

EXHIBIT J

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS

TIMOTHY J. TREON AND HIS)
WIFE, JANE TREON, AND)
P. JENNINGS SCEARCE,)
INDIVIDUALLY, AND ON)
BEHALF OF OTHERS)
SIMILARLY SITUATED IN THE)
STATE OF SOUTH CAROLINA,)

PLAINTIFFS,)

-VS-)

DRYVIT SYSTEMS, INC.)
ESTATE BUILDERS, INC., AND)
AMERICAN WAY APPLICATORS)
OF SOUTH CAROLINA, INC.,)

DEFENDANTS.)

2002-CP-07-1377

TRANSCRIPT OF RECORD

MARCH 31, 2010
SPARTANBURG, SOUTH CAROLINA

BEFORE:

THE HONORABLE J. MARK HAYES, II

APPEARANCES:

ATTORNEYS FOR PLAINTIFFS:

GREGORY M. ALFORD, ESQUIRE
ROBERT B. PHILLIPS, ESQUIRE
THOMAS E. WILLIAMS, ESQUIRE
DONALD E. JONAS, ESQUIRE
FRANCIS E. GRIMBALL, ESQUIRE

ATTORNEYS FOR DEFENDANTS:

ROBERT E. FIELDS, III, ESQUIRE
CATHERINE R. ATWOOD, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER



1 BACK AND THEREFORE SEES THINGS THAT WE MISS DOWN IN THE
2 TRENCHES AND FROM TIME TO TIME HAS POINTED US IN
3 DIRECTIONS WHERE WE NEEDED TO BE POINTED AND THAT THAT
4 HAS LENT A GREAT DEAL OF CREDIBILITY TO THE PROCESS THAT
5 WE'VE GONE THROUGH IN ARRIVING AT THIS PARTICULAR PLACE
6 WITH THIS PARTICULAR SETTLEMENT AND OUGHT TO GIVE THE
7 COURT AS WELL AS OTHERS WHO LOOK AT WHAT WE'VE DONE SOME
8 COMFORT ABOUT THE RIGHTNESS, OR THE FAIRNESS, OR THE
9 JUSTNESS, OR THE RIGHTEOUSNESS OF THE RESULT THAT IS
10 BEING ACHIEVED IN THIS CASE.

11 **THE COURT:** I AM -- THANK YOU FOR YOUR RESPONSE.
12 I'M OFTEN CHALLENGED IN NON-COURT SETTINGS AS TO WANTING
13 TO RESPOND OR DEFEND THIS SYSTEM WE HAVE, ESPECIALLY IN
14 TALKING ABOUT CRIMINAL CASES. AND WHY GO THROUGH THAT
15 PROCESS WHEN YOU KNOW THE MAN'S GUILTY?

16 WHY DID WE, AS A SOCIETY IN OUR COUNTRY, EVEN BOTHER
17 WITH THE PROCESSES OF TRYING TIMOTHY McVEIGH? WE ALL
18 KNEW HE WAS GUILTY. IT WAS ON THE TELEVISION EVERY DAY.
19 HE KILLED INNOCENT CHILDREN. HE BLEW UP THE FEDERAL
20 COURTHOUSE. THEY HAD HIM DEAD TO RIGHT. WHY EVEN CARE
21 ABOUT THE PROCESS WHEN YOU KNEW THAT HE WAS GUILTY TO
22 BEGIN WITH?

23 THERE ARE CERTAIN THINGS ABOUT THIS LITIGATION THAT
24 HAS COME BEFORE ME THAT HAS BEEN CHALLENGING BECAUSE
25 THERE HAS BEEN SOME CLARITY OF SOME THINGS THAT HAVE

1 HAPPENED. MANY OF THEM TO MY SURPRISE. AND I CONTINUE
2 TO BE SURPRISED.

3 BUT I AM TRYING TO PERFORM MY ROLE AND ALSO REMAIN
4 RESPECTFUL OF THIS PROCESS, THAT THERE IS SOME VALUE IN
5 THIS PROCESS IN ATTORNEYS COMING INTO COURT AND BEING AND
6 DOING THEIR JOB WELL, AND BEING THE ADVOCATES FOR THEIR
7 CLIENTS THAT THEY NEED TO BE.

8 LAWYERS CAN BE WRONG. LAWYERS CAN BE ABSURDLY
9 WRONG. BUT IF THE LAWYERS RESPECT THE PROCESS AND THE
10 COURT'S INVOLVEMENT IN THAT PROCESS, THE END RESULT IS
11 THAT THE COURT SYSTEM FUNCTIONS PROPERLY. AND THAT
12 SUBJECTIVE WORD OF JUSTICE IS FOUND.

13 I AM STRUGGLING AT THIS POINT WITH THIS MOTION
14 BECAUSE THERE'S SOME OBVIOUS THINGS THAT TELL ME WHY NOT
15 JUST GO AHEAD AND HAVE THIS HEARING? WHY NOT JUST GO
16 AHEAD AND HAVE EVERYBODY COME IN AND EXPLAIN TO ME
17 FURTHER WHAT WENT ON WHEN I HAVE ALREADY HEARD FOR HOW
18 MANY YEARS AND HOW MUCH MOUNTAINS AND VOLUMES OF EVIDENCE
19 THAT I'VE ALREADY RECEIVED AS TO I FEEL LIKE I KNOW WHAT
20 WENT ON?

21 IN MY HUMBLE ASSESSMENT OF ISSUES THAT DO NOT
22 PERTAIN TO THIS MOTION WHAT WENT ON IN TENNESSEE IS THAT
23 WE HAD VERY SMART LAWYERS THERE. AND THEY DID NOT LIKE
24 WHAT WAS GOING ON IN TENNESSEE.

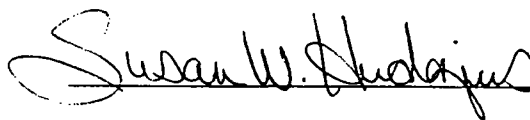
25 AND THEY CAME UP WITH A WAY, THEY DEVISED A PLAN,

1 CERTIFICATE OF REPORTER

2 I, THE UNDERSIGNED, SUSAN W. HUDGINS, OFFICIAL COURT
3 REPORTER FOR THE SEVENTH JUDICIAL CIRCUIT OF THE STATE OF
4 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
5 TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL
6 THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE
7 TRIAL/HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL,
8 IN THE CIRCUIT COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA,
9 ON THE 31ST DAY OF MARCH 2010.

10 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
11 COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

12 APRIL 20, 2010

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16 CIRCUIT COURT REPORTER