, ma'am.

2 Q. So sometime after --

3 A. And if you notice, the date that's fraudulent
4 has the same date on it.

5 Q. So sometime after December of 2016, you altered
6 this invoice at Mr. Mazloom's request?

7 A. Yes, ma'am, to match this here. And I'm wrong.

8 Q. Okay. And who came up with the number that he
9 wanted to get to?

10 A. Well, there's the number he needed to close the
11 gap on and there is the number we came up with.

12 Q. Okay. And when you're referring to
13 numbers --

14 A. When I say we, I had to go back and calculate
15 to where, I guess, it would appear to be that's what
16 he needed.

17 Q. Okay. So Mr. Mazloom approached you and he
18 said --

19 A. Mr. Ahmad approached me.

20 Q. He said he needed to close the gap and gave you
21 a --

22 A. I have no idea what the gap was for. He just
23 needed it to be for --

24 THE COURT: I'm trying to --

25 Q. Okay. So --

1 THE COURT: -- help out with the record here.

2 MS. HEYWARD: Sorry.

3 THE WITNESS: Sir?

4 THE COURT: I want y'all to -- let her finish
5 her question, then begin your response, because it's
6 really tough on our court reporter to write it down
7 when two people are talking over each.

8 THE WITNESS: Oh, I understand. I understand.
9 I'm sorry. I'll speak louder.

10 BY MS. HEYWARD:

11 Q. It's drafted a little bit like a stretch. So
12 while we normally have -- this is how we would talk
13 normally in a conversational setting. Just for the
14 court reporter's benefit, we have to talk slowly and
15 let it -- I know this isn't a natural -- you're not
16 used to this.

17 A. Yes, ma'am.

18 Q. Thank you.

19 So this \$5,000 figure that you pointed to on
20 the document that you brought here today which I've
21 marked as Defendant's 25, what does that represent?

22 A. That's the number I needed to achieve. And I
23 adjusted the square-footage price to get close to
24 that number, and that's how we come up with the
25 bottom number.

1 Q. Okay. So you came up with that together,
2 with --

3 A. Together? I was requested to come up with that
4 number. But he was not at my desk when I was trying
5 to figure it.

6 Q. Okay. Did he tell you why he wanted you to do
7 that?

8 A. He needed it for the project, to show more
9 cost.

10 Q. That's what he told you?

11 A. That's what he told me, yes, ma'am.

12 Q. Okay.

13 MS. HEYWARD: Your Honor, at this time, I'd
14 move to admit Defendant's Exhibit 25. I believe
15 that Mr. Davis will have plenty of opportunity to
16 cross-examine this witness about this document --

17 THE COURT: Before I admit it, I do want to get
18 some copies made of it. I've heard some testimony
19 about it. I'd like to look at it.

20 THE WITNESS: You --

21 THE COURT: No. I want him to have a copy and
22 you to have a copy and me to have a copy.

23 MS. HEYWARD: Okay.

24 THE COURT: So let's just do that.

25 THE WITNESS: You can keep that one.

1 THE COURT: Do we have a machine in here?

2 (Brief pause in the proceedings.)

3 MS. HEYWARD: Here you go, Your Honor. I have
4 an extra copy. Would you like one for your clerk?

5 THE COURT: Sure. Thank you.

6 MS. HEYWARD: And I'll hand the original to the
7 witness.

8 THE WITNESS: Can I keep this?

9 MS. HEYWARD: Yes. But that will stay with the
10 Court, if you don't mind.

11 THE WITNESS: Oh, the one you're keeping?

12 MS. HEYWARD: We might refer to it again, so
13 I'm going to leave it with you.

14 THE WITNESS: As long as I know y'all got it,
15 I'm good with it.

16 MS. HEYWARD: Okay.

17 THE COURT: Let me ask y'all a quick question
18 real quick.

19 THE WITNESS: Do I go back there, too?

20 THE COURT: You stay there. You're the
21 witness.

22 (Brief recess.)

23 THE COURT: All right. I had a brief meeting
24 with counsel in chambers. I wanted to make sure I
25 understood we were all on the same page as to the

1 origins of this document.

2 Counsel, did you have any more foundational
3 questions you were asking?

4 MS. HEYWARD: I believe the foundation has been
5 established.

6 THE COURT: All right. This is a --

7 MS. HEYWARD: He testified that he wrote the
8 document and -- as to what it was and that it
9 applies to the Golsons' project. It's his document,
10 so I believe a foundation -- and he testified he's
11 brought it here for the first time today. He -- it
12 hasn't previously been produced.

13 THE COURT: And it was not previously produced
14 to any party in this case?

15 MS. HEYWARD: Correct.

16 THE COURT: But it is here today.

17 MS. HEYWARD: That's right.

18 THE COURT: It's a copy that the witness --
19 it's the original, excuse me, that the witness, in
20 his testimony, says he did it himself. So I'll
21 allow it into evidence as Defendant's Exhibit 25,
22 subject to Mr. Davis' objection --

23 MR. DAVIS: Thank you, Your Honor.

24 THE COURT: -- which, I think, you noted on the
25 record already.

1 MR. DAVIS: I did, yes.

2 THE COURT: Okay.

3 MR. DAVIS: The reasons for it have been noted.

4 THE COURT: Okay.

5 MR. DAVIS: Thank you, Your Honor.

6 THE COURT: Thank you.

7 Proceed.

8 MS. HEYWARD: All right.

9 (Defendant's Exhibit No. 25 admitted into
10 evidence.)

11 BY MS. HEYWARD:

12 Q. Mr. Morrell, I'd like you to turn to this --
13 the next page on Tab A. There's three copies of
14 checks here. Do you see those? Do you recognize
15 those checks?

16 A. The top one.

17 Q. You do not?

18 A. The top one.

19 Q. The top one. Okay. And what is --

20 A. 812, \$18,000.

21 Q. What is that check for?

22 A. The electrical on 207 Libby Ariail Lane.

23 Q. Okay. And that is the only payment you
24 received for that -- for the project; is that
25 correct?

1 A. To the best of my knowledge, yes, ma'am.

2 Q. Okay.

3 A. Well, hold on. Wait a minute. Wait a minute.
4 798 -- 798 goes to 1865 Old Cherokee Road. And it
5 was for an electrical change order, adding six can
6 lights; adding three prewired ceiling fans; adding
7 three switches at rear door for operation of lights.
8 And that -- that matches with my bill and paid with
9 Check No. 798.

10 Q. Okay. So you're referring to a document. What
11 you have in your hand is a document that you brought
12 here today that relates to another project, not the
13 Golsons'; is that correct?

14 A. It goes -- the check number matches, yes,
15 ma'am. And it's signed here that it was paid with
16 the same. Do you need a copy of this?

17 Q. I would like it to go -- it --

18 THE COURT: Which document are you talking
19 about?

20 THE WITNESS: This one. Do you need to hold
21 it?

22 THE COURT: Is this the one --

23 THE WITNESS: No. This is the one that matches
24 this check number that she's referring on this page,
25 whatever this is --

1 MS. HEYWARD: The -- the --

2 THE WITNESS: The 700 -- Check No. 798. You
3 see where it says 798?

4 THE COURT: Take a look at the document first,
5 Ms. Heyward.

6 THE WITNESS: I believe that's the check that's
7 attached to it. Let's see. 798. 798. Everything
8 matches.

9 MS. HEYWARD: Okay.

10 MR. DAVIS: May I see that, please?

11 Are we putting this into evidence or what are
12 we doing with this?

13 THE COURT: I just wanted y'all to see it
14 and --

15 MR. DAVIS: All right. I've seen it.

16 BY MS. HEYWARD:

17 Q. Okay. And this document that you brought in
18 with you today --

19 A. Yes, ma'am.

20 Q. -- for \$890 --

21 A. Yes, ma'am.

22 Q. Okay. You said you were paid in Check 798 for
23 this project?

24 A. Right there.

25 Q. And that's your handwriting?

1 A. Yes, ma'am.

2 Q. And this is an invoice that you drafted; is
3 that correct?

4 A. Yes, ma'am. That's the copy of it.

5 Q. And it's dated December 2016?

6 A. Yeah. My invoice is dated that, but I don't
7 see the check -- December 5, '16.

8 Q. Okay. So --

9 A. That's the same day.

10 Q. -- both the invoice you brought with you and
11 Check No. 798 are dated December 5th, 2016; is that
12 right?

13 A. Yes.

14 Q. Okay. And this is a project located at 1865
15 Old Cherokee Road --

16 THE COURT: Just a moment. Just a moment.

17 MR. DAVIS: I apologize.

18 THE COURT: All right. Are we good?

19 All right. Continue.

20 THE WITNESS: What's wrong?

21 BY MS. HEYWARD:

22 Q. This is for a project located at 1865 Old
23 Cherokee Road?

24 A. Yes, ma'am. That's the address there.

25 Q. Do you know who lives there? Do you remember?

1 A. I think that's Ahmad's son's house.

2 Q. Ahmad's son?

3 A. Is that the address he lived at? I think it
4 is. I'm not sure. But that's where the work was
5 performed at.

6 Q. Okay. And Ahmad paid you directly for the work
7 that you did on that project?

8 A. With a check, 798, yes, ma'am, as stated on the
9 front of the bill.

10 Q. Okay. So the project here, your bill indicates
11 a total price of \$890; is that right?

12 A. Yes, ma'am. Sometimes Mr. Ahmad was -- he was
13 generous and he would round the number. He liked to
14 round numbers.

15 Q. Okay. So he rounded the number up to 900 and
16 paid you \$900?

17 A. Yes, ma'am.

18 Q. Okay.

19 A. I did not state that on the document. I'm
20 sorry.

21 Q. Okay.

22 MS. HEYWARD: At this time, I'd like to move
23 this document into evidence.

24 (Defendant's Exhibit No. 26 marked for
25 identification.)

1 THE COURT: That is an invoice that, if I
2 understood you correctly, would be connected to
3 Check No. 798; is that correct?

4 MS. HEYWARD: That's correct.

5 THE COURT: And the testimony was that that was
6 for Mr. Mazloom's son's property?

7 MS. HEYWARD: Well, for the -- I'm not sure who
8 lives there. I --

9 THE WITNESS: I don't know who lives there.

10 THE COURT: Okay. Well, then --

11 MS. HEYWARD: The address is indicated 865 Old
12 Cherokee Road on the invoice.

13 THE COURT: Okay.

14 THE WITNESS: Who lives there?

15 THE COURT: I can't -- I don't know.

16 All right. Subject to objection --

17 MR. DAVIS: Objection. This has already been
18 admitted by stipulation as a legitimate bill on this
19 project.

20 THE COURT: That invoice?

21 MR. DAVIS: Joint -- this Check No. 798 is part
22 of the --

23 THE COURT: 798, I agree. But I'm talking
24 about the invoice which he's testified is connected
25 to that check.

1 MS. HEYWARD: This document.

2 MR. DAVIS: There would be no need to put that
3 into evidence when there's been a joint stipulation
4 that this is related to the Golson project.

5 MS. HEYWARD: There's no stipulation that --

6 THE COURT: And the witness is testifying that
7 it is not connected to the Golson project.

8 MR. DAVIS: Okay.

9 THE COURT: So that's why --

10 MR. DAVIS: My objection would be what I said.

11 THE COURT: Very well.

12 MR. DAVIS: Thank you, Your Honor.

13 THE COURT: All right. So that will be
14 Defendant's Exhibit No. 26 admitted into evidence,
15 subject to Plaintiff's objection.

16 (Defendant's Exhibit No. 26 admitted into
17 evidence.)

18 MS. HEYWARD: Yes, Your Honor. And I just want
19 to clarify for the record that the stipulations are
20 what they are. And they -- the stipulation is that
21 there's a set of documents that was produced as an
22 accounting -- record of accounting on -- in April
23 2017.

24 There's no stipulation that all of those
25 documents relate to the Golson project. The

1 stipulation is just that is what was provided to the
2 Golsons through the attorneys.

3 THE COURT: Very well.

4 MS. HEYWARD: Okay. So --

5 THE COURT: We need copies.

6 THE WITNESS: Am I messing you up?

7 THE COURT: No. No.

8 (Brief pause in the proceedings.)

9 BY MS. HEYWARD:

10 Q. Okay. I'll try and be brief and speed things
11 along a little bit.

12 We're referring to -- if you look at the bottom
13 right-hand side corner, there's an identifying
14 number, ARM69. There are three checks there --

15 A. Yes, ma'am.

16 Q. -- you see that?

17 The last one is for \$4,100. Did you receive
18 that check?

19 A. No, ma'am.

20 Q. Okay. And were you -- and you testified
21 earlier you were not paid in cash on this project?

22 A. That is correct.

23 Q. Has Mr. Mazloom ever paid you \$4,100 in cash on
24 any project?

25 A. Not that I recall, ma'am.

1 Q. Okay. Please flip to Tab C.

2 A. C? Yep. That's right here.

3 Q. So you're referring to -- you brought an
4 original document with you that is the original of
5 what is in Defendant's Tab C.

6 A. My handwriting, everything lines up perfect.

7 Q. Okay. What is that document?

8 A. A document to Ahmad. It is for 207 Libby
9 Ariail Lane. And he -- at his request, he needed a
10 cash receipt.

11 Q. Okay. And when did you draft this document?

12 A. The date will not be correct on the invoice.
13 But I do not recall exact date. I don't remember
14 when I was there to write it.

15 Q. Okay. Did he call you and ask you to draft it?

16 A. Numerous times.

17 Q. Can you estimate how many times?

18 A. I -- a lot.

19 Q. A lot. Did he text you?

20 A. I don't know if Mr. Ahmad knows how to text.

21 Q. Okay. Did he show up at your house?

22 A. He did show up at my house.

23 Q. Okay. Tell me --

24 A. That's what got it for him; to go over there
25 and say, let's get it -- let's get whatever you got

1 to get and that's it.

2 Q. Okay. Tell me about that exchange.

3 A. I wrote this here for him.

4 Q. Okay. Why did he tell you he needed it?

5 A. That, I don't really recall. Maybe other than
6 maybe for his records.

7 Q. Okay. But this \$4,100 receipt, who came up
8 with -- to write the electrical finish?

9 A. That's why it is so vague, because he needed a
10 receipt. And that was, again, my shortfall. And I
11 was ready for him to -- that was it. I wanted to be
12 done.

13 Q. Okay. So he told you he needed a cash receipt.
14 And you wrote it for electrical finish so it would
15 be something vague?

16 A. It is very vague as to what I did, yes, ma'am.

17 Q. Okay.

18 A. Because I actually didn't do anything.

19 MS. HEYWARD: No further questions, Your Honor.

20 Please answer any questions Mr. Davis has.

21 CROSS-EXAMINATION

22 BY MR. DAVIS:

23 Q. Mr. Morrell, you just indicated that the
24 Exhibit No. 37 looks very vague; is that correct?

25 A. Wait a minute -- okay. Yeah. This --

1 Q. 37 is --

2 A. -- one right here?

3 Q. -- very vague?

4 A. Yes, sir.

5 Q. \$4,100?

6 A. Yes, sir.

7 MS. HEYWARD: And, Your Honor, I believe
8 Mr. Davis is referring to Exhibit 37.

9 MR. DAVIS: Yes.

10 MS. HEYWARD: All the -- all the witness has in
11 front of him is our notebook. He's not referring to
12 Mr. Davis' --

13 MR. DAVIS: Okay.

14 MS. HEYWARD: -- exhibits. I just want to --

15 THE COURT: Okay. We're referring to
16 Plaintiff's Exhibit 37.

17 THE WITNESS: 37. That's this one? Is this
18 the same as what you have?

19 MR. DAVIS: Yes. Yes.

20 MS. HEYWARD: I just wanted to keep the record
21 straight.

22 THE WITNESS: And it's the book, what I got?

23 MR. DAVIS: Yes.

24 BY MR. DAVIS:

25 Q. So it's -- you're saying -- 37, it says

1 electrical finish, cash, \$4,100 is -- that's -- is
2 vague for what you did?

3 A. When I say vague, the description of the work,
4 there is no description of the work.

5 Q. Okay.

6 A. No work was performed. This is just a cash
7 receipt --

8 Q. Okay.

9 A. -- that I did at a request.

10 Q. Okay. Do you remember on this project -- well,
11 let me -- strike that.

12 Let me ask you this: Just as an example on
13 this project, I understand the home called for some
14 recessed lights.

15 A. Yes, sir.

16 Q. And my client has indicated that the house
17 called for four or five of those recessed lights.
18 Let me finish. My understanding, in that house,
19 there are 39 recessed lights placed in that house,
20 per the request of the Golsons. Is that correct or
21 incorrect? I may be off --

22 A. The --

23 Q. I may be --

24 A. The --

25 Q. -- off on -- excuse --

1 A. I don't have the --

2 Q. -- me. I --

3 A. -- plans in front of me --

4 THE COURT: Please don't talk over each other.

5 MR. DAVIS: Yeah.

6 THE WITNESS: I don't have the plans in front
7 of me. To the best of my recollection, the sunroom
8 can lights were requested in that area. I believe,
9 in the great room, there were some maybe on the
10 drawing there. The kitchen, the can lights were
11 placed to accommodate the layout of the kitchen.
12 I'm trying to remember the house.

13 I want to say that maybe some can lights -- to
14 accumulate the 39 number, I want to say there's a
15 couple bedrooms across the front of the house. I'm
16 going solely on memory now. But I kind of remember
17 the house. But, yes, additional can lights were put
18 in at the request. And I just followed the request.

19 BY MR. DAVIS:

20 Q. How big a financial Tab is that?

21 A. That number is correct. Should be somewhere --
22 I don't have a calculator in front of me. But if
23 you back that number off, I want to say it's
24 probably, what, \$75 or \$85 per can. Is that what it
25 comes up to be?

1 Q. I don't have a --

2 A. Take 39 --

3 Q. -- calculator.

4 A. Take the number and divide it by 39. Does
5 anybody have that, a calculator?

6 Q. Have you --

7 A. Anybody have one?

8 Q. Have you got --

9 A. I'll give you the number, is what I'm getting
10 at. Take \$3,315 and divide it by 39. What do you
11 come up with?

12 THE COURT: I don't have a calculator and --

13 MR. DAVIS: I don't either.

14 THE WITNESS: Don't have a calculator? But --
15 all right. That's how the number is derived.

16 BY MR. DAVIS:

17 Q. I accept your -- I accept your testimony.

18 You've testified that you did not get a cash
19 payment?

20 A. No, sir. I did not get a cash payment.

21 Q. Mr. Mazloom says you did.

22 A. Okay. That's good.

23 Q. Okay. So we got different -- we have a
24 different opinion here.

25 A. Yes, sir.

1 Q. Okay. Now -- so what else here -- what else
2 here is before us, the -- your trial notebook --

3 A. Notebook. Okay.

4 Q. -- there is --

5 THE COURT: You're referring to the Defense's
6 trial notebook?

7 THE WITNESS: This book here?

8 MR. DAVIS: Yes, Your Honor. Yes, Your Honor.

9 THE COURT: Okay. Thank you.

10 BY MR. DAVIS:

11 Q. Under Tab 15 and, I guess it would be, A -- A.

12 A. Say that one more time.

13 Q. 15A.

14 A. 15A.

15 Q. What I'm looking for is this.

16 A. Mine says bump --

17 Q. All right.

18 A. -- I mean, backup.

19 Q. I'm looking for this.

20 A. Yeah. I got it right here.

21 Q. Okay.

22 A. Well, no. Here we go. I got it right here.

23 Yes.

24 Q. So you said you didn't get a cash payment. But
25 on 15 -- on this -- if you look at that invoice you

1 have there, how many entries on that invoice, as to
2 work performed?

3 A. Appears to be 21.

4 Q. Okay. And you calculated in the dollar
5 figures?

6 A. To the right?

7 Q. Yes, sir. Is that correct?

8 A. What is on this invoice, those numbers match.

9 Q. And the dollar figure is what?

10 A. Which one?

11 Q. On the invoice.

12 A. The total bottom?

13 Q. Yes.

14 A. Total parts and labor, \$23,098.51.

15 Q. And the date of that invoice is what?

16 A. 12/30.

17 Q. Okay. And you produced this?

18 A. I did produce this. This is in my handwriting.

19 Q. Okay. And if you look at Plaintiff's Exhibit

20 No. 20 --

21 A. Is it in the book?

22 Q. Here it is right here.

23 A. 20. Oh --

24 MS. HEYWARD: Are you referring to 25 or --

25 A. -- the check? The check. I gotcha.

1 MR. DAVIS: This is Plaintiff's 20, the
2 check --

3 THE WITNESS: The \$18,000 check, that one?

4 BY MR. DAVIS:

5 Q. No, sir. Let me finish.

6 A. Okay.

7 Q. Plaintiff's 20, there's three checks.

8 A. Oh. Yes, sir.

9 Q. Okay. And those three checks match up to what
10 figure?

11 A. Pretty close to that 23 number.

12 Q. How close?

13 A. Y'all didn't have a calculator earlier. And I
14 just did it off the top of my head. So it's real
15 close.

16 Q. Take your time, if you need to.

17 A. Oh, you want me to do it?

18 Q. Yes, sir.

19 A. All right. Give me a second.

20 Q. Here you go. I apologize. We've got a
21 calculator, if you want to confirm it.

22 A. All right. This here comes up 31,100 --

23 THE COURT: Huh?

24 A. -- unless I punched in some wrong numbers.

25 THE COURT: How about do that again?

1 THE WITNESS: I might have. I still come up
2 with thirty-one eleven. Maybe I don't know how to
3 run this one.

4 BY MR. DAVIS:

5 Q. May I borrow that?

6 A. Yeah. Go ahead.

7 Q. We got 18,000 on one check.

8 A. Yes, sir.

9 Q. We have 4,100 on the third check. That would
10 be 22,100.

11 A. Okay.

12 Q. Third check is \$900.

13 A. Oh, I was punching in 9,000. That's why I
14 messed up.

15 Q. So it's 23.

16 A. Yeah, 23. Okay.

17 Q. So the checks match up with your produced
18 invoice, which is Plaintiff's Exhibit 20. Is that
19 correct?

20 A. Oh, yes. On your book? Yes. That adds up to
21 those numbers. Yes, sir.

22 Q. Okay. So you said you didn't get cash. But
23 the invoice you produced is for 23. And the checks
24 there -- three checks come to the 23. Correct?

25 A. Okay.

1 Q. Number 2, the document that's been --

2 A. This one?

3 Q. Yes, sir. Defendant's Exhibit 25, which
4 appeared today, were you subpoenaed by the Golsons'
5 attorney to produce documents in this case?

6 A. I don't recall any subpoenas.

7 Q. Okay.

8 A. But, if you got one, I'll be glad to see it.
9 It took them a long time to get me to get here
10 because they actually got me the Saturday before I
11 come here.

12 Q. Okay.

13 A. He said he come to my house nine, ten times.

14 Q. So you're not saying you didn't get it? You're
15 not saying you didn't get a subpoena ticket?

16 A. I'm not saying I didn't get a subpoena ticket.

17 Q. Okay. And did you produce that Document 25 to
18 these attorneys at any time?

19 A. No, sir, not until I got in this stand.

20 Q. Okay. So you had a chance earlier than today
21 to correct your incorrect information?

22 A. No, sir. I mean opportunity, no, sir. I
23 didn't take any opportunity.

24 Q. You did not attempt to correct it?

25 A. I did not correct anything.

1 Q. Okay.

2 A. But I did state that I made a mistake.

3 MR. DAVIS: Excuse me, Your Honor.

4 BY MR. DAVIS:

5 Q. Okay. Then you produced a piece of paper from

6 your company, which is --

7 A. This one right here?

8 Q. -- Plaintiff's 37.

9 A. Is that this one?

10 Q. Plaintiff's 37.

11 A. Yeah. I got that one.

12 Q. Okay. Saying that you did get the cash.

13 A. There is a ticket here instead of the cash

14 receipt. Yes, sir.

15 Q. Okay. So you signed two pieces of paper --

16 A. There's no signature on here.

17 Q. All right. But you prepared that right there,

18 did you not, and got that document? This is --

19 A. This document --

20 Q. -- 37.

21 A. This document was in my handwriting and

22 presented to Mr. Ahmad.

23 Q. You prepared it?

24 A. This is my --

25 Q. Yeah. Gave it to -- and you gave it to him?

1 A. At his request.

2 Q. Okay. So we've got two separate documents that
3 you signed which varies your testimony about no cash
4 payment? Two?

5 MS. HEYWARD: Your Honor, he testified he
6 didn't sign anything.

7 THE WITNESS: I don't understand.

8 THE COURT: You can rephrase -- well --

9 BY MR. DAVIS:

10 Q. Look at --

11 A. I wrote this for Mr. Ahmad. Yes.

12 Q. Okay. Plaintiff's 37 and your 20 entry invoice
13 are indicating \$23,000 was paid to you. And you
14 produced that?

15 A. Yes, sir. I wrote the \$23,000 invoice.

16 Q. And you have not varied that until 30 minutes
17 ago; is that correct?

18 A. Varied it?

19 Q. Thank you, sir.

20 A. What does that mean?

21 Q. Varied that the -- you were paid 23, until 30
22 minutes ago when you had that exhibit -- that piece
23 of paper -- that exhibit that you've had for some
24 time. You understand my question?

25 THE COURT: Let's use another word.

1 MR. DAVIS: Okay.

2 BY MR. DAVIS:

3 Q. Your paperwork that you have signed says a
4 total of \$23,000 has been paid; that being your
5 invoice, which is --

6 A. Oh, here we go. You see around here where it
7 says paid? That ain't handwriting.

8 Q. Okay. I didn't ask you that. I asked --

9 A. Okay.

10 Q. -- you -- that invoice that says \$23,000 and
11 the Exhibit 37, both indicating you have received
12 \$23,000. And you've had a chance to change that,
13 and you haven't until today, 30 minutes ago. Is
14 that not correct?

15 A. I don't recall changing anything on these
16 invoices. But these invoices were produced for
17 Mr. Ahmad and they do total up to be \$23,000.

18 Q. Let me make it very, very clear. Within the
19 last hour, you've testified in this courtroom that
20 you didn't get 23. You got less than 23. You got
21 18. But you've never told anybody that until now.

22 A. The Goldstein [sic] job, I was only paid
23 \$18,000. Yes, sir.

24 Q. Thank you, sir.

25 THE COURT: Are you finished, Mr. Davis?

1 MR. DAVIS: Yes, sir.

2 THE COURT: All right. Redirect?

3 MS. HEYWARD: Very, very briefly.

4 REDIRECT EXAMINATION

5 BY MS. HEYWARD:

6 Q. I just want to make sure one point is clear.

7 Mr. Morrell, please look at Defendant's Exhibit 25.

8 A. Is it in this book?

9 Q. It's your copy that you brought today. So it
10 should be the original.

11 A. Oh.

12 Q. Is it --

13 A. Okay.

14 Q. I'm sorry.

15 A. I got the one up here with the blue sticker on
16 it.

17 Q. Okay. Yes, that exhibit.

18 So if I understand your testimony, this invoice
19 was inflated approximately \$5,000; is that correct?

20 A. Yes, ma'am.

21 Q. Okay. And that \$5,000 was not spent on the
22 Golsons' job; is that correct?

23 A. Say that again.

24 Q. That money was not spent on the Golsons'
25 project, the \$5,000 in inflated charges?

1 A. The \$5,000 inflated charges was created to the
2 inflation of the \$23,000 invoice that was produced
3 after the original invoice, which was presented to
4 Mr. Ahmad.

5 Q. Okay. But the amount of the cash receipt that
6 you created that is Defendant's Exhibit Tab C --

7 A. Say it again.

8 Q. Defendant's Tab C --

9 A. C. Okay. Right there.

10 THE COURT: Which, for my purposes, is also
11 Plaintiff's Exhibit 37. Right?

12 THE WITNESS: I don't know.

13 MS. HEYWARD: I believe.

14 MR. MULLINS: Yes.

15 THE COURT: Okay.

16 BY MS. HEYWARD:

17 Q. Okay. Where are we?

18 A. You said C.

19 Q. Here we go. That cash receipt is for \$4,100;
20 is that correct?

21 A. That's what it says. Yes, ma'am.

22 Q. Okay. But the actual amount of fraud is
23 \$5,000; is that right?

24 A. No. Where you need to back up -- where is the
25 other one at? Where is the 23? Right here. Right

1 here. I got one.

2 Q. You're referring to --

3 A. All right. Here we go.

4 Q. Hold on. Let me just give you --

5 THE COURT: Please try not to talk over one
6 another, please.

7 MS. HEYWARD: My apologies.

8 BY MS. HEYWARD:

9 Q. Can you just be clear --

10 A. If I -- okay. That's what we're about to
11 clarify, because there's a note down there. These
12 are my scribbling notes that I did after I wrote the
13 invoice.

14 All right. The scribbling notes determined
15 that I needed to balloon it by \$5,000. That has
16 nothing to do with the \$4,000 check -- I mean, the
17 \$4,000 invoice that was reduced. The balloon amount
18 of \$5,000 was the increase that was requested to
19 turn in whatever he had to turn in to help him out.
20 I did it. And, if you notice, at the very top, the
21 only number that really alters is the square footage
22 price. The square footage price is \$3.20.

23 On the inflated bill, you notice that the
24 inflated bill, the square footage price is \$6.31.
25 If you look at the two invoices and stack them on

1 top of one another, everything matches, except for
2 the square footage price. That's where that number
3 came out to be.

4 And the actual number didn't quite make it to
5 5,000, but it got real close. And that's how he
6 came up with the \$23,098. Does everybody see that?

7 Mr. Judge, you see that?

8 THE COURT: I see the exhibit.

9 BY MS. HEYWARD:

10 Q. Okay. And what I'm trying to show here is that
11 you generated a cash receipt for \$4,100.

12 A. Upon request.

13 Q. But you inflated the invoice 5,000?

14 A. Upon request.

15 Q. Okay. And you seem like you wanted to come
16 here and do things right and get things off your
17 chest.

18 A. Ma'am, I've never done this. I do not
19 associate with him anymore. And the --

20 MR. DAVIS: Objection as to --

21 THE WITNESS: In all honesty --

22 MR. DAVIS: Objection as to --

23 THE WITNESS: -- I got to --

24 MR. DAVIS: -- relevance --

25 THE WITNESS: I got to --

1 THE COURT: He's making an objection --

2 THE WITNESS: I --

3 THE COURT: Stop.

4 THE COURT REPORTER: One at a time, please.

5 THE COURT: All right.

6 MR. DAVIS: Objection as to relevance on -- as
7 to what he's up here to testify about.

8 THE COURT: Well, frankly, it's also outside
9 the scope of --

10 MS. HEYWARD: Okay. Well --

11 THE COURT: And he stated this in his original
12 examination.

13 MS. HEYWARD: Okay. I'm -- that's fine. Thank
14 you for being --

15 THE WITNESS: I have another examination?

16 THE COURT: I think Ms. Heyward is done.
17 Correct?

18 MS. HEYWARD: I am. I just wanted to thank you
19 for coming here today and providing your testimony.
20 I appreciate that. Please answer any questions the
21 Judge may have. If the Judge doesn't have any,
22 thank you for being here.

23 THE WITNESS: Okay. If it's blue, y'all get
24 it; if it's white and in my copies, do I keep this
25 or is this your copy? Do I get to keep my copy?

1 MS. HEYWARD: If it doesn't have an exhibit
2 sticker on it --

3 THE WITNESS: If I'm not going to have anything
4 to do with y'all anymore, I'll let you have it all.

5 MS. HEYWARD: Thank you.

6 THE WITNESS: Sorry, sir.

7 THE COURT: All right. Recross?

8 RECROSS-EXAMINATION

9 BY MR. DAVIS:

10 Q. Mr. Morrell, on Plaintiff's Exhibit No. 20, the
11 check -- the \$900 check --

12 A. Where?

13 Q. This right here, Plaintiff's No. 20, the \$900
14 check.

15 A. Yes, sir. That was produced on y'all's invoice
16 right here that showed that I went to that other
17 address. Where is it at? Right here -- no. I
18 don't have it. Y'all have it.

19 Q. Do the invoice figures match up?

20 MS. HEYWARD: Your Honor, this is outside the
21 scope of --

22 THE WITNESS: Again, I explained --

23 THE COURT: Just a --

24 THE WITNESS: I explained --

25 THE COURT: Just a minute --

1 THE WITNESS: -- when y'all asked me --

2 THE COURT: Stop talking for a second, sir.

3 Now, when somebody objects, I need you to stop
4 talking so I can talk with the attorneys.

5 THE WITNESS: Sorry. I didn't hear him.

6 THE COURT: All right. The objection was
7 outside the scope of redirect?

8 MS. HEYWARD: Yes, sir. I didn't question him
9 about the \$900 check or anything to do with that.

10 THE COURT: All right. If I'm limiting her,
11 I'll do the same to you.

12 MR. DAVIS: Okay.

13 THE COURT: Are there any questions directly
14 related to her redirect?

15 MR. DAVIS: Nothing further, Your Honor.

16 THE COURT: All right. Thank you.

17 MR. DAVIS: Thank you.

18 THE COURT: Is he free to go?

19 THE WITNESS: Am I?

20 MR. MULLINS: Yes.

21 MR. DAVIS: No objection.

22 THE COURT: All right. Sir, you're free to go.
23 You can step down. Thank you for being here.

24 THE WITNESS: All right. Sorry about that.

25 THE COURT: No worries.

1 Counsel, real quick.

2 (Sidebar conference.)

3 THE COURT: All right. Call your next witness.

4 MS. HEYWARD: Mr. Hall.

5 JOSHUA HALL

6 being first duly sworn, testified as follows:

7 THE WITNESS: Yes.

8 THE CLERK: Have a seat in the witness stand.

9 Once you're seated, state your name, spelling your
10 last name for the record, please.

11 THE WITNESS: Joshua Hall, H-A-L-L.

12 DIRECT EXAMINATION

13 BY MS. HEYWARD:

14 Q. Hello, Mr. Hall. How are you doing?

15 A. Rather be sitting in a dentist's chair.

16 Q. Thank you for being here.

17 Are you familiar with the construction project
18 at the Golsons' residence?

19 A. Yes, ma'am.

20 Q. Okay. Did you work on that job?

21 A. Yes.

22 Q. And what did you do?

23 A. The interior finish carpentry and the
24 cabinetry.

25 Q. And you had your deposition taken in this case

1 maybe last year; is that correct?

2 A. Yes, ma'am.

3 Q. And I'm going to direct you to Tab 7 of the
4 notebook that's in front of you. And this is the
5 Tab that we'll be discussing during your testimony.

6 A. Okay.

7 Q. Okay. At your deposition, I asked you some
8 questions about the documents in Tab A, if you want
9 to flip to Tab A.

10 Do you recognize -- and on the bottom page of
11 these documents, there's an identifying number here.

12 A. Uh-huh.

13 Q. Do you recognize ARM45 and ARM46?

14 A. As far as the actual document?

15 Q. Yes.

16 A. Yes.

17 Q. Did you draft these documents?

18 A. Yes. They are in my writing.

19 Q. And what are they?

20 A. These are invoices for work completed on the
21 Golsons' residence.

22 Q. Okay. And --

23 A. I'm not sure about the first one. I don't have
24 an address on that.

25 Q. Okay. And is this work that you actually did

1 on the project?

2 A. Yes, ma'am.

3 Q. Okay. Is this an inflated invoice?

4 A. I know the final invoice that was submitted,
5 going off of memory, was inflated. Whether this was
6 that actual invoice or not, I don't recall.

7 Q. Okay. Would it be helpful for you -- I know
8 there's been some time that has passed since we took
9 your deposition and since this project was
10 completed. Would it be helpful to review your
11 deposition?

12 A. Sure.

13 MS. HEYWARD: Do you have a copy of his
14 deposition?

15 MR. DAVIS: Yes.

16 MR. MULLINS: I can do the dramatic unsealing
17 of the original or just hand out condensed versions.

18 THE COURT: I'm fine with a condensed version.

19 BY MS. HEYWARD:

20 Q. Okay. I'd like you to review pages 37 to 40.

21 MR. DAVIS: Would you mention those pages
22 again? I apologize.

23 MS. HEYWARD: 37 to 40.

24 BY MS. HEYWARD:

25 Q. Okay. Are you ready?

1 A. I suppose.

2 Q. Okay. So did that refresh your recollection
3 regarding invoices that are numbered here 1084 and
4 1080?

5 A. Yes.

6 Q. Okay. And do you recall testifying that
7 invoices 1084 and 1080 are inflated invoices?

8 A. Invoice 1080 is inflated over the original
9 invoice that was given; 1084 was actually created
10 probably within this last year.

11 Q. Within this last year?

12 A. Yes. It was created sometime shortly before
13 the deposition.

14 Q. Okay. And explain to me the circumstances
15 surrounding -- which invoice number?

16 A. 1084.

17 Q. 1084. So it's the first one there.

18 Explain to me how you came to create 1084.

19 A. I remember getting a phone call from
20 Mr. Mazloom, asking for a copy of an invoice. At
21 the time, I was thinking that he was looking for a
22 copy of a past invoice. Through the conversation, I
23 remember telling him that I'd have to go back and go
24 try and find it. I don't always keep the best
25 records, so where it would be at, I wouldn't know.

1 Once I told him that, he said, no, I need it
2 for a certain amount on a certain day with the
3 Golsons' residence.

4 Q. Okay. And these figures on 1084 and 1080, are
5 those figures that you came up with or are those
6 figures that Mr. Mazloom came up with?

7 A. 1084 was not my doing. That was a very
8 specific amount that Mr. Mazloom needed. Invoice
9 1080, I can't say that he told me to write that
10 specific number.

11 Q. Okay. So 1084, are those -- are those charges
12 that you actually incurred on the Golsons' project?

13 A. Once again, I didn't have an original estimate
14 to look at to go back and cross-reference. I've
15 known Mr. Mazloom for 20 years. He's never given me
16 a reason not to trust him, so I was going on his
17 word.

18 Q. Okay. Do you remember how much you were paid
19 on this project?

20 A. No, I don't.

21 Q. Okay. Do you know how many times you were paid
22 on this project?

23 A. There were short of half a dozen different
24 payments to me, if I recall correctly.

25 Q. Okay. Were you paid in cash?

1 A. No.

2 Q. All right. Have you ever been paid in cash by
3 Mr. Mazloom?

4 A. No.

5 Q. All right. So he's always paid you in a check?

6 A. To my knowledge, yes.

7 Q. Okay. And those checks have always been
8 written from the ARM Quality Builders' bank account;
9 is that correct?

10 A. Yes.

11 Q. Okay. Do you recall receiving -- so you don't
12 recall receiving \$4,299 in cash, do you?

13 A. No.

14 Q. Okay. Has Mr. Mazloom texted you about this
15 project?

16 A. Not about the project specifically. If he
17 tried to reach out to me and I didn't answer right
18 away, he would text me to call him.

19 Q. Okay. Let's flip to Tab D.

20 A. D?

21 Q. Yes. Do you recognize that document?

22 A. Actually, yeah. I'm getting my stories mixed
23 up. This was the one that Mr. Mazloom had asked me
24 to draft shortly before the deposition.

25 Q. Okay. So --

1 MR. DAVIS: Your Honor, may it -- would they
2 identify that invoice number so I'll be clear of
3 what he's talking about?

4 MS. HEYWARD: 1220, Tab D.

5 MR. DAVIS: Thank you.

6 BY MS. HEYWARD:

7 Q. So can you clarify that for me a little bit?
8 You -- this is the document Mr. Mazloom asked you to
9 come up with. It says interior trim for \$4,299.
10 And it says "paid cash" on it. Is that right?

11 A. Yes.

12 Q. And when did Mr. Mazloom ask you to create that
13 document?

14 A. Honestly, I can't differentiate between the two
15 invoices, to be perfectly honest, as far as which
16 one was to -- which one was created directly before
17 the deposition.

18 Q. Okay. Do you recall receiving a subpoena from
19 me?

20 A. Yes.

21 Q. Okay. And you recall discussing some invoices
22 that you provided the Golsons after you finished the
23 work on the project; is that right?

24 A. Yes.

25 Q. All right. If you turn to Tab B, we're

1 referring to Invoice Nos. 1079 and 1052. Do you see
2 those invoices there?

3 A. Yes.

4 Q. Do you recognize those?

5 A. Yes.

6 Q. And you drafted those; is that correct?

7 A. Yes.

8 Q. And you gave those to the Golsons; is that
9 right?

10 A. Yes.

11 Q. Okay. And do those charges reflect the actual
12 costs that you incurred on the project?

13 A. Yes.

14 Q. All right. Now, if you wouldn't mind, just
15 take a minute. Look at Tab -- those two invoices in
16 Tab B and compare them to the two invoices in Tab A.

17 A. Okay.

18 Q. And, also, while you're comparing those, I'd
19 like to direct you to your deposition testimony on
20 pages 38 and 39, which may help refresh your
21 recollection.

22 A. 38 and 39?

23 Q. Yes. I'm looking at page 38 of your
24 deposition.

25 A. Uh-huh.

1 Q. Do you recall -- I'm looking at lines 1 through
2 10. And you're discussing Invoice No. 1080.

3 A. Right.

4 Q. And you testified: This is an inflated invoice
5 Ahmad asked me to give him after this balance was
6 paid. He has, on at least two occasions, asked me
7 to give him a slightly inflated invoice for tax
8 purposes.

9 Do you see that?

10 A. Yes.

11 Q. So is that still your testimony today, that
12 Invoice No. 1080 is an inflated invoice?

13 A. Yes.

14 Q. Okay. And then if you go to page 39, at the
15 bottom of the page on page 21 -- line 21, I say:
16 What about Invoice 1084? Do you know when you did
17 that?

18 And you said: If I had to make an educated
19 guess, I'd have to say that both of them were in
20 January.

21 A. Okay.

22 Q. By January, are you referring to January 2017?

23 A. Yes.

24 Q. Okay. And that that was created in January of
25 2017?

1 A. Yes.

2 Q. And that that is also an inflated invoice?

3 A. Yes.

4 Q. And then if you go on to the next page, page
5 40, I'm referring to the documents in Defendant's
6 Exhibit Tab 7B, Invoice Nos. 1079 and 1052. I'm
7 looking at lines 14 to 23 on page 40. And I ask you
8 if those invoices reflect actual charges that you
9 charged Ahmad for your work on the project. And you
10 say: That's correct. Is that --

11 A. Yes. These are the actual incurred charges.

12 Q. Okay. So if we were trying to determine what
13 work you did on this project and how much you were
14 paid, the evidence you would consider are these
15 invoices, 1079 and 1052; is that correct?

16 A. That's correct.

17 Q. Did you provide a copy of either of these to
18 Mr. Mazloom?

19 A. I would assume that I have. I normally give
20 all my customers carbon copies.

21 Q. Okay. Will you turn to Tab E? Do you recall
22 this -- producing this text message to me at the
23 deposition?

24 A. I don't recall that particular...

25 Q. Okay. I can point you to your deposition

1 testimony --

2 A. Yes.

3 Q. -- if we need to.

4 A. Yes.

5 MS. HEYWARD: Sorry. I beg the Court's
6 indulgence. I'm just looking for the reference to
7 Exhibit 8 in the deposition.

8 We can move on and come back to that. I'll
9 come back to that question and we'll just move on
10 quickly.

11 BY MS. HEYWARD:

12 Q. All right. Did you do any work at -- on any
13 other projects for Mr. Mazloom?

14 A. Oh, yes.

15 Q. Okay. What projects were those?

16 A. Around that same time frame or --

17 Q. In 2016 and 2017.

18 A. I do know that I did a little bit of work on
19 his brother's house and on Ahmad's son's house.
20 Projects outside of that, I don't remember off the
21 top of my head.

22 Q. Okay. Do you recall the addresses for those
23 projects?

24 A. Specific address, no. I do know that Ahmad's
25 brother's house was in the Springdale area and

1 Ahmad's son's house was over in the, for lack of a
2 better location, Old Orangeburg Road area in
3 Lexington.

4 Q. Okay. And were you paid in checks or cash for
5 those projects?

6 A. Should have always been checks.

7 Q. Always checks?

8 A. Uh-huh.

9 Q. Okay. Let's go back to Tab A. Let's turn to
10 the last page. All right. Can you identify for me
11 which of these checks were payment for the Golsons'
12 project?

13 A. For the Golsons?

14 Q. If any.

15 A. Let's see. I have to go back and look at the
16 invoices that we were looking at earlier. But the
17 Golsons, I would say 824, 800. I don't have
18 anything to compare 807 for.

19 Q. All right. If it would help refresh your
20 recollection, please refer to page 48 of your
21 deposition. Take a minute to read lines 12 through
22 25.

23 A. Okay.

24 Q. Okay. So do you recall what project Check
25 No. 800 was for?

1 A. According to the deposition, for Ahmad's
2 brother's house.

3 Q. Okay. His brother's house. So the \$4,200
4 check, number 800, ARM47, is from Ahmad's brother's
5 house?

6 A. Yes.

7 Q. And that's dated December 8th, 2016, correct?

8 A. Yes.

9 Q. And is that around when you did the work on his
10 house?

11 A. It should be. Yes.

12 Q. Okay. What about Check No. 807 for \$3,500?

13 A. That is one I'm still trying to figure out.

14 Q. And I can direct you to lines 15 to 19 of page
15 48 of your deposition.

16 A. Yeah. Once again, according to the deposition,
17 it was for the Golsons. It was a lot more fresh in
18 my mind back then.

19 Q. Okay. So you'd rely on your deposition
20 testimony as to the --

21 A. Yes.

22 Q. To be more correct in your testimony today; is
23 that right?

24 A. Yes.

25 Q. Simply because of passage of time, you're not

1 as fresh on the details?

2 A. Correct.

3 Q. But it's your testimony that what you testified
4 to in your deposition regarding Check No. 807
5 relates to the Golson project and that that is --
6 you believe that to be true and correct today?

7 A. Yes.

8 Q. What about Check No. 824?

9 A. 824, I would assume that would be on the
10 Golsons' residence as well.

11 Q. Okay. And what about Check No. 848?

12 A. 848, I have never received that check.

13 Q. Okay. You've never received it?

14 A. No.

15 Q. Okay. So if you add checks 807 and 824, that's
16 \$3,500, and 2,000, that comes out to be \$5,500,
17 correct?

18 A. Yes.

19 Q. Is that what you received from Mr. Mazloom on
20 the Golsons' project?

21 A. Off of memory, I don't know.

22 Q. Okay. But it could be, it couldn't -- it may
23 or may not?

24 A. Right. Right.

25 Q. Okay. And did Mr. Mazloom pay you in full for

1 the project?

2 A. Yes.

3 Q. Okay. And if you keep your finger on the last
4 page of Tab A and then go to Tab B, it looks like
5 you've indicated that you received some draws on the
6 project; one was in the amount of \$3,500 on
7 December 22nd, 2016, if you look at
8 Invoice No. 1079; is that right?

9 A. Yes.

10 Q. Okay. And if you refer back to the last page
11 of Tab A, the Check No. 807 that you said referred
12 to the Golsons' project, that's for \$3,500; is that
13 correct?

14 A. That's correct.

15 Q. Okay. And the next page says that you received
16 a draw of \$2,500; is that correct?

17 A. Yes.

18 Q. But we don't see a check here for \$2,500, if
19 you flip back to the last page of Tab A; is that
20 right?

21 A. That's right.

22 Q. Is it possible that you were paid less?

23 A. It is possible, but usually not by that amount
24 of money difference. If I had asked for \$2,500, I
25 don't think I would have received a check for

1 \$2,000.

2 Q. All right. So it's possible maybe that this
3 Check 824 here for \$2,000 relates to some other
4 project?

5 A. It's possible.

6 Q. Okay. But you just can't say for sure?

7 A. Right.

8 Q. Okay. But we see here that you received a draw
9 of \$3,500 and a draw of \$2,500. And you believe
10 that that's accurate and correct?

11 A. Yes.

12 Q. And do you have any -- did you receive another
13 payment other than those two?

14 A. Yes. The final installment which, according to
15 Invoice No. 1052, the remaining balance was 4129.

16 Q. Okay. And you believe you received that?

17 A. That was -- that could have possibly been Check
18 No. 800.

19 Q. Okay. Well --

20 A. Which --

21 Q. -- I haven't pulled every check -- I don't have
22 every check that was ever paid to you and those --
23 those would be located in the First Citizens
24 records.

25 But we do know that the checks submitted in the

1 backup here by Mr. Mazloom on ARM47, one of them is
2 a check that you've never received and at least one
3 of them is for his brother's house; is that right?

4 A. Right.

5 Q. And you believe you may have received other
6 payments, but those are not reflected on this page,
7 correct?

8 A. Correct.

9 Q. But it would have been in a check?

10 A. Right.

11 Q. Okay. I want you to compare Invoice Nos. 1080
12 and 1052 side by side, please. That would be the
13 third page of Tab A. This is 1080, which is what
14 you indicated is the inflated invoice. No. Sorry.

15 The second page of Tab B, which you indicated
16 is the real invoice --

17 MS. HEYWARD: Judge, I'm sorry. I need to get
18 my bearings.

19 BY MS. HEYWARD:

20 Q. 1080 is the second page of Tab A, which you
21 indicated was the inflated invoice?

22 A. Correct.

23 Q. All right. 1052 of Tab B, which you indicated
24 is the real invoice, I want you to look at those
25 side by side, those charges there. You see the

1 first line item is for basic trim, 1528. You see
2 that?

3 A. Yes.

4 Q. That's on 1052. And that's the real amount; is
5 that correct?

6 A. Yes.

7 Q. On 1080, that number is 1728; is that right?

8 A. That's right.

9 Q. And you inflated that for Mr. Mazloom; is that
10 right?

11 A. Yes.

12 Q. So that does not -- the difference reflects
13 charges that were not incurred on the project?

14 A. Correct.

15 Q. And there are differing amounts all the way
16 down with line items. You go to crown, closets,
17 pantry, mantle, garage, pocket doors, bench seat. I
18 think that's -- there's bench seats around and
19 cabinets.

20 If you compare those two invoices side by side,
21 all those line items on 1080 are inflated from the
22 amount of the actual invoice on 1052; is that right?

23 A. That's right.

24 MR. DAVIS: Excuse me. I'm sorry. What
25 invoice was that last one that you mentioned?

1 MS. HEYWARD: We're comparing 1080, which is
2 Ahmad's, and 1052, which is --

3 MR. DAVIS: Gotcha.

4 BY MS. HEYWARD:

5 Q. All right. Did you ever -- did Mr. Mazloom
6 contact you about your testimony today?

7 A. No.

8 Q. But he contacted you in advance of your
9 deposition?

10 A. Yes.

11 Q. Okay. And how many times did he contact you?

12 A. Before the deposition? Several.

13 Q. Okay. Did he come to your shop?

14 A. Once that I know of.

15 Q. Okay. What occurred when he came to your shop
16 in advance of your deposition?

17 A. I want to say it was in relation to the other
18 invoice that we were discussing earlier. But,
19 honestly, I don't recall the specifics of the
20 conversation.

21 Q. By other invoices, are you referring to the
22 cash receipt?

23 A. I'm assuming so. Yes.

24 Q. And I'm going to direct you to Defendant's
25 Exhibit 7D.

1 A. 7D?

2 Q. 7D. Is this the cash receipt that you're
3 referring to that he asked you to -- that meeting
4 before when he came to your shop before your
5 deposition, is that when you drafted that document?

6 A. Yes.

7 Q. And is that a legitimate document reflecting
8 charges on the Golson project?

9 A. No.

10 Q. Okay. Why did he tell you he needed it?

11 A. Well, the phone call that I'd received from him
12 was saying that he needed a copy of an invoice in
13 relation to these proceedings. I did not have a
14 copy. I wanted to look through my records and see
15 if I had an original copy matching that amount.

16 I don't know if I was told that he didn't have
17 time to wait on it or whatever, but we needed to
18 write up an invoice for a certain date, certain
19 location, and certain amount of money.

20 Q. Okay. Who came up with the interior trim?

21 A. I probably put that on there.

22 Q. Okay. Did you bill Mr. Mazloom \$4,299 for
23 interior trim?

24 A. No.

25 Q. Okay. So it's fair to say that that's false?

1 A. Right.

2 Q. Okay. And it says "paid cash" there at the
3 bottom. Did you write that?

4 A. That is my writing.

5 Q. But your testimony is you were not paid cash?

6 A. No. No.

7 Q. And why did you -- did you -- how did you feel
8 when you were creating this document?

9 A. Terrible.

10 Q. Terrible. Okay. Do you regret that decision?

11 A. Every day for the last couple years. Yes.

12 Q. Okay. Well, I appreciate your honesty.

13 I'll direct you to Tab E one more time. And
14 you provided me with a screenshot of some text
15 messages.

16 A. Uh-huh.

17 Q. And I don't believe we discussed it in your
18 deposition. I seem to recall you gave them to me at
19 the deposition. Do you have any specific
20 recollection of that?

21 A. No.

22 Q. Okay. Would you still have these text
23 messages?

24 A. Highly doubtful. I have teenage daughters on
25 the same cell phone plan, so they've probably been

1 erased.

2 Q. Would you review Tab E? And if you don't
3 recall, that's fine. Look at those text messages
4 and tell me if you recall whether or not you
5 received them; if you believe that those were text
6 messages that you received.

7 A. I believe that they are.

8 Q. Okay. And if you flip to the last page there,
9 do you recall this text message on the bottom here,
10 on February 26th, where it says: I need a cash
11 receipt dated 1/25/17 for \$4,299 for your work on
12 Libby Ariaail Lane? Do you see that?

13 A. I see that.

14 Q. Do you recall receiving that text message from
15 Mr. Mazloom?

16 A. I don't recall receiving it. This came off my
17 phone, obviously. So, yes, it came from him.

18 Q. How do you know that -- I mean -- okay. So it
19 says: I need a cash receipt for \$4,299 for your
20 work. And then if you flip back to Tab D, that's
21 the cash receipt for \$4,299 that you created and is
22 referenced in that text message; is that right?

23 A. Right.

24 Q. Okay.

25 MS. HEYWARD: All right. No further questions.

1 Please answer any questions --

2 THE COURT: Mr. Davis, do we need a quick break
3 before cross?

4 MR. DAVIS: That would be great.

5 THE COURT: Just take a very short break.

6 (Brief recess.)

7 THE COURT: Are we ready to proceed?

8 MR. DAVIS: Yes, Your Honor.

9 THE COURT: Counsel, are y'all ready?

10 MR. MULLINS: Yes, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. DAVIS:

13 Q. Mr. Hall, you've known Mr. Mazloom how long?

14 A. Better part of 20 years.

15 Q. Okay. You've done the -- working with him that
16 period of time?

17 A. Sorry?

18 Q. You've been working with him that period of
19 time?

20 A. Yes. Yes.

21 Q. Okay. And on examination by counsel, you
22 indicated that you had no reason not to trust
23 Mr. Mazloom. Is that correct?

24 A. That's correct.

25 Q. He's a good builder?

1 A. Yes; very good.

2 Q. Okay. The -- you testified to various
3 invoices. One was 1052, the invoice.

4 A. Okay.

5 Q. I think I heard you say that's a correct
6 invoice.

7 A. That's correct.

8 Q. 1079 was the second invoice --

9 THE COURT: Counsel, just a moment.

10 MR. DAVIS: Sure.

11 THE COURT: I need to find it.

12 Okay. I'm with you. Thank you.

13 BY MR. DAVIS:

14 Q. 1079, the second invoice, looks like it's a --
15 1052 was dated September of 2016. 1079 is dated in
16 December of 2016.

17 A. Yes.

18 Q. Second legitimate invoice?

19 A. Yes.

20 Q. Okay. And then 1080, what is that -- is that a
21 correct invoice or not, 1080?

22 A. 1080 is not.

23 Q. Is not. And so your 1080 is not a legitimate
24 invoice?

25 A. No.

1 Q. What's wrong with it?

2 A. The numbers have been inflated.

3 Q. Okay. Counsel had asked you on the first
4 question, as I remember, about inflated invoice.

5 When she asked the question, you were not able
6 to say what the inflation figure was, did you?

7 A. As far as the difference between the original
8 amount and what's stated on this invoice, no.

9 Q. All right. 1084, is that a legitimate invoice
10 or not?

11 A. I can't say if that is legitimate or not, to be
12 honest with you. I don't think that it is. I'd
13 have to cross-reference the other invoices as well.

14 Q. But I asked this question: Is -- 1052 invoice
15 was prepared by you?

16 A. Yes.

17 Q. 1079?

18 A. Yes.

19 Q. 1080?

20 A. Yes.

21 Q. And 1084?

22 A. Yes.

23 Q. Okay. All right. You got the copies of your
24 checks -- let me say it this way: Do you have, up
25 there in front of you, a copy of the various checks

1 that you've been asked about?

2 A. Yes.

3 Q. Okay. There's four of them, is there not?

4 A. Yes; five total.

5 Q. Number 800, 807, 804, and 848, right?

6 A. Yes.

7 Q. And I think on number 800, the one that's
8 \$4,200, you weren't sure that that applied to this
9 project, correct?

10 A. No. No. Have no idea as to which check
11 correlates with what invoice.

12 Q. Okay. But you testified or said some reference
13 to, I think, Mr. Mazloom's brother's project.

14 A. Uh-huh.

15 Q. He has testified that he did not issue checks
16 on that project; that the subs were paid directly by
17 his brother. Do you have any memory of the check
18 that you got from the brother's project, who it came
19 from?

20 MS. HEYWARD: Your Honor, I object to Mr. Davis
21 characterizing Mr. Mazloom's testimony and then --
22 and phrasing that to the witness. I don't think
23 that's an appropriate way to ask a question.

24 THE COURT: Obviously, he wasn't here for your
25 client -- you're making a representation of previous

1 testimony.

2 MR. DAVIS: Right.

3 THE COURT: How about just make it as an
4 assumption if?

5 MR. DAVIS: Okay.

6 THE COURT: Rephrase the question.

7 BY MR. DAVIS:

8 Q. Assuming what was testified to is correct, do
9 you have a memory of whether that check or any
10 checks you got on the brother's project, where they
11 came from?

12 A. Memory, as thin as it's been stretched, no, I
13 don't know who wrote me the check. But I do recall
14 something about me giving Ahmad the invoice for it.

15 Q. Okay. Fair enough. If you look at Invoice
16 No. 1052, at the base of the invoice, there's a
17 figure of 4129.

18 A. Uh-huh.

19 Q. Okay. That was a billing of some period of
20 time which I asked you, do you feel like maybe the
21 \$4,200 check, which related to that entry there on
22 that 1052.

23 A. Right.

24 Q. You think that's reasonably possible?

25 A. As far as the check for the \$4,200?

1 Q. Yes.

2 A. To cover this amount of 4129 on Invoice 1052?

3 Q. Yeah.

4 A. Yeah. That's reasonable that that check could
5 have been written to cover that.

6 Q. Okay. That number 800 was tied to the 4129?

7 A. Very well could be.

8 Q. Okay. On Invoice No. 1079, midway through that
9 invoice is a draw on December 22nd for \$3,500,
10 correct?

11 A. Correct.

12 Q. Okay. Looking at the checks, there's a check
13 written on December 22nd, 2016, for \$3,500. That
14 would match up with your draw information on Invoice
15 No. 1075?

16 A. Correct.

17 Q. Okay. Now, the -- there are two other checks,
18 824, which is in January, and one, 848, which is
19 January 25th, which you -- I think you said you did
20 not get.

21 But let me ask you this: So we're fairly safe,
22 it looks like, on 800, 807, if you look at the total
23 charges on Invoice 1052 and 1079, if you'll
24 calculate for me the total charges on those two
25 invoices.

1 A. On 1079 and --

2 Q. 1052 and 1079.

3 A. All right. 10,092.

4 THE COURT: Say that again.

5 THE WITNESS: 10,092.

6 BY MR. DAVIS:

7 Q. Let's see. I see a -- on 1052, there's a -- it
8 looks like a total for 2998.

9 A. Ah, okay.

10 Q. And the bottom of 1052, 4129?

11 A. Yes. I believe I already had that one.

12 Q. And then on 1079, entry for 3844, correct?

13 A. Correct.

14 Q. And also entry for 2119. What does that total?

15 A. \$13,090.

16 Q. Okay. Let's take -- and these -- you've
17 testified to me and to counsel for the defendant
18 that 1052 and 1079 are legitimate invoices?

19 A. Yes.

20 Q. Okay. Let's look at the checks and let's run
21 the totals on the four checks that start with number
22 800, 807, 824, and 848.

23 MS. HEYWARD: Your Honor, I object on the
24 grounds of relevancy. I'm not sure how it's
25 relevant what the total of the four checks are. I

1 think that Mr. Davis needs to establish from the
2 witness which checks are for this project and the
3 total of those would be relevant.

4 But he's already testified that at least one of
5 these is for his brother's house and the other one
6 he never received. So I'm not sure what the Court
7 is going to benefit from knowing what the total of
8 those are, other than it amounts to what Mr. Mazloom
9 claims he received. But that's not consistent with
10 what the witness is testifying today.

11 MR. DAVIS: Your Honor, may it please the
12 Court? I believe that Mr. Hall testified that now
13 he feels like the number 800 was reasonably tied to
14 this project, based on -- that the second entry off
15 1052 was for 4129.

16 He's -- 1079 shows a \$3,500 payment was made.
17 And what I'm trying to establish is, based on his
18 legitimate invoices, checks were written, so says my
19 client, or monies were paid totaling these checks on
20 this.

21 BY MR. DAVIS:

22 Q. And I ask the question again: What do they --
23 you testified they total 13,000-whatever; is that
24 correct?

25 THE COURT: Objection is overruled. You can

1 ask the question.

2 MR. DAVIS: Okay.

3 THE WITNESS: All right. These four checks to
4 cover this balance?

5 BY MR. DAVIS:

6 Q. Yes.

7 A. Okay.

8 Q. And it's what?

9 A. \$13,999.

10 Q. Matches up with the invoice?

11 MS. HEYWARD: Your Honor, I object. The
12 invoice is -- it's \$13,090.

13 MR. DAVIS: Okay. Small difference, but it
14 sort of matches up with the invoice.

15 MS. HEYWARD: A \$900 difference.

16 MR. DAVIS: Okay.

17 THE COURT: Just -- just -- the Court will note
18 that they are approximately in the same range. They
19 are not, dollar-for-dollar, the same, as has been
20 the case in many of the calculations throughout this
21 trial.

22 MR. DAVIS: Right. Thank you.

23 BY MR. DAVIS:

24 Q. You were asked about whether you had received a
25 cash payment. I think your answer was, best of your

1 memory, you had not.

2 A. Correct.

3 Q. Okay. But, based on Invoice 1052 and 1079,
4 your billing for this project was \$13,000, correct?

5 A. Correct.

6 Q. Okay. Now, on this project, what was your job?

7 A. I did all the interior trim on the home and
8 built all of the cabinets -- or most of the
9 cabinets.

10 Q. Okay. Interior trim and all the cabinets?

11 A. Uh-huh.

12 Q. Okay. And in the kitchen area of this house,
13 it's my understanding that the Golsons wanted moved
14 from their existing house in Columbia, the cabinets
15 that were there to this house in Chapin?

16 A. Correct.

17 Q. Because they'd been done by his or her parents,
18 is my understanding?

19 A. Correct.

20 Q. Someone in the family. They had some
21 sentimental value.

22 Did you include that in this project?

23 A. Yes.

24 Q. Is that something you normally do on that type
25 thing?

1 A. No. That was something new.

2 Q. Something new. And did the cabinets -- or the
3 kitchen area, for lack of my construction knowledge
4 as the cabinets, did they fit completely in the
5 planned kitchen on the Chapin property?

6 A. The existing original cabinets?

7 Q. Whatever you brought from Columbia over to this
8 project.

9 A. There were modifications that needed to be
10 made.

11 Q. And what were those modifications?

12 A. Some disassembly of original cabinets in order
13 to repurpose the material to build new cabinets to
14 fit the new space.

15 Q. Okay. And where did you find the material or
16 the wood or whatever to match up the existing
17 cabinets?

18 A. We actually made a trip to Mrs. Golson's
19 father's house to pick up the original walnut that
20 those cabinets were built out of.

21 Q. So you had to take the wood and -- the wood
22 that you got from her parents' house and convert it
23 to a finished product in that kitchen?

24 A. Yes.

25 Q. Now, invoice -- strike that.

1 Exhibit No. 39, do you have a copy of that?

2 A. Sorry. I don't think so.

3 Q. Exhibit 39 is a document that you prepared; is
4 that correct?

5 A. That's correct.

6 Q. Showing a cash payment?

7 A. Yes.

8 Q. Okay. So we have your invoices, 1052 and 1079,
9 saying 13, and your acknowledgment of a cash payment
10 there; is that correct?

11 A. Yes.

12 Q. Okay.

13 MR. DAVIS: That's all I have, Your Honor.

14 THE COURT: Any redirect?

15 MS. HEYWARD: No further questions, Your Honor.

16 THE COURT: All right. The witness may step
17 down. Is he free to go?

18 MR. DAVIS: Yes, Your Honor.

19 MS. HEYWARD: Yes.

20 THE COURT: All right. You're free to go, sir.

21 Let's go ahead and break for an hour. Let's
22 try to start at 2:30.

23 MR. MULLINS: Come back at 2:30 or --

24 THE COURT: Oh, I'm sorry. 1:30. Time to get
25 new glasses.

1 (Luncheon recess 12:37 PM to 1:42 PM.)

2 THE COURT: Mr. Davis, are you about ready?

3 MR. DAVIS: Yes, Your Honor.

4 THE COURT: All right.

5 MS. HEYWARD: Mr. Josh Joyner.

6 JOSH JOYNER

7 being first duly sworn, testified as follows:

8 THE WITNESS: I do.

9 THE CLERK: Thank you. Please be seated. Once
10 you're seated, state your name, spelling your last
11 name for the record.

12 THE WITNESS: Josh Joyner, J-O-Y-N-E-R.

13 DIRECT EXAMINATION

14 BY MS. HEYWARD:

15 Q. Good afternoon, Mr. Joyner. My name is Caitlin
16 Heyward and I represent the Golsons in this matter.

17 I have turned to page -- to Tab 8 in the
18 exhibit notebook in front of you. And these are
19 the -- the documents in this Tab are what we'll be
20 referring to during your testimony today. Are you
21 familiar with the Golsons?

22 A. I am, yes, ma'am.

23 Q. Okay.

24 A. The house.

25 Q. The house. And did you work on their house?

1 A. Yes, we did. Me and my guys worked on the
2 house. Yes.

3 Q. Okay. What work did you do?

4 A. The HVAC.

5 Q. Okay. And what kind of HVAC system did you
6 install?

7 A. I don't remember. It's been a long time.

8 Q. Okay. Do you remember how much you charged
9 Mr. Mazloom for the HVAC parts and labor?

10 A. For the job total, I do remember the total,
11 yes.

12 Q. Okay. What --

13 A. I mean, well, just because it's been brought up
14 recently.

15 Q. Okay. What is it?

16 A. The job total is nineteen-five.

17 Q. Okay. 19,500?

18 A. (Nonverbal response).

19 Q. Okay. And when you say it was brought up
20 recently, what do you mean by that?

21 A. Just looking into all the stuff that you've
22 sent. I think y'all subpoenaed me. And trying to
23 figure out -- you asked me questions about checks
24 and things.

25 Q. Okay. So you went back to review some of your

1 records; is that right?

2 A. Just to look at what was -- yes.

3 Q. Okay.

4 A. Briefly.

5 Q. If you turn to Tab B and then just go to the
6 second page here, this is an invoice that you
7 submitted in response to subpoena; is that right?

8 A. Yes.

9 Q. Okay. And I believe this is the only
10 document --

11 A. No. I didn't supply this. I think this came
12 from -- I don't believe I gave you this.

13 Q. Okay. Did Mr. Mazloom give you this document?

14 A. This came from -- this document came from me.

15 Q. Okay. This document came -- the \$25,000
16 invoice came from you. Okay. And explain to me how
17 this document was generated. What were the
18 circumstances surrounding that?

19 A. So when the job was completed, he was wanting
20 an invoice for what it would normally cost, like,
21 Joe Blow, and then with his discount. So this is
22 the same invoice. And then I sent him this one with
23 Joe Blow pricing and then I sent him the true
24 invoice that we'd already been paid for the job,
25 which was the nineteen-five.

1 Q. Okay. So this is -- so what you're saying,
2 what I understand, is this is not a true invoice,
3 this \$25,000 --

4 A. I prepared it and I sent it to him. Yes.

5 Q. Okay. But \$25,000 doesn't reflect the amount
6 that you charged Mr. Mazloom on the project?

7 A. That's correct.

8 Q. Okay. And your testimony was 19,500?

9 A. I believe that's correct.

10 Q. Okay. When did you prepare this document? Did
11 you say at the end of the project?

12 A. Yeah. We had already had all the draws. So I
13 see the due date of -- well, the date of 1/24. So
14 that's probably when it was done.

15 Q. Okay. And how many -- did Mr. Mazloom ever pay
16 you in cash for your work on the project?

17 A. I did not receive cash.

18 Q. Okay. He paid you in checks?

19 A. (Nonverbal response).

20 Q. And how many checks did he pay you?

21 A. I don't know for 100 percent. I think it was
22 three.

23 Q. Okay. And do you recall when the work was
24 done?

25 A. I don't.

1 Q. Okay.

2 A. Like, when it was completed? I do not.

3 Q. How long did you work on the project? Was it a
4 matter of months or weeks?

5 A. I mean, the job drew out over months, yes.

6 Q. Over months. Okay.

7 So if you turn back to Tab A -- and I want you
8 to flip to the third page, because we start with
9 some checks here. The check at the bottom, number
10 847, do you recognize that?

11 A. No.

12 Q. Okay.

13 MR. DAVIS: Excuse me. I apologize. I didn't
14 hear that check number.

15 MS. HEYWARD: 847.

16 MR. DAVIS: Okay. Thanks a lot.

17 BY MS. HEYWARD:

18 Q. So you don't recognize that check?

19 A. No, ma'am.

20 Q. Okay. Were you ever paid \$5,500 in cash?

21 A. No, ma'am.

22 Q. Okay. What about the other checks? Do you
23 keep a record of what payments relate to which
24 projects?

25 A. For the most part, we try to. I mean, we

1 have -- yeah. We're heating-and-air guys, so we
2 don't always do the best bookkeeping.

3 Q. Do you know what checks -- if any of the checks
4 on this page relate to the Golson project?

5 A. I assume the first three.

6 Q. Okay. That's an assumption?

7 A. That's pretty accurate. Yes, ma'am.

8 Q. Okay. Did you do any work for Mr. Mazloom on
9 any other projects in 2016?

10 A. The only other house that he did, that I would
11 say was around this time, but I was -- was probably
12 his son's house. But we were I think we were done
13 with it when this started.

14 Q. Okay. So if you add Check 768, 799, and 811,
15 these first three checks, how much do those add up
16 to?

17 A. Nineteen-five.

18 Q. 19,500. Okay. So you would say that the
19 invoice is overstated by \$5,500?

20 A. That would be correct.

21 Q. Okay. And if you flip to Tab D, do you
22 recognize the document in Exhibit 8D?

23 A. Is that this one?

24 Q. Yes.

25 A. No.

1 Q. What is that document?

2 A. I don't know.

3 Q. Did you create that document?

4 A. No.

5 Q. You did not. Is that --

6 A. No, I did not.

7 Q. Okay. And is this the first time you've seen
8 this document?

9 A. It is.

10 Q. Okay. And you were not paid \$5,500 in cash, as
11 is indicated on here, on January 24th, 2017; is that
12 right?

13 A. I was not.

14 Q. Okay.

15 MS. HEYWARD: No further questions.

16 THE COURT: Cross-examination?

17 MR. DAVIS: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. DAVIS:

20 Q. It's Mr. Joyner, correct?

21 A. Yes, sir.

22 Q. Okay. On -- under Tab -- I think it's 9.
23 Let's see here. It looks like Tab 8.

24 A. Yes, sir.

25 Q. Under section -- first section, the invoice,

1 seen that until today?

2 A. That's correct.

3 Q. Okay. So it would be clear that you did not
4 prepare that document?

5 A. I did not prepare this document or that one.

6 Q. Oh, you did not prepare, I'm asking you,
7 Plaintiff's 38?

8 A. That's correct.

9 Q. Okay. So today is the first time you've seen
10 that?

11 A. It is.

12 Q. Okay. What is on exhibit -- Plaintiff's
13 Exhibit 18, do you have that? That's the checks.
14 And that would be under the -- unless it's clear --

15 A. To me, it's B.

16 Q. It would be under your Tab B.

17 A. Yes.

18 Q. Okay. There's a check -- there's a check
19 August 26th of 2016, correct?

20 A. Bear with me one second. Ask your question
21 again. I apologize.

22 Q. There's an invoice to White Knoll August 26th,
23 2016, for \$10,000?

24 A. There's a check, yes.

25 Q. Okay. There's one on December the -- looks

1 like 5th or 6th of 2016 for 5,000.

2 A. Yes.

3 Q. Okay. And then there's one on December the
4 29th of 2016 for 45,000?

5 A. 4,500. Yes.

6 Q. Oh, I'm sorry. Yes, it's --

7 THE COURT: Mr. Davis, where are you reading
8 from?

9 MR. DAVIS: This, Your Honor, would be ARM21.

10 THE WITNESS: It's in A in this book.

11 THE COURT: I heard you say the word invoice,
12 so I just --

13 MR. DAVIS: Did I say invoice?

14 THE COURT: Yes.

15 THE WITNESS: You did.

16 THE COURT: You mean checks?

17 MR. DAVIS: Yes, checks. I'm sorry.

18 BY MR. DAVIS:

19 Q. Let's go back here so we can be straight for
20 the Court. On that -- the checks, White Knoll
21 Heating & Air, August 26th, 2016, for 10,000.

22 A. Correct.

23 Q. Okay. Then White Knoll for 5,000 December 6th
24 of 2016, correct?

25 A. Correct.

1 Q. And then 4,500 at White Knoll December 29th,
2 2016.

3 And I believe your testimony is that those, you
4 think, are your checks?

5 A. That's correct.

6 Q. Okay. And then the last one, you said, is not
7 your check; is that correct?

8 A. I'm not familiar with that check.

9 Q. Okay. And it's dated January 24th, 2017; is
10 that correct?

11 A. That's what it says. Yes, sir.

12 Q. Okay. And when you add those checks up, what
13 do you come up with?

14 A. 25,000.

15 Q. 25,000. And the date of that \$5,500 check, is
16 January 24th, 2017, correct?

17 A. The date of the check?

18 Q. Yes, sir.

19 A. And -- yes.

20 Q. Okay.

21 A. The date of the check.

22 Q. That's the one you said you didn't get, right?

23 A. That's correct.

24 Q. What is the date on your invoice, which is
25 ARM20?

1 A. It is the 24th.

2 Q. Same date?

3 A. That's correct.

4 Q. And on that invoice, what did you say you
5 got -- your bill was?

6 A. The invoice here?

7 Q. Yes.

8 A. It's 25,000.

9 Q. And you prepared that?

10 A. I prepared that document.

11 Q. Okay. So you've put something in writing to
12 your company saying that's what your bill was?

13 A. Yeah.

14 Q. Okay. There's not an invoice going to the
15 Golsons for nineteen-five?

16 A. I sent him an invoice, but I don't know what he
17 did with it.

18 Q. But you don't have an invoice with you showing
19 nineteen-five; you got an invoice showing \$25,000?

20 A. I can print it out. But yes.

21 Q. But it's yours?

22 A. That's correct.

23 Q. Okay. All righty. After you -- well, let me
24 ask you this: What type heating system did you put
25 in the house?

1 A. I'm reading the invoice now. It says Tempstar.

2 Q. There's been an Exhibit No. 33, Plaintiff's
3 Exhibit 33. I'm waiting for the Court here to --

4 THE COURT: You might be waiting a while. I
5 got it.

6 BY MR. DAVIS:

7 Q. Okay. About seven-eighths of the way down,
8 it's got -- right there, what does that say?

9 A. It does say heat pump and mini-split.

10 Q. That document, you see what it says at the top?

11 A. Uh-huh.

12 Q. What does it say?

13 A. Builder to provide.

14 Q. And would it be correct, for what you did, for
15 what you got paid, was heat pump --

16 A. And mini-split.

17 Q. -- and mini-split.

18 A. I did provide that.

19 Q. Okay. And you did install that? You did
20 install that?

21 A. Correct.

22 Q. Okay. Did the Golsons -- after it was
23 installed, did the Golsons call you about coming out
24 to check on that?

25 A. They did.

1 Q. Did you respond to them?

2 A. I did respond. And then Ahmad said don't go

3 out there until this was --

4 Q. All right.

5 A. -- straightened out.

6 Q. But you responded and you had a scheduled

7 appointment with the Golsons, did you not?

8 A. I did call them back ten minutes later and

9 cancel that. Yes.

10 Q. Who did? They did?

11 A. I --

12 Q. You did?

13 A. I called them.

14 Q. Okay. So did the Golsons tell you they were

15 going out of town when that was canceled?

16 MS. HEYWARD: Your --

17 MR. DAVIS: I -- I just --

18 A. It's a long time ago.

19 BY MR. DAVIS:

20 Q. Okay.

21 A. That does sound familiar.

22 Q. What's that?

23 A. That does sound familiar.

24 Q. Okay.

25 A. But it was a long time ago.

1 MR. DAVIS: That's all I have, Your Honor.

2 THE COURT: Any redirect, Counsel?

3 MS. HEYWARD: Yes, Your Honor, briefly.

4 REDIRECT EXAMINATION

5 BY MS. HEYWARD:

6 Q. Did the Golsons tell you that they expected
7 mini-splits to be installed throughout the house?

8 A. Not during the project. They spoke about it
9 pre-installation. We were at Ahmad's kitchen table
10 and they spoke of it. And then that's not what they
11 went with, at least not through Ahmad. That's not
12 what I was told to put in.

13 Q. Okay. So you initially met with Ahmad Mazloom
14 at the beginning of -- before the project started.
15 And the Golsons indicated to you, at that time, that
16 they wanted mini-splits throughout the house; is
17 that right?

18 A. They wanted options. Yes.

19 Q. Okay. But was it clear to you at that time
20 they wanted mini-splits in the house?

21 A. They just wanted options.

22 Q. What do you mean by options?

23 A. Cost for mini-splits throughout the house,
24 costs for central HVAC throughout the house.

25 Q. Okay.

1 A. So that's what we gave them prices on.

2 Q. Okay. So, at that point, you were just pricing
3 it out?

4 A. That's correct.

5 Q. And then Mr. Mazloom directed you to go with
6 the central unit; is that right?

7 A. I was on the phone with, I don't know, Mr. --
8 the homeowner's name. And he said go central. Yes.

9 Q. Okay.

10 THE COURT: I didn't hear the last response.

11 He said --

12 THE WITNESS: I was on the phone with -- I
13 don't know his last name. I apologize. Mr. Golson,
14 I guess. And he went with central. He confirmed
15 what he wanted while we were at his house.

16 THE COURT: Oh, okay. I just didn't hear it.

17 THE WITNESS: Sorry.

18 BY MR. DAVIS:

19 Q. Did Mr. Mazloom contact you about your
20 testimony today?

21 A. Not about today, no.

22 Q. Okay. What about -- has he contacted you in
23 the last year?

24 A. Yeah. His AC is out or his heat is out. And I
25 go to -- his mother-in-law's heat is out. I go work

1 on stuff.

2 Q. What about this Golsons' project? Has he
3 contacted you about it this year?

4 A. Not really. He just asked how it was going.

5 Q. Okay. Well, he contacted you to create the
6 cash receipt, right -- oh, wait. You testified he
7 didn't create that, right?

8 A. The -- this one here? Just to be clear, the
9 one I said I did not do --

10 Q. The --

11 A. This one, correct. I did not -- he didn't
12 contact me about this.

13 Q. Okay. But --

14 MR. MULLINS: Identify that.

15 MS. HEYWARD: We're talking about Exhibit D --

16 THE COURT: 8D.

17 MS. HEYWARD: 8D.

18 THE COURT: All right. I'm with you.

19 BY MS. HEYWARD:

20 Q. And -- but he did contact you about 8B after
21 the project, right? I think that's what you
22 testified to earlier.

23 A. The invoice?

24 Q. Yes.

25 A. He contacted me on -- I did it the day he

1 contacted me about it --

2 Q. Okay.

3 A. -- on 1/24- --

4 Q. All right. No further --

5 A. -- -17.

6 Q. -- questions.

7 THE COURT: All right. Recross?

8 MR. DAVIS: Yes, sir, just one question.

9 RE CROSS-EXAMINATION

10 BY MR. DAVIS:

11 Q. Mr. Joyner, in reference to the Exhibit 33 on
12 that entry heat mini-split, what does that mean to
13 you as to what you were to put in the house?

14 MS. HEYWARD: Your Honor, this is not a proper
15 witness to be testifying about the meaning of words
16 in a contract that he's not party to.

17 THE COURT: What specific words are we talking
18 about here?

19 MR. DAVIS: Yes, Your Honor --

20 THE COURT: We've already referenced this
21 document once. So I'm just -- what are you asking?

22 MR. DAVIS: I referenced heat pump mini-split
23 AC unit. I'm asking him -- he installed it. I'm
24 asking what does that mean he's supposed to install.
25 That's what I'm asking.

1 MS. HEYWARD: And, Your Honor, he can testify
2 as to what he and Mr. Mazloom agreed to install.
3 But in terms of the meaning of what the scope of
4 work is in the contract, he's not a proper person to
5 testify about that.

6 THE COURT: Okay. So he -- so your question
7 is, what does the language of the document mean to
8 you?

9 MR. DAVIS: Yes.

10 THE COURT: Well, I think you addressed that
11 earlier when you asked him, did you install this,
12 and he said yes.

13 MR. DAVIS: Okay.

14 THE COURT: But as far as --

15 MR. DAVIS: I'll withdraw the question.

16 BY MR. DAVIS:

17 Q. And I'll ask this question: If you -- if
18 you're -- if someone was asking you to put the
19 mini-split -- the heat pump, mini-split, air
20 conditioning unit in the whole house, what does that
21 mean? Is that different from what's on that sheet
22 of paper?

23 A. You get -- well --

24 MS. HEYWARD: Your --

25 THE COURT: It's a --

1 THE WITNESS: Go ahead. I'm sorry.

2 MS. HEYWARD: Same objection.

3 THE COURT: Rephrase it, please, Mr. Davis.

4 BY MR. DAVIS:

5 Q. What does -- if you put a mini-split air
6 conditioning system in the whole house, what are you
7 doing?

8 A. You're putting mini-splits in every room
9 throughout the whole entire house.

10 Q. Okay. I ask no more.

11 THE COURT: All right. Is this witness free to
12 go?

13 MR. MULLINS: Yes.

14 THE COURT: No objection?

15 MR. DAVIS: No objection.

16 THE COURT: Are you ready to proceed?

17 MR. MULLINS: Yes. We'll call Mr. Mazloom back
18 to the stand for a brief --

19 THE COURT: You're still under oath,
20 Mr. Mazloom.

21 AHMAD MAZLOOM

22 having been previously sworn, testified as follows:

23 MR. MULLINS: Your Honor, do you mind if I just
24 stay here at the table?

25 THE COURT: You can stand wherever you'd like.

1 MR. MULLINS: Thank you.

2 DIRECT EXAMINATION

3 BY MR. MULLINS:

4 Q. Mr. Mazloom, I'm Wade Mullins. We've met
5 before, correct?

6 A. Yes.

7 Q. Okay. I'm just going to ask you a few
8 questions. I know you spent a lot of time on the
9 stand yesterday. So we're going to be very brief
10 here.

11 A. I appreciate it.

12 Q. But there's a few topics I want to discuss with
13 you. And, if we cooperate with each other, then
14 we'll have it done quickly.

15 Do you have the exhibits that you
16 introduced yesterday -- or your attorney introduced
17 up there? Not the notebook, but the individual
18 exhibits.

19 THE COURT: I think we cleaned off the witness
20 stand.

21 A. What number is it?

22 Q. Exhibit No. 8. I need you to get Exhibit
23 No. 8.

24 A. No. I don't have it.

25 Q. (Tenders document to witness.)

1 A. Okay.

2 Q. And you can take a second to familiarize

3 yourself with that, if you need to. If you're

4 familiar with it, I'll go ahead and --

5 A. Yes.

6 Q. -- start asking you a couple questions.

7 A. Yes.

8 Q. You're good?

9 A. Yes.

10 Q. All right. And this is -- well, just remind us

11 what this document is here. Tell us what that is.

12 A. The invoice, what they deliver.

13 Q. Invoice from who?

14 A. From the Winsupply.

15 Q. Who is Winsupply?

16 A. Plumbing.

17 Q. They're plumbing?

18 A. Yes, sir.

19 Q. Okay. So they provided plumbing supplies?

20 A. Yes, sir.

21 Q. Okay. And the first invoice that we're looking

22 at right here, the first three pages, do you see

23 that? Isn't that one invoice? Am I correct?

24 A. Yes. Two invoice.

25 Q. It's two different invoices?

1 A. No. It's the same. Yeah, different invoices.
2 Q. They are different invoices. Okay.
3 A. Yes.
4 Q. That's fine. I want you to look at the first
5 three pages and tell me what that is for.
6 A. The two pages or third page?
7 Q. Page 1, page 2, page 3. I want you to help
8 us --
9 A. You don't have to yell --
10 Q. -- educate us as to what that is.
11 A. You don't have to yell at me. I can hear you.
12 Q. Okay. I'm sorry. I thought maybe, since you
13 didn't understand me, that maybe I needed to speak
14 up. But I'll keep my voice lower.
15 A. Yes. They are different. Continue.
16 Q. Okay. Could you please --
17 A. Continue.
18 Q. Could you please tell us what these invoices
19 reflect in terms of materials that were provided by
20 Winsupply? What are they?
21 A. Material for plumbing.
22 Q. What type of plumbing materials are they?
23 A. Pipe and flex.
24 Q. I'm sorry. What?
25 A. You want to go all through those and say what

1 kind of material it is?

2 Q. Yes. What kind of plumbing material is this?

3 I heard you say pipes. And then I didn't

4 understand --

5 A. You want to go exactly one by one, what they

6 are?

7 Q. If that's what you have to do. If there are

8 different categories of plumbing materials, you can

9 tell me what categories they are.

10 A. I don't know what --

11 Q. If you can't --

12 A. I don't know what you mean category. It's

13 plumbing supplies.

14 Q. I call pipe a category of plumbing supplies; I

15 call screws, maybe, a category; I call flanges --

16 you know, you tell me. Just please tell the

17 Court --

18 A. What they need --

19 Q. -- what materials --

20 A. -- what plumber need. And, this material, for

21 my plumber --

22 Q. Okay.

23 A. -- whatever it is.

24 Q. To do what?

25 A. To do work.

1 Q. What kind of work?
2 A. Rough working.
3 Q. Rough?
4 A. I believe it's rough.
5 Q. Rough plumbing?
6 A. Yes.
7 Q. Okay. Any other thing that you can do to
8 describe what these materials were for?
9 A. For the rough plumbing.
10 Q. Okay. Rough plumbing?
11 A. Yes.
12 Q. And that means -- that's the original -- that's
13 kind of --
14 A. Yes.
15 Q. -- the initial part of the plumbing?
16 A. Yes.
17 Q. Okay. All right. And it's your contention --
18 I want to make sure I understand. It's your
19 contention that this work is work that you are
20 entitled to be paid for by the Golsons?
21 A. Yes, sir.
22 Q. Okay. The date of this invoice is February 16,
23 2017 -- or the date that it was shipped. You see
24 that?
25 A. Yes, sir.

1 Q. February 16, 2017, under the date-shipped box
2 there.

3 A. What they say?

4 Q. Okay? Now, you got the notebook up there, I
5 think, don't you?

6 A. Excuse me. I have another three invoice and
7 exactly the same material and the date. And they
8 put my home address on it. And they made a mistake,
9 the worker. And I went back to them and they give
10 me another copy and correct the address, the same
11 thing, three invoices.

12 Q. So, if I'm understanding you correctly, you're
13 saying that there's a duplicate invoice in here that
14 they sent to the wrong place for the same work?

15 A. No. They didn't send it to the wrong place.
16 They send it to Chapin job. And they -- the worker
17 made the mistake, put in my home address. You
18 follow me?

19 Q. No.

20 A. Okay. I have another invoice somewhere.

21 Q. In this stack?

22 A. I gave it to Mr. Davis --

23 THE COURT: I know -- Mr. Mullins, I know you
24 want to stay at the table. But it might be helpful
25 if you approach the witness and you can be sure that

1 you're --

2 MR. MULLINS: Yes, sir.

3 THE WITNESS: Mr. Davis --

4 MR. DAVIS: I have no idea what we're talking
5 about.

6 THE COURT: Him?

7 MR. DAVIS: No. He was -- he asked me about an
8 invoice. I'm not sure what we're talking about.

9 THE COURT: And, Mr. Mazloom, just a --
10 Mr. Mullins is asking the questions right now.

11 THE WITNESS: Yes.

12 THE COURT: Mr. Davis will have an opportunity
13 to come up after he's finished.

14 THE WITNESS: Okay.

15 BY MR. MULLINS:

16 Q. Okay. So you think there's an invoice for the
17 same materials that were indicated for a different
18 job at a different -- and issued under a different
19 invoice. Is that what I'm understanding?

20 A. The same invoice -- different invoice. Yes.
21 The day that -- the time they deliver it --

22 Q. Right.

23 A. -- but they put the address on it. The worker
24 work over there, and they put in my address, my home
25 address. And I went to them back. And the date is

1 February 2017. And I told them that address is
2 wrong, they deliver it. They correct it and they
3 give me this one in February 16th, 2017.

4 Q. Okay. So nothing was -- the date shipped
5 February 16th, 2017, is not correct; is that what
6 you're saying?

7 A. Yes, sir. Delivery day.

8 Q. It was shipped some other earlier time?

9 A. Yes.

10 Q. And the only reason it's -- for some reason
11 they -- well, why did that date change if you're
12 saying that this was just reprinted with a correct
13 address? Is that what I'm understanding you're
14 saying?

15 A. They reprinted, but different date. That date,
16 I asked for it; give me a copy, it was
17 February 16th --

18 Q. Okay.

19 A. -- because I went, talked to the manager -- the
20 owner, actually, and they correct it, the address.

21 Q. Okay.

22 A. How in the world house is finished in February?
23 Beginning of February, I get material for roughing.

24 Q. Exactly. That's where --

25 A. Yes. But they made a mistake. If you want it,

1 I bring it from the owner -- I bring papers to show
2 you-all.

3 Q. All right. Mr. Mazloom, for the Court's
4 benefit -- because I believe you and I are on the
5 same page. I want to make sure the Court is on the
6 same page. The notebook that's in front of you, you
7 see the notebook?

8 A. This one?

9 Q. Yes.

10 A. Yes.

11 Q. Turn to Tab 3, the numbers there with the tabs.

12 A. Yes, sir. Okay. What?

13 Q. Tab 3. Are you with me?

14 A. Tab 3.

15 Q. Yes, you are. You're right on -- you don't
16 need to turn the page. You can just look at that
17 piece of paper right there.

18 A. Okay.

19 Q. That's the final bill that you submitted to the
20 Golsons, correct?

21 A. Yes.

22 Q. And that was February 11th, correct?

23 A. Yes.

24 Q. And I think you were anticipating where I was
25 going with this, because you --

1 A. Because I know what happened.

2 Q. Right.

3 A. Yes.

4 Q. And so, clearly, if we're just -- and I
5 understand what you've stated about the Winsupply
6 invoice.

7 A. Yes.

8 Q. But, clearly, this invoice is in error, right,
9 because these --

10 A. Only thing is the date.

11 Q. If you could, please let me finish my question
12 and then answer. And I'm going to do the same thing
13 to you.

14 A. Okay.

15 Q. And we're going to be good. Because the Judge
16 has about had it with us on that.

17 So, clearly, your position is, and you would
18 agree with me, that you would not have shipped
19 plumbing supplies for rough-in for the Golsons on
20 February 16th, because the job was over; you had
21 already submitted your final bill --

22 A. No. They didn't deliver it that time.

23 Q. That's what the invoice says though, right?

24 A. The invoice looks like -- can I explain it to
25 you? The worker --

1 Q. I'm sorry, Mr. Mazloom. That's what the
2 invoice says, right?

3 A. Yes, that's what the invoice says.

4 Q. Okay.

5 MR. MULLINS: I got to go back over here.

6 THE COURT: That's fine. I just want you to --
7 I want all the lawyers to be in proximity of the
8 witness so we can -- because there's a lot of paper
9 up here and it can get confusing.

10 MR. MULLINS: I need some help.

11 THE WITNESS: The paper is different.

12 MR. MULLINS: I'm almost done.

13 BY MR. MULLINS:

14 Q. Staying in the notebook -- I'll come back over
15 here. Staying in the notebook, let's go to Tab 14.

16 A. 14. Okay.

17 Q. All right. And if you -- if you don't mind,
18 I'm just going to step over so we can -- are you in
19 14? Yes.

20 All right. We're going to look at -- and you
21 see there's A, B, C, and D?

22 A. Yes, sir.

23 Q. Okay. So I want you to look at A.

24 A. Okay.

25 Q. Flip over to A. And that is the -- and, if you

1 recall yesterday, the way this was laid out, that's
2 the backup -- the supporting documentation that you
3 submitted --

4 A. You said A?

5 Q. -- correct?

6 Yes.

7 A. 14A.

8 Q. You're right on it. It's ARM57.

9 A. Yeah.

10 Q. You nailed it. That's the backup that you
11 submitted. And, if we have to, we can pull up your
12 other exhibits, because y'all have submitted
13 exhibits --

14 A. Sure.

15 Q. -- to this effect.

16 But ARM57, it's got ARM there at the bottom
17 because these are documents that y'all produced.
18 This reflects the backup that you were seeking to be
19 paid for, right, \$2,800?

20 A. Right.

21 Q. Okay. And I'm going to ask you to turn to the
22 next Tab, B --

23 A. Excuse me. I thought I answered that
24 yesterday.

25 THE COURT: Mr. Mazloom, you've been recalled

1 as a witness here --

2 THE WITNESS: Yes, sir.

3 THE COURT: -- in their case in chief.

4 We're trying to be as efficient as possible,
5 both attorneys are. You may answer a question more
6 than once, and that's okay. Okay?

7 THE WITNESS: Yes, sir.

8 BY MR. MULLINS:

9 Q. If you turn over to Tab B --

10 A. Yeah, Tab B.

11 Q. -- these are the actual -- the responses that
12 we got from the Vacuum Center. And these are
13 invoices from the Vacuum Center. This is the
14 central vacuum, right?

15 A. Yes.

16 Q. Okay. And the first page there -- and you can
17 flip back and forth between the first page -- I
18 mean, sorry, the second page of Tab B, which is an
19 invoice for \$2,400. You see that?

20 A. Yes.

21 Q. Okay. And let's -- let's look at the
22 description.

23 A. Yes.

24 Q. Okay. You see the description?

25 A. Yes, sir.

1 Q. And is it not the same description that is
2 on -- I mean, is that not the same language that's
3 on the invoice that you provided under Tab A? But
4 it's different, right; the numbers are different?

5 A. The numbers.

6 Q. The language is the same, but the dollars are
7 different, right?

8 A. Yes.

9 Q. Your invoice is 2,800?

10 A. Yes.

11 Q. The Vacuum Center's invoice says 2,400.

12 A. Okay.

13 Q. Do you agree with me?

14 A. Yes.

15 Q. The exact same description has different
16 numbers.

17 Can you explain why the invoice that you're
18 submitting to the Golsons as support for paying you
19 is different from the invoice for the exact same
20 product that was produced by the Vacuum Center?

21 A. I never saw that 2,400 invoice at all.

22 Q. Never?

23 A. No.

24 Q. No?

25 A. And I have a letter from them, because I bought

1 the nail gun. They wanted nail -- framing nail gun.
2 And I went and got it in Home Depot and provide for
3 them. And he forgot, I don't know what. But they
4 give me that last invoice, what I paid for it,
5 \$2,800.

6 Q. Are you saying that that somehow explains how
7 the central vacuum went from \$2,400 to \$2,800? I
8 thought you said you gave them a nail gun. Why
9 would that make their price go up?

10 A. Because I paid for it. I didn't -- the price
11 didn't go up. At the beginning, he told me it was
12 \$2,800 for the system, central vac.

13 Q. Does the nail gun have anything to do with the
14 fact that the document that you provided to the
15 Golsons said 2,800 and the document that the
16 Vacuum --

17 A. No. It's --

18 Q. I'm sorry. Let me finish. And the document
19 that the Vacuum Center provided said 2,400. Does
20 the nail gun have anything to do with that
21 difference?

22 A. I have --

23 Q. I'm sorry?

24 A. Nothing to do with the nail gun. They didn't
25 use the work -- job. They wanted it for that job,

1 but it's their tools.

2 Q. Okay. Mr. Mazloom, you've sat here this
3 morning and you've heard your subcontractors
4 testify.

5 A. Okay.

6 Q. Right?

7 A. That's right.

8 Q. Those aren't the Golsons' subcontractors;
9 they're your subcontractors --

10 A. That's right.

11 Q. -- that have taken that stand.

12 A. That's right.

13 Q. And they have said that you asked them to
14 prepare documents that were false. And some of them
15 candidly acknowledged, fairly clearly acknowledged
16 that they felt bad and that they knew they were
17 doing something wrong.

18 A. Don't know why.

19 Q. And I'm asking you -- you've just took an oath;
20 you've sat in that box. Is it still your testimony
21 that the information that you have provided is
22 accurate?

23 A. Yes.

24 Q. And your subcontractors are just not telling
25 the truth?

1 A. That's right.

2 Q. That's right? Okay. I just want to make sure
3 I'm clear.

4 And your position is --

5 A. Because they're scared from the IRS. They get
6 the cash; they don't show it in their company. It's
7 their business, what they do. Every single of them,
8 I have a cash receipt in their handwriting. I
9 didn't put a gun in their head. When I said write
10 this, they don't listen to me. They have to show
11 what I pay.

12 Q. Okay. So they're all standing up here
13 committing perjury --

14 A. Yes.

15 Q. -- because they're worried about the IRS coming
16 after them?

17 A. Yes.

18 Q. Okay. I just want to make sure I understand.

19 One last topic I want to cover with you real
20 quick: The contract, the agreement that you had
21 with the Golsons. I'm still a little unclear.

22 A. Okay.

23 Q. Ms. Heyward asked you yesterday --

24 MR. DAVIS: Your Honor, may I enter an
25 objection here? I know they called him as a

1 witness. But this subject was covered on
2 cross-examination -- on the contract terms on
3 cross-examination. We're hitting the gentleman a
4 second time on the same subject. I mean, why would
5 it be allowed to come back a second time when
6 they've --

7 THE COURT: I'll let Mr. Mullins respond first.

8 MR. MULLINS: Well, a second time -- I'm not
9 real sure I understand what the objection is.
10 They're interrelated. I mean, these are contract
11 claims; this is fraud, counter -- fraud-related
12 counterclaims that relate to the contract.

13 We've got a counterclaim for breach of
14 contract. The whole thing surrounds the contract
15 and what the obligations -- rights and obligations
16 of the parties were.

17 MR. DAVIS: The parties -- this witness was up
18 yesterday and testified all day --

19 MR. MULLINS: In your case in chief.

20 MR. DAVIS: -- and cross-examined. And the
21 contract terms were discussed.

22 THE COURT: I'll go ahead and just -- in light
23 of the fact that they're on -- the defendant has the
24 burden of proof on their counterclaim. So I'm going
25 to allow the testimony.

1 MR. DAVIS: Thank you, Your Honor.

2 THE COURT: Just so -- the objection is
3 overruled.

4 BY MR. MULLINS:

5 Q. Mr. Mazloom, you, I believe, indicated that you
6 understood the difference -- you understood the term
7 firm fixed-price contract, correct?

8 A. Yes.

9 Q. And you understood the term cost plus --

10 A. Yes.

11 Q. -- with a fee?

12 A. Yes, sir.

13 Q. And you understood the term cost-plus with a
14 fee with a guaranteed maximum price, three different
15 types of contracts?

16 A. Yes.

17 Q. You understand those?

18 A. Yes.

19 Q. All right. Okay. And you understand that the
20 Golsons' position is that the agreement between you
21 and them was that this was a cost-plus contract with
22 a guaranteed maximum price of \$395,000?

23 A. Yes.

24 Q. You understand that?

25 A. Yes.

1 Q. I don't understand which of the three buckets
2 you say the agreement falls under. Which one of
3 those three types of contracts is it your position
4 that this agreement falls under?

5 A. The specification paper, they signed it and I
6 signed it. I priced them with that specification.

7 Q. Okay.

8 A. No. They changed the specification during the
9 construction, and those was extra. We talked about
10 this yesterday. It was an extra, what we added to
11 the top of the specification.

12 Q. If we need to chat about that, we can do that
13 in a second. But my question was -- you just
14 disagreed with me that you understood the three
15 different types of contracts, right? I can go back
16 through them again, if I need to.

17 A. What is the three? One for the --

18 Q. I'm sorry. I'll tell them to you --

19 A. Okay.

20 Q. -- and then let's confirm that you understand.

21 A. Okay.

22 Q. A firm fixed-price contract, you know what that
23 is?

24 A. Yes.

25 Q. All right. That's when the parties agree on a

1 price?

2 A. Yes.

3 Q. You have a scope of work?

4 A. Yes.

5 Q. If you get to do it for less -- whatever your
6 costs are, if you reduce the cost, you get to keep
7 whatever the profit is, right? More profit for you?

8 A. Yes.

9 Q. You take the risk, you get the benefit --

10 A. Yes.

11 Q. -- right?

12 All right. Then we have a cost-plus with a fee
13 with no ceiling --

14 A. Yes.

15 Q. -- right? And that means that whatever costs
16 that are incurred are going to be passed on to the
17 customer, to the owner, right --

18 A. Yes.

19 Q. -- plus 15 percent, in this case --

20 A. Yes.

21 Q. -- right? And there's no ceiling. So whatever
22 the costs are, it doesn't -- so the scope of work
23 really doesn't matter because whatever they -- if
24 it's extra, it doesn't matter. If it changes,
25 you're getting your costs back, plus a fee, right?

1 A. Right.

2 Q. Okay. And then the third is a cost-plus with
3 a -- with a fee, with a guaranteed maximum price;
4 meaning, there's a limit set on what it is, and if
5 you go over that, that's your -- that's your burden,
6 right?

7 A. Yes. But the --

8 Q. That's the --

9 A. But --

10 Q. We're just talking about the --

11 A. -- the price, what I priced it. Yes, \$395,000.

12 Q. So you believe that the agreement was that it
13 was a cost-plus with a guaranteed -- with a fee,
14 with a guaranteed maximum price of 395 --

15 MR. DAVIS: Your Honor --

16 A. Yes.

17 MR. DAVIS: Your Honor, may I enter an
18 objection here?

19 THE COURT: Sure.

20 MR. DAVIS: He's asking him to draw a legal
21 conclusion. Mr. Mullins is presenting three
22 different types of contracts. This guy is a
23 contractor; he's not a lawyer. He's told what kind
24 of contract he's had three or four times. Thank
25 you, Your Honor.

1 THE COURT: All right.

2 Any response, Mr. Mullins?

3 MR. MULLINS: I'm sorry?

4 THE COURT: Do you have a response to him?

5 MR. MULLINS: On that issue? I mean, I would
6 hope that contractors -- in fact, I think it's part
7 of the contracting licensing exam that you
8 understand how contracts are structured. So I
9 believe he's capable of answering.

10 MR. DAVIS: There may be --

11 THE COURT: I will just -- just, if I can make
12 a ruling here?

13 MR. DAVIS: Sure.

14 THE COURT: The type of contract that is in
15 play here is of great importance to both sides.

16 MR. DAVIS: Right.

17 THE COURT: So whatever the plaintiff's opinion
18 is on what type of contract he or she has or the
19 defendant's is of importance to me. And I'll allow
20 the question. Overruled. Thank you.

21 MR. DAVIS: Thank you, Your Honor.

22 BY MR. MULLINS:

23 Q. So, Mr. Mazloom, if I understood, we were kind
24 of talking --

25 A. Excuse me. You asked me do we have three

1 contracts. We have three contracts. You explained
2 two of them. What was the third one?

3 Q. The third one --

4 A. Uh-huh.

5 Q. I'm sorry. I thought that I had --

6 A. No.

7 Q. -- made myself clear.

8 A. No.

9 Q. The third one is a cost-plus with a fee with a
10 guaranteed maximum price.

11 A. That one is the second contract.

12 Q. No.

13 A. You said the one contract for the whole house;
14 second contract, for the 15 percent of this cost.
15 What was the third one?

16 Q. The second one has no ceiling -- there's no
17 cost ceiling on it. The third one has a ceiling.
18 It's called a guaranteed maximum price.

19 A. What is the third one?

20 Q. That's what --

21 A. Explain it to me. What is the third contract?

22 Q. You want me to describe for you what that --
23 what a guaranteed maximum price contract --

24 A. No. I know that.

25 Q. Okay.

1 A. Okay? You said I have three contracts with
2 them.

3 Q. No. No.

4 THE WITNESS: Judge?

5 THE COURT: Listen, three types of contracts
6 have been described ad nauseam.

7 I'd just ask the question, was there a max to
8 the contract, period. That's -- he either thinks
9 there is or there wasn't.

10 MR. MULLINS: All right. Let me do it this
11 way, Judge, if you'll permit.

12 THE COURT: Certainly.

13 MR. MULLINS: I am going to ask that question.
14 But I'm going to ask --

15 BY MR. MULLINS:

16 Q. I'm going to ask you to turn, in the notebook,
17 to Tab 19.

18 A. Okay.

19 Q. And the third -- this is a letter from your
20 lawyer to the Golsons. All right?

21 A. Okay.

22 Q. And the third -- and I imagine that you
23 would have had conversations with your lawyer -- but
24 I don't know what they are -- before this.

25 But the third sentence there indicates that --

1 and this is a letter to the Golsons.

2 It says: My review of the contract documents
3 in this file indicates that the home was constructed
4 on a cost-plus basis.

5 A. Yes, basis.

6 Q. And you agree with that?

7 A. Yes.

8 Q. And is it your -- so we're not -- we know we
9 don't have a firm fixed-price contract; we do know,
10 and we agree, that we have a cost-plus contract.
11 The question is, is there a maximum price? Is there
12 a ceiling? Is that a fair assumption of where we
13 are right now in our conversation?

14 A. No.

15 Q. Okay. Let me try to ask it this way --

16 THE COURT: Well -- okay. I'll let you try.

17 BY MR. MULLINS:

18 Q. We've agreed -- before that last question, you
19 did agree with me that this was an accurate
20 statement, that this was a cost-plus contract --

21 A. Yes.

22 Q. -- what Mr. Davis said.

23 A. Yes.

24 Q. Was there a guaranteed maximum price?

25 A. No.

1 Q. There was not? Okay.

2 Then what is the 395 that you keep referring
3 to? What relevance does that have at all to this
4 project?

5 A. This one, the contract, 395, we have three
6 documents. One of them is a contract; another one,
7 15-plus; the other one is specification. I put it
8 in front of me before I priced it.

9 I go by that paper and I priced it. I just
10 don't get it from the air, build the house. Maybe
11 they want a chandelier in the house; maybe they want
12 marble in the wall. But I priced it by this
13 specification list.

14 Q. All right. What relevance does the price have
15 if there's not a guaranteed maximum price on this
16 contract? What relevance does the 395 have? Why
17 does it matter?

18 A. I guarantee it 395, include my 15 percent. By
19 the third document, we have the specifications.

20 Q. Okay. I think I understand. I think I'm
21 hearing you say that there was a guaranteed maximum
22 price, but -- and I --

23 A. You're trying to confuse me.

24 Q. No.

25 THE COURT: No, no, no. I'd like you to be

1 patient and listen to his question and take as long
2 as you like to answer.

3 THE WITNESS: Yes, sir.

4 BY MR. MULLINS:

5 Q. The guaranteed maximum price was based on a
6 scope of work specifications, right?

7 A. Yes.

8 Q. Okay. And if there was a change order -- if
9 there was a change in the contract, then you believe
10 you were entitled to some amount more than that?

11 A. Yes.

12 Q. Okay. And in this case, you would agree with
13 me, that the only evidence of a change in the scope
14 of work is the handwritten notes on that
15 specification sheet that you went over with
16 Mr. Davis yesterday?

17 A. Yes.

18 Q. And there's no other documentation to reflect
19 those changes?

20 A. I don't think so.

21 Q. There's no e-mail to the Golsons saying, if you
22 decide to change this, it's going to cost you this;
23 you're going to have to be responsible for this much
24 more dollars; it's going to raise the 395 to 405, or
25 something like that? There's no e-mail; there's no

1 letter; there's nothing that reflects that.
2 Correct?
3 A. They talk -- we talk face to face.
4 Q. Right.
5 A. I don't e-mail, never e-mail. I don't know how
6 to e-mail.
7 Q. Right. I just used e-mail as an example.
8 But there's nothing in writing --
9 A. No, sir.
10 Q. -- other than what we talked about? You agree
11 with that?
12 A. Yeah.
13 Q. Okay. Is it your testimony that you don't use
14 e-mail?
15 A. What?
16 Q. Did I just hear you say that you don't use
17 e-mail?
18 A. Yes. If I e-mail somebody, my wife has to do
19 it.
20 Q. You've got an e-mail address, right?
21 A. Yes.
22 Q. I mean, this --
23 A. I get the e-mail --
24 Q. It's actually in --
25 A. -- but I don't send the e-mail. It's not

1 that --

2 MR. DAVIS: Your Honor, I object. What's the
3 relevance here? What's the e-mail -- whether he
4 e-mails or doesn't e-mail have anything to do with
5 this contract here? I'm sorry.

6 MR. MULLINS: I'll move on. But it certainly
7 goes to his credibility, because I thought he just
8 told to us and this Court that he doesn't e-mail.
9 And already in the record as Exhibit 10A is an
10 e-mail from Mr. Mazloom. So that -- I'm --

11 THE COURT: All right.

12 THE WITNESS: E-mail to who?

13 MR. MULLINS: Thank you, Mr. Mazloom.

14 THE COURT: Mr. Davis.

15 MR. DAVIS: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. DAVIS:

18 Q. Mr. Mazloom, look at Plaintiff's Exhibit 31.
19 That's the contract to build?

20 A. Yes.

21 Q. All right. I hate to stand here by you, but
22 that's the only one I've got here.

23 Would you, on paragraph 2, the first sentence,
24 read that sentence? Read it out loud.

25 A. My reading is very slow.

1 Q. Let me -- I'll read it to you.

2 Number two says: The homeowner agrees to pay
3 395 to Builder for the aforementioned residential
4 home? Is that what that --

5 A. Yes.

6 Q. Okay. And then paragraph 1 of that same
7 Contract to Build, it says: The builder agrees to
8 build the residential home according to the plans
9 and specifications on the property.

10 A. Yes.

11 Q. At the time this contract was done, the
12 specifications were done?

13 A. Yes.

14 Q. Changes were made to those specifications --
15 changes were made to those specifications by the
16 Golsons?

17 A. Yes.

18 Q. You testified to that extensively yesterday --

19 A. Yes.

20 Q. -- item by item?

21 A. Yes.

22 Q. You got billed for those through labor and
23 materials; is that correct?

24 A. Yes.

25 Q. Thank you, sir.

1 THE COURT: Is that all, Mr. Davis?

2 MR. DAVIS: Yes, Your Honor.

3 THE WITNESS: Mr. Davis --

4 MR. DAVIS: No.

5 THE COURT: Anything else, Mr. Mullins?

6 MR. MULLINS: No, Your Honor.

7 THE COURT: All right.

8 Mr. Mazloom, you may step down, sir. Go back
9 to your chair.

10 THE WITNESS: Thank you.

11 THE COURT: You're not free to go yet, I don't
12 think. But you may step down.

13 Do we need a short break?

14 MR. MULLINS: Yes, sir.

15 THE COURT: All right. Let's take five.

16 (Brief recess.)

17 THE COURT: Mr. Mullins, you can call your next
18 witness.

19 MR. MULLINS: Thank you, Your Honor. We'd call
20 Mr. Joe Golson to the stand.

21 JOSEPH GOLSON

22 being first duly sworn, testified as follows:

23 THE WITNESS: Yes.

24 THE CLERK: Thank you. Please be seated. Once
25 you're seated, please state your name, spelling your

1 last for the record.

2 THE WITNESS: It's Joe Golson, G-O-L-S-O-N.

3 DIRECT EXAMINATION

4 BY MR. MULLINS:

5 Q. All right. Mr. Golson, we're going to --
6 you've been sitting here the last couple of days.
7 And, obviously, you've -- you understand. And I'll
8 just remind you that I don't think we're going to
9 have a problem, but make sure you let me finish
10 questions before you respond so she doesn't get mad
11 at us. And with Mr. Davis or whoever is
12 cross-examining you, if you'd do the same.

13 A. Yes.

14 Q. All right. For the benefit of the Court, I
15 guess, tell us a little bit about who you are.

16 A. All right. Well, of course, my name is Joe
17 Golson. I was born and raised in Forest Acres,
18 Columbia, South Carolina.

19 I am one of four children in the family. I
20 attended Clemson University and pursued a degree
21 in -- which I got -- in plant sciences. My
22 specialty was horticulture. That sort of makes me
23 the first clog-buster in the family.

24 And, incidentally, in Clemson is where I met my
25 future wife, Lycia. So, upon graduating from

1 Clemson, I started my own landscape irrigation
2 business I had for 13 years --

3 Q. Is that back here in Columbia?

4 A. Sorry. Back in Columbia.

5 Q. All right.

6 A. So from '79 until '91, I was a landscape
7 contractor. In '91, I went to work for my
8 irrigation supplier, W.P. Law, Incorporated. And I
9 work there to this day.

10 Q. All right. What do you do for W.P. Law?

11 A. At W.P. Law, I am one of the people in our
12 horticulture department. They have several
13 different departments. I design residential and
14 commercial irrigation projects; I design pumping
15 systems for residential water features; I build
16 fertilizer recommendations for our customers based
17 on soil sample readings.

18 And I'm also an adjunct for Midlands Tech. I
19 teach a course -- an irrigation course. I teach the
20 spring course that starts in April. It's an
21 eight-week course. I've been doing that 20 years --
22 well, since '99.

23 Q. You didn't design the little rock fountain that
24 we passed by --

25 A. Well, our company did.

1 Q. -- outside here at the courthouse?

2 A. Our company is composed of many departments.
3 And one of the departments is the fountain division.
4 And they're responsible for designing and building a
5 lot of the large water features that we see around
6 the area.

7 Q. All right. Let's talk about kind of -- let's
8 get towards where we're going to go. We're also
9 here relating to your home, correct?

10 A. Yes.

11 Q. You mentioned that you moved back to Columbia
12 to start your business.

13 A. Yes.

14 Q. So, tell me, you and Lycia got married at some
15 point and then y'all bought a house?

16 A. Right. We married in '79. Ultimately, we
17 bought a house -- a starter house in the Knollwood
18 subdivision that we lived in for 34-plus years.

19 Q. Where is the --

20 A. The Knollwood subdivision is behind the VA
21 hospital.

22 Q. Okay.

23 A. And --

24 Q. So you were in your starter house for 34 years?

25 A. Yes.

1 Q. That's a long start.

2 A. That's a long start, yeah. Yes.

3 Q. Sure.

4 A. So we've been in this starter house.

5 Q. 34 years?

6 A. At least. And so in -- we got there about '81
7 or so. And that's when we met Ahmad and his family.
8 They lived about -- well, just several houses up the
9 street. And our children played with their children
10 all the time.

11 In fact, I helped Ahmad with -- and his
12 brothers with the irrigation system at their
13 mother's house. And I installed the irrigation
14 system at Ahmad's house and installed the irrigation
15 system at one of his brothers' house out in
16 Charwood. And he even -- Ahmad helped me drill a
17 well at his house down the street. So we did a lot
18 of things together.

19 And then, some years later, they moved to
20 Lexington, and we didn't see each other as much. It
21 was difficult because we had our hands full on this
22 side of the world.

23 Q. Okay. Well, let's talk about this property,
24 Libby Ariail Lane. Tell us about -- and this is the
25 property where the house was built, right?

1 A. Yes, sir.

2 Q. Tell us how that -- how that developed.

3 A. Well, since 1968, my family has had a little
4 vacation home on the lake, Lake Murray, in Chapin,
5 Libby Ariail Lane. And we spent years out there
6 every summer, weeks or weeks at a time. We really
7 enjoyed the place. So a lot of childhood memories.

8 Well, my father passed away in 2011. And he
9 left the property for me. So I inherited the
10 property -- the little house and the property. And
11 so, at that time, now, we have a house on Rockwood
12 and a house on Libby Ariail.

13 At some point, my children, they all grew up
14 and they left. My wife and I decided we would like
15 to live at the lake. And, you know, because I spent
16 many years out there in the summertime, we decided
17 to make that our retirement home now.

18 And before we could even do that, she spent --
19 let's see. She had retired from the VA hospital in
20 2014 -- '15 -- '14. I can't remember exactly. She
21 was there for 34 years. She retired. She took some
22 time to take care of her ailing mother until she
23 passed. And then she began work at rock -- goodness
24 gracious. What's the name of the hospital?

25 Q. Parkridge?

1 A. Parkridge, yeah. Parkridge Hospital in 2015.
2 Sorry. So now we find ourselves -- she's
3 starting -- because she used to work at the VA,
4 which was just around the block. Now she's miles
5 from the old house, the house behind the VA.

6 And we started using the lake house as a point
7 to return to at night. I worked at W.P. Law, which
8 was a little shorter distance than her work, so we
9 started spending more and more time at the lake
10 house because there's nobody at home, so it was more
11 convenient to just make that our point of operation.

12 And if we had to do anything on the weekends,
13 it's sort reverse roles; now we did things at the
14 city house and spent more time at the lake house.
15 That's when we finally decided that we needed to
16 think about building -- well, trying to renovate the
17 house first, and if that didn't work, just building
18 a new house at the lake and make that our retirement
19 spot and sell the house in the city.

20 Q. Okay. So you looked -- as you mentioned, you
21 looked at renovating the -- and this house that's at
22 the lake, describe this existing house.

23 A. Well, it was all of, if I'm lucky, 1100 square
24 feet with one bathroom, two bedrooms, and a little
25 kitchen. It was nice, unless you had 30-something

1 cheerleaders out there, because my son --

2 Q. So you were looking to --

3 A. To upgrade.

4 Q. -- renovate that --

5 A. Yeah. We wanted to --

6 Q. -- initially?

7 A. We looked at it initially, because my
8 stepmother sent me plans of what my father
9 envisioned as a renovation. But, in looking at the
10 plans, we realized the house was so old. It was
11 built in 1960. And it was so old.

12 By the time we deconstructed the inside and
13 constructed some type of addition on the outside,
14 the cost might be just as much as if we just built a
15 new house. So we decided that the best course of
16 action was to go ahead and make plans to clean that
17 house, demolish the old one, and build a new one.

18 Q. All right. Let's -- you've given us a little
19 bit of a background. So, at some point, you
20 realized you're going to have to build a house?

21 A. Correct.

22 Q. Tell us, briefly, just kind of the thought
23 process and how you ended up with Mr. Mazloom and

24 ARM --

25 A. Okay. Well --

1 Q. -- as your contractor.

2 A. Sure. So, for some time now, I've known that
3 Ahmad was building homes. And he showed me some of
4 the homes he built that were on the property
5 adjacent to his. And they looked substantial enough
6 and -- and I saw him -- he'd come by the office
7 quite a bit. He bought sprinkler heads, as needed,
8 quite a bit, and just came by to talk, things like
9 that. And I told him what my idea was; to go ahead
10 and build a house.

11 Oh, can I back up a little bit? There's
12 something I left out.

13 Q. Okay. We want to get moving here --

14 A. Oh, I know. But this is important.

15 Q. Okay.

16 A. We sort of tested -- tested him. In the old
17 house, we had a termite problem. And my
18 brother-in-law Mark, who is a structural engineer --
19 termites destroyed a large quantity of the garage.
20 So we had Mark -- we paid Mark to draw up plans for
21 reconstruction of the garage. And we asked Ahmad to
22 rebuild it. And he did. And it came out nicely.

23 So, now back forward, that's why we decided to
24 use Ahmad. That was the turning -- that's why we
25 decided, because he did a good job on the

1 reconstruction of our garage.

2 Q. Okay. So you -- and then kind of where do we
3 get to -- well, do you have the notebook in front of
4 you?

5 A. Yes.

6 Q. Tab 1.

7 MR. DAVIS: Excuse me. Is that the -- what are
8 you looking at?

9 MR. MULLINS: The trial exhibit notebook, yes;
10 not the joint exhibits.

11 MR. DAVIS: Thank you.

12 BY MR. MULLINS:

13 Q. You with me on Tab 1?

14 A. Yes.

15 Q. All right. And take a second to flip through
16 this. And then I want to back up.

17 A. Okay.

18 Q. I want to make sure you're familiar with what
19 we got here.

20 All right. Do you recognize this as the
21 contract that you entered into -- you and Lycia
22 entered into with ARM and Mr. Mazloom?

23 A. Yes, sir.

24 Q. All right. Let me back up real quick. How did
25 we get -- describe for the Court how we got from,

1 you know, the decision where you felt like you
2 were -- you know, Ahmad was somebody you wanted to
3 work with to getting this contract signed.

4 A. Well, like I said, he did a good job on the
5 reconstruction of our garage. And he said that if I
6 ever decided to build, to contact him. So I did; I
7 contacted him. And he directed me to a civil
8 engineer who drew house plans, Lloyd Higby.

9 Q. All right. And you already had some plans that
10 you -- did you already have some plans?

11 A. The early plans my father left that didn't work
12 out, had those. And my wife and I sort of searched
13 the internet for an idea.

14 Q. Right.

15 A. And that's how we came up with the idea of a
16 basic house plan. And Mr. Higby fleshed it out for
17 us.

18 Q. Okay. So Mr. Higby fleshes out the plan. And
19 what happens next? You go back to Mr. Mazloom?

20 A. Then we take the plan -- after we finally
21 fleshed it out the way we want it, we take that to
22 Ahmad and we talked about the plan. And, from
23 there, he's supposed to come up with an estimate of
24 the cost to build the house.

25 Q. Okay. And did he do that?

1 A. Yes. We went through it. We -- we -- during
2 this process, also, we had some -- this is before
3 estimations or anything. We had -- my wife and I
4 sat down with him. And one of the biggest things
5 that she wanted overall, because of her illness, is
6 that she wanted a -- an HVAC system, an air
7 conditioning system, basically, that would keep the
8 air clean and be efficient also so that, you know,
9 we didn't have these huge electrical bills trying to
10 heat and cool the house.

11 But the biggest thing was to keep the air as
12 clean as possible so that she doesn't develop
13 symptoms secondary. She will, but we can reduce
14 the -- also --

15 Q. Mr. Golson, just -- I don't quite understand
16 what the concern is. What illness?

17 A. Well, she has chronic lymphocytic leukemia,
18 shortened to CLL. And because of that too, we also
19 had Mr. Higby design the house so that sometime in
20 the future we could -- the doorways were wheelchair
21 accessible as much as possible, trying to eliminate
22 the number of steps coming in and out, things of
23 that nature. Of course we have a -- it's on a bit
24 of a hill, so we did the best we could of keeping
25 the stairs to a minimum.

1 Q. And so the HVAC with the CLL, is there a
2 potential proneness to sickness? Is that what you
3 were getting at, in terms of --

4 A. Yes. And she can correct me; she's the nurse.
5 At some point, she will.

6 The -- some of the symptoms that present are
7 nasal congestions, sinus, sinusitises, lung
8 congestions, things of that nature.

9 Q. Okay. And why don't we go ahead and talk about
10 that since we're talking about the HVAC for a
11 second. We're getting a little ahead of ourselves.
12 But you've been here and heard the conversation
13 about the mini-split and the central air.

14 A. Correct.

15 Q. Can you please describe -- and I think you
16 mentioned that y'all had some meetings with Ahmad
17 about the house.

18 A. Correct.

19 Q. Can you describe when and what the
20 conversations were with regards to your expectations
21 on the HVAC system?

22 A. All right. The main thrust of these
23 conversations took place while we were sitting down
24 with the plans before anything went on. We were
25 brainstorming, discussing, and giving him our wants

1 and needs. And we had recently been to a contractor
2 fair, a home fair where we talked to Bryant Heating
3 & Air. They gave us a whole pile of information on
4 the mini-split systems and how efficient they were.
5 We even got two cost estimates on installing a
6 five-zone or a nine-zone system.

7 And, my wife, she's a very strong woman. She's
8 very adamant. She told Ahmad that no matter what,
9 whatever else, she wanted to have a mini-split
10 system. And when we first sat down, in fact, we
11 were arguing. His wife, Robin, came in and said,
12 give them the mini-split system. She told us that.
13 Give them the mini-split system. But he said yes.
14 But then when it came time to -- after the
15 project started --

16 Q. All right. We'll talk about that. I'm talking
17 project formation.

18 A. Okay. Sorry. So -- and then -- and what other
19 wants we wanted. No. It was -- the biggest thing
20 was mini-split, the HVAC, the wheelchair-accessible
21 doors. I wanted to be able to put our old
22 kitchen -- we had a \$50,000 walnut kitchen in a, you
23 know, \$65,000 house. My father-in-law is an
24 excellent carpenter. He built cabinets. And my
25 wife loves walnut, so we had a beautiful walnut

1 kitchen built.

2 And there was no way we were going to leave it
3 there at the old house -- that would have been
4 ridiculous -- because somebody would paint it white.
5 So -- and we had built this a long time ago. So we
6 had already made arrangements to transport the
7 kitchen and flesh it out with whatever it took to
8 finish filling the spaces.

9 I'm trying to think of what other --

10 Q. Well --

11 A. There wasn't a whole lot -- we wanted a
12 practical house; something that was practical, easy
13 to take care of. There was a sunroom on the house.
14 And on that exposure, facing the lake itself, the
15 northern exposure, we had -- when we had some bad
16 storms, especially in the summertime, the wind would
17 come through that area. We could hit speeds of 70
18 miles an hour easily.

19 So my wife wanted windows that didn't have
20 anything in the middle of them. I can't remember
21 what that's called. Large windows to not obstruct
22 the view, so we -- she loves casement windows.
23 That's where the crank came from. She loves
24 casement windows. And we even -- Ahmad helped us
25 specify these windows.

1 So the windows we specified had to have a DP
2 rating of at least 50. The DP means direct
3 pressure. It's how much -- I had to do a lot of
4 research on this: The pounds per square inch of
5 wind blowing against it, how much it takes to break
6 them or to make them leak, so we had to have a
7 pretty high DP rating on the windows on that side of
8 the house. The other side, DP 20, just regular sash
9 windows were fine. So we had --

10 Q. Mr. Golson, we're still talking about the
11 conversations that are going on between you and
12 Mr. Mazloom leading up to the contract.

13 A. Yeah. I think -- yes.

14 Q. Okay. I just want to make sure we're clear
15 because I'm going to ask you about the contract in a
16 second. Any other issues of note that you recall
17 talking to Mr. Mazloom about during these
18 conversations?

19 A. No. Like I said, the biggest thing was the AC.
20 I'm trying to think of any other thing. The house
21 plans were the house plans. It had vaulted ceilings
22 and -- oh, we wanted to make sure that the house
23 plans we chose, of course -- we wanted to make sure
24 we had enough room because my wife was one of ten
25 children. And all her brothers have grown up and

1 they have a lot of children. If we have people come
2 to visit, we need to have room for them, and a
3 spacious kitchen, since I do the majority of the
4 cooking. Really, I think that was the bulk of it,
5 was that.

6 Q. Okay.

7 A. Maybe the windows came a little bit later.

8 But --

9 Q. Okay. All right.

10 A. But the AC was the overriding thing on the
11 whole -- and that was before we even started.

12 Q. Okay. So you have this -- these series of
13 meetings or meetings, conversations with Mr.

14 Mazloom. And what happens after that? Tell me
15 about the financial interest that you have. Were
16 finances of any relevance to this conversation?

17 A. Oh, yes. Well -- well, he said he'd give us an
18 estimate on the house. I can't go into a contract
19 without an estimate. That would be dumb. And so he
20 said -- we told him all this stuff and he gave us an
21 estimate.

22 I was contacted by Ahmad, and he told us it
23 would cost \$395,000. Of course I went, ah, and took
24 a breath. And he said, don't worry. He said,
25 you'll have -- he said, it won't be more than 95 --

1 about 395; you'll have -- and these are his words:
2 He said, you'll have enough money left over for
3 landscaping and irrigation and loads of stuff.

4 Q. All right. So money left over.

5 A. Right.

6 Q. And you heard the conversation earlier about
7 the types of contracts. Did you believe that there
8 was -- that this was a cost-plus contract with a
9 guaranteed maximum price?

10 A. Yes. When we met again to contract, we
11 concluded that that's -- that's what he said. Well,
12 he said -- let me back up a little bit, because I
13 can -- if you want, I can do a cost-plus. He said,
14 usually, for my friends, it's 15 percent; for
15 everybody else, it's 18 and -- but for you, I can do
16 a cost-plus for 15.

17 So we thought it was a pretty good deal because
18 it was guaranteed not to exceed 395, because he told
19 me that. He said it wouldn't go over 395, said he
20 would do a cost plus. And we were fine with that --

21 Q. All right.

22 A. -- because --

23 Q. And the Tab 1 we were looking at, who produced
24 this -- these -- and there are seven pages here.

25 The first two pages have a separate signature;

1 second two pages have a signature. And then there's
2 a list of items at the end.

3 A. Yeah. All of this produced by Ahmad.

4 Q. All right. All of this was what was produced
5 as the contract documents?

6 A. Yes. Yes, they were.

7 Q. Okay. And did you understand or have any
8 question about why there -- why you were signing two
9 different things or three different things or
10 anything like that?

11 A. Well, I've never built a house before. And my
12 wife and I didn't see anything unusual. We took it
13 that that's the way it was. We just --

14 Q. Okay.

15 A. It seemed kosher. We signed it.

16 Q. All right. And let's look at the last page --
17 sorry; the last two pages. That's the list of
18 items.

19 A. Yes.

20 Q. Okay. And we're going to talk about it in a
21 second. You've seen a -- this document that has
22 notes on it -- another version of this document that
23 has notes on it?

24 A. Yes, I have.

25 Q. And your signature is on the -- is your

1 signature on the second page of this -- or your
2 initials? It's kind of hard to see.

3 A. My initials are in there, yes.

4 Q. All right. And when you initialed that, there
5 were no notes on there, right?

6 A. No.

7 Q. Okay. And what is this?

8 A. This is the general construction materials --
9 construction materials for a home.

10 Q. All right. Some of it is more specific than
11 others --

12 A. Let's see.

13 Q. -- would you agree?

14 A. Oh, sure. Yes.

15 Q. But the -- I mean, you know, when I say that --

16 A. The --

17 Q. Half-inch OSB board, so that's giving you
18 something specific. But then there are other topics
19 that are very general, right?

20 A. Right. It's -- you know, and then there -- and
21 then you go down and there's the HAV [sic] heat pump
22 mini-split which -- I don't know how many people who
23 visit this courtroom know what mini-splits are.

24 Q. Well, when you saw this -- because you
25 initialed this, right?

1 A. Right.

2 Q. Did you believe that the obligations that --
3 that your right to receive upon payment and ARM's
4 obligation to provide upon -- as part of this
5 project, the mini-split system throughout the house,
6 as you had expected?

7 A. As I had expected --

8 MR. DAVIS: Objection, Your Honor, as dealing
9 with -- he has initialed this document. And the
10 document indicates heat pump mini-split. I think
11 parol evidence rule would not allow additional
12 qualification as to what was intended. He would
13 have to go by what the language is in what he
14 signed.

15 MR. MULLINS: I don't really have any idea what
16 he's saying. You know, the heat pump -- mini-splits
17 have heat pumps.

18 MR. DAVIS: He --

19 MR. MULLINS: I mean, we have pictures in the
20 record that show that.

21 THE COURT: I think he's -- I think the
22 question was --

23 MR. DAVIS: The witness is --

24 THE COURT: -- what did he interpret -- what
25 did he understand the document to mean that he

1 initialed?

2 MR. MULLINS: Right.

3 THE COURT: So, I mean, we've gotten testimony
4 from Mr. Mazloom about that and we have it from
5 Mr. Golson.

6 MR. DAVIS: All right. Thank you, Your Honor.

7 THE COURT: Overruled. Thank you.

8 BY MR. MULLINS:

9 Q. So --

10 A. So heat pumps -- the mini-split is just the
11 outlet end of the heat pump. Heat pump sits
12 outside. It won't work without a heat pump. You
13 have to take air from outside and transform it into
14 heat or cold on the inside, depending on what's
15 going on on the outside, environmental. So you have
16 to have a heat pump on the outside connected to the
17 mini-split on the inside.

18 Q. So when you saw this that you initialed, did
19 you believe that it squared with what you and your
20 wife's expectations were on this HVAC --

21 A. Yes, because down the way, we would settle on
22 exact specifics.

23 Q. Okay. And -- so you have this contract signed.
24 What did you do?

25 A. So after that, my wife and -- oh, Ahmad gave me

1 the name of his loan arranger and --

2 Q. At BB&T?

3 A. At BB&T. Tina.

4 Q. Right.

5 A. And we -- I contacted Tina. My wife and I

6 appeared before Tina ourselves. No one escorted us

7 into the office. Ahmad was not there. We took all

8 these pieces of paper and presented them to Tina.

9 And she gave us information of what we needed to

10 bring to secure a loan. And we started the loan

11 process.

12 Q. Okay. And then what happened? You got a loan,

13 right?

14 A. Sorry. Then we got a loan.

15 Q. Okay. How much was the loan for?

16 A. 395.

17 Q. All right. Full amount of the --

18 A. Full amount of the cost of the project.

19 Q. All right. And I think you had testified a few

20 minutes ago, after getting the initial estimate from

21 Mr. Mazloom that your breath was taken away from

22 you. A \$395,000 undertaking, how significant was

23 that in terms of your financial plan?

24 A. Oh, well, I wasn't expecting that. But, at the

25 same time, I know that -- of course, there's no more

1 colleges to pay for; we have a little more money to
2 spend. We felt that we could handle the debt. But
3 I sure didn't want to go -- I couldn't handle any
4 more than that. And it's just shy of \$400,000.
5 It's a lot of money. And it was a little scary. We
6 don't have deep pockets. And we just went ahead and
7 decided to build.

8 Q. Okay. Well, let's talk about that. Can you
9 describe for the Court -- well, just kind of tell us
10 how the work proceeded. Give us kind of an overview
11 of how the work proceeded from your perspective.

12 A. Well, okay. So the first thing I had to do was
13 remove the old lake house. And we started that
14 project in early summer. June, I think.

15 Q. And that was something you were doing, correct?

16 A. Well, I did some of it. But I had a friend of
17 mine who was a contractor that bought irrigation
18 supplies said -- did, also, grading, house
19 demolishing, things like that. And I talked to
20 this -- to this guy.

21 And he said, yeah, I can -- believe it or not,
22 he told me he could go out there and demolish the
23 house and grade out the property and get rid of the
24 debris and take down the pine trees and pull out the
25 roots and anything that needed to be done to build a

1 house for 6,000 bucks. And I said sure. I didn't
2 need to use the loan for that; I had access to money
3 in that range easily. It was easily accessible. It
4 took a while. But, probably by August, the job was
5 finished.

6 Q. Okay. And that was not something that ARM was
7 doing? You undertook to remove the old house?

8 A. Correct. I did.

9 Q. And then at that point, ARM began work on the
10 house?

11 A. Yes.

12 Q. All right. Tell us how the work proceeded with
13 ARM, how your interactions with Mr. Mazloom were.
14 Just give us an overview of how the project started
15 off.

16 A. All right. Well, it's a funny thing, but it
17 takes two people, partners, to build a house. But
18 Ahmad and I hit it off real well and we were on the
19 same boat. Things really did click along just fine.

20 They started the foundation. I got a call from
21 work -- at work. It was Ahmad. He said that they
22 hit a couple snags: One of the pine trees -- I
23 guess they took out the taproot and it was really
24 deep. And it left some soil that they couldn't tamp
25 down or firm up or whatever when they were pouring

1 the foundation.

2 And he said that it would require removal of
3 some of the soil and replacement and to add concrete
4 to make it sturdy in the area. And then they ran
5 into an old oil tank that was left over from the old
6 house that was not taken out. And I absolutely had
7 forgotten that it was there. So they broke open the
8 old oil tank and filled it with concrete.

9 In the same conversation, he also --

10 Q. Let me ask you this: Mr. Golson, how --
11 when -- can you describe how the payment process
12 went from the outset?

13 A. Ahmad said that -- he said, Joe, it would be
14 better if you set up automatic draws, because that
15 way, I don't have to chase you around to get a
16 check. And I didn't think anything of it. I
17 thought it was a good idea because, at that point --
18 like I said, we were good partners. And that's what
19 I told Tina. I said, please set any drafts up as an
20 automatic.

21 So, therefore, every time a percentage of the
22 house was -- was at -- some percentage was completed
23 and a bank inspector would come out and look at the
24 house -- not for quality, of course; just to make
25 sure that a certain percent of it were done so the

1 contractor could get money to pay for materials and
2 his subs and the inspection reports. So there were
3 inspection reports during the project and draws
4 associated with each inspection report.

5 Q. All right. Did you expect -- and you've
6 described this as a -- your understanding, that the
7 cost would not exceed \$395,000?

8 A. That's correct.

9 Q. Let me make sure I understand what your
10 expectations were as far as payment is concerned;
11 that, ultimately, you and your wife would be
12 responsible for the cost of the house, plus a
13 15-percent fee; is that correct?

14 A. Yes.

15 Q. And, in your mind, what does the cost of the
16 house mean?

17 A. What the ultimate cost of materials and labor
18 were. Flat rate, you know, nothing garnished,
19 added, anything of that nature; just the exact cost
20 to the builder, plus a 15-percent fee.

21 Q. Okay. And that was your expectation; that,
22 ultimately, it was ARM's obligations to ensure that
23 it was paid only -- that it was presenting payment
24 for only the cost plus the fee that we talked about?

25 A. Correct.

1 Q. 15 percent, right?

2 A. Right.

3 Q. And that that cost would not exceed \$395,000?

4 A. That is correct.

5 Q. Okay. And you were talking about some things
6 through the project. But there were times -- well,
7 let me ask you this: Were there times during the
8 project where you became concerned about how this
9 cost process was working?

10 A. Well, several things started happening. When
11 we finally got to the area where we needed to talk
12 about the installation of the HVAC, then that's
13 where our first war broke out because Ahmad seemed
14 to have forgotten what we told -- and my wife is --
15 she's a -- like I said, she is a very strong woman.
16 Ahmad does not like strong women. So it was a war.

17 She and -- she and I did our best to battle
18 with Ahmad. They brought Josh Joyner in. And we
19 had a stack of paper -- we had the same stack of
20 papers to show Josh, in case he didn't know what a
21 mini-split was, and we had the quotes, because we
22 would have liked to have Bryant Heating & Air be the
23 contractor. But we couldn't because a cost-plus was
24 our choice and Ahmad would not entertain that. He
25 brought in Josh. And Josh, I don't think he knew

1 what a mini-split system was.

2 And it got to a point where we were getting
3 beat up. I mean, beat, beat, beat, beat between
4 Josh and Ahmad and --

5 Q. Let me pause you right there. Where are we in
6 the project when this is happening?

7 A. Oh, sorry. We're -- you know, that the house
8 is being built. It's time to get to a point where
9 the -- you're going to be thinking about roughing in
10 the AC.

11 Q. So they're ready to start roughing in the AC?

12 A. Correct.

13 Q. Or had they already started?

14 A. Not yet.

15 Q. Okay. So when you say beat up, I need you to
16 describe for the Court, what are you talking about?

17 A. We said, you said we could have what we wanted.
18 And he just pretended like he didn't know what we
19 were talking about. And Josh Joyner joined in.
20 And, between the two of them, they just pushed to a
21 point -- I don't know the exact words, but -- I
22 mean, the exact way to explain it.

23 They -- they -- he did not want to do -- I
24 don't think Ahmad understood what that type of
25 system was. I'm sorry. That's just the feeling I

1 got. So if he didn't understand it, he wasn't going
2 to do it. And he conveniently forgot that we were
3 adamant before we -- she would have walked away. We
4 would have walked away from the table from the very
5 first time the paper rolled out, we would have
6 walked away, if he had done this. We wouldn't have
7 even gotten this far. So --

8 Q. Let me stop you right there. You heard
9 Mr. Joyner say -- did you -- were you ever on a
10 phone call --

11 A. Oh, sorry --

12 Q. -- with Mr. --

13 A. No. Sorry. I --

14 Q. Hold on. Let me finish my question.

15 A. Yes.

16 Q. Were you ever on a phone call with Mr. Joyner
17 and Mr. Mazloom before the contract was signed where
18 they said we're going to give you a central system
19 and you said okay?

20 A. No.

21 Q. Did you ever have any conversation like that?

22 A. They -- not in the --

23 MR. DAVIS: Objection, Your Honor. That would
24 be hearsay, wouldn't -- hearsay as to he's saying
25 what Mr. Joyner would say.

1 THE COURT: I think it was addressed to
2 testimony provided earlier by Mr. Joyner and whether
3 he agreed with it. So I'll overrule the objection
4 for the moment and we'll see where it goes from
5 here.

6 MR. DAVIS: Thank you.

7 BY MR. MULLINS:

8 Q. Okay.

9 A. But, no, Josh Joyner never called me. All this
10 took place over Ahmad's dining room table.

11 Q. All this -- you're talking about precontract
12 or --

13 A. No; the arguing about the --

14 Q. Okay. Precontract. Okay?

15 A. Oh, precontract.

16 Q. I'm asking you --

17 A. No.

18 Q. -- about precontract. And then --

19 A. Okay. Josh --

20 Q. -- we're going to go back to the --

21 A. Okay. No. Josh wasn't even around. He wasn't
22 even a thought. It was just -- we -- precontract,
23 we said we want this.

24 Q. Ever any doubt in your mind that that's what
25 the parties' agreement was, was that you were going

1 to get the mini-split system throughout the house?

2 A. Yes. His wife came out and said, give him the
3 mini-split.

4 Q. And that's --

5 A. And now --

6 Q. Now let's go back -- I mean, let's go back
7 forward to when they were getting ready to insulate
8 for the system.

9 A. So then --

10 Q. And -- hold on. Let me --

11 A. Sorry.

12 Q. And if I understand correctly, you were having
13 this conversation around a table with Mr. Mazloom
14 and Mr. Joyner?

15 A. Correct.

16 Q. Okay. And how did you come -- what made you
17 come to that table to have that conversation? What
18 made -- when did you realize you were not going to
19 get what you wanted?

20 A. We -- I don't remember exact -- I think we were
21 to have a meeting to talk about the HVAC system.

22 Q. Okay.

23 A. Because that's when we met Josh.

24 Q. When did it cross your mind that they were
25 going to seek to give you something different? What

1 triggered your realization that they were going to
2 give you something different than you expected?

3 A. Well, it was at that table, at that time. My
4 wife was sitting across from me and we were talking.
5 And they -- Ahmad decided that that wasn't the right
6 thing for us, apparently.

7 We even entertained -- we tried a little
8 compromise, like a hybrid system, at least
9 mini-splits. It -- it -- they made me feel -- to
10 put a mini-split in the sunroom, for some reason.
11 They said, all right, we'll put a mini-split in the
12 sunroom; that's fine.

13 So we tried to compromise with at least maybe
14 mini-splits in the master and the two bedrooms and
15 they can have their HVAC that he wanted so dearly in
16 the rest of the house. And that would have been an
17 okay compromise because it wouldn't have cost -- the
18 cost would not have been any worse than the price
19 they presented today. But he didn't want to do it.

20 So, finally, he beat us up. And -- and I
21 should have stuck to my guns and stood by my wife.
22 This has killed me for two and a half years. I sort
23 of abandoned her and gave in at that point.

24 Q. All right. Why don't you pause and take a
25 breath?

1 A. That's not very manly. I'm sorry.

2 Q. No. We're good. We're okay.

3 A. But that's what happened. It finally came to a
4 point I couldn't fight anymore. And she was so mad
5 at me. I let her down. That was -- that was worse
6 than any money I could spend. And all because these
7 guys wouldn't give us what we wanted.

8 It's a cost-plus house. God. So we ended up
9 with a mini-split in the sunroom and a two-zone
10 system for the rest of the house. It's not
11 efficient. It was put in to benefit Ahmad; not for
12 our benefit. It's not even a case of whether the
13 system works. This was a benefit to Ahmad. We
14 couldn't -- and we couldn't work it out.

15 So now we have a system, when it comes on, the
16 master bedroom sounds like there's a hurricane
17 because you're running so much cubic feet through
18 the small duct for the master bed. When we have
19 guests, we can't keep them comfortable in back rooms
20 because, in order to keep them comfortable, we have
21 to run the air conditioner wide open in the great
22 room and kitchen. And that's what we have.

23 And I -- is it all right if I go in with one
24 more or --

25 Q. Sure.

1 A. Okay. So to this day, we heat and cool our
2 master bedroom with the mini-split from the sunroom.
3 We have sliding glass doors. We open the glass
4 door. We have a fan in the doorway and it blows the
5 hot air from the sunroom into the master bedroom
6 just so we don't have to run the air, because the
7 system was designed so badly.

8 And if the mini-split wouldn't freeze up, we
9 could almost do the whole house from the sunroom,
10 keeping the house cool. But bad things happen; too
11 much condensation, it leaks, so we can't do that.
12 We tried that and it doesn't work. But we sure can
13 heat a lot from that one little mini-split. It's
14 amazing.

15 Q. All right. Well, let's -- are you good to keep
16 going for a little bit longer?

17 A. Oh, yes. I'm sorry. I'm fine. I'm good.

18 Q. Let me ask you this: Were there ever
19 situations through the project when you expressed
20 concern to Mr. Mazloom about the cost of the work
21 and whether there was any issue with the guaranteed
22 maximum price?

23 A. Yes. After that -- this is where it got a
24 little worse: He would say -- he called up one day
25 to my office. And he said, Joe, I want to give you

1 a marbled -- a cultured marble bathroom. I did not
2 ask for -- he wanted to -- he wanted to give me a
3 central vacuum also. My wife didn't want it, but he
4 wanted it, and it wasn't really much of a cost. So
5 I said sure. But that was really minor.

6 But he said, I want to give you a cultured
7 marble bathroom. I said, what? Because,
8 originally, in this thing, it said tile shower and
9 bath. I said, what? He said, yes; it's easier to
10 keep clean and faster to install and you should have
11 it.

12 And I said, what is the cost? And he said,
13 don't worry about it. I said, Ahmad, I want to know
14 what the cost is; it's a cost-plus house. I don't
15 want to go over. He said, don't worry about it. I
16 said, all right.

17 We're still not on totally, you know, quicksand
18 ground with each other. I still trusted him that he
19 knew that the bathroom -- cultured marble shower and
20 bath would be a benefit. I don't have to worry
21 about that leaking. I already had that problem in
22 my old house I had to fix. So I said okay. And
23 then --

24 Q. How many times would you say, Mr. Golson, did
25 you have a conversation with Mr. Mazloom where you

1 expressed concern about maintaining the guaranteed
2 maximum price?

3 A. Oh, maybe four or five times.

4 Q. All right. And what was the response every
5 time?

6 A. Every time, he said don't worry about it.

7 Q. Did Mr. Mazloom ever express to you that you
8 and ARM were going to have to increase the
9 guaranteed max price?

10 A. No, there wasn't.

11 Q. Was there ever any conversation about you being
12 responsible for any increased cost over and above to
13 what you agreed to?

14 A. No, there wasn't. I tried to get direction
15 from him, a number, something. And he just said
16 don't worry about it.

17 Q. Okay. I want to ask you to turn to Tab 17 in
18 the notebook -- well, I probably messed up.

19 A. I'll find it.

20 Q. All right. Did there come a time where you had
21 a conversation with Mr. Mazloom about purchasing
22 your own materials or equipment?

23 A. Yes. He said he knew I was going to buy
24 tile --

25 Q. Well, let me ask you this way: Why did you

1 have a conversation with Mr. Mazloom about your
2 purchasing your own materials?

3 A. Because I could get my material less
4 expensively and I can try to control my own costs.

5 Q. Why were you concerned about the cost?

6 A. Because I couldn't work on "don't worry about
7 it." There was -- he gave me nothing to work with.
8 Like taking an SAT test where you've got to try to
9 figure out what variables are missing. I couldn't
10 do that.

11 So I started buying my own materials. I
12 bought -- my wife bought tile for the bathrooms from
13 Lowe's and tile for the bathroom wall. I pursued
14 buying tile for the -- it's a lake house. It does
15 not work in a lake house to have wood or artificial
16 wood floors because you still get moisture
17 underneath them and they warp because people run
18 around in bathing suits and things like that. So it
19 was a good idea for me to have tile in most of the
20 house, which came out to about 1,500 square feet of
21 tile that I purchased for that purpose.

22 For the rest of the house, I let Ahmad purchase
23 the wood for it. And I also purchased, through my
24 company -- we -- one of our vendors is Kichler.
25 They -- we sell outdoor lighting, 12-volt lighting.

1 But they also sell beautiful lighting fixtures for
2 homes.

3 So I got permission from my sales rep. He
4 talked to Kichler. And I was able to get the
5 ceiling fans and light fixtures for inside the house
6 and the fixtures for the doorways outside of the
7 house, all the lighting fixtures and fans that I
8 needed at ten percent over cost. And I did.

9 And then another good friend of mine is the
10 owner of Gateway Supply, Sam Williams, Jr. His son
11 Sammy lived next to us before we -- he used to live
12 across the street from us also. So I bought all the
13 plumbing fixtures, too: The sinks, the mirrors, the
14 toilets, anything having to do with an outlet of
15 water, everything but the kitchen sink. That came
16 from the vendor for the countertops.

17 And I bought the hood over the range. I wanted
18 to -- I do a lot of cooking, so it was important for
19 me to have a hood with enough CFMs to suck the food
20 off your plate, if you needed it. That's just --

21 Q. All right.

22 A. -- the way my wife says it. So those are
23 probably the major item -- one more major item that
24 he had no control over, was the water system. I
25 installed my own water-purification system because I

1 can and, plus, I got the parts at the same 10
2 percent.

3 Q. All right. And these things all occurred at
4 the -- these are kind of finish-type issues. This
5 is on the latter part of the project?

6 A. On the latter part of the project.

7 Q. Okay. How would you describe the trust level
8 at that point in time with ARM and Mr. Mazloom?

9 A. It really wasn't there. But it was too late.
10 I couldn't fire him.

11 Q. Did that have any relevance to your purchasing
12 the equipment?

13 A. Yes. I -- I was feeling uncomfortable that
14 somehow I was going to be stuck with some gargantuan
15 bill -- some bill of outrageous proportion that I
16 don't have -- didn't have any control over. You
17 know, when you build a cost-plus house, you know --
18 you -- you envision.

19 And you're supposed to have some help achieving
20 your -- the contractor is supposed to guide me a
21 little bit, since I'm not a construction person.
22 He's supposed to say, Joe, that's not going to work;
23 you might want to try this, don't buy that; it's
24 going to go over; don't do that.

25 Another example was the ceilings were

1 originally supposed to have Sheetrock. My wife
2 decided she wanted beadboard. And we met with the
3 guy at Stock Builders, which was unusual. We
4 actually met with one of Ahmad's vendors.

5 And she wanted a little shiplap in the sunroom.
6 She didn't want to be boxed in by just Sheetrock, so
7 for a small wall that was filled with -- it was 370
8 feet of this open wall, is what we were going to
9 cover with what's called shiplap. And I don't know
10 if you've seen it before, but it's like a paneling.
11 In this case, it was popular; has tongue-and-groove
12 and, if you put together correctly, it has a little
13 gap.

14 There's shiplap and penny gap. We chose the
15 penny gap because in a big gap, the wood expands too
16 much and you can see the insulation of the wall
17 board behind it.

18 So, anyway, we met with this guy Boozer, I
19 think his name was, at Stock. And he showed me
20 the -- and Ahmad showed up, too. He showed me the
21 shiplap and actually laid it on the table as to how
22 it should look. And then we were talking about
23 beadboard. And he brought me a sample of a
24 paintable beadboard made of fur, which was
25 inexpensive. It was inexpensive. We said, yeah,

1 that would work.

2 When it came time to put the beadboard on,
3 Ahmad showed up with three-quarter-inch pine
4 beadboard. And his reasoning was that when they
5 went to collect the beadboard made of fur, because
6 of the type of wood it was, he told me that it
7 was -- they had to do too much culling because --
8 because of warpage and the three-quarter pine would
9 have been better. But he never told us he was
10 making this substitution; he just did it.

11 Q. All right. Mr. Golson, we were talking -- I
12 had taken you to Tab 17. And that's kind of what
13 got us talking about --

14 A. Oh, sorry. Yes.

15 Q. -- this stuff. Those are the receipts --

16 A. Right.

17 Q. -- for the materials that you purchased. Is
18 that correct?

19 A. Yes, sir.

20 Q. Okay. Now flip back, if you will, to Tab 3.

21 A. Oh, God. Yes.

22 Q. You see that? This is the final bill that
23 Mr. Mazloom provided to you?

24 A. Yes. I see it.

25 Q. Okay. The 18,247.05 paid by Joe and Lycia, you

1 see that?

2 A. Yes.

3 Q. Do you agree with that?

4 A. That's what -- yes.

5 Q. You agree with that?

6 A. Yes.

7 Q. Okay. Those are the costs that you contend you

8 incurred?

9 A. Yes.

10 Q. Okay. We're going to come back to this

11 document. Okay?

12 A. Okay.

13 Q. Couple of other quick things I want to address

14 with you: And if you -- are the loose exhibits up

15 there or --

16 MR. DAVIS: We've got it.

17 BY MR. MULLINS:

18 Q. 33. All right. You got that document in front

19 of you?

20 A. Yes, I do.

21 Q. All right. And this is the section of the

22 contract that we were talking about earlier.

23 A. Yes.

24 Q. The handwritten notes that we were talking

25 about, this is that document of those handwritten

1 notes.

2 A. Yes. Yes.

3 Q. What is your understanding as to what this is?

4 A. From what I heard, these were things that I
5 asked for. Now, some things he did --

6 MR. DAVIS: Objection, Your Honor. He said as
7 to what he had heard. I would --

8 THE WITNESS: Oh, I'm --

9 MR. DAVIS: And based on --

10 MR. MULLINS: You don't need to worry about
11 Mr. Davis. We'll --

12 MR. DAVIS: Based on what he heard, it would
13 be, obviously, hearsay here. And I --

14 THE COURT: He can rephrase the question.

15 BY MR. MULLINS:

16 Q. All right. Were you referring to the
17 testimony?

18 A. Yes.

19 Q. Okay.

20 THE COURT: The evidence in the case?

21 MR. MULLINS: Right.

22 THE COURT: All right.

23 MR. DAVIS: Okay.

24 THE COURT: You can clarify the question then.

25 BY MR. MULLINS:

1 Q. Let's start this way: Prior to the completion
2 of the project, okay, prior to the receipt of this
3 final bill that we were just looking at in Tab 3 --
4 okay? Are you with me on the timing?

5 A. Right.

6 Q. Okay. Did you ever receive any communication
7 from Mr. Mazloom that he has provided you extra that
8 was going to require you to pay more than you
9 anticipated you would have to pay?

10 A. I did get another phone call one day while they
11 were building and framing the house. And he said,
12 Joe, I am going to do -- sorry -- ZIP panels. I
13 know. I didn't know what a ZIP panel was either, so
14 I had to look it up. I had my computer there.

15 It's just a way of -- it turns out, some homes
16 are wrapped with a cloth that is -- and lets some
17 air through, but not water in. It's called Tyvek,
18 is what I read. But one of the up-and-coming easier
19 ways to finish framing a home to get it ready for
20 brick is to do ZIP panel.

21 And all it is -- it looks like foam board. And
22 one or two people can do a whole house instead of
23 having a big crew. It's a sail. They can do a
24 whole house very quickly and easily. The labor goes
25 down, in other words. I think that was what Ahmad

1 was aiming at, was to reduce the labor, because
2 that's a cost. So I said -- after reading about it
3 real quick, I said, sure, you know, ZIP it.

4 Q. I didn't understand your answer, Mr. Golson.
5 The -- I heard the description about --

6 A. Well -- so --

7 Q. -- the ZIP --

8 A. So the -- he --

9 Q. -- but -- hold on.

10 A. I didn't order ZIP. Ahmad said --

11 Q. All right. I'm not talking about -- I asked
12 you a general question. We're going to --

13 A. I'm sorry. I must have --

14 Q. -- talk about --

15 A. -- not understood.

16 Q. Okay. Prior to receiving the final bill, were
17 you ever told, and, in any amount, were you ever
18 told that you were going to be required to pay in
19 excess of the cost that you had agreed to, the
20 \$395,000?

21 A. No, I did not.

22 Q. Okay. Now -- and I think you were talking
23 about these mini-splits --

24 A. Yes.

25 Q. -- notes.

1 And we're not going to go through all of these.

2 Okay?

3 A. Okay.

4 Q. Maybe we'll talk about a couple, if you feel
5 like you need to talk about a couple.

6 But is it your belief that any of these
7 notations that are in mini-splits form on this
8 document reflected an obligation that you were
9 required to pay more than you had agreed to pay when
10 you entered into the contract?

11 A. I'm sorry. Can you say it one more time,
12 please? I'm just...

13 Q. Okay. You're looking at all of these and --

14 A. Yes.

15 Q. And we can -- if it's easier, we can -- I'm
16 just trying to kind of --

17 A. Oh, no. I like --

18 Q. -- streamline the time --

19 A. I would like to do --

20 Q. -- a little bit, because --

21 A. -- that. Yes.

22 Q. -- we need to kind of get to the nub here.

23 A. Yes.

24 Q. There are several items on here that have
25 handwritten notes that Mr. Mazloom has testified

1 were extras, right?

2 A. Correct.

3 Q. All right. I'm trying to find out from you.
4 You've seen this; you've looked at these handwritten
5 notes; and you've heard the testimony. But I'm
6 trying to find out from you, at any point during the
7 project, were you told or did you believe that any
8 one of these items would result in an increase in
9 your obligation to pay under this contract?

10 A. No.

11 Q. Okay. And I think what I heard you say about
12 the ZIP panels was that Mr. Mazloom contacted you
13 about this change he wanted to make and that you
14 believe that it actually was going to be a
15 reduction.

16 A. Yes. That's -- I -- because I did some really
17 quick research. And it said it's a lot less labor
18 to ZIP a house.

19 Q. All right. And is it fair of me to
20 characterize many of these handwritten notes as
21 reflecting suggestions or requests Mr. Mazloom made
22 to you? It wasn't you to Mr. Mazloom?

23 A. Yes.

24 Q. And, again, at any point, when these requests
25 or suggestions were made, were you told, in any way,

1 that it was going to result in an increase in cost
2 that you were going to be required to pay?

3 A. No, or else he would say don't worry about it.
4 Even if I -- I tried in my heart -- he even told us
5 not to talk to his laborers.

6 Q. Okay. Did you see this note about the
7 insulation?

8 A. Oh, yes, I did.

9 Q. All right. Do you agree with that? Was there
10 a change in what was --

11 A. No. There was no change. In my house, written
12 in the panel, in Ahmad's handwriting, is 19 -- is
13 R-19 on -- this is for SCE&G: R-19 in the walls,
14 R-35 in the floors and -- no. R -- dagnabbit. 15
15 in the walls, 19 for the floors, and 35 in the
16 attic. And that was standard. Because I asked
17 him -- because I was trying to remember the numbers
18 because my wife wanted me to remember these numbers
19 so we could apply for a special SCE&G discount for
20 an energy efficient home. And he put in what was
21 standard.

22 Q. Okay. And, remind me, I mean, you had a
23 conversation -- or you had some testimony earlier
24 about the windows. But --

25 A. Yes. That was --

1 Q. -- it says double-hung windows in type, right?

2 A. Correct.

3 Q. And there's crank windows off to the right;
4 it's handwritten.

5 A. Yeah.

6 Q. And I think you testified that those were in
7 the sunroom. There were crank windows in the
8 sunroom?

9 A. Yeah. Well --

10 Q. And I -- and I --

11 A. But we did have to pick out windows. That
12 was -- that's a truth. And we picked out windows,
13 like I explained earlier.

14 But, he said, in this -- I didn't worry about
15 it with any of the other windows. He said they were
16 going to be double-hung windows in the bedrooms and
17 the garage.

18 So then I got another call one day. And he
19 said, Joe, we installed single-hung instead; is that
20 going to be a problem? Well, I only cared about the
21 sunroom. Double-hung windows are nice if you're
22 cleaning them because you can pull the sashes out.
23 We had those in the old house.

24 Then I thought, well, that would be -- that's
25 okay because we just saved a couple of bucks. So I

1 said yes. But the -- besides, he already put them
2 in. That was just after the fact he said, we put
3 the single-hung in. So I said, leave them. I'm not
4 going to -- he's not going to charge me to take them
5 out.

6 Q. All right. So you got single-hung instead of
7 the double-hung --

8 A. Yes.

9 Q. -- in the rest of the house?

10 A. Correct.

11 Q. And that's cheaper?

12 A. Oh, yes.

13 Q. Okay. All right. I'm not going to go
14 through -- Mr. Davis may ask you some questions
15 about these. But I just want to make sure that I
16 clearly understand your -- well, first of all, this
17 document with the mini-splits notes, were you ever
18 provided this until after the lien was filed and --

19 A. Afterwards.

20 Q. I'm sorry?

21 A. Afterwards.

22 Q. Okay. So was there ever anything in writing
23 ever --

24 A. No.

25 Q. -- until this litigation initiated --

1 A. Correct.

2 Q. -- was initiated?

3 A. Correct.

4 Q. All right. One quick side topic I want to tick
5 off here: Turn to Tab 9, if you will. 9A and the
6 second -- ARM85. See the little number at the
7 bottom there?

8 A. ARM85?

9 Q. 85.

10 A. Okay. Let me get there.

11 Yes, I see it.

12 Q. You see these invoices for cleaning and
13 power-washing the house, the brick, and the
14 driveway?

15 A. Right.

16 Q. Was that ever done to your house?

17 A. No. Ahmad told me -- he said -- the brick we
18 ordered has a little bit of a fileable veneer, but
19 that delicate. But Ahmad said that he would rather
20 not power-wash the house. And I agreed.

21 I said, your guys didn't -- even though they're
22 not -- I don't want the best -- I don't want the
23 best -- my wife calls them brick-stackers. But they
24 were neat brick-stackers. So there wasn't a lot of
25 concrete dripping anywhere. And I said don't --

1 don't power-wash the house; I agree; that will be
2 fine. He said, I'm not going to power-wash the
3 house.

4 Q. All right. I'm going to bounce around one more
5 time and take you back to the -- well, let's just
6 look at Exhibit 33 since it was -- the one with the
7 mini-splits notes on it.

8 If you go to the second page -- and this is a
9 list of -- the first page, it says: Builder to
10 provide. Right?

11 A. Yes.

12 Q. All right. Go back to the second page. And
13 the second item on the second page was appliances.
14 You were to select the appliances and they were
15 going to provide the appliances, correct?

16 A. Correct.

17 Q. All right. And what actually happened?

18 A. What actually happened is -- is we brought our
19 appliances with them [sic], except for the
20 refrigerator. We brought over our stove. And I
21 reused the dishwasher from the old house because it
22 was brand-new. I did not, of course -- like I said,
23 the range, exhaust fan. We did not buy any
24 appliances. Ahmad did not supply any appliances.

25 Q. All right. Which differs from what the

1 parties' agreement was initially, correct?

2 A. Correct.

3 Q. All right. Turn back to Tab 3.

4 A. Okay.

5 MR. MULLINS: Judge, I'm -- and I think I'm --
6 I'm probably -- because I can divide up some of the
7 scope of the testimony, I probably am just going to
8 ask one more quick line of questioning and then take
9 up the rest of my topics with Mrs. Golson tomorrow.
10 So we should be --

11 THE COURT: All right.

12 THE WITNESS: Okay.

13 BY MR. MULLINS:

14 Q. All right. You had -- we were talking briefly
15 about this -- this final bill that Mr. Mazloom
16 presented. And you recall receiving this?

17 A. Yes.

18 Q. Okay. And what was your reaction upon
19 receiving this bill?

20 A. Well, it was -- as soon as I saw the first
21 line, I knew I'd been had. I'm not a demonstrative
22 person. And I was very angry, but I didn't jump up
23 and down and I didn't strangle the little guy.

24 But I kept reading down further and further.
25 And I knew that I did not build almost a

1 400-something-thousand-dollar house. I built a
2 practical house. I'm embarrassed that we would
3 even -- I mean, the house doesn't fit what fit the
4 description of -- of the house that Ahmad portrayed
5 I built in this bill. I was incredulous.

6 And I did my best. I asked him over and over
7 about costs and -- and, also, in the back of my
8 mind, and this bill solidified it, I figured there
9 was probably some kind of monkey business going on.
10 And I -- and I do not welch. I pay my bills. But
11 in this case, I stood firm and I said, no, I'm not
12 going to pay it; I'd like a full accounting; I want
13 to see what I paid for.

14 Q. Okay. The \$18,247.05 that you -- we've already
15 discussed that you do agree with that --

16 A. Yes.

17 Q. -- as reflecting the materials that you
18 purchased?

19 Did you believe that Mr. Mazloom was going to
20 be entitled to a few for the purchase of those
21 materials?

22 A. No. That never crossed my mind. Those were my
23 materials.

24 Q. And you and Mr. Mazloom had communications
25 about -- and he understood and agreed that you were

1 going to be buying these materials and that that
2 would be credited under the contract?

3 A. Correct. Yes, sir.

4 Q. All right.

5 MR. MULLINS: Your Honor, I'm going to take the
6 rest of my topics up with Mrs. --

7 MR. DAVIS: Your Honor, may we approach?

8 THE COURT: Yes, real quick.

9 (Sidebar conference.)

10 MR. MULLINS: All right. I'm good.

11 THE COURT: You good?

12 MR. MULLINS: Yes. We can handle the rest of
13 our case with Mrs. Golson.

14 THE COURT: All right.

15 Mr. Davis, we'll start your
16 cross-examination -- everybody good -- once again,
17 if the courtroom could be open by 8:45. As soon as
18 I finish these status conferences, I'll come down
19 here. And if we can start a little bit earlier,
20 great.

21 MR. DAVIS: 9:00?

22 THE COURT: Sir?

23 MR. DAVIS: 9:00?

24 THE COURT: Well, I don't know about 9:00. But
25 I think 9:15 would be doable.

1 MR. DAVIS: That would be good.

2 THE COURT: Mr. Golson --

3 THE WITNESS: Yes, sir.

4 THE COURT: -- you're in the middle of your
5 examination. So you're going to be cross-examined
6 in the morning. I do want to ask the Golsons -- I
7 realize you're going home tonight. I don't want
8 y'all to discuss your testimony. Okay?

9 THE WITNESS: Understood.

10 THE COURT: All right. And that's just kind of
11 a consequence of breaking where we are. I know
12 they'll be fine with that. So we'll pick up first
13 thing in the morning.

14 MR. DAVIS: Thank you.

15 MR. MULLINS: Thank you, Judge.

16 (The following proceedings were held
17 December 20, 2019.)

18 THE COURT: All right. Mr. Golson, if you
19 would, come back up to the stand. You're still
20 under oath, sir. Now we'll kick off the morning
21 with cross-examination by Mr. Davis. Okay?

22 THE WITNESS: Okay.

23 CROSS-EXAMINATION

24 BY MR. DAVIS:

25 Q. You testified yesterday that prior to the house

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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JUN 24 2021

SC Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable Clifton Newman, The Honorable Walton J. McLeod, IV
Lexington County

Trial Court Case No.: 2017CP3202204

ARM Quality Builders LLC d/b/a, ARM Quality Builders..... Appellant.

v.

Joseph A. Golson and Lycia B. Golson and Branch Banking and Trust Company.. Respondents.

AND

Joseph A. Golson and Lycia B. Golson..... Third-Party Respondents.

v.

Ahmad Mazloom..... Third-Party Appellant.

Appellate Case No. 2020-001406

CERTIFICATE OF COUNSEL

Pursuant to Rule 210(g), SCACR, I certify that the record on appeal contains all material proposed to be included by any of the parties and not any other material.

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June 24, 2021
Lexington, South Carolina