

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
 COUNTY OF BEAUFORT) CASE NO 2006-CP-07-0866

16 JADE STREET, LLC,)
)
 PLAINTIFF,)
)
 VS)
)
 R DESIGN CONSTRUCTION CO , LLC,)
 CARL R ATEN, JR , individually and in his)
 capacity as principal and agent of R)
 Design Construction Co , LLC)
 CATTERSON & SONS CONSTRUCTION)
 and MICHAEL S CATTERSON,)
 individually and in his capacity as principal)
 and agent of Catterson & Sons)
 Construction,)
)
 DEFENDANTS)
)

**NON-JURY TRIAL
 VOLUME 1 OF 3**

held before the Honorable Carmen T Mullen
 Mia Perron, Circuit Court Reporter, 14th Judicial Circuit
 in the Beaufort County Courthouse
 Beaufort, South Carolina
 on Monday, October 13, 2008, Commencing at 11 03 a m

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PROCEEDINGS

[Whereupon, Plaintiff's Exhibit Number 8, Anchor contract, is marked by the court reporter]

THE COURT All right Can we go ahead and, just for the record, let's go ahead and put everyone that is in the courtroom And just if the attorneys would name themselves, obviously, for the record, and who they specifically represent

Let's go ahead and start with you, Mitch

MR GRIFFITH My name is Mitch Griffith I represent 16 Jade Street, the plaintiff in this action With me today is Dennis Green, the managing partner of the LLC

THE COURT Good morning, sir

MR GRIFFITH And also with me is Mike Freeman from my office, for the benefit of the court reporter

THE COURT Thank you

MR BENDLE Your Honor, my name is Tab Bendle, and I represent R Design LLC, and Carl Aten is the managing member of that company Also with me today is Jason Ward I'm also with --

THE COURT Okay And it's --

MR ROSS Good morning

THE COURT I'm sorry I apologize, y'all It's R Design Construction, LLC Is that what it --

1 Construction Company, Tab, is that right?

2 MR BENDLE That's correct

3 THE COURT Okay And I apologize You said
4 Mr Aten is here?

5 MR ATEN I'm right here

6 THE COURT Mr Aten, good morning, sir

7 MR ATEN Good morning

8 THE COURT All right Thank you, sir All
9 right Go ahead, Jeff

10 MR ROSS My name is Jeff Ross I represent
11 Michael Catterson, individually, in this matter And
12 he's behind me

13 THE COURT Good morning, Mr Catterson

14 MR CATTERSON Good morning

15 MR FINN Good morning, Your Honor Tom Finn
16 I represent Catterson & Sons, Incorporated

17 THE COURT All right, gentlemen And just for
18 my benefit, is there anyone that we had in? I saw that
19 the electrician was dismissed, is that correct?

20 MR BENDLE That's correct, Judge

21 THE COURT Is there anyone else that's been
22 dismissed or resolved? That's simply --

23 MR GRIFFITH No, ma'am

24 THE COURT And you've never -- and you haven't
25 brought in the block manufacturer, is that correct?

1 MR GRIFFITH No

2 THE COURT Okay Mitch, if you want to go --
3 what I told the attorneys, back in chambers before, is
4 that just brief -- and this is just for the benefit of
5 those of you who are parties in this I just asked
6 them for just a brief five-minute set-out This is a
7 little bit different because it is a non-jury case and
8 it's being tried to me, so I don't need as much as what
9 we call the dog-and-pony show that necessarily a jury
10 would need But I'm asking each of them just for a
11 quick five minutes to set out what it is is their case,
12 and their numbers Okay?

13 MR GRIFFITH May it please the Court?

14 THE COURT Yes, sir

15 - - - - -

16 OPENING STATEMENT

17 MR GRIFFITH Judge, as I said, I represent 16
18 Jade Street With me today is a managing partner,
19 Dennis Green

20 Jade Street was formed to develop four
21 condominium units in Celadon Development, which is off
22 Sams Point Road On the screen you will see this is
23 the site plan for Celadon Sams Point Road runs right
24 here And the piece of property that we're talking
25 about you would have to come in here, come all the way

1 down here, and this is where 16, the four condominium
2 units, were to be built

3 The contractor that -- ultimately, in this case,
4 was R Design and Carl Aten And, additionally,
5 involved as defendants is the framer, Michael Catterson
6 and Son -- or Catterson and Son, and Michael Catterson,
7 individually, who was a framer for Mr Aten on the Jade
8 Street project

9 We brought three causes of action One is for
10 warranty of a work -- warranty of a workmanlike manner,
11 which means that the house would be constructed in a
12 reasonably workmanlike manner, negligence, meaning that
13 they breached the standard of care, and as to R Design
14 only -- as to R Design, and not Mr Aten, breach of
15 contract

16 Basically, the facts in this case start off with
17 Dennis Green bought seven tracts of land, formed
18 Celadon, to develop this piece of property Certain
19 builders were approved in the Celadon project, and one
20 of them ultimately was Carl Aten and R Design They ←
21 were the responsible party on the project They were
22 the responsible party that ultimately contracted with
23 16 Jade Street The project that we talked about was
24 going to be four condominium units that were built
25 They were actually permitted under separate permits, s

1 we've got four permits there And what we have is they
2 had an architect, which was Randolph Stewart, who
3 developed the plans for -- excuse me Mr Stewart was
4 actually the designer who developed the plans for this
5 project, and then Kern-Coleman, out of Savannah, was
6 the structural engineer

7 THE COURT Kern-Coleman?

8 MR GRIFFITH Kern-Coleman

9 THE COURT Coleman Okay

10 MR GRIFFITH Kern-Coleman C-O-L-E-M-A-N

11 THE COURT Okay

12 MR GRIFFITH July 27th, 2004, there was a
13 contract signed between R Design and 16 Jade Street ←
14 Under the contract, the contractor was to direct all
15 construction work, and the contractor was solely
16 responsible for all the means and methods and
17 techniques of the construction R Design was going to
18 be paid \$150,000 for supervision

19 September 7th, 2004, the building permits were
20 issued to R Design to start construction
21 Construction started In 2005, issues started arising
22 between the parties As of April 2005, Dennis Green,
23 as the managing partner, called on the structural
24 engineer, Kern-Coleman, to perform an inspection
25 Kern-Coleman came, inspected the project, and found

1 four defects at that time

2 Now, so you will understand, Kern-Coleman was
3 not responsible for contract administration They were
4 simply the engineer of record They were familiar with
5 the project They were asked to come perform an
6 inspection They performed the inspection and found
7 four things wrong They issued a report, meetings were
8 held to try to get the thing back on project or on
9 schedule, but instead things got worse

10 In -- or excuse me On July 22nd, 2005, the
11 framer, Mr Catterson, came in There became an issue
12 over payment for him, there were some other issues
13 about the project, he quit He's off the project as of
14 July 22nd, 2005

15 THE COURT So he quit

16 MR GRIFFITH So he quit

17 Things continued to go downhill from there Mr
18 Aten was trying to sort of work with finding another
19 subcontractor to frame, continued to try to do some
20 work himself, trying to get some other subs, and
21 continue on

22 Came down to October 17th, 2005 Another
23 meeting between Mr Green and Mr Aten And at that
24 point in time there's going to be probably an issue of
25 fact whether Mr Aten quit or Mr Green fired him In

1 any event, it was pretty much mutual at that point in
2 time

3 Surprisingly, on April 18th, 2005, because
4 things had gotten worse, Mr Green had already lined up
5 the engineer to come back in to perform another
6 inspection Kern-Coleman came back, performed a second
7 inspection At that time they found thirty-eight
8 defects that they listed out in report, that will
9 probably be thrown around here a lot today And you'll
10 hear about that report You will see that report, we
11 believe, throughout the course of this trial

12 That report was issued October 18, 2005 At the
13 same time, on October 17th, if I can go back one day,
14 Mr Aten went to the building department, said he was
15 no longer going to be the contractor of record Mr
16 Green then comes in He goes and gets another
17 contractor, which was Anchor Construction Company
18 Anchor Construction Company, the principal in that is
19 Eddie Powell You may hear that name Eddie Powell is
20 a shareholder, I think sole shareholder, of Anchor
21 Construction With him, as general superintendent, is
22 Steve Carpenter Mr Carpenter has been in
23 construction for about forty years I think he
24 testified that he started when he was about fifteen
25 years old Or twelve years old He actually started

1 running heavy equipment at fifteen In any event,
2 Steve was the general superintendent on this project

3 Mr Carpenter came up with a list of defects
4 That list of defects is going to be greater than the
5 one that was found by Kern-Coleman He went and did
6 this before they even agreed to sign on to do the work
7 to do the repairs

8 On November 22nd, 2005, Anchor Construction
9 Company signed a contract with 16 Jade Street for the
10 Jade Street to complete -- to make repairs to the Jade
11 Street project and then complete the project At that
12 time, from that time brought in a forensic engineer at
13 my request I said, lets get another engineer and
14 let's look and see what problems we've got, if we have
15 problems

16 Randy Still comes in with H2L Randy does an
17 assessment of the problems with regards to the
18 structural issues Randy identifies basically three
19 areas of concern that will need the work of a
20 structural engineer He identifies those At that
21 time there was talk about should we tear it down or
22 should we just try and go forward That assessment was
23 done within the team at that point in time, and they
24 decided that let's try and make this thing -- we think
25 we can put it back together in a more cost-effective

1 method than just raze it and start over

2 So at that point in time, Randy identifies
3 basically three issues He also identifies other
4 defects, pretty much the ones found by Kern-Coleman, in
5 addition to the ones found by Steve Carpenter, but
6 says, I'm not going to issue a whole new set of plans,
7 the plans look to be fine, what I will do instead is I
8 will concentrate on three issues, you've got a good
9 contractor After working with them he said, you've
10 got a contractor that can handle the construction
11 issues, we're not going to -- we're going to try and
12 save that money at least on that set of plans and those
13 engineering fees

14 Then February 22nd, 2006 -- and you'll see that
15 there was a gap of about three months right in there,
16 December, January, and February, doing the forensic
17 analysis That's when Anchor Construction Company
18 pretty much started work back on the project to go and
19 fix and make repairs

20 Judge, I'm going to try to be brief But what
21 you're going to hear, you're going to hear about AAC
22 block, which is aerated autoclave concrete, which you
23 may or may not be familiar with through your private
24 practice But it is basically a concrete block that is
25 lightweight This is some of the block that was used

1 out there You're going to hear problems about it in
2 the installation of it It was installed improperly,
3 it was dry-stacked, bond beams were broken, cores --
4 and one of the ways it's got to be is in order to make
5 the structural properties right, this hole has actually
6 got to have rebar in it, number 5 rebar, and then it's
7 got to be filled That was not done That made it so
8 the rebar was missing These actually -- the rebar
9 that was actually out there to start with was forty-
10 eight inches on center, when it should have been
11 thirty-six inches by the plans, which ultimately
12 require a structural analysis of that

13 Randy comes back and says, maybe we ought to --
14 and I don't want to say he said we ought to tear it
15 down, but, again, contemplation about it

16 THE COURT Okay So what --

17 MR GRIFFITH And --

18 THE COURT I'm sorry, Mitch To interrupt you
19 just quickly so what actually was in it? Was there
20 rebar, and was it filled?

21 MR GRIFFITH There was not rebar And our
22 understanding is, basically what Randy I think will
23 testify to, it was not filled But not only that --

24 THE COURT And so there was no rebar at all?

25 MR GRIFFITH There was rebar coming up out of

1 the foundation at forty-eight inches on center Where
2 these blocks were stacked --

3 THE COURT Right

4 MR GRIFFITH -- there was not --

5 THE COURT No rebars were there?

6 MR GRIFFITH -- rebar in the stacks

7 THE COURT And were they filled even, or no?

8 MR GRIFFITH Well, no, they weren't filled,
9 which made it -- then you're going to have to take off
10 the bond beam in order to fill it So it's got to be
11 stacked --

12 THE COURT Right

13 MR GRIFFITH -- stacked like that [indicates],
14 to get it through there

15 THE COURT Okay

16 MR GRIFFITH And in some of these, they were
17 not even stacked And you'll see pictures where
18 they're cut with little pieces And that's one of the
19 things So then you can't throw your rebar in there
20 and fill it, because it's off center

21 THE COURT Okay

22 MR GRIFFITH What Randy ultimately said was
23 because of these short pieces, that's one of the things
24 structurally we've got to worry about from a seismic
25 condition, from a hurricane condition, from the lateral

1 loads and from the horizontal loads that are going to
2 be impressed upon it

3 He came up with a design, actually within, to
4 put in a steel column at specifically-placed areas
5 One of the things that they had thought about doing
6 originally was putting up simply a -- I want to make
7 sure I'm -- bond sealer I'm probably not saying that
8 right One of these gentlemen will correct me, I'm
9 sure -- which basically is a coat to go over this And
10 they say, okay, that's going to give it structural
11 property Randy ran through that and said, I don't
12 think that's going to work, especially on a building of
13 this nature So he talked about going inside Because
14 it's -- because of the nature of AAC block, you can
15 actually cut this and maybe stick the column in it
16 That became sort of cost prohibitive, because then
17 you're going to have to cut it, then you're going to
18 have to put -- work within a small space, and then
19 you're going to have to come back and fill the outside
20 of it

21 So instead, the design was to put in these
22 columns inside, which obviously caused the price to go
23 up because once you've got a design slab on grade,
24 you're going to have things like plumbing And as a
25 result -- because now you're coming in about an inch

1 and a half with the column, the thickness of it, then
2 your toilets are never going to line up right, your
3 fixtures are going to be off So you'll see
4 photographs where they had to jack in to the
5 foundation, cut it, realign the plumbing fixtures
6 and the other utilities that came in I talked about
7 that -- I was trying to be short I talked about that
8 a little more than I intended to

9 But in addition to that, the columns that were
10 there, there were problems with the steel that was
11 already in there They had not followed the plans So
12 they had to come back and structurally come up, because
13 they were concerned about the loads compressing on the
14 foundation where it was not properly supported because
15 they had changed the way the columns came down through
16 there by adding some steel

17 What we also have is framing issues And we're
18 going to hear framing issues The windows were one of
19 the things This is actually impact-resistant windows
20 The framing was so wide that they actually took OSB
21 board and used it as a shim Well, two things are
22 wrong with that You can't use OSB as a filler
23 Secondly, the framing is too wide, that under the
24 Weather Shield specifications, you've got to have your
25 frame only a half inch, otherwise, you're going to lose

1 your properties for your wind loads that they're
2 designed for

3 So they had to go back, pull all the windows
4 out, re-frame all the windows The windows had roofing
5 nails in them Not supposed to do it with roofing
6 nails The plans themselves had a specific nailing
7 pattern Where siding had not been added already, the
8 nailing pattern was missing Obviously, as you know,
9 the nailing pattern will be for the design, in order to
10 have hurricane force winds, that you can actually put
11 the nails in there to hold it

12 Headers were not properly framed Now, you're
13 going to go -- that will drop back a little bit to the
14 AAC, because you're going to see that the lintels were
15 not per the specifications They have an eight-inch
16 overlap in order to get the proper bearing But the
17 headers in the wood frame was not proper

18 Balloon framing, where you had to run -- they
19 actually had a break in the balloon framing We have
20 photographs to show that One of the things that I
21 think is probably going to be most impressive is that
22 one of the areas, they had an LDL beam coming across
23 that was supposed to be one span They had put three
24 LVLs as headers over a window and a door that stepped
25 out onto a patio You will see in the photographs that

1 were taken that there was a support, a temporary
2 support, that this was already in a state of failure
3 And that temporary support, which had four two-by-
4 fours, is already bowing

5 And we believe that what you're going to see,
6 there are going to be the damages that were already
7 coming from this And it's not just the repair of the
8 work itself, it is the repair problems that were going
9 on that were already damage in the project This
10 actually was one of the major framing issues that I
11 believe you'll hear it took about a month or six weeks
12 actually to go in, cut the header out, take the header
13 out, come back in, re-frame in accordance with the
14 plans and specifications

15 Adding to this problem, right above here there's
16 a Microlam beam that comes across the top The
17 Microlams have specific cuts that you can make on the
18 end so that they'll be bearing This was over-cut, and
19 as a result of the over-cut, it added to the stresses
20 that were there, which is causing the problem that
21 you're seeing there

22 Some of the other things I'll -- and I'll wrap
23 up, because we believe that we'll show the evidence and
24 go into more detail at that time Improper lumber
25 They were supposed to use southern yellow pine, which

1 would give the proper elasticity, whereas instead they
2 used a hem fir, which is not going to be as strong as
3 that In other words, the construction was just not
4 right

5 Now, what Anchor did when they came out and
6 repaired the problem what you are going to hear is
7 the testimony from Mr Green And I believe he met
8 with the owner of Anchor Construction Company, he met
9 with Steve Carpenter And it's about pay application
10 number 18, pay application number 18 where they say,
11 we've got it back to where it should have been when we
12 walked in here, everything from here on out is
13 finishing up the project

14 We've got a summary of all the pay applications
15 that were done, and these are the payments that were
16 paid to Anchor Construction Through pay application
17 number 18, where we say that the work done was simply
18 repair, is going to come to a total of nine hundred
19 thousand, seven hundred seventy-nine dollars, seven
20 hundred ninety-seven dollars [phonetic] That's
21 through the cost of repair

22 You're going to hear some testimony,
23 additionally, about changes to the plans Mr Green
24 will talk about that and tell you that as of this
25 particular point in time, he's got so much more money

1 invested in it than he thought, he wanted to come up --
2 see if he could come up with a better idea for a little
3 bit of marketing He went back to the bank, got
4 another \$319,000, made some design changes We're not
5 asking for those design changes We're not asking for
6 the cost to finish this project We are asking simply
7 for the repairs

8 Now, I think that what our damages will show
9 basically, Mr Green -- and I have to say I've got a
10 client who has some background in finance And
11 actually, I didn't realize this when I met him, but he
12 worked with the Carter administration We actually I
13 think need him with the Bush administration today

14 But in any event, what you're going to find and
15 what he will testify to -- and I think -- in any event,
16 what you're going to see and what our evidence will
17 show is that this is what his project price was, about
18 1 2 million We had talked in chambers about 1 6 or
19 so That includes all the development costs, all the
20 engineering fees He had planned construction in this
21 of about 1 2 He had \$700,000 in it, seven hundred
22 sixty-two -- approximately seven twenty-seven I think
23 is what the number will actually show -- into the
24 actual construction cost

25 Then between February '06 and November '07,

1 which we claim are the repairs, you're going to see
2 nine seventy-nine seven ninety-seven After that point
3 in time, after they believe that they finished the
4 repairs, they put another 1 3 million dollars into it
5 Here, the damage, we're only claiming seven seventy-
6 nine, interest on that money Dennis has the
7 accounting background that he can make that calculation
8 of about \$214,000 In addition to that, Randy Still
9 came up with engineering fees of about \$38,000

10 THE COURT Okay So wait a minute Just back
11 me up

12 So seven seventy-nine you said? Or nine
13 seventy-nine?

14 MR GRIFFITH My numbers are not the figures I
15 thought they would be right there

16 THE COURT Okay So what are they?

17 MR GRIFFITH I'm going to make this an
18 exhibit I'll be happy to show it to you right now, if
19 you want me to

20 THE COURT Yes Why don't you just give it to
21 me

22 [Whereupon, Mr Griffith proffers documents to
23 the Court]

24 [Whereupon, the Court reviews documents]

25 MR GRIFFITH So as I said, construction repair

1 was seven seven-nine seven ninety-seven

2 THE COURT Seven seven nine seven ninety-seven

3 Okay

4 MR GRIFFITH Interest expense was \$214,606

5 And, additionally, we spent engineering fees of

6 \$38,295

7 THE COURT And that was for Randy Still?

8 MR GRIFFITH That was Randy Still That does

9 not include any of the engineering fees for Kern-

10 Coleman

11 My client has corrected me I'm saying

12 something wrong He says I'm saying seven seventy-nine

13 repair It's --

14 THE COURT Yeah And that's where I kept

15 getting lost It's nine seventy-nine, according to

16 your --

17 MR GRIFFITH Nine seventy-nine seven ninety-

18 seven

19 THE COURT Thank you, Mr Green

20 That's where I was lost, as well Nine seventy-

21 nine --

22 MR GRIFFITH And I told him being left handed,

23 I'm dyslexic from birth

24 THE COURT All right Is this going to be an

25 exhibit, Mitch, or can I write on this?

1 MR GRIFFITH Let me just say I have --

2 THE COURT Do you have another copy of it?

3 MR GRIFFITH I plan to make that one an
4 exhibit I've got copies for you, additional copies,
5 in addition to the originals --

6 THE COURT Do y'all -- have y'all put together
7 your stacks of your exhibits that we're going to -- for
8 Mia? No?

9 MR ROSS I do have a stack, Your Honor I
10 don't know that I'm going to use every exhibit in
11 there, but I've made a copy for everybody

12 THE COURT Well, what I was hopeful was maybe
13 if y'all could cull down and figure out what you've
14 got, if I can just have a stack of them so y'all aren't
15 walking up here every two minutes to hand me something
16 It would be nice for us just to go ahead and -- so I
17 would have a stack But after I hear from everyone,
18 maybe if y'all could take two minutes and do that, that
19 would be perfect Okay?

20 MR GRIFFITH And as a result, we believe that
21 we would be entitled to a judgment on the negligence,
22 the workmanship We also think on the contract We
23 may determine later that we may need to elect on our
24 remedies if we get a judgment

25 THE COURT Okay Give me one second

1 [Off the record momentarily]

2 THE COURT All right Tab, whenever you are
3 ready

4 MR BENDLE Thank you, Your Honor Please the
5 Court

6 - - - - -

7 OPENING STATEMENT

8 MR BENDLE Again, Carl Aten is my client
9 is the managing member of an LLC that he and his w ←
10 Rose, own together

11 R Design was created in 1996, Judge, for t
12 purpose of building spec homes Mr Aten has buil
13 between five or six or so spec homes in Beaufort County
14 since that time, which gave rise to the relationship
15 with Mr Green One of the first homes he built was
16 for he and his wife within the Celadon subdivision He
17 had met Mr Green that way And Mr Green, at such
18 time that he was interested in building these condos,
19 approached Mr Aten, wanted to I guess research him,
20 look at some of the spec homes that he had built, and
21 at some point he asked, you know, different folks to
22 submits bids Mr Aten did so, and he was awarded the
23 contract

24 The original contract price, Judge, as we had
25 mentioned in chambers, was 1 66 million dollars

1 \$150,000 of that contract was to be received in fees
2 for the supervision of that project by R Design

3 In July of '04, the actual contract was signed
4 by R Design, with 16 Jade Street, for the
5 construction, and the permits were pulled shortly
6 thereafter to begin construction As Mr Griffith
7 mentioned, the designs and the plans and all were
8 created by other folks other than R Design Randy
9 Stewart, I believe, was the original architect -- or,
10 excuse me -- architect, and Kern-Coleman was the
11 original engineers on this project

12 THE COURT Is Randy Stewart an architect or a
13 designer?

14 MR BENDLE He's an architect, Judge

15 THE COURT He is an architect?

16 MR BENDLE Yes, ma'am ~

17 So, basically, what R Design was charged with
18 doing was building this four-unit condo complex using
19 the designs of non parties, essentially And it was
20 never intended by either of the parties at that time
21 for R Design to perform any function other than ←
22 supervise, you know, the work It was going to have
23 be done by contractors When he received the designs
24 he immediately recognized that the way that the
25 structure was to be engineered was using this block

1 system, ACC [phonetic] block system

2 Mr Aten had never personally used this product
3 so it was important not only to him, but also to Mr
4 Green, that they choose a subcontractor or a framer
5 that was very familiar not only with the type of
6 product but specifically the Aercon type of product

7 They submitted bids and had met, both of them,
8 with the codefendant, Mr Catterson, of Catterson and
9 Sons, and were wanting to make certain that he was
10 experienced with the product, had used it before, and
11 could perform the functions of the framing and the
12 block-work system appropriately Also, Mr Aten, to
13 whatever extent he could, tried to educate himself
14 about the project because, again, he was charged with
15 the supervision of it

16 Mr Griffith gave a pretty accurate history
17 about the relationship, and kind of what happened
18 after construction first began In the beginning,
19 everybody -- everything was going along nicely Mr
20 Green, at some point, became dissatisfied with the
21 progress that was occurring Throughout the course of
22 construction Mr Green, and rightfully so, was very
23 concerned about costs because they had a budget that
24 they had to live by And at some point that budget
25 started getting exceeded, and Mr Aten would be calling

1 Mr Green's office, and they would have a little
2 chitchat about why this was happening and what could be
3 done about it

4 One of the problems that was going on shortly
5 before Catterson left the project was that Mr Green,
6 who was responsible for paying the subs, was issuing
7 draws to Catterson against the advice of Mr Aten So
8 that became sort of a harsh topic between Mr Catterson
9 and Mr Green because Mr Aten did not want to see any
10 more draws for work that wasn't being done Mr Aten
11 himself was beginning to become dissatisfied with the
12 progress at the project, and those issues were
13 discussed

14 Mr Catterson actually did leave the job At
15 some point there was a meeting where Mr Green and Mr
16 Aten expressed their dissatisfaction with the progress
17 And my understanding is that Mr Catterson had bigger
18 and better things to move on to so -- after they issued
19 a letter asking him to please get -- you know, get his
20 guys back on the project, he just didn't show up that
21 following Monday

22 So at that point, Mr Aten and Mr Green both
23 were left in a real pinch Efforts were made on
24 R Design's part to get a couple of guys in there to
25 try to finish up odds and ends, like the carpentry

1 jobs They encouraged the other contractors, the
2 plumbers, the electricians that had been working on the
3 job, to get the work done as quickly as possible, but
4 things just sort of went downhill, as Mr Griffith
5 indicated earlier

6 So it was at that point that Mr Green and Mr
7 Aten met again Mr Green was, again, expressing
8 concerns Kern-Coleman had already been out there, in
9 April of 2005, and had identified some deficiencies
10 I'm not certain if they were corrected or done to his
11 satisfaction There were some issues with regard to
12 costs, specifically

13 One of the last days R Design was on the
14 project, there was a Grayco invoice that had not been
15 paid on time A disagreement ensued from that, and I
16 don't think that there's -- this is a controversy at
17 all, based upon former deposition testimony But my
18 guy was terminated from this project He was fired

19 Shortly thereafter -- he was fired on October
20 the 17th Prior to him being terminated, Mr Green had
21 asked Kern-Coleman to come back to the project The
22 project at that time was about sixty-percent complete
23 When he came out to the project to inspect, it was the
24 date after my guy was terminated And I believe also
25 present at that inspection was Steve Carpenter, who is

1 with Anchor So he may not have had a contract with 16
2 Jade Street at that time, but certainly he was involved
3 in coming up with, you know, some -- a list of
4 deficiencies

5 They inspected it A report was generated
6 Thirty-eight items were included on that list It is
7 going to be our position, and you'll hear testimony,
8 that, by and large, that list is composed of incomplete
9 items Again, this project was not completed A lot
10 of those deficiencies, as they will call them, were, in
11 fact, just incomplete items A lot of them are actual
12 punch-list items that neither Catterson nor Mr Green
13 ever had an opportunity to complete

14 Anchor was hired, as you've heard, to be the
15 repair contractor My understanding is that there was
16 a contract Unlike the contract that was originally
17 had between 16 Jade Street and R Design, this was a
18 cost-plus contract I think that you'll hear
19 inferences, and perhaps even testimony, that Dennis
20 Green was a completely different character with Anchor
21 in terms of costs I believe that he anticipated this
22 lawsuit and when Anchor was hired to come in and
23 repair, it was -- it's almost as if they were given a
24 blank check to complete the project, because that was
25 the utmost important thing at that point because of the

1 project had not been completed within the requisite
2 time period

3 Anchor eventually completed the repairs As Mr
4 Griffith indicated, it's up through pay app 18 -- I
5 think we've all stipulated to that -- that reflects
6 what Anchor considers to be the repair costs That
7 figure comes in at around \$980,000 One of the biggest
8 things about this case is the math And certainly, at
9 this point, I'm even confused about some of the math
10 Mr Green has testified before that he believes he's
11 out of pocket or his damages are somewhere in the range
12 of a million dollars Anchor, through Steve Carpenter,
13 has claimed that it's \$980,000 The records show, the
14 bank records, and Mr Griffith even indicated, that
15 they had about \$760,000 in hard construction costs So
16 the question begs -- or is begged why did they not just
17 demolish this whole structure and start over They
18 could have saved themselves well over \$200,000 So
19 part of our argument will certainly be the costs
20 associated with just the repairs were extremely over
21 inflated

22 As Mitch mentioned, they have actually sued I
23 believe -- I thought it was four grounds He mentioned
24 three Certainly, there's a breach of contract claim
25 Just to let the Court know, if they don't already, that

1 claim against my client individually had been
2 dismissed There are I guess two remaining claims
3 one for a breach of warranty, one for negligence

4 They have also complained, Judge, about some
5 damages, additional damages due to exposure to the
6 elements, that apparently had occurred after my client
7 was released from the job or terminated from the job
8 I'm not sure if they're going to be pursuing that as a
9 cause of action, nor do I know if it's even recognized
10 in South Carolina, but certainly that is a part of
11 their claim

12 Our position is that with the breach of warranty
13 that any warranties created between R Design and Mr
14 Green or 16 Jade Street were created in that contract ←
15 therefore, those claims should be dismissed against a
16 client, Carl Aten individually The negligence claim
17 would exist still And to that would say that we were
18 basically hired to supervise this project, that their
19 claim is for negligent supervision, and we feel that we
20 should be indemnified by Michael Catterson

21 We had a proposal that sort of acted as a
22 contract If they consider that not to be a contract,
23 then certainly our agreement with Catterson and Sons
24 was an oral one to do the work All of the
25 deficiencies, less a few items that are identified in

1 the Kern-Coleman report, the second one that we all I
2 believe are using sort of as a guide to, you know, set
3 forth the deficiencies, all of that work was done by
4 Michael Catterson and supervised by my client There
5 is a cost claim, with regard to that, against Mr
6 Catterson by my -- from my client, alleging indemnity
7 negligence, breach of warranty, and breach of contract

8 Real briefly, Judge, with regard to their cause
9 of action if it is, as such, one Damage due to
10 exposure my clients were released from the job,
11 again, October of 2005 The report was generated,
12 based upon the inspection by Kern-Coleman, the day
13 after There's no notations or comments with regard to
14 damage, due to any exposure, up until that point If
15 there were, in fact, any damages due to moisture, rain,
16 wind, what have you, those damages occurred after my
17 client was terminated, and the building should have
18 been protected by the persons who maintained control,
19 which would have been Mr Green, or, shortly
20 thereafter, with Anchor So I feel like any damages
21 that are claimed due to exposure should fail as to my
22 client, as well as Catterson and Sons

23 In a way, Judge, I feel like that that was a
24 part of his duty to mitigate In addition to his duty
25 to mitigate, I think he's done what is necessary He's

1 had these units placed on the market The last time I
2 heard, I don't believe any of the units had sold If,
3 in fact, the list price has not changed since our last
4 meeting, I believe that the units combined would be
5 worth a total or approximately -- or a little under 2 5
6 million dollars But certainly they're valued at that
7 And that list price is what it is because of the
8 extensive improvements and design changes and all And
9 Mr Green had testified, and Mr Griffith indicated
10 earlier, that they're not looking to recoup those fees
11 for the improvements and design changes in this
12 building But the fact is is that many of those costs
13 are reflected in the pay apps all the way from 1
14 through 18 So, in fact, if they are claiming damages
15 of the \$980,000 that, in effect, they are asking us to
16 pay for a lot of these improvements

17 Like I mentioned, Your Honor, this case is about
18 math Thus far it's been confusing to hear that our
19 damages are at nine eighty, no, they're half a million
20 We've got our own experts that have generously
21 estimated what they believe the cost of repair has
22 been, and, quite frankly, our estimates come in at
23 under \$200,000

24 THE COURT What is your exact number?

25 MR BENDLE It's \$165,000, Judge

1 THE COURT Okay

2 MR BENDLE And, again, I believe that my
3 expert will testify that he has generously estimated
4 that figure The figure that he has come up with is
5 based upon the Kern-Coleman report that was generated
6 by their own engineer And I will let him speak to the
7 deficiencies as he believe to be -- or the deficiencies
8 that he believes to be actual deficiencies verses what
9 he believes were just incomplete items and also, with
10 regards to pay apps, what he believes were inflated
11 costs

12 I would just ask in closing, Judge, that the
13 Court just look carefully at the figures, that we --
14 that the Court puts Mr Green back into the same
15 position as he would have been had these various
16 defendants been allowed to construct or finish
17 constructing the project as it was originally designed,
18 because that's what they were hired to do They were
19 not hired to construct what is there today The two
20 projects are completely different ones

21 I would also ask the Court to recognize that
22 both defendants have been sued in their individual
23 capacities Both operated at all times within the
24 scope of their roles as member-managers of their LLCs
25 And when a verdict, if it is rendered in favor of the

1 plaintiff, that that be carefully considered

2 THE COURT Who is the license holder? ←

3 MR BENDLE The license holder of the LLC is
4 my client, Judge --

5 THE COURT Yes

6 MR BENDLE -- is Carl Aten He was the one
7 that pulled the permit

8 And with exception taken to the apportionment of
9 damages, I would also ask the Court to recognize that
10 we do have claims for indemnity, negligence, breach of
11 contract, and warranty against Catterson because we
12 selected him to perform a job, that he had
13 responsibilities that were owed to my client as the
14 general contractor, he failed to complete the contract
15 by leaving the job And I certainly would ask the
16 Court to take that into consideration

17 As you know, Judge, it's taken a long time to
18 get here I appreciate you listening to this non jury,
19 and hopefully we can get this over with in a couple of
20 days We wanted to let you know that we do appreciate
21 you agreeing to hear this

22 THE COURT Absolutely Okay, Jeff

23

24

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25

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1 OPENING STATEMENT

2 MR ROSS Thank you, Your Honor As I said
3 earlier, I'm Jeff Ross I represent Mike Catterson,
4 individually

5 I wanted to -- these guys have done a pretty
6 good job of covering it For the most part -- and I
7 agree with what Tab said, obviously except for his
8 claims against me Truthfully, the only claim I
9 believe he has against me is an equitable indemnity
10 claim, but we'll address that at a later time

11 I also wanted to say something that Tab I think
12 misspoke about And I think he'll probably agree with
13 me Mr Green testified at an earlier time that his
14 damages were a half-million dollars, and that was based
15 on a 2 5-million-dollar value of the property and the
16 three-million dollars that he has invested in getting
17 it to where it is today And I think you said a
18 million dollars earlier

19 THE COURT Okay

20 MR ROSS I would also like to address another
21 couple of issues Mr Carpenter was on board I believe
22 it was immediately prior to Jonathan Livingston, who's
23 the engineer of record coming out on October 18th
24 That report was not generated until November 16th
25 Anchor was brought in to close down this job And,

1 very much like Tab says, that goes to a mitigation of
2 damages They have a duty to protect their property,
3 essentially And you'll see there is a lot of weather
4 damage to these buildings

5 A lot of this is going to come down to a real
6 burden of proof I had said earlier in chambers that
7 there are likely to be some proof problems and so,
8 therefore, I want to tell you a little bit about Mike
9 I represent him individually, but his corporation,
10 Catterson and Sons Incorporated, is who did the work
11 They had a contract with R Design They did some
12 block work on the site, they did some framing on the
13 site

14 I'm going to talk about Catterson and Sons a lot
15 today, because that's who was doing the work That's
16 also Mike's livelihood That's how he makes a living
17 He goes to work every day, he comes home, he's got a
18 wife and two kids in Ridgeville They've got a house
19 in Ridgeville He gets paid on Friday, and they start
20 over on Monday It's pretty simple He's been doing
21 framing work for twenty-five years He's been in
22 Beaufort for fifteen years He's built over 150 houses
23 in Beaufort, has never been sued on a negligent-
24 construction claim He does not advertise All of his
25 work is from word of mouth, referrals, recommendations

1 His contract with R Design was for \$133,000
2 It was labor only They supplied no materials Mr
3 Aten, of R Design, was Mike's boss He approved all
4 the drafts before he could get paid, therefore, what R
5 Design wanted, R Design got If they directed
6 Catterson and Sons to do something, unless Catterson
7 knows that it's a violation of a building code, that's
8 what they do And, likewise, I expect Mr Aten worked
9 the same way Directions may have come down to him,
10 and then he relayed those to our client Carl being
11 the boss, we've got to follow what Carl wants to do or
12 we cannot get paid and we can't eat

13 Catterson and Sons left the project July 18th,
14 or thereabouts There is a meeting, that looks like it
15 occurred on July 22nd, whereby Carl and Dennis Green
16 and Mike were all discussing issues At that point,
17 Carl said he would not approve anymore drafts to
18 Catterson and Sons Catterson and Sons' contract
19 specifies that they get paid weekly That would be a
20 clear anticipatory breach, therefore, R Design
21 breached the contract first Catterson and Sons is not
22 required to perform any further

23 R Design remained on the project -- one more
24 thing It has been mentioned by both parties that
25 there is a letter that went out to my client to come

1 back and finish the job or to repair the job I know
2 specifically, with respect to the letter to the
3 plaintiffs that Dennis and/or Mitch sent out -- I have
4 sent discovery requests asking for that letter
5 specifically, and it has never been produced to me I
6 also don't have the letter that R Design says they
7 sent out, as well

8 R Design stayed on the job for three months
9 after we left I don't know whether R Design hired
10 them or Dennis Green hired them, but there are people
11 on the job for three months, installing windows, doing
12 framing, block work, siding They were on the job
13 trying to finish up

14 The plaintiffs, I suspect, will -- well, let me
15 back up one minute This job at least kind of -- or
16 this case kind of comes down to two issues, and it's
17 kind of separated among the way the plaintiffs have
18 arranged their experts You have one issue, which will
19 be the block work, and then I suspect the other issues
20 -- and this is very generic -- will be the framing
21 issues Randy still dealt with the block work, the
22 carpenter dealt with the framing issues

23 With the framing issues, there is, I suspect,
24 going to be a problem proving those You're going to
25 get a lot of testimony, and a lot of people are going

1 to talk about, the framing issues But I represent
2 there may be a handful of photographs that show any
3 work that was deficient, and I argue with that, that
4 Catterson and Sons performed I've got a stack here of
5 all the photographs provided by Anchor, and there just
6 aren't many photos of the work There is -- I think
7 there is about a hundred windows in this house There
8 are very few photographs that show the problems they
9 are alleging with the windows

10 The other issue is the block work This block
11 is very lightweight It shifts real easily I notice
12 Mitch has got this [indicates] turned around But see
13 the chips on the corner, and also how it chips out
14 around the hole there? It's very easy to chip It
15 looks like -- well, it looks awful when it gets put up
16 initially It's typical to go back, and you put a
17 surface bond over the outside of these blocks That's
18 what the -- the mortar that you put in between them is
19 very thin It runs out

20 And so when you see the wall when it's first
21 built, it looks bad I mean, there's no question about
22 it But you put a surface bond on the outside of it
23 It takes care of the imperfections in applying the
24 mortar, and it seals this wall to make it structurally
25 sound That is what the engineer of record suggested

1 that they do That is what Catterson and Sons had in
2 mind when they built it, and mentioned that to Carl
3 during construction I believe Carl will agree with
4 me, because that's what the testimony was earlier

5 THE COURT So you're saying that's what
6 Livingston says?

7 MR ROSS That's what Livingston says to do

8 THE COURT Okay

9 MR ROSS Now, I think the repair for that is
10 \$21,000 Instead, Randy Still comes in He initially
11 looks at the surface bonding, decides not to do it He
12 then looks at putting these poles inside the AAC wall
13 and grouting them in Anchor didn't like that idea, so
14 they came up and they built a frame around the entire
15 interior of this AAC wall They put it with steel
16 poles and two-by-fours, which essentially brought --
17 made the inside of this building five inches smaller on
18 every wall They had to move plumbing, HVAC,
19 electrical, walls It was an enormous project And
20 Carpenter claims this is the most efficient way to get
21 this prepared Obviously, we have some disagreement
22 there

23 Another issue that will surface is one of what's
24 a defect versus what's a deviation Now, I'm confident
25 -- but I won't speak for him But I'm confident that

1 Mitch will say if it doesn't match the plans exactly,
2 it's a defect Well, Your Honor, I would submit that a
3 defect is something that doesn't match the plans
4 inadvertently A deviation, we were told to do
5 something, that's the way we did it We know it
6 doesn't match the plans Our boss tells us to do it,
7 we do it If you've been around the construction
8 industry enough, and I suspect you have, things don't
9 always get written change orders That's what the
10 plaintiff would like to have That doesn't always
11 happen It didn't happen in this case

12 The framing issues I spoke of briefly There's
13 just very few pictures Plaintiff has the burden of
14 proof, as you know And my question, Judge, for you,
15 and what I would appreciate you paying careful
16 attention to, is what reliable, objective evidence does
17 the plaintiff put up supporting their claim? I submit
18 to you it's very little compared to the amount of
19 damages that they're claiming

20 THE COURT Okay Tom?

21 MR FINN Your Honor, I'll just join in with
22 Jeff's statement

23 THE COURT Okay All right Mitch, do you
24 want to put up your first witness

25 MR GRIFFITH Yes We'll call Dennis Green

1 THE COURT Mr Green, if you will come forward,
2 sir

3 Sir, there is a Bible right there I actually
4 do have to swear you in If you don't mind -- right in
5 front of the court reporter If you'll just raise your
6 right hand, sir

7 [Whereupon, Mr Green is duly sworn by the
8 Court]

9 THE COURT Thank you, sir Go ahead and take a
10 seat

11 [Whereupon, Mr Green takes the witness stand]

12 [Off the record momentarily]

13 THE COURT Okay Thank you

14 - - - - -

15 DENNIS O GREEN,

16 Having Been First Duly Sworn,

17 was Examined and Testified as Follows

18 DIRECT EXAMINATION

19 BY MR GRIFFITH

20 Q Dennis, would you state your full name, please

21 A Dennis Oliver Green

22 Q Okay And, Dennis, where do you live?

23 A On Dataw Island, in Beaufort

24 Q And a little bit of background, if we briefly
25 can Where did you grow up?

1 A Detroit, Michigan I was born in Detroit

2 Q All right And where did you -- give us a
3 little bit about your educational ground, then

4 A I went to public schools in Detroit, graduated
5 High School of Commerce, went to Detroit Institute of
6 Technology for a year, and then to Wayne State University
7 night school for six years Finished the last school,
8 full time, with a degree in business Majored in finance
9 I got a CPA certificate in the state of Michigan

10 Q And when was that that you got that CPA
11 certificate?

12 A October, 1969

13 Q And, now, could you just tell the judge a little
14 bit about your work background?

15 A While going to school, I worked for the City of
16 Detroit I worked for General Motors in the accounting
17 department When I graduated, I started at Arthur
18 Anderson as a staff auditor

19 Q Arthur Anderson is that one -- at that time,
20 was that one of the Big-A firms?

21 A Yes, it was

22 Q Okay And that was when you had your CPA
23 certificate?

24 A I obtained the CPA certificate during my
25 employment with Arthur Anderson

1 Q And how long were you with Arthur Anderson?

2 A I started in April, 1967 I left in October,
3 '69, started a firm with another auditor, Wells and Green
4 My partner left, and the managing partner of Arthur
5 Anderson came to my office and said I should never have
6 left, and so my firm and I went back to Arthur Anderson as
7 an audit manager

8 Q And after that stint, second stint with Arthur
9 Anderson, what did you do then? Did you go into other
10 business?

11 A Well, Coleman Young was elected mayor of
12 Detroit, and he -- I worked on his campaign, during the
13 election, doing his financial records After he was
14 elected, he asked me to take a position as comptroller for
15 the City of Detroit And I declined several times, and
16 then one day the managing partner of Arthur Anderson and
17 the mayor elect came to my office and asked me if I would
18 take a leave to help the City, and which I did Joined
19 the city as controller, six months later as finance
20 director

21 Q And how long were you with the City of Detroit
22 then?

23 A Until the end of 1976

24 Q And what did you do after that?

25 A Well, Jimmy Carter was running for election, and

1 Coleman Young supported his campaign, helping him take
2 Michigan, win Michigan And the Carter Administration
3 needed people to help out on the budget transition team
4 after the election I went to Washington, still as
5 finance director for the City of Detroit I worked on the
6 budget transition team from election date until
7 inauguration And I was asked while I was working there
8 to take a position on the White House staff, in the office
9 of management and budget, as associate director for
10 economics in government

11 Q And did you do that?

12 A I turned it down a few times, and then I finally
13 accepted that position

14 Q And how long were you with the Carter
15 Administration?

16 A I left in June of 1978

17 Q And then what did you do after that?

18 A I went to Ford Motor finance staff in Dearborn,
19 Michigan

20 Q So back to Michigan then?

21 A Back to Michigan

22 Q And how long were you there?

23 A I was there almost twelve years, taking various
24 positions, and at the time that I left I was general
25 auditor running their internal audit function locally

1 Q And then when you left -- when did you leave
2 Ford?

3 A I left Ford in January, 1990, and went to New
4 York to Citicorp, Citibank They had recruited me to
5 become their chief auditor

6 Q Did you go there?

7 A I went there, and I retired in July, 1997

8 Q And so are you presently retired, then?

9 A In a fashion

10 Q Okay And when did you move to South Carolina?
11 What brought you here, I guess is a better question

12 A Well, I came here to retire I first came here
13 in 1994, after attending a business meeting on Hilton
14 Head Coming into Beaufort, seeing the town, liked it,
15 came back, bought some property on Dataw in October, 1994

16 [Off the record momentarily]

17 A October, 1994, and started planning a retirement
18 home and started construction in 1996 The house was
19 finished in '97 and I retired

20 Q [Mr Griffith] So 1997 you're pretty much here
21 in South Carolina?

22 A Came here with a golf cart and fishing rods

23 Q All right And then as part of your retirement,
24 did you start a development corporation called Celadon?

25 A Well, it wasn't part of the retirement, but it

1 happened during retirement, that is, I had always wanted
2 to build something, so we thought we might -- one of the
3 fellows who worked for a builder that built my home was
4 interested in building, so he found some property and
5 acquired the property And then he got ill and left town,
6 and I added to the property, and eventually Celadon
7 evolved from that

8 Q And Celadon, is that a planned-unit development?

9 A It's a planned community It's not a P U D
10 It's a planned community

11 Q So it's a planned community and it -- maybe to
12 speed this up It's over on Sams Point Road, is that
13 correct?

14 A Yes, that's correct

15 Q And sort of between what I call the Publix and
16 Beaufort Academy?

17 A It's a mile and a -- yes, it is A mile and a
18 quarter from 21 and 802

19 Q All right And for purposes of anybody that's
20 been there, it's the place with the big clock?

21 A The clock tower

22 Q The clock tower?

23 A That's correct

24 Q Okay And it was supposed to be, I believe,
25 developed to be a traditional neighborhood, is that

1 correct?

2 A It is a traditional neighborhood development

3 Q Did it have other amenities there, such as a
4 post office?

5 A It has a community post office, a tower at the
6 entrance, the Montessori School is on site, and it also
7 has the Celadon activity center and spa, which is a full-
8 service spa, clubhouse, and tennis courts, and pool

9 Q Also have commercial units up front?

10 A Yes It's got ten commercial lots, presently
11 There are four commercial buildings, shopfront buildings,
12 there

13 Q And in this traditional setting, how many acres
14 does Celadon consist of?

15 A It's approximately thirty-five, thirty-six
16 acres

17 Q And approximately how many home sites do you
18 have there?

19 A Eighty-nine home sites, ten commercial sites

20 Q And if I may, Dennis, real quick, I'm going to
21 show you what I'm going to ask to be marked as Exhibit 1

22 [Whereupon, Plaintiff's Exhibit Number 1, site
23 plan, is marked by the court reporter]

24 Q [Mr Griffith] Is this pretty much just a site
25 plan of the Celadon community?

1 A Yes

2 Q All right As I was talking a little bit
3 earlier, we talked about this is a traditional
4 neighborhood, and you were going to have I believe four
5 condominium units, is that correct?

6 A There presently, today, are four condominium
7 units

8 Q All right And is that the location --

9 A Yes Lot nineteen

10 Q -- that the condos --

11 And is that what 16 Jade Street was developed or
12 organized to develop?

13 A Yes

14 Q All right Now, what is 16 Jade Street? It is
15 an LLC?

16 A It's an LLC

17 Q And there are a group of investors in that, is
18 that correct?

19 A Correct

20 Q Are you the managing partner?

21 A I'm the managing director

22 Q All right And who are the other investors?

23 A Clayton and Janine Adams, Nancy and Paul Smith,
24 Robert and Joyce Patterson, and another LLC, FCCSD LLC,
25 which is my family partnership

1 Q Your family members I believe --

2 A Right

3 Q -- make up that LLC --

4 A Yes

5 Q -- is that correct?

6 A Correct

7 Q All right And when you decided to develop
8 these four condos in Celadon, did you purchase the
9 property from Celadon, in effect? What was the cost of
10 the property, I guess

11 A The property cost was \$150,000

12 Q Okay And in the design, was there a designer,
13 R Stewart?

14 A Randolph Stewart of --

15 Q Yes, sir

16 A -- R Stewart Design, who has done other designs
17 for us, was the designer of the project Yes

18 Q All right And to your knowledge, is Mr
19 Stewart an architect or is he a designer?

20 A He's a designer

21 Q Okay And you had worked with him before, is
22 that correct?

23 A That's correct, yes

24 Q Okay And tell the judge a little bit about how
25 this developed that you were going to do four condos

1 there? Was it originally going to be a spec project?

2 A It was I had been working with three builders,
3 and each of the builders had chosen lots that they would
4 build spec homes on R Design Construction had selected
5 lot nineteen to build the four-unit condominium, and lot
6 forty-five to build a courtyard home on R Design
7 attempted to get financing for the construction of the
8 condo and was unable to do so I wanted to have a small
9 condominium project there, to have a good mixture of
10 housing types in Celadon, and so I began to explore ways
11 to see how I could get
12 that -- get those condos built

13 Q Now, I want to go back to Randolph Stewart,
14 then So he was the designer, and he prepared the plans
15 for the condo unit?

16 A He did -- yes He did the -- he designed the
17 condominiums and working with Kern-Coleman and Company,
18 the construction drawings

19 Q All right And, ultimately, the construction
20 drawings were issued, is that correct?

21 A That's correct

22 Q Now, I believe these became part of the
23 contract, is that correct?

24 A Yes

25 [Whereupon, Plaintiff's Exhibit Number 2,

1 construction plans, is marked by the court reporter]

2 MR GRIFFITH Judge, I'm -- I'm sorry Try not
3 to talk while you're doing --

4 These have been marked as Exhibit Number 2

5 Q [Mr Griffith] And these are the plans for the
6 16 Jade Street Quarters or Jade Quarters, is that correct?

7 A That's Correct

8 Q All right

9 A Correct

10 Q We'll come back to those a little bit later In
11 that -- in your meetings with Mr Stewart, did you want to
12 use AAC block? Was that something that you --

13 A Yes

14 Q -- were interested in?

15 A Yes, we did We wanted to use AAC block, and
16 Impact windows And AAC block had been used in the
17 construction of our office there We have two shopfront
18 buildings, one occupied by Carol Waters, and one with the
19 Celadon office And those two buildings were built at the
20 same time using AAC block

21 Q And what was your understanding of the benefits
22 of AAC block? Was it insulation?

23 A Great sound attenuation, insulation, and each
24 inch gave you an hour's fire rating

25 Q You said sound attenuation, I believe --

1 A Yes

2 Q -- quiet --

3 A Quiet, yes

4 Q -- and the fire rating, is what you've talked
5 about?

6 A Correct

7 Q So this was something that you wanted in your
8 building, ad you had any -- or wanted at Jade Street Had
9 you had any problems with the AAC block at your building
10 or --

11 A No

12 Q -- Carol Waters' building?

13 A No problems Uh-uh

14 Q And had you found it to be a good product?

15 A Yes We thought it was We still think it is

16 Q Okay And did you come up, then, with a
17 construction budget in order to build this project?

18 A Yes, we did Working with Carl He had -- as I
19 mentioned, he had previously planned to build the condos
20 as spec condos, and had numbers, and so working with those
21 numbers

22 Q And as I understand, you said he couldn't get
23 the financing So then you went back and you took over
24 where instead of it being a spec it was going to be that
25 you would do --

1 A Yes I --

2 Q -- the development?

3 A That's right I found three other partners who
4 were willing to invest, and we contracted with Carl as the
5 contractor

6 Q All right And what amount did you come up with
7 in the construction budget?

8 A It was about 1 7 million dollars

9 Q And were you going to do any financing with
10 that?

11 A Yes We were going to finance a million four
12 seventy-something

13 Q And was your financing through Lowcountry
14 National?

15 A Correct

16 Q Which is a local bank here?

17 A Correct

18 Q Do you also serve on the board of Lowcountry?

19 A I am a founder and a director

20 Q Now, you talked a little bit about the meeting
21 with R Design and Carl Aten I want you to tell the
22 Judge about that You said that he was interested in a
23 spec home, and he came to you, is that correct?

24 A That's right

25 Q And then Carl I believe had built another house

1 out -- or another spec house at Celadon?

2 A Well, Carl and Rose came to me in I believe it
3 was early 2002 and expressed an interest in becoming spec
4 builders in Celadon And that's how I met them And they
5 had been building in Old Field and Callawassee

6 Q And as a result of them coming to you and
7 wanting to be an approved builder, did you go out and make
8 any checks to see what they --

9 A We did We talked to some people We visited a
10 home under construction on Callawassee, and a finished
11 home -- I'm sorry -- a home under construction in Old
12 Field and a home, a finished home, in Callawassee

13 Q Did you see any problems in the homes you had
14 done -- you had looked at?

15 A Nothing that came to our attention, no

16 Q Did it appear that he had built a quality house?

17 A It looked like a good-quality house, yes

18 Q All right And did you seek references from --
19 for Mr Aten?

20 A We did

21 Q And did you feel that you had done your due
22 diligence on him, then, before this contract came up?

23 A Yes

24 Q Now, we also talked about he did a spec Did he
25 do a spec house in Celadon --

1 A Yes, he did

2 Q -- before he did the Jade Quarters?

3 A He built a courtyard cottage, on lot forty-five
4 that was sold during construction

5 Q Now, ultimately, you ended up then going back --
6 and I'm summarizing Carl had come, he couldn't get the
7 financing, you ended up feeling that maybe you would go
8 with him to do the project then as the contractor,
9 correct?

10 A Yes Based on our experience with him

11 Q Did you ultimately negotiate a contract with Mr
12 Aten?

13 A Yes

14 Q And I will show you a copy of a document, and
15 ask you is this a copy of your contract with Mr Aten

16 A Yes

17 MR GRIFFITH Ask that that be marked as
18 Exhibit 3

19 [Whereupon, Plaintiff's Exhibit Number 3,
20 contract, is marked by the court reporter]

21 MR GRIFFITH Hand that up to the Judge

22 THE COURT Thank you

23 Q [Mr Griffith] Now, there were negotiations
24 leading up to this, but this was actually the contract
25 that was entered into between you and R Design, is that

1 correct?

2 A Correct

3 Q All right And it requested -- I believe just
4 looking through it, Mr Aten or R Design Construction LLC
5 was to get a 150,000-dollar fee, is that correct?

6 A Correct

7 Q And he was to act as the general contractor?

8 A Correct

9 Q And attached to that also is a schedule of
10 values that looks like for numbers that were for the
11 subcontractors, is that correct?

12 A Yes

13 Q Did you choose any of those subcontractors?

14 A No

15 Q Are you a contractor yourself?

16 A No

17 Q In the contract was it required that the subs be
18 licensed and qualified?

19 A Yes

20 Q All right In leading up to this contract, did
21 R Design and Carl Aten know the budget?

22 A Yes

23 Q And they originally actually developed the
24 budget?

25 A Yes

1 Q And I believe you told us that the budget was
2 about 1 6 to 1 7 million --

3 A Yes

4 Q -- dollars, is that correct?

5 A Uh-huh

6 Q What was your role, Dennis Green's role, or 16
7 Jade Street LLC's role, in the construction, the actual
8 construction, of this project?

9 A None in construction

10 Q You were supposed to come up with the money, is
11 that correct?

12 A We provided the funds

13 Q Now, also, I believe that in providing the funds
14 one of the things that you did at this project was that
15 you actually paid the subcontractors directly is that
16 correct?

17 A Correct

18 Q Now, why did you do that as opposed to just a
19 draw that the contractor would make?

20 A It just seemed like the prudent thing to do,
21 given the fact that we had other partners, and the amounts
22 involved

23 Q Okay Had you ever worked like this before?

24 A Yes

25 Q Had you ever had a problem before when you

1 didn't work like that? A problem with Ray Construction

2 A Yeah, we did, where the contractor had subs and
3 the contractor -- the sub's parents were in bankruptcy and
4 didn't pass the cash on to the sub and the sub start --
5 didn't want to work, so we had to change the way we paid,
6 make sure the job continued

7 Q Now, under this contract, what was the time to
8 complete?

9 A It was about twelve to eighteen months

10 Q And with regards to the payments that were going
11 to be made to the subcontracts while you were writing
12 the checks directly, was R Design and Carl Aten, were
13 they required to approve payments before the checks were
14 written?

15 A Yes

16 Q When did work begin on the project?

17 A Right around September August, September of
18 2004

19 Q I was going to say '04 Is that correct?

20 A Yes

21 Q Now, are you familiar with Mike Catterson and
22 Mike -- are you familiar with Mike Catterson and Catterson
23 and Sons?

24 A Yes

25 Q All right Who are they?

1 A They were the subcontractor, contracted by R
2 Design, to do the framing and block work

3 Q And to your knowledge, or do you know, was
4 theirs a labor-only contract?

5 A Yes

6 Q You actually paid for the materials like the AAC
7 block, is that correct?

8 A Correct

9 Q Did you have a contract with Mr Catterson?

10 A No

11 Q Did you see the contract that Mr Aten had with
12 Mr Catterson?

13 A No

14 Q Did Mr Aten hire Catterson?

15 A Yes

16 Q And pursuant to the contract, was he required to
17 ensure that he was licensed and qualified?

18 A Yes

19 Q Did you have any involvement choosing Mr
20 Catterson as a subcontractor?

21 A No

22 Q When the project started around September of
23 '04, how did the work start to begin with?

24 A It appeared to start in a normal manner

25 Q Okay When did problems arise?

1 A Well, in walking through the construction site,
2 I looked at the way the AAC block was being constructed,
3 and it didn't look as if it were done in the same kind of
4 manner as our shopfront buildings had been done, and it
5 looked a little sloppy. And I looked at some of the
6 framing and I -- and it concerned me, and I asked about
7 it. And Catterson and Carl did some things to clean it
8 up, but it didn't -- I just became concerned. I was very
9 uneasy about it. And so I called Kern-Coleman and asked
10 that they send their people out to take a look at it.

11 Q All right. Now, Kern-Coleman, let's make sure
12 that we understand. Kern-Coleman was the engineer that
13 you had hired to work or that you paid to work with. I
14 believe Randolph Stewart, correct?

15 A Yes. Kern-Coleman are the architects of record
16 and the structural -- they did the structural engineering
17 work for Jade Quarters.

18 Q And did -- when I ask you -- contract
19 administration -- were they supposed to come out and make
20 sure that -- do inspections on the job? Or did you have
21 to call them specifically because you thought you had a
22 problem?

23 A I had to call them specifically.

24 Q So you didn't have a contract for what is called
25 contract administration, then?

1 A Correct

2 Q And did they come out?

3 A Yes They came out in March of 2005, and issued
4 a report on April 1st, 2005

5 Q Okay And without going into that report, were
6 there some problems there?

7 A Yes

8 Q They had identified some? Did you take those up
9 with Mr Aten?

10 A Yes, I did

11 Q All right And what was discussed about it?

12 A When are you going to fix them, how to fix them,
13 how are you going to do this

14 Q Did he assure you that they would get taken care
15 of?

16 A Yes

17 Q And then did you move forward with the project?

18 A We continued with the project, yes We never
19 stopped

20 Q Now, that was in probably April, you said, that
21 they came out Did there continue to be problems at the
22 project?

23 A Well, yes I mean, the project -- the problems
24 were not being corrected, and work was continuing, and it
25 was -- Catterson was complaining about Carl, and Carl

1 would complain about Catterson

2 Q Now, Catterson, Mr Catterson, would he complain
3 that he couldn't find Carl?

4 A Yes

5 Q Couldn't get instructions on how to go?

6 A Yes

7 Q Coordination of the project?

8 A Yes

9 Q And when you talked to Mr Aten, did he complain
10 about Mr Catterson?

11 A Yes

12 Q What did he tell you about Mr Catterson?

13 A He didn't like the way he worked and half of
14 what I was being told wasn't true

15 Q And, ultimately, did there -- when these
16 problems started to occur, was there an issue with Mr
17 Catterson in July?

18 A He had submitted a payment request

19 Q Did Mr Aten want you not to pay that request?

20 A He did And --

21 Q Tell the judge what happened there with that
22 particular request

23 A Well, I think the request was for about \$5,000
24 And we met in my office And between the two of them, it
25 was very difficult to tell who was being truthful And I

1 asked Carl to talk with Mr Catterson to determine if
2 there was any of the amount that was -- that he was
3 requesting that he should be paid And after a lot of
4 back and forth, Carl signed off on \$2,000 of the \$5,000
5 And that --

6 Q I want to stop you right there, because I want
7 to just make sure that we are clear

8 I think there's a document that will clear it
9 up I think it was about thirty-five hundred instead of
10 \$5,000

11 A It may have been

12 MR GRIFFITH I had my hand on that document a
13 minute ago

14 [Whereupon, Mr Griffith reviews documents]

15 Q [Mr Griffith] I'll just show you this
16 document This is to refresh your memory Is that July
17 22nd? Is that a --

18 A Yeah This is --

19 Q -- lien waiver, for a pay application from Mr
20 Catterson, for \$3500?

21 A Yes Yes

22 Q All right So July 22nd, that's the time frame,
23 then, where this issue came up with Mr Catterson?

24 A That's correct

25 Q Is that correct?

1 And I believe you said Carl approved \$2,000, is
2 that correct?

3 A That's correct

4 Q And how much did you pay Mr Catterson?

5 A \$2,000

6 Q All right After that, did Mr Catterson ever
7 return to the job site?

8 A That's correct

9 Q That's correct he did, or did not, return?

10 A He did not return

11 Q Okay What happened between July 22nd, 2005,
12 and October, 2005?

13 A Well, the job wasn't progressing The problems
14 were not being fixed Carl was -- did not find a
15 contractor to replace Catterson I think some siding work
16 was done, but not much I wrote Carl with my complaints
17 and met with him in August about the issues, met with him
18 and Rose, and it just got worse

19 Q Did it ultimately sort of grind to a halt there?
20 Progress was not being made?

21 A Yes I would say that

22 Q Okay Then in October of 2005, you and Carl
23 met, I believe, is that correct?

24 A Yes It was getting bad, and I decided that I
25 needed to get Kern-Coleman back out to take another look

1 at it And Carl and I met, and I said, I don't know if I
2 should fire you today or fire you tomorrow And he said,
3 well, why not now, or something like that, and that's when
4 he left

5 Q All right And then did he go to the Building
6 Department and pull his permit?

7 A He did

8 Q Okay And you were notified by that of Mr
9 Cummings, here from Beaufort County is that correct?

10 A Correct

11 Q All right Then leading up to that, also
12 there was an issue mentioned about you making payments
13 You made payments directly to the subcontractors and the
14 material suppliers, is that correct?

15 A Correct

16 Q All right And was one of the reasons so that
17 they would be paid on time?

18 A That's correct

19 Q Were you getting a charge from Grayco for
20 finance charges and carrying charges?

21 A Grayco was one of the biggest of our material
22 costs, largest costs, for windows and doors and lumber
23 And every time Carl would bring the invoice, there would
24 be significant finance charges, and I would ask him why is
25 he waiting so long to bring me these invoices Because we

1 had the money, and I paid them as soon as I got them, but
2 he wasn't giving them to us And I was trying to figure
3 out what was going on I talked to the Grayco people, and
4 they said that they had been told by Carl that the reason
5 the bills weren't being paid on time was because 16 Jade
6 Street had not paid him on time Which made absolutely no
7 sense, because the money didn't come out of his pocket
8 The money was there, and it was -- the bills were paid
9 as soon as they were submitted to us And so we just set
10 up -- we told them to put all the 16 Jade Street stuff in
11 a separate 16 Jade Street account, and we did a more
12 thorough look at all the invoices

13 Q Was that sort of indicative of the way things
14 were going in --

15 A I think it's a good example

16 Q -- October, '05?

17 A Uh-huh

18 Q Now, then you said -- that was on October 17th,
19 2005, is that correct?

20 A Yes

21 Q You had already called Kern-Coleman, the
22 engineers, and had requested that they come back, is that
23 correct?

24 A Correct

25 Q And did they actually come back the next day, I

1 believe, on --

2 A Came in on the 18th Yes

3 Q 18th of October -- excuse me October 18th,
4 2005, Kern-Coleman came back, is that correct?

5 A Yes That's correct

6 Q And they did another inspection of the property,
7 is that correct?

8 A That's correct

9 Q Now, this was Mr Livingston, I believe, with
10 him, correct?

11 A Correct

12 Q And did he issue a report, then, later, I
13 believe, dated November 16th, 2005?

14 A Correct Yes

15 Q And did you receive a copy of that report that
16 listed the thirty-eight defects --

17 A I did

18 Q -- that he had concerns with?

19 Now, at that time were you now looking for
20 another contractor?

21 A Well, I had anticipated the need for another
22 contractor before that time and had asked Anchor if they
23 would be available to step in if I needed them, and they
24 said they would

25 Q Had Anchor worked with you in the past?

1 A Yes Anchor had first worked with me when
2 Lowcountry was considering buying the location on Lady's
3 Island And they met with me and the former bank
4 president at my home, going over construction costs, so I
5 got a sense of how they approached that They then were
6 the contractor for all the site development work at
7 Celadon

8 Q You worked with other contractors, too, such as
9 Heister Construction --

10 A That's correct

11 Q -- at Celadon?

12 A That's correct

13 Q Okay So they were not just the exclusive --

14 A That's correct

15 Q -- contractor that you had worked with up to
16 Mr Aten?

17 A That's correct But they were -- they had done
18 more commercial work

19 Q All right And you said they had done more
20 commercial --

21 A Anchor --

22 Q -- work for you?

23 A Anchor had done more commercial work Yes

24 Q And so when Kern-Coleman came out on October the
25 18th of 2005, did Steve Carpenter meet with them?

1 A Yes He accompanied them during their
2 inspection

3 Q And just so the record is clear Steve
4 Carpenter is the general superintendent with Anchor
5 Construction Company?

6 A Correct

7 Q All right And Eddie Powell I believe is the
8 owner of Anchor Construction Company?

9 A That's correct

10 Q Now, between this point in time, October and
11 February, 2006, did you go into an analysis of the
12 problems that you have -- had there?

13 A Yes, we did

14 Q Okay

15 THE COURT Mitch, specifically, I need to know
16 what day Mr Aten left

17 MR GRIFFITH I'm sorry

18 THE COURT Was it October 17th?

19 MR GRIFFITH October 17th, 2005, was his last
20 day And his --

21 THE COURT That's the day he left

22 MR GRIFFITH And his --

23 THE COURT Got you I understand that's the
24 day that Coleman was called And he came out the next
25 day This is Coleman, correct? Okay

1 MR GRIFFITH I think the record -- the
2 testimony was that he had already called Kern-Coleman
3 Just ironically they ended up there the day after

4 THE COURT I just want to know the date that
5 Mr Aten --

6 THE WITNESS Contract --

7 THE COURT -- was off the project Okay

8 MR GRIFFITH And I believe we'll put in the
9 letter, where he went and pulled his license, a little
10 bit later I don't know that I can do it through this
11 witness

12 Q [Mr Griffith] In any event, did you then go
13 and get another engineer to come out and look at the whole
14 project? Being H2L

15 A Yes Upon your recommendation, we hired H2L and
16 Randy Still, and they performed an independent review of
17 the project

18 Q And did they assist you in developing a scope
19 for the remedial work?

20 A They did

21 Q All right And what areas did they work on?

22 A Well, identifying the issues, identifying the
23 design for the corrections, and observing the corrections
24 afterward to see -- conclude whether they were suitable

25 Q So they developed the scope of repairs --

1 A Yes

2 Q -- on the structural aspect, is that correct?

3 A Correct

4 Q Did you have conversations with H2L about
5 actually doing a full-blown new set of structural plans
6 and designs?

7 A We did And they advised that it would not be
8 cost effective to do that After they had worked with
9 Anchor Construction, they concluded that Anchor had
10 sufficient experience and knowledge to work up the plans
11 and so that H2L did not need to do that and we could save
12 money by avoiding that cost

13 Q And when you talk about they could save some
14 money about it was cost a factor to you at this point in
15 time?

16 A Cost was a factor from the very beginning
17 Absolutely

18 Q And their -- I heard in opening statement that
19 you used this in order to get a totally different project
20 Did you spend a million dollars repairing the project,
21 hoping that you would come to the courtroom and get lucky?

22 A No I mean, that's not a very good bet, you
23 know Not at all What we were trying to do is we had
24 investors who had put money in, we had the bank who had
25 put money in, and we had a project that we wanted to save

1 in the most cost-effective way possible

2 Q Okay Were there certain portions of the
3 project that Anchor did an analysis of what it would cost
4 to repair versus what it would cost to knock it down?

5 A We did that step all the way through One -- a
6 more direct area had to do with the garages There were
7 three of the four garages had been constructed, and the --
8 it was determined that it would be more cost effective to
9 tear the garages down than to try to repair them in the
10 same manner as was done for the main building

11 Q And, ultimately, were the garages torn down?

12 A Yes, they were

13 Q Okay I want to jump back real quick Pursuant
14 to the contract, did you make payments to R Design?

15 A Yes

16 Q I'm sorry I hesitate there because I always
17 hesitate with R Design and R Stewart I want to make
18 sure I'm talking about the right one

19 And R Design -- of the payments that you make,
20 did you make payments to them of \$105,000?

21 A That's correct Plus or minus

22 Q A hundred and five thousand zero ninety-six zero
23 seven? I'll show you a copy of that

24 THE COURT I believe that's my copy, yes?

25 MR GRIFFITH That's your copy, yes

1 THE COURT Okay
2 [Whereupon, Plaintiff's Exhibit Number 4,
3 payments to R Design, is marked by the court reporter]

4 Q [Mr Griffith] And Plaintiff's Exhibit Number
5 4, is that a summary of the checks that you wrote to
6 R Design?

7 A Yes, it is

8 Q Okay And attached to that summary, are those
9 the actual checks themselves?

10 A Copies Yes

11 Q Okay And had you been paying in accordance
12 with the contract?

13 A Yes

14 Q And, specifically, I want to go real quickly
15 to the second check, because you said that you had
16 originally -- or originally Mr Aten had gone out to get
17 the plans from -- this would be Randolph Stewart or R
18 Stewart?

19 A Yes

20 Q There's a check in there for \$5,000 What
21 number is that?

22 A Check 1002, dated August 19th, 2004

23 Q And what's the memo on that check number -- on
24 that check itself?

25 A Reimburse design piece paid on lot nineteen

1 Q So that reimbursement, then, was for -- he had
2 gone out to get the plans done by Randolph Stewart?

3 A Correct

4 Q And when he couldn't get the financing, then you
5 reimbursed him for the money he spent there, is that
6 correct?

7 A That's correct

8 Q Now, we talked about jumping back forward to
9 2005 We talked about you came up with Anchor, and you
10 had worked with them before, is that correct?

11 A Correct

12 Q And you felt comfortable with them?

13 A Yes

14 Q All right Now --

15 MR GRIFFITH Judge, I'm sorry I don't have
16 but one copy of these, because it gets a little more
17 cumbersome, but --

18 And I had better show this to these gentlemen .

19 [Whereupon, counsel confer]

20 [Whereupon, Plaintiff's Exhibit Number 5, pay
21 applications, is marked by the court reporter]

22 Q [Mr Griffith] Dennis, I'm going to show you a
23 notebook which has been marked as Plaintiff's Exhibit
24 Number 5 in this

25 MR GRIFFITH And I'm going to pass that up to

1 the judge I don't have a full copy of this notebook,
2 but one

3 Q [Mr Griffith] And this notebook can you tell
4 the judge what that represents?

5 A This notebook represents a summary of the draw
6 applications made by Anchor Construction for the work they
7 did on 16 Jade Street, beginning with the first
8 application in February of 2006 through June 4th, 2007

9 Q And does that notebook contain the pay
10 applications themselves? Is that correct?

11 A That's correct

12 Q And that's all the pay applications to -- from
13 Anchor Construction correct?

14 A I believe so, yes

15 Q And did you pay those?

16 A Yes

17 Q Is that for -- is all of that for repair? Or
18 does that include repair and completion of the project?

19 A Applications 1 through 18 are for repair, and 19
20 through 27 are for completion of the project

21 Q Now, before -- or up until the time that we got
22 the checks in about that you paid directly to R Design,
23 Mr Aten prior to that, how much had you spent on the
24 construction at this project? And I'm going to show you a
25 document and see if that --

1 A Prior to that point, construction, \$762,236
2 MR GRIFFITH And, Judge, did I give you that
3 document that I was --

4 THE COURT You did

5 MR GRIFFITH -- that was in my opening --

6 THE COURT You did

7 MR GRIFFITH -- that was highlighted?

8 THE COURT This one

9 MR GRIFFITH That's actually the one I would
10 like to mark

11 THE COURT I think I already had it You can
12 keep that, sir, if you need it

13 [Whereupon, the Court proffers documents to Mr
14 Griffith]

15 [Off the record momentarily]

16 [Whereupon, Plaintiff's Exhibit Number 6,
17 notebook, analysis of expenditures, is marked by the
18 court reporter]

19 [Whereupon, Plaintiff's Exhibit Number 7, bank
20 statements, is marked by the court reporter]

21 Q [Mr Griffith] All right And have you done an
22 analysis of this, what you spent? Is that where --

23 A Yes

24 Q -- that number comes from?

25 A Yes

1 Q All right And I'm going to ask you, so that
2 the record is complete -- this might be a little
3 cumbersome Is this -- I'm going to hand you -- is this
4 the checking account, with the checks, for 16 Jade Street?

5 A Yes These are our 16 Jade Street bank
6 statements

7 Q Okay And so from those checks did you develop
8 this summary that we are looking at? That is Plaintiff's
9 Exhibit --

10 MR ROSS Your Honor?

11 THE COURT Yes?

12 MR ROSS I don't believe this has been
13 provided

14 THE COURT All right Mitch, their bank
15 statements from 16 Jade Street?

16 MR GRIFFITH They sent a subpoena to the bank
17 itself, Judge

18 MR ROSS Withdrawn, Your Honor

19 THE COURT Thank you

20 MR ROSS My apologies to Mitch

21 MR GRIFFITH No problem

22 I keep putting down things I think it's -- if
23 I could -- Exhibit Number 5

24 THE WITNESS Here's 5

25 MR GRIFFITH Then I'm looking for 6

1 [Off the record momentarily]

2 Q [Mr Griffith] And, Dennis, from these checks,
3 is that how you come up with this analysis in Plaintiff's
4 Exhibit Number 6?

5 A Well, that -- yeah I mean, the checks, when
6 they are written, are captured in a journal and the
7 analysis was done Yes

8 Q Okay Now, following up with that after
9 Anchor came on and you then started contracting with them,
10 you started paying them, is that correct?

11 A That's correct

12 Q And in the work that you did, or that Anchor
13 did, did they also -- did there come a time when you were
14 going to make some design changes?

15 A Yes

16 Q Tell the Court how that came about

17 A Well, when we looked at -- after we had gotten
18 into this -- and some things you just don't see until
19 after you've torn some things down or fixed some other
20 things We looked at it and asked ourselves how can we
21 make these condo units more marketable and more
22 attractive, how can we build upon the investment we
23 already have there And so as an example, we've talked
24 about the AAC block The floor system is also made out of
25 the same materials, and it runs from the front of the

1 buildings back to the garage Well, in the section in
2 each wing, from the main residence, the second story --
3 there was no second story that extended all the way to the
4 garage There was a -- I guess I would say a -- the
5 ground-floor unit on both -- the part over the kitchen,
6 there was no second-story unit at the top I'm not being
7 that clear

8 Well, we've already -- but the floor system was
9 there and had been paid for, and there was value there,
10 and so what we did was just added a second floor on the
11 second-story units, and that allowed for more spacious
12 upper units and not so crowded

13 It also allowed us to take out the spiral
14 staircases, that went to the lofts, and put in normal
15 staircases, and to add bedrooms and a bathroom -- or
16 bedrooms on the loft levels of the second floor

17 And because the garages had been torn down, we
18 decided to raise the level of the garages by two feet
19 That allowed for the apartments over the garages, that
20 were in the original plans, to have ceilings that were a
21 couple of feet higher so that the units didn't feel as
22 cramped, they were -- and it allowed to connect the units
23 from the main residence to the apartments over the garages
24 on the upper levels if we wanted to

25 So there are just -- there are ways to use the

1 space, capitalize on the investment that had already been
2 put in place, make them more marketable, give us some
3 chance of capturing some of the costs that we incurred
4 And that was it

5 Q And did you also have to go back to the bank for
6 additional funds to do that work?

7 A Yes We identified the costs of making those
8 changes, and it totaled \$319,000 I made a loan request
9 to the bank, and the bank approved it And so that's how
10 we paid for that

11 Q Did you tear down any garages or do any of this
12 979,000-dollar work in order to make these changes to the
13 design?

14 A No The garages were torn down because that was
15 the most cost-effective way to get the repair to them So
16 none of that \$300,000 is in the nine seventy-nine

17 Q And so in getting to that nine seventy-nine, did
18 that come as a result of a meeting with you and Mr Powell
19 and Mr Carpenter about are we back to where we should be?

20 A You can get it to the --

21 Q The nine seventy-nine

22 A Oh The nine seventy-nine? Yes You know, we
23 got to a point where they said, okay, now you are -- the
24 fixes are made, and you are where you would have been --

25 Q Should have been?

1 A -- where you should have been Okay

2 Q And is that basically pay application number 18
3 on --

4 A Yes

5 Q -- the exhibit that we just entered? The
6 notebook

7 A Exhibit 5 here?

8 Q Yes, sir

9 Are you asking for any money after pay
10 application number 18?

11 A No

12 Q So you're not asking for any of the costs to
13 complete this?

14 A No That's right

15 Q Just the repairs?

16 A Just the repairs That's correct

17 Q And in Exhibit Number 6 I'm going to ask you
18 just briefly to explain, then, when we look at that, the
19 nine seventy-nine seven ninety-seven, is that -- are you
20 looking for that for repairs?

21 A Yes

22 Q All right And that's in the first column
23 There's an additional 1 2 million five hundred -- excuse
24 me -- \$1,256,995 listed on that exhibit Are you looking
25 for that at all?

1 A No

2 Q And then -- so down at the bottom, then, what
3 you have basically, is listed in the engineering fees,
4 that you paid, \$38,295?

5 A To H2L Correct

6 Q To H2L

7 A Uh-huh

8 Q All right And then your construction repair
9 down at the bottom And then your interest expense Did
10 you calculate that interest expense?

11 A Yes

12 Q And I'm going to ask you this But being a CPA,
13 did you do that in accordance with generally-accepted
14 accounting principles?

15 A I sure hope so

16 Q Okay So is your claim, then, today for
17 \$1,232,698?

18 A Correct

19 [Whereupon, Plaintiff's Exhibit Number 8, Anchor
20 contract, is marked by the court reporter]

21 [Whereupon, Plaintiff's Exhibit Number 9,
22 Catterson contract, is marked by the court reporter]

23 THE COURT Mia, was this marked as something?
24 Was that 7? Do you know?

25 [Off the record momentarily]

1 MR GRIFFITH I'm about through, Mr Green
2 I'm just going to try and clear up a few things, make
3 sure I get some documents in that I had planned on
4 I understand that Plaintiff's Exhibit Number 8
5 is without objection

6 Q [Mr Griffith] That is a contract that you had
7 with Anchor Construction Company, is that correct?

8 A Yes

9 Q And that is dated November 22, 2005, I believe,
10 correct?

11 A Yes

12 THE COURT Do you have another copy of it,
13 Mitch?

14 MR GRIFFITH Yes, ma'am

15 [Whereupon, Mr Green proffers documents to the
16 Court]

17 THE COURT That's okay You keep that It's
18 for the court reporter

19 [Whereupon, Mr Griffith proffers documents to
20 the Court]

21 THE COURT Thank you

22 MR GRIFFITH I think that's all the questions
23 I have right now, Mr Green Answer any questions that
24 Mr Bendle and Mr Ross and Mr Finn may have

25 THE WITNESS Okay

1 MR BENDLE Good morning, Mr Green I'll try
2 to be as brief as possible, because I think your
3 attorney covered some of the questions that I was going
4 to ask you

5 CROSS-EXAMINATION

6 BY MR BENDLE

7 Q You stated earlier that you were the owner of
8 Celadon, is that correct? Is that a fair --

9 A Yes

10 Q -- statement?

11 Okay And you are also a partner in Coastal
12 Banking Company, is that correct?

13 A No I am a director and a shareholder

14 Q And what is Coastal's relationship with
15 Lowcountry?

16 A Coastal is a holding company that owns
17 Lowcountry National Bank

18 Q And Lowcountry National Bank is who you went
19 through to get your construction loan for --

20 A That's correct

21 Q The contract that you had with R Design, that
22 was with R Design and not Mr Aten individually, correct?

23 A It was with R Design He signed as the member,
24 managing member

25 Q I see

1 And the contract price for his services were --
2 how much was that for?

3 A \$150,000

4 Q Okay And do you recall about how much of that
5 \$150,000 was actually paid to R Design?

6 A 78,000

7 Q And as you understood it in the --

8 A I'm sorry I --

9 MR BENDLE I'm sorry

10 THE COURT 78,000 what?

11 THE WITNESS He received about 78,000 or so --
12 75,00 or so of that amount, yes

13 Q [Mr Bendle] Tell me if you would, sort of in
14 your own words, what you felt R Design's responsibilities
15 were under that contract you had with them

16 MR GRIFFITH Your Honor, I'm going to object
17 The contract speaks for itself I don't know if we're
18 getting into the parol evidence rule

19 MR BENDLE I can rephrase the question

20 Q [Mr Bendle] Was the contract, as you
21 understand it, mainly for management and supervision?

22 MR GRIFFITH Again, Your Honor, I object He
23 can ask him about the contract

24 MR BENDLE Your Honor, I would like for him to
25 sort of tell me what he believes his responsibilities

1 of the person he's suing were, as he understands it,
2 whether they're in the contract spelled out or if
3 there's some other responsibilities outside of the
4 contract that he believed that were owed

5 MR GRIFFITH Your Honor, unless there's some
6 ambiguity, he can't get into an interpretation of the
7 contract It speaks for itself That is the parol
8 evidence rule

9 THE COURT Is there any ambiguity?

10 MR BENDLE Not that I'm aware of I mean, I'm
11 sort of asking him if he feels that there was any other
12 responsibilities outside of the contract

13 THE COURT Well, why don't you just ask him
14 that question

15 MR BENDLE I will

16 Q [Mr Bendle] Do you believe that there were any
17 responsibilities, that Mr Aten or R Design did not
18 fulfil, that were outside of the terms of the contract?

19 A [No response]

20 Q Do you -- let me ask again Do you believe that
21 the contract basically encompasses the role and the duties
22 that you feel R Design was responsible for?

23 A Yes

24 Q Okay Was it part of the contract -- or did you
25 ever witness Carl Aten, or anyone on behalf of R Design,

1 doing any physical labor during the construction?

2 A I have seen him do physical labor on
3 construction I can't tell you if I saw him do it there
4 or I saw him do it on a house he was building down the
5 street, no, sir

6 Q Okay You testified earlier that R Design, or
7 Mr Aten on R Design's behalf, developed a budget for
8 this project?

9 A Yes

10 Q Okay Were you not involved in creating that
11 budget with Mr Aten?

12 A He brought an initial budget with [phonetic] me
13 and we worked with it But he had developed the budget
14 initially when they were going to build the condos as spec
15 condos on their own

16 Q So you worked with him on that budget, then?

17 A Yes

18 Q And who ultimately approved that budget?

19 A I guess I did, yes

20 Q What was the time frame that it was going to
21 take --

22 A Twelve to eighteen months

23 Q -- to complete this -- okay

24 And you testified that it was Randolph Stewart
25 who was the architect, is that correct, originally for the

1 design?

2 A He was the designer

3 Q When you and R Design initially -- or I should
4 say Mr Aten initially met to talk about constructing this
5 project, did y'all have any conversations with regard to
6 the structural -- the framing and how the building was
7 going to be constructed specifically with regard to the
8 block work?

9 A Well, I -- do you mean when we first met, or do
10 you mean when we met as regarding 16 Jade Street?

11 Q When y'all met, before construction regarding
12 the construction at Jade Street, did you have any
13 conversations with regards to the block work and Mr
14 Aten's experience with that block work?

15 A In his role as a contractor, we had discussions
16 regarding the use of AAC block in the building, yes

17 Q And based upon those meetings, what was your
18 understanding of Mr Aten's experience using that type of
19 system?

20 A My understanding was he was an experienced
21 contractor with the ability to secure the resources
22 necessary to have the building properly constructed in
23 accordance with the plans and specifications

24 Q In an effort to do just that, do you believe
25 that he was diligent in hiring Catterson and Sons to use

1 this and work with this project?

2 A Hindsight is easy On hindsight, it doesn't
3 look too good

4 Q Did you ever have any meetings with Mr
5 Catterson prior to accepting his proposal or having R
6 Design accept his proposal --

7 A No

8 Q -- with regard to the block work? Okay

9 So at what point did you meet Mr Catterson or
10 acknowledge that he was going to be one of the subs
11 working on this project?

12 A I can't tell you exactly when I met him I do
13 know that I met him on the job

14 Q Was it not your role to approve the
15 subcontractors recommended by Mr Aten?

16 A No

17 Q Did you ever approve any of them or have any
18 say-so with regards to who he picked or chose to do work
19 on the project?

20 A I think I may have asked him to hire the
21 exterminator

22 Q Your attorney touched on this earlier But did
23 Mr Aten ever come to you specifically to complain about
24 the progress that was being made by the framing
25 contractor, Mr Catterson?

1 A Well, in the 2005 time frame he had lots of
2 complaints about Catterson, but his complaints came at a
3 time when I had complaints about him and Catterson

4 Q What specifically were some of the complaints
5 that Mr Aten would come to you about?

6 A That he can't -- he couldn't get along with him

7 Q So your understanding, then, that there was just
8 a little bit of some personality conflicts going on
9 between the two gentlemen?

10 A A little bit would be an understatement

11 Q Were there ever any complaints about Catterson
12 and Sons' subs, or people that worked for him --

13 A No

14 Q -- showing up on the project?

15 A No

16 Q Any concerns with regards to the progress that
17 was being made?

18 A I had concerns I didn't hear them from him

19 Q Any concerns about the quality of workmanship?

20 A I had concerns I didn't hear them from him

21 Q The concerns that you had, quality of
22 workmanship and the progress that was being made, did you
23 express those to Mr Aten at any point?

24 A Often

25 Q Okay And are you aware of any meetings that he

1 had with Catterson and Sons as a result of the
2 conversations he had with you?

3 A I was told that he had met with him, yes, on
4 many occasions

5 Q Did the three of you ever have any meetings with
6 regards to the progress or workmanship?

7 A We had meetings, yes

8 Q The three of you did?

9 A Yes, we met Like on July 22nd

10 Q Okay And what came from that meeting on July
11 22nd?

12 A Carl signed off on the payment, and Mike
13 Catterson never showed up after that

14 Q At the end of that meeting, did you expect Mr
15 Catterson to show back up on the project?

16 A I expected him to come back on the job, yes

17 Q Was it your responsibility, as the owner of this
18 project, to pay out the subs?

19 A That's the arrangement we had, yes

20 Q How about materials? Were you also responsible
21 for paying those -- for those?

22 A I would say for the most part, often, or
23 sometimes, Carl would come with bills for items he had
24 brought for the job, and I would reimburse him, yes

25 Q It's been well-established on numerous times

1 this morning that -- I believe that the date that you
2 terminated Mr Aten or R Design was October 17, 2005, is
3 that correct?

4 A Yes

5 Q And, in fact, you did terminate him from the
6 project, correct?

7 A I think it was kind of mutual

8 Q Have you not testified in the past that you
9 actually fired R Design from this job?

10 A Probably so

11 Q And, essentially, the problems between yourself
12 and R Design were over the progress of work and quality
13 of the work, is that correct? Is that fair?

14 A And the cost

15 Q Were there other subs that were working on the
16 project in October?

17 A There were a full range of subs working, yeah

18 Q At what point did those subs get called off the
19 job?

20 A Almost immediately after October 17th the subs
21 were terminated

22 Q And who terminated them?

23 A Anchor I guess I would say they suspended
24 work Okay?

25 Q Was it fair to say, then, that Anchor, when they

1 came aboard to start the repairs, that they used the same
2 subs that had been out there?

3 A What Anchor did was to evaluate the work,
4 evaluate the subs, and when they -- when the work resumed,
5 some of the prior subs did not come back to work and some
6 did come back to work

7 Q Kern-Coleman was the original engineer over the
8 project, is that correct?

9 A Correct

10 Q And you testified earlier that they came to
11 inspect the first time sometime in April of '05?

12 A In March

13 Q It was March?

14 A [Indicates affirmatively]

15 Q Okay And you had requested that they come to
16 inspect, is that right?

17 A Correct

18 Q Had you given notice that they were coming to
19 Mr Catterson or to Mr Aten?

20 A I'm pretty sure I did not give notice to Mr
21 Catterson I don't recall whether or not I gave notice to
22 Mr Aten

23 Q Your attorney said earlier that there were
24 essentially four problems that were identified in that
25 report with regard to framing and steel-beam issues Were

1 those problems ever fixed prior to Catterson leaving the
2 job?

3 A I don't believe so

4 Q And those four items that were mentioned in the
5 report, who actually did the work?

6 A To my knowledge, Catterson

7 Q And you don't believe that those problems
8 were -- the deficiencies identified in that April report
9 were ever corrected?

10 A Well, let me try to be more specific The
11 problems mentioned regarding the garages, that problem was
12 not fixed, the problems mentioned regarding the capacity
13 of the steel beams to support, that problem was not fixed,
14 the problem regarding some of the other beams kind of
15 going out into space, that problem was not fixed Okay?

16 Q At what point after Catterson had left the job
17 in July of '05 did you order a second inspection through
18 Kern-Coleman?

19 A I asked -- I called in October and requested
20 that they come and do an inspection, and they were there
21 on October 18th

22 Q Was that done the day that you fired Mr Aten
23 from the project, or was it done before --

24 A I called them --

25 Q -- that day?

1 A -- before that time

2 Q Okay Did you anticipate terminating your
3 relationship with R Design before October 17th?

4 A Yes

5 Q And, in fact, you had spoken with Steve
6 Carpenter about attending that inspection on the day after
7 Mr Aten was fired, correct?

8 A I had spoken with him I can't tell you exactly
9 when I did Okay?

10 Q Mr Carpenter was present for that inspection?

11 A Correct

12 Q What do you consider the biggest issues to be,
13 based on that Kern-Coleman report, from the November
14 report?

15 A Well, there were just the construction of the
16 walls, the framing, the windows, the doors, the
17 construction of the garages, the construction not in
18 accordance with the plans, adding things to -- doing
19 construction that was not on the plans The list is long
20 and depressing

21 Q Of the thirty-eight or so items that are listed
22 on that second Kern-Coleman report, do you feel that any
23 of those items were just included because they just
24 weren't completed yet? Or do you feel that all of the
25 items are, in fact, deficiencies?

1 A Based on my experience with the professional
2 engineers, I believe those are valid deficient items

3 Q What would your estimate be with regards to how
4 complete the building was at the time R Design left the
5 project?

6 A I think it's in the fifty- to sixty-percent
7 range

8 Q But you still don't believe that any of the
9 items on the Kern-Coleman second report were just
10 incomplete items or punch-list type of items?

11 A Well, let me put it to you this way I never
12 did an evaluation, personal evaluation, and I don't have
13 sufficient skills to do that kind of evaluation, but when
14 I read the items, none of those items appeared to be
15 punch-list items My understanding of a punch-list item,
16 it's an item that comes when something is considered to be
17 complete and it's more like a clean-up, miscellaneous,
18 non-life-threatening, non-dangerous item

19 Q So is it fair to say, then, that you would agree
20 that the framing and block work had not been completed at
21 the time R Design or Catterson left this job?

22 A Absolutely not completed

23 Q You mentioned earlier that you had had some sort
24 of relationship with Anchor prior to them coming on board
25 as your repair contractor, is that right?

1 A Correct

2 Q Okay How many buildings was Anchor responsible
3 for constructing in Celadon?

4 A Well, timing wise -- let me see I'm trying to
5 get the dates clear in my mind I'm not sure whether or
6 not one of the shopfront buildings up front, that Anchor
7 owns, was underway in November '05 or not Okay? It may
8 have been They had constructed the porticoes for the
9 E C Montessori school They had done that before they
10 came in They had not done any other buildings in
11 Celadon What they had done was all of the infrastructure
12 work, that is, administer and supervise the construction
13 of the roads, the sewers, the water systems, the drainage
14 systems, the sidewalks, and parking areas

15 Q At any time from the commencement of -- from the
16 commencement of construction, through the time R Design
17 left, did you have Anchor go in and inspect the building
18 or the premises for deficiencies?

19 A Could you repeat that, please?

20 Q Sure From the time that construction began on
21 Jade Quarters, through the time that R Design left, did
22 you ever ask Mr Carpenter or anyone from Anchor
23 Construction to go in and inspect the building?

24 A No

25 Q Do you know if they ever did that on their own

1 volition?

2 A No

3 Q When you contracted with Anchor to do the repair
4 work, did you receive bids from any other contractor for
5 that job?

6 A No

7 Q Is there any reason why you didn't --

8 A Yes

9 Q -- ask for bids?

10 A Yes Because at that point I needed a company
11 that I could rely on, who were highly skilled, who
12 understood commercial construction, projects like that,
13 and one that could do the job, one that I could trust

14 Q At the time that Steve Carpenter came to -- came
15 out for the Kern-Coleman inspection, would you consider
16 him an employee of yours? Or did you feel at that time
17 that he was working for you?

18 A He was never an employee of me -- of mine He
19 was accompanying Kern-Coleman, at my request, with my
20 understanding that Anchor Construction would do the work

21 Q Did Mr Carpenter or Anchor Construction get
22 paid for attending that inspection?

23 A No

24 Q At the time of the inspection, had word been
25 give to anyone with Anchor Construction that they would be

1 selected as the repair contractor?

2 A I had spoken with Anchor Construction, before
3 Carl was terminated, to ask them if they would be
4 available to step in and finish the project and fix it if
5 I needed them, and they told me that they would Okay?

6 Q What type of contract did you have with Anchor?

7 A Let's see Do I have? or did I have?

8 Q Did you have

9 A It's Exhibit 8 I don't know how to describe
10 it It's a cost plus --

11 Q Well, let me rephrase it

12 A -- I guess a cost-plus kind of contract, yes

13 Q Was there a budget prepared for the repair?

14 A No, there wasn't a budget What happened is --
15 well, what happened was that the work ceased, and an
16 assessment was made between October and February of the
17 condition of the building and what needed to be done and
18 what the issues were And then recommendations were made
19 as to the most cost-effective fixes, and once that was
20 determined, a fix would be made

21 Q Were those types of repair, or methods of
22 repair, done as part of the Kern-Coleman inspection and
23 report?

24 A I don't understand your question

25 Q You just mentioned that there was no budget,

1 correct, for the repair?

2 A There was no budget prepared Okay?

3 Q Correct

4 A I don't understand your question What is your
5 question?

6 Q My question initially was whether or not there
7 was ever a budget prepared by Anchor and approved by you
8 for the repair work that they did

9 A Oh I thought I answered that question

10 Q All right And I believe that you did

11 A Okay

12 Q My follow-up question to that, however, was who
13 actually came up with the method of repair that was
14 utilized or done by Anchor? Was it them or someone else?

15 A It was Anchor Construction, H2L In some cases,
16 the -- our architect at Celadon, they would sit down and
17 they would go through the various methods that could be
18 used to fix it, so that it would be structurally sound,
19 and the best -- the most cost-effective option was chosen

20 Q Okay So is it fair to say, then, that Anchor
21 created their own methods of repair?

22 A No, it's not fair to say that

23 Q Okay And was there ever an instance where
24 Anchor used their own methods of repair that contradicted
25 the methods that were suggested by the engineers?

1 A H2L had proposed methods, and there would be a
2 discussion between H2L and Anchor Construction and a
3 resolution of the best -- a decision made, based on those
4 discussions, as to the most cost-effective approach
5 Okay?

6 Q What about the wood-framing components? Who
7 made those decisions with regard to the --

8 A About the what?

9 Q The wood-framing components

10 A Well, my answer was for everything I mean, you
11 had -- you asked a general question

12 Q Well, I guess my question now would be was Randy
13 Still ever asked to offer any opinions or report back to
14 anyone with regard to the wood-framing structures

15 A My understanding is that he was involved in most
16 of the issues identified in the project Okay? And --
17 well --

18 Q So you're not aware of anyone asking him to only
19 inspect and report back as to the structural steel system,
20 the ACC [phonetic] block? Your understanding --

21 A No

22 Q -- is that he was asked to make a determination
23 with regards to repairs for the whole building?

24 A He was consulted on most of the issues
25 identified I'm not aware that his -- that he was

1 consulted on a limited number of issues or only a couple
2 of specific issues

3 Q Okay

4 A Okay?

5 Q Did Anchor submit an original bid proposal to
6 you for the original -- to build the original building as
7 it was designed?

8 A To build the condos?

9 Q Yes, sir Did they submit a bid alongside
10 R Design, for the original design, to build the original
11 --

12 A We didn't have any conversations with Anchor
13 The conversations were always with R Design because R
14 Design had planned, had contracted, with Randolph Stewart
15 Design, put a reservation on the lot, and had gone forward
16 to build the condos on their own as a spec project

17 Q So, now, Anchor never submitted any kind of bid
18 to you or approached you about wanting to bid -- or build
19 these condos?

20 A Anchor doesn't build spec homes

21 Q Okay Are you aware of any deficiencies that
22 had been noted by Mr Still, after his first site visit,
23 that were not identified in the Kern-Coleman report?

24 A I'm not aware of anything

25 Q Was Mr Still asked by you, or anyone on your

1 behalf, to effect a cost of repair for the building?

2 A [No response]

3 Q To estimate, in other words, what it would cost?

4 A I can't say specifically I don't recall

5 Q With respect to the three garages that were
6 demolished by Anchor, what was Mr Still's original
7 suggestion with regard to what to do with those?

8 A Well, I believe -- and I could be wrong, but I
9 do believe that the -- well, frankly, I don't recall what
10 his original was I do know that it was determined that
11 using the same fix as was used in the main building would
12 not have been cost effective and that it was more cost
13 effective just to tear them down and rebuild them Okay

14 Q Do you know whether that was a determination
15 made by Mr Still? Or was that determination made by
16 Mr Carpenter with Anchor?

17 A These decisions are mostly collective decisions,
18 that is, consultation between Anchor and H2L and our
19 architect --

20 Q Let me ask you this --

21 A -- and me They would ask me We would talk
22 about it, just kick it around

23 THE COURT Okay You keep saying your
24 architect Who are we talking about, specifically?

25 THE WITNESS I'm sorry

1 THE COURT Was it Randolph Stewart?

2 THE WITNESS No We have --

3 THE COURT Or are you talking about --

4 THE WITNESS We have a ^ -- we had a -- we have a
5 town architect who we would consult with

6 THE COURT This is the Celadon architect?

7 THE WITNESS The Celadon architect

8 THE COURT And what is that architect's name?

9 THE WITNESS His name is Jim Bazemore Excuse
10 me

11 THE COURT Okay Thank you

12 THE WITNESS He's a licensed architect, and he
13 would provide us with suggestions for ways to do
14 certain things and whether they would work Okay

15 Q [Mr Bendle] Was Mr Still ever asked to do a
16 cost of repair for the garages?

17 A I don't recall whether or not he was

18 Q Do you know if he ever was asked to do any sort
19 of analysis with regard to the cost of repair versus the
20 cost of demolition?

21 A I can't tell you whether he was or not I can
22 just say to you, as I said before, is that he was involved
23 in discussions between Anchor and H2L and Jim Bazemore
24 and, at times me, where we would talk about the various
25 options and which were more cost effective And so they

1 would -- each would bring data to the discussion Okay

2 Q So, then, is it fair to say, then, that you
3 believe that Mr Still brought some of his own data to the
4 discussion with regard to the garages?

5 A He was hired as a consulting engineer I would
6 hope that he would bring data to the discussions

7 Q At what point were the new -- or were there new
8 plans made with regards to the design? Was that before or
9 after Anchor was brought on board to repair the building?

10 A Well, can you be more specific?

11 Q Sure I'm just asking at what point were there
12 design changes made from the original plans that R Design
13 was hired to build the building from

14 A Well, there weren't any major design changes
15 But, you know, there are all kinds of -- there are always
16 some minor little change and you -- so minor changes
17 occurred from the beginning Okay If you're talking
18 about the specific changes that we discussed earlier, on
19 improvements, those were made during the completion of the
20 building Okay

21 Q At some point, though, Anchor was following a
22 different set of plans that what R Design was asked to
23 follow, though correct? Do you agree with that?

24 A No, not as you've said it, that is, everyone
25 dealt with the same basic set of plans, and then they were

1 modified for the corrections that had to be made, they
2 would be modified for those areas of improvement that I
3 discussed earlier Okay

4 Q The garages, when they were rebuilt, they were
5 not rebuilt in the same fashion, correct?

6 A The garages were rebuilt as frame They did not
7 have lower or first-floor block walls, and they were two
8 feet higher That's correct

9 Q The original plans that R Design was asked to
10 follow, you couldn't have had an extra room above that
11 garage under those plans, could you?

12 A Couldn't have had a what?

13 Q An extra room over that garage

14 A There is no extra room over the garage, as
15 they're -- as they presently stand

16 Q There's not square footage above the garage
17 today?

18 A The garages, in the beginning and as they
19 presently exist, have always had apartments above the
20 garages Okay

21 Q The apartments that exist today over those
22 garages, how would they compare to the ones that were
23 originally designed?

24 A They're two feet higher The ceilings are two
25 feet higher

1 Q Tell me what your understanding was with regard
2 to the problems with the windows in the four units

3 A The windows were -- based on the reports on the
4 inspections, that the windows were improperly installed

5 Q Okay Did anyone ever tell you that the windows
6 themselves were inherently defective in any way?

7 A No

8 Q Do you know what kind of windows were originally
9 installed in the buildings?

10 A Impact windows

11 Q And my understanding is that a good many of
12 those windows had to be replaced entirely during repair,
13 is that correct?

14 A I know a number of windows were replaced

15 Q Do you know how many were replaced?

16 A I can't give you the exact number, but I'm sure
17 it's in the information you have

18 Q Can you estimate, or can you tell me, if it was
19 over fifty?

20 A I don't believe it was anywhere near fifty

21 Q Okay Do you know what happened to any of those
22 windows that were removed?

23 A No, I don't

24 Q How about the doors? Were they also replaced?

25 A Those doors that were delaminating were

1 replaced

2 Q When did the delamination start occurring? Do
3 you recall?

4 A No, I don't

5 Q Tell me about who was involved in making the
6 decision to relocate the exterior entrance to the four
7 units Was that a design change that you had requested,
8 or --

9 A The exterior? You mean the main entrance of the
10 building?

11 Q Yes, sir

12 A I think the main entrance to the building is the
13 same place it's been

14 Q Okay It wasn't relocated on any new plan?

15 A I don't think so It's always been in the
16 center

17 Q You mentioned earlier that some stairways were
18 torn down in the units The circular stairs were removed
19 and replaced with traditional staircases Is that
20 accurate?

21 A Well, instead of installing circular staircases,
22 normal staircases were put in, yes

23 Q What was the purpose for that?

24 A To enhance the units Okay

25 Q How about the exterior dormers? Why were they

1 relocated?

2 A I think the -- there was a problem with the way
3 the exterior dormers were designed in the beginning But
4 that was done -- well, yeah

5 Q Were the carriage house balconies extended?

6 A I don't follow you

7 Q The balconies that exists outside of the
8 carriage houses, were they ever extended on the new sub
9 plans? Were they altered from the original design?

10 A They probably were, yes Somewhat, yes

11 Q And based on the new design, were there
12 additional closets added to the units?

13 A I don't recall Well, there's more closet space
14 in the -- in some of the lofts, I think, yes

15 Q Okay How about additional square footage to
16 living rooms and kitchens?

17 A Well, not on the ground floor But if you
18 recall, as I testified earlier, by putting a second floor
19 on each of the second-story units in the area between the
20 kitchen and the garage, that allowed those units to move
21 the kitchens that were previously in -- you know, up
22 forward, push them into that space, and increase the
23 dining and living-room space Okay? So that's how you
24 get space there

25 Q Did any walls have to be taken down to create

1 additional square footage in any of the units?

2 A There may have been some walls changed, yes

3 Q What about the addition of windows and skylights
4 for the units? Do you recall why that design change was
5 made?

6 A Well, your question is very vague I don't
7 recall any -- I'm trying to figure out where there might
8 be skylights I don't even recall that there are any
9 skylights there

10 Q Are you fairly familiar with the pay apps that
11 Anchor has produced?

12 A With the what?

13 Q The pay applications that Anchor submitted to
14 you throughout their --

15 A Their draw applications?

16 Q Yes, sir

17 A Yes

18 Q All right At any time, did you question any
19 items with regard to whether or not those items related to
20 the repair versus completion?

21 A I question them because I review them But I
22 didn't -- I don't recall any questions that came to mind
23 at that point, no

24 Q What claims do you have, if any, with regards to
25 damages from the building being exposed to the elements?

1 Do you feel like there was damage done, because the
2 building was left exposed, in any manner?

3 A The building was left just like most
4 construction sites are left My recollection of the
5 reason for the element issue, especially when they talk
6 about delamination of doors, is because the doors were not
7 primed when they were installed They were left
8 unpainted, which meant that rain and water --

9 MR ROSS Your Honor?

10 THE COURT Yes?

11 MR ROSS Does the witness have any personal
12 knowledge of this? I think it's all hearsay

13 THE COURT I'm assuming Randy Still is going to
14 testify to it Yes? No? Who's going -- Steve
15 Carpenter? I don't know

16 MR GRIFFITH I believe Mr Carpenter will,
17 probably Randy wouldn't He would have looked at
18 this, but he wouldn't have analyzed that

19 THE COURT Okay

20 Q [Mr Bendle] Let me just ask you generally, Mr
21 Green, what sort of problems or damages arose due to the
22 continued exposure, that you are aware of, other than the
23 delamination? What did you personally see?

24 A Well, as I mentioned, the only thing that I know
25 of, okay, is what I was mentioning, okay, which, as it

1 turns out, is third party Okay?

2 Q Okay But I'm asking you, not a third party,
3 what you actually witnessed with regards to any damage due
4 to the elements, sun, wind, rain Did you witness
5 anything out there at the project in terms of damages done
6 by that?

7 A It's a normal construction site If you don't
8 have all the windows in at times, and all the doors in,
9 it's raining, that's the way a construction site goes

10 Q Okay After R Design was terminated on October
11 17th, who do you feel was responsible for making sure that
12 that building wasn't exposed to the elements?

13 A I was

14 Q So you don't hold R Design responsible for any
15 damages that occurred after they were terminated, is that
16 fair, with regard to --

17 A I'm not aware of any way that I could do that

18 Q You testified before that approximately three
19 millions dollars to date has been spent on this project
20 Is that about right?

21 A Yes

22 Q And you've also testified that the initial
23 budget for the project was around 1 6, 1 7 million?

24 A Yes

25 Q And I believe you also testified that you had

1 about 772,000, approximately, in this project at the time
2 that R Design was terminated? Is that fair?

3 A Yes

4 Q And with regard to the pay apps that were just
5 mentioned a few minutes ago -- I think I've asked this,
6 but I'll ask again -- have you taken issue with any of the
7 items listed in pay app 18 and the costs?

8 A No I don't recall any

9 Q You never questioned Steve Carpenter, or anyone
10 at Anchor, why they used three different carpenters to do
11 the repair work?

12 A I've had discussions with him about the
13 carpenters, and different carpenters have different
14 skills Some are finish, some are rough

15 Q Were you aware that over \$300,000 was paid out
16 to those three carpenters for just the repair work alone?

17 A I know the cost is substantial

18 Q Did you ever take any issue with regard to their
19 supervision or mark-up fees for just the repair?

20 A No

21 Q And you are aware that those figures exceed
22 \$200,000 for just the repair phase?

23 A I haven't added that part up, so --

24 Q Have you ever questioned anyone with Anchor,
25 Carpenter or otherwise, with regard to where the windows,

1 the original windows, went?

2 A No

3 Q Have you ever questioned the replacement cost
4 for the windows? The Grayco bill

5 A Yes

6 Q Okay And what is your understanding of why
7 that Grayco bill was was it was? I believe it was a
8 little over 200,000

9 A Because that's what it cost, you know

10 Q For window replacement?

11 A To replace the windows Yes

12 Q Ever question them as to why the original
13 windows could not be reinstalled?

14 A I may have

15 Q Do you recall what they may have said?

16 A No, I don't

17 Q The buildings are completed, correct? the four
18 units?

19 A Yes

20 Q Okay And the C O issued -- was issued,
21 rather, back in July of last year, 2007?

22 A Yes

23 Q And were those units placed on the market prior
24 to the C O being issued?

25 A Yes

1 Q Do you recall about when they were placed on the
2 market?

3 A Well, we've always marketed them throughout '07

4 Q Have any of those units sold?

5 A Yes

6 Q How many?

7 A One

8 Q Which unit is that?

9 A That's the largest unit, C Well, technically
10 speaking, three of them have sold

11 Q Three of them have sold?

12 A Yes

13 Q When did those three units sell?

14 A The largest unit sold a couple of months ago, I
15 would have to say, and then a unit sold in February and a
16 unit sold in March

17 Q Do you recall what the asking price was for
18 those three units that have sold?

19 A Yes The asking price was \$755,000 for the
20 largest unit And the asking price for unit A -- I'm
21 sorry -- unit D was \$625,000 less seven percent, and unit
22 B, \$515,000 less seven percent

23 Q And that was the asking price?

24 A Yes

25 Q Okay Did the units sell for that, or is that

1 what you were explaining the plus --

2 A D and B sold for the asking price, less seven
3 percent, and unit C sold for \$710,000

4 Q Have you ever had the buildings appraised?

5 A Yes

6 Q And how many times have they been appraised?

7 A They were appraised once when we were seeking
8 the construction loan, okay, by the bank They were
9 appraised last year, last July of 2007, and that -- they
10 came out right around the 2 495 composite total, and then
11 they were appraised, the units, individual units C, B and
12 D were appraised before this -- before those sales were
13 made

14 Q Can you recall what the appraisal was -- what
15 the building appraised for prior to construction
16 commencing?

17 A I think roughly two million dollars

18 Q And how about the most recent appraisals? Can
19 you tell me -- do you recall what they appraised for?

20 A They -- the one I remember in total was the two
21 four nine five were selling The others appraised
22 sufficient to cover the mortgage Okay

23 Q Okay So you've just got one unit left to sell,
24 correct?

25 A Well, we've got -- and then a couple of buyers

1 who bought the others would like to sell them, as well,
2 would like to flip them

3 Q I see At the end of the day, Mr Green, how
4 much would you say you've come out-of-pocket for this
5 project, assuming that you can sell the last unit?

6 MR GRIFFITH Judge, I'm going to object I
7 don't think that's relevant at all

8 MR BENDLE Judge, he's testified before about
9 how much he believed he would be out of pocket

10 THE COURT I understand You can go ahead and
11 ask it

12 A Well, the -- because I don't own all the units,
13 selling the units is not going to get -- not going to help
14 me Okay? So I'm a million three, easily, out of pocket

15 Q [Mr Bendle] Okay And does that differ from
16 your deposition testimony where you testified that at the
17 end of the day -- assuming these units sold -- as part of
18 your mitigation and your damages that you would be out of
19 pocket a half a million dollars?

20 A Well, I don't recall my earlier testimony but in
21 today's market and where I am now, I'm out of pocket a
22 million three

23 Q So you feel that your damages have exponentially
24 gotten larger since your last -- since your last
25 deposition?

1 A Well, I don't recall that half-million-dollars
2 number I do know that what I have in the project is what
3 I have in the project Okay? And so there's no way --
4 how to say this? Yeah, I guess you would have to say my
5 damages have grown And it's probably -- it's not just
6 the costs that continue to go into the project, but it's
7 the adverse effect of the delay on the market So the
8 market -- the ability to sell it, as I -- you asked about
9 the selling price Well, when you have a unit that's on
10 the market for 755,000 and it sells for 710,000, that's a
11 45,000-dollar hit Okay? So you have the market value of
12 the units in this market, today's terrible market, and
13 then the out-of-pocket going up to the market So, yes,
14 the hit gets worse

15 Q So then is it fair to say in summary, then, that
16 as you sit here today you believe your damages to be
17 somewhere around 1 3 million dollars?

18 A Specifically, a million two thirty-two

19 Q And that's despite the fact that at the time the
20 folks that you have sued left the project, you only had
21 seven hundred and thirty-nine -- or \$732,000 involved?

22 A Yes

23 MR BENDLE I believe that's all I have

24 THE COURT Okay

25 MR BENDLE Thank you, Mr Green I appreciate

1 your time

2 THE WITNESS You're welcome

3 THE COURT All right Jeff, roughly how long
4 do you think you will take?

5 MR ROSS Fifteen, twenty minutes

6 THE COURT Okay Do you mind -- are you okay
7 if we go ahead and take just a quick lunch break,
8 y'all?

9 MR ROSS I don't care

10 THE COURT Okay Let's do this Mitch, you've
11 got a -- you're standing

12 MR GRIFFITH No I was just --

13 MR ROSS Your Honor --

14 MR GRIFFITH -- going to say if you wanted to
15 go forward, I wanted five minutes

16 THE COURT Yes?

17 MR ROSS Can we go off the record a second?

18 THE COURT Absolutely

19 [Off the record momentarily]

20 THE COURT Mr Green, you can step down, sir
21 I just remind you that you are still under oath, and
22 you are not to discuss your testimony with anyone
23 Okay, sir?

24 THE WITNESS Okay

25 THE COURT Thank you

1 [Whereupon, the witness exits the witness stand]

2 THE COURT We'll take two minutes

3 [Whereupon, a recess is taken from 1 50 p m to
4 1 58 p m]

5 THE COURT All right Mr Ross

6 MR ROSS Thank you, Your Honor

7 [Whereupon, the witness re-takes the witness
8 stand]

9 CROSS-EXAMINATION

10 BY MR ROSS

11 Q Mr Green, we took your deposition back in
12 January I believe you said that you had about three
13 million dollars invested in the buildings, correct?

14 A I guess that's right

15 Q All right And the total value of them, as they
16 were appraised, was 2 49 something?

17 A Yes

18 Q And I asked you where you were going to catch --
19 make up the difference, which was approximately \$500,000,
20 and you said it was going to be from the defendants,
21 correct?

22 A Yes

23 Q And you have no construction experience
24 whatsoever, correct? You're not an engineer, an
25 architect? You've never worked in the field swinging a

1 hammer on a construction site?

2 A Correct

3 Q Okay So your testimony about whether items are
4 punch-list items or incomplete items, you don't have any
5 personal knowledge of that? You're relying on knowledge
6 of other people, correct?

7 A Punch list I'm relying on my experience of
8 having homes built for myself, my wife, and at the end of
9 the process going through a punch list with the builder
10 That's my -- that's what I'm referring to

11 Q So you're using punch list as a -- your
12 definition as a homeowner?

13 A Correct

14 Q Okay You said your home on -- was it Dataw
15 Island?

16 A Yes

17 Q Who built that?

18 A Heister Construction

19 Q I think I heard you earlier there's \$300,000
20 is what the remodeling was going to cost, is that correct?
21 I thought you testified earlier that the remodels, the
22 upgrades, and the improvements that you were going to do
23 on this project were about \$300,000?

24 A 319,000

25 Q Okay And you say that it's about \$980,000 for

1 the repairs, correct?

2 A Correct

3 Q And on pay app 27 -- if you've got that in front
4 of you -- how much money was spent on the project so far?

5 A I think that has about three million dollars on
6 it

7 Q Hand you what's been marked Plaintiff's Exhibit
8 Number 5 Is that a summary of charges that Anchor has
9 charged you?

10 A They're applications 1 through 27, through June
11 4th, 2007

12 Q Is that the summary of charges that Anchor has
13 charged you?

14 A There may have been a minor bill after that, but
15 I think it is, yes

16 Q Okay And the last pay app is for how much?

17 A A hundred fifty-nine thousand five seventy-two
18 ninety-three

19 MR ROSS I don't have the totals there
20 anymore Let me take a look again I'm sorry

21 [Whereupon, Mr Ross reviews documents]

22 MR ROSS There we go

23 Q [Mr Ross] The last pay app, sir, that shows a
24 total of everything that you've paid to Anchor, correct,
25 for the repairs and remodeling of this project?

1 A [No response]

2 Q Give or take a little bit?

3 A Yes

4 Q And what is that number?

5 A A million nine two zero seven

6 Q Okay So there is about 980,000 in repairs and
7 about 300,000 in upgrades, correct?

8 A Yes

9 Q All right Catterson and Sons was a labor-only
10 subcontractor on this job?

11 A Yes

12 Q And the checks that 16 Jade Street wrote were to
13 Catterson and Sons, Inc, correct?

14 A I believe so

15 Q And before you wrote a check to Catterson and
16 Sons, you had to get approval from R Design?

17 A Correct

18 Q And when Catterson and Sons left the site, most
19 of the porches were not completed, correct?

20 A I think that's correct

21 Q And only some of the windows were installed?

22 A I think most of the windows were installed

23 Q Would you draw a distinction between the word
24 some and most?

25 A Yes

1 Q And in January when we took your deposition,
2 roughly, what, eight, nine months ago, that was closer in
3 time to when this project was done, correct?

4 A It was six months before completion

5 Q Eight or nine months ago --

6 A Oh January --

7 Q -- we took your deposition, correct?

8 A -- of what year?

9 Q This year

10 A This year Okay

11 Q Eight or nine months --

12 A I'm sorry Yes

13 Q And that would be closer in time to when this
14 project was completed?

15 A Correct

16 Q And would you say your memory was better or
17 worse closer in time, than farther away in time, as trying
18 to remember something that happened?

19 A It depends on what the item is

20 Q How many windows were in the building at the
21 time Catterson left?

22 A I think I said most

23 Q Okay

24 MR ROSS Your Honor?

25 THE COURT Yes

1 [Whereupon, Mr Ross proffers documents to the
2 Court]

3 THE COURT Do you want to just go ahead and
4 read the portion of it?

5 MR ROSS I will

6 THE COURT What page are we on?

7 MR ROSS 61

8 Q [Mr Ross] You said you think some of the
9 windows were installed -- I'm starting on line 5 -- line
10 7 some were and some weren't Do you know which ones
11 were I can't tell you specifically

12 So is it some, or most, or do you remember now?

13 A Well, the -- when I look back, I think that most
14 of the windows were installed That's my recollection at
15 this point My recollection then was what you have there

16 Q Okay

17 A How many years ago is this? Three years? Okay

18 Q So only some of the siding was on the site at
19 the time?

20 A [No response]

21 Q And I'm referring, again, to the time that
22 Catterson and Sons left the project

23 A [No response]

24 THE COURT Somebody hand him the deposition so
25 he can read it

1 A Was that a question?

2 Q [Mr Ross] Is that correct?

3 A Was that a question? I didn't --

4 Q It says only some of the siding was installed at
5 the time Catterson and Sons left the site, is that
6 correct?

7 A That's correct

8 Q And Connolly Construction was on site after
9 Catterson and Sons left installing siding?

10 A Yes

11 Q Is that correct?

12 A Yes

13 Q And there are people named Gerald and Collin on
14 site, doing general carpentry work, after Catterson and
15 Sons left the site?

16 A That's correct

17 Q And during the time between when R Design left
18 and Anchor was hired, there was also people doing rough
19 carpentry on site?

20 A No

21 Q No?

22 A [No response]

23 Q Was there anybody working on site at that time?

24 A Work was suspended

25 MR ROSS Your Honor, I'm going to refer to

1 137

2 Q [Mr Ross] After Mr Aten left the project --

3 MR ROSS And I'm on line 6

4 Q [Mr Ross] -- October of '05, my understanding
5 is that Anchor was engaged that following month Is that
6 correct In that general time frame, yes During that
7 time frame between Mr Aten being terminated and Anchor
8 being engaged, was there anyone still working on the
9 project There might have been somebody doing
10 miscellaneous things for a week or ten days, yes

11 So do you recall now that there was not anybody
12 on site working, or you don't remember at this point?

13 A Well, my recollection is that when -- that
14 Anchor came in and suspended work of everyone Okay?
15 Now, did they come in on the 19th, or the 20th, or the
16 21st? I can't say But there was no substantial work
17 underway --

18 Q After --

19 A -- after Carl Aten left That's right

20 Q Did Anchor come in before Carl Aten left? That
21 was after the fact, right?

22 A Yes

23 Q After Catterson and Sons left, were there people
24 on site moving and installing -- or installing windows?

25 A I don't know I don't recall

1 Q Do you know if there were people on site doing
2 the AAC block work?

3 A No

4 Q And I'm sorry That was a poor question
5 Were there people on site doing AAC block work
6 after Catterson and Sons left the job site?

7 A Not to my recollection That work was done
8 earlier

9 Q Do you recall if more AAC block was brought to
10 the site after Catterson and Sons left?

11 A Yes, it was

12 Q But nobody was doing any work with it?

13 A Carl was trying to find a contractor, to
14 complete the fourth garage, and was not successful in
15 getting anyone to do that

16 Q Do you know specifically what portions of this
17 project were performed by Catterson and Sons or -- versus
18 another contractor?

19 A [No response]

20 Q Were you on site watching Catterson and Sons do
21 their work?

22 A I would be on site from time to time, walking
23 through, looking, but I was not on site watching them do
24 their work Okay?

25 Q Sure Sure My question to you is we -- there

1 is some additional work that was done after Catterson and
2 Sons left the job site, correct?

3 A Connolly came in and did some siding work, yes

4 Q Right And there were some people doing some
5 framing work?

6 A There might have been some minor framing from
7 Carl's people

8 Q Okay Do you know specifically what that work
9 was, versus what Catterson and Sons did? Are you able to
10 go to the site and say, this window --

11 A No

12 Q Of the \$200,000 in windows that you had said
13 were purchased by Anchor, do you know what percentage of
14 those windows were purchased because they were weather-
15 damage windows in the original job? Were they all weather
16 damaged?

17 A I can't tell you the percentage, no

18 Q Okay As soon as Anchor Construction came on
19 site, they started shutting the job down, right?

20 A Yes

21 Q You testified during your depositions that you
22 had QuickBooks or accounting software that you keep your
23 job costs in Is that still true?

24 A I kept Excel spreadsheets

25 Q Okay And I asked you during your deposition if

1 you would provide those to your attorney Have you ever
2 provided those to your attorney?

3 A Yes

4 Q The Excel spreadsheets?

5 A Yes

6 Q You don't have any experience with Catterson and
7 Sons trying to build things that were not legitimate,
8 correct?

9 A Prior to Jade Quarters, I had no experience with
10 Catterson and Sons

11 Q Well, I thought I had heard earlier there are
12 some what appeared to be allegations against R Design
13 for -- let me scratch that

14 You hired -- or Mitch hired, or you hired at
15 Mitch's direction, either way, H2L to come in and find the
16 best way to strengthen the AAC wall, is that correct?

17 A They were hired to come in and identify the
18 problems, and design ways to improve the problems, and to
19 observe the fixes to ensure that they were structurally
20 sound

21 Q Was H2L to just get the structural soundness of
22 the block back to where it was, or were they going to
23 improve it, make it better?

24 A Well, the objective was to fix it Okay?

25 Q In the pay app, you just testified earlier,

1 there's \$300,000 paid to the framers for the remediation
2 work, correct?

3 A That was the number you said was in here Okay?

4 Q I'm sorry

5 When you were talking with Tab Bendle just a few
6 minutes ago, there are three different framers that were
7 used on this project for the remediation, correct?

8 A I believe he mentioned three different framers,
9 yes

10 Q Okay And do you take issue with that? Were
11 there three different framers?

12 A I think he said three different carpenters

13 Q Okay Were there three different carpenters on
14 this job doing remediation?

15 A There probably were, yes

16 Q Okay And were they paid, collectively,
17 \$300,000?

18 A I don't know for sure Okay?

19 Q Okay

20 A I don't dispute it, but I don't know because I
21 didn't go through and add it up, to tell you

22 Q Okay And were they doing the same scope of
23 work that Catterson and Sons was hired to do?

24 A Well, I believe a major piece of the scope of
25 work was to fix and repair And that's different from

1 what Catterson was hired to do

2 Q Okay But all of that \$300,000 was to do the
3 fix and repair, correct?

4 A As I said, I didn't add up to determine if the
5 \$300,000 mentioned is correct, so I cannot tell you that

6 Q All right Let me go about this a different
7 way In pay app 18, if I go look at the total line items
8 for the framers and add it together, whatever that adds up
9 to -- let's say, hypothetically, it's \$300,000 -- that
10 would be how much you paid the framers for the remediation
11 work, correct?

12 [Whereupon, the witness reviews documents]

13 A Well, it's not listed here in that manner, so I
14 don't know

15 Q [Mr Ross] Is that statement correct?

16 A Well, what your statement is is hypothetical
17 If I look at the app and the app doesn't say that's the
18 framers, okay -- the app speaks to carpenters

19 THE COURT Can I see that?

20 [Whereupon, the witness proffers documents to
21 the Court]

22 Q [Mr Ross] Do you know if Carpenter -- or Evans
23 Construction was a carpenter?

24 A I believe he was, yeah

25 Q What about Hamilton Construction?

1 A Yes I know he does carpentry work and other
2 construction work

3 Q Okay What about Klein Construction?

4 A He does carpentry work

5 Q Okay Was there any carpentry work done, during
6 the remediation process, that was outside of Catterson and
7 Sons original scope of work?

8 A [No response]

9 Q Catterson and Sons was the original carpenter
10 retained on this job, right?

11 A They were the carpenter retained to do framing
12 work, yes

13 Q Okay Were there any other carpenters that were
14 retained prior to Catterson and Sons leaving the project?

15 A Well, Carl had a couple of people on the project
16 who did carpentry work during Catterson's time there

17 Q Do you know what they were doing?

18 A General carpentry work I didn't stand over
19 them to see

20 Q Do you have a -- let me ask you this Catterson
21 and Sons' contract to do carpentry work was \$133,000, and
22 that was carpentry

23 MR ROSS And I'll represent this to you now,
24 and I'll enter it into evidence later unless somebody
25 objects

1 Q [Mr Ross] It was for carpentry, siding, and
2 block work, all combined The block work, if you take it
3 out, was --

4 MR ROSS One minute, Your Honor

5 Q [Mr Ross] Catterson and Sons' contract was for
6 \$65,000 for the framing, and the exterior siding and trim
7 was another \$32,000 What other work was done on site,
8 prior to the remediation, besides the framing and exterior
9 siding and trim? Do you know?

10 A What other work was done on site by --

11 Q By the framing --

12 A I'm sorry Your question is not clear to me
13 I'm not trying to be difficult I just don't follow your
14 question

15 Q Sure We're talking about the framers and the
16 carpenters

17 A Okay

18 Q Okay?

19 A Okay

20 Q What other work, within their scope --

21 THE COURT Catterson's scope, correct?

22 MR ROSS Let me ask differently

23 Q [Mr Ross] Evans Construction, Hamilton
24 Construction, and Klein Construction, they were general
25 carpentry work?

1 A I think so, and framing, yes

2 Q And they were -- if you add up, I think you'll
3 find they were paid about \$300,000 to do the carpentry
4 work We accept that for now?

5 A Okay

6 Q And Catterson and Sons was only going to be paid
7 \$65,000 to do the carpentry work, is that fair?

8 A I believe so

9 Q Okay Do you expect Catterson and Sons to pay
10 somebody five times the amounts that they were going to
11 get paid to do the work that they had started?

12 A Well, involved in the work here was tear-out,
13 fixing, and then doing it correctly So there are
14 additional costs in there

15 MR ROSS I don't have anything else

16 THE COURT Okay Mr Finn?

17 MR FINN I just have a couple, Your Honor

18 CROSS-EXAMINATION

19 BY MR FINN

20 Q Mr Green, I want to try to understand this
21 With respect to the windows, did I hear your
22 testimony that there were \$200,000 worth of windows had to
23 be brought in after the initial windows were installed?

24 A I didn't testify to that I was asked those
25 questions, but I didn't --

1 Q Is that -- is that incorrect?

2 A I don't have -- I don't recall the number And
3 the number may be here, but I -- that's a number that was
4 asked of me

5 Q Okay

6 A Okay

7 Q Do you have any idea how --

8 A I know a lot

9 Q -- much you paid for additional windows --

10 A I can't tell you the exact number I know a --
11 it was a high cost

12 Q Can you give me an estimate?

13 A I would like not to speculate

14 Q Is it over \$100,000?

15 A Probably

16 Q Probably?

17 A Yes

18 THE COURT Tom, is it in the pay application?

19 [Whereupon, Mr Finn reviews documents]

20 MR GRIFFITH I'm not trying to interrupt here,
21 but if you're looking in the pay application, I think
22 there's just going to be a line item to Grayco

23 THE COURT It's just Grayco? That's what I'm
24 asking is if there's anything specific

25 THE WITNESS I don't --

1 THE COURT I'm assuming Randy, someone, maybe
2 Steve Carpenter, has got it broken down?

3 MR GRIFFITH I can go ahead and pull it out if
4 you want me to, but that's not --

5 THE WITNESS There's a Grayco number, \$200,000

6 MR GRIFFITH -- not what I intended to do

7 Q [Mr Finn] So, sir, would your testimony, then,
8 be the 200,000 to Grayco could be other things or --

9 A I know from experience that we bought lumber and
10 windows and doors and siding and lots of different things,
11 and hardware and paint from Grayco So it could be a
12 number of things in that number

13 Q With respect to the windows that I guess had to
14 be replaced, did -- why did they have to be replaced?

15 A Well, I can't give you a contractor's
16 explanation I understand that many of them had been
17 improperly installed, and many of them I guess had been
18 damaged, but I do know that they had the window
19 manufacturers come in and look at the windows and doors
20 And it was after the inspection --

21 MR FINN Your Honor, I want to make sure he
22 doesn't testify anything a window manufacturer said
23 It sounds like that's where we're going

24 MR GRIFFITH He was asked a question, and he's
25 just giving an answer, Judge

1 MR FINN Your Honor, I didn't ask the
2 question

3 THE COURT Okay I understand

4 Q [Mr Finn] Mr Green, were the windows -- did
5 the windows sustain damage because they were -- they
6 weren't -- the process of installing them had not been
7 completed when Catterson and Sons left the job?

8 A My understanding is because the process of
9 installing them was improper

10 Q Okay But the installation had been completed?

11 A For some windows

12 MR FINN All right That's all I have Thank
13 you

14 THE COURT Okay Mitch?

15 MR GRIFFITH I actually don't think I have
16 anymore questions at this time Thank you

17 THE COURT Okay Mr Green, you may step down,
18 sir

19 THE WITNESS Thank you

20 THE COURT Thank you

21 [Whereupon, Mr Green is excused and exits the
22 witness stand]

23 THE COURT All right, y'all It is two, it
24 looks like about seventeen or eighteen, by the back
25 clock, a lot later by my clock What time do you-all

1 have? Am I just fast? I've got about 2 27 Is that
2 right?

3 THE LAW CLERK 2 25

4 THE COURT 2 25 on yours? Okay

5 Y'all, what we're going to do is we'll all come
6 back at three o'clock and we will continue

7 Mitch, how many witnesses do you have to put up
8 besides Randy Still? You're going to put up Steve
9 Carpenter, I assume?

10 MR GRIFFITH I intend to put up Steve Steve
11 can be here at 2 30

12 THE COURT Okay

13 MR GRIFFITH I'm sorry I didn't see him in
14 the courtroom

15 THE COURT He's already here Okay And is he
16 the last person, other than Randy Still?

17 MR GRIFFITH No No

18 THE COURT Who else do you have?

19 MR GRIFFITH I have a -- some deposition I
20 don't know if you want me to -- I don't think you want
21 me to read it into the record right now

22 THE COURT No

23 MR GRIFFITH I just have to give it to you --

24 THE COURT Yes

25 MR GRIFFITH -- in order to make sure the

1 record has it I provided that to them before we --

2 THE COURT Okay Is there any designations or
3 anything specific we need to do, y'all? or am I reading
4 the whole thing? or what am I doing?

5 MR ROSS He had some line and page numbers
6 If I'm not mistaken, I had an objection in there I'll
7 grab hold of it and --

8 THE COURT Well, isn't this ironic that I'm the
9 one ruling on it So --

10 MR ROSS Thank you, for what it's worth, I
11 suppose

12 THE COURT Absolutely
13 Well, let's just do this Yes?

14 MR GRIFFITH We can take that up right after
15 -- we can go ahead and break I'll take it up with
16 Jeff, what he objected to I don't know that I've got
17 the objections

18 THE COURT Actually, Mitch, what I was hopeful
19 for is if you can give me the deposition right now,
20 while I eat my lunch for thirty minutes I can read the
21 deposition

22 MR GRIFFITH What I have had up -- handed up
23 you can read in about five minutes

24 THE COURT Okay

25 MR GRIFFITH So I'll pass it up It's not the

1 whole deposition

2 THE COURT Jeff, if you had other designations,
3 do you want me to --

4 MR ROSS I don't I just --

5 THE COURT Okay

6 MR ROSS I remember when I was looking through
7 it I had something in one of the --

8 MR BENDLE Judge, I don't have any
9 designations, nor do I have any objections to --

10 THE COURT Okay And, Tom, do you have any
11 objections or --

12 MR FINN No, Your Honor

13 THE COURT -- designations? Okay Thank you
14 That will be Tom Finn, for the record

15 [Off the record momentarily]

16 THE COURT Let's do this, Jeff Why don't
17 y'all go grab lunch I'm obviously going to have to
18 read what it is, if you object to it, so why don't we
19 do this after lunch We'll put it on the record, your
20 objection Obviously, I would have to rule on it
21 anyway, so I'm going to read it anyway

22 MR ROSS Well, Your Honor, I think I can just
23 clear it up real quick

24 THE COURT Okay Sure

25 MR ROSS I know that what I'm objecting to

1 here in a couple of places --

2 THE COURT Yeah

3 MR ROSS -- Livingston has been asked if
4 something is a deficiency in construction That
5 depends on how you interpret the contract documents and
6 what the obligations are to the subcontractor To the
7 extent it's a legal conclusion by Livingston, I was
8 objecting to it

9 THE COURT Okay I don't even know who
10 Livingston is

11 MR ROSS He's the project engineer

12 THE COURT He's the project engineer Okay

13 MR ROSS And it's a little different, now that
14 you're hearing it versus a jury, so --

15 THE COURT Right Okay Okay

16 Y'all, be back at three o'clock, and we'll go
17 ahead and put up your next -- it looks like it's Mr
18 Carpenter

19 Other than this deposition, Mitch, what else do
20 you have?

21 MR GRIFFITH What I was going to say is I plan
22 to call Mr Aten I've got certain things I need to
23 prove through him, obviously So I tell you that in
24 order to --

25 THE COURT We have scheduling difficulties --

1 MR GRIFFITH -- allow them to know if they
2 want to put it --

3 THE COURT Yeah

4 MR GRIFFITH -- all up, you know, all at the
5 same time, because I have to put it in my -- some of it
6 up in my case, I believe --

7 THE COURT Right

8 MR GRIFFITH -- to get past a directed
9 verdict

10 THE COURT Right

11 MR GRIFFITH So if they want to, you know, be
12 prepared to go forward with him, or if they want to
13 wait until their case I don't care But you're
14 wanting to push fast I'm just letting them know he's
15 coming up in my case

16 THE COURT Okay And he also said he's got to
17 go pick up some children, was my understanding,
18 correct?

19 [Off the record momentarily]

20 THE COURT All right So are we okay?

21 MR ROSS Yes, Your Honor

22 THE COURT All right Y'all, see you back at
23 three o'clock Okay?

24 [Whereupon, a recess is taken from 2 24 p m to
25 3 07 p m]

1 THE COURT All right Mr Griffith, are you
2 ready to go?

3 MR GRIFFITH Yes, ma'am

4 THE COURT Is the defense ready to go?

5 MR BENDLE Yes, Your Honor

6 MR ROSS Yes, Your Honor

7 MR FINN Yes

8 THE COURT Collectively, thank you

9 All right If you will call your first witness,
10 or your second witness

11 MR GRIFFITH Our second witness We would
12 call Mr Carl Aten

13 THE COURT Okay Mr Aten, if you will please
14 come forward

15 Sir, there is a Bible right there If you would
16 raise your right hand

17 [Whereupon, Mr Aten is duly sworn by the Court]

18 THE COURT Thank you, sir Go ahead and take a
19 seat

20 [Whereupon, Mr Aten takes the witness stand]

21 MR GRIFFITH Mr Aten -- and, again, I want to
22 make sure I'm not doing it intentionally I'm
23 pronouncing that right? Aten?

24 THE WITNESS That's correct

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CARL ATEN,

Having Been First Duly Sworn,

was Examined and Testified as Follows

DIRECT EXAMINATION

BY MR GRIFFITH

Q As I understand, you are the owner or managing partner of an LLC known as R Design, is that correct?

A Managing member

Q Managing member of R Design?

A Correct

Q That business was started in 1997 is that correct?

A Yes, sir

Q Okay And just a little bit by way of background, you live here in Beaufort, is that correct?

A Yes Well, I live in Okatie Beaufort County

Q Beaufort County And you've been here how long?

A Approximately fifteen years

Q And you came here, what, in the mid '90s?

A Yes

Q Now, when you started in 1997, R Design, you were -- you did it in order to do speculative houses, is that correct?

A That's correct

Q So you buy lots, and you build a house, is that

1 correct?

2 A That's correct

3 Q And prior to R Design, you've had no formal
4 construction background, is that correct?

5 A Not necessarily I worked on construction
6 Putting myself through college, that's what I did

7 Q Okay So as far as general contracting, though,
8 you --

9 A Correct That -- right

10 Q -- other than maybe digging, using the shovel or
11 banging the nails --

12 A Correct

13 Q -- as a laborer, you had no formal construction
14 background?

15 A That's correct

16 Q And prior to R Design, you actually worked at
17 Publix, is that correct?

18 A That's right I was one of the store --
19 assistant store manager

20 Q Over here at this store?

21 A No In --

22 Q In Bluffton?

23 A Hilton Head

24 Q Okay And you had been with Publix nine years
25 before that, I believe --

1 A That's correct

2 Q -- is that correct?

3 And when you started R Design, you had to go
4 take a test, is that correct?

5 A That is correct

6 Q And you had to get a license, correct?

7 A Yes, sir

8 Q You, Carl Aten, are the license holder for
9 R Design is that correct?

10 A Carl Aten is the license holder

11 Q Okay Did I say that wrong?

12 A I guess -- if you think about it, my license is
13 hung, I guess, with R Design Construction

14 Q Okay But you took the test?

15 A Yes Me, personally

16 Q You paid for it?

17 A That's right

18 Q You made the application?

19 A Right

20 Q You took the test, you passed it, they issued a
21 license to Carl Aten?

22 A Correct

23 Q Carl Aten then took his license and put it with
24 R Design, LLC, is that correct?

25 A Correct

1 Q And as the license holder, you're responsible to
2 ensure that the buildings that you built were in
3 compliance with the code, is that correct?

4 A I think that, more or less, the license is a --
5 if you want to talk about the test specific, the license
6 is -- I guess would be ensuring a general knowledge of
7 residential construction That is my license, is a
8 residential homebuilder

9 Q Well, let's talk about that You went to
10 Columbia to take the test at the LLR, is that correct?

11 A Correct

12 Q And you got a test and passed the residential
13 homebuilders license, is that correct?

14 A Uh-huh [Indicates affirmatively]

15 Q That license allows you to build only homes that
16 are up to three stories high and single-family dwellings,
17 correct?

18 A And no more than four units in one building

19 Q Okay And it is your understanding -- jumping
20 ahead -- that you could do this job --

21 A Yes

22 Q -- is that correct?

23 Now, as the license holder, though, you said you
24 had to have general knowledge of the rules and regulations
25 in the code, is that correct?

1 A Yes, sir

2 Q And you have to build according to the code, is
3 that correct?

4 A Yes, sir

5 Q And that's why you take the test, so that the
6 Commission can control you, is that correct?

7 A Part of the test is code part of the test is
8 general construction knowledge

9 Q Okay

10 A Part of the test is law, actually

11 Q All right And, as such, you would have been
12 the -- I believe the term they call it is -- resident
13 licensee is what it's called, is that correct?

14 A It sounds reasonable

15 Q All right And, as such, you would be the
16 responsible charge for R Design, LLC, is that correct?

17 A Could you rephrase that for me?

18 Q Well, responsible charge is defined in the code,
19 and the responsible charge means that if you are giving
20 building services, you're the person responsible because
21 you're the license holder, correct?

22 A I act for -- I acted for R Design Construction
23 That's what -- I'm the managing member That's what I
24 did

25 Q And without you being the license holder,

1 R Design couldn't have come out here and done this job,
2 is that correct?

3 A Someone else working for R Design could have
4 been there, I believe --

5 Q R Design had to --

6 A -- supervising the job

7 Q -- have a license holder, actually, to --

8 A Correct

9 Q -- do the job And your license is the one they
10 used?

11 A Correct

12 Q Now, in this -- you've never done a multi-family
13 before the Jade Street project, is that correct?

14 A Correct

15 Q And as I understand it, you and your wife
16 are the only shareholders or are the only officers in
17 R Design, is that correct?

18 A The only members Right

19 Q The only members She's never been licensed,
20 was she?

21 A No

22 Q And, therefore, as R Design, you, the license
23 holder, directed the building services, is that correct?

24 A On that particular job?

25 Q Yes, sir

1 A Yes

2 Q All right And you're responsible for the
3 supervision of the construction services that R Design
4 gave out, is that correct?

5 A Correct

6 Q And final decisions with regards to what was
7 going to be done by R Design were made by you, is that
8 correct?

9 A As far as R Design was concerned, yes

10 Q Now, on this job, you actually applied for the
11 permits, is that correct?

12 A Correct

13 Q And 16 Jade Street is in Celadon, is that
14 correct? The project?

15 A Yes

16 Q And Celadon is right over here on Sams Point
17 Road?

18 A Yes, sir

19 Q Correct? And you had actually built in there
20 before, correct?

21 A That is correct

22 Q Did a spec home there?

23 A Correct

24 Q In order to do that, you had to apply for work
25 in Celadon, become an approved builder, correct?

1 A Correct

2 Q And you understood these to be high-end condo
3 units, is that correct?

4 A Yes, sir

5 Q And you ended up with a contract with 16 Jade
6 Street, LLC, which has been marked as Plaintiff's Exhibit
7 That is the contract, is that correct?

8 A This is a contract between R Design
9 Construction and 16 Jade Street, if that's what you said

10 Q Yes, sir

11 A Okay

12 Q That contract was signed July 27, 2004, is that
13 correct?

14 A Yes, sir

15 Q And, as such, that contract makes certain -- on
16 the back of it --

17 Let me first ask you that's your signature
18 back there, is it not?

19 A Yes, sir

20 Q And that contract required you, or R Design, to
21 supervise the construction for the owner of a four-family
22 condominium unit on the owner's lot, is that correct?

23 A Yes

24 Q And you agreed to do that, is that correct?

25 A Yes, I did

1 Q The contract requires that it be completed in
2 a -- or that the buildings be completed in accordance with
3 the plans and specifications, is that correct?

4 A That's what the contract reads

5 Q Plaintiff's Exhibit Number 2 is a set of the
6 plans and specifications, is that correct?

7 A It looks familiar, yes

8 Q Okay It required that if you made any changes
9 to the plans and specifications, you would get a written
10 change order, is that correct?

11 A Without me going -- sitting here going through
12 it, if that's what you're telling me it reads, then I will
13 agree with you

14 Q On page 3, paragraph 7 deals with change orders
15 They were to be in writing is that correct?

16 A Yes, sir, that's what it reads

17 Q Okay Time of completion was to be twenty
18 months, is that correct?

19 A Sounds familiar, yes

20 Q And you were to get \$150,000 to supervise this,
21 is that correct?

22 A R Design Construction was to get 150,000

23 Q All right And attached to the contract -- or
24 at least there was a schedule A, which was basically the
25 percentages of the subcontracts that you had lined up, is

1 that correct?

2 A That schedule shows that for example when the
3 clearing, foundation, and slab was complete, that 16 Jade
4 Street was to pay ten percent of the contract amount to
5 R Design Construction

6 Q Basically, that was showing how your draw
7 schedule was going to be?

8 A Correct

9 Q Okay Now, it was your job, under this, to
10 solicit bids from the subcontractors, is that correct?

11 A That's correct

12 Q And did you solicit bids?

13 A Yes, we did

14 Q And one of the bids that you solicited did you
15 solicit from Mike Catterson or Catterson and Sons?

16 A Yes, we did

17 Q And did you ultimately sign a contract with --
18 or did R Design ultimately sign a contract with Mike
19 Catterson or Michael Catterson and Sons?

20 A Yes

21 MR GRIFFITH One second

22 [Whereupon, Mr Griffith reviews documents]

23 Q [Mr Griffith] I'm going to show you a copy of
24 a document there and ask you if you can identify that

25 A That --

1 Q Can you identify that?

2 A Yes

3 Q Okay And what is that?

4 A The contract that -- between R Design and Mike
5 Catterson for the work at 16 Jade Street

6 THE COURT Is that Number 9, Mia?

7 THE COURT REPORTER Yes, ma'am

8 THE COURT Thank you

9 MR GRIFFITH And, Judge, just for -- the one I
10 handed you was actually an unsigned copy I have the
11 fully signed -- fully-executed copy that is in
12 evidence

13 MR ROSS Your Honor, I would say the contract
14 does speak for itself But the contract is not between
15 Mike Catterson and R Design I just want to be clear
16 on the record about that

17 THE COURT Well, is there anything different,
18 other than the signature? Who signed it?

19 MR ROSS Well, it's signed by Mike Catterson
20 on behalf of Catterson and Sons, and, as you know,
21 there is a distinction in this particular case

22 THE COURT Let me just see the original, Mitch

23 [Whereupon, Mr Griffith proffers documents to
24 the Court]

25 [Whereupon, the Court reviews documents]

1 THE COURT Okay

2 Q [Mr Griffith] Mr Aten, that is the contract
3 you had with your subcontractor, is --

4 A Correct

5 Q -- that correct?

6 Okay And that contract required that your
7 subcontractor, Catterson and Sons Construction Company,
8 actually frame according to the plan, felt roof, Tyvek,
9 set the exterior windows and doors, decking and stairs, is
10 that correct?

11 A Yes And the block

12 Q And, additionally --

13 A Yes

14 Q -- down here, he was going to perform the block
15 work, AA -- well, he put in ACC [phonetic] block work and
16 four panels

17 A [Indicates affirmatively]

18 Q And did that contract require that he perform --
19 that the work be performed in accordance with the drawings
20 and specifications?

21 A Yes

22 Q All right So he was supposed to follow these
23 specifications and the drawings that were in there,
24 correct?

25 A Correct

1 Q And if he didn't follow that, it would not be
2 correct, is that true?

3 A What wouldn't be correct?

4 Q If he didn't follow these plans, if he did it
5 outside of what these plans called for, he would be wrong?

6 A Not necessarily

7 Q You can change the plans?

8 A I can't change the plans, no

9 Q You have to get a written change order if you
10 change them, don't you?

11 A That's the way our contract read, yes

12 Q All right Well, let me ask you Let's just
13 talk -- first of all, I understand there's a problem with
14 the truss system in the garage, pretty obvious The truss
15 system actually changed from going one way to actually
16 going the other way, is that correct?

17 A That's correct

18 Q Did you do that?

19 A The floor system in the entire house was
20 designed by an engineer from Grayco He's the one that
21 made that decision

22 Q If the truss system in the garage was running
23 north and south, when it actually went it in was going
24 east and west, is that correct?

25 A It was installed the way that the engineer from

1 Grayco said to put it up

2 Q If you would just answer my question first

3 A I thought I did

4 Q It was not going in the direction that these
5 plans show, was it?

6 A That's correct

7 Q It was not done in accordance with the plans and
8 specifications?

9 A There could be reasons If I have another
10 engineer telling me I can do it a different way, then -- a
11 different way, that would save money, that's basically
12 what we did

13 Q Did you get a change order for it?

14 A We talked about it --

15 Q Did you get a written --

16 A -- Dennis and I

17 Q -- change order --

18 A No, I didn't

19 Q -- per the contract?

20 A No

21 Q And that framing was done by Mr Catterson, is
22 that correct?

23 A Yes, it was

24 Q You say if an engineer told you that, without
25 that change order did you not -- why didn't you go back

1 and make him change it, then?

2 A I was told to buy the floor system, from Grayco,
3 by Mr Green Mr Green told me to buy all materials from
4 Grayco When we went to Grayco, the designer of the floor
5 system, truss system, he's the one that recommended, drew
6 it out, that way to be installed

7 Q Now, under the contract it was your job and your
8 responsibility to supervise and direct, is that correct?

9 A That's correct

10 Q It was your job to use your best skill and
11 attention to this job, is that correct?

12 A That's correct

13 Q You had conversations with Mr Green where he
14 was concerned about your attention to this job, is that
15 correct?

16 A Yes, sir

17 Q All right And you were solely responsible for
18 the beams and methods and techniques of this job, is that
19 correct?

20 A I wouldn't say me personally, no I rely on the
21 subcontractors The subcontractors are the ones who are
22 doing the work on a daily basis

23 Q On page 3 of the contract if you would look at
24 that real quick

25 A Uh-huh

1 Q Paragraph 9

2 A Go ahead

3 Q It states that the contractor shall supervise
4 and direct all construction work, use his best -- using
5 its best skills and attention, and shall be solely
6 responsible for all construction's means, methods,
7 techniques, consequences, and procedures, and for
8 coordinating all portions of the work required under this
9 contract

10 It was your job to ensure that the means and
11 methods and techniques were used -- proper means and
12 methods were used under this contract, is that correct?

13 A That's what the contract reads

14 Q And, also, if you were out on the job, you were
15 being paid supervisory's fee to make sure that everything
16 was coordinated If you were out there doing anything
17 else, you would be paid extra, correct?

18 A If I was -- say that again, please I'm sorry

19 Q Extra pay for non-supervisory work was
20 authorized under this contract --

21 A Correct

22 Q -- is that correct?

23 A Uh-huh

24 Q You could have gone out there and done the work
25 yourself and actually charged for it, is that correct?

1 A I could have, yes

2 Q After you signed the contract, you went down on
3 behalf of R Design and obtained the permits, is that
4 correct?

5 A Yes, sir

6 Q From the County?

7 A [No response]

8 Q From the County, correct?

9 A Yes

10 Q All right And I'm specifically just trying to
11 make sure that it was not in the City --

12 A Right

13 Q -- because a different --

14 A It was the County

15 Q -- code may apply

16 All right And under the County at that time,
17 the IRC-2000 would have applied to this construction, is
18 that correct?

19 A I would call it CAVO, I think or --

20 Q Well, I believe the County may have -- we had a
21 stipulation But in any event, these plans actually call
22 for it to be built in accordance with the IRC, is that
23 correct?

24 A Yes

25 Q And you understand that to be the International

1 Residential Code?

2 A Yes, sir

3 Q Correct?

4 A [Indicates affirmatively]

5 Q And if it's not built in accordance with the
6 code, then you, as the license holder, are responsible,
7 correct?

8 A Correct Once the -- once it's completed

9 Q The plans call for an AAC block, is that
10 correct?

11 A Yes, sir

12 Q And you understand that AAC is Aerated Autoclave
13 Concrete, if I'm saying that correctly?

14 A Yes, sir

15 Q And the AAC block is basically a light-weight
16 concrete -- I've got a piece of it right here -- is that
17 correct?

18 A Yes, sir

19 Q All right And, as such, you have never built
20 with an AAC block before this job, is that correct?

21 A No, I have not

22 Q All right And while it was your job to ensure
23 that the proper means and methods were used, you had not
24 familiarized yourself with the AAC block, is that correct?

25 A No, that's not correct

1 Q Okay And so you did familiarize yourself with
2 it So you knew how to apply the AAC block or how to
3 build it, is that correct?

4 A I spoke with the manufacturer, got general
5 information about the installation, used their literature,
6 read up about it

7 Q Okay And as I understand, you talked with the
8 manufacturer when you sent the plans down for the take-
9 offs is that correct?

10 A Yes

11 Q And then after that, they sent you some
12 literature back that you read up about, correct?

13 A Yes

14 Q And then instead of learning how to build it,
15 you basically relied on your subcontractor from that point
16 on, is that correct?

17 A Yes

18 Q And for all the work out there, you basically
19 relied on your subcontractor, correct?

20 A Yes, sir

21 Q You had never worked with Mr Catterson before,
22 is that correct?

23 A No, I have not

24 Q Okay So here's a gentlemen you never worked
25 with, but yet you were going to rely on him to do all the

1 work with the AAC block, is that correct?

2 A Yes

3 Q And yet under the contract, you're responsible
4 for all that work, is that correct?

5 A Yes

6 Q And for the AAC block, or at least through the
7 AAC block -- excuse me -- exterior walls, framing, roof
8 framing, exterior windows, doors to be set, you were
9 supposed to be paid a draw of \$33,000, is that correct?

10 A Sounds right

11 Q Back here in the third item on schedule A, back
12 of the contract

13 A Exterior walls, framing, roof Yes

14 Q So basically it's your position you had nothing
15 to do because you didn't have to -- you could rely solely
16 on your subcontractor, is that correct?

17 A I wouldn't say solely, but I relied on him
18 heavily How does that sound?

19 Q Now, when you place this AAC block, you are
20 familiar with, then, how you've got to grout it together,
21 is that correct?

22 A Yes, sir

23 Q It's got to have a bed that it sits in, is that
24 correct?

25 A The bed goes down at the foundation, yes

1 Q All right And when you stack the block, you've
2 got to have grout in between the two blocks, is that
3 correct?

4 A That's correct

5 Q And if it didn't have it in there, this is not
6 correct method Is that true?

7 A Sounds logical

8 Q Okay You've also got to have a head joint, is
9 that correct? Where the two blocks go together, you want
10 to make sure that there's a grout joining between the two,
11 is that correct?

12 A Are you talking about -- I would call it a butt
13 joint But, yes, that's correct

14 Q A butt joint? All right

15 And if that's not in there, that's improper
16 construction, is that correct?

17 A Sounds -- [no response]

18 Q You understand now that that didn't have it in
19 there It was a dry stack, wasn't it?

20 A No, that's not true

21 Q Okay And you read the Kern-Coleman report, is
22 that correct?

23 A Yes, I did

24 Q And you saw the pictures where you can see light
25 between these? the block that's stacked up?

1 A Yes, sir

2 Q And if there's light coming through there, there
3 must not be grout in there, is that correct?

4 A I guess you're asking me did it all -- was it
5 all dry-stacked The wall wouldn't stand up if it was
6 just dry-stacked

7 Q Okay You understand, also, that there were
8 some that -- you'll admit at least there were some that
9 didn't --

10 A Yes, sir

11 Q -- that was dry-stacked?

12 A Yes, sir

13 Q And you'll admit, then, some of it was done
14 wrong, is that correct?

15 A Yes, sir

16 Q It was not done in accordance with the industry
17 standard, then, is that correct?

18 A The only standard I knew was Aercon standard I
19 didn't know the industry standard

20 Q Aercon has a standard that you've got to put
21 grout between every block, doesn't it?

22 A Uh-huh

23 Q And the AAC Association, actually, is for
24 Aerated Autoclave Concrete Association They require
25 mortar or grout between what I call the head but you

1 called the butt --

2 A Right

3 Q -- and in the bed is that correct?

4 A That's correct

5 Q And so that's an industry standard, and if
6 that's not done, it's wrong, correct?

7 A Correct

8 Q Something has got to be done to fix it, correct?

9 A [Indicates affirmatively]

10 Q And I believe that in your deposition you said
11 basically your job was out there -- you were being paid to
12 make sure the floors were swept, is that correct?

13 A That's part of my job

14 Q And you got \$150,000 for making sure the floors
15 were kept clean and the --

16 A That was --

17 Q -- trash was picked up?

18 A -- part of the job, yes

19 Q Because you relied on your subcontractors,
20 correct, to do the work? Correct?

21 A Yes, sir

22 Q All right And you -- as a GC, you understand
23 that you are responsible to the owner, in this case 16
24 Jade Street, correct?

25 A I don't really use the word GC I don't know if

1 that's the word I would use I'm not really the general
2 contractor That's a completely different license to
3 hold

4 Q Well, throughout this contract it calls you the
5 contractor, is that correct?

6 A The contractor Correct

7 Q And that's what you're referred to as? the
8 contractor?

9 A It's just when --

10 Q I'm not trying to cut you off Okay

11 And, as such, you're the captain of the ship for
12 all these subs, is that correct?

13 A Yes, sir

14 Q And all the plans and building out there was to
15 be in accordance with the code, is that correct?

16 A Yes, sir

17 Q And when you went back out there, you saw that
18 bond beams had been cut You understand what a bond beam
19 is, don't you?

20 A Yes, I do

21 Q Basically, for the Court's information, explain
22 what a bond beam is

23 A A bond beam is -- the simplest way to put it is
24 that -- it's a form built at the top of the block There
25 would be rebar placed in the form horizontally, concrete

1 poured in the form, and that's what's basically holding
2 everything together

3 Q All right It's the last --

4 A Yep

5 Q -- course of block?

6 A Yep

7 Q And it's got sort of a U-shape so that you can
8 rebar it --

9 A That's right

10 Q -- pour concrete in it, and that creates the
11 level between the first and the second floor, is that
12 correct?

13 A Or the top -- finish

14 Q It can be the finish In this case it was going
15 to be between the first and second, though, correct?

16 A Uh-huh

17 Q And that bond beam was actually broken in
18 various places, wasn't it?

19 A I believe there was one, back in the garage,
20 that I remember

21 Q And that bond beam shouldn't be broken, should
22 it?

23 A It should not have been, no

24 Q Okay And that's something that had to be
25 fixed, is that correct?

1 A Yes, it did

2 Q Okay And when we talk also about the AAC
3 block, this block is easy to cut, is it not?

4 A Use wood tools with it, if you wanted

5 Q All right And so when you cut it, if you've
6 got little pieces in there, that's going to degrade the
7 integrity or the structural integrity, is that correct?

8 A Yes

9 Q Okay And that shouldn't be done, correct?

10 A You use the word shouldn't be I guess there
11 would be cases that it could be done But it shows in the
12 plans, if you want to keep referring to the plans, a way
13 to repair that if you had to do it If you had to cut
14 through the block or put a chase in the block, there's
15 specifications how you repair that

16 Q Well, in building it, we've got these holes
17 right here [indicates]

18 A Correct

19 Q These holes are supposed to line up so that you
20 can put rebar in them, is that correct?

21 A Correct

22 Q And then after you put rebar in it, you're
23 supposed to grout it, is that correct?

24 A That's correct

25 Q And if that isn't done, then it's done wrong,

1 correct?

2 A That's correct

3 Q You can't put rebar and grout in there once
4 you've got your bond beam up, can you, because then you've
5 got the top course covered?

6 A To repair that, if you missed it you would have
7 to -- I believe they show a way to go back, drill a hole
8 just underneath the bond beam, and you can grout it back
9 in there

10 Q All right And you understand the properties of
11 concrete You can't let concrete fall but so far, can
12 you?

13 A There's -- unless you're I guess -- the way I
14 understand it, you could have used a vibrator and put it
15 down in that way

16 Q But what you want to do is you want to get it in
17 there and then you want to vibrate it so that it --

18 A That's correct

19 Q -- that it comes together?

20 A Uh-huh

21 Q But if you put it up here and let it drop down,
22 then you're going to have the aggregate fall to the
23 bottom, and the sand and water come to the top That's
24 not going to work, is it?

25 A That's the only way that you could apply that

1 grout It's the same as pouring cells in regular concrete
2 block

3 Q And when you pour cells in regular concrete
4 block, you're only supposed to go up so high before you
5 pour it?

6 A Uh-huh

7 Q And then you come back and then you re-pour as
8 you go up?

9 A That's correct

10 Q All right But yet you had all the walls built
11 all the way up in the first floor, at least at 16 Jade
12 Street, correct?

13 A Yes

14 Q And that wasn't right It should have been done
15 before then?

16 A Yes

17 Q You also understand with the AAC block that you
18 can only cut it so deep if you're going to put in
19 electrical conduit or something, is that correct?

20 A Chase Yes

21 Q And you've been out there, and you saw pictures
22 where the utilities such as the plumbing had been cut all
23 the way through, is that correct? Not all the way though,
24 but cut so deep that it was cracked on the back side?

25 A I didn't know it was cracked on the back side

1 but if you're telling me that you're going to show me
2 pictures of it, I believe you I'm not going to dispute
3 it

4 Q All right We will But at least in the Kern-
5 Coleman report it was there?

6 A Uh-huh

7 Q All right And we know that this set of plans
8 actually shows you how you're supposed to do it, doesn't
9 it?

10 A Yes, it does There's a schedule in the -- I
11 don't remember exactly which one

12 [Whereupon, Mr Griffith reviews documents]

13 THE WITNESS I think you passed it

14 Q [Mr Griffith] Looking at Plaintiff's Exhibit
15 Number 2, section S -- page S-5, 1/S-5, that actually
16 shows you how you're supposed to build it so that you can
17 get your plumbing in there, is that correct?

18 A Uh-huh

19 Q That was not done that way, was it?

20 A No

21 Q Okay They're supposed to have some pressure-
22 treated nailers in there, but yet they just cut into it?

23 A Correct

24 Q And that would have been your subcontractor,
25 correct?

1 A Correct

2 Q You also understand that the head -- or the
3 window openings and door penetrations, you've got to have
4 a lintel just like a regular concrete, correct?

5 A Uh-huh

6 Q You understand that according to the AAC block
7 specifications that you have to have at least eight inches
8 of bearing for that header, is that correct?

9 A Yes, sir

10 Q That was not done, was it?

11 A No

12 Q So that was wrong, correct?

13 A Yes, sir

14 Q Okay That had to be fixed, didn't it?

15 A Yes, sir

16 Q You understand that there have to be tie-downs,
17 by the code, for wood from the truss system And the tie-
18 downs were not there, is that correct?

19 A At the time I left, no, they were not

20 Q You understand there's got to be --

21 A You're talking about the clip? Hurricane clips?

22 Q The hurricane clips --

23 A Yes

24 Q -- at the top They weren't there

25 A [No response]

1 Q You also understand there's got to be a
2 connection between the first and the second floor, too, to
3 avoid any uplift pressures, correct?

4 A Yes

5 Q That was not installed, either, when you left,
6 correct?

7 A Correct

8 Q As a matter of fact, the engineer went out there
9 and said that the clips that were installed were installed
10 incorrect Do you remember that?

11 A Yes, sir

12 Q That had to be fixed, correct?

13 A Yes

14 Q You also understand that on the bottom floor
15 that they had shear walls in there is that correct?

16 A Correct

17 Q You understand what a shear wall is?

18 A Yes, sir

19 Q For the benefit of the record, I'm just going to
20 get you to tell us what a shear wall is

21 A A shear wall can be built several ways but a
22 common way would be to take OSB plywood, apply it to the
23 inside walls or wherever the engineer deemed that it
24 should be a shear wall The shear holds the building from
25 moving side to side

1 Q Racking, I guess --

2 A Yes

3 Q -- for the lack of a better word?

4 A Uh-huh

5 Q Okay As a matter of fact, these plans showed
6 you how to build the shear wall, didn't they?

7 A That's correct

8 Q And that was at detail number 3 on page
9 structural drawing S-6 That shear wall wasn't put in
10 there, was it?

11 A It was not complete when I left, no

12 Q That shear wall should have been put in there,
13 should it not?

14 A At some point

15 Q Yes, sir

16 A Yes

17 Q It should have been done

18 A [No response]

19 Q I understand going out there that the -- coming
20 out of the foundation -- there's rebar coming out of the
21 foundation, is that correct?

22 A Yes

23 Q That rebar was forty-eight inches on center, is
24 that correct?

25 A Yes

1 Q All right That rebar, according to these
2 plans, should have been thirty-six inches on center, is
3 that correct?

4 A According to the plan, yes

5 Q Or thirty-two inches I'm sorry

6 A It's thirty-two, I think

7 Q Thirty-two

8 Okay And that's actually for the rebar that's
9 coming up in the AAC block, isn't it?

10 A Correct

11 Q All right And that's got a -- at least to your
12 understanding, some kind of structural significance, is
13 that correct?

14 A Yes, sir

15 Q You also understand that the AAC block acts as a
16 fire retardant, is that correct?

17 A Yes, sir

18 Q And as such, between these units, because they
19 are individual units, there has to be a fire wall between
20 the units, is that correct?

21 A Yes, sir

22 Q These buildings did not have a fire wall that
23 went completely up through the roof, did it?

24 A I think when I left it wasn't completed in the
25 garage, if my memory serves me correct

1 [Whereupon, Plaintiff's Exhibit Number 10,
2 photograph, is marked by the court reporter]

3 Q [Mr Griffith] I'm going to show you a picture
4 and ask you if you can identify -- and let me tell you
5 something that date means nothing with when this picture
6 was taken But does that appear to be the project out
7 there?

8 A Yes

9 Q 16 Jade Street?

10 A Uh-huh

11 Q Somewhat in the condition you left it in, but
12 then maybe a little work had been done, is that correct?

13 A I guess, yeah

14 Q All right Basically, that's the project,
15 though, is that correct?

16 A Uh-huh

17 Q All right

18 A I'm trying to get -- see where my -- where I'm
19 at, but --

20 Q Okay It looks like we're at least in the
21 courtyard looking out at one of the --

22 A Looking back to the garage, I guess

23 Q Okay

24 A Yeah That's what I just said Right there is
25 where the block had not been completed

1 Q This will be 10 This will be Plaintiff's
2 Exhibit 10

3 So basically what we're talking about is this is
4 a firewall right here

5 A It's here

6 Q Right And that firewall has to extend up all
7 the way between --

8 A To the roof

9 Q To the roof

10 A Uh-huh

11 Q It actually has to go between --

12 A Right

13 Q -- the roof, doesn't it?

14 A Out Right

15 Q Out

16 A Uh-huh

17 Q So what you would have to do is you've got to
18 come back and you've got to cut through the roof and then
19 build it up through the roof --

20 A Correct

21 Q -- then build the roof back to it, is that
22 right?

23 A Correct

24 Q That was done wrong, wasn't it? You should have
25 just built the wall and then the roof to it?

1 A I don't know if it was done wrong, but it's
2 incomplete And your -- maybe your definition of wrong
3 and mine is incomplete

4 Q Well, so what you were planning on doing is
5 you planned on building the roof and then you're planning
6 on -- I believe at this point in time it looks like it's
7 got shingles on part of the roof It's got sheathing,
8 shingles, and a felt paper --

9 THE COURT Mitch, they want to see the picture

10 MR GRIFFITH I'm sorry

11 MR ROSS I just want to see what you're
12 referring to, that's all

13 MR GRIFFITH I'm sorry

14 [Whereupon, Mr Griffith proffers documents to
15 Mr Ross]

16 Q [Mr Griffith] And then what you're going to do
17 is you're going to come back, cut through all that, then
18 build your -- go back and build your AAC block up through
19 that, and then you're going to come back, flash to it, and
20 put it back in there? That was --

21 A Right

22 Q That was the way you scheduled to do it?

23 A I don't know if that's the way I scheduled to do
24 it, but that's what was going to have to happen

25 Q It was going to cost a lot more to do it that

1 way than it was to just build the wall up and then bring
2 the roof to it like you would in normal construction,
3 isn't it?

4 A Labor wise? Material wise? I'm not sure what
5 you're asking me

6 Q Well, I believe even on some occasions you said
7 you had directed your subs to do something, but yet they
8 decided not to follow the directions, correct?

9 A Correct

10 Q And what specifically did your subcontractor,
11 Catterson and Sons, not do that you had talked about with
12 regards to the plans?

13 A I can't recall something --

14 Q Okay

15 A I mean, you're asking me something to be very
16 specific I don't -- I can't recall something very
17 specific, no

18 Q All right We'll probably come back to it

19 MR GRIFFITH Hold on just a second Let me
20 see if I can refresh your memory about it

21 [Whereupon, Mr Griffith reviews documents]

22 Q [Mr Griffith] Did you ever question Mr
23 Catterson on the block work, on the installation of the
24 block work?

25 A We talked often about it during the

1 installation, yes

2 Q All right And did he just tell you, I've done
3 it a hundred times, I know what I'm doing?

4 A Basic terms, yes

5 Q All right And as a result, you just relied on
6 it, is that correct?

7 A Yes

8 Q Did you have any problems getting Mr Patterson
9 -- I mean, Catterson, to come to the job site?

10 A Sometimes, yes

11 Q Okay Did that cause problems at the Jade
12 Street project?

13 A Sometimes

14 Q We talked about the lintel issue earlier
15 [Whereupon, Mr Griffith reviews documents]

16 Q [Mr Griffith] We talked about the lintel
17 issue That would have been something that would have
18 fallen under Mr Catterson's contract, is that correct?

19 A Installing them?

20 Q Yes, sir

21 A Yes

22 Q All right And the mortar bed that we've talked
23 about I believe was required to be a one-eighth-inch
24 mortar bed, is that correct?

25 A From my readings, yes

1 Q All right And Catterson would have been -- Mr
2 Catterson would have been responsible for that, correct?

3 A Yes

4 Q And if it was not done, I believe you've
5 testified your position is it's Mr Catterson's fault, is
6 that correct?

7 A Yes

8 Q All right And yet you supervised him -- you
9 supervised him on this particular job So if Mr
10 Catterson said that he put it in -- or he told you he was
11 going to put in surface bonding, is that correct?

12 A We talked about the surface bonding, yes

13 Q Okay So apparently he knew that this was
14 wrong, because it had to have one-eighth-inch mortar bed
15 in there, but instead he planned on doing a surface bond?

16 A Correct

17 Q All right And so he knew it was wrong and that
18 he -- that was the way he chose to do it, is that correct?

19 MR ROSS Objection, Your Honor He can't
20 speak for Mr Catterson, what Mr Catterson knew at the
21 time That's what Mitch is asking him

22 THE COURT I think you can ask him what he did

23 Q [Mr Griffith] He told you he was going to put
24 up surface bond, is that correct?

25 A We talked about what --

1 Q So --

2 A Yes

3 Q Go ahead I'm sorry I didn't mean to cut you
4 off

5 A We talked about at the end, that's what he was
6 planning to do was put surface bond

7 Q All right And surface bond was going to be
8 used as a structural property, is that correct?

9 A Correct

10 Q All right And, actually, that was going to
11 substitute for where it was dry stacked, is that correct?

12 A I believe it was also that -- that, and also to
13 cover the chase wherever the wires and plumbing were cut
14 into the walls That was where that was going to be used,
15 also

16 Q And you knew, just looking at the plans, that
17 wasn't going to be right -- about the chases -- correct?

18 A Well, I was actually told according to the plan,
19 but I -- after speaking with Aercon, they did tell me that
20 was another way to do it

21 Q Okay So --

22 A Using the surface bond

23 Q Did you ever get a written change order from --

24 A No

25 Q -- the owner for that?

1 A No

2 Q We briefly talked about the Simpson straps The
3 garage door you put up some Simpson straps --

4 A Correct

5 Q -- Simpson straps, correct?

6 A Uh-huh

7 Q They were done incorrectly, is that correct?

8 A [No response]

9 Q Is that true?

10 A You're asking me if all of them were done
11 incorrectly?

12 Q I'm asking you if some of them were done
13 incorrectly

14 A Some of them may have done -- been done
15 incorrectly, yes

16 Q Okay And do you know how to install them?
17 You, personally

18 A I guess, yes

19 Q They go in as the block goes up, don't they?
20 They actually --

21 A It depends on what kind of Simpson strap you're
22 talking about

23 Q Well --

24 A Are you talking about the ones that go into the
25 block that have a hook on the bottom of it?

1 Q Yeah

2 A Okay

3 Q And that's what's called for in the plan?

4 A That's correct

5 Q All right And that's got to go in when the
6 block goes on, doesn't it, because you're stacking it so
7 that it hooks into the block?

8 A It would really be into the --

9 Q Into the hole?

10 A -- the grout of the block

11 Q And then you set it on there so it's in there
12 So if that's not done right, then you've got to take it
13 out, don't you?

14 A Correct

15 Q All right It doesn't make good sense to do --
16 to have to take it out So it was done wrong, is that
17 correct?

18 A On that particular one that you're asking me
19 about, yes

20 Q Yes, sir

21 A Uh-huh

22 Q Now, we had also talked about the vertical crack
23 in the wall adjacent to the garage doors Do you remember
24 that?

25 A Adjacent to the garage doors? I believe so,

1 yes It's where it went to a bond beam

2 Q All right And what you were planning on doing
3 at that -- your solution was simply to put some surface
4 bond on it, correct?

5 A Correct

6 Q All right And that was basically going to
7 cover it up, is that correct?

8 A I don't know if -- the surface bond is supposed
9 to do what it says it's supposed to do, bond it together,
10 not just cover it up

11 Q Okay So you wouldn't have fixed the crack
12 before you did that?

13 A Yes

14 Q Okay So you fixed the crack And you've got
15 to patch the crack, and then you've got to put a surface
16 bond over it, correct?

17 A Correct

18 Q Did you have any of the lintel -- and I hate to
19 keep jumping back to this lintel issue But did you have
20 any of the lintels that cracked and you had to patch them?
21 Do you recall doing that?

22 A No, I can't recall that

23 Q Let's talk briefly These plans also required a
24 specific nailing pattern, did they not?

25 A On the exterior sheeting?

1 Q Yes, sir

2 A Yes

3 Q All right On S-7, at detail number 1, it talks
4 about typical exterior nailing, sheathing-nailing
5 patterns You understand why it has a particular nailing
6 pattern?

7 A Oh, yes

8 Q And that's to give it structural properties --

9 A That's correct

10 Q -- is that correct?

11 A Yes, sir

12 Q Okay And you understand that the nailing
13 pattern was not done per these plans?

14 A I know that there was one wall, that was still
15 exposed, that was not nailed correctly I should say it
16 wasn't finished being nailed How is that? Better way to
17 say it

18 Q Well, it sounds --

19 A As to the rest -- as to if it was covered with
20 Tyvek, as far as I knew, that it was nailed correctly

21 Q Okay Did you check it?

22 A Yes And also the County inspector checks it,
23 too

24 Q All right And so you rely on the County
25 inspector to do your work for you?

1 A Oh, absolutely not He's the helper

2 Q So if in the repair the siding was taken down,
3 the Tyvek was taken off, and this nailing pattern did not
4 exist, that would have been done wrong, is that true?

5 A That's true

6 Q And that would have been another thing that
7 would have just been covered up and nobody would have
8 caught it until the hurricane came along, is that correct?

9 A Correct

10 Q Do you understand what balloon framing is?

11 A Yes, I do

12 Q Do you understand that it was not properly
13 balloon framed out there?

14 A As far as I know from the reports, there was I
15 believe one wall on the upstairs left room, if that's
16 where we're talking about

17 Q All right You understand that if it is not
18 properly balloon framed, that that is wrong?

19 A Correct

20 Q And it has to be fixed?

21 A Correct

22 Q That is a job that the framer, Mr Catterson,
23 did on this job?

24 A Yes, it is

25 Q What about the top plate? Is there a code

1 requirement that you can't go but so far the -- there has
2 to be an overlap on the top plate?

3 A Correct The very last part -- portion of the
4 top plate

5 Q Okay Did you see a photograph where that was
6 not properly done?

7 A I more than likely have seen them, yes

8 Q Okay And you understand that that's just poor
9 workmanship, is that correct?

10 A Yes, sir

11 Q All right And that was also the framing
12 subcontractor that did it on this job, correct?

13 A Correct

14 Q Being Catterson and Sons?

15 A Yes

16 Q And you understand that that had to be taken out
17 and reworked, is that correct?

18 A I'm not sure if that was the only way to repair
19 it, but if you're saying that's how they did repair it,
20 that's what they did

21 Q And it had to be fixed no matter what, correct?

22 A [Indicates affirmatively]

23 Q Now, you've also heard about oversized window
24 openings from reports, is that correct?

25 A Yes

1 Q All right You understand what the problem with
2 that is, don't you?

3 A Yes I believe so

4 Q All right Actually, there was some use of OSB
5 board, or Oriented Strand Board, in order to use basically
6 as shims, correct?

7 A Yes

8 Q You understand now that's not a proper use of
9 OSB, correct?

10 A Yes

11 Q All right You also understand that there are
12 certain requirements by the window manufacturer as to the
13 size of the opening, is that correct?

14 A I specifically don't -- can't recall what those
15 are, if that's what you're asking me

16 Q Well, you understand that there is a specific
17 size, pursuant to the window manufacturers, that the
18 windows can only be -- the rough opening can only be so
19 big for the window, is that correct?

20 A [No response]

21 Q What it is -- I'm not asking you to recall --

22 A Okay

23 Q -- by memory All right? Because I'm going to
24 tell you it's actually -- it has to be -- one half inch is
25 all that they can be You understand that that was a

1 bigger gap, about a one- to two-inch gap at times?

2 A Could have been

3 Q Could have been

4 You understand that if it has more than that
5 one-half-inch gap, then it's going to lose its structural
6 capacities for hurricane resistant -- for hurricane-impact
7 windows? That's why it's got to be tight Do you
8 understand that?

9 A You're telling me that that's -- if you're
10 telling me that's what the manufacturer is telling you,
11 then I have to agree with you

12 Q All right Well, if it's in the manufacturer's
13 specification or the manufacturer's literature, you were
14 responsible to know that, weren't you?

15 A Partially, yes

16 Q And if it didn't meet with what the manufacturer
17 said, you're responsible for that, correct?

18 A Correct

19 Q You understand that in this, that there were
20 certain bolts, anchor bolts, that were supposed to be in
21 the footings? They were not -- they were not actually
22 bolted down, the columns were not bolted down?

23 A [Indicates affirmatively]

24 Q Had to go back, drill a hole put a bolt plate
25 in there and bolt it down, correct?

1 A Correct

2 Q That was not done when you left the project, is
3 that correct?

4 A That is correct

5 Q All right You understand that there was
6 actually some angle-iron steel, that was actually put up,
7 that wasn't in the plans, correct?

8 A That's correct

9 Q That caused different load carries to go down to
10 the floor, is that correct?

11 A Correct

12 Q That was not in the plans, correct?

13 A No

14 Q That was wrong Did you have a change order for
15 it?

16 A No

17 Q Therefore --

18 A But I don't know -- I'm going to disagree with
19 you said it was wrong

20 Q Well, if it's --

21 A Because the --

22 Q Certainly by your contract it's wrong, isn't it?

23 A By the contract, it's wrong

24 Q Okay

25 A Not by real world, I guess

1 Q All right And you're an engineer Can you
2 tell us what the loads had changed to transfer down into
3 that piece of steel?

4 A They were set to the steel fabricator's
5 engineer

6 Q All right Did you have -- do you know what
7 kind of footer it was resting on, or it was just resting
8 on plain old poured-in-place concrete?

9 A Actually, at that particular point, I spoke with
10 Jonathan Livingston about that and he --

11 Q I'm going to stop you there

12 A Okay

13 Q I don't want to hear what somebody else told
14 you, because he's testified to it

15 A Okay

16 Q Okay? But in any event, you can't do the
17 calculations --

18 A Correct

19 Q -- is that correct?

20 A He did it

21 Q You didn't -- it doesn't show on these plans?

22 A Correct

23 Q And you've got to have an as-built set of plans
24 pursuant to this contract, don't you? Or at least the
25 building -- the County of Beaufort required you to have an

1 as-built set of plans on site, correct?

2 A Correct

3 Q So any changes that would have been made should
4 have shown up on that as-built set of plans, correct?

5 A Yes

6 Q Did it show up on that set of plans?

7 A They were available

8 Q Did it show up on change order?

9 A Written change order with Dennis, no

10 Q You would agree with me, Mr Aten, that this
11 building should have been built in accordance with the --
12 with good workmanlike standards, is that correct?

13 A Yes

14 Q You would agree with me that we've been through
15 several items through here that you agree with me just
16 aren't correct True?

17 A They were either just not correct or just
18 incomplete

19 Q All right So they have to be fixed, correct?

20 A Some would have to be fixed some would have to
21 be finished

22 Q And, therefore, you would agree with me that if
23 you did not build to the industry standard, that you were
24 -- fell below that, and those items had to be fixed? Some
25 items have to be fixed, correct?

1 A Yes

2 Q And that's because it fell below the industry
3 standards, is that correct?

4 A Sounds logical

5 Q And it's your position, I believe, that you
6 would be responsible for some of that, is that correct?

7 A Partially

8 Q And some of that you believe that Mr Catterson
9 should be responsible for, is that correct?

10 A Yes, sir

11 Q And that is pursuant to a contract that you had
12 with him that he was going to do the framing, the block
13 work --

14 A Yes, sir

15 Q -- and take it from the foundation up? To dry
16 it in?

17 A Correct

18 MR GRIFFITH I think that's all the questions
19 I have of this witness at this time

20 THE COURT Okay

21 MR BENDLE Judge, with the Court's permission,
22 I will ask a few questions But I do want to reserve
23 the right to ask and call him as my own witness

24 THE COURT Okay

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CROSS-EXAMINATION

BY MR BENDLE

Q Mr Aten, when did you form your LLC?

A I can't remember exactly '96, maybe

Q Was your LLC formed before you constructed any homes in Beaufort County?

A Yes

Q Okay And your LLC had been formed before you entered into any contract with Mr Green, correct?

A Yes

Q Okay And you and your wife are the only two members?

A That's it

Q And you were the license holder for R Design?

A Yes

Q Can a firm or an LLC hold a license, a building license, or does an individual have to make application on behalf of that firm?

A I don't profess to know the law, but my understanding is that that happens with -- the general contractor's license has to be part of a firm

Q But, in other words, R Design couldn't march its fanny down to the County and pull a firm -- or pull a permit? It would be you, or an individual would have to actually pull the permit?

1 A Correct

2 Q Okay Somebody's name has to go on that permit?

3 A Correct For a residential license, correct

4 Q And with regard to Jade Quarters, it was your
5 name that was on that permit?

6 A It was R -- yes Well, actually, the permit
7 was pulled by me for R Design Construction I believe
8 R Design Construction says that name on the permit

9 Q And at any -- was there any motivation, self-
10 interest, or self-motivation, for doing this job, or was
11 it all for the benefit of your company R Design?

12 A R Design Construction needed work, so that's
13 why we took the job

14 Q And how were you paid, or how was the company
15 paid? Were the checks made payable to your company, or
16 did you accept payment as an individual?

17 A Paid to R Design Construction

18 Q And the contracts that you had, or the proposals
19 that were accepted by various subcontractors and all, you
20 signed your name to those acceptances, correct?

21 A That's correct

22 Q And, namely, I'm talking about the proposal that
23 you signed with Catterson and Sons

24 A Correct

25 Q Would you say that they were your main

1 subcontractor on this project?

2 A Probably the largest, yes

3 Q Okay And when you signed the acceptance to
4 their proposal, were you signing on your own behalf or on
5 behalf of R Design?

6 A On behalf of R Design

7 Q Was it part of R Design's scope of work or
8 responsibility to engage subcontractors to come help
9 construct this project?

10 A It's what we do

11 Q So that was part of your role, then --

12 A Yes

13 Q -- in a supervisory capacity?

14 In addition, you were responsible for getting
15 those subs --

16 A That's correct

17 Q --, on the project at work every day?

18 A Uh-huh

19 MR BENDLE Okay That's all I have for now

20 THE COURT Okay Anything you need to follow
21 up, Mitch

22 MR GRIFFITH Judge, at this time I have the
23 deposition testimony that I actually meant to put up
24 before, that you read at lunch, I think

25 You can come down

1 THE COURT Mr Aten, you may --

2 MR GRIFFITH I have no further questions, Mr
3 Aten I'm sorry

4 THE COURT -- step down I figured you were
5 done with him You can step down, sir Thank you

6 [Whereupon, Mr Aten is excused and exits the
7 witness stand]

8 MR GRIFFITH I didn't mean to be so rude

9 THE COURT Do y'all have an issue with the
10 deposition testimony?

11 MR ROSS Are we going to read it into the
12 record, or just going to enter it as an exhibit? It
13 seems --

14 MR GRIFFITH I thought he had some objections
15 to it I know we --

16 THE COURT I don't know

17 MR ROSS We worked those out before lunch,
18 Your Honor

19 MR GRIFFITH Okay

20 THE COURT Okay So y'all are fine with it?

21 MR ROSS Yes, Your Honor It's all right I
22 just --

23 THE COURT We're just going to make it an
24 exhibit We'll just make it an exhibit, and that way
25 we don't have to read it into the record

1 MR ROSS I voiced my concern before lunch -- I
2 think it was on the record -- about the fact that the
3 Kern-Coleman engineer referring to something as a
4 deficiency To the extent that's a legal conclusion,
5 that's what my objection was If this were being read
6 to a jury, it would be a little different than being
7 read to Your Honor

8 THE COURT Obviously Don't worry I won't
9 listen to anything, as far as a legal conclusion,
10 coming from a structural engineer

11 MR ROSS Thank you

12 THE COURT Rest assured

13 MR ROSS Thank you

14 MR GRIFFITH Judge, with that, those excerpts,
15 then, I would actually move into evidence the November
16 16, 2005 Kern-Coleman report, which was what he
17 identified as a business record

18 THE COURT Okay And that's what was attached
19 to -- on the Livingston depo, correct?

20 MR GRIFFITH Yes, ma'am

21 THE COURT Okay

22 MR ROSS And, Your Honor --

23 MR GRIFFITH It's not a very good copy of it

24 MR ROSS -- and I restate the same objection
25 that I just stated, because at -- in the same -- he

1 also has it in there, he refers to them as
2 deficiencies And just preserving the record, Your
3 Honor

4 THE COURT Okay All right

5 [Court's Exhibit Number 1, deposition excerpts,
6 is marked by the court reporter]

7 [Whereupon, Plaintiff's Exhibit Number 11, Kern-
8 Coleman report, is marked by the court reporter]

9 THE COURT What are those numbered, then?

10 MR GRIFFITH This will be Number 11

11 THE COURT Okay

12 MR GRIFFITH And she has the deposition
13 excerpts --

14 THE COURT It's 10?

15 MR GRIFFITH -- as Court's Exhibit 1

16 THE COURT Court's 1 Okay

17 Mitch, do you have a copy of -- are you giving
18 her the original of --

19 MR GRIFFITH Yes This is a color copy --

20 THE COURT That's what I --

21 MR GRIFFITH -- and I was looking for a
22 stapler or a paperclip, and all I could come up with
23 was that

24 THE COURT Can I go ahead and -- just for now,
25 I would like to be able to have the color copy

1 MR GRIFFITH Sure That's why I handed it up
2 I don't --

3 THE COURT It's the only one? Okay Okay

4 MR GRIFFITH I think we all have, actually,
5 copies of that

6 [Off the record momentarily]

7 THE COURT What is Number 10, Mia?

8 THE COURT REPORTER A photograph

9 MR GRIFFITH A picture of the -- firewall

10 THE COURT Pardon?

11 MR GRIFFITH A photograph of --

12 THE COURT Picture of --

13 [Whereupon, the court reporter proffers
14 documents to the Court]

15 THE COURT Thank you Okay Next witness,
16 Mitch

17 MR GRIFFITH I call Steve Carpenter

18 THE COURT Mr Carpenter, if you will please
19 come forward to be sworn, sir

20 There's a Bible right there, sir If you will
21 place your left hand on it, and raise your right hand

22 [Whereupon, Mr Carpenter is duly sworn by the
23 Court]

24 THE COURT Thank you, sir Go ahead and be
25 seated

1 [Whereupon, Mr Carpenter takes the witness
2 stand]

3 MR GRIFFITH Are you ready, Your Honor?

4 THE COURT Yes, sir

5 - - - - -

6 STEVEN D CARPENTER,

7 Having Been First Duly Sworn,

8 was Examined and Testified as Follows

9 DIRECT EXAMINATION

10 BY MR GRIFFITH

11 Q Mr Carpenter, could you state your full name,
12 please

13 A Steven Daniel Carpenter

14 Q And where do you live?

15 A 8 Hudson Drive, Beaufort, South Carolina

16 Q All right How old are you, Mr Carpenter?

17 A Fifty-three

18 Q How long have you been in Beaufort?

19 A '94, I believe

20 Q Since '94?

21 A Yes

22 Q Okay And, briefly, could you start with giving
23 us your educational background?

24 A High school

25 Q Was that in Michigan?

1 A Michigan

2 Q When did you graduate?

3 A '73

4 Q And was that I believe Clio, Michigan?

5 A Yes

6 Q And after that, did you go to college?

7 A Yes

8 Q And where did you go to college?

9 A U of M

10 Q Excuse me?

11 A U of M

12 Q All right Did you go to community college
13 before you went to U of M?

14 A I went to community first

15 Q Two years, I believe?

16 A At Mott

17 Q And when you say U of M, just for the record,
18 because --

19 A University of Michigan

20 Q Michigan

21 THE COURT Don't you worry This judge is a
22 Big 10 graduate

23 THE WITNESS Okay

24 Q [Mr Griffith] How long were you at the
25 University of Michigan?

1 A A little over three years

2 Q What did you study while you were there?

3 A Engineering

4 Q And did you get an engineering degree?

5 A I did not

6 Q And why did you not?

7 A I went to work for a while and did not want to
8 sit in an office all day

9 Q Okay And how far short were you from getting
10 that engineering degree?

11 A Around ten hours

12 Q Ten credit hours?

13 A Thereabout

14 Q All right And let's go back When was that
15 that you left Michigan, or U of M?

16 A I don't recall

17 Q Okay In any event, let's talk about your
18 construction experience How long have you been in
19 construction?

20 A Since I was about eleven years old

21 Q Okay What did you do when you started at
22 eleven years old? How did you get into it?

23 A Started by my dad wanted to build a house We
24 built a house, and I went to work for the contractor that
25 framed up the house Worked for him until I was sixteen,

1 I believe

2 MR GRIFFITH Let me just stop right here Can
3 everybody hear him? A little bit softer spoken than
4 most -- than Mr Ross and I, anyway

5 MR ROSS He's a little bit soft

6 THE COURT Okay Mia, you can hear him, can't
7 you?

8 THE COURT REPORTER [Indicates affirmatively]

9 THE COURT All right

10 Q [Mr Griffith] And so then you said you started
11 in construction, working with a framer when you were age
12 twelve By age fifteen, were you running construction
13 equipment?

14 A I was running construction equipment at fifteen,
15 actually driving a dump truck on the road with no license
16 at the age of fifteen and sixteen

17 Q All right And did you continue to work in
18 construction while you went to school?

19 A Yes

20 Q Did you work in construction in the summers?

21 A Yes

22 Q You worked there while you were putting yourself
23 through college?

24 A Yes

25 Q All right And after college, where did you go

1 to work?

2 A Went to Dayton, Ohio, worked at -- worked for a
3 contractor at Wright Patterson Air Force Base

4 Q All right And so as a military contractor, how
5 long did you stay there with that contractor?

6 A Eight, nine years, I believe

7 Q And what did you do while -- what were your
8 duties there at that -- with that contractor?

9 A Superintendent, basically

10 Q All right And then after you left them -- or
11 why did you leave them?

12 A I had a big argument with them

13 Q Okay Ended up going back to Michigan?

14 A Back to Michigan for a couple of years

15 Q What did you do when you got back to Michigan?

16 A Construction work

17 Q And who did you work for?

18 A Myself

19 Q How long were you working for yourself?

20 A A couple of years Maybe two years up there

21 Q And then did you go to work for another
22 construction company?

23 A Took a job in Atlanta building restaurants

24 Q Was that S&D Construction?

25 A Yes

1 Q And when you say building restaurants, was that
2 basically Arby's?

3 A Primarily Arby's

4 Q All right So y'all would ride around the
5 country building Arby's restaurants?

6 A Yes

7 Q Did you start with them basically as a
8 superintendent and work up to a general superintendent --

9 A Yes

10 Q -- general superintendent?

11 All right And you said you were with them,
12 what, about six years I think?

13 A Thereabout, I believe

14 Q Then after that, did you go to work for
15 Northeast Reynold?

16 A Yes

17 Q What were they? A construction company?

18 A Construction company

19 Q What did you do for them?

20 A Built restaurants and motels

21 Q Pretty much the same line of business that you
22 were in with S&D?

23 A Yes

24 Q And what type of position did you have there?

25 A Superintendent

1 Q Okay And explain what a superintendent does
2 That seems to have been your position with these
3 companies

4 A Make sure that the job is getting done
5 correctly

6 Q Do you have to build in accordance with the
7 plans and specifications?

8 A Yes

9 Q Do you have to be familiar with plans?

10 A Yes

11 Q And you know how to read plans?

12 A Yes

13 Q Have you been doing that the entire time that
14 you have been in construction, at least after you started
15 I guess with S&D or Wright Patterson?

16 A Yes

17 Q I assume when you were working at twelve years
18 old you weren't doing the plans

19 A No

20 Q Do you understand what specifications are?

21 A Yes

22 Q What are specifications?

23 A How things are supposed to be installed per the
24 manufacturer

25 Q And it's the written word, is that correct?

1 A Yes

2 Q And do you have to ensure that the buildings are
3 built pursuant to the specifications?

4 A Yes

5 Q Also, are there codes involved?

6 A Yes

7 Q Do you work with the codes?

8 A Yes

9 Q And is that something that you do on a daily
10 basis?

11 A Yes

12 Q And you call for inspections when you work with
13 the code -- when you do superintendent work?

14 A Yes

15 Q All right And then do you have to work with
16 the code officials?

17 A Yes

18 Q Do you have to make sure that the building is in
19 compliance with the code?

20 A Yes

21 Q Do you have to make sure that you know what code
22 applies at the time you're building?

23 A Yes

24 Q Now, after you were with Northeast Reynold, did
25 you go to work for Anchor Construction?

1 A Yes

2 Q And in Anchor Construction, was that in Atlanta?

3 A Yes

4 Q And was that the Anchor Construction you are
5 currently with?

6 A Yes

7 Q How long have you been with them?

8 A Fourteen, fifteen years I'm not sure

9 Q All right And is Mr Powell the owner of
10 Anchor Construction?

11 A Yes

12 Q When you were in Atlanta with Anchor
13 Construction, were they primarily in commercial
14 construction?

15 A Yes

16 Q And were you also building restaurants with
17 them?

18 A Anchor Construction, in Atlanta, was commercial

19 Q Right And you were primarily building
20 restaurants with them?

21 A Yes

22 Q All right Did you get tired of moving around?

23 A Yes

24 Q Wanted to settle down a little bit?

25 A Yes

1 Q And then is that one of the things that brought
2 you to Beaufort?

3 A Yes

4 Q Now, you still work for Anchor Construction
5 Did Anchor move here, also?

6 A No Anchor was here when I move -- came over
7 here

8 Q So Mr Powell had an office here --

9 A Yes

10 Q -- in Beaufort?

11 A Yes

12 Q And what did that office build as opposed to
13 what the Atlanta office was building?

14 A Commercial work and residential

15 Q All right And did you start -- come here and
16 start doing residential work?

17 A Yes

18 Q All right Did you have to become familiar with
19 residential building, primarily?

20 A Yes

21 Q Did you have to become -- first of all, let me
22 ask you had you worked in residential work before, when
23 you were in high school, college?

24 A Off and on throughout all the years

25 Q Okay And once you came to Beaufort, did you

1 primarily do residential work?

2 A The last few years, yes

3 Q Okay And Anchor Construction, as I understand,
4 primarily deals with custom built homes, is that correct?

5 A Yes

6 Q Now, throughout the course of your career, what
7 aspects of residential construction do you perform? All
8 aspects?

9 A Pretty much

10 Q All right You actually -- are you one of the
11 superintendents that gets out there with a hammer and
12 hammers the nails?

13 A Yes I'm not one for just sitting and pointing

14 Q Okay That sounds like why you didn't want to
15 end up with your engineering degree You wanted to be out
16 in the field?

17 A Yes

18 Q All right Do you also have to work with block
19 work? Concrete?

20 A Yes

21 Q How about Sheetrock?

22 A Yes

23 Q Do framing?

24 A Yes

25 Q In all your businesses, do you have to oversee

1 that as your job as a superintendent?

2 A Yes

3 Q Have you been to any seminars since you've been
4 out?

5 A Yes

6 Q What type of seminars have you gone to?

7 A Different ones, including the Hevel block
8 system, which is an aerated block I've been to truss
9 seminars

10 Q All right Let me ask you about the truss
11 seminars Truss manufacturers have you come to their
12 seminars to understand how to install their truss systems?

13 A Yes

14 Q Have you gone through those seminars and
15 completed it?

16 A Yes

17 Q What about TGIs? Do you understand --

18 A Yes

19 Q -- what a TGI is?

20 A Been to their seminars

21 Q Been to their seminars

22 What about LVLs? Have you been to Georgia
23 Pacific --

24 A Yes

25 Q -- or some other manufacturers?

1 A Georgia Pacific

2 Q All right Specifically, an LVL is a laminated
3 veneer lumber, is that correct?

4 A Yes

5 Q And, as such, are there certain properties that
6 you have to know how to handle it and make sure that it's
7 not over-cut, under-cut --

8 A Yes

9 Q -- installed properly?

10 A [No response]

11 Q Did you go to their seminars?

12 A Yes

13 Q Have you also been to seminars on stucco
14 application?

15 A Not really

16 Q Okay What about painting and caulking? Have
17 you ever done painting and caulking at the jobs you worked
18 on?

19 A I don't paint, and I don't caulk

20 Q All right How about roofing, then? Did you
21 ever do any roof work?

22 A I've done roofing

23 Q Masonry work?

24 A I've done masonry

25 Q You've talked about the Hevel block, and I will

1 spell that I understand it's spelled H-E-V-E-L

2 A Yes

3 Q Hevel, is that an AAC block?

4 A Yes

5 Q And AAC block we've talked about That's

6 aerated autoclave concrete Is this --

7 A Yes

8 Q -- AAC?

9 A Yes

10 Q And this is actually an Aercon block, I believe,
11 is that correct?

12 A Yes

13 Q Is there -- have you studied -- let me ask you
14 the Hevel block, did you go to a seminar that they put on?

15 A I did

16 Q And did you have to go there all day to learn
17 how to install AAC?

18 A Spent a day over there

19 Q Okay And are there certain specifications that
20 you have to follow in order to install AAC block?

21 A Yes

22 Q All right Did you study up on the Aercon
23 block?

24 A I did

25 Q All right What is your role currently with

1 Anchor Construction Company?

2 A General superintendent

3 THE COURT As what superintendent? General
4 superintendent?

5 THE WITNESS Yes

6 THE COURT Okay

7 THE WITNESS Yes, ma'am

8 Q [Mr Griffith] And we are here today --

9 MR GRIFFITH Judge, at this time I would offer
10 him as an expert in the field of construction

11 THE COURT Okay Tab?

12 MR BENDLE Your Honor, I would object for the
13 record that he be qualified as an expert witness, based
14 on the fact that he is not a licensed engineer, nor is
15 he a licensed builder, residential, commercial or
16 otherwise, in South Carolina, nor any other state
17 currently, nor has he ever been licensed in that field

18 MR ROSS Your Honor, I would also object, as
19 well He's never been a licensed builder in South
20 Carolina The majority of his work has been in
21 commercial construction Only very recently, and a
22 couple of years in high school, was it residential
23 The State has determined who has the ability to read
24 the code, and they give those people licenses in South
25 Carolina and call them general contractors, and he has

1 not taken the test, Your Honor

2 THE COURT Mr Griffith?

3 MR GRIFFITH Your Honor, I think the law is
4 pretty clear in South Carolina that in order to give
5 expert testimony, all you have to do, according to our
6 rules of evidence, is -- to give testimony is you've
7 got to have experience, you've got to have the
8 training, knowledge, and experience, in order to
9 testify, which is basically to give opinions in this
10 field

11 Mr Carpenter clearly, based upon what we've
12 gone through, clearly had the knowledge, training, and
13 experience to testify in the field of construction As
14 such, also under the cases it is clear that a
15 defendant's -- or a witness' specialty, that he doesn't
16 necessarily have to be licensed in any particular area
17 That goes to his -- I believe to the weight of his
18 testimony, as opposed to the admissibility of his
19 testimony

20 And I have several cases I'll be happy to pass
21 up, as well as the South Carolina Jurisprudence
22 articles that we printed out, which I'm sure you
23 probably have clearly at your access with your computer
24 right there But under --

25 THE COURT Well, respectfully, I'm just looking

1 at -- I've got Fields vs Hainspotter's Builders
2 [phonetic] and Honey Brothers and Dryvit, which was
3 issue number one And of course the Supreme Court, in
4 their February 25th of 2008 decision, stated that of
5 course it goes to the weight and not the admissibility
6 And then also qualifications are based on, as we said
7 before, knowledge, skill, experience, training, or
8 education, is what 702 says -- Rule 702

9 So, respectfully, I'm going to go ahead and
10 qualify him as an expert in the field of construction,
11 and construction only He's not an engineer Okay? I
12 mean, that's what we're qualifying him, in
13 construction?

14 MR GRIFFITH That's what I've asked him to do,
15 but I -- he might be qualified in engineering, based
16 upon his background, but --

17 THE COURT Right now it's construction, unless
18 you try to --

19 MR GRIFFITH I'll hold off on that

20 THE COURT -- qualify him as something else
21 I'm sure Mr Ross -- and both of them will jump up

22 MR GRIFFITH I'm sure they will

23 THE COURT All right

24 Q [Mr Griffith] Mr Carpenter, how did you
25 become involved in the Jade Street project?

1 A Dennis called the office And he contacted me
2 I went up and met with Dennis, asked him what he wished to
3 be done We talked about the project

4 Q Now, had you -- you said he called up Did
5 Anchor have a prior relationship with Dennis Green or --

6 A Anchor has done work for Dennis before

7 Q And when you say Dennis, we're talking about at
8 Celadon?

9 A Yes

10 Q Dennis was the contact person for whatever
11 company or LLC you may have worked for in the past --

12 A Yes

13 Q -- is that correct?

14 All right Now, you went up and you met with
15 Dennis And then did you say that you wanted to go to the
16 project and do your own review before you took the
17 contract?

18 A Yes

19 Q All right And did you do that?

20 A Yes

21 Q Did you prepare -- did you actually go out to
22 the field and look?

23 A Yes

24 Q All right Was that before any work was done by
25 Anchor Construction?

1 A Yes

2 Q Did you prepare a list of defects that you
3 actually found?

4 A Yes

5 Q Is this a copy of that list?

6 A Yes

7 Q And were these problems that you found at the
8 Jade Street project?

9 A Yes

10 Q All right Based upon your --

11 THE COURT Am I going to get one, Mitch?

12 MR GRIFFITH I'm sorry

13 THE COURT Mia, do you have one to mark?

14 THE COURT REPORTER No

15 THE COURT Are you going to introduce it
16 afterwards?

17 MR GRIFFITH Yes Actually, I'm going to
18 introduce it right now and go ahead and mark it --

19 THE COURT Go ahead and mark it Mia, tell me
20 what number this is

21 THE COURT REPORTER 12

22 THE COURT Number 12

23 [Whereupon, Plaintiff's Exhibit Number 12, list
24 of defects, is marked by the court reporter]

25 MR GRIFFITH I'm going to give this another

1 whirl It might not work again It might be too small
2 a print

3 Q [Mr Griffith] While I'm waiting for that to
4 come up, Mr Carpenter, did you divide the -- when you
5 went out there and made this list, based upon what you saw
6 out there, and the items that you put on this list, do you
7 have an opinion based upon a reasonable degree of
8 construction certainty as to whether this building, the
9 four buildings at Jade Street, met with the industry
10 standards?

11 A My opinion, it did not

12 Q All right And do you have an opinion, based
13 upon a reasonable degree of medical certainty, whether all
14 the --

15 THE COURT That would be construction
16 certainty, I hope

17 MR GRIFFITH I'm just trying to slip that one
18 by you I'm sorry I can't even read what I wrote
19 down

20 THE COURT They're even objecting to him being
21 a construction expert I don't know about medical
22 We've got a long way to go there

23 MR ROSS He can be qualified --

24 MR GRIFFITH You can obviously tell what I
25 tried the last time

1 Q [Mr Griffith] Do you have an opinion, based
2 upon a reasonable degree of construction certainty, as to
3 whether the Jade Street project met all aspects of the
4 International Residential Code for 2000?

5 A My opinion, it did not

6 Q Now, specifically with regards to this, did you
7 divide the work that you saw, or the problems that you
8 saw, up into basically four areas?

9 A Yes

10 Q All right Now, I'm going to try and take you
11 through those areas, if we can

12 THE COURT Mitch, just quickly When was this
13 generated?

14 MR GRIFFITH Ma'am?

15 THE COURT When was this generated? I was
16 going to ask Mr Carpenter

17 THE WITNESS I don't recall the date

18 THE COURT But I don't know Have you asked
19 him that, or did I just miss it?

20 Y'all, he didn't ask him, did he? They're
21 shaking their head no

22 MR GRIFFITH All right

23 THE COURT Time period

24 Q [Mr Griffith] In -- let me make sure -- I
25 believe it was in 2005, did you go out to the job site and

1 prepare a list of defects?

2 A Yes

3 Q Is this that list? Not necessarily -- you
4 handwrote a list, did you not?

5 A I handwrote a list

6 Q All right And then that list was typed up?

7 A Yes

8 Q Is this that list?

9 A Yes

10 Q Is this the list of problems before Anchor
11 Construction Company agreed to go out and actually sign a
12 contract?

13 A Yes

14 Q You prepared this for Eddie? When I say Eddie,
15 Eddie Powell?

16 A I prepared it for Dennis

17 Q Dennis Okay

18 So in any event, you saw all these problems
19 before y'all undertook the work at Jade Street?

20 A Yes

21 Q So this would have been prepared before November
22 22nd, 2005, when the contract was signed between Anchor
23 and --

24 A I'm not sure of the date, but it was done before
25 any contract was signed

1 Q And I believe maybe one of the things that was
2 brought to the Judge's attention there's a fax across
3 the top

4 A Anchor

5 Q Is that the fax from Anchor to me?

6 THE COURT That wasn't what triggered it, but
7 that's okay

8 MR GRIFFITH Okay

9 Q [Mr Griffith] But in any event, that was
10 actually where it was faxed to me it looks like in 2007?

11 A Uh-huh

12 Q First of all, let's talk about the AAC block
13 Were there cracks in various locations of the AAC block?

14 A Yes

15 Q And do you recall what caused those problems?

16 A There were various reasons why they were
17 cracked Some was plumbing penetration, some was stress
18 loads

19 Q Did you, at any point in time -- before we go
20 further in that, did you go out with Jonathan Livingston,
21 when he did a site visit on behalf of 16 Jade Street, and
22 Dennis Green in October of 2005?

23 A Yes

24 Q And did you ever get a copy of mister -- or the
25 Kern-Coleman report?

1 A Yes

2 Q And did you look through those items, the
3 thirty-eight items, there?

4 A Yes

5 Q Did you find each of those thirty-eight items
6 that were reported in that report?

7 A Yes

8 Q Did you find more items that were in that
9 report?

10 A Yes

11 Q All right Let's talk about why was the AAC
12 block cracked First of all, what was the first problem
13 that you noticed with the AAC block cracking?

14 A Locations like the plumbing that was cut in the
15 garage walls

16 Q Is that noted in the Kern-Coleman report, at
17 item number 7, where they call for a vertical crack
18 adjacent to the garage door? No I'm sorry That wasn't
19 it

20 A That would be one of the cracks

21 Q That would be one of the cracks?

22 A Yes

23 Q Okay And what other problems did you see that
24 caused cracks at the Jade Street project?

25 A Header locations Lintel locations, I guess you

1 would call them

2 Q Lintel locations?

3 A Yes For over the top of the windows Beams
4 that were improperly bearing on the AAC block

5 Q While you're talking about that, let me show you
6 a picture of a photograph that was taken

7 MR GRIFFITH Do you want me to mark the front,
8 or the back?

9 THE COURT Mark the back Mark the back

10 MR GRIFFITH It's not going to hide anything
11 on the front

12 THE COURT Okay Well, then, go ahead and put
13 it on the front is fine

14 [Whereupon, Plaintiff's Exhibit Number 13,
15 photograph, is marked by the court reporter]

16 MR GRIFFITH I'm going to put up on -- maybe
17 this will work

18 Q [Mr Griffith] Steve, I'm going to show -- I'm
19 showing you a picture of a photograph that's marked
20 Plaintiff's Exhibit 13 Did you take this photograph?

21 A I don't remember if I took it or somebody else
22 did

23 Q All right Is this a photograph of the Jade
24 Street project?

25 A Yes, it is

1 Q And is this a steel beam that you were talking
2 about?

3 A Yes, it is

4 Q And is it bearing directly down on the AAC
5 block?

6 A Yes

7 Q Is that block cracking there?

8 A Yes

9 Q Is that supposed to happen that way?

10 A No

11 Q What is supposed to be there?

12 A Per the plan, there's to be a poured cell with a
13 weld plate on top of it

14 Q And while we're talking about that we've
15 already marked one set of plans Did you also have a set
16 of plans?

17 A Yes

18 Q And when you went out there on the first day,
19 did you get a set of plans from Mr Green?

20 A Yes

21 Q And did you mark up, the way the plans were,
22 what you found out there?

23 A Yes

24 THE COURT That photograph, what number was
25 that, Mia?

1 MR GRIFFITH 13

2 THE COURT REPORTER 13

3 THE COURT Thanks I'm sorry

4 [Whereupon, Plaintiff's Exhibit Number 14,
5 plans, is marked by the court reporter]

6 Q [Mr Griffith] I've marked as Plaintiff's
7 Exhibit 14 -- this is a set of the plans And we've
8 talked about you got this set of plans, and you actually
9 went out and marked up problems that you found?

10 A Yes

11 Q What would be the easiest way for you to explain
12 to the Court the problems you found going through this
13 list, or going through this set of plans, and identify
14 them in that fashion?

15 A Probably a combination of both

16 Q Okay What I'm going to ask you to do, then, is
17 if you would show the Court what should have been done at
18 this location, while we look at what actually was done

19 A If you wish, Mitch, it might be easier to go
20 page by page, with the notes, on this print

21 Q All right I had actually planned on going
22 through this list, but when I remembered the plans --

23 A Then do it the way you want

24 Q All right What page are you on?

25 A A-1

1 Q Excuse me?

2 A A-1

3 Q All right And on A-1, what does that -- what
4 does that show on the plans?

5 A First-floor plan

6 Q All right And have you marked, in a
7 highlighter there, the problems that you saw?

8 A Yes

9 Q All right Would you just tell the Court the
10 problems that you saw on page A-1 of the plans

11 A There was plumbing pipe that was filled with
12 concrete

13 Q All right Was that supposed to happen?

14 A Not if you want the plumbing to work

15 Q What other problems did you find in that on the
16 floor plan?

17 A I can't read my own writing Okay That's it
18 on that page

19 Q Okay Let's just go through these First of
20 all, let's just go through the list real quick The
21 window and door lintels do not have the proper bearing
22 What are you talking about right there, Steve?

23 A They need to have at least eight inches of
24 bearing, and some was down to an inch and a half

25 Q Okay And when we talk about the lintels, we're

1 talking about the piece that goes above the window, is
2 that right?

3 A Yes

4 Q Okay And when we talk about the bearing point,
5 that's from the wall over there's supposed to be eight
6 inches?

7 A From the window over

8 Q And you found some with as little as an inch?

9 A Inch and a half

10 Q An inch and a half?

11 A Yes

12 Q All right And you also said AAC blocks do not
13 have full bed joints and header per AAC specs What are
14 you talking about there?

15 A Basically, you could see light through the
16 block

17 Q Okay And, as such, is that in accordance with
18 the specifications --

19 A No

20 Q -- of Aercon?

21 A No

22 Q Was that also noted on the Kern-Coleman report?

23 A Yes

24 Q And did they have a picture of that particular
25 problem in photo number 4, which is on the last -- or on

1 the first photograph page that they have? And I realize
2 you've got a Xerox copy there

3 A Yes

4 Q Okay And you could see light actually through
5 the --

6 A Yes

7 Q -- the joints in the concrete?

8 A Yes

9 Q And when you say they don't have a full bed
10 joint when you lay these blocks on top of each other, is
11 there supposed to be mortar between each brick, each
12 block?

13 A Yes

14 Q And is that a one-eighth inch?

15 A Fifteenth to one-eighth

16 Q All right And then I called it a head joint
17 I believe it's been called a butt joint Are you also
18 supposed to have mortar on the side?

19 A Yes

20 Q All right And is that required by Aercon or
21 the AAC Association?

22 A Yes

23 Q All right Was that missing there?

24 A Yes

25 Q All right The bond beams what's a bond beam,

1 very briefly?

2 A It's any beam that bonds something together

3 Q Okay The bond beams in this building, what
4 were the problems with the bond beams?

5 A They were not continuous

6 Q And when you say they were not continuous, that
7 means they were cut?

8 A Correct

9 Q And is there also a photograph of that on the
10 Kern-Coleman report, which looks like photograph number 2,
11 in the back?

12 A Correct

13 Q All right And if the bonding is cut, what have
14 you got to do?

15 A It needs to be repaired

16 Q All right Also, the next items says cores in
17 the AAC were not properly filled What is that problem?

18 A The AAC block has holes that, to meet your
19 uplift in the strength of the wall, it has to be filled

20 Q Are you talking about this block right here?

21 A Correct

22 Q All right This block has a hole in it Is it
23 supposed to be stacked so that you can pour that cell,
24 fill that cell, with rebar and --

25 A Correct Yes

1 Q -- mortar?

2 A Yes

3 Q All right Was that done?

4 A In some locations

5 Q Okay Also, the plans and specs had rebar at
6 thirty-two inches on center Did you see problems with
7 that?

8 A Yes The exposed slab was at forty-eight Now,
9 at the time, I did not bust any holes in the walls to see
10 if the rest of the slab was at forty-eight or not

11 Q All right What about -- the next item you say,
12 is no rebar in corners per plans and code What do you
13 mean by that?

14 A The code requires a single bar in the corner and
15 a bar each side -- each way off the corner, no more than
16 twelve inches

17 Q Okay Was that also required by the plans?

18 A Yes

19 Q Can you find that on the plans, and give us the
20 detail for that, for the record?

21 [Whereupon, Plaintiff's Exhibit Number 15,
22 photograph, is marked by the court reporter]

23 THE COURT Mia, what number is that?

24 MR GRIFFITH 15

25 THE COURT Number 15 We'll take five Thank

1 you

2 [Whereupon, a recess is taken from 4 53 p m to
3 5 02 p m]

4 THE COURT All right Mr Griffith?

5 MR GRIFFITH It's getting late in the
6 afternoon, so I'm going to change up a little bit here

7 Q [Mr Griffith] I want to talk to you a little
8 bit about -- go through some of the photographs that were
9 taken And what I'll do is I'm going to hand you a
10 photograph These photographs, I believe you took most of
11 these Can you identify what that is, what problem we're
12 seeing there? Is it tied down properly?

13 A That's improper framing for tying down in
14 construction

15 [Whereupon, Plaintiff's Exhibit Numbers 16
16 through 19, photographs, are marked by the court
17 reporter]

18 Q [Mr Griffith] Now, is this out-on-the-deck
19 framing?

20 A Yes

21 Q All right And what we are seeing here, are
22 these just screws that are tied in with?

23 A Yes

24 Q How should it have been tied in, pursuant to the
25 plans and industry standards?

1 A The main thing is the top post does not have
2 full bearing That's the end of the top post, setting
3 down, and that's not correct It should be full-bearing

4 Q Okay Now, you also had talked -- we've heard a
5 little bit about, before you testified, some of the door
6 problems I'm going to show you two photographs here
7 This will be Plaintiff's Exhibit Number 17 and 18 These
8 are photographs of the bottoms of doors?

9 A Yes The doors were rotted at the bottom, and
10 separated

11 Q As a result, did you have to replace all the
12 doors in this project? All the exterior doors?

13 A I replaced all the glass doors except for one

14 Q Okay And what we're talking about is down here
15 it looks like -- had there been any prime work done down
16 here before -- or after these doors were placed in?

17 A No

18 Q Okay And had those doors swollen?

19 A Yes

20 Q I want to talk a little bit about the one
21 representative photograph We talked about oversized
22 window openings What is this a photograph of?

23 A That's the framing to the window, and this one
24 shows a dimension of an inch and a quarter

25 Q Okay And what's the specifications that you're

1 supposed to frame to?

2 A No more than a quarter-inch shim

3 Q All right And is that by the Weather Shield
4 standards?

5 A Yes

6 Q And does it lose some type of properties if it's
7 framed bigger than that?

8 A According to Weather Shield, it does

9 Q All right And did you, at some point in time,
10 provide the lawyers in this case a copy of the Weather
11 Shield standards or the Weather Shield specifications?

12 A Yes

13 Q And is this a copy that was marked in your
14 deposition as Exhibit, I think, 42?

15 A Yes

16 MR ROSS Are you making that an exhibit?

17 MR GRIFFITH Yeah

18 [Whereupon, Plaintiff's Exhibit Number 20,
19 Weather Shield document, is marked by the court
20 reporter]

21 Q [Mr Griffith] Okay So when that photograph
22 we see in Defendant -- or Plaintiff's Exhibit Number 17,
23 about an inch and a half, and we look at the
24 specifications from Plaintiff's Exhibit Number 20, it says
25 measure the rough opening to ensure that it's no more than

1 a half inch taller or overall height, or a half inch
2 wider Is that the problem that we're seeing here?

3 A Correct

4 Q All right And is it a possibility we'll lose
5 some of the -- per Weather Shield, some of the possible
6 code compliance if you're too big a rough opening?

7 A It will not meet their impact requirement

8 Q Okay And while we're looking at those windows,
9 did the windows need to be flashed?

10 A Yes

11 [Whereupon, Plaintiff's Exhibit Number 21,
12 photograph, is marked by the court reporter]

13 Q [Mr Griffith] All right I'm going to show
14 you a photograph here of a window Does that show one of
15 the windows that was at the project?

16 A Yes

17 Q And is that window -- is that the way it was
18 when you got there?

19 A Yes

20 Q And does it show the flashing around there,
21 other than at the seal? Any rough-opening flashing?

22 A That's the only flashing that was on it

23 Q All right Is rough-opening flashing, is that a
24 good industry practice?

25 A Yes

1 Q Does that have only -- any rough-opening
2 flashing around that?

3 A No

4 THE COURT Mitch, can I see the Weather Shield
5 exhibit?

6 [Whereupon, Mr Griffith proffers documents to
7 the Court]

8 THE COURT You can keep going

9 [Whereupon, Plaintiff's Exhibit Number 22,
10 photograph, is marked by the court reporter]

11 Q [Mr Griffith] I'm also going to show you
12 another photograph, Plaintiff's Exhibit Number 22 That
13 shows a window Did y'all remove the -- what am I trying
14 to -- what's it called?

15 A Trim

16 Q Trim Y'all removed the trim And is that what
17 you found?

18 A Yes

19 Q All right And when you find that, what is that
20 photograph depicting right there?

21 A That showed improper flashing, and roofing nails
22 to hold the window

23 Q All right Are you supposed to use roofing
24 nails when you put a window in?

25 A Not these windows

1 Q Okay Now, I think we had earlier marked, in
2 Mr Aten's examination, Plaintiff's Exhibit Number 10
3 I'm going to show you Plaintiff's Exhibit Number 10 there
4 And has that got a problem with the firewall?

5 A Yes

6 Q And is that wall -- that AAC block supposed to
7 go up through the roof line?

8 A Yes

9 Q All right And is that -- I've looked in here
10 Is that shown on the plans?

11 A Yes

12 Q And can you call out the detail where that is so
13 we can see how it was supposed to be done?

14 A The page view is A-4

15 Q A-4?

16 A Yes

17 MR GRIFFITH And just for the Court's benefit,
18 I'm going to hold it up

19 Q [Mr Griffith] You've already marked it there,
20 it looks like, where it shows the firewall coming through
21 the roof line, and you wrote in there, block not --

22 A Ran through

23 Q -- ran through roof So that actually shows the
24 way it's supposed to be done, and this shows the way it
25 was when you got out there?

1 A Yes

2 Q Did that have to be fixed?

3 A Yes

4 MR GRIFFITH Let me just keep going in this
5 fashion It seems to go a little bit faster

6 [Whereupon, Plaintiff's Exhibit Number 23,
7 photograph, is marked by the court reporter]

8 Q [Mr Griffith] Let me show you another
9 photograph This looks like header framing Can you
10 identify that?

11 A Yes

12 Q All right

13 A Window header

14 Q And the window headers this is just actually
15 some of the wood framing where the window header actually
16 looks like right here it sticks out from the wall, is that
17 right?

18 A Correct

19 Q Is that proper construction?

20 A No

21 MR ROSS Your Honor?

22 THE COURT Yes?

23 MR ROSS He's leading the witness This is
24 direct examination Could he let the witness testify
25 what the pictures show and what they say?

1 THE COURT All right Respectfully, Mr Ross,
2 because this is a construction case, and I think
3 because we all know what we're doing, and because of
4 the late hour, and because it's being tried non jury, I
5 am going to allow him a lot of latitude to lead But I
6 am going to give you-all exactly the same thing, so you
7 can lead your experts all you-all want Okay? Good
8 for everybody

9 MR ROSS Thank you, Your Honor

10 THE COURT Absolutely

11 [Off the record momentarily]

12 Q [Mr Griffith] All right Was that evident at
13 more than one location?

14 A Quite a few locations

15 Q Okay And as a result, did you have to pull the
16 headers?

17 A Yes

18 [Whereupon, Plaintiff's Exhibit Number 24,
19 photograph, is marked by the court reporter]

20 Q [Mr Griffith] I'm going to show you
21 Plaintiff's Exhibit Number 24 Is that what you had to do
22 to fix this?

23 A Yes

24 Q Part of what you had to do?

25 A [No response]

1 Q And then you had to replace -- did you have to
2 replace the header?

3 A Yes

4 Q Okay I don't know why this is on a different
5 paper --

6 A Mitch?

7 Q Yes?

8 A None of the headers were right anyway, because
9 they were framed the wrong size for the window openings

10 Q Okay

11 A So what do you want I had to replace it
12 because of that? or because the windows were wrong?

13 Q So the headers were wrong because of?

14 A The rough opening was incorrect

15 Q And?

16 A They stuck out

17 Q And they stuck out

18 So there are two reasons that led to why you had
19 to replace that?

20 A Yes

21 [Whereupon, Plaintiff's Exhibit Number 25,
22 photograph, is marked by the court reporter]

23 Q [Mr Griffith] All right I'm going to show
24 you another photograph, and I'm going to ask you if you
25 can identify where that -- not the location, but where

1 that -- what's that depicting?

2 A That's your top plate without your proper
3 bearing, plate bearing

4 Q Okay And when you say without the proper plate
5 bearing --

6 A Not -- plate overlap

7 Q And so that we're clear on that that looks
8 like you've got a cut there And then the top plate is
9 cut --

10 A Yes

11 Q -- right along in there?

12 A Yes

13 Q How much overlap do you need?

14 A Four foot

15 Q And did you have four feet on the top plates?

16 A No

17 Q Was that in every location or --

18 A Some locations

19 Q But it was in more than one location, then, is
20 that correct?

21 A Yes

22 [Whereupon, Plaintiff's Exhibit Number 26,
23 photograph, is marked by the court reporter]

24 Q [Mr Griffith] Okay Talk to you a little bit
25 more about framing I'm going to hand you another picture

1 and ask you if you can identify that, what the problem is,
2 in that photograph

3 A That is -- those are pearling blocks that are
4 not nailed tight between the framing

5 Q All right Briefly -- I know the lawyers, and I
6 believe the judge, probably understands what a pearling
7 block is I want you to explain it for the record for me,
8 if you would

9 A The pearling block basically makes the shift leg
10 go horizontal along the --

11 Q Excuse me?

12 A Pearling block makes a shift leg going
13 horizontal along the wall If there's a gap in between
14 the framing and the pearling, it's not going -- it will
15 not meet shift

16 Q All right And I'm going to show -- that
17 occurred in one location, or more than one location?

18 A More than one location

19 Q All right Is that something that --

20 A Quite a few locations

21 Q Is that something that needed to be fixed in
22 order to comply with good industry practice?

23 A Yes

24 Q Is that a code requirement?

25 A Yes

1 Q All right So that's what you found out there,
2 is that correct?

3 A Correct

4 Q And I'm going to show you another photograph and
5 ask you if you can identify what that is

6 MR GRIFFITH That's so I can identify it If
7 you want me to peel that off --

8 [Whereupon, Plaintiff's Exhibit Number 27,
9 photograph, is marked by the court reporter]

10 A That's doing the AAC block repair and --

11 Q [Mr Griffith] Is that on the floor? ceiling?

12 A That is the lower-level AAC block repair, with
13 the temporary walls and grid system down the lower level

14 Q Okay And why did you have to put a grid system
15 in there?

16 A I did not put the grid system in

17 Q All right Was that -- were y'all trying to
18 preserve what was there, then?

19 A Yes Trying to save the grid system

20 Q And it looks like you've got a temporary brace
21 in there

22 A That temporary wall is for work that we were
23 also doing on the second floor

24 Q Okay Is this where the LVL beam had a problem?

25 A Yes

1 Q So the LVL was above?

2 A Yes

3 MR GRIFFITH All right

4 [Whereupon, Plaintiff's Exhibit Numbers 28
5 through 34, photographs, are marked by the court
6 reporter]

7 MR GRIFFITH And we're going to come to that
8 in a minute Just going through these photographs
9 here

10 Q [Mr Griffith] This is a photograph showing the
11 block wall on the outside Can you tell the judge what
12 the problem with that is?

13 MR GRIFFITH And if you'll hold it up so she
14 can see it

15 THE COURT I can see it

16 THE WITNESS Okay

17 A The specs for AAC blocks, you cannot tooth the
18 block, for one thing

19 Q [Mr Griffith] When you say tooth the block,
20 are you talking about the way it pokes out on the corner?

21 A Yes

22 Q Okay

23 A It has to be laid up in a continuous bond The
24 firewall does not penetrate through the roof, and it does
25 not run down to the ground

1 Q Okay We've already talked about the firewall
2 through --

3 A Yes

4 Q -- the roof What I --

5 A This --

6 Q Hold on just a second

7 MR GRIFFITH Press that little button right
8 there, and you'll get a red dot

9 Q [Mr Griffith] I want you to show everybody
10 what the problem you are seeing right here is Point out
11 the tothing of the block

12 A Okay Per the AAC block, you can't have that
13 It has to be laid up, from the ground up, and it overlap
14 the -- you cannot have this protruding out, because
15 there's more block that come up from the bottom You
16 can't tooth it in It's per the AAC block specs

17 This porch system over here was not framed
18 correctly per the plan

19 Q Okay And what was wrong with the framing over
20 there per the plan?

21 A They used two-by material, on the top deck, for
22 the beam system The detail calls for six-by material

23 Q All right And I'm going to show you another
24 photograph and ask you if this is a closer view of that
25 framing system that you're looking at right there

1 A Yes

2 Q Okay I'm going to put it on the screen so the
3 rest of the lawyers can see it That's Plaintiff's
4 Exhibit Number 30 When you say that framing at the top,
5 what framing?

6 A That two-by material up here was supposed to
7 have been six-by material

8 Q Okay And is that what the plans call for, six-
9 by material?

10 A The plans call for six-by material

11 Q I believe there was also some problems --

12 MR GRIFFITH I hate to lead him that much

13 Q [Mr Griffith] Were there some problems with
14 the red-iron steel there?

15 A Yes

16 Q What were those problems? Well, first of all,
17 does this photograph show one of those problems? I think
18 there were more than one

19 A One of the problems is the holes that was cut in
20 the middle web of the I-beam

21 Q Okay And what's wrong with the holes that are
22 cut there in the webbing of the I-beam?

23 A There are only certain size holes, and certain
24 locations that you can cut holes

25 Q Is that per the manufacturer's specification?

1 A Per engineer's

2 Q Engineer's?

3 THE COURT Is the problem the size of the
4 placement --

5 THE WITNESS Both

6 THE COURT -- or both?

7 THE WITNESS Both

8 Q [Mr Griffith] Did y'all have to fix that?

9 A Yes, we did

10 Q What did you do to fix that?

11 A Plated the back side of the holes

12 THE COURT What did you do? Plated the back
13 side of the holes? Is that what you said?

14 THE WITNESS We put plates and --

15 THE COURT You plated it

16 THE WITNESS -- welded back -- welded plates

17 THE COURT Okay

18 Q [Mr Griffith] I'm going to show you another
19 photograph that deals with the framing on the decks What
20 does that show?

21 A That shows where there was no bird's-mouths cut
22 into the rafter tails and we were putting clips, special
23 clips, from Simpson

24 Q Did it call for a bird's-mouth cut, or is that
25 just good industry practice?

1 A Industry standard

2 Q And then in this particular job you went back
3 and you put?

4 A Special clips

5 Q Okay Now, I'm going to show you another
6 photograph, and I'm going to ask you if you can identify
7 that This is one of the items I want to talk a little
8 bit more in detail about

9 A That's a temporary support on a LVL, that was
10 failing, that nobody wanted to walk around because it was
11 bowing so bad

12 Q Okay Now, where was that LVL located?

13 A On the second floor, upper -- well, upper left-
14 hand unit

15 THE COURT What number is that, Mitch?

16 MR GRIFFITH Number 33

17 THE COURT Okay

18 MR GRIFFITH 33

19 Q [Mr Griffith] All right I'm going to ask
20 you, Steve, if you could pull out the plans and show us
21 where that location -- show the judge where that location
22 is on the plans

23 A Right here

24 THE COURT Okay

25 A That's the -- these are the windows --

1 THE COURT Yes

2 A -- looking at --

3 THE COURT Okay

4 Q [Mr Griffith] For the record, would you call
5 out the page for me

6 A A-2

7 Q A-2?

8 A Shows the location of it

9 Q All right And does it --

10 A I've got it in blue on mine

11 Q Okay So in any event, what was required to be
12 there?

13 MR GRIFFITH You just go ahead and hold it
14 right here so that she can look over your shoulder

15 A At that location they actually called for a
16 W-16-36, which was an I-beam that was supposed to have
17 gone through there At this point here, there was to be
18 three LVLs running this way, and they were to have been
19 full length across this opening

20 Q [Mr Griffith] What did you find there, Steve?

21 A These were individual headers And this was an
22 LVL

23 Q Okay And you are referring to F-2 right now,
24 is that correct?

25 A Correct

1 Q All right As a result, where we're looking, is
2 that on the exterior where actually that it's -- is it
3 crushing --

4 A Yes

5 Q -- the wood there?

6 A Yes

7 Q And is it causing that bow that we're looking at
8 right there in the, that's what, four two-by-fours?

9 A Yes

10 Q All right Was there also an additional problem
11 there with regards to the way the LVL coming across was
12 cut?

13 A Yes The LVL was cut at a drastic taper, from
14 the exterior wall up

15 Q Okay I'm going to show you a picture looking
16 down on this Is this the -- looking from the roof line,
17 looking down at the LVL --

18 A Yes

19 Q -- that's cut?

20 A Yes, it is

21 MR GRIFFITH Okay And that's going to be
22 Plaintiff's Exhibit Number 34

23 Q [Mr Griffith] Now, I'm going to show you I
24 believe what will be marked as Plaintiff's Exhibit Number
25 35

1 MR ROSS Can you show us 34?

2 MR GRIFFITH Sure I actually was going to do
3 it --

4 THE COURT Steve, how did you repair that?

5 THE WITNESS Tore the whole thing out

6 MR ROSS What was the question?

7 THE COURT He said -- I asked him how did he
8 repair it, or if he did, and he said he tore the whole
9 thing out

10 THE WITNESS Took the outside wall out,
11 replaced the beams

12 THE COURT With what was put on the plans?

13 THE WITNESS No Actually went back -- got
14 with the engineer, and went back with the wood, a
15 taller-wood LVL lumber, properly fashioned at the end

16 THE COURT Okay

17 THE WITNESS But we had to put temporary walls
18 on the bottom up to support it And took the pictures
19 of how we had to do it

20 THE COURT Okay Mr Carpenter, I'm also going
21 to ask that you just speak up, even when I ask you
22 questions, because these lawyers all need to be able to
23 hear you, as well Okay?

24 THE WITNESS Yes

25 THE COURT Thank you

1 [Whereupon, Plaintiff's Exhibit Number 35,
2 photograph, is marked by the court reporter]

3 Q [Mr Griffith] All right And now I'm going to
4 show you Exhibit Number 35 Is that the LVL after it was
5 removed? The end?

6 A Yes

7 Q All right What's wrong with that?

8 A A couple of things the way it was cut, the
9 size of the angle of the cut, and all the mold that's on
10 it

11 Q Okay First of all, let's talk about the way it
12 was cut How was it cut? Can you tell from looking at
13 that photograph?

14 A It looked like it was cut with a hatchet

15 Q All right And is that because we see these
16 chop marks on it coming up here?

17 A Yes

18 Q All right What was wrong with the depth of the
19 cut?

20 A Your too small of the short end, and the
21 tapering back too far, for the load that it can carry
22 And that's per the manufacturer specs

23 Q All right So we're actually looking right
24 here You can't cut it back that far, can you?

25 A No

1 Q How far can you cut it back?

2 A That varies according to the manufacturer

3 Q What about this one? Can you cut it back that
4 far?

5 A No

6 Q All right You were asked a minute ago how did
7 you go about replacing it And I had showed you fixing
8 that -- I had showed you Plaintiff's Exhibit Number 28
9 Is this below that area where you were having to build a
10 wall?

11 A Yes

12 Q So you started on the ground floor and built a
13 temporary wall there?

14 A Yes

15 Q And then did you build up farther?

16 A And then we built temporary walls under the
17 floor system that was up on the next floor

18 [Whereupon, Plaintiff's Exhibit Number 36,
19 photograph, is marked by the court reporter]

20 Q [Mr Griffith] Okay I think I'm right in
21 this, but I'm sure you'll correct me if I'm wrong I'm
22 going to show you Plaintiff's Exhibit Number 36 What is
23 that showing right there?

24 A That shows the temporary wall below the existing
25 floor system It shows how long the floor system had

1 sagged And that is a new -- one of the new LVLs that we
2 put in

3 Q All right Let me ask you that's the new LVL?

4 A That's one of them

5 Q All right Is this the temporary brace?

6 A The temporary wall

7 Q All right And here is -- what's this? This is
8 the truss?

9 A That's the floor truss

10 Q All right And did you have to then jack that
11 floor truss back up?

12 A Yes

13 Q So that floor truss had sagged -- or had that
14 floor truss sagged that far as a result of the weight that
15 it was over-stressed by?

16 A The LVL had sagged that far and brought the
17 floor truss down

18 Q Okay And is that damage that you saw when you
19 were out there, is that -- is that some of the damage that
20 you identified?

21 A Yes

22 [Whereupon, Plaintiff's Exhibit Number 37,
23 photograph, is marked by the court reporter]

24 Q [Mr Griffith] All right And at this same
25 location, is this photograph, which is Plaintiff's Exhibit

1 Number 37, is that in that same area?

2 A Yes

3 Q All right What is all this around here?

4 A It's mold, and rotting OSB

5 Q All right So had it fell to the point that
6 water was getting back in there?

7 A Yes

8 Q And as a result, did you have to take out all
9 this OSB and sheathing right there?

10 A Yes

11 Q All right And then you had to replace that
12 And then did you ultimately put in a new -- actually, I
13 guess a new wall, is that correct?

14 A A new exterior wall, and new LVLs

15 [Whereupon, Plaintiff's Exhibit Number 38,
16 photograph, is marked by the court reporter]

17 [Whereupon, Plaintiff's Exhibit Number 39,
18 photograph, is marked by the court reporter]

19 Q [Mr Griffith] Okay And I'm going to show you
20 I think at this -- Plaintiff's Exhibit Number 38 Again,
21 I believe that this is the same location Does that show
22 the way it was -- does that show the location with the LVL
23 coming into --

24 A Yes

25 Q -- that area? All right What's wrong with

1 that?

2 A These are all individual window headers, and
3 they're the wrong size The LVL is sitting in the
4 midpoint of this header, with one cripple or jack stud on
5 each side This header is actually failing And it's
6 tight down under this window This right here, you've
7 got your double plates, and they -- this is where this
8 plate -- this wall, the header here is sagging That was
9 supposed to have been three LVLs running full length
10 This right here was to come into it, but not cut at the
11 angle that it was cut at

12 Q As a result, did you take out this entire wall
13 right here?

14 A Well, we took out that LVL there, we took out
15 the wall from about here to the corner and this whole
16 roof system

17 Q Okay And, again, I want to make sure I'm clear
18 with this Was this in a state of failure, as you saw it?

19 A Yes

20 Q All right And was this water damaged?

21 A Yes

22 Q And is this that four two-by-fours nailed
23 together --

24 A Yes

25 Q -- that we saw earlier that was over-stressed,

1 bending?

2 A Yes

3 Q All right And we have seen the photograph
4 earlier where the floor had actually -- had it sagged
5 down?

6 A Yes

7 Q And I don't want to beat this point, but I think
8 this is a fairly important point to me Is that another
9 photograph of that area?

10 A Yes

11 Q Is that where the LVL was crushed -- crushing
12 the wall?

13 A Yes

14 Q And had that let water in that you can see
15 there?

16 A Yes

17 Q And has it damaged the sheathing?

18 A Yes

19 Q And does that need to be replaced?

20 A Yes

21 Q Did you replace it?

22 MR GRIFFITH This is 37

23 THE COURT Did you replace the sheathing? Yes?

24 THE WITNESS What?

25 THE COURT You did replace the sheathing, is

1 that correct?

2 THE WITNESS Yes

3 THE COURT Okay

4 [Off the record momentarily]

5 MR ROSS Where is that? Did he say?

6 MR GRIFFITH Yeah He showed you on the plans
7 right here If you want to come look at it, he'll
8 point it out for you

9 MR ROSS Is it near where the header was?

10 THE WITNESS Yes

11 Q [Mr Griffith] The header is on the other side
12 That's the header that's carrying it, is that correct?

13 A Yes

14 MR ROSS Okay

15 Q [Mr Griffith] And you got LVL coming into the
16 top, is that right?

17 A This is the outside view of what you just saw

18 Q Now, as a result, you said that you actually
19 took the wall out Is that photograph showing what you
20 did at that location?

21 A Yes

22 Q And is that a photograph of your man it looks
23 like maybe either taking out or putting in? Is that --
24 also, I'm going to show you another photograph

25 A They're taking it out there

1 Q This is coming out?

2 A Yes

3 Q Is that what -- and what is getting ready to be
4 Plaintiff's Exhibit Number 41, is that what went back in?

5 A This is the new outside wall

6 [Whereupon, Plaintiff's Exhibit Number 40,
7 photograph, is marked by the court reporter]

8 [Whereupon, Plaintiff's Exhibit Number 41,
9 photograph, is marked by the court reporter]

10 Q [Mr Griffith] So Plaintiff's Exhibit Number 40
11 shows these two gentlemen taking it out?

12 A Yes

13 Q And then Plaintiff's Exhibit 41 shows what ended
14 up being put there, is that correct?

15 A Correct

16 Q And that is a single-member LVL going across, is
17 that correct?

18 A No That is a triple member

19 Q Triple member I'm sorry And is that what was
20 originally called for in the plans?

21 A Yes

22 Q How much of the project do you -- when we talked
23 about what had to be done, you may have been asked -- how
24 long did it basically take to build this wall, extract
25 it -- build the temporary wall, extract the original wall,

1 put it back in? About how long did that take in this
2 process?

3 A I would have to go back and actually look at the
4 day sheets

5 [Whereupon, Plaintiff's Exhibit Number 42,
6 photograph, is marked by the court reporter]

7 [Whereupon, Plaintiff's Exhibit Number 43,
8 photograph, is marked by the court reporter]

9 Q [Mr Griffith] Okay And I hate to keep
10 jumping around here, but I'm going to show you another
11 photograph Going back to windows just a little bit Is
12 there a problem in -- or can you identify this photograph?

13 A Basically, removing windows

14 Q Okay And was there a problem with -- why were
15 you removing those windows?

16 A The openings were the wrong size, and not
17 properly flashed

18 Q Okay I'm going to ask you to take another -- a
19 look at another photograph there What does that
20 photograph show?

21 A Not properly flashed, and not properly
22 fashioned

23 Q Okay This looks like a Weather Shield window
24 Did you find that when you got to the project?

25 A Yes

1 Q All right And is that one of the problems that
2 you addressed there?

3 A Yes

4 Q There's been some talk about the lintels Was
5 there a problem with the lintels?

6 A Yes

7 Q All right And you talked about the lintels
8 being undersized?

9 A Not the proper bearing

10 Q Not the proper bearing

11 MR GRIFFITH Judge, just simply for the
12 record, Mr Still is going to talk a little bit more
13 about that, but I'm going to show what the fix was

14 THE COURT Okay

15 Q [Mr Griffith] Did Mr Still design a fix?

16 A Yes

17 Q All right And, basically, if you would explain
18 to the judge what that fix was I want to talk about two
19 things First of all, we'll talk about the lintels And
20 then you also see some posts in there, some steel columns,
21 and I'll talk about those

22 Why does that have a steel member across the top
23 and bottom of these windows?

24 A Because the lintels were too short Those were
25 plates that were plastered into the wall

1 Q Okay And did Mr Still design that --

2 A Yes

3 Q -- for you?

4 Okay So you built that in accordance with what
5 he put forth?

6 A Yes

7 Q All right

8 THE COURT REPORTER I haven't marked the last
9 one

10 MR GRIFFITH Okay

11 THE COURT And this was after the windows were
12 pulled and then put back in, is that correct?

13 THE WITNESS No

14 THE COURT No? Okay

15 [Whereupon, Plaintiff's Exhibit Number 44,
16 photograph, is marked by the court reporter]

17 [Whereupon, Plaintiff's Exhibit Number 45,
18 photograph, is marked by the court reporter]

19 Q [Mr Griffith] All right The photograph we
20 just looked at, Mr Carpenter, was Plaintiff's Exhibit
21 Number 44 And that shows what you've just described as
22 being the steel coming across the sill and the header

23 A Yes

24 Q Was that done at every location for windows?

25 A Every window location And doors had them

1 across the top

2 Q Okay And what is -- Plaintiff's Exhibit Number
3 45 that shows that? That's just really another picture
4 showing the same thing

5 Now, in addition to that, there is a steel
6 column here, is that correct?

7 A Correct

8 Q And a column here And it looks like they're
9 spaced out Who designed -- or who decided to put that
10 steel column in? Who designed the fix for that?

11 A H2L designed it

12 Q Okay So Mr Still's company?

13 A Yes

14 Q All right And y'all did it in -- y'all
15 performed that work in accordance with his repair plans,
16 is that correct?

17 A Yes

18 Q All right And is this how y'all had to go
19 about the putting it in? Does that show that?

20 A Yes

21 Q And I believe there was some discussions, before
22 you actually put those columns in, about whether you could
23 actually use a surface bond or whether you needed to use a
24 column, and whether you could put the column in the wall,
25 or whether you could do it like that?

1 A Yes

2 Q Did y'all ultimately try and price out how much
3 it would be to put the column in the wall? to cut in?

4 A Originally there was talk about cutting the wall
5 thirty-two inches on center and putting rebar, if it was
6 not there, and then pouring the -- re-pouring it and
7 trying to come back with what the plan called for

8 Q All right And --

9 A That was priced out with my guys And we looked
10 at different options At that time I got ahold of Randy,
11 and asked if there was a different way, and I actually
12 brought this suggestion up to him

13 Q You brought this to what?

14 A I brought this idea up to Randy, because I had
15 priced it this way, and I priced it the other way This
16 was more feasible

17 Q All right And so when you came up to this
18 idea, you ran it by him And did he come up with the
19 engineering design to do it?

20 A Correct

21 Q All right And was this -- when you say more
22 feasible, was it more cost effective or --

23 A More cost effective

24 Q So it cost less to do that than actually cutting
25 in and putting rebar in --

1 A Yes

2 Q -- making sure it was there?

3 Were there going to be problems working in a
4 tight space --

5 A Problems --

6 Q -- if you cut into it?

7 A Problems drilling the hole at the bottom, the
8 amount of block that would have to be cut out, and also
9 the amount of area up at the top, and trying to make sure
10 that we had the full cavity filled Talking with
11 everybody I had on the job site, that repair would not
12 have been cost effective And I -- we had to -- when we
13 got to where we had to put the plates in the wall, and
14 columns in different locations to support the beams, we
15 had to fur the wall out anyway, so at that point it did
16 not matter

17 Q Okay So then y'all became less concerned about
18 losing the wall space and picking up the efficiency?

19 A Yes

20 Q All right Now, I know there's going to be some
21 issue about it Did you then have to cut out some of the
22 concrete pad?

23 A Yes, we did

24 Q And did you have to move plumbing fixtures
25 around?

1 A Yes, we did, because we lost outside wall space

2 Q All right And did you realize that when you
3 went into this fix?

4 A Yes, I did

5 Q And was that part of the cost that you took into
6 consideration?

7 A Yes

8 Q All right And was it still more feasible to do
9 it this way?

10 A It wouldn't have made any difference which
11 option I did, I still was losing floor space because the
12 plates were going on no matter what and there were still
13 columns going in different locations I was losing floor
14 space, no matter what

15 Q Okay Now, additionally, it appears to be
16 across the top there, there seems to be a piece of angle
17 iron tied in there Was that part of Mr Still's --

18 A Correct

19 Q -- fix or repair?

20 A Yes

21 Q All right And do you know what the purpose of
22 that angle iron is up there?

23 A To tie the wall and the floor system together

24 Q All right Was there a concern with the bond
25 beam as it had been installed? Is that why you were

1 putting that in there?

2 A Yes

3 Q All right And, again, we'll go through that
4 tomorrow with Mr Still But is that something he
5 designed?

6 A Yes

7 [Whereupon, Plaintiff's Exhibit Numbers 46, 47,
8 48, and 51, photographs, are marked by the court
9 reporter]

10 Q [Mr Griffith] Going back into the framing
11 issues a little bit, I think -- can you identify that? I
12 don't want to -- I don't want to lead you too much,
13 although I've been accused of that I will until I'm
14 stopped

15 A That is a window that they closed the opening in
16 smaller with two-by-twos It wasn't solid framing
17 material

18 Q All right What's the problem with that?

19 A Basically, the window being held in with a two-
20 by-two

21 Q Is that in accordance with industry standard?

22 A Not at all

23 Q Is that in accordance with the manufacturer's
24 specifications?

25 A No

1 Q Did that additionally cause the need to pull the
2 windows and replace them?

3 A We didn't -- we found that out when we pulled
4 the windows

5 Q Okay Is this also another photograph virtually
6 depicting the same thing?

7 A Yes

8 Q Different location
9 Was that pretty much common throughout the
10 project?

11 A A lot of locations on the lower floor That
12 also shows the windows were nailed in with a framing gun

13 Q Excuse me?

14 A That also shows that the windows were nailed in
15 with a framing gun, through the side, and the nail came
16 out of the side of a two-by-two

17 Q Is that good practice?

18 A It's not per the manufacturer's requirements

19 Q Okay Are you supposed to use a --

20 A Screws

21 Q I'm going to ask you here there's been an
22 issue about balloon framing

23 MR GRIFFITH Let me do this before I give that
24 to you

25 I think it's coming in, so let's mark it

1 [Whereupon, Plaintiff's Exhibit Number 49,
2 photograph, is marked by the court reporter]

3 Q [Mr Griffith] Plaintiff's Exhibit Number 49,
4 does that photograph depict what you found at the Jade
5 Street project?

6 A Yes

7 Q And what's -- what do you see in that photograph
8 that is improper?

9 A A double-play in the middle of the wall span

10 Q And is that what we call balloon framing or
11 improper balloon framing?

12 A Improper balloon framing

13 Q All right And what should balloon framing do?

14 A Balloon framing goes from the floor to the roof
15 line

16 Q All right And here it looks -- what you're
17 saying is it has this plate in there that --

18 A Yes

19 Q -- breaks up the framing?

20 A Yes

21 Q And as a result of that, did that have to be
22 fixed?

23 A Yes

24 Q All right Is this violate -- does this violate
25 the industry standard, or does it violate a code?

1 A A code

2 Q I'm going to show you another photograph and ask
3 you if you can identify that one for me

4 A That's similar -- that's the same location

5 Q The same location?

6 A Yes

7 Q All right It just shows the --

8 A It just shows --

9 Q Actually, it just shows the balloon framing?

10 A -- points around to the right a little bit more

11 Q Was there more than one area where balloon
12 framing -- or where the framing was improperly done?

13 Where the balloon framing was improper?

14 A If I recall, there were three locations, three
15 walls, if I recall

16 Q Okay In addition to that, we've talked about
17 the lintels I want to show you a photograph that you
18 took of one of the lintels, being marked as Plaintiff's
19 Exhibit Number 50

20 [Whereupon, Plaintiff's Exhibit Number 50,
21 photograph, is marked by the court reporter]

22 Q [Mr Griffith] Does that show -- what does that
23 show on the lintel?

24 A That shows a couple of cracks that were
25 puttied -- that were muddied over the top of

1 Q All right And does that evidence that the
2 lintel was already in a state of failure?

3 A Yes

4 Q It's a little bit bright right there But are
5 these the cracks that we're talking about right here?

6 A That's a crack there, and right there

7 Q Okay And you said they had been muddied over?

8 A Yes

9 [Whereupon, Plaintiff's Exhibit Numbers 52,
10 photograph, is marked by the court reporter]

11 [Whereupon, Plaintiff's Exhibit Number 53,
12 photograph, is marked by the court reporter]

13 Q [Mr Griffith] I think we've already talked
14 about this But does this photograph show how y'all --
15 the judge asked you, so that's the only reason I want to
16 put it in there Does that show how y'all fixed the red-
17 iron steel?

18 A Yes

19 Q Does that show a gentlemen up there welding
20 plates on the back?

21 A On the back side Yes

22 Q And I'm moving around a little bit I'm still
23 jumping Does this show the elevator shaft?

24 A Yes

25 Q All right I want to put this on the screen,

1 and let's just talk about it a little bit

2 Just looking at this, can you tell me what
3 problems you see in that photograph?

4 A The blocks cannot be filled because of the bond,
5 the way the location at the door openings

6 Q All right Point that out to us, if you can

7 A The blocks the way they are, if you pour
8 concrete in the top it's going to hit and stop right here
9 That has to be filled up the side

10 Q And what you want to do is you want to make sure
11 that's a full cell, is that correct?

12 A That has to be a full cell on both sides of the
13 door so it ties into the top side If that's not full,
14 you'll end up with a bar in the corner But if you can't
15 fill that, then you're supposed to form it so you can fill
16 it because right now that -- there's a bridge in that
17 block there, and a bridge there, and there's no way you
18 can fill this

19 Q As a result, did y'all have to remove -- and,
20 again, maybe my witnesses are in reverse order But Mr
21 Still required that to be removed?

22 A Yes

23 Q And was that just -- was that something that you
24 agreed with?

25 A Yes

1 Q I think I'm jumping back to where that LVL was,
2 but I want to put this picture in simply -- does that show
3 where the LVL we talked about earlier was?

4 A Yes That was after I removed the windows on
5 the --

6 Q Okay Does that show --

7 A -- exterior

8 Q Okay Does that show sheathing damage and rot
9 around that area?

10 A Yes

11 Q And in your opinion, was -- that water, did that
12 get in there as a result of the poor construction?

13 A Yes

14 Q All right Mr Carpenter, we've been through a
15 lot of photographs now What I want to do is I want to
16 sort of jump back and let's go through the list of defects
17 you found I think I've tried to show as many as we
18 could, or at least I tried to identify some of the
19 photographs that you took And let's just run through
20 this list real quick We've already gotten down under the
21 foundation and AAC block, down to the core and the plans,
22 plan spec rebar dialed at thirty-two on center, exposed
23 slab is forty-eight inches We saw a picture of that --

24 A Yes

25 Q -- is that correct?

1 No rebar in corners, per plans and codes Did
2 we see a picture of that?

3 A I was going by what the exposed slab was on the
4 picture You had a picture of that

5 Q The AAC has horizontal and ventricle cutouts
6 deeper than allowed We talked about that, and I believe
7 you saw that, is that correct?

8 A Yes

9 Q All right And in the Kern-Coleman report,
10 which is Exhibit Number 12 --

11 THE COURT 11

12 Q [Mr Griffith] 11

13 At the back, on photograph number 7, is that
14 what you're talking about?

15 A Yes That's one of them

16 Q All right Was there more than one of those?

17 A Yes

18 Q All right And did you actually see that
19 yourself?

20 A Yes

21 Q All right We also talked about iron beam
22 bearing points are broken Was that one of the first
23 photographs we saw?

24 A Yes

25 Q Where the iron beam was actually crushing the

1 AAC?

2 A Yes

3 Q All right And also the next one was, AAC floor
4 system needs to be ground and floated to receive a floor
5 finish

6 I don't know if we saw any photographs of that
7 Tell us what the problem was there

8 A The floor system was an AAC floor system, and it
9 got set in place, and then you grouted between them They
10 were set very uneven, and grout mixture was just left
11 laying on top of it It was never cleaned off properly

12 Q So, then, what was your repair that you had to
13 do?

14 A We had to take and go in there with grinders and
15 grind the AAC block

16 Q Okay Otherwise, were you going to have uneven
17 places in the floor?

18 A Yes

19 Q Anchor bolts in AAC floor system not at sixteen
20 inches on center, per plans

21 Did we see photographs of that?

22 A They may have been in the photos, but --

23 Q Okay Tell us what the problem was there

24 A Plans called for anchor bolts sixteen on center,
25 and they were not They were thirty-two, normally

1 Q Okay Now, AAC fire walls and garages shown on
2 plans

3 They didn't have that? We saw pictures of that?

4 A Yes

5 Q Okay Ironwork Let's talk about the ironwork
6 a little bit What ironwork were you talking about, the
7 columns not secured to the floor

8 A Columns -- the columns supporting the I-beams on
9 the lower level The lower level was supported with an
10 I-beams holding the floor system up, and columns holding
11 it up

12 Q In Plaintiff's Exhibit Number 11, which is the
13 Kern-Coleman report, is that depicted on photograph number
14 19? That particular defect

15 A Yes

16 Q All right And at the time that construction
17 was ongoing there, in good construction practice should
18 that have already been bolted down?

19 A Yes

20 Q And when does -- when do you actually bolt them
21 down?

22 A You should bold them down before you put load on
23 it

24 Q Okay And when you were there, did it already
25 have load on it?

1 A Yes

2 Q Exterior columns do not have the proper size
3 bolts

4 A The exterior columns holding the porches up, the
5 plans called for three-quarter-inch bolts, and they were
6 five-eighths bolts

7 Q Is that shown on Plaintiff's Exhibit Number 11,
8 the Kern-Coleman report photograph number 12?

9 A Yes

10 Q Did you actually observe that, also?

11 A Yes

12 Q What about the exterior columns have gaps
13 under bearing plates

14 A A lot of the columns had gaps under the base
15 plates

16 Q And you're pointing to photograph number 12
17 was there a gap under that one?

18 A That one does not look like a gap under it

19 Q I was going to say I don't think that one does
20 I had seen a photograph earlier, and I may have one, but
21 just to keep moving forward when you say there's a gap
22 under a plate, and we look at number 12, that's the plate
23 down there It was actually not --

24 A It was not --

25 Q -- fully bearing on the floor?

1 A It was not down to the concrete

2 Q Okay Could you slide a piece of paper or
3 something?

4 A You could slide a piece of one-by under some of
5 them

6 Q Okay What's the problem with that?

7 A I don't know It just --

8 Q Is that good construction practice?

9 A It's not good construction It will settle, in
10 time

11 Q Okay And I-beams were missing bolts What are
12 you talking about there?

13 A There was some cross-system bolts -- cross-
14 system I-beams holding the floor system up

15 Q Right

16 A Some of them were not bolted together

17 Q I-beams have large holes cut through them We
18 saw photographs of that, is that correct?

19 A Yes

20 Q And that's not per the manufacturer's
21 specifications, or good industry practice, is that
22 correct?

23 A Good industry practice

24 Q Exterior columns are missing one set of half-
25 inch plates at window headers

1 A Yes

2 Q What's that talking about?

3 A On the porch columns, there's supposed to be a
4 double-header system on the exterior walls on the second
5 floor

6 Q And was there a double-header system?

7 A No

8 Q Was that required per the plans?

9 A Yes

10 Q What about the interior and exterior columns
11 were not set plumb? What's the problem there?

12 A It's hard to take and build a wall level, or
13 plumb, if the columns aren't plumb

14 Q What did y'all do to correct that problem?

15 A Some of them we could move, others we had to
16 work the walls

17 Q You had to shim around it, then?

18 A Yes

19 Q Was this something that you had found on the --
20 or that had been found on the Kern-Coleman report?

21 A No That's what I found before I even got with
22 Kern-Coleman

23 Q Okay Now we go into the framing Window and
24 door openings are incorrect REDPAT [phonetic]
25 requirements We talked about that, is that correct?

1 A Yes

2 Q We saw pictures of that, is that correct?

3 A Yes

4 Q Your notes in here seem to say that -- tell us
5 about the fourth-inch shim between the window and doors

6 All right What about the next one windows
7 were installed with roofing nails Did we see that?

8 A Yes Some was installed with roofing nails,
9 some was screwed some with framing nails

10 Q What about windows were not properly flashed?
11 Did we see evidence of that?

12 A Yes

13 Q Windows and door headers protrude from the wall
14 from a half inch Did we see a photograph of that?

15 A Yes

16 Q Top walls have mid-point plates that should have
17 been balloon framed? We talked about that?

18 A Yes

19 Q Top plates do not have four-inch required
20 overlap -- or four-feet required overlap

21 A Yes

22 Q Is it four feet, or four inches?

23 A Four feet

24 Q Okay We saw a photograph of that, is that
25 correct?

1 A Yes

2 Q Window and door headers are not sized with -- or
3 correct material, per plans and code

4 Are we talking about the lintels there? Or the
5 headers?

6 A No Talking about the wood headers

7 Q All right Did we see the wood headers? Was
8 that where the LVL ultimately --

9 A That's where the LVL was That was one
10 location Then there was a couple other ones

11 Q There were some other locations --

12 A Yes

13 Q -- in that?

14 A Yes

15 Q In those other locations, did you have to take
16 the headers out and replace them?

17 A Yes

18 Q Microlam beams were not secured together
19 properly What was the problem there?

20 A When you fasten more than -- when you fasten two
21 or more together, they have to be fastened correctly

22 THE COURT Mr Ross?

23 MR ROSS Your Honor, I think defense counsel
24 will stipulate that he did see the items on this
25 report If it will help speed things up, if he wants

1 to point out were there pictures or explain them But
2 if he just wants -- if he's just going to mention that
3 you saw them, we'll stipulate that he saw them, or that
4 he's going to testify that he saw them, anyway I
5 mean, we'll go that far But, I mean, if it will help
6 speed things up -- otherwise, we'll -- you know, it's
7 up to you

8 MR GRIFFITH I'll accept their stipulation as
9 to that I was just trying to cover the things that
10 they said were not -- I hate to -- I had planned to go
11 through this, and then show the photographs, because --

12 THE COURT Right

13 MR GRIFFITH -- I was planning on putting him
14 up tomorrow We were going to organize the
15 photographs So I went through the photographs Now
16 I'm going back and make sure I covered everything

17 THE COURT I understand So I guess what you
18 need to do is anything on here that was not shown -- is
19 that what your concern is --

20 MR GRIFFITH That's basically what I --

21 THE COURT -- is by a photograph or in the
22 Coleman report, correct?

23 MR GRIFFITH Correct

24 THE COURT That's what you're looking for?

25 MR GRIFFITH Right

1 THE COURT Okay

2 MR GRIFFITH And let me just take -- let me
3 take a brief second

4 THE COURT Okay

5 MR GRIFFITH I'll accept that stipulation, and
6 I'll -- and one question in follow-up, as I get a
7 second to look through this

8 THE COURT Okay

9 Q [Mr Griffith] Steve, were all these things, in
10 your opinion, bad -- or construction that did not meet
11 industry standards or violated the IRC-2000?

12 A Yes

13 Q Did all of these items have to be fixed?

14 A Yes Now, that list is only what I saw before
15 we started work There are more items beyond that

16 Q That came up --

17 A As we worked

18 Q -- as you got into it?

19 A Yes Those were items, before I did anything on
20 the job site, just walking through

21 Q Do you recall what other items that you saw that
22 were not on this list?

23 A [No response]

24 Q Let me ask you something The plans that you
25 did, did you mark those up as you went along to --

1 A No I did not touch these plans again after
2 that walkthrough

3 Q And so that plan is marked up as a result of the
4 walkthrough?

5 A Yes

6 Q Okay And what other defects did you find,
7 during the construction out there, that you didn't find
8 and put on this list?

9 A Some of them refer back to -- some of them, they
10 were the same thing as what's on the list, but just
11 different locations I did not realize that the windows
12 downstairs were only put in with two-by-twos There was
13 different locations I did not realize what a lot of the
14 -- a lot of the siding I was not aware of the fact was not
15 nailed properly, until you took the siding off

16 Q And I heard some discussions -- I'm sorry I
17 heard some discussion earlier today about the siding Did
18 y'all actually take the siding off and look at the nailing
19 pattern?

20 A Yes, we did

21 Q Did the nailing patterns meet with the plans
22 that are marked as Plaintiff's Exhibit Number 2?

23 A It did not meet -- I don't know if it met with
24 them or not I never looked at the plans for the siding,
25 no

1 Q I'm not talking about the siding I'm talking
2 about the nailing pattern on the sheathing

3 A Okay The sheathing did not The siding did
4 not meet the manufacturer's requirements

5 Q All right And what was wrong with the siding
6 nailing?

7 A It was improper nails and improper spacing

8 Q What was improper about the nails that were used
9 on the siding?

10 A They used roofing nails, and the roofing nails
11 did not penetrate the framing And roofing nails are not
12 proper nails to begin with

13 Q All right And as a result, if the roofing nail
14 doesn't penetrate into the stud wall, has it got a
15 tendency to come off?

16 A It does not meet the required of wind load

17 Q All right Did you -- through this project, did
18 you meet with Eddie and Dennis and Randy at certain times
19 to go over where y'all were in the project?

20 A Yes

21 THE COURT Who is Eddie again?

22 MR GRIFFITH Eddie is -- Eddie Powell owns

23 Anchor

24 THE COURT Thank you

25 Q [Mr Griffith] And in that regard, did y'all

1 talk about when you felt that you had gotten to the point
2 where you had completed the repairs and were now going
3 back into completion of the project?

4 A Yes

5 Q Where was that in regards to the work that y'all
6 did? Did you have it laid out as a certain pay
7 application?

8 A We came up with a pay application that was the
9 breaking point

10 Q And when was that break point? Pay application
11 18?

12 A I believe it was

13 Q All right And I've got these summarized So
14 that would have been around November 16th, 2006?

15 A Okay

16 Q I hate to --

17 A That would be more accurate than my memory

18 Q I thought so

19 Okay Did y'all look for ways to make cost
20 savings?

21 A Yes

22 Q All right There was some discussion about
23 tearing down the garages Do you recall that discussion?

24 A Yes

25 Q All right Tell the judge a little bit about

1 what that discussion entailed

2 A We priced repairing what was there, or tearing
3 them down and building new

4 Q All right And when you did that --

5 A It wasn't worth keeping what was there

6 Q And was that just with regards to the garage
7 locations?

8 A That's the only location that we talked about
9 tearing down complete at that time

10 Q All right Did you prepare, for Mr Green and
11 H2L, an evaluation of that?

12 A Yes, I did

13 Q All right And I'm going to show you a copy of
14 a document Do you recall that document?

15 A Yes, I do

16 Q Is that a document that came from Anchor
17 Construction?

18 A Yes

19 MR ROSS That's the same one we looked at?

20 MR GRIFFITH Yes

21 MR ROSS Yeah

22 [Whereupon, Plaintiff's Exhibit Number 55,
23 evaluation, is marked by the court reporter]

24 Q [Mr Griffith] Plaintiff's Exhibit Number 55,
25 is that --

1 MR GRIFFITH And hold that up so the judge can
2 see it Everybody else I think knows what it is

3 Q [Mr Griffith] Is that the evaluation that you
4 did to price out whether it was feasible to save this
5 garage --

6 A Yes

7 Q -- versus --

8 A Yes

9 Q -- just tear it down and start over?

10 A Yes

11 Q Did you look for ways to try and save from
12 having to do some of the work that you did?

13 A Yeah I'm not out there to just spend money

14 Q However, did you want it to be done the right
15 way?

16 A It had to be done the right way

17 Q All right And is that what you told Mr Green
18 before you and Anchor Construction took on this job?

19 A I did

20 Q Were y'all going to take it on under any other
21 fashion?

22 A No

23 Q Do you believe that the work y'all put in
24 repairing this was reasonable and necessary?

25 A It should not have been necessary

1 Q In order to get it in the condition it was, was
2 it necessary to do that work?

3 A Yes

4 Q Excuse me To get into the condition where it
5 should be, was it necessary to do that work?

6 A Yes

7 Q And do you believe that your costs were
8 reasonable?

9 A Yes

10 Q All right And y'all did this job I believe on
11 a cost-plus basis, is that correct?

12 A Yes

13 Q Why would you do it on a cost -- why wouldn't
14 you do it on a flat-fee basis?

15 A What do you mean flat-fee?

16 Q Well, why didn't you just go in there and bid
17 the job and say that's what we'll do it for?

18 A Because you don't know what you're going to get
19 into

20 Q And did that bear out to be true that y'all --

21 A It did bear out

22 Q -- found more problems?

23 A Yes

24 MR GRIFFITH I think that's all the questions

25 I have, Mr Carpenter Thank you

1 THE COURT All right Gentlemen, it is 6 15
2 I think we need to go ahead and break for the evening

3 MR ROSS We're having so much fun

4 THE COURT Sounds good?

5 MR ROSS I said, we're having so much fun

6 THE COURT Well, I know Off the record

7 [Off the record momentarily]

8 THE COURT Gentlemen, I have another hearing
9 first thing in the morning, so we'll start back up at
10 9 30

11 Mitch, you've got Randy Still after Mr
12 Carpenter?

13 MR GRIFFITH Yes, ma'am

14 THE COURT And anyone else?

15 MR GRIFFITH I don't think I'll have any
16 other -- I may call Mr Catterson, but I'm not sure if
17 he'll be around tomorrow afternoon when I want to call
18 him And I could give him a subpoena, but I hate to
19 throw him out of kilter

20 THE COURT Well, if that's a concern, can we
21 talk about -- what time does Mr Catterson leave at?

22 MR ROSS Two o'clock-ish

23 THE COURT Two o'clock?

24 Mitch, then maybe you need to take him out of
25 order if you intend on calling him

1 MR GRIFFITH I may take him out of -- let me
2 just ask -- I know this is an unusual request But
3 just for scheduling purposes, how long do they plan to
4 be on cross with Mr Carpenter? And the only reason
5 I'm asking is I don't want to them -- don't want to say
6 anything other than I've got Mr Still coming in, and I
7 want to make sure I know when to have him show up at
8 the courthouse

9 THE COURT Exactly

10 MR ROSS If Mr Green is any indication --

11 MR BENDLE I would guesstimate maybe an hour

12 MR GRIFFITH Okay

13 THE COURT For you?

14 MR ROSS Probably maybe thirty minutes,
15 because he's covered most of it I mean --

16 THE COURT So an hour and a half total between
17 the two of y'all

18 MR GRIFFITH That's fine I mean, I was just
19 going to say if it was going to be a couple of hours
20 and go to the afternoon, I was going to ask to put him
21 up, and then let them cross, and then cross him later
22 just because he's from out of town So that's fine
23 We'll be very good with that

24 THE COURT Okay Well, we'll go ahead and
25 we'll meet back at 9 30 tomorrow morning

1 Sir, I will remind you that overnight you are
2 not to discuss your testimony with anyone, because you
3 are still on the stand Do you understand that, sir?

4 THE WITNESS Yes, ma'am

5 THE COURT All right

6 [Off the record momentarily]

7 THE COURT The only thing that I would like to
8 see Mitch, you've got all your photographs, that you
9 put in as exhibits, that are right there on the thing
10 If you would go ahead and give those to Mia

11 And you don't have any other exhibits? No one
12 has got any other exhibits?

13 I have -- Mia, here's 20 And I have Number 11,
14 the original Okay? So if I can just keep that, if
15 you don't mind

16 All right, y'all We'll see you tomorrow
17 morning at 9 30

18 MR GRIFFITH Thank you

19 THE COURT Okay Thank you

20 [NON-JURY TRIAL ADJOURNS AT 6 10 P M]

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

I, the undersigned Mia Perron, Circuit Court Reporter for the 14th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the non-jury trial held before the Honorable Carmen T Mullen, on Monday, October 13, 2008

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action

Dated this 15th day of March, 2009

Mia Perron
Mia Perron, CCR, CVR-CM
Circuit Court Reporter
14th Judicial Circuit