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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jessica A. Salvini

Appellate Case No. 2024-002063

Jon Kane, Appellant,

v.

Darien Applegate; Darien E. Applegate Trust;
Darien E. Applegate, Successor in Partnership;
Big Blue Allure, LLC; Allure Outdoor, LLC;
Allure Advertising, LLC; Lamar OCI South Corp.;
Lamar Advertising, Defendants

of which Darien Applegate, individually,
and as Trustee of the Darien E. Applegate Trust,
and as Successor in Partnership; Big Blue Allure, LLC;
and Allure Outdoor, LLC are the Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-10-03038

JON KANE,

Plaintiff,

vs.

DARIEN APPLEGATE, DARIEN E. APPLEGATE TRUST, DARIEN E. APPLEGATE, Successor in Partnership, BIG BLUE ALLURE, LLC, ALLURE OUTDOOR, LLC, ALLURE ADVERTISING, LLC, LAMAR OCI SOUTH CORP., LAMAR ADVERTISING

Defendants.

ORDER

This matter came before the Court on September 4, 2024 on the Motion to Dismiss in Lieu of Answer filed by Defendants Darien Applegate, individually and as Trustee of the Darien E. Applegate Trust, Big Blue Allure, LLC, and Allure Outdoor, LLC (collectively, the "Applegate Defendants"). Matthew Kelly of the firm Oyster Road Law Firm, LLC and Daniel Slotchiver of the firm Slotchiver & Slotchiver, L.L.P. appeared on behalf of Plaintiff; Jennifer M. Houti of the firm James, McElroy & Diehl, P.A. appeared on behalf of the Applegate Defendants; and Gaillard Dotterer, III of the firm Bybee & Tibbals appeared on behalf of Defendants Allure Advertising, LLC ("AALLC"), Lamar OCI South Corp. (n/k/a Lamar OCI South, LLC) ("Lamar OCI"), and Lamar Advertising (collectively, with AALLC and Lamar OCI, the "Lamar Defendants"). For the reasons set forth below, the Court grants the Applegate Defendants' motion to dismiss the Complaint.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

Plaintiff Jon Kane alleges he was a longtime friend of Joe Applegate, who he met when they worked together for an advertising company. Compl., ¶¶ 11-13. Plaintiff alleges that in 2015, he and

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Joe Applegate agreed to form a partnership for the construction and operation of a billboard on property owned by Joseph Sharp in North Mount Pleasant along Highway 41. Compl., ¶¶ 13-19. According to Plaintiff, the parties agreed that Plaintiff would find a suitable location for a billboard, Joe Applegate would fund the construction of the billboard, and after Joe Applegate "was paid back for the construction outlay" the parties would evenly split all net proceeds generated by the billboard. Compl., ¶ 13. Plaintiff does not allege that the parties entered into any written agreement concerning a partnership. Plaintiff identified the site on Sharp's property, Defendant Allure Advertising, LLC entered a lease for that site, and construction of the billboard began. Compl., ¶¶ 15, 19-20, 35. Construction of the billboard was complete in late 2016/early 2017. Compl., ¶¶ 35.

In April or May of 2019, Joe Applegate let Plaintiff know that his out-of-pocket expenses associated with the construction of the Billboard had been paid off. Compl., ¶ 51. Joe Applegate passed away on June 29, 2019. Compl., ¶ 52. "The Probate period for [Joe Applegate's] estate commenced in late summer of 2019 and lasted for a period of one year." Compl., ¶ 53. Plaintiff did not allege that he made any claim against the estate of Joe Applegate during the Probate period.

On December 30, 2021, Plaintiff alleges that Defendant Darien Applegate "without consulting Plaintiff executed a transfer and assignment of the lease for the land on which the billboard is located to Defendant Lamar OCI South Corporation." Compl., ¶ 75. Defendant Allure Advertising, LLC was merged into Lamar OCI South Corporation effective May 5, 2022. Compl., ¶ 76.

On June 22, 2023, Plaintiff commenced this action by filing the Complaint. Plaintiff asserts sixteen claims against various defendants. On October 18, 2023, the Applegate Defendants timely filed their Motion to Dismiss in Lieu of Answer, seeking dismissal of all of Plaintiff's claims against them pursuant to Rules 12(b)(6) and 12(b)(9) of the South Carolina Rules of Civil Procedure. That motion was heard before the undersigned on September 4, 2024 and taken under advisement.

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DISCUSSION

The Court finds that Plaintiff has failed to state facts sufficient to constitute causes of action against the Applegate Defendants, as Plaintiff's claims are time-barred by the statute of limitations.

As an initial matter, the Court disagrees with Plaintiff's argument that a motion to dismiss on the basis of a statute of limitations is not permitted prior to the filing of an answer. See Flateau v. Harrelson, 355 S.C. 197, 201, 584 S.E.2d 413, 415 (Ct. App. 2003) ("Under Rule 12(b)(6), SCRCP, a defendant may move to dismiss based on a failure to state facts sufficient to constitute a cause of action."); id. at 208-09, 584 S.E.2d at 419 (affirming the circuit court's dismissal under Rule 12(b)(6), SCRCP, because the South Carolina Tort Claims Act's statute of limitations barred the cause of action). The motion is properly before the Court at this time.

Pursuant to S.C. Code Ann. § 33-41-930(4), dissolution of a partnership is caused by the death of any partner. Here, all of Plaintiff's claims are based on and arise out of his allegations of a partnership between himself and Joe Applegate. As Joe Applegate died on June 29, 2019, the partnership dissolved as of that date. Accordingly, all of Plaintiff's claims began to accrue on June 29, 2019.

In this action, Plaintiff asserts claims against the Applegate Defendants and one or more of the Lamar Defendants for: declaratory judgment, breach of contract, breach of contract with fraud, breach of fiduciary duty, unjust enrichment, for an accounting, fraud, constructive fraud, constructive trust, unfair trade practices, quantum meruit, conversion, wrongful dissolution, civil conspiracy, interference with a contractual relationship, and negligent interference with a contractual relationship.[1] Each of these claims is governed by a three-year statute of limitations. S.C. Code Ann.

[1] It does not appear that any cause of action is asserted against Defendant Lamar Advertising, nor is said entity referenced in the allegations of the "Parties" section of the Complaint (Compl., ¶¶ 1-8). Each of Plaintiff's claims is asserted against the now-defunct AALLC, while two claims are alleged against Lamar OCI based on it not discovering the alleged partnership between Plaintiff and Joe Applegate prior to Lamar OCI's purchase of AALLC.

§§ 15-3-530(1), -530(2), -530(4), -530(7). Although each of Plaintiff's claims began to accrue on June 29, 2019, Plaintiff's Complaint was filed more than three years later on June 22, 2023. Plaintiff's claims are therefore time-barred.

Plaintiff argues that his action was timely filed because Defendant Darien Applegate continued the business of operating the billboard, and the "continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership." S.C. Code § 33-41-560(2). This section does not apply to the partnership as alleged by Plaintiff and does not avoid application of the statute of limitations to bar the claims alleged by Plaintiff.

CONCLUSION

In conclusion, the Court hereby GRANTS Defendants Darien Applegate, individually and as Trustee of the Darien E. Applegate Trust, Big Blue Allure, LLC, and Allure Outdoor, LLC's Motion to Dismiss in Lieu of Answer pursuant to Rule 12(b)(6), SCRCP, and finds that all claims asserted against them by Plaintiff ARE DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

[*Electronic Signature Page Follows*]

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Charleston Common Pleas

Case Caption: Jon Kane VS Darien Applegate , defendant, et al

Case Number: 2023CP1003038

Type: Order/Dismissal

So Ordered

Jessica A. Salvini

ELECTRONICALLY FILED - 2024 Oct 18 3:26 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT
Jon Kane, Plaintiff,	)	
vs.	)	INITAL ORDER REGARDING MOTION TO RECONSIDER
Darien Applegate; Darien E. Applegate Trust; Darien E. Applegate, Successor in Partnership; Big Blue Allure, LLC; Allure Outdoor, LLC; Allure Advertising, LLC; Lamar OCI South Corp.; Lamar Advertising, Defendants.	)	Case No.: 2023-CP-10-03038

A Rule 59 (e) SCRCP motion to reconsider and to alter or amend has been filed with the Court on October 10th, 2024, and served on the Court on October 16th, 2024. Pursuant to Rule 59(f), SCRCP, the Court, in its discretion, may decide this motion based on briefs without oral argument. The Court will decide this motion on written submissions. Written submissions are not required by the non-moving party, but will be considered. The moving party may rely upon what has been filed or may supplement.

No additional briefs are required and Counsel may rely the current record, however the deadline to file written submissions **from the movant regarding this motion is 4:00 P.M. on Friday, October 25th, 2024.** Any submissions in **reply must be filed by 4:00 p.m. on Friday, November 1st, 2024.** A copy of any documents filed must be forwarded immediately to the undersigned judge and to opposing counsel. The copies to the judge shall be sent via US Postal Service to 305 E. North Street, Greenville, SC 29601, and/or by electronic mail to jsalvinisc@sccourts.org and jsalvinilc@sccourts.org.

AND IT IS SO ORDERED.

Dated:
October 18th, 2024

Jessica Ann Salvini, Judge
Circuit Court

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Charleston Common Pleas

Case Caption: Jon Kane VS Darien Applegate , defendant, et al

Case Number: 2023CP1003038

Type: Order/Other

So Ordered

Jessica A. Salvini

ELECTRONICALLY FILED - 2024 Nov 04 3:04 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT
JON KANE, Plaintiff,	)	
vs.	)	FINAL ORDER REGARDING MOTION TO RECONSIDER
DARIEN APPLEGATE, DARIEN E. APPLEGATE TRUST, DARIEN E. APPLEGATE, Sucessor in Partnership, BIG BLUE ALLURE, LLC, ALLURE ADVERTISING, LLC, LAMAR OCI SOUTH CORP., LAMAR ADVERTISING, Defendants.	)	Case No.: 2023-CP-10-03038

A Rule 59(e), SCRCP motion to reconsider and to alter or amend has been received, filed with the Court on October 10, 2024, and served on the Court on October 16, 2024. The Motion to Reconsider was properly served on the Court per Rule 59(g), SCRCP. As previously explained to Counsel, pursuant to Rule 59(f), SCRCP, the Court, in its discretion, may decide the motion based on briefs without oral argument. The Court indicated to the parties by prior order in the Initial Order Regarding Motion for Reconsideration that it would decide the issues on written submissions. Further, the Court informed the parties that written submissions were not required by the non-moving party, and that the moving party could rely upon its filings or supplement. The deadlines to file written submissions regarding these motions has now passed.

After careful consideration of the able arguments and filings of Counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered.

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Accordingly, the Motion for Reconsideration made pursuant to Rule 59, SCRCP, [1] is respectfully DENIED.

AND IT IS SO ORDERED.

Dated:
_____, 2024

_____
Judge Jessica A. Salvini
Circuit Court

[1] The Court, in its discretion, has determined this Motion on the filings, without oral argument, pursuant to Rule 59(f), SCRCP.

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Charleston Common Pleas

Case Caption: Jon Kane VS Darien Applegate , defendant, et al

Case Number: 2023CP1003038

Type: Order/Other

So Ordered

Jessica A. Salvini

ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	2023-CP-10-_____
	)	
Jon Kane,	)	
	)	
Plaintiff,	)	**SUMMONS**
	)	
vs.	)	
	)	
Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate, Successor in Partnership, Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC, Lamar OCI South Corp., Lamar Advertising,	)	
	)	
Defendants.	)	

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your pleading to said Complaint upon the subscribers at their offices 751 Johnnie Dodds Blvd., Ste. 200, Mt. Pleasant South Carolina, 29464 and with this Court within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff will apply to the Court for judgment by default for the relief demanded in the Complaint.

YOU ARE HEREBY GIVEN NOTICE FURTHER, that if you fail to appear and defend to answer the Complaint as required by this Summons within thirty (30) days after the service hereof, judgment by default will be rendered against you for the relief demanded in the Complaint.

(*Signature Page Follows*)

RESPECTFULLY SUBMITTED,

SLOTCHIVER & SLOTCHIVER, L.L.P.

s/Daniel S. Slotchiver

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June 22, 2023
Mt. Pleasant, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	2023-CP-10-_____
	)	
Jon Kane,	)	
	)	
Plaintiff,	)	**COMPLAINT**
	)	(Jury Trial Demanded)
vs.	)	
	)	
Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate, Successor in Partnership, Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC, Lamar OCI South Corp., Lamar Advertising,	)	
	)	
Defendants.	)	

The Plaintiff, complaining of the Defendants, alleges and says as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Jon Kane (Kane) is a citizen and resident of Charleston County, South Carolina.

2. Defendant Darien Applegate is a citizen and resident of Charleston County, South Carolina.

3. Defendant Darien E. Applegate Trust is a citizen and resident of the sole trustee's citizenship, Charleston County, South Carolina.

4. Defendant Darien E. Applegate, as the Successor in Partnership is a citizen and resident of Charleston County, South Carolina.

5. Defendant Big Blue Allure, LLC ("Big Blue") is a South Carolina Limited Liability Company doing business under the laws of the State of South Carolina.

6. Defendant Allure Outdoor, LLC ("Allure Outdoor") is a South Carolina Limited Liability Company doing business under the laws of the State of South Carolina.

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7. Defendant Allure Advertising, LLC ("Allure Advertising") is a South Carolina Limited Liability Company doing business under the laws of the State of South Carolina.

8. Defendant Lamar OCI South Corporation ("Lamar OCI") is a Mississippi Limited Liability Company doing business under the laws of the State of South Carolina.

9. This case concerns a partnership and billboard venture located at 2386 Highway 41, Mount Pleasant, S.C. 29466.

10. The actions and/or inactions giving rise to the claims as alleged in this Complaint occurred either wholly, or substantially, in the County of Berkeley, State of South Carolina. This Court has jurisdiction over the parties and subject matter of this action and venue is proper.

STATEMENT OF THE FACTS

11. Plaintiff and Joe Applegate ("JA") met around 1998 during their employment for Adams Outdoor ("Adams"), an advertising company with a focus on billboards.

12. Around 2002, Plaintiff hired JA as his sales manager out of the Charleston, S.C. region. The parties worked together for three or four years prior to JA's promotion as General Manager for Adams' Charlotte region.

13. In the Spring of 2015, Plaintiff called JA, a friend of now 20 years, to gauge his potential interest in collaborating in acquiring property to pursue an advertising billboard venture. JA confirmed his interest in working together in a partnership arrangement. JA explained that the most difficult part of the process was identifying locations wherein billboards could be installed, and that if Plaintiff could find a suitable location, that would be his consideration, and JA would fund the construction. All net proceeds generated would be split evenly once JA was paid back for the construction outlay.

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14. At the time, JA was already in the billboard business, the owner of a billboard company, Allure Outdoors LLC ("Allure Outdoors") formed on March 2, 2011. **(Exhibit A).**

15. Plaintiff identified a potential location for a billboard project, located in North Mount Pleasant, South Carolina along Highway 41 in Berkley County, on property owned by Joseph Sharp ("Sharp").

16. Plaintiff and Sharp had known each other for over ten (10) years.

17. Sharp was the owner of Atlantis marine and the real property of the potential billboard location.

18. During the same Spring of 2015, in furtherance of his business discussions with JA, Plaintiff introduced JA to Sharp, wherein he stated that he was willing to entertain the billboard on the property only if Plaintiff and JA would be partners in the deal. This agreement was made. (see affidavit of Sharp)

19. In late Spring, early Summer of 2015, based on this agreement with Sharp, and amongst themselves, as well as the site procurement by Plaintiff, Plaintiff and JA became 50/50 Partners in this deal (the, "Partnership") for the construction and operation of a billboard venture on Sharp's property. As agreed, Plaintiff's contribution was the procurement of a viable site for a billboard. JA would fund the construction. Once reimbursed the out-of-pocket costs for construction, Plaintiff and JA would share equally all net proceeds generated through the venture. In the event of a sale prior the reimbursement of out-of-pocket costs, said out of pocket costs would be deducted from the sale price and the remaining funds split 50/50 between JA and Plaintiff. Upon information and belief, JA often entered into similar partnerships with third parties for the purpose of developing new billboards. (**Exhibit B).**

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20. In October of 2015, Plaintiff and JA, via the Partnership, finalized a lease agreement with Sharp for the construction of a new advertising billboard located at 2386 Highway 41, Mount Pleasant, S.C. 29466. (**Exhibit Y).**

21. Prior to initiating construction, Plaintiff and JA began conducting due diligence for the partnership venture in late 2015, early 2016, making inquiries regarding costs for the project and other logistical considerations.

22. On June 21, 2016, Jeff Rushton ("Rushton") of Media Resources Incorporated ("MRI"), the company chosen to complete project construction, sent a detailed quote via email for costs associated with the billboard venture. (**Exhibit C).**

23. The estimate from Rushton totaled $269,750, including the cost of the structure, cladding, two digital screens, back light LED "Allure Advertising" on the "nose," shipping, installation, and commissioning of Signs Unlimited for the final installation.

24. Five days later on June 26, Rushton sent an email regarding a draft contract for the construction and installation of the billboard. The exchange included, as recipients, JA and Jim Bonebrake, CEO of Signs Unlimited, Charlotte. **(Exhibit C).**

25. The June 26 email concluded with Rushton referring to JA's "partner", Jon Kane, Plaintiff: "PS: we also need to get your partner up here whenever is convenient."

26. On June 27, 2016, JA responded to the above referenced email thread, requesting that Plaintiff be added to the email group for all future correspondence.

27. On July 14, 2016, JA sent an email to Plaintiff and Randy Huggins ("Huggins") regarding the final drawings for the billboard location, briefly mentioning the need to strategize for approval of the designs. **(Exhibit D)**.

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28. On August 2, 2016, JA exchanged emails with a representative of Branch, Banking & Trust ("BB&T") to obtain a loan for the billboard construction. **(Exhibit E)**.

29. In the exchange, JA added Plaintiff to the correspondence, referring to Plaintiff as his "Partner".

30. On August 17, 2016, Plaintiff and JA executed Articles of Organization for "Big Blue Allure, LLC." Both parties signed and completed the documents. **(Exhibit F).**

31. The name "Big Blue Allure, LLC" was an amalgamation of Big Blue Media LLC, an LLC owned by Plaintiff at the time, and Allure LLC, which was owned by JA.

32. In the "Big Blue Allure, LLC" Articles of Organization, both listed Officers, Joe Applegate and Jon Kane, held Official Titles as "Partner," respectively.

33. On October 12, 2016, the Partnership obtained two insurance policies, supplied by "Scottsdale Insurance Co." and "Century Insurance Group" for the billboard property. **(Exhibit G).**

34. Insurance policies were issued under "Big Blue Allure, LLC" with the Address for Location of Risk in Policy as: 2386 Highway 41, Mt. Pleasant, S.C. 29466

35. Following the procurement of insurance coverage, construction began on the site during the Winter months of 2016 and into early 2017.

36. Plaintiff and JA planned for construction to be complete upon the opening of the new bridge spanning the Wando River along Highway 41, adjacent to the billboard site.

37. On November 17, 2016, JA sent an email to Plaintiff with the subject matter "Touchdown" and attached a picture of himself and the Partnership's newly completed billboard as observed from the still under construction bridge. **(Exhibit H)**.

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38. On April 28, 2017, in an exchange with investment bank, "Johnson, Fretty & Company" ("JFC"), JA scheduled a meeting date for review of a Valuation Draft for the billboard and wrote, "I would like my partner to be able to join [the meeting]." **(Exhibit I).**

39. On May 30, 2017, in an email from JA to Curtis Applegate, with Plaintiff copied in the exchange, a contract for advertising "creatives" with South Carolina Federal Credit Union ("SCFCU") was discussed. **(Exhibit J).**

40. Curtis Applegate ("CA"), the son of JA and Defendant Darien Applegate, frequently assisted in various administrative matters regarding the Partnership.

41. In the May 30 exchange, JA instructed CA to "run" an existing "creative" design until the start of the contract period with SCFCU, which coincided with the opening of the newly constructed bridge, adjacent to the billboard location, over the Wando River along Highway 41.

42. Again, Plaintiff participated in this exchange.

43. On June 15, 2017, upon the completion of construction, the billboard had an estimated value of $1,340,000, according to the valuation by JFC. **(Exhibit K)**.

44. On July 28, 2017, the new bridge on Highway 41 opened to traffic.

45. In the Fall of 2017, Plaintiff and JA discussed the addition of a second advertising display face for the billboard.

46. On October 25, 2017, in an email to Plaintiff and JA, Dan Dawkins at James White Construction provided an estimate for the removal of trees and construction of a second face to the billboard. The estimated cost was $16,000. **(Exhibit L). (Exhibit M).**

47. On August 23, 2018, in an email with Robert (Bob) Keziah ("Keziah"), JA drafted and provided information on Plaintiff's professional background to update and add to his profile on Allure Outdoors's website. **(Exhibit N).**

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48. Keziah is a licensed real estate broker in North Carolina and South Carolina, and first met JA in 2015 at a lunch meeting with Plaintiff.

49. Upon information and belief, Keziah assisted the Partnership in obtaining permits for the billboard. **(Exhibit B).**

50. In late 2018 or early 2019, JA informed Plaintiff that he was experiencing health issues. JA assured Plaintiff that Darien Applegate – JA's spouse, and a Defendant in this action – had full knowledge of their partnership agreements and business operations.

51. In April or May of 2019, JA informed Plaintiff the out-of-pocket expenses associated with the construction of the Billboard had been paid off.

52. On June 29, 2019, Joe Applegate passed away.

53. The Probate period for JA's estate commenced in late summer of 2019 and lasted for a period of one year.

54. During the Probate period, Defendant Darien Applegate assured Plaintiff of her understanding of the details of the partnership agreement and the billboard venture.

55. In October of 2019, Defendant Darien Applegate again discussed the agreement with Plaintiff, acknowledging that she was fully aware of the business deal between the corporate entity of JA, but stressing a need to complete Probate before she would be ready to deal with the business and making any decisions for the future.

56. In the months that followed, Plaintiff frequently contacted Defendant Darien Applegate in a manner consistent with behavior amongst the spouse of a longtime friend and business partner.

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57. On or about November 11, 2019, Plaintiff texted Defendant Applegate regarding delivery of a check to Joe Sharp, to which Defendant responded she would "have to transfer money from my account" as the "Big Blue" account lacked sufficient funds for payment. **(Exhibit O).**

58. On December 17, 2019, Defendant Darien Applegate sent a text in a group that included Kevin Madrykowski ("Madrykowski") and Plaintiff, requesting Plaintiff send a check for commissions owed to sales representative, Mary Adams. **(Exhibit P)**.

59. Mary Adams acted as a salesperson for the Partnership, obtaining customers for the Billboard. **(Exhibit Q).**

60. Plaintiff considered this to be a normal request, as he paid commissions to Mary Adams via check from a bank account that Plaintiff used for purposes of this venture.

61. Similarly, Madrykowski worked with Plaintiff and JA at Adams Outdoor Advertising from 2002-2014 and was the sales manager for the joint venture with Plaintiff and JA's. **(Exhibit R).**

62. In January of 2020, upon information and belief, Defendant Applegate removed Plaintiff's name from the Partnership's bank accounts at BB&T.

63. During the same period of time, Defendant Applegate continued to treat Plaintiff as a partner, seeking information and guidance regarding the valuation of the billboard. **(Exhibit S)**

64. During this period, Plaintiff was assured by Curtis Applegate that Defendant Darien Applegate was aware of the partnership agreement and intended to honor it.

65. On or about January 16, 2020, Defendant Applegate texted Plaintiff, asking, "[Can] we add a second face to our sign at the marina? [Hwy. 41 location]" Defendant added she needed information for an appraisal in accordance with probate paperwork. **(Exhibit T)**.

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66. In the same exchange, Defendant Applegate also asked Plaintiff whether a lease for another of Jon Applegate's billboard locations was filed with the State.

67. In response to Defendant Applegate's inquiries, Plaintiff said, "We can add second face, I'm working through landowner next door for trees. I believe everything was filed with the state. Should be in the lease folder." **(Exhibit T)**.

68. On or about January 16, 2020, Defendant Applegate, via text, also stated to Plaintiff an appraisal had been completed for the billboard, valued at less than half of the original appraisal amount. "Basically they are saying it's worth what we put into building it," said Defendant. **(Exhibit S).**

69. In the same text exchange, Plaintiff responded, "That is odd. The appraisals for Charlotte and Charleston [billboards] were significant without revenue from what Joe told me." Plaintiff also noted it had only been "24 months or so," since the last appraisal's completion.

70. Upon information and belief, during mid to late Summer of 2020, after the conclusion of Probate for JA's estate, Defendant Applegate stated to Plaintiff that she had nothing in writing, or otherwise, indicating the existence of the partnership or Plaintiff's rights in the business.

71. Upon information and belief, Defendant Applegate signified to Plaintiff that she was entitled to assume full operational control of the partnership and its business as the Official Administrator of JA's estate.

72. In a subsequent conversation, Defendant Applegate's and JA's son Curtis Applegate assured Plaintiff he was familiar with the partnership, had informed Defendant Applegate of the partnership, and expressed confusion over Defendant Applegate's refusal to honor the partnership

obligations. Curtis Applegate even went so far as to reference an email he had sent to both Plaintiff and JA wherein paperwork related to the partnership was attached. **(Exhibit AA)**.

73. On November 19, 2021, without consulting Plaintiff, Defendant Applegate filed a Change of Registered Agent request with the S.C. Secretary of State for "Allure Outdoors, LLC," changing the agent from "Russell J. Applegate" to her own namesake. **(Exhibit U).**

74. On November 19, 2021, again without consulting Plaintiff, Defendant Applegate also filed an Amended Articles of Organization to change the name of "Allure Outdoors, LLC" to "Applegate Outdoor, LLC." Darien E. Applegate was listed as the only manager. **(Exhibit V).**

75. On December 30, 2021, Defendant Darien Applegate, without consulting Plaintiff executed a transfer and assignment of the lease for the land on which the billboard is located. The assignee to the lease rights was Defendant Lamar OCI South Corporation. **(Exhibit Z).**

76. On May 5, 2022, Articles of Merger were filed for "Allure Advertising, LLC," whereas the surviving corporation, and only corporation listed as a party to the transaction was, "Lamar OCI South Corporation." Lee Kantrow, Jr., listed as Executive Vice President on the document, completed the signature page for State Business Filing. **(Exhibit W).**

77. Upon information and belief, prior to the filing of the Articles of Merger, Defendant Lamar OCI South Corporation engaged in a period of due diligence prior to purchasing the Partnership from Defendant Applegate.

78. Upon information and belief, Defendant Lamar OCI South Corporation discovered or should have discovered and enquired about Plaintiff's interest during the course of normal due diligence.

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79. Upon information and belief, Defendant Applegate, without consulting Plaintiff, executed a sale of the Partnership, including the Billboard, to Lamar, OCI South Corporation on or about May 11, 2022.

80. Upon the closing of the sale, Defendant Applegate had unilaterally and improperly transferred all interests held under the Partnership to Lamar OCI, absconding with the totality of sale proceeds and other pecuniary values tied to Plaintiff's equity and interest in the partnership.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)

81. Plaintiff realleges and incorporates herein the preceding allegations of its complaint as if fully restated verbatim.

82. Plaintiff alleges it is entitled to declaratory judgment pursuant to the Uniform Declaratory Judgments Act, S.C. Ann. §15-53-10, et seq.

83. Plaintiff requests a declaratory judgment of this court that:

a. Plaintiff Jon Kane and Russell Applegate were equal partners in the billboard project on Sharp's property;

b. The purpose of the partnership was the development and operation of a billboard;

c. The lease was with Joe Sharp was entered into by the partnership

d. The billboard was property of the partnership

FOR A SECOND CAUSE OF ACTION
(Breach of Contract – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC)

84. The foregoing allegations contained in paragraphs 1- 86 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

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85. In the Spring of 2015, Plaintiff and longtime friend, JA, began discussions to form a partnership venture for the purpose of constructing and operating billboards.

86. Upon information and belief, the parties entered into a valid and enforceable partnership agreement in the Spring of 2015.

87. The parties agreed to an equal fifty (50) percent split of any revenues benefits derived, after initial capital expenditures for construction were repaid.

88. Both parties contracted for the benefit of the revenue deriving from a partnership agreement to build, lease, and control the rights to an advertising billboard, located at: 2386 Highway 41, Mount Pleasant, South Carolina 29466.

89. Shortly thereafter, the parties began to exchange consideration for future partnership revenues in the form of mutually assuming the detriments represented by appraisal, permitting, loan approval, and lease costs.

90. Upon information and belief, beginning in January 2020, but at the time unbeknownst to Plaintiff, Defendant Applegate was in continuous breach of the contractual agreement by refusing to honor the partnership arrangement.

91. During this same period of time, Defendant Applegate undertook actions to extract labor and material gains from Plaintiff by requesting his participation in the partnership, while simultaneously laying the groundwork to breach the partnership and abscond with its assets, including the Billboard. **(Exhibit P). (Exhibit X). (Exhibit Z).**

92. On or about May 11, 2022, Defendant Applegate irreparably breached the contractual obligations of the partnership by engaging in negotiations and subsequently completing a sale of the personal property legally owned by the partnership to Lamar OCI South Corp.

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93. Defendant Applegate negotiated and executed a transfer of title without the knowledge or consent of Plaintiff.

94. Plaintiff's injuries and damages were directly and proximately caused by Defendant Applegate's breach of the partnership agreement in violation of South Carolina law.

95. As a direct and proximate result of Defendant Applegate's breach, Plaintiff has suffered actual and consequential damages in an amount to be determined by the relevant trier of fact.

FOR A THIRD CAUSE OF ACTION
(Breach of Contract with Fraudulent Intent – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC)

96. The foregoing allegations contained in paragraphs 1- 95 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

97. Defendant Applegate committed a breach of contract by failing to abide by the terms of the partnership, by failing to protect Plaintiff's interests under the partnership, and by fraudulently transferring a property interest in which another individual maintained valid title.

98. Upon information and belief, Defendant Applegate was aware that Plaintiff and her deceased husband Joe Applegate were joint owners of and continually held themselves out to third parties as owners of "Big Blue Allure, LLC," "Allure Outdoor, LLC," "Allure Advertising, LLC" and the interests tied to the entities, as supported and substantiated by them holding themselves out to third parties as owners of "Big Blue Allure LLC," "Allure Outdoor,LLC," "Allure Advertising LLC" and the interests tied to the entities. **(Exhibit F).**

99. Defendant Applegate's knowledge of Plaintiff's ownership in the business venture was illustrated on or about September 25, 2019, whereupon Plaintiff inquired about approval for

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an invoice to Joe Sharp and Plaintiff's intentions to deliver a check for payment himself. **(Exhibit X).**

100. Defendant Applegate responded to Plaintiff, via text, stating that she was waiting on "MRI" (Media Resources Incorporated) for a completed invoice.

101. Defendant Applegate's awareness of Plaintiff's ownership interest was again illustrated on or about December 17, 2019, whereupon Defendant requested Plaintiff send money owed to a consultant via a business check. **(Exhibit P)**. Upon information and belief, Plaintiff and Defendant Applegate were the only living parties with proper authority to tender payment on behalf of the "Big Blue Allure, LLC" bank account, at the time.

102. In January of 2020, Defendant Applegate signified her preexisting, personal knowledge of the partnership agreement between Plaintiff and JA.

103. Following this conversation, Plaintiff reasonably believed that Defendant Applegate intended to honor the existing agreement.

104. In early spring of 2020, Defendant Applegate, without notice or permission, removed Plaintiff's namesake from the joint business account held at "BB&T" for "Big Blue Allure."

105. On or about November 19, 2021, Defendant Applegate, without notice or permission, changed the name of the LLC relating to the partnership from "Allure Outdoors, LLC" to "Applegate Outdoor, LLC." **(Exhibit V).**

106. Defendant Applegate purposefully and willfully withheld this material information from the Plaintiff in order to surreptitiously maneuver herself into full operational control and acquire complete ownership over the partnership's assets.

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107. In mid-Summer of 2020, Defendant Applegate stated to Plaintiff that she had no knowledge of the valid partnership agreement between Joe Applegate, deceased, and his partner, Plaintiff.

108. In the month of May 2022, Defendant Applegate completed a sale of the billboard to Lamar OCI, transferring all interests jointly held by the partnership under "Big Blue Allure, LLC."

109. As a direct and proximate result of Defendant Applegate's fraudulent and unauthorized breach, Plaintiff has sustained such actual and consequential damages in an amount to be determined by the relevant trier of fact.

FOR A FOURTH CAUSE OF ACTION
(Breach of Fiduciary Duty – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC.)

110. The foregoing allegations contained in paragraphs 1- 109 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

111. Pursuant to SC Code § 33-41-540, Defendant Applegate owed the Plaintiff duties in a fiduciary capacity given Defendant's knowledge of Plaintiff's existing partnership agreement and Plaintiff's belief that he was at all times the sole operating officer of "Big Blue Allure, LLC" and its assets.

112. Throughout the fall and winter months of 2019 – including the aforementioned text messaging exchanges on September 25 and December 19 of 2019 – Defendant Applegate both treated and reaffirmed, through her actions, her knowledge of Plaintiff as a partner to the venture, exchanging requests for invoices, payment amounts, payments tendered, and commissions owed. **(Exhibit P).**

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113. The Plaintiff's conversations with Defendant Applegate, inclusion in emails, involvement in the day-to-day minutia of Partnership business and the operation of the Billboard, further illustrating her knowledge, agreement and belief concerning Plaintiff's ownership interest of the assets under the partnership's umbrella.

114. Defendant Applegate actively, knowingly, and continuously breached her fiduciary duty owed to the Plaintiff by fostering Plaintiff's continued belief and reliance on Defendant's knowledge and intent to honor the partnership agreement and his interests therein.

115. Defendant Applegate actively and knowingly breached her fiduciary duty owed to Plaintiff by withholding material information concerned with Defendant's efforts to alter the name of the entities related to the partnership's business, including "Allure Outdoor" "Big Blue Allure, LLC", "Allure Outdoors, LLC," and "Allure Advertising, LLC."

116. Defendant Applegate actively and knowingly breached her fiduciary duty owed to Plaintiff by withholding material information concerned with Defendant's efforts to alter authorized users on the "BB&T" account held jointly under the partnership.

117. On or about May 11, 2022, Defendant Applegate wrongfully transferred personal property owned by the partnership – including, but not limited to, the Billboard – to Lamar OCI. Defendant Applegate did so without the knowledge or consent of Plaintiff, contrary to the assigned duties of a fiduciary in accordance with such agreements.

118. Plaintiff is entitled to an amount of actual and consequential damages to be determined at the trial of this action. In addition, due to the willful, wanton, reckless and gross conduct on behalf of Defendant Applegate, Plaintiff is entitled to the amount of punitive damages which will adequately punish and impress upon Defendant the seriousness of her conduct.

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FOR A FIFTH CAUSE OF ACTION
(Unjust Enrichment – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC)

119. The foregoing allegations contained in paragraphs 1-118 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

120. Plaintiff conferred a benefit upon Defendant Applegate by entrusting her with the requisite duties and authority pursuant to a one-half ownership stake in the partnership.

121. Plaintiff conferred a further benefit upon Defendant Applegate by continuing to conduct operations on behalf of the business and partnership, including but not limited to; managing, reviewing, and paying invoices, handling advertisement leases, tendering rental payments, and analyzing commission amounts owed.

122. Defendant Applegate realized a benefit conferred upon her by the Plaintiff that was unjust based on Defendant's verbal assurances that she understood and would stand by Plaintiff's 50/50 ownership under the partnership.

123. Defendant Applegate should not be entitled to unjustly enrich herself at the expense of Plaintiff's equally valued interests to the property and revenues subject to the partnership.

124. Defendant Applegate's retention of the benefits conferred upon her by the Plaintiff should be returned, including; operational income, revenues from sale, and capital or any other realized gains from the jointly held interests.

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FOR A SIXTH CAUSE OF ACTION
(Accounting – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC)

125. The foregoing allegations contained in paragraphs 1-124 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

126. At all times pertinent, Defendant Applegate was under a fiduciary duty to act in the best interests of the joint partnership venture.

127. Plaintiff placed special trust and confidence in Defendant Applegate to act in the best interests of this joint partnership venture.

128. Yet, Defendant Applegate engaged in intentional, malicious acts of self-dealing by devising a scheme to shift title to assets and property held under the venture in an attempt to seize them for herself.

129. Due to the complex scheme implemented by Defendant Applegate, the Plaintiff will require an accounting to adequately determine the nature and extent to which Defendant Applegate executed her seizure of Plaintiff's jointly held property, assets, and revenues, as well as determine the true owner of these items.

FOR A SEVENTH CAUSE OF ACTION
(Fraud – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC)

130. The foregoing allegations contained in paragraphs 1-129 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

131. On multiple occasions, including November 11, 2019, November 14, 2019, November 24, 2019, and January 16, 2020, defendant Darian Applegate communicated with Plaintiff, via text, regarding official partnership business.

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132. Defendant, in these text messages, directly referenced the transfer of funds into "Big Blue" for monthly lease payments, the date of payment tender to Sharp, business invoice amounts, and the addition of a second face on the billboard. **(Exhibit X).(Exhibit P). (Exhibit T).**

133. Each of the above-mentioned text exchanges discussed matters relating to official "Big Blue Allure" business and operations pertaining to the partnership's ventures.

134. If not for Plaintiff's involvement in an official partnership, business capacity, there would be no reason for his inclusion in such correspondence.

135. Following the death of Joe Applegate in the summer of 2019 and until July or August 2020, Defendant Applegate orally communicated to Plaintiff that she knew of and intended to honor the partnership agreement that Plaintiff and her husband, then deceased, had in place.

136. Upon information and belief, this statement was false at the time of its making, as Defendant Applegate did not intend to honor the agreement between Plaintiff and Plaintiff's long-time friend and business partner – her deceased husband, JA.

137. Defendant Applegate's misrepresentations concerned the execution of a legitimate business agreement to which the Plaintiff is a party.

138. Defendant Applegate, having knowledge of the preexisting agreement, intentionally provided a misrepresentation concerning a material aspect of the partnership – its enforcement.

139. Defendant Applegate, as a partner via succession, violated both her fiduciary and contractual duties to the Plaintiff by failing to convey her true and accurate intentions and by actively and knowingly deceiving Plaintiff concerning these material details.

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140. Defendant Applegate knew that her expression of intent to honor the agreement was false at the time of its making, as her true intentions were to remove Plaintiff from the venture altogether.

141. Defendant Applegate had a pecuniary interest in making the materially false misrepresentations, as removing Plaintiff from the partnership interests represented a significant increase in her personal fortune and future earnings.

142. The Plaintiff was unaware that the statements made by Defendant Applegate were false when made.

143. A reasonable person in the Plaintiff's shoes would have the same understanding of the situation based upon the acts and omissions of Defendant Applegate.

144. The Plaintiff detrimentally relied upon the materially false misrepresentations by Defendant Applegate.

145. The Plaintiff could not reasonably have suspected any of the statements prior to his final exclusion from the partnership were false, as Defendant Applegate failed to correct Plaintiff's reasonable expectations of a continuing business structure.

146. The Plaintiff was entitled to rely upon Defendant Applegate's statements based upon Defendant's fiduciary duties owed to the Plaintiff as successor in partnership.

147. The Plaintiff reasonably and justifiably relied upon the statements and subsequent lack of correction for the Plaintiff's understanding of the situation.

148. Plaintiff's injuries and damages were directly and proximately caused by Defendant Applegate's acts and omissions in violation of the laws of South Carolina.

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149. As a direct and proximate result of the Defendants' acts and omissions, Plaintiff has suffered such actual and consequential damages in an amount to be determined by the relevant trier of fact.

FOR AN EIGTH CAUSE OF ACTION
(Constructive Fraud – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC)

150. The foregoing allegations contained in paragraphs 1-149 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

151. Following the death of Joe Applegate in the summer of 2019 and until July or August of 2020, Defendant Applegate orally communicated to Plaintiff that she intended to honor the partnership agreement that Plaintiff and her husband, as co-owners of the venture had in place.

152. Upon information and belief, this statement was false at the time of its making, as Defendant Applegate had no intention of honoring the agreement between Plaintiff and Plaintiff's long-time friend and business partner – her deceased husband, JA.

153. Plaintiff continued to have a legally recognized interest in the assets under the partnership, any revenues derived from "Big Blue Allure, LLC," "Allure Outdoors, LLC," and "Allure Advertising, LLC" ventures, and any other operational interests.

154. Defendant Applegate knew that her expression of intent to honor the agreement was reasonably false at the time of its making, as her true intentions were to remove Plaintiff from the venture altogether.

155. On multiple occasions, including November 11, 2019, November 14, 2019, November 24, 2019, and January 16, 2020, defendant Darian Applegate communicated with Plaintiff, via text, regarding official partnership business. **(Exhibit X). (Exhibit P).**

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156. Defendant, in these text messages, directly referenced the transfer of funds into "Big Blue" for monthly lease payments, the date of payment tender to Sharp, business invoice amounts, and the addition of a second face on the billboard.

157. Each of the above-mentioned text exchanges discussed matters relating to official "Big Blue Allure" business and operations pertaining to the partnership's ventures.

158. On November 11, 2019, Defendant Applegate asked Plaintiff, via text, where to send an invoice to Sharp on behalf of "Allure." Plaintiff provided the business address of Sharp as the place for receipt, as was consistent throughout the partnership. **(Exhibit O).**

159. If not for Plaintiff's involvement in an official partnership, business capacity, there would be no reason for his inclusion in such correspondence.

160. Defendant Applegate had a fiduciary and contractual duty to immediately correct any perceived misunderstandings by the Plaintiff concerning his rights and interests arising out of the partnership agreement.

161. Plaintiff was at no time advised by Defendant Applegate that she did not plan to honor the preexisting partnership agreement.

162. Defendant Applegate had a pecuniary interest in making the materially false misrepresentations, as removing Plaintiff from the partnership interests represented a significant increase in her personal fortune and future earnings.

163. The Plaintiff was unaware that the statements made by Defendant Applegate were false when made.

164. A reasonable person in the Plaintiff's shoes would have the same understanding of the situation based upon the acts and omissions of Defendant Applegate.

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165. The Plaintiff detrimentally relied upon the materially false misrepresentations by Defendant Applegate.

166. The Plaintiff could not reasonably have suspected any of the statements prior to his final exclusion from the partnership were false, as Defendant Applegate failed to correct Plaintiff's reasonable expectations of a continuing business structure.

167. The Plaintiff reasonably and justifiably relied upon the statements and subsequent lack of correction for the Plaintiff's understanding of the situation.

168. The Plaintiff was entitled to rely upon Defendant Applegate's statements based upon Defendant's fiduciary duties owed to the Plaintiff as successor in partnership.

169. Plaintiff's injuries and damages were directly and proximately caused by Defendant Applegate's acts and omissions in violation of the laws of South Carolina.

170. As a direct and proximate result of the Defendants' acts and omissions, Plaintiff has suffered such actual and consequential damages in an amount to be determined by the relevant trier of fact.

FOR A NINTH CAUSE OF ACTION
(Constructive Trust – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC)

171. The foregoing allegations contained in paragraphs 1-170 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

172. Plaintiff has placed special trust and confidence in Defendant Applegate so that Defendant Applegate was bound to act in good faith and fair dealing with respect to her assumed role as a partner to the Plaintiff via succession.

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173. In reliance that Defendant Applegate would act in good faith, fair dealing, and in due regard for the Plaintiff's interests, the Plaintiff continued his efforts with respect to the obligations arising out of the preexisting partnership agreement.

174. Thus, the Plaintiff continued to tender payment and expend labor on behalf of the partnership through "Big Blue Allure, LLC" for rent, maintenance, appraisals, and other costs associated with the billboard venture.

175. Defendant Applegate breached the trust of the Plaintiff and the fiduciary duties owed to the Plaintiff by engaging in negotiations to sell a jointly held property interest without Plaintiff's knowledge or consent.

176. Defendant Applegate further breached the trust and fiduciary duties owed to the Plaintiff by executing the sale of the jointly held personal property owned by the partnership.

177. Defendant Applegate has been unjustly enriched due to such misappropriation and diversion of Plaintiff's jointly owned property, as well as misappropriation of Plaintiff's proceeds from the sale itself.

178. Plaintiff is entitled to the intervention of equity in the imposition of a constructive trust on all accounts receivables, assets, payments, proceeds, and funds of Defendant Applegate until a proper accounting for the true ownership of such property can be conducted.

FOR A TENTH CAUSE OF ACTION
(Violation of S.C. Code 39-5-10, Unfair Trade Practices (SCUTP), Defendants – Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC.)

179. The foregoing allegations contained in paragraphs 1-178 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

180. Plaintiff and Defendant Applegate are persons engaged in trade or commerce as it pertains to the terms defined in S.C. Code Section 39-5-10. After several years of a successful

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continuous business partnership, Defendant Applegate, as a successor in partnership, wrongfully transferred title of personal property owned by Plaintiff as partner. **(Exhibit Z).**

181. The aforementioned facts and practices committed by Defendant Applegate were unfair and deceptive.

182. Defendant Applegate's unconscionable actions are against the public interest and these acts and practices are capable of repetition.

183. Defendant Applegate acted willfully and intentionally when she transferred property owned jointly by Plaintiff to another party.

184. Defendant Applegate's violation of the Unfair Trade Practices Act has caused Plaintiff's loss of the values and revenues represented by half ownership of the established partnership, lost value from duly paid expenditures, and has brought about embarrassment, humiliation, aggravation and inconvenience as a result of Defendant's conduct.

185. Plaintiff has suffered actual, ascertainable, pecuniary losses as a direct and proximate result of Defendant Applegate's actions, in an amount to be determined by the relevant trier of fact.

FOR AN ELEVENTH CAUSE OF ACTION
(Quantum Meruit – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC.)

186. The foregoing allegations contained in paragraphs 1-185 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

187. But for Plaintiff's knowledge of the area, industry experience, and friendship with Joe Sharp the billboard would not have been possible.

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188. Allowing Defendant Applegate to retain her profits to the detriment of Plaintiff would be unjust due to Defendant Applegate's aforementioned willful and intentional misstatements to Plaintiff.

189. Plaintiff's injuries and damages were directly and proximately caused by Defendant Applegate's breach of the partnership and duties to Plaintiff in violation of the laws of South Carolina.

190. As a direct and proximate result of Defendant Applegate's breach of the partnership and duties, Plaintiff has suffered such actual and consequential damages in an amount to be determined by the relevant trier of fact.

FOR A TWELFH CAUSE OF ACTION
(Conversion – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate as Partner, Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC, Lamar OCI South Corp.,)

191. The foregoing allegations contained in paragraphs 1-190 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

192. Upon information and belief, Defendant Applegate was aware Plaintiff and her deceased husband, Joe Applegate, both were Partners and held themselves out to third parties as partners and owners of "Big Blue Allure, LLC" and the interests tied to the entity.

193. Upon information and belief, Defendant Applegate was aware, or should have been aware, Plaintiff and her deceased husband, Joe Applegate, held themselves out to third parties as partners in "Big Blue Allure, LLC," "Allure Outdoors, LLC," "Allure Advertising, LLC" and the interests tied to the entity.

194. In January of 2020, in a conversation between Plaintiff and Defendant Applegate, Defendant signified her preexisting, personal knowledge of the partnership agreement between Plaintiff and JA.

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195. Following the death of Joe Applegate, in the summer of 2019 and until July or August of 2020, Defendant Applegate orally communicated to Plaintiff that she intended to honor the partnership agreement that Plaintiff and her husband, then deceased, had in place.

196. On multiple occasions during this period, including, but not limited to, November 11, 2019, November 14, 2019, November 24, 2019, and January 16, 2020, Defendant Darian Applegate communicated with Plaintiff, via text, regarding partnership business. **(Exhibit X). (Exhibit P). (Exhibit T).**

197. Following the Probate period, Defendant Applegate informed Plaintiff she had no knowledge of the partnership and business agreement between Joe Applegate and his business partner, Plaintiff.

198. Upon information and belief, in the month of May, 2022, Defendant Applegate completed a sale of the billboard to Lamar OCI, transferring all interests once jointly held by the partnership under "Big Blue Allure, LLC."

199. Upon sale completion, Plaintiff was excluded from any proceeds and amounts arising from Defendant Applegate's unauthorized transfer of the billboard's title.

200. At no time prior to, during, or after negotiations with Lamar did Defendant Applegate request the permission of Plaintiff for the billboard's sale.

201. Upon information and belief, Lamar conducted a significant period and amount of due diligence prior to closing on the sale and purchase of the Billboard and other assets from Defendant Darien Applegate.

202. Upon information and belief, during this period Lamar would have discovered Plaintiff's interest in the Billboard and the existence of the Partnership.

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203. Defendant Applegate elected to place her own interests and personal benefit before that of the Plaintiff.

204. Defendant Lamar elected to place its own interests and benefit before that of the Plaintiff.

205. Defendant Applegate enlisted the help of Lamar to quickly deprive the Plaintiff of his ownership interests in the property and business agreement.

206. Upon wrongfully terminating the Plaintiff's ownership interests, Defendant Applegate took subject to the sale proceeds free and clear of Plaintiff's rightful, equal share.

207. Upon the wrongful sale, Defendant Applegate converted the billboard proceeds for her own benefit, exercising an unauthorized assumption of ownership over Partnership property.

208. Defendant Lamar OCI, as buyer of the billboard and upon the date of closing, committed conversion of the personal property interest owned by the Partnership.

209. At no time was the Plaintiff aware of Defendant Applegate's scheme, and in fact, was actively prevented from discovering Defendant's efforts to wrongfully assume control of the interests.

210. Had the Plaintiff been aware of Defendant Applegate's efforts to deprive his rights to the partnership's personal property and revenues, he would not have allowed the sale to Lamar to take place.

211. Plaintiff suffered damages in the form of pecuniary loss which were directly and proximately caused by the Defendants' acts and omissions in violation of the laws of South Carolina.

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FOR A THIRTEENTH CAUSE OF ACTION
(Wrongful Dissolution – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC.)

212. The foregoing allegations contained in paragraphs 1-211 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

213. Plaintiff and JA had a valid partnership agreement entitling each party to an equal 50/50 share of revenues generated by their billboard venture. **(Exhibit F).**

214. Defendant Applegate, on multiple occasions, signified her knowledge of the prior agreement with her husband, JA, and Plaintiff.

215. Defendant Applegate, on multiple occasions, stated to Plaintiff that she intended to honor the agreement in which she had full knowledge of.

216. Defendant Applegate, as a successor in partnership, wrongfully purported to dissolve and/or cancel the valid partnership agreement when she unilaterally and fraudulently transferred title of a property interest jointly held by Plaintiff and JA.

217. Defendant Applegate's wrongful dissolution was without any legitimate justification for business purposes and lacked consent from the remaining member of the partnership, Plaintiff Jon Kane.

218. As a result of Defendant Applegate's intentional wrongful dissolution of the partnership, Plaintiff was deprived of revenues and profits continuously generated by the billboard and his fifty (50) percent share of sale proceeds.

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FOR A FOURTEENTH CAUSE OF ACTION
(Civil Conspiracy – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate as Partner, Big Blue Allure, LLC, Allure Outdoor, LLC, and Allure Advertising, LLC)

219. The foregoing allegations contained in paragraphs 1-218 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

220. Upon information and belief, Defendant Applegate, an individual, and Defendants Big Blue Allure, LLC, Allure Outdoor, LLC, and Allure Advertising, LLC, as entities, colluded for the purpose of executing a transfer of title to personal property lawfully owned by Plaintiff, to the detriment of Plaintiff.

221. Defendants colluded to complete the sale of personal property, a billboard, without the knowledge or consent of Plaintiff, a rightful and lawful interest holder and owner.

222. The combination of the Defendants for the purpose of injuring the Plaintiff and excluding Plaintiff's legally recognized rights from a partnership agreement caused special damages, including but not limited to, lost profits, loss of value derived from appreciation, and loss of business opportunities, and unrealized amounts from a sale.

223. Upon information and belief, the Plaintiff is entitled to judgment against the Defendants for actual and punitive damages, plus the costs of this action.

FOR A FIFTEENTH CAUSE OF ACTION
(Interference with a Contractual Relationship – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, and Allure Advertising, LLC)

224. The foregoing allegations contained in paragraphs 1-223 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

225. Plaintiff alleges, upon information and belief, that Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor,

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LLC, and Allure Advertising, LLC have wrongfully and deliberately committed the wrongful acts alleged herein with the intent to interfere with contractual relations between Plaintiff and former partner, Joe Applegate.

226. As a proximate result of such wrongful acts, Plaintiff has suffered injury and damages in the form of a pecuniary loss.

227. Plaintiff alleges on information and belief that the acts of these Defendants, each of them in conspiracy with each other, in interfering with Plaintiff's contractual relations, were willful and malicious and designed to improperly obstruct and otherwise interfere with the successful operation of Plaintiff's business.

228. Plaintiff therefore is entitled to recover exemplary and punitive damages in a sum to be determined by the relevant trier of fact.

FOR A SIXTEENTH CAUSE OF ACTION
(Negligent Interference with a Contractual Relationship – Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC, Lamar OCI South Corp.,)

229. The foregoing allegations contained in paragraphs 1-228 of this Complaint are incorporated herein by reference as fully as if restated verbatim.

230. Plaintiff alleges on information and belief that Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC, and Lamar OCI South Corp., have wrongfully and deliberately committed the wrongful acts alleged herein, causing an interference with contractual relations between Plaintiff and former partner, Joe Applegate.

231. In engaging in the wrongful conduct described herein, Defendants described above negligently failed to take ordinary precautions to avoid interfering with Plaintiff's contractual relations and to avoid causing injury to Plaintiff as a result.

232. Upon information and belief, Defendant Lamar OCI South Corp. knew or should have known of the existence of Plaintiff and his interest in the Partnership.

233. Defendants Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate (Partner), Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC, and Lamar OCI South Corp., each breached the duty of care owed to Plaintiff.

234. As a proximate result of the breach of duty owed to Plaintiff, Plaintiff has suffered injury and damage to its business and goodwill in an amount to be proved at trial.

WHEREFORE, the Plaintiff prays for judgement against the Defendants on the Causes of Action as alleged herein for a sum that will fully and fairly compensate him, in an amount of actual, punitive, and statutory damages as a jury may deem appropriate, together with the costs and disbursements of this action, to include reasonable attorney's fees, along with any other further such relief as this Court may deem just and proper, whether such remedy may lie at equity of at law.

(*Signature Page Follows*)

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RESPECTFULLY SUBMITTED,

SLOTCHIVER & SLOTCHIVER, L.L.P.

s/Daniel S. Slotchiver

Daniel S. Slotchiver, Esq.
S.C. Bar No.: 15129
751 Johnnie Dodds Blvd., Ste. 200
Mt. Pleasant, South Carolina 29464
P: (843) 577-6531
E: Dan@SlotchiverLaw.com
Attorney for the Plaintiff

OYSTER ROAD LAW FIRM, LLC

s/Matthew Z. Kelly

Matthew Z. Kelly, Esq.
S.C. Bar No.: 102752
751 Johnnie Dodds Blvd., Ste. 200
Mt. Pleasant, South Carolina 29464
P: (843) 804-6538
E: MKelly@OysterRd.com
Attorney for the Plaintiff

June 22, 2023
Mt. Pleasant, South Carolina

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Jon Kane, *Plaintiff,* *vs.* Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate, Successor in Partnership, Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC, Lamar OCI South Corp., Lamar Advertising, *Defendants.*	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT 2023-CP-10-_____ **VERIFICATION**

PERSONALLY appeared before me Plaintiff Jon Kane who, being first duly sworn, deposes and says that she is a Plaintiff in the within action; that she has read the Summons and Complaint in the above captioned case and that all matters alleged therein are true to the best of his knowledge, save and except those matters alleged on information and belief, and, as to those she believes them to be true.

Jon Kane

SWORN TO BEFORE ME this 21st day of June, 2023

C. Mauldin (SEAL)

NOTARY PUBLIC FOR State of South Carolina

MY COMMISSION EXPIRES: June 23, 2024

SUSAN C. MAULDIN NOTARY PUBLIC SOUTH CAROLINA My Commission Expires 06-23-2024

Exhibit A
Allure Articles of Organization
Dated: March 3, 2011

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CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE
Jun 03 2022
REFERENCE ID: 1054101
Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Print Form

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STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic
Filing Fee - $110.00

TYPE OR PRINT CLEARLY IN BLACK INK

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws §33-44-202 and §33-44-203.

1. The name of the limited liability company **(Company ending must be included in name*)**

   Allure Outdoors LLC

   ***NOTE: The name of the limited liability company must contain one of the following endings: "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", L.C." or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co."**

2. The address of the initial designated office of the limited liability company in South Carolina is

   7071 Regatta Ct
   Street Address

   Tega Cay 29708
   City Zip Code

3. The initial agent for service of process is

   Russell J Applegate
   Name

   Signature of Agent

   and the street address in South Carolina for this initial agent for service of process is

   7071 Regatta Ct
   Street Address

   Tega Cay 29708
   City Zip Code

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

   (a) Russell J Applegate
   Name
   7071 Regatta Ct
   Street Address
   Tega Cay SC 29708
   City State Zip Code

   (b) _____
   Name
   _____
   Street Address
   _____
   City

110303-0226 FILED: 03/03/2011
ALLURE OUTDOORS LLC
Filing Fee: $110.00 ORIG
Mark Hammond
South Carolina Secretary of State

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Jun 03 2022
REFERENCE ID: 1054101

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Name of Limited Liability Company _____

5. [ ] Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. _____

6. [ ] Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a) _____
Name

_____
Street Address

_____
City State Zip Code

(b) _____
Name

_____
Street Address

_____
City State Zip Code

7. [ ] Check this box only if one or more of the members of the company are to be liable for its debts and obligations under §33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time.

_____

9. Any other provisions not inconsistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

_____ 3-2-11
Signature of Organizer Date

_____ _____
Signature of Organizer Date

Form Revised by South Carolina
Secretary of State, December 2009

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Exhibit B
Affidavit of Bob Keziah
Dated March 8, 2022

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STATE OF South Carolina)
)
COUNTY OF York)

AFFIDAVIT OF ROBERT KEZIAH

The affiant, Robert Keziah, being duly sworn, deposes and states as follows:

1. I am an adult and am competent to make the statements contained in this affidavit. The statements made herein are of my own personal knowledge or belief, save for those matters made on information and belief and as to those matters, I am informed and believe them to be true.

2. I am giving this affidavit freely and voluntarily, having been promised nothing nor threatened in any way in exchange for same.

3. I am giving this affidavit as it speaks to the truth about my personal knowledge of the business relationship between Jonathan (Jon) Kane and Joseph (Joe) Applegate

4. By way of background, I am a commercial real estate broker licensed in North and South Carolina.

5. I was introduced to Joe in July 2015 at a lunch meeting by a mutual friend who is also in the Billboard advertising business, and he previously worked for Joe. On many occasions, I had expressed my interest in Billboards coming from a real estate background and this mutual friend thought that I could help Joe expand his business.

6. After that introduction, I met with Joe to see what type of help he needed. I discovered that new Billboards are extremely difficult to get permitted. Each governmental municipality in both NC and SC has their own set of zoning ordinances related to Billboards. Some areas prohibit new ones completely. Other areas require the "trade in" of a specific number of existing permitted Billboards in order to be able to build a new one. The ones that allow new ones to be built have multiple layers of zoning guidelines that must be met to build a new one. These guidelines include specific zoning of the property where the new billboard will be installed. Specific road

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classifications, minimum spacing on the same side and opposite side of the road to existing Billboards, minimum distance to residential zoning, minimum distance to an interstate ramp, maximum distance to an existing commercial business, minimum distance to wetlands, and the list goes on. After getting over the local government hurtles, each state Department of Transportation has their own rules that also must be followed to obtain a state permit which is required for constructing a new Billboard.

7. The above research takes an extraordinary amount of time. Joe told me that if I helped him get new signs permitted and built, on my own time (unpaid), he would give me a portion of the "sign equity" after the initial capital cost to build the sign had been repaid.

8. These signs can generate a substantial amount of revenues if the sign has a reasonable number of ads being displayed. This revenue potential and the difficulty involved with building new signs is why they command a very high value when they are sold in the open market.

9. The fact that I had an opportunity to participate and be a partner in all the new signs is the reason I agreed to work for free and I spent most of my working hours for four years on numerous sign projects with Joe. He would often "ride the market" in Charlotte and I accompanied him several days a week on this activity when he was not traveling away from home. On days that I was not with him, he would often call me multiple times a day asking me to research a specific address wherever he happened to be traveling on that day. He was truly a wonderful person with a magnetic personality, and I cherish the time I was able to spend with him. I obtained two sign leases while working with him. One lease was for a new sign in Charlotte which we built, and he asked me to manage the construction of that site. I also obtained a lease for a new sign in Hardeeville, SC near I-95. There were three partners involved with that location, but it was never

built because we could not meet all the requirements of the local (Jasper) county sign ordinance to obtain a construction permit.

10. I traveled with Joe on July 12th and 13th, 2016, to Charleston, SC to look at potential Billboard sites and to also check on his Billboard located in the Huger, SC area. I met Jon Kane and Joe Sharp for the first time at a lunch meeting on 7/12/16 at Joe Sharp's business that is located near the Billboard.

11. My understanding, based on my interactions with Joe, was that he and Jon were equal partners in his Charleston sign in much the same way as my involvement was with Joe. Joe represented Jon as his very close friend and through telephone conversations Joe had with Jon when I traveled with Joe, I could tell that they had a great relationship that had formed many years ago. Joe told me that they were each considering the purchase of life insurance that could be used to "buy out" the remaining partners' half ownership if something were to happen to either one of them. I do not know if that was ever done. Jon Kane also helped with the selling of advertising for the Charleston sign as that was a topic often discussed during their telephone conversations.

12. On September 20, 2016, I traveled with Kevin Madrzykowski (Joe's Sales Manager) to attend another meeting that Joe had in Folly Beach, SC to discuss potential Billboard opportunities. There were six people, including Jon Kane, that participated in that event. Three of these people were Joe's partners including me.

13. After 2016, I traveled several additional times with Joe to Charleston and to surrounding towns in that part of South Carolina. Joe was always looking for potential new sites for Billboards and for sites where the leases on existing Billboards would be expiring within a reasonable amount of time. He told me on many occasions while we were traveling that he would happily partner with others on new sites, as he believed part of something is better than all of nothing. He was

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very well respected in the industry, and he had a substantial number of people in that business that he knew.

14. Joe told me several times that he wanted to set up a separate LLC for each Billboard location he was involved in with other partners. When we built the Charlotte I-77 location he asked me to create a new LLC for that site that was never used. There had been a meeting scheduled with he and his partners and his CPA in early June 2019 to discuss this subject, but that meeting was delayed for unknown reasons until July 2019, and it never occurred.

15. My involvement and interaction with Joe continued up and until his time of death on June 25, 2019, which was an extremely sad day for many people. He was a dear friend of mine and I really miss him.

FURTHER Affiant sayeth naught.

Robert Keziah

Robert Keziah

SWORN TO AND SUBSCRIBED BEFORE ME

This 8 day of March, 2022

Notary Public of South Carolina

My Commission Expires: 11-3-2031

PAUL W CORRELL
Notary Public
State of South Carolina
My Commission Expires Nov. 3, 2031

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Exhibit C
Initial Pricing Exchange; Rushton, MRI
Dated June 26, 2016

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[redacted]

[redacted]

[redacted]

[redacted]

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From: Jon Kane <jkane5656@gmail.com>
Date: Thursday, May 25, 2023 at 4:41 PM
To: Matthew Kelly <mkelly@oysterrd.com>
Subject: Fwd: UPDATE and Draft Pricing - Allure Charleston Project

Sent from my iPhone

Begin forwarded message:

> **From:** Russell Applegate <joe@allureadvertising.net>
> **Date:** June 27, 2016 at 6:43:03 PM EDT
> **To:** Jim Bonebrake <jim.bonebrake@signs-unlimited.com>
> **Cc:** Jeff Rushton <jrushton@mediaresources.com>, Graham Murdoch <GMurdoch@mediaresources.com>, Robert York <ryork@mediaresources.com>, Keith Edwards <kedwards@mediaresources.com>, Stephen Gallow <sgallow@mediaresources.com>, Cheng Qian <CQian@mediaresources.com>, Jo-Ann Simms <JGemana@mediaresources.com>, Jon Kane <jkane5656@gmail.com>
> **Subject: Re: UPDATE and Draft Pricing - Allure Charleston Project**
>
> All,
>
> For all future correspondence please add Jon Kane to the email group. He is copied on this email.
>
> jkane5656@gmail.com
>
> Best
> Joe
>
> > On Jun 27, 2016, at 4:13 PM, Jim Bonebrake <jim.bonebrake@signs-unlimited.com> wrote:
> >
> > Hello All,
> >
> > The engineer has taken longer than anticipated. He is finishing up and going to stamp and seal the drawings and send them to me today or tomorrow. As soon as I receive them, I will forward copies to all.
> >
> > Thank you Jim
> >
> > **From:** Jeff Rushton [mailto:jrushton@mediaresources.com]
> > **Sent:** Sunday, June 26, 2016 4:25 PM
> > **To:** Jim Bonebrake; 'Russell Applegate'
> > **Cc:** Graham Murdoch; Robert York; Keith Edwards; Jeff Rushton; Stephen Gallow;

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Cheng Qian; Jo-Ann Simms
Subject: RE: UPDATE and Draft Pricing - Allure Charleston Project

Joe

Further to our conversation on Friday attached is a draft contract in mark-up mode. This has been revised in include 5 year parts and 5 year on-site labor per your request; and I also had to revise based on some new shipping estimates; and yes I was very gentle on the price change as a result!

Two actions so we can get this project rolling:

- Jim we need engineering site off on the drawings or changes that we can incorporate. Once we receive that we will insert the final drawings as Exhibit B. Any ETA on that?
- Joe while we are waiting for that if you can review the attached and provide any edits we can have it ready to go when we get the final drawings.

Once those two actions are done we will issue the deposit invoices and get everything rolling.

Joe we can't thank you enough for choosing Media Resources as your partner for this project. We are very excited to be partnering with you on what will be a very iconic location.

PS: we also need to get your partner up here whenever is convenient; maybe while we are doing construction and there is a good ballgame on.

Thanks again

<image001.jpg>

Jeff Rushton
E: jrushton@mediaresources.com | **T:**905.337.0993 x253
C: 416.723.1152 | **Toll Free:**1.800.667.4554
1387 Cornwall Road Oakville, Ontario L6J 7T5
Promises Made. Promises Delivered.
www.mediaresources.com | LinkedIn

From: Jeff Rushton
Sent: June 21, 2016 11:10 AM
To: Jim Bonebrake; 'Russell Applegate'
Cc: Graham Murdoch; Jeff Rushton; Stephen Gallow; Robert York; Keith Edwards
Subject: UPDATE and Draft Pricing - Allure Charleston Project

Jim/Joe

I hope both of you are doing great. We are writing to check in if you have any feedback from the engineer who is stamping the attached drawings.

Regardless Joe assuming these drawings are approved we did some costing on the entire project and the total will come out to $269,750.00. This is inclusive of the structure, cladding, two digitals (with custom blocking louvers on the one side, two time/temp displays in the apron, the bullnose, the back light LED Allure Advertising in

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the nose, shipping, and Keith/senior installer & a senior engineer on site at the time of installation and commissioning to support Jim and the team at Signs Unlimited. Details below

Scope

Structure per attached drawings including
- Structure with Catwalks and all safety components
- Pole cladding (will come shipped attached to the structure)
- Two top awning like roof sections including ribs
- Two bottom sign like aprons
- Radius Bull nose
- Back light LED “Allure” letters and non-illuminated “Advertising “ letters
  - built into bull nose

Two Digital Displays each 10' 6" x 35' 8.4" - shipped in one piece
- Side 1 - 16mm RGB
- Side 2 - 20mm RRGB with special custom louver with SiteLine blocking louver technology

Time Temp Units (2)
- 16" digitals - each box 22" high x 56" wide - will be built into aprons on each side

Supply on site foreman for structure and cladding as well as LED commissioning

Shipping & Loading

Total: $269,750.00

Joe I will give you a call to discussed and once you are ok with this, and we have the engineer stamp I will do up a contract.

Thanks very much. Excited to get this started.

<image001.jpg>

Jeff Rushton
E: jrushton@mediaresources.com | **T:**905.337.0993 x253
C: 416.723.1152 | **Toll Free:**1.800.667.4554
1387 Cornwall Road Oakville, Ontario L6J 7T5
Promises Made. Promises Delivered.
www.mediaresources.com | LinkedIn

<image002.jpg>

From: Jim Bonebrake [mailto:jim.bonebrake@signs-unlimited.com]
Sent: June 6, 2016 9:34 AM
To: Jeff Rushton; Robert York; 'Russell Applegate'; Keith Edwards

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Cc: Graham Murdoch
Subject: RE: Charleston Project

Jeff,

I expect to hear back from the Engineer in the middle of the week.

Joe met with the county regarding the permit and he has the electrician installing the temporary service which requires an inspection and satisfies the counties requirement as starting the job.

Thank you Jim
<image003.jpg>

Jim Bonebrake CEO
Phone 803-548-1303
Fax 803-548-7138
Cell 443-988-8778
email: jim.bonebrake@signs-unlimited.com
www.signs-unlimited.com
<image004.png>

From: Jeff Rushton [mailto:jrushton@mediaresources.com]
Sent: Monday, June 06, 2016 7:40 AM
To: Robert York; Jim Bonebrake; 'Russell Applegate'; Keith Edwards
Cc: Jeff Rushton; Graham Murdoch
Subject: RE: Charleston Project

Good morning everyone

As I know time is an issue with the permit, Jim I just wanted to check in and see if we have received any feedback from the engineer.

Thanks

<image001.jpg>

Jeff Rushton
E: jrushton@mediaresources.com | **T:**905.337.0993 x253
C: 416.723.1152 | **Toll Free:**1.800.667.4554
1387 Cornwall Road Oakville, Ontario L6J 7T5
Promises Made. Promises Delivered.
www.mediaresources.com | LinkedIn

<image002.jpg>

From: Robert York
Sent: May 27, 2016 4:43 PM
To: Jim Bonebrake; 'Russell Applegate'; Jeff Rushton; Keith Edwards
Subject: Charleston Project

Jim

Revised drawings.

Thanks

Rob York
Solid Works Designer

E: RYork@mediaresources.com

T: 905.337.0993 ext.285
F: 905.337.9531 | **Toll Free:** 1.800.667.4554

<image005.png>

1387 Cornwall Road Oakville, Ontario L6J 7T5

Promises Made. Promises Delivered.

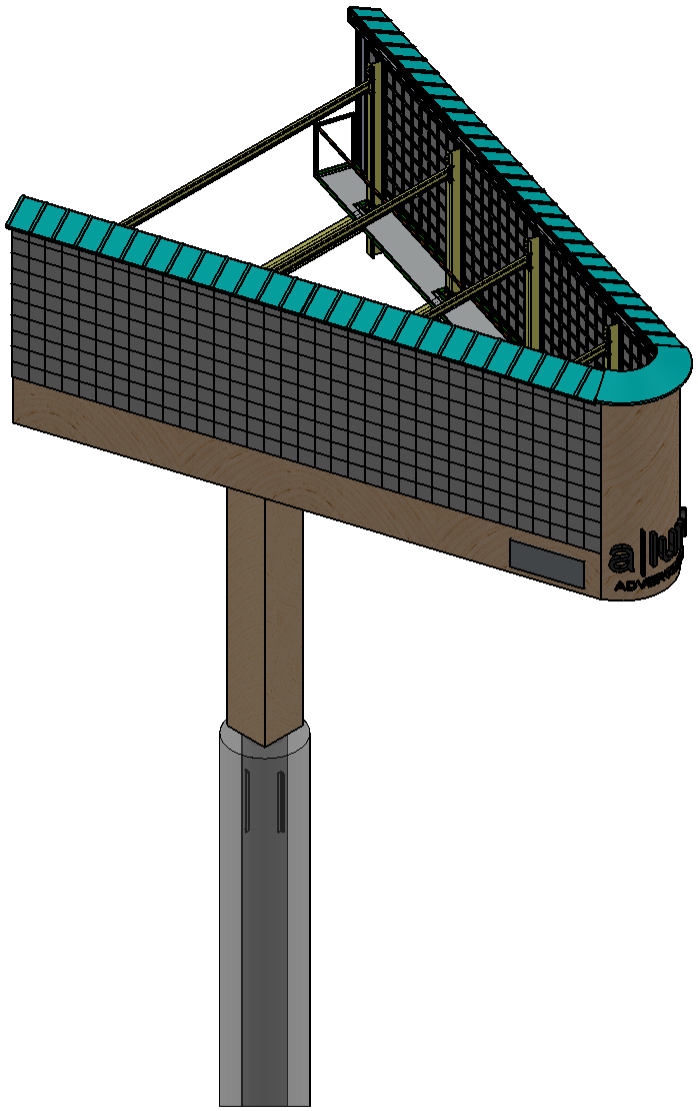
www.mediaresources.com

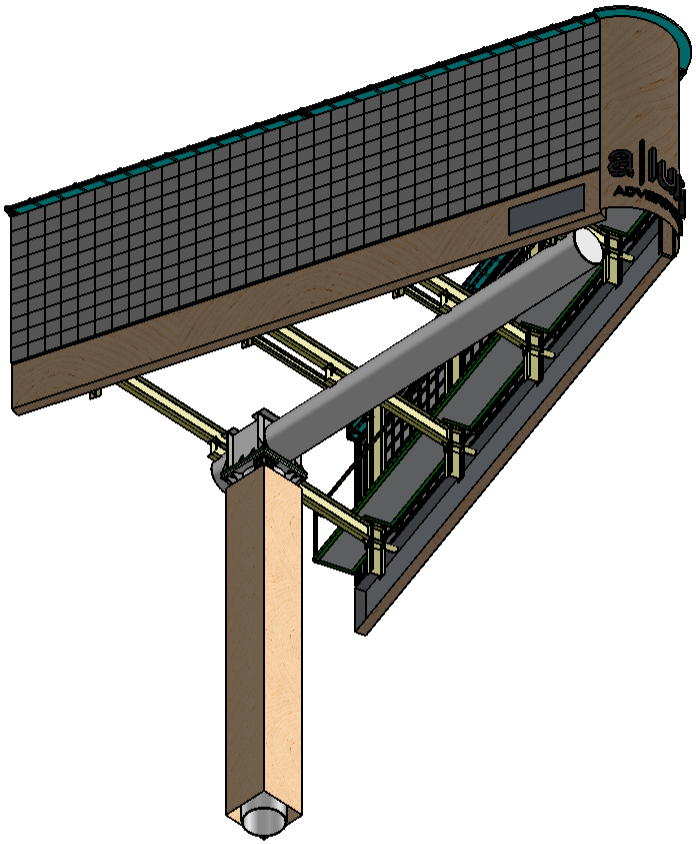
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<image009.png>

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Exhibit D
Email Joe to Jon & Randy re: Drawings
Dated July 14, 2016

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UNLESS OTHERWISE SPECIFIED
DO NOT SCALE DRAWING
INTERPRET DIMENSIONS AND TOLERANCES PER ASME Y14.5M-1994
THIRD ANGLE PROJECTION
DIMENSIONS ARE IN mm/INCHES
TOLERANCES APPLY AS SHOWN BELOW

0 PL DEC	± 0.2	± 5.0 mm
1 PL DEC	± 0.1	± 2.5 mm
2 PL DEC	± 0.01	± 0.3 mm
3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

mediaresources ...solutions for the sign industry.

CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ Wifi

DRAWN BY: R. YORK — DATE: 5/9/2016
CHECKED BY — DATE
APPROVED — DATE

MEDIA RESOURCES INTERNATIONAL
1387 CORNWALL ROAD OAKVILLE ONTARIO
TEL: 1.800.667.4554 FAX: 1.905.337.9531

TITLE: **FLAG MOUNT STRUCTURE**

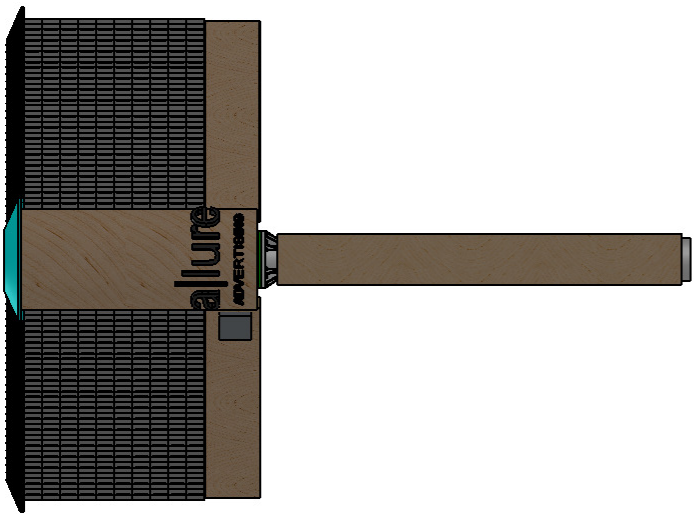
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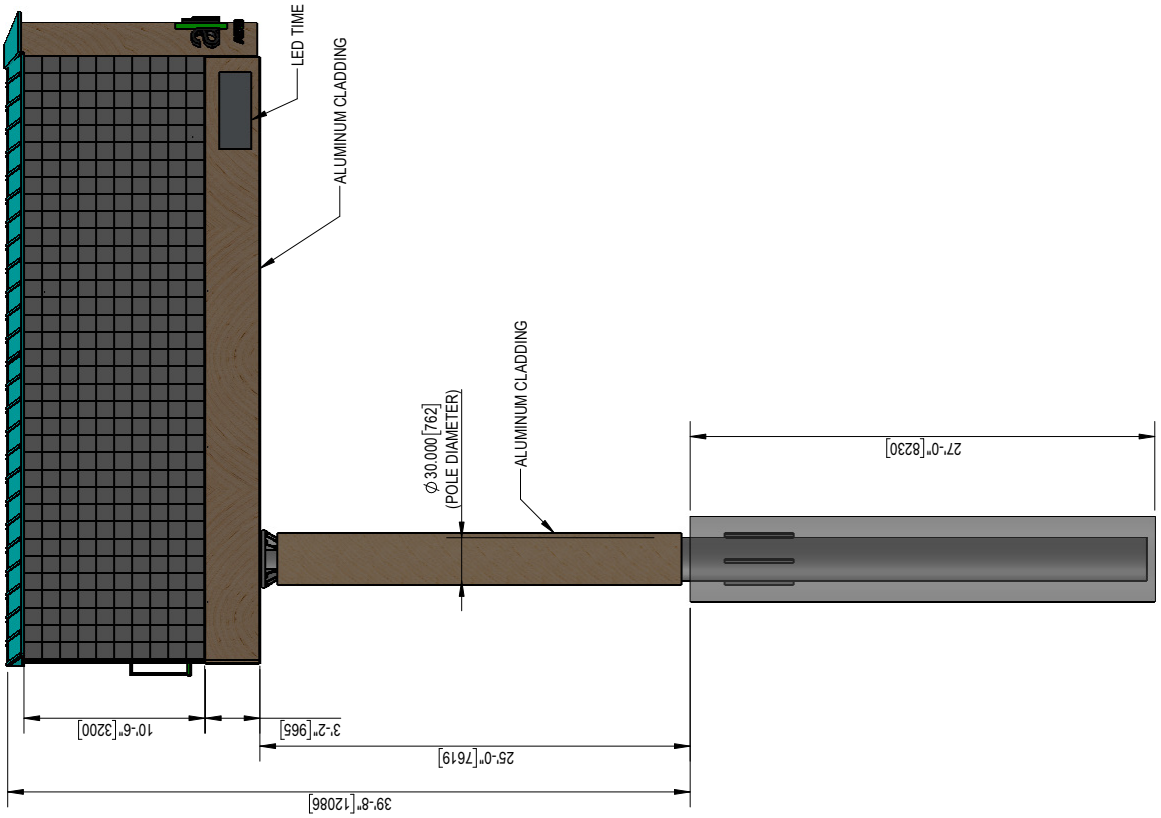
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WORK ORDER NO: D0000-00 — SCALE: 1:80 — WEIGHT: lbs — SHEET 1 OF 12

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Record on Appeal - 062





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DO NOT SCALE DRAWING
INTERPRET DIMENSIONS AND TOLERANCES PER ASME Y14.5M-1994
THIRD ANGLE PROJECTION
DIMENSIONS ARE IN mm/INCHES
TOLERANCES APPLY AS SHOWN BELOW

0 PL DEC	± 5.0 mm
1 PL DEC	± 2.5 mm
2 PL DEC	± 0.10 mm
3 PL DEC	± 0.10 mm
ANGLES	± 0.005
SURFACE ROUGHNESS	32 µ in / 8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

DRAWN BY: R. YORK — DATE: 5/9/2016
CHECKED BY — DATE
APPROVED — DATE

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...solutions for the sign industry.

CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 19mm 10H x 35W RGB DF w/ Wifi

MEDIA RESOURCES INTERNATIONAL
1387 CORNWALL ROAD OAKVILLE ONTARIO
TEL: 1.800.667.4554 FAX: 1.905.337.9531

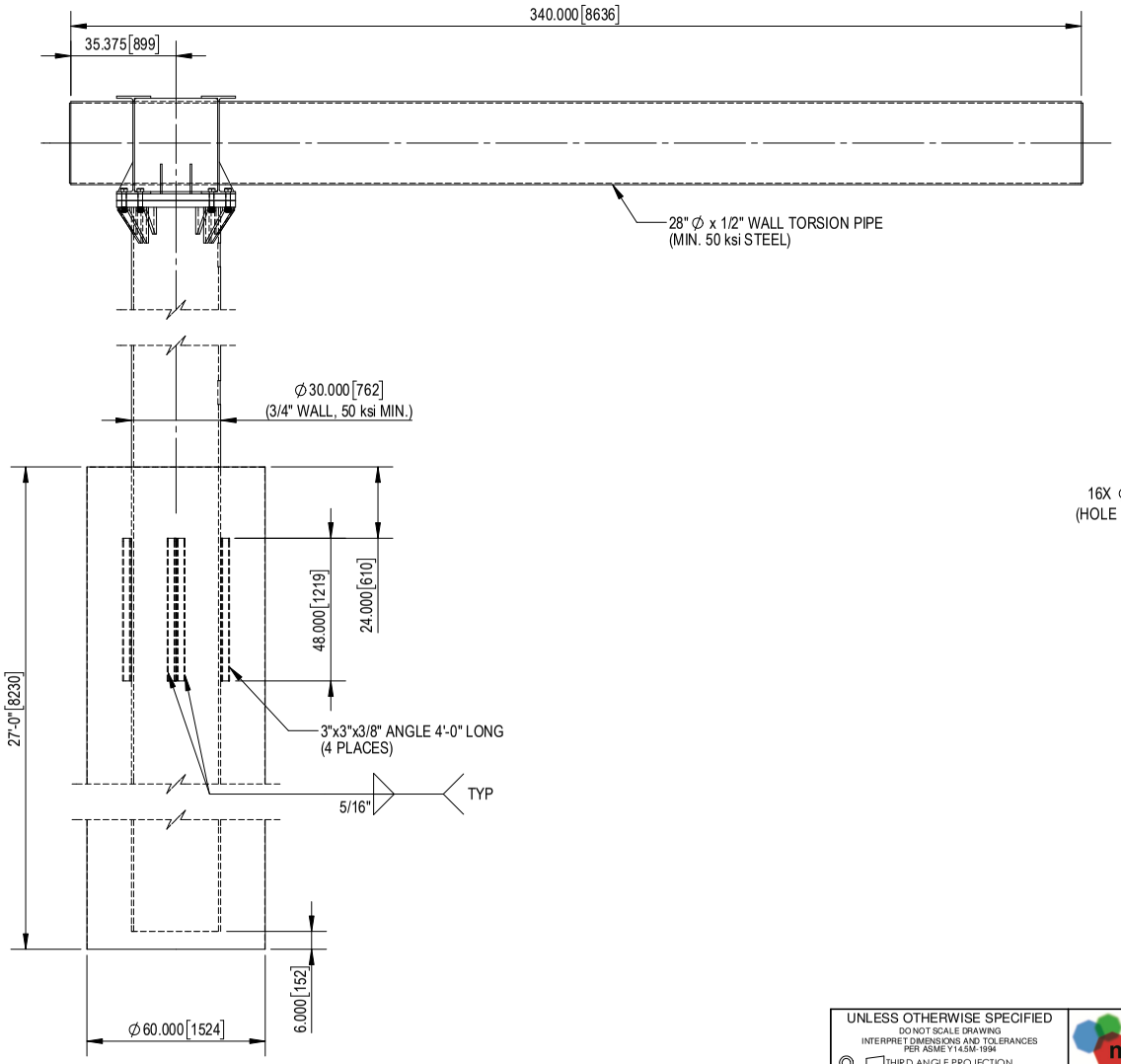
TITLE: FLAG MOUNT STRUCTURE

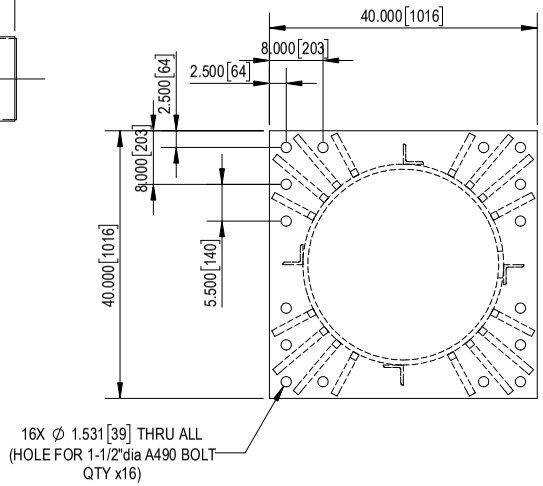
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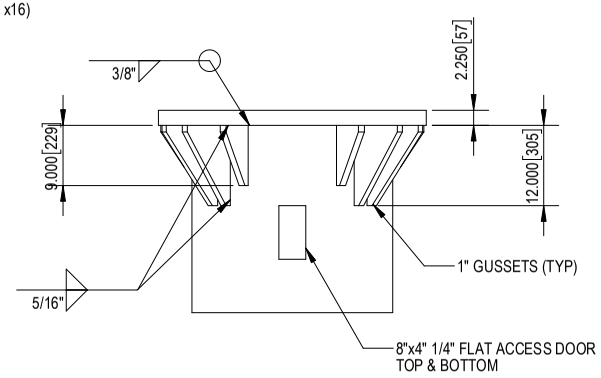
SIZE: B — DRAWING NO: 0000-00_STRU-001 — REVISION

WORK ORDER NO: D0000-00 — SCALE: 1:84 — WEIGHT: lbs — SHEET 2 OF 12

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INTERPRET DIMENSIONS AND TOLERANCES PER ASME Y14.5M-1994
THIRD ANGLE PROJECTION
DIMENSIONS ARE IN mm/INCHES
TOLERANCES APPLY AS SHOWN BELOW

0 PL DEC	± 0.2	± 5.0 mm
1 PL DEC	± 0.1	± 2.5 mm
2 PL DEC	± 0.01	± 0.3 mm
3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

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CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ Wifi
DRAWN BY: R. YORK — DATE: 5/9/2016
CHECKED BY — DATE
APPROVED — DATE

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TEL: 1.800.667.4554 FAX: 1.905.337.9531

TITLE: **FLAG MOUNT STRUCTURE**

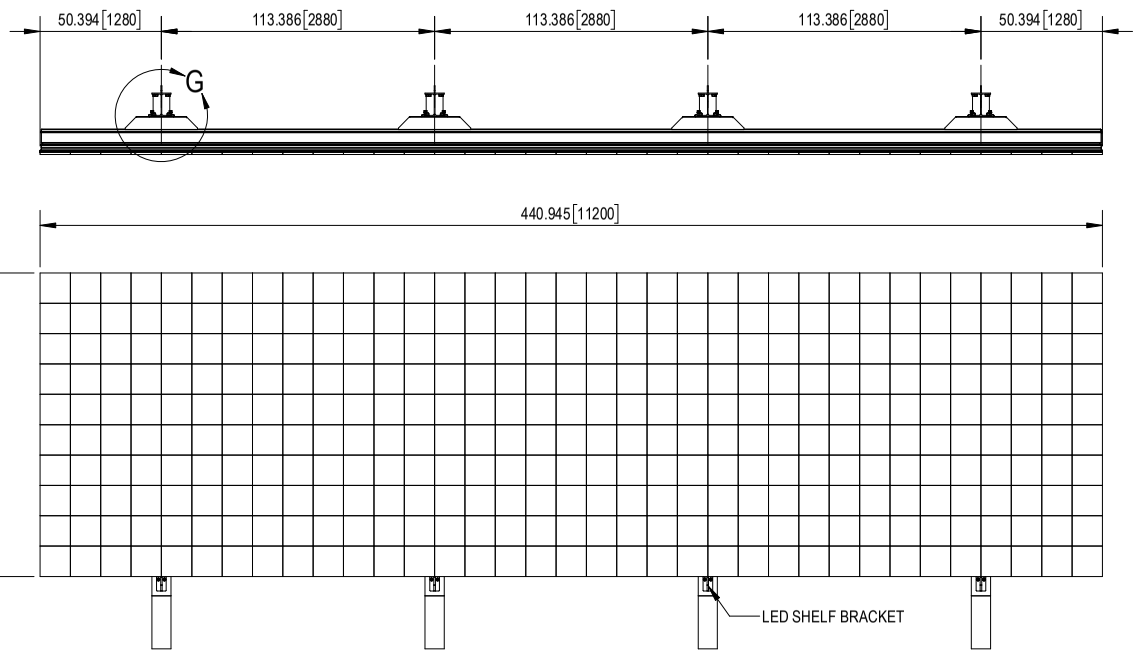
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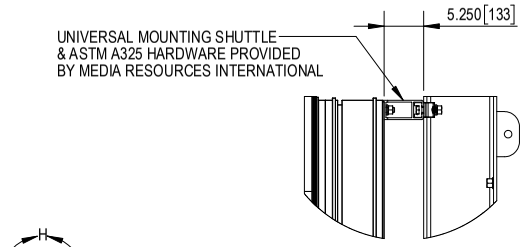
SIZE: B — DRAWING NO: 0000-00_STRU-001 — REVISION
WORK ORDER NO: D0000-00 — SCALE: 1:40 — WEIGHT: lbs — SHEET 3 OF 12

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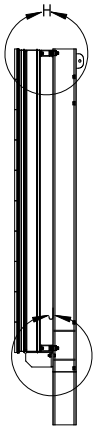
ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

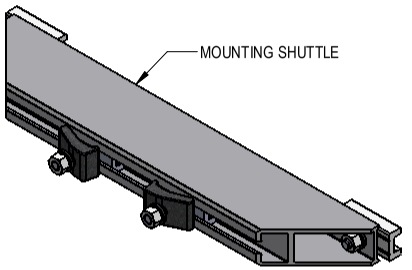
Record on Appeal - 064



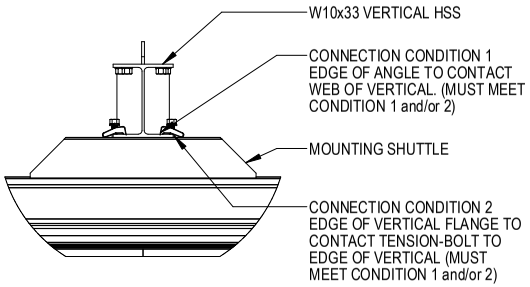


DETAIL H
SCALE 1 : 16

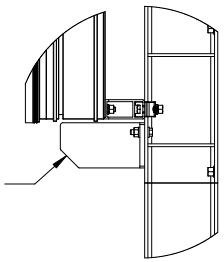




WEIGHT OF LED DISPLAY APPROX. 6200lbs



DETAIL G
SCALE 1 : 16



DETAIL J
SCALE 1 : 16

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INTERPRET DIMENSIONS AND TOLERANCES PER ASME Y14.5M-1994
THIRD ANGLE PROJECTION
DIMENSIONS ARE IN mm/INCHES
TOLERANCES APPLY AS SHOWN BELOW

0 PL DEC	± 0.2	± 5.0 mm
1 PL DEC	± 0.1	± 2.5 mm
2 PL DEC	± 0.01	± 0.3 mm
3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

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CUSTOMER: ALLURE ADVERTISING LCC
PROJECT: 16mm 10H x 35W RGB DF w/ WIFI

DRAWN BY	R. YORK	DATE 5/9/2016
CHECKED BY		DATE
APPROVED		DATE

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TEL: 1.800.667.4554 FAX: 1.905.337.9531

TITLE: **FLAG MOUNT STRUCTURE**

FILE PATH: C:_MRIVault\Projects\ALLURE ADVERTISING LLC\D0000-00\Structure\0000-00_STRU-001.sldprt

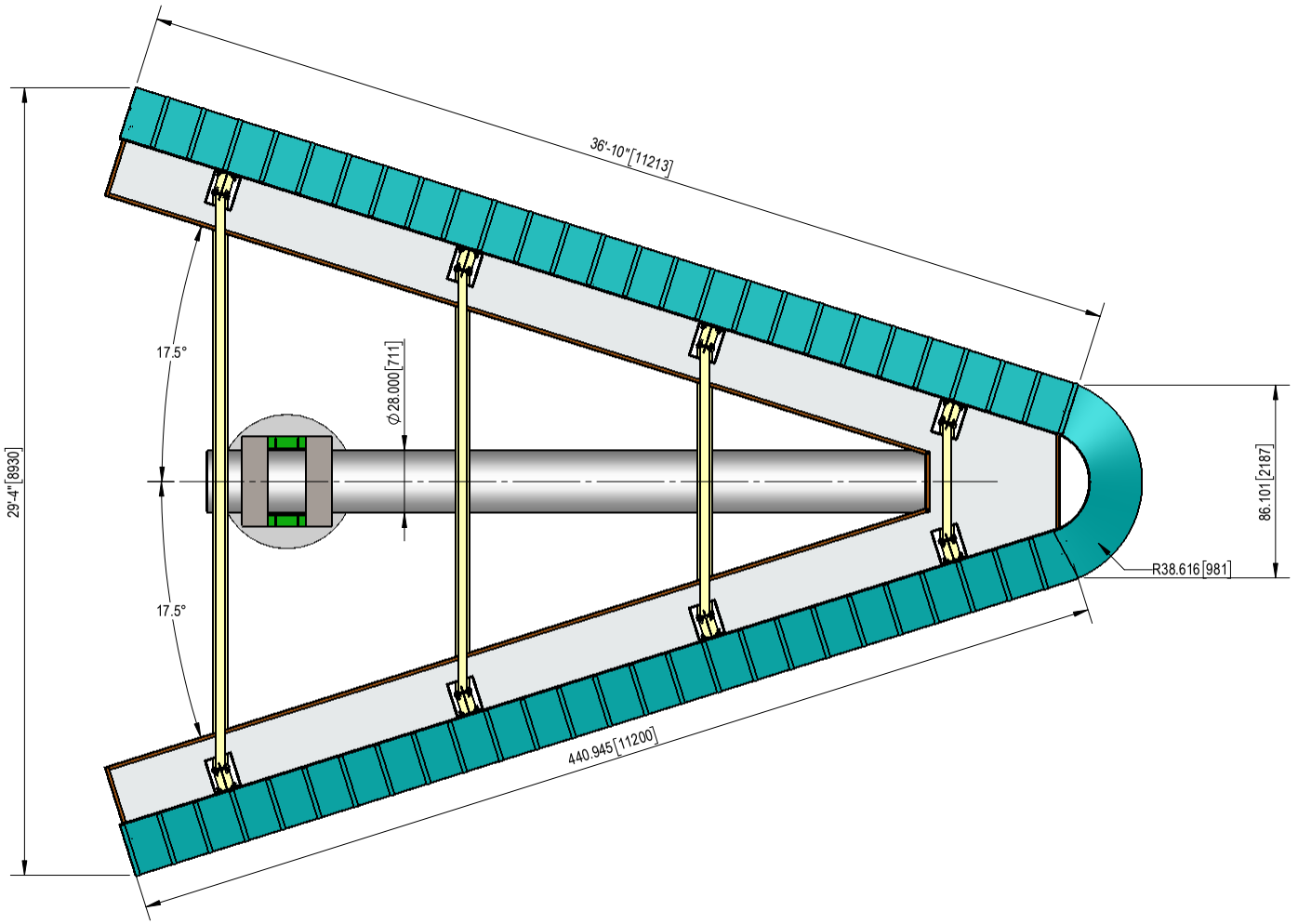
SIZE	DRAWING NO	REVISION
B	0000-00_STRU-001	

WORK ORDER NO: D0000-00 SCALE: 1:50 WEIGHT: lbs SHEET 4 OF 12

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INTERPRET DIMENSIONS AND TOLERANCES PER ASME Y14.5M-1994
THIRD ANGLE PROJECTION
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TOLERANCES APPLY AS SHOWN BELOW

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2 PL DEC	± 0.01	± 0.3 mm
3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

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CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ Wifi
DRAWN BY: R. YORK — DATE: 5/9/2016
CHECKED BY — DATE
APPROVED — DATE

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TEL: 1.800.667.4554 FAX: 1.905.337.9531

TITLE: **FLAG MOUNT STRUCTURE**

FILE PATH: C:_MRIVault\Projects\ALLURE ADVERTISING LLC\D0000-00\Structure\0000-00_STRU-001.sldprt

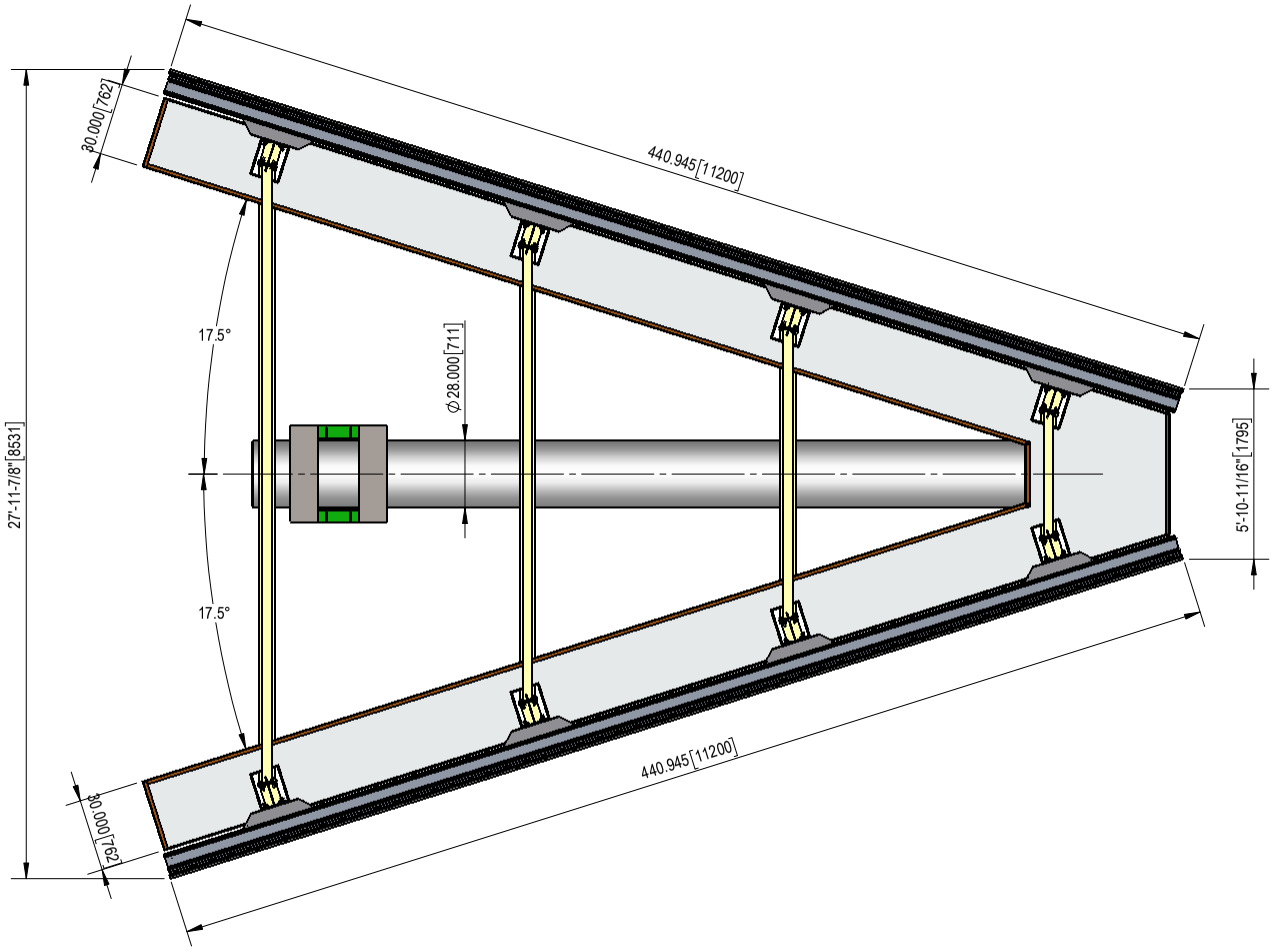
SIZE: B | DRAWING NO: 0000-00_STRU-001 | REVISION
WORK ORDER NO: D0000-00 | SCALE: 1:50 | WEIGHT: lbs | SHEET 5 OF 12

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3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

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CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ Wifi

DRAWN BY	R. YORK	DATE 5/9/2016
CHECKED BY		DATE
APPROVED		DATE

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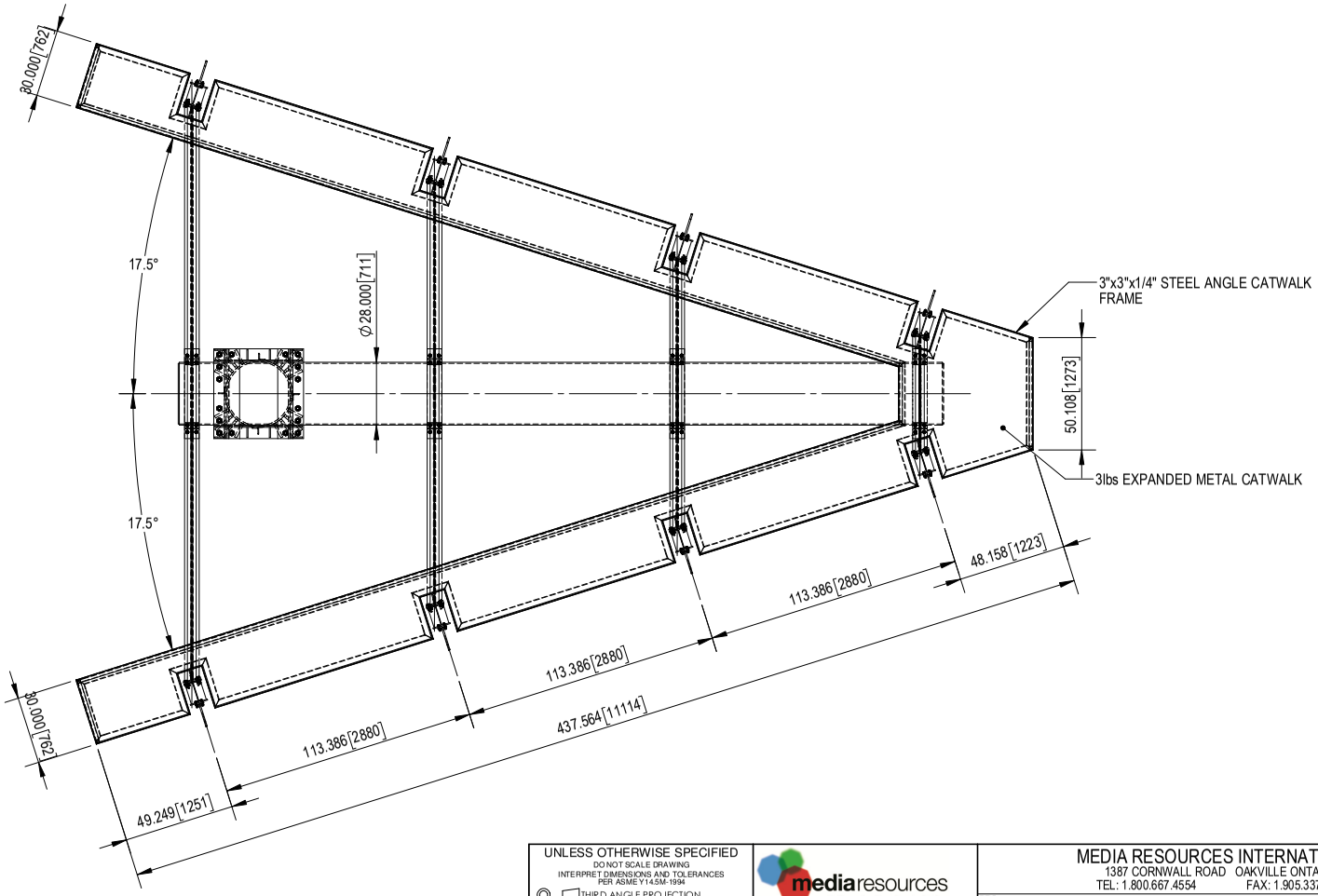
TITLE: **FLAG MOUNT STRUCTURE**

FILE PATH: C:_MRIVault\Projects\ALLURE ADVERTISING LLC\D0000-00\Structure\0000-00_STRU-001.sldprt

SIZE	DRAWING NO	REVISION
B	0000-00_STRU-001	

WORK ORDER NO: D0000-00 | SCALE: 1:50 | WEIGHT: lbs | SHEET 6 OF 12

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3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

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CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ Wifi

DRAWN BY	R. YORK	DATE 5/9/2016
CHECKED BY		DATE
APPROVED		DATE

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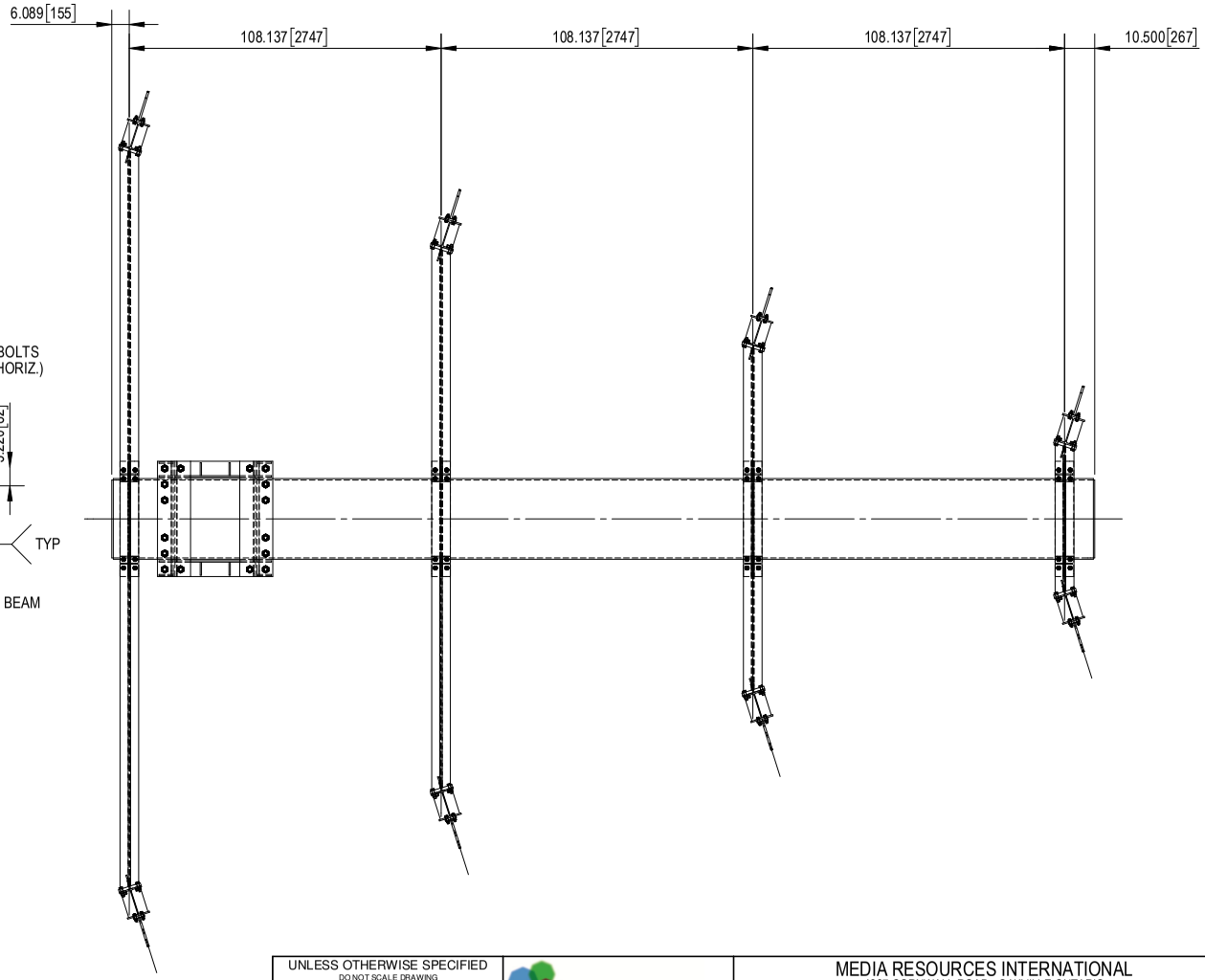
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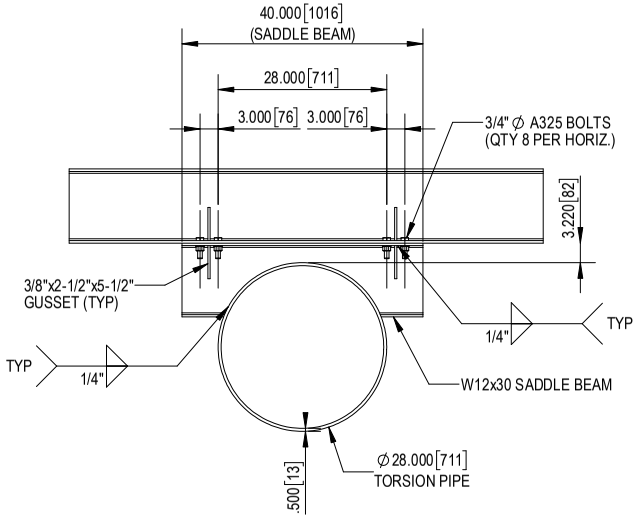
WORK ORDER NO: D0000-00 | SCALE: 1:50 | WEIGHT: lbs | SHEET 7 OF 12

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**CUT HOLE IN SADDLE BEAM, SLEEVE TORSION PIPE THROUGH AND WELD ALL AROUND

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INTERPRET DIMENSIONS AND TOLERANCES PER ASME Y14.5M-1994
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3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

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CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ Wifi

DRAWN BY	R. YORK	DATE 5/9/2016
CHECKED BY		DATE
APPROVED		DATE

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TITLE: **FLAG MOUNT STRUCTURE**

FILE PATH: C:_MRIVault\Projects\ALLURE ADVERTISING LLC\D0000-00\Structure\0000-00_STRU-001.sldprt

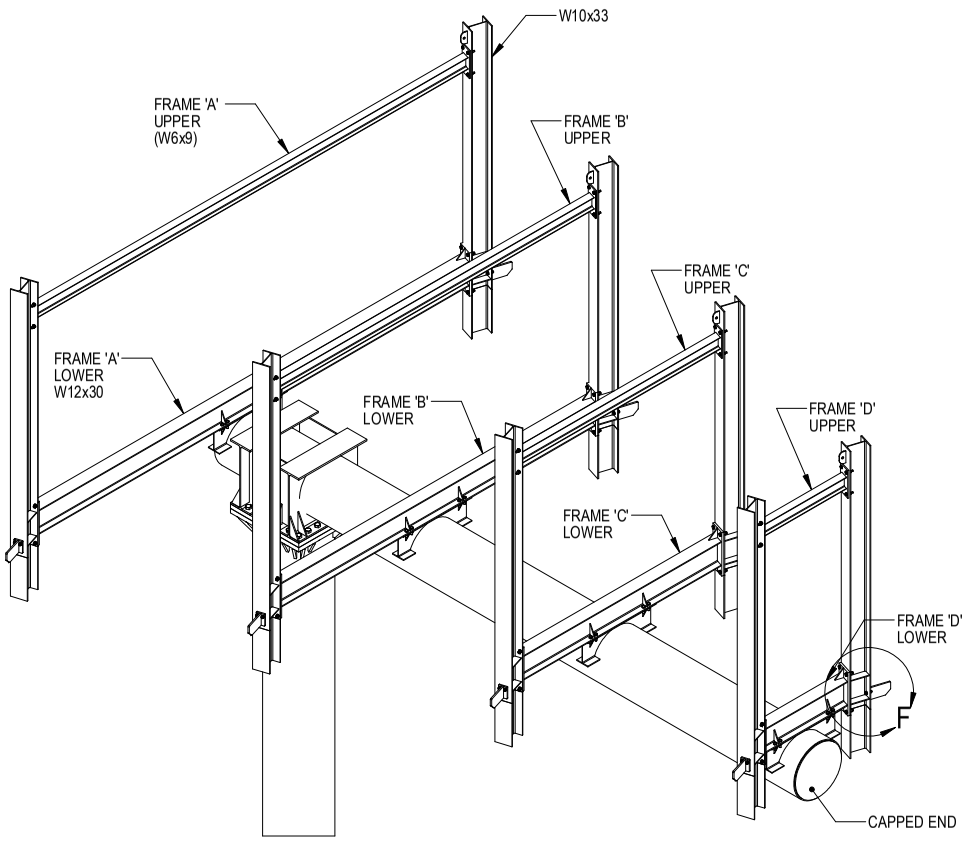
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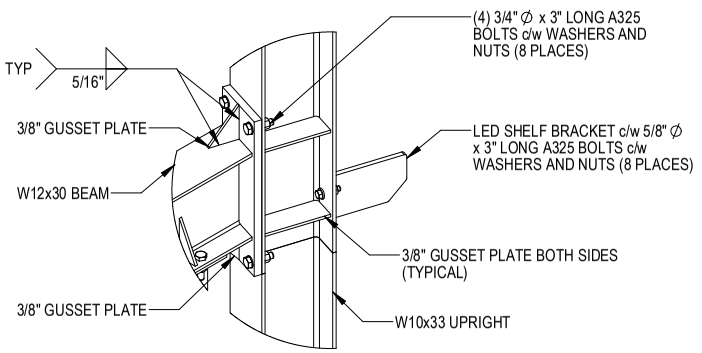
WORK ORDER NO: D0000-00 | SCALE: 1:40 | WEIGHT: lbs | SHEET 8 OF 12

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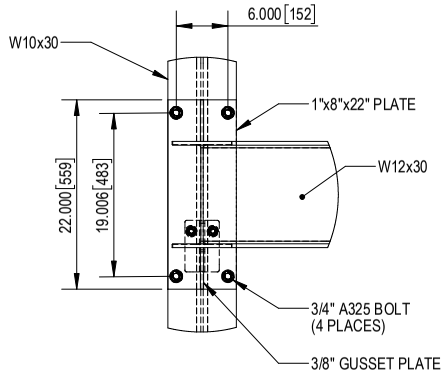
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Record on Appeal - 069





DETAIL F
SCALE 1 : 14



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THIRD ANGLE PROJECTION
DIMENSIONS ARE IN mm/INCHES
TOLERANCES APPLY AS SHOWN BELOW

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1 PL DEC	± 0.1	± 2.5 mm
2 PL DEC	± 0.01	± 0.3 mm
3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

mediaresources ...solutions for the sign industry.

CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ Wifi

DRAWN BY	R. YORK	DATE 5/9/2016
CHECKED BY		DATE
APPROVED		DATE

MEDIA RESOURCES INTERNATIONAL
1387 CORNWALL ROAD OAKVILLE ONTARIO
TEL: 1.800.667.4554 FAX: 1.905.337.9531

TITLE: **FLAG MOUNT STRUCTURE**

FILE PATH: C:_MRIVault\Projects\ALLURE ADVERTISING LLC\D0000-00\Structure\0000-00_STRU-001.sldprt

SIZE	DRAWING NO	REVISION
B	0000-00_STRU-001	

WORK ORDER NO: D0000-00 SCALE: 1:50 WEIGHT: lbs SHEET 9 OF 12

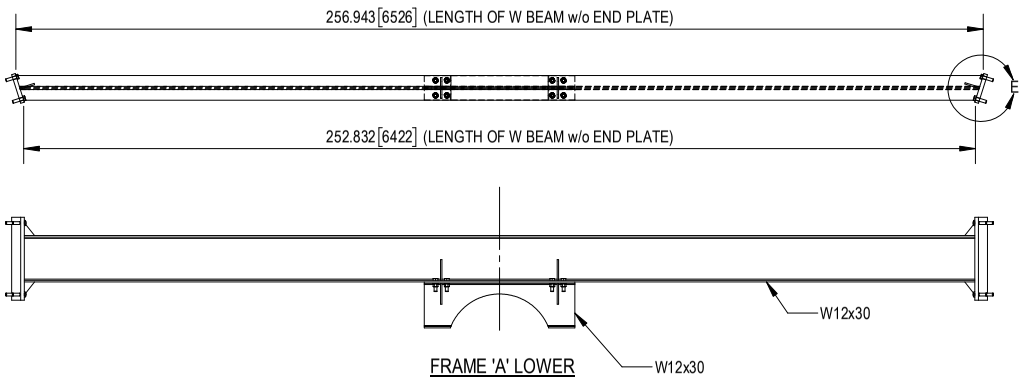
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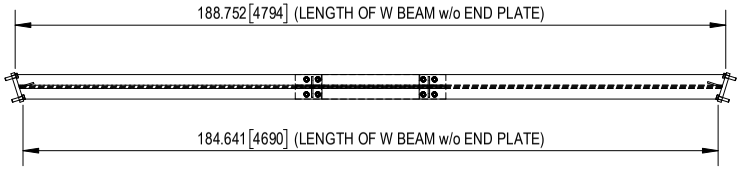
Record on Appeal - 070

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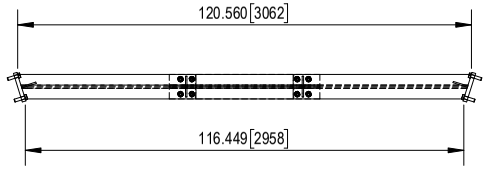
Record on Appeal - 071



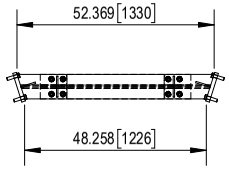
FRAME 'A' LOWER



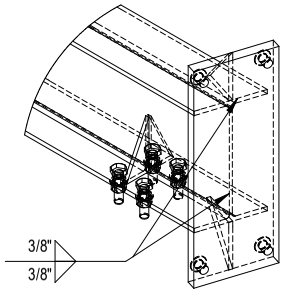
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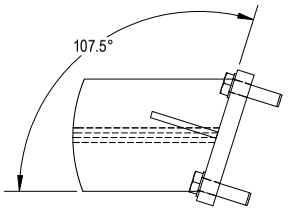


FRAME 'C' LOWER

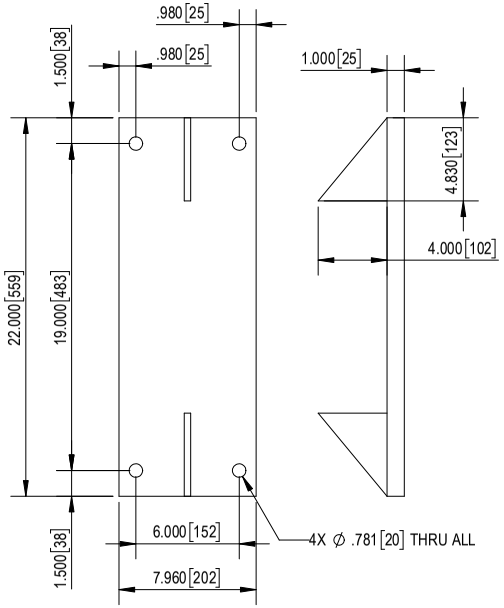


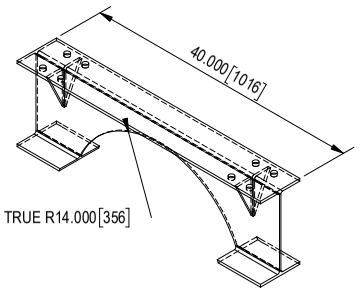
FRAME 'D' LOWER





DETAIL E
SCALE 1 : 7





UNLESS OTHERWISE SPECIFIED
DO NOT SCALE DRAWING
INTERPRET DIMENSIONS AND TOLERANCES PER ASME Y14.5M-1994
THIRD ANGLE PROJECTION
DIMENSIONS ARE IN mm/INCHES
TOLERANCES APPLY AS SHOWN BELOW

0 PL DEC	± 0.2	± 5.0 mm
1 PL DEC	± 0.1	± 2.5 mm
2 PL DEC	± 0.01	± 0.3 mm
3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

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mediaresources ...solutions for the sign industry.

CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ WIFI

DRAWN BY	R. YORK	DATE 5/9/2016
CHECKED BY		DATE
APPROVED		DATE

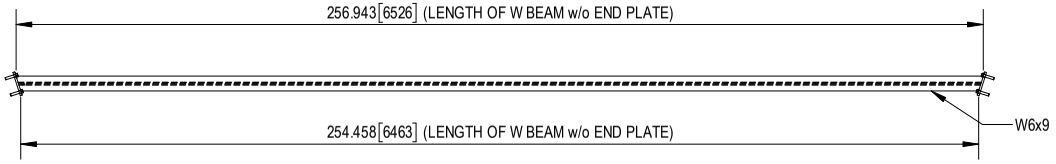
MEDIA RESOURCES INTERNATIONAL
1387 CORNWALL ROAD OAKVILLE ONTARIO
TEL: 1.800.667.4554 FAX: 1.905.337.9531

TITLE: **FLAG MOUNT STRUCTURE**

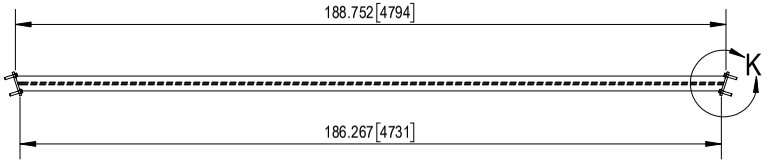
FILE PATH: C:_MRIVault\Projects\ALLURE ADVERTISING LLC\D0000-00\Structure\0000-00_STRU-001.sldprt

SIZE: B | DRAWING NO: 0000-00_STRU-001 | REVISION

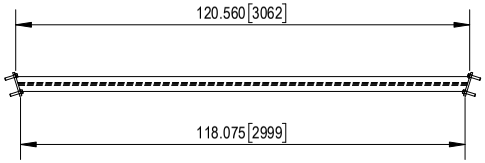
WORK ORDER NO: D0000-00 | SCALE: 1:32 | WEIGHT: lbs | SHEET 10 OF 12



FRAME 'A' UPPER



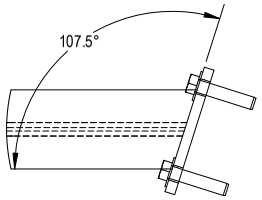
FRAME 'B' UPPER



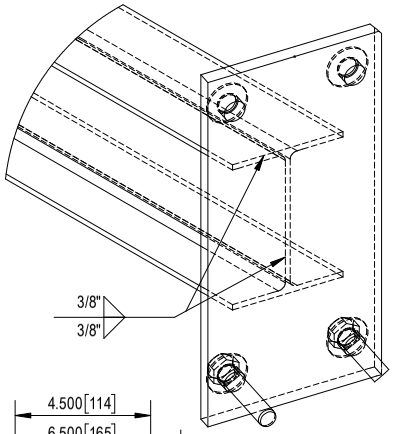
FRAME 'C' UPPER

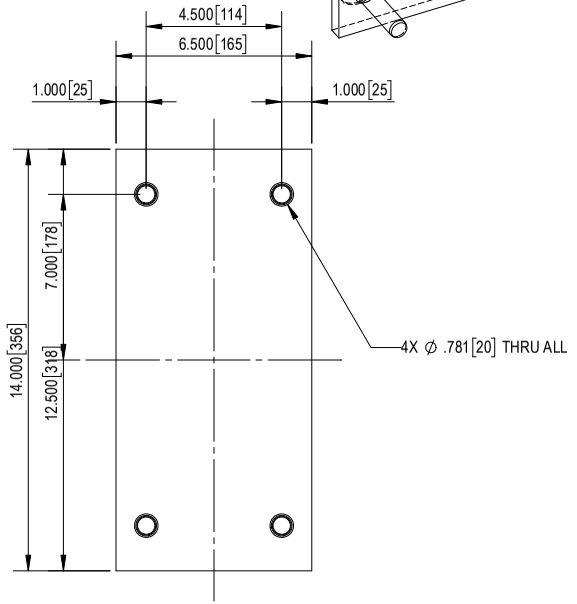


FRAME 'D' UPPER



DETAIL K
SCALE 1 : 6





UNLESS OTHERWISE SPECIFIED
DO NOT SCALE DRAWING
INTERPRET DIMENSIONS AND TOLERANCES PER ASME Y14.5M-1994
THIRD ANGLE PROJECTION
DIMENSIONS ARE IN mm/INCHES
TOLERANCES APPLY AS SHOWN BELOW

0 PL DEC	± 0.2	± 5.0 mm
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2 PL DEC	± 0.01	± 0.3 mm
3 PL DEC	± 0.005	± 0.10 mm
ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

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CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ WIFI
DRAWN BY: R. YORK
DATE: 5/9/2016
CHECKED BY:
APPROVED:

MEDIA RESOURCES INTERNATIONAL
1387 CORNWALL ROAD OAKVILLE ONTARIO
TEL: 1.800.667.4554 FAX: 1.905.337.9531

TITLE: **FLAG MOUNT STRUCTURE**

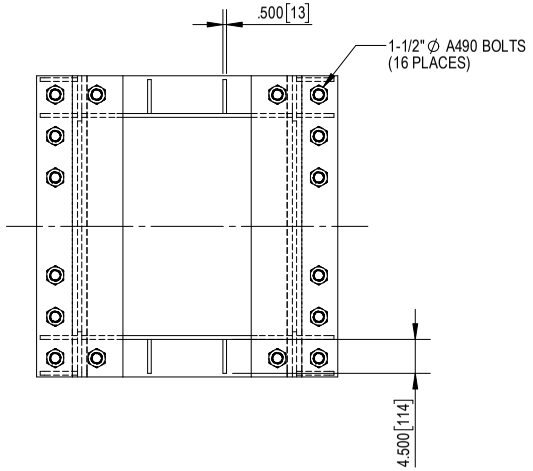
FILE PATH: C:_MRIVault\Projects\ALLURE ADVERTISING LLC\D0000-00\Structure\0000-00_STRU-001.sldprt

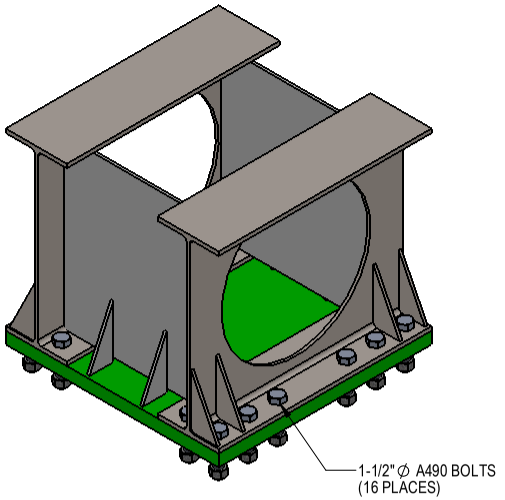
SIZE: B | DRAWING NO: 0000-00_STRU-001 | REVISION:
WORK ORDER NO: D0000-00 | SCALE: 1:32 | WEIGHT: 223 lbs | SHEET 11 OF 12

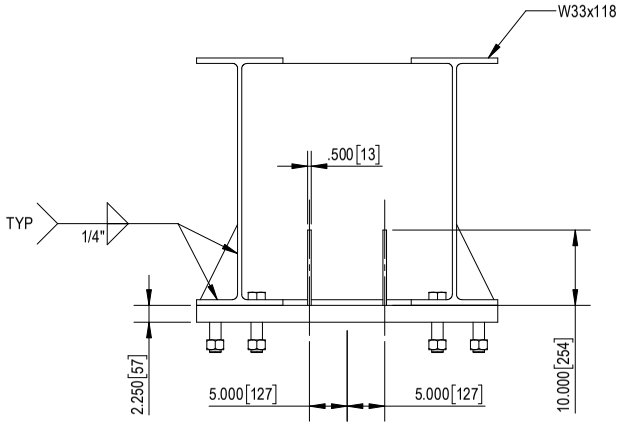
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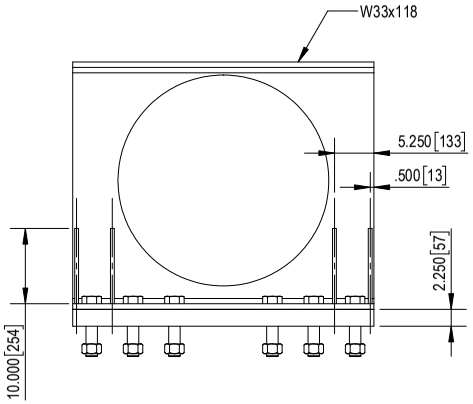
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Record on Appeal - 072









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THIRD ANGLE PROJECTION
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ANGLES	± 1°	± 1°
SURFACE ROUGHNESS	32 µ in	.8 µm

NOTES:
1. MATERIAL: " THICK
2. FINISH:
3. COATING:

mediaresources ...solutions for the sign industry.

CUSTOMER: ALLURE ADVERTISING LLC
PROJECT: 16mm 10H x 35W RGB DF w/ Wifi

DRAWN BY	R. YORK	DATE 5/9/2016
CHECKED BY		DATE
APPROVED		DATE

MEDIA RESOURCES INTERNATIONAL
1387 CORNWALL ROAD OAKVILLE ONTARIO
TEL: 1.800.667.4554 FAX: 1.905.337.9531

TITLE: **FLAG MOUNT STRUCTURE**

FILE PATH: C:_MRIVault\Projects\ALLURE ADVERTISING LLC\D0000-00\Structure\0000-00_STRU-001.sldprt

SIZE	DRAWING NO	REVISION
B	0000-00_STRU-001	

WORK ORDER NO: D0000-00 SCALE: 1:16 WEIGHT: 1985 lbs SHEET 12 OF 12

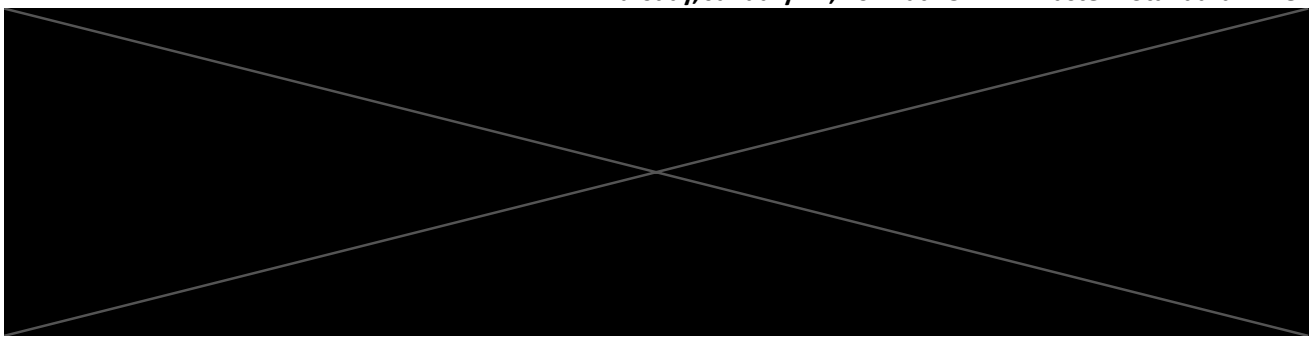
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Record on Appeal - 073

Exhibit E
Email Joe calls Jon Partner
Dated August 12, 2016

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Sent from my iPhone

Begin forwarded message:

From: Russell Applegate <joe@allureadvertising.net>
Date: August 2, 2016 at 5:37:40 PM EDT
To: "Brock, Edward" <EABrock@bbandt.com>
Cc: Jon Kane <jkane5656@gmail.com>
Subject: Fwd: new loan

Ed,

I copied my partner on this site (Jon Kane) and he will forward his information to you directly after you and I can have a conversation. Let me know a time on Thursday that you would be available by phone. My concern is this is starting to sound like we are recreating the process. When you and I talked before my understanding was since we just did this we would have a very simple and quick process this time. Now because there is a partner and we are starting the financial review process again that we could run into the delays as we did before. If you recall last time it took us the better part of 7-8 months to completion. We have to have this loan done by October 1st. Please let me know if you do not think that is possible.

Kindest Regards
R. Joe Applegate

a|lure
ADVERTISING

2015 Ayrsley Town Blvd. #202
Charlotte, NC 28273
joe@allureadvertising.net
cell | 803.493.6636

Begin forwarded message:

From: "Brock, Edward" <EABrock@BBandT.com>
Subject: RE: new loan
Date: August 1, 2016 at 12:29:27 PM CDT
To: Russell Applegate <joe@allureadvertising.net>

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I am trying to recall the transaction you were proposing.

Personal Financial Statements for all individuals (I think you were partnering with someone on this as I recall). I will need to get an updated statement from you.
The most recent statement we have is dated May 2015.
2015 federal tax returns on you personally. If you have a partner in this deal, I need 2014 and 2015 for them
Summary of the transaction

- Ownership Group
- Total Project Cost
- Location
- Anticipated revenue and expenses



Ed Brock
Senior Vice President
BB&T Market President – Rock Hill, SC
eabrock@BBandT.com
Office: (803)366-7183 / Cell: (803)517-2186

BB&T is dedicated to providing businesses like yours consultative advice, market / economic insights, and innovative ideas. Visit our new Intellectual Capital web on BBT.com and register to receive our monthly newsletters.

From: Russell Applegate [mailto:joe@allureadvertising.net]
Sent: Monday, August 01, 2016 11:38 AM
To: Brock, Edward
Subject: Re: new loan

Ed,

I want to proceed because it will be the path of least resistance of re-creating the loan application process elsewhere. Let me know what I need to do on my end.

Best
Joe

On Jul 11, 2016, at 11:32 AM, Russell Applegate

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Exhibit F
SCSOS Articles of Org: Big Blue Allure, LLC
Dated August 17, 2016

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Session Recap

SOS Entity Registration (Shopping Cart ID: 1146159)

Entity Type: Limited Liability Company (filing as a Corporation)

Enter Entity Name:: Big Blue Allure, LLC

Address of the initial designated office in South Carolina:
1889 BOWENS ISLAND RD
CHARLESTON SC 29412-9525
CHARLESTON
US

Registered agent of the business: Joe Applegate

Registered Agent Address:
1889 BOWENS ISLAND RD
CHARLESTON SC 29412-9525
CHARLESTON
US

The person who performs the act of signing the Articles of Organization and delivers them to the Secretary of State for filing. Does not need to be a member of the LLC. :

Organizer Name	Organizer Title	Organizer Address
Joe Applegate	Partner	7071 REGATTA CT TEGA CAY SC 29708-8532 YORK US
Jon Kane	Partner	2405 SANDY POINT CT MT PLEASANT SC 29466-8640 CHARLESTON US

Name: Joe Applegate

Title: Partner

Address:
7071 REGATTA CT
TEGA CAY SC 29708-8532
YORK
US

Name: Jon Kane

Title: Partner

Address:
2405 SANDY POINT CT
MT PLEASANT SC 29466-8640

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CHARLESTON
US

Is this company to be a term company?: No

Is this a manager-managed company?: Yes

Name and address of each manager.:

Manager Name	Manager Title	Manager Address
Joe Applegate	Partner	7071 REGATTA CT TEGA CAY SC 29708-8532 YORK US

Name: Joe Applegate

Title: Partner

Address: 7071 REGATTA CT
TEGA CAY SC 29708-8532
YORK
US

Are one or more of the members of the company liable for its debts and obligations under section 33-44-303(c)? If one or more members are so liable, be prepared to specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members.: Yes

Specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. : Joe Applegate and Jon Kane: both members are equally liable (50/50) for all debt and obligations.

Enter different individual officers of the business. If an individual has the duties of more than one officer, enter the individual only once::

Officer Name	Officer Title	Officer Address
Joe Applegate	Partner	7071 REGATTA CT TEGA CAY SC 29708-8532 YORK US
Jon Kane	Partner	2405 SANDY POINT CT MT PLEASANT SC 29466-8640 CHARLESTON US

Title: Partner

Name: Joe Applegate

Signature Page Attachment to South Carolina Business One Stop (SCBOS) for the State of South Carolina Secretary of State

This page must be completed, scanned, and submitted as an attachment when filing on SCBOS.

Type of Filing: ARTICLES OF ORGANIZATION (Limited Liability Company)

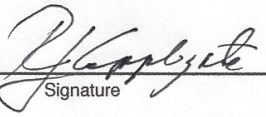
As Of: August 17, 2016 12:39 PM

Name of Limited Liability Company:

Big Blue Allure, LLC

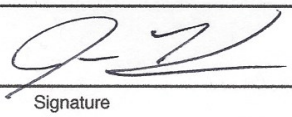
Signature of Each Organizer:

Joe Applegate
Name


Signature

8-17-16
Date

Jon Kane
Name


Signature

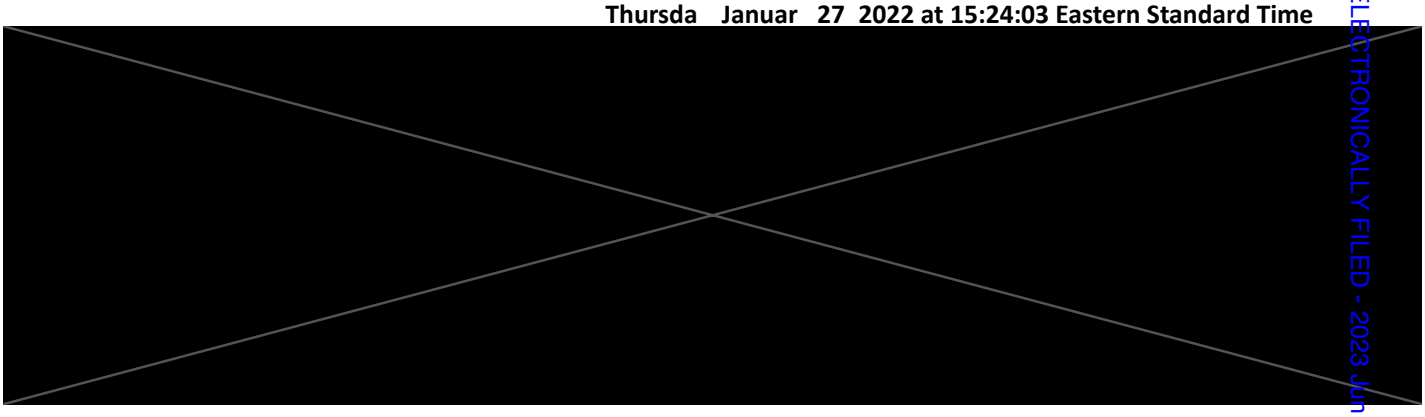
8.17.16
Date

Upload this completed signature page through SCBOS using one of the following file formats only: Adobe PDF, GIF, or JPEG. Do not mail, email or fax this document to the Secretary of State's office.

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Exhibit G
Email from Joe to Jon re: Insurance Policy
Dated October 12, 2016

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ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

Begin forwarded message:

From: Russell Applegate <joe@allureadvertising.net>
Date: October 12, 2016 at 6:57:30 PM EDT
To: Jon Kane <jkane5656@gmail.com>
Subject: Fwd: Big Blue Allure,LLC

FYI

Begin forwarded message:

From: David Pooser <davidpooser@1stcapitalins.com>
Subject: Big Blue Allure,LLC
Date: October 12, 2016 at 11:51:17 AM EDT
To: Russell Applegate <joe@allureadvertising.net>, Karen Ferguson <karen@1stcapitalins.com>

Morning
Hope you and your family came out from the storm ok?
I have enclosed the package quote for Big Blue Allure
It includes all the coverages you requested
I need you to sign the forms and return to me
Let me know what date to make effective
Total cost $2867.30 a year
If all meets your approval…
I will bind coverage and send you an invoice
Thank you for the business
David

10-13

COMMERCIAL INSURANCE APPLICATION

APPLICANT INFORMATION SECTION

DATE (MM/DD/YYYY): 10-6-16

AGENCY
1st Capital Insurance, LLC
790 Johnnie Dodds Boulevard, Suite 100
Mount Pleasant, South Carolina 29464

CARRIER

NAIC CODE

UNDERWRITER:

UNDERWRITER OFFICE:

POLICIES OR PROGRAM REQUESTED

POLICY NUMBER

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:
CODE:
SUB CODE:
AGENCY CUSTOMER ID:

INDICATE SECTIONS ATTACHED

	ACCOUNTS RECEIVABLE/ VALUABLE PAPERS		ELECTRONIC DATA PROC
	BOILER & MACHINERY		EQUIPMENT FLOATER
	BUSINESS AUTO		GARAGE AND DEALERS
✓	COMMERCIAL GENERAL LIABILITY		GLASS AND SIGN
	CRIME/MISCELLANEOUS CRIME		INSTALLATION/BUILDERS RISK
	DEALERS		OPEN CARGO
	DRIVER INFO SCHEDULE	✓	PROPERTY
			TRANSPORTATION/ MOTOR TRUCK CARGO

	TRUCKERS/MOTOR CARRIER	
	UMBRELLA	
	VEHICLE SCHEDULE	
	WORKERS COMPENSATION	
	YACHT	

STATUS OF TRANSACTION

- ✓ QUOTE
- ISSUE POLICY
- RENEW
- BOUND (Give Date and/or Attach Copy):
- CHANGE — DATE — TIME — AM / PM
- CANCEL

PACKAGE POLICY INFORMATION

ENTER THIS INFORMATION WHEN COMMON DATES AND TERMS APPLY TO SEVERAL LINES, OR FOR MONOLINE POLICIES.

PROPOSED EFF DATE	PROPOSED EXP DATE	BILLING PLAN	PAYMENT PLAN	AUDIT
10-13-16	10-13-17	DIRECT BILL / AGENCY BILL		

PACKAGE POLICY PREMIUM: $

APPLICANT INFORMATION

NAME (First Named Insured & Other Named Insureds)
Big Blue Allure, LLC

MAILING ADDRESS INCL ZIP+4 (of First Named Insured)
1889 Bowens Island Rd.
Charleston, S.C. 29412

FEIN OR SOC SEC # (of First Named Insured): 81-3581074
PHONE (A/C, No, Ext):
E-MAIL ADDRESS(ES):
WEBSITE ADDRESS(ES):

- INDIVIDUAL
- CORPORATION
- SUBCHAPTER "S" CORPORATION
- ✓ LLC — NO. OF MEMBERS AND MANAGERS
- PARTNERSHIP
- JOINT VENTURE
- NOT FOR PROFIT ORG

CR BUREAU NAME:
ID NUMBER:
DATE BUSINESS STARTED: 2016

INSPECTION CONTACT: Joe Amlesgate
PHONE (A/C, No, Ext): 803-493-0636
E-MAIL ADDRESS: joe@allureadv.com

ACCOUNTING RECORDS CONTACT: Same
PHONE (A/C, No, Ext): .net
E-MAIL ADDRESS:

PREMISES INFORMATION

ACORD 823 attached for additional premises

LOC #	BLD #	STREET, CITY, COUNTY, STATE, ZIP+4	CITY LIMITS	INTEREST	YR BUILT	# EMPLOYEES	ANNUAL REVENUES	% OCCUPIED
1	1	1889 Bowens Island Rd Folly Beach, S.C. 29412	✓ INSIDE / OUTSIDE	✓ OWNER / TENANT	20			
			INSIDE / OUTSIDE	OWNER / TENANT				
			INSIDE / OUTSIDE	OWNER / TENANT				
			INSIDE / OUTSIDE	OWNER / TENANT				

NATURE OF BUSINESS/DESCRIPTION OF OPERATIONS BY PREMISE(S)

Sign Installation -

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GENERAL INFORMATION

AGENCY CUSTOMER ID: _____

EXPLAIN ALL "YES" RESPONSES	Y/N
1a. IS THE APPLICANT A SUBSIDIARY OF ANOTHER ENTITY ?	N
1b. DOES THE APPLICANT HAVE ANY SUBSIDIARIES?	N
2. IS A FORMAL SAFETY PROGRAM IN OPERATION?	N
3. ANY EXPOSURE TO FLAMMABLES, EXPLOSIVES, CHEMICALS?	N
4. ANY CATASTROPHE EXPOSURE?	N
5. ANY OTHER INSURANCE WITH THIS COMPANY OR BEING SUBMITTED?	N
6. ANY POLICY OR COVERAGE DECLINED, CANCELLED OR NON-RENEWED DURING THE PRIOR THREE (3) YEARS? (Not applicable in MO)	N
7. ANY PAST LOSSES OR CLAIMS RELATING TO SEXUAL ABUSE OR MOLESTATION ALLEGATIONS, DISCRIMINATION OR NEGLIGENT HIRING?	N
8. DURING THE LAST FIVE YEARS (TEN IN RI), HAS ANY APPLICANT BEEN INDICTED FOR OR CONVICTED OF ANY DEGREE OF THE CRIME OF FRAUD, BRIBERY, ARSON OR ANY OTHER ARSON-RELATED CRIME IN CONNECTION WITH THIS OR ANY OTHER PROPERTY? (In RI, this question must be answered by any applicant for property insurance. Failure to disclose the existence of an arson conviction is a misdemeanor punishable by a sentence of up to one year of imprisonment).	N
9. ANY UNCORRECTED FIRE CODE VIOLATIONS?	N
10. ANY BANKRUPTCIES, TAX OR CREDIT LIENS AGAINST THE APPLICANT IN THE PAST FIVE (5) YEARS?	N
11. HAS BUSINESS BEEN PLACED IN A TRUST? IF "YES", NAME OF TRUST:	N
12. ANY FOREIGN OPERATIONS, FOREIGN PRODUCTS DISTRIBUTED IN USA, OR US PRODUCTS SOLD/DISTRIBUTED IN FOREIGN COUNTRIES? (If "YES", attach ACORD 815 for Liability Exposure and/or ACORD 816 for Property Exposure)	N

REMARKS/PROCESSING INSTRUCTIONS (Attach additional sheets if more space is required)

☐ COPY OF THE NOTICE OF INFORMATION PRACTICES (PRIVACY) HAS BEEN GIVEN TO THE APPLICANT. (Not applicable in all states, consult your agent or broker for your state's requirements.)

NOTICE OF INSURANCE INFORMATION PRACTICES - PERSONAL INFORMATION ABOUT YOU, INCLUDING INFORMATION FROM A CREDIT REPORT, MAY BE COLLECTED FROM PERSONS OTHER THAN YOU IN CONNECTION WITH THIS APPLICATION FOR INSURANCE AND SUBSEQUENT POLICY RENEWALS. SUCH INFORMATION AS WELL AS OTHER PERSONAL AND PRIVILEGED INFORMATION COLLECTED BY US OR OUR AGENTS MAY IN CERTAIN CIRCUMSTANCES BE DISCLOSED TO THIRD PARTIES WITHOUT YOUR AUTHORIZATION. YOU HAVE THE RIGHT TO REVIEW YOUR PERSONAL INFORMATION IN OUR FILES AND CAN REQUEST CORRECTION OF ANY INACCURACIES. A MORE DETAILED DESCRIPTION OF YOUR RIGHTS AND OUR PRACTICES REGARDING SUCH INFORMATION IS AVAILABLE UPON REQUEST. CONTACT YOUR AGENT OR BROKER FOR INSTRUCTIONS ON HOW TO SUBMIT A REQUEST TO US.

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS THE PERSON TO CRIMINAL AND [NY: SUBSTANTIAL] CIVIL PENALTIES. (Not applicable in CO, FL, HI, MA, NE, OH, OK, OR, or VT; in DC, LA, ME, TN, VA and WA, insurance benefits may also be denied)

IN FLORIDA, ANY PERSON WHO KNOWINGLY AND WITH INTENT TO INJURE, DEFRAUD, OR DECEIVE ANY INSURER FILES A STATEMENT OF CLAIM OR AN APPLICATION CONTAINING ANY FALSE, INCOMPLETE, OR MISLEADING INFORMATION IS GUILTY OF A FELONY OF THE THIRD DEGREE.

THE UNDERSIGNED IS AN AUTHORIZED REPRESENTATIVE OF THE APPLICANT AND REPRESENTS THAT REASONABLE ENQUIRY HAS BEEN MADE TO OBTAIN THE ANSWERS TO QUESTIONS ON THIS APPLICATION. HE/SHE REPRESENTS THAT THE ANSWERS ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF HIS/HER KNOWLEDGE.

PRODUCER'S SIGNATURE	PRODUCER'S NAME (Please Print)	STATE PRODUCER LICENSE NO (Required in Florida)
David Powers	David Powers	
APPLICANT'S SIGNATURE	**DATE** 10-6-16	**NATIONAL PRODUCER NUMBER**

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PRIOR CARRIER INFORMATION

AGENCY CUSTOMER ID: _____

LINE	CATEGORY					
COMMERCIAL GENERAL LIABILITY	CARRIER	N/A				
	POLICY NUMBER					
	POLICY TYPE	CLAIMS MADE / OCCURRENCE	CLAIMS MADE / OCCURRENCE	CLAIMS MADE / OCCURRENCE	CLAIMS MADE / OCCURRENCE	CLAIMS MADE / OCCURRENCE
	RETRO DATE					
	EFF-EXP DATE					
	LIMITS: GENERAL AGGREGATE					
	LIMITS: PRODUCTS COMP OP AGGREGATE					
	LIMITS: PERSONAL & ADV INJ					
	LIMITS: EACH OCCURRENCE					
	LIMITS: FIRE DAMAGE					
	LIMITS: MEDICAL EXPENSE					
	LIMITS: BODILY INJURY OCCURRENCE					
	LIMITS: BODILY INJURY AGGREGATE					
	LIMITS: PROPERTY DAMAGE OCCURRENCE					
	LIMITS: PROPERTY DAMAGE AGGREGATE					
	LIMITS: COMBINED SINGLE LIMIT					
	MODIFICATION FACTOR					
	TOTAL PREMIUM					
AUTOMOBILE LIABILITY	CARRIER					
	POLICY NUMBER					
	POLICY TYPE					
	EFF-EXP DATE					
	COMBINED SINGLE LIMIT					
	BODILY INJURY EA PERSON					
	BODILY INJURY EA ACCIDENT					
	PROPERTY DAMAGE					
	MODIFICATION FACTOR					
	TOTAL PREMIUM					
PROPERTY	CARRIER					
	POLICY NUMBER					
	POLICY TYPE					
	EFF-EXP DATE					
	BUILDING AMT					
	PERS PROP AMT					
	MODIFICATION FACTOR					
	TOTAL PREMIUM					
	CARRIER					
	POLICY NUMBER					
	POLICY TYPE					
	EFF-EXP DATE					
	LIMIT					
	MODIFICATION FACTOR					
	TOTAL PREMIUM					

LOSS HISTORY

ENTER ALL CLAIMS OR LOSSES (REGARDLESS OF FAULT AND WHETHER OR NOT INSURED) OR OCCURRENCES THAT MAY GIVE RISE TO CLAIMS FOR THE PRIOR 5 YEARS (3 YEARS IN KS & NY) ☐ CHK HERE IF NONE ☐ SEE ATTACHED LOSS SUMMARY

DATE OF OCCURRENCE	LINE	TYPE/DESCRIPTION OF OCCURRENCE OR CLAIM	DATE OF CLAIM	AMOUNT PAID	AMOUNT RESERVED	CLAIM STATUS OPEN	CLAIM STATUS CLSD
		None					

REMARKS NOTE: FIDELITY REQUIRES A FIVE YEAR LOSS HISTORY

ATTACHMENTS

☐ STATE SUPPLEMENT(S) (If applicable)

COMMERCIAL GENERAL LIABILITY SECTION

DATE (MM/DD/YYYY)

AGENCY	PHONE (A/C, No, Ext): 843-216-2772	APPLICANT (First Named Insured)
1st Capital Insurance 790 Johnnie Dodds Blvd Ste 100 Mount Pleasant, SC 29464	FAX (A/C, No): 843-628-1040	
CODE:	SUB CODE:	FOR COMPANY USE ONLY
AGENCY CUSTOMER ID:		

EFFECTIVE DATE	EXPIRATION DATE			PAYMENT PLAN	AUDIT
		☐	DIRECT BILL		
		☐	AGENCY BILL		

COVERAGES

		LIMITS		PREMIUMS
☐	COMMERCIAL GENERAL LIABILITY	GENERAL AGGREGATE	$ 2,000,000	PREMISES/OPERATIONS
☐ ☐	CLAIMS MADE ☑ OCCURRENCE	PRODUCTS & COMPLETED OPERATIONS AGGREGATE	$ "	
☐	OWNER'S & CONTRACTOR'S PROTECTIVE	PERSONAL & ADVERTISING INJURY	$ "	
☐		EACH OCCURRENCE	$ 1,000,000	PRODUCTS
DEDUCTIBLES		DAMAGE TO RENTED PREMISES (each occurrence)	$ 100,000	
☐	PROPERTY DAMAGE $	MEDICAL EXPENSE (Any one person)	$ 5,000	OTHER
☐	BODILY INJURY $ ☐ PER CLAIM	EMPLOYEE BENEFITS	$ 0	
☐	$ ☐ PER OCCURRENCE			TOTAL

OTHER COVERAGES, RESTRICTIONS AND/OR ENDORSEMENTS (For hired/non-owned auto coverages attach the applicable state Business Auto Section, ACORD 137)

SCHEDULE OF HAZARDS

LOCATION #	CLASSIFICATION	CLASS CODE	PREMIUM BASIS	EXPOSURE	TERR	RATE		PREMIUM	
						PREM/OPS	PRODUCTS	PREM/OPS	PRODUCTS
1	Sign Co. - Advertising	90089		24,100					
	Subs.	91591		15,600					

RATING AND PREMIUM BASIS
(S) GROSS SALES - PER $1,000/SALES
(P) PAYROLL - PER $1,000/PAY
(A) AREA - PER 1,000/SQ FT
(C) TOTAL COST - PER $1,000/COST
(M) ADMISSIONS - PER 1,000/ADM
(U) UNIT - PER UNIT
(T) OTHER

CLAIMS MADE (Explain all "Yes" responses)

	YES	NO
1. PROPOSED RETROACTIVE DATE:		
2. ENTRY DATE INTO UNINTERRUPTED CLAIMS MADE COV:		
3. HAS ANY PRODUCT, WORK, ACCIDENT, OR LOCATION BEEN EXCLUDED, UNINSURED OR SELF-INSURED FROM ANY PREVIOUS COVERAGE?		
4. WAS TAIL COVERAGE PURCHASED UNDER ANY PREVIOUS POLICY?		

REMARKS

EMPLOYEE BENEFITS LIABILITY

1. DEDUCTIBLE PER CLAIM: $
2. NUMBER OF EMPLOYEES:
3. NUMBER OF EMPLOYEES COVERED BY EMPLOYEE BENEFITS PLANS:
4. RETROACTIVE DATE:

REMARKS

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CONTRACTORS

EXPLAIN ALL "YES" RESPONSES (For past or present operations)	YES	NO	EXPLAIN ALL "YES" RESPONSES (For past or present operations)	YES	NO
1. DOES APPLICANT DRAW PLANS, DESIGNS, OR SPECIFICATIONS FOR OTHERS?		✓	4. DO YOUR SUBCONTRACTORS CARRY COVERAGES OR LIMITS LESS THAN YOURS?		✓
2. DO ANY OPERATIONS INCLUDE BLASTING OR UTILIZE OR STORE EXPLOSIVE MATERIAL?		✓	5. ARE SUBCONTRACTORS ALLOWED TO WORK WITHOUT PROVIDING YOU WITH A CERTIFICATE OF INSURANCE?		✓
3. DO ANY OPERATIONS INCLUDE EXCAVATION, TUNNELING, UNDERGROUND WORK OR EARTH MOVING?		✓	6. DOES APPLICANT LEASE EQUIPMENT TO OTHERS WITH OR WITHOUT OPERATORS?		✓

REMARKS/DESCRIBE THE TYPE OF WORK SUBCONTRACTED	$ PAID TO SUB-CONTRACTORS:	% OF WORK SUBCONTRACTED:	# FULL-TIME STAFF:	# PART-TIME STAFF:

PRODUCTS/COMPLETED OPERATIONS

PRODUCTS	ANNUAL GROSS SALES	# OF UNITS	TIME IN MARKET	EXPECTED LIFE	INTENDED USE	PRINCIPAL COMPONENTS

EXPLAIN ALL "YES" RESPONSES (For any past or present product or operation)	YES	NO	EXPLAIN ALL "YES" RESPONSES (For any past or present product or operation)	YES	NO
1. DOES APPLICANT INSTALL, SERVICE OR DEMONSTRATE PRODUCTS?		✓	6. PRODUCTS RECALLED, DISCONTINUED, CHANGED?		✓
2. FOREIGN PRODUCTS SOLD, DISTRIBUTED, USED AS COMPONENTS?		✓	7. PRODUCTS OF OTHERS SOLD OR RE-PACKAGED UNDER APPLICANT LABEL?		✓
3. RESEARCH AND DEVELOPMENT CONDUCTED OR NEW PRODUCTS PLANNED?		✓	8. PRODUCTS UNDER LABEL OF OTHERS?		✓
4. GUARANTEES, WARRANTIES, HOLD HARMLESS AGREEMENTS?		✓	9. VENDORS COVERAGE REQUIRED?		✓
5. PRODUCTS RELATED TO AIRCRAFT/SPACE INDUSTRY?		✓	10. DOES ANY NAMED INSURED SELL TO OTHER NAMED INSUREDS?		✓

PLEASE ATTACH LITERATURE, BROCHURES, LABELS, WARNINGS, ETC

Subs –
- Installs the Sign -

ADDITIONAL INTEREST/CERTIFICATE RECIPIENT

☐ ACORD 45 attached for additional names

INTEREST	RANK:	NAME AND ADDRESS	REFERENCE #:	CERTIFICATE REQUIRED	INTEREST IN ITEM NUMBER
☐	ADDITIONAL INSURED				LOCATION: / BUILDING:
☐	LOSS PAYEE				VEHICLE: / BOAT:
☐	MORTGAGEE				SCHEDULED ITEM NUMBER:
☐	LIENHOLDER				OTHER
☐	EMPLOYEE AS LESSOR				

ITEM DESCRIPTION:

GENERAL INFORMATION

EXPLAIN ALL "YES" RESPONSES (For all past or present operations)	YES	NO	EXPLAIN ALL "YES" RESPONSES (For all past or present operations)	YES	NO
1. ANY MEDICAL FACILITIES PROVIDED OR MEDICAL PROFESSIONALS EMPLOYED OR CONTRACTED?		✓	12. ANY STRUCTURAL ALTERATIONS CONTEMPLATED?		✓
			13. ANY DEMOLITION EXPOSURE CONTEMPLATED?		✓
2. ANY EXPOSURE TO RADIOACTIVE/NUCLEAR MATERIALS?		✓	14. HAS APPLICANT BEEN ACTIVE IN OR IS CURRENTLY ACTIVE IN JOINT VENTURES?		✓
3. DO/HAVE PAST, PRESENT OR DISCONTINUED OPERATIONS INVOLVE(D) STORING, TREATING, DISCHARGING, APPLYING, DISPOSING, OR TRANSPORTING OF HAZARDOUS MATERIAL? (e.g. landfills, wastes, fuel tanks, etc)		✓	15. DO YOU LEASE EMPLOYEES TO OR FROM OTHER EMPLOYERS?		✓
			16. IS THERE A LABOR INTERCHANGE WITH ANY OTHER BUSINESS OR SUBSIDIARIES?		✓
4. ANY OPERATIONS SOLD, ACQUIRED, OR DISCONTINUED IN LAST 5 YEARS?		✓	17. ARE DAY CARE FACILITIES OPERATED OR CONTROLLED?		✓
5. MACHINERY OR EQUIPMENT LOANED OR RENTED TO OTHERS?		✓	18. HAVE ANY CRIMES OCCURRED OR BEEN ATTEMPTED ON YOUR PREMISES WITHIN THE LAST THREE YEARS?		✓
6. ANY WATERCRAFT, DOCKS, FLOATS OWNED, HIRED OR LEASED?		✓			
7. ANY PARKING FACILITIES OWNED/RENTED?		✓	19. IS THERE A FORMAL, WRITTEN SAFETY AND SECURITY POLICY IN EFFECT?		✓
8. IS A FEE CHARGED FOR PARKING?		✓			
9. RECREATION FACILITIES PROVIDED?		✓	20. DOES THE BUSINESSES' PROMOTIONAL LITERATURE MAKE ANY REPRESENTATIONS ABOUT THE SAFETY OR SECURITY OF THE PREMISES?		✓
10. IS THERE A SWIMMING POOL ON THE PREMISES?		✓			
11. SPORTING OR SOCIAL EVENTS SPONSORED?		✓			

REMARKS

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS THE PERSON TO CRIMINAL AND [NY:SUBSTANTIAL] CIVIL PENALTIES. (Not applicable in CO, HI, NE, OH, OK, OR or VT; in DC, LA, ME, TN and VA, insurance benefits may also be denied).

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AGENCY CUSTOMER ID: _____

ACORD®

PROPERTY SECTION

DATE (MM/DD/YYYY)

AGENCY	APPLICANT (First Named Insured)	
POLICY NUMBER	CARRIER	NAIC CODE

EFFECTIVE DATE	EXPIRATION DATE	☐ DIRECT BILL ☐ AGENCY BILL	PAYMENT PLAN	AUDIT	FOR COMPANY USE ONLY

PREMISES INFORMATION

PREMISES #: 1 — STREET ADDRESS: 2386 Hwy 41 Mt. Pleas. S.C. 29466

BUILDING #: 1 — BLDG DESCRIPTION: Sign

SUBJECT OF INSURANCE	AMOUNT	COINS %	VALUATION	CAUSES OF LOSS	INFLATION GUARD %	DED	BLKT #	FORMS AND CONDITIONS TO APPLY
Property - Sign	340,000	80		Special		5000		RC

ADDITIONAL INFORMATION ☐ — BUSINESS INCOME / EXTRA EXPENSE - Attach ACORD 810 ☐ — VALUE REPORTING INFORMATION - Attach ACORD 811

ADDITIONAL COVERAGES, OPTIONS, RESTRICTIONS, ENDORSEMENTS AND RATING INFORMATION

SPOILAGE COVERAGE (Y/N) ☐	DESCRIPTION OF PROPERTY COVERED	LIMIT $	DEDUCTIBLE $	REFRIG MAINT AGREEMENT (Y/N) ☐	OPTIONS
		#			

Wind / Hail Ded - 25,000

OF OPEN SIDES ON STRUCTURE: ____

CONSTRUCTION TYPE	DISTANCE TO HYDRANT / FIRE STAT	FIRE DISTRICT/CODE NUMBER	PROT CL	# STORIES	# BASM'TS	YR BUILT	TOTAL AREA
NC -	50 FT / 4 MI		3	1	0	2016	306

BUILDING IMPROVEMENTS	BLDG CODE GRADE	TAX CODE	ROOF TYPE	OTHER OCCUPANCIES
☐ WIRING, YR: ☐ PLUMBING, YR: ☐ ROOFING, YR: ☐ HEATING, YR: ☐ OTHER: YR:	WIND CLASS ☐ RESISTIVE	☐ SEMI- RESISTIVE		HEATING BOILER ON PREMISES? (Y/N) ☐ IF YES, IS INSURANCE PLACED ELSEWHERE? (Y/N) ☐

RIGHT EXPOSURE & DISTANCE	LEFT EXPOSURE & DISTANCE	FRONT EXPOSURE & DISTANCE	REAR EXPOSURE & DISTANCE

BURGLAR ALARM TYPE	CERTIFICATE #	EXPIRATION DATE	☐ CENTRAL STATION ☐ WITH KEYS

BURGLAR ALARM INSTALLED AND SERVICED BY	EXTENT	GRADE	# GUARDS/WATCHMEN	☐ CLOCK HOURLY

PREMISES FIRE PROTECTION (Sprinklers, Standpipes, CO2/Chemical Systems)	% SPRNK	FIRE ALARM MANUFACTURER	☐ CENTRAL STATION ☐ LOCAL GONG

ADDITIONAL INTERESTS

RANK:	NAME AND ADDRESS:	REFERENCE #:	☐ CERTIFICATE REQUIRED	INTEREST IN ITEM NUMBER
INTEREST ☐ LOSS PAYEE ☐ MORT-GAGEE ☐				LOCATION: BUILDING: SCHEDULED ITEM NUMBER: OTHER:
	ITEM DESCRIPTION:			

ACORD 140 (2007/09) ATTACH TO ACORD 125

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Burns & Wilcox

800 Arendell Street, Suite 200, Morehead City, NC 28557
Phone: (252) 726-8992 OR (800) 498-1600 Fax: (252) 726-9484

TO: 1st Capital Insurance Attn: David
RE: Big Blue Allure

DATE: 10/10/2016

WE ARE PLEASED TO OFFER THE FOLLOWING QUOTATION:

LOCATION(S) OF RISK:

1. 2386 Highway 41, Mount Pleasant, SC 29466

PROPOSED EFFECTIVE PERIOD: 10/13/2016 AT 12:01 AM TO 10/13/2017 AT 12:01 AM STD TIME AT RISK LOCATION.

FORM OF COVERAGE: COMMERCIAL GENERAL LIABILITY OCCURRENCE

APPLICATION NO: APP77519201

INSURER(S):

Line Of Business	Supplier(s)	Participation
Commercial General Liability	Scottsdale Insurance Company	100.00 %

LIMITS / DEDUCTIBLES:

Loc	Sub	Coverage	Limit(s)	Deductible(s)	Co Ins
1		General Aggregate	$2,000,000		
1		Products and Completed Operations	$2,000,000		
1		Each Occurrence	$1,000,000		
1		Personal and Advertising Injury	Excluded		
1		Medical Expense / Any One Person	$5,000		
1		Damage to Premises Rented to You / Each Occurrence	$100,000		

TOTAL CHARGES:

Premium:	$	780.00	Commercial General Liability
Fee:	$	75.00	Policy Fee (Fully Earned)
Tax:	$	51.30	Surplus Lines Tax - GenLiab
TOTAL:	$	906.30	

100% MINIMUM & DEPOSIT
TERM MINIMUM PREMIUM:
25.00 % EARNED
MINIMUM PREMIUM = $195.00

Terrorism coverage available for an additional premium of $39, plus applicable taxes. Acceptance or rejection of this coverage must be made in writing.

EXCLUSIONS:

ENDORSEMENTS:

PER ATTACHED FORMS LIST

CONDITIONS: PLEASE REVIEW THIS CAREFULLY AS IT MAY DIFFER FROM COVERAGES AND LIMITS REQUESTED.
COMPLETED AND SIGNED ACORD APPLICATIONS AND TERRORISM FORM REQUIRED TO BIND COVERAGE

GL RATING BASIS
90089 ADVERTISING SIGN CO- $24,100 PAYROLL
91591- SUBCONTRACTED COSTS- $15,000 COSTS

THE ABOVE COVERAGES ARE THE ONLY COVERAGES OFFERED. ANY COVERAGE REQUESTED IN THE APPLICATION THAT DIFFERS FROM THE ABOVE IS NOT INCLUDED. THE INSURANCE IS SUBJECT TO THE TERMS, CONDITIONS, LIMITATIONS, AND FORMS OF THE POLICY(S) IN CURRENT USE BY THE COMPANY.

PAYMENT: DUE IN 30 DAYS FROM EFFECTIVE DATE.

WE APPRECIATE YOUR BUSINESS. NO BINDING AUTHORITY IS CONVEYED TO ANY AGENT.
FLAT CANCELLATIONS NOT ALLOWED. QUOTATION IS GOOD FOR 30 DAYS.

B&W PRODUCER: Cynthia L Goodwin

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SCOTTSDALE INSURANCE COMPANY®

SCHEDULE OF FORMS AND ENDORSEMENTS

Policy No. GL SC CLG/238 Effective Date: 12:01 A.M., Standard Time

Named Insured _____ Agent No. 32005

COMMON FORMS		
UTS-COVPG	12-09	Cover Page
OPS-D-1	8-10	Common Policy Declarations
UTS-SP-2	12-95	Schedule Of Forms and Endorsements
UTS-SP-3	8-96	Locations Schedule
GENERAL LIABILITY FORMS		
CLS-SD-1L	8-01	GL Supplemental Dec
CLS-SP-1L	10-93	GL Ext Supplemental Dec
CG 00 01	4-13	General Liab Coverage
CG 21 38	11-85	Excl-Personal & Advertising Injury
CG 21 49	9-99	Total Pollution Exclusion
CG 21 54	1-96	Excl-Designated Ops-Consolidated
CG 21 73	1-15	Exclusion-Certified Acts Of Terrorism
CG 21 86	12-04	Excl-Exterior Insulation And Finish Systems
CG 21 96	3-05	Silica Or Silica-Related Dust Excl
CG 22 79	4-13	Excl-Contractors-Prof Liab
CG 24 26	4-13	Amend Of Insured Contract Definition
GLS-278s	1-06	Injury To Worker Exclusion
GLS-281s	9-07	Continuing/Ongoing Damage Excl
UTS-128s	6-14	Optional Provisions Endorsement
UTS-246s	2-15	Amendatory Endorsements-Without Med Pay Excl
UTS-301g	11-05	Earth Or Land Movement Excl
UTS-365s	2-09	Amend Of Nonpayment Cancel Condition
STATE FORMS		
IL 02 49	9-08	SC-Chgs-Cancel-Nonrenew
POLICYHOLDER NOTICES		
NOTX0178CW	2-06	Claim Reporting Information

ADDITIONAL FORMS

TRIA-Rejected:	TRIA-Accepted:
CG 21 73	UTS-444s; IL 09 85

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SCOTTSDALE INSURANCE COMPANY®

Scottsdale Indemnity Company

SCOTTSDALE

SURPLUS LINES INSURANCE COMPANY

POLICYHOLDER DISCLOSURE

NOTICE OF TERRORISM INSURANCE COVERAGE

TERRORISM RISK INSURANCE ACT

Under the Terrorism Risk Insurance Act of 2002, as amended pursuant to the Terrorism Risk Insurance Program Reauthorization Act of 2015, effective January 1, 2015 (the "Act"), you have a right to purchase insurance coverage for losses arising out of acts of terrorism, as defined in Section 102(1) of the Act: The term "certified acts of terrorism" means any act that is certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

You should know that where coverage is provided by this policy for losses resulting from "certified acts of terrorism," such losses may be partially reimbursed by the United States Government under a formula established by federal law. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government agrees to reimburse eighty-five percent (85%) of covered terrorism losses in calendar year 2015 that exceed the statutorily established deductible paid by the insurance company providing the coverage. This percentage of United States Government reimbursement decreases by one percent (1%) every calendar year beginning in 2016 until it equals eighty percent (80%) in 2020. The premium charged for this coverage is provided below and does not include any charges for the portion of loss that may be covered by the Federal Government under the Act.

You should also know that the Act, as amended, contains a $100 billion cap that limits United States Government reimbursement as well as insurers' liability for losses resulting from "certified acts of terrorism" when the amount of such losses in any one calendar year exceeds $100 billion. If the aggregate insured losses for all insurers exceed $100 billion, your coverage may be reduced.

CONDITIONAL TERRORISM COVERAGE

The federal Terrorism Risk Insurance Program Reauthorization Act of 2015 is scheduled to terminate at the end of December 31, 2020, unless renewed, extended or otherwise continued by the federal government. Should you select Terrorism Coverage provided under the Act and the Act is terminated December 31, 2020, any terrorism coverage as defined by the Act provided in the policy will also terminate.

IN ACCORDANCE WITH THE ACT, YOU MUST CHOOSE TO SELECT OR REJECT COVERAGE FOR "CERTIFIED ACTS OF TERRORISM" BELOW:

The Note below applies for risks in these states: California, Connecticut, Georgia, Hawaii, Illinois, Iowa, Maine, Missouri, New Jersey, New York, North Carolina, Oregon, Rhode Island, Virginia, Washington, West Virginia, Wisconsin.

NOTE: In these states, a terrorism exclusion makes an exception for (and thereby provides coverage for) fire losses resulting from an act of terrorism. Therefore, if you reject the offer of terrorism coverage, that rejection does not apply to fire losses resulting from an act of terrorism coverage for such fire losses will be provided in your policy.

If you do not respond to our offer and do not return this notice to the Company, you will have no Terrorism Coverage under this policy.

	I hereby elect to purchase certified terrorism coverage for a premium of $39 plus tax _____. I understand that the federal Terrorism Risk Insurance Program Reauthorization Act of 2015 may terminate on December 31, 2020. Should that occur my coverage for terrorism as defined by the Act will also terminate.
✓	I hereby reject the purchase of certified terrorism coverage.

_____
Policyholder/Applicant's Signature

Big Blue Allure
Named Insured/Firm

_____
Print Name

APP77519201
Policy Number, if available

_____
Date

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CENTURY INSURANCE GROUP℠
DIVISION OF MEADOWBROOK INSURANCE GROUP℠

COMMERCIAL MARINE DIVISION QUOTATION

Account: Big Blue Allure, LLC
1889 Bowen Island Road
Charleston South Carolina 29412

Submission Number: 1248657
Date: October 11, 2016

Issuing Company: **United Specialty Insurance Company** (Non-Admitted)
A.M. Best Rated: A (Excellent) VIII
465 Cleveland Avenue
Westerville, OH 43083
http://www.meadowbrook.com/century/

PREMIUM SUMMARY

POLICY PERIOD: **FROM** 10/13/2016 **TO** 10/13/2017 **AT 12:01 A.M. STANDARD**

Quote is valid until 12:01 AM on : 11/10/2016

Coverage		Premium	
Commercial Inland Marine		$1,700.00	$1,700
	Total Quoted Premium:	$1,700.00	
	Inspection Fee:		$150 Policy Fee
Home State	TRIA (Optional):	$250.00	$111
South Carolina	Total:	$1,950.00	Total: $1,961

SUBJECTIVES

SUBJECTIVES THAT ARE REQUIRED AT TIME OF BINDING:

•	Signed TRIA form (*Either The Accept of Decline Option Must Be Checked*)
•	Confirm Home State selection is correct.
•	Retail Agent Information (*Agency Name, Mailing Address, and Telephone Number if a Texas Retail Agent*)

SUBJECTIVES THAT ARE REQUIRED WITHIN FIFTEEN (15) DAYS OF THE EFFECTIVE DATE:

•	ACORD application SIGNED by the applicant and retail agent

NOTICE

•	Coverage cannot be bound without the written authorization of an employee of the Marine Department or officer of Century Insurance Group. We reserve the right to refuse a request to bind due to current or future weather conditions, change in acceptable underwriting criteria, or material change of risk since the time our quote was issued.
•	This quote was based on the underwriting information presented to us in the applications, inspections, and/or other correspondence submitted and/or on file with us and may be different from the terms and/or limits of the expiring policy and/or requested in the renewal submission. Please review our quote carefully.
•	Premium is 100% Minimum and Deposit

THIS COMPANY HAS BEEN APPROVED BY THE DIRECTOR OR HIS DESIGNEE OF THE SOUTH CAROLINA DEPARTMENT OF INSURANCE TO WRITE BUSINESS IN THIS STATE AS AN ELIGIBLE SURPLUS LINES INSURER, BUT IT IS NOT AFFORDED GUARANTY FUND PROTECTION.

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APPROACHING STORM GUIDELINES

With the 2016 Atlantic/Gulf of Mexico storm season running June 1st through November 30th and the Eastern Pacific storm season running May 15th through November 30th, it will be customary practice of Century Marine to limit binding of the perils of windstorm during an approaching storm (tropical depression, tropical storm and hurricane)

The following guidelines go into effect during the storm seasons.

States South of North Carolina / Virginia Border – Including the Gulf of Mexico Century
Marine will not bind any new business or increase any outstanding liability within 100 miles of any coastal area South of the North Carolina / Virginia state boundary when a tropical depression / tropical storm / hurricane (designated at such by National Weather Service and/or the National Hurricane Center) is Northwest of the boundaries of 70 degrees West longitude and 20 degrees North latitude.

These restrictions will remain in force until the storm has passed and until 24 hours after the tropical depression / tropical storm / hurricane watch or warnings go down, or Century Marine notifies the agent an account can be bound.

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COMMERCIAL INLAND MARINE COVERAGE

Coverage	Premium
Miscellaneous Property	$1,700
Inland Marine Sub-total:	$1,700
TRIA (Optional):	$250
Total Inland Marine Premium:	$1,950

Minimum Earned Premium:
25% -- No Flat Cancellations.

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MISCELLANEOUS PROPERTY COVERGE

Scheduled Coverage:

Item #	Description (year, make, model & serial number)	Limit	Rate	Premium
1	Metal billboard located at 2386 Hwy 41, Mount Pleasant, SC 29466	$340,000	0.50%	$1,700
				$1,700

Theft and Wind / Hail Deductibles, when shown, supersede the AOP deductible.
When a Theft or Wind / Hail Deductible is not shown, the AOP deductible will apply.

Item #	AOP Deductible	Theft Deductible	Wind/Hail Deductible	Valuation Basis	Coverage Form
1	$5,000		$25,000	RC	All Risk

Subtotal for Miscellaneous Property: $1,700



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TERMS AND CONDITIONS

POLICY FORMS

Form No.	Edition	Form Name
USCP 1000	(11/13)	United Specialty Insurance Company - Policy Jacket
USCP 1001	(03/14)	United Specialty Insurance Company - Commercial Lines Policy - Common Policy Declarations
CCP 2010	(05/08)	Service of Suit
CIL 1500B	(02/02)	Schedule of Forms and Endorsements
PRIV 0002	(07/13)	United Specialty Insurance Company - Policy Holder Privacy Statement
IL 0017	(11/98)	Common Policy Conditions
IL 0003	(09/08)	Calculation of Premium
		INCLUDING ALL APPLICABLE STATE FORMS

INLAND MARINE FORMS

USIM 1500	(07/13)	United Specialty Insurance Company - Commercial Inland Marine Coverage Part Declarations
CIM 1501	(07/07)	Commercial Inland Marine Common Policy Conditions
CIM 1537	(03/08)	Miscellaneous Property Coverage Part (All Risk Form)
IL 1201	(11/85)	Policy Change Endorsement
Coverage Part.		*Miscellaneous Property*
1	*As a condition of coverage of this policy it is warranted that the Insured requires all contractor's performing any type of repair, service, or installation to the billboard to have proper liability coverage for their operations performed on behalf of the Insured or others while also naming the Insured as an additional insured.*	



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CENTURY INSURANCE GROUP℠
DIVISION OF MEADOWBROOK INSURANCE GROUP℠

Marine Division
4461 Cox Road, Suite 108
Glen Allen, Virginia 23060

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United Specialty Insurance Company

Policy Holder Privacy Statement

As a policyholder of United Specialty Insurance Company, you may remember that you purchased your United Specialty Insurance Company policy from an insurance agent. Please understand that the agent from whom you purchased your United Specialty Insurance Company policy is not affiliated with United Specialty Insurance Company, but rather is a separate legal entity. In the process of purchasing your United Specialty Insurance Company policy, you may have provided your insurance agent with various information, including nonpublic personal information about yourself. You did not provide any such information directly to United Specialty Insurance Company, but on occasion we may receive such information from your insurance agent. This statement is intended to explain and disclose United Specialty Insurance Company's policies and practices regarding the collection, disclosure and protection of such information.

United Specialty Insurance Company will provide customers like yourself with a copy of our privacy policy at the beginning of our relationship and annually thereafter, unless and until our relationship ends. As our products and services continue to evolve, it may be necessary to review and revise our privacy policies, in which case we will provide you with an updated privacy notice.

I. Financial Information Collected.
During the ordinary course of our business, United Specialty Insurance Company may – as explained above – collect information about you from the following sources:

- Information the insurance agent receives from you on applications or other forms;
- Information about your transactions (including claims) with us, our affiliates and others; and
- Information we receive from other agents, brokers, administrators, insurance support agencies, legal counsel, consumer reporting agencies and government reporting agencies.

II. Financial Information Disclosed.
We do not disclose any information about our customers or former customers to anyone, except as permitted by law to service your business.

III. Parties To Whom Information is Disclosed.
We do not disclose any information about our customers or former customers to anyone, except as permitted by law to service your business.

IV. Confidentiality and Security of Information.
We restrict access to information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards to guard your information.

V. Access to and Correction of Your Information.
You may write to us if you have any questions about the information that we may have in our records about you. We will respond within 30 business days from the date such request is received to your inquiry. If you wish, you may review this information in person or receive a copy at a reasonable charge. You can notify us in writing if you believe any information should be corrected, amended, or deleted and we will review your request. We will either make the requested change or explain why we did not do so. If we do not make the requested change, you may submit a short written statement identifying the disputed information, which will be included in all future disclosures of your information.

We value your business. This statement is for your information. No response is necessary.

CENTURY INSURANCE GROUP℠
DIVISION OF MEADOWBROOK INSURANCE GROUP℠

Marine Division
4461 Cox Road, Suite 108
Glen Allen, Virginia 23060

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NOTE TO AGENT: **It is required by federal law that you provide this document to the insured or prospective insured**

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE
ACCEPTANCE/REJECTION NOTICE

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2015, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term "act of terrorism" means any act that is certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning January 1, 2017; 82% beginning January 1, 2018; 81% beginning January 1, 2019; and 80% beginning January 1, 2020 of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a $100 billion cap that limits U.S. Government reimbursement as well as insurers' liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds $100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed $100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is: $250

This premium does not include any charges for the portion of losses covered by the United States government under the Act.

☐ I hereby accept the purchase of Terrorism coverage as explained above.

☑ I hereby reject the purchase of Terrorism coverage as explained above and request a total exclusion of Terrorism coverage form be added to my policy. I understand that I will have no coverage for losses arising from acts of terrorism that would have been covered by TRIA or any other acts of terrorism. I agree to a total exclusion of any coverage for any acts of terrorism.

Policyholder/Applicant's Signature

United Specialty Insurance Company
Insurance Company

Print Name

1248657
Quote / Policy Number

Big Blue Allure, LLC
Named Insured

Date

TRIA 0002 0115

MISCELLANEOUS PROPERTY COVERAGE PART
(ALL RISK FORM)

1. PROPERTY INSURED

We insure your property scheduled in the Declarations or on a schedule that is part of this policy. A limit of insurance must be shown for each item scheduled.

2. PROPERTY NOT INSURED

We do not insure the following:

a. Property that is not in sound condition when this coverage is effective;

b. Property that is waterborne. We do cover property that is in transit on a regular ferry, lighter or carfloat;

c. Self-propelled vehicles that are designed and licensed for highway use;

d. Aircraft;

e. Watercraft;

3. CAUSES OF LOSS INSURED

We cover direct physical loss to covered property unless the loss results from a Cause of Loss not insured. The loss must be due to an external cause.

4. CAUSES OF LOSS NOT INSURED

We do not insure any loss caused by or resulting from:

a. A dishonest or illegal act, alone or in collusion with another, by:

(1) you;
(2) others who have an interest in the property;
(3) others to whom you entrust the property; or
(4) the employees or agents of (1), (2) or (3)

However, (3) does not apply to loss caused by dishonest acts by carriers or other bailees for hire;

b. Swindling, fraud, trick or false pretense;

c. The acceptance of:
1. counterfeit money or fraudulent post office or express money orders; and
2. checks or promissory notes which are not paid upon presentation.

d. Mysterious disappearance;

e. Any cause when the only proof that a loss occurred is an inventory shortage;

f. Breakage of glass or similar fragile items. We do cover breakage if it is caused by fire, lightning, windstorm, hail, earthquake, flood, smoke, explosion, aircraft, spacecraft, self-propelled missiles or objects that fall from these items; vehicles, including an accident to a transporting vehicle, strike, riot, civil commotion, vandalism, theft, attempted theft, sprinkler leakage or collapse of buildings;

g. A process to repair, adjust, service or maintain covered property. If a fire or explosion results, we do cover the loss caused by the fire or explosion;

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h. Mechanical breakdown or failure. If a fire or explosion results, we do cover the loss caused by the fire or explosion;

i. Electrical currents, other than those caused by lightning, that damage an electrical apparatus or its wiring. If a fire or explosion results, we do cover the loss caused by the fire or explosion;

j. (1) Declared or undeclared war; civil war; insurrection, rebellion, revolution or warlike acts by a military force. Discharge of a nuclear weapon shall be deemed a warlike act, even if accidental;

(2) Destruction seizure of use of property by a military force or any governmental authority;

k. Nuclear reaction, nuclear radiation or radioactive contamination, however caused. We will, however, pay for a loss caused by a resulting fire.

5. LIMITS OF INSURANCE

We will not pay more than the least of the following amounts, less the deductible amount:

a. The valuation as shown in condition **F.**, Valuation of Commercial Inland Marine General Conditions Form CIM 1501; or

b. The limit per item shown in the Declarations or Schedule of Covered Property.

However, if more than one item of covered property is involved in one loss, the maximum we will pay is the maximum per loss limit shown in the Declarations (subject to the limit in a & b above for each covered item).

6. PENALTY FOR UNDERINSURANCE

You must maintain a minimum coverage amount. This minimum coverage amount is the full actual cash value of all covered property. If the coverage amount at the time of loss is less than the minimum coverage amount, we will pay only a part of a loss. Our part of the loss will be determined by dividing the coverage amount by the minimum coverage amount. This percent will be applied to the final adjusted loss to determine the amount that we will pay.

7. DEDUCTIBLE

We will subtract the deductible amount shown on the Declarations page from each adjusted loss.

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Exhibit H
Email Touchdown and Picture
Dated November 17, 2016

ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

From: Jon Kane <jkane5656@gmail.com>
Date: Thursday, May 25, 2023 at 4:35 PM
To: Matthew Kelly <mkelly@oysterrd.com>
Subject: Fwd: touchdown

Sent from my iPhone

Begin forwarded message:

> **From:** Russell Applegate <joe@allureadvertising.net>
> **Date:** November 17, 2016 at 9:04:49 PM EST
> **To:** joesmarine <joesmarine@bellsouth.net>
> **Cc:** Jon Kane <jkane5656@gmail.com>
> **Subject: touchdown**

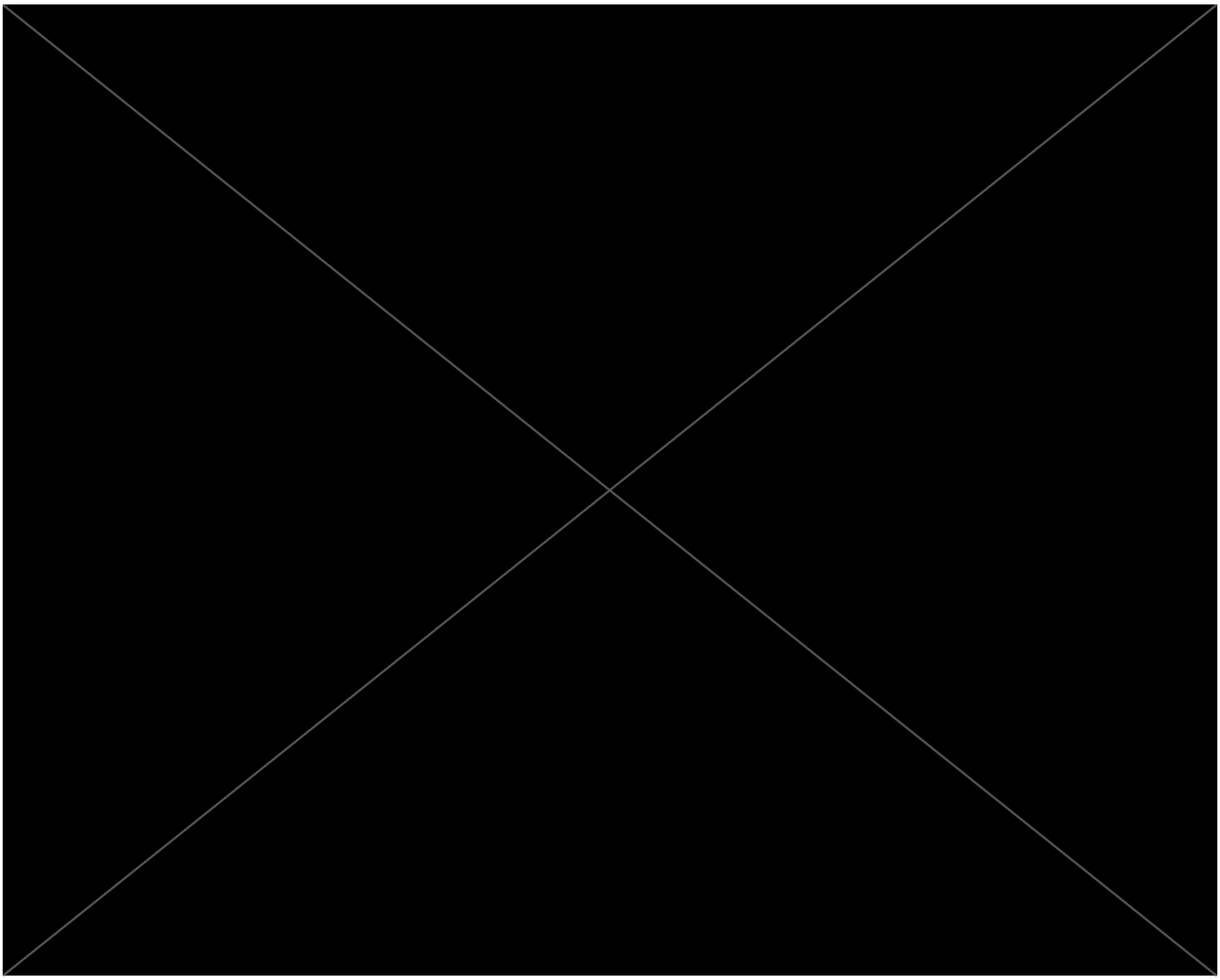
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Exhibit I
Email JA re: Valuation
Dated May 2, 2017

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ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

From: Russell Applegate [mailto:joe@allureadvertising.net]
Sent: Tuesday, May 02, 2017 9:44 AM
To: R Keziah; Jon Kane
Subject: Fwd: [DRAFT] Valuation Opinion Letter

Begin forwarded message:

From: Guilherme Fuzeto <gfuzeto@jfco.com>
Subject: Re: [DRAFT] Valuation Opinion Letter
Date: May 2, 2017 at 9:29:47 AM EDT
To: Russell Applegate <joe@allureadvertising.net>
Cc: James E Johnsen <jjohnsen@jfco.com>, Briton Dailey <bdailey@jfco.com>

Joe

Here is the dial-in # (605) 475-6150
Code: 852482

Talk at 11am.

Gil Fuzeto
Johnsen, Fretty & Company
One Atlantic Street, 6th Floor
Stamford, CT 06901
(203) 406-2424 x4
www.jfco.com

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From: Russell Applegate <joe@allureadvertising.net>
Date: Monday, May 1, 2017 at 9:31 PM
To: GUILHERME FUZETO <gfuzeto@jfco.com>
Cc: James E Johnsen <jjohnsen@jfco.com>, Briton Dailey <bdailey@jfco.com>
Subject: Re: [DRAFT] Valuation Opinion Letter

Gil,

I believe I neglected to reply to your suggested time. If the time slot is still available I would like to do it at 11am. There will be 3 of us on our end so it may require a call in number. Please let me know early Tuesday if we can still do 11am.

Best
Joe

> On Apr 28, 2017, at 1:27 PM, Guilherme Fuzeto <gfuzeto@jfco.com> wrote:
>
> Joe
>
> Sure thing. How about Tuesday at 11:00am EST?
>
> Best regards,
>
> Gil Fuzeto
> Johnsen, Fretty & Company

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One Atlantic Street, 6th Floor
Stamford, CT 06901
(203) 406-2424 x4
www.jfco.com

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From: Russell Applegate <joe@allureadvertising.net>
Date: Friday, April 28, 2017 at 11:56 AM
To: GUILHERME FUZETO <gfuzeto@jfco.com>
Cc: James E Johnsen <jjohnsen@jfco.com>, Briton Dailey <bdailey@jfco.com>
Subject: Re: [DRAFT] Valuation Opinion Letter

Gil,

Yes I would and thank you for getting that to me. Can we set a time Monday or Tuesday to discuss. I would like my partner to be able to join.

Best
Joe

> On Apr 28, 2017, at 11:14 AM, Guilherme Fuzeto <gfuzeto@jfco.com> wrote:
>
> Hi Joe,
>
> Please let me know if you would like to go over the [DRAFT] valuation or have any questions or comments.
>
> Best regards,
>
> Gil Fuzeto
> Johnsen, Fretty & Company
> One Atlantic Street, 6th Floor
> Stamford, CT 06901
> (203) 406-2424 x4
> www.jfco.com
>
> All e-mail sent to and from this address will be received or otherwise recorded and is subject to archival, monitoring or review by, and/or disclosure to, someone other than the recipient. This e-mail and attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of this e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you for your cooperation.

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From: GUILHERME FUZETO <gfuzeto@jfco.com>
Date: Tuesday, April 25, 2017 at 8:48 PM
To: Russell Applegate <joe@allureadvertising.net>
Cc: James E Johnsen <jjohnsen@jfco.com>, Briton Dailey <bdailey@jfco.com>
Subject: [DRAFT] Valuation Opinion Letter

Joe - Apologies for the delay.

Attached please find the [DRAFT] Valuation Opinion Letter for the digital structure in Mount Pleasant, South Carolina. I welcome the chance to go over it with you at your convenience.

Best regards,

Gil Fuzeto
Johnsen, Fretty & Company
One Atlantic Street, 6th Floor
Stamford, CT 06901
(203) 406-2424 x4
www.jfco.com

All e-mail sent to and from this address will be received or otherwise recorded and is subject to archival, monitoring or review by, and/or disclosure to, someone other than the recipient. This e-mail and attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of this e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you for your cooperation.

<Allure Valuation Opinion - [DRAFT] Mt. Pleasant.pdf>

Exhibit J
Email JA, Curtis re: Setup and Accounts
Dated May 30, 2017

ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Begin forwarded message:

From: Russell Applegate <joe@allureadvertising.net>
Date: May 30, 2017 at 3:28:19 PM EDT
To: Curtis Applegate <curtis.applegate@me.com>
Cc: Jon Kane <jkane5656@gmail.com>, julia@allureadvertising.net
Subject: Mt. Pleasant

Curtis,

Attached is the contract for SC Federal. Please schedule for the Hwy 41/Mt. Pleasant site per the contract for invoicing. You will be copied on an email to Adam Owen (graphic artist) to have the current SC Federal creative to 200x680. We will run that creative now until their contract starts. There will be new creative supplied by SC Federal for the start of their paid contract coinciding with the bridge opening.

We need to conclude if we want the Big Blue/Allure receivables to go to the Charleston Address and not Charlotte. I think that may make sense as most contracting will be local and it will a faster turn around internally to have receivable current. If that is agreed then we will need to address our QuickBooks set up for Big Blue/Allure to be separate from Allure.

Please do not respond to this email with thoughts on the invoicing as we will all discuss together by phone this week.

Curtis, Julia mentioned a site/app that might be easier for us to use for a contacts/activity data base than drop box. Please discuss with her and make a suggestion to Jon and I this week.

Best

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Exhibit K
Allure Valuation Opinion
Dated June 13, 2017

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JOHNSEN, FRETTY& COMPANY, LLC

One Atlantic Street, 6th Floor
Stamford, Connecticut 06901

June 15, 2017

Allure Advertising, LLC
Attention: Mr. R. Joe Applegate
2015 Ayrsley Town Blvd. #202
Charlotte, NC 28273

Re: Valuation of One (1) Digital Bulletin Owned by Allure Advertising in Mount Pleasant, South Carolina.

Dear Joe,

You have asked Johnsen, Fretty & Company, LLC ("JFC"), from a financial point of view, to provide a fair gross valuation of one outdoor advertising structure (the "Asset") owned by Allure Advertising, LLC ("Allure"). More specifically, the Asset refers to one (1) double-sided digital display (12 digital faces total) located in Mount Pleasant, South Carolina. The valuation opinion letter has been provided at the request of Allure, who is seeking debt financing from a regional bank to grow Allure. Pursuant to your request, this letter contains our confidential valuation opinion of the Asset as of the date of this letter.

Johnsen Fretty & Company is a boutique investment bank and for the past 25 years has successfully brokered over 300 transactions totaling over $3.0 billion in value for outdoor advertising and place-based media companies (collectively "out of home" or "OOH"). During our 25-year history, we are confident that we have intermediated more transactions in the OOH space than any other company in our field. Our services include assisting our clients with the purchase, sale and/or lease of OOH assets, as well as raising capital in the form of debt and/or equity. In addition, as part of our customary investment banking activities, JFC engages in the valuation of OOH businesses, their assets and/or their securities in connection with mergers and acquisitions, corporate financings and other purposes. More background on JFC and JFC's members can be found on Exhibit D and at www.jfco.com.

As a result of our activities and focus, we spend a large part of our time studying and understanding prevailing market conditions as well as asset and business value in the OOH industry. In an effort to understand value, JFC has developed an extensive proprietary database of merger and acquisition comparable transactions ("comps") that provide us with a unique and valuable tool in evaluating OOH assets and businesses. We continually update this database for any transactions we work on in addition to those in which we receive reliable outside data.

Please be aware that JFC provides the opinions and information in this report (the "Report") at your request. Furthermore, JFC assumes no responsibility for any damages or legal disputes that the use of this letter may cause. JFC has relied upon and assumed, without independent verification, the accuracy and completeness of all information that was provided to or otherwise reviewed by JFC from the Company. With respect to internal financial analyses and/or forecasts of the Company, JFC has assumed that they have been reasonably prepared and reflect the best currently available estimates and judgments of Company Management.

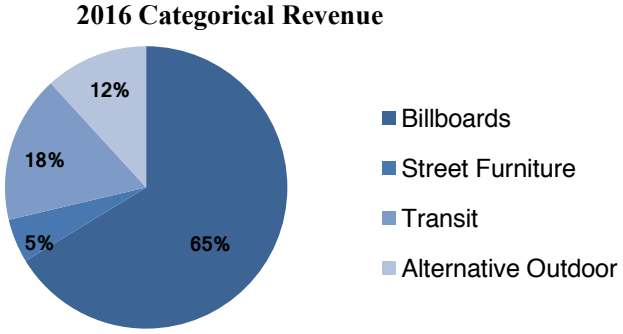
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The Out-of-Home ("OOH") Advertising Industry

The term "Out-of-Home advertising" ("OOH" and/or "outdoor", used interchangeably) refers to all forms of visual advertising displays targeting consumer audiences outside the home. OOH advertising is one of the major mass mediums in addition to television, radio, print, mobile, and the internet, which together account for an approximately $187 billion advertising industry in the U.S. The $7.55 billion OOH industry can be divided into two basic segments—Traditional Outdoor and Non-traditional Outdoor, which can further be broken into four product categories—Billboards, Transit, Street Furniture, and Alternative Outdoor. The $4.95 billion Traditional segment consists of the oldest and most commonly known forms of outdoor advertising – bulletins, 30-sheets, and 8-sheet formats (all three are considered billboards). The $2.6 billion non-traditional segment encompasses advertising on buses, bus stop shelters, city benches, or other vehicles, as well as advertising in or through such venues as cafés, bars, health clubs, shopping malls, sporting arenas, airports, as well as hosts of various other display types and venue locales. The chart below provides examples of various advertising mediums within the four general product categories, and the most recent available national inventory data.

U.S. Out-of-Home Advertising Display Types & Counts (2017)			
Billboards	**Street Furniture**	**Transit**	**Alternative**
Bulletins 158,868 Faces	**Bus Shelters** 49,082 Displays	**Buses** 205,426 Faces	**Cinema** 17,800 Venues
Digital Billboards 6,100 Faces	**Urban Furniture (e.g.)** Phone Kiosks	**Airports** 68,560 Faces	**Digital Place-Based** 300 Networks
Posters 165,606 Faces	**Digital Street Furniture** 699	**Subway & Rail** 184,078 Faces	**Arena & Stadiums** 1,352 Venues
Junior Posters 33,336 Faces	**Shopping Malls** 30,532 Displays	**Truckside / Mobile / Digital** 7,692 Vehicles	**Interior Place-Based (e.g.)** Convenience Stores Health & Fitness Clubs Restaurants / Bars
Walls/Spectaculars 4,029 Faces		**Taxis / Wrapped Vehicles** 46,194 Vehicles	

Although great strides have been made to boost the appeal, credibility, and product offerings of the non-traditional OOH segment, Traditional OOH mediums (billboards) still account for the majority of total OOH advertising expenditures, as the exhibit below demonstrates. JFC attributes this dynamic to the fact that billboards still deliver the largest audience at the lowest cost and deliver advertisers' messages in a highly impactful way.



Historically, the OOH advertising industry has grown consistently, all the while being more resilient during times of recession in comparison to other forms of media. Over the last 45-year period, the OOH industry has experienced positive spending increases in 40 of those years, and in no year other than 2009 has the industry retracted by more than 4.0%.

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OOH, an Industry Poised for Growth

JFC believes the OOH advertising industry will continue to increase its respective share of media spending and is poised for future growth in the near term, primarily for the following reasons:

- More consumers are spending more time outside of the home, making them increasingly difficult to reach with other traditional forms of media;
- Consumers time spent with other traditional media is becoming more and more fragmented as new forms of media channels emerge (e.g. Hulu, Netflix, iPad/Kindle);
- OOH is effective and very cost efficient for advertisers, offering CPMs ($3-$9) that are often lower than those of Television ($10-$25), Radio ($2-$8), Newspapers ($28-$43) and Magazines ($8-$21);
- OOH continues to make advancements in the areas of research and measurability (e.g. the new "EYES ON" measurability index created by the Traffic Audit Bureau), which has historically hamstrung the industry when attempting to compete with more measurable mediums;
- Technological innovations are evolving and helping the medium, whereas such innovations often have the opposite effect on other forms of traditional media (e.g. DVR's impact on Television.)
  (Sources: Outdoor Advertising Association of America (OAAA); eMarketer)

Valuation Analysis – Methodology

In JFC's experience, the Comparative Multiple Approach ("Multiple Approach") is a valuation method that is frequently utilized for valuing privately held outdoor advertising companies and their assets. Another widely used approach to value such assets is the Discounted Cash Flow Approach ("DCF Approach"), which simply put, projects expected future cash flows from the subject company or property and then discounts them back to the present. Lastly, and much less frequently used, is the Cost Approach ("Cost Approach"), which in its simplest form is nothing more than current replacement cost less accumulated depreciation on the subject assets. Since the vast majority of an outdoor company's assets are intangible (e.g. property rights and permits), and not tied to its hard assets (i.e. billboard structures, advertising display panels), we believe the Cost Approach is often a poor and misleading approach to valuing OOH assets since most of this value is related to intangibles.

Comparative Multiple Approach ("Multiple Approach")

The Multiple Approach uses recent sales and offering prices of similar properties to develop a multiple (it can be thought of as the direct inverse of the cap rate supported by recent comparable transactions that is commonly used in the real estate industry) upon which to multiply the current income to arrive at an indication of the most probable selling price of the subject property and is widely used within the media sector. The use of such valuation methodology is effective because of the substantial cash generating capacity and steady revenue stream of OOH advertising assets, as with communications/media assets in general.

More specifically, The Multiple Approach typically applies a multiple to a Company's billboard cash flow (BCF) or earnings before interest, taxes, depreciation and amortization (EBITDA). BCF represents net revenue (gross revenues less agency commissions) less direct operating expenses (leases, sales, maintenance & production, permits & licenses, and illumination). For acquisitions by in-market competitors or larger, well-established players ("Strategics"), BCF is typically the best representation of incremental cash flow, or the asset's contribution to the acquirer's cash flow. A strategic operator likely already maintains the necessary general & administrative functions and a corporate expense structure, thus these expenses would be eliminated through an acquisition (a significant reason for, and a benefit of, heavy consolidation in the OOH advertising industry). However, for acquisitions taking place by non-strategic buyer, some of the efficiencies represented in the BCF figure might not be realized by the acquirer (e.g. a new office may have to be maintained in the new market, so office rent expense would not be redundant to

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the acquirer). In such cases a valuation is generally conducted off of EBITDA (or a figure that closely resembles EBITDA, capturing all of the necessary incremental expenses incurred by the acquirer, even those that may not be reflected in a BCF figure).

Provided below is a summary of the historical trading multiples of OOH companies compiled from data obtained from JFC's proprietary transaction database of over 600 OOH transactions over 25-year period. This transaction multiples summary is intended to provide a general sense for the level of OOH transaction activity that occurred during these time periods. It includes transactions that took place in multiple markets throughout the U.S., and are comparable to the Assets. In our experience, OOH assets in the top national markets tend to trade comparably, without significant market-by-market variance. We believe this occurs because the buyers for OOH assets are primarily national and/or multi-market operators and sell advertising to large national advertisers on a multi-market offering. Therefore, a billboard in New York, Los Angeles, Chicago, Miami, Nashville, and other top markets are often of equal importance to multi-market operators.

	1994-2001	2001-2003	2004-2008	2009-2012	2013 - 2017
CF Multiple Range***	6.0x-16.7x*	7.2X-11.0x	8.7x-16.0x	6.8x-12.2x	5.0x-21.0x
Cash Flow Multiple Average**(*)	11.1x	9.9x	9.4x	10.6x	11.5x
M&A Vol./Activity Level	High	Low	Moderate	Low	High

*Excludes highest and lowest 10% of transactions. **Weighted average based on transaction size.

Public company valuation trading multiples ("public comps" or "trading comps"), on an enterprise value/EBITDA (EV/EBITDA) ratio basis, are also analyzed to determine the appropriate valuation multiple for a subject property under the Market Approach. Enterprise value represents the market capitalization of a firm, plus total debt, less cash on hand or the theoretical takeover price. The EV/EBITDA ratio is often used for publicly traded companies with substantial cash flow generating capacity such as media/communication companies. We believe the most appropriate public comparables for the Company are Lamar Advertising Company (NASDAQ: LAMR), Outfront Media Inc. (NYSE: OUT), and Clear Channel Outdoor (NYSE: CCO), the three largest outdoor companies in the U.S. As of June 15, 2017, the three companies traded at 14.88x, 12.49x, and 9.39x trailing 12-month EBITDA*.
(*Source: marketwatch.com)

Note, given the long-term nature of the Assets, we have opted not to discuss the Discounted Cash Flow Approach since we have found in the past that the Comparative Multiple Approach and the Discounted Cash Flow Approach frequently converge. In addition, given the intangible nature of the Assets we did not utilize the Cost Approach in this Report because we believe it would have produced an inaccurate opinion.

Factors Impacting Valuation

When valuing OOH assets, JFC analyzes a variety of factors to arrive at a valuation opinion. Such influential factors include, but are not limited to, the following elements:

a) **Market Characteristics**: the appeal of a market with respect to outdoor advertising (e.g. a market's size, economic trends, regulatory environment for outdoor advertising);

b) **Competition:** the competitive presence within the subject Company's operating environment(s) and the Company's relative position within them;

c) **Asset Type:** the composition of the subject Company's assets in terms of its types of advertising structures and displays;

d) **Physical Condition:** the physical condition of the subject assets and projected maintenance and capital expenditure requirements;

e) **Lease/Property Portfolio:** the subject Company's rights to use certain real property per its property lease agreements, and in certain cases, via its ownership of certain real property;

f) **Operating Performance:** The projected operating performance of the Assets;

g) **M&A Environment:** The current liquidity potential of the subject assets, determined by the asset's appeal to potential buyers and the buyer's ability to complete such an acquisition.

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Summary Conclusion

Based upon and subject to the foregoing and such other matters, as JFC deemed relevant, including our assessment of current economic and market conditions, we are of the opinion that as of June 15, 2017, the asset's fair gross valuation **One million three hundred forty thousand dollars ($1,340,000)** *(Please refer to Exhibits B and Exhibit C for more details)*.

Fair gross valuation is defined as the cash or cash equivalent price at which assets would change hands between a willing buyer and willing seller, neither being under a compulsion to buy or sell and both having reasonable knowledge of, and adequate security in all the relevant facts. JFC reserves the right to further supplement this conclusion.

All information provided on behalf of the Company was assumed to be accurate and no steps were taken to independently verify the material. Projections are implicitly included in this opinion letter. Projections and assumptions are inherently subject to uncertainty and may be greatly influenced by events that are unforeseeable or otherwise differ or vary from reasonable expectations. Consequently, operating results may vary from the projections, commensurately affecting value.

JFC assumes no responsibility for matters of a legal nature affecting the assets and operations in this valuation report. JFC also assumes the property is free and clear of all liens and other encumbrances that would hinder a sale. It has been assumed for valuation purposes that the Company maintains the requisite state and local permits/licenses, lease agreements, easements, air rights, and other forms standard to operate the Assets. It has been assumed the Company is in good standing and is not in violation of any laws, zoning codes, or regulatory statutes of any kind, including but not limited to sign ordinances governing displays operated by the Company.

The contents of this valuation report should in no way be construed as a recommendation to invest in, or otherwise contribute funds to, the Company. Nothing in this report is intended to recommend, imply, or provide any guarantees or opinions regarding the financial prudence, investment potential, or debt service ability of the Company or any investment in its stock or assets by any party. Such parties should undertake a full due diligence review of the Company and make their own independent determinations of its future prospects, financial or otherwise, and the financial prudence, tax, legal, and all other ramifications of any contemplated transaction. Nothing in this report should be construed as providing a "due diligence" study of the Company, as such a review has not been undertaken. Such a review could uncover factors not considered herein that could result in a materially different estimate of value. The conclusions in this report simply represent JFC's opinion as to the probable estimate of value at which the assets and operations that are the subject of this report would trade on the valuation date, given the assumptions presented in the report and the market conditions prevailing at that time.

Sincerely,

Johnsen, Fretty & Company, LLC

By: _____
James E. Johnsen
Managing Director

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GENERAL ASSUMPTIONS & LIMITING CONDITIONS

- Title to the property is assumed to be free, clear freely marketable unless otherwise stated. While the property interests are assumed to be marketable, no investigation of legal issues or title has been made. No consideration has been given to liens, leases, easements or other encumbrances that may be against the property except as specifically stated in the Report.

- It has been assumed for valuation purposes that the Company is in good standing and is not in violation of any laws or regulatory statutes of any kind, including but not limited to sign ordinances governing displays operated by the Company. This valuation assumes no contingent or other liabilities of any kind, including pending or threatened lawsuits, environmental or hazardous waste issues, or other similar matters, except as noted herein. These issues are outside of the scope of this report, but, if present, could have a material impact on the fair market value estimate contained herein.

- JFC made no survey of the property and assumes that there are no hidden or unapparent conditions of the property structures which would render it more or less valuable. No responsibility is assumed for such conditions or for engineering that might be required to discover such factors.

- All references as to value are presented as JFC's opinion. JFC has based such opinion on the facts and data set forth in the valuation opinion letter, and what was encountered in its research and analysis conducted as a part of this assignment, as well as its experience in similar appraisals.

- The value estimate assumes responsible ownership and competent management and operation in accordance with all regulations under which it is governed.

- Information, estimates, and opinions contained in the Report were obtained from sources considered reliable and believed to be true and correct. However, no responsibility for the accuracy of such items can be assumed by JFC. JFC has relied upon and assumed, without independent verification, the accuracy and completeness of all information that was provided to or otherwise reviewed by JFC. With respect to internal financial analyses and/or forecasts of the Company.

- Projections are included in this valuation report as detailed in Exhibit B. Projections and assumptions are inherently subject to uncertainty and may be greatly influenced by events that are unforeseeable or otherwise differ or vary from reasonable expectations. Consequently, if operating results were to vary significantly from the projections, the value would be impacted.

- JFC assumes no responsibility for matters of a legal nature affecting the Asset and operations in this valuation report.

- This assignment was undertaken for the client specified herein, and for no other parties or use. JFC does not recognize or assume any duty to persons other than the client in the formulation of this valuation opinion letter and its conclusions. The client may make such reasonable use of this valuation opinion letter as is consistent with the function of the valuation opinion letter, but any third party or other party into whose possession the Report may come should not assume that its rationale or conclusions will serve any other client or function unless specifically authorized in writing by JFC

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EXHIBIT A

Asset Background

Allure is a successful boutique outdoor advertising company that is rapidly expanding in North and South Carolina. Allure owns three digital displays, one in Mount Pleasant (described in this Report), and two others in Charlotte, North Carolina along I-495; one near the Charlotte International Airport and the other one on Westinghouse Boulevard. The Company is also working on other new locations that will expand its market coverage and allow it to grow in South Carolina.

Allure has recently built the digital structure in Mount Pleasant and has installed one digital face to date. According to Allure's management ("Management"), the second digital face is scheduled to be installed Q3 2017 and will be the only digital display in the town. According to Management, there are less than ten billboards in all of Mount Pleasant; none of which were digital prior to the construction of the Asset described herein. This makes the Asset very attractive to advertisers targeting the Mount Pleasant area and surrounding population.

The Asset resides within the highly desirable Charleston DMA and reads to an important, heavily trafficked roadway. In 2015, the Average Annual Daily Traffic volume (AADT) was 14,800 vehicles. At the Wando River Bridge during rush-hour, the traffic is typically a slow crawl, making the digital display a perfect solution to speak to the commuter.

Mount Pleasant is a large suburban town in Charleston County, South Carolina. Mount Pleasant is a highly sought after population because of the demographics and high disposable income. It is the fourth largest municipality in South Carolina, and for several years it was one of the state's fastest-growing areas, doubling in population between 1990 and 2000. The population was 67,843 at the 2010 census, and the estimated population in 2014 was 77,796.

In the town, the age distribution of the population shows 25.1% under the age of 18, 6.5% from 18 to 24, 35.3% from 25 to 44, 22.8% from 45 to 64, and 10.3% who were 65 years of age or older. The median income for a household in the town was $61,054, and the median income for a family is $71,165.

JFC has also reviewed the ground lease agreement, and the local and state permits for the Asset. Allure has secured a ground lease with a 10-year term. The lease has a reasonable lease cost of the greater of $13,728 or 22% of Net Revenue, which is in-line with similar assets in similar markets.

The ground lease has a cancellation clause, which grants the current landlord or new landlord the ability to cancel the lease after January 2022 if the landlord enters into a contract to sell the premises. According to Management, the only reason the landlord would choose to cancel the lease and thus loose his favorable economics would be if the land on which the asset sits could be used for higher and better use. Management is highly confident that the billboard represents highest and best use and therefore the risk of loss is infinitesimally small. With that in mind, JFC has adjusted its BCF and Net Revenue multiples in Exhibit B to accommodate the low risk of a ground lease being cancelled after Jan 2022. If JFC was tasked to divest the Company's Asset at a fair gross value, JFC would advise Allure to amend the ground lease agreement and remove the cancellation clause located in section 7(b) that grants the landlord the ability to cancel the ground lease.

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EXHIBIT B

Financial Analysis

For the purpose of this valuation opinion letter, JFC has used information provided by Management in conjunction with JFC's projections.

The Pro Forma Financial Performance projection below consists of the expected Net Revenue (gross revenues less agency commissions) and Direct Operating Expenses (sales commission, maintenance & production, permits & licenses, illumination and property taxes). JFC used the Net Revenue less Direct Operating Expenses to arrive at the Pro Forma Billboard Cash Flow ("BCF"). The projections assume the Asset will be seasoned, and the ad rates and occupancy rates for the Asset will be normalized. JFC has utilized its in-market knowledge of other comparable alternative outdoor advertising assets to perform sensitivity analysis around expected performance.

BCF is the metric commonly used to assess acquisitions by in-market competitors or larger, well-established players ("Strategics"). BCF is typically the best representation of the acquisition's incremental cash flow, or EBITDA to the acquirer's cash flow. A strategic operator likely already maintains the necessary general & administrative functions and a corporate expense structure, thus these duplicate expenses would be eliminated at acquisition. The chart below illustrates how JFC arrived at BCF:

ALLURE ADVERTISING, LLC
PRO FORMA FINANCIAL PERFORMANCE

STRUCTURE INFORMATION			PRO FORMA NET REVENUE	DIRECT OPERATING EXPENSES						PRO FORMA BCF
Face #	Location Description	Display Size	Pro Forma Net Revenue[1]	Annual Lease[2]	Pro Forma Sales Commission[3]	Illum.[4]	Connectivity[4]	Permits & License Fees[4]	Total Direct Operating Expenses	Pro Forma BCF
1A	LHR Hwy 41 @Wando River Bridge	10'6x36'	$ 156,780	$ 34,492	$ 18,814	$ 2,100	$ 600	$ 15	$ 56,020	$ 100,760
1B	RHR Hwy 41 @Wando River Bridge	10'6x36'	$ 113,100	$ 24,882	$ 13,572	$ 2,100	$ 600	$ 15	$ 41,169	$ 71,931
Total			**$ 269,880**	**$ 59,374**	**$ 32,386**	**$ 4,200**	**$ 1,200**	**$ 30**	**$ 97,189**	**$ 172,691**
Notes:				*22.0%*	*12.0%*	*1.6%*	*0.4%*		*36.0%*	*64.0%*

[1] Reflects six available faces with an ad rate of $3,000 at 67% occupancy (Face 1A) and $2,500 at 58% occupancy (Face 1B) for 13 periods

[2] Reflects contracted annual Lease expense

[3] Reflects 12% Pro Forma Sales Commission

[4] Reflects expenses assumptions provided by Management

The projections reflect six available faces with an ad rate of $3,000/per face at an average 67% occupancy for Face 1A and $2,500 per face at an average 58% occupancy rate for Face 1B for 13 four week periods for both faces. Pro Forma Annual Lease Expense reflects contracted Lease Expense. Pro Forma Sales Expense reflects 12% of Pro Forma Net Revenue. Pro Forma Illumination Expenses and Miscellaneous Expenses reflect annualized actual expenses, which were provided by Management.

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EXHIBIT C

Financial Valuation

For the purpose of this opinion letter, we applied a current market multiple of 7.75x BCF, and 5.0x Net Revenue. We believe this is the midpoint of trading ranges for comparable assets at this time. In addition, JFC applied a 50% weighted average for the BCF and 50% weighted average for the Gross Profit implied value "JFC Metrics".

The Pro Forma Financial Performance projections provided in Exhibit B summarize how the Pro Forma BCF and the chart below reflect the primary determinants of JFC's opinion regarding BCF value utilizing the Multiple Approach Method. In utilizing the Multiple Approach Method, JFC applied certain valuation multiples ranging from 6.75x to 8.75x BCF, with a mid-point BCF multiple of 7.75x.

For additional context, JFC utilized other methods by applying multiples to other financial metrics. This included the "Net Revenue" metric. JFC applied ranges from 4.0x to 6.0x multiple to the Net Revenue analysis with a mid-point multiple of 5.0x Net Revenue. The Net Revenue valuation has historically been used because of its simplicity; however, the insight it provides to valuation can be very limited depending on the performance of the asset. As with the BCF metric, this analysis is most relevant in the context of a strategic acquisition scenario, where the acquirer can eliminate most of the existing operating cost structure around the acquired assets.

After JFC concluded the Implied Value using the BCF and Net Revenue Multiples independently, JFC applied a 50% Weighted Average for the BCF and 50% Weighted Average for the Net Revenue implied value. These Multiple ranges reflect what JFC has recently observed in the M&A market over the course of its business practice. Provided below are valuation range matrices developed utilizing the above-described metrics:

Allure Advertising, LLC
Valuation Range - Billboard Cash Flow

Pro Forma BCF	Multiple	Implied Value
$ 172,691	6.75x	$ 1,165,663
$ 172,691	7.25x	$ 1,252,008
$ 172,691	7.75x	$ 1,338,354
$ 172,691	8.25x	$ 1,424,699
$ 172,691	8.75x	$ 1,511,045

Allure Advertising, LLC
Valuation Range - Net Revenue

Pro Forma Net Revenue	Multiple	Implied Value
$ 269,880	4.00x	$ 1,079,520
$ 269,880	4.50x	$ 1,214,460
$ 269,880	5.00x	$ 1,349,400
$ 269,880	5.50x	$ 1,484,340
$ 269,880	6.00x	$ 1,619,280

Allure Advertising, LLC
JFC Weighted Average Valuation

Metrics	Implied Value	JFC Metrics	Valuation
Pro Forma BCF	$ 1,338,354	50%	$ 669,177
Pro Forma Net Revenue	$ 1,349,400	50%	$ 674,700
			$ 1,343,877
		Rounded Down	**$ 1,340,000**

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EHXIBIT D



JAMES E. JOHNSEN, MBA

PROFESSIONAL BACKGROUND
Managing Director - Johnsen, Fretty & Company, LLC

PROFESSIONAL AFFILIATIONS
Financial Industry Regulatory Authority, Inc. (FINRA)
OUTDOOR ADVERTISING ASSOCIATION OF AMERICA

EDUCATIONAL BACKGROUND
Brown University, BS in Electrical Engineering
Yale University, MBA

OTHER AFFILIATIONS
Axial Markets Member
Yale Club of NY
Brown Club of Fairfield County
Tokeneke Club, Darien CT
Delta Phi Omega Fraternity – Rhode Island Chapter
St. Thomas More Church, Darien CT

LICENSES
FINRA, Card # 5779385, Series 62, 63 and 79 licenses

EXPERIENCE
With over 27 years of brokerage, merger and acquisition advisory and investment banking experience, 25 of which have been spent concentrating on the outdoor advertising industry, my firm and I have brokered over 300 billboard portfolios totaling over $3.0 Billion of deal value. My focus is on maximizing value and terms for my clients through a sale process of their billboard portfolios. As a part of my brokerage practice I regularly provide valuations, litigation support and expert witness testimony for my clients. During the past 25 years I have appraised over 50 billboard portfolios throughout the United States.

SELECT VALUATION ASSIGNMENTS

Client Name	Subject property
1 Ozark Heritage Bank	Barnes Advertising
2 Provident Bank	MC Realty
3 Signature Bank	J&B Signs
4 MB Financial	J&B Signs
5 Burr Ridge Bank	J&B Signs
6 Full Circle Capital	Molina Media
7 Full Circle Capital	Molina Media
8 Full Circle Capital	Molina Media

9 Full Circle Capital	Windsor Outdoor
10 Full Circle Capital	Windsor Outdoor
11 Full Circle Capital	Windsor Outdoor
12 Full Circle Capital	Peak Outdoor
13 Full Circle Capital	Peak Outdoor
14 Full Circle Capital	Peak Outdoor
15 Courtesy Outdoor Finance	Bass Outdoor
16 Courtesy Outdoor Finance	Advertising Advantage
17 Diablo Valley Bank	USREI
18 Heritage Commerce Bank	USREI
19 City National Bank	USREI
20 Platinum LP	Liquid Outdoor
21 Heartland Bank	SECO Outdoor
22 Bridgeview Bank Group	Image Media
23 Fairfield County Bank	Seligson Outdoor
24 Goldman Sachs	RTM
25 Wells Fargo	Lindmark Outdoor
26 Southern First	Stevenson Communications
27 N/A	Catalyst Outdoor
28 Bankruptcy Court	Las Vegas Billboards
29 Delaware Outdoor	Delaware Outdoor
30 Entry Media	Entry Media
31 Bruce Storey	Emerald Outdoor
32 Citizen's Bank	Carroll Outdoor Advertising
33 Carroll Outdoor Advertising	Carroll Outdoor Advertising
34 Flack family	Flack Outdoor Advertising
35 Georgia based Bank	Williamson Outdoor Adv.
35 Princeton Outdoor	Princeton Outdoor
36 Zukin Family	Meadow Outdoor
37 London Broadcasting Co.	London Broadcasting Co.
38 Georgia based Bank	Bell Media
39 Georgia based Bank	Bell Media
40 Florida Based Lender	Summit Outdoor
41 Shareholders of Face Value	Face Value
42 Starlite Media	Starlite Media
43 Stewart Family	Apple Outdoor
44 City Outdoor, Inc.	City Outdoor, Inc.
45 Community Bank	Media-Rite Advertising
46 BB&T	Allure Advertising
47 Bridgeview Bank Group	Image Media, Inc.
48 City Outdoor, Inc.	City Wildposting, LLC
49 Florida Community Bank	Three (3) South FL Companies
50 Auburn Bank	New South Outdoor

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Exhibit L
JWC Estimate – Allure Sign
Dated July 25, 2017

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From: Russell Applegate <joe@allureadvertising.net>
Subject: Fwd: JWC Estimate - Allure Sign Co Site Corridor
Date: October 25, 2017 at 11:37:49 AM EDT
To: "Kane, Jon" <jkane5656@gmail.com>

Begin forwarded message:

From: Dan Hankins <dan@jwcsitework.com>
Subject: JWC Estimate - Allure Sign Co Site Corridor
Date: July 25, 2017 at 5:03:08 PM EDT
To: Jon Kane <jkane5656@gmail.com>, Joe Applegate <joe@allureadvertising.net>

Jon/Joe, please see attached per your request. Thanks for your patience. Please let me know if you have any questions or concerns...thx DH

Thanks,

Dan Hankins
PO Box 2110
Mt. Pleasant, SC 29465
Office - (843) 971-7449 x 104
Mobile - (843) 200-3145
dan@jwcsitework.com
www.jwcsitework.com

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Exhibit M
Job Estimate Itemization
Dated July 25, 2017

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James White Construction, LLC

P.O. Box 2110
Mt. Pleasant, SC 29465

843-971-7449

krystal@jwcsitework.com

Job Estimate

Date	Estimate #
7/25/2017	17-138

Allure Sign

Project

Item	ITEMIZED ESTIMATE:	Qty		Cost	Amount
Mobilization	Mobilization, Layout, GC	1	LS	1,500.00	1,500.00
Silt Fence	Non-Reinforced	750	LF	4.00	3,000.00
Clearing	Clearing Debris Removal - .5 acres from sign to hwy at marina entrance.	1	LS	11,500.00	11,500.00

Total $16,000.00

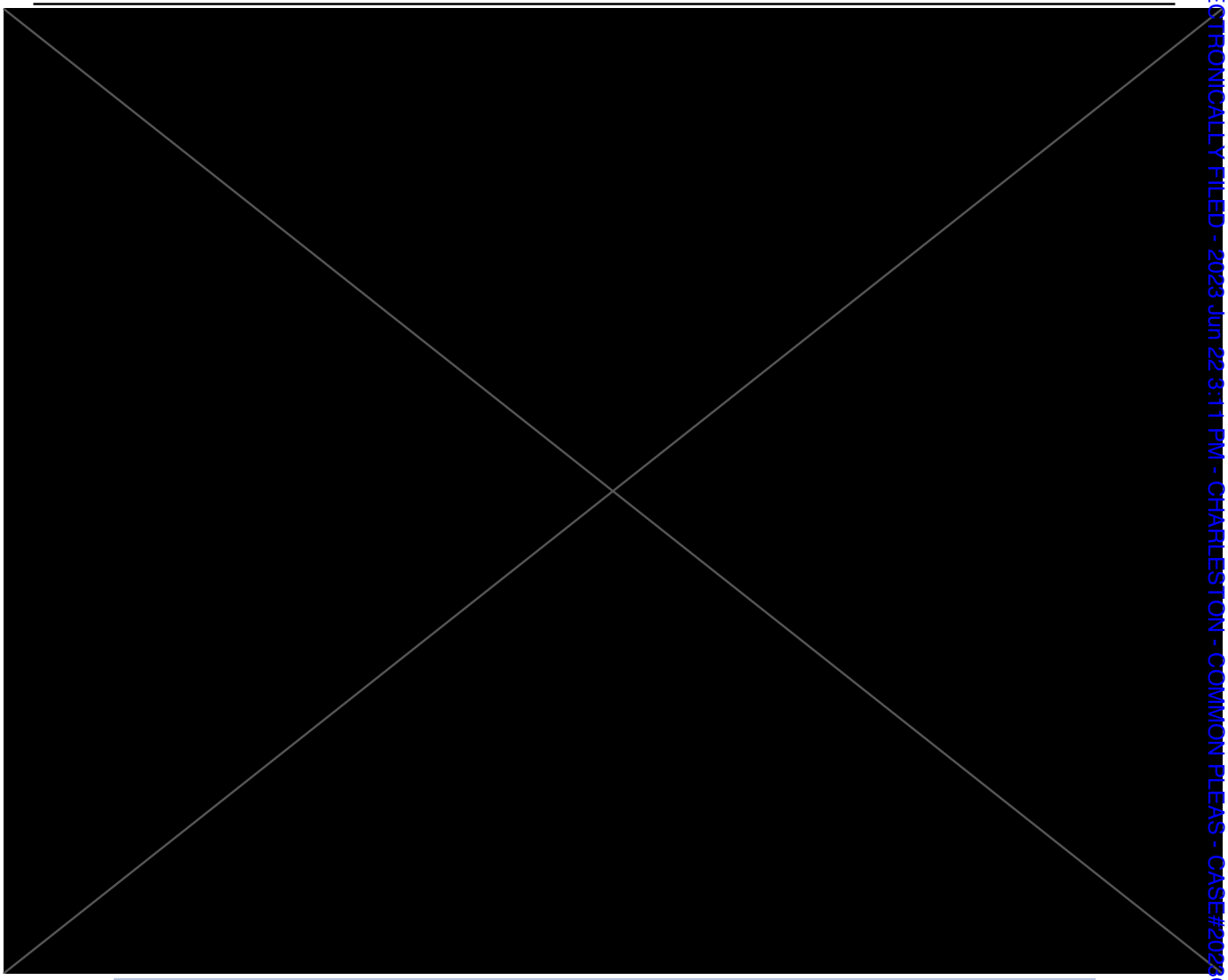
This is an estimate only, not a contract. This estimate is for completing the job described above, based on our evaluation. It does not include unforeseen price increases or additional labor and materials which may be required should problems arise.

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Exhibit N
Email Joe to Bob w Allure
August 23, 2018

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From: joe@allureadvertising.net [mailto:joe@allureadvertising.net]
Sent: Friday, August 24, 2018 7:34 AM
To: rklaptop@comporium.net
Subject: RE: Allure background

looks good...thanks

> -------- Original Message --------
> Subject: RE: Allure background
> From: <rklaptop@comporium.net>
> Date: Thu, August 23, 2018 7:49 pm
> To: <joe@allureadvertising.net>
>
> How does this look?
>
> Thx
>
> **From:** joe@allureadvertising.net [mailto:joe@allureadvertising.net]
> **Sent:** Thursday, August 23, 2018 7:12 PM
> **To:** rklaptop@comporium.net

Subject: RE: Allure background

Bob,

Looks good.Let's add Jon Kane. To save time I will give you a quick bio and we can have him edit for a go forward at a later time.

JON KANE:

Jon has 30+ years of experience in the outdoor advertising industry. His positions within the 4th largest outdoor advertising company range from sales representative, to sales management, and his longest tenure was General Manager of markets in Lansing Michigan, Madison Wisconsin, and ultimately Charleston, SC where he currently resides and is active in many facets of the Outdoor Advertising Industry including ownership of Digital Outdoor Displays.

-------- Original Message --------
Subject: Allure background
From: <rklaptop@comporium.net>
Date: Thu, August 23, 2018 6:00 pm
To: <joe@allureadvertising.net>

See attached…

I attached original word doc if you want to change…

thx

Virus-free. www.avast.com

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allure
ADVERTISING

BACKGROUND

Allure Advertising was formulated in 2012 and started comprehensive market evaluations across North and South Carolina. Allure Advertising is now developing new outdoor advertising display sites across the two states with the goal of integrating an architectural advertising display with the design of its surroundings.

EXPERIENCE

Joe Applegate- Joe has 25 years of experience in the Outdoor Industry. In the 25 year span Joe worked for two companies and held positions as Advertising Sales Representative, Regional/National Advertising Sales Representative, National Sales Director, Local Market Sales Manager in Charleston, SC and General Manager of the Charlotte, NC market (the largest market of the Adams Outdoor Advertising company). In 2006, Joe led the text amendment initiative with the City of Charlotte, NC to allow for deployment of digital displays in Outdoor Advertising. That effort concluded in 2007 with a favorable City Council vote of 9 to 2 in what had been historically an anti-billboard municipality. With Joe's leadership and vision and most importantly a very talented team of 68 employees, the revenues almost doubled in 5 years from 17 million to 31 million in gross revenues.

John Fite- John has over 14 years of experience in the Outdoor Industry. John has developed over 100 billboard sites during his career and has participated in the identification and analysis of several acquisitions. John's experience ranges from Real Estate Representative to General Management. Now, John is owner of National Outdoor with 23 signs and 99 faces in Orlando, Florida and Virginia. John also developed and owns the first "Times Square" style digital wallscape in Atlanta, GA.

Randy Huggins- Randy has over 18 years experience in the Outdoor Industry. Randy has held positions as Real Estate Representative and Real Estate Management with the largest companies in the Industry, all in coastal markets of South Carolina. Randy also has been involved in the analysis process of large acquisitions on behalf of the companies he has worked for. Randy has also played

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an integral role in working with municipalities in the development of zoning ordinance language favorable to the municipality and the Outdoor Advertising Industry.

Jon Kane - Jon has 30+ years of experience in the outdoor advertising industry. His positions within the 4th largest outdoor advertising company range from sales representative, to sales management, and his longest tenure was General Manager of markets in Lansing Michigan, Madison Wisconsin, and ultimately Charleston, SC where he currently resides. He is active in many facets of the Outdoor Advertising Industry including ownership of Digital Outdoor Displays.

Robert Keziah- Robert has been involved in every facet of the real estate industry for over 35 years and he has owned, developed and managed both residential (single and multi-family) as well as commercial and industrial properties during this period. He brings a wealth of real estate experience and knowledge to the outdoor advertising market and his primary role is in site selection and development.

SUMMARY OF EXPERIENCE

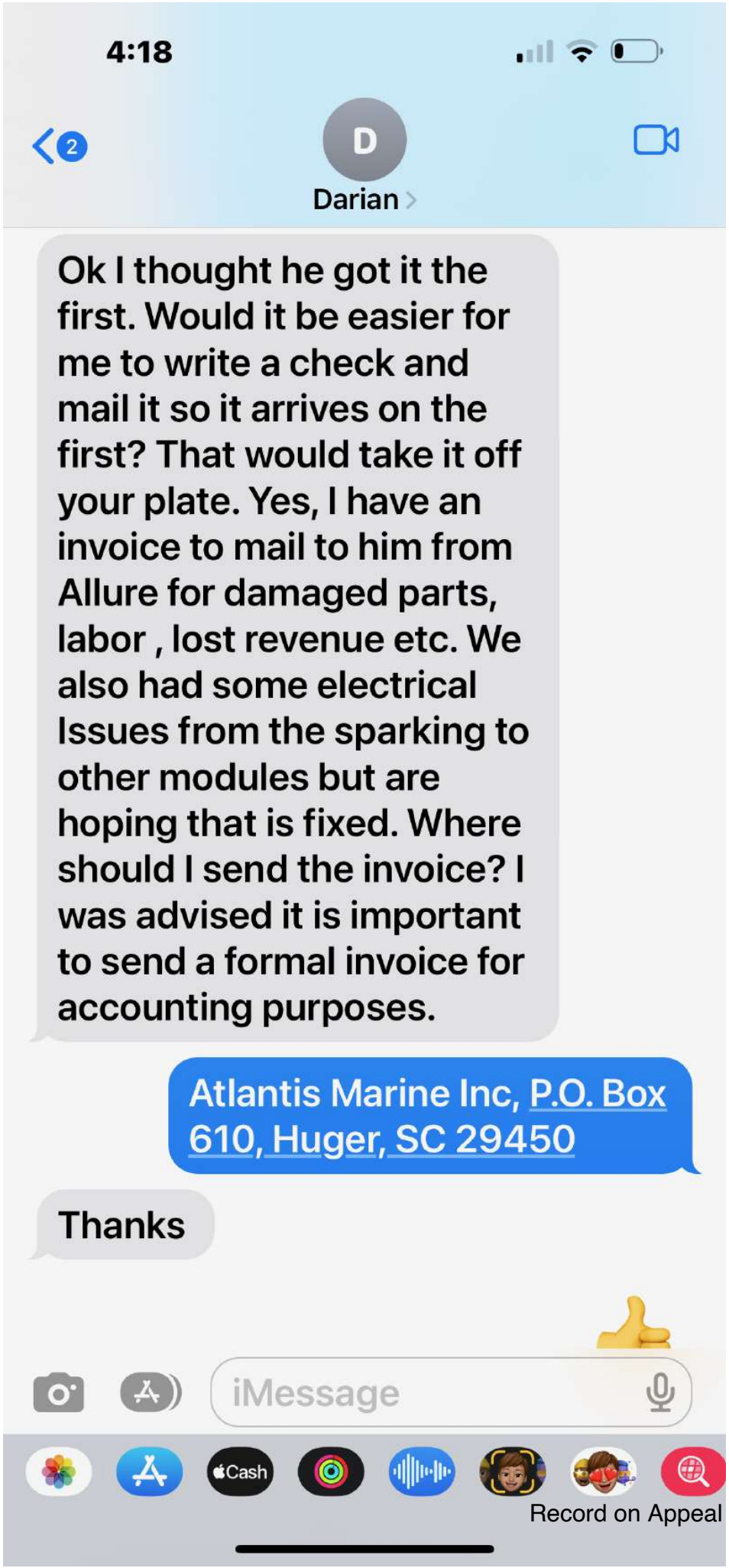
Allure Advertising has over 135 combined years of Outdoor Advertising experience. The Partners of Allure Advertising bring an asset ownership base and or asset management responsibilities of over 375 existing Outdoor Advertising Displays.

ALLURE UNIQUE SIGN ARCHITECTURE

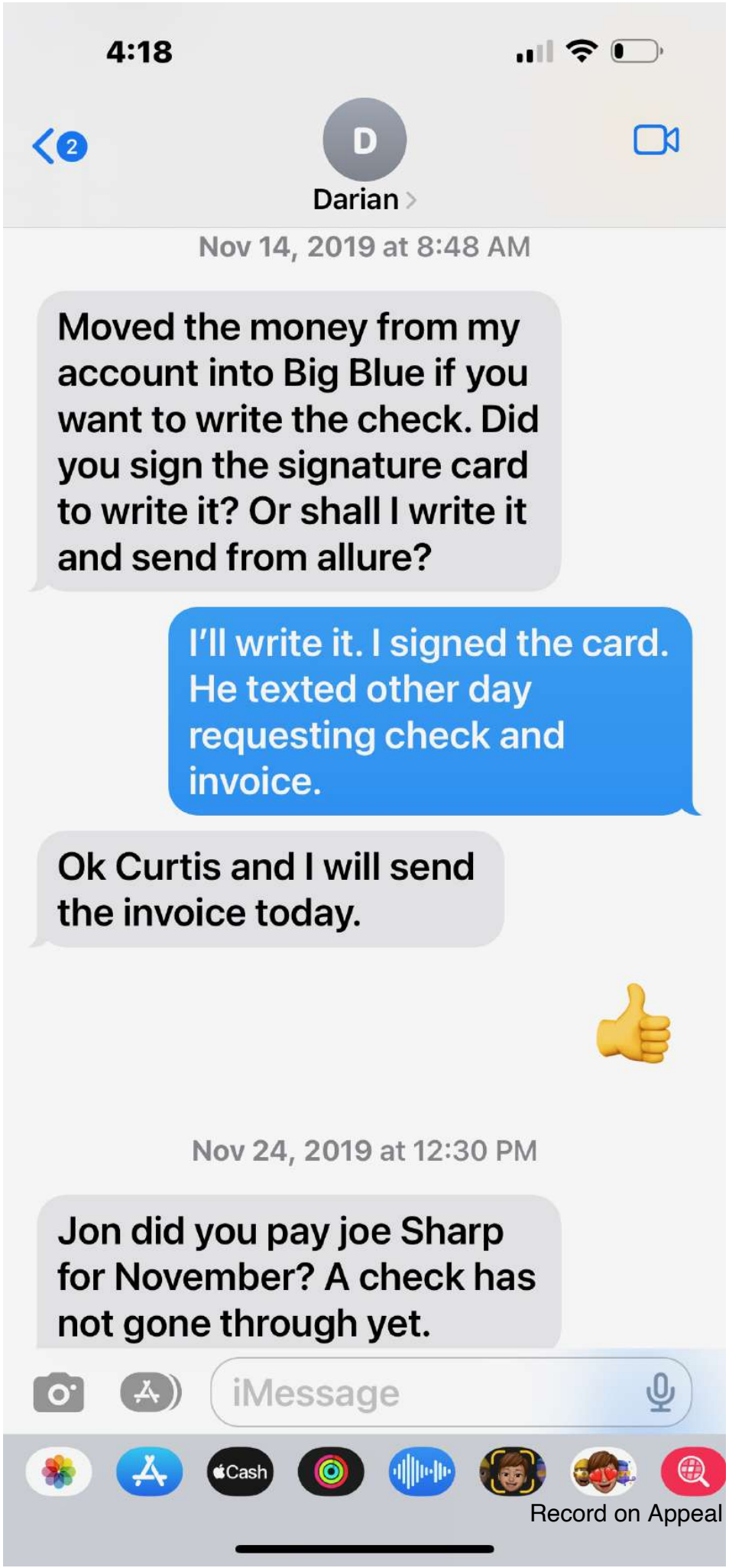
It has always been a vision of Joe Applegate to change the look of the Outdoor Industry. To design and introduce new architecture that changes the industrial appearance of a 120 year-old industry while integrating the display with the architecture of its surroundings.

Exhibit O
Kane and Darien Texts re: Sharp Payment
Dated November 11, 2019

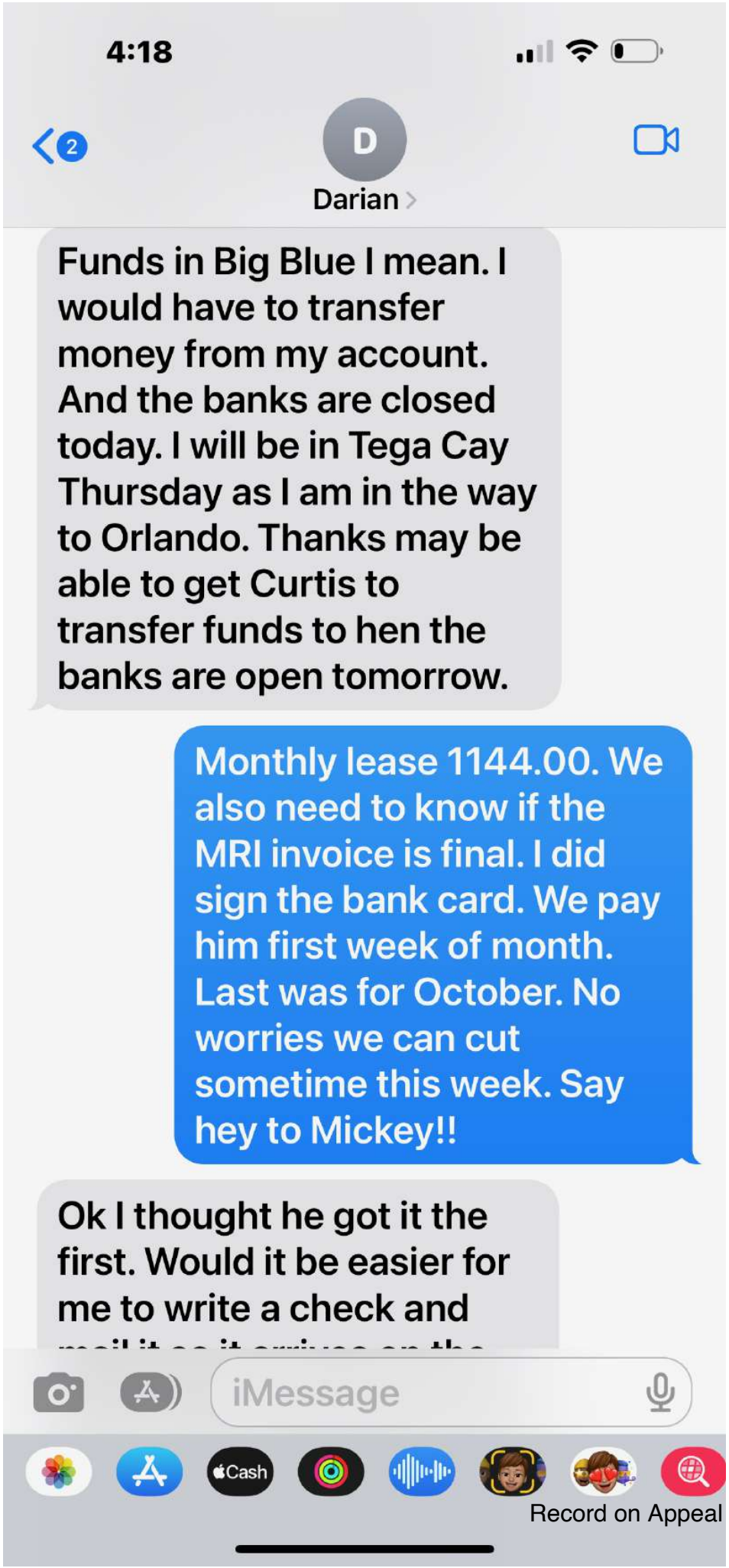
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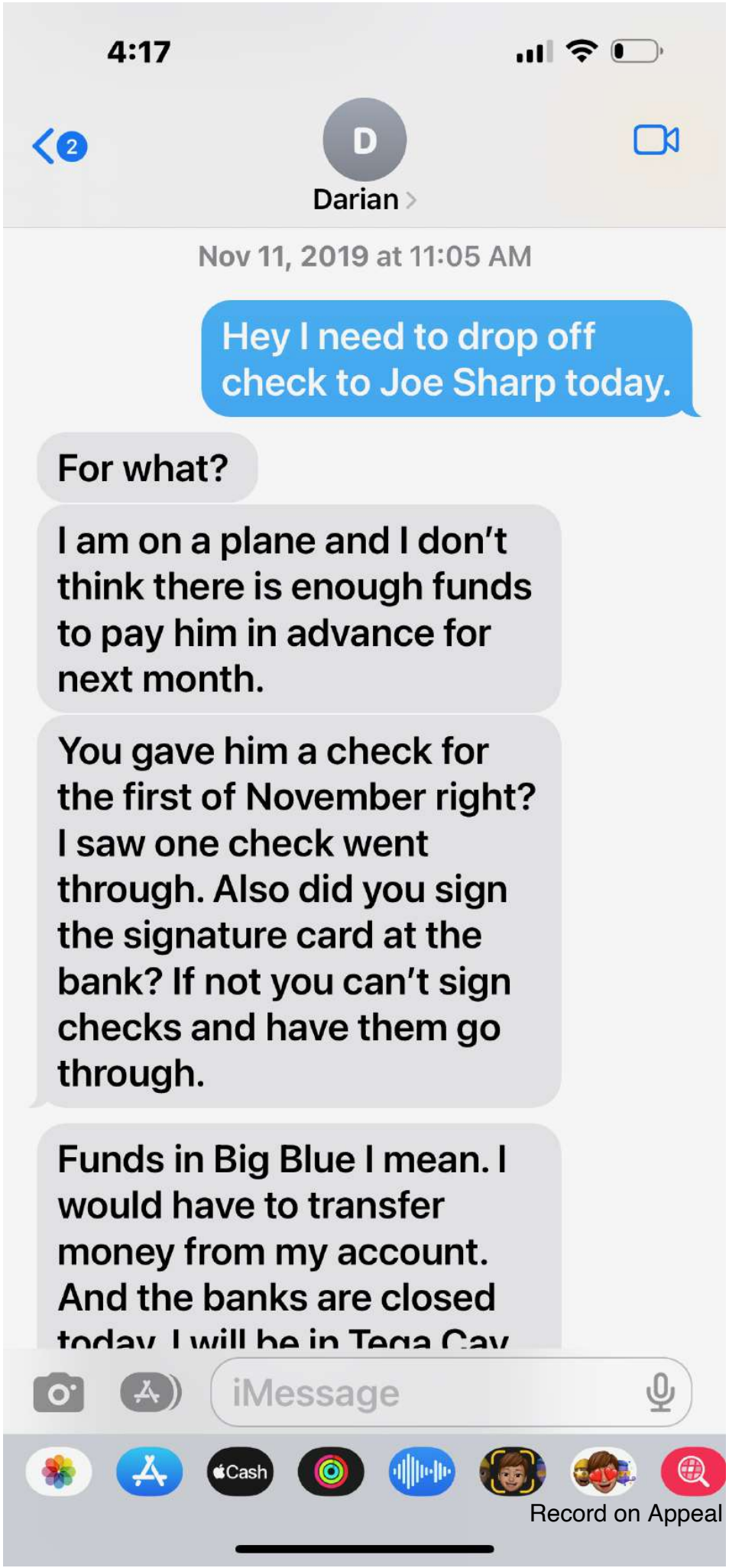
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ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038



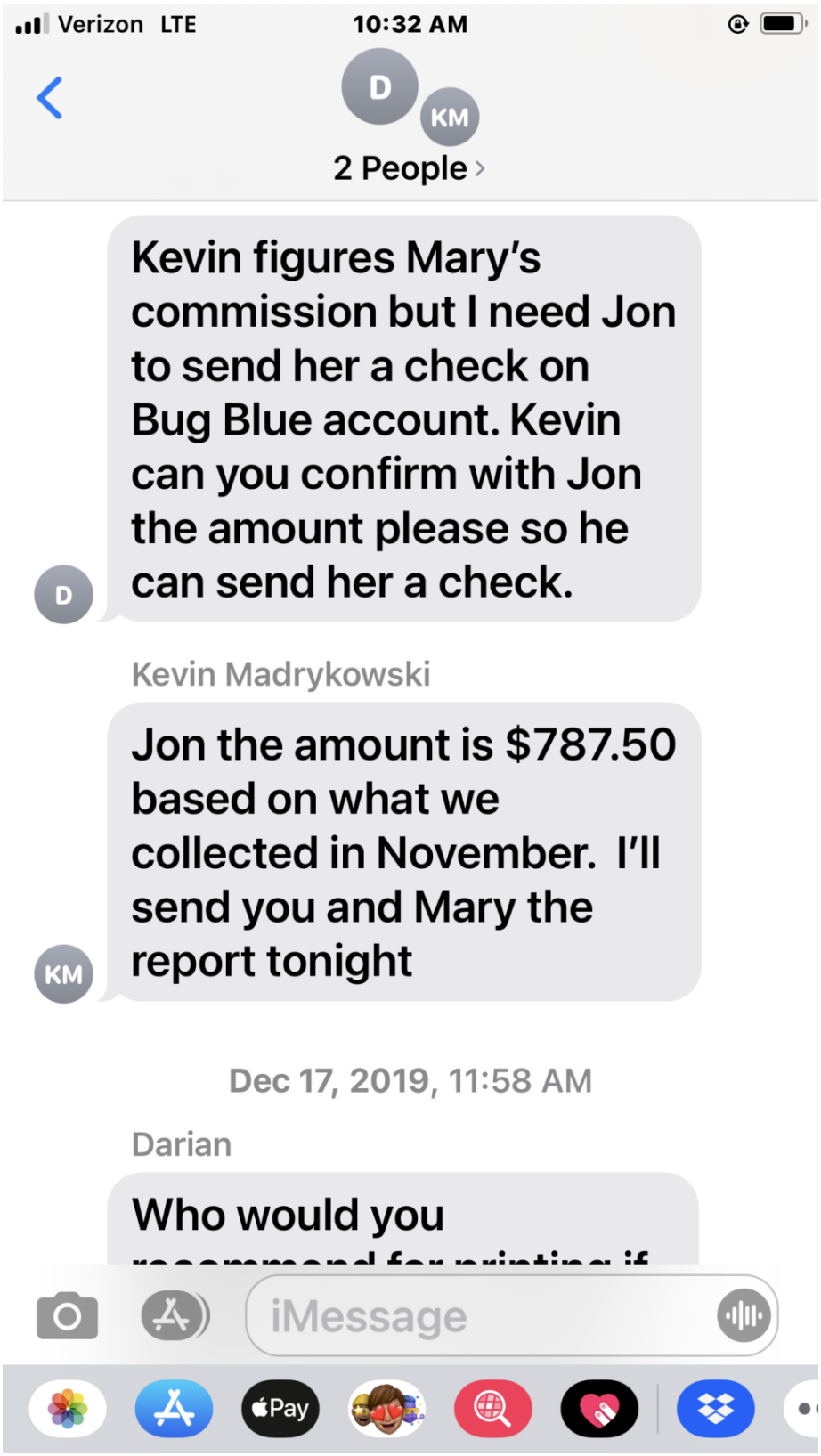
ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038



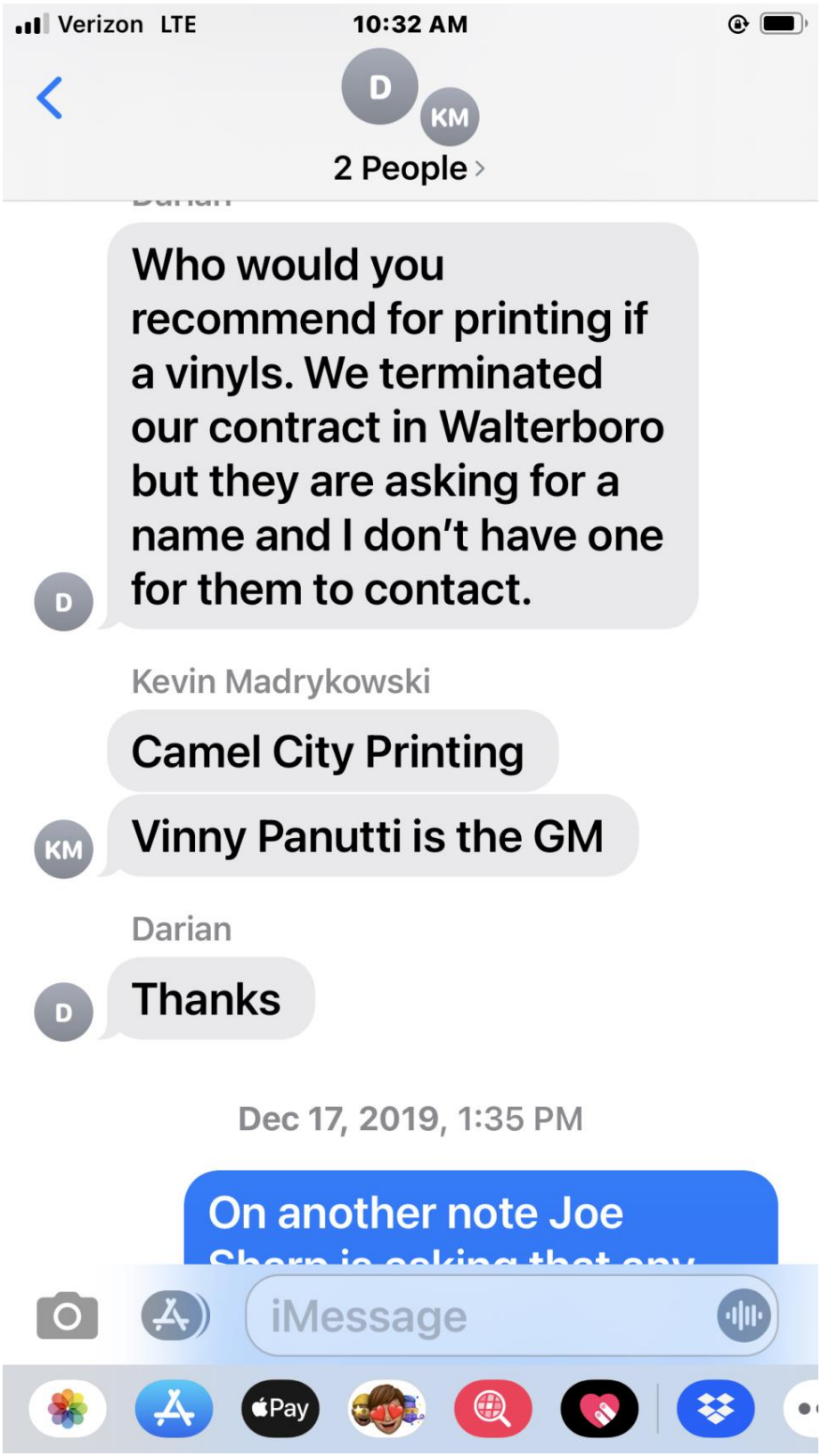
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Exhibit P
Text Messages
Dated December 17, 2019

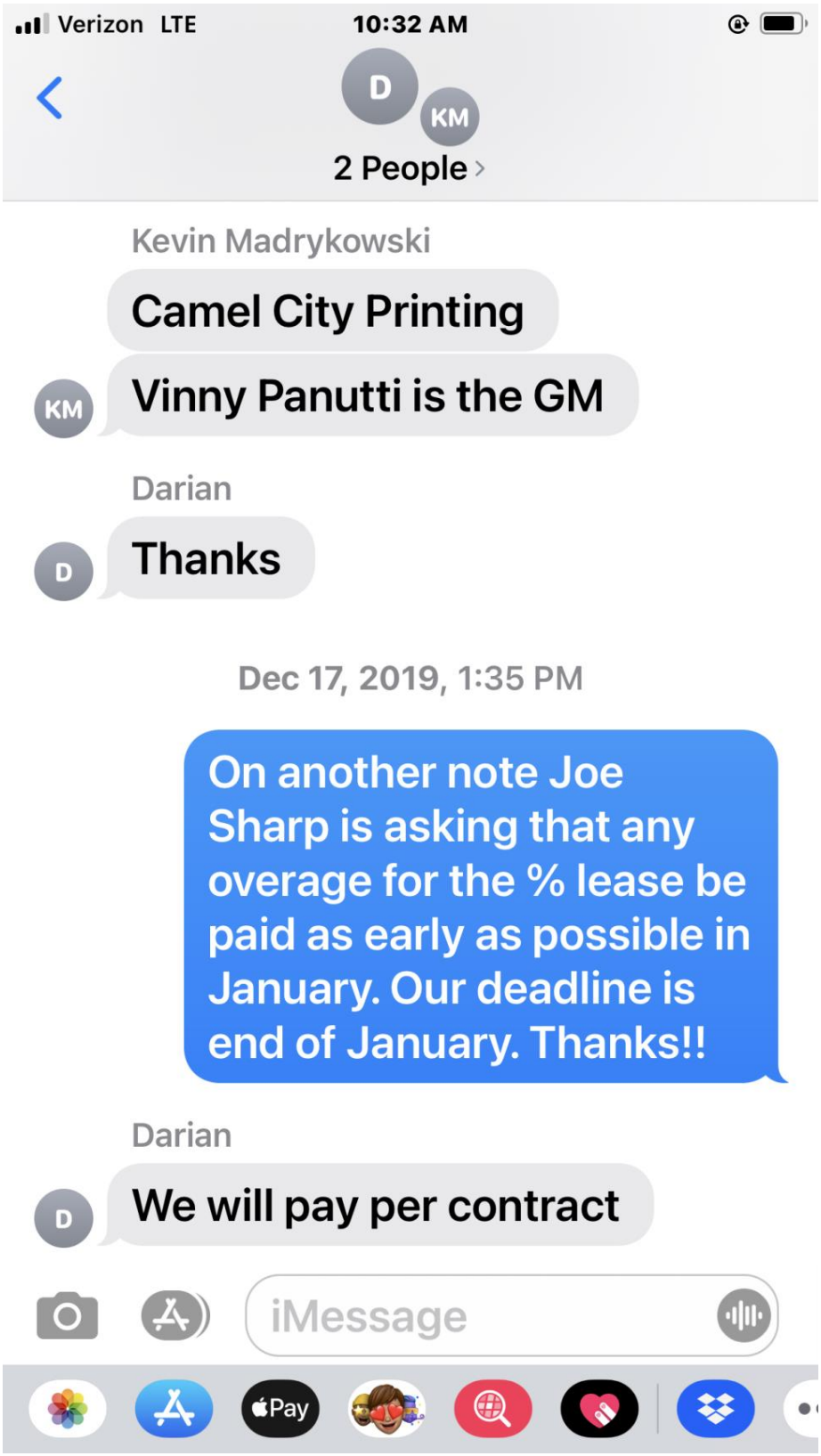
ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038



ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038



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Exhibit Q
Mary Adams Aff.
Dated February 28, 2022

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STATE OF South Carolina)
)
COUNTY OF Charleston)

AFFIDAVIT OF MARY ADAMS

The affiant, Mary Adams, being duly sworn, deposes and states as follows:

1. I am an adult and am competent to make the statements contained in this affidavit. The statements made herein are of my own personal knowledge or belief, save for those matters made on information and belief and as to those matters, I am informed and believe them to be true.

2. I am giving this affidavit freely and voluntarily, having been promised nothing nor threatened in any way in exchange for same.

3. I first met Jon Kane when I went to work with Adams Outdoor Advertising in 2008.

4. During my time at Adams Outdoor Advertising, I was introduced to Joe Applegate.

5. In 2014, I left Adams Outdoor Advertising, but kept in touch with Jon Kane.

6. In 2015, Jon Kane told me about an opportunity for some independent contract work selling digital billboard space for Allure with Joe Applegate.

7. It was my understanding from Joe Applegate and Jon Kane that they were partners.

8. On occasion, I would meet with Joe Applegate, Jon Kane, and Curtis Applegate about selling ads on the digital billboard.

9. I frequently spoke with both Joe Applegate and Jon Kane by phone about digital prospects and negotiation of client contract.

10. I would receive payment from Allure in the form of checks, which were signed by either Joe Applegate, Darien Applegate, Curtis Applegate, or Jon Kane.

11. My independent contract work was based on a verbal agreement.

12. I continued to work for Allure until 2021.

13. In December 2021, I was informed by Joe Applegate's widow, Darien Applegate, that changes were taking place with Allure and my contractor arrangement with Allure would end as of December 31, 2021.

14. Darian did not disclose details as to why the arrangement was being dissolved.

15. The letter did not disclose Allure or the digital billboard were being sold.

16. I have known Jon Kane for a very long time and have always trusted him without reservation.

17. I know Jon Kane and Joe Applegate were close friends.

FURTHER Affiant sayeth naught.

Mary Adams

SWORN TO AND SUBSCRIBED BEFORE ME

This 15th day of March, 2022



Notary Public of South Carolina

My Commission Expires: June 23, 2024

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Exhibit R
Madrykowski Aff.
Dated March 23, 2022

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STATE OF NC)
)
COUNTY OF Mecklenburg) AFFIDAVIT OF
KEVIN MADRZYKOWSKI

The affiant, Kevin Madrzykowski, being duly sworn, deposes and states as follows:

1. I am an adult and am competent to make the statements contained in this affidavit. The statements made herein are of my own personal knowledge or belief, save for those matters made on information and belief and as to those matters, I am informed and believe them to be true.

2. I am giving this affidavit freely and voluntarily, having been promised nothing nor threatened in any way in exchange for same.

3. By way of background, I worked at Adams Outdoor Advertising from 2002 - 2014.

4. I have known both Jon Kane and Joe Applegate for nearly 20 years as both worked at Adams Outdoor Advertising.

5. Joe Applegate and Jon Kane were very close on a personal level.

6. Joe Applegate was always looking for partners with whom he would work to identify and develop new billboards in markets he believes had promising potential.

7. I know Joe Applegate worked directly with Jon Kane to develop a new billboard in the Charleston area.

8. My understanding is that Jon Kane had a relationship with a landowner named Joe Sharpe, who owned property where a new billboard could be developed.

9. Jon Kane brought this opportunity and Joe Sharpe to Joe Applegate.

10. I believe Joe Sharpe was initially skeptical and unsure of placing a billboard on his property, but due Jon Kane's involvement, he agreed to move forward.

11. I was present at a company meeting with Jon Kane, Joe Applegate, Bob Keziah, Randy Huggins, and Joe Sharpe where we discussed the development of the site.

12. I was always under the impression and lead to believe the site was being developed as a partnership between Joe Applegate and Jon Kane.

13. I understood this practice to be the norm with Joe Applegate.

FURTHER Affiant sayeth naught.

Kevin Madrzykowski

SWORN TO AND SUBSCRIBED BEFORE ME

This 1st day of April, 2022

Notary Public of Mecklenburg, NC

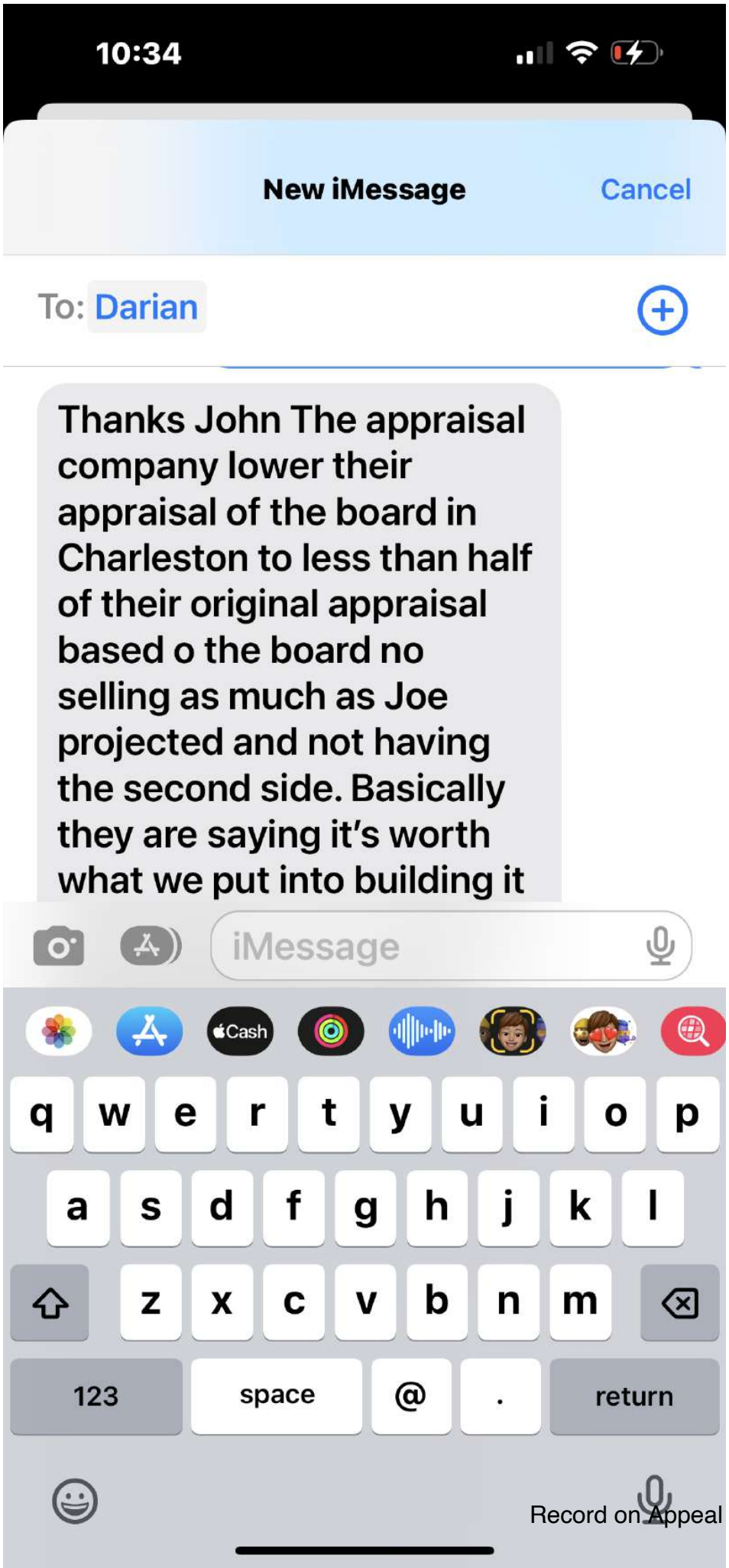
My Commission Expires: 12/13/2026

ASHTON DUFRESNE
My Commission Expires
NOTARY PUBLIC
December 13, 2026
MECKLENBURG COUNTY, NORTH CAROLINA

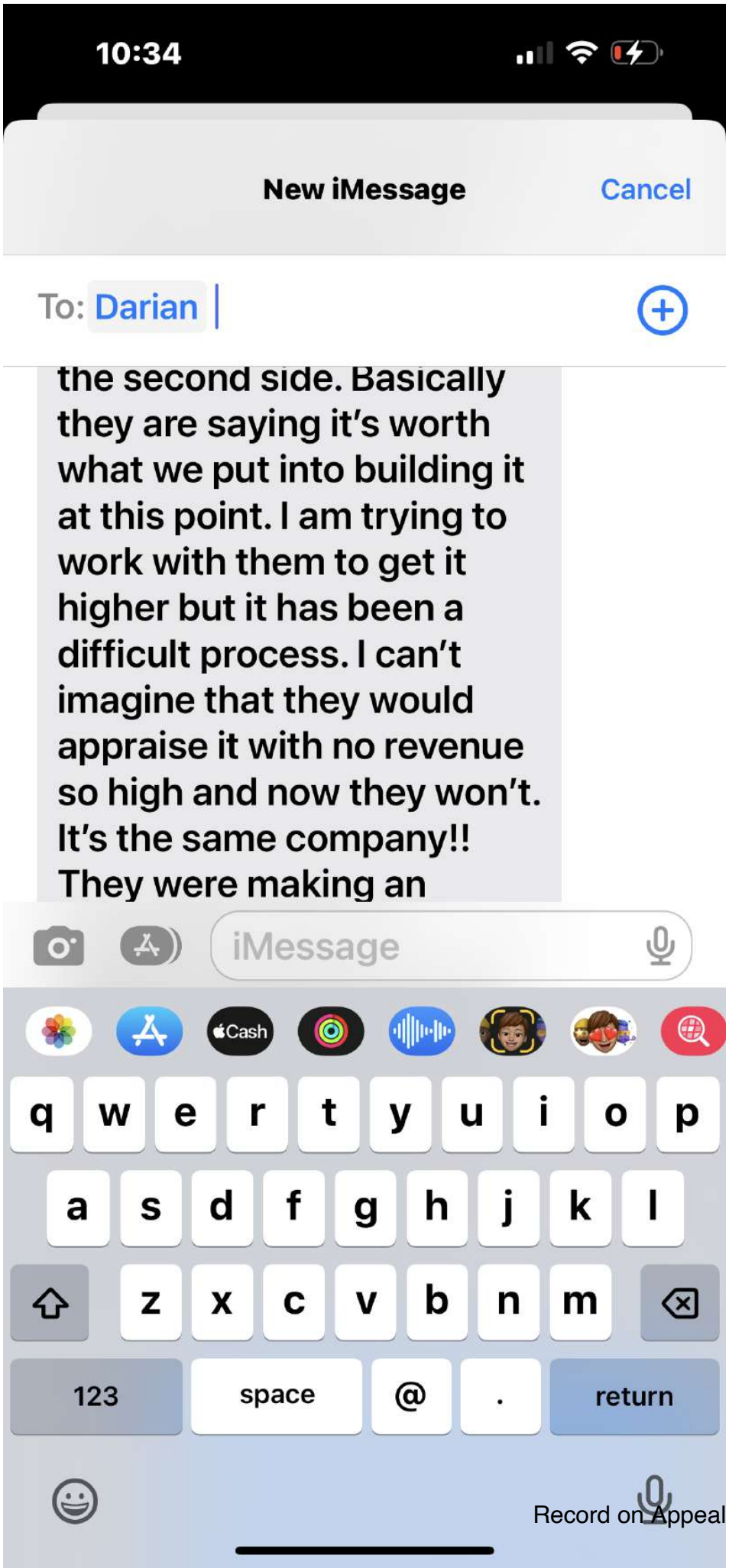
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Exhibit S
Texts from Darien re: Appraisal
Dated January 16, 2020

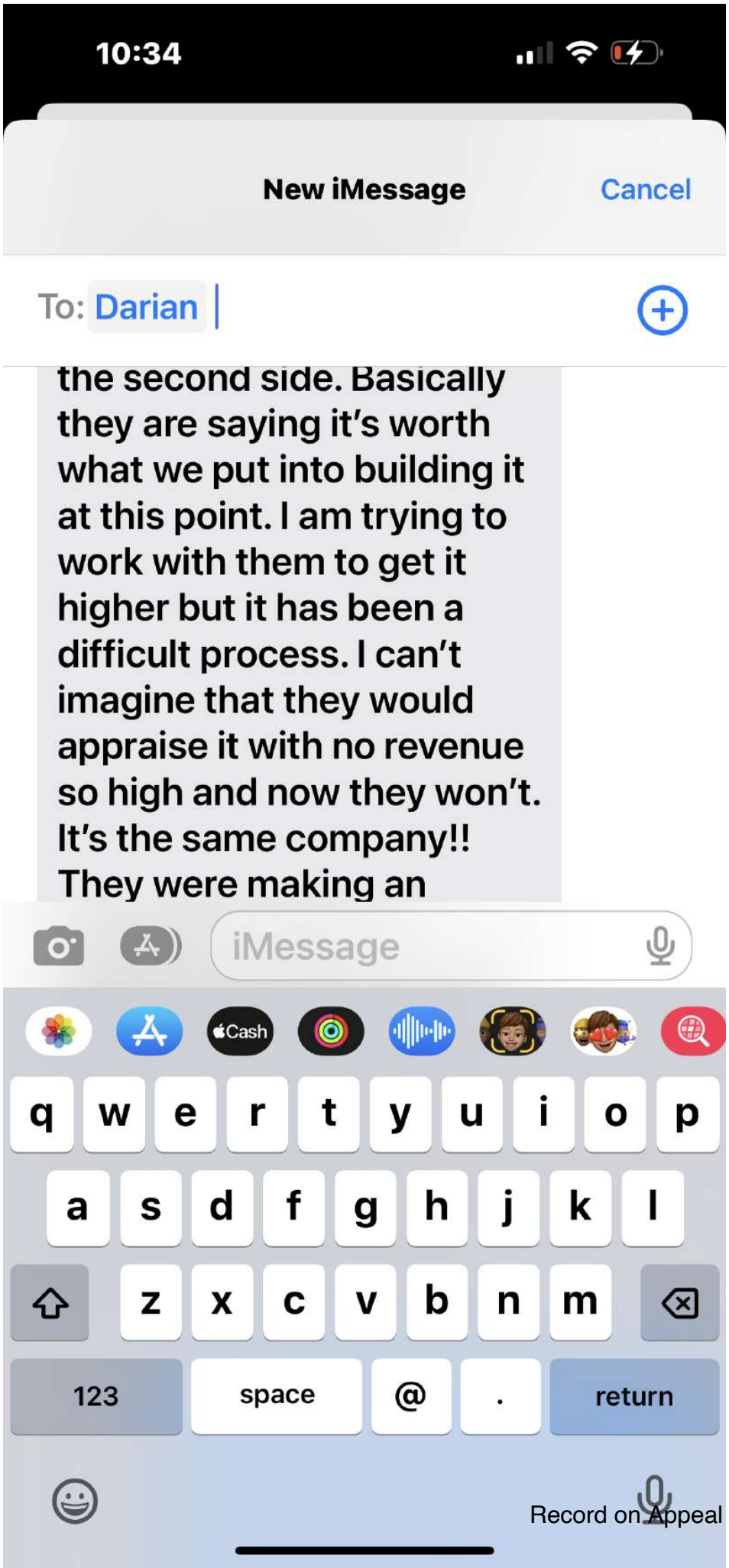
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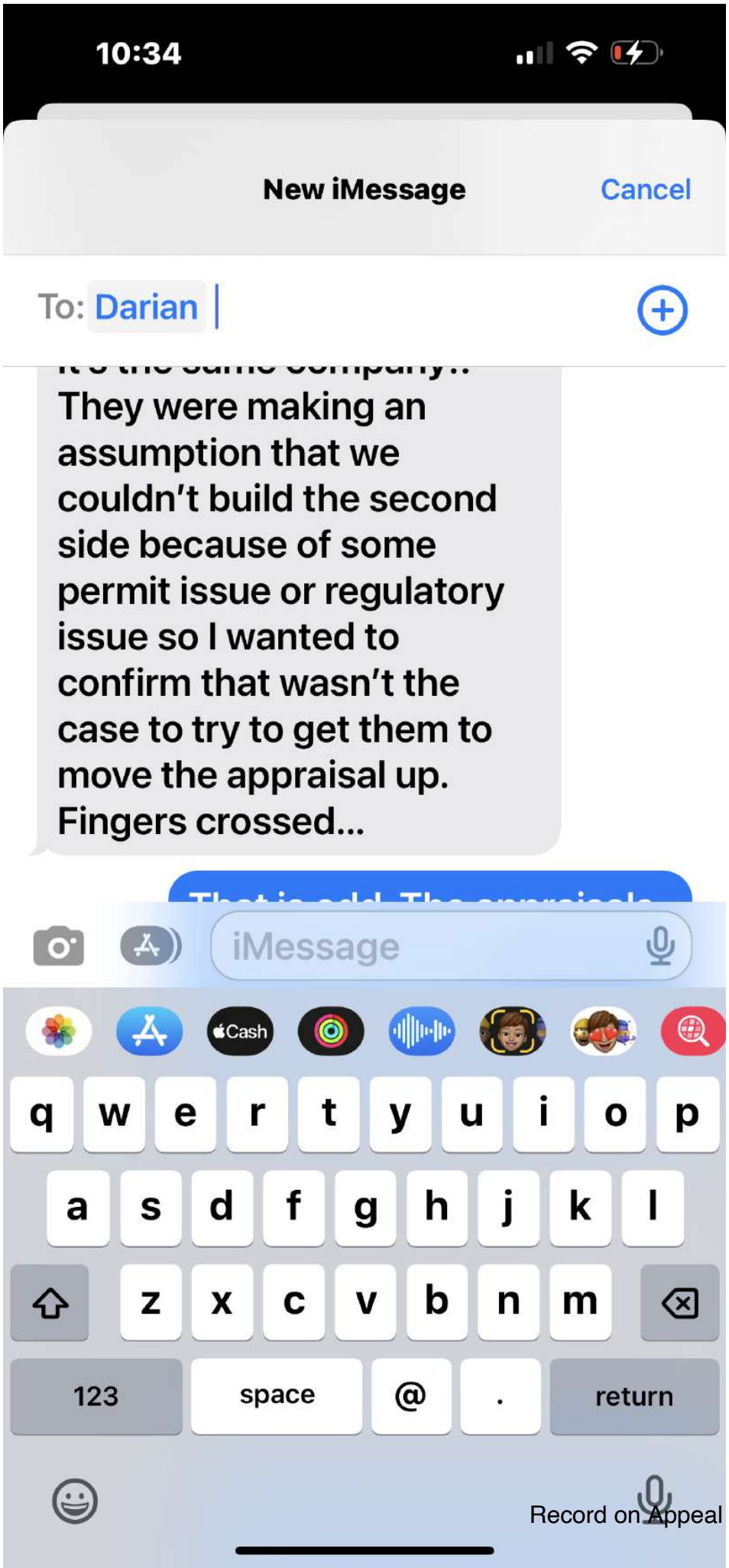
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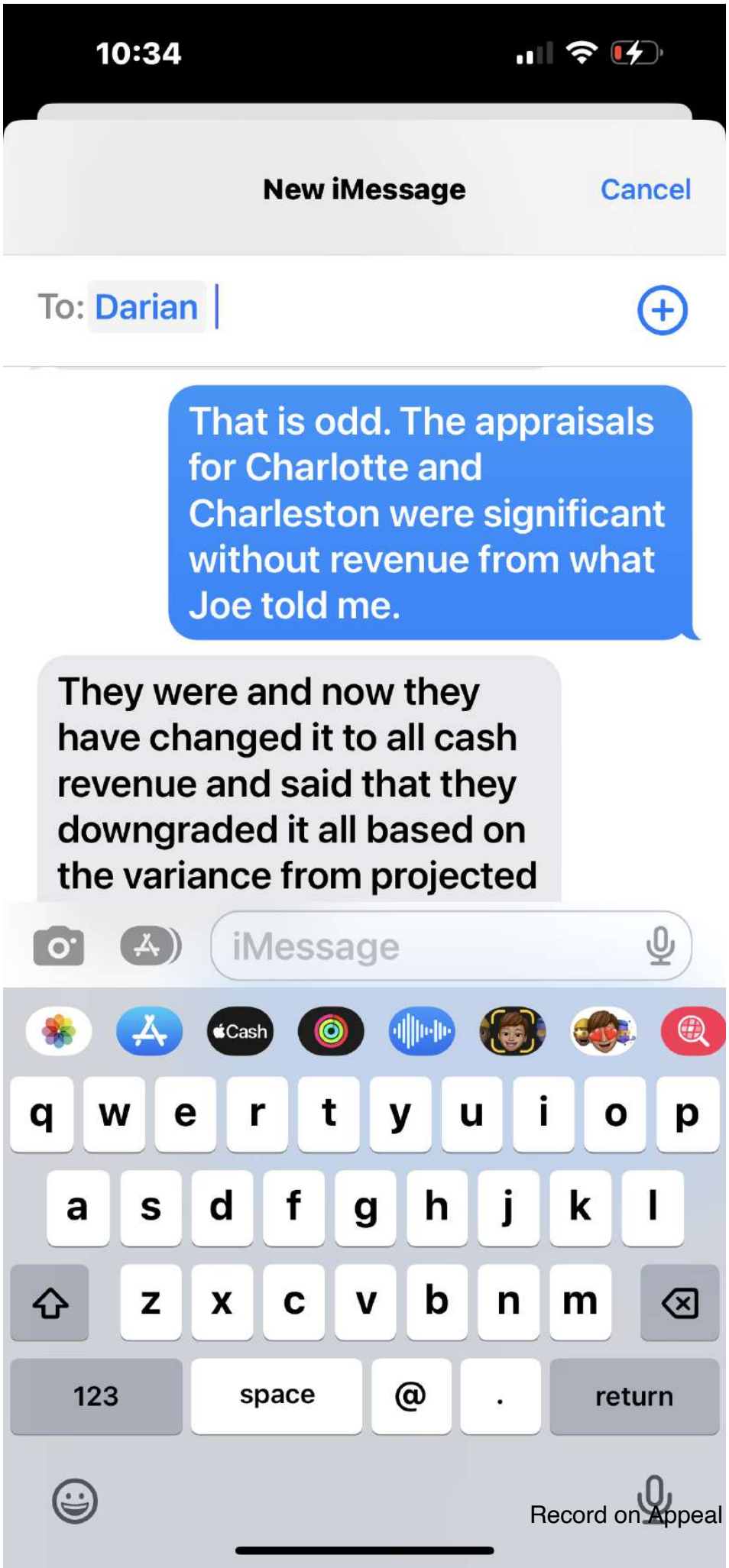
ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038



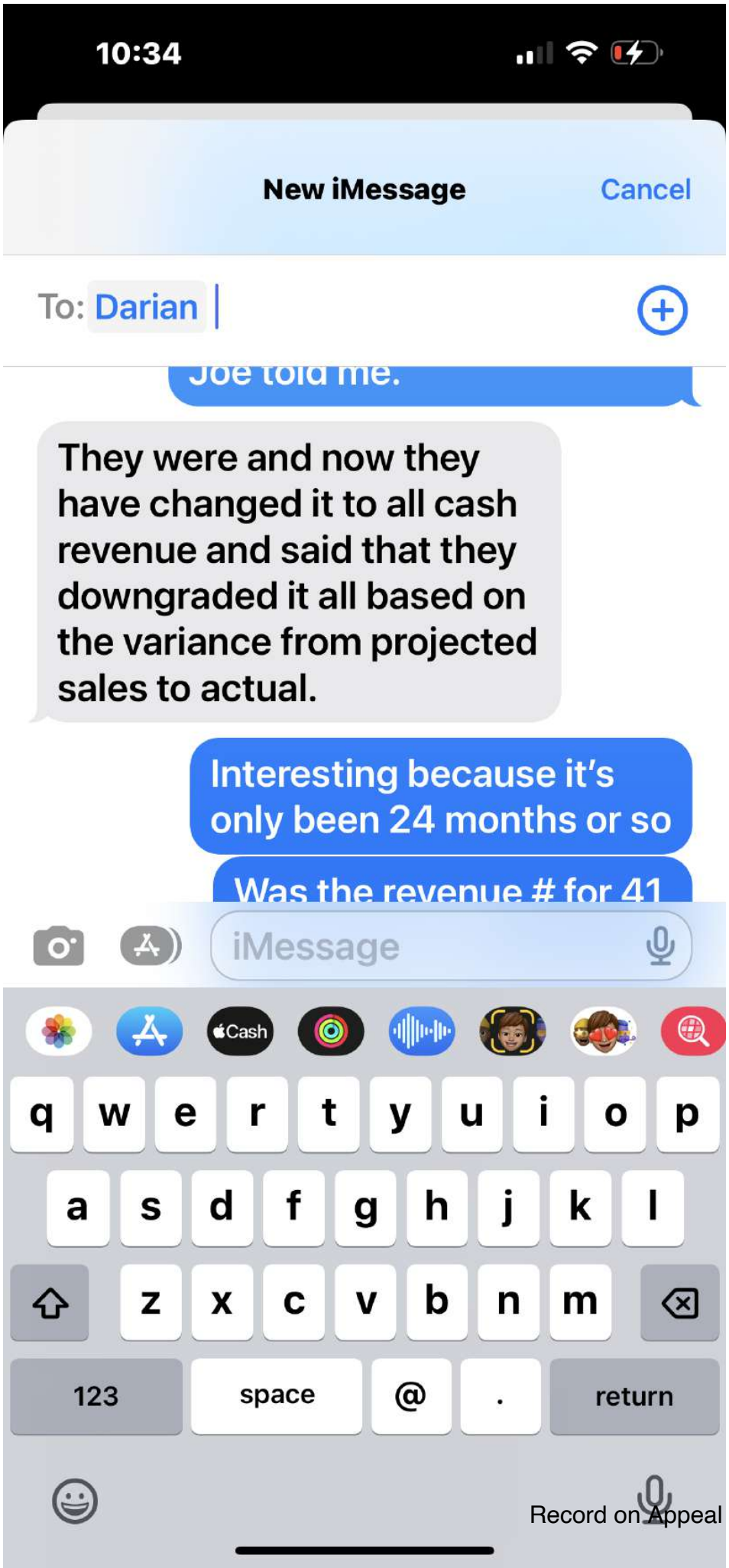
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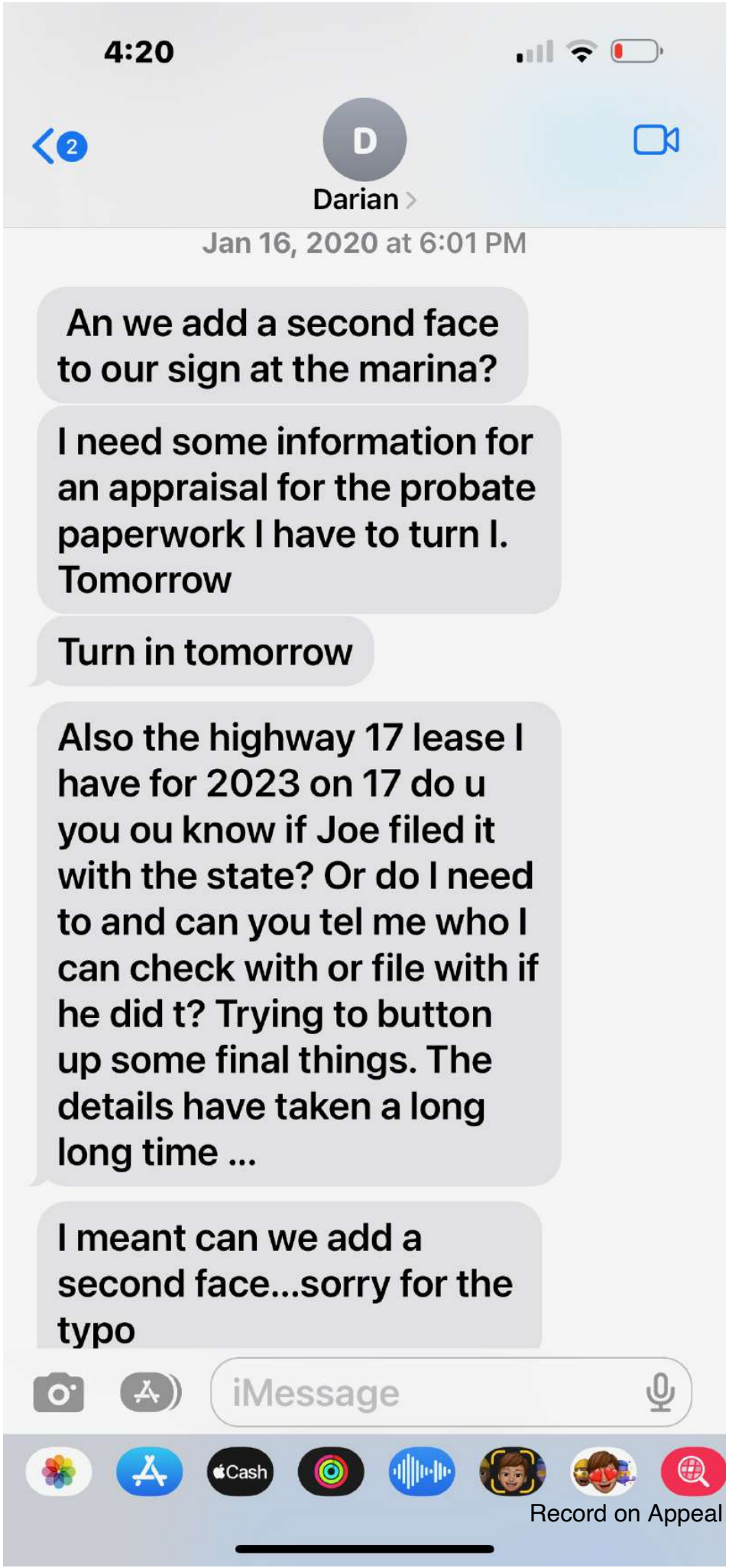
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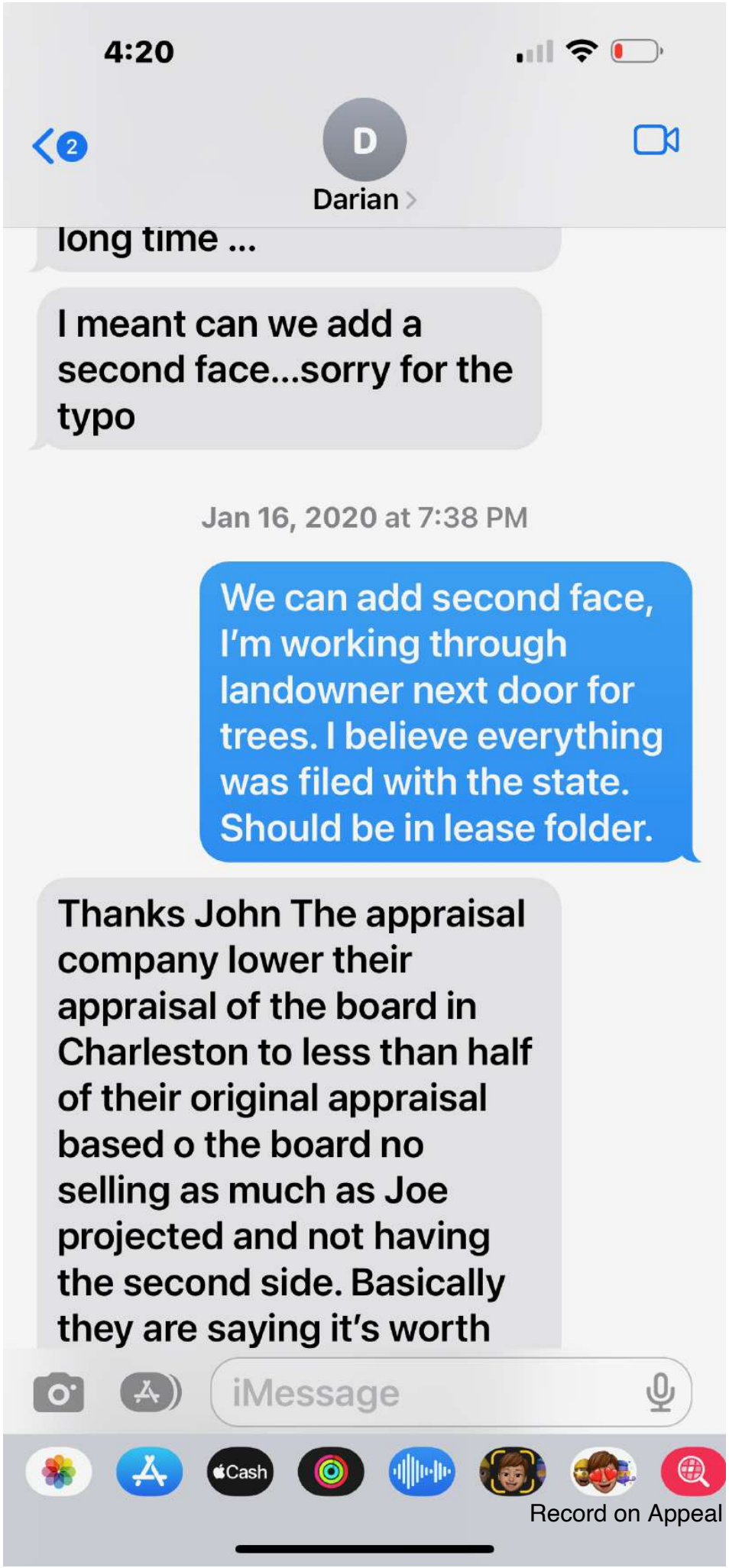
ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

Exhibit T
Texts re: Darien "Our Sign" Inquiry
Dated January 16, 2020

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Exhibit U
Allure Outdoor Change of Registered Agent
Dated November 19, 2021

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Jun 03 2022
REFERENCE ID: 1054101

Filing ID: 211119-145709

Filing Date: 11/19/2021

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STATE OF SOUTH CAROLINA
SECRETARY OF STATE

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

OF CHANGE OF (1) DESIGNATED OFFICE, (2) AGENT FOR SERVICE OF PROCESS, OR (3) ADDRESS OF AGENT
LIMITED LIABILITY COMPANY – DOMESTIC AND FOREIGN

Pursuant to the 1976 S.C. Code of Laws, as amended, §33-44-109, the limited liability company submits the following statement of change.

1. The name of the limited liability company is:

ALLURE OUTDOORS LLC

2. The limited liability company is (check either "a" or "b", whichever is applicable):

☒ a. A South Carolina limited liability company.

☐ b. A foreign limited liability company authorized to transact business in South Carolina.

3. a. The South Carolina street address of the current designated office for the limited liability company is:
7071 Regatta Ct

(Street Address)

Tega Cay, South Carolina 29708

(City, State, Zip Code)

b. The name of the company's current agent for service of process is:

RUSSELL J. APPLEGATE

(Name)

c. The South Carolina street address of the current registered agent's office is:
7071 REGATTA CT

(Street Address)

TEGA CAY, South Carolina 29708

(City, State, Zip Code)

4. Check and complete all boxes (a-c) that apply.

☒ a. The company is changing the address of its designated office.

The new South Carolina address of the designated office of the limited liability company is:
1513 Oakhurst Drive

(Street Address)

Mount Pleasant, South Carolina 29466

(City, State, Zip Code)

Form Revised by South Carolina Secretary of State, August 2016
F0080

AG Secretary of State
Mark Hammond

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Jun 03 2022
REFERENCE ID: 1054101

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

ALLURE OUTDOORS LLC

Name of Limited Liability Company

☒ b. The company is changing its agent for service of process.

The name of the company's new agent for service of process is:

Darien E. Applegate

(Name)

I hereby consent to the appointment as registered agent.

Signed as Filer: Laura K. Baker

(Agent's Signature)

☒ c. The company is changing the street address of the agent for service of process.

The new South Carolina street address of the registered agent's office is:
1513 Oakhurst Drive

(Street Address)

Mount Pleasant, South Carolina 29466

(City, State, Zip Code)

5. Unless otherwise specified, these articles are effective when endorsed for filing by the Secretary of State. Specify the time and date of any delayed effective date _____
(Date)

Date: 11/19/2021

Signed as Filer: Laura K. Baker

(Signature)

Darien E. Applegate

(Print Name)

Capacity/Position of Person Signing (**You must check one box.**)

☒ Manager ☐ Member ☐ Organizer

☐ Fiduciary ☐ Attorney-in-Fact

Form Revised by South Carolina Secretary of State, August 2016
F0080/F0086

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Jun 03 2022
REFERENCE ID:

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Business Name: Allure Outdoors LLC

Signature Page for a Secretary of State Business Filing

mpleted, scanned, and attached to any business filing where one of the following is true.

r signs the digital form on behalf of official signee.

- An attorney's signature is required. (Articles of Incorporation for Corporation and Benefit Corporation)

Official Signatures

(Officer, Incorporator, Director, Agent, Partner, etc)

Required for forms where the signee is not present upon online submission and a filing party is providing a digital signing on their behalf. If the provided space is not enough, please attach multiple pages.

Darien E. Applegate Trust Under Agreement Dated January 3, 2020, Manager, by Darien E. Applegate, Trustee Name	11-19-2021 Date
Darien E. Applegate Signature	Trustee of Manager Title / Position
Darien E. Applegate Name	11-19-2021 Date
Darien E. Applegate Signature	Registered Agent Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position

Scan and Upload this document to the Business Filing System during the filing process.
File must be PDF format.

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Exhibit V
Allure Outdoor Amended Articles of Organization
November 19, 2021

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Jun 03 2022
REFERENCE ID: 1054101

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Filing ID: 211119-1610543

Filing Date: 11/19/2021

STATE OF SOUTH CAROLINA

SECRETARY OF STATE

AMENDED ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY -DOMESTIC

Pursuant to the 1976 S.C. Code of Laws, as amended, Section 33-44-204(a), the undersigned limited liability company adopts the following amended articles of organization:

1. The name of the limited liability company is:

ALLURE OUTDOORS LLC

2. The date the articles of organization were filed is 03/03/2011.

3. The articles of organization are amended in the following respects, of which all amended provisions may lawfully be included in the articles of organization. If the space on this form is not sufficient, please attach additional sheets containing a reference to the appropriate paragraph on this form.

Amended Entity Name: APPLEGATE OUTDOOR, LLC
Additional Amendment Article 1 of the Articles of Organization shall be amended to read, after amendment, as follows: "The name of the limited liability company is Applegate Outdoor, LLC."

Signature: Signed as Filer: Laura K. Baker

Capacity/Position of Person Signing (you must check one box):

☒ Manager ☐ Member ☐ Organizer

☐ Fiduciary ☐ Attorney-in-Fact

Darien E. Applegate
(Print or Type Name)

Date: 11/19/2021

Form Revised by South Carolina Secretary of State, August 2016
F0030

AG Secretary of State
Mark Hammond

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Jun 03 2022

REFERENCE [illegible]

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Business Name: Allure Outdoors LLC

Signature Page for a Secretary of State Business Filing

mpleted, scanned, and attached to any business filing where one of the following is true.

signs the digital form on behalf of official signee.

- An attorney's signature is required. (Articles of Incorporation for Corporation and Benefit Corporation)

Official Signatures

(Officer, Incorporator, Director, Agent, Partner, etc)

Required for forms where the signee is not present upon online submission and a filing party is providing a digital signing on their behalf. If the provided space is not enough, please attach multiple pages.

Darien E. Applegate Trust Under Agreement Dated January 3, 2020, Manager, by Darien E. Applegate, Trustee Name	11/19/2021 Date
Darien E Applegate Signature	Trustee of Manager Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position

Scan and Upload this document to the Business Filing System during the filing process.
File must be PDF format.

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Exhibit W
Allure, Lamar Articles of Merger
Dated May 5, 2022

ELECTRONICALLY FILED - 2023 Jun 22 3:11 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

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Jun 03 2022
REFERENCE ID: 1054077

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Filing ID: 220512-0944295

Filing Date: 05/11/2022

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF MERGER

Corporation – Domestic and Foreign

Pursuant to Section 33-11-105 of the 1976 S.C. Code of Laws, as amended, the undersigned as the surviving corporation in a merger, hereby submits the following information:

1. The name of the surviving corporation is

   LAMAR OCI SOUTH CORPORATION

2. Attached hereto and made a part of hereof is a copy of the Merger (see S.C. Code of Laws, Title 33, Chapter 11). Duplicate copies of the Plan of Merger **must** be attached in order for this form to be filed.

3. Complete the following information to the extent it is relevant with respect to **each** corporation which is a party to the transaction.

   (a) Name of the corporation:

   LAMAR OCI SOUTH CORPORATION

Complete either (1) or (2), whichever is applicable.

(1) ☒ Shareholder approval of the merger was not required [see S.C. Code of Laws §33-11-103(h)]

(2) ☐ The Plan of Merger was duly approved by shareholders of the corporation as follows:

Voting Group	Number of Outstanding Shares	Number of Votes Entitled to be Cast	Number of Votes Represented at the Meeting	Total Number of Votes Cast* For	-AND-	Against

***NOTE:** Pursuant to S.C. Code of Laws §33-11-105(a)(3)(ii), the corporation can alternatively state the total number of undisputed votes cast for the Plan of Merger separately by each voting group with a statement that the number of votes cast for the plan by each voting group was sufficient for approval by that voting group.

Record on Appeal - 167
AG Secretary of State
Mark Hammond

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Jun 03 2022
REFERENCE ID: 1054077

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

LAMAR OCI SOUTH CORPORATION

Name of Surviving Corporation

(b) Name of the corporation:

ALLURE ADVERTISING, LLC

Complete either (1) or (2), whichever is applicable.

(1) [X] Shareholder approval of the merger was not required [see S.C. Code of Laws §33-11-103(h)].

(2) [ ] The Plan of Merger was duly approved by shareholders of the corporation as follows:

Voting Group	Number of Outstanding Shares	Number of Votes Entitled to be Cast	Number of Votes Represented at the Meeting	Total Number of Votes Cast* For	-AND-	Against

***NOTE:** Pursuant to S.C. Code of Laws §33-11-105(a)(3)(ii), the corporation can alternatively state the total number of undisputed votes cast for the Plan of Merger separately by each voting group with a statement that the number of votes cast for the plan by each voting group was sufficient for approval by that voting group.

4. Unless a delayed date is specified, the effective date of this document shall be the date it is accepted for filing by the Secretary of State [see S.C. Code of Laws §33-1-230(b)]. _____

Date: 05/11/2022

Name of the Surviving Corporation:

LAMAR OCI SOUTH CORPORATION

Signed as Filer: Scarlet Faulk
(Signature)

Lee Kantrow, Jr.
(Print Name)

Executive Vice President
(Office)

Form Revised by South Carolina Secretary of State, September 2018
F0053

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Business Name: LAMAR OCI SOUTH CORPORATION

ıature Page for a Secretary of State Business Filing

e completed, scanned, and attached to any business filing where one of the following is true.

- The filing party signs the digital form on behalf of official signee.
- An attorney's signature is required. (Articles of Incorporation for Corporation and Benefit Corporation)

Official Signatures

(Officer, Incorporator, Director, Agent, Partner, etc)
Required for forms where the signee is not present upon online submission and a filing party is providing a digital signing on their behalf. If the provided space is not enough, please attach multiple pages.

Lee Kantrow, Jr.	May 5, 2022
Name	Date
[signature]	Executive Vice President
Signature	Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position

Scan and Upload this document to the Business Filing System during the filing process.
File must be PDF format.

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- The filing party signs the digital form on behalf of official signee.
- An attorney's signature is required. (Articles of Incorporation for Corporation and Benefit Corporation)

Official Signatures

(Officer, Incorporator, Director, Agent, Partner, etc)
Required for forms where the signee is not present upon online submission and a filing party is providing a digital signing on their behalf. If the provided space is not enough, please attach multiple pages.

Lee Kantrow, Jr.	May 5, 2022
Name	Date
	EVP of Lamar OCI South Corporation, sole member
Signature	Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position
Name	Date
Signature	Title / Position

Scan and Upload this document to the Business Filing System during the filing process.
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ARTICLES OF MERGER

of

ALLURE ADVERTISING, LLC
(a South Carolina limited liability company)

with and into

LAMAR OCI SOUTH CORPORATION
(a Mississippi corporation)

Pursuant to the provisions of the Mississippi Business Corporation Act, Miss. Code Ann. § 79-4-1.01, *et seq.*, Allure Advertising, LLC, a South Carolina limited liability company (the "Merged Company"), and Lamar OCI South Corporation, a Mississippi corporation (the "Surviving Company"), hereby submit the following information, relating to the merger of Merged Company with and into Surviving Company (the "Merger"):

FIRST: The name, state of formation, and type of entity of each of the constituent entities in the Merger are as follows:

Name	State of Formation	Type of Entity
Allure Advertising, LLC	South Carolina	Limited Liability Company
Lamar OCI South Corporation	Mississippi	Corporation

SECOND: The Merged Company shall be merged with and into Surviving Company, with Surviving Company continuing as the survivor. The name of the survivor shall be Lamar OCI South Corporation.

THIRD: At the effective time of the Merger, all of the outstanding membership interests of the Merged Company, as applicable, shall be canceled.

FOURTH: The Articles of Incorporation of Surviving Company shall, after the Merger, continue to be the Articles of Incorporation of the Surviving Company until duly amended in accordance with the provisions thereof, and no change to such articles of incorporation shall be effected by the Merger.

FIFTH: An agreement of merger complying with the requirements of Miss. Code Ann. § 79-4-11.02 has been authorized and approved in accordance with all applicable law and organizational documents of all parties to the Merger.

SIXTH: As to the Merged Company, the Agreement and Plan of Merger and the performance of its terms were duly authorized by all action required by the laws of South Carolina and by all organizational documents of the Merged Company.

SEVENTH: As to the Surviving Company, pursuant to Miss. Code Ann. § 79-4-11.04(g), approval by the Surviving Company's shareholders of the Agreement and Plan of

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Merger is not required. To the extent necessary, the Agreement and Plan of Merger and the performance of its terms were duly authorized by all action required by the laws of Mississippi and by all organizational documents of the Merged Company.

EIGHTH: The executed Agreement and Plan of Merger is on file at the place of business of Surviving Company at 5231 Corporate Blvd., Baton Rouge, Louisiana 70808. A copy of the Agreement and Plan of Merger will be furnished by the Surviving Company, on request and without cost, to any member of any constituent entity.

NINTH: The Merger shall become effective upon filing of these Articles of Merger.

[Signatures on following pages]

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Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

IN WITNESS WHEREOF, these Articles of Merger have been duly executed by the y and the Surviving Company as of this 5th day of May, 2022.

ALLURE ADVERTISING, LLC

By: LAMAR OCI SOUTH CORPORATION, its sole member

By: _____
Name: Lee Kantrow, Jr.
Title: Executive Vice President

LAMAR OCI SOUTH CORPORATION

By: _____
Name: Lee Kantrow, Jr.
Title: Executive Vice President

[Signatures Page to Articles of Merger (MS)]

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ACKNOWLEDGMENT OF LAMAR OCI SOUTH CORPORATION

[redacted]IANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority, personally came and appeared Lee Kantrow, Jr., as the duly authorized representative of LAMAR OCI SOUTH CORPORATION, a Mississippi corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and being by me first duly sworn, declared to me and the undersigned competent witnesses that the statements therein contained are true and correct, and that he executed such instrument for the purposes therein expressed and as the free act and deed of Lamar OCI South Corporation.

IN WITNESS WHEREOF, the said appearer, witnesses and I have hereunto affixed our hands on this 5th day of May, 2022, in the aforesaid parish and state.

WITNESSES:

Name: Alyce Sunstrom

Name: Caitlin LaMarche

LAMAR OCI SOUTH CORPORATION

By: _____
Name: Lee Kantrow, Jr.
Title: Executive Vice President

Kristi E. Williams
NOTARY PUBLIC
Printed Name: _____
Notary No/Bar Roll No.: _____
My commission is: _____

Kristi E. Williams
Notary Public No. 67017
State of Louisiana
Parish of East Feliciana
My Commission Is For Life.

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Mark Hammond
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ACKNOWLEDGMENT OF ALLURE ADVERTISING, LLC

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned authority, personally came and appeared Lee Kantrow, Jr., as the duly authorized representative of Lamar OCI South Corporation, the sole owner of all issued and outstanding membership interests of ALLURE ADVERTISING, LLC, a South Carolina limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and being by me first duly sworn, declared to me and the undersigned competent witnesses that the statements therein contained are true and correct, and that he executed such instrument for the purposes therein expressed and as the free act and deed of Allure Advertising, LLC.

IN WITNESS WHEREOF, the said appearer, witnesses and I have hereunto affixed our hands on this 5th day of May, 2022, in the aforesaid parish and state.

WITNESSES:

Name: Kaylee Sunstrom

Name: Caitlin LaMarche

ALLURE ADVERTISING, LLC

By: LAMAR OCI SOUTH CORPORATION, its sole member

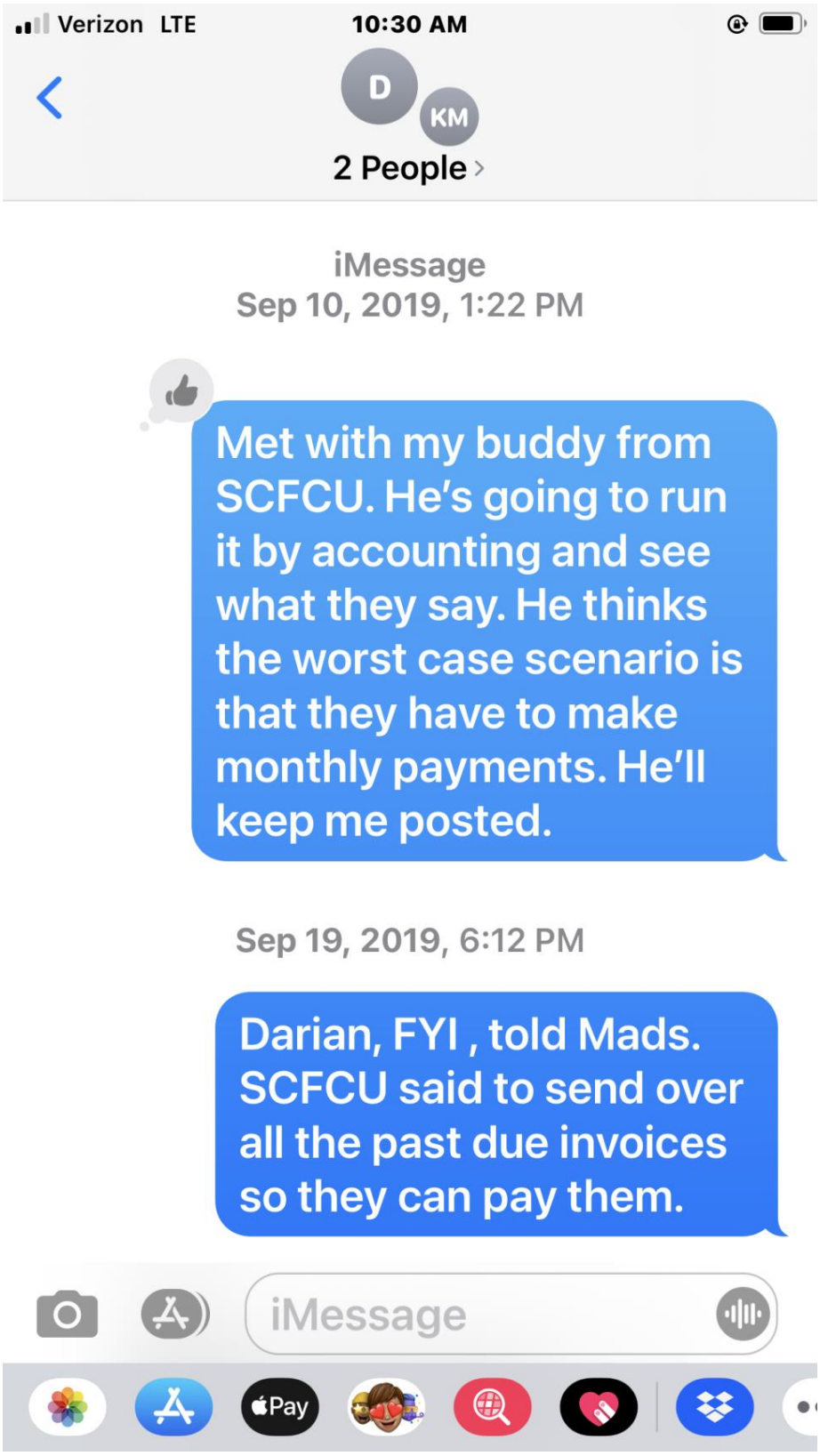
By: _____
Name: Lee Kantrow, Jr.
Title: Executive Vice President

Kristi E. Williams
NOTARY PUBLIC
Printed Name: _____
Notary No/Bar Roll No.: _____
My commission is: _____

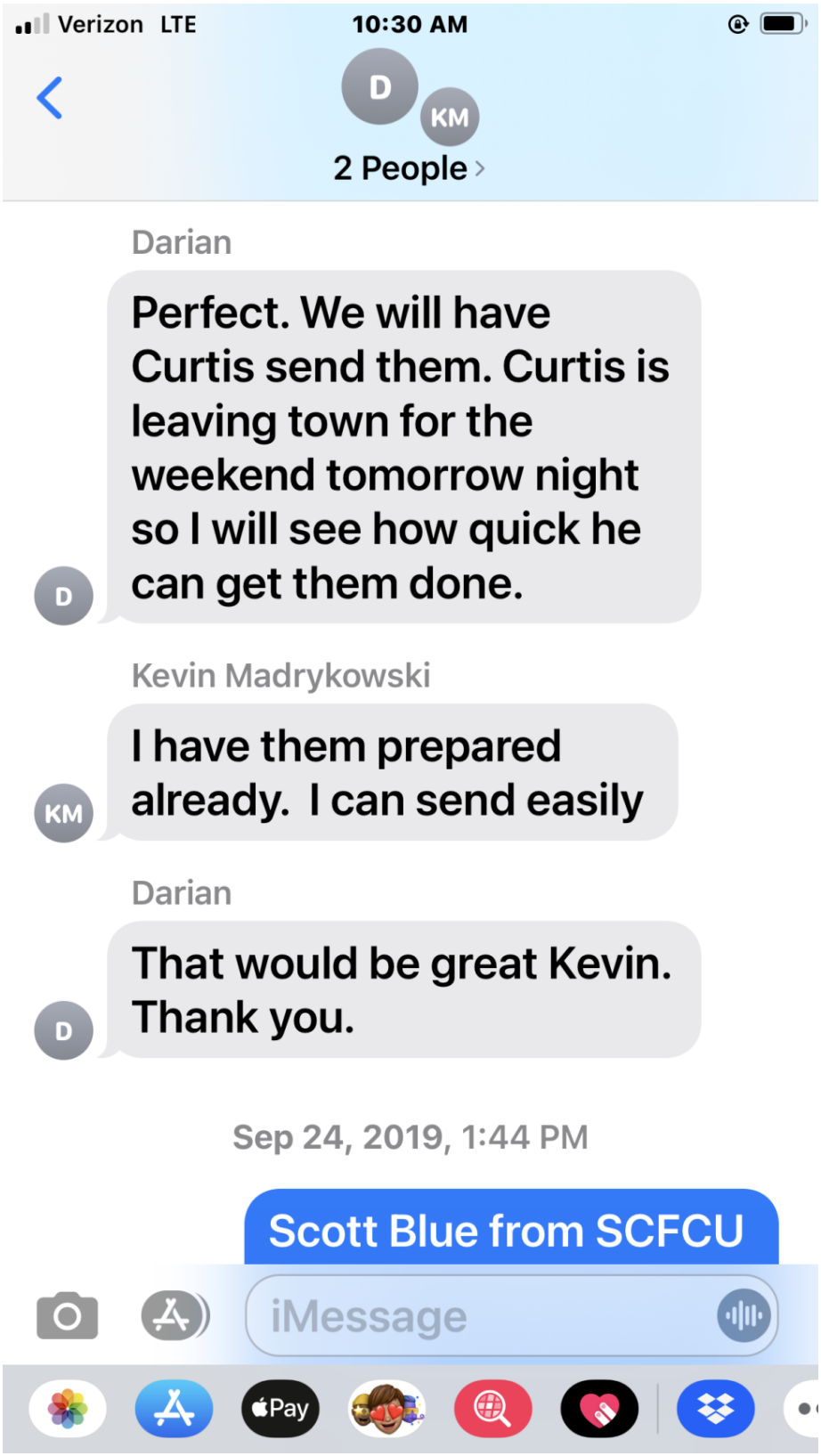
Kristi E. Williams
Notary Public No. 67017
State of Louisiana
Parish of East Feliciana
My Commission Is For Life.

Exhibit X
Texts from Jon Kane, Darien, Mads
Dated September 10-25, 2019

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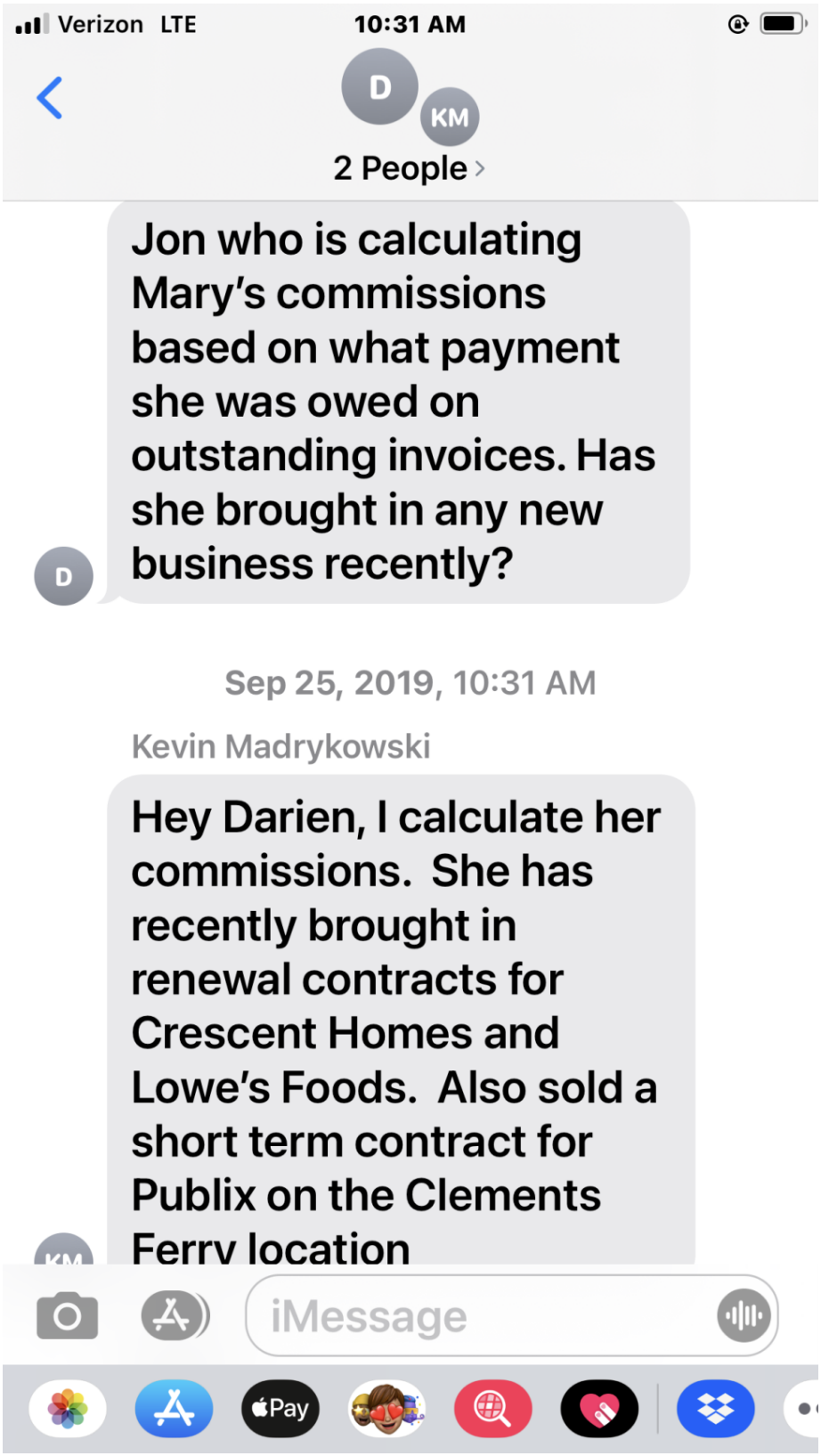
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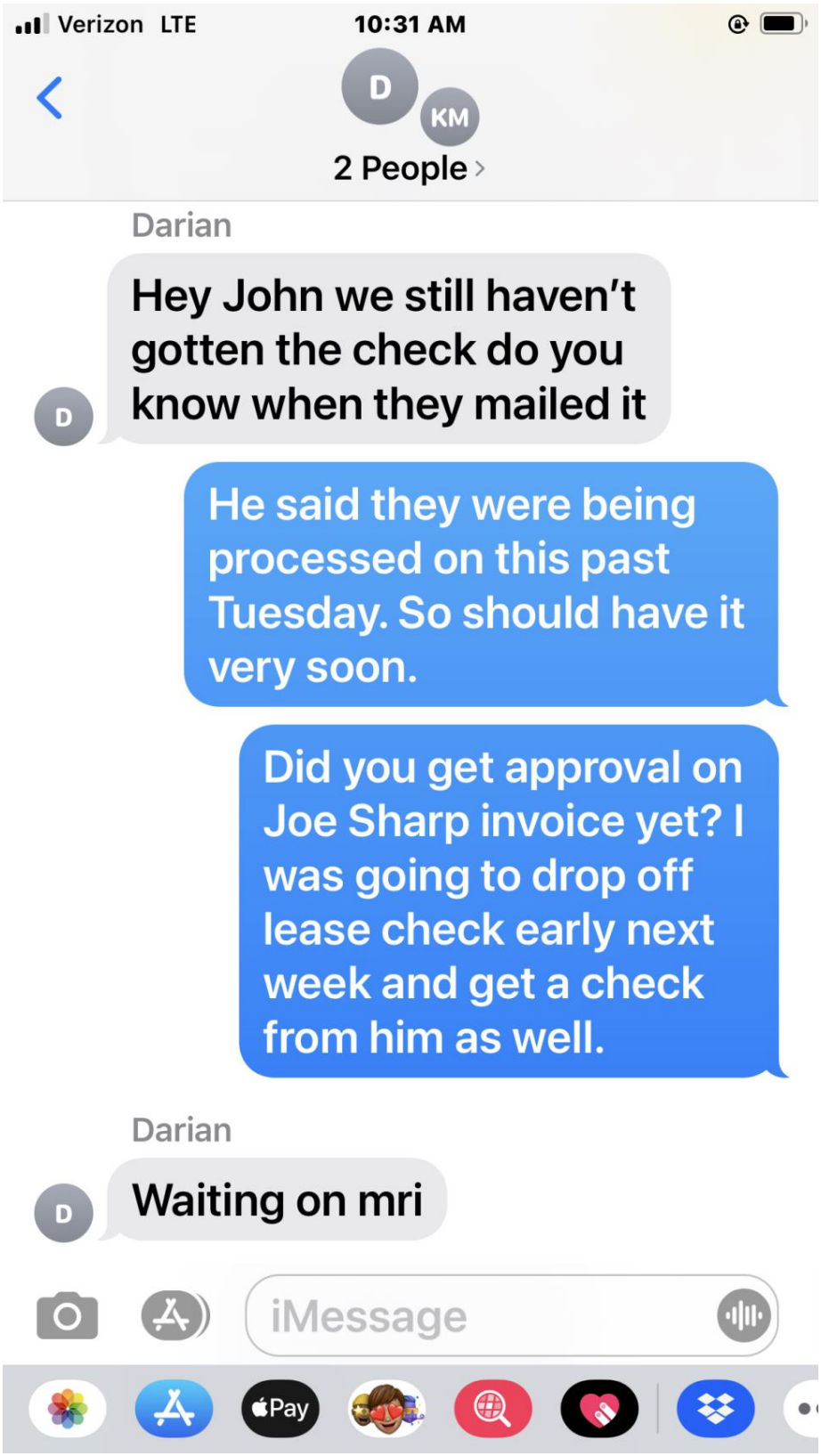
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Exhibit Y
Lease Agreement
Dated January 26, 2022

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STATE OF SOUTH CAROLINA

LEASE

COUNTY OF BERKELEY

This Lease Agreement, made this 13 day of January, 2016, by and between:

Atlantis Marine, Inc. (hereinafter [collectively (if more than one Lessor)] referred to as "LESSOR") and Allure Advertising, LLC (hereinafter referred to as "LESSEE"), provides

WITNESSETH

LESSOR hereby leases to LESSEE, its successors or assigns, as much of the hereinafter described premises ("the Premises") as may be necessary for the construction and location of one (1) outdoor advertising structure, only, together with electrical and communications devices and connections reasonably necessary for the operation thereof (collectively "Structures"), which is the only use the LESSEE may make of the Premises, together with a non-exclusive right of access to, and egress from, the Structures by LESSEE'S employees, contractors, agents and vehicles, as more fully described below, and the right to survey, maintain advertisement thereon, maintain telecommunications devices and other activities necessary or useful in LESSEE'S use of the Structures to be situated at the location as shown on the sketch attached hereto as Exhibit "A", with the LESSOR retaining the right to enter onto and make all uses of the Premises which do not interfere with the operation of the Structures thereon. NOTE: All utilities, including both electrical and communications lines, must be underground at a location approved in writing by the LESSOR, and all applications and connections for necessary utility services on the Premises shall be made in the name of, and at the expense of, the LESSEE, and LESSEE shall be solely liable for all utility charges in connection therewith as they become due. Landlord makes no representations as to the locations, capacity or availability of any utility lines or connections. LESSEE's use of the Premises shall at all times be in compliance with all applicable federal, state and municipal statutes and ordinances, and any regulation(s), order(s) or direction(s) of any governmental agency, as such statutes, ordinances, regulations, orders or directions now exist or may hereafter provide, concerning the use and safety of the Premises and the Structures. LESSEE acknowledges that the LESSOR has made no representations or warranties as to the suitability of the Premises for the use or uses intended by the LESSEE.

The leased Premises are a portion of the property located in the County of Berkeley, State of South Carolina, as depicted and designated as "Leased

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Premises" on Exhibit "A" attached hereto, together with such air space as is reasonably necessary for billboards on the pole to be located thereon, provided that the use of such air space shall not interfere with any structure now or hereafter located on LESSOR'S property, with the LESSEE'S non-exclusive right of access to, and egress from, the Structure(s) to be limited to such driveway as now or hereafter exists on LESSOR'S property, as designated from time to time by the LESSOR, which provides a reasonably direct means of vehicular access to the Premises, with the LESSOR having the right to relocate such access from time to time in the future, and with such non-exclusive right of access to, and egress from, the Structure(s) to exercised only in such a manner as to not interfere with the business activities of the LESSOR and its business invitees and customers on any portion of the LESSOR'S property and to not obstruct the flow of traffic in or out of the LESSOR'S property.

Address: Portion of property at 2386 Highway 41 Mount Pleasant, SC 29466
Tax Parcel #: Part of 269-00-00-037

TERM

1. This lease shall be for a term of 10 years, unless sooner terminated as hereinafter provided, beginning upon completion of construction of the Structures, including electrical installation, but in no event later than December 31, 2016.

2. In the event an agreement for a renewal lease is not consummated by the end of the seventh year of the original ten (10) year term of this Lease, and this Lease has not been terminated prior to the end of the original ten (10) year term, then this Lease shall continue from month to month after the expiration of the original ten (10) year term of this Lease, unless either party shall give the other party written notice of non-renewal at least thirty (30) days prior to the expiration of the original ten (10) year term of this Lease or at least thirty (30) days prior to the expiration of any calendar month thereafter.

RENT

3. LESSEE shall pay to LESSOR an annual base rental amount of $13,728.00 payable monthly, in equal installments of eleven hundred forty four dollars ($1,144.00) each, with the first installment due on the first day of the month following completion of construction of a two-sided display sign (one side digital and one side static or digital), but not later than the first day of January, 2017, 2026 TIME BEING OF THE ESSENCE. If the LESSEE has not acknowledged to the LESSOR in writing the commencement of the original ten (10) year term of this Lease on or before January 1, 2017, or has not commenced payment of the monthly installments of base rent by January 1, 2017, TIME BEING OF THE ESSENCE, the LES-

RJ SD

SOR shall have the right to terminate this Lease on thirty (30) days written notice to LESSEE at any time thereafter unless the payment of the monthly base rent commences within such thirty (30) days and the LESSEE acknowledges in writing to the LESSOR that the original ten (10) year term of this Lease commenced on a specified date not later than January 1, 2017.

4. An accounting of annual advertising revenue generated by the Structures shall be furnished by the LESSEE to the LESSOR annually on or before the annual anniversary of the commencement date of the original ten (10) year term of this Lease. LESSEE shall pay additional "revenue sharing" rent ("Percentage Rent") to LESSOR during the original ten (10) year term of this Lease and any additional term or extensions of this Lease, including, but not limited to any month to month extensions, which Percentage Rent shall be determined by taking twenty-two percent (22%) of the gross advertising revenue received by Lessor and its agents for this location during each lease year, less the annual base rental amount paid by LESSEE to LESSOR for such lease year. Such Percentage Rent will be calculated and paid to the LESSOR by the LESSEE within thirty (30) days of the end of each lease year. In the event that the twenty-two percent (22%) of gross advertising revenue is less than the annual base rent paid during any year, no Percentage Rent shall be due for that particular year. In no event shall the calculated annual lease rent for any year be less than the annual base rent specified above in paragraph 3.

5. Rent shall be considered tendered upon deposit of rental funds/check by LESSOR, unless any such check(s) received by LESSOR in payment of rent are not honored and promptly paid by the bank on which such check(s) is/are drawn. Upon receipt of rental checks issued by LESSEE, LESSOR shall not unreasonably delay depositing such checks into LESSOR'S account. Should LESSEE fail to pay rent or perform any other obligation under this Lease within fifteen (15) days after such performance is due, LESSEE will be in default under the lease. In the event of such default, LESSOR must give LESSEE written notice by certified mail and allow LESSEE fifteen (15) days thereafter to cure any default before exercising the right to terminate this Lease or exercising any other default remedy or remedies available to the LESSOR hereunder or at law or equity. Without limiting the foregoing, in the event that the LESSEE does not cure any such default within fifteen (15) days after written notice of default is mailed to LESSEE by certified mail, the LESSOR shall have the right to immediately terminate this LEASE by notice of termination mailed to the LESSEE, which termination shall be effective upon such mailing and the LESSOR shall have the right to take any such action as LESSOR desires to cause the Structure(s) to be removed from the Premises and disposed of as LESSOR desires, with the LESSEE to reimburse the LESSOR for all costs, expenses and attorney's fees included in such process and/or in the process of recovering such amount(s) from the LESSEE, without prejudice to the right of the LESSOR to recover from the LESSEE all amounts then due to the LES-

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SOR and any rent due to LESSOR for the remainder of the original ten (10) year term of this Lease.

STRUCTURES

6. LESSOR agrees (a) not to erect any structure on LESSOR'S property which substantially obstructs the view of the advertising displays on the advertising displays on the Structure(s) from the main traffic lanes on Highway 41; and (b) not to allow any vegetation to grow on LESSOR'S property which substantially obstructs the view of the advertising displays on the Structure(s) from the main traffic lanes on Highway 41. LESSEE is hereby authorized to remove any such obstruction or vegetation at its option if LESSOR does not remove same within thirty (30) days of written notice from the LESSEE to the LESSOR specifying the vegetation or structure(s) on Lessor's property which are in violation of the foregoing.

CANCELLATION

7(a). LESSEE may terminate this lease upon giving Thirty (30) days written notice to LESSOR in the event that any advertising displays on the Structures becomes substantially obstructed by reason of any action of LESSOR in violation of Paragraph 6, hereof and LESSEE fails to remove such obstruction within the said Thirty (30) days, but the LESSEE shall have no other recourse against the LESSOR on account thereof. If LESSEE is prevented from constructing any of the Structure(s) at the premises by reason of any final governmental law, regulation, order or other action, this lease will terminate at the discretion of LESSEE upon written notice from LESSEE to LESSOR. In the event of termination of this Lease by LESSEE prior to expiration, LESSOR will return to LESSEE any prepaid unearned rentals on a pro rata basis.

7(b). LESSOR may terminate this lease at any time after January 1, 2022 upon giving sixty (60) days written notice of termination to LESSEE in the event the LESSOR enters into a contract to sell the Premises, regardless of whether or not such sale is separate and apart from the sale of other property owned by the LESSOR or as a part of a sale which includes other property owned by the LESSOR. Such right of termination shall pass to any buyer of the Premises, regardless of when such sale takes place and may be exercised by any such buyer at any time on or after January 1, 2022.

8. All Structures, equipment and materials placed upon the Premises by LESSEE shall remain the property of LESSEE and may be removed by it at any time prior to forty-five (45) days after expiration or termination of the term hereof or of any extension of the term hereof, whichever occurs first. At the expiration or termination of this Lease, whichever occurs first, LESSEE agrees to restore the surface of the Premises to its original condition, to include removing the Struc-

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tures and any related foundation, all within such forty-five (45) day period. The LESSEE shall have the right to make any necessary applications with, and obtain permits from, governmental bodies for the construction and maintenance of LESSEE'S advertising Structure(s), at the sole discretion of LESSEE, provided, however, that as a material condition and provision of this Lease, the LESSEE agrees that upon the execution of this Lease by both the LESSOR and the LESSEE, the LESSEE shall promptly proceed with all necessary permit application(s) and shall pursue such application(s) with due diligence and LESSEE shall furnish LESSOR with copies of all permit applications contemporaneously with the submittal thereof to the applicable governmental bodies and shall furnish LESSEE with the plans and specifications for all Structures before they are erected on the Premise, and all work shall be done in accordance with requirements of all applicable governmental statutes, codes and regulations. All such permits shall be the property of LESSEE unless and until the LESSEE breaches the terms of this Lease. In the event of any breach of this Lease by the LESSEE, if the LESSEE does not cure such breach within any time allowed herein for the curing of such breach, all such permits shall automatically be deemed to have been automatically transferred to the LESSOR and shall thereafter be deemed the exclusive property of the LESSOR, and upon written request of the LESSOR, the LESSEE shall execute any such assignment of such permits as may be requested by LESSOR to confirm such transfer to the LESSOR even though such transfer shall be automatic and not conditioned upon the execution of any such assignment by LESSEE.

9. LESSOR represents that it is the Owner of the Premises and that to the best of LESSOR'S knowledge LESSOR has the right to grant LESSEE the rights granted to LESSEE herein, subject in all respects to all applicable governmental law, rules and regulations, including but not limited to all laws applicable to the ability of the LESSEE to obtain all permits necessary of the Structure(s). In the event of any change of ownership of the Premises, LESSOR agrees to notify LESSEE of the name, address, and phone number (if available to LESSOR) of the new owner, and LESSOR further agrees to give the new owner formal written notice of the existence of this Lease and to deliver a copy thereof to such new owner at or before closing UNLESS this Lease is terminated by the LESSOR pursuant to Paragraph 7(b) hereof. Upon any such sale, the original LESSOR named herein shall have no further liability under this Lease. In the event that LESSEE assigns this lease, LESSEE agrees to notify LESSOR upon such assignment of the name, address, and phone number of the assignee, and LESSEE further agrees to have any such LESSEE execute a document pursuant to which the LESSEE assumes all of the LESSEE'S obligations under this Lease pursuant to which such assignee will be fully obligated under this Lease, and to deliver to the LESSOR a duplicate, signed original of such instrument within ten (10) days of the assignment of this Lease, provided, however, that no such assignment shall have the effect of releasing the LESSEE from its obligations under this Lease unless the LESSOR agrees in writing to such a release.

Addendum

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CONDEMNATION

10. In the event that all or any part of the property is acquired by any entity or person possessing or acting on behalf of any entity possessing the power of eminent domain, whether by condemnation or sale in lieu thereof, LESSOR shall notify LESSEE immediately upon LESSOR's receipt of written notice thereof. LESSEE shall be entitled, in its sole and absolute discretion, to claim recovery against the condemning authority for damages and compensation for the fair market value of its leasehold and Structures taken or impacted by the acquisition. Any condemnation award for LESSEE'S property shall accrue to LESSEE.

INDEMNIFICATION

11. LESSEE shall at all times during the Lease and at its own cost and expense, repair, replace and maintain in a good, safe, substantial, neat, orderly and operational condition, all elements of the Structures, and LESSEE agrees to indemnify LESSOR from all claims of injury and damages to LESSOR or third parties caused by the installation, maintenance, operation, or dismantling of any Structure or displays and to repair any damage to the Premises resulting from the installation, maintenance, operation or dismantling of such Structure(s) or displays, less ordinary wear and tear. LESSOR shall also throughout the term of this Lease maintain in full force and effect, and at LESSEE'S expense, a public liability policy in which both LESSEE and LESSOR shall be named as insureds with the following minimum aggregate liability limit: Two Million and no/100 ($2,000,000.00) Dollars. Said policy or policies shall bear endorsements to the effect that the LESSEE'S insurer agrees to notify the LESSOR not less than thirty (30) days in advance of any modification or cancellation thereof. Should LESSEE fail to carry such public liability insurance the LESSOR may at its option (but shall not be required to do so) cause public liability insurance as aforementioned to be issued and in such event the LESSEE agrees to pay the premium for such insurance within ten (10) days of LESSOR'S written demand. The LESSEE shall have no right to enter onto the Premises under this Lease until proof of such insurance has been furnished to the LESSOR.

TAX CLAUSE

12. LESSEE agrees to reimburse LESSOR for any increase in LESSOR'S property taxes attributable to LESSEE'S Structures, including, but not limited to any portion of the LESSOR'S tax bill which is based on the assessed value of the Structure(s), upon Lessor's request and provision of reasonable evidence of such increase.

RJ LL

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13. LESSEE shall keep the Premises and every part thereof and all Structures thereon free and clear of any and all mechanic's, materialmen's, and other liens for or arising out of or in connection with work or labor done, services performed, or materials or appliances furnished for or in connection with any Structure(s) placed on the Premises, or any work or construction by, for, or permitted by LESSEE on or about the Premises, or any obligations of any kind incurred by LESSEE, and at all times properly and fully pay and discharge any and all claims on which any such lien may or could be based, and indemnify LESSOR against all such liens and claims of liens and suits or other proceedings pertaining thereto, including any attorney's fees incurred as a result of any such liens.

ADDITIONAL TERMS

14. This Lease shall be governed by and construed in accordance with the laws of the state in which the Premises are located without regard to conflict of laws principles, and the Tenant irrevocably submits itself to the jurisdiction of the courts of the State of South Carolina, with venue in Berkeley County, with respect to all matters relating to this Lease and agrees that any litigation involving this Lease shall be in the South Carolina court system.

15. In the event any part or provision of the Lease shall be determined to be invalid or unenforceable, the remaining portion of this Lease shall nevertheless continue in full force and effect.

16. This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement, and each party hereto may rely upon the facsimile signature or a signature transmitted by e-mail from the other party, which shall have the same force and effect as an original signature.

17. LESSEE may not assign this Lease without notice to and the consent of LESSOR, which consent shall not be unreasonably withheld. This Lease shall be binding upon and inure to the benefit of LESSOR and LESSEE and their respective heirs, personal representatives, successors in interest and permitted assigns.

18. Neither this Lease, nor any memorandum thereof or any other document referring to this Lease, shall be recorded without the prior written consent of both the LESSOR and LESSEE which either of them may withhold in their sole discretion.

19. LESSOR, upon written notice to LESSEE, may relocate the leased Premises and require that the LESSEE relocate the Structures on the leased Premises to the relocated leased Premises to allow for property development of any

type by the LESSOR. LESSOR and LESSEE agree that any such relocation shall only be to such location as the LESSOR shall designate within the "Relocation Area" designated on Exhibit "A" attached hereto. Such relocation of the Structures shall be accomplished by LESSEE within ninety (90) days of such written notice to LESSEE. LESSEE shall be responsible for obtaining all permits and governmental approvals for any such relocation. If such relocation of the Structures is not accomplished by LESSEE within such ninety (90) day period, the LESSOR shall be entitled to terminate this Lease upon written notice of termination sent to LESSEE, in which event all prepaid rent shall be forfeited to the LESSOR and all rights of the LESSEE with respect to the Structures and all permits and governmental approvals relating thereto shall be deemed to have been automatically transferred to the LESSOR, and LESSOR shall be entitled to make whatever disposition it wishes to make of such Structures without any liability to LESSEE and without any obligation to account to the LESSEE for such disposition. In the event of any such relocation of the Structures, no portion of any billboard which is a part of the Structures may extend into the Relocation Area more than a distance of forty-five (45') feet from the nearest edge of the right of way of Highway 41 without the prior written consent of the LESSOR which the LESSOR may withhold in its sole and absolute discretion. The construction of any required foundation for the pole portion of the Structures at the new location designated by the LESSOR, the relocation of the pole itself and the relocation of any utility lines serving the Structures shall be at the expense of the LESSOR up to, but not in excess of, twenty-five thousand ($25,000.00) dollars, but any reconfiguration of the size and/or shape of the billboards which may necessary in order to keep any billboard from extending into the Relocation Area more than forty-five (45') feet from the nearest edge of the right of way of Highway 41 shall be at the sole expense of the LESSEE. The LESSOR shall only be responsible for the cost of relocating the billboards if the then existing billboards can be relocated to the location designated by the LESSOR without extending into the Relocation Area more than a distance of forty-five (45') feet from the nearest edge of the right of way of Highway 41, and the total cost to LESSOR, including the relocation of any foundation, the pole, the utility lines and the billboards shall not exceed twenty-five thousand ($25,000.00) dollars. If it is not possible to relocate the then existing billboards to the location designated by the LESSOR without extending into the Relocation Area more than a distance of forty-five (45') feet from the nearest edge of the right of way of Highway 41, then the cost of reconfiguring the billboards and relocating them to the location designated by the LESSOR within the Relocation Area in such a manner as to not extend more than forty-five (45') feet from the nearest edge of the right of way of Highway 41 shall be the responsibility of the LESSEE.

20. This Lease and all rights of LESSEE hereunder shall be subject and subordinate to the lien of any and all mortgages that may now or hereafter affect the demised premises, or any part thereof, and to any and all renewals,

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modifications, or extensions of any such mortgages. LESSEE shall on demand execute, acknowledge, and deliver to LESSOR, without expense to LESSOR, any and all instruments that may be necessary or proper to subordinate this Lease and all rights therein to the lien of any such mortgage or mortgages and each renewal, modification, or extension, along with such estoppel certificate or certificates as are requested by any such mortgage lender, and if LESSEE shall fail at any time to execute, acknowledge and deliver any such subordination instrument, LESSOR, in addition to any other remedies available in consequence thereof, may execute, acknowledge and deliver the same as LESSEE'S attorney in fact and in LESSEE'S name. LESSEE hereby irrevocably makes, constitutes, and appoints Landlord, its successor and assigns, its attorney in fact for that purpose and agrees that the mortgagee or any third party placing a lien on the property may rely upon LESSOR'S authority to act for LESSEE without the need to inquire of LESSEE. In the event that LESSOR executes such a document or documents as attorney in fact for LESSEE, LESSOR shall furnish a copy of such document or documents to LESSEE within thirty (30) days thereafter. In the event of a sale or other transfer of title to the Premises, the LESSEE shall promptly on request of LESSOR execute such estoppel certificate or certificates as are reasonably requested by LESSOR in connection with such sale or transfer of title, and the LESSEE shall after such sale or transfer of title look only to the new owner of the Premises for the fulfilment of the LESSOR'S obligations hereunder and shall have no further recourse against the original LESSOR.

21. This Lease constitutes the entire agreement between LESSOR and LESSEE pertaining to the subject matter contained in this Lease and supersedes all prior agreements, representations and understandings of the parties. No supplement, modification or amendment of this Lease shall be binding unless expressed as such and executed in writing by LESSOR and LESSEE. Except as set forth herein, no waiver of any provision of this Lease shall constitute a continuing waiver. No waiver shall be binding unless expressed as such in a document executed by the party making the waiver.

22. NO OPTION/OFFER. The submission of this Lease for examination does not constitute a reservation of or option for the Premises or an offer to lease the Premises and shall vest no right in either party. This Lease will become effective only upon execution and delivery thereof by both the Lessor and the Lessee.

THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY.
SIGNATURE PAGE FOLLOWS

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EXECUTED BY LESSOR:

Atlantis Marine, Inc.

By: Joe C Sharp
Joe C. Sharp
Its: President

Date: 1/13/16

Address for LESSOR:
P. O. Box 610
Huger, SC 29450
Telephone # (843)856-0225

57-0903488
LESSOR'S Federal Tax ID number

EXECUTED BY LESSEE:

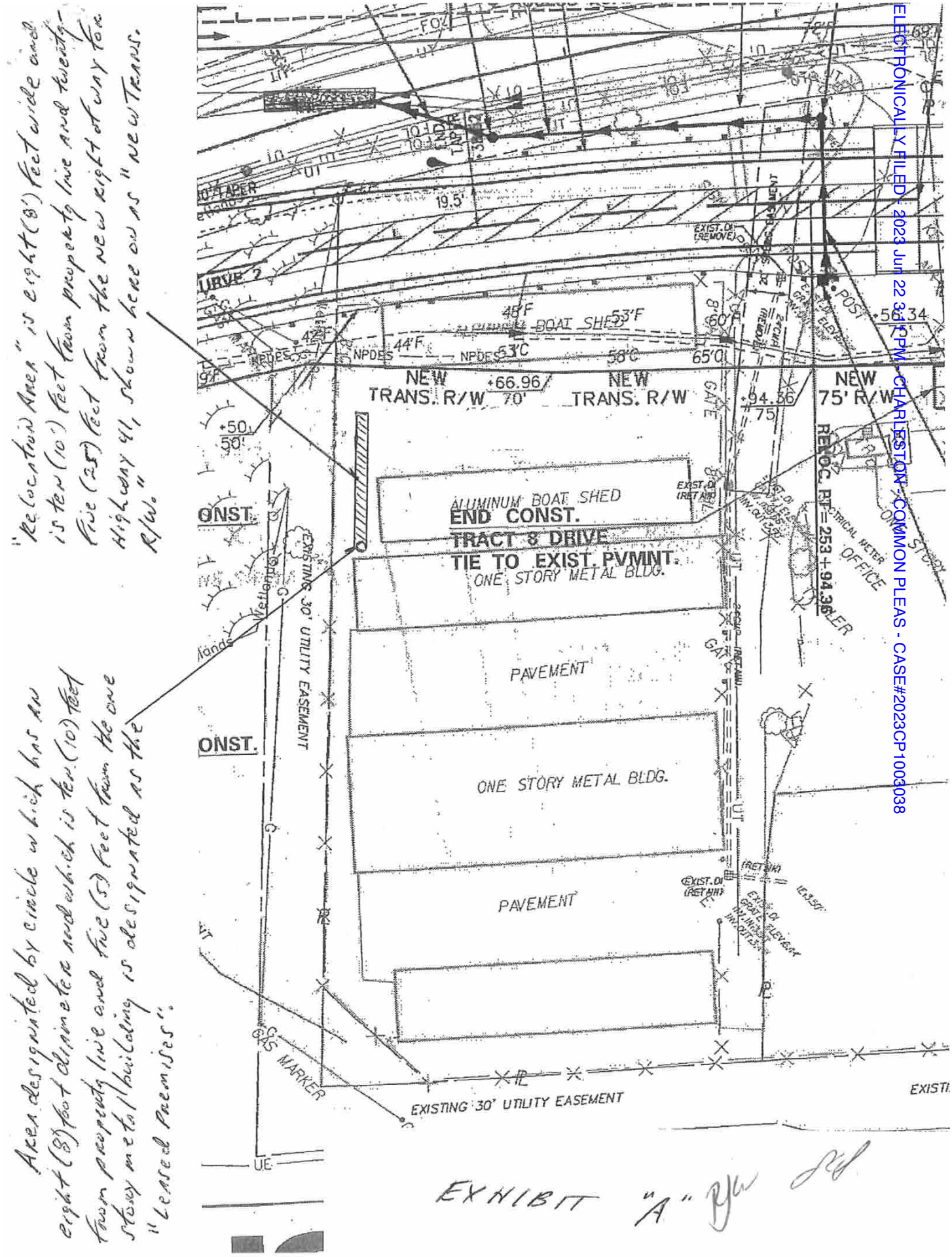
Allure Advertising, LLC, LESSEE

By: [signature]
Joe Applegate
Its: Duly Authorized Member/
Managing Member

Date: 1-13-16

Address for LESSEE:
2015 Ayrsley Town Blvd #202
Charlotte NC 28273
Telephone# 803-493-6636

Ayrsley Town Blvd.



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Exhibit Z
Transfer and Assignment of Lease
Dated January 26, 2022

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TRANSFER AND ASSIGNMENT AGREEMENT

This **TRANSFER AND ASSIGNMENT AGREEMENT** dated as of December 30, 2021 (this "Agreement") is entered into by and among (i) each of the Persons signatory hereto under the heading "Assignors" (collectively, the "Assignors") and (ii) Lamar Media Corp., a Delaware corporation (the "Assignee"). Capitalized terms used herein, but not otherwise defined herein, shall have the meanings ascribed to such terms in the Purchase Agreement (as defined below).

WHEREAS, Allure Advertising, LLC (the "Company") is a South Carolina Limited Liability Company and is governed by that certain Amended and Restated Operating Agreement of Company dated as of August 16, 2021 (as in effect immediately prior to the Effective Time (as defined below), the "LLC Agreement");

WHEREAS, Assignors are all of the members and own all of the issued and outstanding equity securities of the Company;

WHEREAS, Assignors, Assignee and certain other persons are parties to that certain Membership Interest Purchase Agreement, dated as of the date hereof (as amended, the "Purchase Agreement") pursuant to which each Assignor has agreed to (i) transfer, assign and convey to Assignee all of the equity securities of the Company held by such Assignor as of the Closing, including the "Units" (as such term is defined in the LLC Agreement) set forth underneath such Assignor's name on Attachment 1 hereto (such equity securities, the "Membership Interests") and (ii) cease to be a member of the Company, in each case effective simultaneously with the Closing (such time of effectiveness, the "Effective Time"); and

WHEREAS, at the Effective Time, the Assignee desires to accept and assume the Membership Interests, and the Assignee desires to be admitted to the Company as a substitute member of the Company.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. Assignment. Notwithstanding any provision in the LLC Agreement to the contrary, for value received, the receipt and sufficiency of which are hereby acknowledged, at the Effective Time, each Assignor does hereby assign, transfer and convey the Membership Interests held by such Assignor to the Assignee. The Assignee hereby accepts such assignment and assumes and agrees to perform when due all of responsibilities and obligations arising from ownership of the Membership Interests(subject to, in all respects, the terms and conditions of the Purchase Agreement, including the representations, warranties, covenants, obligations, and indemnities of Assignor in the Purchase Agreement).

2. Admission. Notwithstanding any provision in the LLC Agreement to the contrary, effective contemporaneously with the assignment described in Section 1 of this Transfer and Assignment Agreement, the Assignee shall be admitted to the Company as a substituted member of the Company.

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3. LLC Agreement. The undersigned acknowledge and agree that at the Effective Time, and without any further action on the part of any of the undersigned, no former or current member of the Company shall have any rights under any provisions of the LLC Agreement, including the provisions, if any, that would, or purport to, survive any termination of the LLC Agreement; provided that nothing in this Agreement shall limit, amend, modify or otherwise impair the obligations of the Assignee pursuant to Section 6.5 of the Purchase Agreement. Upon the Effective Time, each Assignor hereby acknowledges and agrees that such Assignor will not be entitled to, and neither the Assignee nor the Company will be obligated to make or have liability for, any future distributions (Tax or otherwise) from the Company at or after the Effective Time; provided that nothing in this Agreement shall limit, amend, modify or otherwise impair the rights of Assignor pursuant to the Purchase Agreement.

4. Resignation. Notwithstanding any provision in the LLC Agreement to the contrary, effective immediately following the admission of the Assignee as a substitute member of the Company, the Assignors shall and do hereby cease to be members of the Company, and cease to have or exercise any right or power as members of the Company.

5. Continuation of the Company. The parties hereto agree that the assignment of the Membership Interests, the admission of the Assignee as a substituted member of the Company and the Assignors ceasing to be members of the Company shall not dissolve the Company.

6. Binding Effect. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

7. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

8. Governing Law. This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of South Carolina, all rights and remedies being governed by such laws.

9. Terms of the Purchase Agreement. In the event of a conflict between the terms and conditions of this Agreement and the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern, supersede, and prevail. Notwithstanding anything to the contrary, nothing herein is intended to, nor shall it, extend, amplify or otherwise alter the representations, warranties, covenants, and obligations of the parties contained in the Purchase Agreement or the survival thereof.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

ASSIGNORS:

DARIEN E. APPLEGATE TRUST UNDER AGREEMENT dated January 3, 2020

By: _____
Darien E. Applegate, as Trustee of the Darien E. Applegate Trust Under Agreement Dated January 3, 2020.

ASSIGNEE:

LAMAR OCI SOUTH CORPORATION

By: LAMAR MEDIA CORP., its sole member

By: _____
Lee Kantrow, Jr.
Executive Vice President of
Business Development

[Signature page to Transfer and Assignment Agreement]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

ASSIGNORS:

DARIEN E. APPLEGATE TRUST UNDER AGREEMENT dated January 3, 2020

By: _____
Darien E Applegate, as Trustee of the Darien E. Applegate Trust Under Agreement Dated January 3, 2020.

ASSIGNEE:

LAMAR OCI SOUTH CORPORATION

By: LAMAR MEDIA CORP., its sole member

By: _____
Lee Kantrow, Jr.
Executive Vice President of
Business Development

[Signature page to Transfer and Assignment Agreement]

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ATTACHMENT 1

100 Units

Exhibit AA

Email from J. Applegate to Jon Kane and Curtis re: Formation Docs
Dated February 21, 2017

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[redacted]

[redacted]

[redacted]

Begin forwarded message:

From: Russell Applegate <joe@allureadvertising.net>
Date: February 21, 2017 at 8:28:09 AM EST
To: Curtis Applegate <curtis.applegate@me.com>
Cc: Jon Kane <jkane5656@gmail.com>
Subject: Big Blue/Allure LLC

Curtis,

I left the plastic file case that has all of Big Blue Allure paperwork in it. The is one folder that has the LLC formation paperwork you did. Can you scan it and email it to Jon Kane.

Thanks for your help.

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-10-03038

JON KANE,

Plaintiff,

vs.

DARIEN APPLEGATE, DARIEN E. APPLEGATE TRUST, DARIEN E. APPLEGATE, Successor in Partnership, BIG BLUE ALLURE, LLC, ALLURE OUTDOOR, LLC, ALLURE ADVERTISING, LLC, LAMAR OCI SOUTH CORP., LAMAR ADVERTISING

Defendants.

MOTION IN LIEU OF ANSWER OF DEFENDANTS DARIEN APPLEGATE, ALLURE OUTDOOR, LLC, AND BIG BLUE ALLURE, LLC

Pursuant to Rules 12(b)(6) and 12(b)(9) of the South Carolina Rules of Civil Procedure, Defendants Darien Applegate ("Mrs. Applegate"), individually and as Trustee of the Darien E. Applegate Trust ("the Trust"), Allure Outdoor, LLC ("Allure Outdoor"), and Big Blue Allure, LLC ("Big Blue"),[1] move to dismiss, with prejudice, the Complaint of Jon Kane ("Plaintiff") on the grounds that the Complaint fails to state a claim for relief. In support of this Motion, Mrs. Applegate, Allure Outdoor, and Big Blue show the Court as follows:

1. Pursuant to Rule 12(b)(6), Plaintiff's claims should be dismissed in their entirety as time-barred by the Probate Code. Specifically, Plaintiff failed to timely assert his claims in accordance with S.C. Code Ann. § 62-3-803(c).

2. Plaintiff's claims should also be dismissed in their entirety pursuant to Rule 12(b)(6) because they are barred by the statute of limitations. In accordance with S.C. Code Ann. § 33-41-930(4), a partnership is dissolved by the death of any partner. Plaintiff's claims all rise and fall on the existence of an alleged partnership with Joe Applegate, but Plaintiff failed to commence an action within three years from the date of Joe Applegate's death on June 29, 2019 to wind up the affairs of the alleged partnership or enforce any right to an account that he had against the partnership.

[1] Mrs. Applegate, Allure Outdoor, and Big Blue do not concede that Big Blue Allure, LLC was ever organized as a limited liability company or other incorporated entity.

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3. Pursuant to 12(b)(1), all claims against Big Blue should dismissed for lack of subject matter jurisdiction, as Plaintiff does not allege that Big Blue was ever organized as an LLC or indeed as a separate entity of any type capable of being sued, or that Plaintiff was ever a member.

4. Plaintiff's First Cause of Action for declaratory judgment should be denied, as Plaintiff fails to allege that there was a meeting of the minds on all material terms necessary to form a partnership. Plaintiff's First Cause of Action should further be denied because the face of the Complaint (and its attached exhibits) belies the existence of a lease between Joe Sharp and any alleged partnership.

5. Pursuant to Rule 12(b)(6), Plaintiff's Second and Third Causes of Action should be dismissed. Plaintiff does not assert that he ever entered into a contract with the Mrs. Applegate, the Trust, Allure Outdoor, Big Blue or any other person or entity other than Mrs. Applegate's husband, his Second and Third Causes of Action should also be dismissed as to all Defendants. Further, these Causes of Action should be dismissed as to Mrs. Applegate because no partnership was formed between Plaintiff and Joe Applegate, there is no contract to which Mrs. Applegate succeeded or could have breached.

6. Plaintiff's Fourth Cause of Action for breach of fiduciary duty and Eighth Cause of Action for constructive fraud against Mrs. Applegate should be dismissed pursuant to Rule 12(b)(6). Because no partnership was formed, and Mrs. Applegate did not succeed her husband as a partner in any capacity, she owed no fiduciary duties to and held no special relationship of trust confidence with Plaintiff. The Fourth and Eighth Causes of Action should also be dismissed as to all other Defendants, as Plaintiff does not allege any relationship with those Defendants that would give rise to fiduciary duties or a relationship of trust and confidence, or indeed any affirmative conduct by those Defendants.

7. Plaintiff's Fifth Cause of Action for unjust enrichment and Eleventh Cause of Action for quantum meruit should be dismissed pursuant to Rule 12(b)(6) against Mrs. Applegate as being entirely duplicative of Plaintiff's claim for unjust enrichment. Those Causes of Action should also be dismissed as to all other Defendants because Plaintiff fails to allege that he conferred a benefit on the Trust, Allure Outdoor, or Big Blue, or that any they have been unjustly enriched or retained any profit to Plaintiff's detriment.

8. Pursuant to Rule 12(b)(6), Plaintiff's Sixth Cause of Action should be dismissed because, again, no partnership was formed for which any accounting can be ordered. Moreover, Plaintiff does not allege that he has any interest in the Trust or Allure Outdoor, or that the Trust or Allure Outdoor were partners in the alleged partnership, such that he cannot have any entitled to an accounting involving those entities. Similarly, Plaintiff fails to allege that Big Blue was formed as an LLC or that he was ever a member of Big Blue, and thus fails to allege any right to any accounting. To the extent this claim could be construed as a standalone claim for post-judgment discovery, such a claim is also improper.

9. Plaintiff's Seventh Cause of Action for fraud should be dismissed as to all Defendants, pursuant to Rules 12(b)(6) and 9(b), due to Plaintiff's failure to allege with particularity any material misrepresentation or omission upon which he reasonably relied to his detriment.

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10. Plaintiff's Ninth Cause of Action for constructive trust should be dismissed pursuant to Rule 12(b)(6) because Plaintiff has an adequate remedy at law, such that the equitable relief of a constructive trust is not available. In addition, in the absence of a partnership, Plaintiff does not allege any fraudulent conduct on behalf of the Defendants or that any of Defendants owed him a fiduciary or other duty of special care.

11. Pursuant to Rule 12(b)(6), Plaintiff's Tenth Cause of Action for violation of the South Carolina Unfair Trade Practices Act ("SCUTPA") should be dismissed as to all Defendants because Plaintiff fails to allege that any member of the public was adversely affected or is likely to be adversely affected. Plaintiff's claim for violation of the SCUTPA should also be dismissed as to the Trust, Allure Outdoor, and Big Blue, in light of Plaintiff's failure to allege any unfair or deceptive conduct – or indeed any conduct – by those Defendants. Finally, Plaintiff's claim under the SCUTPA should be dismissed because such a claim is not viable within a single market participant.

12. Plaintiff's Twelfth Cause of Action for conversion should be dismissed because Plaintiff never had an interest in the property at issue. This Cause of Action should also be dismissed against the Trust, Allure Outdoor, and Big Blue, pursuant to Rule 12(b)(6), as Plaintiff fails to allege that any of those Defendants assumed the exercise of the right of ownership over any property to which Plaintiff claims an interest.

13. Pursuant to Rule 12(b)(6), Plaintiff's Thirteenth Cause of Action for wrongful dissolution should be denied because Plaintiff does not allege that the purported dissolution of the alleged partnership breached a partnership agreement or that the partnership was for a term certain. This Cause of Action should also be denied as to the Trust, Allure Outdoor, and Big Blue because Plaintiff fails to allege that they were partners in the alleged partnership or could be liable for wrongful dissolution of that alleged partnership. In addition, the Thirteenth Cause of Action should be dismissed as to Mrs. Applegate, because no partnership ever existed which could have been dissolved.

14. Plaintiff's Fourteenth Cause of Action for civil conspiracy should be dismissed pursuant to Rule 12(b)(6) because Plaintiff does not identify two persons in combination and his claim is barred by the intracorporate conspiracy doctrine.

15. Plaintiff's Fifteenth Cause of Action for interference with contractual relationship should also be dismissed pursuant to Rule 12(b)(6) because, as an initial matter, no agreement existed between Plaintiff and Joe Applegate. Even had a contract existed, Mrs. Applegate's liability would be only as successor-in-interest to her husband, i.e. as a partner, and partners are insiders to a contract whose conduct is privileged. Moreover, Plaintiff fails to allege that the Trust, Allure Outdoor, or Big Blue engaged in any specific wrongful act or that their conduct was not justified. Plaintiff's Complaint further indicates that Allure Outdoor and Big Blue (to the extent it existed) were in justified competition with Plaintiff.

16. Finally, Plaintiff's Fifteenth Cause of Action for negligent interference with contractual relationship should be dismissed as to all Defendants, as South Carolina has not recognized such a claim.

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WHEREFORE, Defendants Darien Applegate, individually and as Trustee of the Darien E. Applegate Trust, Allure Outdoor, LLC, and Big Blue Allure, LLC (an alleged unincorporated association), respectfully move to dismiss Plaintiff's Complaint in its entirety as to those Defendants.

JAMES, McELROY & DIEHL, P.A.

By: /s/ Jennifer M. Houti
Jennifer M. Houti
SC Bar No. 102055
jhouti@jmdlaw.com
525 N. Tryon Street, Suite 700
Charlotte, NC 28202
(704) 372-9870 (telephone)
(704) 333-5508 (facsimile)
Attorneys for Defendants Darien Applegate, individually and as Trustee for the Darien E. Applegate Trust, Allure Outdoor, LLC, and Big Blue Allure, LLC, an unincorporated association

Dated: October 18, 2023
Mount Pleasant, South Carolina

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

JON KANE,

Plaintiff,

vs.

DARIEN APPLEGATE, DARIEN E. APPLEGATE TRUST, DARIEN E. APPLEGATE, Successor in Partnership, BIG BLUE ALLURE, LLC, ALLURE OUTDOOR, LLC, ALLURE ADVERTISING, LLC, LAMAR OCI SOUTH CORP., LAMAR ADVERTISING

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-10-03038

MEMORANDUM OF LAW IN SUPPORT OF MOTION IN LIEU OF ANSWER OF DEFENDANTS DARIEN APPLEGATE, ALLURE OUTDOOR, LLC, AND BIG BLUE ALLURE, LLC

Defendants Darien Applegate ("Mrs. Applegate"), individually and as Trustee of the Darien E. Applegate Trust ("the Trust"), Allure Outdoor, LLC ("Allure Outdoor"), and Big Blue Allure, LLC ("Big Blue"),[1] respectfully submit this memorandum of law in opposition to Plaintiff's Complaint.

INTRODUCTION

In his throwing-spaghetti-at-the-wall approach to a Complaint, Plaintiff brings sixteen varied claims arising from an alleged partnership agreement he entered into with decedent Joe Applegate. Plaintiff asserts these claims against the decedent's widow, her Trust, decedent's separate LLC, and an entity that was never actually organized. Because all of Plaintiff's causes of action are time-barred and he fails to state a claim for relief under any theory, Plaintiff's Complaint should be dismissed in its entirety, with prejudice.

[1] Mrs. Applegate, Allure Outdoor, and Big Blue do not concede that Big Blue Allure, LLC was ever organized as a limited liability company or other incorporated entity.

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LEGAL ARGUMENT

I. Plaintiff's Claims Are Time-Barred by the Probate Code.

Plaintiff failed to timely assert his claims in accordance with S.C. Code Ann. § 62-3-803(c), which provides in pertinent part that "[a]ll claims against a decedent's estate which arise at or after the death of the decedent, . . . whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless" the claim is presented "within the later of eight months after it arises, or the time specified in subsection (a)(1)" of one year after the decedent's death." Plaintiff acknowledges that Joe Applegate, his alleged partner, died on June 29, 2019, and that the probate period for his estate lasted for a year, Complaint, ¶¶ 52, but Plaintiff failed to allege that he presented any of this claims to the estate during that probate period and failed to commence this action until 2023.

II. Plaintiff's Claims Are Barred by the Statute of Limitations.

In accordance with S.C. Code Ann. § 33-41-930(4), a partnership is dissolved by the death of any partner. Plaintiff's claims all rise and fall on the existence of an alleged partnership with Joe Applegate. Plaintiff admits that Joe Applegate died on June 29, 2019, Complaint, ¶ 52, and thus the partnership dissolved at the same time. Yet Plaintiff failed to commence an action within the three-year statute of limitations governing his claims in order to wind up the affairs of the alleged partnership or enforce any right to an account that he had against the partnership.

III. The Court Lacks Subject Matter Jurisdiction Over Big Blue.

Pursuant to 12(b)(1), all claims against Big Blue should dismissed for lack of subject matter jurisdiction, as Plaintiff does not allege that Big Blue was ever actually organized as an LLC or indeed as a separate entity of any type capable of being sued. See Plaintiff's Exhibit F. Nor does he ever allege that he was a member of owner of Big Blue. Complaint, ¶¶ 32, 111 (alleging

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Plaintiff was merely listed as an officer of Big Blue and believed "that he was at all times the sole operating officer of 'Big Blue Allure, LLC'").

IV. The Court Should Dismiss Plaintiff's First Cause of Action for Declaratory Judgment.

Plaintiff's First Cause of Action seeking a declaration that Plaintiff and Joe Applegate were equal partners in a partnership whose purpose was the development and operation of a billboard, that the billboard was the partnership's property, and that the partnership entered into a lease should be denied. First, Plaintiff alleges only that he and Joe Applegate agreed to share the "proceeds" and "revenues" of their alleged venture but fails to allege they agreed to share in any losses. Complaint, ¶¶ 19, 213. Accordingly, there was no meeting of the minds on all material terms necessary to form a partnership. Roberts v. Cogan, 2018 S.C. C.P. LEXIS 3093, *13-14 (Charleston Co. Circuit Ct. Aug. 29, 2018) (Scarborough, J.) (holding that where parties "never reached a meeting of the minds on what would occur if there were losses . . . plaintiff has failed to meet his burden of proof to show that a partnership was created").

Second, the face of the Complaint (and its attached exhibits) belies the existence of a lease between Joe Sharp and any alleged partnership. The lease agreement plainly states that it is between Atlantis Marine, Inc. and Allure Advertising, LLC, and nowhere identifies any partnership, Big Blue, or Plaintiff. See Plaintiff's Exhibit Y. Nowhere does Plaintiff allege he was a member of Allure Advertising or that the alleged partnership interest ever held an interest in Allure Advertising.

V. The Court Should Dismiss Plaintiff's Second and Third Causes of Action for Breach of Contract and Breach of Contract with Fraudulent Intent.

Pursuant to Rule 12(b)(6), Plaintiff's Second and Third Causes of Action should be dismissed. Plaintiff does not assert that he ever entered into a contract with Mrs. Applegate, the Trust, Allure Outdoor, Big Blue or any other person or entity other than Mrs. Applegate's husband,

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Second and Third Causes of Action should also be dismissed as to all Defendants. Further, these Causes of Action should be dismissed as to Mrs. Applegate because no partnership was formed between Plaintiff and Joe Applegate, and there is no contract to which Mrs. Applegate succeeded or could have breached. Roberts, 2018 S.C. C.P. LEXIS 3093, *18 (holding that no breach of partnership agreement could exist in absence of agreement on losses, as "where there are material terms left out between the parties, there is no contract and nothing to enforce.").

VI. The Court Should Dismiss Plaintiff's Fourth Cause of Action for Breach of Fiduciary Duty and Eighth Cause of Action for Constructive Fraud.

Plaintiff's Fourth Cause of Action for breach of fiduciary duty and Eighth Cause of Action for constructive fraud against Mrs. Applegate should be dismissed pursuant to Rule 12(b)(6). Because no partnership was formed, and Mrs. Applegate did not succeed her husband as a partner in any capacity, she owed no fiduciary duties to and held no special relationship of trust or confidence with Plaintiff. Allstate Assurance Co. v. Kelly, 2019 U.S. Dist. LEXIS 228924, at *25 (D.S.C. Mar. 15, 2019) ("[C]onstructive fraud requires a confidential or fiduciary relationship . . . ."); Ardis v. Cox, 314 S.C. 512, 517, 431 S.E.2d 267, 270 (Ct. App. 1993) (affirming summary judgment dismissing constructive fraud claim where "we find no confidential or fiduciary relationship between the parties giving [plaintiff] a right to rely.").

The Fourth and Eighth Causes of Action should also be dismissed as to the corporate Defendants, as Plaintiff does not allege any relationship with those corporate Defendants that would give rise to fiduciary duties or a relationship of trust and confidence, or indeed any affirmative conduct by those Defendants. See, e.g., ULQ, LLC v. Meder, 293 Ga. App. 176, 181, 666 S.E.2d 713, 718 (Ga. Ct. App. 2008) ("[A] limited liability company owes no fiduciary duty to its members, either directly or vicariously, for actions taken by its manager.").

VII. The Court Should Dismiss Plaintiff's Fifth Cause of Action for Unjust Enrichment and Eleventh Cause of Action for Quantum Meruit.

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Plaintiff's Fifth Cause of Action for unjust enrichment and Eleventh Cause of Action for quantum meruit should be dismissed pursuant to Rule 12(b)(6) against Mrs. Applegate as being entirely duplicative of Plaintiff's claim for unjust enrichment. Those Causes of Action should also be dismissed as to all other Defendants because Plaintiff fails to allege that he conferred a benefit on the Trust, Allure Outdoor, or Big Blue or that any they have been unjustly enriched or retained any profit to Plaintiff's detriment. Carroll v. Mowery, No. 2023-UP-274, 2023 S.C. App. Unpub. LEXIS 325, at *22-23 (Ct. App. July 26, 2023) (affirming dismissal of claims for unjust enrichment, quantum meruit, and restitution where plaintiff failed to show the defendant "received a benefit" from plaintiff's work).

VIII. The Court Should Dismiss Plaintiff's Sixth Cause of Action for an Accounting.

Pursuant to Rule 12(b)(6), Plaintiff's Sixth Cause of Action should be dismissed because, again, no partnership was formed for which any accounting can be ordered. Moreover, Plaintiff does not allege that he has any ownership interest in the Trust or Allure Outdoor or Big Blue, or that the Trust or Allure Outdoor were partners in the alleged partnership, such that he cannot have any entitled to an accounting involving those entities. Moreover, Plaintiff's claim for an accounting fails alongside his defective claim for breach of fiduciary duty. Rogers v. Salisbury Brick Corp., 299 S.C. 141, 144, 382 S.E.2d 915, 917 (1989) ("[A]n accounting is designed to prevent unjust enrichment by disclosing and requiring the relinquishment of profits received as the result of a breach of a confidential or fiduciary duty."). Finally, to the extent this claim may be construed as a standalone claim for post-judgment discovery, such a claim is also improper.

IX. The Court Should Dismiss Plaintiff's Seventh Cause of Action for Fraud.

Plaintiff's Seventh Cause of Action for fraud should be dismissed as to all Defendants, pursuant to Rules 12(b)(6) and 9(b), due to Plaintiff's failure to allege with particularity any material misrepresentation or omission upon which he reasonably relied. Plaintiff does not allege

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any representation at all by any of the corporate Defendants, much less a misrepresentation or omission. As for Mrs. Applegate, Plaintiff alleges he was entitled to rely on communications from her because she owed him a fiduciary duty; however, because there was no fiduciary relationship, Plaintiff had no reasonable right to rely. Ardis, 314 S.C. at 515, 431 S.E.2d at 269 (one of the nine required elements of fraud is "the hearer's right to rely"). Plaintiff does not allege how he was injured by his reliance on Mrs. Applegate's alleged misrepresentations or even when she made them, asserting only that it was "until July or August 2020." Complaint, ¶ 135.

X. The Court Should Dismiss Plaintiff's Ninth Cause of Action for Constructive Trust.

Plaintiff's Ninth Cause of Action for constructive trust should be dismissed pursuant to Rule 12(b)(6) because Plaintiff has an adequate remedy at law,[2] and "equitable relief is unnecessary when an adequate remedy for money damages is available at law." Carolina Park Assocs., LLC v. Marino, 400 S.C. 1, 8, 732 S.E.2d 876, 879-80 (2012) (affirming dismissal of constructive trust claim where plaintiff "pled money damages in the alternative and have stated no reason why this relief is inadequate other than" their inability to participate in developing the land). In addition, because there was no partnership, Plaintiff does not allege any fraudulent conduct on behalf of the Defendants or that any of Defendants owed him a fiduciary or other duty of special care. Lollis v. Lollis, 291 S.C. 525, 529, 354 S.E.2d 559, 561 (1987) ("A constructive trust results from fraud, bad faith, abuse of confidence, or violation of a fiduciary duty which gives rise to an obligation in equity to make restitution.")

XI. The Court Should Dismiss Plaintiff's Tenth Cause of Action under SCUTPA.

Pursuant to Rule 12(b)(6), Plaintiff's Tenth Cause of Action for violation of the South Carolina Unfair Trade Practices Act ("SCUTPA") should be dismissed as to all Defendants

[2] The Applegate Defendants deny that Plaintiff is entitled to any relief under any of his claims.

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because Plaintiff fails to allege that any member of the public was adversely affected or is likely to be adversely affected. Skywaves I Corp. v. Branch Banking & Tr. Co., 423 S.C. 432, 453-54, 814 S.E.2d 643, 655 (Ct. App. 2018) (holding an "unfair or deceptive act or practice must have an impact on the public interest," which can be "shown if the acts or practices have the potential for repetition"). Plaintiff's claim for violation of the SCUTPA should also be dismissed as to the Trust, Allure Outdoor, and Big Blue, in light of Plaintiff's failure to allege any unfair or deceptive conduct – or indeed any conduct whatsoever – by the corporate Defendants. Finally, Plaintiff's claim under the SCUTPA should be dismissed because such a claim is not viable within a single business or where it affects "only the parties to a trade or a commercial transaction." Turner v. Kellett, 426 S.C. 42, 48, 824 S.E.2d 466, 469 (Ct. App. 2019); accord Nobel v. Foxmoor Grp., 380 N.C. 116, 121, 868 S.E.2d 30, 34 (2022) (unfair and deceptive trade practices regulate conduct between businesses or between a business and consumers, not "an alleged unfair or deceptive action remains confined within a single business").

XII. The Court Should Dismiss Plaintiff's Twelfth Cause of Action for Conversion.

Plaintiff's Twelfth Cause of Action for conversion should be dismissed because the tort of conversion does not apply to such intangible interests as the undocumented interest Plaintiff asserts he had in an alleged partnership. Gignilliat v. Gignilliat, Savitz & Bettis, L.L.P., 385 S.C. 452, 466, 684 S.E.2d 756, 763 (2009) ("We are reluctant to expand the tort of conversion as it relates to intangible property and conclude that it should be limited to intangible property rights that are identified with some document."). This Cause of Action should also be dismissed against the Trust, Allure Outdoor, and Big Blue pursuant to Rule 12(b)(6), as Plaintiff fails to allege that any of those Defendants assumed the exercise of the right of ownership over any property (tangible or otherwise) to which Plaintiff claims an interest.

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XIII. The Court Should Dismiss Plaintiff's Thirteenth Cause of Action for Wrongful Dissolution.

Pursuant to Rule 12(b)(6), Plaintiff's Thirteenth Cause of Action for wrongful dissolution fails for the same reasons Plaintiff's breach of contract claims fail, as he did not allege a meeting of the minds sufficient to establish a partnership agreement was entered into. This Cause of Action also fails because Plaintiff does not allege that the purported dissolution of the alleged partnership breached any partnership agreement or that the partnership was for a term certain. Finally, this Cause of Action should further be dismissed as to the Trust and Allure Outdoor, because Plaintiff fails to allege that they were partners in the alleged partnership or could be liable for wrongful dissolution of that alleged partnership.

XIV. The Court Should Dismiss Plaintiff's Fourteenth Cause of Action for Civil Conspiracy.

Plaintiff's Fourteenth Cause of Action for civil conspiracy should be dismissed pursuant to Rule 12(b)(6) because Plaintiff does not identify two persons in combination and his claim is barred by the intracorporate conspiracy doctrine. McMillan v. Oconee Mem'l Hosp., Inc., 367 S.C. 559, 565, 626 S.E.2d 884, 887 (2006) ("A civil conspiracy cannot be found to exist when the acts alleged are those of employees or directors, in their official capacity, conspiring with the corporation. As a result, we hold that no conspiracy can exist if the conduct challenged is a single act by a single corporation acting exclusively through its own directors, officers, and employees, each acting within the scope of his employment."). Plaintiff alleges only that Applegate colluded with corporate entities of which she was a member and manager, but as she was acting on behalf of those entities, and "a corporation cannot conspire with itself," id. at 564, 626 S.E.2d at 887, Plaintiff's claim must fail.

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XV. The Court Should Dismiss Plaintiff's Fifteenth Cause of Action for Interference with Contractual Relationship.

Plaintiff's Fifteenth Cause of Action for interference with contractual relationship should also be dismissed pursuant to Rule 12(b)(6) because, as set forth above, no agreement existed between Plaintiff and Joe Applegate, much less between any other Defendant. Even had a contract existed, both Big Blue (as an alleged partnership) and Mrs. Applegate (as alleged partner by successor-in), are insiders to the alleged and thus their conduct cannot support a tortious interference claim. Dutch Fork Dev. Grp. II, LLC v. Sel Props., LLC, 406 S.C. 596, 604, 753 S.E.2d 840, 844 (2012) ("Therefore, it does not protect a party to a contract from actions of the other party."). Moreover, Plaintiff fails to allege that the Trust or Allure Outdoor engaged in any specific wrongful act or that their conduct was not justified, and in fact indicates that Allure Outdoor and Big Blue (to the extent it existed) were in justified competition with Plaintiff. Sea Island Food Grp., LLC v. Yaschik Dev. Co., 433 S.C. 278, 287, 857 S.E.2d 902, 906 (Ct. App. 2021) ("'Interference with a contract is justified when it is motivated by legitimate business purposes.' 'Generally, there can be no finding of intentional interference with . . . contractual relations if there is no evidence to suggest any purpose or motive by the defendant other than the proper pursuit of its own contractual rights with a third party.'").

XVI. The Court Should Dismiss Plaintiff's Sixteenth Cause of Action for Negligent Interference with Contractual Relationship.

Finally, Plaintiff's Sixteenth Cause of Action for negligent interference with contractual relationship should be dismissed as to all Defendants, as South Carolina has not recognized such a claim. Edens & Avant Investment Properties, Inc. v. Amerada Hess Corp., 318 S.C. 134, 137, 456 S.E.2d 406, 407 (Ct. App. 1995) (declining to recognize, "like the majority of states . . . a cause of action for the recovery of pure pecuniary harm resulting from a tortfeasor's negligent interference with the plaintiff's contractual relationships").

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CONCLUSION

For the foregoing reasons, the Court should dismiss Plaintiff's Complaint in its entirety as to the Applegate Defendants.

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Dated: August 28, 2024
Mount Pleasant, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	2023-CP-10-03038
	)	
Jon Kane,	)	
	)	
Plaintiff,	)	**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS DARIEN APPLEGATE, ALLURE OUTDOOR, LLC AND BIG BLUE ALLURE, LLC'S MOTION TO DISMISS**
	)	
vs.	)	
	)	
Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate, Successor in Partnership, Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC, Lamar OCI South Corp., Lamar Advertising,	)	
	)	
Defendants.	)	

Plaintiff Jon Kane, by and through his undersigned attorneys, submits this memorandum in opposition to Defendants Darien Applegate, Allure Outdoor, LLC, and Big Blue Allure, LLC's Motion in Lieu of Answer.

INTRODUCTION AND STATEMENT OF THE FACTS

Plaintiff incorporates the statement of facts set forth in his complaint. For brevity, Jon Kane and Joe Applegate, the husband of Defendant Darien Applegate, were both close friends and business partners prior to Decedent's death. This relationship was and is documented in writings and affidavits, including written documents of Joe Applegate himself, submitted to the Court as exhibits to the complaint. Despite notice and knowledge of this relationship and Plaintiff's ownership right's in the business' personal property, Defendant Darien Applegate et al. has turned a blind eye to notice of the business partnership. Further, following the death of her husband and Plaintiff's business partner Joe Applegate, Defendant Darien Applegate then either continued or formed a new partnership with Plaintiff. Notwithstanding, Darien Applegate has now absconded with the partnership asset and sold it in an attempt to assert full ownership of the same.

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STANDARD OF REVIEW

In deciding a motion to dismiss pursuant to 12(b)(6), SCRCP, the trial court should consider only the allegations set forth on the face of the plaintiff's complaint. *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995). A 12(b)(6) motion should not be granted if "facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case." *Id.*. The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief. *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987).

ARGUMENT I:
STATUTE OF LIMITATIONS ARGUMENT SHOULD NOT BE CONSIDERED; PLAINTIFF HAS NOT ASSERTED CLAIMS AGAINST ESTATE OR DECEDENT; & BAR FOR PLEADING AN ACTION FOR DECLARATORY RELIEF IS VERY LOW

Defendant has raised a statute of limitations defense as a basis for a Rule 12(b)(6) motion which is procedurally improper. The statute of limitations is an affirmative defense. *See* SCRCP 8(c). As such, the defense should have been plead and included in Defendants' answer to the complaint, and not in a motion to dismiss. Had the defense been plead in an answer, *ipso facto*, it would have shown Plaintiff has stated a cause of action. "The statute of limitations is not a defense listed under Rule 12(b) which may be raised by pre-answer motion. It is also not listed under any other subdivision of Rule 12 and, therefore, is not a defense or objection which Rule 12 permits to be raised by pre-answer motion." *Glenn v. Sch. Dist. No. Five of Anderson Cty.*, 294 S.C. 530, 534, 366 S.E.2d 47, 49-50 (Ct. App. 1988).

Further, even if the court were to neglect the procedural infirmity, Defendants' statute of limitations argument fails substantively, and since it has been raised it will be addressed here without waiver of Plaintiff's position that it has no basis for disposition on a motion to dismiss.

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Plaintiff has not asserted any claims against the late Joe Applegate, his estate, or which could be classified as a creditor claim. Instead, Plaintiff in the Complaint seeks relief in the form of a declaratory judgment that a partnership existed with the late Joe Applegate, the purpose of the partnership was the development and operation of a billboard, the lease for the billboard was entered into by the partnership, and the billboard was property of the partnership. Plaintiff's claim of ownership interest in the billboard was perfected prior to the death of Joe Applegate. The damages suffered by Plaintiff occurred after Joe Applegate's death and did not occur until the illicit and clandestine sale of the billboard was completed by Defendant Darien Applegate[1] on or about May 11, 2022. (*See* Complaint Exhibit W).

In addition to pleading fifteen other causes of action, Plaintiff has plead an action for declaratory relief.[2] "To state a cause of action under the Declaratory Judgment Act, a party must demonstrate a justiciable controversy." [internal citation omitted]. "A justiciable controversy exists when a concrete issue is present, there is a definite assertion of legal rights and a positive legal duty which is denied by the adverse party." *Pond Place Partners, Inc. v. Poole*, 351 S.C. 1, 16, 567 S.E.2d 881, 889 (Ct. App. 2002). "A suit for declaratory judgment may be legal or equitable, and is characterized as such by the nature of the underlying issue outlined in the complaint." *Lowcountry Open land Tr. v. State*, 347 S.C. 96, 101, 552 S.E.2d 778, 781 (Ct. App. 2001).

"A threshold inquiry for any court is a determination of justiciability, i.e., whether the litigation presents an active case or controversy." *Lennon v. S.C. Coastal Council*, 330 S.C. 414, 415, 498 S.E.2d 906, 906 (Ct. App. 1998). "A justiciable controversy is a real and substantial

[1] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants.

[2] "[U]nder Rule 57 of the South Carolina Rules of Civil Procedure, "[t]he existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate." *Ott v. Tindal*, 297 S.C. 395, 397, 377 S.E.2d 303, 304 (1989).

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controversy which is appropriate for judicial determination, as distinguished from a dispute or difference of a contingent, hypothetical or abstract character." *Byrd v. Irmo High Sch.*, 321 S.C. 426, 430-31, 468 S.E.2d 861, 864 (1996). "To state of cause of action under the Declaratory Judgment Act, a party must demonstrate justiciable controversy." *Holden v. Cribb*, 349 S.C. 132, 137, 561 S.E.2d 634, 637 (Ct. App. 2002). "It is well settled that where the complaint seeking a Declaratory Judgment sets forth a justiciable controversy it is not subject to demurrer on the ground that it fails to state a cause of action. Where a concrete issue is present, and there is a definite assertion of legal rights and a positive legal duty with respect thereto, which are denied by the adverse party, there is a justiciable controversy calling for the invocation of declaratory judgment action." *Dantzler v. Callison*, 227 S.C. 317, 321, 88 S.E.2d 64, 66 (1995). Guiding South Carolina statutes pertaining to actions for declaratory relief state:

> **Courts of record may declare rights, status and other legal relations.**
>
> > *Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claims. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect. Such declarations shall have the force and effect of a final judgment or decree.*

S.C. Code Ann. §15-53-20

> **Determination of questions under deed, will, written contract, statute, municipal ordinance, contract or franchise.**
>
> > *Any person interested under deed, will, written contract or other writings constituting a contract or whose rights, status or other legal relations are affected by statute, municipal ordinance, contract or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.*

S.C. Code Ann. §15-53-30

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The South Carolina Supreme Court in discussing actions for declaratory relief has said, "Such actions are especially appropriate where, as here, the meaning of a statute is in question." *Ott v. Tindal*, 297 S.C> 395, 397-98, 377 S.E.2d 303, 305 (1989).

The South Carolina Uniform Partnership Act defines a partnership as, "*an association of two or more person to carry on as co-owners a business for profit."* (S.C. Code Ann. §33-41-210). In addition, South Carolina law is clear that the "*continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership*." S.C. Code §33-41-560. The Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.

As discussed below in Section II of this memorandum, Plaintiff has asserted and believes there is overwhelming evidence to show the existence of a partnership, not only with the late Joe Applegate, but also with Defendant Darien Applegate. Consequently, to the extent the existence of a partnership is in question, the Court should determine if Jon Kane and Russell Applegate were equal partners in the billboard on Sharp's property, the purpose of the partnership was the development and operation of a billboard, the lease was with Joe Sharp was entered into by the partnership, and the billboard was property of the partnership.

For the foregoing reasons, Defendants motion to dismiss should be denied.

ARGUMENT II:
STATUTE OF LIMITATIONS ARGUMENT SHOULD NOT BE CONSIDERED & A PARTNERSHIP WAS FORMED WITH DARIEN APPLEGATE

As noted above, Defendant has raised a statute of limitations defense as a basis for a Rule 12(b)(6) motion which is procedurally improper. The statute of limitations is an affirmative defense. *See* SCRCP 8(c). As such, the defense should have been plead and included in Defendants'

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answer to the complaint, and not in a motion to dismiss. Had the defense been plead in an answer, *ipso facto*, it would have shown Plaintiff has stated a cause of action. "The statute of limitations is not a defense listed under Rule 12(b) which may be raised by pre-answer motion. It is also not listed under any other subdivision of Rule 12 and, therefore, is not a defense or objection which Rule 12 permits to be raised by pre-answer motion." *Glenn v. Sch. Dist. No. Five of Anderson Cty.*, 294 S.C. 530, 534, 366 S.E.2d 47, 49-50 (Ct. App. 1988). Accordingly, this argument should fail as a matter of law and Defendant's motion should be denied.

Regardless, as noted outlined above in Section I of this memorandum, even if the court were to neglect the procedural infirmity, Defendants' statute of limitations argument fails substantively, and since it has been raised it will be addressed here without waiver of Plaintiff's position that it has no basis for disposition on a motion to dismiss.

The South Carolina Uniform Partnership Act defines a partnership as, "*an association of two or more person to carry on as co-owners a business for profit."* (S.C. Code Ann. §33-41-210). Under the South Carolina Uniform Partnership Act, dissolution of a partnership is, in part, caused by "*the death of any partner.*" (S.C. Code Ann. §33-41-930(4).

As referenced in the affidavits included as exhibits to the Complaint, a partnership was formed between Joe Applegate and Plaintiff Jon Kane in the Spring of 2015. Under said partnership, the two individuals labored to erect a digital billboard. Joe Applegate was to provide the working capital, while Plaintiff Jon Kane was to provide the sweat equity, leveraging his knowledge of the area, extensive experience, and personal contacts, to obtain the location, permitting, construction, advertisers, and operation of the digital billboard. Joe Applegate frequently entered into these types of partnerships. (*See* Complaint Exhibits B, Q, R).

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Upon his death in 2019, the partnership between Plaintiff Jon Kane and Joe Applegate was either continued by Defendant Darien Applegate, or a new partnership was formed between Plaintiff Jon Kane and Defendant Darien Applegate[3]. Regardless of which of the aforementioned combinations occurred, Plaintiff Jon Kane owned one half of the ownership interest in the digital billboard.

That said, the allegations show Defendant Darien Applegate represented to Plaintiff Jon Kane she was aware of the partnership and his ownership in the digital billboard. In addition, Defendant Darien Applegate also furthered the interests of either the existing partnership or new partnership. Defendant Darien Applegate continually turned to Plaintiff Jon Kane in the partnership same capacity Joe Applegate had previously done for help in the day-to-day operations of the digital billboard. This included the calculation of sales commissions to Mary Adams, the collection of overdue bills/invoices from advertisers like South Carolina Federal Credit Union (SCFU), payments to the landlord where the digital billboard was located, and the like. (*See* Complaint Exhibit X). In other instances, Defendant Darien Applegate relied on Plaintiff Jon Kane to issue checks from the Big Blue Allure LLC checking account to Mary Adams, landlord, and the like. (*See* Complaint Exhibits O & P). South Carolina law is clear that the "*continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership*." S.C. Code §33-41-560. The Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.

[3] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants as noted in the Complaint, Defendant Applegate later transferred the billboard to other entities and changed the name of said entities.

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Defendant Darien Applegate also worked with her partner Plaintiff Jon Kane on larger issues like the value of the digital billboard and the addition of a second face to the billboard, facts which Plaintiff contends substantiates the contractual relationship with Defendant Darien Applegate as either a successor to the partnership or a partner in the partnership (*See* Complaint Exhibit T).

Unbeknownst to Plaintiff Jon Kane and during this same period of time, Defendant Darien Applegate was covertly taking steps to breach the partnership and abscond with the property. On or about May 11, 2022, Defendant Darien Applegate irreparably breached the partnership by selling the digital billboard to Defendant Lamar Advertising. (*See* Complaint Exhibit W). It was on this date Plaintiff's cause of action accrued, as, prior to this date, Defendant Applegate, acted as a fiduciary for the partnership and her duties as a partner, and avoided damaging Plaintiff.

Given the evidence of a partnership, whether continued or new, between Plaintiff and Defendant contained within the Complaint, coupled with the fact Plaintiff was not damaged until completion of the unauthorized sale of partnership assets by Defendant Darien Applegate on May 11, 2022, Defendant's motion should be denied as Plaintiff's Complaint is timely and not barred by the statute of limitations.

ARGUMENT III:
THIS COURT HAS SUBJECT MATTER JURISDICTION

In response to Defendant's arguments, Plaintiff would point to paragraph 5 of the pleadings, wherein, Plaintiff asserts, *"Defendant Big Blue Allure, LLC ("Big Blue") is a South Carolina Limited Liability Company doing business under the laws of the State of South Carolina.*" Plaintiff would point to Exhibit O, wherein Defendant Applegate acknowledges in her texts with Plaintiff the existence of "Big Blue," its checking account, its revenue, and outstanding invoices. (*See* Complaint Exhibit O). In addition, emails and other correspondence between Joe Applegate,

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Jon Kane, and Curtis Applegate point towards the existence of Big Blue Allure LLC. (*See* Complaint Exhibits F & AA).

Whether Big Blue Allure LLC was a domestic limited liability company or a partnership, subject matter jurisdiction is proper under South Carolina Code Ann. §15-7-30 in the court where defendant resides or, in the case of limited liability companies and partnerships, where its principal place of business within this State is located or the location at which the majority of corporate activity takes place. In this case, the digital billboard and the only asset known at this time attributable to Big Blue Allure LLC was located at 2386 Highway 41, Mount Pleasant, Charleston County, South Carolina 29466. Further, Defendant Applegate was and is, upon information and a belief, a resident of Charleston County. As a result, this Court has subject matter jurisdiction and Defendant's motion should be denied.

ARGUMENT IV:
COMPLAINT SHOWS THE EXISTENCE OF A PARTNERSHIP

The South Carolina Uniform Partnership Act defines a partnership as, "*an association of two or more person to carry on as co-owners a business for profit."* (S.C. Code Ann. §33-41-210). In addition, South Carolina law is clear that the "*continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership*." S.C. Code §33-41-560. The Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.

Defendant's Motion appears to ignore the pleadings and the laws of South Carolina. Instead, Defendant wishes to assert its own language, that a meeting of the minds is somehow required element to show a partnership. Not only is a meeting of the minds not required to prove

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the existence of a partnership, a plaintiff is not required to plead more than the facts sufficient to prove a prima facie case in order to sustain its complaint and survive a 12(b)(6) motion to dismiss.

The Complaint is clear, not only did Defendant Darien Applegate represent to Plaintiff Jon Kane she was aware of the partnership and his ownership in the digital billboard, but she also furthered the interests of the new partnership. Defendant Darien Applegate continually turned to her partner Plaintiff Jon Kane for help in the day-to-day operations of the digital billboard. This included the calculation of sales commissions to Mary Adams, the collection of overdue bills/invoices from advertisers like South Carolina Federal Credit Union (SCFU), and payments to the landlord where the digital billboard was located. (*See* Complaint Exhibit X). In other instances, Defendant Darien Applegate relied on Plaintiff Jon Kane to issue checks from the Big Blue Allure LLC checking account to Mary Adams and landlord. (*See* Complaint Exhibits O & P).

Defendant Darien Applegate also worked with her partner Plaintiff Jon Kane on larger issues like the value of the digital billboard, the addition of a second face to the billboard, and assessing the value of the billboard. (*See* Complaint Exhibit T).

ARGUMENT V:
PLAINTIFF DOES ASSERT THE EXISTENCE OF A CONTRACT & PARTNERSHIP; PLAINTIFF'S COMPLAINT SATISFIES THE REQUIRED ELEMENTS TO SUSTAIN CAUSES OF ACTION FOR BREACH OF CONTRACT AND BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT

Plaintiff would direct Defendant to the Complaint and captions contained therein. South Carolina Courts require a plaintiff plead a prima facie case to support its causes of action. Once a plaintiff has alleged facts sufficient to satisfy the elements of a cause of action, and when said facts are viewed in a light most favorable to plaintiff and with ever doubt resolved in his behalf, plaintiff has met its burden. *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987).

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To sustain an action for breach of contract, a plaintiff must plead fact sufficient to show the existence of a binding contract entered into by the parties, the breach or unjustifiable failure to perform the contract, and damage suffered by plaintiff as a direct and proximate result of the breach. *Fuller v. Eastern Fire & Casualty Insurance Co.*, 240 S.C. 75, 124 S.E.2d 602, 610 (1962). Similarly, to sustain an action for breach of contract a plaintiff must plead facts sufficient to show a breach of contract, fraudulent intent relating to the breach, and a fraudulent act accompanying the breach. *Harper v. Ethridge*, 290 S.C. 112, 348 S.E.2d 374, 378 (1986).

In his Complaint, Plaintiff has alleged facts sufficient to show a partnership was in place between not only Plaintiff and Joe Applegate (*See* Complaint at Paragraphs 72, 85-89), but also between Plaintiff and Defendant Darien Applegate. (*See* Complaint at Paragraphs 54-61, 63-69). Plaintiff has alleged facts sufficient to show the circumstances surrounding the breach, specifically the dishonest design and devious scheme of Defendant Darien Applegate to carry on with Plaintiff as a partner, while systematically taking the steps necessary to dispose of partnership property and deprive Plaintiff of his ownership rights. (*See* Complaint at Paragraphs 60-76, 90-95).

Having sufficiently plead facts necessary satisfy the required elements to sustain a claim of breach of contract and breach of contract with fraudulent intent, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case. Therefore, Defendant's motion should be denied.

ARGUMENT VI:
A PARTNERSHIP WAS FORMED;
DEFENDANTS BREACHED THEIR FIDUCIARY DUTY &
ENGAGED IN CONSTRUCTIVE FRAUD

Plaintiff would direct Defendant to the Complaint, allegations, and captions contained therein. South Carolina Courts require a plaintiff plead a prima facie case to support its causes of action. Once a plaintiff has alleged facts sufficient to satisfy the elements of a cause of action, and

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when said facts are viewed in a light most favorable to plaintiff and with ever doubt resolved in his behalf, plaintiff has met its burden. *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987).

South Carolina law is clear, a partner in a partnership is accountable as a fiduciary. S.C. Code §33-41-540. In addition, South Carolina court's have continuously held a fiduciary duty exists when "…one reposes special confidence in another so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of one reposing the confidence." *SSI Medical Services Inc., v. Cox*, 301 S.C. 493, 392 S.E.2d 789, 794 (1990)

Plaintiff has sufficiently alleged facts to show upon his death in 2019, the partnership between Plaintiff Jon Kane and Joe Applegate was either continued by Defendant Darien Applegate, or a new partnership was formed between Plaintiff Jon Kane and Defendant Darien Applegate[4]. Regardless of which combination occurred, Plaintiff Jon Kane was a partner with Defendant Darien Applegate and he owned one half of the ownership interest in the digital billboard. (*See* Complaint at 54-61, 63-69, 72, 85-89, 111-117).

In order to sustain an action for constructive fraud, a plaintiff must allege facts to satisfy the following elements: (1) a representation, (2) its falsity, (3) the speaker ought to have known of the falsity, (4) materiality, (5) intent that the representation be acted upon, (6) the hearer's ignorance of its falsity, (7) the hearer's reliance on its truth, (8) the hearer's right to rely thereon, and (9) the hearer's consequent and proximate injury. *Woods v. State*, 314 S.C. 501, 431 S.E.2d 260 (Ct. App. 1993).

Plaintiff has alleged facts sufficient to show Defendant Darien Applegate made representations she knew of the partnership and intended to honor it, while at the same time she

[4] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants as noted in the Complaint, Defendant Applegate later transferred the billboard to other entities and changed the name of said entities.

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was systematically taking the steps necessary to dispose of partnership property and deprive Plaintiff of his ownership rights, all while knowing Plaintiff would have no reason to not believe and rely on her representations given their history and her actions to continue the partnership. (*See* Complaint at Paragraphs 60-76, 90-95, 151-169).

Having sufficiently plead facts necessary to satisfy the required elements to sustain a claim of breach of fiduciary duty and constructive, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case. Therefore, Defendant's motion should be denied.

ARGUMENT VII:
PLAINTIFF CONFERRED BENEFITS UPON DEFENDANTS AND IS ENTITLED TO REFLIEF UNDER THEORIES OF UNJUST ENRICHMENT AND QUANTUM MERUIT

Plaintiff would direct Defendant to the Complaint, allegations, and captions contained therein. South Carolina Courts require a plaintiff plead a prima facie case to support its causes of action. Once a plaintiff has alleged facts sufficient to satisfy the elements of a cause of action, and when said facts are viewed in a light most favorable to plaintiff and with ever doubt resolved in his behalf, plaintiff has met its burden. *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987).

Unjust enrichment stems from common law and in order to maintain such an action plaintiff must allege facts sufficient to show there was (1) a benefit conferred upon defendant by plaintiff, (2) the benefit conferred was not gratuitous, and (3) retention of the benefit by defendant. *Myrtle Beach Hosp. v. City of Myrtle Beach*, 341 S.C. 1, 532 S.E.2d 868 (2000).

While similar, an action for quantum meruit is an equitable doctrine allowing for the recovery of unjust enrichment. The term has come to mean a cause of action based on the theory the defendant has received a benefit the retention of which would be unjust in jot paid for. *Wedd v. First Federal Savings & Loan Ass'n of Anderson*, 300 S.C. 507, 388 S.E.2d 823, 827 (Ct. App.

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1989). To sustain an action for quantum meruit, a plaint must show (1) a benefit conferred upon the defendant by the plaintiff, (2) realization of that benefit by the defendant, and (3) retention by the defendant of the benefit under conditions that make it unjust to retain it without paying its value. *Swanson v. Stratos*, 350 S.C. 116, 564 S.E.2d 117 (Ct. App. 2002).

Plaintiff conferred benefits upon Defendants and so as a partner with Defendant Darien Applegate and in furtherance of and to the benefit of their ownership interests in the digital billboard. (*See* Complaint at Paragraphs 57-69, 120-122, 187). Unbeknownst to Plaintiff, Defendant Darien Applegate retained the benefits, then deprived Plaintiff of his ownership rights in the billboard and transferred them onto the other Defendants. (73-76, 123-124,188-189).

Having sufficiently plead facts necessary to satisfy the required elements to sustain a claim of unjust enrichment and quantum meruit, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case. Therefore, Defendant's motion should be denied.

ARGUMENT VIII:
A PARTNERSHIP WAS FORMED AND
PLAINTIFF, AS A PARTNER, IS ENTITLED TO AN ACCOUNTING

Plaintiff has sufficiently alleged facts to show upon his death in 2019, the partnership between Plaintiff Jon Kane and Joe Applegate was either continued by Defendant Darien Applegate, or a new partnership was formed between Plaintiff Jon Kane and Defendant Darien Applegate[5]. Regardless of which combination occurred, Plaintiff Jon Kane was a partner with Defendant Darien Applegate and he owned one half of the ownership interest in the digital billboard. (*See* Complaint at 54-61, 63-69, 72, 85-89, 111-117). As a partner and under the South

[5] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants as noted in the Complaint, Defendant Applegate later transferred the billboard to other entities and changed the name of said entities.

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Carolina Code, Plaintiff has a right to a formal accounting as he was wrongfully excluded from the partnership business and possession of its property by Defendant Darien Applegate. S.C. Code §33-41-550. In addition, South Carolina law is clear that the "*continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership*." S.C. Code §33-41-560. The Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.

Having sufficiently plead facts necessary to show he was a partner, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case to show a partnership existed and under S.C. Code he is entitled to an accounting. Therefore, Defendant's motion should be denied.

ARGUMENT IX:
PLAINTIFF SUFFICIENTLY ALLEGED FACTS TO SUSTAIN A CAUSE OF ACTION FOR FRAUD AND DECEIT

In order to establish a cause of action for fraud and deceit based upon misrepresentation, a plaintiff must allege facts to satisfy the following elements: (1) a representation, (2) its falsity, (3) its materiality, (4) either knowledge of its falsity or a reckless disregard of its truth or falsity, (5) intent that the representation be acted upon, (6) the hearer's ignorance of its falsity, (7) the hearer's reliance of its truth, (8) the hearer's right to rely thereon; and (9) the hearer's consequent and proximate injury. *Kahn Construction Co. v. South Carolina National Bank of Charleston*, 275 S.C. 381, 384, 271 S.E.2d 414 (198). Once a plaintiff has alleged facts sufficient to satisfy the elements of a cause of action, and when said facts are viewed in a light most favorable to plaintiff and with ever doubt resolved in his behalf, plaintiff has met its burden. Toussaint v. Ham, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987).

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Defendant's motion to dismiss claims Plaintiff failed to allege with particularly any material misrepresentation or omission upon which he reasonably relied to his detriment. Plaintiff would direct Defendant and the Court to the Complaint, allegations, and captions contained therein. Specifically, Plaintiff would point to paragraphs 54-55, 70-71, and 131 – 135 of his complaint.

Having sufficiently plead facts necessary to satisfy the required elements to sustain a fraud and misrepresentation, including the representations and material nature of said representations, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case. Therefore, Defendant's motion should be denied.

ARGUMENT X:
A PARTNERSHIP WAS FORMED AND PLAINTIFF IS ENTITLED TO A CONSTRUCTIVE TRUST DUE TO DEFENDANTS' FRAUDULENT ACTS

Plaintiff has sufficiently alleged facts to show upon his death in 2019, the partnership between Plaintiff Jon Kane and Joe Applegate was either continued by Defendant Darien Applegate, or a new partnership was formed between Plaintiff Jon Kane and Defendant Darien Applegate[6]. Regardless of which combination occurred, Plaintiff Jon Kane was a partner with Defendant Darien Applegate and he owned one half of the ownership interest in the digital billboard. (*See* Complaint at 54-61, 63-69, 72, 85-89, 111-117).

South Carolina law is clear that the "*continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership*." S.C. Code §33-

[6] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants as noted in the Complaint, Defendant Applegate later transferred the billboard to other entities and changed the name of said entities.

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41-560. The Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.

South Carolina law is equally clear that a partner in a partnership is accountable as a fiduciary. S.C. Code §33-41-540. In addition, South Carolina courts have continuously held a fiduciary duty exists when "…one reposes special confidence in another so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of one reposing the confidence." *SSI Medical Services Inc., v. Cox*, 301 S.C. 493, 392 S.E.2d 789, 794 (1990)

In addition, Plaintiff has plead facts sufficient to show Defendant Darien Applegate made representations she knew of the partnership and intended to honor it, while at the same time she was systematically taking the steps necessary to dispose of partnership property and deprive Plaintiff of his ownership rights, all while knowing Plaintiff would have no reason to not believe and rely on her representations given their history and her actions to continue the partnership. (*See* Complaint at Paragraphs 60-76, 90-95, 151-169).

Plaintiff would direct Defendant to the Complaint, allegations, and captions contained therein. South Carolina Courts require a plaintiff plead a prima facie case to support its causes of action. Once a plaintiff has alleged facts sufficient to satisfy the elements of a cause of action, and when said facts are viewed in a light most favorable to plaintiff and with ever doubt resolved in his behalf, plaintiff has met its burden. *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987). Having sufficiently plead facts to show the existence of a partnership, fraudulent conduct on the part of Defendants, and the damages caused by Defendants' actions, Plaintiff is entitled relief sought in its Ninth Cause of Action. Therefore, Defendants' motion should be denied.

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ARGUMENT XI:
DEFENDANTS VIOLATED SCUPTA

Defendant is incorrect in its assertion that SCUPTA does not apply to single market participant, i.e. individuals in a contract. The South Carolina Unfair Trade Practices Act (SCUPTA) provides that unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are declared unlawful. S.C. Code § 39-5-10 et seq. SCUPTA allows any person who suffers any ascertainable loss of money or property, real or person, as a result of the use or employment by another person of an unfair or deceptive method, act or practice declared unlawful by SCUPTA may bring an action individually, but not in a representative capacity to recover actual damages. S.C. Code § 39-5-140(a) (Person includes a natural person, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entity).

Courts have held SCUPTA "sets forth a broad definition of "trade and commerce" to include the "sale or distribution" of any "thing of value" directly or indirectly affecting South Carolina's citizens. In *Burbach*, the Court held that leases, while created by contract, grant to the tenant the right to use and enjoy property. They clearly are a "thing of value," even under the strictest reading of the statute's plain language." *Burbach v. Investors Management Corp. Intern.*, 484 S.E.2d 119, 326 S.C. 492 (S.C. App. 1996). In addition, the court in Burbach held SCUPTA does apply to the breach of a lease, regardless of the fact a lease is a private contract. The *Burbach* court also held, "unfair or deceptive acts or practices in the conduct of trade or commerce have an impact upon the public interest if the acts or practices have the potential for repetition." *Id*. quoting *Noack Enterprises, Inc. v. Country Corner Interiors of Hilton Head Island, Inc.*, 290 S.C. 475, 480, 351 S.E.2d 347, 350-51 (Ct.App. 1986), cert. dismissed, 294 S.C. 235, 363 S.E.2d 688 (1987).

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To sustain an action for Violation of the South Carolina Unfair Trade Practice Act, a plaintiff needs to allege facts sufficient to show (1) a violation of the Act, (2) proximate cause, and (3) damages. *Harris v. Option One Mortg. Corp.*, 261 F.R.D. 98 (D.S.C. 2009). Plaintiff would direct Defendants to the allegations and captions contained in the Complaint. Specifically, Plaintiff would direct Defendants to paragraphs 13, 15-51, 54-76, and 180-185.

Having sufficiently plead facts necessary to satisfy the required elements required to sustain an action for Violation of the South Carolina Unfair Trade Practices Act, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case. Therefore, Defendant's motion should be denied.

ARGUMENT XII
PLAINTIFF WAS A PARTNER AND DEFENDANTS DENIED PLAINTIFF OF HIS OWNERSHIP INTEREST IN THE PARTNERSHIP PROPERTY

To recover in an action for conversion, a plaintiff must show (1) An interest by the plaintiff in the thing converted, (2) the defendant converted the property to his or her own use, and (3) the use was without plaintiff's permission. *Crane v. Citicorp Nat'l Services, Inc.*, 313 S.C. 70, 437 S.E.2d 50 (1993).

Plaintiff has sufficiently alleged facts to show upon his death in 2019, the partnership between Plaintiff Jon Kane and Joe Applegate was either continued by Defendant Darien Applegate, or a new partnership was formed between Plaintiff Jon Kane and Defendant Darien Applegate[7]. Regardless of which combination occurred, Plaintiff Jon Kane was a partner with Defendant Darien Applegate, and he owned one half of the ownership interest in the digital billboard. (*See* Complaint at 54-61, 63-69, 72, 85-89, 111-117, 192-196).

[7] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants as noted in the Complaint, Defendant Applegate later transferred the billboard to other entities and changed the name of said entities.

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South Carolina law is clear that the "*continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership*." S.C. Code §33-41-560.

In addition, Plaintiff has sufficiently plead facts to show Defendant Darien Applegate deprived Plaintiff of his ownership interest and converted it to her own use and benefit. (*See* Complaint at 60-76, 90-95, 197-200). The Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.

Plaintiff has plead facts sufficient and included exhibits in his Complaint to show the unauthorized use and disposal of the digital billboard via a sale to Defendants Lamar resulted in Defendant Darien Applegate and the other Defendants enjoying a large windfall of ill-gotten gains. (*See* Complaint at 73-76, 198-199, 205-207, 211, Exhibits U, V, Z, and W).

Having sufficiently plead facts necessary to satisfy the required elements required to sustain an action for conversion, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case. Therefore, Defendant's motion should be denied.

ARGUMENT XIII
A PARTNERSHIP WAS FORMED AND THEN WRONGFULLY DISSOLVED BY DEFENDANTS

Plaintiff has sufficiently alleged facts to show upon his death in 2019, the partnership between Plaintiff Jon Kane and Joe Applegate was either continued by Defendant Darien Applegate, or a new partnership was formed between Plaintiff Jon Kane and Defendant Darien

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Applegate[8]. Regardless of which combination occurred, Plaintiff Jon Kane was a partner with Defendant Darien Applegate, and he owned one half of the ownership interest in the digital billboard. (*See* Complaint at 54-61, 63-69, 72, 85-89, 111-117, 192-196, and Exhibit F). In addition, South Carolina law is clear that the "*continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership*." S.C. Code §33-41-560. The Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.

The facts plead by Plaintiff are clear. Defendant Darien Applegate wrongfully dissolved the partnership when she acted in contravention of the partnership agreement and disposed of the digital billboard, making it impossible for the partnership to continue, and without the knowledge or consent of Plaintiff. In addition, Plaintiff has plead facts sufficient to show the surplus, profits, and other monies related to the digital billboard flowed to Defendant Darien Applegate and, upon information and belief, the other Defendants[9] named in this action. (*See* Complaint paragraphs 73-76, and Exhibits U, V, Z, and W.)

Having sufficiently plead facts necessary support a claim of wrongful dissolution under the South Carolina Uniform Partnership Act, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case. Therefore, Defendant's motion should be denied.

[8] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants as noted in the Complaint, Defendant Applegate later transferred the billboard to other entities and changed the name of said entities.
[9] Discovery, inclusive of an accounting, will show the flow of money from the transactions related to the merger included in Plaintiff's Complaint as Exhibit W.

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ARGUMENT XIV
DEFENDANTS ENGAGED IN A CONSPIRACY

To support an action for civil conspiracy, a plaintiff must plead facts sufficient to show (1) a combination of two or more persons, (2) for the purpose of injuring the plaintiff, and (3) which causes damages. *LaMotte v. Punchline of Columbia, Inc.*, 296 S.C. 66, 370 S.E.2d 811 (1988). Once a plaintiff has alleged facts sufficient to satisfy the elements of a cause of action, and when said facts are viewed in a light most favorable to plaintiff and with ever doubt resolved in his behalf, plaintiff has met its burden. Toussaint v. Ham, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987).

In this case, Plaintiff alleged Defendant Darien Applegate, an individual and Defendants Big Blue Allure, LLC, Allure Outdoor, LLC, and Allure Advertising, LLC, as entities, colluded for the purpose of executing a transfer of title to personal property lawfully owned by Plaintiff and to the detriment of Plaintiff causing his to suffer special damages. (*See* Complaint at paragraph 220-222).

Defendant incorrectly alleges Plaintiff's claim is barred by the intracorporate conspiracy because it does not identify two persons in combination. However, this assumption is incorrect. In *Moore v Williamsburg Regional Hospital,* the plaintiff's claim failed because civil conspiracy must involve two or more legal entities and defendants were one legal entity when engaging in peer review. 560 F.3d 166 (4th Cir. 2009). By contrast, Plaintiff's Complaint alleges Darien Applegate, in her individual capacity, the Darrien E. Applegate Trust, Darien Applegate as a Partner, Big Blue Allure LLC, Allure Outdoor LLC and Allure Advertising LLC, all acted together or in some combination of those entities to conspire to deprive Plaintiff of his ownership rights.

As in this Case, South Carolina courts have held where a plaintiff alleges that officers, directors, employees or agents of a corporation or entity acted in furtherance of their personal interests and not the interests of the corporation or entity, or they have acted outside the scope of

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their authority, the court may recognize the personal stake exception to the intracorporate conspiracy doctrine. *Lee v. Chesterfield Gen. Hospital, Inc.*, 344 S.E. 2d 379 (S.C. Ct. App. 1986); *Hackworth v. Greywood at Hammett, LLC*, 682 S.E. 2d 871 (S.C. Ct. App. 2009).

Having sufficiently plead facts necessary to satisfy the required elements to sustain an action for civil conspiracy, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case. Therefore, Defendant's motion should be denied.

ARGUMENT XV
DEFENDANTS INTERFERRED WITH THE PARTNERSHIP AND CONTRACTUAL AGREEMENT

To support an action for interference with a contractual relationship, a plaintiff must plead facts sufficient to show (1) a contract, (2) knowledge of the contract by the tortfeasor, (3) intentional procurement by the tortfeasor of the contract's breach, (4) absence of justification, and (5) damages. *DeBerry v. McCain*, 275 S.C. 569, 274 S.E.2d (1981).

Plaintiff has sufficiently alleged facts to show upon his death in 2019, the partnership between Plaintiff Jon Kane and Joe Applegate was either continued by Defendant Darien Applegate, or a new partnership was formed between Plaintiff Jon Kane and Defendant Darien Applegate[10]. South Carolina law is clear that the "*continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership*." S.C. Code §33-41-560. Regardless of which combination occurred, Plaintiff Jon Kane was a partner with Defendant Darien Applegate, and he owned one half of the ownership interest in the digital billboard. (*See* Complaint at 54-61, 63-69, 72, 85-89, 111-117, 192-196, and Exhibit F).

[10] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants as noted in the Complaint, Defendant Applegate later transferred the billboard to other entities and changed the name of said entities.

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Plaintiff has plead facts sufficient to show a prima facie case that Defendant Darien Applegate had knowledge of the partnership and contract between Plaintiff and Joe Applegate. (*See* Complaint at paragraphs 54-56). Plaintiff has plead facts sufficient to show that despite her knowledge of the contract, Defendant Darien Applegate[11] then transferred ownership of the digital billboard to the other named Defendants in order to deprive Plaintiff of his ownership interest without justification. (*See* Complaint at paragraphs 70-71, 73-76, 225, 227).

As a result, Plaintiff suffered damages in the form of pecuniary loss (*See* Complaint at paragraph 226) as the Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.). The Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.

Having sufficiently plead facts necessary to satisfy the required elements to sustain an action for interference with a contractual relationship, and when viewed in alight most favorable to Plaintiff, it is clear Plaintiff has met its burden to plead a prima facie case. Therefore, Defendant's motion should be denied.

ARGUMENT XVI
PLAINTIFF'S FIFTEENTH CAUSE OF ACTION CONTAINED A SCRIVENER'S ERROR

Plaintiff would show his Fifteenth Cause of Action contains a scrivener's error and should instead read Tortious Interreference with a Contract. Tortious Interference with a Contract is recognized in South Carolina. *Kinard v. Crosby*, 315 S.C. 237, 433 S.E.2d 835 (1993). To sustain an action for tortious interference with a contract, a plaintiff must show (1) the existence of a contract, (2) knowledge of the contract, (3) intentional procurement of its breach, (4) the absence

[11] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants as noted in the Complaint

of justification, and (5) resulting damages or prejudice. *Broach v. Carter*, 399 S.C. 434, S.E.2d (Ct. App. 2012). Plaintiff would show this defect can be remedied by allowing Plaintiff to amend his Complaint. To the extent this Court takes issue with the scriveners error, Plaintiff moves at this time to amend and conform the pleadings to the evidence in accordance with SCRCP 15.

RESPECTFULLY SUBMITTED,

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August 30, 2024
Mt. Pleasant, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	2023-CP-10-03038
	)	
Jon Kane,	)	
	)	
Plaintiff,	)	**PLAINTIFF JON KANE'S MOTION TO RECONSIDER ORDER OF DISMISSAL (S.C.R.C.P. 59(e))**
	)	
vs.	)	
	)	
Darien Applegate, Darien E. Applegate Trust, Darien E. Applegate, Successor in Partnership, Big Blue Allure, LLC, Allure Outdoor, LLC, Allure Advertising, LLC, Lamar OCI South Corp., Lamar Advertising,	)	
	)	
Defendants.	)	

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, Plaintiff, Jon Kane, respectfully moves the Court to alter or amend the Order filed by the Court on October 1, 2024, regarding the Defendant's Motion to Dismiss with Prejudice. This motion was heard before the Honorable Jessica A. Salvini on September 4, 2024. Plaintiff respectfully moves the Court for an Order reconsidering and altering or amending its Order.

Grounds for Motion

A party may file a motion to reconsider and alter or amend an order when it believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. See Elam v. S.C. Dep't of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). In addition, a party may file a motion with the Court to amend its findings, or make additional findings and to amend the judgment accordingly pursuant to Rule 52, SCRCP.

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Argument

When taken in the light most favorable to the non-moving party, the allegations together with the exhibits in the Complaint clearly shows a partnership existed between Plaintiff and Defendant Darien Applegate[1] and Plaintiff's claims do not rise and fall on the death of Joe Applegate.

Dissolution Does Not End a Partnership

Section 33-41-920 of the South Carolina Uniform Partnership Act is clear:

> **SECTION 33-41-920.** Partnership is not terminated by dissolution.
>
> On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.
>
> HISTORY: 1962 Code Section 52-62; 1952 Code Section 52-62; 1950 (46) 1841.

Section 33-41-560(2) of the South Carolina Uniform Partnership Act is equally clear:

> (2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

As made clear throughout the Complaint and Plaintiff's Memorandum in Opposition to Defendant's Motion to Dismiss, not only did the death of Joe Applegate not terminate the partnership, but the partnership was either continued by Defendant Darien Applegate or a new partnership was formed between Plaintiff and Defendant Darien Applegate.

In his Complaint, Plaintiff has alleged facts sufficient to show a partnership was in place between not only Plaintiff and Joe Applegate (*See* Complaint at Paragraphs 72, 85-89), but also between Plaintiff and Defendant Darien Applegate. (*See* Complaint at Paragraphs 54-61, 63-69). Plaintiff has alleged facts sufficient to show the circumstances surrounding the breach, specifically

[1] Exhibits and Allegations in the Complaint make clear Defendant Darien Applegate was acting not only in an individual capacity, but also to the benefit of or on behalf of Defendants Darien E. Applegate Trust, Darien E. Applegate, Successor in Partnership, Big Blue Allure, LLC, Allure Outdoor, LLC, and Allure Advertising, LLC. As noted in his Memorandum in Opposition to Defendant's Motion to Dismiss, timely filed on August 30, 2024, without further discovery it is impossible to determine which of the Defendant entities Defendant Darien Applegate was acting on behalf of.

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the dishonest design and devious scheme of Defendant Darien Applegate to carry on with Plaintiff as a partner, while systematically taking the steps necessary to dispose of partnership property and deprive Plaintiff of his ownership rights. (*See* Complaint at Paragraphs 60-76, 90-95).

A Partnership Existed Between Plaintiff and Defendant Darien Applegate

The South Carolina Uniform Partnership Act is clear:

> **SECTION 33-41-210.**"Partnership" defined; application to limited partnerships.
>
> A "partnership" is an association of two or more persons to carry on as co-owners a business for profit and includes, for all purposes of the laws of this State, a registered limited liability partnership. However, any association formed under any other statute of this State or any statute adopted by authority, other than the authority of this State, is not a partnership under this chapter unless the association would have been a partnership in this State before the adoption of this chapter on February 13, 1950.
>
> This chapter shall apply to limited partnerships except insofar as the statutes relating to the partnerships are inconsistent with the provisions of this chapter.
>
> HISTORY: 1962 Code Section 52-11; 1952 Code Section 52-11; 1950 (46) 1841; 1994 Act No. 448, Section 4.

The Complaint is clear and replete with exhibits and allegations which demonstrate Plaintiff and Defendant Darien Applegate were partners. Not only did Defendant Darien Applegate represent to she was aware of the partnership between Plaintiff and her deceased husband Joe Applegate, she furthered the interest of the partnership.

Defendant Darien Applegate, participated in the same manner with Plaintiff in the same manner as her late husband Joe Applegate, continually turned to Plaintiff as the partner in the day-to-day operations of the digital billboard, including the calculation of sales commissions to Mary Adams, the collection of overdue bills/invoices from advertisers like South Carolina Federal Credit Union (SCFU), payments to the landlord where the digital billboard was located, and the like. (*See* Complaint Exhibit X). Defendant Darien Applegate also relied on Plaintiff Jon Kane, the partner, to issue checks from the Big Blue Allure LLC checking account to Mary Adams, landlord, and the like. (*See* Complaint Exhibits O & P).

Plaintiff's Ownership Interest Vested Prior to Joe Applegate's Death

Section 33-41-710 of the South Carolina Uniform Partnership Act is clear:

SECTION 33-41-710. Extent of property rights.

The property rights of a partner are:

(1) His rights in specific partnership property;

(2) His interest in the partnership; and

(3) His right to participate in the management of the partnership.

HISTORY: 1962 Code Section 52-51; 1952 Code Section 52-51; 1950 (46) 1841.

Section 33-41-720 of the South Carolina Uniform Partnership Act is equally as clear:

(d) on the death of a partner his right in specific partnership property vests in the surviving partner or partners, except when the deceased was the last surviving partner in which case his right in such property vests in his legal representative; but such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose and

Section 33-41-730 of the The South Carolina Uniform Partnership Act is equally as clear:

SECTION 33-41-730. Nature of partner's interest in partnership.

A partner's interest in the partnership is his share of the profits and surplus and is personal property.

HISTORY: 1962 Code Section 52-53; 1952 Code Section 52-53; 1950 (46) 1841.

Plaintiff's ownership rights in the partnership's personal property, the billboard, vested upon the creation of the partnership and were not extinguished by the death of Joe Applegate. Said differently, there was no need or time limit for Plaintiff to assert a claim against the estate, as his ownership interest was already vested. In his Complaint, Plaintiff alleged facts sufficient to show a partnership was in place between Plaintiff and Joe Applegate (*See* Complaint at Paragraphs 72, 85-89, Exhibits B, Q, R).

Further, the Complaint clearly alleges and shows a partnership was formed between Plaintiff and Defendant Darien Applegate. (*See* Complaint at Paragraphs 54-61, 63-69). This included the calculation of sales commissions to Mary Adams, the collection of overdue bills/invoices from advertisers like South Carolina Federal Credit Union (SCFU), payments to the landlord where the digital billboard was located, and the like. (*See* Complaint Exhibit X). In other instances, Defendant Darien Applegate worked with and relied on Plaintiff Jon Kane, as her

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partner, to issue checks from the Big Blue Allure LLC checking account to Mary Adams, landlord, and the like. (*See* Complaint Exhibits O & P). Defendant Darien Applegate also worked with her partner Plaintiff Jon Kane on larger issues like the value of the digital billboard, the addition of a second face to the billboard, and assessing the value of the billboard. (*See* Complaint Exhibit T). To imply otherwise is to suggest Plaintiff's work and access to ownership rights, , both before and after the death of Joe Applegate, was merely voluntary, which is inconsistent with the allegations and exhibits contained in the Complaint.

Plaintiff's Claims Are Not Time Barred by the Statute of Limitations

Joe Applegate is not the tortfeasor. Plaintiff's Complaint contains no allegations against Joe Applegate. Instead, the Complaint sought relief in the form of a declaratory judgment that a partnership existed between Joe Applegate and Plaintiff. The purpose of the partnership was the development and operation of a billboard, the lease for the billboard was entered into by the partnership, and the billboard was property of the partnership. Plaintiff's claim of ownership interest in the billboard was perfected prior to the death of Joe Applegate. The damages suffered by Plaintiff occurred after Joe Applegate's death and did not occur until the illicit and clandestine sale of the billboard was completed by Defendant Darien Applegate[2] on or about May 11, 2022. (*See* Complaint Exhibit W). Further they were caused largely by Darien Applegate in all capacities that she held.[3]

In addition, the statute of limitations would not begin to run until Plaintiff knew or should have known of the actions taken by Defendant Darien Applegate. The Complaint is clear and replete with exhibits and allegations which demonstrate Plaintiff did not know and had no reason

[2] Without discovery, Plaintiff is unable to determine if Defendant Applegate was acting in her individual capacity or to the benefit of the other named defendants.
[3] As alleged in Complaint, Defendants Lamar OCI South Corp., Lamar Advertising, and possible successors and assigns to Lamar, then took advantage of this situation to abscond with the partnership property.

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to believe Defendant Darien Applegate was acting or would act in contravention to the partnership. Instead, Defendant Darien Applegate represented to Plaintiff she was aware of the partnership and his ownership in the digital billboard. In addition, Defendant Darien Applegate further the interests of partnership by acting in the same manner as her late husband Joe Applegate, continually turning to Plaintiff for help in the day-to-day operations of the digital billboard, including the calculation of sales commissions to Mary Adams, the collection of overdue bills/invoices from advertisers like South Carolina Federal Credit Union (SCFU), payments to the landlord where the digital billboard was located, and the like. (*See* Complaint Exhibit X). In other instances, Defendant Darien Applegate relied on Plaintiff Jon Kane to issue checks from the Big Blue Allure LLC checking account to Mary Adams, landlord, and the like. (*See* Complaint Exhibits O & P). Defendant Darien Applegate also worked with her partner Plaintiff Jon Kane on larger issues like the value of the digital billboard, the addition of a second face to the billboard, and assessing the value of the billboard. (*See* Complaint Exhibit T).

South Carolina law is clear that the "*continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership*." S.C. Code §33-41-560. The Code is also clear that *"a partner's interest in the partnership is his share of the profits and surplus and is personal property*." S.C. Code §33-41-730.

A Partner's Widow Does Not Inherit Rights in Partnership Property

Section 33-41-710 of the South Carolina Uniform Partnership Act is clear:

SECTION 33-41-710. Extent of property rights.

The property rights of a partner are:

(1) His rights in specific partnership property;

(2) His interest in the partnership; and

(3) His right to participate in the management of the partnership.

HISTORY: 1962 Code Section 52-51; 1952 Code Section 52-51; 1950 (46) 1841.

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Section 33-41-720 of the South Carolina Uniform Partnership Act is equally as clear:

> (e) a partner's right in specific partnership property is not subject to dower, curtesy or allowances to widows, heirs or next of kin.

Plaintiff's ownership rights in the partnership's personal property, the billboard, vested upon the creation of the partnership and were not extinguished by the death of Joe Applegate on June 29, 2019. (*See* Complaint Paragraph 52). The Complaint is replete with facts sufficient to show a partnership was in place between Plaintiff and Joe Applegate (*See* Complaint at Paragraphs 72, 85-89, Exhibits B, Q, R).

The South Carolina Uniform Partnership Act is clear, a partner's right in specific partnership property is not subject to curtesy or allowances to widows, heirs, or next of kin. Instead, while a deceased partner's heir or next of kin may have a claim to the profits or surplus, said heir does not have a right to specific partnership property. When the Uniform Partnership Act is applied to this case, it is clear Defendant Darien Applegate, in any of her capacities, had not rights to act as a partner in the partnership and had no rights to dispose of Plaintiff's vested interest in the partnership property. With that being said, if, Defendant Darien Applegate became a successor partner or formed a new partnership with Plaintiff as alleged in the Complaint, then she would have rights to the partnership's property, but subject to the limitations and fiduciary duties imposed by the South Carolina Uniform Partnership Act. This further supports Plaintiff's position Defendant Darien Applegate is the appropriate defendant, that Joe Applegate is not a party to Plaintiff's claims, and further eviscerates Defendants' argument that Plaintiff's claims are time barred by the statute of limitations.

Statute of Limitations Should Not Be Considered for a 12(b)(6) Motion in Lieu of Answer

Defendant has raised a statute of limitations defense as a basis for a Rule 12(b)(6) motion. This was procedurally improper and should not have been the basis of the Court's Order. The

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statute of limitations is an affirmative defense. *See* SCRCP 8(c). As such, the defense should have been plead and included in Defendants' answer to the complaint, and not in a motion to dismiss. Had the defense been plead in an answer, *ipso facto*, it would have shown Plaintiff has stated a cause of action. "The statute of limitations is not a defense listed under Rule 12(b) which may be raised by pre-answer motion. It is also not listed under any other subdivision of Rule 12 and, therefore, is not a defense or objection which Rule 12 permits to be raised by pre-answer motion." *Glenn v. Sch. Dist. No. Five of Anderson Cty.*, 294 S.C. 530, 534, 366 S.E.2d 47, 49-50 (Ct. App. 1988).

Conclusion

For the foregoing grounds, and as may be shown in a memorandum in support as may be submitted to the Court prior to the date of hearing, the pleadings, and filings in this matter, South Carolina case and statutory law, arguments of counsel, the South Carolina Rules of Civil Procedure, and any affidavits or other evidence that may be presented at the hearing, Defendant respectfully requests the Honorable Court grant this Motion to Reconsider and to vacate its Order of Dismissal dated October 1, 2024.

RESPECTFULLY SUBMITTED,

SLOTCHIVER & SLOTCHIVER, L.L.P.

s/Daniel S. Slotchiver

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-10-03038

JON KANE,

Plaintiff,

vs.

DARIEN APPLEGATE, DARIEN E. APPLEGATE TRUST, DARIEN E. APPLEGATE, Successor in Partnership, BIG BLUE ALLURE, LLC, ALLURE OUTDOOR, LLC, ALLURE ADVERTISING, LLC, LAMAR OCI SOUTH CORP., LAMAR ADVERTISING

Defendants.

MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION

Pursuant to the Initial Order Regarding Motion to Reconsider entered by the Court on October 18, 2024, Defendants Darien Applegate ("Mrs. Applegate"), individually and as Trustee of the Darien E. Applegate Trust ("the Trust"), Allure Outdoor, LLC ("Allure Outdoor"), and Big Blue Allure, LLC ("Big Blue"),[1] (collectively, the "Applegate Defendants") respectfully submit this memorandum of law in opposition to Plaintiff's Motion for Reconsideration of the Court's Order of Dismissal entered on October 1, 2024.

INTRODUCTION

This Court previously (and correctly) rejected Plaintiff's attempt to bring claims related to an alleged partnership almost four years after the dissolution of that partnership due to the death a partner. Because all of Plaintiff's claims rise and fall on the existence of that alleged partnership, they are all barred by the three-year statute of limitations that began to run when Joe Applegate,

[1] Mrs. Applegate, Allure Outdoor, and Big Blue do not concede that Big Blue Allure, LLC was ever organized as a limited liability company or other incorporated entity.

Plaintiff's alleged partner, died on June 29, 2019. The Court should deny Plaintiff's motion for reconsideration and affirm its prior dismissal of all of Plaintiff's claims against the Applegate Defendants, with prejudice.

LEGAL ARGUMENT

I. Rule 12(b)(6) Motions Are Proper Pre-Answer.

Under South Carolina law, a motion to dismiss under Rule 12(b)(6), SCRCP, on the grounds of an affirmative defense may be filed and ruled upon prior to the filing of an answer. Spence v. Spence, 368 S.C. 106, 124, 628 S.E.2d 869, 878 (2006) observing that "the general prohibition against pleading an affirmative defense in a motion to dismiss has been relaxed in modern practice," and that the South Carolina "Rules of Civil Procedure . . . allow a party to raise Rule 12(b) defenses in a pre-answer motion"). Specifically, a motion to dismiss on the basis of a statute of limitations can be filed and considered pre-answer. See Flateau v. Harrelson, 355 S.C. 197, 208-209, 584 S.E.2d 413, 419 (Ct. App. 2003) (affirming the circuit court's dismissal under Rule 12(b)(6), SCRCP, because the South Carolina Tort Claims Act's statute of limitations barred the cause of action). As the Court observed, the Applegate Defendants' motion was properly before the Court.

II. Plaintiff's Claims Are Barred by the Statute of Limitations Because They Were Brought More than Three Years from the Dissolution of the Alleged Partnership.

As the Court correctly found, Plaintiff's claims in this action all rise and fall on the existence of an alleged partnership with Joe Applegate. Pursuant to S.C. Code § 33-41-930(4), "dissolution is caused . . . by the death of any partner . . . ." Plaintiff admits that Joe Applegate died on June 29, 2019, Complaint, ¶ 52; accordingly, any alleged partnership automatically dissolved at the same time.

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Plaintiff does not dispute that each of his claims are governed by a three-year statute of limitations – including any claim to windup the partnership affairs or to enforce an accounting against the partnership. S.C. Code §§ 15-3-530(1), -530(2), -530(5), -530(7). Plaintiff instead argues that the three-year statute of limitations was not triggered at Joe Applegate's death, but in May 2022 when the sale of the Mount Pleasant billboard was completed. Pltf.'s Br., p. 5. Plaintiff is wrong:

- Declaratory judgment: The statute of limitations on Plaintiff's claim for a declaration of the existence of a partnership plainly began to run no later than when the alleged partnership was dissolved by Joe Applegate's death.
- Breach of contract/breach of contract with fraudulent intent: The statute of limitations for any breach of an alleged partnership agreement likewise began to run no later than the dissolution of the partnership (and thus the termination of the partnership agreement).
- Breach of fiduciary duty/constructive trust: Fiduciary duties would only arise between partners; therefore the statute of limitations for any alleged breach of those duties necessarily began to run no later than the termination of the partnership and of the fiduciary duties.
- Unjust enrichment/quantum meruit/conversion: Plaintiff's entitlement to any profit or gain or interest in an alleged partnership or partnership property – whether "vested" or otherwise – was founded upon the existence of that partnership; the statute of limitations for any claim arising from the taking of that profit/interest thus began to run upon the termination of the partnership itself. This is reinforced by Plaintiff's own argument that under S.C. Code § 33-41-720(e), Darien Applegate did not acquire any right to specific partnership property by virtue of being Joe

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Applegate's widow; rather, that remained property of the alleged partnership – which terminated upon Joe's death.

- Accounting: The statute of limitations for any claim for an accounting of the partnership clearly began to run no later than the end of the alleged partnership's existence.
- Fraud/constructive fraud/unfair trade practices: The basis for Plaintiff's fraud claim is that she deceived Plaintiff into believing she would continue the alleged partnership; because any alleged partnership was terminated as a matter of law upon Joe Applegate's death, any fraud in connection with that partnership necessarily had to occur prior its dissolution.
- Wrongful dissolution: Because the alleged partnership automatically dissolved upon Joe Applegate's death, the statute of limitations for any claim related to its dissolution began to run at that time.
- Interference with contractual relationship/negligent or tortious interference with contractual relationship: Again, the only contractual relationship purportedly being interfered with was the alleged partnership between Plaintiff and Joe Applegate; as that partnership dissolved upon Joe's death, any claims based on the existence of that partnership agreement began to run at that time.

Further, Plaintiff was on notice prior to June 29, 2019 that Joe Applegate did not believe he and Plaintiff were in a partnership, and therefore of any claims he may have in connection with the alleged partnership and partnership property. Among other things, the January 13, 2016 lease agreement for the Mount Pleasant billboard was in the name of Allure Advertising, LLC, but nowhere identifies any partnership, Big Blue, or Plaintiff. See Complaint, Exhibit Y. Nowhere does Plaintiff allege he was a member of Allure Advertising or that the alleged partnership interest

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ever held an interest in Allure Advertising. A June 15, 2017 valuation of the Mount Pleasant billboard likewise identifies Allure Advertising as the owner, with no mention of a partnership or Plaintiff. See Complaint, Exhibit K. Plaintiff also alleges that under the alleged partnership agreement, he was to get 50% of the profits following reimbursement to Joe Applegate of all of Joe's expenses; yet despite being notified by Joe in April or May of 2019 that his costs had been repaid, Plaintiff does not allege he received any profit share or distributions from the partnership prior to Joe's death on June 29, 2019. Complaint, ¶¶ 51-52.

Despite this, Plaintiff did not commence this action until June 22, 2023, more than three years after the death of Joe Applegate and the dissolution of the alleged partnership. Accordingly, all of his claims are time-barred.

III. The Alleged Partnership Was Not Continued by Darien Applegate.

The Court also correctly held that the statute of limitations could not be avoided based on alleged continuation of the partnership by Joe Applegate's widow, Defendant Darien Applegate, following his death on June 2, 2019.

Plaintiff argues that his claims are not barred by the statute of limitations because he does not assert any claims against Joe Applegate and his damages were incurred around May 11, 2022 when the Mount Pleasant billboard was sold. Plaintiff bases this argument on the provision in S.C. Code § 33-41-560(2) that: "A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership." This section explicitly applies only to partnerships for a fixed term, and the effect of the partners' continued operation of the partnership business beyond that term. There is no allegation in the Complaint that the alleged partnership was for a fixed term. Even if the alleged partnership were for a fixed term, it is physically and legally impossible for "the partners" who "habitually acted" in connection with the

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partnership business to continue that business when one of them dies. In short, there are no statutory exceptions to S.C. Code § 33-41-560(2): upon a partner's death, a partnership always dissolves as a matter of law. As the Court correctly concluded, S.C. Code § 33-41-560(2) simply does not apply to this action.

IV. Plaintiff Does Not Allege a Separate Partnership Between Himself and Darien Applegate.

Plaintiff appears to argue (without basis) that a new and separate partnership existed between himself and Darien Applegate, because she participated in and "furthered the interest of the partnership" Plaintiff had with her deceased husband. Pltf's. Br, p. 3. But each of Plaintiff's allegations is based on Darien Applegate stepping into her husband's shoes and continuing on in an existing partnership with Plaintiff. See, e.g., Complaint, ¶ 55 (Darien Applegate's acknowledgment of "the business deal between the corporate entity of JA"), ¶ 64 ("Darien Applegate was aware of the partnership agreement and intended to honor it."), ¶ 90 (accusing Darien Applegate of being in breach of the agreement between Plaintiff and Joe Applegate "by refusing to honor the partnership agreement").[2] Nowhere in the Complaint does Plaintiff allege that he and Darien Applegate separately entered into a partnership agreement for the ownership and operation of the Mount Pleasant billboard going forward.

Again, the entire basis for Plaintiff's claims against Darien Applegate and the Applegate Defendants is his alleged partnership with Joe Applegate prior to Joe's death. Upon Joe's death, that partnership automatically dissolved as a matter of law.

[2] As noted above, there were no shoes for Darien Applegate to step into, as upon her husband's death any alleged partnership with John Kane dissolved automatically.

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CONCLUSION

For the foregoing reasons, the Court should affirm its prior Order dismissing Plaintiff's claims against the Applegate Defendants in their entirety, with prejudice.

JAMES, McELROY & DIEHL, P.A.

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Dated: November 1, 2024
Mount Pleasant, South Carolina

STATE OF SOUTH CAROLINA)IN THE SOUTH CAROLINA CIRCUIT COURT 9

COUNTY OF CHARLESTON) COURT C.A NO. 2023-CP-10-03038

Jon Kane)

Plaintiff,)

Versus)

Darien Applegate, Darien E.)

Applegate Trust, Darien E. Applegate)

Successor in Partnership, Big Blue)

Allure, LLC Allure Outdoor, LLC,)

Allure Advertising, LLC, Lamar OCI)

South Corp., Lamar Advertising)

Defendant.)

H E A R I N G

DATE: September 4, 2024

LOCATION: South Carolina Circuit Court 9

JUDGE: Jessica A. Salvini

TRANSCRIBED BY: ERIN REILLY

APPEARANCES:

Attorney for Plaintiff.

Daniel S. Slotchiver

Attorney for Defendant.

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PROCEEDINGS

THE COURT: My next matter that's on the docket would be John Kane versus Darien Applegate, Darien Applegate Trust, Big Blue Allure, Allure Outdoor LLC, Allure Advertising LLC, Lamar OCI South Corp, Lamar Advertising. And this is case number 2023CP1003038. Do I have all parties present that y'all need to be able to go forward? Are we waiting for some people to still log on?

MR. SLOTCHIVER: Good morning, Your Honor. This is Dan Slotchiver, I believe that we're all here. I'm seated with Matt Kelly and I believe Jennifer is also on the Zoom call. So, I think we're ready to go.

MS. HOUTI: Good Morning, Your Honor.

THE COURT: Good morning. Let me just make a little note that y'all are present. All right. I am happy to hear from you.

MS. HOUTI: Thank you, Your Honor. This is Jennifer Houti of James, McElroy & Diehl. I represent some of the Defendants, the individual Dairen Applegate as well as her trust and Big Blue Allure LLC and Allure Outdoor LLC and this is our motion. I'll refer to these Defendants collectively as the Applegate Defendants just for ease. This is our motion to dismiss all claims and the complaint against those Defendants. I'm happy to provide the Court with a little bit of factual background based on the allegations in the complaint.

THE COURT: Yes, ma'am.

MS. HOUTI: So, essentially in this complaint, Plaintiff John Kane alleges that he was a longtime friend of Joe Applegate and they met working in the Outdoor Advertising business. That back in about 2015, Mr. Kane alleges that he and Joe Applegate entered into an agreement to form a partnership for the purpose of owning and constructing and operating a billboard.

According to his allegations in the complaint, Plaintiff says he was supposed to identify a location that Joe Applegate would fund the construction and that once the construction was complete and those fees paid by Mr. Applegate were refunded - reimbursed, that Plaintiff and Mr. Applegate would split the proceeds the revenue from this billboard 50-50. There was no written partnership agreement. There was a site identified by Plaintiff according to his complaint, off of Highway 41 in Mount Pleasant. You may have seen it's a big, shiny silver, futuristic looking billboard over there.

The Defendant, Allure Advertising LLC, who is not one of my clients for a reason that I'll get to in a moment, entered into a lease for that particular site. And in 2017, I think it was December of 2017, construction on the billboard was completed. It began to post ads as billboards do. And at approximately April or May of 2019, according to the complaint, the expenses that Joe Applegate had paid towards this billboard

were reimbursed.

Unfortunately, Mr. Applegate then passed away on June 29th, 2019. Darien Applegate, the individual Defendant is his widow. According to the complaint he acknowledges Mr. Applegate's death in 2019, acknowledges that there was probate for approximately one year through some unspecified period in the summer of 2020. And according to Mr. Kane the individual Defendant Darien essentially communicated to him and purportedly made promises that she would honor this partnership agreement.

And then in the end of 2021, however, the billboard and the assets of Allure Advertising LLC were sold to Defendant Lamar and Allure Advertising LLC was actually merged into and became part of Lamar. So, I do not represent Allure Advertising because that is technically no longer in existence and is part of the Lamar Defendant. I would note for the Court and we'll get into this momentarily, that there are no allegations in the complaint that the Darien Applegate Trust or Allure Outdoor LLC ever owned anything that's at issue in the complaint or ever in fact took any action or had any conduct in which they engaged.

So, I think I would best describe this complaint and the 16 claims that Plaintiff raises as sort of that spaghetti at the wall approach, right? Let's just see what sticks. And so, there's a number of complaints, wide variety of them, some

alleged against Defendants that I'm not sure actually as I said a minute ago, owned anything or did anything. But I think the easiest way for the Court to address these claims is to recognize that they are in fact time barred either due to the probate code or to the statute of limitations.

I'll address the probate code first. Under South Carolina code annotated 62-3-803, that sets forth what the Supreme Court has referred to as a non-claims statute, which essentially says that claims arising against the decedent's estate that arise prior to death have to be brought essentially within one year after death.

So, those claims against Mr. Applegate's or his estate have to -- had to be brought by June 29th, 2020, or they are forever barred. Similarly, claims that arose at the time of death or after death have the later of a year after death or eight months after that claim arises. We contend that all of the claims that Plaintiff brings in his complaint arise from this alleged partnership.

Now, we dispute that there ever was an actual partnership agreement, but even if there was, according to Plaintiff those were claims that at the latest arose at the time that Mr. Applegate died on June 29th, 2019. In fact, I think most of those claims actually arose before death, but I'll start with the latest possible time period. The South Carolina Uniform Partnership Act is also clear that the death

of a partner automatically dissolves the partnership. Meaning any claim for an accounting, any claim that he was owed any money in connection with this partnership arose at the time of death at the latest. Now, I think it's in fact true that most of his claims arose before Mr. Applegate's death. According to the complaints allegations and especially the exhibits that are attached to the complaint, the assets that the partnership allegedly owned were this billboard and any revenue coming into it.

However, the complaint attaches to it and references the lease agreement for this site off of Highway 41. And clearly the lease agreement is not in the name of Plaintiff, not in the name of a partnership, is in fact in the name of Allure advertising LLC. Similarly, the construction plans that Plaintiff attaches to the complaint are in the name of Allure Advertising LLC. The very thorough extensive valuation that was done of this particular billboard and other billboards clearly identifies this as a sign that is owned by Allure Advertising LLC.

The Plaintiff does not allege however, that this purported partnership was a member of Allure LLC, had any sort of ownership, interest or claim or stake in Allure Advertising LLC. He does not allege that he individually was a member of Allure Advertising LLC and he does not allege that Allure Advertising LLC was part of his partnership.

In other words, if Mr. Applegate -- I'm sorry, Mr. Kane, the Plaintiff believed at any point between 2015 and 2019 that he was a partner and a partnership that owned this billboard on Fifth -- Highway 41, then his claim that that asset had been taken from him, his claim that there was a breach of this partnership agreement arose way back when the lease was entered into with the wrong company in 2015, way back when the construction of the sign was completed and permitted for Allure Advertising and not the partnership.

And clearly, he knew that it was being valued as an asset of a company in which he never alleges he had any ownership interest. So, I think for that reason, any claims that Mr. Kane has based on some purported partnership arose prior to the death of Mr. Applegate in 2019 or at the latest upon Mr. Applegate's death.

This complaint, however, was not filed until June of 2023. In other words, it's about three years too late. For that reason, the Applegate Defendants believe that the complaint should be dismissed in its entirety as barred by the probate code. I expect that you'll hear Plaintiff's counsel in a moment talk about whether the Court can properly consider the probate code at this stage and a pre answer motion to dismiss. But I think it's important that the Court distinguish the probate code from a typical statute limitations as the Supreme Court of South Carolina has actually referred to this provision

in the probate code as not a statute limitations, but was very careful in a recent 2014 decision to refer to it as a non-claim statute. And to note that non claim statutes unlike statute limitations, simply bar it. You either bring it in the right time or you don't.

Doesn't matter if you actually raise the affirmative defense, doesn't matter when you raise the defense, it is simply barred. It is different. It is -- than a statute limitation and it's not subject to any sort of procedural timing issues that Plaintiff's counsel may raise. I'm happy to move from there into the statute of limitations argument unless Your Honor, you have any questions about the probate code?

THE COURT: No, ma'am. Go ahead.

MS. HOUTI: Okay. Even if the Court were to find that these claims are not barred by the probate code, the typical three-year statute of limitations that applies to the Plaintiff's claims would still serve to time bar all of these claims. Again, I expect that you'll hear from Plaintiff's counsel that the Court's not supposed to consider statute of limitations defenses that are raised before an answer and a pre answer motion to dismiss.

And I think that's just not what happens, I don't think that's actually correct. I think there are numerous court of appeals cases that I identified in which the Court of Appeals regularly affirms the dismissal on 12B6 claims for failure to

state a cause of action because the statute limitations presents a bar.

So, I don't think that poses any sort of obstacle for the Court to consider statute limitations. And again, because all of the Plaintiff's claims ultimately rise and fall on the existence of this partnership we think -- my clients believe that all of these claims arose no later than again, the death of Mr. Applegate.

Again, this complaint was not filed until June of 2023, almost four years to the week -- minus the week of Mr. Applegate's unfortunate passing. I would note for the Court that nothing in the complaint alleges any new agreements were ever entered into between the Plaintiff and any of the Defendants after Mr. Applegate's death. From there I'm happy to address each of the 16 claims individually. Again, there's a lot of different moving parts to this and I don't know if the court has a specific order in which you'd like to consider things.

THE COURT: No, but I am going to -- I have but y'all submitted in writing and I think this was docketed as a maybe a 15- or 30-minute hearing. So, I am going to give you an opportunity to highlight for me, which you want me to take a look at. More likely than not, I'm going to take this under advisement but I want to give Plaintiff's counsel an opportunity to respond and then y'all prepared great

memorandums for me to take a look at. So, highlight what you'd like me to focus in on and then I want to hear from Plaintiff's counsel but keeping in mind that y'all -- if y'all need more time --docket time for these types of motions that you want to argue more as opposed to me just looking at what I have here. Again, I'm a paper girl, I've printed everything. Y'all got to ask for just a little bit more time because I unfortunately, I think I have had 34 cases on today's docket. So, giving you as much time as I can but highlight for me what you want to focus in on but I do have your memorandum in front of me.

MS. HOUTI: Yes, Your Honor. And I think the memorandum sort of succinctly addresses for both sides what the key arguments are. I do think the probate code posing as a time bar and the statute limitations are obviously, what we consider to be our primary basis for moving as those obviously would get rid of all of the claims. The only other thing that I would draw the Court's attention to -- for each of the claims individually is that they are all -- almost all alleged against all of the Applegate Defendants. But again, if the Court carefully reads the complaint, there's no allegations that Mrs. Applegate's trust or that Allure Outdoor LLC own anything, did anything, played any part in anything.

Again, it appears almost to be sort of a post-judgment asset discovery issue if anything else. I'll let Mr. Slotchiver have his turn. Thank you, Your Honor.

THE COURT: Thank you. No, thank you-all. This is -- that's why I want to take this one under advisement. Y'all know I'm going to, because this one's a little, little more -- got some more moving parts but yes sir, happy to hear from you.

MR. SLOTCHIVER: Thank you, Judge. Nice to see you. I'll be brief also because we actually did fact plead the case very specifically to cover everything. And in our brief, we referenced all the attachments that are included but I do want to address a few points and by way of a little bit more background that'll help you when you go back to review it. It's not just an allegation that John Kane had a partnership and that John Kane was friends with the decedent.

I mean, it's just a fact. And it's not even a fact only supported by our witnesses and by the numerous affidavits and by all of the people who did partnerships and were involved in this particular transaction. In fact, the owner of the property where the billboard with is given an affidavit, the different people that did the same type of business with Mr. Applegate gave affidavits.

But there's also the statements themselves replete throughout the record, including emails and commentaries by Mr. Applegate, where he would respond to people and he would refer to people and he told them all, John Kane is my partner in this deal.

In fact, one of the things that was very noticeable was a

reference in the brief of the Defendant asserting that there's no allegation, it can't be a deal because we never referenced where it was that we would take on losses, who would take on the losses. And it made a big deal out of the fact that the law requires, if you're going to be a partnership and you're going to say you're going to split it 50-50, you have to specifically address where the losses are. But again, Your Honor, I think it's Exhibit F -- in Exhibit F, it -- that's the same email. It's in the exhibit and it actually talks about how we're going to divide the losses.

If you look at the exhibits attached to the complaint, what is very clear is that there was a partnership not just by the commentaries of our complaint, but by the admissions of everybody involved in this case. Everybody involved with everything to do with it except for Darien Applegate and Darien Applegate, I would suggest and the evidence will show if we could get to it, because we haven't been able to do any discovery because of this motion that she was not involved in the day-to-day interactions, but her son was and the son even knew about this and everybody agrees they were partners.

So, when I'm faced with the motions that are being -- with the motion being filed today, and the primary argument as stated by counsel being that there's a statute of limitations because all of this arose before his death, that's just not

correct.

This is not a claim against the estate, this is a claim for a declaratory judgment that there was a partnership. So, the time bars with the estate is when you have a claim that you have to bring against the estate for money for something that you're owed by the estate or owed by the decedent. That's not what exists here. This is a partnership, they were partners prior to his death and they were partners up until the time of his death.

And then from that point forward, the evidence shows and it's replete -- in all the documents and it's repleted in our allegations, which at this stage, the Court, I know that we all know is limited to the allegations, did we plead the facts? But the allegations are that Darien Applegate and there's documents supporting this and there will be testimony but Darien Applegate became the successor partner.

And in fact, what you'll see in the documents attached to the complaint is she began to ask my client to do the same very type of work and the same very type of things that he always did when he was working with her husband while he was alive. So, the idea that there's a bar of a statute of limitations because of the probate court, it's not -- most of my work is in probate court. And that's not what that statute is there for. That's for claims against the estate. There were no claims, they were partners. And the fact that one of

the partners dies doesn't mean that the other one has the right to take it. And what she did despite knowing all of this, despite communicating with my client is she then went and sold it and pocketed the money and changed her mind and said, no, you're not a partner anymore.

Despite acting as and conferring with him that she does acknowledge the partnership, which is what we pled in our complaint. In fact, Your Honor, I would suggest that if you review the complaint and you review the attachments and you review our memorandum. We went into abundant detail in order to make sure that we address each and every one of the allegations fully and thoroughly. And I believe and we've also gone through extensive detail to address item by item, how -- what the law is and how it applies to these certain circumstances. And I think we've covered it all. I don't -- so we can -- I'm happy to go through it all step by step but if Your Honor is going to go back and read at all I assure you that it's all well covered. I don't -- so we have the statute of limitations issue that we've addressed and which we think is clear.

We -- and we also think it's barred because of the type of motion we're in front of but even it's not barred. We want Your Honor to understand and to hear that the documents attached to the complaint, because they are part of the issue at this point because we attach them, they become evidence the

Court can consider and I believe they support our causes of actions for the subject matter jurisdiction, for all of the different legal arguments that we have. And this three-year statute of limitations as she suggested is not appropriate, but Exhibit W shows that the damages accrued on or about May of 2022. So, even if it was, they didn't occur until she created the damages or all of the Defendants created the damages but her client -- obviously but her client.

So, I think that I'm very comfortable, Your Honor. Because once you get to the point that you see the dates and you see the timing and you see the statute doesn't apply, which I think is clear then everything else falls into place. Because the majority of her arguments are that there wasn't a partnership and therefore, we're not entitled to an accounting and we're not entitled to these things. But when you look at the documents and you look at the testimony and look at the law and we believe there clearly was a partnership, I believe that her -- that the decedent believed there clearly was a partnership because he represented it to everybody involved. And that's what the evidence is going to show.

Obviously, the thing -- there's things we're going to learn once we get into depositions and it may clean up some of the case, it may change some of our pleadings. But at this point I -- Your Honor I stand by the pleadings; I stand by the memorandums and I don't have to add anything further unless

you'd like me to address anything in particular.

THE COURT: No, sir. Thank you. Ms. Houti you got the burden so last word but briefly please. Thank you.

MS. HOUTI: Yes, Your Honor. The only thing I would add because I don't believe this is addressed in my memorandum is just with respect to Mr. Slotchiver's argument about the damages arising in 2021 when the billboard was sold to Lamar. I think according to Mr. Kane's own allegations, he was supposed to get 50-50, the revenue from this billboard after Mr. Applegate was reimbursed for construction costs.

He alleges Mr. Applegate was reimbursed in full for construction costs in April or May of 2019, a month or two before his death. And yet apparently never alleges anything about receiving any form of revenue or profits at any point prior to 2021. Which is awfully interesting for someone who believed he was part of a partnership. With that, I will leave it to the Court's review of those materials and thank you for your time, Your Honor.

THE COURT: No, thank you-all. I mean, excellent argument, y'all have done a really good job. Let me take a look at it. I'm going to take it under advisement and then I'll let y'all know as soon as I have a decision. Thank you y'all.

MR. SLOTCHIVER: Thank you, Judge.

MS. HOUTI: Thank you, Your Honor.

[END OF HEARING]

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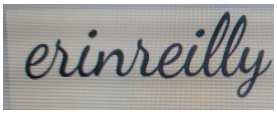
I, ERIN REILY, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9, South Carolina, on the 4th day of, September 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 8th, 2024

ERIN REILLY

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jessica A. Salvini
Circuit Court Judge

Case No. 2023-CP-10-03038

Jon Kane, Plaintiff,

v.

Darien Applegate; Darien E. Applegate Trust;
Darien E. Applegate, Successor in Partnership;
Big Blue Allure, LLC; Allure Outdoor, LLC;
Allure Advertising, LLC; Lamar OCI South Corp.;
and Lamar Advertising, Defendants

Of who Jon Kane is the Appellant,

And

Darien Applegate, individually, and as Trustee of the Darien E. Applegate Trust, and as Successor in Partnership; Big Blue Allure, LLC; and Allure Outdoor, LLC; are the Respondents.

NOTICE OF APPEAL

Jon Kane, by and through his undesigned counsel, hereby appeals (1) the *Order* entered on October 1, 2024 by the Honorable Jessica A. Salvini, dismissing the Complaint against certain Defendants, (2) the *Initial Order Regarding Motion to Reconsider*, entered on October 18, 2024, and (3) the *Final Order Regarding Motion to Reconsider*, entered on November 4, 2024. Counsel for

Appellant received written notice of entry of the *Final Order Regarding Motion to Reconsider* on November 4, 2024. A copy of each of the subject orders on appeal are attached to the Notice of Appeal.

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-10-03038

JON KANE,

Plaintiff,

vs.

DARIEN APPLEGATE, DARIEN E. APPLEGATE TRUST, DARIEN E. APPLEGATE, Successor in Partnership, BIG BLUE ALLURE, LLC, ALLURE OUTDOOR, LLC, ALLURE ADVERTISING, LLC, LAMAR OCI SOUTH CORP., LAMAR ADVERTISING

Defendants.

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ORDER

This matter came before the Court on September 4, 2024 on the Motion to Dismiss in Lieu of Answer filed by Defendants Darien Applegate, individually and as Trustee of the Darien E. Applegate Trust, Big Blue Allure, LLC, and Allure Outdoor, LLC (collectively, the "Applegate Defendants"). Matthew Kelly of the firm Oyster Road Law Firm, LLC and Daniel Slotchiver of the firm Slotchiver & Slotchiver, L.L.P. appeared on behalf of Plaintiff; Jennifer M. Houti of the firm James, McElroy & Diehl, P.A. appeared on behalf of the Applegate Defendants; and Gaillard Dotterer, III of the firm Bybee & Tibbals appeared on behalf of Defendants Allure Advertising, LLC ("AALLC"), Lamar OCI South Corp. (n/k/a Lamar OCI South, LLC) ("Lamar OCI"), and Lamar Advertising (collectively, with AALLC and Lamar OCI, the "Lamar Defendants"). For the reasons set forth below, the Court grants the Applegate Defendants' motion to dismiss the Complaint.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

Plaintiff Jon Kane alleges he was a longtime friend of Joe Applegate, who he met when they worked together for an advertising company. Compl., ¶¶ 11-13. Plaintiff alleges that in 2015, he and

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Joe Applegate agreed to form a partnership for the construction and operation of a billboard on property owned by Joseph Sharp in North Mount Pleasant along Highway 41. Compl., ¶¶ 13-19. According to Plaintiff, the parties agreed that Plaintiff would find a suitable location for a billboard, Joe Applegate would fund the construction of the billboard, and after Joe Applegate "was paid back for the construction outlay" the parties would evenly split all net proceeds generated by the billboard. Compl., ¶ 13. Plaintiff does not allege that the parties entered into any written agreement concerning a partnership. Plaintiff identified the site on Sharp's property, Defendant Allure Advertising, LLC entered a lease for that site, and construction of the billboard began. Compl., ¶¶ 15, 19-20, 35. Construction of the billboard was complete in late 2016/early 2017. Compl., ¶¶ 35.

In April or May of 2019, Joe Applegate let Plaintiff know that his out-of-pocket expenses associated with the construction of the Billboard had been paid off. Compl., ¶ 51. Joe Applegate passed away on June 29, 2019. Compl., ¶ 52. "The Probate period for [Joe Applegate's] estate commenced in late summer of 2019 and lasted for a period of one year." Compl., ¶ 53. Plaintiff did not allege that he made any claim against the estate of Joe Applegate during the Probate period.

On December 30, 2021, Plaintiff alleges that Defendant Darien Applegate "without consulting Plaintiff executed a transfer and assignment of the lease for the land on which the billboard is located to Defendant Lamar OCI South Corporation." Compl., ¶ 75. Defendant Allure Advertising, LLC was merged into Lamar OCI South Corporation effective May 5, 2022. Compl., ¶ 76.

On June 22, 2023, Plaintiff commenced this action by filing the Complaint. Plaintiff asserts sixteen claims against various defendants. On October 18, 2023, the Applegate Defendants timely filed their Motion to Dismiss in Lieu of Answer, seeking dismissal of all of Plaintiff's claims against them pursuant to Rules 12(b)(6) and 12(b)(9) of the South Carolina Rules of Civil Procedure. That motion was heard before the undersigned on September 4, 2024 and taken under advisement.

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DISCUSSION

The Court finds that Plaintiff has failed to state facts sufficient to constitute causes of action against the Applegate Defendants, as Plaintiff's claims are time-barred by the statute of limitations.

As an initial matter, the Court disagrees with Plaintiff's argument that a motion to dismiss on the basis of a statute of limitations is not permitted prior to the filing of an answer. See Flateau v. Harrelson, 355 S.C. 197, 201, 584 S.E.2d 413, 415 (Ct. App. 2003) ("Under Rule 12(b)(6), SCRCP, a defendant may move to dismiss based on a failure to state facts sufficient to constitute a cause of action."); id. at 208-09, 584 S.E.2d at 419 (affirming the circuit court's dismissal under Rule 12(b)(6), SCRCP, because the South Carolina Tort Claims Act's statute of limitations barred the cause of action). The motion is properly before the Court at this time.

Pursuant to S.C. Code Ann. § 33-41-930(4), dissolution of a partnership is caused by the death of any partner. Here, all of Plaintiff's claims are based on and arise out of his allegations of a partnership between himself and Joe Applegate. As Joe Applegate died on June 29, 2019, the partnership dissolved as of that date. Accordingly, all of Plaintiff's claims began to accrue on June 29, 2019.

In this action, Plaintiff asserts claims against the Applegate Defendants and one or more of the Lamar Defendants for: declaratory judgment, breach of contract, breach of contract with fraud, breach of fiduciary duty, unjust enrichment, for an accounting, fraud, constructive fraud, constructive trust, unfair trade practices, quantum meruit, conversion, wrongful dissolution, civil conspiracy, interference with a contractual relationship, and negligent interference with a contractual relationship.[1] Each of these claims is governed by a three-year statute of limitations. S.C. Code Ann.

[1] It does not appear that any cause of action is asserted against Defendant Lamar Advertising, nor is said entity referenced in the allegations of the "Parties" section of the Complaint (Compl., ¶¶ 1-8). Each of Plaintiff's claims is asserted against the now-defunct AALLC, while two claims are alleged against Lamar OCI based on it not discovering the alleged partnership between Plaintiff and Joe Applegate prior to Lamar OCI's purchase of AALLC.

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§§ 15-3-530(1), -530(2), -530(4), -530(7). Although each of Plaintiff's claims began to accrue on June 29, 2019, Plaintiff's Complaint was filed more than three years later on June 22, 2023. Plaintiff's claims are therefore time-barred.

Plaintiff argues that his action was timely filed because Defendant Darien Applegate continued the business of operating the billboard, and the "continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership." S.C. Code § 33-41-560(2). This section does not apply to the partnership as alleged by Plaintiff and does not avoid application of the statute of limitations to bar the claims alleged by Plaintiff.

CONCLUSION

In conclusion, the Court hereby GRANTS Defendants Darien Applegate, individually and as Trustee of the Darien E. Applegate Trust, Big Blue Allure, LLC, and Allure Outdoor, LLC's Motion to Dismiss in Lieu of Answer pursuant to Rule 12(b)(6), SCRCP, and finds that all claims asserted against them by Plaintiff ARE DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

[*Electronic Signature Page Follows*]

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Charleston Common Pleas

Case Caption: Jon Kane VS Darien Applegate , defendant, et al

Case Number: 2023CP1003038

Type: Order/Dismissal

So Ordered

Jessica A. Salvini

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ELECTRONICALLY FILED - 2024 Oct 18 3:26 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT
Jon Kane, Plaintiff,	)	
vs.	)	INITAL ORDER REGARDING MOTION TO RECONSIDER
Darien Applegate; Darien E. Applegate Trust; Darien E. Applegate, Successor in Partnership; Big Blue Allure, LLC; Allure Outdoor, LLC; Allure Advertising, LLC; Lamar OCI South Corp.; Lamar Advertising, Defendants.	)	Case No.: 2023-CP-10-03038

RECEIVED
Dec 03 2024
SC Court of Appeals

A Rule 59 (e) SCRCP motion to reconsider and to alter or amend has been filed with the Court on October 10th, 2024, and served on the Court on October 16th, 2024. Pursuant to Rule 59(f), SCRCP, the Court, in its discretion, may decide this motion based on briefs without oral argument. The Court will decide this motion on written submissions. Written submissions are not required by the non-moving party, but will be considered. The moving party may rely upon what has been filed or may supplement.

No additional briefs are required and Counsel may rely the current record, however the deadline to file written submissions **from the movant regarding this motion is 4:00 P.M. on Friday, October 25th, 2024.** Any submissions in **reply must be filed by 4:00 p.m. on Friday, November 1st, 2024.** A copy of any documents filed must be forwarded immediately to the undersigned judge and to opposing counsel. The copies to the judge shall be sent via US Postal Service to 305 E. North Street, Greenville, SC 29601, and/or by electronic mail to jsalvinisc@sccourts.org and jsalvinilc@sccourts.org.

AND IT IS SO ORDERED.

Dated:
October 18th, 2024

Jessica Ann Salvini, Judge
Circuit Court

ELECTRONICALLY FILED - 2024 Oct 18 3:26 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

Charleston Common Pleas

Case Caption: Jon Kane VS Darien Applegate , defendant, et al

Case Number: 2023CP1003038

Type: Order/Other

So Ordered

Jessica A. Salvini

ELECTRONICALLY FILED - 2024 Nov 04 3:04 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS NINTH JUDICIAL CIRCUIT
JON KANE, Plaintiff,	)	
vs.	)	FINAL ORDER REGARDING MOTION TO RECONSIDER
DARIEN APPLEGATE, DARIEN E. APPLEGATE TRUST, DARIEN E. APPLEGATE, Sucessor in Partnership, BIG BLUE ALLURE, LLC, ALLURE ADVERTISING, LLC, LAMAR OCI SOUTH CORP., LAMAR ADVERTISING, Defendants.	)	Case No.: 2023-CP-10-03038

RECEIVED
Dec 03 2024
SC Court of Appeals

A Rule 59(e), SCRCP motion to reconsider and to alter or amend has been received, filed with the Court on October 10, 2024, and served on the Court on October 16, 2024. The Motion to Reconsider was properly served on the Court per Rule 59(g), SCRCP. As previously explained to Counsel, pursuant to Rule 59(f), SCRCP, the Court, in its discretion, may decide the motion based on briefs without oral argument. The Court indicated to the parties by prior order in the Initial Order Regarding Motion for Reconsideration that it would decide the issues on written submissions. Further, the Court informed the parties that written submissions were not required by the non-moving party, and that the moving party could rely upon its filings or supplement. The deadlines to file written submissions regarding these motions has now passed.

After careful consideration of the able arguments and filings of Counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered.

ELECTRONICALLY FILED - 2024 Nov 04 3:04 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

Accordingly, the Motion for Reconsideration made pursuant to Rule 59, SCRCP, [1] is respectfully DENIED.

AND IT IS SO ORDERED.

Dated:
_____, 2024

_____
Judge Jessica A. Salvini
Circuit Court

[1] The Court, in its discretion, has determined this Motion on the filings, without oral argument, pursuant to Rule 59(f), SCRCP.

ELECTRONICALLY FILED - 2024 Nov 04 3:04 PM - CHARLESTON - COMMON PLEAS - CASE#2023CP1003038

Charleston Common Pleas

Case Caption: Jon Kane VS Darien Applegate , defendant, et al

Case Number: 2023CP1003038

Type: Order/Other

So Ordered

Jessica A. Salvini

RECEIVED
Aug 06 2025
SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jessica A. Salvini

Appellate Case No. 2024-002063

Jon Kane, Appellant,

v.

Darien Applegate; Darien E. Applegate Trust;
Darien E. Applegate, Successor in Partnership;
Big Blue Allure, LLC; Allure Outdoor, LLC;
Allure Advertising, LLC; Lamar OCI South Corp.;
Lamar Advertising, Defendants

of which Darien Applegate, individually,
and as Trustee of the Darien E. Applegate Trust,
and as Successor in Partnership; Big Blue Allure, LLC;
and Allure Outdoor, LLC are the Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully submitted,

s/Jesse Sanchez
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(843) 814-8181
Attorney for Appellant Jon Kane

August 6, 2025
Mount Pleasant, South Carolina