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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
COMMON PLEAS

Hon. G.D. Morgan, Master-in-Equity

Case No.: 2023-CP-23-01626

A.R. Foods, Inc. Appellant,

v.

Carolina South Shore Construction, Inc. Respondent.

INITIAL REPLY BRIEF OF APPELLANT

/s/Kathryn L. Harden

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May 22, 2025

Greenville, South Carolina

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I. ARGUMENT

Summary Judgement is granted when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRCF. Respondent’s strict definition set forth in its Reply fails to provide the Court with the nuances of South Carolina law surrounding Summary Judgement. Equally important, the South Carolina Supreme Court has held that Summary Judgement is not appropriate where further inquiry into the facts is necessary to clarify the application of the law.¹ See *Argoe v. Three Rivers Behavioral Health, LLC*, 392 S.C. 462, 710 S.E.2d 67 (2011), *Williams v. Jeffcoat*, 444 S.C. 224, 906 S.E.2d 588 (2023), *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 661 S.E.2d 791 (2008).² Additionally, the opposing party must present specific facts showing a genuine issue for trial and cannot rely on mere allegations or denials in the pleadings, as the court must ensure that the opposing party has had a full and fair opportunity to conduct discovery before granting summary judgment. See *George v. Empire Fire & Marine Ins. Co.*, 344 S.C. 582, 545 S.E.2d 500 (2001), *Hedgepath v. AT&T*, 348 S.C. 340, 559 S.E.2d 327 (2001), *Hotel & Motel Holdings, LLC v. BJC Enters., LLC*, 414 S.C. 635, 780 S.E.2d 263 (2014), *Baughman v. Am. Tel & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1990) and *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1998).

¹ On August 5, 2024, Appellant filed a Motion to Permit Additional Evidence to be Obtained Under Rule 56(f), as Plaintiff was in the process of scheduling Depositions of the Defendants and retaining an expert to provide an expert report.

² For example, in cases where the evidentiary record is incomplete or discovery is ongoing, summary judgment may be premature. See *Baughman v. AT&T*, 306 S.C. 101, 410 S.E.2d 537 (1990) and *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1998).

The Supreme Court clarified the Rule 56(c), SCRPC standard in *The Kitch Planners, LLC v. Samuel E. Friedman*, 440 S.C. 456, 460-461, 892 S.E.2d 297, 300 (2023), and stated, “In most cases applying Rule 56(c), this Court and our court of appeals have applied the ‘genuine issue of material fact’ standard set forth in the Rule, requiring the party opposing the motion show a ‘reasonable inference’ to be drawn from the evidence, and we have rejected the ‘mere scintilla’ standard.” The Supreme Court cited *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1989)(holding a party opposing summary judgment “must ...’do more than simply show that there is some metaphysical doubt as to the material facts’ but ‘must come forward with specific facts showing that there is a genuine issue for trial.’”) and *Shelton v. LS&K, Inc.*, 374 S.C. 294, 297, 648 S.E.2d 307, 308 (Ct. App. 2007)(“The existence of a mere scintilla of evidence in support of the nonmoving party’s position is not sufficient to overcome a motion for summary judgment.”), emphasizing the standard as being “genuine issue of material fact” as opposed to “mere scintilla.”

A. The Spearin Doctrine limits owner’s ability to hold contractors accountable for their work.

Respondent heavily relies on the Spearin Doctrine, in which "when a party supplies plans and specifications for use by a contractor to follow in constructing a project, said party impliedly warrants the sufficiency of the plans and specifications to construct the project." *United States v. Spearin*, 248 U.S. 132 (1918). However, the Spearin Doctrine limits the owner's ability to hold contractors accountable for their work, particularly in cases where the contractor's reliance on defective specifications is not clearly established. For example, in *Bei-Beach, LLC v. Christman*, the South Carolina Appeals Court emphasized that a contractor must prove compliance with the

owner's specifications, the existence of defects in those specifications, and causation of the problem by those defects to invoke the Spearin doctrine. *Bei-Beach, LLC v. Christman*, 440 S.C. 98, 108, 889 S.E.2d 606 (2023). This requirement can lead to disputes over whether the contractor's reliance on the specifications was reasonable or whether the contractor should have identified the defects before proceeding.

It is undisputed that there was a defect with the HVAC system. However, it is in dispute over who is responsible for the defect. Following the installation, the HVAC system began malfunctioning. It was discovered that the diffusers for the 2-ton HVAC system and the 4-ton HVAC system were swapped during installation. Essentially, installed backwards causing the duct system to be undersized for the 4-ton HVAC system. RGCE and ADS have taken the position that Respondent incorrectly installed the HVAC system. Respondent contends that it installed the systems in accordance with the plans. The Spearin Doctrine cannot and should not be applied in this case.

In the present case, the Respondent was furnished with the plans by RGCE and was responsible for the installation of the HVAC unit, including ensuring that the HVAC units were serving the correct areas of the Subject Property. For the reasons stated above, a genuine issue of material fact exists as to whether Respondent's reliance on the specification provided by RGCE was reasonable, which is for a jury to decide.

B. Appellant has provided evidence and has properly asserted a claim for negligence against Respondent.

To succeed in a claim for negligence, a plaintiff is required to demonstrate “(1) the defendant owes a duty of care to the plaintiff; (2) the defendant breached the duty by a negligent act or omission; (3) the defendant's breach was the actual and proximate cause of the plaintiff's

injury; and (4) the plaintiff suffered an injury or damages.” *Doe v. Marion*, 373 S.C. 390, 400, 645 S.E.2d 245, 250 (2007).

Appellants have provided the following evidence in support of its claims against Respondent. Mr. Hill, the 30(b)(6) representative of Appellant, testified that “the ductwork for a two-ton unit and a four-ton unit were essentially hooked up to the wrong units.” Hill Depo. 35:23-25. See Exhibit 1. This was further indicated in Mr. Hill testimony, when counsel for Respondent questioned him regarding Professional Heating and Cooling’s invoices.

Q: It said, found unit frozen, melted ice. No numbers on indoor A/C coil and outdoor unit to determine tonnage. After doing some research, found out furnace, which had a model and serial number, has a maximum of four-ton drive. Taking door off and getting numbers of A/C evaporated coil determined has a four-ton expansion valve. Outdoor unit has four-ton compressor. This is harder way to determine tonnage, when model and serial numbers are missing on equipment. After that, inspected duct system, determined return and supply duct undersized. This creates problems with lower suction pressures and leads to freeze up. Next step is to have ductwork increased in size to support four-ton system. Until this is done, will not be able to determine if any other issues from running on restricted air flow. Most likely will solve issue since fan cycling pressure control that was recently installed. Did I read that correctly.

A: You did.

Hill Depo. 30:13-31:7. See Exhibit 1

Additional evidence in support of Appellants claims, Mr. Hill testified that upon discovering the defect with the HVAC system, he contacted the Respondent to come out and fix it. Upon telling the Respondent what needed to be done to rectify the defect, Respondent stated that it was an interesting fix but never came out to complete the work. Hill Depo. 33:23-34:3. *See* Exhibit 1.

Further evidence of the defect can be found in Mr. Hill testimony, when counsel for Respondent questioned him regarding Professional Heating and Cooling's invoices.

Q: It said, found unit frozen, melted ice. No numbers on indoor A/C coil and outdoor unit to determine tonnage. After doing some research, found out furnace, which had a model and serial number, has a maximum of four-ton drive. Taking door off and 18 getting numbers of A/C evaporated coil determined has a four-ton expansion valve. Outdoor unit has four-ton compressor. This is harder way to determine tonnage, when model and serial numbers are missing on equipment. After that, inspected duct system, determined return and supply duct undersized. This creates problems with lower suction pressures and leads to freeze up. Next step is to have ductwork increased in size to support four-ton system. Until this is done, will not be able to determine if any other issues from running on restricted air flow. Most likely will solve issue since fan cycling pressure control that was recently installed. Did I read that correctly.

A: You did.

Hill Depo. 30:13-31:7. *See* Exhibit 1.

C. Respondent had a Duty to Perform its Work in a Careful, Diligent, and Workmanlike Manner and Breach its Duty.

A builder who contracts to construct a dwelling impliedly warrants that the work undertaken will be performed in a careful, diligent, workmanlike manner. *Smith v. Breedlove*, 377

S.C. 415, 422, 661 S.E.2d 67, 71 (Ct. App. 2008). The implied warranty of good and workmanlike service exists as a matter of law. *Lane v. Trenholm Bldg. Co.*, 267 S.C. 497, 229 S.E.2d 728 (1976). The work must be done in an ordinarily skillful manner as a skilled workman would do the work. This warranty requires the builder to use the skill that is customarily used in the industry. *Id.* at 497, *see also Kennedy v. Columbia Lumber and Mfg. Co.*, 299 S.C. 335, 384 S.E.2d 730 (1989); The test is whether the premises meet the ordinary, reasonable and normal standards in the industry. *Id.*

When a builder contracts to construct a dwelling, he gives an implied warranty that the work undertaken will be performed in a careful, diligent, workmanlike manner. *Hill v. Polar Pantries*, 219 S.C. 263, 64 S.E.2d 885 (1951); *Carolina Winds Owners' Ass'n v. Joe Harden Builder, Inc.*, 297 S. C. 74, 84, 374 S.E.2d 897, 903 (Ct. App. 1988), *overruled on other grounds by Kennedy v. Columbia Lumber and Mfg. Co.*, 299 S.C. 335, 384 S.E.2d 730 (1989); *Hutson v. Cummins Carolinas, Inc.*, 280 S.C. 552, 314 S.E.2d 19 (Ct. App. 1984)(where a person holds himself out as specially qualified to perform work of a particular character, there is an implied warranty the work which he undertakes to do shall be of proper workmanship and reasonably fitted for its intended purpose).

In *South Carolina Electric & Gas v. Combustion Engineering, Inc.*, SCE&G sought recovery in damages for a fire that occurred when a flexible metal hose ruptured and sprayed heated fuel oil across the surface of a steam generating boiler. *South Carolina Electric & Gas v. Combustion Engineering, Inc.*, 283 S.C. 182, 184, 322 S.E.2d 453, 454 (Ct. App. 1984). SCE&G appealed a grant for summary judgement in favor of Combustion Engineering, Inc and Daniel International Corporation. *Id.* When contemplating whether the court erred in granting Daniels

summary judgement, the court found that even disregarding the other evidentiary issues, the affidavit from M. Leroy Smith, a mechanical engineer and longtime employee of SCE&G was enough to overturn the previous decision. *Id.* at 192, 322 S.E.2d at 459. The affidavit stated that the fire was caused by the rupture of a flexible metal fuel hose and that as the general contractor, the Respondent Daniel erected the boiler assembling. *Id.* at 192-193, 322 S.E.2d at 459-460. It was determined that even though Daniel followed the plans that were furnished to it by Gilbert Associates, Daniels was still responsible for deciding upon the location, routing, and construction of “field run piping” and how it approached the burner assembly and ultimately connected to the flexible metal fuel hose. *Id.* The Court of Appeals found that summary judgement should not have been granted for Daniels on the cause of action alleging breach of warranty because the affidavit raised “genuine issues of material fact regarding the existence of latent defects in the manner in which the field run piping was positioned.” *Id.* at 195, 322 S.E.2d at 461.

Respondent attempts to avoid responsibility by claiming that the Doctrine of Res Ipsa Loquitur is not recognized in South Carolina. The rejection of Res Ipsa Loquitur in South Carolina does not preclude the use of circumstantial evidence to establish negligence. South Carolina Courts have clarified that negligence may be inferred from circumstantial evidence if the facts and circumstances justify such an inference. For example, in *Chaney v. Burgess*, the court explained that while Res Ipsa Loquitur does not apply, circumstantial evidence can be sufficient to establish liability if it reasonably supports the inference of negligence without resorting to conjecture or speculation. *Chaney v. Burgess*, 246 S.C. 261, 266, 143 S.E.2d 521, 523 (1965). This distinction is also highlighted in *Eickhoff v. Beard-Laney, Inc.*, where the court emphasized the importance of differentiating between Res Ipsa Loquitur and the principle that negligence can be established

through circumstantial evidence. *Eickhoff v. Beard-Laney, Inc.*, 199 S.C. 500, 504, 20 S.E.2d 153, 155 (1942).

Further evidence of the Respondents' negligence is shown through correspondence between the parties prior to this litigation. In an email to Turner Hill on September 10, 2019, Keith Mikulka, a representative of RGCE, the engineer of record, wrote "the design shows a 2-ton system serving the Prep Area and a 4-ton system serving the Serving Line. **The preliminary conclusion was that these systems were swapped (i.e., 2-ton unit serves the Serving Line and the 4-ton unit serves the Pre Area). I visited the site last month and confirmed this to be the case.**" See Exhibit 2.

Similar to South Carolina Electric, while Respondent was furnished the plans by RGCE, they were responsible for the installation of the HVAC unit, including ensuring that the HVAC units were serving the correct areas of the Subject Property. For the reasons stated above, genuine issues of material fact exist regarding whether respondent installed the HVAC unit correctly and the Appellant has presented facts which prove or tend to prove the relief sought in the Complaint. Summary Judgement in favor of Respondent should be reversed.

CONCLUSION

Appellant respectfully requests that this Court reverse the lower Court's order.

[Signature Page to Follow]

Respectfully submitted,

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IN THE COURT OF
COMMON PLEAS

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Case No.
2023-CP-23-01626

VS.

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Given By Turner Hill

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(It is hereby stipulated and agreed by and among counsel for the respective parties that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure; and that the deponent waives reading and signing of this deposition transcript.)

- - -

TURNER HILL, after having been first duly sworn, was examined and testified as follows:

- - -

EXAMINATION

- - -

BY MR. HARJEHAUSEN:

Q Mr. Hill, my name is John Harjehausen. I represent Carolina South Shore Construction, Inc. We're here to take the deposition of A.R. Foods, the company itself, A.R. Foods, Inc. Do you understand that?

A Yes.

Q Have you ever had your deposition taken before?

A No.

Q Okay. Just some brief rules of the road.

1 You understand that your testimony is under
2 oath just like it would be in court; is that correct?

3 A Yes.

4 Q You understand that it's subject to the
5 penalty of perjury just like it would be in court,
6 correct?

7 A Yes.

8 Q Are you under the influence of any alcohol,
9 medications or other substances which would prohibit
10 you from testifying truthfully?

11 A No.

12 Q If you don't understand my question, please
13 ask me to rephrase it, and, if you answer, I'm going
14 to assume you understood it. Is that fair?

15 A Yes, sir.

16 Q I don't think we're going to be here that
17 long but it may take an hour or two --

18 A Okay.

19 Q -- but if you want to take a break for any
20 reason, you don't have to tell me, just ask to take a
21 break. I'll tell you that I drink a lot of coffee
22 and I may take a break before you.

23 A I'm in the same boat.

24 Q And once the deposition is underway, if we
25 take a break, you're not allowed to talk to your

1 attorney about the substance of your testimony. If
2 you do, I can come back and ask you questions about
3 that even though that would normally be protected by
4 attorney/client privilege. But you can talk to your
5 attorney about anything else during the breaks. Do
6 you have that understanding?

7 A Yes.

8 Q Okay. I'm going to be asking you some
9 background information.

10 A Okay.

11 Q Not too much. I'm not trying to pry, I'm
12 trying to get a sense for who you are.

13 I understand that you operate a Jersey
14 Mike's Subway Shop and we're here about an HVAC
15 issue, but did you -- are you from South Carolina?

16 A Yes.

17 Q Did you grow up here?

18 A I did.

19 Q Where at?

20 A Clemson.

21 Q Okay. I live in Powdersville. One son
22 went to Clemson, one went to USC.

23 Did you go to Clemson University?

24 A I did not.

25 Q And you're a current owner of A.R. Foods,

1 Inc.; is that right?

2 A No. So...

3 Q Okay. Who are the -- there are multiple
4 shareholders of A.R. Foods, Inc.?

5 A Yes.

6 Q Are you one of the shareholders?

7 A I am not.

8 Q Okay. What is your role with A.R. Foods,
9 Inc?

10 A So Dave Bockstahler is the owner and I
11 oversee all of Dave's locations.

12 Q Okay. What is your job title?

13 A I don't have a clear job title but I
14 essentially do everything for Dave, so I help with
15 finding the locations.

16 Q Okay.

17 A You know, during construction, I -- if the
18 contractors need anything, I'm kind of the go-to guy,
19 and then, once the location is open, I, you know,
20 oversee the operations of it, so I'm basically there
21 from the beginning until it happens.

22 Now, there's some stores that I'm Dave's
23 partner on so I'm a partner on eight of his 15
24 stores. A.R. Foods is not one of those, though.

25 Q All right. How long have you been

1 affiliated with or worked for A.R. Foods?

2 A Since it opened in -- you know, since we
3 started construction in 2018.

4 Q Okay. And I understand that you may have
5 worked for other shops that may have different
6 corporate designations. Is that possible?

7 A Every one of our locations, all 15, are
8 their own corporate entity, so I work for all 15 of
9 them.

10 Q And what I'm trying to find out is sort of
11 how long have you worked in -- been affiliated with
12 sort of the Jersey Mike's --

13 A Since 2005.

14 Q All right. What did you do before 2005?

15 A I went to high school.

16 Q Okay. All right.

17 But you didn't get a college degree; is
18 that right?

19 A Correct. I graduated high school in 2005
20 and started working at Jersey Mike's in 2005 when I
21 went to Tri-County Tech.

22 Q Do you hold any construction licenses?

23 A No.

24 Q Do you have any construction training
25 either by way of certification or on-the-job

1 training?

2 A No.

3 Q And just to be clear for the record, you
4 don't have any experience or background in the HVAC
5 or mechanical engineering industries?

6 A No.

7 Q And I apologize for asking you this
8 question but I ask every witness this question. Have
9 you ever been convicted of a crime other than a minor
10 traffic offense?

11 A Nope.

12 Q Let's kind of jump to --

13 MR. HARJEHAUSEN: Let's go ahead and mark
14 this.

15 (Notice of Deposition marked
16 Defendant's Exhibit Number 1 for
17 identification.)

18 BY MR. HARJEHAUSEN:

19 Q All right. Mr. Hill, I'm going to hand you
20 what's been marked as Exhibit 1 to your deposition
21 which is Defendant Carolina South Shore Construction,
22 Inc.'s Notice of SCRCP 30(b)(6) deposition of
23 A.R. Foods, Inc., SCRCP just being South Carolina
24 Rules of Civil Procedure.

25 This is the notice to take, essentially,

1 the testimony of the company of A.R. Foods, Inc.

2 Do you have an understanding that you have
3 been appointed to testify on behalf of A.R. Foods,
4 Inc.?

5 A Yes.

6 Q Have you seen Exhibit 1 before?

7 A I believe I have, in an e-mail.

8 Q Okay. And I don't want to know what you've
9 discussed with your attorney, I just want to know
10 that you understand that you have been designated to
11 testify on behalf of the topic list in this notice --

12 A Yes.

13 Q -- on behalf of A.R. Foods, Inc., correct?

14 A Correct.

15 Q Okay. And I don't know that we're going to
16 touch on all of them but if, for some reason, we
17 touch on a topic that you think somebody else is more
18 knowledgeable about -- I don't think that's going to
19 happen -- just let me know that, okay?

20 A Yep.

21 Q All right. Let's talk about 2018 and --
22 Does A.R. Foods, Inc. own more than one
23 Jersey Mike's store?

24 A No.

25 Q And where is the -- what's the address of

1 the store that it owns?

2 A 1818 Augusta Road. Sorry. Augusta Street,
3 Suite 106.

4 Q Okay. And has it been operating since 2018
5 or thereabouts?

6 A Yes.

7 Q All right. Were you involved in locating
8 that property prior to Jersey Mike's occupying it?

9 A No.

10 Q Were you involved or -- on behalf of A.R.
11 Foods -- when I say you, you've been designated on
12 behalf of A.R. Foods, but were you involved in sort
13 of the upfit of the premises for the Jersey Mike's
14 store?

15 A I mean, we hired Chris to do -- South Shore
16 to do the upfit so, I mean, we hired a company to do
17 the site visit, create the drawings, which would be
18 the architect and the engineer, and then they give it
19 to Chris and then Chris does the upfit. Now,
20 involvement, I mean, we hire the people to do it but
21 we don't actually do anything related to the upfit
22 other than --

23 Q Hiring other people?

24 A -- hiring -- I mean, yeah. We're
25 restaurant operators; so...

1 Q Okay. Let me ask you, who -- let's go
2 through -- let's start with Ray Group Consulting
3 Engineers, Inc. Did A.R. Foods, Inc. enter into a
4 written contract with Ray Group Consulting Engineers,
5 Inc.?

6 A I'm not sure.

7 Q What was Ray Group Consulting Engineers,
8 Inc. asked to do with respect to the 1818 Augusta
9 Street location?

10 A You would have to ask Abri -- is that the
11 company, Abri Design -- because they hire Ray Group.
12 We don't choose the engineer, we choose the architect
13 and then they choose the engineer.

14 Q Okay. And that's what I'm trying to find
15 out. What is your understanding of Abri Design
16 Studio, Inc.?

17 A They are the architect.

18 Q And did Abri Design Studio, Inc. prepare
19 plans for this location?

20 A Yes.

21 Q And when I say this location, I'm just
22 talking about 1818 Augusta Street.

23 A Correct.

24 Q And do you know what involvement Ray Group
25 Consulting Engineers had with Abri Design Studio,

1 Inc.?

2 A I don't know what involvement they had
3 other than they're the engineers, so the architect
4 hires the engineers.

5 Q Okay. Let me ask you this.

6 A.R. Foods knows that it wants to start a
7 Jersey Mike's Subway Shop, correct?

8 A Uh-huh.

9 Q And, for the court reporter, is that a yes?

10 A Oh. Yes.

11 Q She can't pick up a head nod.

12 A Sorry. My bad. Yeah.

13 Q But does the Jersey Mike's brands have a
14 set of plans that they typically use for their shop?

15 A No.

16 Q So every location is a bit different?

17 A Correct.

18 Q As far as you know, the locations you've
19 worked at or been involved in the upfit, have been
20 associated with the upfit, there have been unique
21 plans for each location?

22 A Every single one is different.

23 Q Okay. Do you know if Abri Design Studio,
24 Inc. has done more than the location at 1818 Augusta?

25 A Yes.

1 Q Does either Abri Design Studio or Ray Group
2 Consulting Engineers, Inc. come out and perform a
3 site visit?

4 A Yes.

5 Q Did you meet with anybody from either of
6 those companies related to 1818 Augusta Street? Or
7 did somebody from A.R. Foods meet with them to do a
8 site visit?

9 A I'm trying to remember. This was a long
10 time ago. I know that Abri did a site visit but I do
11 not remember if I was there when they did their site
12 visit or if they just had a lockbox and just accessed
13 the site on their own.

14 Q Okay. How do you know they did a site
15 visit if you don't have a recollection of being
16 there?

17 Were arrangements made for them to come to
18 the property?

19 A Yes.

20 Q And what I'm trying to get at is for that
21 1818, what information was supplied by A.R. Foods,
22 Inc., if any, related to the existing HVAC system to
23 Abri or Ray Group Consulting Engineers?

24 A I'm not sure.

25 Q Okay. I mean, my understanding is that

1 there were four outdoor units at 1818 Augusta Street.

2 A That's incorrect.

3 Q How many units are there?

4 A There are four now but existing there were
5 only three.

6 Q Okay. So before the upfit, there were only
7 three outdoor units?

8 A Yes.

9 Q And what I mean by outdoor units, I'm
10 talking about like outdoor either defusers or
11 condensers or --

12 A Correct. There were three and then we
13 added a new one to create four.

14 Q Okay. Did -- and correct me if I'm wrong,
15 but did A.R. Foods, Inc. provide any information
16 regarding the existing three units to Abri Design
17 Studio or Ray Group Consulting?

18 A I don't remember, but typically the purpose
19 of a site visit is for them to gather that
20 information. When say I them, you know, Abri.

21 Q Okay.

22 A That's who I'm referring to.

23 Q Do you have any recollection of -- I know
24 that you've told me Abri hires Ray Consulting
25 Engineers; is that correct?

1 A That's correct.

2 Q Did Ray Group Consulting Engineers come out
3 and perform any site visits as far as you know at any
4 time?

5 A I believe that they did a site visit after
6 we were already open and having HVAC issues, but I do
7 not remember them specifically doing a site visit
8 before we opened.

9 MR. HARJEHAUSEN: This is Exhibit 2.

10 (Tenant Improvement Package marked
11 Defendant's Exhibit Number 2 for
12 identification.)

13 BY MR. HARJEHAUSEN:

14 Q I've handed you what's been marked as
15 Exhibit 2 and I would ask you to sort of leaf through
16 that.

17 Have you ever seen that before?

18 A Yes.

19 Q Okay. When have you seen this before?

20 A During the construction in 2018 and then
21 again when we realized we were having HVAC issues and
22 I met with Chris Poindexter on-site to confirm the
23 HVAC was incorrect.

24 Q And let me ask you, what was -- what is
25 your understanding of Carolina South Shore

1 Construction, Inc.'s involvement in the upfit of 1818
2 Augusta Street?

3 A They are the general contractor.

4 Q Okay. So they did more than just HVAC?

5 A Yes. Chris was the general contractor so
6 he handled all of the upfit.

7 Q And what I'm asking about is seats or
8 flooring or anything else, they did that work --

9 A Chris built the entire restaurant, from the
10 demolition to us getting the Certificate of
11 Occupancy. That includes installing the furniture,
12 the TV's on the wall, everything.

13 Q Had you worked with Chris Poindexter
14 before?

15 A I don't think so.

16 Q Did A.R. Foods, Inc. have a written
17 contract with Carolina South Shore Construction,
18 Inc.?

19 A I'm not sure.

20 Q Have you ever seen one?

21 A I'm not sure.

22 Q And the reason I'm asking is I haven't seen
23 one.

24 A Yeah. I don't believe that there was one
25 but I'm not sure. I don't recall seeing one.

1 Q What was the approximate cost of the upfit?

2 A I'm not sure.

3 Q Okay. Do you know if any other Jersey
4 Mike's stores had utilized the services of Carolina
5 South Shore Construction, Inc. for upfitting?

6 A So I know that Chris has built Jersey
7 Mike's before, but I believe that Chris changed his
8 company name at some point so I don't know the answer
9 to that exact question about Carolina South Shore
10 Construction, but I know that Chris Poindexter was an
11 approved Jersey Mike's contractor and had built other
12 locations.

13 Q Okay. And I apologize if I've asked you
14 this but -- I probably did. Did A.R. Foods, Inc.
15 have a written contract with Abri Design Studio,
16 Inc.?

17 A I'm not sure.

18 Q And the same question for Ray Group
19 Consulting Engineers, Inc. Do you know?

20 A I'm not sure.

21 Q And what I'm trying to get at is, can you
22 tell me how, for instance, Abri Design Studio's plans
23 would get to Carolina South Shore Construction? Do
24 they get them from A.R. Foods? Does Carolina South
25 Shore Construction, Inc. --

1 A I don't know how they got them.

2 Q Okay.

3 A Typically an architect would send them to
4 the City for approval and then, once approval is
5 done, then they would share them with the general
6 contractor. But I don't know how Chris got them from
7 them.

8 Q Okay. Do you know if what we have marked
9 as Exhibit 2 are the plans for the Jersey Mike's Sub
10 Shop that were utilized for the upfit at 1818 Augusta
11 Street?

12 A I don't know. I would assume that they are
13 but this is a lot of information so I'm not really
14 sure.

15 I don't know how you got them so -- I'm
16 assuming these are the right ones.

17 Q Well, they have an A.R. Foods, Inc. Bates
18 label. If you look at the bottom in the middle where
19 it says A.R. FOODS, INC. 000001, that Bates label is
20 not an original -- the numbering is not original to
21 the document. Attorneys use those for their
22 particular clients, put their own Bates numbers on
23 them, but I'll just represent to you that I got these
24 from A.R. Foods' attorneys.

25 A Then I would assume they are the correct

1 ones.

2 Q Who paid -- did A.R. Foods pay Carolina
3 South Shore Construction, Inc. directly for its work?

4 A I'm not sure.

5 Q Who would know that?

6 A Chris would know who he received the check
7 from.

8 Q Okay. Would the owner of A.R. Foods know,
9 for instance -- I mean, these plans as Exhibit 2 say,
10 I believe, the project on the right, A.R. Foods,
11 Inc., and then it has an address of 610 Pettigru
12 Street, Greenville, South Carolina 29601, and then it
13 has Dave Bockstahler, a phone number and an e-mail
14 address, boxcpa@me.com. Do you see that?

15 A Yes.

16 Q Did -- was Mr. Bockstahler involved in
17 coordinating either the transmittal of the plans to
18 the general contractor or was he involved at all in
19 the upfit process?

20 A I don't remember.

21 Q Okay. Would he have been the one at
22 A.R. Foods responsible for paying or contracting for
23 services rendered?

24 A Yes.

25 Q Have you talked with him about whether or

1 not A.R. Foods has a written contract with Carolina
2 South Shore Construction or Abri Design Studios?

3 A Yes.

4 Q And what has he said?

5 A I don't remember our exact conversation but
6 I asked him if he had any contracts, to e-mail them
7 over to us, but I don't recall if he even had any.

8 Q All right. At some point a Certificate of
9 Occupancy was issued for the Jersey Mike's Sub Store
10 at 1818 Augusta Street.

11 A Correct.

12 Q Tell me about who first encountered or
13 perceived that there was an HVAC issue. Were you
14 working there?

15 A So we were having issues with the front
16 line not cooling properly, it could not get cool, and
17 the back of the store the air-conditioner kept
18 freezing up so it was also not cooling. And the
19 landlord sent their HVAC company out a couple of
20 times and they are the ones that said in the back of
21 the store the unit keeps freezing up, we need to look
22 at the ductwork, there could, possibly, be something
23 wrong with it, because there's nothing wrong with the
24 unit, it doesn't make sense that it is continuing to
25 freeze up.

1 Q Does A.R. Foods, Inc. have a lease with the
2 landlord?

3 A Yes.

4 Q And under that lease who is responsible for
5 maintaining the outdoor units?

6 A The tenant is responsible for maintaining
7 the unit.

8 Q Okay. Why then did the landlord send its
9 contractor out there?

10 A So Kathy was the landlord, and any time we
11 have work done on the units, we like to reach out to
12 her about it because those were existing units. And
13 we didn't know if it was going to need to be replaced
14 or not and so, if it was, she would be the one
15 responsible for replacing it. So we tried to use the
16 landlord's HVAC companies.

17 Q Okay. But, in this case, the tenant is
18 responsible for sort of servicing, if necessary, but
19 not replacement of the equipment?

20 A Yes.

21 Q And what I'm trying to get at is who paid
22 for this company to come out and say, hey, we've got
23 a problem here, maybe we should look at the ducts?

24 A I don't remember.

25 Q Did A.R. Foods pay for that?

1 A I don't remember.

2 Q Did the landlord pay for that?

3 A I don't remember.

4 Q You don't know?

5 A I don't remember who paid for it.

6 Q Okay. Would Mr. Bockstahler have more
7 information in that regard?

8 A No.

9 Q Were you working at the store at that time?

10 A Yes.

11 Q So you were the ones interfacing with the
12 landlord and/or the company that came out?

13 A Yes.

14 Q Okay. Let's got through some of the
15 invoices.

16 (Set of invoices marked Defendant's
17 Exhibit Number 3 for identification.)

18 BY MR. HARJEHAUSEN:

19 Q Okay. I've handed you a set of invoices
20 that have a Bates label number A.R. FOODS, INC. 26
21 through A.R. FOODS, INC. 30. And I'll just ask you,
22 have you ever seen those before?

23 A Yes.

24 Q Okay. Well, let's start with the first
25 one, the first page.

1 Looking at A.R. FOODS 26 it says, Bill To
2 Hotzfam Trusts. It could be Hotzfarn Trust.

3 Do you see that?

4 A Yes.

5 Q Do you know whether it's Hotzfam or
6 Hotzfarn?

7 A Hotzfam.

8 Q Thanks.

9 And Hotzfam Trust, what is that?

10 A The group that owned the building at the
11 time.

12 Q So that's not A.R. Foods, correct?

13 A Correct. Hotzfam would be the landlord.

14 Q And this bill for \$272.50, that then was
15 paid by the landlord, Hotzfam Trust?

16 A I don't know who paid the bill.

17 Q Well, let's talk about what this invoice --
18 This invoice is dated May 8, 2019. Do you
19 see that?

20 A Yes.

21 Q And the description is, found kitchen unit
22 emergency drain pan full of water and some ice on
23 coil. Vacuumed water out of drain pan, vacuumed
24 drain lines and blew through drain lines to make sure
25 draining property. Found system a little low on

1 freon, added one and a half pounds R-22. Found
2 t-stat set to 68 degrees, recommended to tenant to
3 not set below 72 degrees, can cause to freeze up.
4 Cooling fine at present time. Any more issues,
5 suggest installing fan cycle controller.

6 Do you see all of those -- that
7 description?

8 A Yes.

9 Q Did I read that correctly?

10 A Yes.

11 Q Were you involved in calling out
12 Professional Heating & Cooling on this occasion?

13 A I don't remember.

14 Q Do you know if this invoice applies to the
15 Jersey Mike's Sub Shop at 1818 Augusta Street?

16 A It does.

17 Q How do you know that?

18 A Because Professional Heating & Cooling
19 would be the company that we would call at that
20 specific Jersey Mike's because that's the company
21 that the landlord uses.

22 Q Okay. And there's a stamp on here that
23 says, Paid by -- and then it looks like 9132, and a
24 note below it, AV Ste 106/108.

25 Do you know what that is?

1 A I mean, I'm assuming a stamp that
2 Professional Heating & Cooling put on it when it was
3 paid.

4 Q Okay.

5 I'm sorry. I don't want you to assume. If
6 you know something, that's fine, but -- I guess it's
7 a poor question.

8 A I mean, I don't know.

9 Q Do you know who issued any check or payment
10 or credit card for this balance due of \$272.50?

11 A I do not.

12 Q So you don't know if it was paid by
13 A.R. Foods or Hotzfam Trusts.

14 A I do not.

15 Q And you don't know how it was paid, credit
16 card or check.

17 A I do not.

18 Q Was this the first time that the system
19 froze up after a Certificate of Occupancy was issued?

20 A I don't know.

21 Q Do you know anybody else at A.R. Foods who
22 would know?

23 A No.

24 Q All right.

25 Let's look at the next one. It's

1 A.R. FOODS, INC. 27. And this one has a date of
2 5-31-2019. Do you see what?

3 A Yes.

4 Q How long had Jersey Mike's been open as of
5 May of 2019?

6 A Less than a year.

7 Q Okay. When did it open?

8 A June or July of 2018.

9 Q And what I'm trying to find out -- and
10 again, I will represent to you that these invoices
11 were produced by the plaintiff, A.R. Foods, Inc.

12 Do you know if there were invoices from
13 HVAC servicing or repairs prior to May of 2019?

14 A I do not, no.

15 Q Do you know of anybody else at A.R. Foods
16 who would know?

17 A No.

18 Q Okay. Let's go back to A.R. FOODS 27,
19 which is part of Exhibit 3.

20 And that has a date of May 31, 2019. Do
21 you see that?

22 A Yes.

23 Q So this is a little less than a year after
24 when the store opened; is that right?

25 A Correct.

1 Q And the description is, 5-31 found kitchen
2 unit frozen, melted ice. Chemically cleaned
3 condenser coil outside, installed fan pressure
4 control on outdoor unit. Made adjustments. Added
5 one-half pound R-22. This will keep kitchen unit
6 from freezing up. Anymore problems, further steps
7 will need to be taken.

8 Did I read that correctly?

9 A Yes.

10 Q And it looks like there was a charge of
11 \$534.66. Do you see that?

12 A Yes.

13 Q And the bill was sent to Hotzfam Trusts.
14 Do you see that?

15 A I do.

16 Q And again, Hotzfam Trusts, is that the
17 landlord?

18 A That is the landlord.

19 Q And I see that there is a Paid stamp on
20 here but do you know who actually paid this bill?

21 A I do not.

22 Q Do you know if A.R. Foods, Inc. paid the
23 bill?

24 A I don't know who paid the bill.

25 Q At least as of these two visits, did

1 Professional Heating & Cooling raise any concerns
2 about ductwork?

3 A I'm not sure when they brought their
4 concerns up.

5 Q Okay. All right.

6 Let's take a look at A.R. FOODS, INC. 28.
7 It has a date of June 17, 2019.

8 Then it looks like Professional Heating &
9 Cooling came out for a third time; is that right?

10 A This is the third invoice you're showing
11 me.

12 Q Okay.

13 A It appears to not be the third one, though,
14 in this group based on the date of 6-17. The next
15 one is dated 6-5; so...

16 Q But that's in 2020.

17 A Oh.

18 So yeah, it appears that this would be the
19 third one that you're showing me.

20 Q So, I guess, who called Professional
21 Heating & Cooling out on these occasions?

22 A I don't know.

23 Q Would it have been somebody from Hotzfam
24 Trusts since that's where the bill was sent to?

25 A It would have either been Hotzfam Trusts or

1 me.

2 Q Okay. But you don't have a recollection of
3 calling Professional Heating & Cooling?

4 A I do not.

5 Q And looking at these first three,
6 A.R. FOODS 26, 27 and 28, you don't recall calling
7 Professional Heating & Cooling?

8 A I don't know who called them.

9 Q Okay. Looking at A.R. FOODS 28, which is
10 dated June 17, 2019, it looks like a unit had froze
11 again, correct?

12 A Correct.

13 Q It said, found unit frozen, melted ice. No
14 numbers on indoor A/C coil and outdoor unit to
15 determine tonnage. After doing some research, found
16 out furnace, which had a model and serial number, has
17 a maximum of four-ton drive. Taking door off and
18 getting numbers of A/C evaporated coil determined has
19 a four-ton expansion valve. Outdoor unit has
20 four-ton compressor. This is harder way to determine
21 tonnage, when model and serial numbers are missing on
22 equipment. After that, inspected duct system,
23 determined return and supply duct undersized. This
24 creates problems with lower suction pressures and
25 leads to freeze up. Next step is to have ductwork

1 increased in size to support four-ton system. Until
2 this is done, will not be able to determine if any
3 other issues from running on restricted air flow.
4 Most likely will solve issue since fan cycling
5 pressure control that was recently installed.

6 Did I read that correctly.

7 A You did.

8 Q And it looks like there was a balance due
9 of \$137.50, correct?

10 A Correct.

11 Q Do you know if A.R. Foods, Inc. paid this
12 bill?

13 A I don't know.

14 Q Do you know if Hotzfam Trusts paid the
15 bill?

16 A I don't know.

17 Q Do you know the method of payment, credit
18 card, check or some other method?

19 A I don't know.

20 Q Let me ask you, do you recall or were you
21 there when Professional Heating & Cooling came out?

22 A I don't remember.

23 Q At any time while these units were freezing
24 up, were you involved at all in trying to determine,
25 say, the serial numbers on the units?

1 A No.

2 Q Was there somebody else at A.R. Foods
3 responsible for that?

4 A I don't remember.

5 Q And do you know who called Professional
6 Heating & Cooling on this occasion?

7 A I don't.

8 Q Do you know if the serial numbers were
9 missing on the equipment?

10 A I do not know.

11 Q Okay. Do you know if when Abri Design
12 Studios came out to do their site inspection they
13 examined these units to determine their tonnage?

14 A I don't know.

15 Q Have you ever had any conversations with
16 anybody at Abri Design Studios about whether they had
17 examined these units to determine their tonnage?

18 A I can't remember.

19 Q This invoice indicates that the duct system
20 was inspected, correct? It says after that --

21 A Yes.

22 Q -- inspect duct system?

23 And then there's language, determined
24 return and supply duct undersized.

25 And is this when it was discovered that the

1 ductwork was not hooked up to the proper unit?

2 A I believe so. But this was four years ago
3 so I'm not exactly sure.

4 Q Okay. Do you know who was hired to, I
5 guess, fix the ductwork in the units?

6 A Who was hired to fix it when Chris wouldn't
7 fix it?

8 Q Yes.

9 A Yes.

10 Q Who?

11 A Freddie Fielding.

12 Q Okay.

13 A CF Mechanical is their name, or the name of
14 the company.

15 Q And what I'm trying to find out is -- still
16 looking at A.R. FOODS 28 which is part of Exhibit
17 3 -- Professional Heating & Cooling is saying, look,
18 you have a duct problem, right? At least in part?

19 A Correct.

20 Q And was Professional Heating & Cooling --
21 why wasn't Professional Heating & Cooling retained to
22 work on that since they --

23 A We asked Chris to fix it since he was the
24 contractor that installed it.

25 Q Okay. And what was Chris' response?

1 A Once the engineering company came out and
2 sent over the list of how to fix it, Chris' response
3 was it sounds like an interesting fix.

4 Q But he declined?

5 A I don't know what he said other than it
6 sounds like an interesting fix.

7 MR. HARJEHAUSEN: Let's go ahead and mark
8 this.

9 (HVAC engineering diagram marked
10 Defendant's Exhibit Number 4 for
11 identification.)

12 MS. HARDEN: Can we take a five-minute
13 break?

14 MR. HARJEHAUSEN: Sure.

15 - - -

16 (Recess in the proceedings.)

17 - - -

18 BY MR. HARJEHAUSEN:

19 Q All right, Mr. Hill, I've handed you what's
20 been marked as Exhibit 4 which is three pages, and --

21 A I have a question.

22 Q Yes.

23 A Does it matter that it doesn't have the
24 A.R. Foods stuff at the bottom? Mine doesn't like
25 all the other ones did.

1 Q No. This one may have come from my client
2 or anybody else.

3 A Oh, okay. Cool. Just making sure we're --

4 Q Yeah.

5 A -- I didn't have the wrong one or
6 something.

7 Q That's a fair question. But no, it doesn't
8 matter.

9 A Okay.

10 Q I'm not representing that this document
11 came from A.R. Foods.

12 A Okay.

13 Q I'm just asking you, have you ever seen
14 this document before?

15 A I don't know.

16 Q Let me ask you to take a look at Page 3 of
17 Exhibit 4.

18 Do you have an understanding as to what the
19 air duct problem was that was fixed?

20 A Yes.

21 Q Can you tell me what that is?

22 A I cannot tell you specifically what that is
23 but what I can say is that the ductwork for a two-ton
24 unit and a four-ton unit were essentially hooked up
25 to the wrong units.

1 Q Okay. So four-ton ductwork was hooked up
2 to a two-ton unit, and the two-ton ductwork was
3 hooked up to a four-ton unit?

4 A Correct.

5 Q And do you know if this Exhibit 4 is an
6 engineering diagram from Ray Consulting Group, Inc.?

7 A I don't know.

8 Q Okay. You said, I think earlier, that you
9 believed that Ray Consulting Group, Inc. made a site
10 visit.

11 A I believe that they made a site visit once
12 we discovered the HVAC issues.

13 Q Okay. Did you speak to anybody?

14 A I don't recall.

15 Q Okay. And do you know if somebody else at
16 A.R. Foods interacted with those folks?

17 A I don't know.

18 Q Did you ever talk to anyone at Ray Group
19 Consulting Engineers, Inc.?

20 A I'm not sure.

21 Q Other than an invoice that we looked at
22 from Professional Heating & Cooling, how did you come
23 to the understanding or how did A.R. Foods come to
24 the understanding that there was an issue with
25 ductwork going to a particular unit?

1 A I can't remember.

2 Q Do you know if what is identified as
3 Exhibit 4, and particularly Page 3 of Exhibit 4,
4 is -- do you see at the bottom there it says
5 HVAC-Proposed Modifications?

6 A Yes.

7 Q Do you know if that HVAC-Proposed
8 Modifications on that page shows a different duct
9 layout than the duct layout that was shown in the
10 original construction documents marked as Exhibit 2?

11 A I don't know.

12 Q When -- do you know if anyone from Ray
13 Consulting Engineers, Inc. said, oh, yeah, we
14 reversed it on the plans?

15 A I don't know.

16 Q Do you know if a proposed modified set of
17 plans was given to the repair contractor?

18 A I'm not sure.

19 Q So, for instance, my understanding is that
20 neither my client, Carolina South Shore Construction,
21 or Professional Heating & Cooling fixed this issue
22 with the ducts, correct?

23 A Correct.

24 Q Somebody else did it, and I think you
25 identified them earlier.

1 A CF Mechanical fixed it.

2 Q Do you know whether CF Mechanical was given
3 this set of plans for Exhibit 4?

4 A I don't remember.

5 Q Do you know if CF Mechanical spoke with
6 anyone at Ray Group Consulting Engineers, Inc.?

7 A I don't know.

8 Q Would anybody at A.R. Foods have more
9 knowledge than you regarding that information?

10 A No.

11 Q How did CF Mechanical know to, essentially,
12 fix the ductwork?

13 A They were given a set of plans on how to
14 fix it.

15 Q Okay. But you don't know who gave them
16 that set of plans?

17 A I don't remember.

18 Q Do you know if it was Abri Design Studios?

19 A I don't know.

20 Q Still looking at Page 3 of Exhibit 4, do
21 you see at the top of the page it has, it looks like,
22 outdoor units where it says CU-4 Trane --

23 A Yes.

24 Q -- and then it has a five-tons there, and
25 then, if you look to the right, it has CU-2 Carrier,

1 a number, and then four tons, and CU-1 Carrier, two
2 tons?

3 A Yes.

4 Q Do you know whether anyone at A.R. Foods
5 supplied either the tonnage or the serial numbers for
6 the units to Abri Design Studio or Ray Group
7 Consulting Engineers?

8 A I don't remember.

9 Q Assuming that Exhibit 4 was prepared by Ray
10 Group Consulting Engineers, do you know how they
11 would have gotten that information, the tonnage
12 and/or the serial numbers?

13 A I don't know.

14 Q And/or the make, Trane versus Carrier?

15 A I don't know.

16 Q Okay. Do you know who paid the bill for
17 CF Mechanical?

18 A A.R. Foods.

19 Q Okay. And why did A.R. Foods pay the bill
20 for CF Mechanical when the other bills for
21 Professional Heating & Cooling were billed to Hotzfam
22 Trusts?

23 A Can you ask me that again?

24 Q Sure.

25 CF Mechanical billed A.R. Foods, Inc.; is

1 that right?

2 A That is correct.

3 Q Why did those bills go to A.R. Foods, Inc.
4 for the ductwork when previous troubleshooting went
5 to Hotzfam Trusts?

6 A Because Professional Heating & Cooling,
7 that's the company that the landlord works with so
8 that's the company that we were using, but when we
9 had CF Mechanical come out, you know, they don't know
10 who the landlord is, they just know that we need to
11 have this fixed, so they would never send the bill to
12 the landlord because they have no involvement with
13 the landlord.

14 Q Okay. Was CF Mechanical able to fix the
15 ductwork?

16 A Yes.

17 Q Did you have any additional problems with
18 units freezing after that work was done?

19 A Not that I recall.

20 Q Was CF Mechanical's work done in 2019?

21 A I don't know.

22 Q Let's go back to Exhibit 3.

23 If you look at Pages 4 and 5, which would
24 be A.R. FOODS 29 and 30, it looks like some repairs
25 were done in June of 2020; is that right?

1 A Yes.

2 Q And those repairs were billed to
3 Hotzfam, LLC; is that right?

4 A Yes.

5 Q Did A.R. Foods pay for these repairs?

6 A I don't know.

7 Q Do you know if these invoices, A.R. Foods,
8 INC. 29 and 30, have anything to do with the ductwork
9 issue that we've just discussed that was fixed by CF
10 Mechanical?

11 A I don't know.

12 Q Page -- the last page, A.R. FOODS, INC. 30,
13 is dated June 24, 2020. Do you see that?

14 A Yes.

15 Q And it says, installed new Tempstar split
16 system, installed new emergency drain pan & float
17 switch, extended platform property for new air
18 handler, used cleanup kit for refrigerant lines,
19 modified and connected back to original ductwork,
20 high voltage electrical, started up and verified
21 operation, unit cooling fine now, this system will
22 have a standard manufacturer's parts warranty and
23 one-year labor warranty.

24 Do you see that?

25 A I do.

1 Q Do you know if the installation of this
2 system has anything to do with fixing the ductwork
3 that was done by CF Mechanical?

4 A I do not know.

5 Q Have you seen invoices from CF Mechanical?

6 A Yes.

7 Q Has A.R. Foods used CF Mechanical to make
8 other repairs at the Jersey Mike's at 1818 Augusta
9 Street other than fixing the ductwork?

10 A I don't know.

11 MR. HARJEHAUSEN: Let's go ahead and mark
12 this as Exhibit 5.

13 (Plaintiff's Answers to Carolina
14 South Shore Construction, Inc.'s Amended
15 First Set of Interrogatories marked
16 Defendant's Exhibit Number 5 for
17 identification.)

18 BY MR. HARJEHAUSEN:

19 Q Mr. Hill, I have handed you what's been
20 marked as Exhibit 5 which is Plaintiff's Answers to
21 Defendant Carolina South Shore Construction, Inc.'s
22 Amended First Set of Interrogatories. Have you ever
23 seen that document before?

24 A I can't remember.

25 Q I'll represent to you that these

1 interrogatories are typically answered by counsel
2 with input from the client, whether it's my client
3 or, in your case, your counsel on behalf of A.R.
4 Foods --

5 A Okay.

6 Q -- but do you know if you or somebody else
7 at A.R. Foods supplied the information to respond to
8 these interrogatories?

9 A I don't know.

10 Q All right. Lets go through these a little
11 bit. I have some questions about them.

12 On Page 3 it says, Dave Bockstahler,
13 Mr. Bockstahler, has knowledge of the facts and
14 issues regarding the Jersey Mike's HVAC project
15 performed by the defendant and the resulting damages.

16 Do you see that?

17 A I do.

18 Q Do you know what A.R. Food, Inc.'s
19 resulting damages are?

20 A I don't.

21 Q Do you know who else at A.R. Foods would
22 know that?

23 A I don't.

24 Q Do you know what knowledge Mr. Bockstahler
25 has regarding either the upfit of 1818 Augusta Street

1 or the repair of the duct issue causing the units to
2 freeze up?

3 A I'm not sure.

4 Q Let's go down to Turner Hill.

5 It says Turner Hill, District Manager for
6 plaintiff.

7 If Mr. Hill -- that's you, right?

8 A That is correct.

9 Q Is your job title District Manager?

10 A I don't have a job title.

11 Q Do you have knowledge -- it says, Mr. Hill
12 has knowledge of the facts and issues regarding the
13 Jersey Mike's HVAC project performed by defendants
14 and the resulting damages.

15 Do you see that?

16 A I do see that.

17 Q Do you know what A.R. Food's resulting
18 damages are in this case?

19 A I do not.

20 Q Let's talk about Keith Mikulka.

21 Have you spoken or has anyone at A.R. Foods
22 spoken with Mr. Mikulka?

23 A I believe that Keith is the one that
24 e-mailed us or e-mailed the changes that needed to be
25 made to correct the issues.

1 Q Who is he affiliated with? He's with Ray
2 Group Consulting Engineers?

3 A Yeah. Keith is the engineer.

4 Q And what changes do you understand were
5 made?

6 A What changes were made to correct the HVAC?

7 Q Yes.

8 A Whatever was on Keith's list. I don't
9 recall what all it was.

10 Q Well, do you know whether Keith Mikulka
11 prepared the Exhibit 4 diagrams to, essentially,
12 reverse the ductwork to the correct unit?

13 A I don't know if Keith created this.

14 Q Do you know if Ray Group Consulting
15 prepared it?

16 A I don't know who prepared this that you
17 gave me.

18 Q Exhibit 4?

19 A Correct.

20 Q Okay. Do you know if Keith Mikulka
21 prepared a repair plan whether or not it's Exhibit 4
22 or not for the ductwork?

23 A I believe that Keith e-mailed over the
24 repair plan but I don't know who created the repair
25 plan.

1 Q Let me ask you about -- let's go back to
2 the interrogatories which are, I believe, Exhibit 5.

3 A Correct.

4 Q I'll ask you to take a look at Page 4. In
5 Paragraph 4 it says, set forth an itemized statement
6 of all damages, exclusive of pain and suffering,
7 claiming to have been sustained by you.

8 And the response is, discovery is ongoing,
9 plaintiff reserves the right to supplement this
10 response as discovery progresses subject to and
11 without foregoing, see the invoices produced with
12 Plaintiff's Response to Defendant's Requests for
13 Production of Documents served therewith.

14 Do you see that language?

15 A I do see that.

16 Q Other than an invoice from CF Mechanical,
17 are you aware of any other damages that are being
18 claimed by A.R. Foods, Inc.?

19 A I'm not sure.

20 Q And the reason I ask is we went through
21 some invoices that were billed to Hotzfam Trusts, or
22 Hotzfam, LLC, correct?

23 A Correct.

24 Q You don't know if those are amounts that
25 are being claimed by A.R. Foods, Inc., correct?

1 A I'm not sure.

2 Q Other than, perhaps, an invoice from
3 CF Mechanical or invoices from CF Mechanical to
4 correct ductwork, what other damages, if any, are
5 being claimed by A.R. Foods, Inc. in this case
6 against the defendants?

7 A I'm not sure.

8 Q Do you understand this is my one and only
9 time to ask A.R. Foods questions prior to a trial?

10 A Yes.

11 Q Has A.R. Foods paid any attorneys fees?

12 A Like...

13 Q Related to this lawsuit.

14 A Yes.

15 Q Do you know what the amount of those are?

16 A I do not.

17 Q How do you know that they've paid attorneys
18 fees?

19 A Because I typed the credit card number in
20 and pressed Pay online.

21 Q And is that a company credit card?

22 A Yes.

23 Q Do you know what the amount of the accrued
24 attorneys fees are at this time --

25 A I do not.

1 Q -- related to this lawsuit?

2 A I do not.

3 Q My understanding is that A.R. Foods does
4 not have any mechanical experience, correct?

5 A That's correct.

6 Q Is anyone at A.R. Foods going to testify
7 that my client, Carolina South Shore Construction,
8 Inc., breached some professional standard of care
9 related to mechanical or HVAC installations?

10 A I don't know.

11 Q You're not aware of anybody?

12 A Can you ask the question again?

13 Q Yeah. I mean, do you know if anyone on
14 behalf of A.R. Foods is going to testify that my
15 client breached the standard of care applicable to
16 mechanical installations?

17 A I don't know the answer to that question.

18 Q Does anybody else at A.R. Foods know the
19 answer to that question?

20 A No.

21 Q Have you spoken to anyone at CF Mechanical
22 as to whether or not it is going to offer any
23 opinions as to whether or not Carolina South Shore
24 Construction violated any sort of standard of care
25 related to mechanical installations?

1 A I haven't talked to them about that.

2 Q Let me ask you this. Can a general
3 contractor rely upon a set of plans given to it by an
4 engineer?

5 A Can you ask me that again?

6 Q Sure.
7 Can a general contractor rely upon a set of
8 plans given to it by an engineer?

9 A I don't know.

10 Q All right.

11 MR. HARJEHAUSEN: Let's go ahead and mark
12 this as the next exhibit.

13 (E-mail from Keith Mikulka to
14 Mr. Hill dated 7-8-19 marked Defendant's
15 Exhibit Number 6 for identification.)

16 BY MR. HARJEHAUSEN:

17 Q All right. Mr. Hill, have you seen this
18 e-mail chain before?

19 A Yes.

20 Q All right. Let's start with Page -- the
21 e-mail chain, Page 12, which is -- it looks like an
22 e-mail July 2, 2019. And it's from Turner Hill,
23 which is you, right?

24 A That's correct.

25 Q To Angel Jennings, right?

1 A Correct.

2 Q And then it's copied to Keith Mikulka and
3 some other folks, correct?

4 A That's correct.

5 Q Who is Angel Jennings?

6 A She was our office administrator.

7 Q Okay. And so you were sort of e-mailing
8 Keith Mikulka at Ray Group and Jamie Hux at Abri
9 Design Studios; is that right?

10 A Jamie, Sunita, Paul, yes.

11 Q Okay. Was anybody else -- was anybody at
12 Carolina South Shore Construction copied on this
13 e-mail?

14 A Not on this specific one that you're
15 referring to.

16 I do have a question about this.

17 Q Yes.

18 A It appears that there's another e-mail
19 before here that's not attached. Is there a reason
20 why?

21 Q I'm not sure.

22 A It said that Angel sent it at 7:11 a.m. and
23 then I responded at 7:31.

24 Q I'm not sure.

25 A Is that important, to have the whole e-mail

1 chain?

2 Q Your attorney can ask questions if she need
3 be --

4 A Okay.

5 Q -- but I'm entitled to ask you questions
6 related to this document.

7 A Okay.

8 Q And if you can't answer, that's fine.

9 A Okay.

10 Q But I'm just trying to confirm that at
11 least as of July 2nd you sent an e-mail to Angel
12 Jennings and copied some other folks, correct?

13 A Yes. That's correct.

14 Q And we've been having issues with one of
15 the units on and off since we opened last year. The
16 unit was already on-site, and the landlord has been
17 sending their AC guy to work on it. He told me they
18 never had an issue with the four, he thinks that it's
19 odd that he kept having issues now. After he did
20 some investigating, he came to the conclusion that it
21 does not have adequate ductwork for the supply. He
22 said it is a four-ton unit and wants us to figure it
23 out if the plans have -- or if the plans have that,
24 it is a smaller-sized unit.

25 And then you said, is there a way you all

1 can reference the plan to see what size units the
2 drawings say are there and if the duct work is
3 adequate, correct?

4 A That's correct.

5 Q And then it looks like, ultimately, Keith
6 Mikulka basically asked which unit, and, you know,
7 you pretty much told him I don't have a copy of the
8 plans, correct?

9 A That was my response.

10 Q And then later Mr. Mikulka says, our plans
11 show AHU-2 serving the front line, it is the four-ton
12 system, 1600 cfm, clouded in red in the image below.

13 And then you reported back, okay, after
14 doing more investigation with the drawings, it is
15 Unit 1 that is freezing up, is Unit 1 listed as a
16 two-ton or four-ton on the drawing?

17 Do you see that?

18 A I do see that.

19 Q So you were involved in sort of identifying
20 the unit that was freezing up and having issues,
21 correct?

22 A Can you ask me that one more time?

23 Q Yeah.

24 You were involved in troubleshooting which
25 unit was freezing up and having issues.

1 A Based on this e-mail, I would have done
2 that for Keith.

3 Q Okay. And then if you go look at Page 7,
4 at some point you were attempting to identify the
5 model numbers, correct?

6 A I need help. We have an issue that is way
7 above my head. I do not think I can confirm the
8 model numbers. I am a sub maker. I do not know
9 anything about HVAC. The guy that is the repairman
10 has been on-site and he says the following.

11 Q And there's some pictures on Page 6 and 5,
12 4, 3, and then there's an e-mail on 2. Did you send
13 those pictures to Keith Mikulka?

14 A Based on this, I believe I sent Keith those
15 pictures.

16 Q Okay. And you were attempting to send
17 Keith pictures of the manufacturer's labels, correct,
18 like model and serial number?

19 A Yes.

20 Q Do you know if anyone from Ray Group
21 Consulting Engineers did that before preparing plans?

22 A I do not know.

23 Q Did you ever ask Keith Mikulka, hey, why
24 are you asking me, you guys should have this
25 information before you prepared plans?

1 A I don't remember.

2 Q Do you know if anyone from Ray Group
3 Consulting Engineers came out to actually look at
4 these units after you sent the e-mails, the
5 photographs?

6 A I believe they did.

7 Q And then up above it looks like Keith
8 Mikulka on July 8th responded to your e-mail and
9 said, we designed the two-ton system to serve the
10 back prep area, System #1, purple area, and the
11 four-ton system to serve the service line system,
12 System #2, green area, as the plans show. It seems
13 the four-ton unit and two-ton indoor unit locations
14 are reversed.

15 Do you see that language?

16 A I do see that.

17 Q Do you know whether or not the plans
18 showed -- the original plans showed the ductwork
19 reversed for the tonnage?

20 A I don't know.

21 Q Do you know if Mr. Mikulka prepared, again,
22 that drawing we've looked at before as Exhibit 4, to
23 correct the plans?

24 A I don't know who prepared this drawing.

25 Q Do you know if it came from Ray Group

1 Consulting Engineers, Inc.?

2 A I don't know who this came from.

3 Q And you don't know who would have given a
4 plan to CF Mechanical?

5 A I'm not sure.

6 Q Okay. Well, looking at Page 3 of
7 Exhibit 4, do you see the language where it says,
8 over here to the left, disconnect defuser from AHU-1,
9 reconnect to AHU-2?

10 A I do.

11 Q And then there's other language over here
12 where it says, disconnect defuser from AH-1,
13 reconnect to AH-2.

14 A Yes.

15 Q Okay. Again, you don't know if this plan
16 shows a modification to the original duct layout?

17 A I do not know.

18 MR. HARJEHAUSEN: Let's go ahead and mark
19 this.

20 (Summons and Complaint marked
21 Defendant's Exhibit Number 7 for
22 identification.)

23 BY MR. HARJEHAUSEN:

24 Q Mr. Hill, I'll ask you, have you ever seen
25 Exhibit 7 before?

1 A I'm not sure.

2 Q Well, I'll just represent to you that this
3 was the legal complaint initialing the lawsuit which
4 was filed against my client, Carolina South Shore
5 Construction, Inc., Abri Design Studio and Ray Group
6 Consulting Engineers by A.R. Foods.

7 Are you the person at A.R. Foods most
8 knowledgeable about the allegations in this
9 complaint?

10 A I believe so.

11 Q Is it the position of A.R. Foods that Abri
12 Design Studio or Ray Group Consulting Engineers
13 prepared and provided certain drawings for the upfit
14 at the -- regarding an HVAC system to be installed at
15 1818 Augusta?

16 A Can you say that again?

17 Q Sure.

18 I'll direct your attention to Paragraph 12,
19 Page 2.

20 A Page 2. Okay.

21 So what's the question?

22 Q Is that your understanding, that Abri
23 Design Studio and Ray Group Consulting Engineers
24 prepared and provided certain drawings regarding the
25 HVAC to be installed at the property?

1 A Yes.

2 Q It says down below in Paragraph 20, upon
3 information and belief, Abri Design Systems and Ray
4 Group Consulting Engineers assert that Carolina South
5 Shore Construction failed to properly install the
6 HVAC system pursuant to the design and drawings.

7 Do you see that language?

8 A I do see that.

9 Q Have you had any conversations or has
10 anyone at A.R. Foods had any conversations with Abri
11 Design Studios or Ray Group Consulting Engineers
12 about that?

13 A I don't know.

14 Q Do you know where that allegation comes
15 from?

16 A I do not know.

17 Q But you haven't had any conversations with
18 anybody at Abri Design Studios or Ray Group
19 Consulting Engineers that Carolina South Shore
20 Construction failed to properly install the HVAC
21 system?

22 A I don't remember.

23 Q Carolina South Shore Construction did not
24 install the units outside during the upfit of this
25 property; is that right?

1 A They did not install the existing units.
2 They did install the new unit.

3 Q Okay. Do you know if the new unit has
4 anything to do with this ductwork issue?

5 A I don't know.

6 Q If you would, look at Paragraph 29.
7 A.R. Foods is contending in this lawsuit or alleging
8 that either Abri Design Studio or Ray Group
9 Consulting Engineers failed to properly furnish
10 drawings. Is that fair? That's an allegation in
11 this case?

12 A Yes.

13 Q Do you have any knowledge or information
14 about the particulars of that allegation?

15 A I do not.

16 Q Do you know if A.R. Foods' total claimed
17 damages in this case are less than \$25,000?

18 A I'm not sure.

19 Q Would anybody else at A.R. Foods have
20 greater knowledge?

21 A I don't think so.

22 MR. HARJEHAUSEN: All right. Let's go off
23 the record.

24 - - -

25 (Off the record.)

1 - - -

2 BY MR. HARJEHAUSEN:

3 Q Mr. Hill, on behalf of A.R. Foods what did
4 my client, Carolina South Shore Construction, do
5 wrong?

6 A I don't know.

7 Q Do you know how -- the approximate cost of
8 the CF Mechanical bill?

9 A I'm not sure.

10 Q Do you know if there was more than one
11 invoice?

12 A I don't know.

13 MR. HARJEHAUSEN: Those are all of the
14 questions I have. I appreciate your time.

15 THE WITNESS: Yes, sir.

16 - - -

17 EXAMINATION

18 - - -

19 BY MR. NANNY:

20 Q Hi. My name is Lee Nanney. I got to meet
21 you earlier today. I represent Abri Design and Ray
22 Group Consulting, and I don't think I'm going to be
23 too terribly long here.

24 A Okay.

25 Q Looking back at this last exhibit, looking

1 at the --

2 A Which one?

3 Q The 7.

4 A Yes.

5 Q And I'm just trying to get in your own
6 words what the claims are against my clients. And
7 when I say my clients, I'm just referring to Abri and
8 Ray Consulting.

9 A Correct.

10 Q So you all are claiming that there was
11 deficient or inaccurate design documents that were
12 created by my clients, correct?

13 A We are claiming whatever is in this
14 exhibit.

15 Q Okay. And from your understanding as a,
16 you know, layperson, too, is that there was something
17 wrong with these design documents that caused the
18 HVAC problems.

19 A I don't know.

20 Q And let's read here from -- if you look
21 back from -- if you go to Paragraph 29 of the
22 Complaint, it says that ADS and/or RGCE -- those are
23 referring to my clients -- breached its contract in
24 multiple ways including but not limited to -- and the
25 Subparagraph A says, failing to properly design the

1 HVAC system.

2 And earlier you just said that you all are
3 claiming whatever's in here, so that is -- I read
4 that correctly in there, didn't I?

5 A Are you asking me if you read what
6 Number 29 says?

7 Q Yes.

8 A Yes, you read it correctly.

9 Q Okay. Thank you.

10 And so no one at A.R. Foods -- I know that
11 you don't have any HVAC stuff, you were talking about
12 you make subs and that kind of stuff.

13 A Correct.

14 Q And what about -- his name is Dave, and
15 I --

16 A Dave, correct.

17 Q Okay. And I forgot how to pronounce his
18 last name.

19 A Bockstahler.

20 Q Bockstahler.

21 Is he an HVAC guy or like a mechanical guy
22 or anything like --

23 A He is not.

24 Q Okay. Is there anyone else at A.R. Foods
25 that holds an engineering license or an architect

1 license?

2 A There is not.

3 Q Okay. And so have y'all had any licensed
4 engineer provide a merits affidavit concerning the
5 allegations in you all's complaint?

6 A I'm not sure.

7 Q Okay. And there wasn't one attached to
8 this one. I didn't see one.

9 And in you all's -- if we go back to -- I
10 forget which exhibit this is -- Exhibit 5, reading
11 Interrogatory Number 5, list the names and
12 addresses --

13 A Hold on one second.

14 Q Oh, I'm sorry. I didn't mean to --

15 A Number 5? Which number?

16 Q Yes. The interrogatory responses. Yes,
17 you're looking at the right one.

18 A Sorry.

19 Q Going to Number 5 it says, list the names
20 and addresses of any expert witnesses you propose to
21 use as a witness at the trial of this case, and it
22 says that plaintiff has not retained an expert
23 witness it intends to use at trial at this time.

24 Have you all engaged an expert to testify
25 at trial since you guys submitted these responses?

1 A I'm not sure.

2 Q And you just defer to counsel on that one?

3 But as you're sitting here right now, you
4 guys -- you're not aware of any expert that's been
5 retained to testify at trial.

6 A I don't know.

7 Q I mean as you're sitting here, like you --

8 A I specifically do not, no.

9 Q Okay. Okay.

10 And, the same thing, have you had a
11 licensed architect provide a merits affidavit
12 concerning the design deficiencies that you all
13 complain of?

14 A I don't know.

15 Q Okay. And in reviewing this document --
16 let's just go back to the Summons.

17 A The same one?

18 Q Not the Interrogatories, the one that says
19 Summons on there.

20 A Okay. Seven; is that right?

21 Q Yes. And I'm going to let you just look
22 through it real quick. And can you tell me if there
23 is an affidavit attached to this or not?

24 A I don't know what an affidavit would look
25 like. Would it say affidavit at the top?

1 Q It would typically say affidavit of so and
2 so and it would be attached to the Complaint, not to,
3 you know, give you legal advice.

4 A I don't see an affidavit attached to this.

5 Q Okay. So, to the best of your knowledge,
6 you're not aware of any affidavit from a licensed
7 engineer or a licensed architect verifying what you
8 all have laid out in this complaint.

9 A Not to my knowledge.

10 MR. NANNEY: Okay. Thank you. I believe
11 that's all of the questions I have. Thank you.

12 MS. HARDEN: No questions.

13 THE COURT REPORTER: Do either of you want
14 a copy from today?

15 MS. HARDEN: Yes.

16 THE COURT REPORTER: How about you,
17 Mr. Nanney? Would you like a copy?

18 MR. NANNEY: Just an e-trans is fine.

19 THE COURT REPORTER: Okay.

20 - - -

21 (Witness excused.)

22 - - -

23 (Deposition was concluded at 11:38 a.m.)

24 - - -

25

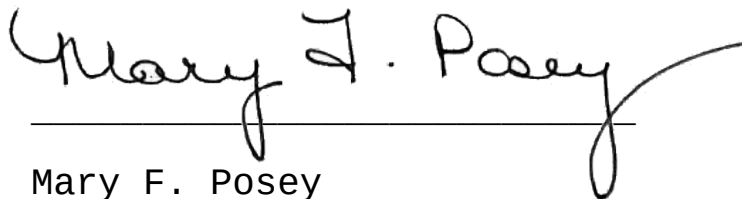
CERTIFICATE OF REPORTER

I, Mary Posey, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated on Page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth and nothing but the truth, that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

WITNESS MY HAND, I have hereunto affixed my official seal this 18th day of January, 2024 at Pickens County, South Carolina.

A handwritten signature in cursive script that reads "Mary F. Posey". The signature is written in black ink and is positioned above a horizontal line.

Mary F. Posey
Court Reporter
Notary Public
State of South Carolina at Large
My Commission Expires
January 6, 2032

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FW: JMS Greenville, SC, HVAC

EXHIBIT 2

__substg1.0_3701000D.msg

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From: Keith Mikulka <keithm@raygroup.net> **Sent:** Tuesday, September 10, 2019 11:04 AM **To:** 'Turner Hill' <turnerhilljm@gmail.com> **Cc:** Paul Girardeau <paul.girardeau@abri-ds.com>; Rodney Taylor <rtaylor@JERSEYMIKES.com>; boxcpa@me.com **Subject:** JMS Greenville, SC, HVAC

Turner;

Two issues with the HVAC system at this location were recently brought to our attention. Specifically, the cooling coil in the Prep Area unit has repeatedly frozen over and the Serving Line unit is unable to satisfy its load. The design shows a 2 ton system serving the Prep Area and a 4 ton system serving the Serving Line. The preliminary conclusion was that these systems were swapped (i.e., 2 ton unit serves the Serving Line and the 4 ton unit serves the Prep Area). I visited the site last month and confirmed this to be the case. Our recommendations for corrective action are given below.

Please note, the purpose of this trip was only to investigate the cause of the specific problems noted above and not to perform a comprehensive inspection of all construction nor to develop as-built drawings for the installation. While some unrelated construction deficiencies were observed during my visit, and are noted below, this email is not to be interpreted as a "punch list" nor are any deficiencies which are omitted herein to be considered "approved" by the Engineer of Record.

Original Design (refer to attached sketch #1): The design shows a 2 ton system designated AHU-1 (Carrier 58STA070 indoor furnace, CU-1 = Carrier 24ABR324 condensing unit) serving the Prep Area and a 4 ton system designated AHU-2 (Carrier 58STA110 indoor furnace, CU-2 = Carrier 24ABR348 condensing unit) serving the Serving Line. *Note that some information from the original design has been removed from this sketch (e.g., hoods and fans, miscellaneous construction notes, etc.) in order focus on the reported problems. Please refer to the original Construction Documents for the full design.*

Site Observations (refer to attached sketch #2): The air devices within the Serving Line area are indeed connected to AHU-1 and the air devices in the Prep Area are connected to AHU-2. As a result of the installation, the Prep Area unit is likely low on airflow (4 ton unit with air distribution sized for 2 tons) contributing to the reported coil freezing and the Serving Line does not have adequate cooling (2 ton unit serving 4 ton load). A few additional areas of concern were also observed:

1. Outside air ducts for AHU-1 and AHU-2 are undersized compared to the design.
2. No outside air is provided for AHU-3.
3. Manual balancing dampers could not be located for any supply, return, or outside air branches. *These are necessary to allow for system balancing.*

4. Motorized shut-off dampers could not be located for any outside air duct connections. *These are required by Energy Code to minimize standby air leakage.*
5. 4-way fixed supply diffusers were installed at the service line near the hood in lieu of adjustable diffusers. This is not recommended as the high velocity air directed toward the hood may disrupt the hood’s performance. *Note that this specific problem may not have occurred yet at these diffusers are likely significantly low on airflow at this time.*
6. No Testing, Adjusting, and Balancing (TAB) report has been submitted. A proper TAB will ensure that the system is operating as designed. As a side note, a TAB service performed at the end of construction also would have discovered the issues with AHU-1 and AHU-2 allowing for corrective action to be taken before store operations were significantly impacted.

Proposed Modifications (refer to attached sketch #3): We recommend the following steps be taken to correct the problems reported by the owner and note above.

1. Disconnect two supply diffusers at Serving Line from AHU-1 and reconnect to AHU-2.
2. Add one return grille for AHU-2.
3. Provide new outside air duct/louver for AHU-1 and increase the size of the OA connection for AHU-2.
4. Provide outside air for AHU-3.
5. Confirm and, where necessary, provide manual balancing dampers for all supply or return air device connections.
6. Confirm and, where necessary, provide manual balancing damper and motorized shut-off damper for each outside air connection.
7. Provide sectorizing baffles (Titus “SB”) in the necks of the 3 square diffusers located near the hood in order to deflect the supply air away from the hood.
8. Provide complete Testing, Adjusting, and Balancing for all systems.

Please let us know if you have any questions about our findings or recommendations.

Thanks,
Keith

JMS Greenville HVAC Sketches 2019-09-10.pdf

JMS Greenville HVAC Sketches 2019-09-10.pdf

- WOMEN'S
- MEN'S
- SERVING LINE
- DINING AREA
- PREP AREA
- EXISTING PANELS
- ATTIC ACCESS
- TRACK LIGHTS
- T R
- A C
- K L
- IG H
- T S
- AutoCAD SHX Text

SCALE:
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%%UHVAC - ORIGINAL DESIGN
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NOTE: EXIST CU-3 IS LOCATED CU-3 IS LOCATED IS LOCATED ON SOUTH END OF BUILDING, SHOWN HERE FOR REFERENCE ONLY
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CU-3 TRANE TWR024 2 TONS
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AHU-3 TRANE TWE030 2 TONS
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AHU-2 CARRIER 58STA110 4 TONS
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AHU-1 CARRIER 58STA070 2 TONS
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AHU-4 CARRIER 59SC2C100 5 TONS
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CU-2 CARRIER 24ABR348 4 TONS
AutoCAD SHX Text
CU-1 CARRIER 24ABR324 2 TONS
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8" OA WALL CAP
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NOTE: SOME INFORMATION (E.G., KITCHEN HOODS, FANS, AND DUCTWORK) HAS BEEN REMOVED FOR CLARITY. REFER TO THE ORIGINAL CONSTRUCTION DOCUMENTS FOR COMPLETE DESIGN.

WOMEN'S

MEN'S

SERVING LINE

DINING AREA

PREP AREA

EXISTING PANELS

ATTIC ACCESS

TRACK LIGHTS

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%%UOBSERVATIONS:

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1. PREP AREA SERVED BY AHU-2 (4 TONS) INSTEAD OF AHU-1 (2 TONS) INSTEAD OF AHU-1 (2 TONS).
2. SERVING LINE SERVED BY AHU-1 (2 TONS) INSTEAD OF AHU-2 SERVING LINE SERVED BY AHU-1 (2 TONS) INSTEAD OF AHU-2 (4 TONS). 3. 6" OUTSIDE AIR DUCT FOR AHU-1 INSTEAD OF 8" . 8" 6" OUTSIDE AIR DUCT FOR AHU-1 INSTEAD OF 8" . 8" OUTSIDE AIR DUCT FOR AHU-2 INSTEAD OF 10" . 10" COMBINED OUTSIDE AIR DUCT FOR AHU-1 AND AHU-2 IS SMALLER THAN DESIGN PROVIDES. 4. NO OUTSIDE AIR PROVIDED FOR AHU-3. NO OUTSIDE AIR PROVIDED FOR AHU-3. 5. MANUAL BALANCING DAMPERS COULD NOT BE LOCATED FOR MANUAL BALANCING DAMPERS COULD NOT BE LOCATED FOR SUPPLY, RETURN, OR OUTSIDE AIR BRANCHES. 6. MOTORIZED DAMPERS COULD NOT BE LOCATED FOR OUTSIDE AIR MOTORIZED DAMPERS COULD NOT BE LOCATED FOR OUTSIDE AIR DUCTS. 7. 3-CONE SQUARE DIFFUSERS USED AT SERVICE LINE IN FRONT OF 3-CONE SQUARE DIFFUSERS USED AT SERVICE LINE IN FRONT OF HOOD INSTEAD OF DOUBLE DEFLECTION (ADJUSTABLE THROW) REGISTERS. HIGH VELOCITY AIRFLOW DIRECTED TOWARD HOOD WILL DISRUPT HOOD CAPTURE AND CONTAINMENT. NOTE THAT THIS SPECIFIC PROBLEM MAY NOT HAVE MANIFESTED ITSELF YET SINCE THE AIR HANDLING UNIT IS UNDERSIZED FOR THIS ZONE. 8. NO TESTING, ADJUSTING, AND BALANCING (TAB) REPORT PROVIDED.NO TESTING, ADJUSTING, AND BALANCING (TAB) REPORT PROVIDED.

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SCALE:

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%%UHVAC - SITE OBSERVATIONS

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CU-3 TRANE TWR024 2 TONS

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AHU-3 TRANE TWE030 2 TONS

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AHU-4 TRANE TUH1D100 5 TONS
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CU-2 CARRIER 24ABR348 4 TONS
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CU-1 CARRIER 24ABR324 2 TONS
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AHU-2 CARRIER 58STA110 4 TONS
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AHU-1 CARRIER 58STA070 2 TONS

WOMEN'S

MEN'S

SERVING LINE

DINING AREA

PREP AREA

EXISTING PANELS

ATTIC ACCESS

TRACK LIGHTS

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%%UHVAC - PROPOSED MODIFICATIONS
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DISCONNECT DIFFUSER FROM AHU-1, RECONNECT TO AHU-2
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ADD SECTORIZING BAFFLES (TITUS "SB") IN NECK TO BLOCK AIRFLOW DIRECTED TOWARD HOOD, TYP. 3
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DISCONNECT DIFFUSER FROM AHU-1, RECONNECT TO AHU-2
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NEW RETURN GRILLE CONNECTED TO AHU-2
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%%UPROPOSED MODIFICATIONS:
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1. DISCONNECT TWO SUPPLY DIFFUSERS AT SERVING LINE FROM DISCONNECT TWO SUPPLY DIFFUSERS AT SERVING LINE FROM AHU-1, EXTEND AND RECONNECT TO AHU-2. 2. ADD RETURN GRILLE TO AHU-2. ADD RETURN GRILLE TO AHU-2. 3. ADD DEDICATED OUTSIDE AIR DUCT AND INTAKE LOUVER FOR ADD DEDICATED OUTSIDE AIR DUCT AND INTAKE LOUVER FOR AHU-1. INCREASE SIZE OF OA CONNECTION FROM AHU-2 TO EXISTING 10"ø OA DUCT.4. ADD OUTSIDE AIR DUCT AND INTAKE LOUVER FOR AHU-3. ADD OUTSIDE AIR DUCT AND INTAKE LOUVER FOR AHU-3. 5. CONFIRM ALL SUPPLY, RETURN, AND OUTSIDE AIR BRANCHES HAVE CONFIRM ALL SUPPLY, RETURN, AND OUTSIDE AIR BRANCHES HAVE MANUAL BALANCING DAMPERS. PROVIDE NEW WHERE REQUIRED. 6. CONFIRM ALL OUTSIDE AIR DUCTS HAVE MOTORIZED DAMPERS. CONFIRM ALL OUTSIDE AIR DUCTS HAVE MOTORIZED DAMPERS. PROVIDE NEW WHERE REQUIRED. MOTORIZED DAMPERS ARE TO BE INTERLOCKED WITH AHU TO OPEN WHEN AHU FAN IS ON AND CLOSE WHEN AHU FAN IS OFF. 7. ADD SECTORIZING BAFFLES TO THREE (3) DIFFUSERS IN FRONT OF ADD SECTORIZING BAFFLES TO THREE (3) DIFFUSERS IN FRONT OF GRIDDLE HOOD TO DIVERT SUPPLY AIR AWAY FROM HOOD. 8. PROVIDE COMPLETE TESTING, ADJUSTING, AND BALANCING FOR ALL PROVIDE COMPLETE TESTING, ADJUSTING, AND BALANCING FOR ALL SYSTEMS. BALANCE SUPPLY AIR DEVICES PER THIS PLAN. PER THIS PLAN. . BALANCE OUTSIDE AIR, EXHAUST, AND MAKE-UP PER THE PER THE ORIGINAL CONSTRUCTION DOCUMENTS..
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PROVIDE OA LOUVER AND DUCT FOR AHU-3
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PROVIDE DEDICATED OA LOUVER AND DUCT FOR AHU-1
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12x12 LOUVER & SCREEN
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OA LOUVER
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CU-4 TRANE 4TTR4060 5 TONS
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CU-3 TRANE TWR024 2 TONS
AutoCAD SHX Text
CU-2 CARRIER 24ABR348 4 TONS
AutoCAD SHX Text
CU-1 CARRIER 24ABR324 2 TONS
AutoCAD SHX Text
AHU-3 TRANE TWE030 2 TONS
AutoCAD SHX Text
AHU-2 CARRIER 58STA110 4 TONS
AutoCAD SHX Text
AHU-1 CARRIER 58STA070 2 TONS
AutoCAD SHX Text
AHU-4 TRANE TUH1D100 5 TONS
AutoCAD SHX Text
INCREASE AHU-2 OA CONNECTION SIZE

- Sheets and Views
 - 1 - Original Design
- JMS Greenville HVAC Sketch-2 - Site Observations.pdf
 - Sheets and Views
 - 2 - Site Observations
- JMS Greenville HVAC Sketch-3 - PROPOSED CORRECTIONS.pdf
 - Sheets and Views
 - 3 - PROPOSED CORRECTIONS