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**Aug 30 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

H. Steven DeBerry, IV, Circuit Court Judge

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Case No. 2020-CV-21-01817

Appellate Case No. 2023-001713

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Barbara Sarb.....Respondent/Appellant,

v.

Julie W. Phillips and Joseph M. Phillips.....Appellants/Respondents.

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**RECORD ON APPEAL**

**Vol. 3 of 5**

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1 SEPTEMBER 12, 2023

2 DAY 2 OF 4

3 ON THE RECORD - 9:37 A.M.

4 (REPORTER'S NOTE: The following takes place outside the  
5 presence of the jury.)

6 BY THE COURT:

7 THE COURT: Is there anything that needs to be placed on  
8 the record before we start today?

9 MR. LOVE: Yes. We had talked about that one exhibit  
10 yesterday afternoon, and when we get on the record, I will  
11 address that issue.

12 THE COURT: All right. Let's go ahead and -- are y'all  
13 ready to go on the record for that?

14 MR. GROTE: Yes, Your Honor.

15 THE COURT: Okay. And we're talking about the video; is  
16 that right?

17 MR. LOVE: There was a video that we discussed at the  
18 completion of yesterday. It has some audio components to it.  
19 I had objected to its admissibility based on hearsay, because  
20 the video includes the plaintiff speaking about the flooding  
21 or whatever. I spoke with my clients, we are going to  
22 withdraw that objection. We'll go ahead and stipulate to the  
23 video. It's something that can come out on testimony, direct  
24 testimony anyway, all it is a time hurdle, and I don't see any  
25 reason...

1 THE COURT: Okay.

2 Mr. Grote, any problems with that?

3 MR. GROTE: No, Your Honor.

4 THE COURT: All right.

5 MR. GROTE: Just a couple of other points of  
6 clarification, too. Before Your Honor came in here --  
7 yesterday we'd agreed to redact a couple of the exhibits,  
8 counsel did redact the exhibits as we indicated that we would.  
9 It came to my attention that there may be a couple of points  
10 of things to clarify. I think Exhibit 5 was the layout that  
11 we referred to yesterday. It was brought to my attention I  
12 may not have moved to admit that into evidence, and I think we  
13 treated it as it was. So, at this time, I'd just clarify and  
14 move it into evidence that it is.

15 THE COURT: All right. I have it in, but we might've ---

16 MR. LOVE: I have no objection anyway, so, 5 is in.

17 MR. GROTE: And the same with Exhibit 10, the statement,  
18 I know we discussed redacting it. I think it was in. Just  
19 for clarification of the record, just so there's no confusion.

20 THE COURT: Now, the video, was it marked?

21 MR. LOVE: No, sir.

22 MR. GROTE: The video has not been marked yet.

23 THE COURT: You want to make that Number 15?

24 PLAINTIFF'S EXHIBIT NUMBER 15

25 ADMITTED INTO EVIDENCE

1 MR. LOVE: They'll just take it -- I think they're gonna  
2 take it when it comes in turn, Your Honor, whenever it comes  
3 up in testimony. I think it was a preemptive kind of  
4 conversation.

5 THE COURT: All right.

6 MR. LOVE: But go with Number 10, we had -- the defense  
7 has no objection to that one, either.

8 THE COURT: The settlement statement?

9 MR. LOVE: Yes, sir.

10 THE COURT: All right.

11 MR. GROTE: Your Honor, we have several -- or a couple of  
12 videos, I guess, the best way to be is just do one thumb drive  
13 for each of the videos that we admit or -- I think it's maybe  
14 three videos total. I think that was on the only one that had  
15 audio. We can just put all three of them on a thumb drive or  
16 separate thumb drives.

17 MR. LOVE: I would think for simplicity, I would probably  
18 put one on each, so that you can refer to it. And if any  
19 questions come up during deliberation, they can just be clear  
20 which video ---

21 MR. GROTE: You mean, put a sticker on each thumb drive?

22 MR. LOVE: Or even use the Sharpie and put it on there  
23 somehow.

24 THE COURT: All right. So, for the record, we've had a  
25 change in court reporters, and so for her records, Plaintiff's

1 Exhibits 1 through 14, have been introduced into evidence so  
2 far. Is that what y'all have?

3 MR. LOVE: Yes, Your Honor.

4 MR. GROTE: Yes, Your Honor.

5 PLAINTIFF'S EXHIBIT NUMBERS 1-14

6 ADMITTED INTO EVIDENCE

7 THE COURT: You got something?

8 MR. LOVE: I don't -- yes, sir. I don't mean to sound  
9 like rude or a jerk, but can we go ahead and put Dr. Sarb on  
10 the stand. I understand they've got to get ready for the rest  
11 of their direct, but as they're discussing it, I don't want it  
12 to influence anything.

13 THE COURT: Sure, that's fine.

14 MR. LOVE: If that's okay? Thank you.

15 MR. GROTE: That's perfectly fine. We're just trying to  
16 save the Court some time to get the videos on the thumb drive.

17 MR. LOVE: I completely understand. I completely  
18 understand.

19 THE COURT: Good morning.

20 DR. SARB: I sit here.

21 THE COURT: Yes, ma'am. How are you?

22 COURT REPORTER: Can I just get your full name for the  
23 record.

24 DR. SARB: Barbara Sarb, S-A-R-B.

25 THE COURT: What the clerk just told me was she called

1 this juror that's missing and it's going straight to  
2 voicemail. I say we give it till 9:45 and then -- I mean,  
3 what I'm afraid of is if these jurors understand that they can  
4 just not show up or fall asleep, that they can be dismissed  
5 and that's gonna be a problem.

6 Is there any objection to just bringing the jury in and  
7 we'll replace and use the final alternate, and I'll have a  
8 speech prepared or would y'all like to wait?

9 DR. SARB: Can we find out where they live a bring a  
10 police officer to get them?

11 THE COURT: Well, we may do something like that, but ---

12 MR. GROTE: My initial reaction would be to give them a  
13 couple of more minutes. We already lost one. If we lose  
14 another one, we may be less than 12 by the end of this trial,  
15 because it's probably not gonna end today, it'll go through  
16 tomorrow, too. I think we're gonna be down to slim pickings  
17 at the end of this if they keep dropping.

18 MR. LOVE: I would agree with that. I'd rather -- rather  
19 than lose that last alternate, let's wait till maybe even  
20 10:00. They understand the delay, and they understand it's  
21 not the Court's fault, and it's not our fault; it's that  
22 they're waiting on -- maybe they'll self-police, who knows. I  
23 don't know.

24 THE COURT: All right. Well, we'll give them some time  
25 and we'll see what happens.

1 DR. SARB: May I go to restroom?

2 THE COURT: Yes, ma'am.

3 DR. SARB: Thank you.

4 THE COURT: No problem, ma'am.

5 **RECESS - 9:45 A.M.**

6 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

7 **ON THE RECORD - 9:49 A.M.**

8 THE COURT: Upon further thought, I'm not gonna subscribe  
9 to this. We're gonna go ahead and replace this juror and  
10 begin the trial. One thing is, the rest of the jurors that  
11 are here on time, it's not fair to them to take them away from  
12 their lives and what they do and everything else and just have  
13 them sit in the room waiting on somebody that won't show up.  
14 Okay?

15 So, we're gonna go ahead and bring in the jury unless  
16 anybody needs to put anything else on the record.

17 MR. LOVE: Nothing from the defense, Your Honor.

18 MR. GROTE: Nothing further.

19 THE COURT: All right. Bring in the jury.

20 MR. GROTE: Our position, on the record, as far as the  
21 juror, we understand your decision. Just to make that clear.

22 THE COURT: Yes, sir. Thank you.

23 And for the record, it's now 10 minutes to 10:00, the  
24 jury was supposed to be here at 9:20, and all the other jurors  
25 are present and ready to go.

1 (REPORTER'S NOTE: Jury enters courtroom @ 9:52 a.m.)

2 THE COURT: All right. Good morning, ladies and  
3 gentlemen, thank you for being back here on time this morning.  
4 As you know, we've been waiting for one of your fellow jurors  
5 that has not shown up today, and we don't know why, and we  
6 can't -- haven't been able to make contact with her at this  
7 time.

8 And for that reason, Mr. Mason, we're gonna install you  
9 now as the final member of the jury. You understand? So,  
10 you'll be a member of the 12 jurors.

11 Ladies and gentlemen, I'm gonna send a deputy to go find  
12 that juror, and depending on the reason that she is not here,  
13 then there could be consequences for her not being here. I  
14 just want you to understand this is a serious matter, we're  
15 gonna conclude this trial, and we're gonna conclude it with  
16 the jury that we've selected. And just ask that you be here  
17 on time, because that's when we're gonna begin this trial, and  
18 we're gonna work through it. So, I appreciate your time and  
19 your patience and your attention.

20 I'm gonna recognize Mr. Grote.

21 Is there anything, Mr. Love?

22 MR. LOVE: Yes, Your Honor. For the record, could you  
23 give the juror number, who his ---

24 THE COURT: The juror number is Number 66.

25 MR. LOVE: Thank you, Your Honor.

1 THE COURT: All right.

2 CONTINUATION OF DIRECT EXAMINATION OF BARBARA SARB BY MR.

3 GROTE:

4 Q: Good morning, Dr. Sarb.

5 A: Good morning.

6 Q: How are you this morning?

7 A: Fine, thank you.

8 Q: All right. Well, I think where we left off, we were  
9 talking about some photographs, in particular, the  
10 photograph from December 14, 2019, and I believe that was the  
11 last exhibit that we admitted into evidence. So, if we could  
12 publish that for the jury.

13 Okay. Dr. Sarb, is this what the basement looked like on  
14 December 15, 2019?

15 A: On December 14th, 2019, yes.

16 Q: All right. I'm sorry.

17 All right. Did you continue to take some photographs  
18 following that rain event?

19 A: Yes, I did.

20 Q: Dr. Sarb, let me show you what we've marked as Exhibits  
21 16 through 20, if you'll take a look at those for me, please?

22 A: (Reviewing photographs.)

23 Q: What are those documents?

24 A: They are photos of water in the basement dated  
25 12/15/2019.

1 Q: Did you take those photographs?

2 A: Yes.

3 Q: Do they show the condition of the basement area on that  
4 date?

5 A: Yes.

6 MR. GROTE: Your Honor, I'd move to admit those  
7 photographs into evidence, Exhibits 16 through 20.

8 THE COURT: All right.

9 MR. LOVE: No objection to 16 through 20, Your Honor.

10 THE COURT: Okay. They're in evidence.

11 PLAINTIFF'S EXHIBIT NUMBERS 16, 17, 18, 19, and 20

12 ADMITTED INTO EVIDENCE

13 MR. GROTE: Permission to publish, Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. GROTE:

16 Q: Can you describe what you're seeing in these photographs  
17 as we flip through them, Dr. Sarb?

18 A: Yes. There is water intrusion, ground-water intrusion in  
19 the front room and the back room of the basement area.

20 Q: Okay. Was there water out in what's been described as  
21 the mancave area?

22 A: Yes.

23 Q: All right. So, if you'll take a look at the  
24 precipitation data for me. Can you identify for the jury how  
25 much rainfall Florence had received on December 17, 2019?

1 A: December 17?

2 Q: Yes.

3 A: .79.

4 Q: Could you go ahead and mark that date with a blue -- with  
5 the highlighter.

6 (REPORTER'S NOTE: Witness complies.)

7 Q: Okay. Now, did you also take videos during some of these  
8 rainfall events or around the time of some of these rainfall  
9 events?

10 A: Yes.

11 Q: Do you recall taking a video around December 17, 2019?

12 A: Yes.

13 MR. GROTE: Your Honor, I think we've agreed on this, but  
14 we'd move into evidence a video from December 17, 2019.

15 THE COURT: All right.

16 Mr. Love?

17 MR. GROTE: I think that would be Exhibit 21.

18 MR. LOVE: No objection.

19 THE COURT: All right. So, it's gonna be Exhibit 21; is  
20 that right?

21 MR. GROTE: That's what I have, Your Honor, yes.

22 THE COURT: All right.

23 COURT REPORTER: We don't have the actual -- we're gonna  
24 need to mark a DVD or a...

25 MR. GROTE: We have it.

1 THE COURT: All right. So, 21 is in evidence.

2 PLAINTIFF'S EXHIBIT NUMBER 21

3 ADMITTED INTO EVIDENCE

4 MR. GROTE: All right. Permission to publish that to the  
5 jury, Your Honor.

6 THE COURT: Sure.

7 (REPORTER'S NOTE: Plaintiff's Exhibit 21 published for the  
8 jury. Audio not transcribed herein.)

9 BY MR. GROTE:

10 Q: Okay. Dr. Sarb, can you explain for us what we were  
11 seeing in that video?

12 A: I was using a big large squeegee to get the water into  
13 the sump pump which was running, and I was trying to exactly  
14 see where the water was coming from, and I was wiping between  
15 the wall and the floor, and it was groundwater seeping in in  
16 the crack between the wall and the floor. So, when I would  
17 wipe it, it would seep back through. So, I'd have about three  
18 to four inches of water in that back basement, and within a  
19 half hour, I'd get three or four inches back in that back  
20 basement area.

21 Q: Okay. Since we have a video from this date, can you go  
22 ahead to that precipitation data and maybe off to the right of  
23 December 17th put a little yellow square, too, off to the  
24 right side of it so you can see it.

25 (REPORTER'S NOTE: Witness complies.)

1 Q: Thank you.

2 So, we're going back to this rainfall that started, I  
3 guess, on December 13, December 14 of 2019, was the sump pump  
4 initially working during that rainfall event?

5 A: Yes.

6 Q: Okay. Did it continue to work, or did you have a problem  
7 with it?

8 A: No. There was a large amount of water, and it -- it  
9 burnt out or it failed; it stopped working.

10 Q: Okay. Did you have to have it replaced?

11 A: Yes. I called Daniel Williams, Williams Plumbing, to  
12 replace it.

13 Q: How did you get in contact with Daniel Williams?

14 A: I think Mr. Sims recommended him. I can't be for sure.  
15 I -- but I recall it was John Sims recommended him as a  
16 plumber.

17 Q: Okay.

18 THE COURT: Dr. Sarb, if you could try to speak up a  
19 little bit.

20 A: Yes. I can't remember, but I think John Sims recommended  
21 him as a plumber, somebody who could put a new pump in, so I  
22 could keep getting the water out.

23 THE COURT: Thank you.

24 BY MR. GROTE:

25 Q: Okay. I'm going to hand you the next exhibit. It's

1 marked Plaintiff's Exhibit 22 for identification.

2 Q: What is Exhibit Number 22?

3 A: Daniel Williams, Williams Plumbing Service, December  
4 17th, 2019, cost of replacing a pump.

5 Q: Let's just stop there. Is that an invoice you received  
6 from Daniel Williams to replace the sump pump?

7 A: Yes.

8 MR. GROTE: Your Honor, we would move to admit this into  
9 evidence.

10 MR. LOVE: No objection.

11 THE COURT: All right. 22 is into evidence.

12 PLAINTIFF'S EXHIBIT NUMBER 22

13 ADMITTED INTO EVIDENCE

14 BY MR. GROTE:

15 Q: Dr. Sarb, can you explain to me what your understanding  
16 is of the work that Daniel Williams did in connection with  
17 replacing the sump pump?

18 A: He put a stronger one-half -- this is -- let's see -- put  
19 a, I think, a new pump in.

20 Q: Okay. What is the date of his invoice?

21 A: December 17th.

22 Q: Of which year?

23 A: 2019.

24 Q: Is that sump pump still working today?

25 A: Yes, it is.

1 Q: And what was the cost to you to have that sump pump  
2 replaced?

3 A: \$1,425.

4 Q: Is that something that you paid?

5 A: Yes.

6 Q: Is that an expense that you're claiming in this lawsuit?

7 A: Yes.

8 COURT REPORTER: Plaintiff's 23 through 27.

9 BY MR. GROTE:

10 Q: Dr. Sarb, I'm handing you what's been marked as  
11 Plaintiff's Exhibits 23 through 27. Can you identify what  
12 those are?

13 A: They are photographs of water in the basement, December  
14 20th, 2019.

15 Q: Okay. Did you take those photographs?

16 A: Yes.

17 Q: Do they document the condition of the basement on that  
18 date?

19 A: Yes.

20 MR. GROTE: Your Honor, we would move to admit those into  
21 evidence.

22 THE COURT: All right. Any objection, Mr. Love?

23 MR. LOVE: No objection to Plaintiff's 23 through 27.

24 THE COURT: All right. Into evidence.

25 PLAINTIFF'S EXHIBIT NUMBERS 23, 24, 25, 26, AND 27

ADMITTED INTO EVIDENCE

BY MR. GROTE:

Q: Dr. Sarb, since we have photographs from that date, could you go ahead and take the yellow highlighter and mark that date on the precipitation data?

A: What date?

Q: The date of the photographs, December 20th. In yellow; I'm sorry.

A: Yellow? I'm sorry.

(REPORTER'S NOTE: Witness complies.)

Q: Okay. Let's take a look at the photographs, please.

MR. GROTE: Your Honor, permission to publish the photographs?

THE COURT: Yes, sir.

BY MR. GROTE:

Q: Let's go through these one by one. If you can look at the screen and tell us what we're looking at in these photographs.

A: There is still water in the basement. Some of the center area was drying out. The pump -- the new pump was running.

Q: Okay. Did you also take a video on the same date?

A: Yes.

Q: Does that also document the condition of the basement?

A: Yes. I was...

MR. GROTE: Your Honor, I believe this is the video

1 that's been previously marked or decided to be marked as  
2 Exhibit Number 15.

3 THE COURT: Okay.

4 MR. GROTE: I would request to admit that into evidence  
5 and to publish it to the jury.

6 THE COURT: All right. Any objection?

7 MR. LOVE: No, sir.

8 THE COURT: All right. 15 is into evidence. You can  
9 publish.

10 (REPORTER'S NOTE: Plaintiff's Exhibit 15 published to jury.  
11 Audio not transcribed herein.)

12 BY MR. GROTE:

13 Q: Okay. Dr. Sarb, does that show the new sump pump that  
14 Daniel Williams installed for you?

15 A: Yes.

16 Q: Okay. And was it operational in that video?

17 A: Yes.

18 Q: Were you still having water in the basement even though  
19 that sump pump was operational?

20 A: Yes.

21 Q: So, if you'll take a look at the precipitation data for  
22 me for December 22nd of 2019, and December 23rd, 2019. Can  
23 you identify for the jury how much rain occurred on that date?

24 A: 0.17 inches and 2.24 inches.

25 Q: And so, on December 22nd, which -- what was the amount?

1 A: 0.17 inch.

2 Q: And on December 23rd, what was the amount?

3 A: 2.24 inches.

4 Q: Okay. Can you put a blue on December 22nd?

5 (REPORTER'S NOTE: Witness complies.)

6 Q: And maybe fill in half of December 23rd in blue, just  
7 like the half -- one side of it.

8 (REPORTER'S NOTE: Witness complies.)

9 Q: Okay. Did you also -- I'm gonna show you some other  
10 documents and we'll come back to that in just one second.

11 COURT REPORTER: Plaintiff's 28 through 32.

12 BY MR. GROTE:

13 Q: Dr. Sarb, I'm going to hand you Plaintiff's Exhibit 28  
14 through 32. Would you take a look at those for me, please?

15 Are these photographs that you took on December 23rd,  
16 2019?

17 A: Yes.

18 Q: Do they show the condition of the basement on that date?

19 A: Yes.

20 MR. GROTE: Your Honor, we would move to admit these  
21 exhibits, Exhibit 28 through 32 into evidence.

22 THE COURT: Any objection?

23 MR. LOVE: No objection, Your Honor.

24 THE COURT: All right. 28 through 32 are into evidence.

25 PLAINTIFF'S EXHIBIT NUMBERS 28, 29, 30, 31, AND 32

1 ADMITTED INTO EVIDENCE

2 MR. GROTE: Your Honor, permission to publish these to  
3 the jury?

4 THE COURT: Yes, sir.

5 BY MR. GROTE:

6 Q: Dr. Sarb, we'll go through these and can you just  
7 describe for me what this photograph depicts?

8 A: It is water seeping through the cracks in the walls of  
9 the basement.

10 Q: Okay.

11 A: Again, through any holes or cracks or leaks in the  
12 basement wall. That's around the edges where the walls and  
13 floors meet. On the side of the house wall coming in towards  
14 the center of the basement.

15 Q: What is that?

16 A: That's the wall -- a spigot of water coming through the  
17 wall of the basement.

18 Q: And for the record, are we looking at Exhibit 32?

19 A: Yes, sir.

20 Q: Is that water actually like a fountain out of the wall?

21 A: Yes. It was constantly draining water all day long.

22 Q: Did you take videos of this -- or on this same date as  
23 well?

24 A: Yes.

25 Q: What was the purpose of taking those videos?

1 A: I was hoping to figure out how to fix this.

2 Q: Okay.

3 MR. GROTE: Your Honor, I believe -- I think we have two  
4 videos from that date. At this time, we would move to admit  
5 those into evidence. I believe it would be Exhibits 33 and  
6 34.

7 MR. LOVE: No objection.

8 THE COURT: All right. So, we'll have those marked as 33  
9 and 34, and they're into evidence.

10 PLAINTIFF'S NUMBER 33 AND 34

11 ADMITTED INTO EVIDENCE

12 MR. GROTE: Permission to publish to the jury.

13 THE COURT: Sure.

14 (REPORTER'S NOTE: Plaintiff's Exhibits 33 and 34 published to  
15 the jury. Audio not transcribed herein.)

16 BY MR. GROTE:

17 Q: What do these videos show, Dr. Sarb?

18 A: Water entering the basement, just a lot of water that I  
19 didn't know how to take care of.

20 Q: Since we have some photos and videos from this date, can  
21 you go to December 23rd. I think you had marked it half blue  
22 already. If you could mark it yellow on the other half to  
23 signify that there are photos and videos from that date as  
24 well.

25 (REPORTER'S NOTE: Witness complies.)

1 Q: Dr. Sarb, I'm gonna show you what we've marked as Exhibit  
2 Number 35, if you could take a look at that for me, please?

3 Did you take -- or what is Exhibit 35?

4 A: It's a photo of water in the basement December 26th.

5 Q: Did you take that photo?

6 A: Yes.

7 MR. GROTE: Your Honor, I would move to admit Exhibit 35  
8 into evidence.

9 THE COURT: All right. Any objection?

10 MR. LOVE: No -- 35, Your Honor?

11 THE COURT: Yes, sir.

12 MR. LOVE: No objection.

13 THE COURT: All right. 35 is into evidence.

14 PLAINTIFF'S EXHIBIT NUMBER 35

15 ADMITTED INTO EVIDENCE

16 BY MR. GROTE:

17 Q: Dr. Sarb, could you come around to the precipitation data  
18 and take your yellow marker, and could you mark December 26th  
19 in yellow to signify that there are photographs of water in  
20 the basement on that date?

21 (REPORTER'S NOTE: Witness complies.)

22 MR. GROTE: Your Honor, permission to publish this to the  
23 jury, the photograph?

24 THE COURT: Yes, sir.

25 BY MR. GROTE:

1 Q: Dr. Sarb, is this the photograph that we were referring  
2 to?

3 A: Yes.

4 Q: So, with all this water in the basement, did you end up  
5 moving out of the house?

6 A: Yes, I did. I had -- was squeegeeing that constantly. I  
7 had fans going, I had a dehumidifier down there, and I had a  
8 dehumidifier going upstairs, and I was getting eight gallons  
9 of water out of the upstairs on a daily basis. Everything was  
10 wet. All my upholstered furniture, my beds, everything felt  
11 like it was left outside. And I moved out.

12 Q: Why did you have to move out of the house?

13 A: I was starting to get joint pain, headaches, and problems  
14 with breathing.

15 Q: All right. So, even after you moved out of the house,  
16 did you continue to come back to the house frequently?

17 A: Yes. I went there every morning, every lunch period I  
18 have, and every evening to empty the dehumidifiers or squeegee  
19 and take care of the property. All my belongings were there.

20 Q: Do you recall when you moved out of the house, what  
21 timeframe?

22 A: December 28th, I believe.

23 MR. LOVE: I'm sorry, Your Honor. What was that date?

24 A: I don't remember exactly. I think I moved out December  
25 28th. I went on vacation, and I can't remember exactly what

1 date it was.

2 Q: Was it around the end of December?

3 A: Yes.

4 Q: So, after what I'll call this December 13 ---

5 A: 2019.

6 Q: I'm sorry?

7 A: 2019.

8 Q: Okay. So, I'll say after this December 13-14 rain event  
9 where we had these water events that we've been looking at,  
10 did you continue to have problems with water or flooding in  
11 the basement?

12 A: Yes.

13 Q: How often would that occur?

14 A: Any time there was a moderate amount of rain.

15 Q: Would it be pretty much after any moderate rainfall?

16 A: Yes.

17 Q: Did you document a lot of these events with photographs  
18 and ---

19 A: Not every one, but yes I did continue to document them.

20 Q: Did you document every single time there was water in the  
21 basement?

22 A: No, not every single time.

23 Q: Let's take a look at a few more of your photographs.

24 COURT REPORTER: That's Plaintiff's 36 through 39.

25 BY MR. GROTE:

1 Q: I'm showing you Plaintiff's 36 through 39. Can you  
2 identify these for me, please?

3 A: They are photographs from January 5th, 2020, of water in  
4 the basement.

5 MR. GROTE: At this time, Your Honor, I would move to  
6 admit those into evidence and to publish them to the jury.

7 THE COURT: Any objection?

8 MR. LOVE: No, sir.

9 THE COURT: All right. 36 through 39 are in and you can  
10 publish.

11 PLAINTIFF'S EXHIBIT NUMBERS 36, 37, 38, AND 39

12 ADMITTED INTO EVIDENCE

13 BY MR. GROTE:

14 Q: Again, Dr. Sarb, what are these photographs generally  
15 showing?

16 A: Water intrusion into the basement, ground water in the  
17 back area.

18 Q: Okay. If you'll come around to the precipitation data,  
19 I've moved it now over to 2020, since we've moved into 2020.  
20 If you could mark January 5th, 2020, with yellow to signify  
21 that you do have photographs from that date.

22 (REPORTER'S NOTE: Witness complies.)

23 Q: And according to that information, what was the rainfall  
24 data preceding that on January 3rd, 2020, and then on January  
25 4th, 2020?

1 A: On the 3rd, it was 0.27 inches, and on the 4th it was  
2 0.62 inches.

3 Q: Okay. And were you still seeing water in the basement  
4 after something like that is shown in these photographs?

5 A: Yes.

6 Q: Okay. Can you mark those two dates in blue to signify  
7 the rainfall data?

8 (REPORTER'S NOTE: Witness complies.)

9 COURT REPORTER: Plaintiff's 40.

10 BY MR. GROTE:

11 Q: Dr. Sarb, I'm gonna show you Plaintiff's Exhibit Number  
12 40. If you could take a look at that for me, please?

13 A: That's a photo from January 9th, 2020.

14 Q: Is that a photograph that you took?

15 A: Yes.

16 Q: Does it show the basement on that date?

17 A: Yes, it does. It looks like I just squeegeed it and had  
18 the fans going.

19 MR. GROTE: I would move to admit that into evidence as  
20 Exhibit 40 and publish to the jury.

21 MR. LOVE: No objection, Your Honor.

22 THE COURT: All right. 40 is into evidence.

23 PLAINTIFF'S EXHIBIT NUMBER 40

24 ADMITTED INTO EVIDENCE

25 BY MR. GROTE:

1 Q: Dr. Sarb, if you'll take a look at the rainfall data for  
2 me, please?

3 So, I don't need you to draw anything in there, but had  
4 there been any appreciable rain since the last photographs  
5 that you took?

6 A: No.

7 Q: And were you still having water in the basement?

8 A: Yes.

9 Q: And so, the last rainfall, I guess, January 4th?

10 A: The 4th.

11 Q: And so, if you could mark on that precipitation data at  
12 this time January 9th to signify in yellow that you have a  
13 photograph from that date?

14 (REPORTER'S NOTE: Witness complies.)

15 COURT REPOTER: That's Plaintiff's 41 through 46.

16 Q: I'll show you the next set of documents, Plaintiff's 41  
17 through 46, can you identify those, please?

18 A: They are photographs from January 13th, 2020.

19 Q: Are those photographs that you took?

20 A: Yes.

21 Q: Are they taken down in the basement area of the house?

22 A: Yes, the mancave area, meaning the front room, and the  
23 second back room of the basement.

24 MR. GROTE: Your Honor, at this time, I would move to  
25 admit those into evidence and to publish them.

1 MR. LOVE: No objection.

2 THE COURT: All right. Into evidence.

3 PLAINTIFF'S EXHIBITS 41 THROUGH 46

4 ADMITTED INTO EVIDENCE

5 BY MR. GROTE:

6 Q: Okay. And we'll just flip through these to have the jury  
7 look at them. And if you'll stop there. What is this device  
8 that we're looking at?

9 A: That's a little humidity monitor that I bought, I think,  
10 at Lowes. The ideal range is in the green, 30 to 60 percent  
11 humidity, and it was showing 100 percent humidity in the  
12 basement area.

13 Q: All right. We'll keep going. I'll take a look at the  
14 number since we don't have it up on the screen.

15 A: 46?

16 Q: Exhibit 46. What is that photograph showing?

17 A: That's the -- as you walk in the door to the left there  
18 were two windows, and that's the humidity on the inside of the  
19 window. It's just dripping wet.

20 Q: All right. Since we have photographs from this date, can  
21 you go ahead and mark January 13, 2020, on the precipitation  
22 data in yellow?

23 (REPORTER'S NOTE: Witness complies.)

24 Q: Okay. Thank you.

25 A: 1.37 inch.

1 Q: And so -- come on back. What was the -- if you look at  
2 the rainfall data leading up to that, can you identify for the  
3 jury the rainfall amounts on the days of January 11 through  
4 January 13th?

5 A: On January 11th is -- it was .01 -- .06; on January 12th,  
6 .95 inch; and on January 13th, 1.37 inches of rain.

7 Q: Can you highlight those dates with the blue highlighter  
8 to signify the rainfall?

9 (REPORTER'S NOTE: Witness complies.)

10 COURT REPORTER: Plaintiff's 47.

11 BY MR. GROTE:

12 Q: Dr. Sarb, I'm going to hand you another document. Can  
13 you identify that for us, Exhibit 47?

14 A: It's a photo from January 19th, 2020.

15 MR. GROTE: Your Honor, permission -- or, excuse me, move  
16 that into evidence and permission to publish?

17 MR. LOVE: No objection.

18 THE COURT: All right. It's so entered.

19 PLAINTIFF'S EXHIBIT NUMBER 47

20 ADMITTED INTO EVIDENCE

21 BY MR. GROTE:

22 Q: Does this photograph document the condition of the  
23 basement on January 19, 2020?

24 A: Yes.

25 Q: Were you still continuing to have water in the basement

1 at that time?

2 A: Yes.

3 Q: If you'll take a look at the next exhibit I'll hand you.

4 COURT REPORTER: Plaintiff's 48 and 49.

5 Q: Dr. Sarb, before we jump into that, since we had  
6 photographs from January 19, could you go ahead and take the  
7 yellow highlighter and mark January 19, 2020, in yellow to  
8 signify photographs on that date?

9 (REPORTER'S NOTE: Witness complies.)

10 Q: I'll hand you the next exhibits. Is that 48 and 49?  
11 If you'll take a look at those for me, please?

12 A: Photographs from January 22nd, 2020.

13 Q: Did you take those photographs?

14 A: Yes.

15 MR. GROTE: Your Honor, I'd move to admit those into  
16 evidence and to publish them to the jury.

17 MR. LOVE: No objection.

18 THE COURT: All right. Into evidence.

19 PLAINTIFF'S EXHIBIT NUMBERS 48 AND 49

20 ADMITTED INTO EVIDENCE

21 BY MR. GROTE:

22 Q: And what are we seeing in these photographs, Dr. Sarb?

23 A: The center part of that back basement was starting to dry  
24 up. I still had ground water penetrating. The little rim  
25 around the edge is starting to get mold growing on the wall.

1 I had the fan going and the dehumidifier going trying to get  
2 some of the moisture out and dry it up, and some bugs.

3 COURT REPORTER: Plaintiff's 50 and 51.

4 BY MR. GROTE:

5 Q: Dr. Sarb, let me show you Plaintiff's Exhibit ---

6 A: Do I need to mark that or no?

7 Q: --- 50 and 51. If you'll take a look at those for me,  
8 please?

9 A: Photographs from January 23rd, still some ground water  
10 seeping in the edges between the wall and the floor, and  
11 cracks on the -- water seeping up and cracks on the cement  
12 floor of the basement.

13 MR. GROTE: Your Honor, I would move to admit those into  
14 evidence and to publish them to the jury.

15 MR. LOVE: No objection.

16 THE COURT: All right. 50 and 51 are into evidence.

17 PLAINTIFF'S EXHIBIT NUMBERS 50 AND 51

18 ADMITTED INTO EVIDENCE

19 BY MR. GROTE:

20 Q: Okay. If you'll come around the precipitation data for  
21 me, please? We just looked at photographs from January 22,  
22 2020, and January 23, 2020. You can go ahead and mark those  
23 dates in yellow?

24 A: January 22 and 23?

25 Q: Yes.

1           If the timeframe that we were looking at those  
2 photographs in January of 2020, was the sump pump continuing  
3 to be operational?

4 A:    Yes, it was always plugged in so it could go off anytime  
5 needed.

6           COURT REPORTER: Plaintiff's 52.

7 BY MR. GROTE:

8 Q:    I'll hand you what's been marked as Plaintiff's Exhibit  
9 52. Can you identify what that is?

10 A:    January 27th, 2020, and water around the edging of the  
11 back and side wall of the basement.

12           MR. GROTE: I would move to admit that into evidence and  
13 publish to the jury, Your Honor.

14           MR. LOVE: No objection.

15           THE COURT: All right. Into evidence.

16                           PLAINTIFF'S EXHIBIT NUMBER 52

17                                   ADMITTED INTO EVIDENCE

18 BY MR. GROTE:

19 Q:    If you'll take a look at the precipitation data for me,  
20 please. Can you identify for the jury -- well, I guess,  
21 first, why don't you mark January 27, 2020 in yellow, since  
22 we've just looked at a photograph from that.

23 (REPORTER'S NOTE: Witness complies.)

24 Q:    And so, if you'll look at the rainfall data from January  
25 24, 2020 through January 27, 2020, can you identify how much

1 it had rained?

2 A: On January the 24th, 0.28, about a quarter inch, .02.

3 Q: What about the 27th?

4 A: .07.

5 MR. GROTE: And we'll mark this --

6 COURT REPORTER: Plaintiff's 53.

7 BY MR. GROTE:

8 Q: If you'll take a look at the next document for me,  
9 please?

10 A: A photograph from January 30th, 2020.

11 MR. GROTE: Your Honor, I'd move to admit it into  
12 evidence and to publish it to the jury.

13 THE COURT: Any objection?

14 MR. LOVE: No, Your Honor.

15 THE COURT: That's 53. Is that right?

16 COURT REPORTER: Yes, sir.

17 THE COURT: 53 is into evidence.

18 PLAINTIFF'S EXHIBIT NUMBER 53

19 ADMITTED INTO EVIDENCE

20 BY MR. GROTE:

21 Q: And Dr. Sarb, if you could come around the precipitation  
22 data and go ahead and mark in yellow January 30, 2020.

23 (REPORTER'S NOTE: Witness complies.)

24 Q: That's the date of the photo. So, looking at this  
25 precipitation data -- if you could come back for me, please.

1 Looking at this precipitation data, since January 11th or  
2 12th, had there been an appreciable rain in the interim  
3 between that and January 30th?

4 A: No.

5 Q: Were you still seeing water in the basement, nonetheless?

6 A: Yes.

7 Q: What did you do to, I guess, try to -- what did you start  
8 doing to try to address the problem or to find the solution to  
9 it?

10 A: I knew it was something I couldn't take care of, so I  
11 tried calling some specialists that took care of ground water  
12 intrusion. The first company I called was Cantey Foundation.  
13 I first called Sims, John Sims, and I had John Etheridge also  
14 see if he had any suggestions on who I could contact.

15 Q: Okay. What was the result of your contact with Cantey  
16 Foundation Specialists?

17 A: They suggested something called a tile drain, where you  
18 put holes in the walls, let the water drain through, and it  
19 goes into a little -- they do like a trench, and then put  
20 tiles, and that didn't sound very good to me. It seemed like  
21 it would let more water come into the house and more moisture.  
22 I also requested John Etheridge see if he had any suggestions.

23 COURT REPORTER: Plaintiff's 54.

24 Q: I'll show you what's been marked as Plaintiff's Exhibit  
25 54.

1 A: February 3rd, 2020.

2 Q: Is that a photograph from that date?

3 A: Yes. It's ground water -- more this time, in the center  
4 of the back basement around the back wall, side wall, and ---

5 Q: Hold on one second. Let's move it into evidence first  
6 and then we'll show it to the jury.

7 MR. GROTE: Your Honor, can I move it into -- or move it  
8 into evidence and to publish to the jury.

9 MR. LOVE: No objection.

10 THE COURT: All right. Into evidence.

11 PLAINTIFF'S EXHIBIT NUMBER 54

12 ADMITTED INTO EVIDENCE

13 BY MR. GROTE:

14 Q: Okay. Dr. Sarb, we'll put it up here for everybody to  
15 see. Can you go back and describe what we're seeing here?

16 A: This time it's more water penetrating in back wall, side  
17 wall, in the center coming in from the -- what would be your  
18 right-hand side wall, kind of into the center area. And some  
19 mold growing along the back and side walls of the white brick.

20 Q: Okay. Can you come around to the precipitation data for  
21 me, please. And go ahead and mark February 3rd, 2020 in  
22 yellow to signify that a photograph was taken that date.

23 (REPORTER'S NOTE: Witness complies.)

24 Q: So, based on the precipitation data, when had it last  
25 rained before that photograph?

1 A: December -- or January 31st, we had 1.24 inches.

2 Q: Okay. Can you go ahead and mark that in blue?

3 (REPORTER'S NOTE: Witness complies.)

4 Q: So, thank you. So, in this photograph dated February the  
5 3rd, 2020, we're still seeing water in the basement several  
6 days after that rain?

7 A: Yeah. Sometimes it would take a couple of days for it to  
8 seep through the ground and get into the basement.

9 COURT REPORTER: Plaintiff's 55 and 56.

10 Q: Can you view what we've marked Exhibits 55 and 56 and  
11 identify those for us, please?

12 A: That's February 4th, 2020. Again, this looks like I just  
13 squeegeed it, but it was water in the -- sorry -- water in the  
14 basement.

15 MR. GROTE: Your Honor, I'd move those into evidence and  
16 publish to the jury?

17 MR. LOVE: No objection.

18 THE COURT: All right. Into evidence.

19 PLAINTIFF'S EXHIBIT NUMBERS 55 AND 56

20 ADMITTED INTO EVIDENCE

21 BY MR. GROTE:

22 Q: Okay. We'll put them up on the screen, and can you tell  
23 the jury what we're seeing in these pictures?

24 A: That's water in the back room of the basement. It looks  
25 like I just squeegeed it.

1 Q: Okay. Can you go ahead and mark on the precipitation  
2 data February 4, 2020, as a date that we have a photograph of  
3 the basement?

4 (REPORTER'S NOTE: Witness complies.)

5 Q: Okay. And Dr. Sarb, is this typical of what you were  
6 seeing after any type of moderate rain in the basement?

7 A: Yes.

8 COURT REPORTER: Plaintiff's 57 through 59.

9 Q: I'm showing you what we've marked for identification as  
10 Plaintiff's 57 through 59. If you'll just take a look at them  
11 and just tell me what those are, and then we'll get into what  
12 they show in a minute.

13 A: Photographs I took February 7th, 2020.

14 MR. GROTE: Your Honor, I'd move those into evidence and  
15 request to publish to the jury.

16 MR. LOVE: No objection.

17 THE COURT: All right. So granted.

18 PLAINTIFF'S EXHIBIT NUMBERS 57, 58, AND 59

19 ADMITTED INTO EVIDENCE

20 BY MR. GROTE:

21 Q: Okay. Dr. Sarb, what do these photographs show?

22 A: These are water intrusion in now the front room of the  
23 basement. That's the right-hand wall with ground water  
24 seeping in that's going in -- and paint peeling off the floor  
25 of the front room. That's the right-hand side.

1 Q: So, was this another instance where you took a -- or had  
2 photographic documentation of water in the so-called mancave  
3 area?

4 A: Yes.

5 Q: If you'll go up to the precipitation data for me, please.  
6 And so, since we have a photograph from February 7, 2020, can  
7 you go ahead and mark that in yellow?

8 (REPORTER'S NOTE: Witness complies.)

9 Q: Can you also identify for us the rainfall that preceded  
10 that?

11 A: 2.69 inches on February 6th.

12 Q: And can you go ahead and mark that in blue?

13 (REPORTER'S NOTE: Witness complies.)

14 Q: You can go ahead and sit down.

15 So, now we're up to February 7th so far. And we've  
16 looked at all these photographs of the water in the basement.  
17 At what point -- or what did you do at that point to try to  
18 find a solution to this? Did you ever contact an engineer by  
19 the name of Glenn Stewart?

20 A: Yes. In February, I did contact Glenn Stewart for an  
21 evaluation to help make some suggestions on what needed to be  
22 done to repair these issues.

23 Q: Okay. Did you ultimately have a forensic engineer named  
24 Glenn Stewart come out and take a look at the property?

25 A: Yes. Yes.

1 Q: Do you recall roughly when that was?

2 A: It was in February 2020.

3 Q: To your knowledge was there still water in the basement  
4 at that time that he did his inspection?

5 A: Yes. There was water in the basement.

6 Q: Do you know if Glenn Stewart documented the condition of  
7 the basement at that time?

8 A: Yes, he did.

9 Q: Do you have any understanding of what Glenn Stewart found  
10 out there, what his findings were?

11 MR. LOVE: Your Honor, I'm gonna object to testimony  
12 regarding expert opinions.

13 MR. GROTE: Your Honor, our position would just be that  
14 it's -- it's the effect on the hearer or the reader and it  
15 affects how she moved forward with this and what action she  
16 took.

17 THE COURT: Well, she can testify as to what she  
18 understood the issues were and what she did to fix them, but  
19 she couldn't certainly get into the opinions of Mr. Stewart.

20 MR. GROTE: Sure.

21 MR. LOVE: Thank you, Your Honor.

22 A: I didn't understand -- I'm sorry, I have hearing loss in  
23 that ear.

24 THE COURT: You can testify as to what you did as a  
25 result of Mr. Stewart and what you understood the issues were,

1 but you cannot testify as to what Mr. Stewart's opinions were.

2 Okay?

3 A: Okay.

4 THE COURT: Thank you.

5 BY MR. GROTE:

6 Q: What did you understand the issues to be?

7 A: I understood it was ground water coming in through the  
8 walls, and that what I needed to do was a French drain system.  
9 And what that would entail is putting a trench around the  
10 house. So, what I would need to do is remove the front shrubs  
11 and get right to the -- right below the foundation of the home  
12 all the way around the entire house. The would have to put a  
13 sealer on the brick, put a membrane on the brick all the way  
14 around the house, and then get to the foundation -- right  
15 below the foundation of the home, which would involve putting  
16 about a three-foot trench in that was about one-and-a-half  
17 feet wide, and then they would put gravel down, and then put a  
18 PVC pipe that had holes in the bottom. So, when the ground  
19 water came up, it wouldn't be able to get into the home, that  
20 would be below it, and the water would go into the PVC pipe,  
21 and would be able to go from the front of the house down the  
22 sides of the house, around the back of the house, and drain to  
23 the right and left side of my home down the hill. And then on  
24 top of that, they would put the rain gutters in a separate  
25 system, and that would hopefully help get rid of the ground

1 water. In addition to that, they would have to put a larger  
2 sump pump in that would be below the foundation of the floor.  
3 The one that was already there was too small, and it wasn't  
4 deep enough to help with the water under the floor.

5 Q: Okay. And so, after you received some, you know,  
6 recommendations, did you -- what did you do to try to  
7 implement that? Did you contact contractors or what did you  
8 do?

9 A: Yes. I contacted several contractors, approximately  
10 seven or eight people.

11 Q: Do you recall any of the names of the companies that you  
12 contacted?

13 A: Yes. I did mention Cantey Foundation, and they had a  
14 tile drain system, which as I mentioned, they -- it was  
15 nothing like what Mr. Stewart recommended. They put holes in  
16 the foundation and let it leak into the house into the  
17 basement. I mean, and put like a trench inside the basement  
18 and drained it out that way, which I thought that would be  
19 putting more moisture and mold in the house, so that I didn't  
20 think went along with Mr. Stewart's recommendation. I had  
21 American Drain come out, and they recommended putting like  
22 five sump pumps around the house, which would mean I would  
23 need like generators. So, that -- Mr. Stewart didn't  
24 recommend all those sump pumps. I had Taylor Lorick come out,  
25 and that was with Palmetto Drain or Palmetto Home

1 Improvements. And their trench was only like 18 inches deep,  
2 and it didn't jive with what Mr. Stewart recommended. I had  
3 McCabe Construction, and they had a conflict of interest. I  
4 think they knew the Phillips. I had Clarks, and they came out  
5 once, they sent a specialist, and the specialist recommended  
6 something different. And they couldn't come up with a  
7 solution and never gave me an estimate. There was a lot of  
8 delays because of COVID going on. A lot of times they made an  
9 appointment with me, and had to cancel because half their crew  
10 was sick, or they made an appointment with me and they got  
11 stuck. A lot of the companies were out of town in Columbia,  
12 so they'd call and say I can make it at 12:00, and then they'd  
13 say, well, I couldn't make it today, I can come a few days  
14 later. I had a couple of companies that came and said I just  
15 don't want the job. I had Storm Paige come, and he did only  
16 commercial work. So, he declined it. Todd Walker  
17 Construction came. He did give me a bid. However, he did  
18 primarily commercial construction, and said he had multiple  
19 commercial projects ahead of me, and that he couldn't fit me  
20 in for several months. His commercial business was much more  
21 important. And I also had Nature Barber, was the last one in  
22 June. They did give me a bid. He said he had a few projects  
23 ahead of me. His was most in alignment with Mr. Glenn  
24 Stewart's recommendation. And he seemed to be the one that  
25 seemed to be the best option for me. He said it probably

1 would be July or August that he could fit me into his  
2 workload. And he did seem to be in agreement with the  
3 membrane, the trench drain, and enlarging the sump pump, and  
4 wanted to do it in a stepwise fashion, not do more than what  
5 would be needed. Kind of do the French drain, he does -- he  
6 definitely said that needed to be put in first, and then let's  
7 see what happens. Let it rain. See what else needs to be  
8 done, and told me let's kind of do it stepwise.

9 Q: Okay. Was it safe to say that you were reaching out to a  
10 bunch of contractors before you got in touch with Nature's  
11 Barber?

12 A: Yes. And COVID definitely kind of delayed some of it,  
13 because people were sick, and they had a lot of workers that  
14 were out collecting money, and it was hard for them to get  
15 workers. It was a difficult time.

16 Q: Okay. Did you have to reschedule any patients to try to  
17 meet with some of these contractors, and how did that affect  
18 you?

19 A: Yes. I did. I usually would schedule it during lunch  
20 time, but a lot of times that didn't work out. Like I say, a  
21 lot of times, they'd get tied up with other people and end up  
22 instead of coming at lunchtime, call and say we can make it at  
23 2:30, or call and say we just can't make it today, or else  
24 just not show up at all.

25 Q: Okay. Did you ever contact Servpro to have some, I

1 guess, mold testing done?

2 A: Yes. I think you can see in some of the pictures the  
3 back and side walls started turning gray and it -- I'm not a  
4 mold specialist or anything, but I was getting a little  
5 concerned since I was spending a lot of time, usually at  
6 least, you know, the initial, until I moved out, I was  
7 spending many hours back there repeatedly sweeping the water  
8 into the sump pump. But even when I moved out, I was there at  
9 least two hours a day Monday through Friday constantly trying  
10 to take care of the water.

11 Q: Okay.

12 COURT REPORTER: Plaintiff's 60.

13 Q: I'm showing you what we've marked as Plaintiff's Exhibit  
14 Number 60. Can you identify what that is?

15 A: It's an invoice from Servpro dated 4/16/2020.

16 Q: Okay. And what is that invoice for?

17 A: Some mold testing.

18 Q: What is the total amount of that invoice?

19 A: \$723.

20 Q: And 10 cents?

21 A: And 10 cents, sorry.

22 Q: Is that an expense that you're claiming as a part of this  
23 lawsuit?

24 A: Yes.

25 Q: So, how did you find Nature's Barber?

1 A: I believe my neighbor David Olmstead was getting some  
2 landscape work done and requested a quote from them. He never  
3 used them, but when I was trying to find somebody, he gave me  
4 the name as a possible person that could help me.

5 Q: Who is the principal of Nature's Barber?

6 A: Heath McCollum.

7 Q: Is that the person that you primarily had contact with?

8 A: Yes.

9 Q: Okay. So, he said -- when did Heath McCollum or  
10 Nature's Barber think that they could potentially get to the  
11 work?

12 A: July or August of 2020.

13 Q: Okay. Did you offer the defendants, the Phillips, an  
14 opportunity to take a look at the property before the work was  
15 done?

16 A: Yes, I did, and they seemed like they were interested in  
17 doing so.

18 Q: Okay. So, did you postpone the work at that time to  
19 allow them an opportunity to take a look at the property  
20 before the work was done?

21 A: Yes. We gave them like five weeks to inspect it if they  
22 wished to before the work was performed.

23 Q: Once you got off of Nature's Barber's schedule, how long  
24 did it take to, I guess, get back on the schedule?

25 A: It took at least a couple of months.

1 THE COURT: All right. Ladies and gentlemen, we've been  
2 here almost about an hour and half. At this time, we're gonna  
3 take a short break, and we'll come back and resume testimony.

4 Please don't discuss this matter while you're on break.

5 Thank you so much.

6 (REPORTER'S NOTE: Jury exits courtroom @ 11:10 a.m. The  
7 following takes place outside the presence of the jury.)

8 THE COURT: Dr. Sarb, you're welcome to step down.

9 Again, you just can't discuss your testimony. Okay?

10 DR. SARB: Okay. Thank you.

11 THE COURT: Okay.

12 MR. GROTE: Your Honor, before I forget and while we're  
13 still on the record, I think I forgot to move that last  
14 exhibit into evidence, the Servpro invoice.

15 MR. LOVE: Do we need to do it in the jury's presence.

16 THE COURT: No. If you don't have any objection to it.

17 MR. LOVE: No objection.

18 THE COURT: All right. 60 is into evidence.

19 PLAINTIFF'S EXHIBIT NUMBER 60

20 ADMITTED INTO EVIDENCE

21 THE COURT: All right. We'll take a short recess.

22 **RECESS - 11:10 A.M.**

23 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

24 **ON THE RECORD - 11:28 A.M.**

25 (REPORTER'S NOTE: The following takes place outside the

1 presence of the jury.)

2 THE COURT: So, Ms. Hampton, is that you?

3 JUROR 66: Yes.

4 THE COURT: All right. And I'm not sure why you weren't  
5 on time today, but we went ahead and replaced you with an  
6 alternate juror. If you'd stay with us just for a couple of  
7 hours, I would appreciate it. Okay?

8 JUROR 66: Okay.

9 THE COURT: And -- all right. Thank you, ma'am.

10 All right. Now, Ms. Hampton, what I think we're gonna do  
11 is just transfer you to another term of jury service. Okay?  
12 They'll let you know when it is and it's very important that  
13 you come on time and when you're supposed to. Okay?

14 JUROR 66: Okay. You said back when?

15 THE COURT: I'm not sure when it'll be. They'll let you  
16 know. Okay?

17 You can give that to the bailiff.

18 And I will note for the record that Ms. Hampton, who is  
19 Juror 66, she did not return her jury summons questionnaire.  
20 So, when they send you a questionnaire, when you get your next  
21 summons, make sure to fill that out with the information and  
22 return it. Okay?

23 JUROR 66: Sure.

24 THE COURT: All right. Thank you.

25 JUROR 66: But see, I wasn't living at the house at the

1 time, that's why, you sent it to the house.

2 THE COURT: All right. Thank you.

3 All right. Are we ready for the jury?

4 MR. GROTE: Yes, Your Honor.

5 THE COURT: All right.

6 (REPORTER'S NOTE: Jury enters courtroom @ 11:33 a.m.)

7 THE COURT: All right. Mr. Grote?

8 CONTINUATION OF DIRECT EXAMINATION OF BARBARA SARB BY MR.

9 GROTE:

10 Q: Dr. Sarb, I think we looked at the Servpro invoice, or  
11 you did but we didn't show it to the jury. Is this the  
12 invoice that we were talking about from Servpro?

13 A: Yes.

14 Q: For the mold testing?

15 A: Yes.

16 Q: Okay.

17 COURT REPORTER: These are 16 through 119.

18 MR. GROTE: You mean 61?

19 COURT REPORTER: I mean 61, yes.

20 BY MR. GROTE:

21 Q: Dr. Sarb, I'm going to hand you a pretty big packet of  
22 photographs here. If you can just take a look at those for  
23 me. Familiarize yourself with them, and then I'll ask you a  
24 couple of questions. Okay?

25 A: They are photos I took from September 21st through

1 October 27th of the installation project of the French drains  
2 and what was required.

3 MR. GROTE: At this time, I would move to admit these  
4 into evidence and publish them to the jury, Your Honor.

5 THE COURT: All right. Any objection?

6 MR. LOVE: No objection, Your Honor.

7 THE COURT: All right. 61 through 119 are into evidence.

8 PLAINTIFF'S EXHIBITS NUMBER 61 THROUGH 119

9 ADMITTED INTO EVIDENCE

10 BY MR. GROTE:

11 Q: Let's start at the beginning. Okay. Dr. Sarb, what is  
12 the first date that you have in these photographs?

13 A: That's the first page.

14 Q: Okay. And what is the date on that?

15 A: 9/21/20.

16 Q: Okay. Does that document around the time that Nature's  
17 Barber started the work?

18 A: Yes.

19 Q: Okay. And let's go through these photographs. Can you  
20 just describe for me what we're seeing in these photographs?

21 A: Yes. That's the -- they removed the landscaping in order  
22 to get to the foundation. If you look on the left-hand side  
23 of where the house, the front is, that piece of cement is the  
24 foundation where they were trying to get below in order to  
25 start their project. And you can see there was some water and

1 wetness on that left side, but they were trying to clear out  
2 so that they can start the French drain project, expose the  
3 brick, put the -- eventually put the sealer on and put the  
4 membrane.

5 Q: Okay. Let's look ahead a couple of photos. Keep going.  
6 Okay. Let's stop here. Dr. Sarb, what number is that in the  
7 exhibits that were marked, this photograph?

8 A: 64.

9 Q: Okay. And what does Exhibit 64 indicate or show to you?

10 A: That there was standing water at the foundation below the  
11 foundation of the house, the ---

12 Q: Where -- is this at the front of the house or the back of  
13 the house?

14 A: That's at the front of the house.

15 Q: Okay. I guess we'll continue on with the photos.

16 All right. Stop there. Is that also at the front of the  
17 house?

18 A: Yes. The right side front.

19 Q: Who dug this trench?

20 A: Heath McCollum, Nature Barber crew.

21 Q: Does that document the conditions that were found when  
22 the foundation was dug out around your house?

23 A: Yes, that there was standing water.

24 Q: Okay. Let's keep going. Is that -- where is this --  
25 let's stop here. Can you identify for the record the exhibit

1 number for the photograph that we're looking at here?

2 A: That is Exhibit 72. That is the entrance to the mancave,  
3 the basement.

4 Q: So, that's the entrance to the back of the house?

5 A: That's a black door.

6 Q: What are we seeing in that photograph?

7 A: There was a large amount of water that was pouring out  
8 from underneath the floor of the mancave. They had to  
9 actively use pumps to get the water, all the standing water  
10 out from around the house and actually put trenches.

11 Q: Okay. Let's go to the next photograph. Does that show  
12 the same thing?

13 A: Yes.

14 Q: Okay. And we'll just kind of go through these. What are  
15 we looking at in this?

16 A: That one was where they had to take out the stair -- the  
17 brick staircase in order to get the French drain right along  
18 the foundation wall.

19 Q: Okay. Describe for the jury what was there before.

20 A: It was a solid brick -- there was a door where you have  
21 the arrow, there was a door that enters into the den or  
22 sunroom. And there was a solid brick staircase that needed to  
23 be removed in order to get the French drain along that  
24 foundation wall, because that wall is the one that was seeping  
25 water on that one picture that was in the entrance.

1 Q: Okay. Let's go to the next couple of photographs that  
2 are similar. What are those photographs show?

3 A: That's a photo of my front yard with the dumpster and  
4 just a small amount of the gravel required.

5 Q: Can you identify for the record what exhibit number that  
6 is?

7 A: 75. Oh, no; I'm sorry. 76.

8 Q: Okay. As part of the work, did Nature's Barber do some  
9 grading or tear up your yard in the process?

10 A: Yeah. I think that's right around where the asphalt  
11 driveway was is where all that is placed. And, yes, they  
12 needed to regrade the front area.

13 Q: What's that pile of rock for; do you know?

14 A: That rock was to use for the French drains where they  
15 were gonna put the PVC pipe, and they were supposed to put it  
16 I a bed of gravel, but we also needed to bring in four more  
17 dump trucks of gravel when they saw so much water that was not  
18 draining from around the house and underneath the house, they  
19 added -- had to add four more trenches that went from the  
20 house down into -- down the hill to drain all the active water  
21 that just was seeping out.

22 Q: Okay.

23 A: So, that was just a small amount of the gravel required.

24 Q: Okay. Go to the next -- what are we looking at here, and  
25 if you can identify the exhibit number for the jury.

1 A: Yeah, if you're looking at the house, that's the right-  
2 hand side of the house, and that's some of the piping they  
3 used to actively drain some of the water that was standing,  
4 because it was days before it would even do anything.

5 Q: Okay. Let's flip through a couple of these photographs.

6 A: That's one of the trenches they tried to make to get the  
7 water to flow from out under the basement floor going towards  
8 the woods.

9 Q: Can you identify the exhibit number of that photograph  
10 for us, please?

11 A: 79.

12 Q: All right. Let's go to the next ones. What part of the  
13 house are we looking at in this next photograph?

14 A: The door is open into the mancave.

15 Q: And what exhibit number is that?

16 A: 80.

17 Q: What are we looking at in this next photograph?

18 A: That is one of the trenches they had to dig in order to  
19 get water flowing, and you could see water flowing towards the  
20 wooded area.

21 Q: And what's back there behind the wooded area?

22 A: They put like four trenches, they were going kind of all  
23 over down the back of the hill.

24 Q: Okay. And what exhibit number was that?

25 A: This one is 82.

1 Q: All right. And we can kind of flip through the next  
2 couple. They show similar things that we've looked at. Stop  
3 here. Can you tell us what we're looking at in this next  
4 photograph?

5 A: There is a piece of the membrane they put down and that's  
6 part of the gravel that they were putting down.

7 Q: Okay.

8 A: Along the foundation below ---

9 Q: What exhibit number is this?

10 A: That is 84. So, it was below the foundation level.

11 Q: Is that part of the ---

12 A: Recommendations. Yeah, it was a recommendation of Glenn  
13 Stewart that Nature Barber was implementing.

14 Q: Let's look at the next photograph. If you'll identify  
15 the number of that one.

16 A: 84 -- or 85.

17 Q: Is that where the stairs were that you were talking  
18 about?

19 A: Yes. That's where the brick staircase was removed.

20 Q: Okay. Is that the -- are we again looking at the back  
21 door up to the mancave?

22 A: Yes.

23 Q: This next photograph, what's the exhibit number?

24 A: 87.

25 Q: Where is this on the house?

1 A: That's the back of the house.

2 Q: All right. And are we seeing water in the trench there,  
3 too?

4 A: Yes.

5 Q: And did you continue to take some photographs to kind of  
6 document the progress of the work?

7 A: Yes.

8 Q: Okay. We'll flip through some of these and you can  
9 generally just tell us what we're seeing as some of the work  
10 progressed here?

11 A: Yes. That's the -- they put a sealer on, and they put  
12 that rubber membrane. It was attached to the brick. That's  
13 the gravel pit, and then you could see the PVC pipe was on top  
14 of it, and then it was covered -- some more gravel covering  
15 it. That looks like -- yeah, that went all the way around the  
16 house. You could see some parts that was gonna be above  
17 ground. It was hard to tell because it was on a slope on the  
18 hill.

19 Q: Okay. If we can go back one photo -- one more.

20 Can you identify the exhibit number of this photograph,  
21 please?

22 A: Sorry. 91.

23 Q: All right. Does that generally show -- I guess, what is  
24 that up against the house below the brick?

25 A: That's the membrane. It had a sealer and the membrane

1 that was recommended by Glenn Stewart.

2 Q: Okay. Is that something to, I guess, waterproof or help  
3 prevent water from coming in?

4 A: Yes.

5 Q: And we can skip ahead a few. All right. What are we  
6 looking at here in this photograph?

7 A: Some of the equipment used for putting in the gravel and  
8 digging the trenches, and the condition of my backyard.

9 Q: What is the exhibit number for that?

10 A: 93.

11 Q: All right. Let's move on. What is the next photograph  
12 here that we're looking at?

13 A: That's one of the pipes used to get the water out away  
14 from the house into the backyard.

15 Q: What exhibit number is that?

16 A: 94.

17 Q: Let's move ahead a couple. Let's stop there.

18 Was there a fence, if you're looking at the front of the  
19 house to the left, was there a fence over there when you  
20 bought the house?

21 A: Yes. There was a brick fence with an iron gate, and it  
22 had a brick pathway with two brick planters that was removed  
23 in order to gain access to the backyard, and also to be able  
24 to put the French drain next to the home.

25 Q: Okay. If we can go ahead one more photo. Right there.

1           What photograph number is this or what exhibit number is  
2 this?

3 A:    98.

4 Q:    Okay. Does that show the area where the fence used to  
5 be?

6 A:    Yes. It's right -- right before that light post.

7 Q:    Okay.

8 A:    Right as -- which is -- correct. It was right before  
9 that.

10 Q:    And that's where it was before ---

11 A:    Yeah. It was a -- the brick fence was shared between  
12 myself and my neighbor to the left, Mr. Olmstead. And then it  
13 came and attached like right to my house. And there was a  
14 four-foot iron gate going into my yard.

15 Q:    Okay. That fence is not there in this picture, correct?

16 A:    Correct. It was removed for the project.

17 Q:    Okay. And now we're moving into September 28, 2020.  
18 Just generally describe what we're seeing in some of these  
19 photographs from September 28th.

20 A:    Yes.

21 Q:    Let's stop with this one here. Can you identify what  
22 exhibit number this is?

23 A:    That's Exhibit 100.

24 Q:    Okay. What's the date on that photograph?

25 A:    September 28th.

1 Q: What are we looking at here?

2 A: That's the front yard.

3 Q: What used to be your front yard?

4 A: Yes.

5 Q: And why does it look like that?

6 A: Just -- well, I don't think it was regarded yet, just the  
7 movement of all the equipment going back and forth trying to  
8 do the trench work, and just the amount of water that was  
9 around the house.

10 Q: Okay. And we can just kind of flip through ahead of some  
11 of these. Is the work still going on in early October?

12 A: That's the collection of pipes that are going down the --  
13 so, the water is coming from the French drains and also from  
14 the downspouts to the left where they all collect and then are  
15 going down the hill.

16 Q: And what photograph exhibit number were we looking at?

17 A: That was Exhibit 104, 104.

18 Q: All right. We can just kind of go through some of these.  
19 Are they showing similar things?

20 A: Yes.

21 Q: Why don't we stop here. October 1, 2020, what are we  
22 looking at here in this photograph?

23 A: That's part of the backyard.

24 Q: Is that what your backyard looked like as a part of this  
25 work that was done by Nature's Barber?

1 A: Yes.

2 Q: And what exhibit number is that that we're looking at?

3 A: 109.

4 Q: All right. Let's move on to the next one. What are we  
5 looking at here in this photograph?

6 A: That's the front yard.

7 Q: Do you know what work is being done in this photograph?

8 A: Just continued work on the French drains. That's the  
9 backyard. And that's the backyard.

10 Q: Let's stop at this one. Can you identify the exhibit  
11 number on that one?

12 A: 113.

13 Q: All right. Let's move on. Next photo. Is that it?  
14 There should be a couple from October 14, 15.

15 So, is that what your property looked like on October 14,  
16 2020?

17 A: Yes.

18 Q: What about the 15th, what are we looking at there?

19 A: Yes.

20 Q: Let's move on to the -- let's move to the 17th.

21 A: Yes.

22 Q: There we go. So, what are we looking at here, Dr. Sarb?

23 A: That's when they put sod on the -- the French drains were  
24 installed then, and they had sod placed on the front yard.

25 Q: Who did the sod work?

1 A: Nature's Barber.

2 Q: What's the exhibit number for the photograph that we're  
3 looking at here?

4 A: 118.

5 Q: Let's stop here.

6 A: That's what their proposed area for the driveway was.

7 Q: Nature's Barber?

8 A: Yes.

9 Q: What exhibit number is that?

10 A: 119.

11 Q: Is that ultimately where the driveway ended -- or how did  
12 the driveway look in relation once it was put in?

13 A: No, it was not. The original driveway was a asphalt  
14 driveway. It was two cars side by side, and I had them make  
15 it smaller. It was a cement driveway they placed. It was two  
16 cars, but one in front of the other. So, it was about half  
17 the size of what they had there.

18 Q: Did the existing driveway need to be removed as part of  
19 the French drain work that was done?

20 A: Yes, it did.

21 Q: I'm going to show you what we've marked as Plaintiff's  
22 Exhibit 120. If you could, just generally identify what it is  
23 and what it says.

24 A: It's an invoice from Nature's Barber dated 10/21/20 for  
25 the trenches. It was to demo ---

1 Q: Hold on one second before we get to that. So, is this an  
2 invoice from some of the work that Nature's Barber performed?

3 A: Yes.

4 MR. GROTE: Your Honor, at this time, I would move to  
5 offer it into evidence and publish it to the jury.

6 MR. LOVE: Absolutely. No objection.

7 THE COURT: All right. 120 is into evidence.

8 PLAINTIFF'S EXHIBIT NUMBER 120

9 ADMITTED INTO EVIDENCE

10 BY MR. GROTE:

11 Q: And Dr. Sarb, while we're waiting for this to come up, you  
12 see next to the invoice number -- here we go -- there's a  
13 date; what is the date of the invoice?

14 A: October 6, 2020.

15 Q: And what was the amount of the invoice?

16 A: \$44,745.

17 Q: And what is your general understanding of what work this  
18 invoice was for?

19 A: It was for the materials and the labor for the French  
20 drains around the house and foundation, and it says before  
21 this could be done, we had to demo the brick fence, brick  
22 staircase, and wooden patio.

23 Q: Okay. Did you pay this amount?

24 A: Yes.

25 Q: Is this an expense that you're claiming as part of this

1 lawsuit?

2 A: Yes.

3 COURT REPORTER: Plaintiff's 121.

4 Q: I'll hand you what's marked as Plaintiff's Exhibit 121.

5 Can you generally identify what that is, and then we'll talk  
6 about the specifics of it in a minute.

7 A: It's an invoice from Nature's Barber dated 10/23/2020.

8 Q: Okay. Is this an invoice that you received from Nature's  
9 Barber?

10 A: Yes.

11 Q: And what was the ---

12 MR. GROTE: Actually, Your Honor, at this time, I would  
13 move it into evidence and ask permission to publish it to the  
14 jury.

15 MR. LOVE: No objection.

16 THE COURT: All right. In evidence.

17 PLAINTIFF'S EXHIBIT NUMBER 121

18 ADMITTED INTO EVIDENCE

19 BY MR. GROTE:

20 Q: Okay. Dr. Sarb, looking at this invoice, what did you  
21 say the date was again?

22 A: October 23rd, 2020.

23 Q: And what is the total amount of the invoice?

24 A: \$13,300.

25 Q: And is it from Nature's Barber?

1 A: Yes.

2 Q: And generally, what was that work for?

3 A: Materials and labor to dig ditch in back of property,  
4 install more stone, and to remove asphalt driveway, prep for  
5 sod, and install sod.

6 Q: Okay. So, we just looked through that series of  
7 photographs roughly, September 21, 2020 through October 27,  
8 2020. Is that generally the work that we were looking at in  
9 these photographs, the last two invoices?

10 A: Yes.

11 Q: So, we were looking -- you said Glenn Stewart came out  
12 around February of 2020, right?

13 A: Yes.

14 Q: Okay. And then Nature's Barber, it looks like from these  
15 photographs started their work in late September; is that  
16 fair?

17 A: Yes.

18 Q: Okay. During that interim, were you still continuing to  
19 have problems with water in the basement with the rains?

20 A: Yes.

21 Q: Okay. How frequently was that occurring?

22 A: Any time there was a moderate amount of rain.

23 Q: Okay. Did you continue to document some of those rain  
24 events?

25 A: Periodically, yes.

1 Q: Okay. I mean, after it continued to happen over and  
2 over, did you become, you know, less diligent in taking  
3 pictures every single time?

4 A: Yes.

5 Q: Okay. But you did document some of them; is that fair?

6 A: Yes.

7 COURT REPORTER: That is Plaintiff's 122 through 151.

8 MR. GROTE: Thank you.

9 BY MR. GROTE:

10 Q: Dr. Sarb, I'm going to hand you what's been marked  
11 Plaintiff's Exhibit 122 to 151. Could you just look through  
12 those and familiarize yourself with them.

13 All right. Are those photographs that you took?

14 A: Yes. These are photos I took from March 25th until  
15 September 17th, 2020.

16 Q: Do those photographs document the condition of the  
17 basement of dates of those photos?

18 A: Yes.

19 MR. GROTE: At this time, Your Honor, I'd move to admit  
20 those into evidence and then to publish them to the jury.

21 MR. LOVE: Your Honor, before I stipulate, can I speak  
22 with counsel real quick.

23 THE COURT: Sure.

24 (REPORTER'S NOTE: Counsel for plaintiff and defendant confer  
25 off the record.)

1 MR. LOVE: Your Honor, I'm gonna -- no objection.

2 THE COURT: Okay. 122 to 151 is into evidence.

3 PLAINTIFF'S EXHIBIT NUMBERS 122 TO 151

4 ADMITTED INTO EVIDENCE

5 BY MR. GROTE:

6 Q: All right. Dr. Sarb, maybe what would be helpful if you  
7 could take the photographs if we could move the monitor and  
8 we'll do kind of the same thing that we've done before with  
9 some of the photographs. If you just want to -- if you want  
10 to just look at the photographs and go through them.

11 A: Do you want me to move the monitor?

12 Q: Whatever will be easier, if you'd rather look at the  
13 monitor or if you'd rather look at the pictures, either way.  
14 It might actually be helpful, you have the physical exhibits  
15 so you can give us the numbers on those.

16 Okay. So, what's the date on the first photograph?

17 A: March 25th.

18 Q: Okay. And we'll flip through those quick. And  
19 generally, what -- and we'll -- so you can watch what we're  
20 doing. And then I'll -- hold on one second. Can you see that  
21 okay?

22 A: Yes, sir.

23 Q: Okay. And these March 25th photographs, what are we  
24 seeing?

25 A: Water in the basement.

1 Q: All right. Can you go ahead and mark on the certified  
2 precipitation data in yellow March 25th.

3 A: And the day before we had 1.67 inches of rain.

4 Q: Okay. So, why don't you go ahead and mark that day in  
5 blue.

6 What's the next date on the photographs?

7 A: April 9, 2020, 0.18.

8 Q: How about for April 9, 2020, can you go ahead and mark in  
9 yellow.

10 MR. LOVE: May I have the exhibit number for April 9th,  
11 just to make sure I'm ---

12 MR. GROTE: Sure.

13 BY MR. GROTE:

14 Q: You have the exhibits, Dr. Sarb. When we look at each of  
15 these, identify them by the number just so we can assist Mr.  
16 Love with that.

17 A: That's Exhibit 126.

18 MR. LOVE: Thank you.

19 Q: Okay. So, you marked in blue the rainfall data for March  
20 25th, correct?

21 A: Yes.

22 Q: Okay.

23 A: 1.67 inch the day before.

24 Q: Okay. And between March 25th and the April 9th photo,  
25 had there really been appreciable rainfall during the interim?

1 A: A quarter inch on the 31st.

2 Q: Anything else of significance?

3 A: No.

4 Q: Were you still having dampness in the basement even  
5 despite kind of the lack of rain?

6 A: Yes.

7 Q: Okay. Let's move on to -- what's the next date of the  
8 photographs that you have?

9 A: May 26th, Exhibit 129.

10 Q: Is there more than one photograph from that date?

11 A: Yes. There was three.

12 Q: Okay. Can you give the exhibit numbers for those?

13 A: 127, 128, and 129.

14 Q: Dr. Sarb, can you go ahead and mark on the precipitation  
15 data in yellow May 26th where you have those photographs  
16 documenting the condition of the basement at that time.

17 (REPORTER'S NOTE: Witness complies.)

18 Q: Okay. And what was the rainfall preceding that date?

19 A: On the 19th, there was -- well, on the 18th there was .61  
20 inch; on the 19th, .5 inches; and there was several days of  
21 rain.

22 Q: Would you go ahead and mark those in blue, please?

23 (REPORTER'S NOTE: Witness complies.)

24 Q: Okay. Let's go to the May 27 photographs. If you'll --  
25 if you can -- if it would help you, you can identify the

1 numbers, and then maybe you can come over ---

2 A: Exhibit 130, 131, 132, 133.

3 Q: Okay. And maybe looking at the monitor, if you could  
4 explain to the jury what we're seeing in those photographs  
5 from that date.

6 A: That's in the front room, the mancave, and that's to the  
7 left side near the window, and there is ground water on this  
8 side of the wall, right there, that staining.

9 Q: Okay.

10 A: That's in the back room, the back basement, that back  
11 basement, the water entering.

12 Q: So, as a result of this rain event that you've marked in  
13 blue, did you get water out into the so-called mancave area,  
14 too?

15 A: Yes.

16 Q: Why don't we flip to the May 28th photos.

17 A: Exhibit 134, 135, 136. And that's on the -- in the  
18 mancave on the right-hand side, water on that side, and that's  
19 where the -- behind that is where the brick staircase was.

20 Q: Okay. Go ahead and mark on May 28th, 2020, in yellow.

21 A: 1.89 inches of rain.

22 Q: And what ---

23 A: I'm sorry. May 28th, .97.

24 Q: Hold on one second. Now, for May 27th, was there some  
25 rainfall amount?

1 A: Yes, 1.29.

2 Q: And maybe to make it a little bit easier, maybe just  
3 color in half of it so we know that there's a photo and rain  
4 on that date.

5 (REPORTER'S NOTE: Witness complies.)

6 Q: How about the same -- was there rain on May 28th as well?  
7 Was there also rain on May 28th as well?

8 A: Yes.

9 Q: Why don't you do the same thing, color half that in blue  
10 so that we know there's a photo and rain on that date.

11 (REPORTER'S NOTE: Witness complies.)

12 Q: Okay. Let's move on to the date of June 25th.

13 A: That's Exhibit 137 through 140.

14 Q: Okay. Can you maybe come up by the screen and describe  
15 for the jury what we're seeing in those photographs?

16 A: There's water again in the back basement. It looks like  
17 parts are dry and parts are wet.

18 Q: Okay. Can you go ahead and mark on the precipitation  
19 data in yellow June 25th to signify that you had a photograph  
20 of water in the basement on that date.

21 (REPORTER'S NOTE: Witness complies.)

22 Q: Was there any precipitation leading up to that event?

23 A: On the 23rd, there was .94 inches.

24 Q: Hold on one second for me, please.

25 Can you go ahead and mark that in blue to signify the

1 rain event, please?

2 (REPORTER'S NOTE: Witness complies.)

3 Q: So, if we can go back to the photograph again. Yeah,  
4 that's good. So, we're looking at roughly an inch of rain a  
5 day or so before and is that what we're -- the rain -- or what  
6 it looks like in the basement after an inch of rain?

7 A: Yes, sir.

8 Q: Was that pretty typical until Nature's Barber performed  
9 their work?

10 A: Yes.

11 Q: All right. Let's move on to July 9th.

12 A: That's Exhibit 141.

13 Q: Okay. And what are we seeing there?

14 A: Actually, it looks pretty good. There's still some  
15 moisture in the basement kind of in that back corner around  
16 the seam where the wall and floor meet, kind of in this area.

17 Q: Okay. Can you go ahead and mark in yellow a photograph  
18 -- or excuse me, mark in yellow on the precipitation data July  
19 9, 2020.

20 (REPORTER'S NOTE: Witness complies.)

21 Q: All right. How about July 13th? Do you have photographs  
22 from that date?

23 A: Yes, I do. That is 142 and 143.

24 Q: You can go ahead and mark on the precipitation data in  
25 yellow, July 13th.

1 A: Yellow?

2 Q: Yes, ma'am.

3 (REPORTER'S NOTE: Witness complies.)

4 Q: What kind of rainfall had there been around that  
5 timeframe?

6 A: It started seeping through two days before we got .56,  
7 and then we got the 1.31. Sometimes it took a few days to  
8 come through.

9 Q: Okay. Would you go ahead and mark those dates in blue  
10 when there was any significant rainfall.

11 A: You want me to mark that one?

12 Q: Is that July 7th?

13 A: Yes.

14 Q: Okay. Now, did the water always immediately show up  
15 after a significant rainfall?

16 A: No. It'd take a couple of days, two or three days  
17 sometimes. Sometimes, it would show up in a few days,  
18 sometimes it would take awhile if it was really dry.

19 Q: Okay. Let's go to the next date, August 25, 2020.

20 A: Exhibit 144 and 145.

21 Q: Okay. And we might as well do August 26th, 2020, at the  
22 same time because they're right next to each other.

23 A: That's Exhibit 146 and 147.

24 Q: All right. So, can you go ahead and mark on the  
25 precipitation August 25, 2020, and August 26th, 2020?

1 A: In yellow?

2 Q: In yellow, please.

3 (REPORTER'S NOTE: Witness complies.)

4 Q: And how much had it rained preceding the time that you  
5 took those photos?

6 A: 1.15 inch on the 24th.

7 Q: Of August?

8 A: Yes.

9 Q: Okay. If you'd go ahead and mark that in blue, please?

10 (REPORTER'S NOTE: Witness complies.)

11 Q: And let's go ahead and -- can we just go over the August  
12 25th and 26th photos and just ---

13 A: In intrusion of water in the back of the basement  
14 primarily around where the walls meet the floor, and then the  
15 back area, back basement. I had the humidifier going, plugged  
16 in, sump pump going, fans going, humidifier upstairs. That's  
17 the entire floor flooded.

18 Q: Okay.

19 A: And my dog, who's passed away.

20 Q: September 17th, if you'll take a look at that.

21 A: That's Exhibit 148 through 151.

22 Q: I'll let you take a look at the photographs and if you  
23 could identify for the jury what we're looking at.

24 A: Again, it's intrusion of ground water throughout the back  
25 basement.

1 Q: According to the precipitation data, how much had it  
2 rained before that?

3 A: On that day it was 2.55 inches.

4 Q: You can go ahead and mark that, the date of the  
5 photographs, September 17 in yellow.

6 A: Half and half?

7 Q: And go ahead and mark the rainfall in blue.

8 (REPORTER'S NOTE: Witness complies.)

9 Q: All right. Dr. Sarb, as you -- as we looked at earlier,  
10 did you then have Nature's Barber come in and do the work at  
11 the end of September.

12 A: Yes.

13 Q: Shortly after that -- those last photographs were taken?

14 A: Yes.

15 Q: Did the work performed by Nature's Barber -- did the work  
16 by Nature's Barber help with the water in the basement?

17 A: Yes, it helped significantly.

18 Q: Can you describe the difference before versus after?

19 A: I wasn't having standing water in the basement, but I was  
20 still having some staining in the back corner, and still some  
21 high humidity and moisture in the upstairs and in the  
22 downstairs.

23 Q: Do you recall generally what type of additional work --  
24 or excuse me -- did you continue to have additional work done  
25 to try to rectify those issues?

1 A: Well, as I mentioned, Heath was really good at trying to  
2 kind of doing it in stages. So, we then went on and did what  
3 Glenn Stewart recommended is putting in the larger sump pump  
4 to help get rid of the ground water underneath the floor of  
5 the basement. So, he installed a sump pump that was -- I  
6 think it was like 24 inches wide and much deeper than the one  
7 that was existing in there. And then when Servpro was out,  
8 and I think Cantey and some of the other people, they  
9 recommended a moisture barrier and a dehumidifier in the  
10 crawlspace to help with moisture. And Glenn Stewart  
11 recommended sloping the floor of the basement towards the  
12 drain, but we didn't do that. Ended up having -- he  
13 recommended putting like either tile on it, but we just put  
14 like a masonry paint and sealed the cracks and put -- he  
15 recommended putting a -- like a dry lock or a masonry paint in  
16 that back basement about four feet up to help with -- control  
17 the moisture, and that seemed to do the trick implementing all  
18 those stepwise approaches.

19 THE COURT: All right. Ladies and gentlemen, we're gonna  
20 take a break for lunch. I appreciate your time, and your  
21 patience, and your attention. Again, please don't discuss  
22 this matter.

23 I'm gonna ask that you be back here at 1:45. Please be  
24 on time. We're gonna resume this trial at that time. Again,  
25 please don't discuss this matter. And thank you again for

1 your patience and your attention.

2 (REPORTER'S NOTE: Jury exits courtroom @ 12:31 p.m. The  
3 following takes place outside the presence of the jury.)

4 THE COURT: Thank you, Dr. Sarb. You're welcome to step  
5 down. Again, you can't discuss your testimony while you're  
6 still on the witness stand.

7 And Mr. Grote and Mr. Love and -- please pre-mark all of  
8 your exhibits. We don't need to do any of that in front of  
9 the jury.

10 MR. GROTE: Okay.

11 THE COURT: All right. Thank y'all.  
12 Anything before we break for lunch?

13 MR. LOVE: No, Your Honor.

14 THE COURT: All right. Thank y'all.

15 **RECESS - 12:32 P.M.**

16 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

17 **ON THE RECORD - 1:51 P.M.**

18 THE COURT: All right. Is there anything we need to take  
19 up before we resume testimony?

20 MR. GROTE: I don't believe so, Your Honor.

21 MR. LOVE: No, Your Honor.

22 THE COURT: Okay. Madame Court Reporter, you doing good?

23 COURT REPORTER: Yes, sir.

24 THE COURT: All right. Can we have the jury, please?

25 THE BAILIFF: Yes, sir.

1 (REPORTER'S NOTE: Jury enters courtroom @ 1:53 p.m.)

2 THE COURT: All right. Thank you, ladies and gentlemen,  
3 for being back here on time.

4 We'll recognize Mr. Grote.

5 MR. GROTE: Thank you, Your Honor.

6 At this time, Plaintiff would move to admit into evidence  
7 the two boards that have been marked, I believe that's  
8 Exhibits 180 and 181.

9 THE COURT: All right. Is there ---

10 MR. LOVE: Your Honor, I believe it's already in evidence  
11 included in another exhibit. I'm fine with this exhibit being  
12 admitted so long as it can be edited if I need to and use  
13 during trial.

14 MR. GROTE: Your Honor, this is based on her testimony,  
15 since it's our exhibit. She's marked it up. If they want to  
16 have their own version, they can mark up their own version  
17 however they want.

18 THE COURT: All right. Has it been marked?

19 MR. GROTE: We just marked it on the break.

20 THE COURT: And it's marked as what? 181 and 182?

21 MR. GROTE: 180 and 181.

22 THE COURT: In that it is -- I would have considered to  
23 already be into evidence under the -- and I'm not sure which  
24 exhibit number that was, but the rainfall exhibit, Exhibit  
25 Number 12, but if you'd like to make it a separate exhibit

1 Number 180 and 181, I'm gonna allow it into evidence and it  
2 will be a plaintiff's exhibit.

3 Mr. Love, if there's something you need to do with it,  
4 then certainly you can make it your own and duplicate it when  
5 you're -- okay?

6 MR. LOVE: Yes, sir. Thank you.

7 PLAINTIFF'S EXHIBIT NUMBERS 180 AND 181

8 ADMITTED INTO EVIDENCE

9 CONTINUATION OF DIRECT EXAMINATION OF BARBARA SARB BY MR.

10 GROTE:

11 Q: Dr. Sarb, I think we left off -- we were going to take a  
12 look at an invoice that's been marked as Exhibit 152. Do you  
13 have a copy of that we've pre-marked as Exhibit 152.

14 A: I have ---

15 Q: I'm gonna hand you what we've pre-marked as Exhibit 152.

16 A: This is a receipt from Crawlspace Depot, date December 6,  
17 2020.

18 Q: Okay. Is this an invoice you received and paid?

19 A: Yes.

20 MR. GROTE: At this time, Your Honor, I would move to  
21 admit it into evidence.

22 THE COURT: All right. Is there any -- any objection?

23 MR. LOVE: No objection on 152.

24 THE COURT: All right. 152 is in.

25 PLAINTIFF'S EXHIBIT NUMBER 152

ADMITTED INTO EVIDENCE

BY MR. GROTE:

Q: Dr. Sarb, what is this invoice for?

A: It's a -- for a Sante Fe Compact 70 dehumidifier, and for a -- a crawlspace liner.

Q: Okay. And why did you purchase that?

A: It was recommended by Servpro, and as I mentioned two prior companies for reducing the moisture in the basement.

Q: Okay. Is this an expense that you're claiming as part of this lawsuit?

A: Yes.

Q: Did you pay this amount?

A: Yes.

Q: Again, what was the amount of that invoice?

A: \$1,936.93.

Q: I'll hand you what we've marked as Plaintiff's Exhibit 153.

A: That's a invoice by Nature's Barber, date 12/6/2020.

Q: What is that invoice for?

A: Materials and labor for driveway.

MR. GROTE: At this time, Your Honor, I'd move to admit Exhibit 153 into evidence.

MR. LOVE: No objection.

THE COURT: All right. 153 is into evidence.

PLAINTIFF'S EXHIBIT NUMBER 153

ADMITTED INTO EVIDENCE

BY MR. GROTE:

Q: Dr. Sarb, what is the amount of the invoice?

A: \$3,800.

Q: Who is the invoice from?

A: Nature's Barber.

Q: And why did you have to have this driveway work done?

A: The original driveway needed to be removed and was damaged by the installation of the French drains and needing to regrade the area.

Q: Okay. Did you pay this amount?

A: Yes.

Q: Is that part of the expenses that you're claiming in this lawsuit?

A: Yes.

Q: And again, what was that amount?

A: \$3,800.

Q: Dr. Sarb, I'm handing you what has been marked as Exhibit 154. Do you recognize that document?

A: Yes.

PLAINTIFF'S EXHIBIT NUMBER 154

MARKED FOR IDENTIFICATION

Q: What is that document?

A: It's a invoice from Servpro dated 3/25/2021.

Q: Okay. What is the amount of that invoice?

1 A: \$3,651.30.

2 Q: What is that invoice for?

3 A: It's mold mitigation of the basement.

4 Q: Okay. Do you recall when that mold mitigation work was  
5 actually performed?

6 A: I'd have to review the records. I don't know exactly.  
7 It's ---

8 Q: Was it performed before or after you moved into the --  
9 back into the house?

10 A: I can't remember. It was -- I'd need some help with  
11 that. I need to review records. If before -- wait, it was --  
12 it was before I moved into the house, I believe -- moved back  
13 into the house.

14 THE COURT: Dr. Sarb, we're having a little trouble  
15 hearing you.

16 A: I'm sorry. I need -- give me -- can I have a minute to  
17 think, please?

18 THE COURT: Sure.

19 A: I moved back into the house December, so it was before I  
20 moved into the house.

21 Q: Okay. We had looked at some previous records. You had  
22 the record that we just looked at, Nature's Barber, for  
23 replacing the driveway. That was in December of 2020. Do you  
24 know when it occurred in -- roughly in relation to that?

25 A: Pardon me?

1 Q: Do you recall roughly when it occurred in relation to  
2 when you had the driveway replaced?

3 A: (No audible response.)

4 Q: Well, how about this, did you end up having the ductwork  
5 replaced in your house?

6 A: Yes, I did.

7 Q: When did you have that done?

8 A: It was before I moved in.

9 Q: Do you recall what month?

10 A: It was around fall, I believe.

11 Q: Was this mold mitigation work done before the ductwork  
12 was put in?

13 A: Yes.

14 Q: I show you what we've marked Plaintiff's Exhibit 155,  
15 please. Can you identify that for me, please?

16 A: It's an invoice by Nature's Barber, date 12/21/20.

17 Q: Okay. And is that an invoice you received from Nature's  
18 Barber?

19 A: Yes.

20 Q: And what was that work for -- or what was the invoice  
21 for?

22 A: Landscaping around the house.

23 MR. GROTE: I would move to admit this into evidence at  
24 this time, Your Honor.

25 THE COURT: 155?

1 MR. GROTE: 155.

2 MR. LOVE: No objection.

3 THE COURT: All right. 155 is in.

4 PLAINTIFF'S EXHIBIT NUMBER 155

5 ADMITTED INTO EVIDENCE

6 BY MR. GROTE:

7 Q: Dr. Sarb, what was the amount of the invoice?

8 A: \$4,750.

9 Q: And why was this work needed or why was it done?

10 A: It was to replace the front landscaping they removed.

11 And also, they put some shrubs around the two sides of the  
12 house because they had to install the membrane, and parts of  
13 it were above the ground and there was concern if they didn't  
14 have at least some -- one-foot or two-foot barrier, then you  
15 could damage the membrane with a weedwhacker or lawnmower or  
16 something like that. So, we had a little barrier of  
17 landscaping, so the grass didn't come exactly to the membrane,  
18 because some parts were several inches above, I think, one of  
19 your exhibits, 90, showed that the membrane came up and then  
20 it went down, and it went up. So, there were some parts where  
21 the membrane were three or four inches above -- exposed above  
22 the ground.

23 Q: Okay. Did you also have some -- did you also have  
24 Nature's Barber perform some additional landscaping work that  
25 you're not seeking compensation for from this jury?

1 MR. LOVE: Objection, Your Honor.

2 THE COURT: All right. What is it?

3 MR. LOVE: Relevance.

4 THE COURT: Do you know why this is relevant?

5 MR. GROTE: Just to show the reasonableness of her  
6 damages that they're gonna challenge whether it's reasonable  
7 or not that she did have this backed out of her invoice.

8 THE COURT: All right. I'm gonna -- okay. I'll allow  
9 it. Go ahead.

10 THE COURT: So, it has to do with this invoice that we're  
11 talking about?

12 MR. LOVE: No, Your Honor. It's completely separate  
13 invoice that he says he's not seeking damages for. I don't  
14 know what the relevance is. We've got all the invoices over  
15 and over again of the damages.

16 THE COURT: Is that the case, Mr. Grote?

17 MR. GROTE: It -- I think it was originally part of one  
18 invoice, but as part of this we had it backed out to separate  
19 out what is part of this claim and what is not, but just to  
20 show that, you know, she's not going overboard.

21 THE COURT: Okay. I'm gonna sustain the objection; let's  
22 move on. Thank you so much.

23 MR. GROTE: Okay.

24 BY MR. GROTE:

25 Q: Dr. Sarb, just to back up, I think we established Exhibit

1 155, the invoice in the amount of \$4,750, is that part of your  
2 claim for damages in this case?

3 A: Correct.

4 Q: So, I think earlier in your testimony, you indicated that  
5 you had to move out of the house around late December 2019; is  
6 that right?

7 A: Yes.

8 Q: Okay. So, explain again why you moved out of the house.

9 A: Because the moisture was -- as you could see on the  
10 monitor 90 to 100 percent. That was in the basement, but it  
11 was also high moisture in the upstairs. I was getting 80 to  
12 90 percent with eight gallons of water out of my dehumidifier  
13 upstairs in the kitchen, which was right above that flooding  
14 basement. The walls were weeping, the furniture was all wet.  
15 It was causing headaches, problems breathing, coughing, joint  
16 pain.

17 Q: Okay. And after you moved out initially, where did you  
18 go?

19 A: I still had a house in Myrtle Beach, so I was driving  
20 back and forth on Monday through Friday to work in Florence  
21 and living in Myrtle Beach.

22 Q: I'll show you what we've marked as Exhibit 156. Can you  
23 identify that, please?

24 A: It's a month-to-month lease agreement.

25 Q: And explain what the month-to-month lease agreement is.

1 A: Well, the drive to Myrtle Beach was 155 miles round trip.  
2 I work 7:30 to 5:30 at Florence Neurosurgery and Spine. I was  
3 trying to get to the house a half hour early to take care of  
4 the home, the humidifiers and squeegee, and then I'd work,  
5 come at lunch to take care of the house, and then after work,  
6 come and stay about an hour to take care of the house, and  
7 then drive an hour-fifteen-minutes to home. And I have about  
8 four to five hours of chartwork to do for my patients and prep  
9 for the next day, and eat and take a bath, that I got -- was  
10 getting about four-and-a-half hours of sleep. And I was  
11 falling asleep going to work and going home. I kept running  
12 off the road and it wasn't safe. So, I was trying to find  
13 somewhere to live near Florence. So, I found -- I was talking  
14 to people to see if I could find something reasonable to rent.  
15 And one of the nurses was filling in and she said she had a  
16 friend who moved in with her boyfriend and was possibly --  
17 wasn't sure if it was gonna work out, but would consider  
18 renting her patio home, kind of a spare moment. If it didn't  
19 work out, she would want to move back in, but she would agree  
20 to let me do it month-to-month, knowing that at any time I was  
21 hoping my house would be fixed. So, I didn't have to sign a  
22 year lease. So, it kind of worked out well. She had all of  
23 her stuff in her house, all my stuff was in my house, so I  
24 just kind of had my scrubs, my underclothes, my dog, and my  
25 dog bed, and my pillow until my house was ready to move back

1 in.

2 MR. GROTE: I would move to admit into evidence Exhibit  
3 156, the month-to-month lease agreement.

4 THE COURT: Is there any objection?

5 MR. LOVE: Sorry, Your Honor?

6 THE COURT: 156.

7 MR. LOVE: No objection.

8 THE COURT: All right. 156 is in.

9 PLAINTIFF'S EXHIBIT NUMBER 156

10 ADMITTED INTO EVIDENCE

11 BY MR. GROTE:

12 Q: Dr. Sarb, what's the date of this lease agreement?

13 A: It started March 1st, 2020.

14 Q: Okay. Is that when you stopped commuting and moved into  
15 the apartment?

16 A: Yes.

17 Q: So, were you commuting -- take that back. So, you moved  
18 out at the end of December 2019, correct?

19 A: Yes.

20 Q: Did you go out of town for the holidays for a little bit?

21 A: Yeah. I went to -- back to Myrtle Beach with my  
22 daughter, till about June 5th or 6th, I think -- I mean  
23 January 5th of 6th.

24 Q: Okay. So, then from January 5th of 6th of 2020 through  
25 March 1, 2020, the effective date of this lease, were you

1 commuting back and forth?

2 A: Yes.

3 Q: Between Myrtle Beach and Florence?

4 A: Yes.

5 Q: What was the address that you were commuting from in  
6 Myrtle Beach?

7 A: 309 Oceanview Drive.

8 Q: And commute back to -- what would be the round-trip  
9 mileage between your place in Myrtle Beach and -- excuse me --  
10 and 550 Wisteria?

11 A: 155 miles.

12 Q: Round trip?

13 A: Round trip.

14 Q: Okay. So, during this time period that you were -- I  
15 take that back. Now, are you asking this jury to award you  
16 mileage expense for your commuting back and forth?

17 A: Yes.

18 MR. GROTE: Your Honor, I would just ask the Court to  
19 take judicial notice of the mileage rate during that timeframe  
20 being .575 dollars per mile.

21 THE COURT: What mileage rate is that?

22 MR. GROTE: The 2020 mileage rate, 57 and ---

23 MR. LOVE: I think it's the IRS rate, Your Honor.

24 MR. GROTE: Yes, the IRS rate.

25 THE COURT: All right. I take judicial notice. Thank

1 you.

2 MR. GROTE: Thank you.

3 BY MR. GROTE:

4 Q: So, after you moved in -- you moved into the apartment  
5 around March 1, 2020, correct?

6 A: Yes.

7 Q: Do you recall when you moved back into the house?

8 A: December 29th, 2020.

9 Q: Okay. So, were you ---

10 A: December 31st; it was New Years Eve.

11 Q: Okay. So, were you living in the apartment from March of  
12 2020 through the end of December 2020?

13 A: Yes.

14 Q: How many months is that? If you can do the math in your  
15 head?

16 A: No. I'm too nervous right now to do it.

17 Q: Okay. And how much was the rent that you were paying per  
18 month?

19 A: \$800.

20 Q: Okay. Is that -- did you actually pay that rent?

21 A: Yes.

22 Q: Is that part of the expenses that you're claiming to be  
23 awarded in this case?

24 A: Yes. I think it's nine months.

25 THE COURT: And, Dr. Sarb, I think we're having trouble

1 hearing you.

2 A: I think it's nine months.

3 THE COURT: Thank you.

4 BY MR. GROTE:

5 Q: Dr. Sarb, I'm gonna show you what we've marked as  
6 Exhibits 157 and 158. Take a look at that and let me know if  
7 you recognize those.

8 A: Yes. I recognize that.

9 Q: Can you describe what that is?

10 A: Yes. It's a suitcase that was in -- suitcase that was in  
11 one of -- three or four suitcases that were in a spare bedroom  
12 closet that I found when I moved in.

13 MR. GROTE: Your Honor, at this time, I'd move to admit  
14 it into evidence -- admit those two exhibits, 157 and 158,  
15 into evidence and to publish to the jury.

16 THE COURT: Mr. Love?

17 MR. LOVE: One second, Your Honor.

18 THE COURT: All right.

19 MR. LOVE: No objection.

20 THE COURT: All right. In evidence, 157 and 158.

21 MR. GROTE: We'd ask to publish to the jury.

22 THE COURT: Yes.

23 PLAINTIFF'S EXHIBITS NUMBER 157 AND 158

24 ADMITTED INTO EVIDENCE

25 BY MR. GROTE:

1 Q: Dr. Sarb, is that -- is that your bag?

2 A: Yes.

3 Q: Or luggage.

4 MR. LOVE: Your Honor, may we approach?

5 THE COURT: Yes, sir.

6 (REPORTER'S NOTE: Bench conference is held off the record in  
7 the presence but outside the hearing of the jury.)

8 BY MR. GROTE:

9 Q: Dr. Sarb, let me clarify my question for you. Is this a  
10 photograph of a bag that -- of your bag?

11 A: Yes, this is my bag.

12 Q: This isn't the defendants' bag or -- the defendants  
13 didn't leave this bag in the home when you moved in?

14 A: No, this is my personal bag that was in the spare closet.  
15 It was one of three pieces of luggage that I had.

16 Q: Okay. So, this -- you're not saying that this is the  
17 defendants' bag, are you?

18 A: No, no. This is my personal bag.

19 Q: So, when you moved in to -- initially moved into 550  
20 Wisteria, is this a piece of luggage you brought with you?

21 A: Yes.

22 Q: Okay. And did you leave it in the house during the time  
23 period that you were commuting and while you were renting  
24 before you had the French drain work done?

25 A: Yes.

1 Q: And so, describe for me what we're looking at. What  
2 happened when it was left there?

3 A: It was -- like one of the bags that I would take on an  
4 airplane, or sometimes I'd take to work, and I just had it in  
5 the -- in the closet for when I needed it. And it's covered  
6 with mold.

7 Q: Was it like that before you moved into 550 Wisteria?

8 A: No. I used it often to take to Florence Neurosurgery and  
9 Spine if I had a lot of charts to work.

10 Was that one to be shown or not on the screen, or not,  
11 because my screen isn't showing anything.

12 Q: I think the photo was up on my screen.

13 A: It's not on mine.

14 THE COURT: She just took it down.

15 A: Huh?

16 THE COURT: It's okay. Thank you.

17 A: Okay. Does it go in this pile?

18 Q: Okay. Dr. Sarb, I'm going to hand you what's been marked  
19 as Exhibit 159. If you'll take a look at that for me, please?  
20 Can you identify that, please?

21 A: It's an invoice from Nature's Barber, date 5/14/2021.

22 Q: Okay. Is that an invoice that you received from Nature's  
23 Barber?

24 A: Yes.

25 Q: What is it for?

1 A: It's materials and labor for the new larger sump pump.

2 MR. GROTE: Your Honor, I would move to admit this into  
3 evidence at this time.

4 THE COURT: All right.

5 MR. LOVE: No objection to 159.

6 THE COURT: Okay.

7 PLAINTIFF'S EXHIBIT NUMBER 159

8 ADMITTED INTO EVIDENCE

9 BY MR. GROTE:

10 Q: Okay. What is the amount of the invoice?

11 A: \$6,240.

12 Q: Why was this work performed?

13 A: It was for the still some remaining water in the back  
14 area of the basement.

15 Q: Okay. Did you pay this amount?

16 A: Yes.

17 Q: Is this part of the expenses that you're claiming in this  
18 lawsuit?

19 A: Yes.

20 Q: I'm going to show you what's been marked as Plaintiff's  
21 Exhibit 160. Can you identify generally what that is?

22 A: It's the invoice for -- you want me to explain it?

23 Q: Just generally what it's for.

24 A: It's invoice June 2021 for replacement of the fence that  
25 needed to be removed in order to access the backyard and place

1 the French drain.

2 Q: Okay. Did you -- is this an invoice that you paid?

3 A: Yes.

4 Q: All right. I guess that's a series of documents.

5 MR. GROTE: At this time, Your Honor, I'd move to admit  
6 this next exhibit, Exhibit 160 into evidence.

7 THE COURT: All right.

8 MR. LOVE: I'm fine with it.

9 THE COURT: All right. 160 is into evidence.

10 PLAINTIFF'S EXHIBIT NUMBER 160

11 ADMITTED INTO EVIDENCE

12 MR. GROTE: Permission to publish, Your Honor.

13 THE COURT: Yes, sir.

14 BY MR. GROTE:

15 Q: Dr. Sarb, just for clarification, can you explain what  
16 this first page means to the jury and how the amounts are  
17 broken down?

18 A: It's ---

19 THE COURT: Her screen is not working. Okay. Can you  
20 hand her the exhibit, please?

21 A: I have it.

22 THE COURT: Okay. Thank you.

23 A: Part of this fence was shared by me and my neighbor David  
24 Olmstead. So, we split part of the costs. It was \$400 for  
25 grading in order to place the fence. So, my cost was \$200.

1 It was \$1,200 to install the fence. My cost was \$600. And  
2 then the materials for the fence we split. Mine was a little  
3 lower. It was \$1,578. His was a little bit more because he  
4 had a double gate placed. I had replaced -- what was existing  
5 was a four-foot gate. So, mine was -- the 1,578 plus 800.

6 Q: Okay. I'm trying to do the math. So, roughly 22,378, if  
7 you add that up.

8 A: Thank you.

9 Q: Okay. If you look at the second and third pages of  
10 Exhibit 160, are those just the material invoices that support  
11 that?

12 A: Correct. That was the -- the installation was the second  
13 page by Professional Grade Fence, and then the aluminum fence  
14 was the individual amounts and how it was broken up.

15 Q: Okay. Can we look at the fourth page. What is that?

16 A: That was how Mr. Olmstead divided it up, and his was the  
17 2,000 because he had the double gates, and mine was the 1578  
18 because I only had a four-foot gate. We shared the part that  
19 went down the property line.

20 Q: Okay. This is marked as Exhibit 161.

21 A: It's an invoice by Forrest Hunsucker for building and  
22 painting landing and stairs that replaced the solid brick  
23 steps that they removed in order to put the French drain next  
24 to the backside of the house.

25 MR. GROTE: Your Honor, I would move to admit Exhibit 161

1 into evidence.

2 MR. LOVE: No objection.

3 THE COURT: All right. 161 is into evidence.

4 PLAINTIFF'S EXHIBIT NUMBER 161

5 ADMITTED INTO EVIDENCE

6 BY MR. GROTE:

7 Q: Is this an expense that you're claiming as part of this  
8 lawsuit?

9 A: Yes.

10 Q: And the fence, just for clarification, is that also part  
11 of the expenses that you're claiming in this lawsuit?

12 A: Yes.

13 Q: I'll hand you what's been marked as Exhibit 162. Can you  
14 identify that for the jury, please?

15 A: It's a invoice from Dennis Construction to put a handrail  
16 on -- sorry.

17 Q: You can go ahead. Just describe who the invoice is from  
18 and what's it's for.

19 A: Dennis Construction. It was to place a handrail on that  
20 staircase, and to paint the mancave and back room, and put a  
21 masonry sealer on the floor, and install the moisture barrier  
22 in the crawlspace.

23 MR. GROTE: Your Honor, at this time, I'd move to admit  
24 Exhibit 162 into evidence.

25 MR. LOVE: No objection.

1 THE COURT: All right. 162 is into evidence.

2 PLAINTIFF'S EXHIBIT NUMBER 162

3 MARKED FOR IDENTIFICATION

4 BY MR. GROTE:

5 Q: Dr. Sarb, why was that work performed?

6 A: It was recommended by Glenn Stewart to help with the  
7 water penetration and the moisture, the moisture barrier from  
8 Servpro, because I was still having problems with the humidity  
9 despite the French drains, and because I think your stairs  
10 need a stair rail in order to meet code. And it was a second  
11 story door, so I needed a stair rail.

12 MR. GROTE: Permission to publish this, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. GROTE:

15 Q: Okay. So, how much did you -- how much were the charges  
16 for the back staircase material and labor?

17 A: \$1,880.

18 Q: How about the DRYLOK and painting back room?

19 A: \$1,200.

20 Q: And what about the ceiling/floor Flexim painting.

21 A: 1,000.

22 Q: How about the moisture barrier installation?

23 A: 1,200.

24 Q: Are these expenses that you are claiming as part of this  
25 lawsuit?

1 A: Yes.

2 Q: So, after you had the French drain work done, did you  
3 begin to notice any type of cracking in the house?

4 A: Yes, I did.

5 Q: Can you describe what you noticed?

6 A: In the spare bedroom, it was -- I couldn't open the door.  
7 It was stuck. And from the molding around the door, there was  
8 a crack that went up to the ceiling. It was a fairly good  
9 gap.

10 Q: I'm going to show you what we've marked as Exhibit 163,  
11 164, 165, and 166, and 167. Can you look at those for me,  
12 please? Can you describe what those exhibits are?

13 A: The first one is in the spare bedroom, and that's the one  
14 that I was mentioning. It was around the door molding going  
15 up towards the ceiling. The second one was in ---

16 Q: Let me stop you. Generally, do they show the cracking  
17 that you were describing previously?

18 A: Yes. And in different rooms of the house.

19 MR. GROTE: At this time, Your Honor, we would move to  
20 admit Exhibit 163 into evidence and publish it.

21 THE COURT: 163 through 167?

22 MR. GROTE: Yeah 163, through 167.

23 THE COURT: Mr. Love?

24 MR. LOVE: No objection.

25 THE COURT: All right. Into evidence.

1        PLAINTIFF'S EXHIBIT NUMBERS 163, 164, 165, 166, AND 167

2                                ADMITTED INTO EVIDENCE

3            MR. GROTE: And permission to publish, Your Honor?

4            THE COURT: Yeah. You're free to publish anything you'd  
5 like to to the jury once it's been admitted into evidence.

6            MR. GROTE: Okay. Thank you, Your Honor.

7 BY MR. GROTE:

8 Q: Can you just generally describe what we're seeing in the  
9 photographs?

10 A: All the photographs?

11 Q: No, I guess just -- you can just cycle through them so  
12 the jury can see them.

13 A: 164 is a crack going sideways, horizontally, in the front  
14 entrance. 165 is a crack in the ceiling. I believe that's in  
15 the bedroom. That -- 166 is in the living room, crack in the  
16 ceiling. And 167 is a crack in the ceiling in the kitchen.

17 Q: When did you begin to notice that?

18 A: It was February of 2022.

19 Q: Okay. Did you have that cracking evaluated?

20 A: Yes, I did.

21 Q: Who did you have evaluate that?

22 A: Glenn Stewart came back out.

23 Q: Okay. Now, you can't testify to what he said, but do you  
24 have an understanding of what the issues were, if any?

25 A: I think the house was starting to dry out from the

1 moisture, and it was just resettling. There was some  
2 settlement.

3 Q: Were any repairs or anything else recommended to deal  
4 with that?

5 A: To patch it or paint it and monitor, and get the door  
6 refitted. Do we need to do anything with these?

7 Q: I'm going to show you what we've marked as Exhibit 168.  
8 Dr. Sarb, can you describe what that is?

9 A: It's a bill from Judy Dennis Construction.

10 Q: What was that bill for?

11 A: It was to replace a patio for the wood decking that was  
12 removed to put the French drains in.

13 Q: Is there also documentation from Home Depot attached as  
14 well?

15 A: Yes. That was for the patio pavers.

16 MR. GROTE: At this time, Your Honor, we'd move to admit  
17 Exhibit 168 into evidence.

18 MR. LOVE: No objection, Your Honor.

19 THE COURT: All right. 168 is into evidence.

20 PLAINTIFF'S EXHIBIT NUMBER 168

21 ADMITTED INTO EVIDENCE

22 BY MR. GROTE:

23 Q: Dr. Sarb, if you'll take a look at that invoice still for  
24 me, please, or that documentation. How much did you pay both  
25 materials and labor to have the deck replaced following the

1 French drain installation?

2 A: The labor was \$4,400, and the pavers were \$1,153.

3 Q: Are those amounts part of the claim that you're making in  
4 this lawsuit?

5 A: Yes, yes.

6 Q: And so, you described two visits you had Glenn Stewart  
7 come out to your house, correct?

8 A: Yes.

9 Q: Okay. Did Glenn Stewart issue charges for inspecting  
10 your house?

11 A: Yes.

12 MR. LOVE: Your Honor, may we approach?

13 THE COURT: Yes, sir.

14 (REPORTER'S NOTE: Bench conference is held off the record in  
15 the presence but outside the hearing of the jury.)

16 BY THE COURT:

17 THE COURT: We're gonna take a short break. We'll have  
18 you right back out. Please don't discuss this matter, and  
19 thank you for your attention.

20 (REPORTER'S NOTE: Jury exits courtroom @ 2:38 p.m. The  
21 following takes place outside the presence of the jury.)

22 THE COURT: All right. Mr. Love, you want to place your  
23 objection on the record?

24 MR. LOVE: Thank you, Your Honor.

25 Plaintiff's counsel -- it's my understanding that

1 Plaintiff's counsel is in the process of discussing and  
2 marking what would be Plaintiff's Exhibit 169. That exhibit  
3 is an invoice from their expert, whose services were retained  
4 prior to lawsuit but in anticipation of litigation by the law  
5 firm representing the plaintiff. The invoice is for services  
6 rendered in respect to the litigation. And then there's a  
7 subsequent invoice from, I believe, they just said February of  
8 2020, which -- or excuse me, it's beyond that, might be  
9 February of '22, which is definitely during the pendency of  
10 the lawsuit. However, both of those are considered litigation  
11 costs, which are not awardable or not arguable to a jury until  
12 after the verdict or judgment is rendered, Your Honor. I'm  
13 trying to think of the word there. So, that would be -- it  
14 might be recoverable costs just like attorney's fees after  
15 judgment is rendered, but it is not an actual damage under the  
16 breach of contract period of recovery, which this lawsuit is.

17 THE COURT: Mr. Grote?

18 MR. GROTE: Yes, Your Honor. I disagree with Mr. Love's  
19 position on what these invoices are for, and so-called  
20 litigation expenses. These aren't expenses for him -- Mr.  
21 Stewart giving a deposition, they're not expenses for him  
22 coming to testify at court in this case. This is a homeowner  
23 who needed help. She had an engineer come out and look at it.  
24 Whether that engineer was hired by us or by somebody -- or,  
25 you know, her personally, or just any other contractor that

1 you hire; it's no different than any other contractor that she  
2 hired. She was seeking advice, seeking help. She needed  
3 someone to help her. Just because this person came is an  
4 engineer that will testify in this case, doesn't mean it's not  
5 a compensable damage or an expense just like any other repair  
6 expense, any other contractor that she had out there. And I  
7 think these invoices don't really include any litigation  
8 services, if you will. But also, the invoice, the first one,  
9 at least the initial evaluation he did, was in February of  
10 2020, and that evaluation was done, I believe, pre-suit. She  
11 was trying to figure out what the problems were with the house  
12 and whether she could even, you know, pursue suit, or whether  
13 there was any type of claim. And then, as a result of that  
14 inspection, it kind of led into this lawsuit. And, you know,  
15 we provided it to Mr. Love. But, again, these are all her  
16 costs and expenses, as opposed to, you know, expert litigation  
17 fees that come with depositions or providing litigation  
18 related services. In this case, you know, she also had him  
19 inspect the cracking afterwards, but she also had a lot of  
20 other contractors come out and inspect a lot of other things.  
21 It's just really no different than any of that.

22 THE COURT: All right.

23 MR. LOVE: Your Honor, a couple of things in response.  
24 Number one, prior to trial last week, Plaintiff's counsel  
25 provided me with all of the documentation that they intended

1 to enter as far as the expenses were concerned. These  
2 invoices were not included in that. I've got 16 pages here  
3 that I've printed. And so obviously, at some point, that was  
4 not considered an expense that they were gonna seek from the  
5 jury. Number two, the report that was created by expert -- by  
6 the expert, Glenn Stewart, is addressed to McCabe Trotter.  
7 It's not addressed to the plaintiff as if he were a contractor  
8 that she hired. Therefore, I maintain the position that this  
9 appears at least to me to be a cost of litigation to  
10 potentially be awardable at some point, but not by a jury.

11 THE COURT: Mr. Grote, was it provided in discovery?

12 MR. GROTE: It was absolutely provided in the discovery.

13 MR. LOVE: No.

14 MR. GROTE: It was absolutely listed in the damages  
15 matrix that we provided throughout the entirety of the case.  
16 He's right in the pretrial stuff that I gave him, I think it  
17 was omitted, but that email was probably a half a page long  
18 that said we hadn't decided what we were going to admit. But  
19 every single damages, even one I think within -- I think it  
20 was April of this year, we gave him -- always had that cost  
21 and expense listed on it. You know, it may've been an  
22 oversight pre -- you know, there's a lot of stuff going on in  
23 getting ready for trial, but the -- and we also told him we  
24 were going to make decisions about what we were going to  
25 admit. It's been provided in discovery. It's always been

1 listed as a damage in our damages matrix that we provided  
2 throughout the case.

3 MS. GIOVANOLI: And if I just may add, it was addressed  
4 to us because we did want to keep track of the costs that Dr.  
5 Sarb was incurring. So, that's an additional consideration.

6 THE COURT: Being -- was it addressed to you or was it  
7 billed to you?

8 MS. GIOVANOLI: Actually, Dr. Sarb paid Mr. Glenn Stewart  
9 directly, I believe. And we may ask Dr. Sarb this for all of  
10 the invoices that were ---

11 THE COURT: Can I see those invoices, please?

12 MR. GROTE: They certainly have our name on them, but I  
13 believe she paid them.

14 THE COURT: Well, what's troublesome is that certainly  
15 this invoice delineates between what's charged to Dr. Sarb and  
16 what's charged to the client, which is -- must be McCabe,  
17 Trotter & Beverly. That's problematic to the Court. I also  
18 recognize that a lot of this evidence is already into the  
19 record. Certainly, there's testimony that's not been objected  
20 to that indicates that Dr. Sarb, the plaintiff, relied on Mr.  
21 Stewart's expertise or his profession to perform or to have  
22 the repairs performed. So, certainly it's reasonable that she  
23 pay him a fee for that, but as far as this invoice is  
24 concerned, I think it's problematic that it's -- that it's  
25 comingled in some sort of fashion as I've explained.

1           What's your position to that, Mr. Love?

2           MR. LOVE: Um...

3           THE COURT: I mean, I don't think it's fair that this be  
4 submitted in its full amount to the jury, even if Dr. Sarb  
5 paid it, because it's -- obviously, some expenses are going  
6 towards the litigation. There's no question about that. So,  
7 I would allow it to come in maybe -- certainly not in the  
8 document in the form that it's in, but maybe just through  
9 testimony as to what she paid for the services that have  
10 already been testified to, and certainly that doesn't seem to  
11 be litigation expense, if it can be separated in that form or  
12 fashion.

13           MR. GROTE: Just for point of clarification, is there a  
14 particular item on here that -- I guess, so we know what we  
15 need to -- or what you're saying you think we ought to back  
16 out and go that route.

17           THE COURT: Well, it's hard to say without hearing from  
18 this witness, but, I mean, when you look at review, edit,  
19 finalize, and transmit report to client via email with no hard  
20 copy to follow, and that's a half hour. And then right below  
21 that, you have a separate charge to send an email to Dr. Sarb,  
22 which leads me to believe that, you know, he's really -- he's  
23 really providing information to two separate entities, which  
24 certainly lends credit to Mr. Love's argument. So, if you  
25 understand where my issue is.

1 MS. GIOVANOLI: But would Your Honor or counsel be  
2 willing to accept this into evidence redacted, with the  
3 redactions over everything that pertains to reference the  
4 client, McCabe, or Giovanoli?

5 THE COURT: Well, what's your position, Mr. Love?

6 MR. LOVE: Your Honor, it remains that the entire thing  
7 is a cost of litigation. I obviously will respect the Court's  
8 ruling, but ---

9 THE COURT: Well, it's already into evidence. We've  
10 already been talking about what his role has been in this  
11 situation and that she acted in reliance of what advice he's  
12 been giving her. So, certainly, I'm gonna allow some evidence  
13 of what he charged her for rec -- you know, for his  
14 recommendations. But, certainly, I'm not willing to go any  
15 further than that for any sort of litigation costs or anything  
16 that he might've charged her law firm. Now, if you want to  
17 consent to that coming in and argue against it, then certainly  
18 that's your prerogative, but it's not for the Court.

19 MR. LOVE: I'll do that, Your Honor.

20 THE COURT: So, you just want it to come in?

21 MR. LOVE: That's fine.

22 THE COURT: All right.

23 We're gonna take about a 10-minute break, and then we'll  
24 reconvene.

25 MR. LOVE: Thank you.

1 COURT REPORTER: I'm sorry. Is that coming in?

2 THE COURT: Yes, ma'am. It's coming in without  
3 objection.

4 PLAINTIFF'S EXHIBIT NUMBER 169

5 ADMITTED INTO EVIDENCE

6 **RECESS - 2:50 P.M.**

7 **\*\*\*\*\*OFF THE RECORD\*\*\*\*\***

8 **ON THE RECORD - 3:04 P.M.**

9 (REPORTER'S NOTE: The following takes place outside the  
10 presence of the jury.)

11 MR. LOVE: My understanding is that they are going to try  
12 and use a summary of the damages invoice. I would object to  
13 that summary under South Carolina Rules of Evidence 1006, I  
14 believe it is. That rule provides the contents of voluminous  
15 writings, reports, or videos, or photographs which cannot  
16 conveniently be examined in court may be presented in the form  
17 of a chart, summary, or calculation, provided that the  
18 underlying data is admissible into evidence.

19 Your Honor, the bills themselves only comprise about 20  
20 pages. And so, I would not consider that voluminous and  
21 unnecessary to have a summary of those. What a summary does  
22 is suggest to a jury the number that they should award; and  
23 therefore, I would object.

24 THE COURT: Mr. Grote?

25 MR. GROTE: Your Honor, oddly, I would cite the same rule

1 for the basis for admitting it. It's kind of odd that we  
2 disagree on the meaning. But, our position is simply this, it  
3 is in fact a summary. We've been at this, you know, the  
4 better part of a day-and-a-half to two days. There's  
5 voluminous records in this case. It's very -- it would be  
6 very confusing for a jury to have it not summed up in a way  
7 that's meaningful for them. If we don't do this, then look,  
8 we've got -- what are we at now, 180-something exhibits --  
9 Madame Court Reporter, do you know what number we're at now?

10 COURT REPORTER: 182.

11 MR. GROTE: 182. Okay. So, we have 182 exhibits. The  
12 invoices are in there. They're kind of buried. They're all  
13 over the place. That's the purpose of Rule 1006 is to  
14 summarize this information into a meaningful fashion and, you  
15 know, so a jury can meaningfully understand and find it and  
16 put it in a concise form. And we propose it's absolutely  
17 admissible under a summary, Rule 1006 rule of evidence.

18 THE COURT: All right.

19 MR. LOVE: Your Honor, Rule 1006 is clear that the  
20 summary must summarize voluminous records. And that's the  
21 purpose of the summary is to summarize voluminous records.  
22 Here, the records that that summary summarizes are 20 pages.  
23 It's not our fault or job that the invoices may be all  
24 throughout the evidence. We didn't do that. But there are 20  
25 pages, almost, once this Glenn Stewart invoice goes in, of

1 bills.

2 THE COURT: Let me see the proposed summary, if you don't  
3 mind.

4 MR. GROTE: Sure.

5 THE COURT: All right. I'm gonna reserve ruling on that  
6 and when you try to introduce it, but I'm inclined to probably  
7 allow it. All right?

8 Now, let me ask you for planning purposes -- if you want  
9 to have this back. Where are we -- where are we gonna get by  
10 when? I'm just curious.

11 MR. GROTE: That's a good question. I'm trying to wrap  
12 her up as quick as we can today. I think there's probably a  
13 half hour, and we'll be at least done with our questioning of  
14 her.

15 THE COURT: All right. How many witnesses do you intend  
16 to call?

17 MS. GIOVANOLI: I think it's 12 total. I think we have  
18 10 more after her. There -- none of them are gonna be this  
19 long; maximum, maybe 30 minutes.

20 MR. GROTE: Yeah, most of them are five, 10-minute type  
21 witnesses, a lot of them. Glenn Stewart will be here. His  
22 will be a little bit longer. I don't -- he didn't -- his  
23 won't be too long, I don't think.

24 THE COURT: All right. So, when do you anticipate having  
25 your case rested or you don't know?

1 MS. GIOVANOLI: Tomorrow by lunch is what I would hope,  
2 Your Honor.

3 MR. GROTE: Hopefully early afternoon tomorrow.

4 THE COURT: All right.

5 Mr. Love, is there anything further?

6 MR. LOVE: No, Your Honor. I'll note, for the Court's  
7 indulgence on this summary that it does not reference the  
8 exhibit number, so it doesn't make it any easier to find the  
9 invoices that we allegedly are trying to find and help the  
10 jury, once the jury ---

11 THE COURT: I understand. And, you know, I find there  
12 has been quite a bit of evidence introduced in this case.  
13 Certainly, I think the summary doesn't confuse the issues, but  
14 certainly I think just makes it more, more clear as to what  
15 the evidence shows. But I don't feel that it suggests an  
16 amount to pay any more than what's already been introduced  
17 does. And whether or not or what position the jury takes with  
18 regard to that, I don't think is gonna be swayed by the  
19 summary that I've seen. Okay?

20 MR. LOVE: Thank you, Your Honor. I will -- at the time  
21 that I guess it is tendered, I will raise my objection, but I  
22 just object for reasons already stated on the record.

23 THE COURT: I understand. And it may be that at that  
24 time something is different, and I'll make a different ruling,  
25 but we'll see.

1 MR. LOVE: Yes, sir.

2 THE COURT: All right. Y'all want to come forward real  
3 quick?

4 All right. Are we ready for the jury?

5 MR. GROTE: Yes, Your Honor.

6 Is 169 in, then, the ED&T invoices. Is that what we ---

7 THE COURT: What is 169?

8 MR. GROTE: The ED -- the Glenn Stewart invoices that was

9 ---

10 THE COURT: I understand that 169 was in without  
11 objection.

12 MR. GROTE: Okay.

13 THE COURT: Is that right, Mr. Love?

14 MR. LOVE: Yes, Your Honor.

15 THE COURT: Okay.

16 (REPORTER'S NOTE: Jury enters courtroom @ 3:12 p.m.)

17 THE COURT: All right. Mr. Grote?

18 BY MR. GROTE:

19 Q: Dr. Sarb, do you have Exhibit 169? Exhibit 169? Are  
20 those invoices of ED&T from whom -- which Glenn Stewart works  
21 with?

22 A: Yes.

23 Q: Are those part of the expenses that you're claiming in  
24 this lawsuit?

25 A: Yes.

1 Q: All right. So, with respect to this water issue, after  
2 we've looked at all this evidence, had the -- did the  
3 defendants ever disclose any of these problems to you before  
4 you bought the house?

5 A: No.

6 Q: Or closed on the house?

7 A: No.

8 Q: Do you think you would have even proceeded to closing had  
9 you known about that issue?

10 A: No; I would not close on the house.

11 Q: All right. So, I think you testified previously, did you  
12 begin to experience some physical symptoms after the water  
13 problems in the basement?

14 A: Yes.

15 Q: And just tell us about those a little bit.

16 A: I had increased headaches, joint pain, and difficulty  
17 breathing, coughing, shortness of breath.

18 Q: Did you seek -- when did those problems begin to occur?

19 A: Within a couple of months of moving into the house.

20 Q: Okay. Did you seek medical treatments?

21 A: Yes. I saw my family physician, Heather Shelton.

22 Q: Okay. I'm going to show what's marked as Exhibit 170.  
23 It's several pages. If you'll take a look at that for me,  
24 please.

25 And, Dr. Sarb, have you had a chance to look at those

1 invoices?

2 A: Yes.

3 Q: Okay. Are those invoices for medical treatment that you  
4 received from various providers due to the symptoms that you  
5 were having?

6 A: Yes.

7 Q: Can you just go through ---

8 MR. GROTE: Your Honor, I'd move to admit those into  
9 evidence at this time.

10 THE COURT: 170?

11 MR. GROTE: Exhibit 170.

12 THE COURT: Any objection?

13 MR. LOVE: Per our conversation, Your Honor, I believe --  
14 is 170 one page?

15 MR. GROTE: It would be collectively, we can mark it just  
16 one exhibit.

17 MR. LOVE: Okay.

18 MR. GROTE: If we need to mark it as separate exhibits,  
19 we can do that.

20 MR. LOVE: It's not that I need separate exhibits; I need  
21 a foundation. So, I guess I'll have to object based on  
22 foundation, Your Honor. It's not just an invoice from Dr.  
23 Shelton, her primary care physician, which was the testimony.  
24 It's several different providers.

25 THE COURT: All right. Do you need to lay a further

1 foundation, Mr. Grote?

2 MR. GROTE: Your Honor, we can -- we can just separately  
3 mark each of these, I guess, if that makes it easier.

4 THE COURT: Are you gonna seek to introduce all three of  
5 them?

6 MR. GROTE: There's five pages here.

7 THE COURT: Well, if they're separate providers, then  
8 maybe you can lay the proper foundation and we can get through  
9 this.

10 MR. GROTE: Okay.

11 BY MR. GROTE:

12 Q: Dr. Sarb, who all did you -- what all medical providers  
13 did you treat with as a result of the symptoms you were  
14 having?

15 A: I initially started with Dr. Shelton. Do you want me to  
16 explain why?

17 Q: Yes, please.

18 A: She started with some antibiotics and an inhaler. I got  
19 some -- a yeast infection in my mouth from the inhaled  
20 steroids. She sent me to some other doctors. She sent me to  
21 Dr. -- I saw Dr. McCaffery, who I saw years ago, five years  
22 ago for the migraine headaches. He prescribed some Ubrelvy,  
23 and recommended Botox for the migraine headaches. And then I  
24 saw -- a couple of visits with Dr. Shelton just following up  
25 with how I was doing. She changed the antibiotics. And Dr.

1 Patel for the joint pain.

2 Q: Okay. And based on what we've shown you, are these  
3 invoices for that treatment?

4 A: Yes.

5 Q: Okay. What are the dates of the treatment?

6 A: Ranged from I think January through May of 2020.

7 Q: Okay. What did you have done at McLeod on May 3rd, 2020.

8 A: Since I was still having the cough, she did initially an  
9 x-ray and then recommended a CT scan of the chest.

10 Q: Okay. Well, let's start with the first page here. What  
11 is that an invoice for?

12 A: The CT scan of the chest.

13 Q: Okay. Where was that done at?

14 A: McLeod Regional Medical Center, I believe.

15 Q: The second page, is that an invoice from Dr. McCaffery?

16 A: Yes.

17 Q: And did you describe that treatment already?

18 A: Initially, he did some medication changes and recommended  
19 Botox.

20 Q: Okay. Are there two invoices from Dr. Shelton?

21 A: Yes.

22 Q: What are the dates of the treatment?

23 A: February 13, 2020, and January 8th, 2020.

24 Q: Okay. And what is the last bill, the last page?

25 A: That was an appointment with Dr. Patel, rheumatology,

1 April 21st, 2020.

2 Q: Okay. What did Dr. Patel do?

3 A: I was seeing Dr. Patel for Raynaud's, which is a  
4 circulatory problem. My hands are always cold, and I wear  
5 long-sleeved shirts all year round, but at that particular  
6 appointment was because of the joint pain. He gave me some  
7 anti-inflammatories and said it was probably the mold, and it  
8 could last a while.

9 MR. LOVE: Objection, Your Honor.

10 THE COURT: Sustained.

11 A: I'm sorry.

12 THE COURT: Please disregard the last statement.

13 Dr. Sarb, you can't tell us what anybody told you. Okay?

14 A: I'm sorry. Okay.

15 THE COURT: Thank you, ma'am.

16 MR. GROTE: Your Honor, at this time I would move -- let  
17 me back up.

18 BY MR. GROTE:

19 Q: Dr. Sarb, does Exhibit 170, all five pages of it fairly  
20 and accurately represent the medical bills related to the  
21 treatment that you've described?

22 A: Pardon me?

23 Q: Does Exhibit 170, are those your medical bills for the  
24 treatment that you received as a result of the symptoms you  
25 were having from the water problem?

1 A: Yes.

2 MR. GROTE: At this time, Your Honor, I would ask to  
3 admit those into evidence.

4 MR. LOVE: No objection.

5 PLAINTIFF'S EXHIBIT NUMBER 170

6 ADMITTED INTO EVIDENCE

7 BY MR. GROTE:

8 Q: So, what helped with your symptoms?

9 A: Moving out of the house, but it took about four months.

10 Q: Okay. So, while you were having these issues that you  
11 just described, how was that affecting you mentally and  
12 physically?

13 A: It was hard to make a fist, so I had to decrease my  
14 patient load at the office. It was -- the coughing was really  
15 hard, because at that time COVID was going along, and a lot of  
16 my patients were asking my nurses if I should even be working.  
17 They thought I had COVID. And they had to explain that I've  
18 tested, and I didn't have COVID. I wasn't contagious. And  
19 you know, I was still wearing masks, we were all wearing  
20 masks, but they were wondering if they should even be in my  
21 office seeing me. At times, the coughing, I had trouble  
22 dictating. The Dragon Naturally Speaking couldn't pick up my  
23 dictation, so I was getting behind on my dictations. At some  
24 times, I couldn't stop coughing that my nurses just had to  
25 explain what the procedure was, what the risks were to

1 patients. And if I was doing a procedure and they asked  
2 questions, then my radiology technician had to answer the  
3 question for me or the nurse had to answer the question, which  
4 was quite embarrassing. I was really fatigued from the  
5 shortness of breath, so pretty much I worked and took care of  
6 the house and went home. I didn't really have much energy to  
7 do much. Normally, before moving into the house, I would walk  
8 my dog three to five miles. But at that time, I was walking  
9 maybe one or two blocks and just coming home. I really kind  
10 of felt really depressed and just really didn't want to do  
11 anything. I had the headaches. Normally, with Topamax, the  
12 medicine trying to prevent headaches, and taking Imitrex, a  
13 medicine if you have a headache, I usually would have one or  
14 two migraines a month, and I was almost having daily headaches  
15 or, you know, about five days a week, I would have a migraine  
16 headache. And just a lot of joint pain. Over Christmas, I  
17 was wrapping my hands with Bengay and heating pads because it  
18 hurt to hold a glass or grab anything. It was just kind of  
19 painful and achy. I just kind of didn't want to socialize or  
20 do anything. I was just kind of -- my whole life was either  
21 working, and it was just hard. A lot of people in COVID were  
22 out in enjoying their homes, doing things in their home or in  
23 their backyard, and I -- at that time, you know, I was in  
24 somebody else's home with very little of my own stuff, and I  
25 was hoping to enjoy a new neighborhood that I moved into, and

1 I was in somebody else's neighborhood. That was -- I was sad.

2 Q: All right. Were you having these symptoms before you  
3 moved into 550 Wisteria?

4 A: I was feeling pretty healthy. I was going to McLeod gym  
5 doing their Pilates, HIIT and new sculpt and yoga classes, and  
6 walking my dog three to five miles. So, I felt pretty good.  
7 And like I say, my -- I've had migraines since I was eight  
8 years old, they run in my family. But they were under really  
9 good control with the medicine they had me on. I mentioned  
10 Dr. McCaffery was my doctor who treated the migraines, and had  
11 me on the maintenance medicine. And the last time I had Botox  
12 was five years prior.

13 Q: Okay. How long did your -- or did your symptoms improve  
14 when you moved out the house?

15 A: Yes; it took about four months.

16 Q: What period of time do you think you were having these  
17 symptoms; roughly how long?

18 A: It definitely started once the house started flooding,  
19 and the moisture and humidity got bad. I moved in in July,  
20 and I think by mid-September, October -- October it started.  
21 Definitely in December it got worse, because I called Dr.  
22 Patel's office after the big flood in December to get in, but  
23 unfortunately they had a big wait, and I couldn't get in to  
24 see him until the April appointment.

25 Q: All right. Shifting gears with you, Dr. Sarb. After you

1 closed on this house, did you also begin to experience  
2 problems with the sewer line?

3 A: Yes, I did.

4 Q: Describe for me what was happening.

5 A: Well, once the people got done with the CL100, the wood  
6 infestation, John Sims crew, it was August, late August. I  
7 noticed when I took a bath in the master bathroom, the next  
8 morning, I'd go and -- you know, I sometimes would get dressed  
9 in the spare bathroom that had a shower, there would be all  
10 this mud that came out of the drain, speckled all around the  
11 floor of the shower. And I'd be, well, I'm the only one  
12 living there, what is this. I knew I cleaned everything. All  
13 my sinks were clean, all my bathtubs were clean, the shower  
14 was clean, where did this mud come from? Initially, you know,  
15 there's nobody washing their work boots or their hands or  
16 tools or anything. And that happened, you know, several days  
17 in a row. I'm like, you know, where is this mud coming from  
18 because I'd clean it, and the next time I took a bath, there  
19 was all this mud coming up in the bottom of the shower stall.  
20 And then I noticed the toilets, the water would be like  
21 breathing. It would go up and down, the water level in the  
22 toilet. And the sinks were just slow on draining. And that  
23 was in late August 2019.

24 Q: Dr. Sarb, if I may show you what we've marked as Exhibits  
25 171 and 172. Take a look at that for me, please.

1 A: Those are photos I took from October/November 2019.

2 Q: What do those photographs show?

3 A: That's the bottom of the shower floor that I tried  
4 describing with the speckles of mud that would come out on the  
5 clean floor after I drained the bathtub in the master bathtub  
6 that was the next room over.

7 MR. GROTE: I'd move to admit Exhibit 171 and 172.

8 MR. LOVE: No objection.

9 THE COURT: All right. Into evidence.

10 PLAINTIFF'S EXHIBIT NUMBERS 171 AND 172

11 ADMITTED INTO EVIDENCE

12 BY MR. GROTE:

13 Q: Were you able to do your laundry at the house with those  
14 problems?

15 A: I really usually didn't do my laundry at the house  
16 because I would go to Myrtle Beach a lot of times on the  
17 weekends, so I just took it there and did it on Saturday or  
18 Sunday morning.

19 Q: Okay. So, what did you do to try to, I guess, figure out  
20 what was going on or to try to address the issue?

21 A: Well, in September, I called Causey Plumbing, and they  
22 rescheduled and cancelled several visits. So, in late  
23 September, I called Urquhart Plumbing. And I think they  
24 finally came out in November. And I gave them a list of  
25 several items. When I called to schedule the appointment, I

1 told them about the dirt coming up in the shower. I told them  
2 about the toilets breathing. I told them about some other  
3 minor issues I had. I had a shower faucet that had a constant  
4 leak. The sink in the bathroom also had a leak, that if I  
5 turned it on to wash my face, I flooded the bathroom. And  
6 they made a whole list, they scheduled me an appointment in  
7 November, they were really booked up. And when they came out,  
8 I was the last person on the list. They came out at like 4:30  
9 or 5 o'clock. And when the man got there, he said, oh, well,  
10 I didn't realize. I thought we were just here for a problem  
11 with the toilet. We'll have to make another appointment for  
12 you, but I'll change the flapper on the toilet. He said,  
13 well, it sounds like your pipes are all stopped up, and said  
14 I'll need to change this ---

15 MR. LOVE: Your Honor, object to hearsay.

16 THE COURT: Sustained.

17 Mr. Grote, please ask another question.

18 BY MR. GROTE:

19 Q: Okay. Dr. Sarb, after you had Urquhart Plumbing come  
20 out, what else did you try to do?

21 A: Well, it got worse, and everything stopped up. I  
22 couldn't flush the toilets, I couldn't drain the sinks, and  
23 everything just backed up.

24 Q: Okay. So, what did you do at that point?

25 A: I think I called John Sims, and he may've been the one

1 who referred me to Daniel Williams Plumbing.

2 Q: Okay. Did Daniel Williams Plumbing do some work for you?

3 A: Yes. The pipe that went from my house to the street was  
4 clogged. And I went with him, and when they were trying to  
5 dig up the pipe, about a foot from my house, there was a hole  
6 in the hole in the PVC pipe that was about four inches by two  
7 inches. It looked like it was attempted to be cleaned out,  
8 and there was a rusty license plate on top of it, and it turns  
9 out the pipe went from being larger to smaller to smaller as  
10 it got into the city sewer area, and there was a reverse  
11 slope, meaning instead of the, the sewage or the stuff coming  
12 out of my house going into the city sewer, it was going -- it  
13 was backing up into my house, and it needed to be replaced.

14 Q: Did you in fact hire Williams -- Dan Williams to replace  
15 that?

16 A: Yes.

17 Q: I'm going to show you what we've marked as 178. How much  
18 did you pay Williams Plumbing Service to replace the sewer  
19 line?

20 A: It's an invoice from Daniel Williams, December 6th,  
21 \$1,800.

22 MR. GROTE: Your Honor, at this time, I would move to  
23 admit Exhibit 178 into evidence.

24 MR. LOVE: Sorry, Your Honor. Court's indulgence.

25 THE COURT: All right.

1 MR. LOVE: No objection.

2 THE COURT: All right. 178 is into evidence.

3 PLAINTIFF'S EXHIBIT NUMBER 178

4 ADMITTED INTO EVIDENCE

5 BY MR. GROTE:

6 Q: And so, what was the cost to replace the sewer line, Dr.  
7 Sarb?

8 A: \$1,800.

9 Q: Let me show you what's been marked as Exhibit 173 through  
10 177. Can you describe what those are, Dr. Sarb?

11 A: This is the work putting in the new pipe with the correct  
12 slope from my house going down towards the sewer.

13 Q: Are they photographs taken during the sewer line  
14 replacement?

15 A: Yes. These are photographs I took.

16 THE COURT: Your Honor, at this time, I'd move to admit  
17 Exhibit 173 through 177.

18 MR. LOVE: No objection, Your Honor.

19 THE COURT: All right. 173 through 177 is into evidence.

20 PLAINTIFF'S EXHIBITS NUMBER 173 THROUGH 177

21 ADMITTED INTO EVIDENCE

22 BY MR. GROTE:

23 Q: We'll just flip through these, Dr. Sarb, for the jury,  
24 and we'll stop at the last one.

25 A: That's the trenches they dug, so it would be the correct

1 slope. 175 kind of shows it was higher at the house and lower  
2 towards the street, and ---

3 Q: One second, Dr. Sarb, let's look at the last photograph;  
4 what is that of, or what is that showing?

5 A: That's where they found the hole in the previous PVC pipe  
6 that was cut out, and that's a picture of the license plate or  
7 some type of rusty metal that was covering over it.

8 Q: Okay. After the sewer line was replaced, did you have  
9 any other problems with the sewer line or the sewer draining?

10 A: No.

11 Q: How many people were living in the house after you bought  
12 550 Wisteria?

13 A: Just me.

14 Q: Were any sewer or plumbing problems disclosed to you by  
15 the defendants in the property disclosure statement or  
16 otherwise prior to closing?

17 A: No.

18 Q: Did you rely on those representations?

19 A: Yes.

20 Q: Would you have asked the sewer line to have been repaired  
21 if it had been something that was disclosed by the defendants?

22 A: Yes.

23 Q: Did you ever notice any of these sewer issues at any time  
24 that you were at the property before closing?

25 A: No.

1 Q: Did any of your inspections reveal any issues with the  
2 sewer line to your knowledge?

3 A: No.

4 Q: Did you have any knowledge or notice of any of these  
5 problems with the sewer line before you closed on the house?

6 A: No.

7 Q: So, did you also have an issue with cockroaches in the  
8 house?

9 A: Yes.

10 Q: Can you describe for us what that was?

11 A: The first weekend I moved in in August, I had a painter  
12 out and we were looking in the den or sunroom area and above  
13 the vents, it was like -- like a thin plywood or -- plywood  
14 was on the walls, and above the vents it was peeling, and I  
15 asked the painter if we painted over it, would it be okay.  
16 And he said it was probably get worse adding more moisture  
17 onto it. So, I asked John Sims, the construction person, what  
18 would be a least expensive way to remove the -- it was like a  
19 paneling board, what could I put up instead, and he mentioned  
20 drywall. So, that week, they were going to put up the drywall  
21 for me to put paint on it, and I came at lunchtime to see how  
22 things were going, and they took down the first piece of the  
23 paneling board, and there were live and dead cockroaches and  
24 cockroach feces and cocoons and everything about three feet up  
25 the walls to the light sockets, and cockroaches were just

1 falling all over us. It was not a pleasant experience. It  
2 was a real severe infestation of cockroaches in all the walls  
3 of the sunroom that they took out the insulation. There were  
4 cockroaches also behind the metallic 12-by-12 panels in the  
5 kitchen between the cabinets and the countertops, and in the  
6 adjoining spare bathroom had cockroaches in the walls also. I  
7 -- John Sims started spraying insecticide. I sprayed anything  
8 and I requested Harris Pest to come out, pleaded with them to  
9 come out as soon as they could.

10 Q: I'm going to show you Exhibit 179, Dr. Sarb.

11 Dr. Sarb, can you describe for me what Exhibit 179 is?

12 A: It's a service history report from Harris Pest Control  
13 starting from August 29th through April 1st, 2020. Their  
14 initial visit was 105. They typically treat every three  
15 months. However, they were coming out every four to six weeks  
16 because I was seeing active pests in between their normal  
17 routine treatments.

18 Q: Okay. Does that service history report fairly and  
19 accurately document the expenses you incurred to treat the  
20 cockroach infestation that you described.

21 A: This is the first time. I was trying to get at least  
22 some control of the infestation. I continue to have Harris  
23 Pest Control treat the house regularly.

24 Q: Okay. And so, was the initial treatment August 29, 2019?

25 A: Yes.

1 Q: How frequently did they come out after that?

2 A: They came out every six weeks for a long time. Right  
3 now, they're coming out as every three months. Sometimes a  
4 little more often.

5 Q: Okay. But as far as this lawsuit, are these charges that  
6 have been identified in Exhibit 179 the ones that you're  
7 asking the jury to compensate you for?

8 A: Yes, yes.

9 Q: Anything after that, are you not claiming for this ---

10 A: Correct.

11 MR. GROTE: Your Honor, at this time, I would move to  
12 admit Exhibit 179 into evidence.

13 THE COURT: Any objection?

14 MR. LOVE: No objection.

15 THE COURT: All right. 179 is into evidence.

16 PLAINTIFF'S EXHIBIT NUMBER 179

17 ADMITTED INTO EVIDENCE

18 BY MR. GROTE:

19 Q: So, were any pest infestations disclosed by the  
20 defendants in the disclosure statement?

21 A: No.

22 Q: Did any of your inspections that you had performed reveal  
23 any, you know, severe cockroach infestation?

24 A: No. They were in the walls.

25 Q: Okay. Did you have any knowledge or notice of any

1 problems with a severe cockroach infestation before you bought  
2 the property?

3 A: No.

4 Q: In addition to having these cockroaches in the walls, did  
5 you -- shortly after you moved in, did you start to notice any  
6 other, I guess, issues with cockroaches just present in the  
7 house?

8 A: Not sure what the question was; I'm sorry.

9 Q: Well, when you moved in, were you seeing a lot of  
10 cockroaches?

11 A: Yes. I was seeing probably about 20 roaches a day. I  
12 was trying to treat them just with like the foggers. I put  
13 them in the basement, in the attic, in the house, and leave  
14 for about -- take my dog and leave for about four hours until  
15 we took down the walls and saw the severe infestation.

16 Q: Okay. Did you have some other issues with this house  
17 with you're not asserting as part of this lawsuit that weren't  
18 disclosed to you?

19 A: Yes.

20 MR. LOVE: Objection, Your Honor. If they're not  
21 inserted into this lawsuit, why are we talking about them?

22 MR. GROTE: We're talking about them because these are  
23 things -- also other things that were not disclosed, and it  
24 shows a pattern of nondisclosure that's not an innocent  
25 mistake, that there's other instances that where it happened,

1 and also the reasonableness of the claim.

2 BY THE COURT:

3 THE COURT: All right. Ladies and gentlemen,  
4 unfortunately, we're gonna have to take up a matter of law  
5 outside of your presence. So, if you'll take a brief recess,  
6 we'll have you right back out as soon as we're ready.

7 Thank you so much. Please don't discuss this case.

8 (REPORTER'S NOTE: Jury exits courtroom @ 3:43 p.m. The  
9 following takes place outside the presence of the jury.)

10 THE COURT: All right. I don't know how else to rule on  
11 this matter without hearing what might be testified to outside  
12 the presence of the jury. So, I don't know what the events  
13 are that you're talking about, so I guess what we should do is  
14 proffer the testimony or either hear from counsel if you don't  
15 think that's what we need to do.

16 MR. GROTE: Your Honor, if it would be appropriate, I  
17 could kind of explain the relevance of it and how it ties into  
18 the case, and certainly if we need to proffer that, too. But,  
19 here's the situation, and it relates to our claims and the  
20 defenses in this case. I think you're gonna hear from Mr.  
21 Love that he's gonna claim a lot of things that Dr. Sarb  
22 should've taken -- these things were in the disclosure -- or  
23 excuse me, these things were in the inspection report, she had  
24 notice of them, she had knowledge of them. Some of these  
25 things are like they're claiming she had notice of the water

1 problem, that type of thing. And so, therefore, she had  
2 notice of knowledge, she can't recover. But, there are  
3 circumstances where there are things that were not disclosed  
4 in the disclosure statement that were noted in the inspection  
5 reports like, for example, a roof leak. She had problems with  
6 the roof leaks afterwards. And it just ties into the fact  
7 that it was not disclosed, but she's taken responsibility for  
8 those things that were in fact disclosed -- or, excuse me,  
9 noted in the inspection reports. It goes -- it's relevant to  
10 their actual claim or their defenses as well -- excuse me.  
11 So, ultimately, one, it's relevant to the issue of whether the  
12 -- I'm sorry -- I'm having a ---

13 THE COURT: You all right?

14 MR. GROTE: I'm sorry. I'm just having a headache.

15 So, there's several issues in this case. Number one, you  
16 know, it goes to whether the -- she had reasonable inspections  
17 as part of the case. And two, -- I'm sorry; I'm not feeling  
18 well, Your Honor.

19 THE COURT: Have a seat.

20 All right. Let's take a break and see what we need to  
21 do.

22 **RECESS - 3:49 P.M.**

23 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

24 **ON THE RECORD - 4:11 P.M.**

25 THE COURT: So, I understand we're electing to retire for

1 the day?

2 MS. GIOVANOLI: That's correct.

3 THE COURT: Okay. Now, so, just for the record, during  
4 an argument for a matter of law, Mr. Grote had some sort of  
5 episode, and it seems that it's best for everybody if we take  
6 the rest of the day off.

7 The jury has been out. They don't know anything about  
8 this, so how do we propose to -- do we want to bring them back  
9 in, tell them goodbye for the day or ---

10 MR. LOVE: Your Honor, I would -- do you have to bring  
11 them back in here to speak with them?

12 THE COURT: No, I mean, I think under the circumstances  
13 ---

14 MR. LOVE: I would agree to you telling them that the  
15 matter of law is taking longer than expected, and you want to  
16 go ahead and release them for the day, so you don't waste  
17 their time.

18 THE COURT: Okay. And, I mean, I just always wonder  
19 whether it should be me that goes back there and talks to  
20 them, or we let the clerk of court do that.

21 MR. LOVE: That's fine. It doesn't matter to me who does  
22 it. I think that's probably the best excuse.

23 THE COURT: All right.

24 MS. GIOVANOLI: I agree.

25 THE COURT: So, Madame Clerk, if you'll just go let the

1 jury know that we're still dealing with this issue, and to  
2 please do not discuss this case and be back at 9:15 in the  
3 morning.

4 THE CLERK: Yes, sir.

5 THE COURT: Thank you.

6 Is that satisfactory to everybody?

7 MR. LOVE: No objection.

8 MS. GIOVANOLI: No objection.

9 THE COURT: All right. Well, we'll be at recess until  
10 then unless there's anything anybody needs to bring up, and  
11 hope you feel better, and see you back in the morning,  
12 hopefully.

13 All right?

14 MR. LOVE: I will have problems remembering where we  
15 were. I believe we ---

16 MS. GIOVANOLI: We were fighting about whether or not the  
17 roof leaks come in.

18 MR. LOVE: Yeah. Issues that weren't gonna be claimed  
19 coming in.

20 MS. GIOVANOLI: Uh-huh, (affirmative response).

21 MR. LOVE: That's where we'll pick up tomorrow.

22 MS. GIOVANOLI: We still have the matter of law.

23 THE COURT: Yeah, I've forgotten all about that.

24 MR. LOVE: So, we'll do that.

25 THE COURT: All right. And we -- and I think there -- I

1 mean, we were in the mid argument, right?

2 MR. LOVE: Yes, sir.

3 THE COURT: Okay. So, we'll bring that back up in the  
4 morning. Do we mind being here at 9:00 and see if we can hash  
5 that out before 9:30.

6 MR. LOVE: That's fine with me, Your Honor.

7 THE COURT: Is that all right with you?

8 MR. LOVE: Just us, not the jury, though. They're coming  
9 back around 9:30.

10 THE COURT: Right.

11 All right. Well, I wish everybody has a good evening,  
12 and I will see you in the morning. Okay?

13 MS. GIOVANOLI: Thank you.

14 MR. LOVE: You, too, Your Honor. Thank you.

15 **RECESS - 4:15 P.M. - END OF DAY TWO**

16 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

17 **SEPTEMBER 13, 2023 - DAY THREE**

18 **ON THE RECORD - 9:15 A.M.**

19 THE COURT: So, we're talking about other instances that  
20 you're not seeking damages on that, but that you are claiming  
21 that they were not disclosed; is that right?

22 MR. GROTE: Yes, Your Honor. That's the evidence we  
23 intend to present.

24 THE COURT: All right. And what evidence is it?

25 MR. GROTE: Okay. There's evidence that she had roof

1 leaks shortly after she purchased the property, and she had  
2 the roof replaced; there were a few plumbing leaks; and that  
3 there were issues with the ductwork, and she had the ductwork  
4 replaced. None of those were disclosed. And, Your Honor, if  
5 I -- at the appropriate time, I'd like to make my argument as  
6 to the relevance of that to this case.

7 THE COURT: Well, if you're ready, I'll hear from you.

8 MR. GROTE: Okay. So, relevance is a broad concept and  
9 it's broad under the rules. You know, it just have to have a  
10 tendency to prove or make it more or less probable an issue  
11 involved in the case. So, there's several reasons why it's  
12 relevant in this case. Number one, our claim is not only the  
13 claim under the Residential Property Condition Disclosure Act,  
14 we have several other causes of action including fraud. One  
15 of the elements of fraud is an intent to deceive. This is  
16 evidence of an intent to deceive. As a whole, under the  
17 disclosure statement, if there's several instances of  
18 nondisclosure, it shows a pattern of nondisclosure, which is  
19 an intent to deceive as a whole.

20 Number two, we have to establish under the act that they  
21 knowingly failed to disclose. And again, that's an issue of  
22 was this a knowing nondisclosure or not. The fact that there  
23 are other instances of things not being disclosed or a pattern  
24 of conduct that shows that this was a knowing nondisclosure  
25 rather than, you know, some instance where they didn't know

1 that there was a problem, it was just simply something small  
2 enough that they didn't think they had to disclose. The fact  
3 that they disclosed or didn't disclose other issues, again, is  
4 -- goes to whether it's more or less probable that it was a  
5 knowing nondisclosure.

6 Number three, they're going to point or try to paint Dr.  
7 Sarb as, you know, essentially over sensitive or unreasonable.  
8 Even in their pretrial brief, they raised the reasonableness  
9 and necessity of her damages as one of the issues in the case.  
10 So, this goes to her reasonableness, and it goes to one of the  
11 issues that they've raised especially in their pretrial brief  
12 and that they'll probably raise in this case.

13 Number four, they've asserted counterclaims in this case.  
14 One of those counterclaims is for breach of contract for  
15 failing to inspect. So, we need to prove that she has in fact  
16 inspected the property and did so in a diligent manner. And  
17 these inspections and this information shows that -- look,  
18 they didn't disclose it, but these inspections did reveal some  
19 of the problems that they didn't disclose but not all of them  
20 and it goes to whether, as a defense to their counterclaim,  
21 and information just generally tending to show that she did in  
22 fact inspect. We also have a counterclaim for breach of  
23 contract and it's a breach of the covenant of good faith and  
24 fair dealing under the contract essentially based on an  
25 alleged lack of disclosure, or -- excuse me -- an alleged

1 failure to inspect. And again, that interjects the issue of  
2 reasonableness of the plaintiff, and this is evidence that she  
3 did act reasonably and it is necessary.

4 THE COURT: All right. Thank you.

5 Mr. Love?

6 MR. LOVE: Your Honor, this does not establish a pattern  
7 of conduct if their argument is under Rule 608, evidence of  
8 character, conduct, and bias of a witness. Your Honor, this  
9 is one instance. We're talking about initial disclosures that  
10 were filled out on one date. It does not create a pattern of  
11 conduct. So, the argument that this pattern developed of  
12 lying or deceiving or whatever his argument is, it simply is  
13 not accurate under the rule.

14 Second, Your Honor, the question posed to the witness  
15 was, now, there are certain damages that happened that you're  
16 not claiming in this lawsuit. That screams of a relevance  
17 issue. It can't be more irrelevant than there are other  
18 damages that you are not claiming in this lawsuit, Your Honor.  
19 Relevance, yes. It is a broad task but it is -- in fact,  
20 let's just look at the rule.

21 What's relevance? 304?

22 Relevance, 401. Relevant evidence means evidence having  
23 any tendency to make the existence of a fact that is a  
24 consequence to the determination of the action more probable  
25 or less probable than it would be without the evidence. Your

1 Honor, the fact that is presented by this evidence is a roof  
2 leak. If we're not claiming the roof leak as damages, then  
3 why are we proving that there is a roof leak. We don't need  
4 evidence of a roof leak. We've got evidence. They've put  
5 evidence out there that all these other issues have occurred.  
6 The roof leak, we're not claiming. Why do we need evidence of  
7 it? It's irrelevant under the rule, Your Honor.

8 THE COURT: All right.

9 Mr. Grote, anything in follow up?

10 MR. GROTE: Yes, Your Honor. As far as the pattern of  
11 conduct, it's not a pattern of conduct over a series of time;  
12 it just shows the course of their -- excuse me -- that they  
13 just filled out the disclosure statement in a way that there  
14 was a series of misstatements in there, and it wasn't just one  
15 innocent mistake on this one issue or these two issues that  
16 we're dealing with. It was a pattern throughout the whole  
17 thing, and that has -- that is clear evidence and it's clearly  
18 relevant to whether they intended to deceive her with this  
19 disclosure statement. I don't think that -- and the court  
20 record will reflect what the question was, but I don't recall  
21 the question being are you alleging damages as a result of --  
22 or do you have damages as a result of things that you're not  
23 claiming in this case. I think the question was, did you have  
24 other problems with the house that you're not claiming, and  
25 she's gonna explain why she's not going to claim them.

1 THE COURT: All right.

2 Anything further, Mr. Love?

3 MR. LOVE: No, Your Honor.

4 THE COURT: All right. We'll take a short recess. I'll  
5 let you know how we're gonna handle this. And we'll be right  
6 back out. And otherwise, are we ready to start back with the  
7 jury?

8 MR. GROTE: Yes, Your Honor. I believe so.

9 THE COURT: All right. Okay.

10 All right. I'll be right back to let you know.

11 MR. LOVE: All right. Thank you, Your Honor.

12 **RECESS - 9:22 A.M.**

13 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

14 **ON THE RECORD - 9:36 A.M.**

15 THE COURT: I've given this some consideration. It's  
16 troubling that -- my biggest issue with this evidence is that  
17 how do we then ensure that the jury doesn't consider it in  
18 awarding damages. You know, we're gonna have some evidence in  
19 the record of issues from an alleged nondisclosure that  
20 certainly the jury could infer that damages were created by or  
21 as a result of, and I -- and you're not claiming them. So, I  
22 mean, to me that's a huge source of potential confusion. And  
23 I understand you're relevant argument, and I'm not going to  
24 make a ruling that it's not relevant to at least some issues  
25 that are part of this case or potentially relevant to some

1 issues that are contained in some of the causes of action or  
2 some of the counterclaims in this matter. But when  
3 considering it as a whole and whether or not it's more  
4 probative than prejudicial, and it could somewhat be  
5 cumulative, I think that there is a danger for misleading the  
6 jury. And, you know, the only way that I could think to let  
7 it in would then be to give the jury some sort of curative  
8 instruction or some sort of instruction that they couldn't  
9 consider it during damages, even highlights it more that maybe  
10 she has incurred some damages, or maybe even the testimony  
11 will say that she replaced the roof. And I think if that's  
12 not gonna be sought as damages, then it's gonna confuse the  
13 jury, and I think it's more prejudicial than probative. And  
14 as a result, even though it might be relative or relevant to  
15 some issues, I'm gonna exclude it under 403. All right?

16 MR. LOVE: Thank you, Your Honor.

17 THE COURT: All right.

18 MR. GROTE: Thank you, Your Honor.

19 THE COURT: All right. Are we ready to go?

20 MR. GROTE: Yes, Your Honor.

21 THE COURT: Dr. Sarb, you want to take your position?

22 DR. SARB: Yes, sir. I'm not understanding that fully,  
23 but I guess I'll ---

24 THE COURT: All right.

25 All right. Can we have the jury, please?

1 THE BAILIFF: Yes, sir.

2 (REPORTER'S NOTE: Jury enters courtroom @ 9:40 a.m.)

3 THE COURT: All right. Good morning, ladies and  
4 gentlemen. Thank you for being back here on time.

5 We're now gonna recognize Mr. Grote.

6 Thank you.

7 CONTINUATION OF DIRECT EXAMINATION OF BARBARA SARB BY MR.

8 GROTE:

9 Q: Good morning, Dr. Sarb.

10 A: Good morning.

11 Q: I think I just have a few more questions for you,  
12 hopefully quick. Okay?

13 A: Yes.

14 Q: We talked about yesterday you were claiming some mileage  
15 expenses, correct?

16 A: Yes.

17 Q: During the period of time that you described yesterday  
18 that you were commuting back and forth between Myrtle Beach  
19 and Florence, how many days a week were you driving back and  
20 forth?

21 A: I drove back from Myrtle Beach on Sunday night, would  
22 take care of the basement, and then I stayed here from -- I  
23 worked on Monday through Friday, took care of the basement,  
24 and drove to Myrtle Beach; so, five days a week.

25 Q: Okay. Thank you.

1 And we've previously marked as Exhibit 182 a document.

2 I'll show you what we've marked as Exhibit 182.

3 Dr. Sarb, if you'll take a look at that for me. And when  
4 you've had a chance to look at it, let me know and I have a  
5 couple of questions for you. Okay?

6 A: Yes.

7 Q: Have you had a chance to look at that?

8 A: Yes.

9 Q: Okay. Now, throughout the course of your testimony, you  
10 testified as to a lot of expenses that you're -- expenses that  
11 you're claiming in this case.

12 A: Yes.

13 Q: Okay. Does Plaintiff's Exhibit 182 fairly and accurately  
14 summarize those expenses?

15 A: Yes.

16 MR. GROTE: Your Honor, at this time, I would move to  
17 admit Exhibit 182 into evidence.

18 THE COURT: All right. Subject to ---

19 MR. LOVE: Court's indulgence, Your Honor.

20 THE COURT: All right.

21 MR. LOVE: Your Honor, we would renew our objections to  
22 the admission of this summary under Rule 1006 of the South  
23 Carolina Rules of Evidence. I understand the Court has made  
24 its ruling. Objection is noted on the record.

25 THE COURT: All right. Thank you, sir.

1 MR. LOVE: Yes, sir.

2 THE COURT: 182 is into evidence.

3 PLAINTIFF'S EXHIBIT NUMBER 182

4 ADMITTED INTO EVIDENCE

5 THE COURT: Mr. Grote?

6 MR. GROTE: I beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 MR. GROTE: Your Honor, no further questions for the  
9 witness.

10 THE COURT: All right. Thank you.

11 Mr. Love?

12 MR. LOVE: Thank you, Your Honor.

13 CROSS-EXAMINATION OF BARBARA SARB BY MR. LOVE:

14 Q: Dr. Sarb, in opening, your attorney suggested that when  
15 you bought 550 Wisteria, you finally decided to take the  
16 plunge; is that correct?

17 A: Excuse me? Can you repeat that?

18 Q: Sure can. In her opening statement, your attorney said  
19 that when you bought 550 Wisteria Drive in Florence, South  
20 Carolina, you decided to take the plunge; is that correct?

21 A: I was looking for homes from February through when I  
22 found this house. So, I was in the market to purchase a house  
23 and get out of my one-bedroom apartment.

24 Q: In her opening, your attorney said that when you bought  
25 550 Wisteria Drive, you decided to take the plunge; isn't that

1 correct?

2 A: I don't know what you're -- you mean by that. Yes, I  
3 decided to purchase Wisteria Drive.

4 Q: But it wasn't the first home that you had purchased, was  
5 it?

6 A: I've purchased homes -- I had a house in Myrtle Beach,  
7 yes.

8 Q: You bought a property on Cashua Drive in Florence, did  
9 you not?

10 MR. GROTE: Objection to relevance, Your Honor.

11 THE COURT: All right. There's an objection to  
12 relevance. In the city of Florence, did you mean?

13 MR. LOVE: Yes.

14 THE COURT: All right. I'll allow it. Go ahead.

15 BY MR. LOVE:

16 Q: You previously bought a property on Cashua Drive in  
17 Florence, did you not?

18 A: Yes.

19 Q: And you sold it the very next -- the very same day, I  
20 believe; isn't that correct?

21 A: Yes.

22 Q: So, 550 Wisteria Drive is not the first property that you  
23 bought in Florence. You decided you didn't want the Cashua  
24 property, and you wanted to move onto the Wisteria property,  
25 correct?

1 A: Correct.

2 Q: You previously testified that with the exception of four  
3 days, the basement at 550 Wisteria Drive was flooded from  
4 December 13th, 2019, until November of 2020; isn't that  
5 correct?

6 A: Intermittently, it was. It was never completely dry.  
7 There were areas where it was damp around the center or ---

8 Q: Can you answer my question, Dr. Sarb? You previously  
9 testified that with the exception of four days this basement  
10 was flooded from December 2019 until November 2020; isn't that  
11 correct?

12 A: It -- there was water in the basement.

13 Q: And there was three to four inches of water in that  
14 basement during those 11 months other than those four days;  
15 isn't that correct?

16 A: There was water in the basement, correct.

17 Q: Your previous testimony was that three to four inches of  
18 water in that basement during those 11 months; isn't that  
19 correct?

20 MR. GROTE: Your Honor, objection. What previous  
21 testimony are we talking about here?

22 THE COURT: I recall previous testimony from this trial,  
23 so I'm gonna allow the line of questioning.

24 MR. LOVE: Your Honor, will you open this deposition,  
25 please, sir?

1 A: In the center of the back basement, there was often --  
2 the basement had different -- it was not a flat floor. So,  
3 yes, there were areas that had three, when it got to the very  
4 end, it may've been a half-inch. It's not a flat basement  
5 like this countertop. So, there were all different varying  
6 amounts.

7 MR. LOVE: Thank you, Your Honor.

8 THE COURT: All right. Ladies and gentlemen, let me  
9 explain something to you. In this case, there has obviously  
10 been prior depositions taken. What a deposition is is a sworn  
11 statement where some witnesses have been examined under oath  
12 with a court reporter. And this is the original deposition of  
13 Dr. Sarb in this matter, where she gave testimony under oath  
14 where there was a court reporter. And just to explain to you  
15 what this document is. Okay?

16 Thank you very much.

17 A: Such as in the video, you could hear me flapping my foot  
18 ---

19 BY MR. LOVE:

20 Q: Dr. Sarb, I'm sorry. I don't mean to be rude, but this  
21 isn't a free-for-all where you just get to talk and tell your  
22 story like you want to. You've had that opportunity for two-  
23 and-a-half days now. I get to ask you questions that you have  
24 to answer. Okay? I don't mean to be flippant, I don't mean  
25 to be rude, but I get to ask you questions. Okay?

1 Dr. Sarb, I want you to turn in your deposition to Page  
2 109. Do you remember giving this deposition?

3 A: Yes.

4 Q: You remember you were at my office?

5 A: Yes.

6 Q: I believe it was given on June 21st, 2022, over, what,  
7 half a year ago, at least?

8 A: Yeah. So, it was over five hours.

9 Q: Can you look at now Page 109? Let me know when you get  
10 there.

11 A: Yes. Yes.

12 Q: All right. Do you see where it says at the top, I had  
13 almost continuous flooding from December 13th or 14th, pretty  
14 much till the French drains were installed in November.

15 A: Yes.

16 Q: Line 8, question, At all times? So, you're saying during  
17 that time period? You said, It was constant. During that  
18 time period there were three or four days where you didn't  
19 have flooding? You said, Correct. Is that right?

20 A: Yes.

21 Q: But we know that that's not accurate, right? We know  
22 now.

23 A: Water is flooding to me.

24 Q: But we've sat through dozens, if not hundreds, of  
25 photographs that show that there wasn't three to four inches

1 of water, and that it wasn't constant for 11 months, right?

2 We've seen those photos, correct?

3 A: Correct. There's water in the basement.

4 Q: Okay. Plaintiff's Exhibit 1; let's take a look at that.

5 You presented this on the screens to the jurors ---

6 A: Yes.

7 Q: --- as the listing for 550 Wisteria; is that correct?

8 A: Yes.

9 Q: That's not actually the listing, though, is it, Dr. Sarb?

10 A: I pulled up online and that was what was on online in

11 addition to pictures of the rooms.

12 Q: In addition to pictures of the rooms.

13 A: Except for the mancave; it was not on there.

14 Q: So, at the top of this, this says public report, does it  
15 not?

16 A: Yes.

17 Q: And it indicates that the house was sold, does it not?

18 A: I don't know where you're saying.

19 Q: Status ---

20 A: Sold.

21 Q: Sold.

22 A: Yes.

23 Q: So, that's the report that the house was sold, right?

24 It's not a listing agreement, correct? Or excuse me, the

25 listing, correct?

1 A: It was -- I don't know what you mean.

2 Q: I'm going to show you what's been marked as Defendant's  
3 Exhibit 1.

4 A: Yes.

5 Q: That's the listing, is it not, Dr. Sarb?

6 A: Yes.

7 Q: And as you ---

8 A: Why -- I'm not sure.

9 Q: And as you pointed out just a moment ago that you  
10 continued answering, there are pictures attached to the  
11 listing, are there not?

12 A: Yes.

13 Q: And those are pictures of 550 Wisteria, correct?

14 A: Yes.

15 Q: But your Exhibit 1 doesn't have the pictures attached,  
16 does it?

17 A: Correct.

18 MR. LOVE: Your Honor, permission to -- excuse me -- Your  
19 Honor, we would tender Defendant's Exhibit 1 into evidence.

20 THE COURT: All right. Is there any objection?

21 MR. GROTE: No objection, Your Honor.

22 THE COURT: All right. Defense 1 is into evidence.

23 DEFENDANT'S EXHIBIT NUMBER 1

24 ADMITTED INTO EVIDENCE

25 BY MR. LOVE:

1 Q: Let's take a look at Defendant's Exhibit 1. Let's look  
2 at those pictures.

3 A: Yes. It says ---

4 MR. LOVE: Court's indulgence. We are working on the  
5 technology. As you can see, we're not the technology side, so  
6 we'll get it.

7 THE COURT: All right. All right.

8 BY MR. LOVE:

9 Q: Dr. Sarb, as you view these pictures, my question is  
10 going to be whether these pictures accurately depict the house  
11 the day it was listed on June 13th, 2019, and the day of your  
12 first visit, June 14th, 2019?

13 A: Yes, it does, as it's described in the remarks.

14 Q: Yes, it does what?

15 A: As it's described in the remarks, formal living room,  
16 dining room, plus den, multilevel decking back, tons of rooms,  
17 with small mancave in the lower level, which was not pictured.

18 Q: You said that twice now, Dr. Sarb, that the mancave  
19 wasn't pictured.

20 A: Correct.

21 Q: Okay. Who prepared this listing? Do you know?

22 A: No, I don't. I suppose it was Adam Crosson, the realtor  
23 but I don't know.

24 Q: Adam Crosson prepared this listing for RE/MAX, didn't he?

25 A: I'm not sure. I'm sure the Phillips had some input into

1 it, but I don't know.

2 Q: All right. There's more. Keep going down. Just a  
3 couple more.

4 This is a house that the Phillips had lived in for almost  
5 a decade; isn't that correct, Dr. Sarb?

6 A: Yes.

7 Q: The first time that you went into 550 Wisteria was on  
8 June the 14th, 2019 at 1:30 p.m.; is that correct?

9 A: Yes.

10 Q: You went into the basement that day, did you not?

11 A: Yes.

12 Q: Was the basement ratchet?

13 A: No.

14 Q: In the basement, you saw that there was a big screen TV?

15 A: Yes.

16 Q: A refrigerator?

17 A: Yes.

18 Q: A couch?

19 A: Yes.

20 Q: A weight bench?

21 A: Yes.

22 Q: An ottoman?

23 A: Pardon me?

24 Q: An ottoman?

25 A: I don't know.

- 1 Q: Okay. TV was on an entertainment center?
- 2 A: I remember them having a TV.
- 3 Q: There was a rug?
- 4 A: I don't remember.
- 5 Q: That was just in the front room, correct?
- 6 A: Yes.
- 7 Q: In the back room, there was a weight bench?
- 8 A: Possibly.
- 9 Q: That's where the fridge was?
- 10 A: Yes. There was a big old fridge.
- 11 Q: Yard tools.
- 12 A: Possibly, yes.
- 13 Q: A bucket of yard toys that the kids played with?
- 14 A: I don't remember.
- 15 Q: When you went into the basement, on June the 14th, 2019,
- 16 it was your testimony that you did not see any flooding in the
- 17 basement?
- 18 A: Correct.
- 19 Q: You didn't see the walls seeping?
- 20 A: Correct.
- 21 Q: You didn't see the walls peeing?
- 22 A: Correct.
- 23 Q: For lack of a better term.
- 24 A: Correct.
- 25 Q: You understand what I'm referencing when I say that,

1 correct?

2 A: Correct.

3 Q: We didn't see any wet stains on the concrete evidencing  
4 water, correct?

5 A: Correct.

6 Q: You didn't notice any mold in the basement?

7 A: Correct.

8 Q: No mildew in the basement?

9 A: Correct.

10 Q: Sump pump wasn't running?

11 A: No.

12 Q: You knew what a sump pump was, right?

13 A: Yes.

14 Q: In fact, you had dealt with one, I think you said that  
15 your in-laws had one at their cottage; is that right?

16 A: Correct.

17 Q: When you were going through the house, did you see any  
18 sewer backup?

19 A: No, but I didn't use the bathrooms.

20 Q: Did you hear the toilets gurgling as you went in the  
21 bathrooms?

22 A: No.

23 Q: Did you see any roaches running around?

24 A: No.

25 Q: Did you see any cracks all in the walls and in the

1 ceiling?

2 A: I think there was just a minor, you know, one in maybe  
3 one room, but it's a older house, but I didn't notice  
4 anything.

5 Q: It was an older house, wasn't it? How old?

6 A: I think it was 60 years old.

7 Q: Sixty years old this house was when you were looking at  
8 it?

9 A: Yes.

10 Q: After looking at it one time -- you had looked at 30  
11 properties over a course of, I think you just testified, four  
12 months, looking at it one time, that very day you put an offer  
13 on the house; is that correct?

14 A: Yes.

15 Q: When you put that offer on the house, had you seen the  
16 initial disclosures?

17 A: No.

18 Q: When you signed this contract, Exhibit 2, had you seen  
19 the initial disclosures?

20 A: Pardon me?

21 Q: When you signed this contract, Plaintiff's Exhibit 2, the  
22 contract for the purchase of real estate, this entire case,  
23 had you seen the initial disclosures?

24 A: The initial offer?

25 Q: I'm gonna show you what's been previously marked as

1 Plaintiff's Exhibit 2. If you could read the top and tell the  
2 jury what that exhibit is.

3 A: On the initial offer, no, I do not. But we had a verbal  
4 that there was going to be nothing disclosed, and I don't  
5 remember exactly when that was.

6 Q: Exhibit 2, please.

7 Dr. Sarb, I'm gonna show you something that we use under  
8 the South Carolina Rules of Civil Procedure called a Request  
9 to Admit. These were sent to your attorney for answering by  
10 your attorney. All right?

11 A: Uh-huh, (affirmative response).

12 Q: I am going to show you the Request to Admit and the  
13 responses to those Request to Admit. I want you to read  
14 Number 5 and read the response.

15 A: Please admit that the plaintiff had no knowledge of and  
16 did not rely upon any statements contained in disclosure  
17 statement when she signed the contract.

18 Q: Response?

19 A: Admitted. I don't know where that came from.

20 MR. GROTE: Judge, may we take up a matter of law,  
21 please?

22 BY THE COURT:

23 THE COURT: All right. Ladies and gentlemen, I'm gonna  
24 have to ask you to step to your jury room for just a moment.  
25 We'll have you right back out.

1           Thank you so much for your patience. Please don't  
2 discuss this case.

3 (REPORTER'S NOTE: Jury exits courtroom @ 10:02 a.m. The  
4 following takes place outside the presence of the jury.)

5           THE COURT: All right. Mr. Grote?

6           MR. GROTE: Your Honor, the objection is this. There was  
7 an initial complaint filed in this matter, and there was a  
8 misstatement in that complaint. We moved to amend the  
9 complaint, and that was granted. And under the rules, the  
10 amended complaint supersedes the original complaint. This is  
11 unduly prejudicial to go back into some allegations in the  
12 original complaint that has been superseded. The error was  
13 corrected in the complaint. We have filed an amended  
14 complaint and corrected the error. To go back and allege,  
15 Your Honor, that there was an allegation in the original  
16 complaint that was incorrect -- excuse me -- is simply highly  
17 prejudicial and it's not relevant, and it's been superseded by  
18 the amended complaint. So, you can't go back and say this is  
19 the allegation in the complaint. It's been superseded. It's  
20 null and void. It's not out there anymore.

21           THE COURT: Well, let me just, before I hear any further  
22 argument, let me ask you if I understand this correctly is  
23 this is something that's been admitted by the plaintiff. I'm  
24 not sure what it has to do -- how does it not relate to the  
25 issues that were before -- that are before the Court?

1 MR. GROTE: Because this is dealing with whether  
2 allegations in the complaint as alleged were false originally,  
3 but we amended the complaint, so the complaint has been  
4 superseded. In the actual complaint that is -- you know, the  
5 operative complaint at this point doesn't contain that  
6 allegation. So, this is going back to whether we admit  
7 something, you know, was incorrect in the original complaint?

8 THE COURT: Well, tell me what the allegation is. The  
9 only thing I can assume the allegation would be at this point  
10 in time is that your case is based on the nondisclosure.

11 MR. GROTE: The allegation in the original complaint said  
12 that she had it prior to the time of signing the contract, and  
13 she relied upon it, which was an incorrect statement in the  
14 complaint. When it was discovered, we subsequently  
15 immediately moved to amend the complaint. That request was  
16 granted, that statement was taken out of the complaint, and  
17 these requests to admit relate to that original complaint and  
18 -- that statement in the original complaint. She's already  
19 testified that she didn't have it at the time of the contract.  
20 This is just unduly prejudicial to go into the allegations of  
21 a prior complaint that are superseded.

22 THE COURT: All right. Mr. Love?

23 MR. LOVE: Sure, Your Honor. I handed up the actual  
24 request to admit. What Eli is arguing is actually Request to  
25 Admit Number 4, where they admitted that the allegations that

1 were pled were false in the complaint.

2 Number 5 is the one that was asked, which is that she had  
3 no knowledge of and did not rely upon the statements contained  
4 in the disclosure statement when signing the contract, excuse  
5 me. That is the pivotal issue in this case.

6 MR. GROTE: Your Honor, I don't have an objection to that  
7 one. I just have an objection to the entirety of the context.  
8 I don't know where he's going with this line of questioning.  
9 If that's the one he's gonna ask her about, I don't have an  
10 objection to that one.

11 THE COURT: All right.

12 MR. GROTE: I mean, if he's gonna admit this as an  
13 exhibit and it goes back to the jury, then I think that's  
14 another issue.

15 THE COURT: Well, we haven't gotten there. We certainly  
16 haven't gotten there. I don't know if I -- I don't know that  
17 this is admissible; I haven't even considered that. We're not  
18 there.

19 MR. LOVE: I can ease the tensions. I do not plan on  
20 admitting this into evidence. I do not plan on asking any  
21 other questions from this document than about that one request  
22 to admit, Number 5.

23 MR. GROTE: I just didn't know if we were gonna get into  
24 that preemptively.

25 THE COURT: All right.

1 MR. GROTE: Because once that's out, I think that -- it's  
2 hard to take that back.

3 THE COURT: Please keep in consideration, you know, I  
4 think I did hear a motion on this case, but I haven't been  
5 involved with this case as long as y'all have, so it's hard  
6 for me to understand sometimes when we're talking about  
7 amended complaints and all that sort of stuff. So, please  
8 just let me know what it is we're talking about because it  
9 certainly seemed to be relevant to me. Okay?

10 MR. GROTE: Yes, Your Honor, I'll withdraw my objection  
11 to the extent that he's agreed not to go into the stuff about  
12 the amended complaint or the original complaint and the  
13 allegations therein.

14 THE COURT: Okay. All right. Can we see if the jury is  
15 ready. Or do we need a break in here?

16 (REPORTER'S NOTE: Jury enters courtroom @ 10:08 a.m.)

17 THE COURT: Mr. Love?

18 MR. LOVE: Thank you, Your Honor.

19 CONTINUATION OF CROSS EXAINATION OF BARBARA SARB BY MR. LOVE:

20 Q: Dr. Sarb, before the jury was sent out of the room, you  
21 were reading Request to Admit Number 5. Please admit that  
22 Plaintiff had no knowledge of and did not rely upon any  
23 statements contained in the disclosure statement when the --  
24 when she signed the contract. Admitted. Is that accurate?

25 THE COURT: Ms. Sarb?

1 A: I had verbal knowledge, but I did not have a written  
2 disclosure when I signed a contract.

3 Q: I'm gonna get you to read Number 5, so that I'm not  
4 putting words in your mouth.

5 A: Please admit that Plaintiff had no knowledge of and did  
6 not rely upon statements contained in disclosure statement  
7 when signed contract. Admitted.

8 Q: No knowledge of and did not rely upon?

9 A: (No audible response.)

10 Q: Back to Exhibit 2, the contract. This is a contract for  
11 the purchase and sale of real estate; is it not?

12 A: Yes.

13 Q: And that contract is signed by you; is it not?

14 A: Yes.

15 Q: And it is signed June the 14th, 2019, the day you first  
16 visited the house; is that correct?

17 A: Yes.

18 Q: Thank you. Now ---

19 A: Let me look at the date it is signed, please.

20 Q: Ma'am?

21 THE COURT: Hang on one second. Just give her an  
22 opportunity to ---

23 MR. LOVE: Sure.

24 A: It's signed June 14th, with the original price, and it  
25 was crossed out with the highest and best price. I can't

1 remember when that was because it went back and forth. So, I  
2 don't know if it was the 14th or the 15th, because the  
3 Phillips put the 15th, so it may've been on the 15th.

4 BY MR. LOVE:

5 Q: Okay.

6 A: It's fuzzy.

7 Q: I appreciate that clarification.

8 There was a competing offer on this house, was there not?

9 A: Yes.

10 Q: And so, when you testified under direct examination that  
11 you paid more than the asking price for this house, that  
12 wasn't because the Phillips were greedy and asking for more,  
13 that's because you were competing against someone; is that  
14 right?

15 A: Yes.

16 Q: You were in the house, I believe you testified, again the  
17 following day, which would've been June the 15th, correct?

18 A: The 15th or the 16th; I can't remember.

19 Q: But I think that you testified that you went in the very  
20 next day because you were so excited about getting the house.

21 It was Monday afternoon, and I believe that's what you said.

22 Am I correct on that?

23 A: I can't -- I mentioned it was the day or the day after.

24 Q: Okay. Well, let me ask you this. Whether it was the  
25 15th, whether it was the 16th, when you went in that house,

1 did you go in the basement?

2 A: Yes. I went with my realtor, John Etheridge.

3 Q: Okay. Did you notice any flooding in the basement?

4 A: No.

5 Q: Any water pooling?

6 A: No.

7 Q: Any wet concrete?

8 A: No.

9 Q: Any seeping?

10 A: No.

11 Q: Any walls peeing?

12 A: No.

13 Q: Did you notice any mold?

14 A: No.

15 Q: Mildew, like that white stuff that would be on the couch  
16 or the ottoman or anything like that?

17 A: No. No.

18 Q: Was the sump pump running?

19 A: Not that I heard.

20 Q: Did you notice any evidence of sewer backup or toilets  
21 gurgling? Did you hear any toilets gurgling as you walked  
22 around?

23 A: I didn't use the bathroom, but no, I did not.

24 Q: Okay. See any roaches running around?

25 A: No.

1 Q: Other than what you said a minute ago, did you see any  
2 cracks all in the walls and the corners of the doors and door  
3 not shutting and stuff?

4 A: No.

5 Q: In fact, I believe it was your testimony on direct that  
6 you were in that house numerous times before the closing; is  
7 that right?

8 A: I was there for the inspections, yes.

9 Q: I believe the word you used was numerous; is that right?

10 A: I was there five or six times.

11 Q: Okay. You weren't denied access to the house, were you?

12 A: Well, it was -- I saw it June, and I was there -- we  
13 closed in July, so about once a week.

14 Q: Did the Phillips ever deny you access to the house?

15 A: No; they didn't deny me access to the house.

16 Q: And you were in the basement with every visit; is that  
17 right?

18 A: Yes.

19 Q: June 17th, 2019, you told John Etheridge you wanted to do  
20 a moisture reading on the floor joist; isn't that right?

21 A: Yes.

22 Q: Was that because you noticed some sort of flooding or  
23 water in the basement?

24 A: No, because it had a crawl space, and I knew that's  
25 important to do if you have a crawl space.

1 Q: You knew there might be moisture?

2 A: No. It has a crawl space, and I know that's an important  
3 thing to do if you have a crawl space.

4 Q: Okay. June 18th, you texted, eager to get the CL-100  
5 done and the inspection done; is that accurate?

6 A: Excuse me?

7 Q: On June 18th, you contacted John Etheridge, and you were  
8 eager to schedule the CL-100, and the inspection; is that  
9 correct?

10 A: I don't remember saying eager. I think we were -- it was  
11 something we needed to get done in order to do closing.

12 Q: Okay.

13 A: He was in charge of getting it done, and I think there's  
14 a certain amount of time you have to get it done.

15 Q: The point is, you contacted him about that, not him  
16 contacting you, correct?

17 A: I may have. I wanted to be there, and I needed to know  
18 when I needed to rearrange my schedule of patients.

19 Q: June 21st, 2019 is when the CL-100 occurred; is that  
20 accurate?

21 A: Can you repeat the date?

22 Q: June 21st, 2019.

23 A: Yes.

24 Q: And you were there?

25 A: Yes.

1 Q: In fact, you went in the crawl space, didn't you?  
2 A: Yes.  
3 Q: On June 21st, 2019, you didn't notice any flooding in the  
4 basement, did you?  
5 A: No.  
6 Q: Any water pooling?  
7 A: No.  
8 Q: Any evidence of wet concrete?  
9 A: No.  
10 Q: Walls seeping?  
11 A: No.  
12 Q: Walls peeing?  
13 A: No. It was a hot summer.  
14 Q: I'm sorry?  
15 A: It was a warm summer.  
16 Q: It was a warm summer?  
17 A: Yeah.  
18 Q: So, you think all the water went away if it was there,  
19 evaporated?  
20 A: No, I'm just -- it was -- there wasn't a lot of rain, I  
21 don't think, before. It was summertime.  
22 Q: Okay. Did you notice any mold?  
23 A: No.  
24 Q: Notice any mildew on the furniture?  
25 A: No.

1 Q: Any of the toilets gurgling during the CL-100?

2 A: No.

3 Q: Roaches?

4 A: No.

5 Q: Cracks all in the walls and ceilings?

6 A: No.

7 Q: Okay. In fact, you testified about the CL-100 in your  
8 direct examination. It doesn't mention any roaches, any kind  
9 of flooding, water in the basement, any kind of walls seeping  
10 and walls peeing, does it?

11 A: No.

12 Q: But it does mention decayed wood, right? Turn to the  
13 third page.

14 A: To which page?

15 Q: Three.

16 A: Yes. They mentioned to the sub facia, which was  
17 underneath the roof.

18 Q: That's right. That's right; I remember that. You  
19 testified to that on direct. You talked about the sub facia?

20 A: Yep.

21 Q: Even, I think you eventually talked about the soffit, I  
22 believe is the word you used; is that right?

23 A: Correct. That's where he pointed it out to me.

24 Q: It looks to me like it also said, wood decay and damage  
25 is evident to the window trim, and windowsill at the rear

1 right side of the basement due to water, moisture related.

2 A: Correct. That was the window ---

3 Q: That's near the basement; is it not?

4 A: Correct. It's the wood -- windowsill was at ground  
5 level.

6 Q: So, we know there was some moisture? We've got that  
7 correct, right?

8 A: It was covered with dirt.

9 Q: But no flooding?

10 A: Not on the floor of the basement, no.

11 Q: Okay. June 25th, 2019, the date of the house master  
12 inspection; you were there, correct?

13 A: Yes. He requested it be in the morning because he didn't  
14 want to be in the attic when it was hot. It was already 90  
15 degrees at 11:00 a.m.

16 Q: This heat thing has really got you hung up. Is there a  
17 reason why you keep bringing up the heat?

18 A: No, it's just a warm summer.

19 Q: Okay. You followed the inspector around as he inspected.  
20 Kevin Watford, is that right?

21 A: I did except for the roof. I have vertigo and I can't  
22 climb on the ladder. I could go up in the attic, but I didn't  
23 go -- I just saw that there was plywood. I didn't climb the  
24 individual pieces of wood where there was no plywood.

25 Q: But you went in the crawl space, right?

1 A: Yes.

2 Q: And you went in the basement?

3 A: Yes.

4 Q: Did you notice any flooding in the basement?

5 A: There was no flooding in the basement.

6 Q: Wet concrete?

7 A: No.

8 Q: Walls seeping?

9 A: No.

10 Q: Walls peeing?

11 A: No.

12 Q: Mold?

13 A: No.

14 Q: Mildew?

15 A: No.

16 Q: Toilets gurgling?

17 A: No.

18 Q: Roaches?

19 A: No.

20 Q: Cracks in the roof -- I mean, cracks in the ceiling,  
21 cracks in the wall?

22 A: No. I don't think there was much rain for about 30 or 40  
23 days prior to my inspections.

24 Q: Did the inspection report reveal that there was flooding  
25 in the basement?

1 A: There was no flooding in the basement.

2 Q: Evidence of -- what's the word you've been using --  
3 groundwater intrusion into the basement?

4 A: There was no water in the basement.

5 Q: Does the report indicate that there is groundwater  
6 intrusion into the basement?

7 A: There was no -- nothing wrong with the basement.

8 Q: Okay. So, that's a no?

9 A: No.

10 Q: But it did mention decayed wood, did it not?

11 A: In the windowsill, yes.

12 Q: And in the door?

13 A: In the -- like at the bottom of the door.

14 Q: Okay. And I believe you contacted your realtor to let  
15 him know, hey, he did indicate there's some dampness down  
16 here, right?

17 A: He mentioned that I needed to put vent wells because  
18 there was ---

19 Q: Did he indicate there was dampness?

20 A: Pardon me?

21 Q: Did he indicate that there was dampness?

22 A: He said there was something at the front of the house by  
23 the front door, nothing in the basement, and showed me on the  
24 outside where I needed to put -- move the pine straw and put  
25 vent wells.

1 Q: And dampness was your word, correct?

2 A: At the -- in the crawlspace, nothing in the basement.

3 Q: So, that's a yes?

4 A: That I need to put vent wells, I'm not sure what you're  
5 saying, yes.

6 Q: I understand you want me to ask you the question about

7 ---

8 A: There was no water in the basement, there was ---

9 Q: Dr. Sarb, I'm allowed to ask questions, ma'am. I  
10 understand you want me to ask you questions about vent wells,  
11 what I'm asking you is did you text your realtor and say the  
12 inspector noted some dampness.

13 A: I don't know what exactly my text said to him. I'm  
14 sorry. I -- it may've said dampness, yes.

15 MR. LOVE: Your Honor?

16 THE COURT: Yes, sir.

17 MR. LOVE: For purposes of refreshing her memory, I want  
18 to let her review.

19 THE COURT: All right.

20 A: Yes. Water dampness in the front area, was gonna  
21 recommend some drain, but was not sure.

22 BY MR. LOVE:

23 Q: Thank you. I don't want that to get confused with the  
24 exhibits.

25 A: Sorry.

1 Q: Now, you were there at the CL-100, and you were there at  
2 the house inspection, right?

3 A: Yes.

4 Q: You read those reports?

5 A: Yes, I did. I went over them with my realtor, John  
6 Etheridge.

7 Q: In fact, you did, you reviewed those reports?

8 A: Yes.

9 Q: You reached out to John Etheridge and said I want to sit  
10 down and go over the reports?

11 A: Yes. I'm not an inspector. I'm a single, widowed female  
12 and I don't know a lot about home inspections, and I wanted  
13 somebody to review them with me.

14 Q: Okay. Is that how you and John Etheridge would  
15 communicate typically, text each other?

16 A: No, I went to his office and reviewed it.

17 Q: But if you wanted something or needed something, or  
18 whatever, you would text him and ask for it, and he'd text  
19 back and send it, whatever?

20 A: He has a full-time job, and I have a full-time job, yes.

21 Q: The answer is yes?

22 A: Yes, sir.

23 Q: Thank you.

24 Now, let me ask you this, Dr. Sarb. You did the CL-100,  
25 you did the House Master inspection, did you do any follow-up

1 inspections?

2 A: The House Master inspection did not suggest I needed  
3 another inspection. I did the ---

4 Q: Let me stop you right there.

5 A: --- walkthrough.

6 Q: Let me stop you right there. I'm going to show you  
7 Exhibit 6, Page 3. You read most of this paragraph to the  
8 jury. I want you to read the last sentence. Right there  
9 where it says seller disclosure. I want you to read the last  
10 sentence.

11 A: Buyer shall review this form and/or seller's disclosure  
12 with ---

13 Q: No, ma'am. No, ma'am. The last sentence ---

14 A: A final buyer inspection of the house prior to or at time  
15 is also recommended. I did a buyer inspection. I did a  
16 walkthrough.

17 Q: So, the buyer should review this form -- let's see --  
18 have resolution with the owner for questionable item and a  
19 final buyer inspection of the house is recommended. It was  
20 your testimony that Kevin Watford with House Master didn't  
21 recommend any follow-up inspection; is that right?

22 A: Correct. Kevin -- Kevina Watford does offer a buyer  
23 inspection. He did not recommend a further, more intense  
24 inspection as we were going through it or in his summary. And  
25 a buyer inspection is when a buyer walks through, and you look

1 that the seller didn't take the chandelier off the ceiling,  
2 take the cabinet doors or leave a hundred bags of trash. I  
3 did a buyer walkthrough with John Etheridge, my realtor, at  
4 10:30 before closing. That's what a buyer inspection is.

5 Q: Okay. Did you do a due diligence inspection? That's not  
6 something the buyer does, is it?

7 A: I don't know how many people here who've bought a house  
8 did a due diligence inspection.

9 Q: I don't either but that doesn't matter. Did you?

10 A: I did my due diligence by getting a standard home  
11 inspection with a disclosure that had nothing revealing any  
12 problems.

13 Q: Did you do a due diligence inspection, Dr. Sarb? Yes or  
14 no?

15 A: I did my due diligence, and I got a home -- standard home  
16 inspection.

17 Q: Okay. Did you do an ancillary inspection?

18 A: I'm not sure what you're asking, sir.

19 THE COURT: Mr. Love, if you would, please let her answer  
20 the question. Okay?

21 MR. LOVE: All right. Yes, sir.

22 BY MR. LOVE:

23 Q: Go ahead.

24 A: I think I did my due diligence inspections with the  
25 standard home inspection.

1 MR. LOVE: May I proceed, Your Honor?

2 THE COURT: Yes, sir.

3 MR. LOVE: Thank you.

4 BY MR. LOVE:

5 Q: There is an inspection called a due diligence  
6 inspection.

7 A: Okay.

8 Q: It's a specific inspection; did you do one of those?

9 A: I didn't get anything called a due diligence inspection.

10 MR. GROTE: Objection, states facts not in evidence.

11 THE COURT: Hang on a second, Dr. Sarb.

12 You have an objection?

13 MR. GROTE: Yes, Your Honor. The objection that it  
14 states facts not in evidence. She's testifying as to what a  
15 due diligence inspection is and there's be no testimony of  
16 what that is.

17 THE COURT: Overruled. Sounds like a question to me.

18 Do you want to restate your question?

19 MR. LOVE: No, Your Honor. I'm good with it.

20 THE COURT: All right. Ask your next question, please.

21 Thank you.

22 BY MR. LOVE:

23 Q: Did you do an ancillary inspection? Prior to closing on  
24 the house, did you do an ancillary inspection?

25 A: I guess I would need to know what I needed to do an

1 ancillary inspection for. If they said I would need to do it  
2 for the heater or the roof, or -- I guess you would need to  
3 know what you need an ancillary inspection for. There was not  
4 one recommended on my standard home inspection.

5 Q: Is that a no?

6 A: No.

7 Q: Did you do a specialized inspection?

8 A: There was a recommendation on the roof to get a roof  
9 contractor. There was an estimate that it would hopefully  
10 last four years if I got the roof -- nail pops ---

11 MR. LOVE: I'm gonna object to this ---

12 A: --- but I didn't, and I needed to get it replaced, and I  
13 did that.

14 Q: Yes, ma'am.

15 THE COURT: Please answer the question. Okay?

16 A: No, I did not get a specialized inspection.

17 Q: Did you get an air quality test done before you closed on  
18 the house?

19 A: No. The ductwork was replaced in 2017. I didn't see a  
20 need to.

21 Q: Did you get your moisture content reading before closing  
22 on the house?

23 A: Yes. That's -- Dodson did do that, and it was in the  
24 normal range, 16 to 18 percent.

25 Q: You got that. That was in the CL-100, right?

1 A: Yes, sir.

2 Q: Did you have any environmental assessments done of the  
3 house prior to closing?

4 A: I don't think that's something a normal buyer usually  
5 does.

6 Q: I'm not asking about normal buyers; I'm asking about you.

7 A: It was -- I -- when I was getting my insurance, right  
8 after Dodson on June 21st, I asked if I was in a flood zone,  
9 and Crystal Gibson at State -- at Farm Bureau said I was not,  
10 and they wouldn't even give me a quote on what the cost of  
11 flood insurance was, so I didn't get any type of environmental  
12 evaluation done.

13 MR. LOVE: Please note for the record objection to the  
14 responsiveness of the answer.

15 BY MR. LOVE:

16 Q: All right. Exhibit 7. This is the repair addendum.  
17 This is a document where you asked the Phillips to fix  
18 everything that was listed in the CL-100 and the inspection  
19 that needed repair; is that correct?

20 A: Yes, sir.

21 Q: Following that repair addendum, Exhibit 8, an estimate  
22 repaired by Pee Dee Renovating. You didn't hire PeeDee  
23 Renovating, did you?

24 A: No.

25 Q: That's an estimate to repair all of the damage that's

1 listed on the CL-100 and the home inspection, correct?

2 A: Yes.

3 Q: But you didn't want to use Pee Dee Renovating, did you?

4 A: I discussed it with John Etheridge, and we were gonna get  
5 a quote from John Sims.

6 Q: You wanted to use your own person, John Sims, right?

7 A: I was gonna look at his estimate.

8 Q: You couldn't just accept Pee Dee Renovating?

9 A: Well, I had John Sims, as I mentioned, look at the about  
10 three or four other homes that I looked at from February to  
11 June, so I developed a rapport with him.

12 Q: He looked at Cashua, didn't he?

13 A: He looked at several of the homes, about three or four  
14 homes.

15 Q: He looked at Cashua?

16 A: Yes.

17 Q: Thank you. Sims Remolding.

18 A: Yes.

19 Q: That's an estimate for repair?

20 A: Yes. It was less than Pee Dee Renovating.

21 Q: Go ahead.

22 A: It was less than Pee Dee Renovating's estimate.

23 Q: Well, that's because there were a couple of items on  
24 there that he said didn't need to be fixed. So, he left them  
25 off, right?

1 A: They were both ---

2 Q: Compare them. You've got both of them. Compare them  
3 side by side. Everything else is dollar for dollar.

4 A: Correct. They were both ---

5 Q: You just wanted to go with your guy?

6 A: No. They were both exactly the same, said were  
7 superficial and not needing repair.

8 Q: Okay. You went with your guy?

9 A: Yes, but the ones that they left out were exactly the  
10 same, superficial and cosmetic.

11 Q: That was prepared ---

12 THE COURT: Mr. Love ---

13 MR. LOVE: I'm sorry.

14 THE COURT: Can you give the witness an opportunity to  
15 answer the question. Okay?

16 MR. LOVE: Yes, sir.

17 THE COURT: Thank you.

18 A: The nonactive fungi, the items that were left out, and  
19 zero costs were exactly the same on both estimates.

20 BY MR. LOVE:

21 Q: Thank you, Doctor.

22 Thank you, Dr. Sarb.

23 Did either of those estimates, Exhibit 8 or Exhibit 9 --  
24 well, let me ask you this. Exhibit 8, that was prepared July  
25 1st, 2019; is that correct?

1 A: Yes.

2 Q: Nowhere in there or no word got back to you that when  
3 that was done there was any flooding in the basement that  
4 needed to be repaired, correct?

5 A: Correct.

6 Q: There's no indication that there was mold or mildew?

7 A: Correct.

8 Q: No indication the toilets were gurgling or backing up?

9 A: It didn't address that; no, there was none.

10 Q: No indication of roaches in those reports?

11 A: No.

12 Q: No indications of -- well, there might be indications of  
13 cracks, but not -- not cracks in every wall and all over the  
14 ceilings, right?

15 A: Correct.

16 Q: Exhibit 9, that inspection was completed -- I'm sorry --  
17 that estimate was completed July 19th, 2019; is that right?

18 A: Correct.

19 Q: As a result of John Sims' estimate -- I'm going to show  
20 you Plaintiff's Exhibit 10. A credit was given at closing by  
21 my clients for the very same amount of the repairs claimed by  
22 John Sims, correct?

23 A: Correct.

24 Q: So, my clients came off of the purchase price, what is  
25 it, 5,000 -- how much is it?

1 A: \$5,669.

2 Q: So, now we're below asking price, right?

3 A: Pardon me?

4 Q: Now, we're below asking price, right?

5 A: Yes.

6 Q: Okay. On direct examination, you were asked by your  
7 attorney whether John Sims did a full foundation inspection,  
8 and you indicated yes; is that right?

9 A: No. It was limited to the front at 2.0 where the house  
10 hit the -- where the car hit the roof, Section 2.0 siding, the  
11 foundation will need to be inspected by Jim Sims.

12 Q: John Sims, correct?

13 A: So, it -- pardon me?

14 Q: John Sims, right?

15 A: John Sims.

16 Q: And so, you were asked if John Sims did a full foundation  
17 examination, and what your testimony is right now is that he  
18 did not do an examination of the full foundation, right?

19 A: Correct. He did not. It was limited to the 2.0, what  
20 was noted on the House Master, which was where the house hit  
21 the front brick, that was not repaired by the Phillips and  
22 occurred before they moved in.

23 Q: You testified earlier that John Etheridge was in and out  
24 of this house, I guess, with you? Was there any time that he  
25 might've been in there without you?

1 A: Yes. At that time, I was working at that time when he  
2 met ---

3 Q: What do you mean at that time, Dr. Sarb? When are you  
4 talking about?

5 A: On the day that John Sims looked at the foundation at the  
6 front of the house, that one particular spot. John Etheridge  
7 met with him. I was at work that day.

8 Q: All right. Did John Etheridge ever ---

9 A: And I think he also -- when he did the estimate  
10 comparison to Pee Dee, I was not there.

11 Q: Okay.

12 A: I don't want to assume, because none of those reports  
13 indicated that John Etheridge wasn't reporting to you flooding  
14 in the basement or water peeing and seeping, all of that,  
15 right? None of that was going on?

16 A: Correct.

17 Q: There's no roaches everywhere, correct?

18 A: The times I was in the house, I did not witness any of  
19 that.

20 Q: Okay. Walls weren't seeping or peeing?

21 A: The times I were in the house, I did not witness that.

22 Q: Nobody is reporting that to you, either, right? Nobody  
23 who was in the house?

24 A: I get -- would that be hearsay? I can't answer that.

25 Q: You actually don't get to object.

1 A: I, I didn't get any reports of that; no, sir.

2 Q: Okay. Between the time you signed the contract and the  
3 time you closed on the house, some 40 plus days. I think it  
4 was 43; I might be off by a day or two. Based on your  
5 testimony, we have at least six different people going in that  
6 house, 550 Wisteria; isn't that correct?

7 A: Yes.

8 Q: Some people went in multiple times; is that correct?

9 A: (No audible response.)

10 Q: Some people went in multiple times; is that correct?

11 A: I -- I can't answer that. I know I went in five or six  
12 times. I don't know if John Sims said in the front -- just  
13 looked at the front that day. I'm sure when he went in for  
14 the CL-100, he went in, but I know I was in there five or six  
15 times.

16 Q: And you know John Etheridge was in there more than one  
17 time?

18 A: He was in there five or six times with me, yes, yes.

19 Q: All right. And at no point did you witness any of this  
20 flooding, walls being -- walls seeping, roaches?

21 A: Correct.

22 Q: None of that.

23 If you'll step down, please, ma'am.

24 If you'll step down, please, ma'am.

25 (REPORTER'S NOTE: Witness complies.)

1 BY MR. LOVE:

2 Q: The first day you were in this house was June the 14th?

3 A: Yes.

4 Q: How much did it rain on June 7th?

5 A: .77.

6 Q: How about June the 8th?

7 A: .81.

8 Q: How about June the 9th?

9 A: .25.

10 Q: How about June the 10th?

11 A: .9.

12 Q: How about June the 11th?

13 A: .9 -- .1 -- .9.

14 Q: How about June the 12th?

15 A: .15.

16 Q: In fact, it didn't rain once, twice, between the time  
17 that you agreed to buy this house till the time you closed, it  
18 rained 14 appreciable times, did it not?

19 A: Correct, but they had all these days with no rain.

20 Q: Well, I think you testified on direct, and it was said in  
21 opening, that when you owned the house every time it rained  
22 that basement flooded. Sometimes, it might even take a day or  
23 two to seep in.

24 A: Correct.

25 Q: Okay. To use my own board, Dr. Sarb, highlighted on that

1 board, Dr. Sarb, are all the days it rained in June, July, and  
2 August of 2019; isn't that accurate?

3 A: Yes.

4 THE COURT: Is that exhibit marked for identification?

5 MR. LOVE: It is not marked yet, but you know what, we'll  
6 go ahead and do that, Your Honor.

7 THE COURT: Thank you.

8 MR. LOVE: Please mark this as Defendant's 2. Here you  
9 go. Thank you, ma'am.

10 BY MR. LOVE:

11 Q: Dr. Sarb, if you'll take this black Sharpie, and if you  
12 will put an X on June 14th. You were in the house on June the  
13 14th and you saw no flooding.

14 A: Yes.

15 Q: You saw in the basement, all that furniture with no mold,  
16 no mildew, no walls peeing, no seeping, no roaches, all of  
17 that.

18 June 15th, if you'll put an X. You were in the house on  
19 that date, correct?

20 A: Yes.

21 Q: No flooding, no seeping, no peeing, no roaches, no mildew  
22 on the furniture, furniture was all over the place, weight  
23 benches. Did you ever notice any rust on the weight benches?

24 A: I didn't look. I don't use any weights.

25 Q: All right. Let me see. June the 21st, the CL-100, you

1 were in the house that day, right?

2 A: Yes.

3 Q: Put an X on June 21st. No flooding, no walls seeping,  
4 walls peeing, no roaches, no mold, no mildew, right?

5 A: No, sir.

6 Q: Okay. June 25th, 2019, House Master report. Put an X on  
7 June 25th of 2000. No flooding in the basement noted, no  
8 peeing, no seeping, no toilets gurgling, no roaches, no mold  
9 or mildew, right?

10 A: No.

11 Q: July 19th, the day John Sims came in the house. No  
12 mention of flooding, peeing, seeping, roaches, mold, mildew,  
13 none of that, right?

14 A: I didn't see any report. I didn't see it. I wasn't  
15 there.

16 Q: You got an estimate prepared by John Sims on July 19th,  
17 2019, correct?

18 A: For an estimate, yes.

19 Q: Okay. Nothing in that estimate indicated flooding.

20 You can have a seat. Thank you. I'll take this.

21 So, let's move to after closing. You closed on the house  
22 June 20 -- no, July 26th, 2019, right?

23 A: 26th, yes.

24 Q: Okay. Is that with John Sims started working on the  
25 house?

1 A: I don't remember if it was that day. I know it was  
2 shortly after.

3 Q: Not that day, but shortly thereafter?

4 A: Right, yes.

5 Q: Y'all weren't wasting time just sitting around, right?

6 A: Correct.

7 Q: In fact, I believe on July 31st, 2019, you were notified  
8 John Sims was cleaning out from under the house, correct?

9 A: Yes.

10 Q: Is there any report he saw flooding in the basement,  
11 water -- the walls seeping or peeing?

12 A: When?

13 Q: July 31st, 2019?

14 A: July 31st, I don't recall. I know August 18th, I did, is  
15 when they thought it was the hot water tank.

16 Q: I'm asking about July 31st, 2019. Is your answer that  
17 you don't recall ---

18 A: I don't recall.

19 Q: --- whether there was flooding in the basement on July  
20 31st, 2019?

21 A: I don't recall.

22 Q: Okay. How about August 5th, 2019?

23 A: I don't recall.

24 Q: All right. Dr. Sarb, on direct examination, you were  
25 asked about Glenn Stewart's report and recommendations and,

1 you rattled off about nine paragraphs of things to do  
2 including very specific things. So, are you now not  
3 recalling? Is that -- are you now not recalling what happened  
4 and the events ---

5 A: What do you mean?

6 Q: --- in this case, the time -- okay. What do I mean. I  
7 asked you if the basement was flooded on July 31st, whether  
8 you had a report that it was flooded July 31st, 2019, and you  
9 said you don't recall. I then asked you how about August 5th,  
10 was there flooding in the basement. You said, I don't recall.

11 A: Correct.

12 Q: Okay. All right.

13 A: The first one I recall is with -- when I was there August  
14 18th, and I asked John Sims about the hot water tank, if he --  
15 if he drained water out of the hot water tank. And the second  
16 one was September 6th, when they -- when they mentioned they  
17 thought it was my dehumidifier, and no, it wasn't my  
18 dehumidifier. And then the third time was when ---

19 Q: December?

20 A: In December.

21 Q: Correct. We know that. What we're asking about is July  
22 31st and August 5th. If you don't recall, you don't recall.

23 A: I don't recall.

24 Q: Okay. That first week in August is John Sims is knocking  
25 out that repair list, right?

1 A: Correct.

2 Q: He's -- I think he's replacing a window in the basement,  
3 moving it up off of the grade?

4 A: Yes.

5 Q: He's handling all the trim work or whatever needed to be  
6 handled during that time, right?

7 A: Correct.

8 Q: You and John Sims were probably in and out of that house,  
9 what, after you owned it, during August, daily?

10 A: I went there quite often, you know, just to see what was  
11 going on. They were redoing some of the hardwood floors, and  
12 I -- that was one issue I wanted to get done before I had to  
13 move out of my house -- out of my house, because I had a  
14 rescue dog, a husky/lab, and she shed a lot and I wanted to  
15 get the two rooms redone before I brought her back home.

16 Q: The first week of August, 2019, it rained over three  
17 inches of appreciable rain in Florence, Dr. Sarb; isn't that  
18 true?

19 A: I don't know. I don't recall.

20 Q: Will you step down, please, ma'am?

21 (REPORTER'S NOTE: Witness complies.)

22 Q: Will you tell the jury how much it rained on August the  
23 1st, 2019.

24 A: .78.

25 Q: August the 4th?

1 A: 1.29.

2 Q: And August the 6th.

3 A: 1.10.

4 Q: Okay. While you're up, would you take this Sharpie, will  
5 you mark July 31st.

6 (REPORTER'S NOTE: Witness complies.)

7 Q: Did you know that's when John Sims is cleaning out under  
8 the house?

9 A: Uh-huh, (affirmative response).

10 Q: Will you mark August the 5th, that's when you were  
11 working on the window.

12 A: Uh-huh, (affirmative response).

13 Q: All right. Thank you.

14 We get to August 18th, that was the first mention of  
15 water in the basement on your direct testimony; is that right?

16 A: Yes. I didn't go back and look if I was out of town or  
17 anything. Those are the days that I was there.

18 Q: So, you might've been out of town, and it was flooding  
19 that whole time, and nobody was telling you?

20 A: I don't -- I don't know. I ---

21 Q: Okay. August 18th is what you've indicated to the jury,  
22 right?

23 A: Yes.

24 Q: Okay. And then again September, what, 6th?

25 A: I need to flip back.

1 Q: You'd have to look back; you don't remember that date?

2 A: Let me think. August 18th. I believe it was September  
3 6th, yes.

4 Q: Okay.

5 THE COURT: Dr. Sarb, you got to make sure you speak into  
6 the microphone.

7 A: September 6th.

8 Q: All right. So, what I want you to do, Dr. Sarb, I want  
9 you to take this pink highlighter. I want you to mark August  
10 14th all the way through December 11th, any time it rained.

11 A: Any time it rained?

12 Q: Yes, ma'am. Appreciable rain.

13 A: Appreciable rain.

14 Q: That means it showed up on the diagram, Dr. Sarb.

15 A: Showed up on the diagram? You want any rain?

16 THE COURT: Can you go ahead and do that.

17 A: Do you want to tell me what you mean?

18 Q: Yeah, I did. If you see numbers other than zero, I want  
19 you to highlight it pink.

20 A: So, .1?

21 Q: Yeah, .1 counts.

22 (REPORTER'S NOTE: Witness complies.)

23 A: On December -- what time?

24 Q: 10th, because you already had these over here.

25 Thank you, ma'am. You may be seated.

1           Other than what you have testified to, which is August  
2 the 18th, and September 6th, at no point do we have any  
3 evidence of flooding, seeping, peeing ---

4 A:    No.

5 Q:    --- roaches, mold, mildew, cracks, any of that ---

6 A:    No, I had roaches regularly.

7 Q:    --- on any of the days you just highlighted, correct?

8 A:    No, I was seeing roaches on a regular basis.

9 Q:    Okay.

10 A:    And I had humidity on a regular basis.

11 Q:    Your testimony on direct was that you started noticing  
12 the toilets backing up like early in August of 2019; is that  
13 what you said?

14 A:    Yes. It was August to September.

15 Q:    August or September?

16 A:    It was August through September, after I moved in.

17 Q:    August through September?

18 A:    After I moved in.

19 Q:    Okay. I'm trying to clarify your answer. When did it  
20 start?

21 A:    After I moved into the apartment -- I mean, after I moved  
22 into the house.

23 Q:    In August?

24 A:    When I moved into the apart -- when I moved into the  
25 house.

1 Q: Okay. Well, on direct, you said early August. So, I'm  
2 just trying to make sure ---

3 A: Like I say, I didn't know what it was it from until I  
4 moved in and there was no one else living in the house until I  
5 was, and when I was regularly using the toilet.

6 Q: And how long did you stay in the house for that first  
7 period of time?

8 A: Until I had to move out late December, December 28th.

9 Q: Okay. Exhibits 171 and 172, these are photographs from  
10 October 31st, 2019, and November 18th, 2019.

11 A: Yes.

12 Q: And you have offered those for the jury to consider as  
13 part of the toilets gurgling and sewage backup, correct?

14 A: Yes.

15 Q: We don't have any other pictures for that, do we? Did  
16 you enter into evidence any other pictures showing backup  
17 sewage?

18 A: Just when it was being fixed.

19 Q: Did you offer any other pictures?

20 A: No.

21 Q: Okay. Did you offer any videos of toilets gurgling and  
22 bubbling?

23 A: No.

24 Q: Okay. But we do have -- we do have hundreds of pictures  
25 of water in the basement from December of 2019 until November

1 of 2020, correct?

2 A: Yes.

3 Q: And we've got pictures of every step of repair to your  
4 yard, to the French drains, to everything that happened,  
5 right?

6 A: Yes.

7 Q: And that's what we got on the toilets?

8 A: Yes.

9 Q: Okay. The pest problem, when you were asked about the  
10 pest problem on direct examination, you were shown Exhibit 3,  
11 your attorney asked to flip to Part IV and read C, and you did  
12 that. It says, describe any known present pest infestations.  
13 None. Right?

14 A: I would have to see what you're talking about.

15 Q: Sure. IV-C. I'll point to it for you.

16 A: Correct.

17 Q: And your testimony was that's a lie, they didn't disclose  
18 that they we had roaches, right?

19 A: It says describe of any known pest infestation. None.

20 Q: Okay. Go up on to B, what does that say?

21 A: Describe termite pest treatment coverage to property,  
22 name provider or termite bond. None.

23 Q: None. And so, you used that IV-C to suggest that my  
24 clients lied to you about pest infestation when they said  
25 there was none. When just above that, in B, it says, we

1 didn't have a pest infestation contract, right?

2 A: A describes -- says describe any known present ---

3 Q: We're getting there. I'm talking about B.

4 A: Okay. Correct.

5 Q: Correct. All right. So, what I want you to do, because  
6 I want to be honest with this jury, I want you to read what it  
7 says beside the IV, out loud, please.

8 A: Present or past infestation of wood destroying insects or  
9 organisms, dry rot, or fungus damage from which has not been  
10 repaired.

11 Q: Section IV doesn't even apply to roaches. Section IV  
12 applies to termites.

13 A: Can I read A?

14 Q: You were in that house -- when you were in that house  
15 over those 40-something days, 43, you didn't see a roach, you  
16 didn't see roaches everywhere. But your testimony is the  
17 minute you got in there, there were 20 or 30 of them marching  
18 around on a daily basis; is that right?

19 A: Yes.

20 MR. LOVE: Your Honor, for purposes of planning and for  
21 purposes of the jury, I think I've probably got five or 10,  
22 maybe 15 more minutes. Do you want to continue? I'm looking  
23 for Exhibit 182, which is the summary.

24 THE COURT: Does the jury wish to continue or take a  
25 short break and then come back and conclude this?

1 All right. We'll continue.

2 MR. LOVE: All right.

3 Do you have Exhibit ---

4 COURT REPORTER: It's in that stack.

5 MR. LOVE: Thank you.

6 BY MR. LOVE:

7 Q: Exhibit 182, the damages you're claiming in this action;  
8 is that right?

9 A: Yes.

10 Q: So, \$97,000 in repair to the house, right?

11 A: Yes.

12 Q: Doesn't include your medical bills, does it?

13 A: No.

14 Q: Doesn't include other costs down at the bottom either,  
15 does it?

16 A: No.

17 Q: So, how much are you telling this jury you deserve in  
18 this case?

19 A: It's listed here. I can't calculate it. I don't have a  
20 cell phone with me.

21 Q: Okay. You got an invoice for the sewer line, December 6,  
22 2019; is that right? Are you claiming that?

23 A: Yes.

24 Q: December 17, 2019, replacement of a sump pump.

25 A: Yes.

1 Q: Now, in your direct testimony it was a little bit off. I  
2 believe that you had the sump pump replaced only once, and  
3 then you had the basin replaced under the foundation; is that  
4 right?

5 A: I had the sump pump motor replaced in December.

6 Q: By Daniel Williams.

7 A: And then they had to put a larger sump pump and deeper  
8 sump pump in, a second sump pump.

9 Q: Okay. That was running all the time?

10 A: When there was flooding, yes.

11 Q: Which was for 11 months?

12 A: When there was ---

13 Q: You have invoices for trenching around the house,  
14 driveway removal, driveway replacement, ground covering,  
15 dehumidifier, landscaping, right?

16 A: Yes, sir.

17 Q: You had this whole yard redone; is that right?

18 A: The picture shows there was damage to the side and the  
19 front and the back, yes.

20 Q: Yes. You had this entire yard redone.

21 A: They replaced the bushes that they had to remove,  
22 anything extra I paid for.

23 Q: Mold removal, correct?

24 A: Yes, they did ---

25 Q: Pictures of your brick -- I'm sorry. Go ahead.

1 A: Yes, they did have to remove mold spores that they found  
2 in the basement.

3 Q: And we had pictures of your briefcase?

4 A: Yes.

5 Q: Those weren't in the basement, were they?

6 A: No. That was upstairs because I was getting eight  
7 gallons of water out of a dehumidifier every day.

8 Q: Okay. During any of those visits, during the 40-  
9 something days, did you notice the dehumidifier running in the  
10 house?

11 A: The dehumidifiers continue to run. I have the one in the  
12 crawlspace and the one in the basement. And, yes, I -- that's  
13 why I had to go to the house even when I wasn't living in it,  
14 morning, evening, and afternoon. When I was living in it, I  
15 had to empty the dehumidifiers five times a day. I woke up in  
16 the middle of the night to empty them. I was getting eight  
17 gallons out.

18 Q: My question to you was, during the 43 days between the  
19 time you signed the contract and the closing date, did you  
20 notice humidifiers running everywhere, dehumidifiers?

21 A: No.

22 Q: Did you walk into that house at any point in time and be  
23 like, holy moly, it is humid in here?

24 A: No.

25 Q: So, we got the fence invoice, landing and stairs, the

1 back stairs -- I don't have a date on the back staircase,  
2 painting, ceiling, floor, and all that invoice, right? That  
3 invoice didn't have a date. Is that correct? Do you  
4 remember?

5 A: The -- I can tell you that approximately, the sump pump  
6 was placed in ---

7 Q: No, not the sump pump. I'm looking at the back  
8 staircase.

9 A: I'm trying to recall, though.

10 Q: Oh, okay. I'm sorry. Go ahead.

11 A: The back staircase. The sump pump was placed in June of  
12 -- June of 2021, and the DRYLOK was placed and floor seal was  
13 placed around July of 2021.

14 Q: One of the last things we heard about this morning was  
15 mileage. You're claiming mileage as damages here?

16 A: Yes.

17 Q: What kind of car do you drive, Dr. Sarb?

18 A: A SUV.

19 MR. GROTE: Your Honor, objection. We've already had a  
20 pretrial conference on -- we'd like to take up a matter of  
21 law.

22 THE COURT: Approach the bench, please.

23 (REPORTER'S NOTE: Bench conference is held off the record in  
24 the presence but outside the hearing of the jury.)

25 BY MR. LOVE:

1 Q: You're claiming mileage in the amount of what, Dr. Sarb?

2 A: I'm sorry. I know it was 155 miles round trip. And it  
3 was \$3,565 total is what they -- what it calculated out to be.

4 Q: 3,500 and how much?

5 A: 56.

6 Q: Okay. And that's over a period of what time?

7 A: I think approximately three months, January through  
8 March.

9 Q: Okay. And then we talked about the apartment lease, you  
10 were unsure whether it was nine or ten months or however much  
11 it was, right?

12 A: Correct. I was paying my mortgage on this house, and I  
13 was paying for an apartment.

14 Q: All right. You're claiming medical bills, are you not?

15 A: Some, yes.

16 Q: Now, you told this jury that you were having headaches  
17 and joint pain, correct?

18 A: Correct.

19 Q: It was your testimony on direct examination that you had  
20 had these headaches before in 2000 -- well, you said five  
21 years before; is that right?

22 A: I've had migraine headaches since I was eight. I did not  
23 need any treatment past five years. I was just on maintenance  
24 medicine, TOPAMAX, and I took Imitrex once or twice a month.  
25 I did not need any BOTOX for five years prior.

1 Q: Did you go see your primary care physician, Dr. Heather  
2 Shelton on February 28th, 2018 with a complaint of frontal  
3 sinus facial headache?

4 A: Yes, I was having trouble breathing. I was having  
5 headaches, and I was having the shortness of breath and  
6 coughing.

7 Q: 2018 was the year before you purchased this house,  
8 correct?

9 A: At that visit, I did. I did see her. I was spraying my  
10 shower with some shower spray.

11 Q: March 21st, 2018, you went, and you saw your primary care  
12 physician, Heather Shelton, complaining of shortness of breath  
13 for nine weeks; is that right?

14 A: Yes. I -- in January, I was living at The Reserve, and I  
15 sprayed my shower with the Clorox spray, and I irritated my  
16 lungs, and it took a while for that inflammation to go down.  
17 There was poor ventilation in the apartment. There was only  
18 one door to open.

19 Q: Did you have mold and mildew in your apartment?

20 A: No, I didn't. It was just -- I was cleaning, and I  
21 didn't open the door. It was cold, and I let the fumes build  
22 up. I was working in the kitchen, and I didn't realize it  
23 until the fumes came from the bathroom. There was no open  
24 windows, there was no -- it's a one-bedroom apartment. I  
25 couldn't open the bathroom windows. There was only a sliding

1 glass door in the living room. By the time the chemical fumes  
2 got so bad, I was in the kitchen, and I went to the bathroom  
3 to hose it down, inhaled the Clorox, and I think I even ran  
4 out. I just put Clorox bleach in water, and I sprayed it  
5 down. And I irritated my lungs, and it took a couple of  
6 months for that inflammation to go down from the Clorox  
7 bleach.

8 Q: One last thing, Dr. Sarb, you realize in this case when  
9 your attorneys graciously had provided thousands of documents,  
10 and I have done the same to them, provided them thousands of  
11 documents regarding this matter; is that right?

12 A: Yes.

13 Q: Is it safe to say that in those documents, there are  
14 hundreds if not thousands of text messages?

15 A: Yes.

16 Q: Text messages of the Phillips, of their realtor, emails,  
17 text messages of you, John Sims, John Etheridge, all of that,  
18 right?

19 A: Yes.

20 Q: On your direct testimony, you testified that my clients  
21 told you that that basement had never flooded, not even in a  
22 hurricane; is that what you said?

23 A: Correct.

24 Q: Where in those thousands of pages is that message?

25 A: I asked my realtor, John Etheridge, since there was

1 nothing disclosed, I requested to make sure that there was  
2 never any flooding in the house. And through their realtor,  
3 they asked the Phillips if there was any evidence -- any  
4 previous water intrusion or water in the house, and they said,  
5 no, not even in a hurricane was there ever any water entering  
6 the house. It only came -- in the hurricane, up to the bottom  
7 of the hill at the tree line, but there was never any water in  
8 the home.

9 Q: And backing up just a little bit, in your deposition, you  
10 actually told me that you had reached out and they had denied  
11 that there was any flooding; is that right?

12 A: I'm not sure what you mean.

13 Q: But in your deposition, you told me that you reached out.

14 A: I didn't reach out to them. It was through John  
15 Etheridge, my realtor.

16 Q: That's fine. But that you had asked about flooding and  
17 was told there was no flooding.

18 A: Correct. There was never any water in the house.

19 Q: Yesterday, you were asked, and you answered, and you  
20 indicated not even in a hurricane.

21 A: Correct, not even in a hurricane ---

22 Q: That's not what you said in your deposition?

23 A: --- there was ever any flooding in the house.

24 Q: But you know, you know, that during two major storms, the  
25 sump pump went out because there was no electricity, and there

1 was water in the basement in 2015, in either in Florence or  
2 Matthew, don't you?

3 A: When I asked John Etheridge, they told -- correct, that  
4 came out afterwards in their deposition.

5 Q: In their deposition but not in yours, not until you got  
6 here today or yesterday and decided to say not even in a  
7 hurricane, right?

8 A: I don't understand what you're saying, sir.

9 Q: Let's back up to where these messages are. Where are  
10 they? Where are these messages about flooding or flooding  
11 during a hurricane or whatever your story is today, where are  
12 they in those documents?

13 A: I'm not sure what you're getting at, sir.

14 Q: You are sure what I'm getting at and I'm asking you for  
15 documentary proof that you asked about flooding, not even in a  
16 hurricane, or flooding any time of day in these documents.  
17 All of these hundreds, if not thousands of text messages,  
18 where is the message about flooding, where is the message  
19 about flooding specifically in a hurricane.

20 A: It's not in a text message, it was a verbal through my  
21 attorney -- my realtor, and their realtor. And I was told  
22 that I tell things that happened in mediation. So, I wasn't  
23 sure what could be told in my deposition and what happened in  
24 mediation.

25 THE COURT: Dr. Sarb, please just be responsive to the

1 question you're asked, okay?

2 A: I'm not sure what the question is.

3 THE COURT: Okay. Thank you.

4 Mr. Love, please ask another question.

5 MR. LOVE: Thank you, Your Honor. I'd be happy to.

6 BY MR. LOVE:

7 Q: So, this would require communication from you to John  
8 Etheridge, to Adam Crosson, to the Phillips. Phillips think  
9 about it; they send a response to Adam Crosson, John  
10 Etheridge, to you. All of that was done verbally.

11 A: Yes.

12 Q: And we have hundreds of texts. We had texts about  
13 there's dampness down here. When are we doing the CL-100, can  
14 we sit and talk about the CL-100, when are we doing the  
15 inspection? Can we talk about the inspection? And you told  
16 us your primary way of communicating with John Etheridge  
17 because you both have full-time jobs is by text?

18 A: We talked on the phone, and we texted. We did both.

19 Q: I understand that's what you want your answer to be now,  
20 but earlier you said we both had full-time jobs. Our primary  
21 communication was via text. But nowhere -- and I'll represent  
22 to you, they ain't in here. There's not a single text or  
23 email regarding asking the defendants about flooding or  
24 hurricanes before you bought this house.

25 A: It depends on what time of the day. If it was at noon, I

1 could talk on the phone. If it was after 5:30, I could talk  
2 on the phone. If it was during the day, I would text.

3 MR. LOVE: No further questions, Your Honor.

4 THE COURT: Thank you, Dr. Sarb.

5 BY THE COURT:

6 THE COURT: All right. Ladies and gentlemen, we're gonna  
7 take a break. We'll have you right back out to resume this  
8 matter. Thank you so much for your attention. Please don't  
9 discuss this matter during the break.

10 (REPORTER'S NOTE: Jury exits courtroom @ 11:18 a.m. The  
11 following takes place outside the presence of the jury.)

12 MR. LOVE: Your Honor, and before we go off the record,  
13 in the event I have not, I would like to tender -- I think I  
14 tendered 1 into evidence. If not, I need to do that, and I  
15 will tender Defense 2 into evidence as well.

16 THE COURT: Is there any objection?

17 MS. GIOVANOLI: I don't think he laid the foundation for  
18 the diagram. I thought that was demonstrative exhibit.

19 MR. LOVE: I laid the foundation. I asked her if those  
20 represented the days that it rained, and she said yes. Same  
21 routine they did.

22 THE COURT: Anything further?

23 MR. GROTE: Your Honor, Exhibit 1, I think was admitted.  
24 There's no objection to that.

25 The diagram, I think as long as it's a certified

1 precipitation data, I think it's already in evidence. If it's  
2 just his mark up that he wants as evidence...

3 THE COURT: All right. We'll make a Defense Exhibit 2.

4 DEFENDANT'S EXHIBIT NUMBER 2

5 ADMITTED INTO EVIDENCE

6 MR. LOVE: Thank you, Judge.

7 THE COURT: All right. Dr. Sarb, you're welcome to step  
8 down or whatever you need to do. You're still on the stand,  
9 okay, and you still can't talk about your testimony. Okay?

10 DR. SARB: Okay.

11 THE COURT: Thank you.

12 All right. I'd like to bring to y'all's attention, Mr.  
13 Love, there was a something -- a time that you placed on the  
14 record an objection for the record something about a response  
15 to the answer. I mean, there is a trial judge here. I'll be  
16 happy to make the rulings. There has been multiple objections  
17 with no legal basis during this trial. If that's -- you know,  
18 there's no way for me to rule on those really. If you need a  
19 ruling, then you need to stop, and you need to ask for one.  
20 Okay. You understand?

21 MR. LOVE: That's my fault, Your Honor.

22 THE COURT: All right. This is not a deposition; this is  
23 a trial. Okay?

24 MR. LOVE: I did treat it like a deposition, I was trying  
25 to mark the record, and it was not the appropriate way to mark

1 the record.

2 THE COURT: All right. We'll take a short recess.

3 Thank you.

4 MS. GIOVANOLI: Your Honor?

5 THE COURT: Yes, ma'am.

6 MS. GIOVANOLI: One other item, and I was wondering if it  
7 would be okay if we proffered the evidence on the roof leaks  
8 and the ductwork, just for record. I know that that's gonna  
9 take a little bit of Your Honor's time, but we do have to  
10 preserve the record.

11 THE COURT: All right. I'll let you know. Thank you.

12 MS. GIOVANOLI: Okay. Thank you.

13 **RECESS - 11:21 A.M.**

14 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

15 **ON THE RECORD - 11:33 A.M.**

16 THE COURT: Are we ready to go? Redirect?

17 MR. GROTE: Yes, Your Honor. We're ready on redirect. I  
18 think maybe we were waiting on a decision on the proffer,  
19 either at the end of the redirect or ---

20 THE COURT: I mean, I offered the opportunity for y'all  
21 to proffer the testimony when we broke for the matter of law  
22 to begin with, and I'm -- I think y'all made a decision to  
23 just give me a summary of what the testimony would be. I'm  
24 not gonna deny you the opportunity to proffer the testimony.  
25 We're not gonna take and stop the trial at this point to do

1 that, so we'll just have to work that in at some point when  
2 the jury is not sitting in the jury room. Okay?

3 So, can we have the jury, please?

4 THE BAILIFF: Yes, sir.

5 THE COURT: All right. Before they step in, I'm --  
6 redirect limited to the cross-examination, right? And in very  
7 limited instances will I allow any recross. Do we understand?

8 MR. GROTE: Yes, Your Honor.

9 MR. LOVE: Yes, sir.

10 (REPORTER'S NOTE: Jury enters courtroom @ 11:35 a.m.)

11 THE COURT: All right. Mr. Grote?

12 MR. GROTE: Thank you, Your Honor.

13 REDIRECT EXAMINATION OF BARBARA SARB BY MR. GROTE:

14 Q: Dr. Sarb, do you know how long the Phillips owned the  
15 property, the defendants?

16 A: At least 10 years.

17 Q: Okay. Now, we've talked a lot about 40, 45 days on  
18 cross-examination, right?

19 A: Yes.

20 Q: Right. But they owned it for 10 years, right?

21 A: Yes.

22 Q: Okay. If you could take a -- come up and take a look at  
23 the precipitation data for me.

24 We're looking at 2019. I'm gonna hand you an orange  
25 highlighter. So, starting -- before we do this, what do you

1 recall about the rainfall that summer leading up to your  
2 purchase of 550 Wisteria?

3 A: I remember it was pretty warm, like I said, Home Masters  
4 wanted to get there in the morning, because he was afraid to  
5 be in the attic because it was 90 degrees already, you know,  
6 when he came in at 10:30 or 11 o'clock. It was a warm hot,  
7 hot summer, not that much rain, you know, that month before.

8 Q: All right. So, how about starting in April of 2019, why  
9 don't you take that orange highlighter and start marking each  
10 day with zero precipitation in orange.

11 (REPORTER'S NOTE: Witness complies.)

12 A: This one didn't have anything on the 30th.

13 Q: Go through the -- how about we go through the end of --  
14 until your date of closing, July 26th.

15 A: Till July?

16 Q: July 26th.

17 Dr. Sarb, does that coincide with your recollection of it  
18 being a dry summer?

19 A: Yes, sir.

20 Q: Okay. You can go ahead and have a seat, please.

21 Dr. Sarb, did you in fact have water in the basement on a  
22 routine basis after purchasing this property?

23 A: Yes.

24 Q: Did you document every single instance that it occurred?

25 A: No.

1 Q: Now, you were asked about the listing agreement; do you  
2 recall that?

3 A: Yes.

4 Q: I think we looked at Defendant's Exhibit Number 1, if you  
5 could take a look at that for me, please.

6 A: Yes.

7 Q: And if you could take a look at what I believe is  
8 Plaintiff's Exhibit Number 1 as well. This is the other MLS  
9 document that we provided to you yesterday.

10 A: Yes.

11 Q: Okay. Now, in Defendant's Exhibit Number 1, under the  
12 remarks, what does that say?

13 A: Spacious home -- in the Plaintiff?

14 Q: Defendant's Exhibit Number 1, the one you were just  
15 showed today.

16 A: Spacious home in desirable Forest Hills location on huge  
17 lot, open island kitchen with breakfast room, granite  
18 countertops and stainless appliances, formal living and dining  
19 rooms plus den, multilevel decking out back, with tons of room  
20 for kids and pets to play, small man cave on lower level is  
21 heated and cooled. Won't last long.

22 Q: Okay. I want you to take a look at Defendants Exhibit  
23 Number 1, or excuse me, Plaintiff's Exhibit Number 1, and read  
24 the remarks from that one.

25 A: Spacious home in desirable Forest Hills location on huge

1 lot, open island kitchen with breakfast room, granite  
2 counters, and stainless appliances, formal living and dining  
3 rooms plus den, multilevel decking out back with tons of room  
4 for kids and pets to play, small man cave on lower level is  
5 heated and cooled. Won't last long.

6 Q: So, do they say the same thing?

7 A: Yes.

8 Q: Okay. What about the information in there? Does the  
9 information look to be the same other than the photos?

10 A: Yes. It's on 1.4 acres.

11 Q: Okay. There's been a bunch made about when you got the  
12 disclosure statement. Did you get the disclosure statement  
13 before closing?

14 A: Yes. Before closing, I had the disclosure statement.

15 Q: Did you rely upon it in your decision to proceed forward  
16 with purchasing -- or proceed forward with closing 550  
17 Wisteria?

18 A: Yes.

19 Q: You also talked about the -- or were asked a few  
20 questions about the CL-100, the Dodson inspection reports and  
21 the windows. Did you have those windows fixed?

22 A: Yes.

23 Q: In fact, were they elevated off the ground?

24 A: Yes.

25 Q: I think you were asked about the estimates by John Sims

1 and Pee Dee Renovating. Do you recall that?

2 A: Yes.

3 Q: Okay. Let's go ahead and take a look at those, please.

4 That would be, I believe, Plaintiff's Exhibit 8 and 9. Let's

5 start with the Pee Dee Renovating estimate. Is there a

6 section called CL-100 at the top?

7 A: Yes.

8 Q: Is there also a section for the disclosure -- or excuse

9 me, the House Master information?

10 A: Yes.

11 Q: If you look at these two estimates, do they largely track

12 each other on the issues to be fixed?

13 A: Yes.

14 Q: Was the John Sims estimate actually less than the

15 estimate that the defendants provided?

16 A: Yes. The estimate for Pee Dee Renovating was \$6,894.

17 John Sims was \$5,669.

18 Q: Why did you choose to go with John Sims?

19 A: Like I say, I looked at -- I just had a rapport with him

20 from ---

21 Q: Were you concerned about the quality of the work that

22 would be done?

23 A: No.

24 Q: Well, I mean if you went -- using Pee Dee Renovating

25 versus Sims?

1 A: I didn't know Pee Dee Renovating.

2 Q: Right. Did you feel more comfortable with the quality of  
3 work that would be done by John Sims?

4 MR. LOVE: Asked and answered.

5 A: I know John -- John Etheridge knew of Sims Remodeling. I  
6 think he's used them for other projects, and I trusted his  
7 opinion.

8 MR. LOVE: I will withdraw, Your Honor; that's fine.

9 THE COURT: All right. Thank you.

10 BY MR. GROTE:

11 Q: Dr. Sarb, did you request any repairs be made for water  
12 in the basement as part of the repair negotiation process that  
13 we've gone through?

14 A: For the CL-100 stuff, no. There was no water ---

15 Q: Let me ask the question this way. Did you have any  
16 knowledge or notice of any problem with water in the basement  
17 as you were going through this negotiation process ---

18 A: No, I did not -- no, I did not have any knowledge of any  
19 water in the basement.

20 Q: Then how would you have been able to request repairs for  
21 that issue then?

22 A: I would not have known to request repairs for it. It was  
23 not disclosed.

24 Q: Now, I think you've also been asked a few questions  
25 about, you know, what happened in August in the house. Were

1 you actually living in the house at that time?

2 A: No, I was not.

3 Q: You were also asked questions about appreciable rain,  
4 marking appreciable rain on Defendant's precipitation data,  
5 which I believe is ---

6 A: I think I may have moved in August 28th, so the very end  
7 of August, but I -- right before my -- right at the end of my  
8 lease.

9 Q: Okay. So, going to this information that Mr. Love was  
10 asking you about, I think he asked you -- I think maybe his  
11 definition was appreciable rain, anything that's more than  
12 zero; do you recall that?

13 A: Yes.

14 Q: What do you consider to be an appreciable rain?

15 A: I think it was any time that I had like three quarters to  
16 an inch of rain I was having problems, and sometimes it took a  
17 couple of days.

18 Q: Okay. And did the basement flood of times then is  
19 documented in the photographs that we submitted?

20 A: Yes.

21 Q: And did you take photographs and videos of every time  
22 that it happened or every issue you ever had with the house?

23 A: No.

24 Q: So, if we go -- turned back to the CL-100 -- I'll get you  
25 the exhibit number here -- it would be Plaintiff's Exhibit

1 Number 4. If you'll turn to Section IV of that for me,  
2 please. Excuse me. I handed you the wrong thing. I meant to  
3 hand you the disclosure statement. I apologize. That would  
4 be Exhibit 3. If you could turn to Section IV of the  
5 disclosure statement for me, please. Are you there?

6 A: Yes.

7 Q: There was a question I believe that was asked regarding  
8 Item IV-C, Describe any known pet infestations. What was  
9 indicated there?

10 A: None.

11 Q: I think there was an indication that maybe that only  
12 applied to termites. So, let's read Section A. What does  
13 Section IV-A say?

14 A: Describe any known present wood problems caused by  
15 termites, insects, wood destroying organisms, dry rot, or  
16 fungus. None.

17 Q: So, does one specifically mentioned termites?

18 A: Yes.

19 Q: Can you read IV-B for me, please?

20 A: Destroy [sic] termite pest treatment coverage to  
21 property, name of provider, and termite bond, if any.

22 Q: Okay. Does that specifically mention termites?

23 A: Yes.

24 Q: Read C again for me, please.

25 A: Describe any known present pest infestations.

1 Q: Does that say termites?

2 A: No.

3 Q: What did you take that to mean?

4 A: Any kind of bugs or pests or anything.

5 Q: Okay. So, I think you are asked some questions about  
6 discussion that took place back and forth between you and the  
7 defendants through the real estate agents about a  
8 representation that there is no water in the basement. Do you  
9 recall those questions?

10 A: Yes.

11 Q: Do you recall -- were you actually on site when that  
12 discussion occurred at the house?

13 A: No. I think I was just leaving work in the car or at  
14 work. Like I say, I do procedures. I'm in an operating room  
15 usually all day long. I have time at lunch to make a phone  
16 call or after hours. I'm in a lead apron.

17 Q: Dr. Sarb, do you communicate by any other means other  
18 than writing?

19 A: By writing? Phone.

20 Q: Do you communicate by any other means besides writing?

21 A: Phone, yeah, phone, sometimes email, sometimes texts,  
22 yes, sometimes in person. I've gone to John Etheridge's, you  
23 know, to go over the reports. I have gone to his office.  
24 Yes, I do all kind. It's just since I'm in the operating  
25 room, sterile, I usually don't use a telephone, you know, from

1 8:00 till 12:00. Unless for some reason patients cancel, then  
2 I'll use the telephone. During that time, I'll use texts.  
3 But after hours or at lunchtime, then we'll telephone or me in  
4 person. It's just during those few hours that I usually use  
5 texts. I'm not a big text person. I'm not a big tech person.

6 Q: So, it would be fair to say that not every communication  
7 you've ever had in your life or related to this house is in  
8 writing?

9 A: Correct. I prefer the telephone or person.

10 Q: You were also asked some questions about whether the  
11 defendants had ever mentioned instances of rain or water in  
12 the basement during flood events; do you recall that?

13 A: Pardon me?

14 Q: Do you recall being asked some questions by Mr. Love  
15 whether the defendants had instances of water in the basement  
16 during hurricanes?

17 A: When I was purchasing the house, they denied having any  
18 problems. After we were going through in depositions and --  
19 in the deposition they did mention they did have two episodes.

20 Q: Okay. Did that occur way after you purchased the  
21 property?

22 A: Yes, sir. That occurred months, and after I have had --  
23 experienced the issues.

24 Q: Did the defendants, the Phillips, ever tell you that  
25 before you bought the property?

1 A: No, they denied it.

2 Q: And now they say there was two, but they didn't tell you  
3 there was two, did they?

4 A: Correct.

5 MR. GROTE: No further questions, Your Honor.

6 THE COURT: Anything further?

7 MR. LOVE: Please there is one, Court's indulgence?

8 THE COURT: All right, sir.

9 RE-CROSS-EXAMINATION OF BARABAR SARB BY MR. LOVE:

10 Q: Not only did they not tell you, but your testimony is  
11 that they affirmatively denied prior flooding including during  
12 hurricanes; is that your testimony?

13 A: Yes. That's the information I received through my  
14 realtor John Etheridge when I asked if there was any flooding  
15 -- if there was any water or flooding in 550 Wisteria.

16 Q: Thank you.

17 THE COURT: Thank you, Dr. Sarb. You may step down.

18 A: Thank you.

19 THE COURT: All right. Thank you, ladies and gentlemen.  
20 We're gonna take a lunch break at this time. I ask that you  
21 be back here at 1:30. We're gonna work to try to hear the  
22 evidence in this case.

23 So, thank you so much. Please don't discuss this matter.  
24 Please be back on time. Thank you so much.

25 (REPORTER'S NOTE: Jury exits courtroom @ 11:52 a.m. The

1 following takes place outside the presence of the jury.)

2 BY THE COURT:

3 THE COURT: All right. Is there anything further before  
4 you retire for the lunch break?

5 MR. GROTE: I don't think so.

6 MR. LOVE: No, Your Honor.

7 THE COURT: All right. How many witnesses do you  
8 anticipate calling this afternoon?

9 MS. GIOVANOLI: Nine, but none of them are as long as Dr.  
10 Sarb. Some will be five or 10 minutes.

11 THE COURT: All right. We'll see where we get.  
12 Thank you.

13 MR. LOVE: Thank you.

14 RECESS - 11:54 A.M.

15 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

16 ON THE RECORD - 1:38 P.M.

17 THE COURT: Y'all are prepared call your next witness; is  
18 that right?

19 MR. GROTE: Yes. We have several out in the hallway and  
20 were ready to bring them in -- the next one in whenever.

21 THE COURT: All right.

22 MR. GROTE: We asked them to stay out there until we get  
23 them.

24 THE COURT: All right. Understand. Thank you.

25 And, Mr. Grote or Ms. Giovanoli, who is gonna call the

1 next witness?

2 MR. GROTE: I will, Your Honor.

3 THE COURT: All right.

4 (REPORTER'S NOTE: Jury enters courtroom @ 1:40 p.m.)

5 THE COURT: All right. Thank you, ladies and gentlemen.

6 I appreciate your attention.

7 We will now recognize Mr. Grote for your next witness.

8 MR. GROTE: Thank you, Your Honor.

9 Plaintiff calls Glenn Stewart is the next witness.

10 GLENN STEWART, HAVING BEEN SWORN,

11 TESTIFIED AS FOLLOWS:

12 THE CLERK: Please be seated, and then state your name  
13 for the record.

14 MR. STEWART: My name is Glenn Stewart.

15 DIRECT EXAMINATION OF GLENN STEWART BY MR. GROTE:

16 Q: Mr. Stewart, thank you for being here today. Can you  
17 give us a little bit of information about your educational  
18 background?

19 A: Yes. I am originally from North Carolina, went to North  
20 Carolina State University in Raleigh, North Carolina, and  
21 graduated with a degree in civil engineering in 1985. While I  
22 was working, after I graduated, I attended Clemson University  
23 and received a degree from Clemson University in 1993 in civil  
24 engineering.

25 Q: Was it -- what level of degree was that?

1 A: Masters of Engineering.

2 Q: Okay. Do you have any professional licenses or  
3 certifications? Okay.

4 A: Yes. I am a licensed professional engineer in the state  
5 of South Carolina and various other states on the East Coast  
6 and in the southeast.

7 Q: How long have you been a licensed professional engineer?

8 A: Since 1989.

9 Q: Can you give us a little information about your  
10 employment history, your work history?

11 A: Yeah. So, when I was a student at North Carolina State  
12 University, I took a -- engineers call them co-ops, everybody  
13 else causing internships. But I was a co-op student with the  
14 Charleston Naval shipyard in Charleston South Carolina. So, I  
15 graduated in 1985, took a position there as a facilities  
16 engineer, and worked on refuel -- or facilities and systems  
17 used for refueling nuclear submarines, so it's fluid systems  
18 and structures, that type of thing. Back in 1993-92  
19 timeframe, they announced the closure of the shipyard. So, I  
20 went and looked for another job and ended up taking the job  
21 that I currently have with Engineering, Design & Testing. So,  
22 I've been working with Engineering, Design & Testing since  
23 1993, and I'm -- the office that a work at is in Cayce, South  
24 Carolina.

25 Q: And what kind of work do you do with Engineering, Design

1 & Testing?

2 A: So, the focus of my practice there is essentially  
3 existing buildings, facilities, and sites. So, I typically  
4 evaluate damage. I conduct technical investigations.  
5 Examples might be -- in fact, tomorrow, I'm going down to  
6 Georgia, and there was some damage to a building, and so I'm  
7 going to do an evaluation of the building and develop a repair  
8 protocol for that building. So, it's essentially evaluating  
9 things or typically things like the building envelope, the  
10 foundation, the structure, the site drainage, those types of  
11 things of existing buildings and facilities.

12 Q: Does it also include evaluation of groundwater or  
13 drainage conditions as well?

14 A: Yeah. Almost -- well, a lot of buildings that you look  
15 at that seems to be one of the facets, you know, it's not -- I  
16 guess it is uncommon -- it's not uncommon for me to work on  
17 projects involving water intrusion issues, and that would  
18 include basement evaluations, basement leak evaluations and  
19 things like that.

20 Q: Okay. Since you've been with Engineering, Design &  
21 Testing, would you consider that to be a forensic engineering  
22 type work?

23 A: Yeah. That's -- it's a term, I guess a term or phrase,  
24 but -- yes, it's -- you know, we put on her business card but,  
25 you know, another way to look at it is kind of technical

1 evaluations, kind of looking at, you know, using math and  
2 science and engineering principles to evaluate conditions like  
3 a leaky basement.

4 MR. GROTE: Your Honor, at this time, I would move to  
5 qualify Mr. Stewart as an expert in the field of civil  
6 engineering and building evaluation.

7 THE COURT: Any voir dire or any objection?

8 MR. LOVE: No voir dire and no objection.

9 THE COURT: All right. Ladies and gentlemen, we're gonna  
10 -- the Court is recognizing Mr. Stewart as a civil engineer  
11 expert in building and evaluation expert; is that right?

12 MR. GROTE: Yeah. In civil engineering, including  
13 building evaluation and groundwater evaluation.

14 THE COURT: All right. And, ladies and gentlemen, what  
15 that means is ordinarily a witness cannot testify as to their  
16 opinions but, when an expert -- when a witness is found to be  
17 an expert in some area, then they can give their opinion as to  
18 what the matters may be. All right?

19 Mr. Grote?

20 BY MR. GROTE:

21 Q: Mr. Stewart, did you perform, I guess, an inspection or  
22 evaluation on concerns of water in the basement at 550  
23 Wisteria?

24 A: I did.

25 Q: Do you recall when that inspection occurred?

1 A: Yeah. It was in February 2020. I believe it was on the  
2 20th I inspected the property.

3 Q: Okay. As it relates to concerns about water in the  
4 basement, can you tell me what you looked at or what you did  
5 when you were out at the property?

6 A: Sure. So, I met with Dr. Sarb. She was there, she  
7 explained her background conditions. She explained to me that  
8 she had had moisture conditions in the basement with standing  
9 water. She had had issues with, with elevated moisture  
10 humidity in her home. She had installed a dehumidifier to  
11 deal with the house humidity. And so, she kind of filled me  
12 in on the background information. And so, as a result, I  
13 inspected the exterior of the property, the interior of the  
14 property. I got on the roof, I went in the attic, and I went  
15 in the crawlspace, in the basement and conducted a visual  
16 examination and documented those conditions.

17 Q: Okay. Was there water in -- actually, if we could put up  
18 the diagram, that may help. Is your screen working up there,  
19 Mr. Stewart?

20 A: It is.

21 Q: Okay. Do you see the basement area identified on the  
22 screen there?

23 A: I do.

24 Q: Okay. Back where it says 14 feet, I believe that's the  
25 back door just to reference you.

1 A: Yes. Yes, sir.

2 Q: Okay. We've been calling that area, I guess for purposes  
3 of this trial, the man cave area, just for point of  
4 clarification. Okay?

5 A: Okay.

6 Q: And in the back area, the basement area I guess we would  
7 call that. And so, did you look at the -- where was the water  
8 when you looked at the lower level of the house?

9 A: Yeah. So, the water was on the basement floor in the  
10 what I have called the center basement, but the -- and then --  
11 which is the portion of the basement in front of the man cave.  
12 And there was also some standing water around the front door  
13 of the -- front door opening around the man cave, and then  
14 along the right-hand side was where I noted standing water, or  
15 where I noted moisture. At the right-hand side, it wasn't  
16 standing water, but there had been water there and the  
17 concrete was wet to the appearance.

18 Q: Was there a sump pump in the basement?

19 A: There was -- essentially, it's at the back right -- or  
20 near the back right corner of the front basement or the  
21 basement.

22 Q: Was it operational when you were present?

23 A: Yeah. So, with the sump pump -- well, it's really a sump  
24 and a pump. So, a sump is essentially a hole in the ground,  
25 and usually it has a bucket or some way, and so that holds

1 water. And then the pump essentially operates on a float.  
2 So, if the water gets high enough, it activates the pump and  
3 pumps the water out. And so, there was standing water in the  
4 sump, and I manipulated the float so the pump would operate,  
5 and it pumped the water out of the sump.

6 Q: Okay. Despite that, was there still water in the areas  
7 that you described in the lower level of the house?

8 A: Yeah. So, the -- what concerned me in looking at the  
9 basement where the water was coming from is that essentially  
10 you had evidence of standing water, water penetrating along  
11 the front wall of the basement. So, that's the -- there's a  
12 masonry retaining wall at the front and the left-hand side of  
13 the basement, and that retains the soil from the crawlspace.  
14 So, we had water that was penetrating that scene between the  
15 basement wall and the slab of the basement.

16 Q: And maybe if we give you the mouse, maybe you can show us  
17 on this diagram the area you're talking about. Just point --  
18 it should operate the screen, just for the jury's sake.

19 A: Yeah. So, maybe to help orient myself, but the -- so,  
20 the 25 x 13, this area of the basement is under the kitchen  
21 breakfast area, kind of in that general area. And this back  
22 area is the man cave. It's under the den, under the den. And  
23 so, the sump pump would be on the right-hand side just below  
24 where the 6.7 foot is. I noticed wet basement slab around  
25 this area here. It extended through the door opening into the

1 man cave. And then we had wet concrete against the wall right  
2 here. And so, the place where I was talking about would be  
3 kind of along this front portion of the basement. So, what I  
4 saw was consistent with the, with a portion of the water  
5 that's ending up in the basement coming from the dirt that's  
6 on the front side of the basement wall.

7 Q: Okay. Did you take any humidity readings in the basement  
8 area?

9 A: I did.

10 Q: Do you happen to recall what kind of readings you got?

11 A: Yeah. So, I -- I got I think it was around 87 percent  
12 relative humidity, and I compare that with the outside. I  
13 think if memory serves me, it's around 56 percent relative  
14 humidity, so, we had a circumstance where the interior  
15 humidity, or the moisture vapor was higher in the basement  
16 than it was outside. So, relative humidity is a way to  
17 essentially do a measurement of the amount of moisture vapor  
18 in the air. And usually for occupiable space, you want it  
19 between 40 and 50 percent relative humidity, you know, you  
20 might expect sometimes it to be around 60. And so, I thought  
21 80 -- I identified 80 as being elevated.

22 Q: Mr. Stuart, just for purposes of refreshing your  
23 recollection, I'm going to show you a document here. If  
24 you'll take a look at that for me.

25 THE COURT: Mr. Love?

1 MR. LOVE: May we approach?

2 THE COURT: Sure.

3 (REPORTER'S NOTE: Bench conference is held off the record in  
4 the presence but outside the hearing of the jury.)

5 BY MR. GROTE:

6 Q: Mr. Stuart, with regard to the humidity reading, do you  
7 recall exactly what it was off the top of your head?

8 A: Not exactly. It was in the 50s, you know, it's to two  
9 decimal places, if I remember correctly. It's either one or  
10 two.

11 Q: The humidity in the basement.

12 A: Yeah. It was 57 point something, .3, something like  
13 that.

14 Q: In the basement or outside?

15 A: In the basement -- or 87.3 is my memory in the basement.

16 Q: Do you recall how long ago -- excuse me. This test was  
17 done, what, in 2020?

18 A: February 2020.

19 Q: If I -- did you issue a written report?

20 A: Yes.

21 Q: If I showed you a copy of that, would it help you  
22 remember some of the information about your inspection?

23 A: Yes.

24 THE COURT: Go ahead.

25 MR. LOVE: Your Honor, for purpose of the record, I would

1 object and that the witness hasn't indicated that he failed to  
2 remember anything in the report, and therefore you don't have  
3 to give him a report to remember things he hasn't even said  
4 he's forgotten.

5 THE COURT: All right. We're gonna go ahead and let them  
6 look at the report to refresh his memory. It seems that he is  
7 having some trouble with what the moisture level was. Okay?

8 MR. LOVE: Understood. Thank you, Your Honor.

9 A: Okay. So, the relative humidity in the center basement  
10 was measured to be 82.6 percent, which is considered elevated.  
11 For comparison, a relative ---

12 BY MR. GROTE:

13 Q: We don't need you to read the report, just the humidity.  
14 And does that report refresh your recollection of the date of  
15 the inspection you performed?

16 A: It does.

17 Q: Okay. All right. So, based on -- did you go look around  
18 the outside of the property?

19 A: I did.

20 Q: How was this house situated?

21 A: So, the house is on a kind of a long narrow piece of  
22 property. And so, at the very back of the piece of property  
23 is a creek that's about 500 feet thereabout approximately from  
24 the house itself. And so, there's a -- the property slopes  
25 down from the road towards the house, and then slopes further

1 down towards the creek.

2 Q: Okay. So, based on your investigation, to a reasonable  
3 degree of engineering certainty, I guess, what were your  
4 findings or conclusions as to what you're observing with  
5 regard to water in the basement?

6 A: So, I also went in the crawlspace of the house. And  
7 remember, there are crawlspaces to the front and to the right-  
8 hand side of this center basement, and noted that there was  
9 soil that was extending outside that would be at a higher  
10 elevation than the soil in the crawlspace itself. And that  
11 the backside of the masonry on that basement wall was wet and  
12 had water stains. And so, my conclusion was that essentially  
13 groundwater from the home was entering the building foundation  
14 resulting in standing water and elevated moisture conditions  
15 in the basement.

16 Q: Based on your forensic evaluation, to a reasonable degree  
17 of engineering certainty, were you able to determine whether  
18 this condition predated Dr. Sarb's ownership of the property?

19 A: Right. So, when I inspected the property, I did notice,  
20 well, water staining and efflorescence in the -- on the  
21 backside of the crawlspace foundation wall, which indicated to  
22 me that it was something that had predated the purchase of the  
23 house, which was earlier in 2019. Also, there was a door  
24 between the man cave in the basement and the base of that  
25 doorframe was decayed, which would indicate that there had

1 been a presence of water at or near that location for periods  
2 of time that predated the -- predated the purchase of the  
3 home. Also, there was some white coating on the inside of the  
4 basement foundation wall of that same two-foot-tall wall that  
5 we talked about before, and that indicated to me that there  
6 had been some effort to attempt to seal the wall at some  
7 previous time. So, it was my thought that this was a  
8 condition that preexisted Dr. Sarb's purchasing the home.

9 Q: Did you review a report prepared by a company called  
10 House Master?

11 A: Yes.

12 Q: Was this issue, in your review of it -- or, excuse me --  
13 the problem that you have described, was that in anything that  
14 was identified in the House Master report?

15 A: There -- I didn't really see anything that spoke to the  
16 basement itself. There was a photograph that showed the  
17 foundation wall and some moisture staining on the foundation  
18 wall in the basement with a recommendation to put foundation  
19 wells over the foundation vents.

20 Q: Is that event well?

21 A: Yes.

22 Q: What is event well?

23 A: So, a vent well is essentially a cover that extends  
24 around the outside of the crawlspace vent. And so, the  
25 purpose of the crawlspace vent is to allow moist air in the

1 crawlspace to diffuse to outside, and so it has openings in  
2 the event. And so, when your vent is either below grade,  
3 below the outside grade of the house or right at grade then  
4 you are subject to surface water on grade running into the  
5 crawlspace vent. So, the purpose of this well is to help  
6 prevent that from happening.

7 Q: Okay. Is that different than the issue that you  
8 diagnosed for Dr. Sarb?

9 A: It is.

10 Q: Is the issue that you found groundwater as opposed to  
11 surface water entering the vent?

12 A: That's right. Well, entering through the -- essentially,  
13 penetrating the foundation wall.

14 Q: Okay. Based on your investigation and your findings, to  
15 a reasonable degree of engineering certainty, were any  
16 remedial actions needed to be taken to address the water issue  
17 in the basement?

18 A: Yes.

19 Q: Can you describe what your recommendations were?

20 A: Right. So, you know, the -- I guess the problem or the  
21 problems that we're faced with with this particular, this  
22 particular circumstance is we're near a creek where we --  
23 where I had some concern about, about water table. And then,  
24 we also have a situation where we have a property that slopes  
25 down towards the front of the house. And so, what I proposed

1 to do was to essentially install components that would stop  
2 the water flow through the foundation wall, which is  
3 waterproofing, as well as put foundation drains around the  
4 perimeter of the house to where water that finds its way to  
5 the foundation wall is gonna be directed out away from the  
6 foundation wall. And I also recommended a larger, deeper sump  
7 pump so if we have circumstances where due to a relatively or  
8 potentially high relative water table that that would be kind  
9 of a backstop in case we do have water that ends up under the  
10 basement.

11 Q: Okay. As far as these drains that you described, is that  
12 something that's commonly referred to in lay terms as a French  
13 drain?

14 A: Yeah. It's a -- yes. It's typically referred to in  
15 building codes as a foundation drain. And so, you're -- you  
16 know, I guess modern construction -- this house has some age  
17 on it, but in modern construction if you have a house like we  
18 have where the outside ground is higher than the inside  
19 ground, if you have a circumstance where water infiltration is  
20 likely to occur, either due to the topography or due to  
21 groundwater, then they identify the installation of a  
22 foundation drain.

23 Q: Do you recall whether -- strike that question. Did you  
24 end up going out to the property again after your initial  
25 evaluation?

1 A: I did.

2 Q: Do you recall roughly when that was?

3 A: It was in early 2022.

4 Q: Do you recall the nature of why you came back out to the  
5 property?

6 A: Yes. Dr. Sarb had a concern about a crack in the house,  
7 and it's a crack that had manifested itself since the work,  
8 and she asked me to take a look at it.

9 Q: Okay. Did you in fact go take a look at it?

10 A: Yes.

11 Q: And what did you observe and what did you find to a  
12 reasonable degree of engineering certainty?

13 A: Yeah. So, we had -- if you look at our sketch here, this  
14 is a three-bedroom house, so at the front right corner bedroom  
15 you see that there's two closets there. And so, there was a  
16 drywall crack at the -- over the door opening to the closet.  
17 And the floor itself was in a sad condition. So, I got up  
18 under the house. The house was good and dry. There was a  
19 foundation pier under this location, the framing looked to be  
20 in good shape, didn't see any evidence of decay or anything  
21 like that. So, it's my opinion that there had been some  
22 settlement of that foundation pier as you change moisture  
23 content and soils, sometimes you get a reduction in bearing  
24 capacity. So, it's my opinion that after the soil is dried  
25 out, we ended up with a little bit of settlement of that pier,

1 and the cracked drywall.

2 Q: Was that evaluation done after Dr. Sarb had the French  
3 drain or the foundation drain system put in?

4 A: Yes.

5 Q: Is that your understanding, or what is your understanding  
6 of what caused the, I guess, the foundation to be drier at  
7 that point?

8 A: The crawlspace was noticeably drier during my inspection  
9 than the first time.

10 Q: Did you believe that to be a result of the French drain  
11 system or the foundation drain system that was installed?

12 A: Yes.

13 MR. GROTE: No further questions, Your Honor.

14 THE COURT: All right.

15 Mr. Love?

16 MR. LOVE: Thank you, Your Honor.

17 CROSS-EXAMINATION OF GLENN STEWARD BY MR. LOVE:

18 Q: Good afternoon, Mr. Stewart. How are you?

19 A: I'm doing well. Hope you are doing well.

20 Q: I am. Thank you.

21 February 20th, 2020 was when you visited the residence of  
22 Dr. Sarb at 550 Wisteria; is that right?

23 A: Yes.

24 Q: You issued your report that you've testified about  
25 February 21st, 2020; isn't that right?

1 A: I'd have to look at the exact date, but it would -- it  
2 was shortly thereafter.

3 Q: I have a copy of your report and I'm happy to show you.  
4 At the top, is that February 21st, 2020?

5 A: Yes.

6 Q: Okay. Thank you. Prior to February 20th, 2020, had you  
7 ever heard of 550 Wisteria or visited 550 Wisteria?

8 A: You know, I had only heard about it from, from  
9 essentially accepting the project. I had never been to the  
10 house before.

11 Q: And who did you accept that project from?

12 A: I was originally contacted by the McCabe Law Firm.

13 Q: McCabe Law Firm. Now, let me ask you this. Prior to,  
14 let's say, June 14th, 2019, had you ever been to 550 Wisteria?

15 A: No.

16 Q: Had you ever driven by 550 Wisteria?

17 A: Not that I know of, no.

18 Q: Okay. The front page of your report provides that this  
19 report and conclusions and opinions are based on information  
20 available to the investigation as of this writing. Is that  
21 made available or that are available?

22 A: Well, I guess, available to me. I don't -- I'm -- I  
23 don't know if I noticed the difference. What's the  
24 difference?

25 Q: The distinction is, were you provided materials to reach

1 a conclusion, or did you research materials to draw your  
2 conclusion?

3 A: I did both.

4 Q: Okay. I understand that Dr. Sarb was present during your  
5 tour of the home, correct?

6 A: Yes.

7 Q: And how long were you in the house?

8 A: I don't recall. Probably two hours.

9 Q: Two hours?

10 A: Yeah.

11 Q: And she was with you during that time?

12 A: She was there. She wasn't with me the entire time.

13 Q: Okay. I believe on direct examination you indicated that  
14 she was relaying the history of events to you so that you  
15 could help formulate your opinions; is that right?

16 A: That's correct.

17 Q: And you also indicated that you looked at the house  
18 inspection report; is that correct?

19 A: Yes.

20 Q: And that was the inspection report done by House Masters,  
21 correct?

22 A: Yes.

23 Q: I want to show you Plaintiff's Exhibit 6, which is that  
24 report. Does that report indicate that there had ever been  
25 any groundwater intrusion inside of this home?

1 A: It's kind of a -- I guess the question is a negative. It  
2 doesn't -- my reading of it, it didn't identify that there had  
3 been moisture intrusion in the home. Is that answering your  
4 question?

5 Q: It does.

6 A: Okay.

7 Q: Before preparing your February 21st, 2020, report, did  
8 you review the CL-100?

9 A: I don't believe so.

10 Q: Okay. Then I assume you did not review the moisture  
11 content levels that were contained in the CL-100 either,  
12 correct?

13 A: That would be correct, yes.

14 Q: Did you talk to the defendants, the Phillips ---

15 A: No.

16 Q: --- before issuing your report?

17 A: No.

18 Q: Did you talk to John Sims before issuing your report?

19 A: No.

20 Q: Did you review any repair estimates prepared by John Sims  
21 before issuing your report?

22 A: No.

23 Q: Did you know what John Sims had been doing on or about  
24 the property before your report?

25 A: I may have at the time; I don't now. The name doesn't

1 sound familiar to me.

2 Q: And how about a repair estimate prepared Pee Dee  
3 Renovating; have you seen that?

4 A: No.

5 Q: Did you speak with Daniel Williams?

6 A: No.

7 Q: Do you know who Daniel Williams is?

8 A: No.

9 Q: Did you speak with any of the neighbors of the property?

10 A: No.

11 Q: Did you consult any rain data charts?

12 A: No.

13 Q: Does your report mention any recent rain or any history  
14 of rain or anything to do with rainfall when you issued it  
15 February 21st, 2020?

16 A: No.

17 Q: Mr. Stewart, how much are you being paid by the plaintiff  
18 to testify at trial?

19 A: My employer will submit an invoice to the McCabe Law  
20 Firm, so that invoice is based on an hourly rate and expenses.

21 Q: All right. Mr. Stewart, how much are you being paid to  
22 testify in court for the plaintiff?

23 A: The answer is I don't know. My employer will submit an  
24 invoice. The rate that they charge is \$250 an hour and  
25 expenses.

1 Q: All right. How many hours have you been in Florence for  
2 this trial thus far?

3 A: I got here around 11:00, took an hour and 1/2 off for  
4 lunch, so since 11:00.

5 Q: Okay. Were you here yesterday?

6 A: No.

7 Q: Okay. I'm going to show you Plaintiff's Exhibit 169.

8 Not too many more questions; keep that hourly down. Exhibit  
9 169, are those invoices that you have already been paid?

10 A: Yes.

11 Q: Okay. So, to date, before you ever stepped into this  
12 courtroom, before you arrived at 11:00 a.m., you have already  
13 been paid \$4,400 thereabouts, rounded off; is that accurate?

14 A: No.

15 Q: Okay. Tell me what it is.

16 A: It's the first -- the first invoice total, I established  
17 a budget of \$2300, and spent \$3,015.79, and so \$2300 was  
18 invoiced and paid. And the next invoice was for \$181.86.

19 Q: Okay. So, how much do you -- is it your testimony -- how  
20 much have you been paid by the plaintiff thus far in this  
21 case?

22 A: The company I am employed by would be -- it'd be the 2300  
23 plus 4181.86. And I believe there was a small invoice related  
24 to an affidavit. But it would be those three.

25 Q: So, it was nowhere near \$3,781.86?

1 A: You said 4,000.

2 Q: But, I mean, that's pretty close to 4,000. I said in the  
3 neighborhood of 4,000. I'll give you the exact number. Let  
4 me rephrase my -- let me re-ask my question. Mr. Stewart, has  
5 the plaintiff already paid you before today \$3,781.86?

6 A: Has paid the company I work for, yes.

7 Q: Okay. Plus, today's charges, hourly rate, and expenses,  
8 correct?

9 A: Yes, sir.

10 MR. LOVE: No further questions, Your Honor.

11 THE COURT: All right.

12 Is there any redirect?

13 MR. GROTE: Very briefly, Your Honor.

14 THE COURT: Okay.

15 REDIRECT EXAMINATION OF GLENN STEWART BY MR. GROTE:

16 Q: Mr. Stewart, there seems to be a bunch of confusion about  
17 the date of your inspection. I would like to clarify that,  
18 because I think Mr. Love was referring to February 20 because  
19 I think that maybe what you said initially, but I'm going to  
20 show you a copy of your report again. Can you just identify  
21 for the jury based on your written report as to what date you  
22 were actually out there at Dr. Sarb's property?

23 A: February 12th, 2020.

24 Q: Okay. So, not February 20, 2020?

25 A: No. It's February 12th.