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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-In-Equity

Appellate Case No. 2024-000788
Case No.: 2019-CP-10-01108

Balfour Beatty Construction, LLC, Appellant,

v.

Library Associates, LLC; and Metropolitan Life Insurance Company, a New York Corporation, Defendants,

And

Library Associates, LLC, Third-Party Plaintiff,

v.

Lithko Contracting, LLC, Guy M. Beaty, Inc., Bernard MMC, LLC, Gulf Stream Construction Company, Inc., Precision Walls, Inc., Palmetto Automatic Sprinkler Company, Inc., Cook & Boardman, LLC, Strong Tower Construction, LLC d/b/a Koch Corporation, Watson Electrical Construction Co., LLC, Trimark Foodcraft, LLC, Pleasant Places, Inc., David Allen Company, Inc., Premier Exteriors, LLC, Warco Construction, Inc., Old North State Masonry, LLC, Tom Rochester & Associates d/b/a Southeastern Architectural Systems, Forton Company, LLC, Low Country Case & Millwork, Inc., Quantum Coatings, LLC, Balfour Beatty Construction Group, Inc., Third-Party Defendants.

Of which Library Associates, LLC is the Respondent.

RECORD ON APPEAL - VOLUME 19 OF 51

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Schedule Delay Analysis

In the Matter of:

The Hotel at Marion Square
Charleston, SC

CONTRACT SOLUTIONS

ELECTRONICALLY FILED - 2023 May 12 5:59 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

Mark Doran Qualifications

- Education
- Construction Experience – During College, After College (Turner Const)
- Schedule Delay Analysis Experience - Barrington, Contract Solutions
- Publications and Presentations – PMI, AEC, Fed Pubs, AACEI
- Testimony Experience (35 + times in Court or Arbitration plus others DRB, mediations) All involved schedule delay analysis.

ELECTRONICALLY FILED - 2023 May 12 5:59 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

ELECTRONICALLY FILED - 2023 May 12 5:59 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

Hotel Bennett Schedule Delay Analysis

Mark Doran Qualifications – Testimony Experience

Mark Doran Testimony Experience	Case #	Date	Location	Depo	Trial	Client
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Trataros Corp v United States General Services Administration	GSBCA 14864	1999	General Services Board of Contract Appeals - Puerto Rico	x	x	Owner
Southern Comfort Builders v United States (USAF))	Fed. Cl. No. 00-542C	2004	U.S. Court of Federal Claims	x	x	Owner
Southern Comfort Builders v United States (NASA)	Fed. Cl. No. 00-755C	2004	U.S. Court of Federal Claims	x	x	Owner
Cath-dr/Balti v United States (Navy)	ASBCA Nos. 53581, 54239	2005	Armed Services Board of Contract Appeals (ASBCA)	x	x	Owner
Milestone Construction Services, Inc. v Main Street USA Investments LLC		2009	AAA Arbitration - Vienna, VA	x	x	Contractor
Consolidated Services Corp v Matl Construction Corp		2009	AAA Aribitration - Austin, TX	x	x	Contractor
Cajun Constructors, Inc. v Gar-Tex Construction Co.	Suit No. 552060	2012	19th Judicial District Court, State of Louisiana	x		Contractor
Marine Technical Services, Inc. v SCSPA		2014	AAA Arbitration - Charleston, SC	x	x	Owner
Consensus Construction Company, Inc. v North Myrtle Beach		2015	Arbitration - Conway, SC	x	x	Contractor
UFP Mid-Atlantic LLC v Catamount Constructors, Inc.	1:14-CV-3954-AT	2016	US District Court for the Northern District of GA Atlanta Division	x		Contractor
Walbridge/Mashburn JV v Continental Tire Sumter, LLC	C.A. No. 2015-CP-43-374	2016	SC Court of Common Pleas	x		Owner
Adams Robinson Entrprises, Inc. v Uretek, ICR Mid-Atlantic, Inc.	AAA Case No. 16-0000-5617	2017	AAA Arbitration - Atlanta, GA; Dayton, Ohio	x	x	Contractor
ECC Centcom Constructors, LLC v United States Corps of Engineers (USACE)	ASBCA No. 60647	2017	Armed Services Board of Contract Appeals (ASBCA)	x	x	Owner
Reliable Electric, LLC v Sherman Construction Co., Inc.		2019	Arbitration - Greenville, SC	x	x	Contractor
RBC Construction Corp. v United States Corps of Engineers (USACE)	ASBCA Nos. 59404, 59962, 60050, 60277, 60851	2018	Armed Services Board of Contract Appeals (ASBCA)	x	x	Contractor
Six Mile Partners, LLC v Southern Construction Company, Inc.	AAA Case No. 01-18-0002-2334	2019	AAA Arbitration - Charleston, SC		x	Owner
WECC, LLC v Army Air Force Exchange Service (AAFES)	ASBCA No. 60949	2019	Armed Services Board of Contract Appeals (ASBCA)	x	x	Contractor
Skanska/Trident JV v City of Charleston	2016-CP-10-0108	2020	SC Court of Common Pleas, Ninth Judicial Circuit	x		Owner
ECCI v USACE	ASBCA Nos. 59138, **59586**, 59643 & 60248	2020	Armed Services Board of Contract Appeals (ASBCA)	x	x	Owner
ACC v USACE	ASBCA No. 62265	2021	Armed Services Board of Contract Appeals (ASBCA)	x		Contractor
Totals				**20**	**16**	

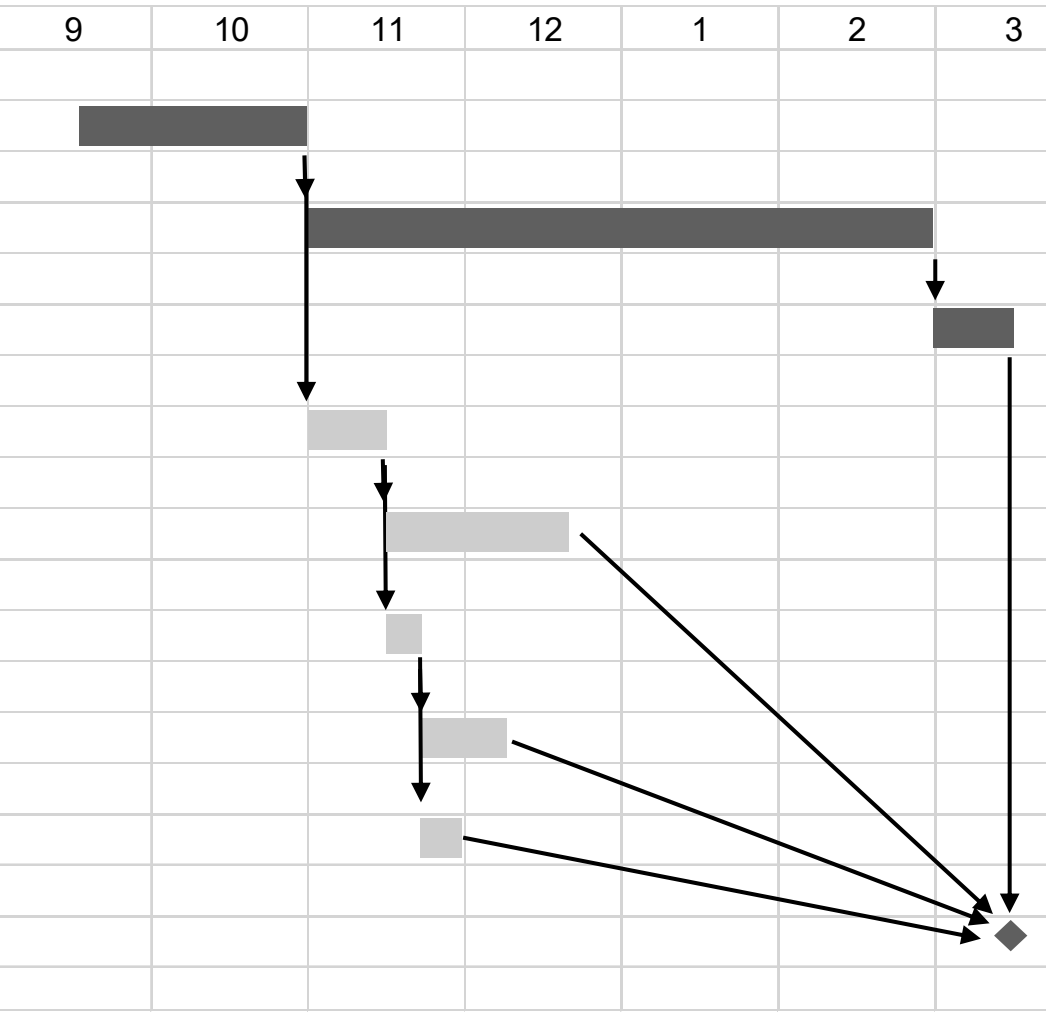
Introduction to CPM and Schedule Analysis

- **Types of Schedules**
  - **CPM (Critical Path Method)**
  - A CPM schedule is a network of activities which are assigned durations and interrelated logic ties from the first activity to the last activity. The **critical path** at any one time **is** the **longest path** of interrelated activities.

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CPM Example: Thanksgiving Meal Prep

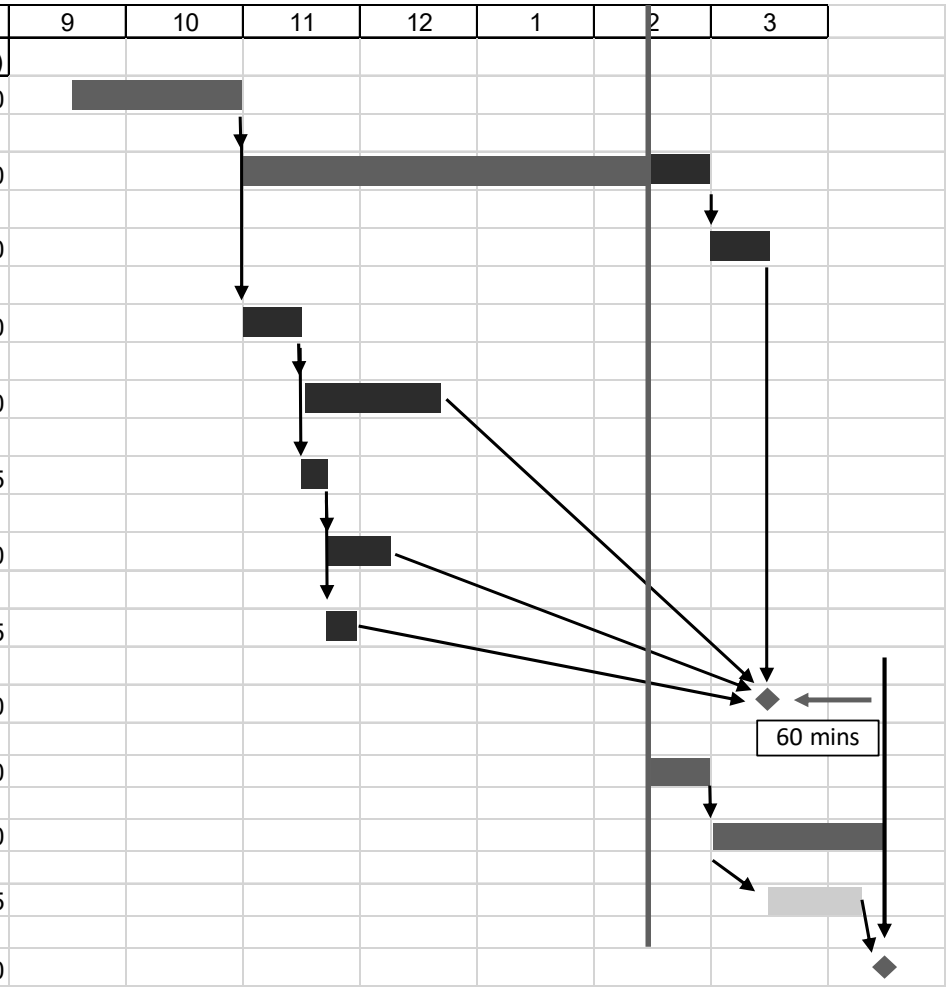
Act Name	Time OD (mins)
Prep the Turkey	90
Cook the Turkey	240
Let the Turkey Cool	30
Prep the Potatoes	30
Cook the Potatoes	60
Prep the Green Beans (veggies)	15
Cook the Green Beans (veggies)	30
Prep the Cranberries	15
Serve the Dinner	0



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CPM Example: Thanksgiving Meal Prep

Act Name	Time OD (mins)
Prep the Turkey	90
Cook the Turkey	240
Let the Turkey Cool	30
Prep the Potatoes	30
Cook the Potatoes	60
Prep the Green Beans (veggies)	15
Cook the Green Beans (veggies)	30
Prep the Cranberries	15
Serve the Dinner	0
Go Shopping for Additonal/Changed Food	30
Prep & Cook Rice	90
Prep & Cook Collard Greens	45
Serve the Dinner	0

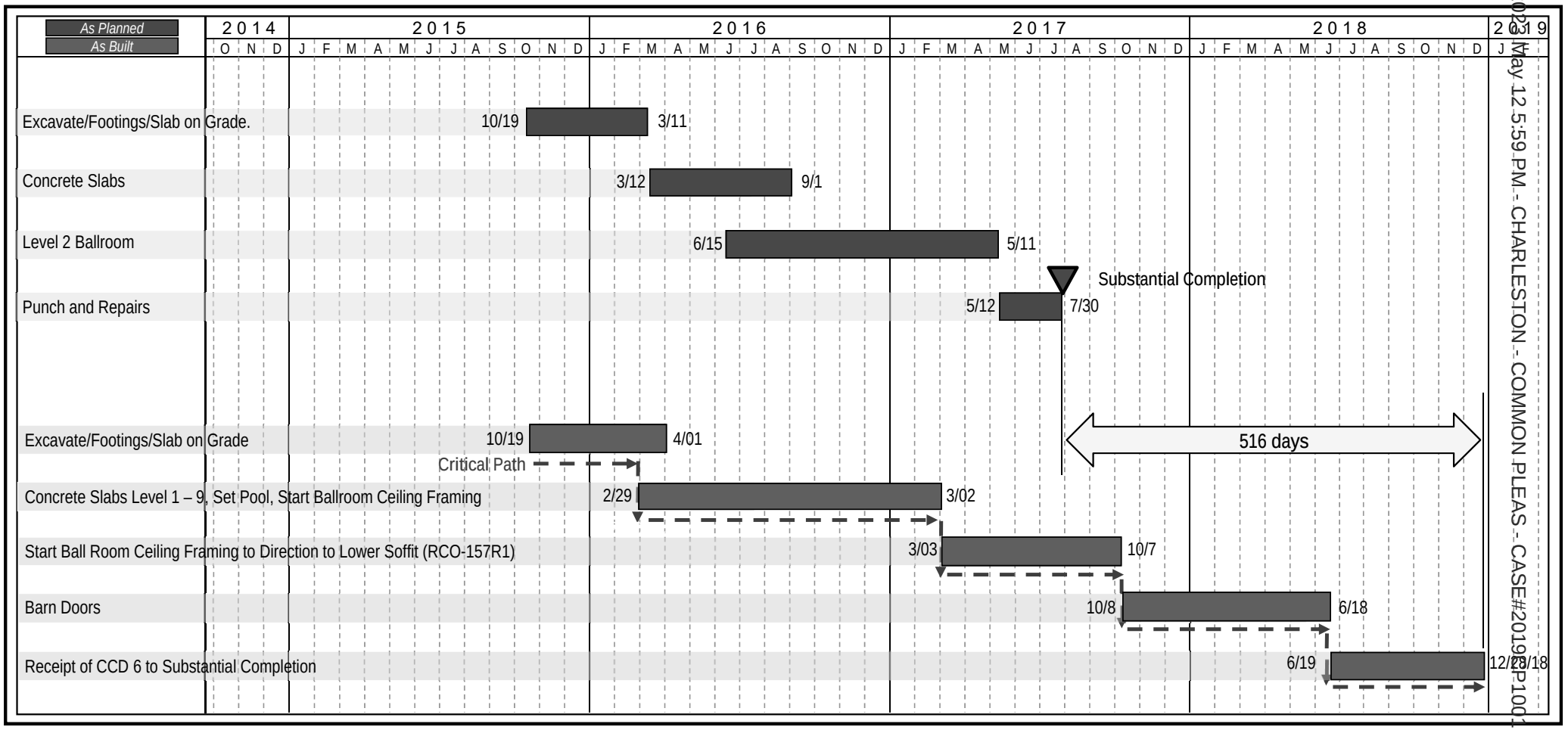


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Schedule Analysis

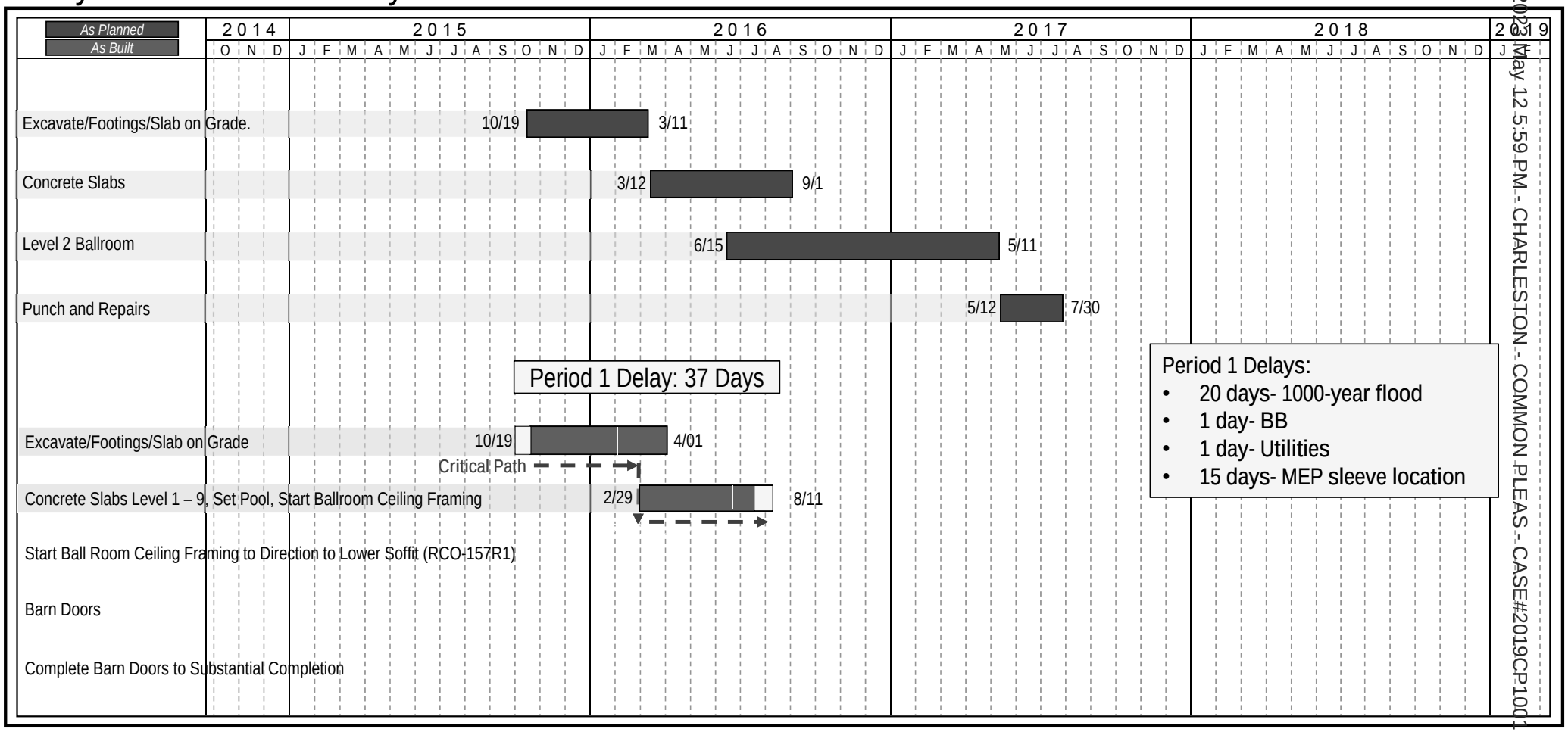
As Planned vs. As Built



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Schedule Analysis – Period 1

Delay to Structure - 37 Days



37

Period 1 Delay Conclusion Analysis

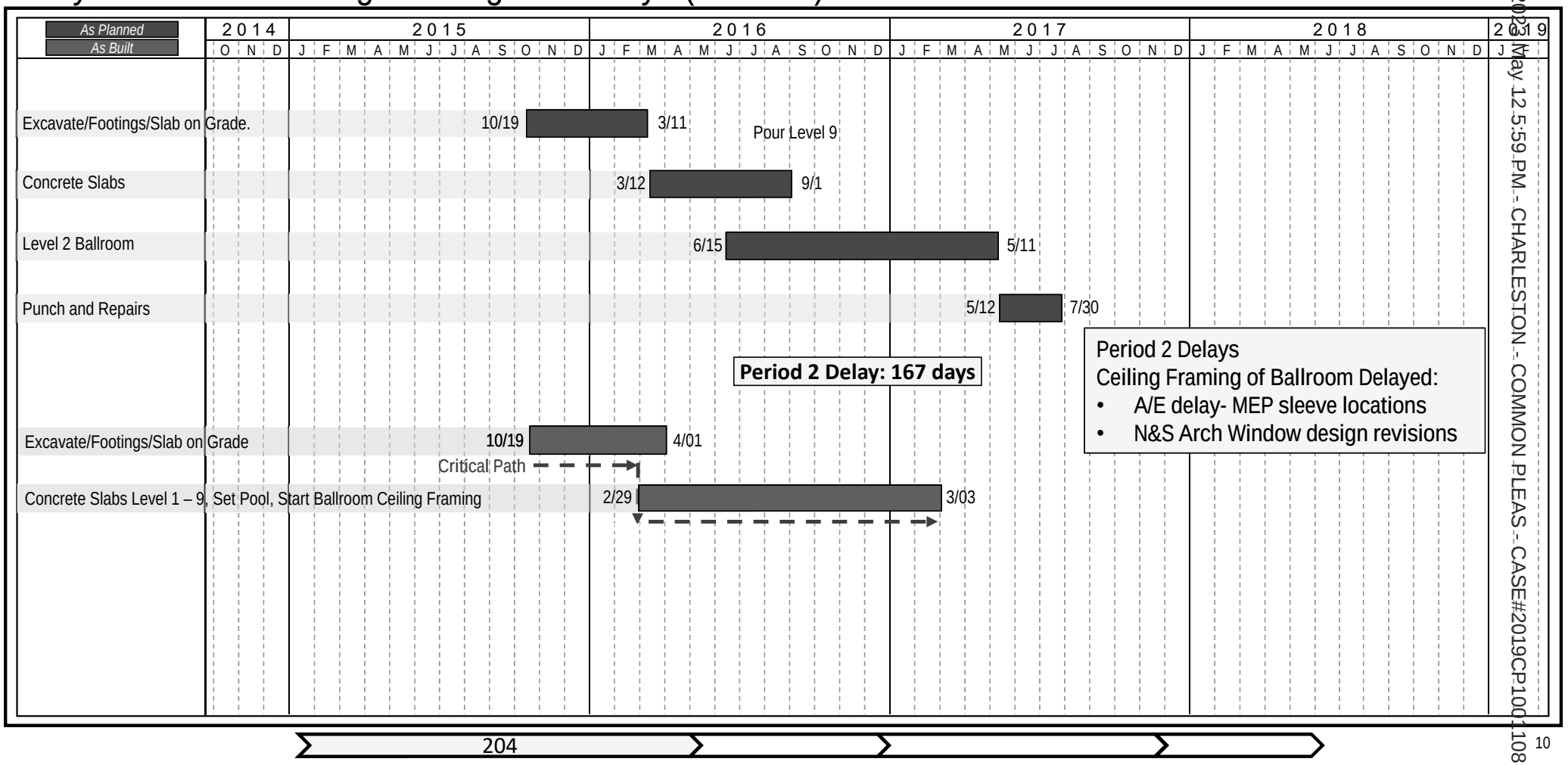
- 37 Days Critical Path Delay
- 21 Days of Delay neither party could control
  - 1000-year flood in Oct 2015 (20 days)
  - Lack of utilities on June 26, 2015 (1 day)
- 15 days of Delay after first ½ of L6 waiting on sleeve locations (compensable)
- 1 day lack of progress (Balfour Beatty)

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Schedule Analysis – Period 2

Delay to Ballroom Ceiling Framing – 167 days (204-167)



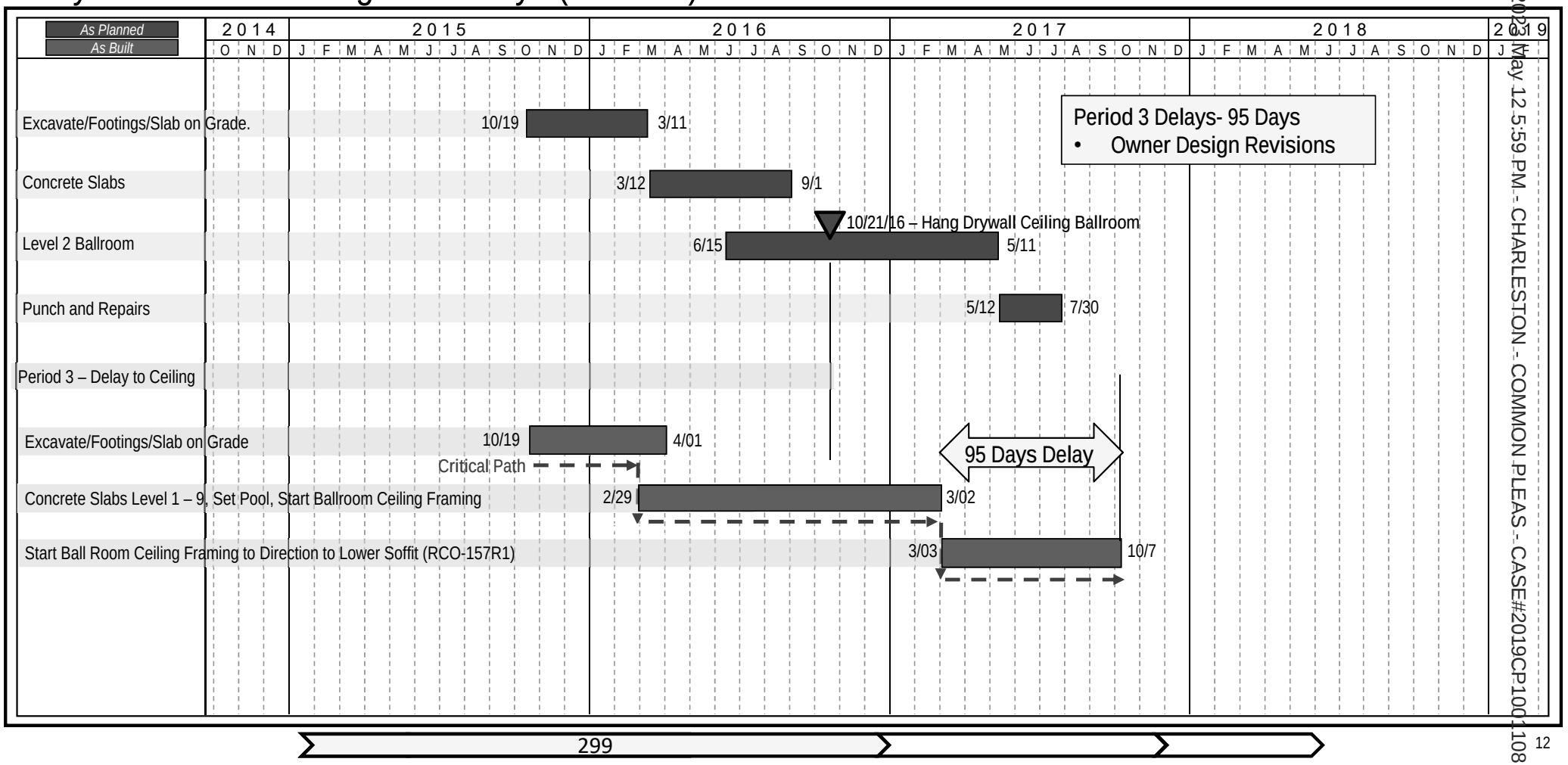
Period 2 Delay Analysis Conclusion

- 167 Days Critical Path Delay
- Ceiling framing of ballroom delayed
  - A/E delay- MEP sleeve locations
  - N & S arch window design revisions

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Schedule Analysis- Period 3

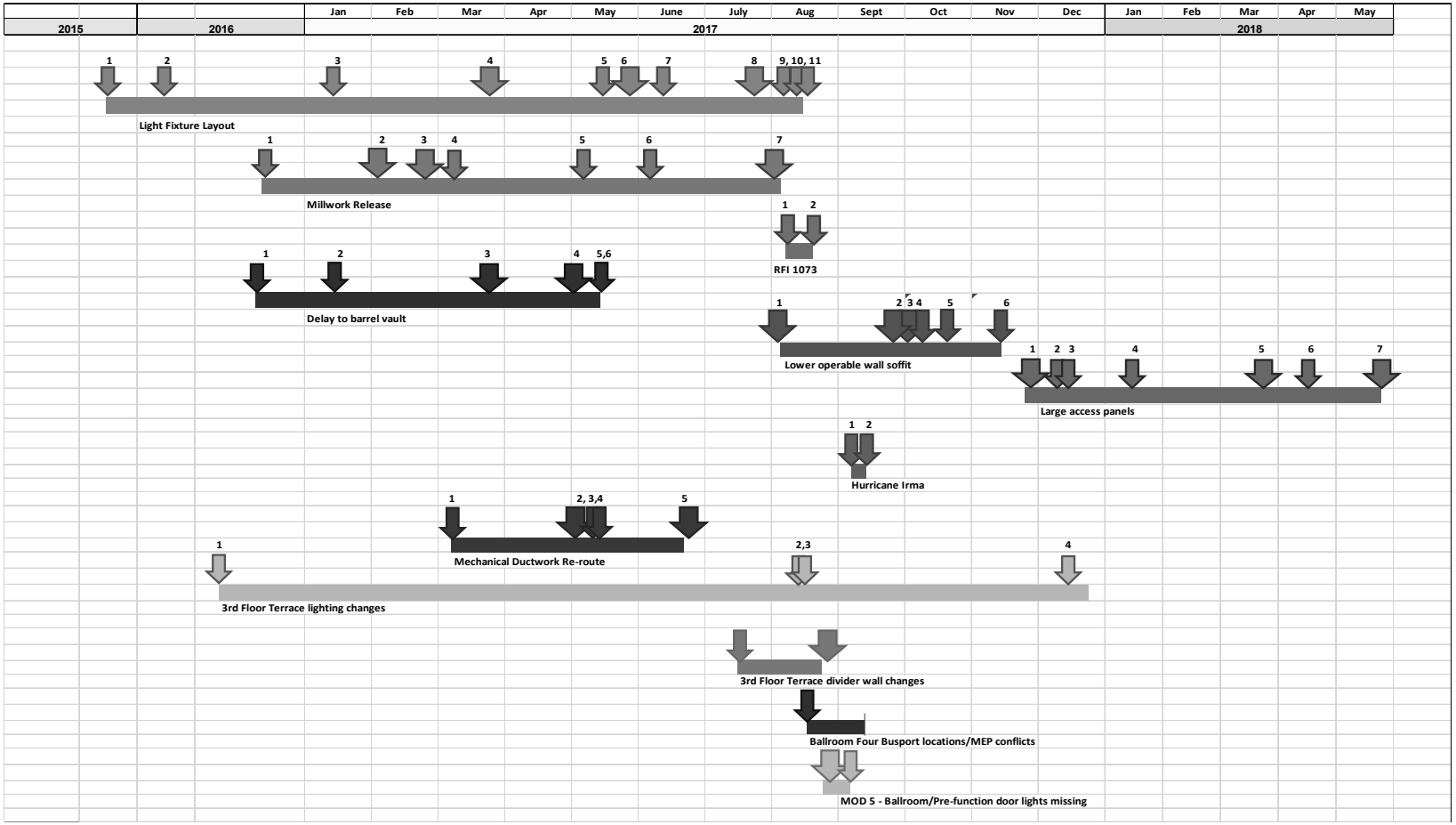
Delay to Ballroom Ceilings – 95 Days (299-204)



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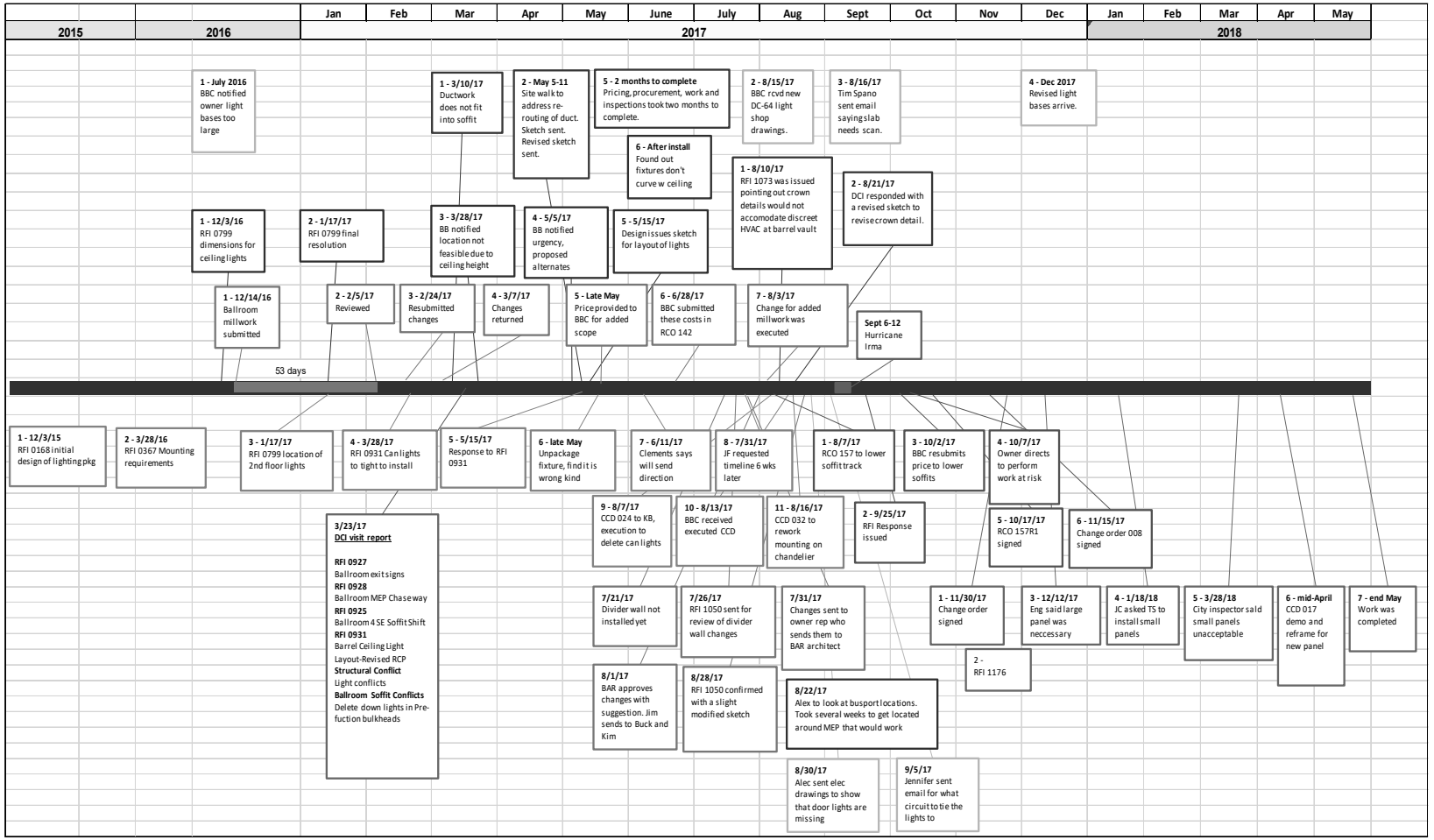
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As-Built Critical Path Delays During Period 3 – Owner Design Revisions



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As-Built Critical Path Delays During Period 3 – Owner Design Revisions



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Schedule Analysis – Chronology of Design Revisions to Ballroom Ceiling

	Millwork Release
12/14/16	Ballroom millwork was submitted
02/05/17	Ballroom millwork was reviewed as a mixed bag
02/24/17	Resubmitted changes for ballroom millwork
03/07/17	Changes for ballroom millwork were returned
Late May	LCCM provided price to BBC for the added scope
06/28/17	BBC submitted these costs in RCO 142, with other areas
08/03/17	Change for added millwork was executed
	RFI 1073
08/10/17	RFI 1073 was issued pointing out crown details would not accomodate discreet HVAC at barrel vault
08/21/17	DCI responded with a revised sketch to revise crown detail
	RFI 0931 Delay to barrel vault
12/03/16	RFI 0799 requested hard dimensions for all ceiling lights, given info to process over several weeks
01/17/17	Final resoulution was given
03/28/17	BBC notified design team that location given in RFI 0799 not feasible due to ceiling height
05/05/17	Notified design team the urgency for resolution, proposed alternates that were rejected by design
05/15/17	Design issued a sketch for BBC to layout the lights...
After install	discovered that specified light fixtures weren't designed to curve w ceiling
	DCI visit report
3/23/17	RFI 0927 - Ballroom Exit Signs. Woody wants signs on the soffit so it isn't hanging
3/23/17	RFI 0928 - Ballroom MEP Chase way. Woody wants to see the molding to make sure piping will look okay
3/23/17	RFI 0935 - Ballroom 4 SE Soffit Shift. Woody said it ok to move the light fixture, can move it SE but still have it centered
3/23/17	RFI 0931 - Barrel Ceiling Light Layout - Revised RCP
3/23/17	Structural conflict. Structural challenges with the lights. Woody to review shop drawings.
3/23/17	Ballroom soffit conflicts (any outstanding?). Confirmed last direction correct, to delete the down lights in Pre-fuction bulkheads
	Light fixture layout
12/03/15	RFI 0168 BBC requested and is given initial design and cut sheets of OFCI lighting package
03/28/16	RFI 0367 BBC is given mounting requirements and weight info for light fixtures
01/17/17	RFI 0799 BBC is given locations of lights on second floor. The chandeliers and can lights interfering with them were installed per RFI 0799
03/28/17	RFI 0931 Can lights too tight to joist to install
05/15/17	Response to 0931
Late May	When light fixture is unpackaged, find it has different mounting config and is not suspended type (as shown on RFI 0168), base mount comes in contact w can
06/11/17	Jim Clements (after walking thru w Alec Dooley) sent Alec text saying Woody/Jennifer will send direction to delete recessed fixtures
07/31/17	BBC sent timeline after Jennifer Faulkinberry requested (6 weeks after Jim's text)
08/07/17	CCD 024 issued to Kim Brown for her execution to delete can lights
08/13/17	BBC received executed CCD the week of 8/13
08/16/17	CCD 032 issed to Kim Brown for execution, it directs BBC to rework the Unistrut mounting for the DC-19 chandelier
	Lower operable wall soffit
8/7/17	RCO 157 to lower the track after design did not align w ceiling height and structural beam. Owner realized wouldn't look good unless entire soffit lowered
9/25/17	RFI Response was issued to modify the operable soffits
10/2/17	BBC resubmitted price to lower soffits. Perpendicular soffit was already framed and sheetrocked.
10/7/17	Owner directed BBC to perform the work at risk
10/17/17	RCO 157 signed
11/15/17	OCO 008 signed
	Large access panels
11/30/17	Realized the size of access panels in public corridor would look unappealing
	RFI 1176 submitted a summary of conversation for confirmation
12/12/17	Engineer responded that the large panel was necessary to maintain code
	Kim Brown adamantly requested another opinion
01/18/18	Jim Clements asked Tim Spano to install smaller access panels. BBC did.
03/28/18	City inspector said multiple small access panels not acceptable.
mid-April	CCD 017 to demo the ceiling and frame for a 5x5 access panel. New panel ordered.
end May	Work was completed.
	Hurricane Irma shut down
09/06/17	State of Emergency Issued - hurricane prep initiated
09/12/17	Hotel back open for business
	Mechanical Ductwork Re-route
03/10/17	RFI 0915 Ductwork does not fit into the coffer soffit and the NW corner of Ballroom one
05/04/17	Alec Dooley and Taylor Walker walked on site to address rerouting of ductwork.
	A re-routing sketch was sent WLA showing the new ductwork path.
05/08/17	Correspondence between Alec and Tayor about alterations
05/11/17	Alec sent a revised sketch to Taylor for approval. Taylor confirmed.
June 2017	The pricing, procurement, mechanical, electrical, drywall work and inspections was
	completed over the next two months which delayed ballroom and half of Pre-function.
	3rd Floor Terrace lighting changes
July 2016	BBC notified owner of DC-64 light bases too large to work at third floor terrace that affected conduit locations.
08/15/17	BBC received new DC-64 light shop drawings
08/16/17	Tim Spano sent email that owner lighting issue had been resolved and slab needs to be scanned over ballroom
Dec 2017	Revised light bases arrived
	3rd Floor Terrace Divider wall changes
07/21/17	Clerestory walls over barrel ceiling was waterproofed for drywall in the barrel. The divider wall were not installed yet.
07/26/17	Alec sent RFI 1050 to WLA for review of the divider wall changes.
07/31/17	WLA submits divider wall changes to Jim Clements
07/31/17	Jim (owner rep) sends revised divider wall sketches to COC BAR architect for review and approval of the change
08/01/17	COC BAR architect approves the changes with suggestion
08/01/17	Jim sends Buck and Kim his suggestion
08/28/17	Jennifer confirms RFI 1050 answer with a slight modified sketch for height and arch is acceptable.
	Ballroom Four Busport locations/MEP conflicts
08/22/17	Alex sent Jennifer an email/sketch asking to look at the busport locations on 8/23. These took several weeks to get located
	around MEP that would work to the hotel operators light bar use.
	MOD 5 - Ballroom/Pre-function door lights missing
08/30/17	After onsite walk, Alec sent Wood current electrical drawings to show owner/designer that lights are not shown except drawing for MOD 5 changes
08/30/17	Kim Brown said that if it is on the GMP drawing then Watson Electric owes it
08/30/17	Alec sent response that these lights are not shown on ID, elec or GMP lighting plans, only on ID docs that haven't been priced
09/05/17	Jennifer sent BBC an email for what circuit to tie the added Ballroom door lights to.

Period 3 Delay Analysis Conclusion

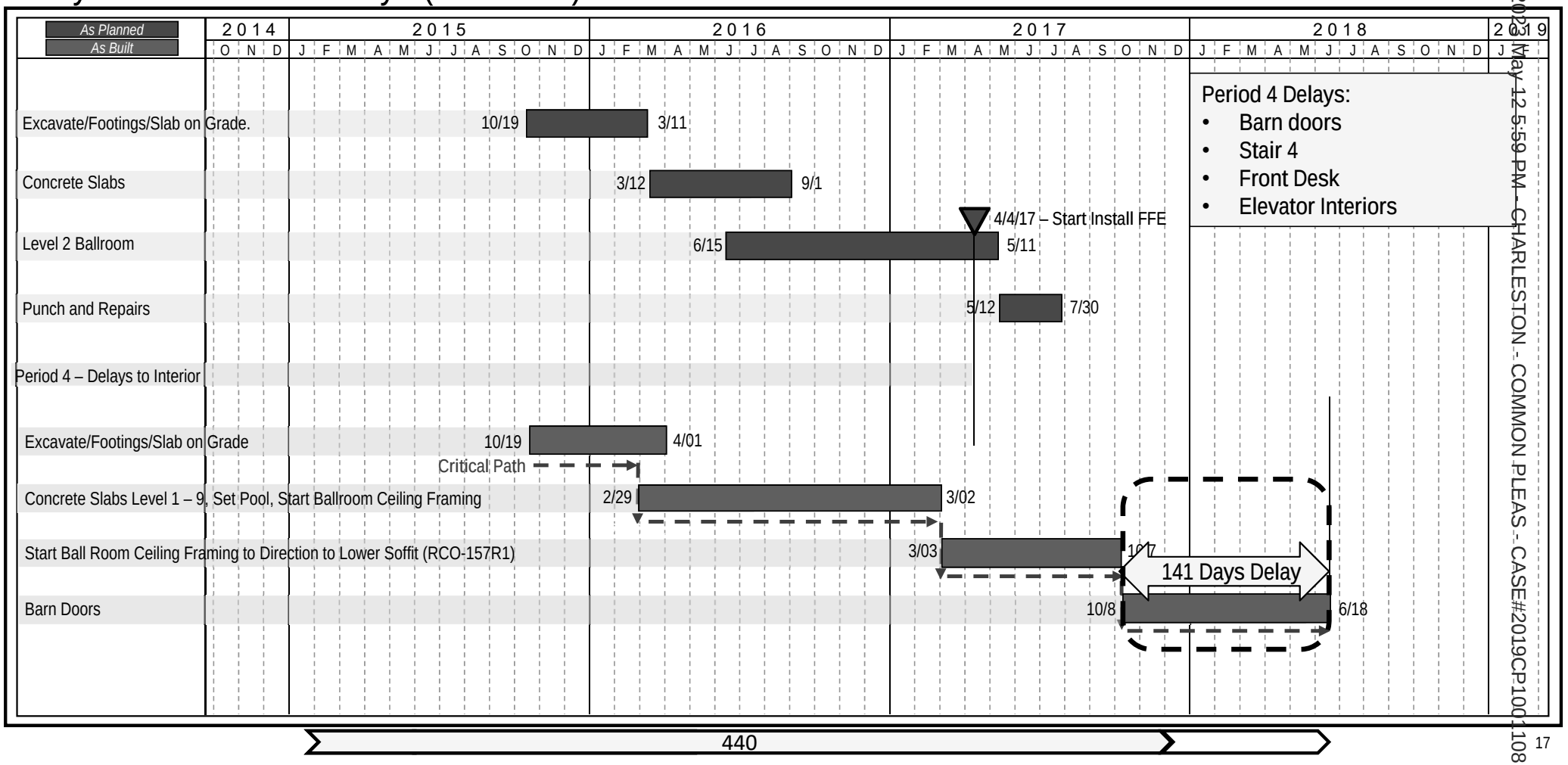
- 95 Days Critical Path Delay
- Numerous Owner Changes
  - 3/10/17 Mech Ductwork Re-Route (Dark Gray Box)
  - RFI-0799 (Purple Box)
  - RFI-1033 (Maroon Box)
  - RCO-157 (Dark Red Box)

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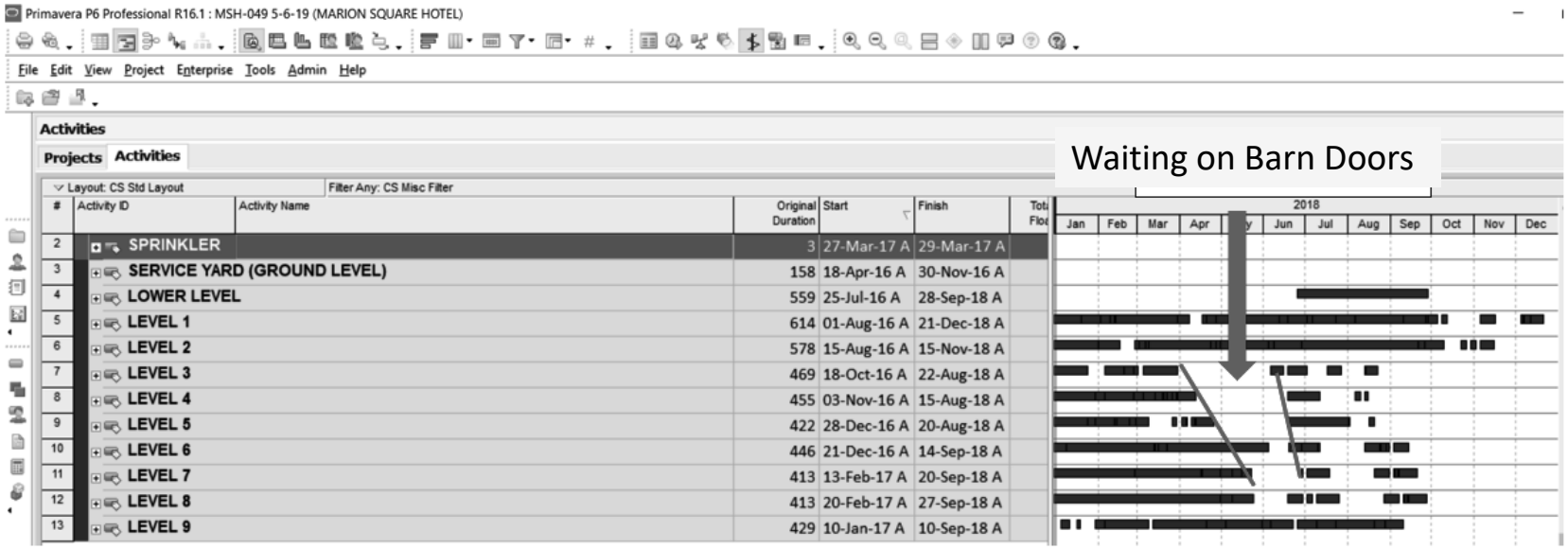
Schedule Analysis- Period 4

Delay to Interior – 141 Days (440 - 299)



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Barn Door Delay Interrupts Follow-on Work

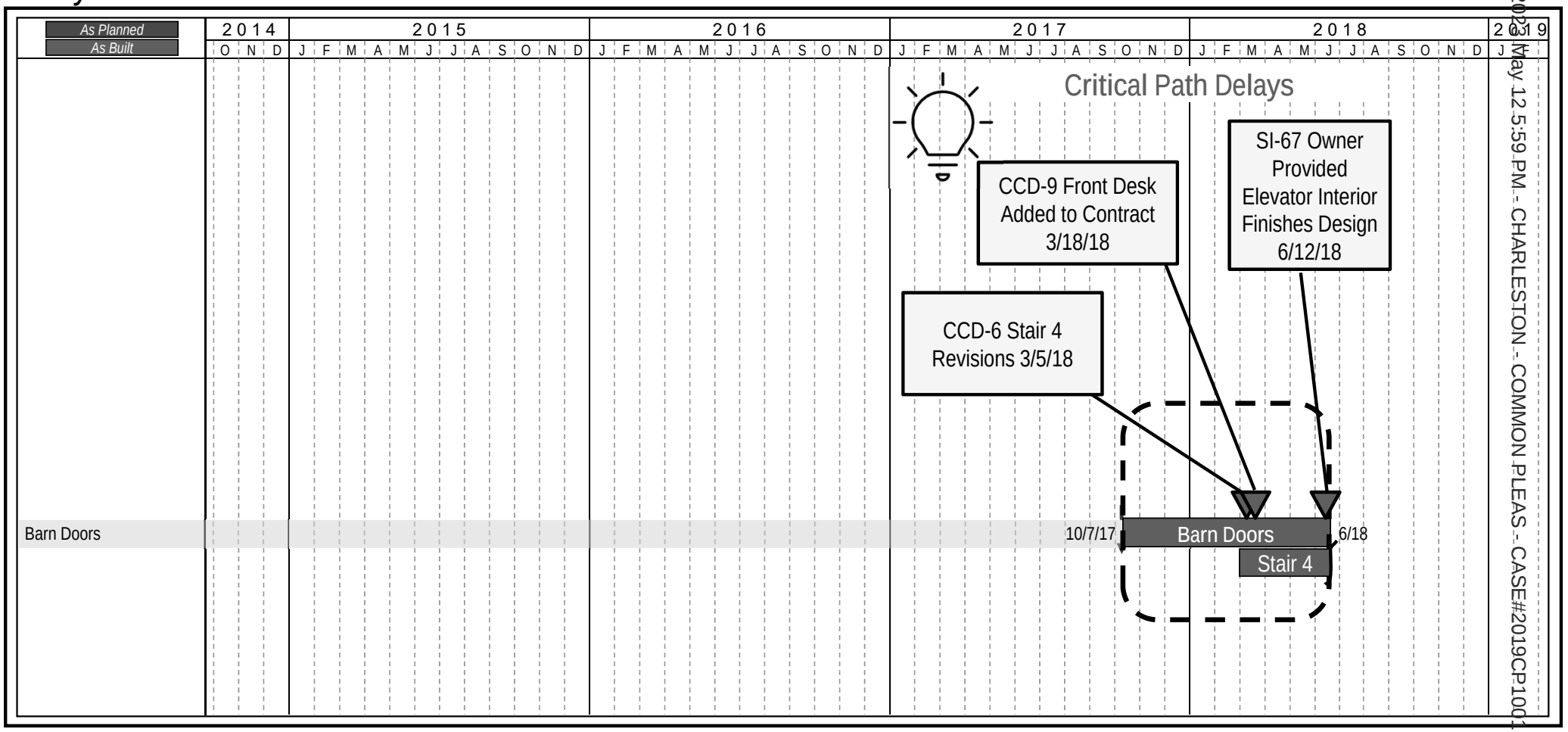


#	Activity ID	Activity Name	Original Duration	Start	Finish
2	SPRINKLER		3	27-Mar-17 A	29-Mar-17 A
3	SERVICE YARD (GROUND LEVEL)		158	18-Apr-16 A	30-Nov-16 A
4	LOWER LEVEL		559	25-Jul-16 A	28-Sep-18 A
5	LEVEL 1		614	01-Aug-16 A	21-Dec-18 A
6	LEVEL 2		578	15-Aug-16 A	15-Nov-18 A
7	LEVEL 3		469	18-Oct-16 A	22-Aug-18 A
8	LEVEL 4		455	03-Nov-16 A	15-Aug-18 A
9	LEVEL 5		422	28-Dec-16 A	20-Aug-18 A
10	LEVEL 6		446	21-Dec-16 A	14-Sep-18 A
11	LEVEL 7		413	13-Feb-17 A	20-Sep-18 A
12	LEVEL 8		413	20-Feb-17 A	27-Sep-18 A
13	LEVEL 9		429	10-Jan-17 A	10-Sep-18 A

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Schedule Analysis – Period 4

Delay to Interior



Period 4 Delay Analysis Conclusion

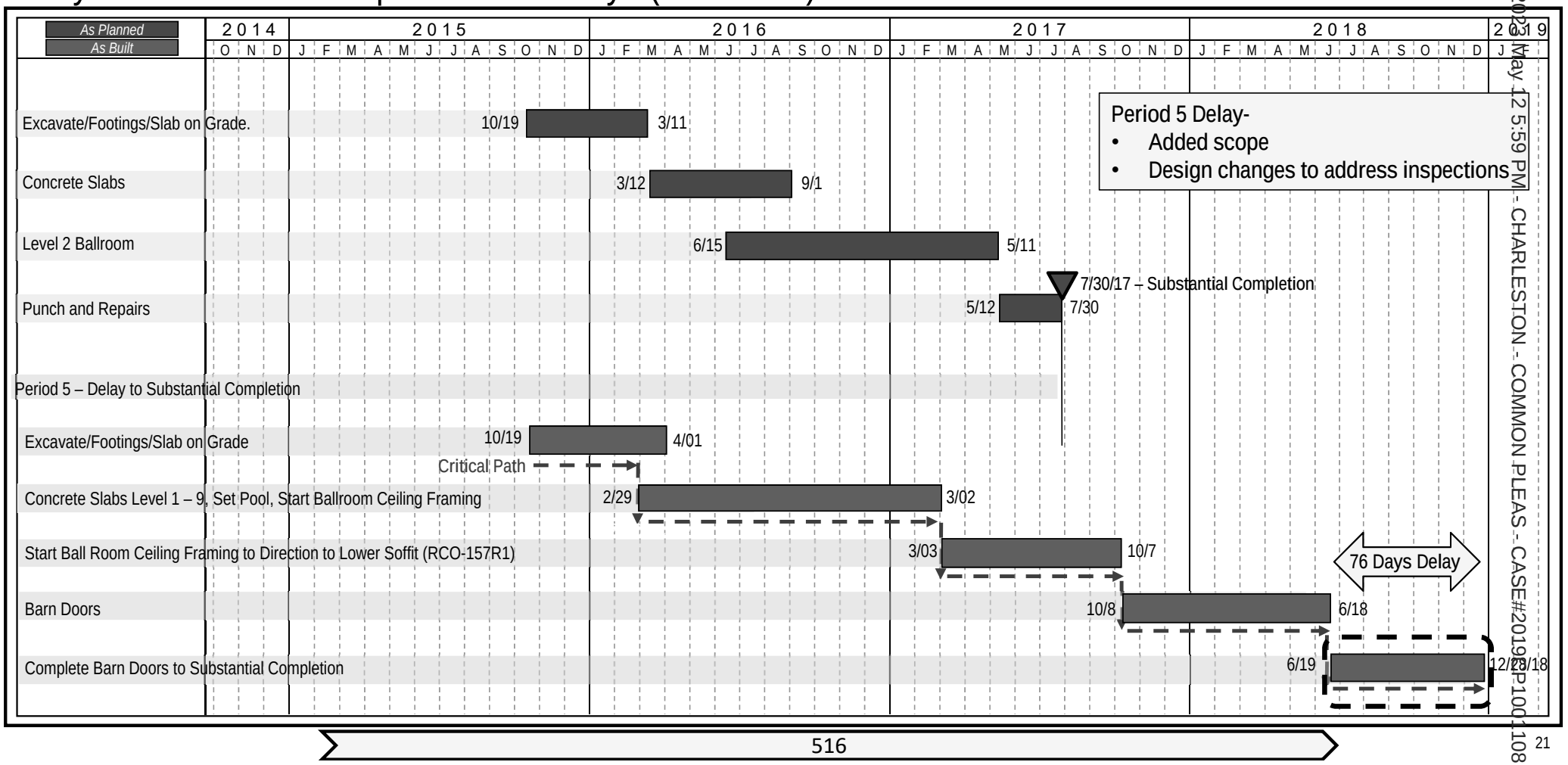
- 141 Days Critical Path Delay
- Barn doors
- Stair 4
- Front Desk
- Elevator Interiors

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Schedule Analysis- Period 5

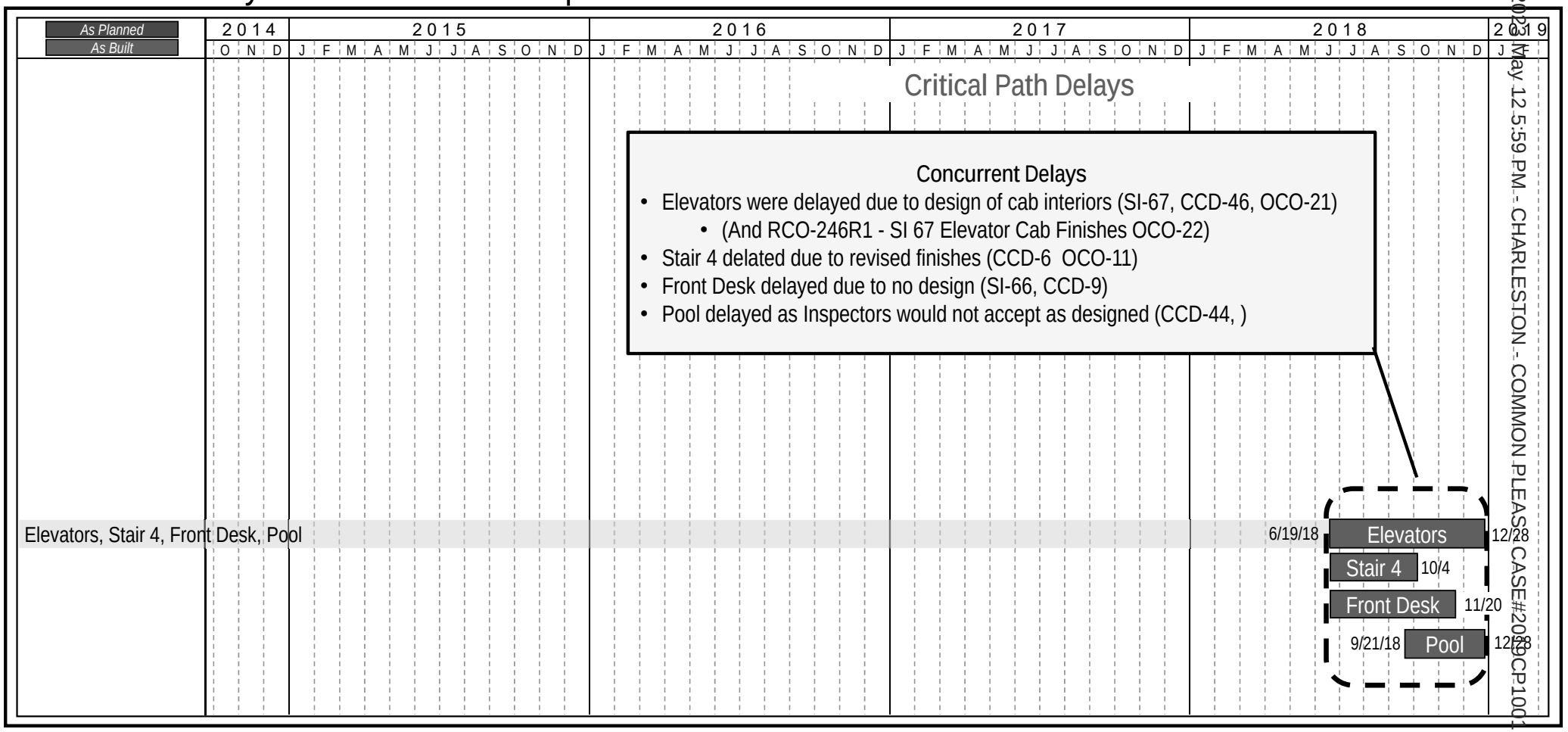
Delay to Substantial Completion – 76 Days (516 – 440)



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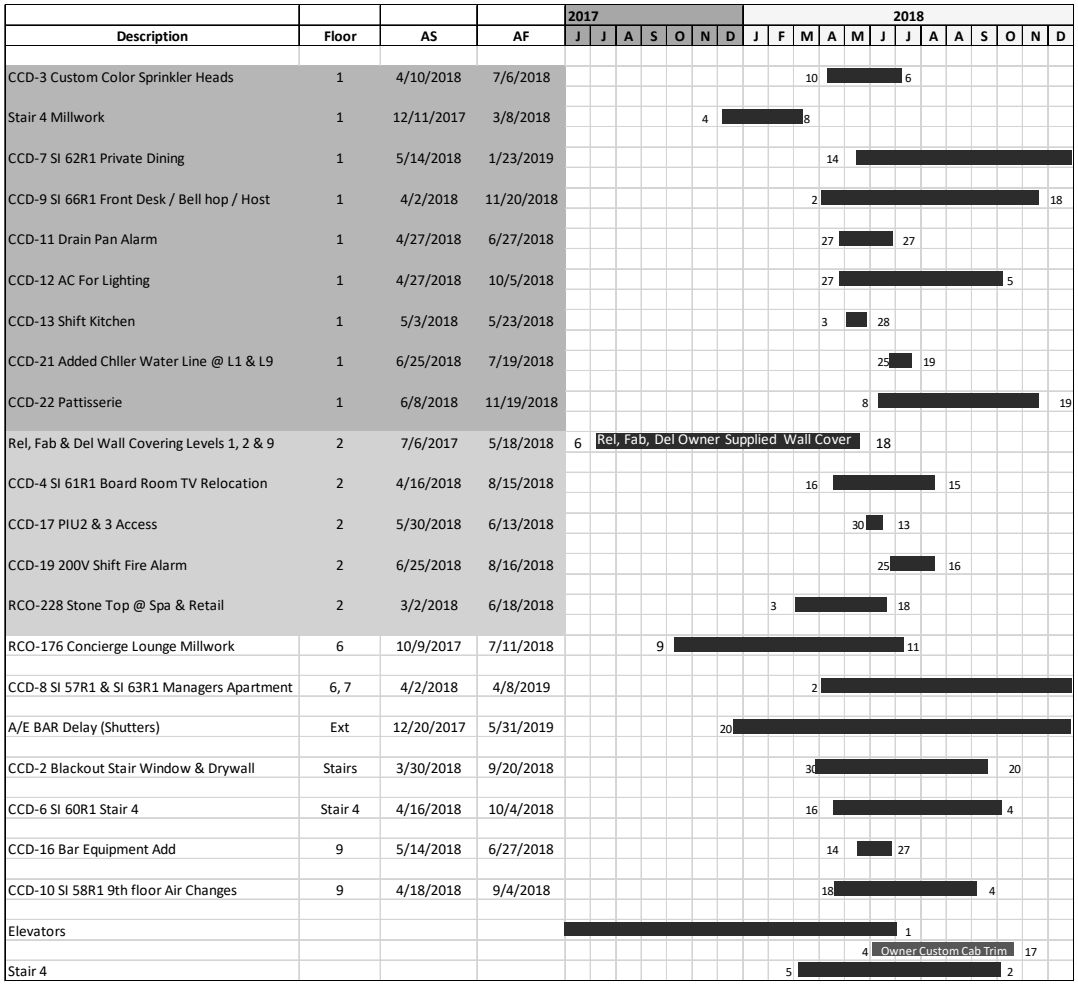
Schedule Analysis – Period 5

Concurrent Delays to Substantial Completion



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Summary of Selected Changes During 2018



Description	Floor	AS	AF
CCD-3 Custom Color Sprinkler Heads	1	4/10/2018	7/6/2018
Stair 4 Millwork	1	12/11/2017	3/8/2018
CCD-7 SI 62R1 Private Dining	1	5/14/2018	1/23/2019
CCD-9 SI 66R1 Front Desk / Bell hop / Host	1	4/2/2018	11/20/2018
CCD-11 Drain Pan Alarm	1	4/27/2018	6/27/2018
CCD-12 AC For Lighting	1	4/27/2018	10/5/2018
CCD-13 Shift Kitchen	1	5/3/2018	5/23/2018
CCD-21 Added Chller Water Line @ L1 & L9	1	6/25/2018	7/19/2018
CCD-22 Pattisserie	1	6/8/2018	11/19/2018
Rel, Fab & Del Wall Covering Levels 1, 2 & 9	2	7/6/2017	5/18/2018
CCD-4 SI 61R1 Board Room TV Relocation	2	4/16/2018	8/15/2018
CCD-17 PIU2 & 3 Access	2	5/30/2018	6/13/2018
CCD-19 200V Shift Fire Alarm	2	6/25/2018	8/16/2018
RCO-228 Stone Top @ Spa & Retail	2	3/2/2018	6/18/2018
RCO-176 Concierge Lounge Millwork	6	10/9/2017	7/11/2018
CCD-8 SI 57R1 & SI 63R1 Managers Apartment	6, 7	4/2/2018	4/8/2019
A/E BAR Delay (Shutters)	Ext	12/20/2017	5/31/2019
CCD-2 Blackout Stair Window & Drywall	Stairs	3/30/2018	9/20/2018
CCD-6 SI 60R1 Stair 4	Stair 4	4/16/2018	10/4/2018
CCD-16 Bar Equipment Add	9	5/14/2018	6/27/2018
CCD-10 SI 58R1 9th floor Air Changes	9	4/18/2018	9/4/2018
Elevators			
Stair 4			

Below is a Listing of the 46 CCDs Between February 27, 2018, and December 28, 2018

CCD No.	Date	Description
1	Not issued	
2	2/27/2018	Blackout Windows
3	2/28/2018	Custom Color Sprinkler Heads
4	3/1/2018	Boardroom TV (SI 61R1)
5	3/1/2018	Cut Outs in Wall Above Ceilings for Plenum
6	3/5/2018	Stair 4
7R1	4/16/2018	Dining Outlets & Sconces (originally issued as SI-44R1) SI-62R1
8	3/10/2018	Manager's Apartment
9	3/16/2018	First floor Casework
10	3/19/2018	9th Floor Make-up Air Changes (SI 58R1)
11	4/5/2018	Drain Pan Alarms
12	4/5/2018	AC for Lighting Storage Room
13	4/5/2018	Shift Kitchen Tables Over Floor Sinks
14	4/5/2018	Patisserie Column Detail
15	4/5/2018	Shift Luggage Room Door
16	4/5/2018	Bar Equipment Additions
17	4/5/2018	PIU 2-3 Access Panels
18	Not issued	Relocate Thermostat at Roof Top
19	5/16/2018	Shift FA in 200V
20	5/16/2018	Low Voltage Changes
21	5/16/2018	Chilled Water at Ice Machines
22	5/21/2018	Patisserie Casework Revisions
23	Not issued	Fireman's Phone Jacks
24	8/7/2018	Ballroom Can Lights
25	8/7/2018	FCU Relocation in Electric Room
26	8/7/2018	Telkonet Thermostat Changes
27	8/7/2018	Garage Ramp Ceiling
28	8/7/2018	Support for DAS System
29	Not issued	Concierge Lounge Food Prep
30	8/7/2018	Kitchen Lighting Additions
31	8/7/2018	Transformer & Service Yard Screen Wall
32	Not issued	Unistrut for DC-19 Fixture
33	8/15/2018	Rooftop Lobby Bar Revised Millwork
34	8/15/2018	Decorative Grilles
35	8/15/2018	Exterior Plynths for Lanterns (received on 9/4/2018)
36	8/15/2018	Shutter Revisions
37	9/12/2018	OFCI Tub Fixtures
38	9/12/2018	Cobbles Irrigation Sitework
39	9/12/2018	Wine Cooler
40	9/21/2018	Stair 3-4 Attic Door Removal
41	Not issued	
42	Not issued	
43	Not issued	
44	11/5/2018	Pool Equipment Revisions
45	11/27/2018	Spa Thermostat Change
46	12/10/2018	DOL Elevator Requirements

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The Architect Continued to Issue Supplemental Instructions During 2018

Supplemental Instruction No.	Date	Description
56R1	1/29/2018	Shutters Redesign
59	1/3/2018	Restaurant Wood Floor Selection
60	missing	
61	2/1/2018	Boardroom RV Niche Change
62	2/1/2018	Private Dining Changes
63	2/4/2018	Manager's Suite Finish Changes
64	2/1/2018	Kitchen Overhead Sanitary Emergency Pans
65	2/1/2018	Windows Need to be Blacked Out and Walled Over
66	2/13/2018	Lobby, Front Desk, Bellhop, Host Stand Modifications per Owner
67	6/12/2018	Re-design of Elevator Interiors
68	6/12/2018	Revised Decorative Accordion Door in Bara 148
69	7/2/2018	Pool Area Speakers
70	7/16/2018	Relocate Glazing Units & Grille from Mock-up to Inside the Building
71	8/30/2018	Revised Furniture Plan8/21/18
72	8/21/2018	Privat Dining Detail Change
73	8/21/2018	Screen Detail and Metal Grille Revisions
74	8/30/2018	OFCI Light Fixture Revisions
75	10/3/2018	Revised Mock-up Bracket
76	11/8/2018	Patisserie Lighting & Millwork Revisions
77	11/8/2018	1st Floor Lighting Plan Revisions
78	11/27/2018	Lighting Layout for Elevator 5 Cab
79	11/27/2018	Camellias Bar Additional Supports
80	12/11/2018	Added Control Joints in Stucco
81	12/12/2018	Gas Flue Exhaust 9th Floor Pool Eqt Room?

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Period 5 Delay Analysis Conclusion

- 76 Days Critical Path Delay
- Added scope (Additional Supplemental Instructions, CCDs, Change Orders)
- Design changes to address inspections

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Balfour Beatty Performed As-Planned or Better When Unimpacted

Activity ID	Activity Name	Original Duration	Start	Finish	Total Float	Actual Start	Actual Finish	Var Start	Var Finish	Better
1430	F/R/P CRANE PAD @ SITE	10	19-Oct-15	30-Oct-15	0	19-Oct-15	23-Nov-15	0	24	
1940	EXCAVATE / FORM FOOTING @ SECTION 1	4	2-Nov-15	5-Nov-15	0	2-Nov-15	13-Nov-15	0	8	
3334	EXCAVATE / FORM FOOTING @ SECTION 2	3	6-Nov-15	10-Nov-15	0	11-Nov-15	13-Nov-15	5	3	performed better than planned
3394	EXCAVATE / FORM FOOTING @ SECTION 3	6	11-Nov-15	18-Nov-15	0	3-Dec-15	10-Dec-15	22	22	performed as-planned
3454	EXCAVATE / FORM FOOTING @ SECTION 4	5	19-Nov-15	25-Nov-15	0	4-Jan-16	11-Jan-16	46	47	
3584	ELEVATOR PIT @ SECTION 5	8	30-Nov-15	9-Dec-15	0					
3534	INSTALL WATERPROOFING @ SECTION 5	4	9-Dec-15	14-Dec-15	0	12-Jan-16	19-Jan-16	34	36	
3524	EXCAVATE / FORM FOOTING @ SECTION 5	10	2-Dec-15	15-Dec-15	0	18-Jan-16	27-Jan-16	47	43	performed better than planned
3544	INSTALL REBAR @ SECTION 5	5	15-Dec-15	21-Dec-15	0	21-Jan-16	26-Jan-16	37	36	performed better than planned
3564	POUR FOOTING @ SECTION 5	1	22-Dec-15	22-Dec-15	0	27-Jan-16	27-Jan-16	36	36	performed as-planned
3574	STRIP FOOTING @ SECTION 5	1	23-Dec-15	23-Dec-15	0	28-Jan-16	1-Feb-16	36	40	
3684	BACKFILL @ SECTION 5	3	28-Dec-15	30-Dec-15	0	29-Mar-16	29-Mar-16	92	90	performed better than planned
3694	MUD MAT @ SECTION 5	2	30-Dec-15	4-Jan-16	0					
3704	INSTALL WATERPROOFING @ SECTION 5	5	4-Jan-16	8-Jan-16	0	29-Mar-16	30-Mar-16	85	82	performed better than planned
3724	INSTALL REBAR @ SECTION 5	3	11-Jan-16	13-Jan-16	0	31-Mar-16	31-Mar-16	80	78	performed better than planned
3714	INSTALL EDGE FORM / PREP @ SECTION 5	3	11-Jan-16	13-Jan-16	0	29-Mar-16	31-Mar-16	78	78	performed as-planned
3734	POUR SOG @ SECTION 5	1	14-Jan-16	14-Jan-16	0	1-Apr-16	1-Apr-16	78	78	performed as-planned
3754	INSTALL BRACING @ SECTION 5	2	15-Jan-16	18-Jan-16	0					
3764	EXCAVATE WEDGE @ SECTION 5	6	19-Jan-16	26-Jan-16	0					
4044	EXCAVATE / FORM FOOTING @ SECTION 8	7	27-Jan-16	4-Feb-16	0	7-Mar-16	9-Mar-16	40	34	performed better than planned
4174	EXCAVATE / FORM FOOTING @ SECTION 9	5	5-Feb-16	11-Feb-16	0	10-Mar-16	19-Mar-16	34	37	
4184	INSTALL WATERPROOFING @ SECTION 9	2	12-Feb-16	15-Feb-16	0	21-Mar-16	22-Mar-16	38	36	performed better than planned
4204	INSTALL REBAR @ SECTION 9	2	16-Feb-16	17-Feb-16	0	23-Mar-16	24-Mar-16	36	36	performed as-planned
4194	INSTALL DOWELS @ SECTION 9	2	18-Feb-16	19-Feb-16	0	23-Mar-16	24-Mar-16	34	34	performed as-planned
4214	POUR FOOTING @ SECTION 9	1	22-Feb-16	22-Feb-16	0	25-Mar-16	25-Mar-16	32	32	performed as-planned
4234	BACKFILL @ SECTION 9	3	23-Feb-16	25-Feb-16	0	29-Mar-16	30-Mar-16	35	34	performed better than planned
4254	INSTALL WATERPROOFING @ SECTION 9	5	29-Feb-16	4-Mar-16	0	29-Mar-16	30-Mar-16	29	26	performed better than planned
4274	INSTALL REBAR @ SECTION 9	3	7-Mar-16	9-Mar-16	0	31-Mar-16	31-Mar-16	24	22	performed better than planned
4284	POUR SOG @ SECTION 9	1	10-Mar-16	10-Mar-16	0	1-Apr-16	1-Apr-16	22	22	performed as-planned
4294	STRIP SOG @ SECTION 9	1	11-Mar-16	11-Mar-16	0					
4504	FIRST LIFT WALLS & COLUMNS @ AREA D LVL 1 (6800 SQ FT)	4	9-Mar-16	14-Mar-16	0	4-Apr-16	13-Apr-16	26	30	
4514	INSTALL FORMS @ AREA D LVL 1 (6800 SQ FT)	5	15-Mar-16	21-Mar-16	0	8-Apr-16	15-Apr-16	24	25	
4524	INSTALL REBAR / MEP @ AREA D LVL 1 (6800 SQ FT)	3	22-Mar-16	24-Mar-16	0	20-Apr-16	23-Apr-16	29	30	
4534	POUR @ AREA D LVL 1 (6800 SQ FT)	1	25-Mar-16	25-Mar-16	0	24-Apr-16	24-Apr-16	30	30	performed as-planned
4484	WALLS / COLUMNS @ AREA D LVL 1 (6800 SQ FT)	4	28-Mar-16	31-Mar-16	0	27-Apr-16	27-Apr-16	30	27	performed as-planned
4834	INSTALL FORMS @ AREA D LVL 2 (6800 SQ FT)	4	1-Apr-16	6-Apr-16	0	28-Apr-16	13-May-16	27	37	
4844	INSTALL REBAR / MEP @ AREA D LVL 2 (6800 SQ FT)	3	7-Apr-16	11-Apr-16	0	12-May-16	18-May-16	35	37	
4854	POUR @ AREA D LVL 2 (6800 SQ FT)	1	12-Apr-16	12-Apr-16	0	19-May-16	19-May-16	37	37	performed as-planned
4894	WALLS / COLUMNS @ AREA D LVL 2 (6800 SQ FT)	4	13-Apr-16	18-Apr-16	0	20-May-16	3-Jun-16	37	46	
5154	INSTALL FORMS @ AREA D LVL 3 (6400 SQ FT)	4	19-Apr-16	22-Apr-16	0	31-May-16	10-Jun-16	42	49	
5164	INSTALL REBAR / MEP @ AREA D LVL 3 (6400 SQ FT)	3	25-Apr-16	27-Apr-16	0	6-Jun-16	13-Jun-16	42	47	
5174	POUR @ AREA D LVL 3 (6400 SQ FT)	1	28-Apr-16	28-Apr-16	0	14-Jun-16	14-Jun-16	47	47	performed as-planned
5184	CURE @ AREA D LVL 3 (6400 SQ FT)	2	28-Apr-16	29-Apr-16	0	14-Jun-16	16-Jun-16	47	48	
5194	STRESS @ AREA D LVL 3 (6400 SQ FT)	1	2-May-16	2-May-16	0	15-Jun-16	15-Jun-16	44	44	performed as-planned
5204	STRIP FORMS @ AREA D LVL 3 (6400 SQ FT)	2	3-May-16	4-May-16	0	23-Jun-16	24-Jun-16	51	51	performed as-planned
4494	REMOVE RESHORE @ AREA D LVL 1 (6800 SQ FT)	2	3-May-16	4-May-16	0	15-Jun-16	21-Jun-16	43	48	
2470	INSTALL CMU BLOCK & ELECTRICAL ROUGH IN @ LEVEL 1	14	5-May-16	24-May-16	0	25-Jul-16	6-Sep-16	81	105	
2686	INSTALL CMU BLOCK & ELECTRICAL ROUGH IN @ LEVEL 2	14	25-May-16	14-Jun-16	0	15-Aug-16	7-Oct-16	82	115	
5432	WALL & MEP LAYOUT & DOOR FRAMES @ PREFUNCTION & BALL ROOM	10	20-Jun-16	1-Jul-16	0	18-Aug-16	2-Sep-16	59	63	
5200	WALL & MEP LAYOUT & DOOR FRAMES @ 2ND FLOOR SPA	15	15-Jun-16	6-Jul-16	0	15-Aug-16	28-Sep-16	61	84	
5450	INSTALL OH DUCTWORK @ PREFUNCTION & BALL ROOM	15	5-Jul-16	25-Jul-16	0	24-Oct-16	30-Nov-16	111	128	
5458	INSULATE DUCTWORK & TESTING @ PREFUNCTION & BALL ROOM	12	26-Jul-16	10-Aug-16	0	1-Dec-16	15-Dec-16	128	127	performed better than planned
2428	INSTALL CEILING FRAMING @ PREFUNCTION & BALL ROOM	35	11-Aug-16	29-Sep-16	0	3-Mar-17	31-Mar-17	204	183	performed better than planned
2434	INSTALL HARD CEILING ELECTRICAL @ PREFUNCTION & BALL ROOM	25	6-Sep-16	10-Oct-16	0	13-Mar-17	30-Mar-17	188	171	performed better than planned
2438	OVERHEAD INSPECTIONS @ PREFUNCTION & BALL ROOM	2	11-Oct-16	12-Oct-16	0	28-Jul-17	31-Jul-17	290	292	
2442	HANG DRYWALL CEILINGS @ PREFUNCTION & BALL ROOM	12	13-Oct-16	28-Oct-16	0	1-Aug-17	3-Nov-17	292	371	
2444	TAPE & FINISH DRYWALL WALLS & CEILINGS @ PREFUNCTION & BALL ROOM	16	17-Oct-16	7-Nov-16	0	27-Sep-17	30-Nov-17	345	388	
2446	PRIME PAINT WALLS & CEILINGS @ PREFUNCTION & BALL ROOM	15	8-Nov-16	30-Nov-16	0	21-Nov-17	1-Dec-17	378	366	performed better than planned
2036	INSTALL MILLWORK @ PREFUNCTION & BALL ROOM	40	1-Dec-16	27-Jan-17	0	24-Jul-17	22-Sep-17	235	238	
2448	1ST COAT PAINT @ PREFUNCTION & BALL ROOM	15	30-Jan-17	17-Feb-17	0	4-Dec-17	8-Dec-17	308	294	performed better than planned
2452	INSTALL LIGHT FIXTURES @ PREFUNCTION & BALL ROOM	17	20-Feb-17	14-Mar-17	0	18-Dec-17	27-Dec-17	301	288	performed better than planned
2458	INSTALL HARD TILE FLOORING @ PREFUNCTION & BALL ROOM	12	15-Mar-17	30-Mar-17	0	21-Jun-18	20-Jul-18	463	477	
2462	FINAL PAINT @ PREFUNCTION & BALL ROOM	20	10-Mar-17	6-Apr-17	0	4-Dec-17	8-Dec-17	269	246	performed better than planned
2456	INSTALL CARPET @ PREFUNCTION & BALL ROOM	6	6-Apr-17	13-Apr-17	0	2-Jul-18	4-Jul-18	452	447	performed better than planned
2038	BBC CREATES PUNCHLIST @ PREFUNCTION & BALL ROOM	5	14-Apr-17	20-Apr-17	0	29-Oct-18	2-Nov-18	563	561	performed better than planned
2466	FINAL PUNCH, REPAIRS & CLEAN @ PREFUNCTION & BALL ROOM	15	21-Apr-17	11-May-17	0	5-Nov-18	15-Nov-18	563	553	performed better than planned
1024	ARCH / ENGINEER PUNCH & REAPIRS @ INTERIORS	25	12-May-17	16-Jun-17	0	8-Apr-19		696		
1260	PRE-FUNCTIONAL TESTING / FUNCTIONAL TESTING / COMMISSIONING	30	16-Jun-17	28-Jul-17	0	11-Oct-18	21-Nov-18	482	481	performed better than planned
1050	HOTEL OPENING	0		28-Jul-17*	0			0		

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Schedule Delay Analysis – Conclusion

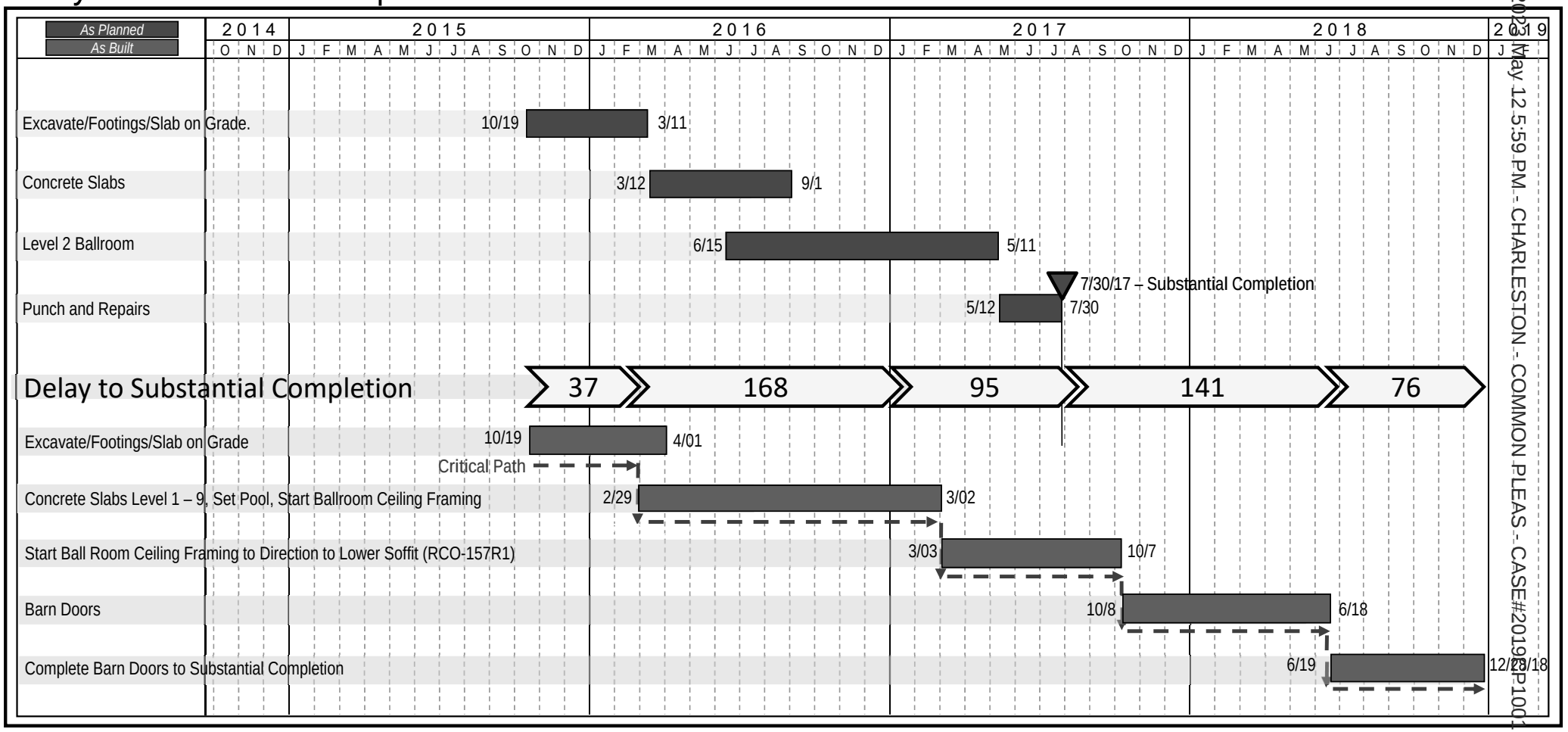
- The Owner is responsible for four hundred ninety-four (494) days of compensable delays
- Twenty-one (21) days were excusable due to weather and utility shut down.
- Balfour Beatty was responsible for one (1) day of delay.
- Balfour Beatty has already received twenty (20) days of time extension in OCO No. 3 for the 1,000-year flood in October 2015.

						Responsibility			
						Excusable Compensable	Un-Excusal	Excusable Non-Compensble	
Period	Description	Timeframe		Duration (cd)	Delays (cd)	Owner	Balfour Beatty	Weather / Other	Total
1	NTP to Design Complete for Level 5 (Level 6 Slab)	3/30/2015	8/11/2016	500	36	15	1	21	37
2	End of Period 1 to Start of Ceiling Framing in Pre-function/Ballroom	8/11/2016	3/3/2017	204	167	167	0	0	167
3	End of Period 2 to Direction to Lower Soffits in Ballrooms (RCO-157R1)	3/3/2017	10/7/2017	218	95	95	0	0	95
4	End of Period 3 to Complete Installation of Barn Doors on 3rd Floor	10/7/2017	6/18/2018	254	141	141	0	0	141
5	End of Period 4 to Substantial Completion	6/18/2018	12/28/2018	193	76	76	0	0	76
Totals				**1369**	**515**	**494**	**1**	**21**	**516**

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Schedule Analysis- Hotel Bennett

Delay to Substantial Completion –



Delay Summary Timeline



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Plaintiff Balfour Beatty's Trial Exhibit # 255

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Library Associates, LLC

February 14, 2019

Mr. Buck Lindsey
Winford Lindsey Architects
344 West Pike Street
Lawrenceville, GA 30046

RE: Hotel at Marion Square

Dear Buck:

The Owner, Library Associates, LLC is in receipt of your email of February 11, 2019. In the email you reference, among other things, that the Project is 531 days delayed (as of 2/1/2019). You also note that the date of Substantial Completion has not been determined. With regard to the delay of 531 days (as of 2/1/2019), you reference a "cap" on the liquidated damages to be paid by the Contractor. I write now to formerly inform the Architect and the Contractor that the Owner claims that any "cap" on liquidated damages does not apply due and owing to the prior breach of the Contract Documents by the Contractor relative to project completion. While the Contract contains a provision related to a "cap" on liquidated damages at Section 2.3.1.3 of the A133-2009, the Contractor was in prior breach of the provisions found at Sections 3.3.4, 3.9.1, 3.10.4.7, and 8.2.3 (among others) of the A201-2007.

As a result of the Contractor's prior breach of the Sections of the Contract Documents listed above and other Sections as may be applicable, any "cap" on liquidated damages may not be enforced. Please allow this correspondence to comply with any and all notice provisions under the Contract Documents. The Owner in no way waives other claims that it may have under the Contract Documents or pursuant to the statutory or common law.

Sincerely,

Kimberly B. Brown
Authorized Agent

cc: Balfour Beatty Construction

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Plaintiff Balfour Beatty's Trial Exhibit # 257

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Balfour Beatty
Construction

March 6, 2019

BY FEDERAL EXPRESS, OVERNIGHT DELIVERY

Mr. Buck Lindsay, Architect
Winford Lindsay Architect
344 West Pike Street
Lawrenceville, Georgia 30046

RE: The Hotel at Marion Square – Consolidated Claim (Preliminary)

Dear Mr. Lindsay:

This letter and attachments are being sent to you in response to your letter dated February 4, 2019. In that letter you acknowledged receipt of the preliminary Consolidated Claim letter that was sent by Balfour Beatty Construction dated January 25, 2019 (the "Preliminary Consolidated Claim"), and you requested that Balfour Beatty Construction provide additional supporting data on the claim. Additionally, you referenced the final determination of Substantial Completion, which subject we will address in a separate letter from this response.

As described in the Preliminary Consolidated Claim, Balfour Beatty Construction asserts that the Bennett Hotel project was made significantly more difficult, expensive, and time-consuming to build because of circumstances that were beyond the control of Balfour Beatty Construction. Those circumstances were described more specifically in the Preliminary Consolidated Claim, and they were pervasive throughout the project. Notices were given, and there were frequent discussions and meetings reflected in communications, meeting minutes and correspondence, all of which placed the Owner, the Architect, the Owner's Representative and others on notice that Balfour Beatty Construction and its subcontractors were being impacted by numerous events and circumstances for which the Owner was ultimately responsible. The numerous changes, delays, disruptions and impacts are reflected throughout the project's records, much of which the Owner should have in its possession. That said, in response to your request, we are providing with this letter further detail supporting the Preliminary Consolidated Claim as submitted, but as noted in that claim and as we note again now, we believe there are additional costs and claims, including those attributable to subcontractors, that may not yet have been identified by Balfour Beatty Construction and presented in the Prelminary Consolidated Claim. We are working to identify those so that a full and final claim can be presented for consideration. In the meantime, we are presenting the attached information (described below) as additional supporting data on the claim.

The additional supporting data on the claim is organized in a manner that provides material that supports both the financial and entitlement components of the Preliminary Consolidated Claim and it consists of the following tabs:

Tab 1 Support for Additional GC Costs incurred during the contract period, which consists of Balflour Beatty Construction's cost report for GCs through August 31, 2017;

Tab 2 Support for Additional GC Costs incurred during the extended period through January 21, 2019, which consists fo Balfour Beatty Construction's cost report for GCs as of January 21, 2019 along with an additional estimate for projected GCs to completion;

Tab 3 Support for Subcontractor Claims that were provided or projected as of the date of the submission of the Preliminary Consolidated Claim, which consists of the actual claims received from subcontractors or notifications of claim amounts pending submission of substantiation;

Tab 4 Support for Change Orders, RCOs and CCDs, which consists of the RCO Log and CCD Tracker;

Tab 5 Support for Contract Balance and Retention, which consists of Pay Applications 43, 44, and 45;

Tab 6 Support for the Builders Risk associated costs, which consists of correspondence to the Owner regarding Builders Risk claims and back-up for those costs;

Tab 7 Support for Entitlement related to Schedule Delays and Impacts, which consists of Balfour Beatty Construction's most recent updated schedule; and,

Balfour Beatty
Construction

Tab 8 Support for the Entitlement related circumstances and events described in the Preliminary Consolidated Claim which consists of: an RFI Log reflecting RFIs for which responses were late in being provided; a Drawing Log reflecting the number of new sheets added and existing sheets that were modified – all to reflect new design and Owner changes; another Drawing Log to show the number of drawing sheets affected by ASIs and Mods; various "DCI Doing Lists" which were used to track the interior designer and to give the Contractor some understanding as to the changes to the project the interior designer was working on; an "SI Misuse" Log reflecting how the SI process was misused to mask changes that had drastic cost and/or schedule implications rather than utilizing the Modification process which should have been utilized for such changes; an "HMS Delay Notification Log" reflecting certain delay notifications made throughout the course of the project; and, numerous other e-mails, correspondence, logs and other materials supporting the instances, circumstances and events noted in the Preliminary Consolidated Claim as bases for entitlement for recovery of the costs claimed.

Claimants reserve any and all rights and remedies to which they are entitled under the Contract or applicable law and reserve the right to supplement, amend and/or revise in the future any aspect of the Preliminary Consolidated Claim as well as the additional supporting data described above and attached to this letter.

As stated in the Preliminary Consolidated Claim, Balfour Beatty Construction and its subcontractors wish to resolve this matter and these claims with the Owner. We believe that the Owner has received a hotel that far exceeds what was shown on the drawings and described in the specifications, and that the Owner is now operating the hotel for its financial benefit as was intended. It is only fair that the Owner should pay for the direct and indirect costs incurred to upgrade the hotel to a heightened vision, all to deliver this Project to the Owner for its use and the enjoyment of its guests. Throughout the project, Mr. Bennett stated many times that it was always his intention to pay the costs incurred for the work that was performed – and now it is time for Mr. Bennett to meet that commitment.

Sincerely,

BALFOUR BEATTY CONSTRUCTION, LLC

By: _____
David Simonton, V.P.

Cc:
Thomas Ryan, Metropolitan Life Insurance Company
Kim Brown, Library and Associates
Jennifer Faulkinberry, Winford Lindsay Architect
Buck Lindsay, Winford Lindsay Architect

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Section 6 | Builders Risk

Section 7 | Schedule

Section 8 | Miscellaneous Entitlement and Related Materials

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Plaintiff Balfour Beatty's Trial Exhibit # 258

Matrix
PROGRAM MANAGEMENT

322 Prince Street
Georgetown, SC
704-676-9996

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March 14, 2019

Mr. Buck Lindsay
Winford Lindsay Architect
344 West Pike Street
Lawrenceville, GA 30046

Re: BBC Consolidated Claim Letter

Dear Buck:

Library Associates, LLC ("Owner") is now in receipt of documentation from the Contractor supporting the Consolidated Claim (Preliminary) submitted by Balfour Beatty Construction, LLC ("Contractor") on January 25, 2019. Winford Lindsay Architects ("Architect") was carbon copied on the submittal.

Given the extent of documents provided by the Contractor, the Owner requests 45 days to review the material and respond with its comments prior to your ruling on the claim. By requesting additional time to review the material, the Owner hereby in no way waives any rights under the contract documents with regard to its contesting all portions of the Contractor's Consolidated Claim or any other claim. The Owner would also request you to direct the Contractor to reestablish all folders previously included in the shared document control "Egnyte" site. This includes, but is not limited to, access to the Contractor's and subcontractor's Agreements, daily reports and punch lists as the Owner believes this information to be pertinent to the evaluation of the Contractor's Consolidated Claim.

The Owner submits this request is consistent with Section 4.4.2 of the A201 and the AOR's right to (1) request additional supporting data from the claimant or a response with supporting data from the other party.

The Owner will await your response pursuant to Section 4.4.2 of the A201.

Sincerely,

Jim Clements
Matrix Program Management Services, LLC.

CC: David Simonton – Balfour Beatty Construction
Jennifer Faulkinberry – Winford Lindsay Architect
Steve Eifert – SCG
Thomas Ryan – Metropolitan Life Insurance Co.
Kim Brown – Library Associates, LLC

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Plaintiff Balfour Beatty's Trial Exhibit # 261

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Bundy McDonald
TRIAL LAWYERS

WALTER H. BUNDY
walter@bundymcdonald.com
843-212-0525 (Direct)
843-708-1519 (Cell)

April 19, 2019

Via US Mail & Email
Winford Lindsay
Winford Lindsay Architect
344 West Pike Street
Lawrenceville, GA 30046
blindsay@LPBatlanta.com

RE: Balfour Beatty Construction v. Library Associates
Consolidated Claim

Dear Mr. Lindsay:

This is to respond to Balfour Beatty Construction's " Consolidated Claim" as presented in letters of January 25, 2019, March 6, 2019 and Volumes 1 thru 4.

Balfour Beatty Construction's Consolidated Claim represents what is referred to in the construction industry as a "mud ball".

It is no more than a confusing and random assemblage of documents, spread sheets and charts having little or no relevance to the terms of the contract, to which there is scant reference.

This claim is governed by the terms of the negotiated contract. The claim's ad hominem assertions against Mr. Bennett and others are irrelevant, distasteful and impede any potential mutual resolution.

Library Associates retained the services of a nationally recognized firm CPMI to analyze the Consolidated Claim at a cost in excess of $45,000.00.

Mark Boe's e-mail of April 18, 2019, attached, explains why BBC's consolidated claim is in my opinion the quintessential "mud ball".

In legal jargon, BBC's Consolidated Claim is a "Total Cost" claim, a legal theory that ignores the terms of a contract, as a matter of law and proof a total cost claim is unavailable to BBC as a theory of recovery in this matter.

I would request that you direct BBC to provide the documents and information in the attached e-mail and present its claim in compliance with the contract, including but not limited to Article 8.3 DELAYS AND EXTENSIONS OF TIME.

Article 8.3 among other things identifies two (2) separate classes of delay with distinct consequences, the consolidated claim ignores this, and other contract claim requirements.

Unless and until Library Associates receives a properly presented and documented Claim that abides by terms of the contract, regrettably it has no choice but to deny the claim in its entirety.

Sincerely,

W.H. Bundy, Jr.

WHB/kjw
Attachment as Noted
cc: *Via Email Only*
Tom Hildebrand
John Linton
Ian Freeman
Joey Floyd
Robert Wylie
Sarah DiFranco
Tracy James
Hamilton Stevens
Don Terry
Michael Wright
Rachel Idgal
Robert Hughes
Ross Appel
Scott Miller
Steele Windlel, III

Via US Mail Only
Spencer Fox, Controller of Trimark Foodcraft, LLC
Joseph Martin, VP of Finance David Allen Company

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Gmail by Google

Walter Bundy <walter@bundymcdonald.com>

FW: Hotel Bennett - BBC Claim

1 message

Mark Boe <mboe@cpmiteam.com> Thu, Apr 18, 2019 at 9:30 AM
To: Walter Bundy <walter@bundymcdonald.com>, Whbundy <whbundy@att.net>, Brent McDonald <brent@bundymcdonald.com>
Cc: Michael D'Onofrio <mdonofrio@cpmiteam.com>, Supriya Panwar <spanwar@cpmiteam.com>

Bill, Brent,

As requested, we have reviewed the Balfour Beatty Construction (BBC) Consolidated Claim (Preliminary). CPMI found the claim to be unsubstantiated by the information provided, and recommends suspending the review until BBC's "full and final claim" is received. There is essentially no part of the claim that offers enough information to explain why it is entitled to what appears to be more than $20 million (the actual amount is not stated), what theories or methodologies it relies on in calculating its claim, and no way for us to verify the allegations and damages, even if they were true.

As examples:

1. Little or no entitlement discussion: the only explanation of BBC's specific claim elements, is in a two page cover letter. The letter makes unsubstantiated statements concerning several issues, but does not provide any specifics. In fact, it makes clear that this is a preliminary statement of claim, and that it is still identifying other claims, including some "attributable to subcontractors." BBC also states that the information is presented as "additional supporting data," of a full and final claim that will be presented in the future. CPMI would expect to see a detailed list of specific allegations, a narrative explanation of why it is entitled to each, and a discussion of how damages flowed from the Owner's actions or inactions, perhaps hundreds of page long. That would normally be accompanied by appropriate support to source documents. BBC's preliminary claim has neither.

2. No Critical Path Delay analysis: The most basic required proof of a delay claim is a Critical Path Method Analysis. BBC requested increased and extended general conditions costs for itself and several subcontractors, but did not provide an analysis to show the causes of the delay. It also made no attempt to account for its own delays.

3. Unsubstantiated and apparently unreviewed subcontractor claims: BBC's claim included more than $9.5 million in subcontractor claims without adequate documentation of entitlement. Significantly, one subcontractor made the previously unheard of, and completely unsubstantiated statement that its labor productivity was greatly impacted by a decrease in height of the building by 120 feet after contract award ("*the Architect was required to 'shrink' the building by approximately 120 feet – after the building was already under construction.*"). We are unaware of any decrease in building height after contract award. Such unsubstantiated, and previously unheard allegations should not be presented to the Owner.

4. Failure to support Damages calculations: BBC's claim includes millions of dollars of claims with no substantiation to source documents. BBC makes general claims for subcontractor delay damages without proof.

CPMI's conclusion is that the claim, in its current form, does not have enough information to be reasonably reviewed for entitlement or damages. Assuming a "full and final claim" is provided, there are a number of documents that will be needed through discover. An initial listing would include BBC's electronic P6 schedule files, BBC's cost reports, subcontractor daily reports, change orders, correspondence, and cost report information from subcontractors (for those with claims).

Let Mike or I know if you have any questions.

Mark Boe, P.E., PSP

Vice President

Capital Project Management, Inc.

1777 Sentry Parkway West

VEVA Building 11, Suite 300

Blue Bell, PA 19422

Direct 267-464-1532 | Cell 215-962-9969

cpmiteam.com | vCard

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Plaintiff Balfour Beatty's Trial Exhibit # 263

ELECTRONICALLY FILED - 2023 May 12 5:59 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

From:	Buck Lindsay
To:	Hildebrand, Jr., Thomas C.
Cc:	"Heuer, John"; linton@wgfllaw.com; Ian W. Freeman; jfloyd@brunerpowell.com; Robert Wylie; sdifranco@poynerspruill.com; tjames@lawhssm.com; dterry@smithterrylaw.com; ross@mklawsc.com; smiller@jahlaw.com; awindle@slk-law.com; mew@roblaw.net; igdalr@roblaw.net; rhughes@rhp-law.com; hstevens@lawhssm.com; Walter Bundy; Whbundy; Brent McDonald; "Kathy Wentland"; Byrd, Robert C.; Morris, Taylor M.; Gouin, Kelly J.; "Kathy Wentland"; Heuss, Lauren A.; Kim Brown (kbrown@bennetthospitality.com); "James Clements"; Jennifer Faulkinberry
Subject:	RE: Bennett Hotel - Charleston, S.C.
Date:	Wednesday, April 24, 2019 8:53:15 AM
Attachments:	1205_001.pdf 1379_001.pdf

Caution: External email

Mr. Hildebrand - I refer to your letter of April 24th to me and to Bundy McDonald's letter of April 19th to me, both on the subject of delays on the referenced project. I have already responded to that subject in my letter of February 4th, 2019, attached, in which I stated to David Simonton at BBC that I had not been provided with adequate information from BBC to make a determination on BBC's delay claim. I requested that additional information on the delay subject in a few subsequent communications to Simonton, but to date have not receive a useful reply. The second attachment is my March 15th, 2019 publication of the Certificate of Substantial Completion (with February 15th, 2019 as the date of S/C), which in effect discharges our Initial Decision Maker duty on the subject of delays.

Sincerely, Buck Lindsay, architect

From: Hildebrand, Jr., Thomas C. <tomhildebrand@parkerpoe.com>
Sent: Tuesday, April 23, 2019 3:13 PM
To: Buck Lindsay <BLindsay@lpbatlanta.com>
Cc: 'Heuer, John' <JHeuer@Balfourbeattyus.com>; linton@wgfllaw.com; Ian W. Freeman <freeman@wgfllaw.com>; jfloyd@brunerpowell.com; Robert Wylie <rwylie@mullenwylie.com>; sdifranco@poynerspruill.com; tjames@lawhssm.com; dterry@smithterrylaw.com; ross@mklawsc.com; smiller@jahlaw.com; awindle@slk-law.com; mew@roblaw.net; igdalr@roblaw.net; rhughes@rhp-law.com; hstevens@lawhssm.com; Walter Bundy <walter@bundymcdonald.com>; Whbundy <whbundy@att.net>; Brent McDonald <brent@bundymcdonald.com>; 'Kathy Wentland' <kathy@bundymcdonald.com>; Byrd, Robert C. <bobbybyrd@parkerpoe.com>; Morris, Taylor M. <taylormorris@parkerpoe.com>; Gouin, Kelly J. <kellygouin@parkerpoe.com>; Heuss, Lauren A. <laurenheuss@parkerpoe.com>
Subject: FW: Bennett Hotel - Charleston, S.C.
Importance: High

Mr. Lindsay,

I am resending John Heuer's letter with c.c.'s to all persons who were copied with Mr. Bundy's prior letter. Regards, Tom.

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Thomas C. Hildebrand, Jr.
Partner

200 Meeting Street | Suite 301 | Charleston, SC 29401-3156
Office: 843.727.2653 | Fax: 843.727.2680 | vcard | map

Visit our website at
www.parkerpoe.com

From: Heuer, John [mailto:JHeuer@Balfourbeattyus.com]
Sent: Tuesday, April 23, 2019 3:07 PM
To: BLindsay@lpbatlanta.com
Cc: Walter@bundymcdonald.com; W.H. Bundy; Hildebrand, Jr., Thomas C.
Subject: Bennett Hotel - Charleston, S.C.

*****Caution: External email*****

Mr. Lindsay:

Please see the attached letter of today's date. Thank you.

John Heuer
SVP/Legal | Balfour Beatty
O: (704) 319-4107 | C: (704) 770-6504 | F: (704) 319-4001
E: jheuer@balfourbeattyus.com | www.balfourbeattyus.com
1930 Camden Road, Ste. 280, Charlotte, NC 28203

Balfour Beatty

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Plaintiff Balfour Beatty's Trial Exhibit # 292

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Balfour Beatty Construction

Transmittal

Project [13026000] - Hotel at Marion Square

Date 2/1/2019

Balfour Beatty Construction, LLC
306 Meeting Street, Ste. 300
Charleston, SC 29401

Transmittal No.
13026000-00108

To	Jennifer Faulkinberry Winford Lindsay Architect 344 West Pike Street Lawrenceville, GA 30046 Phone: 770-407-5786 Fax: 770-407-5817
From	Mr. Nick Starcevic (Balfour Beatty Construction, LLC)
Subject	Pay Application #45. OCO 21, OCO 22

Date 2/1/2019

Items listed are being sent

- ☑ Enclosed
- ☐ Under Separate Cover

Via Hand Delivered

We are transmitting the following to you:

☐ Product Data	☐ Samples	☐ Shop Drawings	☐ O&M Manuals	☐ Plans
☐ Architectural Drawings	☐ Letters	☐ Specifications	☐ Prints	☐ Addenda
☐ Engineering Drawings	☑ Change Orders	☐ Submittal	☑ Pay Application	

Remarks Enclosed is the Following...

1. Pay Application #45 and Notarized Waiver
2. OCO #21
3. OCO #22

Received By	Printed Name	Date

APPLICATION AND CERTIFICATE FOR PAYMENT

AIA DOCUMENT G702

OWNER	**LIBRARY ASSOCIATES, LLC.** 17 Lockwood Drive, Suite 400 Charleston, SC 29401	PROJECT	**THE HOTEL AT MARION SQUARE** 404 KING STREET CHARLESTON, SC 29403	APPLICATION PERIOD FROM PERIOD TO	45 12/01/2018 12/31/2018
CONTRACTOR ADDRESS	**Balfour Beatty Construction, LLC** 1930 Camden Rd Charlotte, NC 28203	ARCHITECT ADDRESS PHONE #	**WINFORD LINDSAY ARCHITECT** 344 West Pike Street Lawrenceville, GA 30046 770-407-5796	VENDOR #: ARCHITECT'S PROJECT NO	
CONTRACT	**THE HOTEL AT MARION SQUARE** (Project #13026000)				

DISTRIBUTION TO:

- [X] OWNER
- [X] CONTRACTOR
- [X] ARCHITECT
- [ ] ENGINEERS

CONTRACT DATE	**2/18/2015**
NTP DATE	**3/19/2015**
CONTRACT COMPL DATE	**8/19/2017**

CONTRACTOR'S APPLICATION FOR PAYMENT

CHANGE ORDER SUMMARY			
Change Orders approved in previous months by Owner		ADDITIONS	DEDUCTIONS
TOTAL		$ 5,637,169.14	
Approved this Month			
No.	Date Approved		
21	01/01/2019	$175,189.17	
22	01/01/2019	$ 81,361.68	
TOTALS		$ 256,550.85	$ -
Net change by Change Orders:		$	5,893,719.99

The undersigned Contractor certifies that to the best of the Contractor's knowledge information and belief the Work covered by this Appliction for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: **Balfour Beatty Construction, LLC.**

By: [signature] Date: 1/28/19

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of their knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

Application is made for Payment, as shown below, in connection with the Contract.
Continuation Sheet, AIA Document G703,

1. **ORIGINAL CONTRACT SUM**		$ 59,344,747.00
2. **Net change by Change Orders**		$ 5,893,719.99
3. **CONTRACT SUM TO DATE (Line 1 + 2)**		$ 65,238,466.99
4. **TOTAL COMPLETED & STORED TO DATE** (Column G on G703)		$ 64,961,774.45
5. **RETAINAGE:**		
a.	Completed Work $ 0.00	
b.	Stored Materials $ 0.00	
Total Retainage (Line 5a + 5b or Total in Column J of G703)		$ 0.00
6. **TOTAL EARNED LESS RETAINAGE** (Line 4 less Line 5 Total)		$ 64,961,774.45
7. **LESS PREVIOUS CERTIFICATES FOR** PAYMENT (Line 6 from prior Certificate)		$ 62,491,299.73
8. **CURRENT PAYMENT DUE**		$ 2,470,474.72
9. **BALANCE TO FINISH, PLUS RETAINAGE** (Line 3 less Line 6)		$ 276,692.54

State of: South Carolina County of: Charleston

Subscribed and sworn to before me this 28th day of January 2019

Notary Public: Nicholas Wagener

My commission expires: 07/22/2026

NICHOLAS WAGENER NOTARY PUBLIC SOUTH CAROLINA COM. EXP. 07/22/2026

AMOUNT CERTIFIED $

(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT: WINFORD LINDSAY ARCHITECT

By: Date:

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

G702-1983

R - 9050

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CONTINUATION SHEET

APPLICATION AND CERTIFICATE FOR PAYMENT

containing Contractor's signed certificate, is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

PROJECT # 13026000

PROJECT THE HOTEL AT MARION SQUARE
CHARLESTON, SC
0 LIBRARY ASSOCIATES, LLC.

CONTINUATION G703

APPLICATION NUMBER 45
PERIOD FROM 12/01/2018
PERIOD TO 12/31/2018

A	B		C				D	E	F	G	H	I	J
			COMMITMENT VALUES				WORK COMPLETED						
LINE	WORK DESCRIPTION		ORIGINAL AMOUNT	CHANGE ORDERS	BUDGET TRANSFERS	CURRENT AMOUNT	FROM PREVIOUS APPLICATION	THIS PERIOD	STORED MATERIALS	TOTAL COMPLETE AND STORED TO DATE (D + E)	% COMPLETE (G/C3)	BALANCE TO FINISH (C3 -G)	RETAINAGE
			-1-	-2-		-3-							
1	G/C'S	GENERAL CONDITIONALS (28 months)	3,216,855.00		105,219.01	3,322,074.01	3,280,417.00	41,657.01	-	3,322,074.01	100.0%	-	-
2													
3		SUBCONTRACTS / COST OF WORK											
4	GENERAL												
5	00A	STAGING AND LOGISTICS	821,074.00			821,074.00	818,624.16	-	-	818,624.16	99.7%	2,449.84	-
6	01A	GENERAL TRADES	875,833.00		(80,315.16)	795,517.84	704,703.92	-	-	704,703.92	88.6%	90,813.92	-
7	SITE												
8	02A	SITEWORK	1,632,494.00		78,467.03	1,710,961.03	1,671,463.16	39,497.87	-	1,710,961.03	100.0%	-	-
9	02J	HARDSCAPE, LANDSCAPE & IRRIGATION	317,316.00		14,040.00	331,356.00	331,356.00	-		331,356.00	100.0%	-	-
10	02K	SITE DEMOLTION ALLOWANCE	80,000.00		(22,490.73)	57,509.27	57,509.27	-	-	57,509.27	100.0%	-	-
11	STRUCTURE												
12	02L	DEEP FOUNDATIONS	2,228,614.00		(450,336.00)	1,778,278.00	1,778,278.00	-	-	1,778,278.00	100.0%	-	-
13	03A	CAST-IN-PLACE CONCRETE	7,337,895.00		163,387.93	7,501,282.93	7,501,282.93	-	-	7,501,282.93	100.0%	-	-
14	04A	MASONRY- CMU & CAST STONE	2,378,350.00		192,639.23	2,570,989.23	2,560,720.67	-	-	2,560,720.67	99.6%	10,268.56	-
15	05A	MISC. METALS	2,474,750.00		(301,598.35)	2,173,151.65	2,037,369.81	22,290.20	-	2,059,660.01	94.8%	113,491.64	-
16	SHELL												
17	07A	ROOFING	855,698.00		234,206.00	1,089,904.00	1,078,231.53	-	-	1,078,231.53	98.9%	11,672.47	-
18	07B	WATERPROOFING/ CAULKING	742,900.00		50,409.40	793,309.40	778,447.71	-	-	778,447.71	98.1%	14,861.69	-
19	07E	STUCCO	913,038.00		442,246.36	1,355,284.36	1,353,206.90	-	-	1,353,206.90	99.8%	2,077.46	-
20	007F	FIREPROOFING	7,580.00		(7,580.00)	-	-	-	-	-	#DIV/0!	-	-
21	07X	FIRESTOPPING	20,000.00		(20,000.00)	-	-	-	-	-	#DIV/0!	-	-
22	08F	GLASS (Hopes Jamestown Painted Steel Storefront)	1,283,597.00		$ 62,804.00	1,346,401.00	1,332,271.61	-	-	1,332,271.61	99.0%	14,129.39	-
23	08H	INTERIOR GLAZING	1,154,577.00		1,137,862.50	2,292,439.50	2,282,201.88	-	-	2,282,201.88	99.6%	10,237.62	-
24	08I	WINDOWS	740,395.00		(740,395.00)	-	-	-	-	-	#DIV/0!	-	-
25	13C	FABRIC AWNINGS	12,000.00			12,000.00	-	-	-	-	0.0%	12,000.00	-
26	INTERIORS												
27	04A	MASONRY- INTERIOR CAST STONE	250,000.00		(166,756.00)	83,244.00	83,244.00	-	-	83,244.00	100.0%	-	-
28	05A	INTERIORS ORNAMENTAL METALS	230,000.00		(180,000.00)	50,000.00	-	-	-	-	0.0%	50,000.00	-
29	06A	ROUGH CARPENTRY	211,677.00		52,970.12	264,647.12	264,647.12	-	-	264,647.12	100.0%	-	-
30	08D	DOORS, FRAMES, AND HARDWARE	1,606,746.00		300,335.89	1,907,081.89	1,745,443.34	161,638.55	-	1,907,081.89	100.0%	-	-
31	08R	SPECIAL DOORS	359,997.00		(126,161.12)	233,835.88	153,837.00	-	-	153,837.00	65.8%	79,998.88	-
32	08X	SMOKE CONTAINMENT BARRIER	13,353.00		120,272.00	133,625.00	131,970.00	-	-	131,970.00	98.8%	1,655.00	-
33	09A	METAL STUD FRAMING & DRYWALL / ACCOUSTICAL CEILINGS	3,717,093.00		816,412.32	4,533,505.32	4,525,377.32	8,128.00	-	4,533,505.32	100.0%	-	-
34	10A	SPECIALTIES	606,681.00		96,291.15	702,972.15	531,802.15	171,170.00	-	702,972.15	100.0%	-	-
35	10C	OPERABLE PARTITIONS	83,437.00			83,437.00	83,437.00	-	-	83,437.00	100.0%	-	-
36	11A	EQUIPMENT (PARKING LIFTS)	481,755.00		(44,038.00)	437,717.00	400,602.20	-	-	400,602.20	91.5%	37,114.80	-
37	11B	KITCHEN EQUIPMENT	-	-	1,016,066.17	1,016,066.17	1,016,066.17	-	-	1,016,066.17	100.0%	-	-
38	13A	POOL	365,864.00		(54,064.00)	311,800.00	311,800.00	-	-	311,800.00	100.0%	-	-
39	14A	ELEVATORS	1,475,219.00		192,905.00	1,668,124.00	1,668,124.00	-	-	1,668,124.00	100.0%	-	-
40	14B	WHEEL CHAIR LIFT	15,000.00		(15,000.00)	-	-	-	-	-	#DIV/0!	-	-
41													
42	MEP												-
43	15B	HVAC & PLUMBING	8,018,142.00		729,093.32	8,747,235.32	8,727,219.14	-	-	8,727,219.14	99.8%	20,016.18	-
44	15D	FIRE PROTECTION	466,920.00			466,920.00	466,151.88	-	-	466,151.88	99.8%	768.12	-
45	16A	ELECTRICAL	3,963,792.00		612,076.49	4,575,868.49	4,575,868.49	-	-	4,575,868.49	100.0%	-	-
46	FINISHES												
47	06B	FINISH CARPENTRY & CUSTOM MILLWORK	2,105,485.00	-	879,823.90	2,985,308.90	2,964,794.90	5,844.00	14,670.00	2,985,308.90	100.0%	-	-
48	09B	FLOORING	397,147.00	-	22,510.00	419,657.00	415,734.00	-	-	415,734.00	99.1%	3,923.00	-
49	09D	PAINTING & WALLCOVER	619,814.00		498,286.78	1,118,100.78	1,059,122.77	58,978.01	-	1,118,100.78	100.0%	-	-
50	09E	STONE & HARD TILE	3,568,850.00	-	21,977.68	3,590,827.68	3,572,304.68	-	-	3,572,304.68	99.5%	18,523.00	-
51	OCO 1	RCO 1, RCO 4, RCO 5, RCO 6, RCO 8, RCO 10, RCO 12	-	274,953.15	(274,953.15)	-	-	-	-	-	-	-	-
52	OCO 2	RCO 3, RCO 7, RCO 11, RCO 15, RCO 32,	-	80,241.74	(80,241.74)	-	-	-	-	-	-	-	-
53	OCO 3	RCO 14, RCO 27R1, RCO 9R1, RCO 20R1	-	1,048,791.54	(1,048,791.54)	-	-	-	-	-	-	-	-
54	OCO 4	RCO 17R1, RCO 40	-	12,874.68	(12,874.68)	-	-	-	-	-	-	-	-
55	OCO 5	RCO 22, RCO 28, RCO 33, RCO 47, RCO 50, RCO53, RCO 66, RCO 68, RCO 77, RCO 81		65,161.71	(65,161.71)	-	-	-	-	-	-	-	-
56	OCO 6	RCO 35, RCO 36, RCO 39, RCO 45, RCO 48, RCO 51, RCO 52, RCO 85, RCO 87, RCO 95		369,310.84	(369,310.84)	-	-	-	-	-	-	-	-
57	OCO 7	RCO 19, RCO 23R1, RCO 25, RCO 26R3, RCO 31, RCO 38, RCO 55, RCO 58, RCO 61, RCO 62, RCO 64, RCO 67, RCO 70, RCO 72, RCO 73R1, RCO 78, RCO 90, RCO 91, RCO 92, RCO 93, RCO 94, RCO 96, RCO 97, RCO 98, RCO 99, RCO 101, RCO 114, RCO 116, RCO 117, RCO 119, RCO 120, RCO 121, RCO 124, RCO 128, RCO 133, RCO 139		1,178,513.75	(1,178,513.75)	-	-	-	-	-	-	-	-
58	OCO 8	RCO 084, RCO 104, RCO 107R4, RCO 111, RCO 113R1, RCO 125R1, RCO 127R1, RCO 135R1, RCO 137, RCO 138R3, RCO 142R2, RCO 145, RCO 147, RCO 149R2, RCO 150, RCO 153, RCO 155, RCO 157, RCO 165, RCO 170, RCO 173		1,156,837.97	(1,156,837.97)	-	-	-	-	-	-	-	-
59	OCO 9	RCO018, RCO 100R4, RCO 112, RCO 126, RCO 129, RCO 143, RCO 146R3, RCO 158, RCO 160R1, RCO 162, RCO 164, RCO 169R1, RCO 171.1, RCO 174, RCO 175R1, RCO 176, RCO 179, RCO 180, RCO 181, RCO 183, RCO 185, RCO 186, RCO 188, RCO 189R1, RCO 190, RCO 191, RCO 195, RCO 196, RCO 202, RCO 203R1, RCO 207, RCO 214, RCO 218, RCO 220		340,037.37	(340,037.37)	-	-	-	-	-	-	-	-
60	OCO 10	RCO 144, RCO 151R1, RCO 163, RCO 167, RCO 168, RCO 193, RCO 199R3, RCO 201R1, RCO 206, RCO 210, RCO 217, RCO 224, RCO 226, RCO 228, RCO 229, RCO 230R2, RCO 232, RCO 234		169,340.91	(169,340.91)	-	-	-	-	-	-	-	-
61	OCO 11	Construction Change Directives - April Draw		10,987.00	(10,987.00)	-	-	-	-	-	-	-	-
62	OCO 12	RCO 140, RCO 204R1, RCO 231, RCO 238		94,035.32	(94,035.32)	-	-	-	-	-	-	-	-
63	OCO 13	Construction Change Directives - May Draw		33,945.00	(33,945.00)	-	-	-	-	-	-	-	-
64	OCO 14	Construction Change Directives - June Draw		56,610.72	(56,610.72)	-	-	-	-	-	-	-	-
65	OCO 15R1	Construction Change Directive - July Draw		66,756.76	(66,756.76)		-	-	-	-	-	-	-
66	OCO 16R3	RCO 49R4, RCO 057, RCO 182.4, RCO 219, RCO 225, RCO 241, RCO 242		201,763.27	(201,763.27)	-	-	-	-	-	-	-	-
67	OCO 17R2	Construction Change Directives - August Draw		52,930.00	(52,930.00)	-	-	-	-	-	-	-	-

R - 9051

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CONTINUATION SHEET

APPLICATION AND CERTIFICATE FOR PAYMENT

containing Contractor's signed certificate, is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

PROJECT # 13026000

PROJECT THE HOTEL AT MARION SQUARE
CHARLESTON, SC
0 LIBRARY ASSOCIATES, LLC.

CONTINUATION G703

APPLICATION NUMBER 45
PERIOD FROM 12/01/2018
PERIOD TO 12/31/2018

A	B		C				D	E	F	G	H	I	J
			COMMITMENT VALUES				WORK COMPLETED			TOTAL			
LINE	WORK DESCRIPTION		ORIGINAL AMOUNT	CHANGE ORDERS	BUDGET TRANSFERS	CURRENT AMOUNT	FROM PREVIOUS APPLICATION	THIS PERIOD	STORED MATERIALS	COMPLETE AND STORED TO DATE (D + E)	% COMPLETE (G/C3)	BALANCE TO FINISH (C3 -G)	RETAINAGE
			-1-	-2-		-3-							
68	OCO 18	Construction Change Directive - September Draw		60,730.61	(60,730.61)	-	-	-	-	-	-	-	-
69	OCO 19	Construction Change Directive - October Draw		27,603.82	(27,603.82)	-	-	-	-	-	-	-	-
70	OCO 20	Construction Change Directive - November Draw		54,032.34	(54,032.34)	-	-	-	-	-	-	-	-
71	OCO 21	Condstruction Change Directive - December Draw		165,272.80	(165,272.80)	-	-	-	-	-	-	-	-
72	OCO 22	RCO 141R1, RCO 212R1, RCO 246R1, RCO 252, RCO 256, RCO 257, RCO 259, RCO 263R1, RCO 265		76,786.14	(44,095.17)	32,690.97	-	-	-	-	-	32,690.97	-
		SUBTOTAL	55,649,938.00	5,597,517.44	66,741.45	61,314,196.89	60,263,630.71	509,203.64	14,670.00	60,787,504.35	99.1%	526,692.54	-
69		CONSTRUCTION CONTINGENCY (2.25%)	1,060,688.00	-	(66,741.45)	993,946.55	993,946.55	-	-	993,946.55	100.0%	-	-
70		SPECIALTY SPACE SUPERVISION - NBM	100,000.00	-	-	100,000.00	100,000.00	-	-	100,000.00	100.0%	-	-
71		GENERAL LIABILITY INSURANCE (1%)	595,280.00	60,724.35	-	656,004.35	653,486.93	2,517.42	-	656,004.35	100.0%	-	-
72		SUBGUARD (1.25%)	670,160.00	75,157.27	-	745,317.27	742,291.53	3,025.74	-	745,317.27	100.0%	-	-
		SUBTOTAL	58,076,066.00	5,733,399.06	(0.00)	63,809,465.06	62,753,355.72	514,746.80	14,670.00	63,282,772.52	99.2%	526,692.54	-
73		FEE (2.5%)	1,451,902.00	160,320.93		1,612,222.93	1,603,274.18	8,948.75	-	1,612,222.93	100.0%	-	-
		TOTAL CONSTRUCTION COST	59,527,968.00	5,893,719.99	(0.00)	65,421,687.99	64,356,629.90	523,695.55	14,670.00	64,894,995.45	99.2%	526,692.54	-
74		PRECONSTRUCTION FEE	66,779.00			66,779.00	66,779.00	-	-	66,779.00	100.0%	-	-
		TOTAL COST WITH PRECON	59,594,747.00	5,893,719.99	(0.00)	65,488,466.99	64,423,408.90	523,695.55	14,670.00	64,961,774.45	99.2%	526,692.54	-
75		BUYOUT REDUCTION CONTRIBUTION	(250,000.00)			(250,000.00)				-	0.0%	(250,000.00)	-
		GRAND TOTAL	59,344,747.00	5,893,719.99	(0.00)	65,238,466.99	64,423,408.90	523,695.55	14,670.00	64,961,774.45	99.6%	276,692.54	-

R - 9052

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Contractor's Conditional Partial Waiver and Release of Lien
(Upon Progress Payment)

KNOW ALL MEN BY THESE PRESENTS:

That Balfour Beatty Construction, LLC (the "Lienor") for and in consideration of the payment of the sum of $2,470,474.72 and other good and valuable consideration paid by Library Associates, LLC, a South Carolina limited liability company (the "Owner"), receipt of which is hereby acknowledged, hereby releases, waives and quit claims to Owner and all of its successors and assigns, all liens, lien rights, claims or demands of any kind whatsoever, which Lienor now has or might have against Owner and/or the buildings and improvements on the premises legally described as: See Exhibit "A" attached hereto (the "Property") on account of labor and services performed and/or material furnished for the construction of any improvements thereon; except for retention, and open change order requests, claims or disputes identified as follows: RCO's 18, 49R2, 57, 59, 80, 82, 88, 100R2, 102, 103, 106, 112, 115, 118, 122, 123, 129, 130, 131, 132, 134, 136, 140, 141, 143, 144, 146, 148, 150, 151, 152, 153, 154, 156, 158, 159, 160, 161, 162, 163, 164, 166, 167, 168, 169, 171, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189R1, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 228, 229, 230, 231, 232, 233, 234, 236, 238, 240, 241, 242, 244, 245, 246, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 266, 267, 268, as well as Open and/or Pending Change Orders, Claims, or Delays as identified but not limited to the attached Exhibit "XX" HMS Master Request for Change Order Log dated December 31, 2018.

That the undersigned has the right and authority to execute this Conditional Partial Waiver and Release of Lien on behalf of the Lienor. That this is a waiver of all lien rights and other claims which Lienor has against the Property and the Owner for all labor, material and services performed thereon, including all extras and change orders, that all laborers retained or employed by the Lienor for construction of improvements on the Property, all suppliers and sub-contractors of Lienor who have furnished labor, material and services for the undersigned for the construction of improvements on the Property, and all labor, services and materials used by the undersigned in the construction of said improvements, have been paid in full for work performed or materials supplied, up to and including the 31 day of December 2018, excluding the items identified herein above, if any.

The current Contract Sum is: $ 65,238,466.99
The cumulative amount paid to Contractor to date is: $ 59,994,390.35

THE UNDERSIGNED ACKNOWLEDGES THAT THE OWNER AND OTHER PARTIES HAVE A RIGHT TO RELY UPON THIS WAIVER AND RELEASE AND THAT MAKING ANY FALSE STATEMENTS SHALL CONSTITUTE PERJURY AND PUNISHMENT CAN BE MADE IN ACCORDANCE WITH THE LAWS OF THE STATE OF SOUTH CAROLINA.

IN WITNESS THEREOF, I have hereunto set my hand seal this 28 day of January, 2019.

Signed, sealed and delivered
in the presence of:

Nicholas Wegener
Signature
Nicholas Wegener
Print Name

STATE OF SC

COUNTY OF Charleston

NICHOLAS WEGENER NOTARY PUBLIC SOUTH CAROLINA COM. EXP. 07/22/2026

Balfour Beatty Construction, LLC
a Delaware limited liability company

Signature
Nick Starcevic, Project Manager
Print Name & Title

The foregoing instrument was acknowledged before me this 28th day of January, 2019, by Starcevic, Nick of Balfour Beatty Construction a Delaware limited liability company, on behalf of the company. He/she is personally known to me or has produced SC DL (type of identification) as identification.

NOTARY PUBLIC, STATE OF SC
My Commission Expires: 07/22/2026

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Owner Change Order

Owner	X
Architect	X
Contractor	X
Field	
Other	

Project:
Hotel at Marion Square

Change Order Number: 021

Change Order Date: 1/2/2019

To Contractor: (*Name and address):*
Balfour Beatty Construction, LLC
306 Meeting Street, Ste. 300

Charleston, SC 29401

Architect's Project No: Owner Agreement
Contract Date:

The Contract is changed as follows:

Work performed on Construction Change Directive's to be billed in OCO 021.

Construction Change Directive 002 – Black Out Windows	$85.87
Construction Change Directive 006 – Stair 4	$1,527.31
Construction Change Directive 007 – Dining Outlets	$38,901.00
Construction Change Directive 008 – Manager's Apartment	$15,451.78
Construction Change Directive 009 – 1st Floor Casework	$11,052.62
Construction Change Directive 018 –Rooftop Bar T Stat Relocation	$215.18
Construction Change Directive 022 - Patisserie Back Counter Shelf	$3,828.04
Construction Change Directive 025 – FCU Relocation in Electrical Room	$107.06
Construction Change Directive 026 – Telkonet T Stat Changes	$4,090.54
Construction Change Directive 027 – Garage Ramp Ceiling	$1,571.98
Construction Change Directive 028 – Support for DAS System	$308.46
Construction Change Directive 031 – Transformer and Service Yard Screen Wall	$731.40
Construction Change Directive 033 – Rooftop Lobby Bar Revised Millwork	$1,603.11
Construction Change Directive 034 – Grilles	$1,207.33
Construction Change Directive 035 – Plynth	$107.06
Construction Change Directive 036 – Shutter Revisions	$73,343.52
Construction Change Directive 037 – Tub Lights	$9,814.54
Construction Change Directive 038 – Cobbles and Irrigation	$495.02
Construction Change Directive 039 – Wine Cooler	$5,089.06
Construction Change Directive 044 – Pool Equipment Revisions	$4,667.18
Construction Change Directive 045 – Spa Thermostat Location Change	$215.18
Construction Change Directive 046 – DOL Requirements	$775.92
Subtotal	$165,272.80
Markups	$9,916.37
Owner Change Order 021 Total	$175,189.17

The original Contract Sum was	$59,344,747.00
Net change by previously authorized Change Orders	$5,637,169.14
The Contract Sum prior to this Change Order was	$64,981,916.14
The Contract Sum will be increased by this Change Order in the amount of	$175,189.17
The new Contract Sum including this Change Order will be	$65,157,105.31
The Contract Time will be increased / decreased	0 days

The date of Substantial Completion as of the date of this Change Order therefore is 8/19/2017

NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive.

ARCHITECT *(Firm name)*	CONTRACTOR *(Firm name)*	OWNER *(Firm name)*
Winford Lindsay Architect	**Balfour Beatty Construction, LLC**	**Library Associates, LLC**
344 West Pike Street	1930 Camden Road Suite 280	17 Lockwood Drive
Lawrenceville, GA 30046	Charlotte, NC 28203	Charleston, SC 29401
ADDRESS	**ADDRESS**	**ADDRESS**
BY *(Signature)*	**BY** *(Signature)*	**BY** *(Signature)*
(Typed name) Jennifer Faulkinberry	*(Typed name)* Nick Starcevic	*(Typed name)* Kim Brown
DATE _____	**DATE** 1/21/19	**DATE** _____

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Owner Change Order

Owner	X
Architect	X
Contractor	X
Field	
Other	

Project:
Hotel at Marion Square

To Contractor: (*Name and address):*
Balfour Beatty Construction
306 Meeting Street, Ste. 300
Charleston, SC 29401

Change Order Number: 022

Change Order Date: 1/9/2019

Architect's Project No: Owner Agreement
Contract Date:

The Contract is changed as follows:

*141R1 - Bar 148 Casework Revisions	$2,566.26
*212R1 - Robert Thomas Decorative Brackets	$21,253.00
*246R1 - SI 67 Elevator Cab Finishes	$2,185.72
252 - SCEG Light Poles	$20,909.43
256 - 2nd Floor Added Soffit	$1,386.48
257 - Triangle Panel Molding	$1,479.76
*259 - Hudson Street Strom Drain Repair	$22,162.48
263R1 - Mirrored Bar Door Paint and Prep	$8,338.41
265 - Ballroom Light Trim Rings	$1,080.14
Subtotal	$76,786.14
Markups	$4,575.54
Owner Change Order 022 Total	$81,361.68

*These RCOs were marked up by the owner for values less than submitted. We dispute these amounts and expressly reserve our right to claim the disputed amount. Only the undisputed amounts are included in this OCO.

The original Contract Sum was	$59,344,747.00
Net change by previously authorized Change Orders	$5,812,358.31
The Contract Sum prior to this Change Order was	$65,157,105.31
The Contract Sum will be increased by this Change Order in the amount of	$81,361.68
The new Contract Sum including this Change Order will be	$65,238,466.99
The Contract Time will be increased / decreased	TBD

The date of Substantial Completion as of the date of this Change Order therefore is TBD

NOTE: This Change Order addresses those requests for costs and/or time associated with the Construction Change Directive and Request for Change (RCO) referenced above which are undisputed: however, this change order does not resolve related requests for costs and/or time which remain in dispute, and those requests are strictly reserved.
NOTE: This summary does not reflect changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive.

ARCHITECT *(Firm name)*
Winford Lindsay Architect
344 West Pike Street
Lawrenceville, GA 30046

ADDRESS

BY *(Signature)*

(Typed name) Jennifer Faulkinberry

DATE _____

CONTRACTOR *(Firm name)*
Balfour Beatty Construction
1930 Camden Road Suite 280
Charlotte, NC 28203

ADDRESS

BY *(Signature)*

(Typed name) Nick Starcevic

DATE 1/21/19

OWNER *(Firm name)*
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

ADDRESS

BY *(Signature)*

(Typed name) Kim Brown

DATE _____

Balfour Beatty
Construction

October 19, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 212R1
Use Robert Thomas for Decorative Brackets_Revised

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 212R1 in the amount of ~~Twenty-nine thousand eight hundred eighty-one~~ ($21,253.00) to provide additional work in accordance with the following qualifications:

- ~~Use owner's preferred bracket vendor at L6 Canopies~~. Includes 50 additional brackets and 1 mock up bracket already fabricated as directed by Jim Clements. As Approved by City of Charleston BAR
- Acceptance of this change order means acceptance of the subcontractor's terms including but not limited to 60% initial down payments to release fabrication. 30% due upon substantial completion and final 10% due upon installation.
- No retention held.
- Credit included for installation of the eyebrow brackets. ~~No credit given for material because they are fabricated and will be turned over to at substantial completion. Brackets were fabricated and released per approved shop drawings "Reviewed 05-700-01 Ornamental Iron Work Shop Drawings.pdf"~~ Per Ruling of MLA
- BBC support during installation included.

This Change Order Request addresses those requests for costs and/or time associated with the Construction Change Directive and Change Order Request(s) referenced above which are undisputed; however, this Change Order does not resolve related requests for costs and/or time which remain in dispute, and those requests are expressly reserved. This proposal covers only the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal are not included. Pricing included in this proposal is valid for fourteen (14) days.

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Nick Starcevic
Project Manager

cc:
Jennifer Faulkinberry
Jim Clements
Marty Wall

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Balfour Beatty
Construction

David Simonton
Tim Spano
Shanti Pieniak

RCO # 212R1 – File
Reviewed 05 700-01 Ornamental Iron Work Shop Drawings.pdf
Estimate_1130_from_Robert_Thomas_Iron_Design (1).pdf

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 212R1– Use Robert Thomas for Decorative Brackets_Revised

The additional work for the **Use Robert Thomas for Decorative Brackets_Revised** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50523000.40	Use Robert Thomas for	$27,050.00
2	~~400.50523000.40~~	Per WLA credit $4K material and $3K labor	-$7,000
3		~~BBC Supervision~~	~~$2,640.00~~

Total Items ~~$28,190.00~~ $20,050.00

Total Markups ~~$1,691.41~~ $ 1,203.00

RCO Total **$21,253.00**

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: _____ Date: 11-1-2019
Kim Brown, Library Associates, LLC

RCO# 212R1

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Balfour Beatty
Construction

July 26, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 141R2
Supplemental Instruction 046 Bar 148 Casework Revision

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 141R2 in the amount of Two thousand five hundred sixty-six ($2,566.26) to provide additional work in accordance with the following qualifications:

Add paint grade sculpted front panels at Lobby Bar 148. CNC carved panels as shown on detail 5 and 6 of sheet ID993.6 and elevation B on sheet ID-993.5.

Revision 02 – Provide material credit for prefinished Mozambique veneer panels at the bar face.

This proposal covers only the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal are not included. Pricing included in this proposal is valid for thirty (30) days.

Please contact me with any questions regarding this request for Change Order.

Sincerely,

*This is the correct value that includes the credit.

Alec Dooley
Assistant Project Manager

cc:
Jim Clements
Jennifer Faulkinberry
Melissa Pense
Marty Wall
Woody Faust
Nick Starcevic
David Simonton

RCO # 141R2 - File

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 141R2– Supplemental Instruction 046 Bar 148 Casework Revision

The additional work for the **Supplemental Instruction 046 Bar 148 Casework Revision** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50640000.40	Supplemental Instruction 046 Millwork Revision	$2,915.00
2	400.50640000.40	Supplemental Instruction 046 Millwork Revision	($494.00)

Total Items	$2,421.00
Total Markups	$145.26
RCO Total	$2,566.26

The total Cost to perform the work as described above is an ADD of Two thousand five hundred sixty-six ($2,566.26).

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: _____ Date: _____
Kim Brown, Library Associates, LLC

RCO# 141R2

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Balfour Beatty
Construction

September 13, 2017

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 141R1
Supplemental Instruction 046 Bar 148 Casework Revision

Dear Ms. Brown: 2,338.36

We are submitting, herewith, our Request for Change Order # 141R1 in the amount of ~~Two thousand nine hundred fifteen ($2,915.00)~~ to provide additional work in accordance with the following qualifications:

Add paint grade sculpted front panels at Lobby Bar 148. CNC carved panels as shown on detail 5 and 6 of sheet ID 993.6 and elevation B on sheet ID 993.5.

This proposal covers only the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal are not included. Pricing included in this proposal is valid for thirty (30) days.

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Alec Dooley
Assistant Project Manager

cc:
Melissa Pense
Marty Wall
Jim Clements
Jennifer Faulkinberry
Woody Faust
Nick Starcevic
Tim Spano
David Stanton

RCO # 141R1 - File

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 141R1– Supplemental Instruction 046 Bar 148 Casework Revision

The additional work for the **Supplemental Instruction 046 Bar 148 Casework Revision** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50640000.40	Supplemental Instruction 046 Millwork Revision	$2,781.00

Total Items ~~$2,781.00~~ 2700 2494

Total Markups ~~$134.00~~ 206 132.36

RCO Total ~~$2,915.00~~ 2,378.36

The total Cost to perform the work as described above is an ADD of Two thousand nine hundred fifteen ($2,915.00). ~~$~~ 2,378.36

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: K. B Date: 9.6.2018
Kim Brown, Library Associates, LLC

RCO# 141R1

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Bar 148
- Added paint grade sculpted front panels
- Labor to re-design bar per new details

RAW MATERIAL & MANUFACTURING = $1,862.00

INSTALL LABOR = $486.00

15% MARK-UP = $352.00

KBK 9/6/2017

Balfour Beatty
Construction

January 11, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 212
Use Robert Thomas for Decorative Brackets

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 212 in the total Cost to perform the work as described above is an ADD of Sixteen thousand eight hundred fifty-four ($16,854.00)

~~Use owner's preferred vendor brackets at L6 Canopies. Acceptance of this change releases BBC of any performance and~~ coordination issues, delays, punch, specifications adherence for the L6 canopy brackets. This change order is strictly per an owner request to use Robert Thomas and does not match the contract documents nor is it a contractor we have a relationship ~~with. Any additional~~ costs from Robert Thomas are not included, only what is strictly included in his proposal. ~~Credit for installation only of the eyebrow brackets in included.~~

~~This Change Order Request addresses those requests for costs and/or time associated with the Construction~~ Change Directive and Change Order Request(s) referenced above which are undisputed; however, ~~this Change~~ Order does not resolve related requests for costs and/or time which ~~remain in~~ dispute, and those requests are expressly reserved. This proposal ~~covers only~~ the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal ~~are not included. Pricing included in this proposal is valid for thirty (30) days.~~

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Nick Starcevic
Project Manager

cc:
Jennifer Faulkinberry
Marty Wall
Jim Clements
David Stanton
David Simonton
Tim Spano
Alec Dooley
RCO # 212 - File

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Balfour Beatty
Construction

October 19, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 212R1
Use Robert Thomas for Decorative Brackets_Revised

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 212R1 in the amount of ~~Twenty-nine thousand eight hundred eighty-one~~ ($21,253.00)rovide additional work in accordance with the following qualifications:

- ~~Use owner's preferred bracket vendor at L6 Canopies~~. Includes 50 additional brackets and 1 mock up bracket already fabricated as directed by Jim Clements. As Approved by City of Charleston BAR.
- Acceptance of this change order means acceptance of the subcontractor's terms including but not limited to 60% initial down payments to release fabrication. 30% due upon substantial completion and final 10% due upon installation.
- No retention held.
- Credit included for installation of the eyebrow brackets. ~~No credit given for material because they are fabricated and will be turned over to at substantial completion. Brackets were fabricated and released per approved shop drawings "Reviewed 05-700-01 Ornamental Iron Work Shop Drawings.pdf".~~ Per Ruling of AHJ
- BBC support during installation included.

This Change Order Request addresses those requests for costs and/or time associated with the Construction Change Directive and Change Order Request(s) referenced above which are undisputed; however, this Change Order does not resolve related requests for costs and/or time which remain in dispute, and those requests are expressly reserved. This proposal covers only the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal are not included. Pricing included in this proposal is valid for fourteen (14) days.

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Nick Starcevic
Project Manager

cc:
Jennifer Faulkinberry
Jim Clements
Marty Wall

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 212R1– Use Robert Thomas for Decorative Brackets_Revised

The additional work for the **Use Robert Thomas for Decorative Brackets_Revised** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50523000.40	Use Robert Thomas for	$27,050.00
2	~~400.50523000.40~~	Per WLA credit $4K material and $3K labor	-$7,000
3		~~BBC Supervision~~	~~$2,640.00~~

Total Items ~~$28,190.00~~ $20,050.00

Total Markups ~~$1,691.41~~ $ 1,203.00

RCO Total **$21,253.00**

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: _____ Date: 11·1·2019
Kim Brown, Library Associates, LLC

RCO# 212R1

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Balfour Beatty
Construction

* disputed final amount

September 4, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 246R1
SI 67 Elevator Cab Finishes

Dear Ms. Brown:

WB Two thousand one hundred

We are submitting, herewith, our Request for Change Order # 246R1 in the amount of ~~Thirty-one thousand one hundred fifty-seven ($31,157.72)~~ to provide additional work in accordance with the following qualifications:

weighted fun 7/10 $2,185.72 WB

Balfour Beatty to provide elevator cab finishes as shown on sheet ID-903.2 issued in Supplemental Instructions 067.

- SI 67 – Millwork Revisions - **$1,558.00**
  - Add ¾"x4" crown backer board (D/903.2)
  - Add ¾"x2-7/8" ceiling casing (9/993.1)
  - All trim to be prefinished pecky cypress.
- SI 67 – Electrical Revisions - ~~**$27,331.00**~~ WB
  - Furnish and install 32 D1 Luna 1 down lights (8 at each elevator cab) per Supplemental Instruction 067.
  - Furnish and install tape lighting above prefinished crown at each elevator cab per Supplemental Instruction 067
- SI 67 – Revised Handrail Finish - **$1,995.00**
  - Credit Gold/Bronze Satin handrail. *($6,510.00)*
  - Add Oxidized Bronze handrail to match Gunderlin sample. *$8,505.00*
- MOD 1 – Elevator Cab Millwork Reduction – **($1,491.00)**
  - Reduced and revised panel layout.
  - Delete wood chair rail.

Qualifications: This cost keeps the elevator cab tile to be in a grid pattern and *not* diagonally cut as shown on SI 67. ~~This change order does not address special finishes in the elevator cab.~~ This cost assumes that voltage coordination for the additional lighting fixtures has been performed by the Engineer of record.

WB

~~This Change Order Request addresses those requests for costs and/or time associated with the Construction~~ Change Directive and Change Order Request(s) referenced above ~~which~~ are undisputed; however, this Change Order does not resolve related requests for costs and/or time which remain in dispute, and those requests are expressly reserved. This proposal ~~covers~~ only the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal ~~are not included. Pricing included in this proposal is valid for thirty (30) days.~~

WB

Balfour Beatty
Construction

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Alec Dooley
Assistant Project Manager

cc:
Melissa Pense
Marty Wall
Jennifer Faulkinberry
Jim Clements
Woody Faust
David Simonton
Nick Starcevic

RCO # 246R1 - File

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 246R1– SI 67 Elevator Cab Finishes

The additional work for the **SI 67 Elevator Cab Finishes** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50640000.40	SI 67 Added Elevator Trim	$1,558.00
2	400.51600000.40	SI 67 - Electrical Revisions	~~$27,331.51~~ 15
3	400.51420000.40	SI 67 Elevator Handrail Revision	$1,995.00
4	400.50640000.40	LCCM MOD 1 Elevator Cab Finishes	($1,491.00)

Total Items ~~$29,393.51~~ 2,062.00
Total Markups $1,763.61 123.72
RCO Total $31,157.12 15 $2,185.72

The total Cost to perform the work as described above is an ADD of Thirty-one thousand one hundred fifty-seven ($31,157.12).

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: _____ Date: _____
Kim Brown, Library Associates, LLC

RCO# 246R1

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

Balfour Beatty
Construction

August 14, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 252
Revised SCEG Site Lighting

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 252 in the amount of Twenty thousand nine hundred nine ($20,909.43) to provide additional work in accordance with the following qualifications:

Contractor to provide added and revised street lighting per the SCEG plan plotted 2/1/18. This cost is specifically inclusive of the following:

- 2" conduit with pull string to handhole boxes.
- Installation of (8) new light pole bases located per SCEG plans with grounding and grounding rods only. (Pole light, anchor bolts, and anchor bolt template is supplied by SCEG.)
- Installation of (8) new pole light in-ground hand holes. (Box provided by SCEG)
- Conduit with pull string from added hand holes to the pole lights.
- Trenching for added light bases and hand holes.

This cost specifically excludes pole light wiring (by SCEG), inground handhole at King and Hutson street, and tie in to power company conduit for street lighting feed. Delivery and mounting of the street lights is to be by others.

This Change Order Request addresses those requests for costs and/or time associated with the Construction Change Directive and Change Order Request(s) referenced above which are undisputed; however, this Change Order does not resolve related requests for costs and/or time which remain in dispute, and those requests are expressly reserved. This proposal covers only the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal are not included. Pricing included in this proposal is valid for thirty (30) days.

Balfour Beatty
Construction

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Alec Dooley
Assistant Project Manager

cc:
Marty Wall
Melissa Pense
Jim Clements
Jennifer Faulkinberry
Nick Starcevic
David Simonton

RCO # 252 - File

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 252– Revised SCEG Site Lighting

The additional work for the **Revised SCEG Site Lighting** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.51600000.40	Revised SCEG Site Lighting	$19,725.88

Total Items	$19.725.88
Total Markups	$1.183.55
RCO Total	$20.909.43

The total Cost to perform the work as described above is an ADD of Twenty thousand nine hundred nine ($20,909.43).

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: _____ Date: 11/16/2018
Kim Brown, Library Associates, LLC

RCO# 252

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

Balfour Beatty
Construction

August 21, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 256
2nd Floor Added Soffits

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 256 in the amount of One thousand three hundred eighty-six ($1,386.48) to provide additional work in accordance with the following qualifications:

Change order for added soffit headers on the second floor inclusive of the following:

- Add soffit above second floor walk in coolers for ceiling grid attachment. This allows the grid to level along the UDS/Kitchen Hood and die into the surrounding walls.
  - Add Soffit - $1,258.00
  - Credit Ceiling Grid Over Walk-In Coolers – ($413.00)
- Add soffit at the second floor Wondoor header to level out with concrete columns as directed the by the design team.
  - Frame, Hang, Tape, Finish Soffit - $463.00

This Change Order Request addresses those requests for costs and/or time associated with the Construction Change Directive and Change Order Request(s) referenced above which are undisputed; however, this Change Order does not resolve related requests for costs and/or time which remain in dispute, and those requests are expressly reserved. This proposal covers only the changes to the specific work as set forth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal are not included. Pricing included in this proposal is valid for thirty (30) days.

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Alec Dooley
Assistant Project Manager

cc:
Jennifer Faulkinberry
Jim Clements
Marty Wall
Melissa Pense
Nick Starcevic
David Simonton

RCO # 256 - File

Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 256– 2nd Floor Added Soffits

The additional work for the **2nd Floor Added Soffits** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50925200.40	Add Soffit at Second Floor Elevator Lobby Wondoor Header	$463.00
2	400.50925200.40	Add Soffit at Second Floor Walk in Coolers	$845.00

Total Items	$1,308.00
Total Markups	$78.48
RCO Total	$1,386.48

The total Cost to perform the work as described above is an ADD of One thousand three hundred eighty-six ($1,386.48).

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: _____ Date: 11/14/2018
Kim Brown, Library Associates, LLC

RCO# 256

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

Balfour Beatty
Construction

August 21, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 257
Add Triangle Panel Molding at Foyer Stair

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 257 in the amount of One thousand four hundred seventy-nine ($1,479.76) to provide additional work in accordance with the following qualifications:

Add triangle panels behind the stair railing adjacent to the interior Arriscraft columns as directed by DCI. Added panel molding installed at both Stair 01 and 02.

This Change Order Request addresses those requests for costs and/or time associated with the Construction Change Directive and Change Order Request(s) referenced above which are undisputed; however, this Change Order does not resolve related requests for costs and/or time which remain in dispute, and those requests are expressly reserved. This proposal covers only the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal are not included. Pricing included in this proposal is valid for thirty (30) days.

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Alec Dooley
Assistant Project Manager

cc:
Marty Wall
Melissa Pense
Jennifer Faulkinberry
Jim Clements
David Simonton
Nick Starcevic

RCO # 257 - File

MSH – RCO #257

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 257– Add Triangle Panel Molding at Foyer Stair

The additional work for the **Add Triangle Panel Molding at Foyer Stair** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50640000.40	Add Triangle Panel Molding at Foyer Stair	$1,396.00

Total Items	$1,396.00
Total Markups	$83.76
RCO Total	$1,479.76

The total Cost to perform the work as described above is an ADD of One thousand four hundred seventy-nine ($1,479.76).

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: _____ Date: 11/19/2021
Kim Brown, Library Associates, LLC

RCO# 257

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

Balfour Beatty
Construction

August 30, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 259
Hudson Street Storm Repair

$20,477.28

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 259 in the amount of ~~Thirty-three thousand three hundred ninety-eight ($33,398.68)~~ to provide additional work in accordance with the following qualifications:

Hydro Vac and construct new storm box. Detail cost breakdown from Gulf Stream below.

1. Labor and Equipment [$12,000] - Our crews are worth $5,000/day on any jobsite they are able to work productively on. We plan on this work taking 4 days of their time and have only charged you $3,000/day as hopefully we will be able to keep a few guys from the crew busy at another project or elsewhere on your project.
2. Hydro-Ex Sub [$2875] - Sub cost $275/hour, 4 hour minimum, and $425/load to dispose. I estimate 6 hours and 2 loads to be disposed, +15% GSCC Markup. If we don't excavate in the correct location the first time, there could be more cost here that we will end up eating.
3. Materials [$3,700] -
a. 5CY mix for bottom slab, $750.
b. 57 Stone for foundation, $200.
c. 5CY Flow Fill, $750.
d. Precast top slab, ring and cover, $1,200.
e. Misc. Masonry Supplies (Sand, mortar, block, mixer rental), $800
f. Small tools, chop saw blades, trowels, ect
Total rough cost above of $18,575.00 should cover GS if everything goes as planned. This is what is carried in our proposal ($18,808).
Per Ted Barker, the city requires the road to be milled and overlaid, with the milled area to extend from curb-line to curb-line, 2' beyond the cut.
**No cost for asphalt patching is included. GS will not be charging for this.*

~~This Change Order Request addresses those requests for costs and/or time associated with the Construction~~ Change Directive and Change Order Request(s) referenced above which are undisputed; however, this Change Order does not resolve ~~related requests for costs~~ and/or time which remain in dispute, and those requests are expressly reserved. This proposal covers only the changes to the ~~specific work~~ as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal ~~are not included. Pricing included in this proposal is valid for thirty (30) days.~~

Please contact me with any questions regarding this request for Change Order.

Balfour Beatty
Construction

Sincerely,

Nick Starcevic
Project Manager

cc:
Jennifer Faulkinberry
Jim Clements
Jenny Palmer
David Simonton
Tim Spano

RCO # 259 - File

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 259– Hudson Street Storm Repair

The additional work for the **Hudson Street Storm Repair** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50200000.40	Hudson Street Storm Repair	$29,408.19 ($12,190)
2		Protection, Clean Up, and Gate Guards	$2,100.00

Total Items ~~$31,508.19~~ $19,318.19

Total Markups ~~$1,890.49~~ +1,159.09

RCO Total ~~$33,398.68~~ Total $20,477.28

The total Cost to perform the work as described above is an ADD of Thirty-three thousand three hundred ninety-eight ($33,398.68).

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: Ki B
Kim Brown, Library Associates, LLC

Date: 9.6.2019

RCO# 259

Overlay cost rejected by EOR. BBC error in scheduling the work

Credit overlay: $10,600 x 1.15= $12,190

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Balfour Beatty
Construction

October 15, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 263R1
Mirrored Barn Door Paint and Prep

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 263R1 in the amount of Eight thousand three hundred thirty-eight ($8,338.41) to provide additional work in accordance with the following qualifications:

Request for Change Order for additional masking and protection of Barn Doors due to change from MOD 6 Barn Doors to final selection determined in Request for Change Order 170. Barn Doors issued in MOD 6 were louvered doors where the final selection was a solid door with mirrors cladded on both sides.

This Change Order Request addresses those requests for costs and/or time associated with the Construction Change Directive and Change Order Request(s) referenced above which are undisputed; however, this Change Order does not resolve related requests for costs and/or time which remain in dispute, and those requests are expressly reserved. This proposal covers only the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal are not included. Pricing included in this proposal is valid for thirty (30) days.

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Nick Starcevic
Project Manager

cc:
Melissa Pense
Marty Wall
Jim Clements
Jennifer Faulkinberry
Woody Faust
Tim Spano
Shanti Pieniak
David Simonton

RCO # 263R1 - File

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 263R1– Mirrored Barn Door Paint and Prep

The additional work for the **Mirrored Barn Door Paint and Prep** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50991000.40	Mirrored Barn Door Paint and Prep	$7,896.26

Total Items	$7,896.26
Total Markups	$442.15
RCO Total	$8,338.41

The total Cost to perform the work as described above is an ADD of Eight thousand three hundred thirty-eight ($8,338.41).

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: _____ Date: 11/19/2018
Kim Brown, Library Associates, LLC

RCO# 263R1

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

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Balfour Beatty
Construction

September 4, 2018

Ms. Kim Brown
Library Associates, LLC
17 Lockwood Drive
Charleston, SC 29401

Project: Hotel at Marion Square

Re: Request for Change Order # 265
Ballroom One Can Light Trim Rings

Dear Ms. Brown:

We are submitting, herewith, our Request for Change Order # 265 in the amount of One thousand eighty ($1,080.14) to provide additional work in accordance with the following qualifications:

Request for change order to provide millwork trim rings around the can lights in the Ballroom One vaulted ceiling. This change order does not include any costs to paint the added millwork.

This Change Order Request addresses those requests for costs and/or time associated with the Construction Change Directive and Change Order Request(s) referenced above which are undisputed; however, this Change Order does not resolve related requests for costs and/or time which remain in dispute, and those requests are expressly reserved. This proposal covers only the changes to the specific work as set fourth in the attached proposal breakout. Changes in the work and associated price adjustments other than those noted in our proposal are not included. Pricing included in this proposal is valid for thirty (30) days.

Please contact me with any questions regarding this request for Change Order.

Sincerely,

Alec Dooley
Assistant Project Manager

cc:
Melissa Pense
Marty Wall
Jennifer Faulkinberry
Jim Clements
Woody Faust
Nick Starcevic
David Simonton

RCO # 265 - File

MSH – RCO 265

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Balfour Beatty
Construction

Hotel at Marion Square

Request for Change Order # 265– Ballroom Can Light Trim Rings

The additional work for the **Ballroom Can Light Trim Rings** by Balfour Beatty Construction is hereby approved:

#	Budget Code	Description	Total
1	400.50640000.40	Ballroom Trim Rings	$1,019.00

Total Items	$1,019.00
Total Markups	$61.14
RCO Total	$1,080.14

The total Cost to perform the work as described above is an ADD of One thousand eighty ($1,080.14).

Please indicate your acceptance and approval of this additional work in the space provided below.

Authorization Granted by: _____ Date: 11/19/18
Kim Brown, Library Associates, LLC

RCO# 265

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Plaintiff Balfour Beatty's Trial Exhibit # 300

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS CASE NO.: 2019-CP-10-01108
Balfour Beatty Construction, LLC, Plaintiff, vs. Library Associates, LLC; and Metropolitan Life Insurance Company, a New York Corporation, Defendants.	
Library Associates, LLC, Third-Party Plaintiff, vs. Lithko Contracting, LLC, Guy M. Beaty, Inc., Bernard MMC, LLC, Gulf Stream Construction Company, Inc., Palmetto Automatic Sprinkler Company, Inc., Cook & Boardman, LLC, 1st Choice Glass, Inc., Strong Tower Construction, LLC d/b/a Koch Corporation, Watson Electrical Construction Co., LLC, Trimark Foodcraft, LLC, Pleasant Places, Inc., David Allen Company, Inc., Premier Exteriors, LLC, Robert Thomas Iron Design, LLC, Warco Construction, Inc., Old North State Masonry, LLC, Tom Rochester & Associates d/b/a Southeastern Architectural Systems, Forton Company, LLC, Lowcountry Case & Millwork, Inc., Quantum Coatings, LLC, Balfour Beatty Construction Group, Inc., Third-Party Defendants.	PLAINTIFF'S EXCERPT DESIGNATION FOR DEPOSITION OF KIMBERLY BROWN

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Kimberly Bennett Brown
August 4, 2020

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Kimberly Bennett Brown
August 5, 2020

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Kimberly Bennett Brown
August 6, 2020

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Kimberly Bennett Brown
April 29, 2021

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VERITEXT
LEGAL SOLUTIONS

Deposition of:

Kimberly Bennett Brown

August 4, 2020

In the Matter of:

Balfour, Beatty v. Library Associates

A. William Roberts, Jr & Assoc.
800-743-3376 | calendar-awr@veritext.com | www.veritext.com

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Page 18

Q. How was that resolved?
A. We mailed him a check.
Q. For the full balance?
A. Yes.
Q. Okay. So prior to April when you all -- and you all discussed nothing other than the payment?
A. There were discussions with Buck in 2019 regarding the shutters on the hotel. There were discussions with Buck regarding issues with the flooring in the pool room in 2019 or early 2020 and that's all I can recall.
Q. Okay. Have you spoken with anybody from Balfour Beatty since say February -- when is the last time you spoke to somebody with Balfour Beatty?
A. Say January of 2019.
Q. And who was that?
A. I believe that was David Simonton.
Q. And what was it about?
A. I believe it was the day that he had hand-delivered the letter regarding the claim to us.
Q. And what was the nature of that conversation?

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A. I don't recall.
Q. Okay. Have you discussed with Buck Lindsay this lawsuit since it was filed?
A. I don't specifically recall.
Q. How about Jim Clements?
A. I don't specifically recall. I'm sure we had discussions between January of 2019 and May of 2019 regarding the claim when it was delivered to us.
Q. Okay. So tell me what your role with Bennett Hospitality has been since you have been with them.
A. My role has evolved in 36 years.
Q. Okay. Tell me about that.
A. Started out as a receptionist. We really have no titles at Bennett Hospitality. Everyone does what needs to be done. But I am involved in obtaining loans for the projects, working with our attorneys to close any type of real estate transactions or loans, and I oversee the day-to-day operations.
Q. Okay. So the job responsibilities that you just articulated, how long have you been doing that? I understand you started as a receptionist, but how long have you been doing those?

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A. Gradually started into the lending and the financing and closing the real estate loans in probably '85, '86, so for the past 33 years.
Q. Okay. So at the time of -- as I understand it, at the time that this project was being developed, and I'm talking about Hotel Bennett, there were five employees of Bennett Hospitality, is that correct?
A. There's typically five to seven employees. I'm not sure exactly. Sometimes we have summer interns. So that's approximately correct.
Q. Okay. Aside from summer interns, there are typically five people on the payroll at Hospitality.
A. Five to seven.
Q. All right. So at the time this project was -- when it was really getting going say in 2015, how many employees were there with Bennett Hospitality?
A. Five or six.
Q. And who were they?
A. Myself, Peter Wright, Tracy Ray, but she may have been on maternity leave. I don't remember that exact date.

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Q. Okay.
A. There was a gentleman by the name of Steve Granger, but he left in the middle of 2015.
Q. Okay.
A. My grandmother, who I called my mother, as she raised me.
Q. And what's her name?
A. That was Virginia Bennett, and she's passed away.
Q. Okay.
A. And Mike would have a receptionist/assistant, but I'm not sure who that was in 2015.
Q. Okay.
A. I recall her -- that may have been Beverly Eckhurst, because I believe she started the day after the groundbreaking.
Q. Okay. So what was Peter Wright's job responsibilities?
A. Peter helped on the development side with contracts and entitlements for the development projects.
Q. What do you mean contracts?
A. Just reviewing development contracts, whether it's a loan agreement or a construction

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yourself, was there anybody else who helped you during those periods?
A. We had an outside CPA firm.
Q. And who is that?
A. Welch Roberts Amburn.
Q. All right. But primarily those controller functions you assumed during those periods, is that correct?
A. Yes.
Q. Okay. How about Tracy Ray, does she have any involvement with the controller aspects?
A. No.
Q. How about Michael Bennett?
A. No.
Q. Let's turn to this particular project. When was the concept of the -- how did this project get started, when was the property first bought, and tell me about that.
A. The property was first bought through an RFP with Charleston County in 1994.
Q. And that was purchased by Bennett Hofford Development?
A. That was purchased by Library Associates.
Q. Which was an entity of I guess Bennett

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Hofford?
A. It was a separate entity set up for the specific purpose to buy the property.
Q. Okay. As part of the dissolution in 2012, I guess Michael Bennett got the Library -- or got that piece of property?
A. Prior to 2012, Mike and Hank had begun to separate different entities. I don't recall if that was 2012 or earlier.
Q. So perhaps even before the dissolution, the Library property was owned by Michael Bennett, so to speak, or one of his particular entities?
A. It was always owned by Library Associates.
Q. Okay. And Library Associates at the dissolution went to Michael Bennett?
A. It went to Michael and to a trust that was set up for Michael's children at the time.
Q. Okay. But not to -- Mr. Hofford had no involvement with that?
A. That's correct.
Q. Okay. So when was the development of a hotel conceptualized?
A. I don't recall the exact year.
Q. Can you give me an approximation?

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A. Approximately early 2000.
Q. Let's go back and talk about some of the job responsibilities. You've talked about what your responsibilities were, which were reviewing contracts and helping with loans and during some periods acting as a controller, is that correct? Is that a fair description?
A. Fair.
Q. Okay. And you told me earlier on what Michael Bennett's involvement was with Hank Hofford, but what -- when this project was ongoing, what was Michael Bennett's job responsibilities or what were they with Bennett Hospitality?
A. Can you be more exact with the dates?
Q. Yeah. Say in 2014, what was -- Michael Bennett is the principal of Bennett Hospitality, correct?
A. Yes.
Q. And Bennett Hospitality owns Library Associates, so to speak, correct?
A. Bennett Hospitality is separate and apart from Library Associates.
Q. Does Library Associates have any employees?
A. No.

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Q. So all employees -- any work that is done in-house, so to speak, for Library Associates is done through the employees of Bennett Hospitality, correct?
A. Yes.
Q. Okay. So what was -- in 2014, what were Michael Bennett's responsibilities with Bennett Hospitality?
A. Michael's responsibilities have always been the vision, the creativity, the responsibility to obtain the financing for the project. Those were his responsibilities.
Q. Is there a distinction between his responsibilities and what he actually did?
A. He was involved in 2014 during the pre-construction phase of working with the architect and Balfour Beatty at the time for the entire 2014 with the design of the project and he was also involved in -- prior to 2014, I believe, late 2013, of deciding who the contractor was going to be selected to build Hotel Bennett.
Q. Okay. Tell me how you -- what your business interactions are with Michael Bennett and how you keep him informed of the financial aspects of the company or is that your job?

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taken over by Fairfax Sammons?
A. They worked in conjunction with each other.
Q. Okay. Even after -- so the exterior schematics, so to speak, what was ultimately approved by the City, who did that design?
A. Fairfax & Sammons.
Q. Did Goff D'Antonio have any involvement with it?
A. Not that I recall.
Q. Okay. What is the finished height of the hotel now?
A. Approximately 105 feet.
Q. Was that ever -- was a design ever done at a height different than 105 feet?
A. Not that I recall.
Q. So it's always been -- it's never been higher than -- no design to your knowledge has ever been done greater than 105 feet?
A. No.
Q. Okay. And the exterior of the hotel as it exists now is basically as was designed by Fairfax Sammons, correct?
A. Correct.
Q. Okay. Let me go back and ask you a few

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more questions about some background issues.
As I understand it, Michael Bennett's interests relative to restaurants are currently at Rue De Jean, Virginia's on King and Coast, is that right?
A. Correct.
Q. At the time of his deposition he said that he was also involved with Good Food Catering, Vincent Chicco, Victor Social Club and Michael's on the Alley. Are they still active or what happened to those?
A. Yes. Good Food Catering is not a restaurant. It's an event catering company.
Q. Okay.
A. Vincent Chicco's, Victor Social Club and Michael's on the Alley are currently closed.
Q. Are they out of business?
A. We closed them -- Michael's on the Alley was closed prior to the pandemic and the other two were closed during the pandemic and we are undecided if we are going to continue those as a restaurant or just have them operate as private event spaces.
Q. All right. So Rue De Jean, Coast and Virginia's been -- were they active throughout the

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pandemic?
A. They temporarily closed for approximately two, two and a half months, but they -- all three have currently reopened.
Q. Okay. Does Mr. Bennett have an interest in any apartment complexes?
A. No.
Q. Okay. And as I understand it, at the time of his deposition he had an interest in 13 motels, is that correct?
A. It's approximately 21 hotels.
Q. Okay. In looking at the Web site that was introduced as Exhibit 1 to Mr. Bennett's deposition, Bennett Hospitality listed the Embassy Suites in historic Charleston, the Hampton Inn in Charleston, Hampton Inn in Mount Pleasant, Residence Inn, Mount Pleasant; Courtyard, Mount Pleasant; Homewood Suites, North Charleston; Hampton Inn in North Charleston; Hampton Inn on Citadel Haven in Charleston; Hampton Inn Savannah; Hampton Inn Billings, Montana; Homewood Suites Bozeman; The Cottages in Mount Pleasant; Embassy Suites in Savannah; and Homewood Suites in Montana. Are there any other hotels or motels that he has an interest in?

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A. I believe since that Web site there is a Homewood Suites in Billings, Montana. There is a Homewood Suites in Kalispell, Montana. There's a Hampton Inn in Bozeman, Montana. There is a Hampton Inn at Charleston Airport and there's Hotel Bennett.
Q. Okay. Would that add up to 21?
A. I didn't count the ones that you added, so if I had the list in front of me I could verify.
Q. Okay. So for the -- for all of those hotels other than Hotel Bennett, tell me how they came to be -- were any of those already constructed when Mr. Bennett got his interest or were all of them developed and constructed under him?
A. There were two. One now I recall that you just did not name, the Hampton Inn on Daniel Island.
Q. Okay.
A. And the Hampton Inn in Bozeman, Montana were previously constructed and purchased from the current franchisee.
Q. Okay. So of the approximately 21 hotels that Mr. Bennett owns, two of them were already constructed when he got them, the rest of the other approximately 19, the full development

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and construction occurred under his guidance, correct?
A. Yes.
Q. Okay. And can you tell me for those 19 hotels what the general range is that we're talking about them being constructed in?
A. Can you be more specific?
Q. Yeah. Were they -- were all of those hotels constructed after Bennett Hofford dissolved or were some of them constructed before?
A. Some were before, some were after.
Q. Okay. Which ones were constructed -- so can you give me a general timeframe from when the first hotels were constructed that Michael Bennett did?
A. The first hotel, the Hampton Inn on John Street, was constructed in 1992.
Q. Okay. Have there been any hotels that Michael Bennett constructed that he no longer owns?
A. No.
Q. And of the 19 that he constructed, who were the architects for them?
A. For the Hampton Inn on John Street, the architect was T Doggett. On the Embassy Suite --
Q. Let me ask you this before you go

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through each one just to try to save some time.
Which ones -- how many of the hotels were designed by Buck Lindsay or an entity that he was associated with?
A. It would be easier for me just to give you the list.
Q. Okay. What is easier for you.
A. The Hampton Inn in Savannah, the Courtyard in Mount Pleasant --
Q. These are ones that Buck Lindsay did?
A. Yes.
Q. Okay.
A. The Courtyard in Mount Pleasant.
Q. Okay.
A. The Homewood Suites at Charleston Airport.
Q. Okay.
A. The Homewood Suites in Kalispell, Montana.
Q. Okay.
A. The Hampton Inn at Charleston Airport.
Q. Okay.
A. The Embassy Suite in Savannah. I believe that's all.
Q. So it would have been six?

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A. That sounds correct.
Q. Okay. Has Buck Lindsay designed any hotels since the Hotel Bennett was finished?
A. Not for our company.
Q. Do you all have any hotels that are currently being conceived or developed that Buck Lindsay is involved with?
A. Not at this time.
Q. Okay. Would you use Buck Lindsay for another project?
A. Yes.
Q. How did the -- tell me where the -- what was the guidance for the design for the six hotels that you just articulated? Tell me how that project -- how that process worked. Was I guess whoever the franchisor was would tell what the parameters were, did they have stock plans that were then used and massaged by Buck Lindsay, or tell me what that process was.
A. The franchisor did not have stock plans. They had basic floor layouts and certain requirements for guest rooms and public areas that the architect must incorporate into the plans. But each hotel is different, each site is different, so there's no way that a stock plan would work on any

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specific site. They just gave the architect parameters of what was required to be included in the building and on the site.
Q. Okay. Were any separate interior designers retained for the hotels Buck Lindsay did?
A. In some cases, yes; in some cases the interior designer that worked for Buck Lindsay's office was included in the project.
Q. Okay. And when did Buck Lindsay start working for Michael Bennett?
A. The first hotel that Buck Lindsay designed for us was the Hampton Inn in Savannah, which opened in 2006, so that would have started it at late 2004, 2005.
Q. All right. So from '05 to -- and how about the Embassy Suites in Savannah, was that the last one, do you know?
A. Yes.
Q. And when was that done?
A. It opened in 2013. That would have been designed in 2011, 2012.
Q. Going back to your last discussion with Buck Lindsay, which I think you said was in April of this year?
A. Approximately.

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Q. Okay. What was the approximate payment that was made to him at that time?
A. It was approximately 12,000 dollars.
Q. And why did it take so long for him to be -- if the hotel was finished in early 2019, why did it take so long to get him paid?
A. There's no specific reason.
Q. How about a general reason?
A. Due to the lateness of the construction of the hotel and many expenses that we had due to that, the operating cash flow for the hotel was short and he was gracious enough to allow us to pay it when the cash flow was there.
Q. So there was not sufficient cash flow to pay that final bill from the time of the completion of the hotel until approximately April of 2020, correct?
A. It may have been sooner, but we did not pay it until April of 2020.
Q. Well, did you pay it as soon as you were reasonably able to?
A. That would be a fair assessment.
Q. Okay. And is it your testimony that there were no amounts that were billed by WLA that have been unpaid?

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A. Correct.
Q. How about DCI, interior designer?
A. To my knowledge they have been paid in full.
Q. So for going back to the hotels that were -- had been constructed by Michael Bennett, and as I understand it there's about 19 of them, none of them were -- do you know what the star rating system is for hotels? Have you heard about that? Five-star hotel, four-star hotel, three-star hotel, do you have any knowledge of that?
A. Yes.
Q. Okay. What star hotels approximately were the 19 that were done?
A. In the categories of Embassy Suites and Hampton Inns and Courtyards and limited service hotels, they really are not giving -- given a star or are rated by Forbes or Triple A as a Star or a Diamond hotel.
Q. Okay. If you had to rate them just based on your 36 years of knowledge and experience in the industry, what would you rate them?
A. Three-star.
Q. Three-star. Okay. Prior to this hotel, had Bennett been involved with any four or

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five-star hotels that it developed?
A. Can you repeat the question?
Q. Other than the Hotel Bennett, were there any four or five-star hotels that had been developed by Mr. Bennett?
A. No.
Q. How about for the project administration from the owner standpoint on all of the hotels that were done prior to Hotel Bennett, who did -- who performed all of the owner's roles in whatever was expected of the owner for those hotels?
What I'm getting at, was that all done in-house or was there ever a time for any of those hotels where you all contracted out separately to have a construction manager or somebody like that perform those roles?
A. It was all done in-house.
Q. Okay. And who specifically was responsible for that?
A. Myself and Peter Wright.
Q. Okay. Anybody else?
A. No.
Q. Okay. So prior to the Hotel Bennett, you had done all of the owner's -- whatever

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obligations were required of the owner, you basically self-performed that, correct?
A. Correct.
Q. Okay. And that would involve reviewing -- making decisions that came up during construction, reviewing pay apps, whatever questions that might come up with the general contractor or the architect, agreed?
A. Yes.
Q. Okay. On the -- any of the prior projects prior to this one that had been done by Michael Bennett, were there ever any mechanic's liens that were filed to your recollection?
A. Maybe once or twice.
Q. Okay. Were they -- any significant mechanic's liens?
A. Not that I recall.
Q. Were there any delays in construction on any of the other projects?
A. On the Embassy Suites Savannah, there was approximately 60-day delay.
Q. Any others?
A. Not significant, no.
Q. And the Embassy Suites Savannah was completed in 2013, is that what you said?

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A. Yes.
Q. And did the owner assess liquidated damages against the contractor on that job?
A. Yes.
Q. For 60 days?
A. They were assessed. There was subsequently an agreement, a settlement. I don't recall what the final outcome was on the exact amount of liquidated damages.
Q. Okay. Who was the contractor?
A. Welbro.
Q. I'm sorry, what?
A. Welbro Construction out of Florida.
Q. Where in Florida?
A. Maitland, Florida.
Q. Okay. Goff D'Antonio began its design services in about 2003, is that correct?
A. Approximately.
Q. Okay. And what was the approximate total amount that was billed by Goff D'Antonio?
A. I don't recall. I do recall it being over a million dollars.
Q. Okay. Were they paid that amount?
A. I don't recall the exact amount that they were paid.

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Q. Okay. Was there a lawsuit that was filed over by Goff D'Antonio?
A. Yes.
Q. And why was the -- what was the approximate amount in dispute?
A. I don't recall the approximate amount.
Q. Was it around 250,000 dollars, does that sound about right?
A. That sounds about right.
Q. And why were they not paid that?
A. Architects, like attorneys, time bill. All the billing is based on time. We didn't agree with the hours of time that they billed on the project.
Q. Okay. So they didn't have a lump sum agreement, it was purely hourly?
A. I don't recall a lump sum agreement. But due to the ongoing changes requested by trying to get the hotels approved by the BAR, they would be considered additional changes, which would be billed on a timely basis.
Q. Okay. And looking at a settlement agreement that was marked as Exhibit 4 to Michael Bennett's deposition, it says that Goff D'Antonio claimed to be owed 435,000 dollars and they settled for 260,000 dollars. Does that sound familiar?

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A. If that's what the settlement agreement says.
Q. Okay. And why were they not paid the difference?
A. Because it was a settlement amount.
Q. But why did you all dispute that they were owed that amount?
A. Again, as I just said, we believed that the amount of billing was excessive of the amount of work that they completed on the project.
Q. So you thought that they overbilled you?
A. That would be one reason, yes.
Q. Okay. So you think that when they submitted the bill for the 435,000 dollars, they had not performed that -- they had not put in the hours that they claimed that they had, is that correct?
A. That would be one of the reasons, yes.
Q. Okay. Any other reasons?
A. That the building that they did design never got approved by the City of Charleston to be built and that those plans would just have to be thrown away.

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Q. How was that Goff D'Antonio's fault that the BAR rejected what they wanted -- what their design was?
A. I don't think you could call it a fault. They were just unable to fulfill a contract that they had to get the -- as part of the contract was to take it through the approval process with the City of Charleston.
Q. Okay. Have you all worked with Goff D'Antonio since then?
A. No.
Q. Had you all worked with them before then?
A. Not that I recall.
Q. Okay. So was the -- did the height of -- when Goff D'Antonio provided its services, was the height of the hotel still set at 105 feet?
A. Yes.
Q. All right. So let's turn more specifically to this particular hotel and tell me how Buck Lindsay was engaged as the architect.
A. After the exterior of the building that Fairfax & Sammons had designed was approved by the City of Charleston, Fairfax & Sammons was -- were not hotel architects and so we turned to Buck to

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contract with him to design not the interior design of the hotel but the interiors of the hotel that along with all of the mechanicals and electricals and all the other pieces and parts that go into making a hotel function.

Q. Okay. So the design that was done by Fairfax & Sammons, it did not include any interior features?

A. Correct.

Q. It was just the shell?

A. Correct.

Q. So Buck Lindsay was only given the exterior elevations and told that that's what he has to do per the City of Charleston BAR and he needs to design all the interior?

A. Correct.

Q. Okay. What other architects, if any, were vetted for this job?

A. If I recall, we did hire Chris Schmitt, who is a local Charleston architect who at one time sat on the BAR, to help get final BAR approval.

Q. Did he do any design services?

A. No.

Q. Okay. So he was just there to kind of grease the tracks or help with the processes?

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A. Correct.

Q. So my question was: Were there any other architects who were interviewed or vetted other than Buck Lindsay for this job?

A. No.

Q. Had Buck Lindsay ever designed a five-star hotel prior to this?

A. I'm not familiar with all of Buck's designs.

Q. Well, did you ever ask him that?

A. I did not ask him that, no.

Q. Well, you were kind of the -- you were the -- whose decision would it have been -- it would have been basically yours and Michael Bennett's, you all are the point persons for the company, correct?

A. Yes.

Q. Okay. So it would have been your decision to hire Buck Lindsay, agreed?

A. Yes.

Q. Okay. So do you remember any discussions or questions that you asked Buck Lindsay of whether he had any or his firm had any prior experience with a five-star hotel?

A. I don't recall.

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Q. Okay. You don't recall asking him that?

A. I don't recall.

Q. Okay. Did that -- so I guess you did not -- you don't recall that you did not think that that was important or do you think that was important for him to have had that?

A. My recollection at the time was that we knew that we would have to hire an interior designer that had five-star experience, and we did that. So it was not as important for the architect to have five-star experience.

Q. Okay. So you thought it was important for the interior designer, DCI, to have five-star experience, but not the primary architect. And why is that?

A. Because the primary architect is designing, for lack of a better word, the bones of the hotel. It's the interior designer who designs the items that would make it five-star.

Q. Okay. Do you know if it's important for the -- while the plans are being developed for the interior designer and the primary architect to work together?

A. Absolutely.

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Q. When did -- when was -- I can tell you that the -- let me ask you this. When was Buck originally contacted about this particular project?

A. I don't recall when.

Q. Okay. Do you recall schematically or from a coordination standpoint whether he was contacted before the interior designer?

A. Yes.

Q. And approximately how long?

A. I don't recall. I do recall him making the suggestion to us that DCI would be a great interior design firm to design the interiors of the hotel.

Q. So when you were talking to Buck Lindsay, did you have any questions or did Michael Bennett have any questions of whether he had any reservations about his abilities to design this particular structure and whether he had the appropriate staffing to perform what he needed to perform?

A. I don't recall.

Q. Okay. You don't recall asking any questions about that or hearing any reservations?

A. No.

Q. As far as the obligations of the

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A. No.
Q. Was he recommended to you or did you all find him through your independent research?
A. Jim Clement is a brother of one of Michael's college roommates.
Q. Okay. And who is that roommate?
A. His name was Vinny Clements.
Q. Okay. So how did it come -- so how -- tell me what the connection was that Clements came to hit it off, like was it a reunion or something, talk to his roommate, or how did that come about?
A. I don't specifically know how Michael reconnected with Vinny, but it was through that connection that Michael was made aware of Jim's expertise and it just coincided with the timing of starting the Hotel Bennett project.
Q. Okay. Before Jim Clements was actually hired to perform the services that he did, what sort of vetting occurred with him?
A. I recall Michael having several meetings with Jim. I do not recall being involved in those meetings.
Q. Okay. Were any other construction -- or what do you term Jim Clements, construction manager or owner's representative?

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A. An owner's representative.
Q. Okay. Were any other owner's representatives vetted other than Jim Clements?
A. Not that I recall.
Q. Okay. How often did Jim Clements visit the project during construction?
A. I don't recall that either.
Q. Did he have any set -- did he have any contracted or obligatory inspections that he was supposed to make?
A. He would be responsible for being at the pay app meeting.
Q. So that would be monthly?
A. Yes. But he was there more than monthly. I don't recall the number of times.
Q. Well, when he would go onsite, would he typically let you know?
A. Typically.
Q. Okay. So was it normal for him to come onsite to your recollection once a month, then on some months there might be -- he might come another time or so?
A. And in some months he may be three or four times.
Q. Okay. But the usual time -- usual

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number of visits, the customary number of visits would be once a month, is that correct?
A. I don't specifically agree with that. It was always more than once a month. I can't recall if it was two or three times in one month, four or five times in another month. I don't recall.
Q. Okay. So did Jim Clements ever recommend to you as the owner -- when I say you, I'm talking about Library Associates or Jim -- I'm sorry, Michael Bennett or Bennett Hospitality. I'm just going to lump them together just for the purpose of my questions as the owner.
Did Jim Clements ever recommend to the owner that he as the owner's representative needed to be out on the project basically full-time?
A. No.
Q. Okay. Did he ever recommend to the owner that the architect needed to be onsite and in person on the project more than what was contracted for?
A. No.
Q. And same question for DCI.
A. No.
Q. Okay. What was the -- for decisions

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that were made on this particular job that were required of the owner, what was the chain of command for how decisions were made?
A. Can you be more specific?
Q. Yeah. Say --
A. I've got something in my eye. I'm sorry.
Q. Do you need to take --
A. I'm good.
Q. Okay. Say an issue came up with a decision needed to be made because there is some selection that was required to be made for a finish or something like that that the architect or the contractor said we need a decision on to move forward, how was that decision made? What was kind of the chain of command? Would it go to Jim Clements and then to you and then to Michael Bennett or what was it?
A. It would really depend on what the decision was.
Q. Okay. Explain that.
A. I believe typically Balfour Beatty, if they needed a decision, they would contact Jim Clement.
Q. As the point of contact?

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A. Point of contact. Depending on what the decision was, if Jim was not able to make the decision, then he would come to me and/or both Mike and I at the same time.
Q. Okay. From the documents I've seen, and we can go through those at length, but might be able to cut this short a little bit. It seems to me that during the course of the project and looking at all the e-mails and such that Jim Clements for almost every decision other than just some completely -- a very minor decision, he would not act on his own, he would seek the input and authority from yourself and then sometimes it would go up to Michael Bennett, but he almost never decided, made decisions on his own, he'd almost always pass it upstairs for your buy-in, is that a fair statement?
A. If the decision was needed and it was a monetary issue or a design issue, yes, he would not make the decision. He would come to myself and/or Michael at the same time.
Q. Right. So a design issue or a monetary issue, when those would come up, Jim Clements' obligations were to approach you and/or Michael Bennett for authority to move forward, agreed?

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A. Correct.
Q. All right. And how about the architect, same thing?
A. Can you be more specific with the architect?
Q. Right. If the architect needed to make a decision related to either budget or design, then the understanding and the protocol, the requirement was that they would come to you and/or Michael Bennett to get input and to guide them on their decision, correct?
A. Not all the time.
Q. Okay. Can you explain your answer, please.
A. Well, if there was a decision requested on the design and the contractor would go to Jim as the owner's representative if it was a design issue that was related to whether it's electrical or mechanical or any other systems in the hotel, he would then go to the architect. The architect would not necessarily come to us and say we've got an issue with the electrical system or the mechanical system. That's something that the architect would decide.
Q. Okay. How often were you onsite during

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construction?
A. I can't recall the exact amount of times.
Q. Right. I'm just talking approximately. In the usual month, normal month, would you go once a month, less a month?
A. It would be more than once a month.
Q. So once or twice, would that be a fair statement?
A. Two or three times a month.
Q. And how about Michael Bennett?
A. Definitely less than once a month.
Q. Okay. Did anybody else from under Bennett Hospitality or for Library Associates visit the project?
A. Not on a regular basis, no.
Q. Bear with me a second. What other projects were under development and construction at the same time as the Hotel Bennett?
A. Can you be more specific? Do you mean once construction started?
Q. No, that were either where the property had been -- why don't we limit it to this: Where the property had actually been purchased and it was going on from there. So not just some conceptual

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thing that might have it in his brain that he might want to get involved with where concrete actions were taken and property had been purchased.
A. We started and finished construction on a Hampton Inn at Charleston Airport during that time period.
Q. So approximately when was that?
A. That was 2000 -- February 2016 to April of 2017.
Q. Okay. What else?
A. I believe the only other hotel that was involved during that time period is when we purchased the Hampton Inn in Bozeman in 2016.
Q. Okay. That was preconstructed?
A. That's correct.
Q. How about the Patriots Point project, some other projects that had been started prior to January of '19?
A. I believe, yes, they had the Ferry Wharf project ground breaking in December of 2018, so it was one month prior to January of 2019.
Q. Okay. Anything else?
A. And he had secured the lease for Patriots Point during that time period, but no development or construction had started and still

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A. He sat in all of the meetings. He was the ultimate decision maker, but he took information from Jim and myself on who we thought would be the best contractor for the job.
Q. And who was your recommendation of the three?
A. I believe I recommended Balfour Beatty.
Q. And how about Jim?
A. I believe I just testified that Jim recommended Balfour Beatty.
Q. Okay. I understood that he was recommended as one of the three proposals, but I didn't realize that he had actually recommended him after the presentations were made.
A. Yes.
Q. All right. Do you remember how many meetings you had with Balfour pre-construction or pre-contract?
A. There were several meetings pre-contract and then there was an agreement signed for pre-construction services, I believe. And the pre-construction services started in January, February 2013 where they were involved in every aspect with the architect and the interior designer in completing and designing the plans all the way

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grew until the plans were finished.
Q. So there would be written documents that relate to what the pre-construction obligations were and what was provided?
A. I believe so, yes.
Q. What was Balfour paid to do -- how much was it paid for its pre-construction services?
A. If I can recall, it was around 65,000 dollars.
Q. Okay. How many -- those services primarily included pricing, didn't they?
A. Pricing, estimating, reviewing the plans. Buck has a specific way as he has plans complete. He does a 33 percent set, he does a 66 percent set, he does a 99 percent set. And at each of those levels Balfour Beatty was sent those plans to review those plans to, you know, make sure that they understood everything that were in the plans, make sure that there was nothing missing in the plans that they could see.
Q. Okay. So ultimately there was a request proposal, do you remember that, an RFP?
A. Not specifically, but there probably was.
Q. Okay. And I'm sorry, you don't

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remember how many meetings there were with Balfour pre-contract?
A. I do not recall.
Q. Do you remember any of the details of any of the discussions of any of the pre-contract meetings?
A. I do not recall as I sit here today.
Q. Okay. The lawsuit that we're involved with, we got a counterclaim from Library Associates and it named Balfour Beatty Construction Corporation as a defendant. Do you know -- have any knowledge as to why it was named along with Balfour Beatty Construction, LLC?
A. I do not specifically recall. It may be in the construction contract listed as Balfour Beatty Corporation. I'm not sure as I sit here today.
Q. All right. What involvement did you have, if any, with the negotiation of the construction contract with Balfour?
A. I had some involvement in that negotiation with the contract.
Q. Okay. What was that?
A. I believe we hired Mr. Bundy to review the contract for us and I would have discussions

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with Mr. Bundy regarding the contract and any changes or requests that Balfour Beatty's attorney may have made to Mr. Bundy.
Q. Okay. Who actually presented the initial draft of the contract?
A. I do not recall.
Q. What was Jim Clements' role with negotiating the contract?
A. I believe Jim Clement was involved in the monetary portion of the contract, but not of any of the legal terms requirements of the contract.
Q. And who negotiated those?
A. Mr. Bundy with the Balfour Beatty's attorney.
Q. All right. We -- are you familiar with supplementary conditions that have been discussed or were discussed during the construction project?
A. Yes, I'm aware of supplementary conditions.
Q. Okay. I can -- do you know if those were actually attached to the copy of the contract that Library Associates signed?
A. Can you be more specific?
Q. Well, I can tell you that Balfour

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specification book for the job.
Q. Okay. Was there -- did you have a discussion with Buck Lindsay while this project was ongoing as to whether the -- these supplementary or supplemental conditions were meant to be in the contract or not?
I mean, this whole issue came up during the project because there was a -- there's a reference in the supplemental conditions that retainage is to be 5 percent and in the other contract documents it says 10 percent. Do you remember that?
A. I know that the retainage is 10 percent.
Q. In the AIA 133, in the main contract, it's 10 percent, correct?
A. That's correct.
Q. Right. And the supplemental conditions, it says -- the draft supplemental conditions, it says 5 percent, right?
A. The supplemental conditions, in this case this one was dated May the 28th, 2014.
Q. Okay. What's the relevance of that?
A. It was the lender who required the 10 percent retainage.

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Q. Okay. But regardless, A133 says 10 percent, supplemental conditions say 5 percent, and there is a disagreement during the construction as to what percentage of retention applied. Do you remember that?
A. Yes.
Q. Okay. And Balfour asked for a 5 percent retention and Library Associates took the position that it's 10 percent, correct?
A. That's correct.
Q. Right. And, in fact, you refused to reduce the retention to 5 percent saying, no, it's 10 percent, correct?
A. Because the lender required 10 percent retainage.
Q. Well, that's -- but it's still a matter of contract, isn't it, whether -- whatever the lender required is really immaterial after the contract is signed. If the contract says 10 percent or 30 percent, it's -- you still have to -- Library can't just arbitrarily say we're going to withhold 50 percent or 15 percent, you have to look at the contract, agreed?
A. The A133 says 10 percent. Also, I do recall Balfour Beatty signing a document saying

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that they would agree to the terms of the loan documents. And the loan document says 10 percent. So in that letter that they had sent to the lender during the construction loan closing said that they would adhere to the loan documents, of which also stated 10 percent.
Q. Okay. The contract says 10 percent. And when you were arguing the retainage, that's what you were arguing, is that the contract says 10 percent, correct?
A. I was arguing that the contract says 10 percent and that the lender required 10 percent.
Q. Okay. But you refused to -- and when the point was brought up that the supplement -- that the draft supplement conditions said 5 percent, you said I'm not going to do that, I'm not going to pay the 5 percent, I'm going to pay 10 percent, correct?
A. My position was that the retainage should be 10 percent. The architect is the ultimate one who signs off on the pay app where the retainage is requested.
Q. Okay. Did you have any specific involvement with drafting the supplementary conditions?

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A. No.
Q. Who did?
A. That's Buck Lindsay's document. That's in his specification book.
Q. Okay. How about Jim Clements?
A. No. That's Buck Lindsay's document. That's in his specification book.
Q. Okay. Are you aware of Buck -- of Jim Clements specifically striking out certain sections of the supplemental conditions and they were negotiated, that it was decided that they would be completely left out? Do you have any knowledge of that?
A. No.
Q. What is the factual basis for Library Associates' position that the supplemental conditions, whatever they are, or draft supplemental conditions? When it made that claim to the court saying we want the supplementary conditions declared not part of the contract because they were draft, what was the factual basis for that?
A. You'd have to ask my attorneys.
Q. So Mr. Bundy would be the one to answer that?

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A. Yes.
Q. Okay. Anybody else?
A. Or his partner, Mr. McDonald.
Q. Okay. I asked you about who you may have spoken with regarding this litigation and you told me about various people. How about Michael Bennett, did you have any -- have you had any discussions with him specifically about this litigation in the last month?
A. Can you be more specific?
Q. Just a general question. Have you had any discussions with Michael Bennett in the last month about anything specific to this litigation?
A. The only conversation I had was that my deposition was scheduled for this week.
Q. That's it?
A. That's it.
Q. Okay. Do you have any reason to believe that -- or testimony relative to whether Michael Bennett read the contract or not?
A. No, I do not believe he read the contract.
Q. Is that his habit, not to read contracts?
A. Yes.

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Q. Why is that?
A. He does not get into the minutia. Typically we rely on our counsel to review our contracts and then I deal with the contracts.
Q. Okay. Do you do any sort of written summary? Say for this particular contract, would you do an executive summary or memorandum or anything else like that to Michael --
A. No.
Q. -- Bennett to explain to him what you thought the perfect conditions were?
A. I did not, no.
Q. Did you discuss any of the particular provisions to your recollection with Michael Bennett?
A. We would have conversations. I do not specifically reflect what those conversations were being six years ago.
Q. Okay. Well, do you have any general recollection? Do you have any -- can you testify here today that any -- about any particular provision or specific provision of the contract between Library and Balfour that you discussed with Michael Bennett?
A. Not as I sit here today.

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Q. Okay. Does Michael Bennett have any -- have you observed if he has any problems with his memory?
A. No.
Q. Do you think he's sharp?
A. Yes.
Q. Does he recall details?
A. Yes.
Q. Okay. When I deposed Michael Bennett, he -- his testimony was that he had no recollection of design changes on the hotel. If that was his testimony, does that make sense to you?
A. That would make sense to me that he would say that, yes. It also depends on at what time, you know, what your specific question was.
Q. From the time that the contract was signed forward. So the contract was signed with Balfour. From that point forward I asked Mr. Bennett if he was aware of any design changes and he said no.
A. If that was his answer, I believe that would be his answer at the time.
Q. Right. Does that make sense to you?
A. Yes.
Q. Are you aware of design changes that

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took place in the hotel?
A. I am.
Q. Some of those were pretty big, weren't they?
A. There was one big design change. It was done prior to even the floors being built where we converted 18 rooms to 12 rooms.
Q. That's on Floors 6, 7 and 8?
A. Correct.
Q. Right. You made single rooms into -- single rooms into suites, correct?
A. Correct.
Q. That's a major change, wasn't it?
A. That was a change, yes.
Q. Does it make sense to you that Michael Bennett does not recall that?
A. If that's what he testified.
Q. No, I'm asking if it makes sense to you.
A. Yes, that does make sense to me.
Q. Okay. Who signed the pay applications for LA?
A. The pay applications to the lender?
Q. From Balfour Beatty's, the applications, who signed those?

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A. The architect would sign the pay application.
Q. Okay. Did the owner sign them?
A. No.
Q. Did the owner approve them?
A. No. The architect approved them.
Q. How about change orders? Who signed those?
A. I signed the change orders. The architect signed them first. They would be signed by Balfour Beatty, then they would be sent to the architect for approval, and then I would sign them.
Q. Okay. Did Michael Bennett ever review any of those before they were signed?
A. No.
Q. Did you discuss change orders that were ongoing on the project before you signed them with Mike Bennett?
A. There were a few that were discussed with him, but he was not involved in the biweekly meetings that we had for Balfour Beatty or -- not on a regular basis, no.
Q. What change orders did you discuss specifically with Michael Bennett?
A. There was a -- specifically I recall

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that there was a -- we decided to put a cover on the pool. That was going to be an 85,000 dollar change order for a pool cover.
Q. Okay. What else?
A. I specifically remember I think there was some time delays given to Balfour Beatty early on for the -- there was a storm where the thousand year flood. That's what I specifically remember that he was involved in.
Q. Did you review any of the pay applications with Michael Bennett?
A. No.
Q. If he had wanted to look at them, would you have explained them to him?
A. Absolutely.
Q. Why did he have no interest in reviewing the applications?
A. He doesn't get into the details.
Q. Did Michael Bennett have any involvement with negotiating the guaranteed maximum price in the contract?
A. That was mostly Jim Clement. I'm sure -- Michael was in the pre-construction meetings that we had for Balfour Beatty. I'm sure he was somewhat involved in the numbers, trying to

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get the numbers down where they need to be and -- but once the project is under construction, he steps away.
Q. What do you mean steps away?
A. He doesn't get involved in the day-to-day details, including the pay apps.
Q. Okay. Well, on this -- on this hotel, did Michael Bennett have any interest in it at all after the contract was signed with Balfour?
A. Absolutely he had interest. However, he did not go to the site and he did not review the pay apps and he was not involved in the day-to-day operations of it, construction of the hotel.
Q. Were there any aspects of this job after the contract was signed that were important to Michael Bennett from your viewpoint?
A. Making sure it opened on time.
Q. What else, if anything?
A. Making sure that the end product was what was promised to us by Balfour Beatty.
Q. What else?
A. That's all I can recall right at this second.
Q. Okay. So it's they finished on time and that he's happy with the final product?

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A. Correct.
Q. Okay. Was Michael Bennett involved with the design selections of the hotel?
A. He was involved early on meeting with the interior designers, you know, picking out the colors and fabrics. We went to Atlanta a couple of times to meet with DCI to review their packages.
Q. Okay. Were there any other selections that Michael Bennett was involved with?
A. The Hope's windows, that I believe that they flew with Balfour Beatty to the Hope's manufacturer somewhere up north to review the Hope's windows.
Q. Okay. The primary reason that Michael Bennett was concerned with the opening was that he wanted the opening before his mother's birthday. Do you remember that?
A. No. He was concerned about the opening because we had already had a lot of money invested because we had already hired the management company. We were paying the management company and we were paying employees starting in 2017 when Balfour Beatty continued to say that we would be opening in October of 2017. We had a lot of money we had spent.

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Q. So it had nothing to do with his mother's birthday?
A. No, it had nothing to do with his mother's birthday. It wasn't until it was obvious that the opening wasn't going to happen until January of 2019, but he thought it might be nice to have it on her birthday since it was already apparent that it was going to be in January. And her birthday was January the 11th. There was no -- it wasn't the main thing that was important to him to open for her birthday. That was 2019. We were supposed to open in October of 2017.
Q. Okay. The projected opening date was July 30, 2017. Do you recall that?
A. I do recall that.
Q. And then there was a one-time extension of 20 days was given that extended the opening date to August 1917. Do you recall that?
A. No, I believe that the substantial completion date was supposed to be August. When you open a hotel, you usually have 30 to 60 days where you have your employees in to train on all the systems prior to actual opening. And so the substantial completion date was supposed to be in August, then that would automatically we would be

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open sometime in October.
Q. So the opening date you said was -- you understood was originally July 30 and then it moved to August 19 because there was one 20-day extension, correct?
A. No, I did not say the opening date was July 30. You just referenced that as the opening day. The contract originally says the substantial completion date was July 30th, and then it was extended by time until August.
Q. Right. And the hotel opened when?
A. The hotel opened in January of 2019.
Q. What specific date?
A. 27th.
Q. Okay. So it was completed and opened on January 27, correct?
A. Of 2019.
Q. Okay. And the substantial completion had to occur did you say two months before that in order to train employees?
A. Typically. Typically it's two months before that.
Q. All right. How much time was substantial completion performed in order to allow Salamander to move its people in and do that

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training?
A. And -- excuse me. I'd like to go back just a second. Certificate of occupancy. Substantial completion, sometimes referred to also as a certificate of occupancy. However, I believe in Buck's documents there's certain other things that have to be met in order to hit substantial completion. And so in this case I believe we were able to get a temporary CO in November of 2018. And because of relationships with the city, we were able to open the hotel under a TCO and we were -- we had to get -- the Salamander people I believe got in there, started working, you know, in December, in January, actually got in the hotel. We had them hired a year prior where they had been working offsite in the hotel for over a year.
Q. Okay. But the hotel operational and running and had guests was selling rooms on January 21, 2019?
A. I believe it was 26th.
Q. January 26th?
A. 26th or 27th, yeah.
Q. All right. So regardless of any -- whatever, if any, technical things had not occurred by then, by that date the owner was using the hotel

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and it was functioning and was an operable hotel, agreed?
A. It was open on that day and it was operational.
Q. Okay. What would --
A. Maybe not fully, but there might have been some floors that were not finished at that time.
Q. Okay. What floors -- when were all the floors finished?
A. I don't recall at this specific -- I don't recall a specific date.
Q. Okay. Well, if the hotel was scheduled to be completed with the one 20-day extension on August 19, 2017 and was not completed until January of 2019 according to your testimony or whatever the TCO was or CO was, what was the cause of the delay?
A. Balfour Beatty did not have enough subs on the job, enough people on the job at all times to get the work done.
Q. So it was strictly Balfour Beatty's fault?
A. Balfour Beatty and its subs.
Q. But it was strictly Balfour Beatty and its subs that caused the delay, nobody else, that's

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your position?
A. That's my position.
Q. Okay. And that's the position of Library Associates?
A. That's my position.
Q. Aren't you speaking for Library Associates?
A. You're taking my deposition, so that's my position.
Q. Right.
A. Yes.
Q. Are you making a distinction? Are you not testifying for -- you're an officer of Library Associates, aren't you?
A. No.
Q. You run the corporation basically for your brother, don't you?
A. Yes, but I'm not an officer of Library Associates.
Q. Okay. Regardless of the technical distinctions, your position is that all of the delays were solely caused and attributable to and the responsibility of Balfour Beatty, correct?
A. Yes.
Q. Okay. And it is not and never has been

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your position or contention that anybody else contributed to any of the delays, correct?
A. As I sit here today.
Q. Okay. Is that correct, it is not and never has been your contention that anyone other than Balfour Beatty is the cause or responsible for the approximately 500 plus days of delay on this job, agreed?
A. Yes.
Q. Thank you. After the contract was signed, did you understand that the owner, Library Associates, was going to have to self-perform some of the work?
A. There are certain things in the contract that would be owner furnished, owner installed.
Q. Okay. And what were those?
A. Typically that's low voltage wiring. Typically that would be -- in any other contract, that would be kitchen equipment. But in this specific case, Balfour Beatty wanted the kitchen equipment after the contract was signed in their contract, so there was a change order to that effect to give them the responsibility of the kitchen equipment in their contract.

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Q. I'm simply asking what did the owner of Library Associates self-perform? What was it responsible for? You said the low voltage wiring. What else, if anything?
A. Self-performed, we would hire outside contractors, but that's typically what we would do, would be we would have -- be responsible for the laundry equipment, the -- like I said, typically kitchen equipment, but in this case this is in Balfour Beatty's responsibility and low voltage wiring.
Q. Whose responsibility was it under the contract to coordinate the work that was self-performed by Library?
A. I believe that was Balfour Beatty's responsibility.
Q. Okay. So it was Balfour Beatty's responsibility to coordinate the work of Library?
A. Yes.
Q. And that's your understanding of the contract?
A. Yes.
Q. Okay. Did you ever discuss delays with Jim Clements while the project was ongoing?
A. I don't specifically recollect each

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conversation, but I'm sure that there was conversations about delays, yes.
Q. Okay. And I would assume that his position mirrored yours, that it was not his contention that anybody other than Balfour was responsible for the delays of the project?
A. I cannot speak for Jim. You'd have to ask Jim that question.
Q. Well, I'm just asking about your recollection.
A. You'd have to ask Jim that question.
Q. I'm not asking what he recollects, I'm asking what you recollect.
Do you have any recollection of Jim Clements having a position that differed from yours? You said from your perspective, day one, as soon as the delays started, once the project was delayed after August 19, 2017, you thought it was -- you felt it was Balfour's obligation.
And to your knowledge, did your designated representative, owner's representative, Jim Clements, differ?
A. Not to my knowledge.
Q. How about the architects, did they differ?

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A. I can't speak -- I don't recall.
Q. Okay. Well, from your recollection, do you recall did the -- did the architects say it's Balfour Beatty's responsibility for delays and solely Balfour Beatty's? Do you remember anything to the contrary from the architects?
A. No.
Q. In fact, everybody from your testimony and recollection from day one from the time from August 19, 2017 that the first day of delay occurred until the hotel finally opened on January 26, 2019, everybody involved with the project from yourself, Jim Clements and the architect all took the position and delegated all responsibility and the sole responsibility of the delays to Balfour Beatty, correct?
A. I can only speak for myself. I can't speak for them.
Q. Right. We've already been through this. I'm just recapping your testimony. You said what you recall them saying. And I'll take their depositions and they can say whatever they want to and they can allege and cite whatever others they want to.
But from your perspective and your

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recollection based on your involvement with this project, it was Library Associates', yours, Jim Clements and the architects assertion from day one that all delays were the responsibility and solely the responsibility of Balfour Beatty, agreed?
A. I believe that they were the responsible party, yes.
Q. Right. The answer to my question is yes, correct?
A. I believe they were the responsible party.
Q. Right. And nobody else, correct?
A. That's my opinion.
Q. Okay. And that was everybody's opinion while construction was going, correct?
A. It's my opinion. I can only speak for myself.
Q. Right. But you can also speak to what you were told by others. And it was everybody's contention from day one that it was Balfour, correct?
You've already testified to that, haven't you?
A. I don't recall anything different.
Q. Okay. Were there any other

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independent -- strike that question.
I'm going to move into another area if you'd like to take a few-minutes break.
A. I'm good.
Q. We've been going a little over an hour. Okay.
I want to refer you to the contract with Balfour Beatty that as I referenced is -- let me back up. Maybe you answered this and maybe I don't recall what the answer was.
If the pleading identified under Exhibit 13 says that Library Associates seeks to add supplementary conditions declared not part of the contract because they were draft, what -- why was that request made?
A. I don't recall. You'd have to ask Mr. Bundy.
Q. Okay. Let's turn to the contract, if you would, please. Do you recognize what has been marked as Exhibit 14 to Michael Bennett's deposition?
A. Yes.
Q. And this is -- do you recognize this as the contract between Library and Balfour?
A. Yes.

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Q. Okay. We're going to work through a few provisions in this. So on the front page, the owner is Library Associates. Do you see that?
A. Yes.
Q. The construction manager is Balfour Beatty, LLC. Do you see that?
A. Yes.
Q. From your understanding on this job, was there any distinction between Balfour Beatty being called a construction manager as opposed to a general contractor?
A. They were the construction manager.
Q. Okay. What is -- is there any distinction in your mind as them being called a construction manager or a general contractor or alpha dog or whatever you want to say, the fact that it was -- they were called a construction manager as opposed to a general contractor, did that have any significance to you on this job?
A. No.
Q. Okay. And for the following project, hotel Marion Square, do you see that? First page.
A. Let me retract that question for just a second. In this contract, which is an A133, they are labeled as a construction manager. And because

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this is the contract that was used, the 133, the construction manager does have different responsibilities or additional responsibilities than if a typical job was signed within AIA 101, which would call the contractor a general contractor.

So even though that they were the general contractor, they were also the construction manager as part of this definition of this contract, which gave them additional responsibilities.

Q. Okay. The primary responsibility -- this agreement gives the construction manager more -- basically you agree on a -- you sign a deal before you have a guaranteed maximum price, correct?

I mean, what is the distinction? You tell me what your understanding of the distinction is between a construction manager and a general contractor.

A. In this particular contract they are identified as the construction manager.

Q. Okay.

A. And they are responsible for all of the accounting and managing and it's their complete

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responsibility to manage all the subcontractors --

Q. How does that differ from any other contract that a general contractor would sign?

A. Give me a second here.

Q. Let me ask you this: Without reference to the contract, tell me what your understanding -- without referencing the contract, Miss Brown, going from your understanding sitting here today in front of me, what is the distinction, if any, between a construction manager and a general contractor?

A. Again, they have -- this -- the construction manager has additional responsibilities that a general contractor would have when they would typically sign an A101 contract for a job.

Q. Okay. But if you have a -- and what other responsibilities are those?

No, based on your recollection. Tell me your understanding.

A. They're completely responsible for all the accounting on the job, they're responsible for their subs, they're responsible for the schedule of the job. They have complete responsibility.

Q. Okay. Isn't that the responsibility of a general contractor on any job, that they're

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responsible for their subcontractors, for the -- if it's a cost plus, they're responsible for the cost and supporting the costs for the project? I mean, I'm just trying to get your understanding of what the distinction is, if you have any.

A. Again, I believe this document requires them -- and without you allowing me to review the document to come up with specific items, the construction manager has more responsibilities than a typical general contractor would in signing an A101.

Q. Do you know why the decision and what reasons, if any, underlaid the decision for Balfour to be a construction manager as opposed to a general contractor to be labeled as such in this contract?

A. It was the decision -- and I'm not sure -- I don't recall why the decision was made, but the decision was to have the A133 and have it be a cost of work plus a guaranteed maximum price.

Q. Have you used this contract before, this contract form?

A. No.

Q. So you always use the A101 and 201?

A. Yes.

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Q. Have you ever had a contract that was cost plus with a guaranteed max?

A. No. This was the first one.

Q. Okay. So all of your other -- your prior contracts were just simply for a negotiated stipulated sum?

A. A lump sum contract, yes.

Q. Okay. For the other 19 hotels that Mr. Bennett's constructed, correct?

A. Yes.

Q. All right. Continuing down on Page 1. I'm sorry, Page 1 of the contract. The first page. Cover page. I'm sorry, you kept turning. Actually, I think it is enumerated as Number 1.

A. Yeah.

Q. All right. We were working down through the terms. Architect is Winford Lindsay Architect?

A. Yes.

Q. And the owner's designated representative is Jim Clements, major program management services, correct?

A. Yes.

Q. And for the architect, Winford Lindsay Architect, any responsibilities that he's to

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perform under the contract or -- that's a general question. Let me rephrase.

Where the contract references that the architect is to perform certain functions, then Winford Lindsay Architect is that entity, correct?

A. Yes.

Q. And where the owner -- where the contract says that the owner's designated representative is to be Jim Clements, then he's the person, correct?

A. Yes.

Q. Okay. Who, if anybody, was involved with the negotiation of the agreement for Jim Clements?

A. That would have been Michael.

Q. How about for the actual -- the actual wording verbiage of that agreement? Who negotiated it, in other words?

A. I don't recall. I was finishing up another hotel project at the time and I was not involved in that.

Q. So it was only Michael to your knowledge?

A. I'm sure Michael had someone review it for him. Whether it was Mr. Bundy or one of our

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other attorneys, I'm not sure. I don't recall.

Q. Does Tracy Ray actually practice law? Is she a practicing lawyer?

A. I believe she keeps up with her continuing education, but she works for us. She does not practice law.

Q. So any legal work she does is strictly for Bennett Hospitality?

A. Correct.

Q. And its related entities?

A. Correct.

Q. All right. Turn to Page 7 of the agreement, if you would, please. At the very bottom under 2.3, construction phase, under Section 2.3.1.3 there is a provision for liquidated damages at a rate of and then it's spelled out 9,500 dollars and then the -- or the numeral is 9,000 dollars. Do you see that?

A. I do.

Q. Okay. Who negotiated that amount?

A. As I recall, that was Jim Clement who negotiated that amount.

Q. Okay. And you were involved in it, though, weren't you?

A. I was involved in it, yes.

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Q. And, in fact, you just finished -- hadn't the Embassy Suites just finished where you all were involved in a dispute that necessitated the imposition of liquidated damages?

A. Yes.

Q. So you're very aware and very knowledgeable of what a liquidated damages provision is for, agreed?

A. I am knowledgeable about what a liquidated damages clause is, yes.

Q. And you negotiated that on -- into all of the contracts that Library -- I'm sorry, that Bennett Hospitality has negotiated with general contractors. Each one of the A101's has a liquidated damages provision, correct?

A. No.

Q. They don't?

A. No. In our contracts with CPI, we don't have liquidated damages provisions in their contracts.

Q. Anybody else?

A. As I testified earlier, they had built the last eight hotels for us. We had the liquidated damage clause in there with Welbro and we had the liquidated damage clause in there with

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Balfour Beatty, but it's not in our other contracts, no.

Q. What is the intention of the -- what's the reason for having a liquidated damages provision?

A. The daily revenue that you lose from a hotel is a very large number. In a hotel like Hotel Bennett, that could be, you know, a hundred to 150,000 dollars a day in revenues. So a liquidated damage amount even what our net loss would be would be such a high number that a contractor would never agree to it, roughly 30,000 dollars a day that we lost in revenues for the hotel not being open.

Knowing that the contractor would never agree to a 30,000 -- what our true net loss was, we were able to negotiate a number that at the time we knew would not cover our losses but that we felt comfortable with and that Balfour Beatty felt comfortable with.

Q. Okay. So the liquidated damages is an agreement between Library Associates and Balfour Beatty that for every day of delay that is determined to be the fault of Balfour Beatty, that that's what Library Associates would collect as

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damages, agreed?
A. Correct.
Q. Okay. Did you have any specific involvement with negotiating that provision?
A. I recall that Jim Clement was negotiating that with Balfour Beatty. I recall that he may have come back with a number lower. I recall he -- that we probably had the conversation that our liquidated damage clause in that current contract with Welbro was 9500 dollars a day and that that's what we would be willing to accept even though that that -- the actual loss would be higher, and he was the one who was able to negotiate that with Balfour Beatty.
Q. To negotiate it higher?
A. To negotiate the 9500 dollars.
Q. What was the figure before the 9500 dollars?
A. You know, I don't recall. It was probably in the 7,000 dollar range.
Q. Okay. But the final agreement was that for each day of delay, Balfour -- the responsibility of Balfour, they would be liable for 9,00 dollars -- or 9500 dollars?
A. 9500 dollars.

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Q. Okay. How did that -- there's a discrepancy between the written part and the numeric aspect. Who drafted that actual language, do you know?
A. I believe Mr. Bundy did.
Q. Okay. So do you know how that happened, why -- what the discrepancy is?
A. I don't know how that happened.
Q. Was there a discussion -- after the contract was signed, do you remember any discussions with Balfour Beatty about which rate was the agreed upon rate?
A. I don't recall any discussions.
Q. So you don't know whether there's an agreement -- a meeting of the minds, so to speak, after the contract was signed as to which provision was going to apply?
A. I do not.
Q. What is your understanding of how the project schedule was developed or do you have any understanding of it? Do you know what a schedule is?
A. No. Balfour Beatty had the scheduling software that they scheduled the project.
Q. Okay. Do you have any training, any

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formal or informal training or CLE's or continuing education or anything else regarding scheduling?
A. No, I do not.
Q. Do you have any -- do you profess any expertise or understanding of critical path or other scheduling aspects?
A. I understand what critical path is.
Q. What is it?
A. Critical path are items in the job that have to be complete at a certain time in order for the job to move forward.
Q. Okay. Is there a science involved with that?
A. Not that I'm aware of. I'm not a scheduling expert. They have the -- they were in charge of scheduling the job.
Q. Okay. Do you do critical path analysis and do you use any of the computer programs to develop critical paths or schedules for jobs?
A. No, I do not.
Q. Does anybody with Bennett Hospitality?
A. No.
Q. Do you know whether anybody from Library Associates reviewed the schedule that was proposed by Balfour Beatty that included the

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original completion date of July 31, 2017?
A. I believe Jim Clement reviewed the schedule. I looked at the schedule.
Q. Okay. How about the architect?
A. I do not recall if the architect -- well, the schedule would have been part of the initial OAC meetings of which Balfour Beatty would have given the architect the schedule.
Q. Okay. What I'm getting at is the completion date that was set out in the contract that I think we've already discussed was -- when you do the math, it works out to July 31, 2017?
A. Yes.
Q. All right. There was a schedule that underlaid that date, agreed?
A. Yes.
Q. Okay. Did either Jim Clements or the architect review that schedule to your knowledge?
A. Yes, I believe they did.
Q. Okay. So both Jim Clements and the owner -- I'm sorry, Jim Clements and the architect were aware of and familiar with the original contract to completion date?
A. Yes.
Q. Under -- on Paragraph 9 of the

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complaint, Article 3, owner's responsibilities, it says: The owner shall provide information with reasonable promptness.
A. I'm sorry, where are you reading?
Q. On Page 9 of the agreement.
A. Okay.
Q. Okay.
A. What section?
Q. Article 3, Paragraph 3.1.1.
A. Okay.
Q. The owner shall provide information with reasonable promptness. Do you see that?
A. Yes.
Q. Did you understand that that was an obligation of the owner while this project was ongoing?
A. I see that's written here, yes.
Q. So did you understand that while construction was ongoing, the owner was going to be asked questions about selections and other things that it wanted and it was going to have to provide guidance to the design people and/or Balfour Beatty in order for the project to go forward?
A. Yes.
Q. Okay. And you understand that if the

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owner does not provide that guidance that it's required to, that that piece of work cannot go forward, agreed?
A. Okay.
Q. All right. So it's just pretty commonsensical, isn't it, that if the owner -- if the owner is required to provide information and it doesn't do so within a reasonable time, then whatever information they're supposed to provide is going to cause a delay to that particular piece of work. That's pretty commonsensical, isn't it?
A. It may cause a delay to that piece of work, but it may not cause a delay to the critical path.
Q. Okay. All right. With that understanding.
A. Yes.
Q. However --
A. Yes.
Q. Right. But -- okay. What is a reasonable time in your view?
A. It depends on what the question was.
Q. Okay. Well, what if the contractor says, look here, owner, we have -- we need information from you to make a selection and make a

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decision on a particular aspect of work and we need it within two weeks? Do you remember that happening sometimes on this job?
A. No.
Q. Well, if they asked you to have it within a certain time period, do you agree that it would be appropriate for the owner to provide that information within that time period?
A. If that information was readily available, yes.
Q. Well, whether it was readily available to the owner or not, if the -- if the owner just can't make the -- can't get the information for whatever reason, that's not the contractor's fault, is it?
A. No, but I'd have to have a specific --
Q. Okay. How about Jim Clements, does he have knowledge of scheduling?
A. I would think that he would, yes.
Q. Okay. Do you have any -- do you know whether he did or not based on your -- how long -- the contract time was 28 months, so it would have been in May of 2015 approximately when it got started and was completed in December, January of '19, '20.

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A. Yes.
Q. So that's a pretty long time.
A. It started in March -- March of 2015.
Q. So about a four-and-a-half-year construction period?
A. Yes.
Q. Did you get to know Mr. Clements pretty well during that time?
A. I did.
Q. Did you like him?
A. I did.
Q. Do you have any complaints whatsoever of his work?
A. No.
Q. Okay. How about the architect, same answer?
A. I like Buck. I don't have any complaints about Buck's work.
Q. Okay. So the only complaints with regard to this are Balfour, correct?
A. Yes.
Q. And its subcontractors, correct?
A. Correct.
Q. All the complaints and criticisms are Balfour, correct?

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specific item, so I can't recall or specifically say that it should have been in this job. I'm not sure if Balfour Beatty may have told Jim that it would be in the subcontractors, so I cannot testify to that.

Q. All right. Let me back up for a second. Let's talk about Jim Clements and his responsibilities and your understanding of what he was to provide. You all -- Library Associates contracted with Matrix through Jim Clements -- Jim Clements is Matrix, correct?

A. Correct.

Q. All right. To act as the designated representative or owner's representative of this job, right?

A. Yes.

Q. And we'll turn to his contract shortly and I'll ask some questions about it, but it's basically the owner was asking for Jim Clements to give Library Associates before the contract was signed with Balfour Beatty his recommendations and advice as to what would be appropriate and necessary in the contract in order to make the job successful, agreed?

A. Yes.

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Q. And same with the architects, agreed?

A. Yes.

Q. All right. You all are asking Jim Clements to bring in his credentialed experience to advise you on the contract terms and which forms of contract would be appropriate and otherwise in order to arrive at a successful project for the owner, correct?

A. Yes.

Q. Okay. Did Jim Clements ever advise the owner to your recollection that anything the owner was doing was causing or contributing to any of the delays on this job?

A. I don't recall any specific instance, no.

Q. Nor general instance?

A. I don't specifically recall.

Q. I'm not -- so do you have a general recollection that Jim Clements was telling the owner that its errors or omissions or acts or omissions were contributing to or causing delays?

A. I don't recall any conversation.

Q. Okay. The first person to be -- who was the first person to be hired among the architect, the general contractor and Jim Clements?

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A. I don't recall the exact date that the architect was hired or the exact date that Jim Clement was hired.

Q. That's not my question. What's your recollection of who was hired first?

A. I don't recall.

Q. Okay. Well, if Jim Clements, if you're going to rely on him to -- was Jim Clements on board before the architect's contract was signed?

A. I don't have the exact date that the architect's contract was signed in front of me. I don't recall.

Q. Did Jim Clements ever make any recommendations to you about or to -- I understand that you weren't involved with any of the negotiations with Jim Clements, correct?

A. Not at the beginning, but yes, no.

Q. That went into his contract?

A. No.

Q. Okay. To your knowledge did Jim Clements make any suggestions to Library Associates about how often he felt he needed to be on the job physically?

A. No, I do not recall.

Q. Same question with regard to the

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architect.

A. No, I do not recall.

Q. Same question with regard to the interior designer.

A. No, I do not recall.

Q. Okay. Turn to, if you would, Page 49 of the general conditions.

A. Of the 201?

Q. Yes, ma'am. Okay. Do you see kind of in the middle of the page 15.1.6, claims for consequential damages?

A. Yes.

Q. Do you recall any discussion about that paragraph with anyone prior to this contract being executed by Library Associates?

A. No, I don't recall.

Q. Reading that here today, claims for consequential damages. The contractor and owner waive claims against each other for consequential damages arising out of or relating to this contract. This mutual waiver includes, one, damages incurred by the owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such

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persons. Do you understand that paragraph?
A. Yes.
Q. Okay. Did you have any discussion with anybody about it when this contract was signed?
A. Not that I recall.
Q. Is that part of the contract? Do you have any dispute about that?
A. No.
MR. HILDEBRAND: Okay. I'm going to move into another area now. Why don't we take just a five-minute break.
THE WITNESS: Okay.
(A recess transpired.)
(EXHIBIT 16, AIA Document B101 - 2007, was marked for identification.)
BY MR. HILDEBRAND:
Q. I'm going to hand to you what's been marked as Exhibit 16. I don't have a whole lot of questions, but I do have some on this. Do you recognize this document?
A. I recognize this as being the architect contract, yes.
Q. Okay. And I've marked that as Exhibit 16. And I would like for you to turn to Page 8 of the agreement and the very bottom. Do you see

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where it says Article 4, additional services, and the very last one is 4.1.6?
A. Yes.
Q. And it says building information modeling not provided?
A. Yes.
Q. Do you have any recollection of any discussions you had with anybody relative to whether the architect was going to be contractually required to provide BIM for this job?
A. No.
Q. So you don't recall -- you have no recollection of the architect saying, look, this is a complicated job and the industry standard is that we need to use BIM to make it go smoothly, no memory of discussions like that?
A. No, I do not.
Q. Nor any recommendations from Jim Clements saying that it's his recommendation to the owner that really this is something we need to have, you just don't remember anything about it?
A. I do not recall, no.
Q. Okay. Well, if the -- we've now looked at the general contractor's contract, which I believe we agreed did not include them, and we

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looked at the architect's contract that did not include them. Will you agree with me from based on what we've looked at, there is no contractual obligation of either the general contractor or architect to provide BIM services for this job?
A. Not when the contracts were signed, correct.
Q. Okay. Well, were there any changes? Was there a change to the contract where it says, okay, explain that answer?
A. Not to -- not that I recollect. Again, as per earlier, the only recollection that I have is that the -- I believe it was the mechanical contractor was going to provide BIM services.
Q. All right. So would you agree with me that if the owner -- if either the architect or contractor was contractually required to provide BIM, it appears that they -- that that was not included, agreed?
A. That's correct.
Q. Okay. And would it stand to reason that if they had been asked to provide for that service that it would have been added additional cost to the owner?
A. Yes.

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Q. Turn then to -- let me ask you this: Do you know -- do you have any knowledge of any agreements with the architects to -- between Library Associates and the architect regarding them being a defendant or a potential party to this litigation or anything like that?
A. Repeat the question.
Q. Are there any agreements to your knowledge between Library Associates and the architect where the agreement is that the architect won't be made a party to this litigation but can be named later on or that the statute of limitations being -- is being tolled, T-O-L-L-E-D, or any sort of agreement -- arrangement or agreement whatsoever with the architect as to their being liable or potentially liable for any of the issues in this lawsuit?
A. No.
Q. Same question with the interior designer. Are you aware of any agreements with them relative to any exposure they might have?
A. No.
Q. How about with the -- with Jim Clements of Matrix?
A. No.

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Q. Same answer? Are you -- let me expand that question just a bit beyond just if there is actually an agreement. Have there been any discussions about any such agreements?
A. No.
Q. Have there been any discussions to your knowledge between Library Associates -- discussions or communications of any sort between Library Associates and the architects about them being liable for the -- any of the damages that Balfour Beatty has claimed in this matter?
A. No.
Q. Okay. Same question for DCI?
A. No.
Q. And Jim Clements?
A. No.
Q. Do you know if the architect has put their insurance carrier on notice of a potential claim?
A. I do not know.
Q. Okay. Turn to the last page of that agreement, if you would, please. Do you recognize this document?
A. I recognize it as being a certificate of liability insurance. I don't recall seeing the

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specific document, but it's seven years old.
Q. Okay. It indicates under -- are you familiar with this form?
A. Yes.
Q. It's an ACORD form?
A. Yes.
Q. And do you see under Section C professional liability?
A. Yes.
Q. Each claim is a million dollars and there is a provision under the third Section A for umbrella liability of 2 million dollars?
A. Yes.
Q. Okay. Do you know if there was -- is any agreement between Library and the architects that they provide any tail coverage or continuing coverage for some period of time relative to their work on this project?
A. Not that I'm aware of.
(EXHIBIT 17, AIA Document B152 - 2007, was marked for identification.)
BY MR. HILDEBRAND:
Q. All right. I've handed you what I have marked as Exhibit 17 and would ask if you can identify that.

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A. It's the contract with DCI, the interior designer.
Q. And it is dated December 20, 2013?
A. Yes.
Q. Look on Page 13 of that, if you would, please. At the very bottom, Article 11, compensation. For the designer's services, the owner shall compensate the designer at the -- for the lump sum of 360,000 dollars. Do you remember that?
A. Yes.
(EXHIBIT 18, Invoice Register dated 5/7/19, was marked for identification.)
BY MR. HILDEBRAND:
Q. I'm handing you what's been marked as Exhibit 18. And this is an invoice register for DCI from December 2013 to May of 2019. Do you recognize this?
A. No, I do not recognize this.
Q. Okay. It's an invoice register. And right under invoice register it says Design Continuum. And on the third page, last page, bottom right, it says that the total charges for this job were $820,774.83. Do you see that?
A. No. No, I don't.

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Q. I gave you the wrong page. We'll try this again. I've now handed you a document, Exhibit 18, which has been identified as invoice register. Do you see that, upper left on the first page?
A. Yes.
Q. And do you see on the third page at the bottom right it says final totals, $820,774.83?
A. I see that number, yes.
Q. Okay. Do you know if that reflects the total billings from DCI for this job?
A. Bear with me. This is the first time I've ever seen this document. Yes, those numbers look right to me.
Q. Okay. Does that sound right to you about the --
A. Yes. Because if you look at their contract -- there's two different invoices. There is Job Number 630001.01 and then there are jobs the invoices related to 630002.01. The first one where the project total fees are 419,500 dollars, that is about 59,000 dollars higher than the 360,000 dollar project cost. And that was due to the monthly services that they provided under the contract due to delays in the job with Balfour Beatty.

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This job was supposed to be finished and opened in '17, but they had to provide services going on through 2019 which we had to pay them for those services on a monthly basis. The 237,000 is for reimbursables. That's for flights to Charleston when they came, that's for hotel stays, that's for any other items that would be considered reimbursables in their contract.

And so the total for that 630.001 is 656,000 dollars. Again, a lot of that is due to the delays. If you'll look for invoices from all through January '18 through '19, all of those are due to delays in the job.

63002, is --

Q. I'm sorry, show me where you're --

A. 63002 here is a different --

Q. That's on the third page?

A. Yes, where it says additional services, where we requested additional services from them after the -- that wasn't part of the original contract, additional design that they've provided. And they base their fees on a per hourly cost and those totals were 159,000 dollars with the reimbursables on that portion being 4200. So yes, that --

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Q. Okay. Regardless, my simple question was: So that does sound -- comport with your recollection of what they billed?

A. Correct.

Q. So the final billing to Library Associates was 820,774 dollars, you've got no reason to dispute that?

A. No.

Q. Okay. And so the original contracted amount was 360,000 dollars?

A. Plus reimbursables, plus additional services per the contract.

Q. Okay. So the original did not include anything -- did not include reimbursables?

A. No. It said in here that reimbursables will be in addition and any additional services would be at a per hour cost.

Q. So where do you -- so the contract administration, it was over and above the 360,000 dollars, where do you get --

A. Yeah, if you look at the time that they spent --

Q. This is the invoice register, Exhibit 18?

A. Yes. If you look --

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Q. On the second page?

A. On the second page -- excuse me, on the date, yeah, you can see the additional cost and fees from '18 and '19. Those were 3500 dollars a month for additional -- just additional fees for their construction administration. Actually, that goes back to 2017. They billed one lump sum at the 14,000 that went back until -- that was four months old. You have to look at the actual invoices.

Q. Okay. So did DCI tell you -- so is it your contention that all of the 419,000 dollars is attributable to Balfour Beatty's delays?

A. No. The 419,000 is 360,000 of the original lump sum.

Q. Okay.

A. That's the original contract.

Q. Okay.

A. Okay? The addition, 419,500, was the additional time that they spent on the job. The 419 -- you'd have to subtract the 419 five from the 360.

Q. Okay.

A. But that's an additional 59,500 dollars in administration that they spent on the job.

Q. Okay.

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A. Due to the additional time due to the delays in the hotel.

Q. Okay. Is there any document that says that's from DCI saying -- that to your knowledge it says that's what's caused by the delays?

A. The invoices and there was -- there was -- I'm sure that there was a letter sent or some type of correspondence since saying that, you know, we have now passed the contract time period, it was supposed to open and -- you know, this was supposed to open in 2017 and we need to charge an additional 3500 dollars a month.

Q. Okay. What would you have expected to pay but for the alleged breaches of Balfour, the 360 plus contract administration?

A. Plus -- 360 plus the reimbursables, yes.

Q. So approximately what?

A. I'd have to -- in general terms, probably about 500,000.

Q. Okay. So the difference of that 320 you claim is attributable to Balfour?

A. It was partially due to the delays. But the additional services, which are under 630002.01, some of those may have been attributable

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to Balfour and some of those just may have been attributable to additional things that we had asked them to do after the contract time.

Q. Okay. So have you talked to DCI and do you know what their contention is as to what the -- what their overages, what caused their overages?

A. I have not had that discussion with them, no. I haven't spoken to them regarding that.

Q. Okay. Is it your recollection that they specifically say on their invoices caused by Balfour's delay?

A. No, I do not believe their invoices say that. I do recall receiving notification from them due to -- due to the delays in the hotel that they will need to charge an additional 3500 dollars a month in administration.

(EXHIBIT 19, Invoice Register dated 5/7/19, was marked for identification.)

BY MR. HILDEBRAND:

Q. Okay. Now, Exhibit 19 is a document which shows in the top left cash receipts. Do you see that?

A. Yes.

Q. Both of these documents are dated the same date, May 7, 2019?

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A. Yes.

Q. Cash receipts are 785,334. So it's about 35,000 less than their total billings. Do you know what the explanation is for that?

A. It may have been what that was at that point. I believe that they have been paid in full since May of 2019.

Q. So you think they've been paid in full 820,000 dollars?

A. I believe so, yes.

(EXHIBIT 20, Project Management Agreement Between Owner And Project Manager, was marked for identification.)

BY MR. HILDEBRAND:

Q. I've handed you what I've marked as Exhibit 20 and would ask if you can identify that one.

A. This is a contract from Jim Clements not executed by Library Associates.

Q. Okay. Do you know -- do you have any reason to believe that it was not or that this is not the actual contract that was in place?

A. I -- I do not recall.

Q. Okay. Let's look under Article 1, project management services, project start-up phase, 1.1.2. Prepare master project schedule, delineating tasks, milestones and deadline dates to ensure project is completed on schedule. Do you know if Mr. Clements did that?

A. I don't recall.

Q. If that was one of his contractual requirements, do you have any explanation for why he would not have done that?

A. No.

Q. Under the next section at the top of Page 2, predesign and design phase, the third paragraph down, 1.2.3, update the master schedule with new and revised information when appropriate. Do you know if that was done?

A. Not that I'm aware of. I don't recall.

Q. Under 1.2.8 on that page, manage the design team and the owner's consultants to ensure necessary design information is incorporated into the design and construction documents. Did he do that?

A. He was involved in the preconstruction design meetings with Balfour Beatty, with Buck Lindsay and with the design team from DCI in meetings to incorporate into the design of the construction documents, yes.

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Q. Well, it says necessary design information -- to ensure necessary design information is incorporated into the design and construction documents.

A. Yes. He was in those meetings to ensure that the design and the construction -- that information was incorporated into the design and construction documents. It was -- the meetings consisted of Balfour Beatty, it consisted of DCI, it consisted of Buck Lindsay and it -- those meetings were held on a monthly basis during the design -- the predesign and design phase.

Q. And that's what Jim Clements' responsibility was on this project?

A. Yes.

Q. Agreed?

A. Yes.

Q. Okay. 1.2.10, manage key team members to ensure all necessary decisions are made by the appropriate persons at the appropriate time.

That was his responsibility?

A. In the predesign and design phase, yes.

Q. Review and comment on all pay applications, purchase orders and invoicing from all consultants?

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A. In the predesign and design phase, yes.
Q. All right. How about pre-construction, next page, 1.3, pre-construction and construction phase, 1.3.4. Provide the day-to-day management of the project, including coordination of the design and construction teams as well as owner's FF&E suppliers and statutory authorities. Was that his responsibility?
A. Yes.
Q. Did he perform it?
A. Yes.
Q. 1.3.6, manage contractor's schedule preparation and follow through, monitor schedule progress and report on schedule delays.
Same question, that was his responsibility and what he did?
A. Yes.
Q. All right. On Page 4, third item down. Let's back up under the bottom of Page 3, deliverables, 1.6 at the bottom.
With the design phase, his obligations to you were to provide a strategic development schedule incorporating milestone design, statutory, procurement, construction and occupancy activities.
Then it talks about his obligations for

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the bidding and negotiation phase and then the construction phase. Under the construction phase, it says he will provide weekly meeting minutes, including action items list, monthly cost reports and variance analysis, including the estimated cost to complete the project and owner contingency reserves, monthly schedule updates and some other things. Those were his obligations of what he provided?
A. That's what this contract says, yes.
Q. Okay. That's what you all -- this contract embodies what you all expected to close, correct?
A. Right.
Q. And it says just below that his compensation would be 12,000 dollars per month, is that correct?
A. Yes.
Q. Jim Clement's charge was to meet -- he's the owner's representative and his charge was to meet with the owner and determine what your goals were and what you wanted the project to come out to in broad strokes, agreed?
A. Yes.
Q. And then it was his job based on his

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experience and the fees were going to be paid to him to make sure that the owner's vision was transferred to the design team and the construction team so that they were contractually obligated to build what it was that the owner wanted, agreed?
A. Yes.
Q. So if there was a -- if Jim Clements did not convey to Balfour Beatty what some of the owners's requirements and expectations were such that they were included in Balfour Beatty's contract, then that would fall on Clements, agreed?
A. Yes.
Q. And we went through the contracts just a few moments ago that talk about the BIM. And the BIM was not included in either Balfour's contract or the architect's contract, therefore that omission would be Jim Clements' responsibility, correct?
A. It was not included in the contract. I don't think that I testified that it was the owner's request to have BIM, so how could it be in an omission?
Q. Okay. Well, if Balfour or the architect -- would you agree with me -- based on your knowledge of Jim Clements, are you pretty

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impressed with him and his knowledge of construction management by being an owner's representative?
A. Yes, he's knowledgeable about construction.
Q. It would have been pretty easy for him if he had wanted to add it to the contracts of Balfour and the architect BIM provisions. If that had been important to him, he could -- it would have been very easy for him to have that, agreed?
A. Yes.
Q. And because they worked on the contracts, he knew and Library Associates knew the BIM obligations were not included within the responsibilities of Balfour or the architects, agreed?
A. At the signing of the con -- yes.
Q. Okay. Unless that changed somewhere?
A. Correct.
Q. Unless there was an addendum or revision of the contract?
A. Yes.
Q. Okay. The next document that I'd like to ask you about I want to mark as Exhibit 21.
(EXHIBIT 21, E-mail chain dated 11/9/15

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to Kim Brown from Marty Wall, with attachments, was marked for identification.)
BY MR. HILDEBRAND:
Q. And it looks to me from what I can -- let's see here. This is a -- 21 is a letter to M. Wall at Bennett Hospitality. Who is M. Wall?
A. That's Marty Wall.
Q. Is he still with the company?
A. He is.
Q. What is his responsibility?
A. He currently is the general manager of the hotel.
Q. Okay. Who was it who brought Salamander into the picture?
A. We interviewed two management companies prior to selecting Salamander. It may have been Marty that suggested Salamander. I don't recall.
Q. Okay. Who was the other company that you all --
A. Charlestowne Management.
Q. For Exhibit 21, that's a document where Salamander from what I can see, it looks like Salamander was initially contacted about a month before. On October 1 there's an e-mail from Marty Wall to Karen Jenkins saying I'm introducing you to

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Prem Devadas. Is that how you pronounce his name?
A. I don't see that e-mail.
Q. I'm just referencing some facts. It looks like --
A. Karen Jenkins is with DCI. There would be no reason for Marty to contact Salamander with Karen, I believe. I don't know.
Q. Okay. Well, the point is, from what I could see it looks like Salamander was brought on board about a month before this Exhibit 21 is --
A. No, I believe we were in talks with Salamander in 2015 and through '16, but I think the actual management contract was signed in December of 2016 with Salamander --
Q. Right.
A. -- in anticipation because you typically hire your managers six months to nine months prior to opening and at that point we thought that we would be opening in October of '17 so we brought them on in December of 2016.
Q. Okay. So is that -- based on your experience with I guess the 21 hotels that you all own or the number of hotels you all had over the years, that's what you all have found is the appropriate time to bring a manager on board?

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A. You bring the general manager on board six months. This was a bigger hotel with more employees. We brought him on nine months before, yes.
Q. Okay.
A. Or you hire the management company.
Q. Did you confer with anybody to -- did you vet that time period with anybody else as to this particular hotel and for a luxury five-star hotel whether six to nine months would be the appropriate time for Salamander to come on board? Six to nine months before completion.
A. We did not vet that out. That's just our experience in industry standards.
Q. Okay. I guess if you all hadn't done a five-star hotel, how would you know that that is the appropriate time, just a guesstimation?
A. That's just industry standards out there. Marty, who is the general manager, was the general manager at Palmetto Bluff, which is a five-star hotel as well, and he may even have been part of that conversation of when to bring the management company on.
Q. So tell me again what Marty Wall's general responsibility is.

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A. He is the general manager of the hotel.
Q. When was he hired?
A. I don't recall when he first came from Palmetto Bluff to us. He was working on a part-time basis, so I don't recall when he became a full-time employee.
Q. Do you have an approximation?
A. I -- I don't -- I don't. I don't recall.
Q. All right. So what is the distinction between Marty Wall and Salamander?
A. Salamander's the management company. Marty is the general manager of the hotel. It is quite unusual that the general manager does not work for the management company, but in this case this is the agreement that we've had with the management company, that the general manager's an employee of Bennett Hospitality but manages the hotel, is the general manager of the hotel. All other employees in the hotel are Salamander employees.
Q. Okay. Why would that -- why did that come about?
A. We just thought that that would be a better situation for us there and they had no

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Deposition of:

Kimberly Bennett Brown

August 5, 2020

In the Matter of:

Balfour, Beatty v. Library Associates

A. William Roberts, Jr & Assoc.
800-743-3376 | calendar-awr@veritext.com | www.veritext.com

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would it go back to Balfour to finalize?
A. The -- there were copies of pencil copies given to everybody, just only the three or four summary pages of the pay app, and that was all of the backup information.
Q. Okay.
A. I think once the pencil copy was done and the architect took it, they then -- if they had any questions with Balfour Beatty or if there was any changes to be made, they would be the ones who corresponded with Balfour Beatty on any of the changes to the pay app. Balfour Beatty would then send the pay app with the backup again to the architect for their final review.
I do not recall -- the pencil copy typically didn't to my knowledge be sent back to Balfour Beatty. I'm not sure. I -- you know, I shredded my copies of the pencil copies because they weren't finalized. It was just something to use during the OAC meetings.
Q. Okay. So when the -- so the architect would review and approve the pay app and then forward it to you with the backup documentation?
A. That's correct.
Q. Okay. And would you get that by

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e-mail?
A. I would, yes.
Q. And the backup documentation was pretty extensive because this was a cost per a guaranteed maximum price, correct?
A. That's correct. In some cases it may be 500 pages.
Q. Okay. And the architect -- the architects and you had the opportunity during the pay app process to if you saw something that you'd like additional explanation on or you didn't think the backup was appropriate, then you could request that information from Balfour and often did, agreed?
A. I typically reviewed on the architect's review of the pay app. I did not go through all of the backup invoices. That is what we were paying the architect to do.
Q. Okay. So it's the architect's responsibility to review all the backup and satisfy itself that what Balfour was presenting to the owner for payment was appropriate and the -- and it had satisfied its obligations to document that the value of the work in place was, in fact, there, agreed?

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A. Correct.
Q. Okay. And you -- when you would get the pay applications from the architect, would you just -- would you review them at all or would you just sign them?
A. I don't believe I signed the pay apps.
Q. Signed off on them.
A. I would review -- I would take the information from that pay app, then it was compiled into the pay app with other invoices that the owner had to send to the lender.
Q. Okay. So your approval was your forwarding of those documents to the lender for funding?
A. Correct.
Q. If there was anything -- during the pencil copy when it was discussed, did you ever request additional information on any of the line items from Balfour?
A. I don't recall.
Q. After any of the pay apps had been signed by the architect, did any of them go back to Balfour Beatty for revision -- further revision for one reason or another to have them redone?
A. I don't recall.

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Q. Okay. If the owner disagreed with -- were there times when the owner would get a pay application from Balfour Beatty and disagree that some of the work called for was appropriate or not and ask them on the pencil copy to delete it?
A. I don't recall personally ever doing that. That was also Jim Clements' responsibility as the owner's representative. He may or may have not in certain instances.
Q. Okay. So would the -- for the review of each of the pay apps, that would have been done by both Jim Clements and the architect?
A. Jim Clement was always in the OAC meeting when the pencil copy was delivered to everyone. If he saw something in that pencil copy, it was his responsibility to point that out to Balfour Beatty, which he may or may have not done.
Q. Were there any instances where the architect certified a particular amount for payment that you actually -- when payment was made to Balfour, it was less than the amount certified in the pay app?
A. I recollect there may have been one instance when after the architect had certified the pay app and the bank was going to fund the pay app,

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reviewed?
A. I review them typically throughout the day. I don't review every e-mail.
Q. You don't -- would you have reviewed every e-mail for this job that you got?
A. I don't recall.
Q. Would you have a reason to believe that you didn't?
A. I receive hundreds of e-mails per day. There's some that I miss. In my e-mail box currently, I have over 100,000 e-mails and there's probably showing about 30,000 unread e-mails. I possibly could have missed e-mails from this job that I did not read.
Q. Okay. It's possible, but you endeavored to review all of the e-mails that came to you from Balfour Beatty or Jim Clements or the architects on this job, can we agree to that?
A. Yes.
Q. Okay. And this e-mail -- do you recall this e-mail?
A. I don't recall this specific e-mail, no.
Q. Okay. Well, I can -- I just want to refer to a particular portion. On Paragraph 3 D

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with liquidated damages, do you see that?
A. Yes.
Q. Okay. I've reviewed all of the documents in this case and the -- this is the first notice of an assertion of a claim for liquidated damages to Balfour Beatty in this matter. Would you disagree with that?
A. I have not reviewed all of the documents in this case, so I cannot state that I agree or disagree to that.
Q. Okay. Let me ask you this then, Miss Brown. Are you aware that prior to this point any claim being made by the owner to Balfour Beatty for liquidated damages?
A. I do not recall.
Q. Okay. So you're -- the answer is you don't -- you're not aware of any?
A. I do not recall.
Q. Right. Since you don't recall, you can't testify that you're aware of any notice to Balfour Beatty of liquidated -- of a claim for liquidated damages prior to this letter, agreed?
A. I don't recall if there was or there was not.
Q. All right. The documents will speak to

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that.
Have you looked for that in this litigation?
A. No, I have not.
Q. Okay. And I haven't -- is there -- I've reviewed the OAC meeting minutes and other correspondence and I again haven't found any notice of a claim by the owner for liquidated damages going back through the OAC meetings.
Do you recall any oral assertions or claims by the owner to Balfour Beatty for liquidated damages prior to this?
A. I do not recall.
Q. Okay. Have you talked to anybody else to whether a claim for liquidated damages had been made orally or in writing to Balfour Beatty prior to this --
A. I have not.
Q. -- e-mail of February 11, 2019?
A. I have not.
Q. Okay. And from your testimony yesterday, the liquidated damages in your view began to run on a per-day basis starting on the contract extension time of August 19, 2017 because all of the delays were solely attributable to

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Balfour Beatty, agreed?
A. Correct.
Q. All right. So from day one, every single day, approximately 10,000 dollars per day of liquidated damages the owner felt it was entitled to from Balfour Beatty starting August 19, 2017, agreed?
A. There was a cap on the liquidated damages that was based on the total amount of the actual general contract fee.
Q. Okay. Have you been involved in a project before where -- what is the longest period of time that a project has been delayed from final completion that you've been involved with?
A. Approximately 60 days.
Q. And that was Embassy Suites that we talked about yesterday?
A. Correct.
Q. So there the delay claim didn't arise until the very end because it's only 60 days, correct?
A. Correct.
Q. Here, though, the delay claim arose 516 days before final completion, so your claim -- your claim in your mind against Balfour arose about a

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year and a half before final completion, agreed?
A. Repeat the question.
Q. Okay. In this project I think it's pretty clear that your claim against Balfour Beatty for liquidated damages arose in your view from day one of the -- that the project was not completed as contracted for, which is August 19, 2017, agreed? You told me that several times.
A. Yes. That says per the contract requires that, yes.
Q. Okay. And you had the right at that point to assert specifically to Balfour Beatty on the -- each pay application that you were going to deduct liquidated damages against them right then, agreed?
A. I'd have to read the term of the contract to see when liquidated damages would be assessed in the pay applications.
Q. Okay. Well, let's look at the damages provision then. Because I think the contract is under Tab 14, exhibits for Michael Bennett's deposition. Do you see that under 2.3.1.3 in 133?
A. Yes.
Q. Okay. So my question is: From day one under the contract, the liquidated damages apply

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for every day that the contractor is at fault or responsible for that delay, agreed?
A. Yes.
Q. Right. And the owner has that right to collect those liquidated damages as of day one, agreed?
A. Yes.
Q. Okay. And has the right to assert them as of day one, agreed?
A. Yes.
Q. And it has the right to notify the contractor and to notify on pay applications or otherwise, look, contractor, we think you're delayed right now and we are not going to pay you this pay application and we're going to reduce it by the liquidated damages because that's a right that you have right then, agreed?
A. A right, yes.
Q. Right. And for the 10,000 dollars -- approximately 10,000 dollars a day that was asserted, how would the -- unless the owner tells the contractor, look, we are -- we think that you are late and we think that this delay is your fault and we intend to assert liquidated damages, unless the owner or somebody else tells the contractor

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that that is a claim that the owner has and intends to make, how would the contractor know that the owner's going to make it or not?
A. I don't think it's the obligation of the owner to notify the contractor that it's going to make the claim of liquidated damages. Liquidated damages are in the contract as a right that the owner has. It doesn't -- I do not believe it is stated the time period in which the owner has to make the claim for liquidated damages.
Q. Okay. So it's a right -- it's a claim that you had but that you did not make against Balfour, and Balfour continued its work without knowing that you intended to assert that claim?
MR. BUNDY: Object to the form of the question.
BY MR. HILDEBRAND:
Q. Agreed?
MR. BUNDY: You can answer it. I'm just objecting to the way he asked it.
THE WITNESS: Repeat the question, please.
BY MR. HILDEBRAND:
Q. The liquidated damages claim that the owner had was not made known to Balfour until

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February of 2019 even though it arose according to your testimony in August of 2017, and therefore Balfour to your knowledge continued its work without having received a liquidated damages claim by the owner?
MR. BUNDY: Object to the form of the question.
BY MR. HILDEBRAND:
Q. Agreed?
A. I do not recall. There may have been conversation regarding liquidated damages, but I do not recall that this specific notice by the architect was the first time that liquidated damages were mentioned to the contractor.
Q. Okay. Let's assume that your testimony -- let's assume that there's no prior writing. And if there is going to be a claim, is there a notice provision in the contract that if a -- one of the parties to the contract has a claim that they need to notify the other party about it?
A. I'd have to review the contract.
Q. So you can't answer that without reviewing the contract?
A. Not from recollection, no.
Q. Okay. So every -- the owner -- you

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telling me that you had no intention -- it wasn't until February of 2019 that you intended to -- even though you knew that in your view liquidated damages were accruing against Balfour in August of -- began to accrue in August of 2017, is it your testimony that you had -- you weren't intending to assert those liquidated damages until the end of the contract?

A. No, that is not my testimony. My testimony is that it's a right that we have under the contract.

Q. Right. And you didn't think that you needed to make it until the very end of the contract, agreed? Obviously, because you didn't make it.

A. Being the second job that had liquidated damages in it and, as we testified earlier, the other job was at the end of the job. In our mind that is when liquidated damages are assessed, at the end of the job.

Q. I'm not asking you that. You didn't feel -- you knew that they arose 500 -- that liquidated damages in your view should have been assessed and arose in favor of the owner in August of 2017, but you didn't think that -- you intended

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to assert them against Balfour beginning in 2017, but you didn't think that it was your obligation to inform Balfour until the end of the job, correct?

A. Yes.

Q. And when the liquidated damages were asserted in 20 -- I'm sorry, in February of 2019, then the owner said we are not going to pay this last pay app because we're going to deduct the liquidated damages, correct?

A. That was one of the items --

Q. Okay. Whether it was one of the items or many, the owner said in 2013, okay, Balfour, we're going to deduct liquidated damages from this pay application, correct?

A. In 2019.

Q. 2019.

A. Yes.

Q. Okay. You all could have done that any time, couldn't you?

A. As per the terms of the contract, we could have, yes.

Q. Right.

A. But we're not obligated to.

Q. Okay. I've done just a little bit of math on this issue. And if we assume a liquidated

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damages per daily limit of 9500 dollars, let's assume that that was correct -- I know that the architect said it was 9,000, and I'm going to come back to this in just a minute.

So after 30 days from August 19, 2017 at 9500 dollars a day, after 30 days the owner you felt, if you had simply done the math, that Balfour was obligated to pay the owner 285,000 dollars, agreed? It's simple math, right?

MR. BUNDY: Object to the form of the question.

THE WITNESS: Yes.

BY MR. HILDEBRAND:

Q. Okay. And after -- I could tell you after 30 days it's 285,000 dollars. After 60 days, it goes to 570,000 dollars. After 90 days, it goes to 855,000 dollars. What -- do you think that if the owner had made a -- had given Balfour notice of a claim for liquidated damages in September of 2017 that it was going to deduct 285,000 dollars from their contract, do you think that would have gotten Balfour's attention?

A. I cannot tell you what would get Balfour's attention.

Q. Based on your knowledge of Balfour, do

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you think that would have provoked a response?

A. Possibly.

Q. You know dang well it would, wouldn't it? If you're going to tell Balfour we're going to deduct 285,000 dollars from your paycheck or from your pay application, you know dang well that Balfour Beatty would have had a pretty aggressive response to that, wouldn't they?

A. That's an assumption.

Q. So you're not -- we're going to just say that you're confident that Balfour Beatty, if you had -- the owner had asserted liquidated damages back in August of -- or September of 2017 for 285,000 dollars and say we're going to deduct this from your pay application and only pay you the undisputed amount, you don't think that would have provoked a response from Balfour?

A. I cannot tell you what Balfour Beatty would do.

Q. Okay. How about after 60 days when the amount goes to 570,000 dollars, do you think that that would have provoked a response from Balfour?

A. Again, I cannot speak for Balfour Beatty.

Q. How about at 90 days when it's 855,000

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dollars, would that have provoked a response?
A. I cannot speak for Balfour Beatty.
Q. How about after 120 days when it's 1,140,000 dollars, what do you think Balfour would have done?
MR. BUNDY: Object to the form of the question. You're badgering the witness.
THE WITNESS: I cannot speak for Balfour Beatty.
BY MR. HILDEBRAND:
Q. I'm sorry?
A. I cannot speak for Balfour Beatty.
Q. What do you think that after 150 days of liquidated damages accrued that you were intending to assert against Balfour Beatty, if you had made that 150 days after August of 2017 and that total is 1,425,000 dollars, what do you think Balfour Beatty would have done if you'd have made that claim?
MR. BUNDY: Object to the form of the question.
THE WITNESS: I cannot speak for Balfour Beatty.
BY MR. HILDEBRAND:
Q. Okay. If a -- is it a right under the

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contract for a contractor to -- if you all had asserted liquidated damages in each of those months and deducted them from each pay application, then you would not be paying Balfour the amount that it asserts that it is owed under the contract? Pretty simple, agreed?
A. Repeat the question.
Q. All right. If you -- if Balfour submits a pay application and you say -- let's assume it's the first pay application that was submitted after August of 2017 and you say we're going to deduct 285,000 dollars in liquidated damages, then that is obviously a deduction from the -- from the pay application and Balfour would not be paid the full amount of what it claims it's due, agreed?
A. That would be a deduction from the pay app by the architect.
Q. Okay. Right. By the architect, agreed?
A. Yes.
Q. Okay. And after 60 days, it would be 570,000 dollars by the architect, agreed?
A. Accumulative.
Q. Right. Under the contract if you had

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made those claims against Balfour when they arose, would Balfour Beatty have had the right -- if you didn't pay what it claimed it was owed under the contract, would it have a right to stop work?
A. I'd have to read the section of the contract. I'm not -- I don't recall the exact language.
Q. Okay. Would a reasonable response if the -- if the owner wanted to assert liquidated damages against Balfour, don't you think that's just fundamentally fair that that be done when the -- when that claim arose to give Balfour a time -- appropriate time to respond to the claim and to -- if they needed to change something or do something different, that now they know that the owner is asserting liquidated damages so they're on notice of it and if they need to change their actions they can do so?
MR. BUNDY: Object to the form of the question.
THE WITNESS: Repeat the question.
BY MR. HILDEBRAND:
Q. The question is simply do you think that it is fundamentally fair if you've got a claim against Balfour that you're going to assert

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liquidated damages, don't you think that it's fundamentally fair for the owner to just tell them on day one, look, we're going to assert liquidated damages against you to give them an opportunity to respond to the liquidated damages and if they think that they're responsible, then how they can change it and change their behavior so to bring that problem to a head and to try to avoid future liquidated damages?
MR. BUNDY: Object to the form of the question.
THE WITNESS: I think you have to be bound by the contract. I don't think that the contract says you have to be, in your words, fundamentally fair. It's what the contract says.
BY MR. HILDEBRAND:
Q. Okay. So even if you thought it was fair, fundamental fairness is -- didn't come into the equation as far as you're concerned, you just didn't think you were required to assert liquidated damages until the end of the job because that's what you thought was required under the contract, agreed?
A. Yes.
Q. Okay. And when the liquidated damages

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were assessed by the architect at the end of the job, he used a sum of 9,000 dollars in that letter that I've handed you, agreed?
A. Yes.
Q. Okay. Yesterday when we were talking about the actual liquidated damages provision, we know that there was a discrepancy where the amount that was written out said 9500 dollars and the amount in the parenthetical numerals was 9,000 dollars, remember that?
A. Yes.
Q. Do you know how that got in the contract?
A. I do not.
Q. Okay. Who would -- who is going to -- who would testify about how -- which of those -- which one do you think is applicable?
A. In my opinion, typically in contracts the written word is what's applicable and not in what's in parentheses.
Q. Okay. All right. But how about the -- whoever -- who negotiated that for the owner?
A. As we discussed yesterday, Jim Clement was involved in negotiating the liquidated damages for the owner, for the contractor.

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Q. So what was intended, whether it was 9500 dollars or 9,000 dollars, that's something for Jim Clements to answer?
A. Yes.
Q. And you're willing to go by what he says?
A. Yes.
MR. BUNDY: Object to the form of the question.
BY MR. HILDEBRAND:
Q. And your testimony today is that you don't recall any discussions internally at Library Associates about whether liquidated damages should be assessed against Balfour Beatty as soon as they arose and continuously as they arose, is that your testimony?
A. I do not recall any internal conversations about assessing liquidated damages as soon as they occurred.
Q. Okay. Well, when did that -- did it ever come up? Were they ever discussed prior to February of 2019?
A. Yes.
Q. Internally?
A. Yes.

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Q. Okay. When?
A. I don't recall exactly when.
Q. Was it right at the end of the job or right when they first started? The opening day was very critical to Michael Bennett he testified, correct?
A. Yes.
Q. Right. For a lot of different reasons, right?
A. Yes.
Q. And he knew that there was liquidated damages in the contract, didn't he?
A. Yes.
Q. Right. And he knew they were about 10,000 dollars a day, didn't he?
A. Yes.
Q. Right. So Michael Bennett never -- you never said to him, he never said to you, wow, the project is -- it's after the agreed-upon completion date, we've got liquidated damages -- a liquidated damages claim against Balfour Beatty, that never came up?
MR. BUNDY: Object to the form of the question.
THE WITNESS: We knew he had the right

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to claim liquidated damages under the right of the contract.
BY MR. HILDEBRAND:
Q. Did you ever discuss it with Mike Bennett?
A. We had that conversation that the liquidated damages was a right of ours under the contract.
Q. Right. And you all had that discussion shortly after, or did you, prior to February -- prior to 2019, did you ever have that discussion with Michael Bennett?
A. Yes. I can't exactly tell you when, but, yes, prior to February' 19, yes.
Q. Okay. Did you have any discussion about whether you should assert and make that claim against Balfour Beatty right away or wait until the end of the job?
A. I don't recall having a conversation saying that we need to make the claim right away.
Q. So there's no discussion about whether you need to -- you should make it now or later?
A. Correct.
Q. Okay. Now, were you ever advised by the architect that he felt that liquidated damages

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had begun to accrue against Balfour Beatty prior to February of 2019?
A. I don't specifically recall.
Q. Okay. Well, is Buck Lindsay a pretty smart guy?
A. Yes.
Q. Is he a good architect?
A. Yes.
Q. Is he experienced in the field?
A. Yes.
Q. Would you expect him to know what liquidated damages are?
A. Yes.
Q. Would you expect him to know that if he felt that it was Balfour Beatty's responsibility to pay liquidated damages that he should -- would or should have known that as of August of 2017?
MR. BUNDY: Object to the form of the question.
BY MR. HILDEBRAND:
Q. What I'm getting at is wouldn't you expect that if the architect, either Buck Lindsay or Jennifer Faulkinberry, felt that liquidated damages should be assessed against Balfour Beatty, that they would have told you and should have told

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you shortly after August of 2017 when those damages began to accrue?
MR. BUNDY: Object to the form of the question.
THE WITNESS: I cannot speak for what they should or shouldn't.
BY MR. HILDEBRAND:
Q. Well, wouldn't your -- your expectations, if you're paying an owner -- I'm sorry, if you're paying an architect to review pay applications and oversee the job and oversee the schedule and they know that it is beyond the contracted completion date, wouldn't you expect them if they felt Balfour was responsible to tell you, look, we think Balfour's responsible and you have a claim against them for liquidated damages, wouldn't that be an appropriate expectation by you?
MR. BUNDY: Object to the form of the question.
THE WITNESS: I mean, we knew we had liquidated damages in the contract. Do I expect Buck to tell me I have liquidated damages in the contract?
BY MR. HILDEBRAND:
Q. No.

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A. Not necessarily.
Q. That's not my question. They should be -- as of August 19, the contract is supposed to be completed. So on August 20, 2017, that wouldn't -- did you -- wouldn't you expect that if the architect felt that Balfour was at fault that it would tell you, look, we think that Balfour is at fault and this is a claim that you have?
MR. BUNDY: Object to the form of the question.
THE WITNESS: Not necessarily.
BY MR. HILDEBRAND:
Q. Well, how about Jim Clements? Would you have expected Jim Clements -- let me ask you this before I ask that question.
I think you've already told me that you have no recollection of Jim Clements -- I know that you said you have no recollection of anybody giving Balfour Beatty notice of liquidated damages before February of 2019. Prior to that date did Jim Clements ever tell you that he felt that Balfour Beatty was incurring liquidated damages and that's a claim that you have?
A. Yes.
Q. When did he start making that -- when

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did he start advising you of that?
A. I don't recall.
Q. Would it have been shortly after the August 19, 2017 date?
A. I don't recall.
Q. Okay. But it was during the project, it was well before February of 2019?
A. Yes.
Q. Did he tell you or advise you that that claim should be made? Whenever that conversation was, did he tell you that that claim should be made?
A. Not that I can recall.
Q. Did you have any discussion with him as to whether the claim should be asserted then or not?
A. Not that I recall.
Q. If the claim had been asserted back in 2017 against Balfour, do you think that it's a reasonable likely -- let's say four months after August of 2017, so December of 2017. If that claim had been made for 1,140,000 dollars against Balfour, do you think it -- what is your conclusion as to whether Balfour would have stopped working on it?

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MR. BUNDY: Object to the form of the question.
THE WITNESS: I can't speak for Balfour.
BY MR. HILDEBRAND:
Q. You discussed yesterday that -- I think you said that Michael Bennett never reviewed pay applications, is that right?
A. Yes.
Q. Okay. Did Michael Bennett have any involvement whatsoever with reviewing the budget on this project and what the original construction contract was -- let me start over.
Was Michael Bennett involved with negotiating the guaranteed maximum price that was in the contract as the date that was originally signed by Balfour Beatty?
A. He was involved in the negotiations with Balfour Beatty, yes.
Q. Okay. So he knew that the original contract amount was 59,000 dollars -- 59 million -- approximately 60 million dollars, agreed?
A. Yes.
Q. Okay. And then it went up -- the agreed upon contract amount went up by about 5

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million dollars, correct?
A. Yes.
Q. All right. Was Michael Bennett aware of the incremental increases to the contract amount as they occurred?
A. As I testified yesterday, he was aware of a few of those items when we elected to add the pool cover, but other than that, no.
Q. Okay. So the answer is he knew about the original contract amount, but did not -- was not informed that the contract had gone up by about 5 million dollars, agreed?
A. He knew we had change orders, but he was not involved in the -- in those discussions.
Q. Right. The answer to my question is he negotiated -- negotiated the original price of the contract, but then changes and change orders and the costs and all of that, that's something he was not involved with nor aware of, agreed?
A. He was not involved with, yes.
Q. Right. Who actually negotiated the -- when change orders were made, who negotiated the prices in those?
A. The request for change orders were submitted by Balfour Beatty to Jim Clement. We

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would then have a meeting with Balfour Beatty, Jim Clement, myself, and typically the architect would be on the phone. We would review each request for change order. If we felt that the request for change order was not appropriate or we had questions, we would then have Balfour Beatty go back to the subcontractor requesting the request for change order. If we thought the request for change order was appropriate, then Jim Clement and the architect would advise me that their position was the request was appropriate and then we would sign the request for change order.
MR. HILDEBRAND: Why don't we take a five-minute break.
THE WITNESS: Okay.
(A recess transpired.)
BY MR. HILDEBRAND:
Q. I think I've established this, but I just want to be crystal clear that -- the question is prior to 2019, did you ever have a discussion with anyone about whether liquidated damages should be assessed against Balfour Beatty sooner as opposed to later?
A. There was never a discussion on the timing of when to impose the liquidated damages.

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Q. Okay. And nobody told you that liquidated damages in their view should be assessed or were assessable against Balfour Beatty prior to 2019, correct?
A. Repeat the question, please.
Q. And nobody told you that liquidated damages were -- should be assessed and were assessable against Balfour Beatty prior to 2019, agreed?
A. We knew they were assessable. No one told us that they should be assessed prior to 20 -- actual assessed prior.
Q. And I'm not talking about that the claim should be made, the notice that claim should be made, but did you -- I understand that -- you understood that you believed that the owner had liquidated damages claims against Balfour Beatty.
Did anybody else, in fact, ever tell you that, look, we think that there are delays and we think that they are the responsibility and were caused -- of Balfour and were caused by Balfour and the fact that you got them, they started to accrue, did that conversation ever take place?
A. Yes.

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Q. With whom?
A. Jim Clement.
Q. When?
A. I don't recall exactly when.
Q. Approximately.
A. I can't recall approximately.
Q. So you have no time reference whatsoever?
A. No, not in the over a year and a half from the August '17 date to the January '20 or February 2019 date. I don't recall the time period.
Q. Okay. I asked you yesterday what the -- what your basis -- what the basis for your statement that you felt that all delays were completely and solely the responsibility of Balfour, and you said -- listed off some things. I think you said that they weren't -- they improperly -- they didn't have enough people on the job or something else. What were those -- tell me again what those reasons were.
A. Repeat the question.
Q. Okay. It's very simple. You said that you think that Balfour Beatty is responsible for the delays. Do you have any opinion or knowledge

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as to what actually -- if Balfour is responsible, what it did wrong, what its errors or omissions were that actually caused it to be delayed?
A. There was not enough people on the job at any given time. They did not provide the construction management required under their contract of all the subs, contractors on the job. They did not have individuals that were experienced in the jobs that they were -- Balfour Beatty was having these individuals oversee.
So the supervision in the job by Balfour Beatty was not to the level that they had contracted for and it was not to the level that they had told us that they would have on the job during the contract negotiations.
Q. Okay. So the -- you said that there were not enough -- in your view, the delays that are -- the responsibility of Balfour were caused because they didn't have enough people, they did not manage their subs, and because they did not have -- their supervisors were not properly -- were not competent, is that correct?
A. That is some of the reasons, yes.
Q. What else?
A. I don't believe that they -- this goes

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back to the subcontractors. Don't believe that they scheduled the subcontractors appropriately.
Q. Okay. Anything else?
A. Not that I can recall.
Q. Do you understand that Balfour Beatty did not actually self-perform the work on this job, that it hired subcontractors to actually provide materials and install them?
A. Yes.
Q. Okay. So all of the actual -- what you see there, all the physical properties of the building were installed by subcontractors, agreed?
A. Yes.
Q. Okay. Going back to -- would you expect that if -- if the -- if the lay claims were made against Balfour that it would -- that some of those delay claims, some or all, may be -- may involve subcontractors and their work?
A. That would be a part of the delay claim.
Q. Okay. What I'm getting at is if -- if subcontractors are performing all of the work, don't you think it would be -- and if the owner has the position that Balfour is delaying the project and the owner intends to assert liquidated damages,

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don't you think it would be appropriate to advise Balfour of that as soon as those damages began to accrue and as they continued to accrue so that Balfour in turn would be able to work with its subcontractors and tell the subcontractors whose work is implicated that this claim is being made and we need to discuss what are your thoughts or what we need to do to correct it? Do you think that would be something that would be appropriate?
A. I do not think that was our obligation.
Q. Okay. Do you perceive any fundamental unfairness to the subcontractors if their work is being criticized by the owner and the owner is not making that known to the subcontractors that it would be unfair to assert liquidated damages against Balfour that may impact the subcontractors?
A. Our contract is with Balfour and not the subcontractors. In fact, in some cases Balfour told us that we weren't allowed to talk to the subcontractors.
Q. That's not my question. My question is: Do you see any fundamental unfairness to the subs if they might ultimately be impacted by liquidated damages claims against Balfour, that if they didn't know that they were -- those claims

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were going to be made until the very end of the job when it's too late to do anything about them, do you think that there's anything fundamentally unfair to the subs with saying that they were in the wrong when they were not notified of it during the job?

A. I do not believe that's our responsibility.

Q. Okay. The pay application process that we talked about a little bit earlier, is the -- an appropriate time for the owner to -- through the architect and through the owner's representative, Jim Clements, to determine to request whatever backup documentation it deems is appropriate in order to establish the cost of the work that Balfour is requesting payment for under a particular pay application, correct?

A. At the pay app meeting, again a pencil copy was provided. After that copy was provided, the architect reviewed the application. The architect went back to Atlanta. Balfour Beatty sent them all the backup invoices that were attributed to each line item on the pay app.

Q. Okay. What I'm getting at is the owner has the opportunity, every pay application, to

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request -- to review all the documentation that's provided by Balfour and determine whether it thinks it's appropriate and adequate; and if it doesn't think it's appropriate and adequate, then it can request additional information from Balfour, correct?

A. The architect is the one who reviewed all of the backup invoices to certify the pay app.

Q. Right. I understand that. And if the architect has any questions or doesn't think that what is being provided is necessary, then it has the ability and the obligation to request Balfour for additional information, doesn't it, on each pay app?

A. That's correct.

Q. Okay. Are you familiar with the audit provisions of the contract?

A. I am.

Q. Okay. And there are two audit -- there's a provision in the contract for two audits, one midway through the project and then one at the end, correct?

A. I'd have to read that specific section of the contract. Can I review that?

Q. Sure. Absolutely.

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A. As I read Section 7.1.11 of the contract, the owner has the right and its sole discretion to perform periodic examinations, audits and verification of construction manager's cost accounting records and the project documentations.

What you may be referring to is 7.1.11.3 where it says the cost, just the cost of two audits shall be included in the price of the contracts. It doesn't specifically say that we are limited to audits. And, in fact, in Section 6.11, it states that the construction manager shall keep full and detailed records of accounts related to the work and the cost and exercise such control as may be necessary for proper financial management under the contract and to substantiate all costs incurred.

Q. Okay. I stand corrected. So, in fact, the owner had the option if it wanted to to request an audit anytime throughout the project and as many times as it wanted to, correct?

A. Correct.

Q. All right. But only two of those would be included within the GMP and anything -- so the inference is that if additional audits were requested, then they would be an add to the

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contract as an added cost, correct?

A. Correct.

Q. Okay. So do you know what the industry practice is for GMP contracts and audits are typically done?

A. I do not.

Q. Okay. My question is: If the owner had any reservations or questions or problems with any of Balfour Beatty's submissions each month with the pay apps that it provided, despite the fact that it requested whatever information was satisfactory in order to make payment, why were no requests for audits made during the project?

A. I do not believe that there was any -- let me think about this for a second.

Q. In other words, why didn't the owner -- there were no requests for audits during the job or were there?

A. No, there was not.

Q. Not until the Cotton & Company letter dated in the spring of 2019, correct?

A. That's correct. And that was due to the letter that we received from Mr. Simonton claiming 21 million dollars was owed on the contract when the pay apps only showed less than

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Q. Okay. So regardless of what her credentials might or may not have been, what -- do you have any specific criticisms of her work?
A. I don't believe she was experienced enough to run subcontractor crews.
Q. Well, you had only -- you were only on the job about once a month, correct?
A. No. Typically I would say two or three times a month. Towards the end of the job, it was probably a little more frequent.
Q. Okay. Any other people who you had a criticism of their professional competence at Balfour?
A. Early on, I believe his name was Bob, he was the early construction manager doing the site work. I believe he was even let go by Balfour Beatty due to not performing on the job.
Let's see. I believe one of the project managers, Tim, I believe maybe his style was a little different than what we would have expected and it appearing that he did not have control of the subcontractors on the job.
Q. In what regard? Tell me exactly what you're talking about.
A. Kind of hard to quantify. It was just

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the appearance that the subcontractors ran that job and not the project managers.
Q. And that's the appearance -- how often -- when you actually went inside the hotel, how long were you there?
A. You know, sometimes 20 minutes, sometimes a few hours.
Q. All right. That observation would be based on what could be a 20-minute visit to the hotel or a couple of hours?
A. It would also be based on how they presented themselves in job meetings, phone conversations, e-mail. So just not eyewitness at the hotel itself, but it encompasses all of the items I just recalled.
Q. You just didn't like Tim's style?
A. I don't believe his style was conducive to managing the subcontractors on the job.
Q. In your lay opinion?
A. In my opinion of working with other contractors as well in other hotel projects.
Q. All right. Anybody else in particular you've got a criticism of?
A. That's all I can recall off the top of my head.

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Q. Any Balfour employees who you commend, you're very happy with?
A. There was one gentleman during the course of the job, his name was Marty Dale. Unfortunately, he had some knee injuries and he was not on the job for that long. There was a young African American who was just a laborer, I believe, his name was Stacey, he was very good on the job.
Q. Okay. Anybody else?
A. You know, in the beginning with Mike Baumbach, who was the original project manager. Unfortunately, Balfour Beatty let him go within a few months of commencing the job. And that's all I can recall off the top of my head.
Q. Okay.
A. I take that back. There's another gentleman whose name was Alec Dooley. He was -- he worked in the office. He left approximately sometime in the summer or fall of I think right before the hotel opened, so that would have been 2018. He left to go back home to work for his father's company as I recall.
Q. The lender on the project is Met Life?
A. Correct.
Q. And the -- when I deposed Michael

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Bennett, he said that he was still in negotiations with them and still attempting to bond off the mechanic's liens on this job. Are you familiar with that?
A. Yes.
Q. Where do things stand with Met Life now?
A. They haven't required us to bond off the mechanic's lien at this point.
Q. Are you -- is there a date by which the liens have to be bonded off?
A. Not that I recall.
Q. So are you -- so is there no requirement at all for bonding of liens?
A. Not that I recall at this point in time.
Q. Okay. Is there a written agreement with them on that?
A. Yes.
Q. And who would have that?
A. I would have a copy in my office.
Q. So what other terms are there? Are they -- is foreclosure imminent or anything like that?
A. No.

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Jim, as I reported to Mike yesterday -- it says dad, but I think it meant to say had -- a good meeting with Ann and her associate, Gary.

Do you know who those persons would be?

A. I don't know.

Q. I'm just curious --

A. I don't know.

Q. -- if you knew who those two persons were.

A. No.

Q. Okay. So the e-mail is dated November 6, 2013 that came from Buck Lindsay to Jim Clements. What I want to ask you about is the next to last paragraph at the bottom.

It says: Lastly, I owe you an updated owner/architect agreement, which I will address in the morning. Among a few items that it needs to address is the addition of BIM modeling services. I've solicited two proposals for that work, one for 46,331 dollars and the other 51,500 dollars. To either of these numbers I'll need to add time for my team to build in the vertical attribute character to all their work. After problems on the Embassy with the above-ceiling clashes, Kim was very anxious to find a solution to avoid this for

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Marion. BIM is the answer, but it carries a cost.

Do you recall any discussion or -- with Jim Clements or the architect about requesting the architect's request for BIM -- additional BIM compensation?

A. No, I do not recall.

Q. But regardless, it was not included in their contract as we reviewed yesterday, correct?

A. It was not included in the architect's contract, that's correct.

Q. Right. Nor in Balfour's, correct? Did we go through that?

A. Again, as I testified yesterday, it was not listed in Balfour's contract. I recall that it was part of the subcontract with I believe the mechanical contractor for them to provide BIM.

Q. Okay. So you don't know why this was not followed up and why this was not included in the architect's contract?

A. This is the first time I've seen this e-mail. I have no idea.

Q. Okay. It says after problems on Embassy with the above-ceiling clashes. Do you know what he's talking about here?

A. I do not recall.

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Q. Do you remember problems in the ceilings at the Embassy Suites?

A. I do not recall.

Q. All right. Do you remember any -- receiving any information from Jim Clements regarding a proposal on the first and second floors for -- from Balfour for assistance with pre-construction BIM services?

A. No.

Q. At a cost of a little over 8,000 dollars?

A. No.

(EXHIBIT 31, E-mail chain dated 5/16/15 to Kim Brown from James Clements, was marked for identification.)

BY MR. HILDEBRAND:

Q. Okay. I'm handing you Exhibit 31. And do you see at the top of that it's to you from Jim Clements?

A. Yes.

Q. Okay. And the first line says: Kim, thanks. I am fully aware of how important this issue is to Mike. We were both in the room when he -- Mike went off like a rocket when this first -- when I first brought this to his attention

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that we had guest room ceilings under nine feet.

So I want to ask you about that. Were the -- tell me about the ceiling heights and how important that it was to Mike as far as guest rooms are concerned.

A. In most of our hotels, we -- guest room ceilings are nine feet.

Q. So was that a huge issue to Mike, the ceiling heights in the guest rooms?

A. Yes, it was an important issue to Mike to have the ceiling heights at nine feet.

Q. It was a huge issue for him, wasn't it?

A. It was an important issue for him, yes.

Q. Do you disagree with my characterization as huge?

A. It was very important to him.

Q. Okay. This is from Jim Clements to yourself. I want to ask you about the next e-mail below that. This is in response to -- it's from you to Jim Clements.

And the first line says: You may not be aware of how important the ceiling height issue is to Mike. There are a few hot buttons and this is one at the top.

And then below that, this is kind of a

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A. No. It was -- it was not included in the contract documents, but it -- the contract documents did not specifically state that Balfour Beatty would not provide the BIM.
Q. So are you arguing that even though the contract said -- let's take a look at the contract document. I want you to take a look at Exhibit 12 from the exhibits from yesterday. Page 22 of 133. Number 4, 12.2. The following documents comprise the agreement, AIA document E202, building information modeling protocol if completed or the following. The E202 was never completed to your knowledge, agreed?
A. Agreed.
Q. And there's nothing set out in this contract that said something else is going to require Balfour to provide BIM, agreed?
A. Agreed.
Q. Okay. So there were some pre-contract discussions about what Balfour could provide, but that was not included in the contract, agreed?
A. That was not in the contract.
Q. Right. And anything that -- any comments or agreements that were orally made at a meeting that were not included in the contract are

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not part of the contract, are they, Miss Brown?
A. They're not part of the contract.
Q. Right. It would be -- it would have been very simple if Jim Clements or Balfour -- or Library Associates wanted to include BIM by putting that in Balfour's contract, agreed?
A. As I testified earlier, I do believe that Balfour did require their sub to perform the BIM.
Q. And, in fact, the architect it appears made a proposal to Library Associates to provide BIM as part of its work. And we saw from the contract yesterday that BIM was not required, agreed?
A. It was not included in the contract.
Q. So that's on the owner and that's on BBC, isn't it? If you all wanted it, you should have required it; if you didn't want it, then don't require it, correct?
A. I want to go back to the last page on Exhibit 32 where Tim Spano wrote BBC has gone above contracted requirement of BIM coordinating. So maybe it wasn't in that first contract, but at some point in time there was a contract requirement of BBC as outlined in this e-mail for BIM

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coordinating.
Q. There's no requirement -- is it -- do you have any knowledge about whether it's appropriate or inappropriate for Balfour, if it wants to, to engage in BIM exercises with its subcontractors outside of anything that the architect is doing? Do you have any knowledge about that?
A. Repeat the question.
MR. HILDEBRAND: Can you repeat the question, Terri?
(The record was read back by the court reporter.)
THE WITNESS: As I stated earlier, I did not participate in the BIM calls, but there were biweekly or monthly BIM calls that Balfour, the architect, the subcontractors and Jim Clement participated in.
(EXHIBIT 36, E-mail dated 11/2/16 to Brian Rinehart from James Clements, with attachment, was marked for identification.)
BY MR. HILDEBRAND:
Q. I just handed you an e-mail from Jim Clements, who's your man, right?
A. Yes.

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Q. To Brian Rinehart with the interior designer, correct?
A. Yes.
Q. And Karen Jenkins with the interior designer, correct?
A. Yes.
Q. And yourself?
A. Yes.
Q. And it's dated -- the subject is sixth floor delay, November 2, 2016. And Jim Clements says: Brian, thanks for taking my call this morning. Per our discussion when you have time, please review the attached spreadsheet from BBC identifying RFI issues resulting in the sixth floor delay. I've added a column, who is responsible. Based upon my review of BBC RFI's, it is my current submission that most are pure building coordination issues and the owner-related changes were not fully coordinated by WLA or as a result of existing coordination issues in the building resulted in RFI's and coordination issues.
And he has attached to this a listing from Jim Clements. On the left-hand side -- do you see on the next page at the top, who is responsible? Do you see that line, Miss Brown?

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next question, if it was not, do you know why not?
A. I believe that Balfour Beatty did not agree with the result from the architect and they demanded mediation. And we went to the mediation and could not come to any terms, so I'm not sure that once they demanded the mediation if the architects -- it's my opinion that if Balfour Beatty would have accepted the architect's review of the claim of the 20 days and the additional amount of 72,454, they would have requested a change order for that amount. And I see no reason why the owner would not have given them the change order or the contract time because that's what the architects had reviewed and awarded in that case.
Q. Okay. Well, if a change order is done, that's a mutual agreement that Balfour Beatty agrees -- would have agreed with the 72,000 dollars, right?
A. Correct.
Q. Once you have a change order, then you can't come back and say later, well, you know, I -- I want to renegotiate what was in that change order, it's over and done with, that issue's settled, right?
A. Correct.

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Q. Okay. My question to you, though, is if the architect said, look, we think that Balfour should be paid 72,000, Balfour said that's not acceptable, we think we're owed more, then the 72,000 dollars is undisputed, isn't it?
A. I don't believe Balfour Beatty would think that the 72,000 was undisputed. They're the ones who would not accept the 72,000 for the 20 days.
Q. Right, in full settlement of the claim, but the architect says we think it's only 72,000 dollars, Balfour says, no, we think it's more, but why would the owner pay the part that was undisputed, the 72,000, and say, okay --
A. Balfour --
Q. -- we're going to pay -- let me finish. We're going to pay the 72,000 dollars and, Balfour, if you think it's more, then you can pursue that later.
A. No, I believe the only way we would have paid the 72,000 and given them the additional time was to say that that was a final settlement, as that was the architect's award to them on that claim.
Q. Okay. Well, nothing prohibits or would

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have prohibited the owner from paying Balfour what it felt was appropriate, the 72,000, and given the extension without requiring a release, it can still pay the amount that's not in dispute and leave the unresolved part to be addressed later, can't it?
A. It was Balfour Beatty who was disputing the amount of the architect's award, so we would have given them 20 days and we would have paid the 72,000 dollars and we would have called that full settlement. In my opinion, Balfour Beatty probably wouldn't accept that as a full settlement, but that's their decision.
Q. Okay. Well, you understand, though, that the owner has the right to only pay -- if there's a claim for -- just like with the retainage, if Balfour Beatty says we want 5 percent and you say we're only going to pay 10, then you pay the pay app that you feel is not disputed and then the 5 percent remains to be determined at a future date?
MR. BUNDY: Object to the form of the question.
THE WITNESS: No, I believe that's -- contractually it says 10 percent for the retainage in that instance. This is Balfour Beatty

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specifically not accepting what the architect award was on that claim. They disputed that. They wanted to go to mediation. We went to mediation. It was not settled.
BY MR. HILDEBRAND:
Q. Okay. The architect said we think that Balfour Beatty is owed 72,000 dollars. Balfour Beatty says we think we're owed more. But that part is undisputed, the 72,000 dollars, isn't it?
A. From the architect's point of view, but not from Balfour Beatty's point of view.
Q. Right. Miss Brown, who is -- have you ever heard of Grady Query?
A. Yes.
Q. Who is he?
A. He works for one of the scheduling consultants.
Q. All right. So how did he get involved with this project?
A. After many attempts of requesting schedules from Balfour Beatty and not receiving those schedules in any type of timely manner, we were very concerned on the schedule. Jim Clement went out and found I believe Mr. Query to -- so that Library Associates would have a third-party

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Deposition of:

Kimberly Bennett Brown

August 6, 2020

In the Matter of:

Balfour, Beatty v. Library Associates

A. William Roberts, Jr & Assoc.
800-743-3376 | calendar-awr@veritext.com | www.veritext.com

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approximation of what those sums are sitting here today? I know you said it was over 2 million. You don't remember if it's 2.3 or 2.5? It's less than 3 but more than 2?

A. I don't know what remains in that account. This is Met Life's account. I'd be more than happy, as Brent said, to call Met Life up and get the exact balance in the account.

Q. Okay. Well, so whatever that account balance was, if the final -- if the contract balance with retainage to Balfour as of Pay Application 45 was approximately 6 million dollars, let's say, if the balance in the construction loan was say 2 million dollars, where would the remainder come from?

A. Well, as we spoke about earlier, Pay Apps 44 and 45 were not approved by the architect. I believe when we looked at one of the pay apps yesterday, there were certain change orders in 44. And I don't recall seeing 45, so I don't recall the change orders that Balfour Beatty submitted for 45.

Now, as also we talked earlier that I would put in the funds if there was an approved pay app by the architect that included change orders that were over and above the contract with Balfour

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Beatty, then I would put those funds in first and then Met Life would disburse those funds.

So if there is any change order funds included in 44 and 45, I would have not put those funds in the hotel because the architect -- or in the lender's account because the architect has not certified to the bank that those have been approved.

Q. My simple question is: Let's assume that there's 2 million dollars remaining in the construction loan account that Met Life has and let's assume for the sake of argument that the contract amount had increased from approximately 60 million dollars to approximately 65 million dollars. There's a approximately 5 and a half million dollar increase. In my hypothetical there would be a 3 and a half million dollar deficit. Where would that money come from?

A. If those pay apps were approved by the architect, then we would be required as we did with the other pay apps to put the cash into the Met Life account for those change orders and then there would be sufficient funds in that account to cover the payment that's due.

Q. Okay. My question, though, is: Was

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the -- assuming that the final contract amount is 65 million dollars -- and I can take some time to prove this point since it's in a filing from your attorney.

A. Sure. Or if you have Pay App Number 44 and 45, I can go through that.

Q. Exhibit 27 is Pay App 45.

A. Exhibit 27?

Q. I think a quicker way to do this probably --

A. It would be -- here we go. As we talked about yesterday, those two figures, the 256,000 in Pay App 45, I would not have been required to fund the lending account at that point in time because that pay app had not been approved. I'm not sure what Pay App 44 was as far as change orders.

Q. Let's assume that the Figure 3 contract sum today, $65,238,466.99, let's assume that's the contract amount.

A. Yes. And the net change by the change orders was 5,893,719. That included these change orders and previous change orders on 44 that I don't have here in front of me.

Q. Okay. That's fine.

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A. Okay.

Q. My simple question is: Let's assume that there's 2 million dollars remaining in the Met Life account. Under these figures, approximately 3 and a half million dollars would remain to be paid to fully pay the contract amount, agreed?

A. Agreed. But as I said, that I had put in those change orders as required by the lender every time that they incurred in the contract, yes.

Q. Okay. But regardless of what you've put in, the only amount that would remain in the Met Life account in my hypothetical would be 2 million dollars, so there would still be a deficit, right, that Library Associates would have to fund to make the final payment, agreed?

A. That's correct.

Q. Okay. My question is -- and in my hypothetical it would be 3 and a half million dollars?

A. Approximately.

Q. Okay. Did Library Associates have those funds in its account in December of 2018?

A. I don't think it really matters where Library Associates get those funds at, it's just required by the bank to have those funds in the

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bank when the pay app is approved.
Q. Okay. My question, though, is: Did the Library Associates account have that 3 and a half million dollars in its account in December of 2018?
A. Again, it's Met Life's account we're talking about, correct?
Q. Well -- the only payments -- so even if you had to pay your equity, you would pay it to Met Life first and then redistribute?
A. That's correct.
Q. Okay. Did Library Associates have a bank account?
A. Library Associates has a bank account, yes.
Q. Right. What was the balance of that bank account as of December 2018?
A. I don't recall.
Q. Approximately. Give me an approximation.
A. I don't recall.
Q. Was it less than a million dollars?
A. I don't recall.
Q. Was it 3 and a half million dollars?
A. I don't recall.

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Q. You have no recollection?
A. I don't recall.
Q. Do you think it was sufficient to pay -- if Library Associates agreed that it was going to pay the full contract amount, was there sufficient funds in the Library Associates account to pay the full contract amount along with what was in the Met Life account?
A. I don't recall.
Q. If there weren't funds in the Library Associates account, where would they have come from?
A. Other accounts that Michael Bennett may have.
Q. Okay. Was there liquidity -- sufficient liquidity to have funded 3 and a half million dollars?
A. Yes.
Q. Okay. Have you ever been deposed before?
A. Yes.
Q. How many times?
A. I believe this is my fourth time.
Q. What were the other matters?
A. The first was back in the '90s. It was a trip and fall. I represented the landlord.

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Q. All right. What's the next one?
A. The next one is -- was a personal injury where I was hit by a drunk driver on a Saturday afternoon.
Q. What's the next one?
A. And I sustained injuries. And then the third one was the litigation with the Welbro contractor on the Embassy Suites in Savannah that we have spoken about.
Q. Who was the architect on that project?
A. Buck Lindsay.
Q. Who was your attorney?
A. Hunter Maclean in Savannah.
Q. Who specifically?
A. Chris Phillips.
Q. And who represented Welbro?
A. They are out of Orlando. I don't recall their law firm in Orlando.
Q. And that was filed in Georgia?
A. Yes.
Q. And was it -- so it would have been in whatever -- it was in State Court?
A. No. We actually settled it through mediation.

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Q. No, the case was filed -- when you were deposed, the case was in State Court, not Federal Court?
A. Correct.
Q. So it would have been filed in the county where Savannah is?
A. Correct.
Q. Okay. Let's turn, please, to Exhibit 28.
A. 28?
Q. Yes, ma'am. We got about halfway yesterday and then stopped, so I can ask you a general question or we can go through these individually. And my simple question is -- one general question is: Do you have any dispute -- do you know of any dispute sitting here today as to whether any of the work and materials that are reflected in these RCO's were, in fact, used for the construction of the project?
A. I cannot confirm or deny. We can go through each one. But where the description is supplemental instruction, I'm not -- don't have that supplemental instruction in front of me. When it says it's a modification change, I can't specifically say that that change is in the hotel.

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In the Matter Of:

South Carolina v Library Associates

Kimberly Brown

April 29, 2021



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KIMBERLY BENNETT BROWN

being first duly sworn, testified as follows:

EXAMINATION

BY MR. HILDEBRAND:

Q Ms. Brown, we met before. I'm Tom Hildebrand. I represent Balfour Beatty Construction, LLC, in this matter.

The same instructions that I had given you before and just some general guidelines to try to make the deposition go more smoothly, if you want to take a break, just let me know, and I'll be glad to do that.

If you'd like for me to repeat my questions or rephrase them, please just let me know, and I'll be happy to do that.

Please let me finish my question before you start your answer, and I'll likewise reciprocate, okay.

A Okay.

Q Are you feeling well today?

A Feeling fine.

Q Are you under the influence of any medications or any other substances that might affect either your ability to understand my questions or to respond to them?

A No.

Q You were deposed in this matter several months ago. Do you recall that?

A I do.

Q Was the testimony that you gave in your prior deposition truthful and accurate?

A Truthful and accurate at the time that I gave my deposition as I can recall, yes.

Q Well, is there anything inaccurate, sitting here today, or untruthful that you want to retract from your prior deposition?

A I did not read my prior deposition prior to this deposition, but not to my knowledge.

Q So to your recollection sitting here today, there is nothing in your prior deposition that you believe needs to be changed, correct?

A Not that I can recall, correct.

Q Is there anything in your prior deposition -- you're testifying as -- I'm sorry. I can't remember. What is your position with the company?

A With Library Associates?

Q Okay, Library Associates.

A I'm an authorized agent, and I'm the secretary of Library Associates Management, Inc.,

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LLC, which is the managing member for Library Associates.

Q You were noticed previously just as Kim Brown, not as a 30(b)(6) representative of Library Associates. Does that make any distinction to you? In other words, would your testimony previously have been any different if you had been told, okay, you're not testifying based on your -- simply as what you recall, but as the representative of Library Associates?

A I don't believe so. I did not prepare for my deposition, for my personal deposition. I have spent time preparing for this deposition. So maybe some items that I didn't recall at the time of my personal deposition I may have more information on now that I have prepared as the 30(b)(6) for Library Associates.

(Exhibit 21, Balfour's Cross-Notice of the 30(b)(6) Deposition of Library Associates, was marked for identification.)

BY MR. HILDEBRAND:

Q We have premarked as Exhibit 21 Balfour's 30(b)(6) deposition notice, and that's just a clean copy of it, and then let's mark as 22 your working

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copy that has my cover letter on it.

(Exhibit 22, Ms. Brown's Working Copy of Balfour's Cross-Notice of the 30(b)(6) Deposition of Library Associates with Cover Letter, was marked for identification.)

BY MR. HILDEBRAND:

Q And can you tell me what -- there are pink tabs beside a number of the topics on Exhibit 22. Can you tell me what those are, please?

A Yes. Those are just the pink tabs with my handwritten notice for the items in the 30(b)(6) notice.

Q So those are just kind of your reminders or some of your observations about what appropriate responses would be for Library Associates to those topics?

A Correct.

MR. HILDEBRAND: Court Reporter, we've marked that as an exhibit, but probably the best way to make a copy -- I don't know if the whole page can be copied, but maybe what you would need to do is to put the pink exhibits on a separate piece of paper at the end and then make

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several copies that way.

BY MR. HILDEBRAND:

Q I think this may go a little more quickly than you might have anticipated because I think a lot of the substance was covered in the thorough questioning yesterday, but let's work if we can through some of these topics.

On Topic Number 4, delays claimed by Library to have been caused by Library -- I'm sorry, to have been caused by Balfour to the project, including each specific schedule activity that Library asserts Balfour delayed, the length of the delay, and what impact the delay had on the project's critical path, what is your testimony relative to that?

A My testimony is that Balfour Beatty, as the construction manager, was responsible for the scheduling and the critical path analysis, and they would be the ones who would answer that question. And I believe that in the contract under -- bear with me just one second.

Q Take your time.

A And that is evident in the A201 Section 10 point -- excuse me, 3.10.4.7.

Q And that's a full and complete response

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to Item Number 4, correct?

A Yes.

Q How about what testimony or opinions do you have as the 30(b)(6) representative on Item Number 5, which are delays and impacts and critical path impacts that are attributable to the owner? Would it be the same response?

A Yes, that would be the same response.

Q How about Item Number 6, any delays, including specific project schedule activities, length of delays, and/or impacts to the critical path, any response relative to that would be the same response that you gave me to Number 4, that that's Balfour's responsibility. Is that correct?

A That's correct, with the addition of I believe it was marked in Exhibit 7 yesterday, the daily reports from Balfour. There were certain innumerous items showing delays by certain subcontractors that Balfour had labeled in their daily reports.

Q Well, we can go through those, but do those -- do you have an opinion -- those are some issues on the project and some delays that might -- you can have a delay that could only last an hour, or you could have a delay that might last a month.

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Do you have -- going through those items on that report, do you have testimony on behalf of Library Associates as to what the length of the delays were that are itemized on that exhibit?

A No, I do not.

Q And do you have any testimony that any of those delays actually impacted the critical path?

A Because we have not received the critical path analysis from Balfour Beatty to allow us to review that to determine if any of those delays would have impacted the critical path, I have no information at this time on that.

Q Actually, Number 5 was delays caused by any of the owner's direct contractors, agents, consultants, representatives, design and engineering professionals. So, again, same response?

A Yes.

Q And then six actually is any delays caused by Library itself. Same response?

A I believe six is --

Q I'm sorry. Subcontractor -- seven is Library. So same response as to Number 7?

A Yes.

Q Number 8 is increases to the project

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duration claimed by Library to have been caused by Balfour. Same response?

A Yes.

Q Number 9, increases to the project duration alleged to have been caused by Library's direct contractors, agents, consultants, design and engineering professionals. Same answer?

A Yes.

Q Number 10, increases to the project duration alleged to have been caused by each subcontractor of Balfour, including each specific project schedule activity, the length of the duration, and its impact on the critical path. Same response?

A Yes.

Q And then Number 11, same question, any increases to the project duration caused by Library directly. Same response?

A Yes.

Q So jumping down to Number 13, the critical path of the project schedule, same response?

A Yes. And in addition, the responsibility of Balfour as the construction manager under Section 3.10.4.2 where the schedule shall be a

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critical path method and that they were the ones who were responsible for that.

Q And that's in the 201?

A That's in the 201.

Q Number 17, the reasons Library has not made payment on the Applications for Payment 43, 44, and 45, I think that was covered yesterday. Is that correct?

A That's correct.

Q Is there anything else you need to tell me or we need to discuss on that?

A No, I don't believe so.

Q Defective or incomplete work relating to the project, is there anything that was not discussed yesterday or any items that were not articulated?

A No.

Q Number 22, any written notifications given to Balfour identifying alleged defects or deficiencies in the work, is there anything that has not been previously identified?

A They were notices I believe from Buck Lindsay. I'm not sure if we reviewed that yesterday. I believe it was a notice on 12/18.

Q 12/18 of what?

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A 12/18/18. That was a note from Buck Lindsay to Dave Simonton, and it had copied myself, Jim Clements, and Jen Faulkinberry where Mr. Lindsay had visited the building and gave notice to Mr. Simonton of Balfour Beatty of the deficiencies that he had found at the time of his walk-through.

Q The punch list deficiencies?

A In addition some -- the punch list deficiencies and the fact that the contractor had not provided a punch list at that point. It says: It also has been reported in the last few days that the fire marshal provided a list of 13 items that had not been addressed. The owner and architect have requested a copy of the list from the contractor; however, it has not yet been provided.

Q Are there any notifications that preexist that one?

A There was a notice that Mr. Lindsay had sent prior to his visit on 12/18. It was on 12/11/18.

Q Any prior to that?

A There was notices from Mr. Clements to Pat Dean in October 3rd, 2018. There was a letter from Mr. Clements, October the 26th of 2018 to

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Mr. Simonton. There was another notice of November 4th of 2018 from Mr. Clements to Mr. Simonton.

Q Is that it?

A That's all that I can recall.

Q Is that -- what is that notebook?

A This was the book that was labeled Exhibit 8 yesterday.

MR. HILDEBRAND: I'd like to get a copy of this in kind of a notebook form like this. Is that something that you would do, or would I need to make arrangements with Ms. Brown?

BY MR. HILDEBRAND:

Q So Exhibit Number 8 is the compilation of documents that you did that were in response to the topics that Balfour had wanted to question you about for the 30(b)(6) deposition, correct?

A Correct.

Q Let's go to -- so we've answered Number 22, correct?

A Yes.

Q 23, the first written notice given to Balfour where Library made or stated it specifically intended to make a claim against Balfour for damages related to a delay in

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completion.

A The liquidated damage clause is -- as Mr. O'Connor testified, is self-executing, and there was no need to make a written claim.

Q We're going to talk about that in just a moment, though.

A Okay.

Q I think we addressed this in the prior deposition, and I believe that the first notice of a written claim to Balfour was Buck Lindsay's letter to Balfour in January of 2019 where he said, "We're looking at your latest pay application, and we're going to note that there are deductions for liquidated damages." Do you recall that?

A Yes.

Q Is there -- I think we talked about that last time. Do you have -- is there any testimony contrary that there was a prior notice?

A No.

Q So the answer to Number 23 -- do you know what exhibit that is? I think I can probably pull it. That was marked as Exhibit 25 to your deposition. It was an email from Buck Lindsay to David Simonton dated February 11, 2019, that sets out the deducts. Is there any prior notice from

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Balfour prior to that date of Library's intention to assert liquidated damages or delay damages to Balfour?

A There was no prior notice from Balfour. As I think you just asked your question, there was no prior notice to Balfour from Buck Lindsay.

Q Or from Library?

A Or from Library.

Q And I think we answered this one previously as well, Number 24, the first oral notice. There were no oral notices given prior to the written notice that we just talked about dated February 11, 2019, from Buck Lindsay to Balfour, correct?

A Correct.

Q On Number 25, the legal basis for Library's claimed entitlement to liquidated damages. And I think LDs, liquidated damages, are set forth in Paragraph 2.3.1.3 of the AIA 133. Is that correct?

A That's correct.

Q Now, you've alluded to -- so let's look at that provision.

Before we look at that provision specifically, let me ask you this. And again, I

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believe we discussed this at some length at your prior deposition. Library Associates was aware and has been aware of the liquidated damages provision in the contract since the time it was executed, correct?

A Correct.

Q And that was negotiated between Library and Balfour, correct?

A Correct.

Q And reading that term in the liquidated damages provision, it's clear that it is invoked or potentially invoked as of the time that the original contract date, as extended by any scheduling orders -- I'm sorry, by any change orders -- that that establishes the date of substantial completion under the contract, and if that date is extended or passed, then the liquidated damages provision potentially comes into play, correct?

A Correct.

Q So from my review of the documents, it looks like the -- when you look at the notice to proceed, that the planned schedule date of 28 months, the substantial completion was to have been done by July 30, 2017, there was one official

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20-day extension that was given, which would extend that date to August 19, 2017, so as of that date, you were aware that Library Associates had the right under the contract, if it wished to, to assert liquidated damages against Balfour, correct?

A Correct.

Q And it's your testimony that Library Associates intentionally did not assert liquidated damages against Balfour because it did not think that it was contractually required to, correct?

A We weren't contractually required to notice them that we were going to assess liquidated damages.

Q Right.

A Yes.

Q So let's look at the language of the contract in A133 2.3.1.3. In the event that the manager does not achieve substantial completion of the work within the contract time, including approved extensions -- and here's the part that I want to ask you about -- the contractor shall pay to owner as liquidated damages, and not as a penalty, the sum of $9,500, and then it says, paren, $9,000 per day, for each day of actual time of performance to achieve substantial completion

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exceeds the authorized contract time.

So it says the contractor shall pay to owner, so is it your position that as of Day 1 of the contract completion date, that Balfour should have come to Library Associates and said, okay, Library Associates, we're past the date, we're going to pay you $9,000 or $9,500, whichever one you want to use, as of today, and for every day after that, Library Associates should have paid -- been paid by Balfour for each day of delay?

A It doesn't state that the contractor had to start making payments on the first date that they were delayed, it just states that they shall pay to the owners liquidated damages. It doesn't give a time period on when those payments are to be made.

Q Well, did you understand that Balfour -- did you expect Balfour to make payments to Library Associates for each day that the substantial completion exceeded the contract date voluntarily and just say, okay, Library Associates, we're just going to pay you this $9,000 for every day, we're going to start doing it, or did you expect that Library Associates was going to have to say to Balfour, look, Balfour, you did not complete this

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project within the contract completion date, and therefore, you owe us X number of dollars as liquidated damages? Which one did you expect to happen?

A I believe in typical projects that the contractor is not going to come to the owner and say here's a check for $9,000 every day. I guess it's probably industry standard that those liquidated damages are typically assessed at the end of the job when the substantial completion date is met.

Q Right. It's just -- in fact, you've been through this before. You had a liquidated damages claim against a contractor on a project before this one, just before it, correct?

A Correct.

Q Right. And what happened on that was that the contractor said here's my payment application, pay me this, and the owner, which was a subsidiary of Bennett Hospitality, said we're not going to pay you that because you exceeded the completion date, and we're going to assess liquidated damages and withhold that amount, correct?

A Actually, that was assessed by the

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architect in the final payment application for that project.

Q Well, the architect discussed it with you, though, didn't they?

A I don't recall specific discussions, but in general, yes.

Q Right. The architect is the owner's agent in that respect to make a determination of whether they thought liquidated damages should be applied or not?

A I believe the architect in the contract is the one who makes that final determination, but I'm sure there was discussions, yes.

Q So the simple point is that Library Associates knew that Balfour wasn't going to voluntarily pay liquidated damages. Balfour was going to have to be -- a claim was going to have to be made against Balfour by Library where Library says, look, Balfour, we are going to assess, and we want you to pay liquidated damages, right?

MR. MCDONALD: Object to the form.

THE WITNESS: Yes. I don't believe we're going to make a claim. The liquidated damages is not a claim, it's an assessment, and the architect is -- assessed those in the February 11th

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letter prior to --
BY MR. HILDEBRAND:
Q Well, is the architect the one who determines whether it's a claim or not and whether they should be assessed?
A Again, I don't believe liquidated damages are a claim. I believe the architect needs to review the contract and assess any damages to the contractor per the terms of the contract, and I believe that's what the architect did in the -- when he determined the date of the substantial completion in his letter on February the 11th.
Q Did you ever discuss with the architect, prior to the first written notice that we've identified in February of 2019, look, architect, liquidated damages have begun to accrue as of August 19, 2017, and can you tell us whether you think that that's a claim or not and whether we need to assess those and make a claim for liquidated damages? Did you have any such discussions with the architect?
A No.
Q It says under 2.3.1.3 of the AIA 133 the contractor shall pay to owner those liquidated damages.

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Let's turn to A201, if we can, Ms. Brown.
A Okay.
Q And I'd like for you to turn to Section 4.3, please. Do you see that?
A Yes.
Q And that's captioned Claims and Disputes, correct?
A Yes.
Q And 4.3.1 definition, a claim is a demand or assertion by one of the parties. And Library Associates would be one of the parties, correct?
A Library Associates is a party to the contract, yes.
Q Right. So a claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment, or interpretation of the contract terms, payment of money.
So if you look at the liquidated damages provision that we just talked about, it says in the event that substantial completion is exceeded, the contractor shall pay to the owner money, and we've talked about that Library Associates knew that it was going to have to make a -- whatever you want to call it if you don't want to call it a claim, it's going to have to make a demand to Balfour to pay

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liquidated damages for the payment of money, correct?
A I believe this sentence and definition says: A claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of contract terms. The interpretation of contract terms, payment of money, extension, or time or other relief with respect to the terms of the contract.
The terms of the contract in the A133 and the section that we were just referring to, I believe it was the 2.3.1.3 -- and I believe Mr. O'Connor testified as our expert that says that, again, the 2.3.1.3 is not a claim, and so that's with respect to the terms of the contract. So this contract does not state that you have to make a claim for liquidated damages.
Q Let's break this down. The AIA 133 liquidated damages says the contractor shall pay to owner as liquidated damages, and we've agreed that the owner needs to make a demand of the contractor for liquidated damages. We've already talked about that, correct?
A No. I believe it's the architect who is the arbiter of the contract, and the architect

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assessed those damages. I don't believe that the owner has to make a demand for the -- the architect assessed the LDs.
Q You're not -- certainly, you're not claiming that -- okay. So is Library Associates asserting a claim against Balfour in this litigation for liquidated damages?
MR. MCDONALD: Object to the form.
BY MR. HILDEBRAND:
Q Yes or no? Is it asserting a claim in this lawsuit for liquidated damages against Balfour?
MR. MCDONALD: Same objection.
THE WITNESS: It's a claim in the lawsuit, but it is not a claim as -- that we had to make per the terms of the contract. We're having to make that claim because -- we were having to -- the architect assessed the liquidated damages, and if there wasn't a lien that was put on this project, then --
BY MR. HILDEBRAND:
Q We're not talking about the liens, we're talking about this claim for liquidated damages.
MR. MCDONALD: She's entitled to finish her answer. Please don't interrupt her.

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about it or what Mr. McDonald may think about it, the simple point is that he was responding to the consolidated claim from Balfour, correct?

A I don't believe that that's what it says. He was just getting his information -- he was responding to the status of Applications 43, 44, and 45. He just noted at the very last sentence that he has confirmed that he had received the letter from January 25th, but I don't believe he was writing this email in response to the letter of January 25th, he was writing this email and responding regarding Payment 43, 44, and 45.

Q Well, what does the architect -- do you see -- in Paragraph 3 of Exhibit 25 to your deposition, do you see, on the first page, Paragraph 3?

A Yes.

Q Where it says: The owner has specific claims to be asserted related to time and amount as the work completes as follows, and then Number D, liquidated damages, 530 days.

The term that the architect used, as your agent, was "claims," correct?

MR. MCDONALD: Object to the form.

THE WITNESS: Yes, but that -- if we

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want to get specific, that claim is a little C, and it's not a capital C, which the claim -- so I don't -- I believe that might just be a word that he used. If he was going to assert a claim under the contract, then the claim would have been capitalized.

BY MR. HILDEBRAND:

Q So this letter, in your view, is not asserting a claim? This letter from the -- this email communication to Balfour you're now stating was not a claim?

A It's a claim, but it's not a claim as it -- as the definition in the contract with a capital C. So liquidated damages, even though he's got that under his claims that, yes, these are claims, but the liquidated damages doesn't necessarily mean that he's stating that it is a claim as defined under the contract, it is just part of the contract under 2.3.1.3.

Q So you're making a claim in this litigation you talked about, correct?

A Correct.

Q Your architect uses the term "claim" in its letter to Balfour, correct?

A He used that word, yes.

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Q Right. And then let's turn to the definition of claims and disputes under A201 4.3.1. A claim is a demand or assertion by one of the parties seeking payment of money.

In this lawsuit, Ms. Brown, are you asking Balfour to pay Library Associates money for liquidated damages?

MR. MCDONALD: Object to the form.

THE WITNESS: The architect has assessed the liquidated damages, again, and as I went on to say earlier, with respect to the terms of the contract.

BY MR. HILDEBRAND:

Q My simple question, Ms. Brown, is in this case, are you -- is Library Associates asking Judge Scarborough to award Library Associates against Balfour payment of money for liquidated damages?

MR. MCDONALD: Object to the form.

BY MR. HILDEBRAND:

Q Are you or not?

A We are asking Judge Scarborough to award us liquidated damages.

Q And you want Balfour to pay liquidated damages as a result of the claim that has been made before Judge Scarborough, correct?

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MR. MCDONALD: Object to the form.

THE WITNESS: We are asking Judge Scarborough to award us liquidated damages.

BY MR. HILDEBRAND:

Q And you want Balfour to pay them, correct?

MR. MCDONALD: Object to the form.

THE WITNESS: We're asking him to award us liquidated damages.

BY MR. HILDEBRAND:

Q Right. And you expect -- and as a result of that award, you want Balfour to pay you those liquidated damages in the form of money, correct?

MR. MCDONALD: Same objection.

BY MR. HILDEBRAND:

Q It's a simple question.

A Or a deduction from their contract on this case.

Q But you expect to be -- what you want at the end of this thing is to be paid that amount. Whether it's as a deduction or an affirmative or Balfour's stroking you a check, you want to be paid for the liquidated damages, correct?

A We want to be compensated for the liquidated damages.

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that the judge had determined was not admissible.

Q I don't think that he addressed the Paycheck Protection Program, and I think it's relevant to your damages, so you're not going to -- you refuse to testify about that point?

A Yes.

MR. HILDEBRAND: And are you going to -- what is your instruction, Brent, as to whether she -- what is your instruction to your client whether she should testify and answer that question or not?

MR. MCDONALD: I don't have any instruction. She said that that's the basis of financial information, and you know as well as I do, I wasn't even at the hearing. So if you've got to file a motion, you've got to file a motion.

MR. HILDEBRAND: Well, I think it's your obligation to file a motion or not. If your witness --

MR. MCDONALD: And I'm not instructing her not to answer. She's saying she's not going to answer it. I'm not instructing her not to answer. And this is the basis of a hearing that I wasn't in attendance at, it was in camera, and so that's where we are.

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BY MR. HILDEBRAND:

Q How about Number 36, the amount of money that was available for payment to Balfour in Library's banking account or other similar account as of the date that Library contends substantial completion was obtained, are you going to answer that?

A Again, I believe that the judge determined in that hearing that the financial information was not admissible.

Q Let's turn to Number 43, Ms. Brown.

MR. MCDONALD: I'm sorry. What number was that?

MR. HILDEBRAND: 43.

BY MR. HILDEBRAND:

Q This topic relates to Balfour's RCOs that have been identified in a volume with I think about 35 of them, and I think it was Exhibit -- seems like it's Exhibit 33. I'm sorry. It was 38. Introduced in your deposition was a list of a compilation of all the requested change orders, and there was some discussion of those yesterday. Do you remember that?

A If you have Exhibit 38 that you'd like to show me.

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Q I don't have it. My question, that was a listing of all of the requested change orders from Balfour Beatty in this case?

A I don't believe I saw a listing of requested change orders yesterday.

Q Let me ask you this: Of the list of requested change orders that Balfour has that were identified in Exhibit 33, have you made a determination of which ones of those are properly owed and payable to Balfour?

A You need to show me Exhibit Number 33.

Q 38.

A Or 38.

Q Okay. I'll get that and come back to it.

MR. HILDEBRAND: Do y'all have that here, Brent?

MR. MCDONALD: 38?

MR. HILDEBRAND: I think I made a copy for you. I know that I did.

MR. MCDONALD: You made a copy for me?

MR. HILDEBRAND: Yeah. We got a request. I retained the original. It was not made an exhibit because it was so lengthy. But then Kathy had contacted me and said can y'all have an

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exact copy made and send it over.

MR. MCDONALD: Yeah. I can check it.

MR. HILDEBRAND: We'll come back to that, then.

MR. MCDONALD: How about when you get done with whatever else you're going to ask, just let me know, and we'll take a break, and I can see if I can pull it.

MR. HILDEBRAND: We've been going for about an hour. Why don't we just take five now.

(A recess transpired.)

BY MR. HILDEBRAND:

Q If you would turn to my exhibit and Number 29, please, Ms. Brown. The legal, factual and contractual basis for the reasons that Library has not made a claim against its primary architect in this matter, Winford Lindsay Architects, what is Library's answer to that?

A I have no knowledge on any reason that I would need to make a claim against Winford Lindsay at this time.

Q So is it your position that Winford Lindsay has done nothing wrong that has caused or

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contributed to any of the delays or damages that have been incurred by either Library or Balfour or any of the subcontractors? Is that your position?

A I don't have any knowledge from Balfour, as the construction manager, to notice that any claims would need to be made against Winford Lindsay Architects.

Q Well, hadn't Balfour since -- during this entire project, didn't it write pretty strident letters that the design issues were the cause of delays?

A But I still don't have any knowledge on why I would need to or be required to make a claim against Mr. Lindsay.

Q Same question regarding Jim Clements. Why has no claim been made against Jim Clements and Matrix?

A I have no knowledge from Balfour Beatty, the construction manager, on why I would need to make a claim or why Library Associates would need to make a claim against Jim Clements.

Q How about Design Continuum, the interior designer?

A Same response.

Q You testified yesterday that in your

view, that Balfour was required to provide the current schedule with each payment application. Is that correct?

A Correct.

Q Were Balfour's schedules always available to the owner throughout this project?

A I don't believe so. In fact, we, again, asked for critical path schedules that they were required to supply and did not get critical path schedules.

Q Well, isn't that what Mr. -- when you asked Grady Query, with Palmetto Scheduling, to look at this project, what he did was looked at Balfour's schedules and then made a determination whether he felt, based on them, whether the completion date was correct or not. Isn't that what he did?

A No. I believe he reviewed the schedules, and I believe that he had stated that the schedules did not make sense to him because the certain items in the schedules and the timing of certain items in the schedules did not add up to other items in the schedule or milestones in the schedule.

Q Do you dispute that Balfour's schedules, as originally published and as revised during this

project, were readily available upon request or otherwise to the owner?

A Not the critical path analysis schedules that we had requested, and the schedules that were provided when given to Mr. Grady Query or even to Mr. Mark Boe, our scheduling expert, again, states that the schedules were inadequate to determine certain milestones in the job.

Q This is a very straightforward and simple question, Ms. Brown. Do you dispute that the schedules that Balfour kept on this job, from the first one to the last one, were readily available to Library and its consultants or anybody else upon request or otherwise? I'm not asking for an opinion as to whether you think the schedules were adequate or were critical path, I'm just saying were the schedules available if you had wanted to look at them?

A I remember requesting the schedules of the critical path and not receiving the schedules, so no, I cannot confirm that current schedules were provided to us and they were readily available to us on this job.

Q So there was a reference to them yesterday by Mr. Terry in his questioning to you

that the schedules that had been used by Balfour were Primavera schedules. Do you remember that?

A Yes.

Q Has someone told you that the schedules that Balfour published did not use critical path analysis?

A I believe that the information from Mark Boe stated that the schedules that he reviewed did not show correct critical path analysis on the job. The items that were put into the schedule, it's my understanding that someone is actually physically putting in the time and the elements of the schedule and the dates of the schedule, that what was entered into the schedule did not make sense.

Q That's not my question. My question is very simply, and listen to it carefully, please, has someone told you that the schedules that Balfour used for the Hotel Bennett did not use critical path methodology? Has anyone told you that?

A Mr. Clements I believe told -- has told me that the schedules that we received from Balfour did not show critical path.

Q And Mr. Boe didn't start to work with Library until just recently, correct, within the

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reviewed the other items in the claim.
Q Have you asked him to review the other items in your claim?
A I do not believe so.
Q Has Cotton & Company asked you for more information so that they can figure out your loss of use damages?
A Not that I can recall.
Q That's all the questions I have. Thank you.
A Thank you.

EXAMINATION

BY MR. HILDEBRAND:
Q I'll go ahead, Ms. Brown. Tom Hildebrand again.
Have you had any communications with anybody with the architect's office since your last deposition?
A Yes.
Q With whom?
A With Buck Lindsay and Jennifer Faulkinberry.
Q And what have you talked to them about and why?
A I believe we touched on this yesterday.

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I may have had a conversation with Jennifer for a couple of hours -- or excuse me, a couple of times last week to confirm -- I can't remember. It's been a long two days. As I sit here today, I don't recall the exact conversation with Jennifer Faulkinberry as I sit here right now. I'm sure I discussed that yesterday morning.
And then with Buck Lindsay, but I don't specifically remember that conversation, just -- I believe I just called them up and said, hey, we've got a couple of questions for Jennifer. I know that her health hasn't been great lately, and if she would be available.
Q Do you know if Jennifer's planning to testify live at trial one way or the other?
A I do not know.
Q Have you talked to her about that?
A No, I have not.
Q How about Buck Lindsay?
A I have not talked with him about that.
Q How about Woody Faust, the interior designer?
A I have talked with them. They just finished up a project with us in Mount Pleasant, so I've had numerous conversations with them, but not

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regarding this case, so I don't know what their situation is on this case.
Q So we talked about this at some length in your first deposition, but with regard to who negotiated the contract, as I understand it, that was all done by Bill Bundy for Library Associates. Is that correct?
A Yes. We hired Bill Bundy to represent us in the contract negotiations with Balfour Beatty.
Q Before the contract was executed, did you have any discussions with anybody regarding the liquidated damages provision and whether -- if the contractor term was not reached whether Library needed to make a claim or not against Balfour?
A Repeat the question, please.
Q You testified earlier that your reading of the contract now is that when you look at the liquidated damages provision, that there's no requirement for Library to file a formal claim against Balfour, there was no such requirement while the project was ongoing, and that, therefore, the liquidated damages are not a claim, and that, therefore, Library did not have to comply with time limits and other conditions precedent referenced in the contract. Isn't that correct?

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A Yes.
Q My question is before the contract was signed, did you have any discussions with anybody about that -- or did you even look at that provision before the contract was signed and give it any thought as to whether a formal claim was going to have to be filed or not?
A I remember discussing the amount per day of liquidated damages, but never had any discussion on if a claim had to be made or if even notice had to be given of a claim.
Q All right. So when did you come to the interpretation that you are now espousing that no notice of claim was required under the contract? When did you read the contract and say, "Oh, gosh, I don't have to give notice"?

MR. MCDONALD: Object to the form.

THE WITNESS: I don't believe that I ever thought that I would have to give notice.

BY MR. HILDEBRAND:
Q Okay. Well, that would imply a review of that particular provision to determine one way or the other whether notice would have to be given or not. Did that even -- did you even consider that issue before the contract was signed?

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A No, because when we signed this contract, Balfour Beatty said that they would deliver this hotel in 28 months. We had no reason to believe anything different. We had no reason to think that the liquidated damages provision would ever come into play into this contract.

Q Okay. So my question -- okay. How about -- so you had no specific involvement -- so I want to understand. When the contract was negotiated and whether the provision related to liquidated damages in the A133, which is Section 2.3.1.3, I just want to understand that you had no negotiations or involvement with anyone as to what the intention of that paragraph was insofar as whether notice needed to be given or not, correct?

A Correct.

Q How about the -- there's been some discussion in Mr. O'Connor's testimony, and I think it's been mentioned here the last couple of days, that the contract, in some of the claims provisions, references that there are particular conditions precedent to making a claim. Do you remember that?

A Yes.

Q The same question regarding the conditions precedent. Did you take any notice of that provision prior to the contract being signed?

A No. That was -- Mr. Bundy negotiated that into the contract, I believe, with Balfour Beatty. No.

Q So as far as any of the contract terms are concerned, all of those were -- and what the intentions were, those were negotiated with Mr. Bundy and Balfour, correct?

A And Balfour's legal counsel, yes.

Q Okay. And that would be John Hoyer?

A Yes.

Q So any questions that someone might have about what the intent of the contract documents is or was at the time that it was drafted and what the parties meant to be included and didn't and how it should be interpreted, that would have to be answered on Balfour's side by John Hoyer and Balfour representatives, correct?

MR. MCDONALD: Object to the form.

THE WITNESS: You'd have to ask Mr. Hoyer and Balfour that question.

BY MR. HILDEBRAND:

Q Right. And on Library's side, the person

that question would have to be directed to would be Bill Bundy, correct?

MR. MCDONALD: Object to the form.

THE WITNESS: Repeat the question, please.

BY MR. HILDEBRAND:

Q If I want to ask somebody about what the intentions were of the contractual provisions and why this one was put in or what was meant by this one or that one or anything else like that, if I were to ask somebody to tell me that from Library's side, it would be Bill Bundy, because you've said that he is the one who negotiated all of them, correct?

MR. MCDONALD: Object to the form.

THE WITNESS: Mr. Bundy represented Library Associates in this contract, yes.

BY MR. HILDEBRAND:

Q Right. So if I have questions about what his intent -- or what the intent of Library was or questions about the contract, he's the one I would need to ask. Agreed?

MR. MCDONALD: Object to the form.

THE WITNESS: Mr. Bundy represented us in the contract, yes.

BY MR. HILDEBRAND:

Q The question is a very simple question. You're not answering the question. If I need to ask somebody about what the intentions were and why particular provisions were included or not included, like conditions precedent or anything else, the only person I can ask and the appropriate person to ask from Library's perspective is Bill Bundy, because he's the one who negotiated and drafted it. Agreed?

MR. MCDONALD: Object to the form.

THE WITNESS: Yes.

BY MR. HILDEBRAND:

Q What involvement, if any, did Brent McDonald have with the drafting of the contract?

MR. MCDONALD: Object to the form.

THE WITNESS: None to my knowledge.

BY MR. HILDEBRAND:

Q Insofar as the -- this litigation has been ongoing for about two years now. Many documents have been produced probably a year ago referencing the audit request and voluntary productions by Balfour Beatty and document productions from the subcontractors.

Do you have any testimony here today that

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owner the duty to review those to the owner's -- to the owner's benefit and to act in the best interest of the owner as they are reviewing the amounts that the subcontractors are requesting.

BY MR. HILDEBRAND:

Q When you're reviewing pay applications and Balfour submitted information from subcontractors and said, "We believe this is accurate, pay the pay application," are you saying that you didn't look beyond -- behind Balfour's review, and you just accepted everything that Balfour said?

A The architect reviewed all of the pay apps, and I only pay certified pay applications that are certified by the architect.

Q You reviewed the pay applications after the architect reviewed them, and a lot of them you had questions and said, "I want more information on this, and I want more data, and I'm not going to pay it until I get it," and a lot of times, the pay applications got further revised after your review, didn't they?

A Can you give me a specific pay application that that happened on?

Q No. Can you -- isn't that correct, that

you reviewed pay applications carefully once you got a copy and that based on your review, in fact, a lot of them were revised?

A No, I do not believe that is the case. The architect is the one who reviewed the pay applications and all of the backup submitted by the subcontractors, and in some instances, those were 500 pages worth. I would review the summary copy. I would ask questions, but not every pay app I asked questions and not every pay app I advised. There weren't many that I had actually asked questions. I accepted what the architect had certified.

Q Well, let me ask you this, Ms. Brown. Let's cut to the heart of it. If Balfour tells you now that it had, in fact, reviewed the liens and the claims of the subcontractors and found them to be valid, would you pay those liens and claims?

MR. MCDONALD: Object to the form.

THE WITNESS: No, because Balfour has also liened for -- they have the $8 million lien, or is it the twenty -- yeah, about an $8 million lien. So no, because Balfour has now also liened the project. But it was the responsibility of Balfour, per the terms of the

contract, to bond off all subcontractor liens, as per the information that Mr. McDonald and I just went through, and Balfour refused to, per the terms of the contract, bond off those liens.

BY MR. HILDEBRAND:

Q That's not my question. My question is if Balfour had reviewed the mechanic's liens and the claims of the subcontractors that were included in the $22 million joint claim that was made, if it had reviewed those and told you -- and had told Library Associates that it felt that the subcontractors' claims of liens were valid, would you have paid them?

MR. MCDONALD: Object to the form.

THE WITNESS: I pay certified pay requests from the architect. I do not pay liens. I do not pay subcontractor claims. I do not pay liens. I pay certified pay requests from the architect.

BY MR. HILDEBRAND:

Q So whether Balfour had reviewed the claims and liens of the subcontractors that are included in the joint $22 million claim, whether it reviewed them and said pay these or not, you wouldn't have paid them, would you?

A Well, again, like you said, we're talking about two different things. I think Balfour owes the -- is responsible for reviewing those claims and pay requests from the subcontractors to suggest that they're legitimate or not, but I don't pay liens, I don't pay claims, I pay certified pay requests from the architect.

Q So you never would have paid a -- if you're saying you don't pay liens or claims, you never would have paid the subcontractors or agreed to their liens or claims, correct?

A Correct. I pay certified pay requests from the sub -- from the -- certified pay requests from the architect.

Q Okay. Thank you. All of the tabs that you've referenced, is that the black notebook that we looked at this morning that you read out of some of the tabs on?

A Yes, it is.

Q So let me get this clear. So when liens were filed against the project after the architect in the February email to Balfour saying that Balfour was not going to receive any further payments from the owner and y'all had not paid the pay apps -- all the pay apps to that point, is it

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Plaintiff Balfour Beatty's Trial Exhibit # 301

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS CASE NO.: 2019-CP-10-01108
Balfour Beatty Construction, LLC, Plaintiff, vs. Library Associates, LLC; and Metropolitan Life Insurance Company, a New York Corporation, Defendants.	
Library Associates, LLC, Third-Party Plaintiff, vs. Lithko Contracting, LLC, Guy M. Beaty, Inc., Bernard MMC, LLC, Gulf Stream Construction Company, Inc., Palmetto Automatic Sprinkler Company, Inc., Cook & Boardman, LLC, 1st Choice Glass, Inc., Strong Tower Construction, LLC d/b/a Koch Corporation, Watson Electrical Construction Co., LLC, Trimark Foodcraft, LLC, Pleasant Places, Inc., David Allen Company, Inc., Premier Exteriors, LLC, Robert Thomas Iron Design, LLC, Warco Construction, Inc., Old North State Masonry, LLC, Tom Rochester & Associates d/b/a Southeastern Architectural Systems, Forton Company, LLC, Lowcountry Case & Millwork, Inc., Quantum Coatings, LLC, Balfour Beatty Construction Group, Inc., Third-Party Defendants.	PLAINTIFF'S EXCERPT DESIGNATION FOR DEPOSITION OF MICHAEL BENNETT

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Michael Bennett
September 26, 2019

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September 27, 2019

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

BALFOUR BEATTY,

Plaintiff,

vs. CASE NO. 2019-CP-10-01108

LIBRARY ASSOCIATES, LLC, and METROPOLITAN LIFE INSURANCE COMPANY, a New York Corporation,

Defendant.

DEPOSITION OF: MICHAEL BENNETT

DATE: September 26, 2019

TIME: 10:10 a.m.

LOCATION: 200 Meeting Street
Charleston, SC

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: Roxanne Easterwood, RPR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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the person who retired was a gentleman named Peter Wright.

Q. What does Tracy Ray do? What is her job?

A. Tracy's work on -- she is --

Q. Is that a woman or -- that's a she?

A. She's a woman. She is a lawyer. She doesn't practice law. She helps me primarily with entitlement on real estate development projects that I'm working on.

Q. Is she licensed?

A. She doesn't practice law. So I don't know if they -- I don't know what lawyers do when they don't practice law but they have a law -- she was licensed, but she doesn't practice law.

Q. So you don't know whether it's current or not?

A. Yes.

Q. How about Troy Miller, what does he do?

A. Helps with the development.

Q. In what respect?

A. Getting them entitled.

Q. With entitlements primarily?

A. With helping with entitlements and

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then helping with -- well, since he's been there I think we've only started two hotels. So he would have been on that, sitting in, hiring the architect and then the contractor.

Q. Okay. What is Kim's function?

A. Kim kind of runs the company by and large. So she's involved with all facets of it.

Q. How long has she been employed with you?

A. I think 36 years, maybe 35.

Q. All right. And Jack, what does he do?

A. Trying to learn this business. So he sits in most meetings and goes to the entitlement meetings and goes to the meetings where we -- the construction meetings, things like that.

Q. Do you have a succession plan? Is the plan to kind of basically at some point have Jack take over the company?

A. Yes.

Q. And what do you do?

A. Buy land and figure out what we're going to build on it and then get it approved to be built. I think that's an accurate assessment of it.

Q. So you're the big-picture guy? You

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just kind of look, scope out properties and have an eye for where you want to develop and make those decisions?

A. I think so, yes.

Q. All right. And then the other people on your team, basically once you've decided what you want to do, they implement the plan; is that a fair statement?

A. I think that's accurate. Yes.

Q. Has your job function changed in the last five years?

A. I don't think so.

Q. So basically, five years -- in the last five years Kim has run the business?

A. She has.

Q. As she has for many years?

A. Yes.

Q. You said you've got three people in the accounting department. Is Kim involved with the accounting also?

A. They would report to her, or if they had a question, they would ask her.

Q. What is Kim's background?

A. Kim's been working for me all her life.

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Q. Did she go to college?

A. I think she went to what was then -- she went to the College of Charleston and maybe Baptist College before it was Charleston Southern. I think that's where. I think that's true. She didn't graduate from the college.

Q. Do you know how many years she got before she quit?

A. I don't.

Q. How about Jack, does he have a degree?

A. He does.

Q. From where?

A. College of Charleston.

Q. In what?

A. History.

(Bennett EXH. 2, South Carolina Secretary of State List of Companies and Registered Agent, marked for identification.)

BY MR. HILDEBRAND:

Q. Okay. I'll hand you what I've marked as Exhibit 2. And this is something that we pulled, I think, from the Secretary of State, which lists South Carolina companies where you are the registered agent, and it's --

MR. BUNDY: Has this document been

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previously provided or identified?
MR. HILDEBRAND: I understand it has.
MR. BUNDY: How is that? In what way was it identified or previously provided?
MR. WRAY: It was provided, I believe, in the Balfour 1 to 141 that was produced.
MR. BUNDY: Was it provided as part of the deposition notice?
MR. HILDEBRAND: It's the same. They were provided among all of the documents that we --
MR. BUNDY: When was the document created?
MR. HILDEBRAND: -- provided to you. I don't know when it was created. I can tell you when it was provided. Was it on Sunday?
MR. WRAY: Sunday, yes.
MR. BUNDY: Sunday? Provided to us on Sunday? How is that --
MR. HILDEBRAND: Yes.
MR. BUNDY: Just by giving us all of the documents, the allegation of all of the documents?
MR. HILDEBRAND: No. The deposition notice. I think we have already been through

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this. The deposition notice said we retain the right to ask the witness about any documents that have been produced. This is one of the document that was produced.
MR. BUNDY: Same objection. Thank you.
BY MR. HILDEBRAND:
Q. All right. Mr. Bennett, this document shows a host of, looks like, probably at least 100 or so corporations that you're the registered agent for?
A. Right.
Q. Can you tell me why you have so many different entities?
A. Every project that I would build would be under an individual LLC. I think that's what this is.
Q. So all of these separate entities represent separate projects that were built?
A. Or they own something, yes.
Q. With the business model that you have currently -- let me ask you this. When I asked you about employees of Bennett Hospitality -- I understand that you have a lot of different entities as reflected in Exhibit 2, but is -- I just want to understand that the response is all

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of the employees that might be employed by any of your companies, it's -- in other words, there is not -- these entities on Exhibit 2 don't have separate employees; is that correct?
All of the employees of companies that you have an active interest in, your direct employees are basically Bennett Hospitality; is that fair statement?
A. You know, the restaurant employees, it would probably be on this one of these LLCs. The restaurant employees work for an LLC entity that runs those restaurants.
Q. I understand. But all of the people who work with you relative to development are the ones you listed for Bennett Hospitality; is that a fair statement?
A. Yes.
Q. And the entity that owns the Bennett Hotel, Library Associates, does it have any employees?
A. I don't think so. I don't think so. I don't know if I'm listed as an employee. I don't think I am. I'm a part owner of that company -- that LLC.
Q. So how did you come to acquire the

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land where the Hotel Bennett is located?
A. I bought it in 1994.
Q. How did it come available for sale?
A. The county owned it, and they put it up for sale.
Q. And what did you pay for it?
A. I don't remember.
Q. And ultimately there was a library on it originally; is that correct?
A. Yes.
Q. That was ultimately torn down to construct the hotel that we're here about, correct?
A. Yes.
(Bennett EXH. 3, News Paper Articles, marked for identification.)
BY MR. HILDEBRAND:
Q. Mr. Bennett, I'll hand you what I have marked as Exhibit 3.
A. You want me to open this up?
Q. Yes. You can just slip that -- yes, however you want. Whatever is easier for you. And I'll just generally tell you what this is about. I want to ask you about these individual documents in just a moment. These are just copies

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of newspaper articles that I have had printed up. I think the first seven relate specifically to the Hotel Bennett, and then 8 and 9 relate to a couple of other projects, okay?

A. Okay.

Q. I'm going to ask you some questions about these. So if you will turn to Number 1, this is an article in the Post and Courier dated April 26, 2015. And I'm trying to get a flavor for, just an overview for this project. And it just seemed to me when I was reading these newspaper articles, it might be an easy overview for us to go through to describe your involvement and your vision for the project, okay?

A. Okay.

Q. All right. So the first article, April 26, 2015, at the very bottom -- have you seen this? Do you recognize this article?

A. I remember it when it was in the paper.

Q. It's by Allison Prang. Do you know that reporter?

A. I don't.

Q. Do you have any connections with the Post and Courier?

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A. I do not.

Q. You don't know the editor or any personal contacts or such?

A. I mean, born and raised in the town. I've been reading the paper, but I don't have any.

Q. I understand. The very last sentence says: The projected opening date is August 2017. And that's what was anticipated in early 2015, correct?

A. I believe so.

Q. Then I want to ask you about some of the aspects on the second page. The very top says: The developer, a Charleston native whose Bennett Hospitality owns 16 hotel and eight restaurants mostly in the southeast, described the full-service Marion Square lodging as the, quote, biggest project of my life, close quote. He says he's aiming to develop, quote, the finest privately-built building in our city's recent history, close quote.

Was that an accurate reflection of your --

A. I think so, best I can recollect it.

Q. Those were correct statements?

A. I believe so.

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Q. Then the fourth paragraph down you're talking about discussions with Mayor Riley years ago. It says, quote: He would always say, quote, take the hundred-year view, Bennett said. Take the hundred-year view. What does that mean? Well, if you want it here in 100 years, build it, and if you don't think you want it here in 100 years, don't build it. Take that hundred-year view. Do it right, good materials, 100 years. I drank that Kool-Aid, close quote.

Were those accurate?

A. I think so.

Q. So the Hotel Bennett was -- obviously, was built to -- you anticipated that it would be here for a very long time?

A. And high luxury, yes.

Q. So let's turn to the next article, if you would, please, Article 2. And this is dated December 1, 2016. And the heading reads: Hotel Bennett in Charleston to open next fall, names management firm.

Just a couple of questions about this one. And the second paragraph says: Sheila Johnson's Salamander Hotels & Resorts will manage the 179-room Hotel Bennett near King and Calhoun

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Streets, it was announced Thursday. Do you remember that?

A. Yes.

Q. So it was announced. There was, I guess, a press release that Salamander was going to run the hotel, and that was in December of 2016?

A. In what? December of?

Q. The announcement on the article says it was -- the press release apparently came out on or around December 1, 2016?

A. I guess. I think that's what that reflects.

Q. When was Salamander actually retained? Was it about that same time that they were brought on board to --

A. I'm sure we talked to them earlier than that. I couldn't tell you the exact time, but we were in discussions with them for some period of time.

Q. When you say some period, several weeks? Several months?

A. I think it would be more than several -- it would be several weeks or longer. Kim would be a good answer with that. She would know the

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details of that better than me.
Q. Do you know why it -- were any operators -- and I guess that's managers. Is that the proper term to use for Salamander?
A. A management company.
Q. Management, okay. Do you know why -- is there a reason why a management company was not retained prior to 2016, kind of after the project was already under construction?
A. I think I would ask Kim to find out when they started working with us.
Q. Well, the date of the contract will speak for itself, I guess, when y'all came to an agreement.
A. I think so.
Q. We can agree that they weren't on board when the contracts were signed for the construction, and the construction had already progressed before they were retained, correct?
A. I believe so, but you should ask Kim.
Yes.
Q. So do you -- can you tell me, was any consideration given to hiring a management company before construction started?
A. I don't remember.

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Q. So sitting here today, you don't remember, was there any thought given to hiring a management company before construction started?
A. I really, I honestly don't remember. Kim would have a good idea when we started talking to the various management companies.
Q. How about for your other -- the other hotels or motels that you own, are there management companies that run those?
A. Yes.
Q. And are those -- do you own those management companies?
A. No.
Q. Are the -- the franchisor?
A. They're third-party management companies. Somebody else's company.
Q. So it's very similar to the Hotel Bennett, there's a separate company that you -- Bennett Hospitality contracts with to run the hotels; is that correct?
A. Yes.
Q. Is there typically a separate one for each hotel that you have?
A. Separate company?
Q. Yes, sir.

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A. No. For the Hilton properties it's the same management company, and that is Hilton Management Company, which is a division of Hilton but not part of their development side. On the Marriotts, my own company manages my two Marriott properties or a company that I own or a partner in. It's probably on that list you gave me.
Q. What company is that?
A. Kim would tell you.
Q. So you don't know?
A. I mean, I -- you know, there's -- you see the LLCs. It's a management company that would manage those two hotels.
Q. Are they -- you're headquartered in the old Rice Mill building, correct?
A. Yes.
Q. Are the people who work for that management company, do they work there at the Rice Mill also?
A. My sister oversees that company that oversees those two hotels.
Q. She does it herself?
A. Yes.
Q. So the company, when you say there's a company, it's basically your sister who does that?

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A. And then under an LLC and then the employees that work in the two hotels.
Q. So Kim basically is the management company and hires the employees who help her manage?
A. I don't think she hires the employees. She probably hires the manager, and then the manager hires the employees, I think how that works.
Q. Now, turning back to Exhibit 3, Tab 2. I'd like you to turn to the third page, if you would, Mr. Bennett.
A. This one?
Q. No. The last page under Tab 2. That's it. The second paragraph, quote: This will be the five-star luxury hotel in downtown Charleston, Bennett said Thursday. I believe it will be the finest hotel ever built in our city, certainly ever built in our lifetime, close quote. Was that an accurate quotation?
A. I believe so. I think so.
Q. Is that an accurate statement?
A. I think so.
Q. We'll skip the next one. If you will now turn to Tab 4. This is an article dated

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January 26, 2017. Do you recognize this?
A. Uh-huh. Yes, sir. Sorry for that.
Q. All right. And the headline -- this is again in the Post and Courier -- says: Charleston could have had a Trump hotel, but there wasn't enough money in the world. Let's -- so as a prefatory synopsis, there was an inquiry by Donald Trump, President's Trump's son, about wanting to get involved with the Hotel Bennett and putting his moniker on it; is that correct?
A. I don't know if that's completely accurate, Tom. He showed up in my office one day.
Q. Trump's son?
A. Yes, without a meeting scheduled, and asked if he could see me, and I let him come in. He said he would be interested in talking to me about putting a Trump name on that hotel, and I told him that there was under no circumstance would I put his family name on my family's hotel. That meeting lasted about three minutes. He was a very polite young man. He said, thank you, I'll tell my father. He said, he's a family man, he'll appreciate that.
Q. Let's go through just a couple of sections on this one. Let's turn to the second

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page, if you would, please.
A. Second page of this one?
Q. That's it. Right. Second paragraph. Quote: I mean no disrespect, but tell your father there's not enough money in the world to put your name on my family's hotel, Bennett said he told him. Is that an accurate?
A. What did I just -- didn't I just say that prior to it? I just...
Q. I think so. I'm just confirming it.
A. I think so.
Q. So the answer is yes?
A. By the way, he didn't offer any money.
Q. I understand. I understand.
A. And I don't know if he was planning on offering money. I don't know what their business model is, Tom. They may look at themselves as a franchisor of some sort.
Q. Three paragraphs down, where it says: But Bennett was not about to sell what he views as his family's legacy. This hotel is not named after me, he said. This hotel is named after my mother and father. Was that an accurate quotation?
A. I think so, yes.

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Q. Then two paragraphs down from that: This hotel is more than just a hotel to me, Bennett said. It's not just an investment. It's more than that. It's our family's personal stake in the ground. Was that an accurate quote?
A. I believe so.
Q. So this hotel -- would you make that statement about any of the other properties that you own?
A. The statement being?
Q. That it -- they aren't just investments, it's a personal family stake in the ground.
A. You know, this was, obviously, the biggest one, Tom, that we've ever done.
Q. I understand.
A. I haven't sold any -- well, other than the one in Marathon that I mentioned to you. I haven't sold any of the other ones. I don't think of those as things that we would sell. I think of all of the company kind of as the word legacy, meaning to transfer on. But yes, this is the biggest and the most expensive and luxury hotel of those -- of all the hotels.
Q. When you said that there -- if Donald

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Trump had come to you and offered to buy, say, one of your Hampton Inns, would you have made the same statement: There's not enough money in the world for him to buy the Hampton Inn?
A. You know, I have not sold any of my hotels other than the one in Marathon, where I was a partner, and the partner decided to sell it. So I'm not a seller.
Q. Well, if Donald Trump were to approach you and say he would like to --
A. You know, that's so speculative, Tom. I met his son for three minutes. So that's kind of a farfetched question, if you ask me. I don't sell these things normally.
Q. I'm just trying to figure out, is it -- do you have any animosity with Donald Trump in particular, or would it have been anybody, if anybody had said, I want to buy this hotel, you would have said, no, this is my project and my family's legacy and it's not for sell?
A. I don't think I have any animosity towards anyone, Tom.
Q. All right. Let's turn to Article 5, if you would, please. I have a number of questions about this. We've been going for about

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an hour.
A. I'm fine.
Q. You're good?
A. Yes, I'm fine.
Q. So under Tab 5, do you recognize this article, January of this year?
A. Yes. I'm sure. Yes.
Q. And it's by Emily Williams. Do you know who she is?
A. No. This is the Post and Courier. So she was a reporter for Post and Courier.
Q. Charleston developer realizes decades-long dream with Hotel Bennett opening. Did you meet with this reporter, or how did it come about that she interviewed --
A. I have never called a reporter. So they must have called me.
Q. Did you meet with her and walk through the hotel with her before this article was written?
A. You know, Tom, when the hotel was opening I was meeting people and walking them through, and some were on the phone. So I don't recall specifically whether I met her at the hotel or whether I talked to her on the phone.

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Q. How did the article that came out in the paper about Donald Trump, do you know how that came to be publicized?
A. You know, I'm not in the newspaper business. I think that was when we were -- we weren't ground breaking. That was in the article when we were having -- when you kind of topped it off when you reach the top floor, yes. I think that's when that article came out.
Q. I understand. My question is, how did the News and Courier get word of it, that Donald Trump's son had approached you about buying or perhaps acquiring an interest in the hotel?
A. At that topping off party I made that comment. The mayor was there, and just giving a kind of a talk on the hotel. Balfour Beatty spoke. I spoke. I think the mayor spoke. I can't remember if it was Mayor -- I think Mayor Riley was there. I think. It may have been Mayor Tecklenburg. I can't remember. Might have been Mayor Tecklenburg's term, but Mayor Riley may have spoke. I don't really remember.
Q. So under Tab 5, another article, dated January 20, 2019. And I'm going to read some of this and ask you questions about it. It begins:

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The John Carroll Doyle painting on the wall is just a few inches too high. It's too bad Michael Bennett wasn't there the day they hung it, because for him, everything, from the way the painting hangs in the guest room to the crown-embroidered pillows on the beds to the little, quote, Hotel Bennett, close quote, branded soaps in the bathroom, it's all important. Is that an accurate statement?
A. I think so.
Q. Then next paragraph: Bennett founded and owns Charleston-based Bennett Hospitality, a veritable Lowcountry empire of hotels, restaurants, and other properties, and he has been awaiting -- he has been waiting for this hotel long enough. It has to be just right. Fair statements?
A. You know, I don't -- I have never used the word empire in my life. I don't think of myself and my company that way.
Q. Besides that --
A. But I own hotels and restaurants and other properties, and I like for them to look good.
Q. Right. It has to be just right.

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That's a fair statement to you?
A. I think it has to look right.
Q. The next paragraph on the next page, please, at the very top: Between the time it took to draft the plans for the hotel, gain city approval, resolve all legal disputes regarding that approval, and actually design, build, and decorate the 179-room full-service hotel, it would seem difficult to keep track of how many years Bennett has been working to complete what he's called the biggest project of his life. Is that a fair statement?
A. I think so.
Q. Skip down a couple paragraphs: But what is a few decades when you have a hundred-year view. When Bennett marked the hotel's groundbreaking in the spring of 2015, he pledged he would build a hotel that would stand for a century and hopefully much longer than that. It was a vision wholeheartedly adopted from Charleston Mayor Joe Riley, who gave a vote of confidence. Is that -- does that --
A. You know, these are written by newspaper reporters, you know, when they're interviewing me when we're opening the hotel. So

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I think that reflects that feeling at that time.
Q. Right. Your vision was to have a preeminent five-star, iconic hotel that would last 100 years for Charleston, correct?
A. I'd like to think all of these things last a long time. You know, they'll need renovation over time. But yes, it was intended on all of these -- I think all of these other buildings will be there in a hundred years, too. It might require, you know, renovation but --
Q. This project --
A. The hundred-year view is what Mayor Riley always said. So when he was around I always liked to say that to him.
Q. The interesting thing about the Hotel Bennett, though, is that, unlike some of your other hotels might be, say, on -- off the peninsula or in other places where they could pretty easily be perhaps torn down and replaced --
A. I don't think of it that way, but...
Q. What I'm getting at is, it's much more difficult to tear down and replace a building in downtown Charleston --
A. Yes. Absolutely.
Q. -- than it is in other places?

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A. Sure.
Q. So if you want an iconic building for your family, the place to do it is right where this one stands?
A. I think so.
Q. Because it's likely to stand for a long time?
A. Yes.
Q. That's all I'm getting at. The next paragraph I'd like to read says: When the hotel was first proposed on Marion Square, the Post and Courier noted it would cost $35 million. When it broke ground many years later, Bennett announced the price tag would be 101 million. Bennett declined to give a figure for the hotel's final total.
So how did the price -- was it originally priced to be 35 --
A. None of those numbers were anything based on a budget and a contract. Those were just general numbers. The 35 million probably came when I bought the land 25 years ago, and the 101 -- I don't know where we ended up, Tom, to be honest with you. All considered, the construction and the land and the architect and the furniture,

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it's going to exceed that number.
Q. The next quotation is, quote: I could have cheapened it, close quote, Bennett said, quote, but I never did, close quote. Is that an accurate quotation?
A. I think that's an accurate quotation, uh-huh.
Q. Top of the next page, please. At the groundbreaking, Bennett declared his hotel would be built with the finest materials, including limestone, marble, bronze, and copper. He wanted Hotel Bennett to look like it's been here for a long time and will continue to be here for a long time. That's why, he said, when he was picking the doors that would open onto the double staircase in the hotel's grand lobby he went to Hope's, a century-old window and door manufacturer. He actually flew there to the company's facility in New York State and ate lunch at the factory.
Is that a fair statement?
A. That's true. I believe a Balfour Beatty representative went with me.
Q. So I guess that just, is it a fair state that that reflects the personal involvement

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that you had with picking the -- designing the hotel and what it would look like on both the exterior and on the interior?
A. You know, I didn't design the exterior of this building. There was an architectural firm called Fairfax & Sammons who were the designers. Though I'd like to take credit for it, I couldn't take credit for that design. Fairfax & Sammons were the design architects ten years ago or...
Q. But they design what you direct them to, and they make changes?
A. No, I didn't direct that. I'd like to take credit for that, Tom, but that would be -- that wouldn't be fair for me to say I designed that. That would be out of my league. As far as sketching that building.
Q. So did you not give them any direction?
A. Tom, that was probably 10 to 15 years ago, and they are -- I wanted it to be classic architecture. They are known as very classic architects. We let them kind of run with that, with that idea. We then worked with the interior design company. They would make presentation to us of what the inside materials would be and the

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furnishings would be and the look would be, and I would sit in on those meetings in the beginning to kind of understand the direction it was taking, but I didn't -- it would be wrong to say I designed it.

Q. Next paragraph: A room leading to the main lobby area is encircled in murals featuring Charleston's waterfront skyline and ships, and to the left the Richmond Plantation manor house that Bennett purchased from the Girl Scouts of Eastern South Carolina. His two dogs are depicted in the manor's lawn; is that correct?

A. That's correct. I didn't direct that. I didn't even know they were painting that until it was done.

Q. The next paragraph says that: The front desk is made of sinker cypress, and it's a local boy touch; is that correct?

A. That's not the front desk. It's the ceiling before you get to the front desk.

Q. Did you select that sinker cypress?

A. I had seen a cypress wood ceiling in a hotel in Florida, and I really liked it. So I asked the design architect to think about that, see if we couldn't put some cypress in that

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ceiling.

Q. Next paragraph: During the next week the lobby will fill with the work of local painters and photographers, each with their own dedicated quadrant of the space. Bennett hand picked and also visited in person when possible the local artists featured, all of whom are artists of his day, he said: John Carroll Doyle, Wes Fraser, Jack Alterman, William McCullough, and Mickey Williams?

A. I will take credit for that. I did decide to call those -- of course, John has passed away, John Doyle. But I did contact those artists to include them in the hotel.

Q. The hotel retained some of Charleston's County Library, too. Custom-built white bookcases are featured prominently in guest rooms, a nod, Bennett said, to the site's former purpose. Some of the library's pink marble was also repurposed for the floor, bar, and tabletops in a champagne bar; is that correct?

A. Mayor Riley asked me to try to reuse some of that pink marble. That's where we were able to reuse some of it, in that.

Q. That's Camellias; is that right?

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A. Yes. Yes, sir.

Q. At the very bottom. Quote: They don't make them like this anymore, Bennett said, touching the stone on the ledge of the roofs -- hotel's rooftop. He said the same thing while pointing to the baseboards in the guest room, the tile in the spa check-in area, the custom-made bellhop stand.

The stand is a particular delight for Bennett. He used to work as a bellhop at Charleston's Mills House while attending the College of Charleston; is that fair statement?

A. You know, there's about five questions in there. Are you asking did I say the stone on the ledge would never be --

Q. Right.

A. You know, so we've got marketing and public relations people there and having me walk these people through and describing the hotel, and so that's what I was doing. I'm marketing and selling that hotel. I think there --

Q. Are there any inaccuracies?

A. I think it's generally accurate. You know, they don't make them like this anymore. That was a conversation with a person writing an

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article about the hotel. So do they make them like that anymore? I don't know who who is. Does somebody? I guess somebody could make it like that. But yes, I would have been walking through with the people who were writing the story and telling them about the hotel.

Q. How about the last sentence, says the --

A. I was a bellman at the Mills House. So that's true.

Q. And this particular stand is something that you helped pick out and design?

A. I did not.

Q. Next paragraph: As the final touches are being put on Hotel Bennett, many other Bennett-led projects are also rising in other parts of Charleston area. Most recently a $325 million waterfront complex started construction in Mount Pleasant, and Bennett is set to build a vast resort complex at Patriots Point. Hotel Bennett, though, is personal. Is that a fair statement or fair synopsis of your discussion?

A. Since I own these things, I think they're all -- I'm not sure -- they're all

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personal in that I don't do them for somebody else. This one had, perhaps because of the size of it, Tom, it had a special place for me and my family.

Q. There's no other hotels named after you and your family?

A. Yes, named after my family.

Q. There's no other hotel that has nearly the personal touch that you have in this hotel, agree?

A. This is the biggest project of my life, surely.

Q. There's no other hotel that you own where you picked out the paintings?

A. You know, I --

Q. The ceilings?

A. I figure out the land, try to figure out the financing, and then I like to see what it's going to look like when you open the door. So I don't get involved with the middle 80 percent. I get involved in the beginning, and I get involved in the very end, and usually on all of them. You know, so I -- they'll tell me this is the kind of -- you know, we like to put hardwood flooring in the lobby. So they'll show

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me the stains of the hardwood flooring that's going to go in the Hampton Inn.

I think it would be not accurate to say I don't do that for the other ones, Tom. I'm involved in the beginning. I'm involved in the very end. I'm not involved -- and my sister would really be the person to answer any questions as it relates to any of those things.

Q. There's a comment in here that you wanted the hotel to open as a birthday present for your mother?

A. Her birthday was in January, so. I wanted it to open two years before that. Since it was opening in January, I thought it could have been nice if it happened to open near her birthday. So we said happy birthday to her anyway. That was never the goal, to open on her birthday.

Q. Do you have any other -- you've got an owner's suite or owner's residence in the hotel?

A. I do not.

Q. In Hotel Bennett?

A. Yes. They describe it as that, I think from a marketing perspective, to try to take it above a presidential suite, you know, calling

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it the owner's residence. I have never spent one night in the hotel.

Q. So that's not set aside for your particular use?

A. No, not at all. I believe you would describe it just like you name -- you've got the ambassador's suite, kind of named after Nikki Haley. Got a presidential suite. Then we have the owner's suite.

MR. HILDEBRAND: I think I'm ready to take a break for a few minutes.

(A recess was taken.)

MR. HILDEBRAND: Back on the record.

BY MR. HILDEBRAND:

Q. Mr. Bennett, if you would turn back, one quick question, on Exhibit 3. The very last page and the very last paragraph. I have a couple of questions about this. It reads: The hotel's architects of record are Buck Lindsay of Lindsay Pope Brayfield Clifford & Associates in Atlanta and Chris Schmitt of Schmitt Walker Architects in Charleston. The hotel's design architects are Fairfax & Sammons Architects of New York City. Balfour Beatty, the second largest hotel contractor in the U.S., is serving as the

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project's general contractor, while the interior designer is Design Continuum.

The last part of that I understand. What I'm not clear about is what -- and I understand that Buck Lindsay was the architect of record in his firm. What did Chris Schmitt do on this job?

A. Help us get through the BAR, Board of Architectural Review. So he would make presentations to the BAR for us.

Q. Did he actually do any of the design work?

A. I don't remember, Tom. Kim might have a specific memory. But he would sit in with, like -- I don't have a direct recollection of something he designed today, but he was an extra set of eyes for us for Charleston's Board of Architectural Review.

Q. So he was the home boy to get the BAR -- help assist with the BAR approval?

A. I mean, I think that's unofficially what we would say, but he's a smart man, and he used to be the head of the BAR in previous years. So it's not uncommon to have a local architect help maybe answer questions or even make

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presentations, right.
(Bennett EXH. 4, Settlement Agreement, marked for identification.)
BY MR. HILDEBRAND:
Q. I'll hand you what's been marked as Exhibit 4.
THE WITNESS: I don't recall you saying this on 3, the same thing you said on 1 and 2. But you mean the same thing on 3 as 1 and 2, right? You got that, right?
BY MR. HILDEBRAND:
Q. Right. He has a standing objection. This is a settlement agreement between Library Associates and Goff D'Antonio, dated January 28, 2010, and on the second page it says that: Goff D'Antonio produced services for the design construction of the Marion Square hotel project, which is Hotel Bennett, correct?
MR. BUNDY: Tom, for the record, I'm making the same objection on all these exhibits.
MR. HILDEBRAND: I understand.
MR. BUNDY: Because they weren't specifically provided.
MR. HILDEBRAND: I understand. No problem. You got a standing objection.

MR. BUNDY: I'm moving for whatever relief I can get.
BY MR. HILDEBRAND:
Q. It says: Goff D'Antonio claims that it's owed $435,000 and has filed a mechanic's lien for $371,000 for the project. What did -- what happened here?
A. They were the first architect, and that plan wasn't going to get approved by the BAR. That's when we hired Fairfax & Sammons. So they had designed something preliminarily that we then threw away.
Q. Okay. What was the dispute over the funds that they were owed?
A. I don't really have any recollection. I don't really. I know we paid them a lot of money, and then we threw their plan -- we had to throw their plans away. It was not received well at the BAR, and changed architects.
Q. How did you come to --
A. And designed a new building.
Q. It says down below that that the claim of Goff D'Antonio was settled for $260,000. Does that ring a bell with you?
A. I don't have any memory of it. If

that's what this document says, I assume that to be accurate, Tom.
Q. How did Sammons come to be chosen as one of the designers?
A. I believe that either the city or some neighborhood communities in that area -- I don't think it was Ansonborough, but some of the neighborhoods downtown were promoting classic architecture, and they had some design charrette public meetings just in general in Charleston area and what the landscape of the future of that area could look like, and they were well received by the community and by the neighborhood groups.
And they were classic design architects, designed in a very classic style, and that's how I ultimately got with them. I don't remember who introduced me to them or how I -- I assume I called them up after they had been working in these design charrette meetings in the community.
Q. So was Buck Lindsay retained before or after Sammons?
A. After.
Q. Can you give me an approximate date when Sammons was retained?

A. I'm sure there are contracts, Tom, that could give you specific dates. This thing took so long. I'm a little afraid. If I made a guess, that's what it would be: It would be a guess. But I'm sure there's actual dates somewhere in the file, or Kim might have a good memory on that.
Q. Sammons did, I guess, schematics?
A. They did the exterior. They did the design. Yes, I guess you describe it as schematics. Again, Kim would have a better memory on that, but they were the design. They were the design architects.
Q. Are you familiar with the term schematics?
A. I think so.
Q. Conceptual drawings?
A. Yes. I don't know if they took it past that or not, Tom. They never produced working drawings, if that's what you're referring to.
Q. I'm just curious. Where, at what point did Buck Lindsay get involved?
A. I think you ought to ask Kim, because she could give you. I would kind of speculate.

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A. I'm sure that's the way it happened.
Q. Do you remember that specifically?
A. I mean, I can't tell you the day and the time and the date. But again, I would ask Kim. She would have a very clear memory on that. I do remember Buck was doing some hotels down in Disney, either for Disney or for some of the other major players down there, building significant hotels.
Q. So your recollection is part of the experience that went into your determination to use Buck Lindsay was that he had done --
A. That he was capable of doing this.
Q. I'll ask Kim about what her recollection is, but I'm asking you what your recollection is.
You do recall specifically meeting with Buck Lindsay and asking him questions and making sure that you were comfortable that he and his company had the experience and resources to act as the architect --
A. I mean, if I didn't --
Q. Let me finish the questions, or the court reporter will get mad at me.
-- he had the experience and

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capabilities to design this project?
A. You know, Tom, there's about five questions in that question. So if you want to isolate it, I will do it. But I'll just tell you in general, yes, we visited with him to make sure he had the capability of doing this project, and then we hired him. And if we didn't think he could do it, we would not have hired him.
Q. I understand. Did you ever -- why didn't you hire one of the local architects in Charleston? Why didn't you hire a Charleston or a more local architect?
A. I mean, that's such a speculative question. I wouldn't know how to answer that, Tom.
Q. Have you worked with LS3P?
A. I don't know if any of them are experts in hotels.
Q. Or any of those other --
A. I believe that that's all Buck Lindsay's group does.
Q. Hotels?
A. As opposed to the firm you mentioned. They probably do many other types of buildings.
Q. How long have you been working with

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Buck Lindsay?
A. Again --
Q. Approximately?
A. I don't want to approximate. I don't know if it's five years or seven years, but for some time. You know, this project now goes back -- when did we start this project, 2015 or '16 or whenever it started. Heck, it's been four years since then. So it's probably been four or five years before that.
Q. Did Buck Lindsay express any reservations or concerns about being the architect on this project?
A. No.
Q. Did you have any reservations about his firm being from -- they're in Atlanta, correct?
A. Yes.
Q. -- about being in Atlanta and not having an office here in Charleston?
A. No.
Q. How about Balfour Beatty, do you recall any -- do you have any recollection of what the vetting process was for Balfour Beatty for this project?

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A. We interviewed three or four firms, and they were one of them.
Q. Who else did you interview?
A. Again, I would ask Kim the specific names of them. I wouldn't remember the specific names.
Q. You don't recall, sitting here today, who else you interviewed?
A. No. This is five or six years ago. I don't know. I don't recall the specific names of the other construction companies, but we did interview, I know, three of them. Again, Kim would know the exact name.
Q. Were you personally involved with those interviews?
A. Yes.
Q. So you attended them?
A. Yes.
Q. And asked any questions that you might have to satisfy yourself?
A. The other contractors made presentations to us.
Q. Along with Balfour?
A. Yes. Everyone made a presentation to us.

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or we wouldn't have any change orders with the plans, that they will own those plans.

Q. Is that what they said, you will have -- after we review these plans there will be no change orders?

A. Tom, you asked me what I thought they meant when they said, we will own the plans. I was trying to tell you what I thought they meant when they said, we will own the plans.

Q. Right. I'm trying to see if I understand what your understanding was.

A. I just told you what my understanding was when they made that comment.

Q. So your understanding was when somebody said one time, we will own these plans, preconstruction, that that meant to you that there would be no change orders, correct?

A. That they fully would understand the plans, and they had six months to a year to determine if there was any issues with the plans.

Q. My question, though, is did they ever say that there would be no change orders?

A. I don't remember.

Q. Was there any other description by the -- whoever made the comment, we will own these

plans, about what was meant by that comment?

A. I don't remember.

Q. So the comment was made, we will own these plans, and then there was no further discussion or explanation of what that meant? You simply had an understanding of what you thought they were talking about, correct?

A. It was very clear what their intention was when they said that.

Q. Okay. And their intention was what?

A. That we'll have six months to a year to study these plans. We'll understand these plans fully. So when we give you a price, that will be the price.

Q. The price that they agreed upon is based on the drawings that are reflected in the contract, correct?

A. I assume. I don't really get involved with the contract, the specifics of the contract. I assume that's what they -- I assume the contract reflects what the plan was.

Q. That's pretty basic, though, isn't it, Mr. Bennett, that when you hire a contractor and you want them to do -- to build a building that you give them a set of drawings and you say, give

me a price on these drawings, correct?

A. I think so, yes.

Q. That's what Balfour Beatty did with this contract with you, and we're going to go through it in just a little while. They said, here are the contract documents, the drawings, and here is the price that we're giving you to do all of this work, correct?

A. I assume that's what they did.

Q. That's what's done on every job, isn't it?

A. If you know the answer, why did you ask me? I assume that's what they did, Tom. But I've never -- I mean, those plans are this thick. I assume they gave a contract based on the plans.

Q. Well, do you recognize that -- you're a businessman, correct?

A. I work in hotels and restaurants. I think you could describe me that way.

Q. Right. Do you enter into contracts regularly?

A. Yes.

Q. And if you have discussions that preexist a contract, do you recognize and understand that those prior discussions really are

unimportant insofar as the final written contract is concerned? What governs is the written contract, not what was discussed orally before, agreed?

A. You know, I think, I assume that's the case, Tom, but...

Q. For example, say you have a set of drawings for building a hotel. You talk to the contractor about it and say, what's your price. And they say, $50 million. And you say, no, that's way too much, I want 40 million. And then the agreed upon price is $45 million, and they sign a contract for $45 million. It would be -- it would be unreasonable for them to come in and say we want $50 million because that's what we said in our prior discussions when the actual written contract contains the terms?

A. And I think that's what Balfour Beatty is doing, is asking for money that's outside that contract.

Q. We'll get to that. But the written contract is what governs here, agreed?

A. Yes.

Q. Whatever the terms are in that contract is what the parties are bound to, agreed?

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A. I assume we're bound to whatever the contract says and then whatever happens after that, Tom.

Q. Were there any other comments made by -- okay. If you had -- you were represented by counsel in drafting the contract for this project, correct?

A. Yes.

Q. And Kim Brown was involved with that as well?

A. Yes.

Q. Anyone else from Bennett Hofford or Bennett Hospitality?

A. I would ask Kim, but I would think it would be mainly outside counsel and Kim. I don't know if -- I don't know if Tracy Ray would have looked at it or not. I don't know. I don't know if our real estate lawyer, Foster Gaillard, would have looked at it. I don't know, but Kim and Bill Bundy could answer those, could tell you whether Foster looked at it for us. I don't really know.

Q. My point is that you were represented by at least Mr. Bundy --

A. Correct.

Q. -- in negotiating the contract?

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A. Yes.

Q. And you've got other attorney resources that you can utilize. You can use just about any top-flight law firm here in Charleston that you want to to review contracts if you want to, agreed?

A. Well, I think that's what I did, isn't it?

Q. So, with Mr. Bundy?

A. I don't know if you're implying that --

Q. No. No.

A. I'm a little confused by your question.

Q. My simple question is that, you as the owner, nobody holds a gun to your head and says you've got to sign this contract?

A. Correct.

Q. And anything that's important to you to put in that contract, you can pipe up and raise your hand and say, I want this in my contract, and insist that it be a term. Then the other side can either say yes or no, but you have the opportunity to put in the contract what you want to, agreed?

A. I don't get involved with the

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contracts or the details of the contracts. I have not read the contract. I signed it based on the advice of counsel and Kim.

Q. But you understand -- you don't disagree with my point, though. If anything in this contract with Balfour Beatty was important to you, then you had the opportunity to say I want that included in this contract, agreed?

A. I defer to counsel and to Kim.

Q. No. No. It's a question to you. If you want something in the contract, you can insist that it be in there, can't you?

A. I didn't read the contract, Tom. I signed the contract. So I'm responsible for my signature on that contract. And you know, if we left something out, then that's my problem. And I signed the contract, and I've got to live by the contract, and I'm not going to be mad at Bill or Kim if they left something out or didn't. I mean, you know, they've done it for a long time for me, and I trust that they're doing the best that they can.

Q. I understand, Mr. Bennett. I'm not asking you what actually occurred here. I'm just saying that if there was something that was

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important to you, you could have gotten more involved if you had wanted to and insist on provisions?

A. That's so speculative. I mean, I assume anybody can do anything they want to do about anything.

Q. No. But you as the owner, you can certainly insist on terms in the contract you want to?

A. I don't get involved with that.

Q. Were there any other discussion -- is there anything else that you can testify here to under oath today about comments or discussions or anything else like that precontract that you had with Balfour Beatty that you feel are important to this case?

A. Not that I remember right now. Again, I would ask Kim. You know, we selected Balfour Beatty because we thought they were the best, and the comments that they made to us were part of that decision.

Q. Do you know if as part of the selection process or the vetting process for Balfour Beatty, whether you checked any references or talked to anybody else who had used them?

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A. I would defer that to Kim also. Did I call -- was your question did I call anybody they built a property for?

Q. Right.

A. I don't remember, sitting here today. I would ask Kim. She has a good memory on all of this stuff.

Q. So sitting here today, is it a fair statement that you don't recall checking any references personally for Balfour Beatty? Is that correct?

A. I don't say I don't recall. I would rather say I don't remember it.

Q. What's the distinction?

A. If Kim or if Mr. Bundy or somebody else on the team says, well, don't you remember we did this and we did talk to someone, it might jog that memory. As I sit here right now, I don't remember doing -- checking.

Q. That's all I'm asking. All I can ask you about is what you know and you can testify and remember here right now under oath.

A. Okay. Right now, no, I don't remember calling anyone that they had worked for. That was your question? That was your question, Tom?

Q. Right. Did you check any of the references for Balfour Beatty?

A. I don't recall calling anyone they had built anything for.

Q. Calling anybody or otherwise checking references, so to speak?

A. I don't remember.

Q. So on this contract we've -- this was the biggest project of your career?

A. Yes.

Q. And you have some other projects that are right now in the drawing stage, but have you actually signed contracts for construction yet for the Mount Pleasant project or where the Meeting Street apartments were?

A. I have some things under construction right now, yes.

Q. What are the contract amounts that are for those?

A. I don't know the exact number on the contract amount.

Q. An approximation?

A. You mean a construction contract?

Q. Well, I'll move on. Let's do this. On this particular project, this -- we've already

said this, the biggest project of your career to that point?

A. Yes.

Q. It was a major financial undertaking for you, agreed?

A. Yes.

Q. It was going to be the iconic family legacy for you, correct?

A. It was going to be a very nice project that my family would -- yes.

Q. A legacy project, according to the articles you read, I believe?

A. I don't write the articles, Tom.

Q. Well, anyway, is it your testimony that you did not read the contract that I'm going to ask you to identify in just a minute, you did not read it before you signed it?

A. I don't recall reading it.

Q. Is it your habit to or your usual practice not to read contracts?

A. Yes. I would have Kim and/or Tracy and/or Bill explain them to me, but I would not read them myself.

Q. So you wouldn't read them. You would have somebody explain them to you; is that

correct?

A. Yes. We would have legal counsel explain those to us and Kim on our side.

Q. Did that occur for this project?

A. We're referring to the Hotel Bennett project?

Q. Yes, sir.

A. Yes.

Q. So before you signed, do you recall having a discussion with your attorney and Kim Brown about what the important parts were so that you had a --

A. I don't recall the specifics, Tom. I recall generally selecting Balfour Beatty, and then them -- us ultimately signing the contract. I assume you have the contract. I can review it. I'm sure I signed it, and I'm responsible for it whether I read it or not. But that is the norm, Tom. I think you did ask me that. I don't know. I used to read these things for 20 years, but for the last 20 years I really don't.

(Bennett EXH. 5, AIA Document A133-2-9, marked for identification.)

BY MR. HILDEBRAND:

Q. I'll hand you what I have marked as

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just asking if you recall any discussions relative to the liquidated damages provision in this contract?

A. I think I said that I discussed it with Bill and with Kim Brown.

Q. Do you remember -- who negotiated -- did this contract -- who actually drafted the contract? Do you know?

A. I don't know. I would defer to counsel and Kim Brown.

Q. You don't have any recollection that it originated from Mr. Bundy?

A. I think that would -- I don't know if Balfour Beatty started with the contract and then Mr. Bundy took it over or whether we started with it and passed it down. I don't really remember.

Q. Do you have any recollection as to the contract going through several iterations before the final one, final contract was signed, you know, as the terms were negotiated?

A. As I sit here today, I don't remember any of those things. If that's the question, once again, I think Bill and Kim would know that.

Q. How about as far as the guaranteed maximum price, do you have any recollection about

negotiating any of the specific provisions relative to that?

A. No more or no less than all of the other things about the contract. I don't really get involved with that. That would be to counsel and to Kim.

Q. If the contract specifies at the very bottom of Page 7 under the liquidated damages, it says: In the event construction manager does not achieve substantial completion of the work within the contract time, including approved extensions, the contractor shall pay the owner as liquidated damages, and not as a penalty, the sum of nine thousand five hundred dollars -- that's written out. Then it says $9000 in Arabic numerals -- per day for each calendar day of delay. Do you see the discrepancy there?

A. The discrepancy?

Q. Yes, sir.

A. Oh, it says nine thousand five hundred, but it was typed in 9000. Is that your point?

Q. Yes, sir.

A. I see it, since you pointed it out.

Q. Do you know which one was intended?

A. No.

Q. It's, obviously, an inconsistency. Do you know which one was intended?

A. Not as I sit here today.

Q. Who would, if I were to -- if Balfour says it was intended to be $9000 and if you say -- well, if Bennett Hospitality says -- Library Associates says it's actually $9500, who would be arguing that point from your perspective?

A. I assume counsel and Kim.

Q. Does it ring a bell with you that the contract was intended to be -- the work for the contract was intended to be completed within 28 months?

A. I think it was 27 months, is my recollection, but I don't know if that's my recollection from when I signed it or when Kim may have told me that. I think it's 27 months or 28 months.

Q. Okay. Well, 27 or 28. We'll go through the provision here shortly. But would you agree that that term is based on a contract period that would assume that the construction would progress in a customary manner and without unusual disruptions and delays?

A. You know, I don't have enough knowledge about why they're so late, Tom. I mean, the contract is the contract, and they finish when they finish. I don't know that I can answer that question with any authority or with any facts.

Q. Do you have any understanding when this contract was signed with Balfour Beatty and the design documents were specifically referenced in it, were those intended to be the design documents that Balfour Beatty was to construct the project by?

A. I wouldn't have any idea. I assume there's a contract and there's a set of plans, and that's what it is.

Q. Wouldn't it stand to reason, just common sense, that if the architectural design documents are specifically incorporated, that the price is based on building it according to those design documents?

A. I assume we have a signed contract, and we have a signed set of plans that was -- that that contract was based on.

Q. Fair enough. Right. Do you understand just generally, do you understand generally that if there are changes that the owner

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wants that increase the cost of the work, that the owner is responsible for paying for those changes?

A. I assume there's a contract that would reflect what the actual obligation is, Tom. It's approved by -- everybody has to approve it, and then I sign it. I assume that I've signed that additional contract, and if it's not been signed or approved, then it hasn't been signed or approved.

Q. But just from just a general standpoint, based on your years of experience as a developer, you would expect that if the work that's depicted in the contract gets changed by the owner at a cost increase to the contractor, that the contractor would be entitled to payment for the increased cost?

A. That would just be speculation for me to answer a speculative question. I don't think you want me to do that. I think if there's change orders that are approved -- and they have to be approved by people outside of me. I don't approve them. If they get approved and signed, I think we all have to live by it. If they're not approved, then maybe that's why we're here.

Q. Fair enough. And maybe we can

short-circuit a lot of these questions. Basically, I think you have already said this. The contract says what it says and means what it says, and both Balfour and you are obligated by those terms, agreed?

A. I would probably defer to my counsel on that, but I assume if I have signed the contract, then I have to live with the contract.

Q. From what I understand, you don't have any personal knowledge or testimony to contradict any of the contract language that you feel would be binding in this case; you'd just simply say, look, what I think doesn't matter, we have to return -- we have to refer to the contract, because I don't have any specific recollection?

A. I would say what I think doesn't matter. I think what the contract says matters and what my counsel thinks and my sister Kim thinks, that they could add anything to that question that might be beneficial to the process.

Q. Were the contract provisions ever negotiated across the table with somebody from Balfour?

A. You know, we had a couple of meetings at the Rice Mill Building and I think at the

Embassy, where we were talking about the contract. I don't know if it was specifically about what you just said, but we were talking about the contract, you know, before we signed it. I think there were a few meetings after they started construction.

Q. My next question is, if there were contractual discussions, do you remember, do you have any recollection of who was on the other side from Balfour, who you dealt with or who their representative was?

A. You're referring to a specific meeting that you know about that you're asking me about?

Q. No, sir.

A. You're just saying, in general, in the last five years have you ever met with them? It's a real wide-open question. It's hard for me to give an honest, direct answer. We had several meetings with them before and several meeting with them during, and the Balfour Beatty team, whoever they are, were there.

Q. My question to you is really pretty specific: Before the final contract was signed, do you recall the names of any persons on the Balfour side who were actually negotiating the contract?

A. I think it was those three I mentioned: Mike Bombeck, Pat Dean, and Jeff Sandeen. And then there was an African-American woman, I believe, involved in there, and then there was a superintendent. I don't know if he was a superintendent or whether he was the estimator, but I remember the African-American woman and another man there who was not Jeff or Pat or Mike.

Q. What were the obligations of the owner and the architect? Do you understand that on a project like this sometimes the contractor may have questions about something in the drawings that they need answered?

A. What was your question, Tom?

Q. Do you understand that in a project like this frequently a contractor will have a question related to the design that he needs to have answered by either the owner or the architect?

A. Is there a specific example that you're referring to?

Q. No. It's a general question.

A. Just in general?

Q. Yes, sir.

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A. I would assume the contractor would talk to the architect or to the project manager or the company or...

Q. Do you have any understanding, is there any time period that the architect -- let's say the general contractor has a question about the design. Do you have any understanding, sitting here today, about what obligation the design team has in response? Is there a particular time that they have to respond within, or do you have any knowledge?

A. I don't know. I don't know if it specifies it in the contract or not.

Q. How about as far as the owner is concerned? If the -- let's assume that the contract has a provision that has an allowance and there has been some aspect that has not yet been decided. Say an allowance for the flooring. So the owner has to decide what the flooring is going to be in the lobby, okay, just hypothetically. If the contractor tells the owner, you need a decision on the flooring, is there any obligation on the owner to respond with any particular amount of time?

A. I assume it would be in the contract.

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Q. The contract, I'll represent to you, says: Within a reasonable time. Does that ring a bell with you?

A. You know, if that's what you tell me, I believe you.

Q. Would you agree that a reasonable time would be a time that would not delay the contractor?

A. You know, I'd rather not be the one who defines what reasonable is. I don't -- again, I think counsel and Kim could help you, and maybe the project manager. I don't know if there's an art to that term as it relates to architecture and construction or not, right.

Q. Were there -- the contract that was signed in this job dated September 22, 2014.

A. That's the date I signed the contract?

Q. That's the date that's shown as the contract date on the very first page at the top, September 22, 2014.

A. Yes, sir. I see that.

Q. Did the design of the building change after that date?

A. I wouldn't know.

Q. You have no recollection?

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A. I'd ask Kim and the project manager, could probably tell you.

Q. So sitting here today, you don't -- you have no recollection, Mr. Bennett, of any design changes that took place on this project since -- from the time that the contract was signed with Balfour Beatty on September 22, 2014?

A. That's five years ago, Tom. If we requested a change, then I'm sure we would have signed it, and there would be a record of it. Rather than speculating on what I remember from five years ago, I'd rather react to an actual -- if we made any request for changes, the actual -- the document and if we signed it or whatever.

Q. So sitting here today, not -- I understand we can look at the documents, and the documents will speak for themselves, and we can do that.

My simple question to you is, Mr. Bennett, based on your recollection sitting here today, do you recall that there were any design changes from the time that the contract was signed with Balfour Beatty up until the time the hotel was built?

A. Tom, I'm working on designing several

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other projects right now. So I have not studied this information to refresh a memory that may be years and years old. I'm sure Kim would have a specific recollection if what you asked happened, and I'm sure she could perhaps remind me of what change we did or didn't make.

Q. So is it a fair statement that, sitting here today, you cannot testify under oath about any design changes that occurred in this job from the time that Balfour signed this contract?

A. Tom, I don't do that for the company. I'm not involved in that. My sister is.

Q. Fair enough.

A. And Jim are. So there may be a document that you can produce that says, Mike, you signed you this and you had to know about it. I don't remember as I sit here right now. It would not be my normal MO to be heavily involved with any of that.

Q. It's a very simple question, and I think you have answered it. But sitting here today, without referring to documents, you can't recall or testify about any design changes in this building from the time that Balfour signed the contract, agreed?

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A. I tried to answer it the best way I could, and I just did that. So I have answered it the way I answered it.

Q. Correct?

A. I'm not trying to -- I'm trying to be 110 percent honest, and I have answered it the way I have answered it.

Q. The answer is yes, you cannot identify based on memory any design changes from the time, correct?

A. If you want to ask her what I just said. I'd like to stick with what I just said. I don't want to have to regurgitate what I just said. It's not part of my process to be reviewing these things, and so if there were changes that we requested, then there are changes were requested. If the changes we did not request, we didn't request them. And as I sit here right now in this very moment, I don't remember a specific change that we requested, and yet I assume there may be some.

Q. Do you have any -- sitting here today without referring to the contract documents, do you have any recollection about whether Library Associates was to self-perform any of the work

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with its own forces?

A. I don't. I don't. I don't know that.

Q. Fair enough. Mr. Bennett, I don't mean to embarrass you by this question. I honestly don't. But do you have memory problems?

A. I don't think so.

Q. Do you see a physician, or have you seen any medical providers for any memory issues?

A. No. I'm not involved with the day-to-day operations of these projects.

Q. I guess, Mr. Bennett, I'm just a little bit perplexed. If this is the biggest project of your life and the descriptions of it were as we talked about, it just seems that you would remember what happened from the time that the contract was signed up through construction, but you just don't, correct?

A. Tom, I'm working on ten other hotel projects. My sister Kim would perhaps have any answer that I couldn't answer, and that's the way our company has always been run, Tom. I don't get involved once these things start up. I'm just not involved with them.

Q. But you were involved on this project. You were heavily involved, weren't you?

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A. Tom, I don't think I reviewed one construction draw in the several years. I never reviewed any of this. So the draws would be approved by whoever they're approved by. I assume by the project manager, the architect, my sister Kim. That's how we operate this company, and I don't get involved with all of those details of any of these things.

And you, you didn't embarrass me. You should embarrass yourself by saying that as a mental impairment. You know, there ain't many people who have been able to do what I've done in this town based on how I started. To suggest that is a little -- you know, you should be ashamed of the comment.

Q. I can tell you, Mr. Bennett, that I meant no disrespect. I can tell you that my memory is not as good as it used to be.

A. It must not be, because I have answered all of your questions very clearly. I want everything on the table. If you talk to Kim, I think she can answer a lot of them. She is the one in the weeds on all of this. She'll answer whatever she can answer, and I think she'll do a good job for you. I'm not withholding any

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information from you. I have a contract. I have to live with it whether I like it or not.

Q. All right, sir. So let me understand how things actually worked on this job based on your recollection. Your recollection is you didn't read the contract and that you didn't review any written documents related to this project, correct?

A. Tom, the general -- the way we generally run our company is that the counsel will provide the information. Kim reviews it. On occasion Tracy in my office reviews it. We'll sit down. If I have a question, I'll ask a question. If I don't have a question, I don't ask a question. I trust them that they can do as good or better job than I can in what I've asked them to do. I rely on them. I accept what they usually present to me when they tell me everything is done, it's okay for you to sign.

Q. Mr. Bennett, what I'm trying to figure out is how things worked on this job. Is it a fair statement that you didn't read virtually anything related to this project; what happened was Kim Brown would come to you and say, we need a selection on the lobby desk, and, Michael, we need

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your input on it?
A. Oftentimes they would not even ask.
MR. BUNDY: Objection to form of the question.
THE WITNESS: Oftentimes they would not ask me that. I don't need to make all of those decisions. Other people would make those decisions for me.
BY MR. HILDEBRAND:
Q. The decisions that you did have input on -- and there were decisions that you had input on, agreed?
A. Yes.
Q. The way it happened was you were simply told by Kim Brown that your input and your decision was needed, hypothetically, for the lobby desk. You didn't review any documents. You just relied on Kim to relate to you what was needed, agreed?
A. Yes.
Q. All right. And then you would respond to her with whatever direction that you might have, and it would be in an oral context?
A. Yes, or whatever direction she might tell me. So she's a senior person in that

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company. She's my sister. She runs that company.
Q. So all of your communications on this job were oral, correct?
A. I mean, I sign my name to the contract. So that would be in writing.
Q. No. No. No. I'm asking about your actual communications. You don't have email, right?
A. No, I don't.
Q. You don't text?
A. No.
Q. Everything that you do with Kim Brown, might have been with Balfour Beatty, or anybody else; it was all just oral, agreed?
A. Yes.
Q. What did you do to prepare for your deposition here today?
A. Not a whole lot. I did meet with counsel.
Q. When?
A. Yesterday.
Q. For how long?
A. Not long.
Q. Ten minutes?
A. No.

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Q. An hour?
A. Yes, an hour.
Q. What else?
A. I think that's it.
Q. Did you talk to anybody regarding this case?
A. I talked to counsel.
Q. In preparation, other than counsel?
A. I don't think so.
Q. Have you spoken with anybody from Balfour Beatty about this case since it was filed?
A. I don't think so.
MR. HILDEBRAND: Off the record.
(A lunch recess was taken.)
MR. HILDEBRAND: Back on the record.
BY MR. HILDEBRAND:
Q. I'm trying to understand what role you had during the construction of this project. Is it your testimony that you did not review pay applications that Balfour Beatty submitted?
A. Correct.
Q. Did you ask about them, or were you told about them by anybody?
A. That would not be -- normally they would process them, I think, once a month or so.

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I would not normally be in that loop unless -- I was not in -- again, Kim Brown would be doing that, and Jim Clements and the architect.
Q. What was the role of Jim Clements and the architect in reviewing pay apps?
A. Jim was the project manager for us. And then the architect, I believe, has to approve the contractor's request, and I believe the bank had a representative also who would approve the pay apps. I think that's how that works, Tom.
Q. So the pay app request, as you understand it, Balfour Beatty would submit it. It would be approved and then reviewed by Jim Clements, then reviewed by Buck Lindsay. Buck Lindsay would sign it as appropriate to pay, and then it would be paid?
A. That's the way I understand.
Q. How about change orders, did you review change orders before they were executed?
A. I personally did not.
Q. At any point did the project go over budget, to your knowledge?
A. You know, Tom, I think the original project was 59 million. I don't know if I remember that. I saw that in here, but then I

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think it went up to 65 million or 64 million. I think there were some approved change orders. I don't know what they would have totalled.

Q. But then, as you understand it, there were change orders that were issued by the owner that increased the contract amount from about 59 million to about 64 million?

A. I don't know if they were by the owner or by the contractor or by the architect. I'm not sure.

Q. Was the undisputed contract amount changed, to your knowledge, from about 59 to 64?

A. Is it reflected in this contract, Tom? If that's what it says, that's what it says. I think it changed, and I don't know if it changed before we started or after we started. I think it was before we started, but Kim would answer that very quickly and clearly. Is it reflected in this contract?

Q. It's on the pay applications. I'm certain there are change provisions in that contract. But my question to you is, sitting here today, do you have a recollection that the owner-approved changes to the contract amount increasing it from 59 million to 64 million, does

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that ring a bell to you?

A. I know it increased to about 64, and I can't tell you if that was changes that we did, the architect did, Balfour Beatty did or whatever, but I think that was approved by everybody, I believe.

Q. You said, I think you testified that your sister Kim Brown reviewed pay applications and then signed them; is that right? Or she authorized the payment; is that correct?

A. I think the architect and the bank's -- I think the bank had a representative. The architect was involved. Jim Clements was involved, and Kim was involved. So I think all four of them had to come to agreement, I believe.

Q. How about for change orders, did Kim have authority to execute change orders?

A. Yes.

Q. Is there anything on this job that Kim Brown did not have authority to do?

A. You know, it probably required my signature with the bank or on these things, but she could do them, and then I might have to sign something to reflect what she was wanting me to do. I don't know that she had signature. I don't

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know if she signed the pay apps. I assume she did. We can look at the pay apps and it would tell us who signed it.

Q. Your recollection is that you didn't ask any questions; basically you just relied on her to --

A. You know, I'm not heavily involved with the details once these things got started, Tom. So I would say 99 percent of the stuff would go through her.

Q. Is it a fair statement that Kim Brown, for all practical purposes, had full authority to act in your place for everything that was going on with this job?

A. I think so. I don't think she was allowed to sign because she wasn't the signature on the loan, or she wasn't signature on the contract -- with the contract I think. They still needed me for something, you know.

Q. Basically, that was she would just say sign here, sign here?

A. Yes, this is what this is, this is what we're doing. Again, on change orders, I don't know if she signed them or not. Hopefully, we've got a change order here somewhere. We can

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look at it. She ran that job for our company.

Q. How about Jim Clements, did he have full authority as well to speak on your behalf and act as your representative on the job?

A. He acted as our representative, yes.

Q. Did he have authority to?

A. I'm a little worried about that word because that implies to me that he could go sign something, and I don't think that he had the right to sign something. Again, I think it was Kim and Jim and the architect who would kind of agree on it. So that's my understanding of it, Tom.

Q. So is it your recollection and understanding that Jim Clements didn't have authority to actually sign documents or make commitments on behalf of the owner; that had to be done by Kim Brown or you?

A. I don't think he could do that independently without Kim knowing. I don't think he would make changes to the contract without Kim being in that loop.

Q. So basically, so if there was something -- if there's a change or some sort of document that needed to be executed on behalf of the owner, Jim Clements would need to go through

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either Kim or you to get approval for that?
A. Or to explain to Kim what it was. He might tell her we need to do this, this is per the contract, this wasn't in the contract, we need to do this, so.
Q. Then how about the architect? Did the architect have authority on this job to act on your behalf?
A. Again, I think the architect and Jim and Kim were in that loop on all of the draws. So does that mean he had the authority? I mean, he's an independent architect. He would agree or disagree with the draw request, I believe is how that works.
Q. Well, for the -- say a pay application is proposed by Balfour Beatty. Do you know if the architect before executing it would touch base -- I think you may have already answered this. Will he touch base with Jim Clements and with Kim Brown, say, was this appropriate --
A. I really don't know how they do it. They do it. I'm not involved with that. So however they're supposed to do it. I assume they did it the way they were supposed to do it. But I'm sure you will interview those people also.

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Q. So you don't have any personal knowledge or testimony about what authority the architect had on this job, correct?
A. Whatever the contract would specify that I had with them. I would think that would be the proper authority.
Q. Right. I agree. That's what governs. But I'm talking about from your independent recollection. You don't have personal knowledge --
A. You know, Kim met with him and talked with him regularly. I didn't talk with him regularly. Kim would have talked with him regularly throughout the project.
Q. Let's go back to -- did you mention earlier that there were preconstruction or precontract services that were provided by Balfour Beatty?
A. I believe, yes, that's what you would call that, I think. I think we paid them a fee to go through those plans.
Q. Did you say about $50,000?
A. It could have been 100. Could have been 50. It was some kind of number. It wasn't for free.

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Q. Did you understand, do you understand that the -- that Balfour Beatty does not have the authority either in the contract or under law to act as the designer and actually design the project or provide design functions?
A. You know, I think we hired an architect to design it and interior designer to do the interiors. I looked at Balfour Beatty as the contractor.
Q. To built it according to design, correct?
A. I don't know if they had any obligation on certain design items. I don't know. It would be in the contract if they did.
Q. How often did you visit the project? Were you physically on site of the project?
A. Not frequently.
Q. Can you tell me what that means? Once every other day? Once a week? Once a month?
A. I would say if that project -- I believe it was a 27-month project. I think it was finished in 45 months. I don't think I was there 45 times. I do not think I was there 45 times, which would be once a month. So less than that.
Q. Do you have any expertise in

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scheduling?
A. No.
Q. Construction scheduling?
A. No.
Q. Do you have any opinions relative -- do you know what the critical path is? Have you ever heard of that?
A. Yes.
Q. What is it?
A. The schedule the jobs take and kind of where they are in that schedule.
Q. Do you know anything beyond that, beyond that definition?
A. If you ask me a question. I think that's what a critical path is, is the schedule of the job.
Q. The schedule of the job, okay. How about Kim Brown, how often was she on site?
A. You should ask her, but she was -- Jim was the point person, but Kim would have been our point person also.
Q. So you have no knowledge?
A. I'd rather not speculate, but I would say surely as necessary. Our office is right down -- down not far from there.

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Q. As I understand it, you did not hire any additional people when the Hotel Bennett started, correct?

A. We hired Jim Clements to be the third-party project management company. I don't think we hired anybody inside our offices, if that's what your question was.

Q. How often did you expect Jim Clements to be on site?

A. Whatever was necessary.

Q. Not a certain number of times or anything like that?

A. I don't know what the contract says. I'd rather refer to Kim and Jim on the contract.

Q. How about the architect, do you know how often they were on site?

A. I'm sure there was a contract that would say.

Q. Do you have any personal knowledge?

A. Other than whatever the contract might say.

Q. How about, did you have any direct contacts with Balfour during this project?

A. During the project?

Q. Yes, sir.

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A. If I -- yes, I'm sure we had some meetings during the project over that 45 months.

Q. Would you ever attend any of the owner architect contractor meetings?

A. Who would have been in those meetings, Tom?

Q. They're called OAC meetings: owner, architect, contractor.

A. You know, I think I went to one of two of those. I think they had a big one at the Embassy Suite one time in the conference room. I remember being in there on a meeting with Balfour Beatty and the architects and Jim and Kim and whoever else. I don't remember. I was not regularly at those meetings.

Q. What was the -- do you remember, what the reason for that meeting was?

A. Not really. I can speculate it was on the schedule, but I don't -- I would be speculating. It happened so long ago. I don't really remember the discussion in that conference room, but I remember being in the meeting in that conference room.

Q. Do you understand that the -- this dispute relates in part to the fact that Balfour Beatty was not paid, did not receive payment from Library Associates for its last two -- last couple of pay applications, in particular the last one?

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A. I think on the last one I was aware of that.

Q. Why was Balfour --

A. I think the architect decided that they -- that, one, the job wasn't finished, and the amount that was owed to Balfour, what they would owe us would exceed that -- what Balfour would owe Library Associates would exceed what that final draw was, and the architect recommended not making that payment.

Q. Do you consider this is a significant lawsuit that's been filed?

A. That Balfour Beatty filed?

Q. Yes, sir.

A. You know, do I think it's a big lawsuit?

Q. Right.

A. Yes. I think it's not true and not accurate. But yes, I think it's a big lawsuit.

Q. What's not true and accurate about it?

A. I think they owe us a lot of money, and I don't think we owe them -- that the amount

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that they will owe us at the end of this will far exceed what we would owe them.

Q. Well, what was the basis when it was decided on that last pay application not to pay Balfour Beatty?

A. I didn't get involved with it. I know that they thought -- the architect thought that what they would owe us would exceed what that final draw was. And they, in the architect's opinion, never finished the job. As you might know, Tom, after they quit showing up for the job, we brought in other companies to finish it.

Q. We'll get into that. So sitting here today, you cannot -- is it a fair statement that you can't testify as Michael Bennett, basically, the owner of the project, why it was that Balfour was not paid its final contract amount?

A. I think I answered that.

Q. I think you said that the architect said don't pay it?

A. That they had determined that what Balfour Beatty would owe us with the amount of work still needed to be done and perhaps with the damages that they would owe to us being -- how many months is that, Tom? It was supposed to be

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27, and it was 40- -- somebody tell me how it went. The project finished in January. It was supposed to finish in August of '17, and it finished in January of '19. So I think it's 17 months behind schedule. And with all of the significant damages from that and from the fact that we had to finish the project, that's what was decided.

Q. So let me understand your testimony. It's your understanding that the reason that Balfour was not paid its final pay application was it was -- the project was not completed on time?

A. Project was not completed, and it was not completed on time.

Q. Wasn't completed until January?

A. Wasn't completed -- Balfour Beatty didn't complete the project.

Q. You say you completed it in January, your forces?

A. I didn't complete it, but we hired another company that completed the project.

Q. So it was to complete the project -- because Library Associates had to expend money to complete the project and because there were delays; is that correct?

A. I think that's part of that, yes.

Q. Was there anything else?

A. I don't know. You should ask the architect and ask Kim.

Q. I'm asking you, though.

A. And Jim. I told you what I think and what I know, Tom. I don't know any more. I have told you everything I know about it. I tried to answer.

Q. The only two reasons that you are aware of sitting here today --

A. I don't want to say the only. I've said they didn't finish the job. We had to bring in another contractor, and the amount of damages we had far exceed the amount that was owed. Generally, that's what it is. Does that mean only? I wouldn't use the word only, because there may be something else in there, but that's generally what it is.

Q. Does the architect share in the responsibility for any of your damages?

A. I don't know.

Q. Have you been told by anybody that the architect is responsible in whole or in part for any of the delays on the job?

A. I don't know.

Q. No. I'm asking you. Have you been -- not asking if you don't know. Have you been told by anybody?

A. I don't know, or I don't remember. I'm trying to give you an honest answer, Tom. I don't know or don't remember.

Q. You can't recall anybody criticizing the architect as being the cause for any of the damages or delays that were sustained; is that a fair statement?

A. I don't recall.

Q. Have you asked anybody since this lawsuit was started, have you asked Jim Clements or Kim Brown or the architect to say, listen, what role does the architect have in the damages that we have sustained?

A. I don't personally get involved with this lawsuit. Kim and Jim ran the project, and I let them. They have the information. I don't have the information, Tom.

Q. So even though it's ultimately your money --

A. It is.

Q. -- and you're the president of the

company and --

A. That's right.

Q. -- and the buck ultimately stops with you, right?

A. And all I want is the right thing to happen, whatever that is. I'm going to live with it. That's it. That's it. And I ain't driving -- I ain't driving it. You know, whatever -- it's all in the past. So whatever happened happened. Whoever is responsible is responsible, and then ultimately that will be decided one day in the future, and I'll have to live with that decision.

Q. Right. Whoever is responsible is responsible, whether it's you, whether it's Jim Clements, whether it's Buck Lindsay, or whether it's the interior designer, correct?

A. Well, why don't you complete the sentence.

Q. And/or Balfour?

A. There you go. I think those are the people who worked on it.

Q. But who among that group might have actually caused your damages, you don't know?

A. We think Balfour Beatty did.

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Q. Pardon me?
A. We think Balfour Beatty did.
Q. And what is the basis for that?
A. That's what we've just been talking about, Tom.
Q. I mean, what is the basis other than the owner, the architect --
A. They're 17 months behind schedule. That's a big part of it.
Q. Well, we know that the --
A. We have construction experts in Jim, and we have -- and then my sister Kim could really help you on these things.
Q. Okay. Well, is it your position that the contract schedule, I understand is 28 months, was planned to -- the project was planned to and then completed by July 30, 2017. Is it your position, Mike Bennett's position, that all of the delay is attributable to Balfour Beatty?
A. I don't know if that's -- if all of it is not, and rather than saying it's a position, it would be my understanding that they were responsible for the majority of that time delay. I don't know if some of that was attributed to us or the architect or not. To me it is kind of

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whatever it is.
Q. I understand. Do you know why the architect is not a party to this lawsuit?
A. I don't.
Q. Have you asked anybody?
A. I don't think so.
Q. And you haven't had any discussions with Kim Brown or Jim Clements or anybody else as to say, well, why isn't the architect at the table?
A. I don't really know. That's a good question. I don't know.
Q. Same question for the interior designer: Do you know why they're not at the table?
A. I wouldn't know. I didn't decide who would get sued. I don't have that expertise.
Q. Was the project completion an important aspect of this job for you? When you signed the contract, did you have a general understanding? You said you thought it was 27 months?
A. Whatever the contract says.
Q. 27, 28?
A. Okay.

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Q. So it works out to about July 30, 2017. Did you know that when you -- did you have an understanding when you went into the job about how long it was going to take, was supposed to take?
A. Yes, of course.
Q. So when that deadline was passed, either the responsibility -- with the deadline -- when the project completion deadline was exceeded, then there had to be some reason for the deadline not being met, correct?
A. Yes, probably incompetent leadership on behalf of Balfour Beatty's part.
Q. Why do you say that?
A. Because it wasn't finished in the time frame it was supposed to be finished.
Q. There are all sorts of reasons. What is the basis for that, though?
A. That's what I said. That's what I think.
Q. What is the basis for Balfour Beatty's -- what can you point me to directly?
A. It was supposed to be finished in 27 months, and it took 45 months.
Q. So it was supposed to be finished

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within a certain period. It wasn't finished until later. So it's Balfour Beatty's fault?
A. I believe that's true, and if the architect is responsible for something or we're responsible for something, then I'm sure we'll take ownership of that.
Q. What will convince you that you need to take ownership of it?
A. Facts that show us that we should take ownership of it.
Q. What will convince you to --
A. I've got no idea what -- what's in the future can convince me of something, Tom. Nothing has convinced me yet.
Q. Have you asked to -- have you reviewed -- I think I know the answer to this. But have you reviewed any of the project documents --
A. No.
Q. -- to determine whether other people or who might be responsible for how much of the delay?
A. We believe it's Balfour Beatty.
Q. My question, though, is, you said you don't know what document you might see that might convince you otherwise. Have you reviewed any of

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Q. I'm asking you. Are you aware of any provision --

A. I believe we would be entitled to the damages that I started describing to you.

Q. What is the basis of that?

A. You'd have to talk to counsel.

Q. No. I'm asking -- you've got no idea? You have no basis for it?

A. We suffered those damages. We think Balfour Beatty is responsible.

Q. Whether they are barred by the contract or not, you don't have any opinion?

A. That's one sentence in a 200-page contract.

Q. The damages that I've read into the record just a moment ago where you're claiming liquidated damages in the amount of $5,177,500, and I said, I think -- did you testify that that was computed by the number of days delay times liquidated damages?

A. I would assume that's what that is. I don't know if that's what it is. I assume it is.

Q. Do you have any knowledge, or are you aware of a cap in the contract on the amount of liquidated damages that the owner would be

entitled to?

A. I don't know. Is liquidated damages different from these other damages that we're discussing? So I'm putting everything under damages. So I would think we would not be a cap on them for overall damage.

Q. Let's turn to Page 7 of the -- from the very start. At the very bottom, do you see Section 2.3.1.3?

A. 8.2.31.3, yes, sir.

Q. No. This is on Page 7. Section 2.3.1.3.

A. Yes, I see that.

Q. In the event construction manager does not achieve substantial completion of the work within the contract time, including approved extensions, the contractors shall pay the owners liquidated damages, and not as a penalty, the sum of $9500 (9000) for each calendar day of the actual time of performance to achieve substantial completion, which amount small not exceed the amount of contractor stated fee. Such liquidated damages are hereby agreed to be a reasonable estimate of damages the owner would incur as a result of delay, completion of the project -- of a

delay of completion of the project, and shall be owner's sole and exclusive remedy for delayed completion of the work.

Reading that as a layman, does that provision of the contract appear to you to limit the amount of liquidated damages to the contractor's fee?

A. I don't think it does, but you should talk to the counsel on that, because our losses are so overwhelming. Liquidated damages can't come even close to compensating for the losses we have. That will far exceed $50 million. And whether this clause protects your client or doesn't, I don't know. I'm not -- this might be my second deposition, Tom. I don't know. But we're going to take this case to court, and we're going to find out what somebody else thinks about that.

Q. Are you aware of, or have you been advised of a provision in the contract that requires the owner to provide Balfour Beatty with notice if it is going to claim consequential damages against Balfour Beatty?

A. Again, I would defer that to counsel.

Q. So you have not had any discussions

with anybody about whether there is any notice provision?

A. I don't know if I have or haven't, but I would defer that to counsel and to Kim.

Q. Do you think it's appropriate otherwise, even without a contractual provision, that if the owner is claiming that Balfour Beatty has breached the contract and has caused damages that the owner advise Balfour Beatty of that fact?

A. I don't know.

Q. You don't think it's appropriate to advise?

A. I'm not a lawyer. I don't know what's the right protocol, Tom. You can ask our counsel. We know we suffered significant damages. We're pursuing it, I think properly, and pursuing it in the manner that I think we should pursue it by advice of counsel.

Q. I'm sorry if I'm repeating this question. But do you have any knowledge that anybody informed Balfour prior to the architect holding payment in January that the owner had a claim against Balfour for liquidated damages or otherwise in this project?

A. I would ask Kim, Jim, and counsel.

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Q. Are you aware of any documents that would establish that?
A. I'm not.
Q. Are you aware of, has anybody told you that Balfour Beatty has made claims for damages caused by delays in this project prior to this litigation being filed?
A. I think that they have sued for an exorbitant amount of money. So I assume it includes those things, but I can't tell you what everything they have sued under. But it's a big number.
Q. My question, though, is prior to this lawsuit being filed, has anybody told you or made you aware that there were any written claims or notice of damage to the owner by Balfour for damages --
A. Tom, I was not the point person on this project. So Kim and Jim and counsel and the architect know all of these answers. The fact that I don't know these answers doesn't make me mentally have a bad memory, like you suggested. That wasn't my job. I don't know the answers to those questions, but I bet you between the counsel and Kim and Jim and the architect, they know the

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answers to all of them.
Q. That's not the answer to my question, Mr. Bennett. My question was, sitting here today, do you have any testimony where you recollect anybody during this project advising you that Balfour Beatty was claiming that it was suffering damages as a result of delays and cost overruns?
A. I just answered that question. It may not have been.
Q. Is your answer, no, you don't have any knowledge of it?
A. I answered it the way that I answered it.
Q. Do you have any knowledge?
A. I gave you an answer, Tom. I'm not trying to play any games. I'm trying to be -- I'm not in the weeds on any of this stuff. Go to Kim, Jim, the architect and Bill Bundy and find out everything. I want everything to be -- I know very little about all of those things. That's not what I do for my company.
Q. Are you aware of a mediation that took place in this matter?
A. I'm aware. I went to one mediation that took place at Mr. Bundy's office. I'm aware

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of that mediation.
Q. Who was the mediator?
A. I don't know.
Q. Does Tom Wills ring a bell?
A. I don't know who the mediator would have been. Mr. Bundy would know. It was in his office.
Q. I'm not asking you what transpired at the mediation. But the claim was not resolved; is that a fair statement?
A. I think that's a fair statement.
Q. Leading up to the mediation there is a claim that had been asserted by Balfour. Are you familiar with that?
A. Not really, but if we had mediation -- no, I'm not.
Q. So sitting here today you have no memory of what it was that Balfour --
A. You keep referring to my memory, which is getting a little tiresome for me. It's not what I did for my own company. I don't sit in on those meetings. I don't do these things for this company. I'm off working on other projects. So you constantly describe it as I have a lack of memory about it. I just wouldn't have been

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included in that necessarily, Tom.
Q. But you went to the mediation?
A. But Kim and Jim and the architect and Bill would know every question that you have asked today, and you constantly refer to mine as because of a bad memory, and I think that's a -- that's an incorrect analysis on your part.
Q. I'm simply asking, do you have any memory of what the precursor was to the mediation? What was the basis of Balfour's claim?
A. No.
Q. Do you have any recollection or knowledge of it?
A. No. We had a mediation that didn't resolve anything, to my knowledge.
Q. Have you had any discussions -- let me understand your testimony. Prior to receiving notice from the architect in January that it was going to withhold final payment from Balfour Beatty, did you have any discussions with anybody about withholding money from Balfour?
A. Not that I recall. Again, Kim and those other people I keep mentioning would know that.
Q. Did you ever tell Balfour that it

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could expect to be paid and you planned to pay the money that it was owed for this job when the work done?

A. Tom, I didn't have very many conversations with Balfour. I wasn't the project manager. I wasn't the person in my office who ran this job. So I didn't have any of those kind of conversations. But I want you to get your answers. I would refer you to Kim, Jim, the architect, and our counsel.

(Bennett EXH. 7, 9/18/2019 Letter to Judge Young From Attorney Bundy, marked for identification.)

BY MR. HILDEBRAND:

Q. All right. I'll hand you what's been marked as Exhibit 7. Have you seen that document?

A. When was this drafted, Tom?

Q. It was sent to Judge Young September 18, 2019.

A. What date was that? What is today's date?

Q. 26th, I believe.

A. 26th. I was out of town, I believe. I believe I read it. I'm aware of this letter, if that's what your question is.

Q. The third paragraph down on the second page says: There is a report from a forensic accountant showing that potentially $13.8 million is duplicative or excessive. Do you know anything about, have any knowledge about that document or how that figure was computed?

A. Not really. I think they said that Balfour Beatty had originally liened it for 8 million, then went to 12 million, and then the subs added liens equal to what Balfour Beatty's were. So it got to 24 million, and I'm assuming that that's what that is referring to.

Q. On the first page it says that: The mechanic's liens total in excess of $26 million. Then on the second page it says that: You have been required by the bonding company to bond off the liens?

A. Yes.

Q. Is that correct?

A. Uh-huh.

Q. Who told you that you were going to be required to bond off those liens?

A. I'm sure Kim did, but I believe she would have gotten that information from the bank.

Q. Who is the bank representative she deals with?

A. MetLife is the bank.

Q. Do you know who the individual is?

A. I don't know who she talks to. I know the man who I borrowed the money from. I don't think that's the one who administers these things.

Q. The letter says that you are required to bond off the liens by September 30, 2019; is that correct?

A. That's where it stands today.

Q. Is there any request for an extension?

A. I don't know if it's been in writing yet.

Q. What is the request?

A. I don't know. I think we've got -- we just got an emergency court hearing next week, I think. Isn't that -- can I ask you that? Isn't there an emergency court hearing next week on this issue?

Q. There is a hearing next week on the bond issue.

A. We'll determine what needs to be done after that hearing.

Q. If the bond is not reduced at that hearing, when will you be required to bond off?

A. Whenever the bank requires me to bond it.

Q. This says September 30th. I think that's next Monday. Have you got any extension since beyond that?

A. I have to ask Kim. I think Kim has spoke to them and told them about this emergency court hearing.

Q. Do you have any idea what the extension is that you have gotten?

A. No.

Q. Is it several days? A week?

A. I have no idea.

Q. You didn't ask her?

A. No. She said we're going to go to court, and then we'll make the decision what we have to do.

Q. It says: The bonding off the liens requires an annual fee of one percent of total liens, approximately $330,000. Most importantly, this requires my client to post collateral in the amount of one-third of the total liens plus one-third, approximately $10 million. Do you see that?

A. Yes.

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notice of this claim, what investigation, if any, was made to determine the amount of money that Balfour Beatty and its subcontractors were owed?

A. I don't think they gave any backup for the numbers. But again, Tom, I don't get involved with these things. Kim would. Jim would. And the architect would. But I don't believe they gave really any backup for the payment request.

Q. So do you have any knowledge of what investigation, if any, was performed to --

A. Once again, I didn't do that for the company. So someone in my office -- no. The answer is, I didn't do that for the company, but Kim or Jim or the architect would have done that.

Q. But you don't have any personal knowledge of what was actually done, correct?

A. What was actually done for?

Q. In response to this demand for payment.

A. I know that Kim worked on it. That's what I know.

Q. Supposition on your part?

A. Is it a supposition on my part? I don't think so. Kim ran this job, and Jim did, and the architect did. So that's who has been

working on this.

(Bennett EXH. 9, October 2018 Draw Number 43, marked for identification.)

BY MR. HILDEBRAND:

Q. I want to hand you what's been marked as Exhibit 9, which is a representation to the lender or application to the lender for a draw. It's Draw Number 43 dated October 2018. Do you recognize this document?

A. No. I didn't manage these or process these.

Q. So whose signature is that on the left, bottom left?

A. That looks like Kim Brown.

Q. So she did have authority to --

A. Yes. I think we discussed earlier that she -- I don't know if she did or didn't, whether she was required to get me to sign. She may have had that authority, and I think that that probably proves that she does.

Q. As of this document, on the second page under the heading Soft Costs. Do you see that?

A. On the left side? Yes, sir.

Q. Yes, sir. Do you see construction

management?

A. Yes.

Q. Total completed and stored $686,088.43?

A. Current value, is that what you're looking at? Current stored to date 686. I see that.

Q. Would that reflect the total amount paid to Jim Clements for his services to that point?

A. I assume, but I don't know if there was anything else in there. I don't know if anybody else got paid anything. I assume that's what that is. Again, Kim could answer that.

Q. Was there anybody else who did perform construction management other than Jim Clements?

A. No. You know, other than whatever the architect does and whatever the bank does. I don't know if we were required to pay those people any kind of -- like, I don't know if the bank's representative got -- because he was probably a third-party guy, whether he got a fee. I don't know. Kim would know that.

Q. Has Jim Clements been paid in full for his work on this job, to your knowledge?

A. I think you'd have to ask Kim.

Q. Do you have any knowledge of any non-payments to Jim Clements?

A. You know, I didn't review any of these. So I -- no, I wouldn't have any firsthand knowledge --

Q. That's all I'm asking.

A. -- that Jim was paid in full or not paid in full.

Q. Skipping down several: Architectural, engineer, interior, design. To the far right it says $3,522,631.69. Would that appear to be the total amount paid for those services up until that date?

A. For architecture, engineer, interior, and design.

Q. Right.

A. That's what that says.

Q. Do you have any knowledge or reason to believe that the design people have not been paid in full to this time?

A. I wouldn't know and don't know. Does this say it's been paid? If we drew it to pay them, we paid them. But again, please ask Kim.

(Bennett EXH. 10, Email Correspondence,

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Subject 630/Marion Square - Hardware, marked for identification.)
BY MR. HILDEBRAND:
Q. I'm going to hand you -- you said that you had no recollection of any involvement or any particular involvement that you had with this job during actual construction, correct?
A. What is your question, Tom?
Q. You have no recollection sitting here today about any personal involvement that you had with this project during construction?
A. No. The project went on for 47 months. I did tell you I didn't think I went there once a month, but I went there on occasion. So, again, Kim would have, and the architect and Jim would have. Those were the people who were responsible for the project.
Q. They were responsible, but --
A. That's correct.
Q. But you had the ultimate --
A. It was just my money, okay. You think everybody who builds these things is the ones on the job all the time, Tom? That's not how these things work.
Q. No. I'm talking about owner

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selections and decisions on changes.
A. Those are either made by me or Kim. Kim would make them many times. I mean, they would occasionally show me marble to pick out -- or not marble, stone or wood or something. But I keep trying to tell you that, you know. I don't have a day-to-day. I have the overall responsibility, but I don't have day-to-day responsibility or management job when these things are under construction. That's handled by other people.
Q. You're saying you had very little involvement with the interior design and the --
A. No. They would make presentation to us. Us being Kim and myself and probably Jim Clements on interiors, and we would -- we ultimately, me included, would select what we put in there.
Q. This is an email from Buck Lindsay or from Woody Faust to Buck Lindsay. And Woody Faust was the interior designer; is that right?
A. Woody and Karen, yes.
Q. In the first paragraph, second sentence from the bottom, it says: At this point Karen and I have followed what we think we have

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heard from Mike, which was to push to the five-star level, and in the end we may need to drop back in some areas. Was that --
A. That was generally what we were trying to accomplish, was to create that five-star luxury hotel.
Q. This indicates that you -- that decision was made at or about this time. Would that comply with your recollection?
A. I don't think so. What was the date on this? I don't see the date.
Q. June 20, 2014.
A. No. It was always the plan since we got it approved that it would be a luxury hotel.
Q. Five star?
A. That was always the plan, to make it a top luxury hotel.
Q. A five star?
A. You know, that's not necessarily terminology that -- is that what it says in here, five star?
Q. Right.
A. That's not the lingo that I would use, but I would just say a top luxury hotel. So I think that can be -- some people would call that

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five star, yes.
Q. The next one down says: Woody, Karen, there was a pretty -- and this is from Buck Lindsay to Jim Lord and Woody Faust: There was a pretty tense telecom last week where BBC told Mike that he had a $55 million job, and Mike told them that he had a $45 million job if BBC wanted it. Do you remember that discussion?
A. So tell me what they told me, and tell me what I told them.
Q. This is an email saying that Balfour Beatty said that based on the design presented, it was going to be $55 million, and you said, no, it's a $45 million job. Do you have any recollection of that?
A. Not really, but I don't know if that's what that says.
Q. The next sentence says: The orders were to bid the 99 percent documents and come back with a $45 million number. The 95 -- the 99 percent documents, that indicates that the design was 99 percent complete at that time, agreed?
A. I don't know if that's construction documents or design documents.
Q. Well, if they were --

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A. It was bad, bad job.
Q. I mean, can you give me any more details?
A. You'd look at a wall and you would see all kind of sheetrock mud or discolorations, and at first we tried to -- we asked them to go in there and just spot paint it, just try to touchup. And we asked them to put blue tape on the areas that they would have to fix, and they walked through and did about a -- walked through, and there was so much blue tape on a wall -- like on a wall like that, there would be 100 pieces of blue tape, and so you couldn't just go in and touch it up. They would paint that wall. So paint was put on badly. And whether it was because the sheetrock was wet, I don't know why it looked bad. It was just bad.
Q. So it was the sheetrock that you were complaining of?
A. No. Paint. I'm telling you what might have could have caused the paint to look bad. I don't know why the paint looked so bad. I'm not a painter.
Q. Was the color when it was repainted, was it repainted with the identical color that it

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was originally -- as was originally sold?
A. Yes. We didn't change the color.
Q. Was the finish of the paint the same?
A. It was the same paint, to my knowledge. It was the same paint. Just needed to be repainted.
Q. All right. Was the -- do you know if the original paint that was installed was a -- do you know what eggshell paint is?
A. Eggshell paint? Not offhand.
Q. Not familiar? Do you know what semigloss paint is?
A. Uh-huh.
Q. You need to answer yes or no, please.
A. Yes, sir. I'm sorry.
Q. Do you know what a flat paint is?
A. Yes.
Q. When it was repainted was it -- was the -- or do you know what was originally there? Do you know if it was semigloss or flat?
A. Whatever the designers recommended and Kim approved, and whatever they put on there, that is what they put on there the second time, would be to my knowledge.
Q. If the paint texture was changed from

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a flat or from semigloss to a flat, do you know why that was?
A. I wouldn't know that happened, and I wouldn't know why that was if it did happen.
Q. You don't have any knowledge of that taking place?
A. No.
Q. The entity with whom you contracted on this project -- if you'll look on the Balfour Beatty contract document?
A. The big one?
Q. Yes, sir. Do you see who the contractor is?
A. Balfour Beatty.
Q. Could you read the full name, please?
A. Balfour Beatty Construction.
Q. LLC?
A. LLC.
Q. Right.
A. 1930 Camden Road, Suite 280, Charlotte, North Carolina 28203.
Q. Right. Just the name of the company. The party contracted with was Balfour Beatty Construction, LLC, correct?
A. That's what this says, yes.

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Q. Right. Do you know why you filed a claim against Balfour Beatty Construction Group in this case?
A. You have to ask counsel.
Q. You don't have any knowledge of that?
A. No.
Q. Why that was done?
A. No.
Q. There was interior work that was required to be performed of the owner, I'll represent to you, under the contract. For example, low voltage wiring, hanging drapes, putting in furniture. Does that ring a bell with you, that the owner self-performed some of the work on this job?
A. We don't self-perform it, but I think some of that owner --
Q. Directly contracted with?
A. The owner directly contracts usually for the low voltage, for the drapes. Usually the contractor does the furniture. I can't tell you what was done on this job.
Q. Whose job was it on this project to oversee the work performed by contractors who you hired outside of Balfour?

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A. Kim, Jim, the architect.
Q. But if Jim was only there once every week or every couple of weeks and your forces were working, would they go unsupervised for some period of time?
A. I believe Kim and Jim would have done the majority of that work. I don't know if Jim was only there every two weeks or not. I think he was there as necessary.
Q. So it's your understanding that Kim directly supervised the --
A. No, that's --
Q. -- at least to some extent some of the direct contractors you hired?
A. I think if there were contractors hired directly by my company that Kim would have done that. And since Jim was the project manager, he would have overseen that. But Kim was also in that hotel regularly. So, again, I'm sure if you ask Kim and Jim, they can give you the spot-on answer.
Q. Was it your responsibility or Library Associates' responsibility to have somebody out there overseeing your workers all of the time to make sure that they were not --

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A. We didn't have any workers.
Q. Your direct contractors?
A. If they would have hired a subcontractor, then Kim or Jim would have overseen that. I don't think there was a lot of that, Tom, but you could ask Kim and Jim.
Q. Let's turn to the newspaper ads. I want to ask you about a couple of those that I did not ask you about earlier. Let's look at Tabs 8 and 9. So this is a project that you talked about earlier in Mount Pleasant that you're developing, correct?
A. I have several projects over there I'm developing. This is one of them and the biggest one.
Q. How many projects do you have actively under development right now?
A. I'm building some things right next to the Cooper River Bridge, and I'm working on the entitlement at Patriots Point. I'm developing a hotel on Daniel Island.
Q. And the hotel on Meeting Street or the apartments on Meeting that were apartments --
A. That will become a hotel in the future.

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Q. Is that entitled?
A. Yes.
Q. Is it contracted?
A. No.
Q. Is it designed?
A. Partially.
Q. Who is the architect on that?
A. We're going through the BAR process now.
Q. Who is the architect?
A. Joe Rabun is the man's name. His firm is Rosh Rabun and two other Rs. I can't remember the other two, but it's Rosh Rabun and two other gentlemen.
Q. Where are they headquartered?
A. Atlanta.
Q. In Atlanta?
A. Yes.
Q. Have you used Buck Lindsay's firm since the Hotel Bennett was begun?
A. I think we are talking to him on a project now. I don't know that Rosh Rabun did the one at the foot of the Cooper River Bridge and then someone else did the one on Daniel Island. So I don't think those next two -- I don't think

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Buck -- Buck didn't do any of those.
Q. But you're negotiating with him or talking to them on a project under development now?
A. You know, we have many projects that we're working on for the future, and he would be someone that we would talk to.
Q. So you would use him on other projects?
A. I would.
Q. How about DCI, would you use them again?
A. They're doing the one in Mount Pleasant.
Q. Are you familiar with a company called BMCC, Bernhard Mechanical Construction Company?
A. What kind of work do they -- did they work at Hotel Bennett?
Q. Yes, sir.
A. They did? Okay. I'm not overly familiar. They have initials kind of like Balfour Beatty. So I think I have seen those initials before.
Q. It's Bernhard MCC. They did the mechanical work.

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incorrect?
A. Yes. We've hired our consultants to go through all of their requests.
Q. I understand your consultants have some opinions. Have you done that personally? Do you have any personal knowledge, or have you undertaken any analysis of these claimed damages by Balfour to testify one way or the other as to whether they're -- they would be appropriate under the contract or not?
A. Again, I would talk to Kim.
Q. I understand.
A. And maybe Jim. But I believe that the -- our consultants are trying to get the information from Balfour Beatty that can support Balfour Beatty's claim.
Q. I'm just asking you, Mr. Bennett. This will go a lot quicker. I'm just asking, do you have any information?
A. I have the information that I just told you.
Q. Other people are working on --
A. I virtually do nothing, Tom. You know, I don't do any of these things. Other people do them for us, right. So that's kind of

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the -- that's normally how it would work. Kim would be involved in my office working with management or Jim or the consultants to pull all of that work together. Can I ask you a question?
Q. No.
A. That don't sound right. You're the one that signed this letter. Where did you get all of the information from? I bet you didn't do the work.
Q. Do you remember a change to the ballroom where the columns, support columns, were taken out of the design?
A. No. And I don't know if that's accurate, but I'm not aware of it.
Q. Were the columns that were originally shown in the original design were changed at your request?
A. I don't know that there were columns in the original design, and I don't know if it changed. If the contract says that, then that's what the contract says, but I don't have any personal recollection from that time, that long ago.
Q. Do you remember a request to Balfour Beatty to price out changing the patisserie to an

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Irish pub?
A. We talked to -- yes. We talked to them about doing that.
Q. At whose request?
A. I don't know if Balfour -- you know, I talked to Kim about it and maybe, maybe we ended up talking to Balfour about it, yes.
Q. How did that come about?
A. We asked.
Q. Who would have had that idea?
A. It was my idea.
Q. How did that come to you, or what prompted that, if anything?
A. Well, I opened a restaurant across the street for my mother called Virginia's. She is 97 years old. And that's to honor her. This was on the corner right across from her, and I was going to open an Irish pub for my deceased Irish father. So I thought my mother and father could live forever with those two little restaurants side by side. That was my motivation, and that's when I tried to see if we could do that, and turned out we couldn't do it.
Q. Why couldn't you do it?
A. I don't think the plumbing was capable

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of handling it. They'd already poured -- the concrete structure was already up.
Q. Was Balfour --
A. I was going to call it Red Bennett's Irish Pub, and I got Virginia's on King right next to it. That's my mother and father.
Q. Was Bennett or was Balfour paid for the work that it did working up the Irish pub?
A. I don't know what they -- I don't know what they did.
Q. How about the front desk or the reception area in the hotel, was that part of the original design at the time of construction started?
A. I'd rather -- I assume it is, Tom. But, again, Kim could tell you exactly. I'm sure the documents would reflect whether that was in the original plan or whether there was a budget number that was set aside for that. I don't know if that front desk was completely designed at the time the contract was signed or there was a budget left for that, but the documents will reflect the truth. Whatever it is, it is.
Q. Was a mockup ever done for the exterior of this building?

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A. For the city?
Q. Yes, sir.
A. I don't think it was ever completed, and I don't believe it was ever completed to the city's satisfaction, and they did build it. It was built I believe several years late, Tom, and it caused a lot of problems with the BAR, because normally those are built first. I'm not sure why it wasn't built initially. They just didn't build it.
Q. Well, do you recall the -- do you know whether there was a host door that was included within that mockup?
A. I don't think there were any doors in there. Might have been a window in there.
Q. So you don't remember anything about a host door?
A. I don't know if it was a door. It could have been a window.
Q. Was there a delay caused in the project because the window was not available for use in the hotel because it was --
A. I can't imagine that's the case, no.
Q. That wouldn't make sense to you?
A. No, it wouldn't make sense to me,

but...
Q. The building shouldn't be held up for a window in the mockup if it's required in the building, agreed?
A. Well, they were about two years late with the mockup. So had they built the mockup when they were supposed to, then that window would have been freely available. Since they built it so late, maybe the BAR said, you got to wait for us to approve this mockup before you take the window. I'm speculating on that. Kim would have a direct recollection on all of that.
Q. What is your basis for saying that -- so you're saying that Balfour constructed the mockup late?
A. Yes, incredibly late. Please ask Kim for the reason. I couldn't tell you the reason. I just know it was very, very late.
Q. So you know that it was constructed late?
A. Yes.
Q. But whose fault it was, do you have an opinion?
A. Well, they were the contractor.
Q. Because they were the sub -- the

contractor, it's their fault?
A. They were supposed to build the mockup initially, right away. That's kind of -- working downtown, you build the mockup immediately.
Q. Was the design finished to enable them to build the mockup when it was supposed to be?
A. I assume it was, Tom. But if you ask Kim and Jim, they can verify all of those things.
Q. Were there any changes to the rooftop bar during construction?
A. I don't know.
Q. You have no recollection of that?
A. I don't think there's any changes from the physical size of it. I mean, that was -- I don't know if there were changes to the interior or something. If you have a specific change, then I might have a specific answer. But generally I'm not aware of it. But again, I'd ask Kim.
Q. How about the barn doors, do you know what those are?
A. I know what barn doors are. I'm not sure.
Q. How about, are there barn doors in the rooms at Hotel Bennett?
A. I wouldn't describe them that way.

Q. That's not how -- you don't refer --
A. Barn doors don't sound like it goes with a luxury hotel. So I don't think I would describe them that way. It might be pocket doors. I don't think they're barn doors. Are we referring to the same thing?
Q. Do you remember a long -- many changes related to the -- you call them pocket doors. I've only heard them referred to as barn doors -- in the individual rooms?
A. No. Tom, I believe those doors in there are pocket doors, and they, I believe -- could be wrong -- they slide inside the wall, opposed to outside the wall. I might be wrong. I'd ask Kim that.
Q. So you don't have any recollection of delays that were caused because of the barn doors?
A. No.
Q. Or pocket doors?
A. No.
Q. So you don't have any testimony one way or the other on that?
A. Kim would know.
Q. How about changes to the interior, the rooms, and the configuration of the rooms and the

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furniture, how they were supposed to go? Were there changes relating to that during construction?

A. I don't think so for furniture layout. And again, maybe the interior designers could answer those questions and Kim. If there were changes, they would have been so far in advance of them getting to those floors when they were still pouring concrete or driving pilings that it wouldn't have affected the schedule, but I would -- you should ask Kim that question. She'll know.

Q. How about the -- in the board room, was there ever a change in the height of the display monitor in there?

A. I don't know Tom.

Q. No recollection?

A. No. The monitor is like a TV screen. So if they -- I don't know if they moved it up or moved it down or anything. Kim would know.

Q. Do you remember an issue coming up during construction relative to builders risk insurance?

A. I don't have a recollection.

Q. Did you ever contact any Balfour Beatty employees or deal with any Balfour Beatty

employees or any of its subcontractors directly on the job, job site?

A. Balfour Beatty employees, I would talk to them if I was there.

Q. How about its subcontractors?

A. Do you have a specific example that you could give me?

Q. No, sir. I'm just asking you generally. Do you?

A. I mean, generally, I don't get involved that way, Tom. I would talk to a Balfour Beatty representative, but the gentleman you talked about earlier, if he's the one who has that big power plant for heating and air, then he is somebody I would have spoken to, but that wasn't even on the job.

Q. Did you ever ask -- do you know Shanti Pienak?

A. Is that a young man or young woman?

Q. It's a young woman who worked for Balfour.

A. Uh-huh.

Q. Do you remember her?

A. I think I know who that is. Does she run the -- did she start off running the elevator

for Balfour Beatty.

Q. She was in the office as an administrative assistant?

A. Do you think that's the African-American woman?

Q. No. She's white.

A. Did she work in the building.

Q. No. She worked in the office.

A. Where was the office?

Q. Balfour's office on Meeting Street.

A. The one on Meeting Street, not the trailer on the job?

Q. Right.

A. What was your question?

Q. Did you ever ask her to work directly for Bennett to provide services or to help out during a pinch?

A. I don't have any recollection. If you have a picture of her, I could tell you if I know who she is. To help out in a pinch for -- what that's for?

Q. For Library Associates?

A. To do what?

Q. I'm just asking you. Do you recollect asking her to help out with some during the job

closeout?

A. That I was trying to help out or she was trying to help out?

Q. Where Library Associates wanted her to help out?

A. I assume we wanted anybody to help that could help. I didn't try to hire anybody from Balfour Beatty.

Q. When the original design was done, what was the anticipated height to the building?

A. 105 feet.

Q. Was that ever changed?

A. Took me twelve years to get it, Tom.

Q. Was it ever changed?

A. Not once. The Supreme Court gave us 105 feet.

Q. Did the design ever have to change because of the -- was there a reduction in the allowable height to the building that compelled a change in design?

A. Took us twelve years to get 105 feet. We would never have tried to get more.

Q. So you don't have any knowledge of the height of the building changing and being -- having to be reduced in the final set of drawings?

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A. Jim told me something one of the subs said we reduced the building by 100 feet. I mean, it's so farfetched. I wouldn't know how to answer that, Tom. It took me twelve years to get 105 feet. Went to the Supreme Court. We never tried to build more than what took me twelve years to get approval for.

Q. Was the height of -- did you have any involvement with the finished ceiling height in the interior guest rooms or in the hallways for the guest rooms?

A. Did I have any involvement?

Q. Right.

A. Well, I own the building, but I don't direct any of this. So, again, Kim would have a clear answer for you, Tom, on most of these questions and on that question. You know, we always try to keep things as tight as you can, keep the ceilings as high as you can just as a general thing.

Q. You don't recall any issues coming up or input from you insisting that the finished ceiling heights not be lowered for whatever reason?

A. I know there was some hallway heights

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that got lowered, and we were trying to figure out a way with the architect I think to keep them as high as you could.

Q. Do you recall a change related to the egress on Stair 4?

A. No.

Q. Do you recall a change after the contract was signed with BBC where the rooms in Floors 6, 7, 8 were changed to suites?

A. I know we changed those to suites. I couldn't tell you the date we changed them.

Q. Did that impact the job?

A. I don't think so.

Q. Do you really have any knowledge?

A. Well, it was done so far in advance. They hadn't got to that point.

Q. Let's talk about the financing for this project. What was the loan amount that MetLife provided for the construction?

A. I think 65 -- well, for the whole project.

Q. It was for 65 million?

A. I believe that's right. If it's 64 or 66, please don't fault me. But Kim would know the exact number.

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MR. BUNDY: Excuse me. I have an email from Mr. Robert Hughes. Says he wants to know what happened to the deposition call. He got dropped.

(A recess was taken.)

MR. HILDEBRAND: Back on the record.

BY MR. HILDEBRAND:

Q. So for the financing from MetLife, was the financing that could be drawn down for paying Balfour only the original construction cost, the original guaranteed max?

A. I don't know. They -- I don't know. You would have to ask Kim. She managed that financing.

Q. So you don't have any knowledge of whether whenever a change was issued that resulted in increase in the contract price that all -- any such change orders had to be paid for directly by Library Associates?

A. Correct.

Q. It could not be taken out of the loan?

A. Correct. I think that's accurate, Tom.

Q. The final construction costs was I think on one of the exhibits that I handed you

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earlier that had the amounts from the -- the list of the architectural amounts and --

A. Wasn't it right around 64 and some additional?

Q. No. No. For the whole project.

A. Construction?

Q. Construction. No. No. For design and construction and everything else. Was it like $111 million?

A. I just recall it from seeing it somewhere in here. I think I saw 101 or 103. That included land and architecture and design and everything, I believe, Tom.

Q. My question is if the loan amount from the bank was only $65 million, that was not enough to cover all of the construction and design and everything else, correct?

A. It was enough probably to cover construction, but not all of the other costs, correct. It was about 65 percent of the cost, is what we anticipated at that time.

Q. Where was the source -- what was the source of the funding, the additional funding that would be necessary to finish the job?

A. That came from me.

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Q. You personally?
A. Yes.
Q. Was that borrowed?
A. No.
Q. So you would have to stroke a personal check to --
A. It wasn't at one time. It was over, you know, a series of time, but yes.
Q. Did that ever present a hardship for you?
A. You know, it was a lot of money that I had to put in there.
Q. Was that the cause of any delayed payments to anybody?
A. No. All of that money went in there. By the time the loan closed all of our equity was in.
Q. So you're saying that there's -- basically you paid money into an account that added with the financing from the bank would have been sufficient to draw against to finish the job?
A. Ask Kim exactly. We had to put our money in at closing.
Q. To fund the anticipated cost of construction?

A. Of the job. Well, not just the construction, for the whole project.
Q. For the whole project, right?
A. Yes.
Q. But that anticipated that the original contract with Balfour is going to be 59 million. So to the extent that there were changes, you would have to have additional capital costs, right?
A. And I think that change came up right at the last minute, Tom, like within the last weeks of the project, and I think on that last -- what did they increase it by, 4 or 5 million? I think that that was added during the project later, not at the time, but the first, basically, 35 went in.
Q. So is it your testimony that the -- when the project -- is it a fair statement that when the contract amount with Balfour increased from about 59 million to about 64 million, that delta would have had to have been paid by you personally?
A. Yes.
Q. That was over and above what you had contributed to the equity of the project prior to

that time?
A. Yes.
Q. So to make the final payments to Balfour, you would have had to pay money out of your pocket?
A. Not the final payment. The first payment. You know, we started putting that money in four years ago, whenever the job started.
Q. Right. I understood. But you anticipated the costs were going to be -- were based on a $59 million contract for Balfour?
A. When it increased, then the bank -- then we started putting it in. Kim could tell you the dates the bank would have required us to put it in prior to the funding. I don't know if that happened the first month or over the course of the job or what time, but Kim could tell you exactly how that happened.
Q. But my question is, change orders -- the funding that you had anticipated that you had to pay originally was based on the original project budget?
A. I believe so, yes.
Q. Then when it changed through change orders, you had to come up with additional money?

A. I don't know that it changed through change orders. Let's agree that it changed by 4 or 5 million, and I had to fund that.
Q. To have paid the full $64,000, the delta from the original contract of 59 million to that final figure would have had to have been paid by you personally?
A. Correct. $64 million, not 64,000.
Q. Do you know who Michael Scarborough is?
A. He's a local judge.
Q. Do you know him personally?
A. No.
Q. Have you ever met him, to your knowledge?
A. I think I have probably met him just because Charleston is a small town, but I don't know him.
Q. How about Kim or anybody else with your office, do you know if anybody else has a relationship with him?
A. No. I'm sure they don't.
Q. For the construction loan, what were the payment arrangements? Were they to be made every month? How did that work?

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

BALFOUR BEATTY,

Plaintiff,

vs. CASE NO. 2019-CP-10-01108

LIBRARY ASSOCIATES, LLC, and METROPOLITAN LIFE INSURANCE COMPANY, a New York Corporation,

Defendant.

(Continued on Page2)

Volume II

DEPOSITION OF: MICHAEL BENNETT

DATE: September 27, 2019
TIME: 9:00 a.m.
LOCATION: 200 Meeting Street
Charleston, SC

Counsel for the Plaintiff
TAKEN BY:
REPORTED BY: Roxanne Easterwood, RPR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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started that were not incorporated into written change orders?

A. I wouldn't know that. I assume if there was an approved change, there would be a change order signed by me and by Balfour Beatty.

Q. Why do you make that assumption?

A. Wasn't that your assumption?

Q. Well, I asked you if you were aware of any changes, changes to the project that were not incorporated in change orders. Your response was you assumed they would be put into a written change order signed by you and Balfour Beatty. My question is, why do you make that assumption?

A. That's how a construction project works.

Q. Any other reason?

A. If there was an approved change order that was recommended to me to sign it, I signed it.

Q. Is it true that you're not aware of any changes to the project after construction started that were not included in a signed change order?

A. I believe that's the proper way to make a change on a project after something starts,

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is via change order.

Q. Sure. And I appreciate that the process -- you're explaining the process to me. My question is different than that, though. My question is, are -- is it true that you're not aware of any changes to the project after construction started that are not included in a signed change order?

A. If it's not a signed change order, then that wouldn't be an approved -- that would not have been approved if it's not signed.

Q. Are you aware of any unapproved changes to the project after the construction started.

A. Do you have any specifics that you could ask me?

Q. I'm just wanting to know if you're aware of any unapproved changes?

A. Not as I sit here right now. Again, I would defer to the professionals who ran this job.

Q. When a subcontractor performs work beyond the scope of its -- let me ask it a different way.

On this project, when a subcontractor performs work that is beyond the scope of work

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included in its contract, who is responsible to pay for that work?

A. I don't believe I have a contract with the subcontractors. I assume they have a contract with the general contractor.

Q. Do you know whether the subcontractors that worked on this project had a contract with Balfour Beatty?

A. I assumed that's the way it worked.

Q. To your knowledge, did Library Associates receive change order requests from Balfour Beatty that Library Associates rejected?

A. Again, I would ask the professionals that worked on this. I would say all of the ones that should have been approved, they approved, and if they should not have been approved, they did not approve them.

Q. Right. I understand that I can ask them what they approved. I just want to know what you're aware of. So are you aware of any change order requests that Balfour Beatty sent to Library Associates that were rejected?

A. Again, I would defer. I was not the construction manager. So I would defer that to the professionals.

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Q. When you defer some -- the answer to my question or my question to these professionals and other individuals working with Library Associates, does that mean you don't know the answer to my question?

A. They were the ones in charge of the management of the construction.

Q. I understand they were in charge. I want to know whether that means you don't know the answer to my question.

A. Ask me your question again.

Q. Are you aware of any change orders Balfour Beatty sent to Library Associates that were rejected by Library Associates?

A. I don't have any specifics, but I understand in general that they sent many very late or sent some late, but I don't have any specifics, no. Again, I would ask the professionals who manage it.

Q. And these change requests that Balfour Beatty sent late, were they rejected because they were sent late?

A. I don't have any knowledge. You'd have to ask the professionals who managed the job.

Q. Thank you. Yesterday there was some

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than what I've been telling you the whole time. There was a team of professionals that managed that operation once we started construction.

Q. So do you agree that your involvement with the project from the date construction started until the date you opened the hotel was limited to owning the project and signing documents that the list told you you needed to sign?

A. You know, you're trying to ask questions which you know patently I don't think are accurate. We had a project under construction for 45 months. Construction professionals managed the property, and when they needed to ask me a question, they would ask is this the color marble, is this the color paint. I would be involved with that. So to say -- for you to try to put me in this box that I wasn't involved. I was involved where they needed me to be involved on picking interiors and whatever other questions they may have had of me.

Q. So how often did they need you involved?

A. I don't know. You should ask them.

Q. How often did you believe they needed

you to be involved?

A. I don't recall.

Q. You talk about picking interiors. What role did you play in picking the interiors for the project?

A. There was an interior design firm, and when they were selecting the various things that an interior design firm select, they would show that to me and the people on my team, and we would pick what they -- various things they showed us, we would pick the things that we picked.

Q. Do you remember when that occurred?

A. I belive that was ongoing during the project.

Q. Do you know what year that process began?

A. I would think it started right at the beginning. Well, much of it started -- much of it started before we started construction.

Q. Do you know when the interior design selections were finished being made?

A. No. I think you could defer that to the list and/or the design company.

Q. Once you selected an interior finish, did those finishes ever change?

A. Again, I would defer that to the people who managed the job.

Q. Do you recall ever picking out an interior color and then that color changing?

A. I don't recall as I sit here. But they could have picked something and then it might not have been available, so we had to pick something else. I'm not really sure.

MR. HILDEBRAND: Is this a good chance to take a few minute break, Don?

MR. TERRY: Yes.

(A recess was taken.)

MR. TERRY: Back on the record.

BY MR. TERRY:

Q. Mr. Bennett, I only have a few questions left. Yesterday you mentioned that -- or I believe you mentioned that you paid Balfour to make sure that they had no change orders; is that accurate?

A. I think -- I'm not sure what the term is, but they did a review of the plans in detail, went through a detailed review of the plans before we started construction to help us avoid change orders.

Q. Did they give you any written

documents back in response to their review?

A. I think you would have to defer to what you describe as the list.

Q. Does that mean that you don't know whether they gave the written document?

A. We hired them well in advance of the project starting to help them with that purpose. I believe you should refer that to the list: Kim, Jim, architect.

Q. I understand. I'm going to ask Jim, Kim, and the architect. I want to know what you know.

A. As I sit here right now, I can't specifically recall them giving me a list.

Q. Did they give you any written document in response to you paying them to make sure there was --

A. I don't know as I sit here.

Q. Was there a construction contingency amount related to this project?

A. Do I have -- could I look at a document? If we reviewed the document it would tell us specifically. Oftentimes there is a contingency. I think the documents we reviewed yesterday -- if I could review those, I could

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A. Yes.
Q. See that?
A. Yes. Well, tell me where. I mean, I know he's doing that. I'm not reading where it says that, but that is what they're requiring. Yes, I see it.
Q. Who is the bonding company or the surety that you are working with?
A. You would need to ask Kim.
Q. So you haven't had any direct communications with that bonding company or surety yourself?
A. I have talked to a gentleman who is securing -- helping to find that bond. I have not talked to the company who is doing the bond. Perhaps Kim has.
Q. And that gentleman who is helping secure the bond, what is that person's name?
A. I believe that is Jim Holmes.
Q. And he has reported to you that they are requiring you to put up --
A. No.
Q. -- $10 million?
A. No. I believe he runs an insurance company, and I believe that he's the one that is

helping us secure the bond. The bank is the one who tells us what we're required to do. The bank says we have to bond it, and I believe it's -- I don't know if it's a city requirement or state requirement that you have to bond. I believe it's 1.3 percent of the lien amount. I'm sure some of y'all would know that better than me.
Q. And you -- I'm paraphrasing -- but yesterday testified that you would have to put up $10 million in cash or liquid asset, not real estate; is that correct?
A. Yes. That's what we have to give to the bonding company. They won't accept real estate.
Q. Is the lender looking to anyone besides you to put up cash or liquid asset?
A. No.
Q. So only you?
A. Yes.
Q. Other than this Hotel Bennett project, have you been involved in litigation over other projects that you have developed?
A. You know, I've been doing it for a long time, over 40 years, and I think I have had one other deposition done sometime. I can't

remember exactly when it was. I think on one project we had a mediation that I think I ultimately resolved an issue. That's my only recollection.
Q. Do you remember what project that was?
A. I believe it was on a hotel in Savannah, Georgia.
Q. There's been a lot of questions today about changes and whether you're aware of any of the changes that were requested on the project. Are you personally familiar with any change orders on this project?
A. If there were any approved changes, then Kim and Jim and the architect would have worked through that. And then if they approved it, they would have told me about it. And I don't know if I signed them or they signed them on my behalf. I don't know, but if they were approved changes, they would have told me.
Q. As we sit here today, can you recall any -- what the subject of any of those change orders were?
A. No, but Kim could do a very good job for you on that.
Q. Are you aware of any change orders

that were submitted and not approved?
A. Again, Kim would answer that very clearly. I assume there were, but I don't -- I couldn't tell you exactly what change order or what contractor or what subcontractor.
Q. In the course of this project or this litigation, have you ever seen a list of the change orders that were submitted?
A. I was not involved very much once the project started construction. So I don't have a direct memory of it. If there is a list of -- I would have seen the list of approved change orders. I don't know that -- really, the architect and the construction management and Kim would determine which ones were approvable or approved.
Q. When you visited the project while it was under construction and you noted some things that you did not approve of, what was your personal process for having that dealt with?
A. You know, I didn't run the project. And if I walked through the project, Kim would normally have been there, and if we thought there was something wrong, she would have -- she would do whatever the appropriate thing was. I don't

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have any specific instances that I can tell you. That's how we would have done it.

Q. So Kim Brown, Ms. Brown, would have handled it?

A. That's correct.

Q. You would just trust that it was being handled and never follow up with her or confirm that it was handled?

A. I don't -- yes. I'm not involved with the day-to-day management of any of these projects that I build.

Q. How long has Ms. Brown worked with you?

A. I think 35 years.

Q. Does she have any ownership interest in this hotel project?

A. She does not.

Q. During the construction of Hotel Bennett, how many other projects were you personally actively working on, either by name or number?

A. How many other projects am I working on?

Q. No. During construction. So I would say between September 2014 and January 2019, how

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many other projects were you actively working on during that time period?

A. I'm actively working on a lot of projects. There are two under construction that started construction in the last year, and I don't think there were any other ones under construction prior to those two that started about in the last year. One is in Mount Pleasant, an Embassy Suite, and the other is on Daniel Island, a Homewood, Hilton property.

Q. And it's my understanding from your testimony yesterday that you're most actively involved in the preconstruction phase rather than the construction phase?

A. And really I'm not even -- I sit in on some preconstruction meetings, but I'm really involved with finding the land, figuring out the opportunity, getting it entitled, and then figuring out the financing, and then it's really turned over to Kim. And on most of these things I never -- I don't go back once we get to that point.

Q. So the two projects that you just mentioned, the one in Mount Pleasant and the one in Daniel Island, those two were in those phases

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that you just described, the end time, getting the funding during that time period that Hotel Bennett was in construction; is that correct?

A. I think so, yes.

Q. Were there any other projects?

A. I don't think there was anything under construction. There are many projects that I worked on the entitlement and getting them to a place of being able to start construction. So there are many projects. There are many projects that I am currently working on, if that's your question.

Q. My question was about the time period between September 2014 and January 2019 and what other projects you were actively working on during that time?

A. Those two were the only two hotels under construction. There was a parking garage under construction and various other land that I own that I'm working on the entitlement and trying to get them to a place where we could start construction.

Q. How many by number would you say were those other various projects that you were trying to get entitled during that time period?

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A. Half a dozen.

Q. From the way that you have answered the questions the past day and a half, I understand that Ms. Brown was very actively involved in the managing and construction phase of Hotel Bennett?

A. That's correct.

Q. Is that correct?

A. That's correct.

Q. Was Ms. Brown working on other projects during that time that Hotel Bennett was under construction?

A. That's not normally what she does. On occasion she might be brought in to ask her opinion on something, but usually I try to get them to where we can start them, and then once we close the loan she oversees them.

Q. Right. And during the time that Hotel Bennett was under construction was she doing similar functions in terms of overseeing projects on any other projects?

A. We had those two hotels that started in the last year, and we had a parking garage that opened a few months ago, and then she's involved with running the day-to-day of the company.

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you're ready to get the financing and get the project actually constructed, agreed?

A. Yes.

Q. Who does that work? Is that you who does that?

A. I would do that on the preliminary part of that. I would do it in the beginning, and then as it gets further down -- like Salamander prepared them for Hotel Bennett. So those are in existence. I assume you have the right to get those and see them. So I try to determine the feasibility and on the front end ask. Then once it moves down and we think we can do this, then it kind of goes to that next stage.

Q. For the other --

A. Most of the land I've done downtown I've owned a long time, Library and 411.

Q. For most of the hotels that -- or motels that we've talked about yesterday, I think they were Marriott and Hilton hotels, and I think you own a quite a few of those?

A. Yes, sir.

Q. What is the approximate net revenue on average for those hotels?

A. I don't know offhand.

Q. You as the owner of the hotels don't know what the --

A. No, I don't. I don't manage the day-to-day of any of it. I don't look at the financials on any of it. I have the ability to. I mean, it's there. Kim has it, but I don't manage my --

Q. That's not important to you?

A. It's not. Kim manages it for me. If there is a problem, she will tell me. We have an annual budget that the various hotel companies would present to you.

Q. When you were doing -- when you were visualizing and deciding to develop the Hotel Bennett, what was the -- with all of the costs that were going to go into it and what the projected room revenues would be that might have been required for the lender or whatever, what was the anticipated profit for the project?

A. Tom, I think on the first year -- and I -- so I don't know if that was -- I don't think that's the stabilized year. And I'm speaking from recollection, okay. It's not like I carried these numbers around with me to repeat them.

But generally, I believe the gross

revenue was $30 million for Hotel Bennett annually in that -- I believe it was generally $30 million.

Q. What, approximately, was the projected net revenue?

A. Net revenue would be approximately a third of that number.

Q. Taxable net revenue would be approximately a third?

A. That would be the net revenues prior to a bank payment, prior to the debt service.

Q. After all is said and done, the absolute pure net profit, what was the net profit anticipated to be for the hotel?

A. I would think somewhere between around $7 million.

Q. Annually?

A. Yes, but that would change over time, right. That's got a first year, which is your -- should be your worst year. As you grow that, that should increase.

Q. That's before taxes, the $7 million?

A. Before income taxes?

Q. Right.

A. Yes, sir.

Q. So do you know if the -- when the pro

formas or market studies, whatever, were done initially, was the Hotel Bennett going to be more -- projected to be more profitable or less profitable or about the same as the other hotels that you own?

A. I think about the same on a percentage perspective, Tom. If a hotel was smaller number of rooms --

Q. Right. I understand.

A. -- and was a Hampton Inn, its rate would be lower and its revenue would be lower and its profit would be lower.

Q. Right. But the net revenues you're saying --

A. Percentage-wise.

Q. -- would be approximately the same?

A. Yes. Right. Right.

Q. Have you had any prior project where a contractor argued or made a claim to you that it was entitled to compensation beyond the original contracted price for change orders or otherwise?

A. You know, I don't manage those processes. So if there is a change order that's approved to by the architect and by Kim, then that's how that would happen. It doesn't happen

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very often in my life.
Q. It's unusual for you to have change orders?
A. Yes.
Q. Because the design documents are pretty tight, and by the time -- and usually entered into --
A. You know, the general contractors are usually able to build it on time and on budget. It just didn't happen this time.
Q. Since there aren't change orders, apparently -- a change order would imply that there were changes. So there, obviously, are typically not changes in the projects that you have developed, correct?
A. Not many. We didn't anticipate many on this one either.
Q. As I understand it, have you had mechanic's lien filed against you on other projects for claims that there were change orders or changes made that were not made?
A. It would not be part of my normal business to have liens against me.
Q. You can't tell me, sitting here today, what liens might have been filed or what projects?

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A. I think I told you I had one on that Savannah hotel many years ago. I think that was a mediation we did. I think somebody asked me that earlier today.
Q. I think you testified -- you have already answered this question, but if the -- I think it was referred to as the list earlier in the deposition.
If the Kim Brown and/or Jim Clements and/or the architects said payment should be made to the contractor, then in your view payment should be made and you would sign off on that, correct?
A. They would make that without even -- they would just do that, but they didn't require me to do it if it was part of the normal function of the job.
Q. I understand. Did you testify yesterday that you sign change orders?
A. I don't know if I do or not. Kim might have that. I asked you to show me one so I could see if I signed it or Kim signed it. I would assume she can sign them, but I -- that's what I assume happens.
Q. The date of the contract that we've

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identified shows that it was effective as of June 22nd or executed on -- with an effective date of September 22, 2014. If you can look at the front page of the document. I think we talked about that yesterday. It's on the front page up at the top.
A. On this one?
Q. Yes, sir. Those are both identical.
A. This says 22 September 2014.
Q. Right.
A. That's the agreement of this contract. Is that what that says?
Q. Yes, sir.
A. I believe that's what that says.
Q. Yes, sir. The date that that contract was effective?
A. Right.
Q. My question to you is, was the -- and that was based on, obviously, a design that had been negotiated and developed with Buck Lindsay and Sammons, correct?
A. Negotiated? That would have been with me and Kim with information with the contract from Buck Lindsay and Jim Clements. Buck Lindsay was the architect of record. So Fairfax & Sammons

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really was not involved in many years after they did their design.
Q. My simple question is, as of the date of this contract, it was based -- the contract says we're going to perform this work in accordance with --
A. This plan.
Q. Right.
A. I assume there's a plan that goes with that agreement.
Q. Right. That's pretty simple.
A. Okay. Yes.
Q. So my question is, was the design that was bid on or was agreed to as of September 22, 2014, did that design differ from the design that the hotel was ultimately built to when it opened in January of this year?
A. Not to my knowledge. Again, I would -- if there was any changes made that were approved by the architect and by Kim and Jim, then that might impact what you just said, but I believe it's the same plan that we started with, with whatever modifications that everybody agreed to, and I couldn't tell you what they are.
Q. But my question is, was the -- is it

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your testimony that what was constructed was the same design with no changes or not? Do you know?
A. I just said, if there were changes that were approved by everyone, then those were the changes that were approved by everybody. I think there were some changes that were approved.
Q. What were the major changes that you recall were approved?
A. I don't have any recollection. Again, Kim and the architect and Jim could be specific with you on those.
Q. So sitting here under oath today, if I say the -- looking at the design that the contract date of September 22, 2014 was contemplated and what was -- what sits there today, you would not be able -- you can't tell me and you have no recollection of how the design changed from that original date to today; is that a fair statement?
A. If Kim were sitting here with me I would ask Kim, and Kim would say, oh, you remember we did this and this. I would say okay. So there may be some changes that happened and change orders were approved and signed.
Q. I understand. Fair enough. Again, Mr. Bennett, I'll ask Kim the questions. I'm just

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trying to find out, sitting here today, you don't have personal knowledge or recollection as to what design changes occurred from September 2014 to today, agreed?
A. Other than whatever she told me. I don't memorize --
Q. You don't remember it here today?
A. I don't memorize what she tells me.
Q. I understand.
A. She tells me, and she tells --
Q. Sitting here today, you can't tell me what changes there were, agreed?
A. Once again, I don't do the daily management.
Q. I understand that, Mr. Bennett. My simple question is --
A. I try to continue to tell you that. I appreciate you have to keep asking me these similar questions. But other than what was approved, and that's what was built.
Q. So sitting here today, can you articulate to me that from September 2014 until the hotel that exists today what changes there were? If you can, tell me. If not, just say I can't.

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A. If you show me the plan that reflects that date and the plan that's built at completion, I could tell you.
Q. Right. You could figure it out. But sitting here today, without doing that comparison, you can't offer any opinions on that; is that right?
A. Other than what's been approved by Kim and Jim and the architect.
Q. Right. But you can't -- without doing a comparison of the drawings, you can't tell me here today based on your recollection what changes were made from September 2014 to today, agreed?
A. Other than what Kim, Jim, and the architect did, approved.
MR. HILDEBRAND: If you will give me just a few minutes.
(A recess was taken.)
MR. HILDEBRAND: You asked me, Bill, yesterday to talk about the -- I don't agree with your position on the document production identification. So I guess we'll -- you'll have to ask the judge.
MR. BUNDY: I'll file. Also, I assume -- I will add with that, I assume you're

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going to ask Kim Bennett Brown about his financial situation, based on your questions today. Will you agree to a confidentiality order related to his finances?
MR. HILDEBRAND: Absolutely.
MR. BUNDY: I will prepare a confidentiality order for you as it relates to that, send it to you. I will file a motion to -- I assume -- I'm trying to figure out. The only way I know to characterize the motion, unless you want to just agree -- we can -- if you want to, what we could do is just go to the judge on Tuesday and say you and I have a disagreement about how discovery should be handled as it relates to depositions and documents, and we'd like him to make a decision. Not a -- a decision. If we do it that way, I think that's the easier way. The other way, I would have to bring it to a head by making a motion or a protective order that you can't take the deposition until that's resolved.
So I'll leave that up to you. Seems to me just to go to the judge, present your side, my side, let him tell us how he wants us to do it.
MR. HILDEBRAND: I'm fine with that.

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Plaintiff Balfour Beatty's Trial Exhibit # 303

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS CASE NO.: 2019-CP-10-01108
Balfour Beatty Construction, LLC, Plaintiff, vs. Library Associates, LLC; and Metropolitan Life Insurance Company, a New York Corporation, Defendants.	
Library Associates, LLC, Third-Party Plaintiff, vs. Lithko Contracting, LLC, Guy M. Beaty, Inc., Bernard MMC, LLC, Gulf Stream Construction Company, Inc., Palmetto Automatic Sprinkler Company, Inc., Cook & Boardman, LLC, 1st Choice Glass, Inc., Strong Tower Construction, LLC d/b/a Koch Corporation, Watson Electrical Construction Co., LLC, Trimark Foodcraft, LLC, Pleasant Places, Inc., David Allen Company, Inc., Premier Exteriors, LLC, Robert Thomas Iron Design, LLC, Warco Construction, Inc., Old North State Masonry, LLC, Tom Rochester & Associates d/b/a Southeastern Architectural Systems, Forton Company, LLC, Lowcountry Case & Millwork, Inc., Quantum Coatings, LLC, Balfour Beatty Construction Group, Inc., Third-Party Defendants.	PLAINTIFF'S EXCERPT DESIGNATION FOR DEPOSITION OF JENNIFER FAULKINBERRY

Jennifer Faulkinberry
November 17, 2020

Page 8, lines 21 – Page 9, line 3
Page 13, lines 2-10 – EXHIBIT 108 - shows license expired June 30, 2017
Page 15, lines 14-22
Page 17, lines 24 – Page 18, line 1
Page 25, lines 18 – Page 27, line 7 EXHIBIT 16 – contract
Page 28, lines 10-22
Page 29, lines 22 – Page 30, line 19
Page 32, lines 6-25
Page 48, lines 11-14
Page 63, lines 4 – Page 64, line 23
Page 67, lines 22 – Page 68, line 18
Page 77, lines 7-12
Page 93, Line 17 – Page 99, line 5 – EXHIBIT 122
Page 139 lines 15 – Page 142 line 21 – EXHIBIT 121

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VERITEXT LEGAL SOLUTIONS

Deposition of:

Jennifer Faulkinberry

November 17, 2020

In the Matter of:

Balfour, Beatty v. Library Associates

A. William Roberts, Jr & Assoc.
800-743-3376 | calendar-awr@veritext.com | www.veritext.com

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JENNIFER FAULKINBERRY,
having been first duly sworn, was examined and testified as follows:
EXAMINATION
BY MR. HILDEBRAND:
Q Hi, Ms. Faulkinberry. My name is Tom Hildebrand. I represent Balfour Beatty Construction Company, LLC in this lawsuit that's been filed relative to the Hotel Bennett. I just want to go over a few ground rules about your deposition as we get started and move forward.
Have you ever had your deposition taken before?
A A long time ago, yeah.
Q Just once?
A Once.
Q Okay. Well, now that the deposition has begun, under South Carolina rules you're admonished not to discuss anything relative to this case, either in person or by telephone or e-mail or text or anything else like that until the deposition is over. You can discuss -- talk about other things, obviously, but nothing related to this case, including with your attorney. Okay?
A Yeah. Yes.

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Q All right. And please try to answer yes or no as opposed to saying uh-huh or huh-uh or shaking your head because the court reporter will otherwise have a difficult time.
Also, please try to let me finish my question before you start your answer, and I'll try to reciprocate with that.
If you don't understand a question that I ask, please just stop me, and I'll be happy to try to repeat it or rephrase it or whatever to try to make it easier. Okay?
A Yes.
Q All right. Also, we talked earlier, you are -- this is not an endurance contest by any stretch. We will typically break once an hour if that's good, but if at any time you'd like to take a break, just let us know, and I'll be happy to. I understand you would also like to take a full hour for lunch, and that's fine, so I'm happy to accommodate you. Just let me know, and we'll take breaks or whatever. Okay?
A Yes.
MS. PATON: Just for the record before we go forward, Tom, as she is a nonparty witness, and as I understand it we haven't received discovery

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documents, et cetera, to the extent there is a document presented that she has not seen before that was not provided prior to the deposition, I would reserve the right to speak with her privately before going forward on any such document. I do not anticipate that happening, I don't see it's going to be a problem in any way, shape or form, but simply just putting on the record.
MR. HILDEBRAND: I understand. I think Kent did the same thing, but he actually stepped out.
BY MR. HILDEBRAND:
Q Are you feeling well today, Ms. Faulkinberry?
A Yes.
Q Are you under the influence of any medications or substances that might affect either your ability to understand my questions or to respond to them?
A No.
Q Okay. How old are you?
A 59.
Q Okay. And how far did you go in school?
A Bachelor of architecture.
Q From where?

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A Syracuse University.
Q When did you obtain that?
A '85.
Q Any other degrees?
A No.
Q All right. And what did you do to prepare for your deposition here today?
A I briefly looked over the transcript of Buck's deposition and discussed the case with my counsel.
Q Okay. Did you review any documents?
A No.
Q Did you review any of the exhibits from Buck Lindsay's deposition?
A Yes.
Q Did you look at all the ones that were introduced in his deposition, or all the ones that were in the case, or --
A Just whatever was in his.
Q Okay. Have you -- since this project was completed in early 2019, late 2018, have you spoken to anybody not associated with WLA or your counsel regarding any aspect of this case?
A No.
Q When was the last time you had any

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communications with anybody from Bennett Hospitality?
A Roughly three to four weeks ago. The building engineer called me for some assistance finding a shop drawing I think it was, and that's not uncommon. He's called kind of --
Q Who was that?
A Ryan Quinlan.
Q Have you spoken to Kim Brown or Michael Bennett since the project was completed?
A No.
Q Have you spoken to any of the attorneys for Bennett Hospitality?
A No.
Q Have you spoken to anybody from Balfour Beatty?
A No.
Q One of the -- so you've -- you're a licensed -- when did you obtain your license to practice architecture?
A 1988, New York.
Q And how long did you practice in New York?
A I was not actually practicing in New York. It went pretty quickly to be an inactive license because I became licensed in Georgia. The reason I

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was licensed in New York is because I returned to New York to take my exam, and the reason I did that is because I could take it earlier there than I could here.
Q Okay. So tell me about your work background. How long have you been working with Buck Lindsay?
A 27 years.
Q So that would take us to approximately 1993?
A '4.
Q '4?
A I guess '94. February. Valentine's Day.
Q Of '94?
A '94.
Q You started working with Buck?
A Correct.
Q So prior to that you had been practicing architecture for some 15 years or so?
A Since I graduated college.
Q '94, '88, so about six years?
A From '85.
Q Okay. So six or seven years you did something else, worked for somebody else?
A Yes.

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Q Who was that?
A J. David Mullins & Associates.
Q They're in Atlanta?
A I don't think they exist anymore, but they were in Riverdale, and that was hospital healthcare work.
Q Okay.
A For four years.
Q All right.
A And prior to that Rabun, Hatch, Portman, McWhorter, which then became Rabun Hatch and other things with the Rabun in the name for five years doing full-service hotel work. That was my first job out of school.
Q Doing full-service hotel work?
A Uh-huh.
Q Again, try to answer yes or no rather than uh-huh.
A Yes, sorry.
Q No problem.
So you joined Buck Lindsay in -- I'm sorry?
A '94?
Q '94, okay. One thing I want to ask you about is your licensing status currently.

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A I'm currently not licensed.
Q Okay. Exhibit 108 is a copy of a document that we had just gotten from the Internet, and it shows that your license had expired on June 30, 2017; is that correct?
A I don't think that that is correct because I was on probationary time while they were trying to figure out my CS -- my continuing ed credits, and they never were able to resolve it, so I said I'm not going to renew.
Q Okay.
A So it was really closer to the end of '18 before they finally gave -- gave me an answer. And, actually, they didn't give me an answer, and that's why I got fed up.
Q Okay.
A Decided just to practice under Buck --
Q Okay.
A -- without a license.
Q Okay. Do you recognize this document?
A No.
Q Okay. It's a -- something that we copied from the Internet from the Secretary of State that shows a licensing status, and under this document it said that this is the most recent one --

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A It probably reverted back to that date, which is how much was paid for.
Q Okay. But would you agree from this document, the documentary evidence that we have shows that your license had expired on June 30, 2017?
A That's what it shows.
Q Okay.
A And Kemp was the --
Q Sorry?
A Kemp was the department head at the time, not Raffensperger.
MS. PATON: Madam Court Reporter, did you get my objection for the record? I will unmask so you can see and hear me better.
BY MR. HILDEBRAND:
Q Did you -- did Buck Lindsay know that your license had expired while you were working on this project?
MS. PATON: Objection.
THE WITNESS: I don't know.
BY MR. HILDEBRAND:
Q Did anybody from Bennett Hospitality know that your license was expired?
A I don't know.

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MS. PATON: Objection.
BY MR. HILDEBRAND:
Q Are you familiar with what the licensing requirements are in South Carolina for an architect to practice architecture there?
A Not definitively, no.
Q What are they generally?
MS. PATON: Objection.
THE WITNESS: Generally, if you're given authorization to work under a licensed architect, you're authorized to work under the licensed architect without a license.
BY MR. HILDEBRAND:
Q Before you worked on the Bennett Hotel, did you check the statutes and what license Buck Lindsay had gotten his authorization in South Carolina under to determine whether it was appropriate or not for you to work under his license in South Carolina?
MS. PATON: Objection.
THE WITNESS: I did not check the licensing requirements of South Carolina.
BY MR. HILDEBRAND:
Q Okay.
A And that's something I wouldn't typically do working under Buck.

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Q Okay. Well, are you familiar -- do you have any understanding as to whether a -- in South Carolina you can have an architectural firm that gets a license, and then unlicensed architects can work under the firm, but if it's just an individual who gets the licensing in South Carolina, then architects cannot work under that individual without having a license, do you have any -- does that -- have any familiarity with that?
MS. PATON: Objection.
THE WITNESS: Not familiar with that. I don't know that that's true.
BY MR. HILDEBRAND:
Q Okay. Have there -- other than the CLE issues that you told me about that led to your letting your license lapse, or whatever happened, had there been any other issues with the licensing --
A No.
Q -- board in Georgia?
A No.
Q Okay. So tell me about WLA when you started with it in 1994. What did it do, and what were your responsibilities?

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A Well, it was LPB. It was Lindsay Ponder Brayfield.
Q Okay.
A And I was project captain running mostly production on hotel projects, and eventually morphed into CA work on projects I had produced, and eventually morphed into CA work on projects I hadn't produced.
Q Okay. So when did you start doing primarily CA work?
A Primarily -- oh, Lord. I honestly don't recall.
Q Do you have an approximation?
A I'm just trying to think of a project where I wasn't doing production, and I can't remember what is a project that involved just CA, which would mean primarily.
Q Well, at what point approximately -- the new millennium, of course, is 2000, so that's good to kind of benchmark, what point did you -- as I understand it from Buck's testimony you do virtually all CA work at this point?
A Now, yeah.
Q How long before the Hotel Bennett had you been doing virtually all CA work?

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A 15 years.
Q So you really morphed into doing virtually all CA work within a few years or several years of starting with WLA?
A Yes.
MS. PATON: Objection. Wait until he finishes the question.
THE WITNESS: Sorry.
MS. PATON: No problem. Everybody does it.
BY MR. HILDEBRAND:
Q So for your CA work, was that on-the-job training that you developed your expertise in that area?
A Mostly.
Q Who was your mentor, if anybody, at WLA on that?
A I would say mostly Buck.
Q Okay.
A And we worked together as a team.
Q So in about 2013, you were doing all CA work, correct?
A Correct.
Q Okay. How many -- prior to the Hotel Bennett project, how many five-star hotels had you

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done -- been the primary CA person for WLA?
MS. PATON: Objection.
THE WITNESS: Primary CA person, none.
BY MR. HILDEBRAND:
Q Okay. How many -- prior to Hotel Bennett, had you performed any CA work on five-star hotels?
MS. PATON: Objection.
THE WITNESS: There are two or three at Rabun Hatch.
BY MR. HILDEBRAND:
Q So that would have been in the '80s --
A '80s.
Q -- early '90s? Okay.
What were those hotels?
A Occidental, which is now something else, it's on 14th Street, the Swissotel, which is now something else in Buckhead, and there was one more, but I can't remember it.
Q With that other -- with your firm prior to WLA on those three hotels, who was the architect who had the primary CA?
A I don't remember his name. I don't remember.
Q Okay.
A It's been a long time.

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Q Okay. So prior to this project it had been maybe 20 years or so since you had done any CA work on a five-star hotel; is that a fair statement?
A It's fair.
Q Okay. On the -- for the Hotel Bennett, did you have any involvement with the drafting of the contract between WLA and Library Associates?
A No.
Q Did you even -- before you started your CA work, did you even review --
A Yes.
Q -- the contract?
And what was your reason for reviewing it?
MS. PATON: Objection.
THE WITNESS: To become familiar with it because we administer that contract.
BY MR. HILDEBRAND:
Q Okay. Did anybody ask you or solicit your input into any of the terms for what the obligations would be of WLA in the contract between it and Library Associates before it was executed?
MS. PATON: Objection.
THE WITNESS: You're talking about the contract between us and Library Associates, not the construction contract?

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BY MR. HILDEBRAND:
Q Correct.
A Then I would have to change my previous answer because I thought you were talking about the construction contract. I mean, it's written in the contract what is required.
Q Right, but my question is: Were you involved in the contract between WLA and Library Associates, were you involved in drafting that?
A No.
MS. PATON: Objection.
BY MR. HILDEBRAND:
Q Did you have any input into any of the terms of that contract?
MS. PATON: Objection.
THE WITNESS: No.
BY MR. HILDEBRAND:
Q Who actually did negotiate the terms of that for WLA?
MS. PATON: Objection.
THE WITNESS: Buck.
BY MR. HILDEBRAND:
Q Did Buck ask you for any particular advice or particular or general suggestions about what you thought any of the terms should be in that contract?

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MS. PATON: Objection.
THE WITNESS: I don't recall.
MS. PATON: Objection.
BY MR. HILDEBRAND:
Q Have you ever been involved in a hotel project where you provided full-time CA work?
MS. PATON: Objection.
THE WITNESS: I don't recall.
BY MR. HILDEBRAND:
Q Have you ever been involved in a hotel project where you moved to the construction site if it was out of state or out of town and basically stayed there for all during the work week and then maybe went home on weekends, but where you were there full-time?
A No.
Q Was there any discussion or recommendation to your recollection from Buck Lindsay that that should be considered on this project?
A I don't recall that.
Q How about from the owner's -- from the owner's side, either Jim Clements or Kim Brown or Michael Bennett, did anybody say, to your knowledge, this is a project, perhaps, that the architect would need to have a full-time person here on site?

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A I don't recall that.
Q Has WLA ever had a project, to your knowledge, where it had a -- an architect designated to have basically full-time responsibility for CA?
MS. PATON: Objection.
THE WITNESS: We had a project in Florida that required a person on site four days a week, so not quite full-time.
BY MR. HILDEBRAND:
Q And what was that project?
A That was the Cabana Bay Beach Resort for Universal Studios Orlando.
Q Okay. And who is the person who performed that function?
A Tom Owens.
Q Okay. Are there -- who are -- in 2013, who were the designated CA architects at WLA?
A I have no memory of that.
Q Who are they now?
A They are myself, Tom Owens, and there are some other architects that do many -- have many roles, one of which is CA.
Q Okay. But the only full-time CA architects are yourself and Tom Owens?
MS. PATON: Objection.

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THE WITNESS: To the best of my knowledge.
BY MR. HILDEBRAND:
Q How long has Tom Owens been practicing?
A I don't know, but he's a veteran. I mean, he's a veteran architect, so --
Q Okay.
A -- a long time.
Q All right. How much longer do you plan to work?
A Well, depends on if the lottery wins for me. You know, until I'm 65 hopefully.
Q Okay. So for another five, six years probably?
A Uh-huh.
Q Okay. Are you currently doing any work for any Bennett Hospitality-related entities?
A No.
Q Prior to this hotel had you provided CA responsibilities for any Bennett Hospitality --
A Yes.
Q -- hotels?
All right. For which hotels?
A Courtyard Mount Pleasant, Hampton Inn & Suites, MLK Boulevard, Savannah.
Q Okay.

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A I think there was a couple of ones I assisted on with Tom. Like, in his absence or on his vacation or whatever I would work. I can't remember the name of it. And that's all I can recall right now.
Q Okay. What were the CA obligations of WLA for this project?
MS. PATON: Objection to the form.
THE WITNESS: I'd have to get the contract out and look at it.
BY MR. HILDEBRAND:
Q Do you recall what's called for in the contract for the number of visits?
MS. PATON: Objection.
THE WITNESS: I mean, I don't off the top of my head, no.
BY MR. HILDEBRAND:
Q Okay. Contract has been marked as Exhibit 16, so if you want to refer to that and let me know the answer to that question.
MS. PATON: Just to clarify, for the record, you're asking her in a position as a fact witness and not as a corporate designee, correct?
MR. HILDEBRAND: Just whatever her testimony is.

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MS. PATON: As a fact witness.
THE WITNESS: So I see 64, 60 -- total 64, and that includes -- architecture is 36. So what was the question?
BY MR. HILDEBRAND:
Q How many site visits were required under the contract, which is marked as Exhibit 16, for this project?
A For the entire project, it was 64.
Q And then what was the 36 number?
A Just architecture.
Q What's the difference?
A Well, there's 36 visits for the architect, or an architect, there's eight visits for the structural engineer, there's 12 visits for the mechanical, HVAC, plumbing engineer, there's six visits for the electrical engineer, and there's two visits for the lighting consultant.
Q Okay.
A And I think that is it.
Q Okay. So of the 36 visits, were those -- was it anticipated those would be only you, or would that include visits by you and Buck?
MS. PATON: Object to the form.
THE WITNESS: It doesn't specify who would

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make them.
BY MR. HILDEBRAND:
Q Okay. So that could be you or Buck or whoever -- whatever --
A Yeah.
Q -- other architect?
A Correct.
Q How many site visits did you end up actually making on the project?
A More than that, but I don't recall the final number.
Q Do you know how Buck Lindsay came to decide on 36 as being the appropriate number for this project?
MS. PATON: Object to the form.
THE WITNESS: Typically he starts out with one per month, but I don't know what he did on this particular job. I don't know what generated that number.
BY MR. HILDEBRAND:
Q Okay. You said he starts out at one per month, and does it change after that?
A Well, then --
MS. PATON: Objection.
THE WITNESS: -- the owner may request

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more or less. It just depends how the negotiation of the contract goes.
BY MR. HILDEBRAND:
Q Okay. So when you read the number of CA visits, 36 architectural CA visits for this project, did that seem appropriate for you?
MS. PATON: Objection.
THE WITNESS: I don't recall.
BY MR. HILDEBRAND:
Q Okay. So how often did you, in fact, visit the project during construction?
A It wasn't standard. It was at least once a month, and sometimes more.
Q So --
A It varied.
Q -- when it was more, would it be twice a month?
A Sometimes.
Q Any more than twice a month?
A Sometimes.
Q Any more than three times a month?
A I don't know.
Q Not to your recollection?
A I don't know. I'd have to get my log.
Q Okay. If we wanted to see exactly how

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many times you visited the project, we'd need to look at your particular log, individual log?
A Correct.
Q Would that be in the billing documents?
A Billing? No, it would be in our project folder.
Q Okay. So you would be there at least monthly, and then sometimes more than once a month, correct?
A Uh-huh.
Q Yes?
A And generally increases as you go through the project where the demand is higher towards the end of the job.
Q Okay.
A Generally.
Q Okay. When you were on site, how long would you spend?
MS. PATON: Objection.
THE WITNESS: A day.
BY MR. HILDEBRAND:
Q And would you spend a day actually on the premises on the construction site, or would you spend part of the day in the office or somewhere away from the actual site?

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MS. PATON: Objection.
THE WITNESS: Part of the day probably doing an OAC meeting or architect-contractor meeting, and then walking the building the rest of the day, or sometimes it was flipped. It wasn't the same every week.
BY MR. HILDEBRAND:
Q Okay.
A Or every visit.
Q Okay. So for a typical site visit approximately how many hours would you actually spend walking the site?
MS. PATON: Objection.
THE WITNESS: I don't know. There were some times it was three hours, and sometimes it was five hours. It just varied depending on the need for information or clarifications or, you know -- it just depended on -- it wasn't consistent every month.
BY MR. HILDEBRAND:
Q Okay.
A I'd have to look back at my time sheet to look how many hours I spent there every time.
Q So would your time sheet show how many hours --

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A Uh-huh.
Q -- for the whole site visit, but would it also distinguish between how many hours you were actually --
A No, it wouldn't distinguish.
Q Okay.
A It might distinguish, but I don't know.
Q Okay. So what were your responsibilities as the CA architect for WLA?
MS. PATON: Objection.
THE WITNESS: Again, I'd have to review the contract.
BY MR. HILDEBRAND:
Q Well, you tell me based on -- I mean, do you actually --
A I can tell you in general, but I can't tell you specifically without looking at the contract because I haven't looked at it in seven years, six years.
Q Okay. The project finished, though, in late 2018 or early 2019. Can you just tell me what you understood and what you, in fact, performed as your responsibilities for this job?
MS. PATON: Objection.
THE WITNESS: I can tell you some of the

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things.
BY MR. HILDEBRAND:
Q Okay.
A I can't tell you everything because I don't know everything.
Q Okay. Tell me what you did. What were you -- what was your job, and what were your responsibilities as the CA architect?
MS. PATON: Objection.
THE WITNESS: Starting from the end going forward, punch list inspections of public areas and exterior of the building.
BY MR. HILDEBRAND:
Q Okay. What else?
A Review and signature of applications for payment.
Q Okay.
A Walk the site to make observations to verify that construction was in general conformance with drawings and specs.
Q Okay. What else?
A Resolve conflicts, answer questions for the contractor. Those are just some of the roles.
Q Okay. What else?
A I don't have anything else right now.

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Q Okay. So what obligations, if any, did you have back -- did you spend any time on the project back at the office as opposed to your site visits?
A Versus what?
Q Before --
A Like, why would I have been there otherwise?
Q My question, though, is you had CA responsibilities --
A Uh-huh.
Q -- and you've told me that part of them were spent actually on site making observations, answering questions and such.
A Uh-huh.
Q Did you have any -- did you devote any time to this project other than your site visits? In other words, back at the office was there anything that you were tasked to do on this project?
MS. PATON: Objection.
THE WITNESS: I mean, we had our OAC meetings. I don't know what else -- I don't know what you're getting at.
BY MR. HILDEBRAND:
Q Okay. Did you have any design

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practice to practice architecture, correct?
A Correct.
Q The architect is -- okay. We've talked about a set of drawings and whether the set of drawings should be suitable for construction. Do you remember that?
A Yes.
Q Right. And you said a set of drawings is never perfect. Do you remember saying that?
A Yes.
Q Right. But between a set of drawings that are absolute garbage and drawings that are virtually perfect, there's -- there would be a wide range in there, correct?
A Exactly.
MS. PATON: Objection.
BY MR. HILDEBRAND:
Q Right. And there's an acceptable standard for a set of drawings should be maybe not absolutely perfect, but they should not be replete with clashes and busts; agreed?
MS. PATON: Objection.
THE WITNESS: I'm sorry, repeat the question.
BY MR. HILDEBRAND:

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Q I mean, there's a standard, isn't there?
A Brain is going this way.
Q Right. Isn't there a standard for architects if they're being paid to perform their architectural services and publish construction drawings that what is shown on those drawings should work? There might be a clash here or there, but overall those drawings should be appropriate for construction?
MS. PATON: Objection.
THE WITNESS: Yes.
BY MR. HILDEBRAND:
Q Right. So at some point the number of clashes or the number of issues that arise becomes more than what would be reasonable; agreed?
A I don't know how you define that. How many clashes is acceptable?
Q Okay. Okay. Regardless, if a contractor discovers a clash on the drawings, then what he should do is ask the architect how -- how should this be resolved. He can offer a suggestion, but then the architect makes the decision, correct?
MS. PATON: Objection.
THE WITNESS: Sometimes with the owner's input.

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BY MR. HILDEBRAND:
Q Right. Sometimes with the owner's input, sometimes not. But when a clash is identified by the contractor, then the -- it's the architect's obligation, perhaps in conjunction with the owner, to provide a response and authorization for a response, correct?
MS. PATON: Objection.
THE WITNESS: Correct.
BY MR. HILDEBRAND:
Q All right. How often was Buck Lindsay on the site, to your knowledge?
A I don't have the exact number, but several times.
Q When you would go on site, who from Balfour would you meet with, if anybody?
A It would vary. One time it would just be several different team members on Balfour Beatty's team.
Q Okay. Do you have any criticisms of any individuals on the Balfour team and their job performance on this job?
A Nothing I can substantiate, no.
Q Okay. How about the -- anybody from the City of Charleston, do you have any criticisms of

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any of the inspections or approvals or anything like that?
A Not that I can recall.
Q Okay. Was BIM required of the -- of WLA on this project?
A It's my understanding that -- I don't know the answer.
Q If it -- would you agree with me that on a project, the contract is the document that governs the responsibilities of the various parties?
MS. PATON: Object to the form.
THE WITNESS: Which contract?
BY MR. HILDEBRAND:
Q The contract that any party has with another party is the document that is the primary governor of what their responsibilities are?
MS. PATON: Objection.
THE WITNESS: If it's not edited.
BY MR. HILDEBRAND:
Q Let me boil it down. If the -- if the owner wanted the architect to formally employ BIM and pay the architect to provide BIM, should that have been a requirement in the architect's contract?
MS. PATON: Objection.
THE WITNESS: If they wanted us to provide

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about them. I only know about the adjustments that I made, and none of the ones I made were rejected or contested by the contractor that I recall. Does that make sense?
BY MR. HILDEBRAND:
Q Do you -- did you review the requested change orders that were -- that are part of Balfour's claim in this matter?
A I don't know what they are.
Q Have you -- are you familiar with what Balfour's claim is?
A I believe it's regarding delays.
Q Do you know what the amounts are?
A No.
Q Do you have any reason or basis, sitting here today, to dispute the amounts that are claimed by Balfour?
MS. PATON: Object to the form.
THE WITNESS: I don't know what they are.
BY MR. HILDEBRAND:
Q So you don't --
A I just received claims, responded to the claims, and that's all I know.
MS. PATON: Tom, are we in a spot to take a break?

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MR. HILDEBRAND: Absolutely.
(Recess 10:19-10:29 a.m.)
BY MR. HILDEBRAND:
Q What was the process for pay applications on this job?
A In the OAC meeting typically they would project on a big-screen TV the subcontractors' draws, and they would generally be divided by some unit like a floor, and then we would -- as it grew, Jim and I with input from the contractor would look at the amount for that floor compared to what we saw in the field, and if it was okay we'd move on. Then at the end of the meeting if everything was okay we'd sign it or we'd adjust it. We adjusted it a lot.
Q What would be the reasons for adjusting it?
A Maybe errors. There were some math errors several times. There were missing backup several times. There were a lot of housekeeping errors.
Q Okay. If there was not backup which you or the owner felt was necessary for a pay app, would you request it?
A Uh-huh.
Q And it would be provided for your

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satisfaction before the pay app would be approved, correct?
A Correct.
Q Was this project audited during construction by the owner?
A I can't say for sure.
Q To your recollection was it?
A There may be something. I can't really say definitively. I could be mixing it up with another job. Who knows. I honestly don't recall.
Q But there was kind of a de facto audit with each pay application because Jim Clements and you and the owner would review them and request any backup that y'all felt was needed?
A And the bank inspector.
MS. PATON: Objection.
THE WITNESS: So it was not just one person making a ruling, it was input from others.
BY MR. HILDEBRAND:
Q Right. But each pay app was scrutinized by the bank inspector, owner's representatives, and design representatives, correct?
A Correct.
Q So -- so there was a de facto audit with each pay application as y'all reviewed it, correct?

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MS. PATON: Objection.
THE WITNESS: I wouldn't use the word "audit" because that implies a very detailed to the nth degree look at every penny, and that didn't happen. I thought you meant professional audit.
BY MR. HILDEBRAND:
Q Were you involved with the model rooms that were done?
A Somewhat.
Q Explain what your involvement was then.
A Those rooms were mostly for the purpose of identifying interior design decisions and quality level, but interior designers were more the captains of that ship.
Q But the reason for the model rooms was that they would be agreed upon, the level of quality of the finishes and everything else would be agreed upon, then the idea was that that level of quality would be replicated in the remainder rooms, correct?
MS. PATON: Objection to form.
THE WITNESS: I can't say level of quality was part of it or not or if it was just -- I can't say for sure.
BY MR. HILDEBRAND:
Q So you have no recollection there?

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A No. I have recollection of looking at furniture and -- I'm not sure -- if you're getting at walls, I'm not sure if they were perfect. I don't recall being told or someone saying this is what we expect to see in that hotel exactly like this.
Q How often would you have interactions with Michael Bennett?
A Very infrequently.
Q How about -- let's drill down on that one a little bit. How about in-person dealings with him?
A That's what I meant.
Q Okay. So on some of your site observations would Michael Bennett come, and would you confer with him?
A I saw him on site a couple times, but we didn't really talk much.
Q What involvement, if any, did Michael Bennett have with the pay application process?
A None in the OAC meeting. If there was something going on after, I can't speak to it. I don't know. In the OAC meeting he wasn't there typically.
Q Did you have an understanding one way or

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the other as to what involvement at all he had with reviewing pay applications and determining whether they would be paid or not?
MS. PATON: Object to the form.
THE WITNESS: No, I have no knowledge of if he had involvement.
BY MR. HILDEBRAND:
Q Okay. Did you have any understanding or knowledge of how important or unimportant the budget was to Michael Bennett on this job?
MS. PATON: Object to the form.
THE WITNESS: Yeah, I don't -- I can't speak to that.
BY MR. HILDEBRAND:
Q How about with Kim Brown?
MS. PATON: Object to the form.
THE WITNESS: I mean, I think regardless of the budget she's always on the savings side of the equation, so she's always interested in saving when it can be done.
BY MR. HILDEBRAND:
Q What was your impression of Kim Brown?
A It would be speculation. I can't --
Q You have an impression. I'm not asking you to speculate. I'm asking what your impressions

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are.
A Well, there are a lot of -- she's a strong woman, personality, smart business person, I have respect for her. That's about it.
Q How about Michael Bennett?
A He's -- he wants a project to be as close to perfection as possible, and he is very strong in getting it there. He's -- he has a vision, and he wants to do whatever he can do to make it meet his vision.
Q And did you understand that his vision for the Hotel Bennett was that this was going to be the iconic, premiere, highest luxury, highest quality hotel in Charleston?
MS. PATON: Object to the form.
THE WITNESS: I don't know about that. I just know that he was very proud of it and wanted it to last 200 years. I remember them saying that.
(Off-the-record discussion.)
THE WITNESS: But, again, I didn't have a lot of talk with Michael.
(Off-the-record discussion.)
BY MR. HILDEBRAND:
Q What was Taylor Walker's role on this job?
A He is the mechanical, HVAC, slash,

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plumbing designer, design engineer.
Q How long has he been with WLA?
A I don't recall, but more than 15 years, I think.
Q Okay. How about Jim Lord, what's his role?
A He is production architect for drawings producing contract drawings and specifications.
Q Does he have a role with the construction drawings?
A Yes.
Q How about for if there are changes during construction, does he have any involvement with that?
A No, not typically. Not unless it affects something he worked on during the contract drawings and we need to glean his memory or his information to effect the new design. Typically it's not him, he's on to another project.
Q Okay. So Jim Lord is almost entirely a front end man?
A Correct.
Q Taylor Walker would be front end and then during construction also?
A Yes.

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Q Were you involved in any of the preconstruction activities?
A No. I think my first meeting was the kickoff. The official kickoff meeting.
Q Do you know what role or obligations Balfour had with -- in preconstruction on this job?
A I don't recall.
Q What was the first time that you ever met with anybody on the project team from Balfour?
A I believe the kickoff meeting.
Q And that was in 2015?
A I have no idea.
Q Let me refer you to what's been marked as Exhibit 70, which is a delay notification log from Balfour to the owner for delays on this project. I think there are 20 of them. Do you recognize that document?
A I do not.
Q What involvement, if any, did you have with the resolution of Balfour's delay claims?
A I worked to resolve some of them when we could. Like if it was something like a clash that needed to be resolved, we would work on that clash or -- but I can't say specifically. In general on a list like this, I'd have to go back and look at all

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the files.
Q Do you recall that on this project Balfour did make many claims for -- that it was being delayed for various reasons?
A Yes.
Q And that it was suffering damages and had claims for delays?
MS. PATON: Objection.
THE WITNESS: Never heard the word "suffering."
BY MR. HILDEBRAND:
Q Incurring?
A Yes.
Q Who responded -- if not you, who particularly was charged with responding to the delay claims?
A Buck.
Q Okay. How about from the owner's side, if anybody?
A I would -- I don't know for sure.
Q Okay.
A I think the rep of the owner, but I don't know.
Q Okay. There were -- I'll represent to you, and I've been through every -- asked this of

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every deponent that there was no claim against Balfour for -- any affirmative claim for damages or liquidated damages or delays or anything else like that until February of 2019, after substantial completion had been obtained. Do you have any -- are you aware of any evidence to contradict that statement?
MS. PATON: Object to the form.
THE WITNESS: I don't know -- I did not issue substantial completion, I don't think.
BY MR. HILDEBRAND:
Q Until the project was finished?
A I just -- I --
Q Let me rephrase it. That's a sticking point. So after -- before January 2019, no claim by the owner for liquidated damages or delays or any other claim had been submitted to Balfour, and each witness I've deposed has confirmed that --
MS. PATON: Objection.
BY MR. HILDEBRAND:
Q -- orally or in writing.
A Okay.
Q My question to you is: Do you have any testimony or evidence to contravene that statement?
A I have no knowledge when damages were

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claimed by the owner, and I never was copied on it.
Q And you never had any discussions with the owner about assessing liquidated damages against Balfour?
A I believe I was not working on the project at that time.
Q So while you were working on it there were no discussions, to your recollection, about the owner asserting liquidated damages against Balfour, correct?
A No discussions that I recall, but I knew it was in the contract.
Q That's not my question.
A Okay.
Q I understand the contract there are provisions -- there are all sorts of provisions.
My question is, sitting here today your testimony is that you have no recollection of any discussions by the owner or otherwise of asserting liquidated damages or delay claims against Balfour, correct?
A Sorry, can you say it again?
Q Sure. Sitting here today --
A Sitting here today.
Q -- you have no testimony that while you

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goes for tile, drywall, wall coverings, caulk, et cetera, except in the bathrooms, which may be smaller, correct?
A Pretty much everything in the bathroom would have to be less than five feet, especially in the shower where you're staring at it a foot in your face.
Q And if I'm in the middle of the guestroom, not in the bathroom, the standard would be five feet --
MS. PATON: Object to the form.
BY MR. TIMBES:
Q -- correct?
A At the time of this writing, yes.
Q Okay. Are you testifying that there was a change made to that?
A No, I'm testifying that I'm not aware of a change, but if there was one, this is -- applies to -- this applies to the time of the e-mail.
Q And, again, do you have any knowledge that that was ever changed?
A I do not.
Q If that standard did change, wouldn't that affect how Ms. DiMatteo was to do her job?
MS. PATON: Object to the form.

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THE WITNESS: Well, if it was -- I mean, she's -- I don't know. If it was changed, and someone informed her of the change and she agreed -- we agreed it was a change that she should do, then she should change her approach.
BY MR. TIMBES:
Q You said a lot -- you said the word "if" a lot in all that. She's working for WLA. Did WLA make any changes or instruct her as to how she's to do her job for WLA on this project any differently than what's set forth in this Exhibit 69?
MS. PATON: Object to the form.
THE WITNESS: I absolutely do not recall.
BY MR. TIMBES:
Q Okay. Were you provided copies of her punch lists when she was completed?
A Oh, yes.
Q I'm sorry?
A Yes.
Q Can you please turn to Exhibit 72, please.
A Yeah.
Q All right. You with me?
A Yes.
Q Okay. Take a second to review that one, and let me know when you're done, please.

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A Yes. It just one page?
Q It is not. It has -- Exhibit 72 is an e-mail. Looks like an e-mail string around November 27th of 2018; is that right?
A 21st. Yeah, I mean, it's in the general vicinity of that, yes.
Q Okay. And then it should have five or six pages of a punch list behind it?
A Yeah.
MS. PATON: Do you need to see the punch list?
THE WITNESS: No.
BY MR. TIMBES:
Q Okay. So if you look down at the bottom of the very first page that displays the exhibit sticker, this is an e-mail from you to Jim Clements, November 27th of 2018; is that right?
A The one at the top is from me to Jim.
Q That's why I directed you to the bottom.
A Oh, sorry. Yes.
Q Okay. And is that where you're forwarding to Mr. Clements the e-mail string below as well as the attached punch list document that follows?
A Appears that way, yes.
Q It's my understanding if you look in the

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middle of that document that a short while later -- actually, a few minutes later Mr. Clements is indicating you are prepared to issue a certificate of substantial completion for the guestrooms at that time; is that correct?
A Correct.
Q Okay. You recall that being the case at that time?
A I'm reading it, but I actually don't remember it, but it's there on the paper.
Q Okay. You don't take any issue with that e-mail, do you?
MS. PATON: Object to the form.
THE WITNESS: What do you mean by issue? Objection to it?
BY MR. TIMBES:
Q Let's do it this way -- let's do it a little differently so we can try to save some time here. Let's go to Exhibit 122.
A Okay.
MS. PATON: Hang on a second, Michael. I got to switch notebooks.
MR. TIMBES: That's okay. Thank you.
MS. PATON: No problem. Are you going to need us to go back to the 72 again, Michael?

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MR. TIMBES: I don't think so, but perhaps.
THE WITNESS: I'll just leave it here.
MS. PATON: Okay, great.
THE WITNESS: 122?
MR. TIMBES: Yes, ma'am.
MS. PATON: We have the exhibit open. Give us a second to flip through this, please.
THE WITNESS: I remember this, yeah.
BY MR. TIMBES:
Q Okay. The date on this is -- it's a Sunday, December the 2nd, 2018, correct?
A It just proves I work on Sundays.
Q This is an e-mail from you to Buck Lindsay, correct?
A Yes.
Q All right. In your e-mail to him number 1 you're describing the fact that Ms. DiMatteo has punched all the guestrooms twice, and you make the comment that you thought her lists were thorough. You stand by that statement?
A The list, yes.
Q Okay.
A That's not having gone in and checked all the guestrooms, but it appeared -- the list appeared

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thorough to me.
Q With that statement in mind, though, you were nevertheless prepared to issue a substantial completion certificate for the guestrooms, correct?
A That's correct.
Q Okay. So you trusted that this work was complete on these punch lists or you wouldn't have issued the substantial completion certificate, would you?
MS. PATON: Object to the form.
THE WITNESS: That's correct.
BY MR. TIMBES:
Q Let's look at number 3.
A Yeah.
Q You make a reference to Mike. Is that Mike Bennett?
A Yes.
Q Says Mike Bennett showed up, and he randomly checked some rooms, and he has some concerns that you list in your paragraph number 3, correct?
A That's correct.
Q What did you mean by don't know anyone who can punch 179 rooms to Mike's standard?
A I could do it. Just kidding.

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I was exaggerating, and I was frustrated, and that was my sense of humor.
Q Okay. Why were you frustrated?
A What I meant was he has a high standard that he wants to see in his hotel.
Q Okay.
A And --
Q Is --
A -- maybe we could meet that requirement, maybe we can't, maybe another architect can do it, I don't know. He has a high standard.
Q I'm trying to understand your words a bit, so let me ask you this way: When you wrote this, were you indicating that Mike Bennett has a different standard than what is required under the construction documents?
MS. PATON: Object to the form.
THE WITNESS: I don't know that he was necessarily speaking about the documents as I was speaking about just the hotel in general.
BY MR. TIMBES:
Q It doesn't take away from your statement that as of the date of this e-mail you were prepared to issue certificate of substantial completion for the guestrooms, correct?

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MS. PATON: Object to the form.
THE WITNESS: That's correct.
BY MR. TIMBES:
Q It's my understanding that WLA was not involved at all in the repainting that was performed by Library Associates; is that right?
A WLA was not.
Q Okay. Were you involved in that process?
A No.
Q Do you know why Library Associates did not involve you or Buck Lindsay or WLA in its decision to repaint the hotel?
A I don't know that they didn't inform us. They may have informed us, but I don't recall that.
Q Mr. Lindsay indicated that y'all were never asked to serve as the initial decision maker under the contract documents for any dispute relating to the paint; is that correct?
A I was not consulted on the paint issue.
Q Was WLA involved in any way in the decision by the owner to switch to flat paint?
MS. PATON: Object to form.
THE WITNESS: I do not know.
BY MR. TIMBES:
Q Do you know when your last day at the site

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was where you were performing services under your contract for the owner?
A I don't have it in my head, no.
Q With Exhibit 122 still in front of you, would it have been your practice, ma'am, to indicate that you are prepared to issue a certificate of substantial completion for 179 guestrooms if you thought all of those guestrooms needed to be fully repainted wall to wall?
MS. PATON: Object to the form.
THE WITNESS: No, it's not my -- I don't remember what the question is.
BY MR. TIMBES:
Q I'll try to ask it again. You --
MS. PATON: Hang on one second, Michael.
BY MR. TIMBES:
Q You would not have issued a certificate of substantial completion for 179 guestrooms if you thought those rooms needed to be painted, every single room wall to wall, would you?
MS. PATON: Object to form.
THE WITNESS: There could be a case where I would do that if the owner asked me to.
BY MR. TIMBES:
Q Did that case exist in this particular

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project?
A I don't recall that, no.
Q You never instructed to repaint 179 guestrooms, did you?
A I did not.
Q Ma'am, I may have some follow-up questions based on additional questions asked by others, but I think for now I'm going to turn you loose to some of the other folks on the line. I appreciate you listening to questions and responding.
MS. PATON: Rannik? Are you on the phone?
MR. RANNIK: I am here, and I have no questions. Thank you.
MS. PATON: No problem.
Robert Hughes? Any questions, Mr. Hughes?
MR. HUGHES: I'm here. Sorry, I had to get into my computer real quick. Just a few questions.

EXAMINATION

BY MR. HUGHES:
Q I represent Premier Exteriors, LLC, and I'll represent to you they served as the stucco applicator on this project. Do you have any recollection of any dealings with Premier Exteriors?
A Vaguely, yes.

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Q Can you tell me generally what it is you recall about Premier?
A Something about the light.
Q The critical light?
A The critical light.
Q Yeah, okay. So I guess to jog your memory a little bit on that issue, the BAR had -- I'll represent to you the BAR had raised an issue with the esthetical appearance of the stucco cladding, it looked a little wavy at certain times of the day, and my client brought in an expert with Applied Building Sciences who assisted with preparing a report that was presented to the BAR. Do you remember those circumstances?
A Yes, I do.
Q Do you have any recollection as to whether the BAR ultimately accepted the finished stucco cladding as-built without any required changes?
A I can't recall if they required no changes, but eventually they approved it.
Q You don't recall one way or the other?
A Yeah, but eventually they did sign off on it.
Q Other than this critical light issue, did you recall specifically -- sitting here today, do

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you have any recollection of any other alleged workmanship deficiencies in their stucco cladding on this job?
A I recall some cracking where y'all had to go back in and put in some joints.
Q And were those issues addressed to the satisfaction of the architect and owner?
A Yes.
MS. PATON: Object to form.
BY MR. HUGHES:
Q Are you aware of any other workmanship issues that were required to be addressed before the project was completed or after?
A I don't recall any.
Q To the extent those repairs were completed that you just mentioned, is it fair to say the stucco work that was provided by Premier on this job was ultimately installed in accordance with the plans and specifications for this project?
MS. PATON: Object to form.
THE WITNESS: I would say the areas that we viewed were found to be acceptable, but I can't speak for areas that are covered or behind finished coat or -- you know, because we didn't sit there and watch you guys install it, but to the best of my

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something -- providing a change order for this.
Q That was pretty continual once the project got started, wasn't it, from the general contractor?
A Him asking for change orders?
Q No, claims for -- there were delays and costs associated with delays?
MS. PATON: Object to the form.
THE WITNESS: Not at the beginning of the job. It came toward the end of the job. Middle to end.
BY MR. HILDEBRAND:
Q When the 6th floor issue hit the fan, so to speak?
A Yeah, that was --
MS. PATON: Object to form.
THE WITNESS: I don't remember when that happened, but it wasn't at the very beginning.
BY MR. HILDEBRAND:
Q That was in 2016. June of 2016. May-June of 2016.
A Okay. Then they --
Q It was about halfway through the project.
A Then they applied for another one and another one.
Q Then they were pretty continual.

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A Yeah. But we didn't understand why they didn't include those other ones in the beginning.
Q Well, what would you -- so when you said the agreement was that Buck Lindsay was going to handle the legal, what does that mean?
A Any of the legal claims or delay claims he was going to respond to, and I was working on all the other things because we were trying to minimize the turnaround time on it.
Q Was any claim ever made to WLA's insurers on this job?
A I don't know.
Q You don't know?
A Huh-uh.
Q All right. Turn to Exhibit 121, if you would, please.
A Okay. Oh, yeah, this is a famous e-mail.
Q What do you mean by that?
A You know what I mean. No, this -- all right. So what's your question?
Q Okay. Why is that a famous e-mail?
A Because you're showing it to me.
Q Let me see. Look on -- at the -- this is an e-mail dated 9/9/2016 from you to Buck Lindsay, correct?

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A Yes.
Q And it says in the subject do not forward to owner, then the first line is in all caps, do not forward to Jim or Kim.
A Right.
Q And the owner was telling WLA that there were changes and claims being made by -- claims of changes being made that resulted in delays to BBC, and the owner was in turn putting WLA on notice saying we are going to hold you responsible for these claims, correct?
MS. PATON: Object to the form.
THE WITNESS: You're speaking of Jim's e-mail below?
BY MR. HILDEBRAND:
Q Yes.
A This is Jim, okay. Sorry. Had two Jims. Oh, yes.
Q The provision that I wanted to ask you about is actually the one -- the e-mail at the top, the very last line -- actually, the first line says: Buck, I strongly disagree with Jim's statement that the delay has nothing to do with the owner changes; then the last sentence which says: Don't know if you read into this as I do. Jim is gunning for us

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to pay big bucks.
What did you mean by that?
A So the first part of your question said I strongly disagree with Jim's statement that it has nothing to do with the owner changes, that's in regard to the 20 days due to coordination issues, these 20 days, which has nothing to do with owner changes.
Q So your point was that these are owner changes?
A No, my point is some are owner changes, some are our issues, some are the contractor issues. It's not just one thing.
Q What were the contractor issues?
A I don't remember.
Q Okay. How do you -- why are you saying that some were contractor issues if you don't remember that there were any?
A Because I just remember there being a shared responsibility for the -- some of the delays, and I don't recall exactly what they were, but I don't recall the contractor being clear and free of so many days without them having some responsibility.
Q What do you mean by the last line, Jim is

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gunning for us to pay big bucks?
A For us to pay out of our pocket for costs to mitigate coordination issues. I was mad and emotional, and I thought he was, but he really wasn't.
Q Are you familiar with the e-mail where Jim tells Buck Lindsay there are design issues attributable solely to WLA and not to DCI that are going to -- that had resulted in damages in excess of a million dollars?
MS. PATON: Object to the form.
THE WITNESS: No, absolutely not.
BY MR. HILDEBRAND:
Q Would that surprise you if that e-mail exists?
A Yes, that would surprise me.
Q You don't remember that claim ever being made during construction?
A No. Not that much money. Solely on us?
Q Yes.
A No.
Q All right. That's all I have. Thank you.
A Thank you.
MS. PATON: Thanks kindly.
Does anyone on the phone have any

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follow-ups before we leave? Hearing nothing from anyone, looks like we're done.
(Deposition concluded at 12:43 p.m.)
(Signature reserved.)

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The following reporter and firm disclosures were presented by me at this proceeding for review by counsel:

REPORTER DISCLOSURES

The following representations and disclosures are made in compliance with Georgia Law, more specifically:
Article 10 (B) of the Rules and Regulations of the Board of Court Reporting (disclosure forms)
OCGA Section 9-11-28 (c) (disqualification of reporter for financial interest)
OCGA Sections 15-14-37 (a) and (b) (prohibitions against contracts except on a case-by-case basis).
- I am a certified court reporter in the State of Georgia.
- I am a subcontractor for Veritext.
- I have been assigned to make a complete and accurate record of these proceedings.
- I have no relationship of interest in the matter on which I am about to report which would disqualify me from making a verbatim record or maintaining my obligation of impartiality in compliance with the Code of Professional Ethics.
- I have no direct contract with any party in this action, and my compensation is determined solely by the terms of my subcontractor agreement.

FIRM DISCLOSURES

- Veritext was contacted to provide reporting services by the noticing or taking attorney in this matter.
- There is no agreement in place that is prohibited by OCGA 15-14-37 (a) and (b). Any case-specific discounts are automatically applied to all parties, at such time as any party receives a discount.
- Transcripts: The transcript of this proceeding as produced will be a true, correct, and complete record of the colloquies, questions, and answers as submitted by the certified court reporter.
- Exhibits: No changes will be made to the exhibits as submitted by the reporter, attorneys, or witnesses.

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- Password-Protected Access: Transcripts and exhibits relating to this proceeding will be uploaded to a password-protected repository, to which all ordering parties will have access.

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Plaintiff Balfour Beatty's Trial Exhibit # 304

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS CASE NO.: 2019-CP-10-01108
Balfour Beatty Construction, LLC, Plaintiff, vs. Library Associates, LLC; and Metropolitan Life Insurance Company, a New York Corporation, Defendants.	
Library Associates, LLC, Third-Party Plaintiff, vs. Lithko Contracting, LLC, Guy M. Beaty, Inc., Bernard MMC, LLC, Gulf Stream Construction Company, Inc., Palmetto Automatic Sprinkler Company, Inc., Cook & Boardman, LLC, 1st Choice Glass, Inc., Strong Tower Construction, LLC d/b/a Koch Corporation, Watson Electrical Construction Co., LLC, Trimark Foodcraft, LLC, Pleasant Places, Inc., David Allen Company, Inc., Premier Exteriors, LLC, Robert Thomas Iron Design, LLC, Warco Construction, Inc., Old North State Masonry, LLC, Tom Rochester & Associates d/b/a Southeastern Architectural Systems, Forton Company, LLC, Lowcountry Case & Millwork, Inc., Quantum Coatings, LLC, Balfour Beatty Construction Group, Inc., Third-Party Defendants.	PLAINTIFF'S EXCERPT DESIGNATION FOR DEPOSITION OF WOODY FAUST

Woody Faust
November 16, 2020

Page 8, lines 17 – Page 9, line 1
Page 17, lines 8-18
Page 31, lines 12-23
Page 32, lines 19-25
Page 33, lines 9-14
Page 37, lines 20 – Page 39, line 2
Page 40, lines 19-24
Page 66, lines 16 – Page 67, line 1

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VERITEXT LEGAL SOLUTIONS

Deposition of:

Woody Faust

November 16, 2020

In the Matter of:

Balfour, Beatty v. Library Associates

A. William Roberts, Jr & Assoc.
800-743-3376 | calendar-awr@veritext.com | www.veritext.com

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WOODY FAUST,
having been first duly sworn, was examined and testified as follows:
MR. HILDEBRAND: I'd like the record to reflect this is the deposition of Woody Faust. Karen Jenkins was scheduled to be deposed after this. Her attorney has taken the position that she is entitled to attend the deposition as corporate representative. I disagree with that, but I'd like to make that known for the record.
EXAMINATION
BY MR. HILDEBRAND:
Q Mr. Faust, now that the deposition has started, I would like for you to not communicate with anybody related to this lawsuit either by text or e-mail or discussions with Karen Jenkins or by any other means. If we take a break, that would apply during that time. If we break for lunch, it would apply during that time. Once the deposition is over, then, of course, you're free to discuss the matter with anybody else. Okay?
A Yes.
Q Thank you.
Are you feeling well today?
A I'm feeling fine. Thank you. Yourself?

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Q Fine. I'm wondering because I'm wondering if you're under the influence of any medications or substances that might affect your ability to understand my questions or respond to them.
A I take no medication.
Q How old are you, Mr. Faust?
A I'm 62.
Q Okay. Have you ever had your deposition taken before?
A I have not.
Q Okay. I'll go through a couple of ground rules that should make the process hopefully a little more streamlined and easier. If you would please let me finish my question before you start your response, that would make it much easier on the court reporter. Likewise, I will try to let you finish your answer before I ask my next question.
If you don't understand my question, just let me know, and I will try to repeat it or rephrase it as appropriate.
This is not an endurance contest. We will typically break about once every hour or so for about five minutes just for a short break, but otherwise during the deposition if you feel like you need to take a break for some reason, just let me know, and we'll be glad to accommodate you. Okay?

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Tell me briefly about your educational background. Where did you do your undergrad?
A I started college in Pennsylvania at Moravian College and left there after one and a half years. Then I attended a school here in Atlanta, the American College for the Applied Arts, and I got an associate's degree from that school. And then I attended an affiliated school, the American College of the Applied Arts in London, England, and I received my bachelor's of arts degree.
Q And when was that?
A 1983.
Q Okay. So you got your -- a bachelor's degree in architecture in '83?
A No, bachelor's degree of fine arts.
Q In fine arts, okay. Do you have an architectural degree?
A I do not have an architectural degree.
Q Okay.
A It's a bachelor's of fine arts with a study of interior design.
Q Do you have an architectural degree?
A I do not have an architectural degree.
Q Do you have any professional licenses?

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A I do not have any professional licenses.
Q Okay. Are design interiors required to -- I guess your answer should be self-evident, but I guess interior designers are not required to have any particular license in the state of Georgia?
A The firm itself, one of the principals needs to bear a license.
Q A license for what?
A Interior design.
Q Do they have to be an architect?
A Does not need to be an architect. Interior design, there's a testing system that licenses you.
Q Okay. And you are not the person who took that test for DCI; is that correct?
A When I entered the field the test was nonexistent, and it came into existence maybe 10 years into my career, and I chose not to take it, and it has continued to grow in importance. So my business partner, Karen Jenkins, is the person holding our license for the firm.
Q Okay. When did she take the test?
A That I don't know.
Q Okay. What did you do to prepare for this deposition today?

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little bit about your company.
A Sure. Well, like I said, we're a 50-year-old firm. We specialize in hospitality design. So hospitality design covers hotels, country clubs, little bit of cruise ship work, interval ownership resorts, freestanding restaurants. We also do a limited amount of residential design and multi-family design.
Q Okay. Did you -- has all of your training and experience been on the job? I mean, did you work for anybody before starting your own business, DCI?
A Yes, I did. So I worked for a group called D'Amico Creasy Interiors --
Q I'm sorry, you'll have to spell that.
A -- and then I joined --
Q You'll need to spell that one for me, I'm sorry.
A D apostrophe A-M-I-C-O, Creasy, C-R-E-A-S-Y, Interiors. And then I joined Design Continuum around 1984 and have been there since then. Been with the firm since then.
Q So how long did you work for other firms before you joined Design Continuum?
A About a year.

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Q Okay. And Design Continuum I would infer was owned by somebody else when you joined it?
A That's correct.
Q And gradually you bought -- you bought the company from whoever that was?
A The original owners departed in 2007.
Q Okay. Has it always been -- when you purchased the company, did you and Karen Jenkins purchase it as co-owners right off the bat?
A We did.
Q Okay. And that was when?
A 2007-2008.
Q Okay. So of the hospitality design that DCI performs, about what percentage of that is devoted to hotels and motels would you approximate?
A We only do hotels. Motels are not within our area.
Q Okay.
A But I would say that probably 85 to 90 percent of our work is in hotels.
Q And you do only interior design, correct?
A We only do interior design.
Q Do you do both original construction and renovation, remodeling projects?
A Yes, that's correct.

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Q Between those two do you have any approximation of how much is original construction as opposed to remodeling, renovations?
A It really depends on the economy. During the recession it was nearly 100 percent renovation, from 2013 to March of this year it was probably 65 to 70 percent new construction, and what we're seeing now is it's almost exclusively renovation.
Q Okay. Who are your -- for the hotel work that you do, what are -- what sort of hotels do y'all typically do interior design for? Is there -- can you give me a generalization there?
A Sure. There's a few major hotel operators in the country. Marriott Hotels International, we would be listed as one of their preferred design firms.
Q Okay.
A Intercontinental Hotels here in Georgia. That's the Holiday Inn Group. We're listed as one of their preferred designers. Hilton, we would be acceptable to Hilton. Hyatt, we work with Hyatt. And then we work with a lot of unbranded boutique properties.
Q Okay. What is your function in the firm? I know that you're president, but day to day what is

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your --
A I am president of the firm. So Karen and I share joint fiscal responsibilities, we share joint employee management responsibilities, and then I function as the principal over a certain number of projects. So I guide the senior designers through scheduling and that sort of thing.
Q So I guess what I'm curious about is how much of your time is spent actually doing interior design work as opposed to managerial work?
A I would say approximately 60 percent of my time is devoted to project work.
Q About 60?
A Yeah, 60 to 65 percent.
Q Okay. And how about Karen Jenkins, what would your -- about same approximation for her, would you say?
A I would say about the same.
Q Okay. Do you and Karen Jenkins have any -- is there any difference in what y'all do on a daily basis typically?
A I would say no. We go about what we do differently, but the outcome is we do basically the same function.
Q Okay. Prior to -- how would you --

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from a contractor to an architect or to a designer, and normally the request for clarification is just simply you issue the information, and it's incorporated into the construction process, and you just move on. And on this project often when there was a request for clarification, once the information was released, then a change order sort of soon followed.

Q Would that imply to you that as a result of the RFI that there had to be some sort of change in the design that just wasn't simply a clarification but was an actual change in the design?

A I felt like a lot of times the people that were issuing the change orders hadn't actually looked at the documents in detail to begin with, and I felt like often my true answer wanted to be open the documents and review them, but when I gave an answer, then it was treated as it never existed in the past.

Q Okay. Did DCI -- I can represent to you that when Balfour signed its contract with the owner, Library Associates, that the drawings -- that the contract was that the drawings would be 100 percent plus. Was there -- did you have an

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understanding that when the GMP price was agreed upon and the final design drawings were issued, which I believe was in November of 2014, that they were to be 100 percent plus?

A I believe the architectural drawings were always discussed as being 100 percent plus. The ID drawings, to the best of my knowledge, were never discussed at that point as being 100 percent plus. There was always the knowledge there were areas that hadn't been developed yet and needed to be completed.

Q Okay. Who was the driver from your perspective on -- who was the visionary and who was the driver on all of the details for the interior design and how this hotel would ultimately look from the owner -- from the owner's camp?

A From the owner's camp, I think most of the information flowed through Michael Bennett.

Q Okay. Would you say that he was the visionary, and he was the one who really had the idea of how he wanted this hotel to look when it was finished?

A Most definitely.

Q Okay. How about Kim Brown, was she part of the vision as well, or did she really have some

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other role?

A Kim Brown was primarily the liaison between Michael's office, the contractor, the architect, the designers, yeah.

Q Okay.

A She had little input into the design aspect of it. She had greater input into the functioning aspect of the design or the longevity aspect of the design.

Q Okay. How about as far as the watching over the money and what the costs were going to be, who, from your perspective, was -- what was the arrangement as far as what the oversight would be for the costs from your perspective?

A I believe that Kim Brown had the initial responsibility to review that and then would walk Michael Bennett through it prior to signing off on it.

Q Okay. We've taken the deposition of Jim Clements and reviewed his agreement, and the testimony has been that he had no actual authority to make changes, that the actual changes would have to be approved by Kim Brown and/or Michael Bennett. Was that your observation during construction?

A Yes, I think I would agree with that.

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Q What was Jim Clements's role, from your perspective, on this job?

A He was the ownership's, I'll say, project manager. He was the liaison between the contractor and the owners. He was the person that was, I think, ultimately responsible to have scheduling and any pricing that was required, that sort of thing, done.

Q Would it be a fair statement that he was a conduit from the architect and the general contractor to the owner, but the actual decisions would have to be made and were, in fact, made by Michael Bennett or Kim Brown?

A I would say that was true, yes.

Q Okay. Had you ever worked with Jim Clements on any project before?

A No, this was my first time meeting Jim.

Q Okay. The -- if you'll turn to Exhibit 17, which is a copy of your contract with Library Associates that's in front of you.

A Okay.

Q Do you recognize this document?

A Truthfully, no, because my business partner, Karen, would have created the actual document.

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Q Okay. Well, let me ask you this: What was the delegation of responsibilities between Karen Jenkins and you on this job?
A We jointly went to interview because Karen -- my personality tends to be somewhat different, so we feel like at times if one of us click, the other one doesn't, it makes it easier, so --
Q If I could interrupt you for a second, what would be the personality difference? What's the general -- how can you articulate what the personality difference is between you and Karen?
A Karen's very detail oriented. Karen tends to probably pay more attention to numbers and things like that, and I tend to be more design oriented. But not saying she's not design oriented.
Q Okay.
A I think that's the difference.
Q Okay. I understand. I'm sorry, I interrupted you. So you were telling me generally what the dichotomy was between you and Karen, if any, and what your responsibilities were, and how this project actually worked.
A Yeah, so we joint interviewed, then when we went through the design process, we would both be

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part of the presentations to the client. Karen associates very well with architects, so she had a lot of initial communication with the architectural firm on the project. I probably led most of the design effort for the project, and we had a project designer on the project that we released partway through the project, so I took over the site services end of our work.
Q Okay. And who was that person who was the --
A There was a man named Brian Reinhardt on the project.
Q Where is Brian Reinhardt now?
A I have no idea.
Q Okay. So he was kind of -- was he a draftsman more than -- what would you -- how would you -- you told me earlier about the different people you had on the project, and I think --
A Yeah, in interior design with a firm that does hospitality design, the staff members usually fall into one of two categories: Either somebody that creates interior drawings, plans, elevations, and somebody that has more talent leaning towards fabrics, colors, furnishings, finishes.
Q Okay.

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A So Brian was over in the drawings side of the project.
Q Okay. Okay. So it was you, Karen Jenkins, and originally Brian Reinhardt, then Brian Reinhardt left, and was he replaced?
A No, we did not replace Brian's position.
Q Okay. So the only two people who did most of -- virtually all the work on this project from an interior design perspective was you and Woody; is that correct -- I'm sorry, you and Karen?
A No. No. There would have been a gentleman named Bill Bailey that worked on the project in the FF&E side of it, and a woman named Jennie Bauarschi that worked on the FF&E side of it, Jackie, and I cannot remember Jackie's last name, was FF&E on the project, there was another woman named Carrie that was on the FF&E side of the project, and there would have been one or two designers that were additional drawings people on the project.
Q Okay. So of the amount of time that you and Karen Jenkins spent on the project, which would total a hundred percent of your time, yours and hers, how much -- what would the approximation be of how much time you would have spent percentage-wise

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as opposed to Karen? I'm just trying to get an idea of the actual numbers.
A Yeah, so when I went over into the construction administration part of the project, I was probably devoting 75 to 80 percent of my week to this project. Karen was probably doing something like 25 to 30 percent of her week on the project. When it was going through design, I was probably closer to 70 percent of my week; Karen may have been closer to 45 percent of her time on the project.
Q I'm sorry, so during the actual design you were approximately what?
A 70.
Q Okay. And Karen was approximately 40?
A 40, 45.
Q Okay.
A And typically a five-star project requires more principal involvement and more principal time than a four-star or below.
Q Okay. So on this project, the way the design actually -- the interior design actually worked, I guess --
A Sure.
Q -- were you given drawings which showed the finished floor elevations and such, then you

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were -- your task was to do an interior design based upon what you were given by WLA, or was your work done first, or how did that work?

A So we received documents from WLA that were -- that were top of slab to bottom of slab documents, so it wasn't -- the volume of space we were working in, it was the clear space within the building. And for the public areas, there may have been an initial wall layout given to us, but the owner wasn't in agreement with it, so we created the wall locations for the first and second floors of the hotel in conjunction with the architect.

And then on the guestroom floors, we spent a lot of time working through the bath layout to get it compliant with a five-star property, and once the bathrooms were laid out, then we had to allocate the remainder of space for the rooms on each floor.

Q So you were given floor-to-ceiling height on the original drawings by WLA for all the rooms?

A Correct.

Q But the guestroom layouts and the first two floor actual walls for the most part y'all --

A Correct.

Q -- y'all worked to develop what those -- the walls would look like and where they would be

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placed; is that correct?

A That is correct.

Q Okay. And on -- for your interior design, would you come up with an interior design and then propose it to the owner, and then they would approve it or disapprove it, or would they give their ideas, and then y'all would try to work towards those? I'm just trying to understand what the working relationship was with Library on this job.

A Yeah, there was a little bit of back-and-forth. So we would propose layouts, then they would request some alterations to them, we would produce alterations and come back with a final presentation.

Q All right. In looking at the -- your contract that I referenced earlier, it shows that there was a fee of $360,000 for your work.

A That sounds correct.

Q Okay. And was that an all-in fee for the design and any CA?

A That is an all-in fee, yes.

Q What was the final fee that was charged by DCI?

A I don't remember what the final fee was. I believe it was slightly in excess of $400,000, and

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that was predicated on the number of months of additional CA that was required because of the project not completing on time.

Q Is that something that you think Karen Jenkins would know what the final fee was?

A She may, yeah.

Q What was your -- when the contract was signed, what was your anticipated profit going to be?

A Our anticipated profit?

Q I mean, do you typically add a percentage, do you figure out what your time is going to be then add a percentage, or what -- do you just have an anticipated margin, or what is that?

A No, we really just have a, hey, here's the number of hours that a hotel typically takes to produce, and here is what we need to charge per hour kind of thing.

Q Okay. Did y'all make money or lose money on this job?

A My guess would be -- and I don't think either of us have gone back to look at it, but my guess would be we probably lost money on this property.

Q Okay. Do you -- does DCI incorporate BIM

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as part of its services?

A We will participate in a BIM process, but there's nothing that we would normally put on our documents that would be part of a BIM process. On this project the general contractor, I believe, had sold services of BIM to the owners.

Q Okay. Were you in the meeting where BIM was discussed?

A I was in some of the meetings that were online meetings that BIM was discussed in.

Q No, I'm talking about before the contract was signed.

A I was -- I was made aware that the contractor was going to be providing BIM, but I can't say how I was made aware of it. I don't remember.

Q Okay. We've been through the contracts, and I'll be glad to walk through them with you if you would like, Mr. Faust, but the contract with Balfour Beatty specifically does not include any BIM. Would you disagree with that?

A I have no knowledge of that.

Q Well, with your 40 years of experience, has it been your experience that if an owner wants to include services that it expects either of a

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an example of doors on the second floor. All of the door finishes were listed on our documents. We received the door submittal. The doors were all wrong. I spent endless amount of time marking up the door submittal, correcting all the finishes, sent it back to the contractor, got some e-mail notification of the order and realized they hadn't looked at my mark-ups, challenged them on it, they told me they corrected it. Then they submitted a wood finish, didn't match the wood finish we sent them, rejected it.

If I went there today I'd find the doors are still all the incorrect finish, and my mark-up of the finishes was never used, and wrong finishes are in the wrong locations.

Q What involvement, if any, did you have with the change in the paint texture for all of the guestrooms from an eggshell finish to a satin finish?

A I did not have involvement in that. That was strictly a decision on the owner's part. When they walked into the rooms and saw that the finish to the Sheetrock that the paint was applied to wasn't -- was noticeably telegraphing imperfections, I believe they made the decision on their own to go

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to a paint finish to help conceal that.

Q If you have -- you understand the difference between a level 4 finish for Sheetrock and a level 5 finish?

A I do.

Q What is the difference?

A Well, level 5 should be completely smooth finish where they applied a layer of mud across the entire wall surface. It's usually used for semigloss and gloss finishes or Mylar wall coverings, things like that.

And level 4, to the best of my knowledge, is taping, mudding, and mudding all of the attachment devices and sanding it smooth, and it should create a fairly smooth and consistent surface so that when you paint it you don't see any of the joints or screws below telegraphing through.

Q Were you involved in the specification in the drawings which showed that the guestrooms were to be a 4 level -- a level 4 Sheetrock finish as opposed to level 5?

A That is something typically architect assigns. We would have assigned paint finish to go on top of that. And I would say -- I'll say 99 percent of all hotels in the United States have a

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level 4 finish in a guestroom. I in my career have never experienced a level 5 in a guestroom to the best of my knowledge.

Q What is the -- according to the industry documents and the gypsum wallboard specifications, what sort of paint is called for to be used when you are doing your Sheetrock to a level 4 as opposed to a level 5?

A I don't know that I've ever been made aware of that. The only thing that I know is that I don't -- I should not use semigloss or a gloss finish on a level 4.

Q How about eggshell finish, should that be used on level 4?

A Best of my knowledge level 4 and eggshell are acceptable combos.

Q Were the payments to DCI made -- from the owner made on a timely basis?

A I would say that at times we probably got 90 days to 120 days, but for the most part they were on a timely basis. At the very start of the project they were a bit behind, but I believe that was while they were still trying to secure a loan, and final payments, I believe, were quite a bit behind. I think it took us probably six months to collect

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final payments. But I'm doing that from the top of my head, and I don't know that for an exact statement.

Q Have you been paid in full by the owner?

A I believe we have been paid in full.

Q When you were -- when the final payment was delayed by so much, did you ask the owner what the delay was?

A We would -- we would continue to send invoices, but I don't know that I've ever had a conversation with them about why the payment was delayed.

Q Did you ask anybody in your office who may have made a call to them, have you reached out to the owner, what is their explanation of why this is so late?

A Not that I remember.

Q Prior to this hotel when you were -- and prior to your signing a contract with Library Associates, did you have any understanding as to whether -- what was your understanding of what the hotel or motel portfolio was that Library Associates had?

A I don't know that I actually investigated what they held. I knew from conversation with Buck

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Plaintiff Balfour Beatty's Trial Exhibit # 305

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	IN THE COURT OF COMMON PLEAS CASE NO.: 2019-CP-10-01108
Balfour Beatty Construction, LLC, Plaintiff, vs. Library Associates, LLC; and Metropolitan Life Insurance Company, a New York Corporation, Defendants.	
Library Associates, LLC, Third-Party Plaintiff, vs. Lithko Contracting, LLC, Guy M. Beaty, Inc., Bernard MMC, LLC, Gulf Stream Construction Company, Inc., Palmetto Automatic Sprinkler Company, Inc., Cook & Boardman, LLC, 1st Choice Glass, Inc., Strong Tower Construction, LLC d/b/a Koch Corporation, Watson Electrical Construction Co., LLC, Trimark Foodcraft, LLC, Pleasant Places, Inc., David Allen Company, Inc., Premier Exteriors, LLC, Robert Thomas Iron Design, LLC, Warco Construction, Inc., Old North State Masonry, LLC, Tom Rochester & Associates d/b/a Southeastern Architectural Systems, Forton Company, LLC, Lowcountry Case & Millwork, Inc., Quantum Coatings, LLC, Balfour Beatty Construction Group, Inc., Third-Party Defendants.	PLAINTIFF'S EXCERPT DESIGNATION FOR DEPOSITION OF JAMES CLEMENTS

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August 25, 2020

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James M. Clements
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VERITEXT
LEGAL SOLUTIONS

Deposition of:

James M Clements

August 25, 2020

In the Matter of:

Balfour, Beatty v. Library Associates

A. William Roberts, Jr & Assoc.
800-743-3376 | calendar-awr@veritext.com | www.veritext.com

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anyone, whether your lawyer or another witness and whether in person or by telephone or text or e-mail or anything like that, so --
A. About the testimony specific?
Q. Right.
A. Okay. But not about the project in total?
Q. About the project, yeah. Just not the project at all, yeah. Nothing should be discussed about the project.
A. Ever again?
Q. No, just until your deposition is finished.
A. Oh. Oh, okay. I'm sorry.
Q. Right. So it will be -- I think we will adjourn probably tomorrow at 5:00 and then it will be rescheduled. I think you said you maybe have --
A. October.
Q. -- October 5 or something. We'll get it done then. So between the adjournment tomorrow and then, don't talk with anybody or communicate with anybody; but then after it's finished, then you're good to go. So that goes with if we take a break or overnight or anything else like that.

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A. Understood.
Q. Okay. Good. Also, if you'll try to let me finish my question before you start your answer, that will help the court reporter make the record a lot more clear. Please try to answer yes or no as opposed to uh-huh or uh-uh. That will also help with the court reporter. If I ask any questions that you don't understand or that you'd like for me to repeat or rephrase, just stop me and I'd be glad to, okay?
A. Okay.
Q. All right. And this is not an endurance contest by any stretch, so if you need to take a break at any time, just let me know. We'll otherwise plan to try to break for five minutes every hour or hour and a half or so. We'll try to break for an hour for lunch probably around noon or 12:30, whatever is convenient for you.
A. Okay.
Q. And I think you asked for a hard stop at 5:00. That's fine with me. That's typically my practice, that we will plan to do that both today and tomorrow. So do you have any questions about any of that?
A. I do not.

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Q. Okay. Can you tell me what you've done to prepare -- what you've done, if anything, to prepare for your deposition here today?
A. I reviewed some of the minutes or whatever from the Kim Brown interview.
Q. Her deposition?
A. Her deposition.
Q. Okay. How did you get that?
A. From Brent McDonald. Just I familiarized myself with the kind of questions you would ask.
Q. Okay. Is that it?
A. Yeah.
Q. Okay. So have you discussed the matter -- did you discuss her deposition with --
A. No.
Q. -- with Brent McDonald?
A. I did not.
Q. Okay. How did that communication come about? Did he send -- just send you an e-mail and say, here, I'd like for you to review to --
A. No, he didn't even say that. He just sent it to me. Sorry. Let me rephrase that.
He sent it to me -- I don't remember the -- we did not have a phone conversation. It

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was more just an e-mail and said, here's copies of Kim Brown's deposition to familiarize yourself with the topics. That's all it was.
Q. Okay.
A. Because I haven't thought about the project in years.
Q. Okay.
A. And I haven't studied it entirely since then either, so...
Q. I understand. Yeah, there's a lot of documents as well. And that's one question I wanted to ask you preliminarily. We had gotten a hard drive with a download of all of your documents a good while back. And I -- as I understand it, those are your entire project files?
A. They are.
Q. Okay. So those are part of your business records, so to speak, that you keep for your --
A. Yes.
Q. As part of your business and your requests for assistance to Library Associates for this project?
A. Yes.
Q. Okay. So you've not -- so since this

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A. Yes.
Q. L-A-N-D?
A. Yeah. I can Google it at our break and I'll show it to you.
Q. All right. So Bundy McDonald are the attorneys and you recommended them for that project?
A. I did.
Q. And they're representing the owner?
A. Yes.
Q. And you're a project manager?
A. I was brought in by a different attorney to help complete the project. It was a very troubled project. Nexsen Pruet brought me in.
Q. Who at Nexsen Pruet?
A. Henry Brown. I've worked with Nexsen Pruet since 2003. Henry brought me in because the contractor there, Carter & Carter, had -- was failing miserably and they wanted to bring in somebody that could help Carter & Carter kind of get things back on track.
Q. All right. And so you said there was a mediation about 60 days ago on that?
A. Yeah.
Q. What was the gist of the mediation

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about?
A. Well, the owner has a claim and the contractor has a claim.
Q. Okay. And that's pending in State Court in Lexington County?
A. I don't know about that.
Q. Okay.
A. I never...
Q. All right. Any other projects that you have had with Bundy McDonald since then, since the conclusion of this project?
A. No.
Q. Are you represented by Bundy McDonald?
A. No, I am not.
Q. Do you have a personal attorney?
A. Do I have a personal attorney? No, I do not.
Q. You said that you've been deposed you thought maybe two or three times previously. And when was that?
A. That was a long time ago. I was a -- I worked for -- for Clark Construction Group based in Bethesda, Maryland, and there was depositions taken when I built the Grand Hyatt Hotel in Tysons Corner probably in 1985. And then there was a project

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that Nexsen Pruet brought me on in Richmond trying to help the contractor, which did not go well for the contractor. And that was probably -- that might be ten years ago. So I don't have any recent deposition experience, thankfully.
Q. So there are two prior depositions to your recollection?
A. Yes, that I recall. Yes.
Q. Okay. Tell me about -- you said that you and Mike Baumbach go back a long ways. About 20 years did you say?
A. Yes.
Q. And what does that friendship -- or how did that come about?
A. Well, I've been in the project management business stateside since 1989 and was introduced to Mike Baumbach and other people as a course of doing business. And over the years we became friendly, but like any contractor that would call me up, they are always looking for work but Mike was more personable than that. We would go out to dinner with our wives occasionally. Mike, really, his -- I do a lot of -- I used to do a lot of healthcare work, hospital type of construction and specialty-type construction. That was

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Mike's -- one of his fastballs.
And when he came to work for RT Dooley, I was excited about that. And I had a large law school upfit in Charlotte, and I worked hard to get Balfour -- RT Dooley, eventually became Balfour Beatty, that work and so we had a very good -- we had a good experience there.
Q. Okay. So you've had a professional relationship and a personal friendship with Mike Baumbach for many years?
A. Yes. But, you know, personal as defined as he doesn't call me up for my birthday or anything like that, but when I need something and I have a question for other projects, I'll call him because I value his advice. He's got a tremendous skill set. But I wouldn't call him my best friend or anything like that, to be honest with you. I reserve that for family.
Q. Okay. When was the last time you talked to Mike Baumbach?
A. Probably when I met at Bundy's office.
Q. Okay. Have you ever been sued?
A. Me? Sure.
Q. How many times?
A. Just once. Actually, just once. It

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was a partnership. Never over business. Never had any issues business-wise.
Q. When was that?
A. 2013. Maybe 2012. Right around there.
Q. And what was the nature of that litigation?
A. Disagreement among partners.
Q. Who were you partners with?
A. Brian Hoffman was my partner at the time. The company was just Matrix as opposed to Matrix Program Management Services, LLC. And we just had a disagreement when the market changed in 2008 and '9 and we had to claw back, and he sued me and it was settled.
Q. So Matrix Program Management, LLC, it's a -- are you the sole --
A. Yes.
Q. -- shareholder of that?
A. Yes.
Q. And it's been a business since when?
A. It has been an entity probably since 2013.
Q. Okay.
A. And maybe a little bit earlier than that.

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Q. Okay.
A. Matrix Real Estate Services, sorry, was the original company. Matrix Real Estate Services, LLC.
Q. Do you have any ongoing agreements with Library Associates for compensation for any consulting services or time spent --
A. No.
Q. -- on the case or anything like that?
A. The work I did for Bundy in pulling that information together, I sent Bennett an invoice and he paid that invoice.
Q. So you don't have any agreement for your --
A. Post the hotel, no, there's nothing there.
Q. Or for your time for testifying in deposition or anything like that?
A. No. I have no agreement.
Q. Do you know the master-in-equity who is named Mikell Scarborough by any chance?
A. I do not.
(EXHIBIT 50, Matrix Program Management documents, marked for identification.)
BY MR. HILDEBRAND:

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Q. I'm going to hand you what I've marked as Exhibit 50 and ask you a few questions about that.
A. Okay.
Q. This is a copy of some pages from your current Web site. Do you recognize that?
A. Yes.
Q. On the third page of that document -- on this particular project, on the Bennett Hotel, were you project manager?
A. Yes.
Q. Okay. And on the left-hand side of this document under what is Matrix, the second sentence says: As your project manager, Matrix consolidates the elements of strategic planning, budgeting, design and construction to keep your project on time, on budget and on track to completion.
Was that what you undertook as your task for this project?
A. Yes.
Q. And you feel like you've got the experience and the capabilities to perform that function?
A. Yes.

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Q. Okay. On the next page of that document, education, University of South Carolina. Tell me about that. When did you graduate and what was your degree?
A. Degree is a Bachelor's in biology and chemistry, and I graduated in 1976.
Q. So how did you get into construction?
A. Well, I was applying to medical school and I didn't get in the first year. And then while I was waiting to reapply, a friend who owned a mortgage banking company asked me to come to work for him. He said, as long as you're not doing anything. And that was back in the days when there were bank swaps and things, unproductive projects were being traded between banks, and I helped -- he brought me on board as a --
Q. What's the condensed version?
A. He brought me on board just as a runner, basically, I guess.
Q. Okay.
A. But it quickly expanded.
Q. Okay. Did you ever get into med school?
A. No. Never looked back.
Q. Okay. Experience to the right of that,

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broker in charge in North Carolina and South Carolina. What does that mean, broker in charge?

A. Well, the acronym is BIC. Real estate companies have a BIC, who is a broker in charge, in charge of all the other brokers.

Q. Right.

A. And so with regard to Matrix, I am the BIC. Granted it's only a single entity, I'm just a sole member, but it is a designation that allows me to -- without being a BIC -- if you're just a broker, you can't go out and sell real estate or use your license. You have to be under a broker in charge. So I circumvented that by both having my broker's license as well as being a registered BIC. It's a continuing education classification that you get. So I am able to do real estate transactions.

Q. Is that something that you actually use and do?

A. Very infrequently. Primarily for friends and family, to be honest with you. I make more money being a program manager than real estate.

Q. Okay. What has been your average approximate income for the last five years on an annual basis?

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A. I don't -- do I have to divulge that? I'd rather not say.

Q. Could you just tell me whether it's over 250,000 or under?

A. Well. Well over 250,000.

Q. Over 500,000?

A. That's close enough.

Q. Okay. Also under experience it says that you are an unlimited general contractor in North and South Carolina.

A. Correct.

Q. And how long have you had your unlimited licenses in those states?

A. Probably since about 2013.

Q. Okay. Have you or Matrix ever acted as the general contractor on a project?

A. No. No. But in South Carolina, unless you're a licensed general contractor or an architect, you are not allowed to do schedules, estimates, manage a project team. If you do, you could be fined by LLR. North Carolina doesn't hold that, but South Carolina is very strict.

Q. Okay. So was that designation gotten particularly for this project?

A. No. I've done large projects for a long time.

Q. No, but in order -- I understand your testimony that you had to have that designation in order to function as a project manager in South Carolina. So did you get that designation specifically to enable you to do the Hotel Bennett?

A. No. I had it since 2013.

Q. Okay. Past chairman, Mecklenburg County Building Development Commission, 2003, how long were you on that Commission?

A. About a year.

Q. Let's turn to the next couple of pages where you've got the three headings at the top. Right, that's it. And in the middle it says project management. Do you see that?

A. Yes.

Q. Okay. It says: The success of the pre-construction and construction phases of a project's development are contingent upon the timely and coordinated performance of the owner, design team and construction manager.

Is that --

A. That's what it says, yes.

Q. Okay. And is that what you believe?

A. Yes. Strongly.

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Q. Okay. And is that what you as the project manager undertake to do for the owner to do the pre-construction and construction coordination of those entities?

A. I do.

Q. To ensure the success of the project?

A. Yes.

Q. Is that your understanding of what you were retained to do for Library Associates in this project?

A. It is.

Q. Okay. Consulting, if you'll look on the next page. On the left, second paragraph, where it says estimating and cost management.

The goal of the Matrix cost control system is to develop a platform that will accurately establish and track the budget and contingency against costs incurred and, equally important, forecast costs to complete.

Is that what you performed on this project --

A. No.

Q. -- for Library Associates?

A. No.

Q. And why not?

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A. Because Michael Bennett and Kim Brown have built, you know, 20 or 30 hotels. I did some initial estimating. And by that, what that really means is I don't sit down and take off windows and doors, but I work with our construction manager to get current pricing.

And more importantly, I bundle that along with the total scope of a project, meaning all the indirect cost, soft costs, FFE, OSE, IT, security, furniture. That's -- that is probably the most important thing that I do from a cost estimating and control standpoint because clients never have a complete list. They always leave something out.

Q. Okay. So let me make sure I understand. On this project, were you tasked with trying to keep the owner and the project to a specific budget?

A. No.

Q. That was left strictly to Library Associates?

A. Right. I was aware of cost, but I was not managing a budget.

Q. But that's something that you could have done had you been asked to?

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A. Correct. I started it initially, but in 2014 Kim Brown took it over.

Q. Do you know why she took it over when you had started it?

A. No. I think it's just an internal thing with them. They're a close family and they wanted to do it themselves.

Q. On the next page, upper left, Matrix will also determine cash flow projections based on the length of the project and the percentage of the work completed during each phase of the project.

Did you perform that task on this project?

A. I did not.

Q. Again, because Library Associates did not want you to, they wanted to do that internal?

A. Yes. I did not manage any cost reports. Now, let me say this. I did based on current change orders and such, pending and approved, helped package up those so that Bennett knew what the project exposure was, but I had no responsibility relative to a financing package or total budget. I was really just in charge of managing the work and managing change orders and those type of things.

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Q. Okay. Let's turn to the next page, underneath that where it says schedule management.

A. Um-hum.

Q. It says: Successful projects begin with a management approach that integrates due diligence, programming, budget, design, schedule, logistics and construction. Matrix will work to assimilate the client staff and design team members and construction manager into an integrated project. Matrix will organize the work by duties and responsibilities and lines of authority. All will be reflected in a strategic development schedule.

Did you perform that on this job?

A. Yes, but Balfour Beatty actually did the schedule. My role was to make sure that the schedule included all the relative design milestones, owner decision dates. I'm not hired as a scheduling consultant.

Q. Okay. Well, it says: All will be reflected in a strategic development schedule.

Did you provide a strategic development schedule for the owner?

A. No.

Q. Do you have any formal training in

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scheduling?

A. From a third party, no. Do I do schedules, yes. But they are high-level schedules. Design, construction period, commissioning, owner activities, those types of interfaces. I'm not a Grady Query or anybody like that.

Q. Okay. Do you consider yourself to be an expert in CPM scheduling?

A. No.

Q. So when you are involved with scheduling, it's mainly milestone dates and a bar chart, I guess?

A. When I develop a schedule, yes, but when I review a contractor's schedule, they have the detail. And so my review, I will review activities, check variances from the previous month to date, you know, those type of things.

Q. Right. So you can look at what their activities are and determine if the work is proceeding in accordance with the schedule that is shown, but you do not have the expertise to develop a critical path methodology schedule and to determine the critical path, is that correct?

A. I have never sold myself to have that expertise.

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Q. Okay. And don't feel like it would be appropriate to sell yourself with that, having --
A. It's not something I want to do. It's not the best way for me to make a living, to be honest with you.
Q. Right. What I'm trying to understand is that's something that you are -- don't feel like it would be appropriate for you to represent yourself as a --
A. Correct.
Q. -- CPM expert?
A. Correct. I've had attorneys call me and ask me to do it, but I always -- I refer them to other people because that's all they do 24/7 is CPM schedules, and I have no desire to do that.
Q. And you've never actually done a CPM schedule, correct?
A. When I was with -- sorry. When you mean keying in all the activities, no. I always had schedulers working for me when I was a project executive in my former life and I would have them do all the keying and create the schedule, but I would give them the logic.
Q. You would have input into the logic, but the actual development of the schedule and

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everything that goes into it --
A. Yeah.
Q. -- you left to others, correct?
A. Correct.
Q. Okay. Your data in your Web site indicates that Matrix can help with procuring furniture, phone system, low-voltage cabling, audiovisual systems. Some of that work was to be self-performed by the owner on this project --
A. The owner bought all the furniture. The owner brought in a technology consultant. I had involvement early on in the cabling package, the low-voltage cabling package.
Q. I guess my question --
A. Sorry.
Q. And you're answering it, but my real question is: Were the -- it sounds like what was self-performed by Bennett on this project, it falls in line with what your description here is of things that you typically do. Is that an accurate statement?
A. Yes. Not in totality, but the bulk of it, yes.
Q. On the next page under FAQ's under the section where it says won't the fee charged by

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Matrix add to my project's costs. And about two-thirds of the way down it says: During design and construction, we represent your interest in evaluating progress, payment application, change requests and commissioning.
Did you perform that function on this project?
A. Yes. Sorry. Yes.
Q. I'll ask you to turn briefly to some of your specific projects I want to ask you about. Tell me about the Three Lincoln Center in New York. When was that?
A. That was 1982 to 1986. That was a major expansion of the Juilliard School of Music. That included a large podium structure that was for the Juilliard School of Music. And then one corner of the podium, there was a dormitory tower for the Juilliard. In the other corner there was -- they had sold their air rights to a private developer to build an additional 46 stories of luxury condominiums.
Q. And what was your role on that?
A. Project executive for Clark Construction Group. At the time they were called George Hyman Construction. Very, very -- very,

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very large company.
Q. So you were working with the general contractor that was the GC for that project?
A. That's correct.
Q. Have you ever personally or has Matrix ever signed a -- been involved with a contract where you were a project manager at risk?
A. No, because that -- that is inconsistent with the role of a project manager.
Q. Have you ever been involved with a project -- with a design-build project where you're one of the entities that was actually at risk under that sort of arrangement?
A. No.
Q. The Three Lincoln Center, that was '82 to '86. Have you been involved with any -- let me ask you this: Have you ever been involved with a five-star hotel --
A. I have.
Q. -- prior to this?
A. I have.
Q. And what were those?
A. Grand Hyatt Hotel, Washington, DC; Capitol Place, Washington, DC.
Q. Are those -- is that one or two?

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A. Two.
Q. Okay. I'm sorry, slow down just a second. The Grand Hyatt Hotel, is that right, in DC?
A. Hold on for a second. The Grand Hyatt was Tysons Corner. It was probably four-plus-star. Capitol Place on Pennsylvania Avenue, definitely five-star. And there is another project hotel in Washington, DC. I can't remember the name of it right at the moment. But you used the term involvement. That's not to be construed as I built them tip to tail.
Q. Okay. Have you had any other projects like the Hotel Bennett where you were involved as the project manager on a five-star hotel from start to finish?
A. No.
Q. You do have a lot of -- I saw on your resume and I think you mentioned it also a lot of experience with hospitals?
A. I do.
Q. Okay. I've heard it said that five-star hotels are comparable in their complexity and requirements for coordination and such to a hospital and that five-star hotels and hospitals

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are some of the most complicated things that can be designed and constructed. Would you agree with that?
A. I think they are on parallel. I was always told if you can build a hospital, you can build anything, so... But from a technology standpoint, the hospitals are every bit as complicated as a five-star hotel.
Q. But would you agree generally that -- at the apex of complexity and --
A. Yes.
Q. -- difficulty, five-star hotels and hospitals are right there at the top?
A. Yes.
Q. All right. Let's turn to the third -- the last page of your -- and I think you have it in front of you. The Charlotte School of Law?
A. Yes.
Q. JF Schultze, did you say that they then became Balfour?
A. No. The Charlotte School of Law was a long-term client. I did three or four projects for them. The first one was built by a company called Schultze, which was -- and these were all upfits.
Q. Okay. Was Balfour involved with that?

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A. No. Balfour was only involved once -- the three upfits I had done with Schultze for the Charlotte School of Law were a stand-alone building. They then relocated the Charlotte School of Law to a high-rise in Charlotte. It was a ten-story upfit. And that's when RT Dooley was -- I contacted them and introduced them to the client to be the general contractor.
Q. Okay.
A. And RT Dooley was bought or something transpired that they became Balfour Beatty.
Q. Okay. So what was Balfour Beatty's involvement with the Charlotte School of Law?
A. They were general contractor ultimately.
Q. Okay. For an upfit?
A. For an upfit. Large upfit.
Q. Was that project successful?
A. From a cost standpoint, yes. Yes, it was successful. It had its issues, but it was successful. The client was happy.
Q. It was under budget?
A. Yes. It was not over budget.
Q. Okay. I just remember seeing an e-mail that it was under -- where maybe you said it was

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under budget and I thought under time as well, is that correct?
A. Yeah. Yes.
Q. It sounds like a successful project to me.
A. Yes. Yes. The client -- the most important thing is the client was happy, yes.
Q. Okay.
A. Yes.
Q. How about the Charlotte Latin School expansion and renovation?
A. Yes.
Q. What was Balfour Beatty's involvement with that?
A. That was RT Dooley again.
Q. Okay. When was that?
A. I don't know off the top of my head. That has been quite awhile. It's not on here, is it?
Q. I don't see it.
A. Well, it was probably around 2006 or so before the market crashed, '5 or '6.
Q. Was that a successful project?
A. Very successful. Very happy client.
Q. So it's a fair statement that prior to

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Hotel Bennett, your dealings with Balfour-related entities were -- all resulted in successful projects?
A. Yes.
MR. HILDEBRAND: I think this is a good time and place to take a break, so let's take five.
THE WITNESS: Okay.
(A recess transpired.)
BY MR. HILDEBRAND:
Q. Go back just for a second. When you said that you had been provided a copy of Kim Brown's deposition, did you read the entire thing?
A. No. I mean, it was a lot.
Q. It is.
A. I gleaned through it, but no. Not by any stretch of the imagination.
Q. So you just skimmed it?
A. I just skimmed it.
Q. What important points, if any, do you recall from having reviewed that deposition?
A. There were questions about MCC mechanical and about Watson electrician, but just what I would expect, to be honest with you. There was a whole bunch in there about Mr. Bennett's finances or something, but I discounted completely.

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And there was an exhibit of a bunch of change orders that I kind of flipped through. Exhibit 42 maybe, something like that.
Q. Okay.
A. But that was it.
Q. And my next kind of background question is: Have you ever -- I understand that you are a project manager and that's your primary role in jobs. Have you ever been retained specifically as an expert in litigation -- as an expert consultant in litigation?
A. No.
Q. Particularly for litigation?
A. No.
Q. Have you ever been involved in a prior project where liquidated damages have been assessed against a contractor?
A. I have been involved in -- no. I have contracts with LD's, but I've never had a project that went late and LD's came into play.
Q. So Hotel Bennett was the first one?
A. For LD exposure, yes.
Q. So none of the other -- do you have an approximation of how many projects you've acted as the project manager on?

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A. I mean, it's a lot over 45 years. I mean a lot.
Q. Several hundred?
A. Easily.
Q. And Hotel Bennett was the first time that liquidated damages were assessed to your recollection against the general contractor?
A. Yes.
Q. Mr. Clements, I'd like to go through some provisions in the general contract. And I think that we've got a notebook here. Would you prefer -- would you like looking on the computer better or a hard copy?
A. No. I'll take hard copy.
Q. I'm the same way. Okay. I think if you turn to Tab 5, that should be the general contract. Do you see that?
A. Yes.
Q. All right. So I want to go through some provisions in this particular contract and ask you some questions about it. Who actually drafted that contract?
A. Bill Bundy. Worked with Bret Estridge.
Q. And Bret Estridge is with Balfour?
A. Yes. And it was finished with Mike

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Baumbach. Let me rephrase that. Bill Bundy drafted it. Bret Estridge made initial comments and then Mike Baumbach and Bill Bundy met and finalized it.
Q. What was your involvement with it?
A. I reviewed it. I had input, but I'm not an attorney, so...
Q. Right. But you -- as part of your services for owners, what you provide is contract review --
A. Yes.
Q. -- based on your experience --
A. Yes.
Q. -- of what you think needs to be in there, what parts are -- regardless of being a lawyer, you have that expertise, right?
A. Yes, I do.
Q. And you did that for this contract as well?
A. I did.
Q. So the contract originated with Mr. Bundy and then was put out for comment and review until it was finally executed, correct?
A. Yes, that's correct.
Q. All right. And did it go through

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several iterations I would think?
A. Yes.
Q. I've got some specific provisions I want to ask you about. On Page 7 at the very bottom where it -- Section 2.3.1.3, the liquidated damages provision, there's a --
A. Typo.
Q. Right. It says 9,500 dollars written out and then in numerals it says 9,000 dollars. Do you know how that happened?
A. I do not.
Q. Do you know who would be the person who would explain what was intended with that?
A. By that do you mean whether 9500 or 9,000 is correct?
Q. Right.
A. Certainly Mike Baumbach can confirm that. I believe the number is 9500 dollars, though.
Q. Actually, I think there was an OAC meeting that it was confirmed it's 9,000 dollars.
A. Oh, is there? Okay.
Q. Do you recall that?
A. Not off the top of my head, but if it's -- if that's the case.

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Q. Do you know who drafted that where it says the discrepancy between 9500 dollars and 9,000 dollars, do you know who actually drafted that?
A. No.
Q. Let's look at the first page, if you would. I'm going to have you flip back again in just a second. Okay. And you recognize this as the contract between --
A. Yes.
Q. Okay. Under -- on the first page about two-thirds down, it says the owner's designated representative. It says Jim Clements, Matrix Program Management Services, LLC, is that correct?
A. Yes.
Q. And you were the owner's designated representative, correct?
A. Yes.
Q. Okay. So let's turn to Section 3.2, which is on Page 10 of this document. Do you see that?
A. Um-hum.
Q. 3.2? So when the contract required an owner's designated representative, you were the one identified to fulfill that role that's described in Section 3.2, correct?

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A. Yes.
Q. All right. And then let's turn to the A201 real quick. And on Page 12 of the A201 --
A. What tab is this?
Q. It's under that same one. You'll just have to go back a good bit until you get to general conditions. It's quite a ways back. You're going to have to go like a half inch back.
A. Okay.
Q. Those are the 201's, I believe. So if you'll turn to Page 12.
A. Okay.
Q. Okay. And Article 2, owner, and then do you see 2.1.1?
A. Yes.
Q. And it says: The owner -- the second sentence says: The owner shall designate in writing a representative who shall have authority to bind the owner with respect to all matters concerning the owner's approval or authorization. And again, you were that designate on the -- to fill that role as represented by being the owner's designated representative on Page 1, correct?
A. I was the owner's representative, but I

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did not make any decisions without the owner's approval, so I did not act independently of the owner.
Q. But my question is as far as the contract is concerned.
A. Yes.
Q. Right.
A. I agree with what it says.
Q. Right.
A. I'm not an attorney. I'm not being asked to interpret it beyond the written word right here.
Q. Right. And I understand. We'll get later as to exactly what your role was with Library Associates. But as far as the contract is concerned --
A. Correct.
Q. -- and who was supposed to be the designated representative for Section 2.1.1 of the general conditions, you're that person in the contract, agreed?
A. I agree.
Q. Okay. On the -- after the contract -- turn back to Page 1.
A. Page 1 of the 201?

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Q. No, the very first page of the whole agreement.
A. Okay.
Q. It says that the agreement is dated September 22, 2014. Was your agreement with the owner already executed at the time that this was signed?
A. I've never had an executed agreement.
Q. I'll get to that in just a few minutes. I had -- we have an agreement that you signed --
A. Yes.
Q. -- that the owner didn't sign, but that Kim Brown identified as the agreement that was between you and her.
A. Yes.
Q. Do you recall that?
A. Yes.
Q. Okay. The fact that they didn't sign it, if they acknowledge it, then that's --
A. I'm just clarifying when you said executed.
Q. I apologize. All right. The next thing I'd like to ask you about is --
A. I don't think we answered your question, though.

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Q. No, I think you did.
A. Okay.
Q. Whether it was before this or after? Oh, yeah. Was it before?
A. Before.
Q. Right. Let's turn to Page 22 of the 133, please. Do you see that?
A. Yes.
Q. All right. And do you see the following documents comprise the agreement? And Number 4 is AIA document E202-2008, building information modeling protocol exhibit if completed or the following, and there is nothing designated, correct?
A. Correct.
Q. So there was not a BIM requirement of Balfour Beatty in the contract, agreed?
A. In the contract?
Q. Yes, sir.
A. No. There was a commitment, but, no, there was not -- I guess based on the evidence of which you have in front of me right here, it does not appear that that was the case.
Q. Right. Regardless of whatever discussions there might have been prior to the

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contract or whatever, the contractual requirements, if there was to be a BIM requirement of Balfour, it should have been and was required to have been designated in this section, agreed?
A. Not being an attorney, but, yeah, I think so. I do -- I would agree with that.
Q. Right. Well, and let's talk about just for a second on --
A. I mean, you really need to go through the GMP book and look at other commitments made. It's -- they're kind of hand-in-hand with this.
Q. Well, assuming there's not another requirement in this contract, in the executed contract that required Balfour to provide BIM, then this section shows that they were not required to, agreed?
A. That exhibit is missing, yes.
Q. Right. Well, let's -- and as far as any -- if there were any pre-bid -- let's turn to this. Turn to Page 10 of the A201, if you would.
A. Yes.
Q. Okay. At the very top, the -- under Section 1.1.1, the contract documents.
A. Um-hum.
Q. The very last sentence. Unless

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specifically enumerated in the agreement, the contract documents do not include the advertisement or invitation to bid, instructions to bidders, sample forms or other information furnished by the owner in anticipation of receiving bids or proposals, the contractor's bid or proposal or portions of addenda relating to bidding requirements.
Are you aware of any pre-bid or any of the documents enumerated in that sentence that were specifically included in this contract?
A. No.
Q. I've got a copy of the document that was not filled out and referenced. I'll mark that as Exhibit 51.
(EXHIBIT 51, AIA Document E202-2008, Building Information Modeling Protocol Exhibit, marked for identification.)
BY MR. HILDEBRAND:
Q. Let me go back just a second. So you would agree with me if the owner wanted to require Balfour Beatty to provide BIM services, it could very easily have done so by simply designating them in the contract, agreed?
A. It would be one option. I will tell

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A. That is only the case when the architect is designing in Revit. They provide a Revit model to the contractor and that is transcribed into the BIM modeling software that the contractor does. This is really -- none of this is applicable to this project.
Q. Because there was no BIM required under the contract, agreed?
A. No, because the -- there was no -- everybody knew from the beginning that Buck Lindsay was designing CAD and Balfour Beatty knew they had to change that from CAD to a -- some sort of a model that they could then import into BIM.
Q. Okay. So do you understand -- well, before we get to that, let's turn to -- let's turn to Exhibit 16.
A. In this book?
Q. Yes, sir. Do you recognize that as the agreement between Library Associates and WLA?
A. Yes, sir.
Q. The architects?
A. Yes, sir.
Q. All right. Can you turn to Page 8 of that, please.
A. I'm there.

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Q. And look at the very bottom where it says Article 4, additional services. And the very last one is 4.1.6, building information modeling. It says not provided. Do you see that?
A. Yes, I do.
Q. Okay. So are you aware of any other provision in the architect's contracts where the architect was contractually obligated to provide BIM services for this job?
A. In this specific contract, no.
Q. Well, is there any other contract with the architect or contractual provision that modified this contract that required them to -- contractually obligated them to provide BIM?
A. In August 2016, there was a summit meeting with Balfour Beatty and the architect and Mr. Bennett, and the topic was about the BIM modeling. And Mr. Bennett asked and Buck Lindsay's group agreed to provide the BIM model for the eighth floor. So that was a obligation taken upon by Mr. Lindsay to provide that BIM modeling for the eighth floor.
Q. Would you agree with me here again, though, if the owner, through its attorney, Mr. Bundy or yourself or whomever, had wanted to

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contractually obligate the architects to use BIM from the get-go, that could have been done very explicitly and easily by including it in their contract, agreed?
A. Yes.
Q. Okay. But because the owner did not require either Balfour Beatty or WLA or the interior designer to incorporate BIM in their contracts and legally obligate them to perform that, any problems that arose because that BIM was not incorporated falls on the owner, agreed?
A. No.
Q. Why not?
A. Well, it's a course of doing business. Keep in mind that was promised by Balfour Beatty. They undertook it, they executed it. Just like my contract. It was never executed, but I was committed to be the project manager. Balfour Beatty took up the BIM modeling responsibility, managed it in its entirety. So no, I don't agree with that.
Q. So Balfour Beatty was not required to provide BIM under its contract, agreed?
A. Correct.
Q. All right. They did provide BIM, but

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it was not contractually required, agreed?
A. Correct.
Q. Right. And do you understand that as far as BIM modeling is concerned, there are various ways that it can be performed? You can have an integrated, like you said, Revit modeling where the architect from the get-go puts everything into BIM and the whole project and documents are BIM coordinated. That's one way to do it, agreed?
A. Yes, sir.
Q. And another way that BIM can be incorporated into a job is that a subcon -- or a contractor can have an independent agreement with its subcontractors that, look, hey, we want to use BIM between -- as far as our work is concerned, it's not part of the contract with the owner and it's not under the architect, but we think it is a best practice for the subcontractors and the general contractor to use BIM, so we're going to do it voluntarily to try to improve our performance. They can do that, but that doesn't obligate them to do a full-scale BIM job under a contractual obligation, agreed?
A. Agree.
Q. And that's, in fact, what happened

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here, wasn't it, that Balfour agreed with its subcontractors, look, let's put these drawings in BIM so that when we get to the portion of the work that is an issue, we can do -- address clashes that come up and then advise the architect of clashes and then the architect can correct them, agreed?
A. Yes.
Q. And there's nothing inappropriate about that, is there?
A. About that relationship and them doing that?
Q. Right.
A. No. That's industry standard.
Q. And that doesn't change any of the contractual obligation, that's just something that the contractor does to try to better its work on a project, but that has nothing to do with -- it doesn't change the underlying contractual obligations, correct?
A. It does not. I'm not an attorney, but I would not think so.
Q. From a layman's standpoint or a --
A. A layman's standpoint. I'm going to preface that. I'm not an attorney. I'll let you guys fight that out.

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Q. All right. Prior to this project starting, as I understand it, you've said that a question was asked of Balfour whether it had the capability to provide BIM services and it said that it was, correct?
A. Yes.
Q. All right. And the person who said that it was was Mike Baumbach, correct?
A. Well, it was in the original proposal. Just like all the other contractors, it's one of the services that -- whenever you put out an RFP, you ask for, you know, scope of work, the team.
Q. Right.
A. Other services provided. BIM's always one of them. That was the case, I believe, in this -- in Balfour Beatty and -- in Balfour Beatty's proposal. It's very typical.
Q. Okay. But what I'm getting at is that even if -- maybe I should back up just a second. Even if Balfour -- would you agree that the contract documents both with Balfour and the architect and just general construction principles say that design work and what is required to be done by architects and engineers, that has to be done by a professional architect or engineer and

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the contractor, it's inappropriate for them to undertake the design function. Is that a fair statement?
A. To take on the design function?
Q. Right.
A. With the exception of a couple items, that is correct.
Q. What are the couple items?
A. Well, fire protection. That's a design-build by the contractor. They hold -- I mean, that's a --
Q. Right. But if a contractor does -- is obligated under the contract to provide some design work, then it has to be done by a licensed -- the contractor will then contract with a licensed engineer or architect so that, again, a professional licensed -- professionally licensed person is actually doing the design work, correct?
A. Yes, sir.
Q. All right. So the actual design function and who designs the building and decides what goes into it and what goes on the drawings on this job and in every other job, that's the obligation of the design professional, agreed?
A. Agree.

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Q. That's not the obligation of the contractor, agreed?
A. It is not.
Q. Right. It's the contractor's obligation to follow the design documents and to do the work in accordance with them, correct?
A. On the execution side of the 133, that is correct; but on the pre-construction side, the contractor's input into the design is very important. So that feedback is -- although the contractor isn't designing, he's helping guide the architect in terms of design.
Q. Right. I mean, you can't ignore that the contractor has experience with buildings and they can offer suggestions and they can offer value engineering and say here's what we've done, but that -- those are just suggestions. It's then incumbent on the designer to determine whether in the designer's professional opinion those suggestions should go into the document -- the design documents or not, correct?
A. Yes. Ultimate authority.
Q. So again, though, what is in the design documents, that's the responsibility of the design team, correct?

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A. Yes, it is.
Q. And it's not the responsibility of the contracting team, correct?
A. Yes, sir.
Q. And it's the obligation of the contractor to follow that design and if they see that there is a problem with the drawings when they go to construct the building, then they have an obligation if they see something to raise their hand and say, hold on, designer, your design is wrong, I can't construct it in accordance with this design, you need to give me clarification on what I need to do, agreed?
A. Yes, sir.
Q. All right. So the way all this process functions properly is that you have a design that should be accurate and appropriate to build a building by, agreed?
A. Yes, sir.
Q. All right. Then the contractor should be able to take that design and follow it to build the building, correct?
A. Yes, sir.
Q. If the contractor finds something wrong with the design documents, he is not to proceed

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with changing those design documents because that would be inappropriate. What he needs to do is raise his hand and say, architect, through a request for information or whatever, give me some instruction and tell me what I need to do to correct this, agreed?
A. Yes, sir.
Q. All right. So in this project, that's what can be done with building information modeling and it can be done more easily with building information modeling when an architect does it in his contract and through Revit, he can put all of the design into all of the drawings and everything into a BIM model rather than a CAD model and then everybody's singing from the same sheet of music, and when problems are -- if there are problems in the drawings and they show up more easily with the clash detection because of the BIM and it's much more easy to make design revisions because everybody's on the same sheet of music, agreed?
A. Yes, sir.
Q. All right. As far as this project is concerned, the fact that -- and I can go through these specific provisions if you want to. But it's not the obligation of the contractor in

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pre-construction services or otherwise to go through all the design documents and find every clash or inconsistency before he signs the contract. What he's obligated to do is if he does in pre-construction see a problem, then he's got to bring it to the attention of the architect, but it's not his duty to actively discover them, agreed?
A. Agree.
Q. So what the contractor does, the fact that there are design inconsistencies and errors in the drawings when they're given to the contractor, so long as the contractor has not previously discovered them, that's on the architect because he's responsible for the design, correct?
A. Say that again.
Q. If there are design errors or omissions in the drawings or specifications that the architect authored, then those errors or omissions are the responsibility of the architect and not the contractor, correct?
A. I would agree with that, yes.
Q. All right. That's pretty basic construction, isn't it?
A. It is.

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Q. And isn't it also -- let's talk about -- and I'll get to the documents in just a few minutes.
What do you understand if design documents are represented to be 100 percent -- would you agree with me that if design documents are represented to be 100 percent, then they should be complete so that the contractor can follow those design documents to build the building such that when the building is completed it will be in compliance with applicable codes, regulations and functional for what the owner wants to use the building for?
A. I agree.
Q. Okay. And if design documents are represented to be 100 percent, then that's a representation that those design documents are correct and do not include errors and omissions, agreed?
A. No.
Q. If they're a hundred percent, they should not be correct?
A. No design is a hundred percent, really. We all know that.
Q. All right. And maybe that was a little

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bit unfair then. Let me -- even with 100 percent documents or 99 percent documents, it's understood in the industry that there will be some coordination issues or some bust. You try to get it perfect, but you don't. Everybody thought -- everybody misses the mark to some extent, agreed?
A. Yes, sir.
Q. So in any project, even with what you think are perfect drawings, there's going to be the slip here or there that's going to have to be addressed during construction, agreed?
A. Yes, sir.
Q. Right. But regardless of whether they are intended to be perfect or not, if there are slips, then those slips should be brought to the architect and they should be corrected, agreed?
A. Yes, sir.
Q. And if there are slips that cause the contractor to expend additional time that affects the critical path or costs him additional money because of those slips, then he's entitled to compensation, agreed?
A. Yes.
Q. Right. And if during --
A. Let me rephrase that, though. There is

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a means -- there is provisions within the contract for that contractor to make that petition of the architect.
Q. I understand.
A. And if he doesn't follow those rules and request that time in accordance with the requirements of the contract, that's on him.
Q. Okay. We'll get to that.
A. Just make sure we're clear.
Q. We'll get to that shortly.
A. All right.
Q. But as a basic proposition in construction, it's recognized that if there's a problem with the design and the contractor has to stop work and is delayed because of those design errors or omissions and he's delayed and has incurred additional cost, that as a general principle he's entitled to compensation and additional time, agreed?
A. If he can prove it, yes.
Q. Right. So would you agree that when a contractor is given a set of design documents and they're represented to be 99 or a hundred percent complete, then they should be in pretty dang good condition and except for the occasional bust or

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clash or conflict, he really shouldn't have too many problems in following those drawings to complete the building?
A. I agree.
Q. Okay. Did you have any specific problems with any of the subcontractors on this particular job?
A. Personally?
Q. Yes, sir.
A. No.
Q. Did you --
A. I didn't -- sorry.
Q. Go ahead.
A. I didn't have a -- that would not be my role to approach subcontractors directly.
Q. How was WLA selected to be the architect for this project?
A. They were on when I came on, so you'd have to ask Mr. Bennett or Kim Brown that.
Q. Okay. So you had nothing to do with their selection?
A. No.
Q. Okay. After you were brought on board, were you asked by Library Associates and Michael Bennett to vet WLA to determine whether in your

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opinion they were -- they had the necessary experience to undertake this project?
A. Not that I recall, no.
Q. How about the interior designer, DCI? Same question.
A. Mr. Bennett spoke to a couple firms, but he really left it to Buck to pick the one. And Buck had done a lot of work with DCI and that's how DCI came on board. Design Continuum.
Q. Yeah. DCI is an acronym for Design Continuum. I think you might have known that from the prior depositions.
Okay. Well, let me ask you this: You had experience with hotels, with luxury hotels and hospitals, which we've agreed are recognized as some of the most complicated structures that can be constructed, agreed?
A. Yes, sir.
Q. Already talked about that.
A. Yes, sir.
Q. Would you also agree that if an owner wanted to have a five-star hotel or a hospital designed, that it would be extremely prudent to retain a design team that has a lot of experience with five-star hotels and with hospitals because

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that experience is invaluable in making sure that the final design drawings are approved?
A. I agree.
Q. And, in fact, it would be very important for them -- for an owner, if they're going to hire a project manager such as yourself, if they wanted a project manager to oversee a hospital or a five-star hotel, it would be extremely important for that owner to hire somebody like you, who has a lot of experience in this area, to ensure if they want the project done right, they need to hire someone with a lot of experience like you, agreed?
A. I agree.
Q. The last thing you want to do if you're designing a hospital or a five-star hotel is to hire somebody who does not have a lot of experience in that field because if you're doing -- if you do hire somebody without the appropriate experience, you're asking for trouble and you're likely to have problems, agreed?
A. It's in the owner's best interest to hire like for like.
Q. Right.
A. Meaning if you're going to build a

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hospital, you hire a healthcare professional. Five-star hotel, somebody who had five-star experience would be certainly advantageous.
Q. And let's get this right out in the open. There is a world of difference between having a -- just a vanilla cookie cutter sort of design for a Hampton Inn or something else like that that's pretty fungible as compared to a five-star hotel. They are just -- they are completely different animals, aren't they?
A. They are.
Q. Right. And that's why they're so dang complicated?
A. They are complicated.
Q. Right. And another reason that five-star hotels are so complicated is that they are -- because of all the low-voltage wiring and all of the other amenities and everything else, what is behind the Sheetrock and what is in the space between the top of the ceiling and the floor above that are oftentimes just jam-packed with mechanical equipment and other things like that, and that's one of the things that makes them so dang complicated, agreed?
A. Agree. And you want as little ceiling

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interstitial space as possible because that's real estate. That costs money.
Q. Right. And another thing, in construction time is money, isn't it?
A. Yes, sir.
Q. And if a contractor is delayed on a job, then delays cost the contractor money. Whether it's his fault or anybody else's fault, if there are delays in the completion of the project it's going to cost the contractor money, agreed?
A. Whether it's his fault or others, yes.
Q. Right. And if it's not his fault and it's others fault, then as a general proposition it would be appropriate for him to be paid for those delays and be compensated for that money and time?
A. Yes, sir.
Q. It's also a generally recognized principle in construction that -- let me ask you this: Isn't it also based on your experience -- and you probably have a lot of it with these complicated structures. Is it recognized that if there are significant changes to a design, that changes are generally expensive and you want to try to avoid them if you can?
A. Depending on the timing of the project,

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that is correct. Obviously they are least impactful when you're digging a footing as opposed to trying to get a hotel open.
Q. Right. So if you wanted -- from an owner's perspective, if you want to make changes and you want to do it as economically as possible and if you want to do it so that the construction term is as short as possible and runs as smoothly as possible, you need to make dang sure that all the changes are done before you start construction, agreed?
A. That's what pre-construction is about, yes.
Q. Right. Because if you wait till after the design is finished and construction starts, that's where changes become very expensive oftentimes, agreed?
A. Let me just clarify that.
Q. Sure.
A. There are changes such as moving a door six feet in a wall that's not built, there's no cost. You're specifically referring to changes that impact the critical path and such. Those are the costly changes.
Q. Well, even leaving that door, though,

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can --
A. No. No, because that was -- that was an example specifically that Mike Bennett brought up during pre-construction with Sandeen and Baumbach. He said, listen, if I want to change a door from here to there, no harm, no foul as long as we're not there yet. You don't change a door, you just change the location, move a light fixture from here to there, the space isn't built yet.
Q. If nothing is actually built --
A. Yes.
Q. -- perhaps there's no -- there may be some other cost if there is -- it can be demonstrated a cost impact?
A. When a change impacts an imminent critical activity, those are very costly.
Q. Well, changes also -- do you understand that as far as subcontractors are concerned that the -- oftentimes it's appropriate and most expeditious and economical -- for example, if you have a mechanical contractor that has to install a bunch of mechanical equipment, to shop fabricate, if they can see that there's elbows in interstitial space and you got a particular configuration of elbow and it's going to take -- and the building is

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going to take 200 of those, it's a lot cheaper and quicker and more appropriate to shop fabricate them.
In other words, build them back in your shop so that when you get up to the site you can just stick them right in and not have guys sitting around in a noisy, crowded work environment trying to field fabricate, agreed?
A. Agree. MCC and Watson did a lot of that.
Q. Okay. So if those subcontractors had been told that here's what your work is going to -- here's what's going to be required with your work, get ready and here's when it's going to have to be installed, it's entirely appropriate for them to shop -- to manufacture those component parts in the shop, right?
A. Yeah, it's their risk and reward. They determine the timing for it. I mean, they wouldn't start fabricating on the first day of the project without having done any clash detection.
Q. Right.
A. But, yes, they certainly have the right to do that and to maximize their opportunity.
Q. Okay. We read earlier in the

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recitation of what is critical for a job to function properly. We saw in your data that a successful job at the end requires the owner team, the design team and the construction team to work together to fulfill their obligations appropriately; and if they all work together and coordinate with each other, then that goes a long way to ensuring a successful project, agreed?
A. Yes, sir.
Q. All right. And as part of that meeting those mutual obligations, the design team is obligated to provide an appropriate design without errors and omissions to a reasonable extent, correct?
A. Yes, sir.
Q. The contractor is required to build the building in accordance with that design and make a note if there are any issues, correct?
A. Yes, sir.
Q. And the owner is required to basically in a normal job just to pay the bills to -- as the work is completed?
A. Yes, sir.
Q. All right. In some jobs, though, the owner -- maybe the design has areas that are not --

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have not been completed as far as owner selections are concerned, and while a job is -- while a project is ongoing, an owner has to make selections in order to -- for the job to progress, agreed?
A. Yes, sir.
Q. A very simplistic example might be a paint color. At some point, if it's just a house that's being built, the owner has to decide what the paint color needs to be, what color they want the walls to be. They don't need to do that on day one, but at some point they have to make that decision because it's going to hold up the completion of the job, correct?
A. Yes, sir.
Q. So it's widely recognized that an owner, if they have to make selections on what they want in a building, they need to do so within a reasonable time so that the progress is not held up, agreed?
A. Yes, sir.
Q. And if the owner doesn't make those selections within a reasonable time and it does delay the critical path, then that's the owner's -- that's on the owner, correct?
A. I agree.

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Q. All right. When this project was designed and when the design was given to Balfour Beatty to bid the original GMP, which was 59 million dollars something, do you know whether at that time the owner intended to make major changes even at that early time?

A. It certainly was -- I don't -- well, there's two points there. You're inferring that the owner made major changes and I would dispute that. Now, it was certainly not the intent. But we had a GMP design. Everything was fully specced out, hardware, plumbing, flooring. If there wasn't something, there was an allowance, so all the information was there.

Q. Okay. So from your recollection, sitting here right now, you don't recall that -- as far as you knew from what you were being told by the owner, that design should be -- if it's represented to be a hundred percent, it was a hundred percent and there was no -- there were no anticipated substantive changes, that's how it was -- the hotel should be -- would look exactly like it was shown on that original design, correct?

A. That's what was represented to me and others.

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Q. Okay. Do you remember having any discussions with Michael Bennett or Kim Brown where you told them before construction started, now, look, I know you had previous experience with hotels and such, but if you have any changes that you want to make, you need to make them early on because if you make them after construction gets started it's going to be -- it's going to be more expensive and could well lead to delays. Do you remember any discussion about that?

A. No, but they were experienced enough, they know that. That would be a condescending remark.

Q. Okay. I understand. Do you know the difference between Level 5 drywall and Level 4 drywall?

A. Yeah. Level 5 is basically a smooth plaster finish, highest finish you can get.

Q. And Level 4 is in critical light --

A. Level 5 is basically a full skim and Level 4 is not, but it's as high as you can get without a full skim coat, a plaster-type of finish. That's my interpretation of it based on my experience.

Q. So if you want as close to perfection as you can get, then Level 5 is what you need to require?

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A. It would specify that.

Q. Right. And that should be specified in the design?

A. Yes. Absolutely.

Q. Let's turn to the clarifications under that same --

A. In the 101?

Q. Under Exhibit 16.

A. Oh, I'm sorry. So B101?

MR. MORRIS: Off the record.

(Off-the-record conference.)

BY MR. HILDEBRAND:

Q. Exhibit 5.

A. I'm going to give you back Exhibit 51 unless you need it.

Q. Stick it right there. The court reporter will keep them.

All right. Under the contract clarifications and assumptions, Page 11. Revision 9, finishes.

A. I'm confused. I'm in Tab 5, Page 11.

MR. MORRIS: The proposal that Tom -- or the GMP document Tom's interested in should be about halfway through that. It's Balfour GMP.

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THE WITNESS: Oh, so it's not Page 11? You're talking about this book?

BY MR. HILDEBRAND:

Q. Yeah. I think so.

A. Finishes. Division 9?

Q. Yes, sir.

A. All right. Good.

Q. Division 9, finishes. Number 1, Level 5 drywall finish is included at special finish SF02 and SF03 only. What is SF02 and SF03?

A. Well, FS means I believe special finish if I recall what DCI wrote. And they were just on the interior design. And, in fact, I believe one or both were actually removed from the project.

Q. Okay.

A. We did not do those.

Q. But the Level 5 was not in the guest rooms to your recollection, correct?

A. No, those were public spaces as I recall.

Q. The Level 5 was only in public spaces like hallways or restaurant or something?

A. I believe so. I do not recall Level 5 being in a guest room.

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Q. Okay. If it's not a Level 5, should there have been a designation in the drawings as to exactly what the level should be in other spaces?
A. I would hope so, yes. I would expect so.
Q. Mr. Clements, what is your preference on lunch? Would you rather break at noon or 12:30? Do you have a preference?
A. The closer to noon the better for me.
Q. Okay.
A. I need to get up and walk around. But, you know, plus or minus. A few minutes won't be the end of the world. Finish your thought or whatever you want to do.
Q. Okay.
A. And please call me Jim. Are you not allowed to do that?
Q. I can do that, but I prefer on the record to have it so it doesn't --
A. That's fine.
Q. If it's used at trial, it doesn't sound like we have some familiarity, so I just -- that's the only reason I do it, is from experience trying cases. I think it's better.
Okay. Let's turn to A201, Page 49.

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A. I'm there.
Q. Paragraph 15.1.6, claims for consequential damages.
A. 15.1.6. Yes.
Q. Right in the middle.
A. Yes, sir.
Q. Do you recall any discussion about this particular provision while the contract was being drafted?
A. No.
Q. And it says the contractor and owner waive claims against each other for consequential damages arising out of or related to this contract, period. This mutual waiver includes, one, damages incurred by the owner for rental expenses, for losses of use, income, profit, financing, business and reputation and loss of management or employee productivity of the services of such persons.
Do you dispute that that contractual provision is effective and applicable?
A. As far as this agreement? Yeah, it's right in there.
Q. Right. So any claims as far as you're concerned as the owner's representative on this project, any of those claims that the owner might have had have been waived, agreed?

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A. Based on this contract, yes.
Q. Yes, sir.
A. And the obligation of both parties.
Q. Were any audits required -- were any formal audits requested or required of Balfour Beatty during construction? I'm not talking about after the -- after substantial completion during construction.
A. No. No. I mean, typically we don't do audits until the very end, the end of the project. I mean, that's been my experience, there's been no need to do them earlier.
MR. HILDEBRAND: I think we're at a pretty good stopping place. It's about noon. Why don't we break until 1:00.
(A luncheon recess transpired.)
BY MR. HILDEBRAND:
Q. Mr. Clements, for this particular job when you were negotiating -- when you came on board as I understand it, WLA had already come on board and the interior designer had already come on board, correct?
A. No.
Q. No, they weren't?

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A. WLA was on, but DCI was not. There was no interior designer at the time. At the time, actually, it was considered -- I guess there was minimal consideration to WLA's interior designer doing the work, but then Mike was introduced to one firm -- actually, he asked me about it. That's what it was. I think he was getting calls from interior designers and he interviewed a couple. And Buck Lindsay recommended Design Continuum, and I think they -- Mike and Design Continuum got along and Buck kind of formalized that agreement for Mike.
Q. Okay. So you started your involvement when?
A. Well, the RFP went out October 2015, so I'm guessing it was probably not -- well, probably look at my agreement when it was signed, so probably -- I'm guessing around June or July '15, probably.
Q. Of '15?
A. 2015. Sorry, '13. '13. 2013.
Q. So from 2013 through the completion in early 2019 or thereabouts, what other -- was this the only project that you had going on during that time?

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market crashed 2008, I mean, at that time I had more employees and I had two projects each of a hundred million dollars, but they went south. And so that's when I've been backing off slowly.

And, you know, my -- there's another 20 million dollar project from my Presbyterian friends. That was a skilled nursing facility in Summerville. That was a program of work. That was about 30 million dollars worth of work on both -- on two or three different projects.

Q. Right. But individually they were much less than that?

A. Yeah.

Q. So other than this one, which is about 60 million dollars originally contracted amount, all of your other projects have been approximately 20 million or less in your career?

A. Right. Yeah, I think that's a fair comment.

Q. Okay. So on this particular project, how often were you onsite? What was the --

A. Every week.

Q. Every single week you came onsite?

A. Yes, sir.

Q. And how long would you spend onsite?

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A. Well, no less than a day, often a day and a half. And, you know, depending on the time of the project. You know, when they were digging a hole, no reason to be on the site. Toward the finishing part I was there for the entire week, you know, during the BIM coordination and all that. That's all done electronically. Those are all basically Zoom calls, so my time on the site was the least amount of time I spent on the project, probably.

Q. All right. Was that in your contract? Was there an agreement?

A. No.

Q. So you just came down as you felt necessary?

A. And as they requested, you know.

Q. But it was never less than one full day a week?

A. Never less than that, no.

Q. When you would come down just for a day, would you necessarily spend the whole day or it might just be a couple hours?

A. No, I was there for the whole day. Often I would meet with Mike and be on the job site and meeting with somebody all day long.

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Q. Okay. Where would you stay? I mean, did you have facilities or?

A. They would -- when I wanted to spend the night, they would give me the friends and family rate at a hotel. And my family in Summerville, 20 minutes away, my daughter and grandchildren. No grandchildren at that time. Stayed with them.

Q. Okay.

A. But predominantly I would leave Georgetown at 0-dark-30 and get back at 0-dark-30 for the day trips.

Q. And when you're there for say a week, would you overnight here typically or drive back and forth?

A. I would drive back.

Q. Okay. But when I said where would you stay, so you didn't have a job site trailer or anything like that, you would just --

A. At Bennett's office. I would go to Bennett's office, Mike Bennett's office.

Q. The Rice Mill building?

A. Yes. And then I would spend a lot of time with Balfour Beatty in their office on 300 Meeting Street, sit there and we would work on

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other matters, you know, besides OAC meetings and review things. But I didn't have an office anywhere, no.

Q. So when you would have a -- when you would come down for a day, how much of your time typically would you spend actually on the construction site? What percentage, approximately?

A. You know, probably six hours out of the day I'd spend a long time. Some days it would just be to look at one thing because Mike wanted to have a meeting about something else, you know. But never less than four or five hours.

Q. Okay. Did you keep a journal or anything else like that while you were onsite?

A. No.

Q. Have you undertaken any manpower analyses regarding the manpower that Balfour had planned as part of their original schedule and then compared it to what they actually had in place or anything like that?

A. No.

Q. Has anybody done that for Balfour to your knowledge? I'm sorry, for Library Associates?

A. Not to my knowledge. We requested manpower from Balfour Beatty, but they never gave

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it to us.
Q. And your fee was 10,000 dollars a month --
A. Um-hum.
Q. -- for the project? Were you -- have you been paid that in full?
A. Yes.
Q. Were the payments ever late?
A. Oh, yeah.
Q. Tell me about that.
A. Well, they were never more than 60 days. A lot of it was driven by draws, you know, the draw got hung up or something it might be delayed. But, you know, since I do so much in the healthcare business, it's seldom you get paid faster than 60 days anyways, so it's -- the days I got paid faster was a blessing. But there was never any disputed payments or things like that.
Q. Okay. And today you've been paid in full for all of your invoices?
A. Yes, sir.
Q. Did you have to discount any of them?
A. My invoices? No.
Q. So for 10,000 dollars a month, you just -- it was completely up to your discretion as

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to how often you would come except to the extent that you might be requested by the -- somebody from Library Associates to come, is that correct?
A. Yeah. Yeah. There would be -- yeah. Yes. It was never less than a day, but it was -- it could be two or three days, but not consecutive to. I mean, that was often the case as well.
Q. Have you ever had a project where you actually established a -- where you were there full-time during the construction?
A. No.
Q. Did you propose that to Library Associates on this job?
A. No. No.
Q. How about the architect, how often was somebody from the architect's office actually onsite?
A. Architect was always there once a month for the draw, always see me. And then the design disciplines, if you look at Buck's agreement, there are so many visits allocated.
Q. I think it's 60.
A. I don't remember. So many visits, you know, at certain periods of time. And that was it.
Q. Okay. So the architect --

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A. Sorry, let me interrupt you. Buck would visit, but it was not part of those visits. Buck wouldn't visit every month, but he would come in at Mr. Bennett's request or even my request for him to come in and take a look at something, so... But he didn't count as those visits.
Q. Okay. So let me back up. So the architect -- somebody from the architect's office would come from your recollection typically only once a month, correct?
A. Yes. They would come in the night before and spend the entire day there at least and --
Q. Fly out that night?
A. Yes. Yes. Same thing with the interior designer.
Q. They would come monthly?
A. At least monthly.
Q. Typically monthly?
A. I think that -- the designer came every couple of weeks once we were gotten into finishes. He was there more frequently as I recall.
Q. When the architect was there, they would typically come for the draw meetings?
A. Yes.

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Q. The pay apps?
A. They would inspect the job, do their inspections, write up their report. You know, they would come in the day before. Mr. Bennett would put them up at the hotel -- at one of his hotels. And they might walk the job the night before or walk the job the next day depending on what they had to do. You know, there was oftentimes they would be meeting with Balfour Beatty on some coordination issues, you know, just some general things, but at least once a month.
Q. Typically once a month?
A. Typically once a month.
Q. And then Buck Lindsay separate and apart from that might come down on occasion as requested, is that right?
A. Yes. He would probably be down there every quarter, you know, roughly.
Q. Okay. And who from the architect -- when it wasn't Buck Lindsay, who made the normal monthly visits for the architect?
A. Well, for the architect, Jennifer Faulkinberry. She was the project manager. She had worked with Balfour Beatty on the MGM Studios down in Florida, so they knew -- she knew the

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company and had worked with Balfour Beatty on two big phases down there, so that was a no-brainer for Buck to use her.

Q. So other than Jennifer and Buck, do you recall anybody else from the architect actually coming onsite with --

A. Well, when you say architect, you have to think of the --

Q. WLA.

A. All right. So Taylor Walker was the HVAC engineer. I think that's his name. He would come as one of those scheduled inspections. And there was an electrical engineer that would come whose name escapes me. And then, of course, the civil engineering was SM&E, and they would be onsite. They had a separate contract with Mr. Bennett, a direct contract. They would come on their own to inspect civil issues and such.

Q. How often would Taylor Walker come onsite?

A. He would probably be down there every quarter.

Q. Okay. And how about the electrical engineer?

A. Same thing unless we had a problem or

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we needed a request. But typically, you know, rough-in stages before close-up, they would come down and do inspections. I mean, not inspections, but they would -- yeah, they would inspect the project.

Q. To your knowledge did Jennifer Faulkinberry have any other projects going on other than this one while this project was being built?

A. Yeah. I think she had -- I know she was finishing up MGM's -- whatever that big hotel development is. But other than that, I'm not sure what she had going on.

Q. So when she finished that one, you don't know whether she started another one?

A. I don't ever remember her talking about another project, to be honest with you. I think she was pretty much full-time. Matter of fact, I'm pretty sure she was full-time on the Bennett.

Q. Do you know why the architect didn't have somebody stationed onsite full-time during construction?

A. It would be very unusual. Only time I've ever seen that is on some government work that I've done.

Q. And how about Michael Bennett, how

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often was he onsite?

A. He was probably onsite weekly. I'm sorry, let me take that back. He would do -- probably was doing drive-bys while we were digging the hole and doing the foundations, but, you know, when things were going, he was probably there weekly, you know, on the site. He would be looking at something or have a question about something.

Q. After the drywall was in or prior to that?

A. Oh, prior to that. You know, he would be on every -- you know, every week or two at the least I would think.

Q. Okay.

A. He wasn't a stranger, put it that way.

Q. How long would he actually spend onsite typically when he would come?

A. I mean, not a long time. He's a pretty busy guy. You know, if there -- unless there was -- towards the end when we had problems he would spend more time, but initially he was more just walking through with his hardhat and --

Q. Half an hour or so?

A. Maybe longer than that.

Q. Half an hour to an hour, approximately?

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A. I'm guessing.

Q. Okay. How about Kim Brown, how often was she onsite?

A. Kim was onsite less than Mr. Bennett because she was managing multiple projects at the time. Kim did not attend the pay app meetings and she called in to the OAC meetings. You know, until we started getting into finishes and furniture and light fixtures, she became very, very involved. That's kind of her thing. Prior to that, you know, I would suspect she was there every couple weeks maybe, maybe three weeks. She had a lot of things going on.

Q. Okay. So when she was onsite, how long would she typically spend?

A. You know, towards the end it could be all day long because she was meeting with interior designers, artwork people, OS&E people. You know, it could be days straight. But otherwise, she probably wouldn't come on the job more than a few hours or an hour just to look at an issue we were having and, you know, for us to get some direction from her. She's a pretty smart lady, knows her construction.

Q. Okay. Do you know why Library

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town before a change order meeting and we would sit in the Bennett conference room and go through change orders.

Q. You'd bundle them up into an OCA or what?

A. We would bundle up change order requests into a AIA change order. So request for change, review, Kim would sign off on it. We might get ten, five, bundle it up and then it would be a formal change -- an AIA change order.

Q. The ones that Michael Bennett -- you said that he looked at the larger amounts. Would that be over typically say a hundred thousand dollars or what would you say?

A. No. I mean, I met with him when we had the change to upsize the storm water piping in the under slab, and I think it was 60 or 70,000 dollars. And he wanted -- again, it wasn't necessarily -- dollars, of course, was important, but Kim would say, would you -- you need to go explain this to Michael why we need to do this.

Q. Okay. Do you recall any instances where Michael Bennett became upset because the project was exceeding the original contracted amount of approximately 60 million dollars?

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A. No. He never lost his temper with me during --

Q. Over anything?

A. During pre-construction we butted heads. But during construction, you know, if it was something that we had to do, if there was a mistake on the drawings that had to get fixed, he accepted that. And I think, you know -- sorry. That's enough.

Q. Well, how about Kim Brown, did she ever get upset because the project was exceeding --

A. Yes.

Q. The costs were going up?

A. Yeah, she would get upset, but not yelling and screaming. I mean, you have to define what upset is. Disappointment I think is probably a better adjective, would be disappointed. She would get frustrated. She would raise her voice. But at the end of the day when something needed to be done, they signed it.

Q. Okay.

A. Weren't happy about it, but what are you going to do?

Q. What was your perception of Michael Bennett in his -- we've gone through a bunch of

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newspaper articles and such and questioned him that this was about this being his pet project and his gift to Charleston and it's going to be an iconic building, it would last a hundred years, did any of that come across to you while you were --

A. Yeah, he was very proud of it. I often heard his story about his father shining shoes on the corner in front of Virginia's right across the street from the hotel. So, I mean, it was -- it was a labor of love in many respects. It meant a lot to him. It meant a lot to Mike. Or it means a lot to Mike.

Q. Kim Brown also testified that you did not have authority for any -- for money issues or design issues. Does that --

A. I brought everything to them to make a decision.

Q. Okay.

A. Once or twice I spent a few thousand dollars and I got my hand slapped and I learned early that not to do that. And Kim was -- she wasn't mad at me, but she said, you know, this -- better not do this. This is not the way we work, so...

Q. I got you. So virtually every decision

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that had to be made on the project relating to anything, you were simply a conduit to pass the information -- anything that required a decision, you would act as a conduit -- solely as a conduit to Kim and/or Michael for them to approve?

A. Anything that affected cost or time.

Q. Or design?

A. Or design, but particularly I would not touch that. But in the course of doing business, if there was something that was patently obvious that wasn't -- Balfour Beatty said can we do it this way as opposed to this way, not changing the design or something like that, we would talk about things.

Q. Some construction meetings where methods maybe were questioned?

A. Yeah. Or they would ask my advice on something or I'd ask their advice on something and we'd say, have you thought about this. It's just the normal things that I would do in my course of business with any contractor.

Q. Okay. Well, have you ever had a job where you were actually delegated the authority as the project manager to sign change orders and to sign pay apps and to make design changes on behalf

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of the owner?
A. Not to make design changes. I fulfilled a role in 2003 for Bon Secours in Virginia. They had lost their construction person. And I worked for them for about three years and I had a reasonable signature authority. They needed somebody. And I was a little surprised, you know. But other than that, I really don't want that responsibility, you know. I want to take things to the owner to help them understand it, have the information they need to make an educated decision.
Q. Okay. In reviewing the documents and reviewing when requests for direction were made from Balfour to the owner, say for selections, whether it's a light fixture or what the lobby reception desk might be or whatever, there are a lot of those that took long periods of time for information to come back. How would you explain that? Why would it take so long?
A. Well, because the project was personal to Mr. Bennett. You know, when we started the project, everything was selected. But Mr. Bennett would revisit things and look at -- I mean, he would just revisit things. Not like the flooring, but maybe -- and not really light -- I mean, like

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plumbing fixtures. I remember we revisited those.
Q. He wanted it perfect?
A. Well, he just -- you know, there's a -- he's a very hands-on type of person. And there was no playbook for this, you know. He would get personally involved in hardware. Hardware was a big thing. I'm sure you know that. And we fought hard to get decisions for hardware and plumbing done in a timely manner to maintain pace, you know.
Q. And Mr. Bennett often would just anguish over decisions that would take a long time to get them back?
A. No, he's pretty decisive. It's a matter of people bringing him what he wants and what he expects and --
Q. From the interior design people?
A. From the interior design. You know, finding something that he -- he's very decisive. When he sees something he likes, I mean, he doesn't mull it over.
Q. Yeah, I'm just really getting at why -- and I can pull out documents, but there are many, many, many instances where Balfour would say we're going to need a decision on this particular item --
A. Yeah, we came down to the wire.

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Q. -- and it would take a long -- sometimes months and months to get a decision back.
A. Yeah.
Q. And I'm just trying to get your spin on how that would take -- what would be the reason. Was the reason that he would then have to go back and forth with the interior designer before a selection would be made or what?
A. Yes. Yes. He and Kim and the interior designer or the architect would go back and forth on something. In the case of the door hardware, it was the architect. Yeah, they would go back and forth. You know, just like the elevator caps. We bought a --
Q. It was a huge delay.
A. -- gold -- well, I don't know about that. You have to think about a delay relative to what other delays were on the project. It's not like --
Q. We can argue that -- or we can talk about it later.
A. Yeah. But anyway, so we bought gold standard Otis caps and then the interior designer suggested bronze caps, and so it took awhile to get that decision made.

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Q. Okay. Do you remember any discussions that you had with Michael Bennett where you said, look, I can appreciate that you want to get this thing exactly to your liking and that it's personal and such, but these delays in getting responses back to Balfour are delaying the project and you need to respond more quickly or there are going to be potential claims or issues?
A. I would not have those with Mr. Bennett. I would have -- I would give Kim Brown the heads-up.
Q. What would her response be?
A. She would -- because of her extensive construction knowledge, it wasn't a hard sell. She recognized it and she would push Mike to get a decision made, that it was something coming down to him.
Q. But still, Mike might not get -- might not be able to get a recommendation from the interior designer that could allow for a quick response, so sometimes that would be the delay?
A. I think it was all a matter of getting the whole package in front of him, to be honest with you. As I said, he was a very decisive person. It's a matter of getting everything in

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front of him that he wanted to see, and so there was -- sometimes that took longer than others, to be honest with you, but we would -- in the instances that -- for instance, the plumbing fixtures in the guest room tower, those changed. But we expedited the rough-in valves. You know, he understood the situation.

I came to him and we expedited the rough-in valves and we paid -- we expedited some paid overtime for Watson and some other items to make sure that we didn't impact the schedule at the time. If you go back and look, there was various e-mails from Balfour Beatty about delay, delay, but there was no substance to them at the end of the day. They were never followed through on or never proven or never even became an issue. That's not to say that it was an uncomfortable time. I mean, we would have to jump through our, you know, hoops to get things done.

Q. Well, when you say nothing became of them. I mean, the fact is that the project was delayed from the original contracted opening by about 500 days?

A. Yes, but you presume that was a hundred percent on Mr. Bennett.

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Q. No, my --

A. Yes, you do.

Q. Well, okay.

A. Sorry. I didn't mean to say it that way. Your position is --

Q. Well, and as I understand it, you haven't done a critical path analysis nor do you have that expertise, so who's responsible for that? You don't have the expertise to opine, agreed?

A. Agree.

Q. Right. So if delays did occur, who is responsible for them will be the subject of the critical path analysis by the experts, correct?

A. Correct. Yes, sir.

Q. But did anybody to your knowledge have any discussions with the architect about whether the architect was responding in a prompt and efficient time to avoid delays with the project?

A. Yes. When we were doing the BIM coordination, I mean, it was -- as you know, it was a long process. And it was critical once we started doing the tower and pouring the concrete -- what happened, you get to the BIM process and then that information had to be taken to Lindsay's office, Buck Lindsay's office, produced in a plan,

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and then that went back to Balfour Beatty. I think that's the way it worked.

And so the input from Lindsay was very important because some of the conditions that we found required their input, you know. Maybe there were some times that we had to get creative to make something work.

So yes, there was certainly pressure placed on Lindsay and there was complaints -- not complaints, but there was correspondence from Balfour Beatty, Buck not meeting the timeliness of his whatever the final design or the -- you know, the design from the BIM coordination. It didn't happen much, but there was correspondence to that effect.

Q. Well, let me ask this. How was the original contracted completion period of --

A. 28 months.

Q. Right. It was supposed to be 28 months -- yeah, it was 28 months. July 30, 2017 is what the date worked out to. How was that schedule arrived at?

A. Balfour Beatty produced that schedule.

Q. What involvement, if any, did you have with the schedule?

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A. On that, nothing.

Q. How about the architect?

A. No. I think we left it to Balfour Beatty. They were the experts in five-star hotels. They said it was going to take 28 months. I don't think any of us objected to that.

Q. Did you have the capability of looking at the schedules that were promulgated by Balfour Beatty to see if the work was actually keeping up with what was on the schedules?

A. Yes.

Q. Okay. So you would know and the architect would know what needed to happen to -- what work needed to be completed to meet the schedule that was planned by Balfour Beatty, correct?

A. Yes. It wasn't limited to reviewing the schedule. In the OAC meetings we established milestone dates often that were critical dates to meeting the completion schedule.

Q. What I'm getting at is that if the schedule says that a certain event needs to -- is scheduled to take place by January 3, the architect -- and if decisions needed to be made in order to install the work that has to be finished

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by January 3, both you and the architect should be able to look at that schedule and say, okay, the schedule is pretty tight, if there is information we need to get back to Balfour, I could see that we need to get that back pretty quickly?

A. Yes.

Q. That's pretty commonsensible, isn't it?

A. Yeah, it's common sense, yeah. And we had an open dialogue with Balfour Beatty about those decisions.

Q. And the same thing is if the schedule shows that a certain event is supposed to take place by a certain date and information has been requested of the owner or the architect and they don't get back to Balfour, then it's pretty commonsensical that that event is going to be pushed out, agreed?

A. Yes. Logically.

Q. Do you know how often the architect actually looked at the schedule, if at all, to see whether -- how the construction was progressing in comparison to it?

A. I don't remember any detailed schedule discussions with the architect.

Q. How about Kim Brown, do you know if she

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actually looked at the Balfour schedules to determine what was taking place, what was on the critical path and what needed to be done from the owner's perspective to make sure the schedule was being met?

A. I don't remember a detailed -- I'm sure there were occasions when we sat down and looked at the schedule, but it would be the exception, not the rule.

Q. Okay. How often would OAC meetings take place?

A. Monthly.

Q. And were they always done in person?

A. Yes. I mean, occasionally one of us would call in, but it was always a physical meeting.

Q. And most of the time it was your practice to be at those physical meetings?

A. I chaired them, minute them.

Q. And where would they take place?

A. Balfour Beatty's office.

Q. And Kim Brown would always call in?

A. Not always, but if she was available she would.

Q. So if she wasn't available, then you

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would be the owner's representative for those?

A. I would. And as soon as I could speak to her, I -- she would call me as soon as she could to get the highlights of the meeting and things that she needed to work on or issues we needed to deal with.

Q. Okay. Have you drafted OAC meetings in the past?

A. Most of my career. I like to be in charge of them.

Q. Okay. You control -- when you draft the -- when you do the OAC meeting minutes and chair it, then you control the agenda and the narrative for the meeting minutes, agreed?

A. Right. I invite agenda items from everybody and get them on the agenda, but I do minute them. And occasionally Nick would take exception to my minutes and I would change minutes. That's all documented.

Q. Right. But the OAC meeting minutes are designed to determine what problems exist on the -- there are a lot of different things that they're designed to do. One is to foresee what's coming up and plan for it, but another reason for the OAC meetings is to determine what problems there are on

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the job and address them so that they can be resolved, correct?

A. Correct. Yeah. It's an update meeting. It's not a, quote, working meeting where you worry about nuts and bolts. This is what's going on right now, these are important items, milestones, status of change orders, RFI status. A lot of it, you know, was administrative. That's typical.

Q. Right. And I've seen a lot of OAC meetings, and they typically -- if somebody has a beef with another person or say that their work is being impacted by somebody else or whatever, that's the place to air their grievances and get them on the record so they can be addressed, right?

A. Correct.

Q. So any issues that you had with Balfour or Balfour might have with the architect or anything else, that is the natural time when you've got everybody together to open any issues, grievances, complaints or whatever, get them out in the open and get them worked on or resolved, correct?

A. Yeah.

Q. That's the whole reason for the

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meetings, right?
A. Yeah. Get everybody around the table at one time.
Q. Right. So when decisions had to be made for -- on any aspect from the owner's perspective as I understand it, you would take the request for a decision to Kim Brown. And then was it your understanding that typically she would confer with Mike and get approval and then get back to you or would Kim typically --
A. She would not typically confer with Mike.
Q. She would not?
A. No. I think that her discussions with Mike were the exception, where she felt either from a design standpoint or a financial standpoint needed to be discussed with him.
Q. So it was up to Kim's discretion whether she thought that she needed to confer with Mike or not?
A. Yes.
Q. Would she sign change orders?
A. Yes. She's the only one that did. To my knowledge. I don't recall otherwise.
MR. HILDEBRAND: We've been going about

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an hour. Why don't we take a five-minute break.
THE WITNESS: Okay.
(A recess transpired.)
BY MR. HILDEBRAND:
Q. Mr. Clements, I'd like to go back to the contract for a few minutes and see if I can clarify or try to get an issue clarified. I might be able to short-circuit this some, but telling you some facts and see if you agree with them without having to go through document by document to refresh your recollection and establish them.
But, first off, the contract that you have in front of you under Exhibit 5 is the -- is a copy of the contract as it exists in Balfour's files and it does not include a copy of some supplemental conditions that Buck Lindsay had introduced or discussion at -- during the contract negotiations that are shown --
A. Division what items? In the spec?
Q. Yeah. I'll show you in just a second.
A. Okay.
Q. So look at Exhibit 5. That's a copy of the contract as Balfour has it. If you'll turn to Exhibit 12. Those are some supplemental conditions that Buck Lindsay had suggested for discussion

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while the contract negotiations were ongoing. Do you remember anything about that?
A. I don't remember suggestions being made, but, I mean, a separate -- Buck was asking that -- are these changes to be made to the contract?
Q. Let me back up for a second. Do you have any -- I can tell you that those supplemental conditions are not attached to the contract that Balfour has, which is a complete copy of the signed contract. Do you have any reason to refute that?
A. No. I think these are in the spec book if I recall correctly.
Q. Right. Okay.
A. Right.
Q. Let's go through -- see if I can piece together the chronology on this.
(EXHIBIT 52, E-mail dated 5/5/14, marked for identification.)
BY MR. HILDEBRAND:
Q. Handing you what's been marked as Exhibit 52. That's an e-mail to Bill Bundy from Buck Lindsay. And it says: Division zero specs. Bill, attached are our 50 percent progress contracting documents for the referenced project.

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Jim C. has been helping us with some of the AIA document refinement. We are including our standard set of supplementary conditions, for which we need legal owner input. There is a lot of good contracting material in the SC's, which I think are supplemental conditions, which may not be consistent or may be in conflict with contract elements you have in mind.
And you were copied on that. Do you see that?
A. Um-hum. Yes, sir.
Q. Okay. So I think that what was provided with that is what is shown in Exhibit 12.
A. I would agree, yeah.
(EXHIBIT 53, E-mail chain dated 5/6/14, marked for identification.)
BY MR. HILDEBRAND:
Q. I'm handing you what's been marked as Exhibit 53. I only have a couple of questions about this. But this is an e-mail -- not the very top e-mail. The very top e-mail is from Kim Brown where she says: My comments are attached in red on that. The one below that is an e-mail from you to Buck Lindsay saying: Buck, I have taken a first pass at reviewing your supplemental conditions and

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have made some revisions.
(EXHIBIT 54, Supplementary Conditions, marked for identification.)
BY MR. HILDEBRAND:
Q. If you'll now turn to what I've marked as Exhibit 54, which is the document that was attached to your e-mail where you say: I've taken first crack at looking at these.
Do you recognize the handwriting at the top?
A. I do, but I don't know whose it is. It looks familiar. Please don't tell me it's mine because I don't print that legibly anymore.
Q. Yeah. My understanding was that it was yours --
A. Oh, really?
Q. -- based on your prior e-mail that you made revisions to this document.
A. Written in red, it leads me to believe it's Buck's handwriting, but that's okay. Anyway...
Q. So anyway, if you'll turn to Page 12. And you can look in the upper right of that document. It says 0800-1 through 12.
A. Oh, this is my handwriting. You're

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right. I remember this. Yeah, I would have done that.
Q. Right. Are you on Page 12?
A. Yes, sir.
Q. All right. You see where Paragraph Y has been --
A. Um-hum.
Q. -- struck through which eliminates Paragraph 9.10.7 of the supplementary conditions, which reads: In the event that final completion is not achieved within 60 days of the contracted date of substantial completion through no fault of the owner or architect, the contractor shall pay the owner an amount equal to the owner's actual costs of continuing to provide construction administrative services on this contract until final completion is achieved in accordance with the contract documents unless the delay is not the fault of the contractor.
So you struck through that and then you said -- the note that you had was A133, Section 2.3.1.3 takes precedence, correct? Agreed?
A. Yes, sir.
Q. Right. Okay. So you struck through that and said I think that the liquidated damages

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provision, 2.3.1.3, is what takes precedence, correct?
A. Um-hum. Yes.
(EXHIBIT 55, E-mail chain dated 5/7/14, marked for identification.)
BY MR. HILDEBRAND:
Q. Now, the next document that I want to hand you has been marked 55. This is an e-mail to you, Buck Lindsay's copied, from Bill Bundy saying that -- it's on the same e-mail chain, the supplemental conditions, which are Exhibit 15, are so extensive, I would rather revise the A133.
And another e-mail below that from Bill Bundy says: I would propose that all of this supplemental language be added to the A133 itself to avoid confusion and having to go back and forth between two documents to determine what is required.
So the A133 was put out by -- from what I can discern by Buck Lindsay. And he said: This is something we've used on another project, take a look and see if you want to use any of these. You said delete the paragraph that I read just a minute ago, the 9.10.7.
A. I think you meant to say the supplement

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conditions were put out by Buck Lindsay.
Q. Right. I did. I meant to say that.
A. Okay.
Q. And then Bill Bundy says, let's just -- these are -- anything that we want -- any language we want to include, we'll just use the language and revise the A133. And then --
A. Are you looking for this? Because this was attached to this. It's not marked as an exhibit.
Q. No, I don't think so. Let's see.
(EXHIBIT 56, E-mail chain dated 5/4/18, marked for identification.)
BY MR. HILDEBRAND:
Q. I'm now going to hand you what I've marked as Exhibit 56. And it says -- this is to you from Kim Brown, the top one. And then below that is an e-mail from Bill Bundy to you, copied Buck Lindsay. And says basically we are -- have agreed to incorporate the supplemental conditions, the language in there, into the 133.
And if you'll turn two pages into that, I want to ask you about another, the middle e-mail. Do you see it there from Bret Estridge?
A. Um-hum.

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Q. Just answer yes or no, please.
A. Yes, sir.
Q. Okay. Dated May 27, 2014. He says -- and it's to you from Bret Estridge. And it says: Jim, below are the changes that we propose to incorporate.
And it's referencing the supplementary conditions.
If this is acceptable, BBC will revise the 133 and A201 to reflect these changes. At that point WLA will need to delete the specification as it will become invalid.
And if you turn the page, do you see Item 26? It says 9.10.7, delete this paragraph. A133 2.3.1 takes precedence. Original paragraph to stay intact.
So based on -- I can tell you that the supplemental conditions were part of the -- were it attached, Balfour says, inadvertently and by mistake to the project specifications. And the reason we say that they were included by mistake is because they were not attached to the contract. And both you and Balfour said that Paragraph 9.10.7 has been deleted. And Bill Bundy confirmed that any changes that -- anything in those supplementary

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conditions that needed to be incorporated into the A133 or 201 has been incorporated.
My simple question to you is: Do you have a recollection about these paragraphs and these supplemental conditions were considered, but then the agreement was that they would not be incorporated into the contract?
A. The intent was -- number one, I remember working with Brent on it. He was the presumed project manager at the time. And the idea was really just to eliminate conflicts, not to delete the supplement conditions from the contract. And that's what -- we did not try to incorporate all these supplement conditions in the contract, we were just trying to delete conflicts. And that's what we worked on. That was our charge. And Bret and I worked on it extensively making revisions.
Q. Okay.
A. But I don't recall the supplemental conditions not being incorporated into the contract documents, I honestly don't.
Q. Let me ask you this: Is it clear to you from reviewing both your comments and Bret Estridge's that it was the intention of both of you that this paragraph 9.10.7 be deleted because

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A133 --
A. I'd have to look at that. It's what he's proposing, but I don't know --
Q. Sure. Go back and look at --
A. Is that the 201 or where is that?
Q. No, the A --
A. Is it A133?
Q. Yes.
A. Okay. Well, it's not there. I don't know what that reference is, to be honest with you. Obviously it was deleted.
Q. Right. You agree that --
A. Yeah.
Q. -- Paragraph 9.10.7, it was the intention of both?
A. Um-hum. I guess that's why it's deleted there. I don't recall what it is off the top of my head, though.
Q. Oh. If you look at Exhibit 15, you look at Section 9.10.7.
A. Exhibit 5 is the contract, right?
Q. Right. And then the supplementary conditions are --
A. Oh, oh, oh, oh, oh, that's referenced in supplementary conditions.

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Q. Right.
A. Well, that's not 15. Here it is right here. Maybe it's on this.
Q. I'm sorry, it's Exhibit 12.
A. Oh, it's Exhibit 12 in this book? Okay. I got it. You're right. Okay.
Q. My simple question is: That was the first draft of the supplemental conditions, but your e-mail said delete Section 9.10.7 --
A. That's correct.
Q. -- Bret Estridge says we need to delete Section 9.10.7. So it is the intention of both of you all to delete that paragraph, agreed?
A. That's what it appears, yes, sir.
Q. Okay. Let's look at Exhibit 20. This was marked as Exhibit 20 in Kim Brown's deposition and she confirmed her understanding that this is the agreement between yourself and Library Associates for Matrix's responsibilities on that -- on this job. Is that your understanding as well?
A. Yes.
Q. While this project was ongoing, were you aware of any -- or did you have an understanding of how much of the project was being financed and what would be paid through

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this reference says, where I say I think we need a plan, we actually had a plan. Buck did a plan that showed where the areas were less. And a lot of them had to do with soffits for plumbing and things. It wasn't that generally the guest rooms were so important that tall.

The challenge was that the original design had -- I recall the domestic and hot and cold circulating water ran over the vestibule doors in the guest rooms and there wasn't enough room for that, and then we -- so it was working together with Balfour Beatty, we moved them out into the corridor and that relieved that problem.

Q. Moved them out into the corridor, but that's something that necessitated approval by the architects in a design change?

A. Right.

Q. They had to approve that change?

A. Right. Right. It was done at, you know, one of our -- MOD 5 I think it is, MOD 5 plumbing and Mod 5 HVAC. But the impact of the guest rooms, I mean, there were a few areas, but it wasn't you pick by any stretch of the imagination.

Q. All right. Turn to Exhibit 32, if you would, please. You'll see on the second page of

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this document there's an e-mail from Tim Spano to yourself.

A. Second page has something to do with the CETCO.

Q. Actually, it's the third page. E-mail chain starts January 18, 2016.

A. January 18, 2016. Jim, look at the drawing attached. MOD 3 was just issued for plumbing.

Q. Right.

A. Okay.

Q. MOD 3 was just issued for plumbing and this is the kind of stuff that is getting missed because WLA, the architect, doesn't check their design before it goes out or they just rely on Balfour, MCC to find the conflicts and point them out to them. There is no ceiling in this area, so how do they issue a MOD with a pipe running through an open ceiling and staircase? These types of RFI's are a waste of time for MCC and BBC and should not be happening. Thanks.

So Balfour is complaining that WLA is issuing designs that are -- contain busts and erroneous, correct?

A. Yes.

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Q. All right. And if you turn to the first page of that at the very bottom, it's an e-mail from Kim Brown to you. And the second paragraph says: I want an explanation on Tim Spano's e-mail regarding additional charges due to BIM coordination.

And you respond to Kim and say: To answer your question regarding BIM coordination, see the attached e-mail and exhibit received a few minutes ago. This is an example of what BBC is complaining about, continued lack of coordination from WLA even in the MODs. Per Tim, BBC is done redesigning this project for WLA and has pushed it all back on WLA. As of last Friday, BBC gave WLA a delivery schedule. If WLA doesn't meet the delivery schedule, BBC will claim delay. If WLA can't man up and fix the situation, we are going to have a real problem. One option is for WLA to turn over the design and coordination to MCC.

A. Um-hum.

Q. So Tim Spano was complaining to you that designs it was being provided by WLA were erroneous, Kim asked -- Kim Brown says, Jim, give me an explanation. And your explanation is pretty clear WLA is not doing its job properly and is not

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providing coordinated drawings, they're providing -- they're issuing drawings that have errors and omissions and, if this goes on, we're going to have a real problem and Balfour is going to claim delay, correct?

A. Yes.

Q. So you recognized in that e-mail that the problem with the erroneous drawings in the BIM lay with WLA, agreed?

A. Yes.

Q. Okay.

A. The design problems lie with WLA, right?

Q. Right.

A. WLA wasn't doing the --

Q. They were issuing improper designs?

A. Yeah. Conflicts were in the hundred percent drawings, as you said.

Q. Right. But the issue is -- to answer your question regarding BIM coordination, that's the very beginning of your e-mail, and you acknowledge that the BIM coordination issue falls on WLA --

A. Yes.

Q. -- because they're issuing design

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it, to be honest with you, based on the work in progress. But, yes, it would be not uncommon to make changes, additive or deductive, to a pay application.

Q. Right. That's what I'm saying.

A. Yes, sir.

Q. Just because if an owner -- if a pay application hypothetically is 10 million dollars and the owner thinks that one of the line items that is 50,000 dollars is inappropriate, it would be inappropriate for the owner to just say I'm not going to pay any of the 10 million dollars?

A. Oh, of course. I agree.

Q. The appropriate thing for the owner to do in any job and this job is to say, okay, we disagree with the 50,000 dollars but we're going to pay you the --

A. The undisputed amount.

Q. -- 9,950,000 that is undisputed?

A. That's the rule. That's the rule, pay all undisputed costs.

Q. Right. Let's turn to Exhibit 42, if you would, these. Do you remember a formal notice of delay that was made when Balfour got to the sixth floor?

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A. Yes.

Q. Okay. And the issue --

A. Yes, I do.

Q. Okay. So Balfour made a formal claim and -- to the owner and architect saying we have been delayed and incurred costs because of design errors and omissions that have come to a head on the sixth floor, correct?

A. Yes, sir.

Q. All right. And as a result of that, there was a lot of back and forth about who caused the problems at the sixth floor and there's a lot of e-mail correspondence regarding that claim. Do you remember that?

A. Yes, but -- so are you talking about the Lithko claim?

Q. No.

A. This is something different?

Q. Right.

A. Yeah, I generally am aware of this, not specifically. I'd have to go back and look at it. Obviously the Lithko claim was very formal. I don't --

(EXHIBIT 58, E-mail chain dated 8/8/16 to Kim Brown from James Clements, marked for identification.)

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BY MR. HILDEBRAND:

Q. Let me hand you what I've marked as Exhibit 58. That's a follow-up to the earlier e-mail I sent you we marked. The bottom one is an e-mail from Tim Spano to Kim Brown. And it says: Kim, please accept this notification of delay to the structure leading up to the Level 5 overhead, which is the Level 6 slab MEP.

So he's putting her on notice of a claim and then you respond to that notice in the e-mail above to Kim Brown. Do you see that?

A. Yes.

Q. You say: Kim, we have been working on these issues since they were first brought to our attention. As of today, I believe we are close to having the last current issue resolved. The crux of the matter is when the sixth floor stepped back the concrete beams supporting the structure above as well as offsetting risers from the fifth to the sixth floor and above caused a myriad of challenges and conflicts. Regrettably, the challenges on the lower floors precluded the opportunity to get ahead of the concrete pour floor and even now we are faced with unknown coordination risks with seven

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and above. I assure you it has not been for a lack of trying. This has been incredibly time consuming and the design team and the subs have worked diligently to resolve the issues.

So what were you talking -- explain to me what you were talking about the crux of the matter is when the sixth floor stepped back the concrete beam supporting. What's the issue there?

A. Well, the hotel is kind of a wedding cake design when it gets up there. It goes up through the fifth floor, then it steps back and then there are six, seven and eight and the roof sit atop the fifth floor, but that has to be supported somehow. And so there were large beams that transferred that load onto the fifth floor and down through the building, so those beams present themselves as constraints for anything that has to be gravity fed.

Now, you can run electricity anyplace you want, you can run chill water anyplace you want, but if it's got to flow downhill, it's very problematic. That's not to say that there aren't issues where you can't get a chill waterline to get through because there's no room depending on their size, right? So that was the issue there on the

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sixth floor. The basis of that Lithko claim was because the first half of the sixth floor pour did not happen due to design conflicts on five coming up into six.

Q. Right. But the point -- the upshot of all this is -- this is all a design issue, agreed?

A. Yes. It is.

MR. HILDEBRAND: The court reporter has asked for a break, so we will take five right now.

(A recess transpired.)

BY MR. HILDEBRAND:

Q. Let me go back for just a minute, if I may, Mr. Clements.

A. Yes.

Q. In Exhibit 32, this -- we talked about this awhile earlier. It's the claim for delay from Tim Spano related to -- this is the beginning of the claim, I believe, as relates to the sixth floor and he's talking about the design issues.

My question is: Would you agree -- do you have any criticism of this notification of delay being untimely?

A. By Balfour Beatty?

Q. Right. Was it made pretty contemporaneously when the issue arose?

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A. Yes.

Q. Okay. Thank you. On Exhibit 23, if you would turn to that. I'm sorry, I said 23. It's actually 33. This is a follow-up issue on the -- the top references the BBC delay claim and the bottom e-mail is an e-mail from you -- I'm sorry, from Buck Lindsay to you dated July 26, 2016. And it says: Jim, got a good update from Jen on issues surrounding the BBC delay claim. A few concepts at play here.

It talks about the building height and compressed ceilings were a problem, changes. And it says: Changes in the last month with the concierge's suite and the manager's suite have compounded our ability to run an organized job. Chaos has ruled.

Then Number 3, he says -- BBC and BIM. Because of Number 1 above, the building height, BIM makes sense for this job. But combined with Number 2, which are changes that the owner has made with the concierge's suite and the manager's suite, and BBC's desire for near perfection on the BIM process and related effect on plans, BIM has been a never-ending back-and-forth progress. Seems we never get it right.

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So it appears that we are the bad guys because BBC doesn't have a fast lane to get to their destination. But it is a false picture where we are set up to fail based on 1, 2 and 3.

Below that it says: In addition, Jennifer is trying to keep up with this monster. We are not giving up and will continue to fight towards the finish line. Not looking for pats on the back, but it would be nice not to have to be the fall guys for conditions beyond our control. By the way, Jen also updated me on back-up of change order status, which seems to be a tsunami on the way. When BBC stops work over it, we will all drown.

On this Level 6 delay claim -- and I see that BBC is not copied on that e-mail. So on this e-mail to you from Buck Lindsay, he's saying that the Level 6 delay claim -- basically he acknowledges that that's a design issue and that these are not BBC's issues, agreed?

A. With his reference to Item 1?

Q. Well, Item 1, building height, that's certainly not BBC's issue.

A. It's not BBC's issue.

Q. Changes and owner changes, that's not

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BBC's issues, correct?

A. He's contending that it is a BBC issue and that it would lead to timely conductive BIM modeling is what I interpret it to say at the end.

Q. Are you talking about Number 3?

A. Yeah.

Q. No, it says BBC and BIM. He says because of 1 and 2 and BBC's desire for near perfection on the BIM process and the related defects on plans.

What that's saying is that BBC says, okay, if we find a clash, we expect the design team to give us the solution to it because they are design people?

A. That is it.

Q. Correct?

A. Yes, sir.

Q. So --

A. But he says here is BBC's demanding a perfect design.

Q. No, desire for near perfection on the BIM process. Not a perfect design. It has to be -- well, did --

A. You should ask Buck to interpret his own e-mails, okay? Shall we agree to that?

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Q. Okay. Fair enough.
A. I don't understand his intent. I can read words, but you're asking me to derive something from here I don't really know.
Q. Okay. Fair enough. But above that you do --
A. Yes.
Q. -- an e-mail to Buck Lindsay and it's from you right after that and it's in relation to the delay claim. And you say: Buck, I'm not looking to blame anyone. I need a solution to the issue at hand and I need it now, please.
A. Right.
Q. You're asking Buck for a solution to the sixth floor --
A. Delay.
Q. -- issues -- delay issues?
A. That is correct.
Q. Did he give you that solution, do you know?
A. Well, I think we all worked and came out with a solution, to be honest with you. I don't know whether he gave it or the team -- BIM threw it or whatever the solution was.
Q. All right. Next turn to Exhibit 34, if

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you would, please. This is a Balfour notes of a mid-project status meeting.
A. August 11.
Q. August 11, 2016.
A. I remember it.
Q. Invitees, Kim Brown. And I believe that you were in attendance, weren't you?
A. Yes, sir.
Q. All right. On the third page at the very top, it says: Sixth floor final design delay. Do you see that?
A. Yes, sir.
Q. Okay. This is where -- I think you had mentioned earlier the architect was given an instruction by Mike Bennett to get whatever BIM assistance they needed to provide BIM and they agreed to do that, so you considered that a change to their contract, is that correct?
A. Yes. Buck Lindsay had been at the eighth floor.
Q. Okay. Turn to Exhibit 35, if you would, please. All right. Do you see the e-mail from you to Buck Lindsay dated August 15, 2016?
A. I do.
Q. You said: Buck, nobody understood the

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enormity costs of the lack of coordination at the time Mike Baumbach made the statement. The owner is now looking at claims for additional time, project delays from both BBC and subcontractors and negative feedback from the bank. Last Thursday WLA was directed to jump ahead and look at the eighth floor in the hope that WLA could discover conflicts and resolve them before the formwork gets to that level, stops the project and the owner incurs further claims for the coordination issues. BIM or not, WLA needs to get out front.
So you're telling WLA, look, this is a design issue, you need to fix it. However you need to do it, you need to get on top of it, agreed?
A. Yes. The eighth floor, yes.
Q. Right.
(EXHIBIT 59, E-mail chain dated 8/31/16, marked for identification.)
BY MR. HILDEBRAND:
Q. I'm going to hand you another exhibit, 59. This is an e-mail August 31, 2016 from you to Buck Lindsay. And you say: Buck, please see the attached. This is what I was hoping to avoid, waiting for the subs to tell us where the conflicts are on the eighth floor ceiling. Seems to me WLA

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should have been able to model the ceiling itself based upon its existing design to identify conflicts ahead of time. This is what we asked WLA to do at the leadership meeting. Waiting for the subs to model the floors is unacceptable. That is what got us into this problem in the first place.
So there you're being pretty dang forceful in telling WLA, look, it's your job to, one, issue correct drawings; and if you don't issue correct drawings, you've got to find the problems and make the corrections before the work catches up with it, otherwise we're going to have problems, correct?
A. Yes, sir.
Q. All right.
(EXHIBIT 60, E-mail chain dated 9/8/16, marked for identification.)
BY MR. HILDEBRAND:
Q. Exhibit 60. This is an e-mail from Buck Lindsay to you. And Balfour was not copied. And basically Buck is telling you what the problems are, and he says: This has been a very frustrating exercise. We're trying to keep up the clash resolution ahead of the construction work that -- a compatible system among players is a must and if

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A. Yes. Clearly.
(EXHIBIT 61, E-mail chain dated 9/9/16, marked for identification.)
BY MR. HILDEBRAND:
Q. Okay. This is following along with the sixth floor delay claim chronology, correct?
A. Yes.
Q. Okay. This is an e-mail dated 9/9/2016 from you to Buck Lindsay. And it's in response to the e-mail we identified just a few moments ago where Buck Lindsay was talking about how the BIM process should take place. And you say: Thanks for the update.
A. This was this compatibility issue. The subs didn't -- had something turned off, as I said in the e-mail. So it wasn't that they can't -- couldn't use it, I guess they were unfamiliar with how Gene was -- Gene is the third party that was doing the BIM modeling.
Q. Okay. The last paragraph: To date, the contractor and subs have been delayed about 20 days due to coordination issues and conflicts which has nothing to do with owner changes. I'm expecting the first indication of the claim next week. It is going to be very ugly, multiple six

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figures. So anything Gene can do to help keep progress between now and top-out carries a significant financial incentive.
Based on your experience, you've been around the block a long time, you knew that this was an issue that was going to cause serious financial hardship for -- result in a serious financial claim by the contractor, agreed?
A. A serious exposure.
Q. Right.
(EXHIBIT 62, E-mail chain dated 9/12/16, marked for identification.)
BY MR. HILDEBRAND:
Q. Let's turn to Exhibit 62. This is an e-mail -- it starts with an e-mail from Buck to you and it's in response to the e-mail we read just a minute ago where you said that the conflict -- or that the delays have nothing to do with the BIM issues and design flaws have nothing to do with owner changes. And Buck is saying that, by the way, Jennifer, which is I think Jennifer Faulkinberry, took extreme exception to the item bolded below. The short summary is.
So she's taking extreme exception to your comment that the problems are not owner

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changes, correct?
A. Yes.
Q. And she says that the concierge's lounge on the sixth floor was reconfigured, the manager's apartment on the sixth floor was reconfigured and enlarged guest rooms on the sixth, seventh and eighth floors all caused issues. So she's saying those are owner changes that have affected the job, correct?
A. Yes.
Q. None of those have anything to do with Balfour, do they?
A. No.
Q. Okay. Turn to Exhibit 36, please. This is an e-mail from you to Kim Brown dated November 2, 2016 and references the sixth floor delay. I'm sorry, it's to Brian Rinehart with DCI, the interior designers, and copied to Kim Brown.
It says: Brian, thanks for taking my call. Please review the attached spreadsheet from BBC identifying RFI issues resulting in the sixth floor delay. I have added a column, who is responsible. Based upon my review of the BBC RFI's, it is my current submission that most are pure building coordination issues and the

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owner-related changes were not fully coordinated by WLA or as a result of existing coordination issues in the building resulted in RFI's and coordination issues.
So what you're saying is for the sixth floor delay, you look at them and in your view they're all design issues, correct?
A. Yes.
Q. And, in fact, if you look at the attached, the second and third pages, on the left-hand side where it says who is responsible, that's something that you programmed and filled in, correct?
A. Yes.
Q. And beside each one of those you've got the RFI's that are referenced, including claims by BMCC. And beside -- let's see, one, two, three, four, five, six -- 27 of them, you've listed WLA is responsible, correct?
A. I'll trust your counting.
Q. Okay. And then beside looks like three of them, you acknowledge that WLA or owner is responsible, correct?
A. Um-hum. Yes.
Q. But nowhere do you list BBC as being

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responsible, agreed?
A. Not this, no.
(EXHIBIT 63, Letter dated 12/21/16 to Tim Spano from Jennifer G. Faulkinberry, AIA, marked for identification.)
BY MR. HILDEBRAND:
Q. I hand you what we've marked as Exhibit 63. Let me ask you this, Mr. Clements. You were retained -- we've identified a copy of your contract and what you agreed to provide to the owner. You also had an opportunity to review WLA's drawings during the --
A. I did.
Q. -- pre-construction, didn't you? And even based on your many years of construction experience, the design errors and omissions that we've been talking about were not something that you saw, were they?
A. They did not jump out at me, no.
Q. Did I mark this as Exhibit 63?
A. Yes.
Q. Okay. So Exhibit 63 is a letter from WLA to Tim Spano dated December 21, 2016. It's the Level 6 structural delay claim. And it says your revised claim seeks 22 days and 221,945 days.

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A. Dollars.
Q. I'm sorry, dollars, right. On Number 2, it says: We approved 22 days -- I'm sorry, on the second page, first full paragraph, it says: Attached is our redline adjustment to the submitted spreadsheet. The approved sum is 144,907 dollars.
So the architect said, okay, we looked at your claim, your total claim is 221,000. We approved 144,907. I'm just a little bit bewildered based on all of the documentation that we just went through that shows that you didn't think that these were Balfour issues and the architect didn't identify them as Balfour issues why the architect is in effect dinging Balfour and reducing its claim when none of the backup shows that Balfour was the cause of it. Do you have an explanation for that?
A. You'd have to ask Buck.
Q. Okay. My other question is that -- it says the approved sum is 144,907. So regardless of what was -- whether the reduction of the claim was legitimate or not, they did say, okay, Balfour, we agree that you're owed 144, was that ever paid to Balfour?
A. No, I don't think Balfour ever accepted this.

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Q. So they said that we disagree that we're only owed 144, we think we're owed a lot more and we're going to go to a mediation and make a claim for it. But regardless, the owner agreed and the architect said, okay, we owe you 144, we dispute the amount over that, but they still, just like you said earlier, you pay the undisputed amount. That should have been paid to Balfour, shouldn't it?
A. If Balfour invoiced it. I don't -- that's my point. I don't recall Balfour ever invoicing the 144,000.
Q. But they made a claim. I mean, that's like -- you make a claim and it can be -- it's not a change order or an RCO. They made a claim and the architect said, okay, we're -- we only agree with 144, but we don't agree to the rest of it, shouldn't -- wouldn't you agree it would have been fair for --
A. True, an undisputed amount, but --
Q. Right.
A. -- I think that's up to the owner because the architect's only the initial decision-maker at the end of the day.
Q. Okay.

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A. So I think -- I don't recall the circumstances that evolved from this.
Q. Well --
A. I understand your point. The architect feels that there's an undisputed amount of 144,000 dollars on the table.
Q. Right.
A. Yeah, I don't recall why it wasn't paid, to be honest with you.
Q. To your knowledge it should have been, though, agreed?
A. Industry standard. But again, he's just the initial decision-maker. It doesn't bind the owner.
(EXHIBIT 64, Document entitled Clements to WLA Notes, marked for identification.)
BY MR. HILDEBRAND:
Q. I'm going to hand you what I've marked as Exhibit 64, Mr. Clements. Okay, what I have marked as Exhibit 64 is a compilation of 18 notices that were made by the owner to WLA advising them of potential claims against them and reservations of rights. And I'm going to ask you about some of these specific ones. Could you turn to Number 3, please?

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All the changes and issues I think we've agreed came to a head on the sixth floor?
A. Timing. Yeah, the timing caught us. We couldn't stay on the sixth floor.
Q. All right. Then the next one, Tab 8, you're putting the owner on notice of claims related to the Lithko floor -- Lithko claim for the ninth floor?
A. Yes. They just submitted a claim for every floor after that. The balance of the delays were rejected outright by the architect.
Q. The Lithko claim, let's look on the next tab, which is Number 8. Do you see that?
A. Yes.
Q. Okay. Turn six pages in. Do you see that one is titled structural delay claim?
A. Notifications of delayed structure?
Q. No. This is on Tab 8.
A. I got Tab 8. You said sixth floor in?
Q. Six pages in.
A. Six pages. What are you looking at, this spreadsheet?
Q. Yes.
A. Okay. Right.
Q. It's a structural delay claim dated

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5/26/2017 for 1,125,491 dollars. What was that in relation to?
A. I don't know. I think that must be a cumulative number for some reason. I don't know specifically without looking at it further, but I think this probably wraps up 6, 7, 8 and 9 is what I'm guessing.
Q. Do you know what portion of that you or the owner or architect felt that Balfour was entitled to and was legitimate?
A. The only thing that I recall the architect responding to was the sixth floor. The balance of the claims made weren't really formatted in any type of a CPM argument that demonstrated impact to critical path or something that anybody could draw a conclusion from.
Obviously there was challenges in the work, but I think you'll find correspondence between the architect and the contractor -- architect saying I don't have enough information to make a determination and no further information was ever provided by Balfour Beatty.
Q. Well, they had Balfour's schedules which showed the critical path.
A. There was no specific schedule for the

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claims made. The work was incomplete -- the claim was incomplete.
Q. But isn't it pretty clear, Mr. Clements, in looking at all the e-mails that both the owner and the architect acknowledged that there were obviously design errors and omissions related to that interstitial space so --
A. Yeah, I will. I don't argue that. But I think there's argument made by the architect, and you need to ask him that, that Balfour Beatty should -- I think he used the term manned up and gotten ahead of the BIM coordination. You know, my interpretation is they didn't put adequate people on the job. Now, that doesn't absolve the architect from providing drawings with design conflicts. You know, I'm very sympathetic to that.
Q. Well, that's my point. What Balfour said was, look, we devoted people to doing the clash detection, but they were so numerous that we just ran out of resources, there were so many design errors and omissions that we were overwhelmed.
A. Balfour Beatty never claimed and asked for more resources. I made that -- I made that offer. I made that offer to Jeff Sandeen.

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Q. For more resources?
A. Yeah.
Q. I haven't seen anything --
A. Jennifer and I -- when I first learned of the amount of the sixth-floor claim was in a meeting with Jeff Sandeen and Tim Spano in their office, and that's when he told me it was going to be 450,000 dollars. And I said, well, what do we need to do? Can we get more people on the project to help with this? I didn't get a response at that time.
I'm not -- I'm just telling you what that discussion was. That was before I ever saw the claim. But at the time I had a separate meeting with them -- actually, it was after an OAC meeting. They asked me to stick around and they gave me a heads-up on what the potential claim was.
Q. Actually, wasn't it incumbent on the architect, that these are all design errors and omissions, and the primary and first responsibility on the architect, they're the ones who issued the plans that were defective, shouldn't they have manned up and said, yeah, this is on us, it's our design errors and omissions, we need to fix it?
A. Right.

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Q. It's really not fair to turn to Balfour and say, yeah, you should have been -- you need to catch these more quickly and tell us our design errors and omissions more quickly?

A. Yeah, but it was too late for all of that. We were in the midst of concrete pours. We needed to do whatever we had to do. So Balfour -- I mean, Buck was doing everything he could, Balfour was doing everything they could, the subs were doing everything they could.

Q. Everybody was doing everything they could, but the root cause was the design errors and omissions, correct?

A. Yeah. Yeah. I'm not going to argue that point.

Q. Okay. So then for -- under Tabs 9, 10, 11, 12, 13, those are all follow-up notices to the architect of issues related to their design, correct?

A. That is correct.

Q. In fact, Tab 14 was another notice to the architect from you. On Tab 15, you're writing Buck and say -- and this was only addressed to the architect. Balfour was not copied.

And it says: Due to a lack of

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coordination during the BIM process, the banquet kitchen tables were not located to sit over floor sinks located to clear a structural beam, leaving them exposed. Consequently, the tables will have to be relocated and plumbing extended. Please provide a response to the contractor's allegations as the instruments of service so the owner can make informed decisions.

So your contention was that this was a design issue, correct?

A. Yes.

Q. Let me ask you a hypothetical. Let's assume hypothetically that you were given full authority to speak for the owner and make all decisions on this project. You didn't -- weren't required to and would not go to Kim Brown or Michael Bennett with any decisions, you just made them whether they related to design or cost or whatever. This project would have been completed significantly -- that would have reduced delays significantly on this project, wouldn't it?

A. I don't think so. And I tell you it is because the -- you're talking about the layers in terms of the physical construction of itself. The --

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Q. It would have prevented all the delays that we talked about where Michael Bennett --

A. You have to remember Michael Bennett changed very few things, as emphasized in that spreadsheet that you showed where I held WLA responsible. There were four WLA issues and they were whether we were going to put a gas line up to a fireplace on the concierge's level or something like that. Very few -- I can't think -- well, I don't -- let me just think about this.

I don't know that I would have made decisions any faster. It's kind of an unfair question you have to understand. I'm used to getting -- I'm a pretty straightforward person. I wouldn't be building a five-star hotel in the first place. I had no emotional contact with this. There was no emotional contact and it was just about dollars, yes. Anybody could do it, me particularly. I would just cut to the chase and get it done and get up the road. In many cases that's what I'm paid to do.

But this was a much more complicated project and -- not complicated by the design challenges that were brought, you know, driven by the height restrictions. And then, you know, we

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had a one-month delay for the hurricane in 2015, so I don't know that I could have done a better job. I mean, I could, but it wouldn't look like the hotel that's sitting there now. Let's say it that way. I mean, just be honest with it.

Q. Let me ask you this hypothetical. If the 100 percent drawing plans had been correct and did not contain any design errors or omissions and if no changes had been made by the owner, do you have an opinion as to whether Balfour's 28-month schedule was appropriate and reasonable for the construction of this hotel?

A. I think it was reasonable for the GMP. I mean based on other precedent. Now, I think once you build the reckoning of delays by all parties, and I think that you'll -- in a perfect world, 28 months probably would do it, but that's if all parties did exactly what they were supposed to do in a timely manner.

I told you in the beginning that we didn't have anybody with hotel, let alone five-star experience on this project. Quality was a miserable experience here when we had children who probably never even stayed in a Holiday Inn in charge of the finishes on a five-star hotel having

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to redo things.
Q. What are you saying? What are you talking about, children who --
A. Well, you had superintendents with no experience whatsoever in charge of five-star hotel finishes. You had basically what was a secretary acting as a superintendent on finishing floors. Shanti Pieniak was the superintendent on the seventh floor at the end of the project. She had no -- I mean, she had worked as a paralegal before. She had no experience.
Q. Was she involved with the punch-out?
A. She was involved in getting the floors done. Ryan Ledford was a very nice young man. Very nice young man. We were promised the team that did the Ritz-Carlton. The one person I wanted more than anybody was Knox Tate. He was the rabbi of quality at RT Dooley and he was the one that did the Ritz-Carlton, that knew the level of finishes. He's older than I am. Probably still works for Balfour Beatty now. And he was the one that could get things done.
Q. Do you know specifically what experience all the project team members had on this project?

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A. The backgrounds? I mean, I knew Nick Starcevic. He's the same age as my son. He worked on the Charlotte School of Law a little bit. I would challenge you to find any of the team that had any hotel experience.
Q. How about Pat Dean?
A. Pat Dean wasn't involved in the project.
Q. How about Joe Lauricello?
A. Joe, I don't know for sure. He's a scheduler. Maybe he had hotel experience. I don't know.
Q. How about David Simonton?
A. I said that at the beginning. I don't know if he did or not. I mean, he came in as damage control, basically.
Q. Well, the point I have is we don't know what would have happened if the original design had been appropriate and not -- did not contain all the errors and omissions, had all the changes not been made, very well have been completed on time and on budget, correct?
A. May very well. I have complete confidence in the schedule that Mike Baumbach proposed.

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Q. Did you ever -- you talked about a discussion you had with Jeff Sandeen about the sixth floor delays and that they were --
A. They gave me a heads-up.
Q. Okay. I haven't seen any -- I'm not aware of any e-mails or documents or anything else related to that. Do you remember if you had done any or if any existed?
A. No. No.
Q. It just doesn't seem to me that you have been bashful at all, neither you nor Kim Brown or anybody else in the process about --
A. Oh, about writing e-mails? I know I wrote a lot of e-mails. I made the same offer to David Stanton. He works for Balfour Beatty. Let's see. When Baumbach left, he was replaced for a very short time by Sandeen and then he was gone. And then David Stanton, whom I know from his healthcare background, became the project manager -- or project executive. I had the same conversation with him. He was complaining about the change orders.
I said, give us a proposal for another FFE, you know, what's it going to take. Now, I'm not sure that I didn't write an e-mail to that, and

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I think it's probably worth doing a filter and look up David Stanton. I think that's his name, David Stanton. I'm sure it is. Not Simonton.
Q. Let me ask you this --
A. I mean, what would you -- if you needed resources and you wanted to complete the project on time and you didn't have it budgeted and your position was the owner was causing the problem, you would come to the owner and say, listen, you're killing me, I need some more resources. I mean, that's what I would do, to be honest with you.
I had conversations with Simonton, with Sandeen and Pat Dean in their office in Charlotte. And I said, if you think we're delaying you, catch up. Be there with your fingers tumbling. I do that with contractors all the time.
Q. Accelerate?
A. It's -- I mean, yeah, whatever it takes. Catch up with us and catch us delaying you because that's really what you're talking about, a delay to the critical path.
Q. So you think that Balfour, what they should have done is accelerate?
A. Well, if they're being delayed, there's nothing more demonstrable to be stopped, you know.

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Like the sixth floor, I agree that that was a delay. There's no doubt about it. They were stuck. We had to pull guys off the job site or Lithko pulled off the job site, but that was it.

Q. So all of the other delay notifications -- and we're going to go through those at some point in your deposition. None of the others are -- you're here to testify were valid?

A. I think there was impact. Whether it was delaying the project completion or not is something that's worth further studying.

Q. Okay. But you don't have an opinion on that because you -- again, we're replowing old ground. That depended on a critical path analysis, correct?

A. Right. And there's multiple critical paths in the project.

Q. Have you ever been involved in a project comparable to this that had on a percentage basis a comparable delay in completion similar to what this one experienced?

A. No. Not in 45 years.

Q. Okay. What is the biggest delay either days-wise or percentage-wise that you've been

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involved with?

A. I mean, honestly, I have never had a project where LD's were collected. There might be a couple weeks of delay, but there was never -- sorry. Projects that I ran. You know, when I came in to Columbia to take over -- to help support that developer on the Brookland Village project that I talked about earlier, I mean, that project was a year late basically when I got there, but nothing that I started that I ran cradle to grave.

Q. Okay. It's pretty well recognized in the construction industry, though, isn't it, Mr. Clements, that if you have delays to a job, however -- whatever caused them -- cost them, that it impacts the flow of the job and it can really get your subcontractors screwed up because if they're scheduled to start on your job on Monday and they -- and on Monday the work isn't ready for them and they're told, well, we're not really sure when it's going to be ready, they go out and get other work and then it can make it very difficult on the general contractor to stay on schedule because then he's got to chase his subs and just the entire coordination and flow of the building can be dramatically affected by delays?

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A. It can be very disruptive.

Q. Right. And that's where impacts come in, correct?

A. Correct.

MR. MORRIS: Take a quick break?

MR. HILDEBRAND: Sure.

(Off-the-record conference.)

(WHEREUPON, the proceedings adjourned at 4:34 PM.)

(The witness, after having been advised of his right to read and sign this transcript, does not waive that right.)

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CERTIFICATE OF REPORTER

I, Terri L. Brusseau, Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

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

Witness my hand, I have hereunto affixed my official seal this 8th day of September, 2020 at Charleston, Charleston County, South Carolina.



Terri L. Brusseau
My Commission expires
April 5, 2026.

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VERITEXT LEGAL SOLUTIONS

Deposition of:

James M Clements , Volume II

August 26, 2020

In the Matter of:

Balfour, Beatty v. Library Associates

A. William Roberts, Jr & Assoc.
800-743-3376 | calendar-awr@veritext.com | www.veritext.com

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A. No. I would take the action item and I would proceed.

(EXHIBIT 65, E-mail dated 5/31/17 to Kim Brown from James Clements, with attachment, marked for identification.)

BY MR. HILDEBRAND:

Q. Mr. Clements, I've handed you what I've marked as Exhibit 65, and that is an e-mail from you to Kim Brown. Nobody else is copied. It's dated May 31, 2017. And the title subject is estimate to complete Bennett Hotel exposure recap of 26 January of 2017. And I'd like to go through this and ask you some questions about it.

It says: Kim, yesterday you questioned 8 million dollars in estimated project overages. Attached is the update I provided you and Mike in January for our meeting. At the time, I recall you indicated you had a 3 million dollar bust.

What were you talking about a 3 million dollar bust? What was that?

A. A shortfall of some kind on the budget.

Q. I don't really -- so there's --

A. I don't recall specifically what it was about, but obviously I had a conversation with her and she had an exposure of 3 million dollars.

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Q. From -- in other words, what she had budgeted for --

A. There's a difference.

Q. Okay. The project cost had increased by --

A. It was tracking a 3 million dollar exposure, I guess.

Q. Okay.

A. I don't think it was -- it was nothing more than tracking that way. I don't think it was monetized at the time or anything like that. She was tracking that.

Q. Okay. So she was projecting --

A. Right.

Q. -- as of January of 2017 that there was going to be -- what she had budgeted for the project, there was going to be 3 million dollars more than that?

A. Um-hum.

Q. You need to answer yes or no, please.

A. Oh. Yes.

Q. Okay. And that would be money that Library Associates would have to fund itself, have to come up with that if that turned out to be an actual sum that they -- if that bust was actual,

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then they would have to come up with that money themselves, correct?

A. Based on what you've told me about their finance agreement, I believe that's true, but I didn't have any knowledge of that relationship, that agreement, any of that.

Q. I understand. Okay. And then the next sentence says: I may be wrong about the later -- I think that might be latter.

A. Right, latter.

Q. -- but at the time I was not wrong about the BBC changes.

A. Um-hum.

Q. I will update the exposure based upon the most recent BBC report, as this report was well before we started receiving all the SI's from DCI starting with Number 39 --

A. As well as.

Q. -- as well as the growing delay claim from BBC.

So, in other words, what you're telling her was that you're projecting that there will be a growing cost claim from BBC -- from Balfour based upon SI's and delays that have been caused by architectural issues, correct?

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A. Not in entirety. There are cost exposures for changes as well as whatever collateral impact there may be, including delay requests from Balfour Beatty.

Q. Okay. Again, we talked about I think yesterday that it's just time is money and when Balfour gets delayed, the additional time spent on the job just axiomatically results in increased cost to them, doesn't it?

A. Yes. But as I said to you yesterday, you presumed that a hundred percent of the delay is by the owner and there is no delay by Balfour Beatty on their part at the same time.

Q. Okay.

A. There's no overlap.

Q. All right.

A. So I don't agree to that part.

Q. Okay.

A. But obviously there were changes, and those changes have impact.

Q. Right. Regardless of who caused the delay -- and that will be a point of debate obviously perhaps in this litigation by whoever caused it. From Balfour's perspective, it was clear to you that they were not admitting -- did

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Balfour ever admit to you that they were causing the delay?
A. I do not recall that conversation.
Q. Not to your knowledge, not to your recollection as you sit here today?
A. No. I mean, we had discussions about manpower issues and their own schedule, but they never said we're delaying the project.
Q. Right. And, in fact, from everything that we've seen, and we've talked about Balfour's contention from day one has been all of these delays and overages are the result of owner changes or design issues, correct?
A. That is Balfour's position.
Q. Right. Has been from day one?
A. Right.
Q. Right.
A. And the owner's position would be the antithesis of that.
(Court reporter asked for clarification.)
THE WITNESS: That is apparently Balfour's position, and the owner's position is the opposite of that.
BY MR. HILDEBRAND:

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Q. Well, the owner's position -- Balfour said these are all owner issues and design issues. And from what we looked at yesterday, in terms of the macro delay.
A. Again, you're adamant -- or Balfour is adamant that a hundred percent of the problem was an owner problem. I'm adamant that that is not the case. And that, as you said, will be proven later in life, and so I think we ought to just part that because we're not going to agree to that.
Q. Okay.
A. And I'm not going to accept that Balfour Beatty is a hundred percent right in the matter.
Q. Or a hundred percent wrong?
A. Exactly.
Q. Right.
A. There are experts that have been engaged by both parties. Let them knock it out.
Q. Okay. I understand that. All we can go on as --
A. Refereeing.
Q. Right. And the documentation that was done contemporaneous with the delays that we talked about yesterday where both the architect and you on

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behalf of the owner were saying, look, these are architectural issues, that's what was said during construction. And we went through a bunch of them yesterday where Balfour was not being blamed for those, agreed?
A. Yes.
Q. On these revisions on Exhibit 65, there is an attachment which is Page 2. And your e-mail says that there is a -- it says: At the time, I recall you indicated there was a 3 million dollar bust, but I've updated the exposure.
And on the attached sheet -- and let's work through those if we can. All right. Under -- so you've got executed change orders for 1,736,000 submitted, but unapproved change orders is 806,000 dollars. Do you know what those were for?
A. No. At the time I did, but at this point I don't know.
Q. I understand. Okay. The next one is unsubmitted change orders, 2,165,000 dollars. So that includes a 450,000 dollar sixth floor delay claim and a hundred thousand dollar claim for added BIM coordination.
A. I think also at the time the drywaller had thrown a million dollar number of a delay.

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That's probably part of that 2,165,000.
Q. Was that Lithko?
A. No. That's the concrete sub.
Q. I'm sorry. Who was the drywaller?
A. Partitions, Inc. I can't remember. Something Partitions. I don't remember. Give me a minute at the break and I'll look it up.
Q. All right. Then under Number 5, other exposures.
A. Um-hum. Yes, sir.
Q. Right. Under K, completion contingency, and then the last one is acceleration. Was the owner contemplating an expressed acceleration at that time or were you contemplating that there would be a constructive acceleration that Balfour would claim?
A. Well, when I met with Sandeen and Pat Dean and I told them if we're delaying you, then catch up, the project has the contingency -- or four triggers that use that contingency. One is for acceleration. It can't be any easier than to make a request to use the contingency for acceleration. Now, to the extent that that acceleration cost would be exceeded by the contingency, that was my parking spot for it.

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subcontractors pile on to the model, do their series of clash detection and then all parties would meet and resolve clashes.

Q. Okay. Well, we talked about yesterday -- and we're going to go through the pre-construction documents and what was asked of Balfour, but they were never asked nor paid for in the pre-construction services to provide any BIM --

A. That is correct.

Q. -- obligations? And, in fact, like we talked about yesterday, I think that Balfour in total, we'll look at it in just a little while, was paid about 60,000 dollars for pre-construction services. Does that ring a bell with you?

A. That's not true.

Q. How much do you think they were paid?

A. They were paid 100,000 dollars. Two tranches.

Q. Okay. And you were paid 10,000 dollars a month?

A. Yes.

Q. Okay. So by the time that the GMP was -- you got on board, let's see, looks like from the documents I've seen as by January -- I'm sorry, February 2 of 2015, you have billed 192,000 dollars

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to the job. Does that sound about right?

A. Yes. Probably so.

Q. So like we discussed yesterday, if under the contract that you had with the owner, you were to be reviewing the documents to coordinate and make sure that everything meshed and everything was working properly, you had spent twice as much time by the time that GMP was done as Balfour and you didn't catch any of these issues that came up later, correct?

A. Twice as much money?

Q. Right.

A. No.

Q. You had billed 192,000 dollars as of that time and you're saying that Balfour billed 100, so you billed about twice the amount and had not caught these same issues?

A. No, I had not. But you have to understand that my review of the documents was also more programmatic as opposed to constructability. We hired Balfour Beatty for constructability reviews. I wasn't building the project.

(EXHIBIT 68, E-mail chain dated 11/29/17, marked for identification.)

BY MR. HILDEBRAND:

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Q. All right, Mr. Clements, I'll hand you what I've marked as Exhibit 68. Let's turn to the first page of that document, if you would.

A. Yes, sir.

Q. It's an e-mail from Jennifer Faulkinberry to you and the second paragraph is WLA will not charge, nor have we ever charged, for work associated with our own mistakes.

What was she -- what did you take -- what did you understand she was saying?

A. Well, for instance, BIM coordination issues. Per the ADM agreement, we don't pay the architect for fixing its own mistakes.

Q. Okay. On the next page, on Page 2 -- actually, let's turn to Page 3 at the very bottom where you wrote to -- actually, let's turn to the fifth page, if you don't mind, of that document.

Do you see the e-mail from Jennifer Faulkinberry to yourself dated Tuesday, October 3, 2017 at 11:08?

A. Yes.

Q. Let's read that first page from Jennifer Faulkinberry to you. It says: Jim, as you know, the complexities of this project caught most of us off guard and have generated the need

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for significantly more time and attention than any of us could have reasonably anticipated. We spent more than twice the budgeted time in the preparation of CD's for the project and will exceed that multiple in CA, which is contract administration, correct?

A. Yes.

Q. Okay. We are aware that some of the complexity may have been caused by our own doing.

So what did you -- what was Jennifer Faulkinberry -- what did you think she was trying to tell you with that paragraph?

A. Knowledge of some responsibility. Not total, but some, apparently.

Q. Okay. So they were admitting that they were at least partly at fault for the issues that had developed, agreed?

A. I would ask her for the street interpretation, but that's the way I read it, yes.

Q. Okay. And she's asking for -- she says some of these are our fault, but we think that the owner needs to pay us for additional time and contract administration that we don't think is our fault, correct?

A. Yes.

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Q. All right. And then you respond to her by e-mail of November 13, 2017 at 3:10 PM.
A. What page are you on?
Q. This will be the -- starts on the very bottom of the third page.
A. Jennifer. Okay.
Q. Jennifer. And the first paragraph is -- I'll summarize it. Jennifer, you're asking for additional compensation for contract administration.
Then it says: What your notice fails to mention and which WLA is intimately aware of is that on numerous occasions the contractor has alleged there existed fault, defect, error, omission or inconsistencies in the architect's instruments of service or professional services and it is this deficiency that has accounted for a portion of the project's current delay, which has also directly impacted Library Associates' financial planning for the hotel's opening. That said and recognizing the architect's timely and professional support is critical to mitigating schedule impact, Library Associates will execute the add service agreement without prejudice.
And here's the important section. WLA

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has advised Library Associates fully intends to hold WLA accountable for the impact of WLA's deficiencies.
And the very last paragraph says that by signing this agreement for extra services, we are not waiving our rights to pursue WLA.
So basically what happened was WLA said we need more contract administration. Your response was we're going to sign it, but -- simply because we have to keep you on the project to finish it out and get this thing done, but we, Library Associates, fully intends to hold WLA accountable for the impact of WLA's deficiencies, correct?
A. That's correct. And we're not going to pay for them fixing their own problems.
Q. Has the owner actually requested reimbursement or payment from WLA for the damages that were incurred on this project because of WLA's errors and omissions?
A. I am aware of one item that I instigated that had to do with some -- let me think about this. I believe it was smoke detectors. And WLA agreed to reimburse the owner something like 25,000 dollars. Other than that, I'm not aware of

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any exchange of money or recapture on the part of the owner.
Q. Okay. How much was the smoke detector issue?
A. I want to say it was -- for some reason 60,000 dollars rings a bell.
Q. And when was that claim and reimbursement made?
A. That would have been sometime in 2018, early part of '18. I think there were some fire alarm charges that had to occur. As a consequence of that change, Balfour Beatty had failed to locate smoke detectors or pull stations in certain areas which they should have by code. And as part of the change order that we paid Balfour Beatty, I asked and received compensation for the scope that WLA had left out that we had to pay Balfour Beatty.
Q. Okay. So was that a deduct from a payment to WLA or did they write you a check for that amount?
A. I don't recall, to be honest with you. I know it was agreed. It was accepted by Buck. We negotiated it a little bit. How money changed hands, I don't recall at this time.
Q. And your recollection, that was in

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early 2018?
A. That should have been the timeframe.
Q. Okay. How about -- where it says Library Associates fully intends to hold WLA accountable for the impact of WLA's deficiencies, how about all the issues we discussed yesterday with the sixth floor and all of the errors and omissions in the design documents, has that claim been made against WLA?
A. I don't know.
Q. Not to your knowledge?
A. Once the hotel was open, I was gone.
Q. Okay. So WLA -- or Library Associates reserved its rights, but to your knowledge it hasn't yet followed up with getting reimbursement from WLA for all of the design busts, correct?
A. Yes, sir. I have no idea.
Q. All right. So then the -- if you'll go back to that. Buck Lindsay then writes --
A. What page are you on?
Q. On the third page. Buck Lindsay then writes to you on November 13, that same afternoon, almost immediately in response to yours, copies Kim Brown, copies everybody except Balfour Beatty.
And Buck Lindsay says to you: Not

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surprised by your reply. I could have written it myself. We are already so deep in the dark hole, there is no distinction in degree. We will just finish up the project and go home. Thanks, Buck.

And your response -- what did you understand Buck's response to mean? How did you take that?

A. Buck's response to mean?

Q. What I just read, yes. What was your understanding?

A. That they were upsidedown on the project, that he acknowledged he wasn't going to get more money for deficiencies, I guess. I'm trying to interpret what he said. I remember him writing this e-mail. They did get paid for some additional services, as I indicated in the e-mail. But I think he was just bemoaning their financial status on the project.

Q. So in late 2017, and the project wasn't finished until early 2019, even by that point your understanding was that -- and it's pretty explicit from Buck's e-mail that they were upsidedown and were losing money, correct?

A. That's what he purported.

Q. Okay. And then your response up above

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that was: Buck, I am not aware of any add service request to date from WLA that has not been agreed upon by the owner. If WLA is deep in the hole, it isn't the owner's issue and I hope you will reconsider your response.

Did you -- so your response was, okay, WLA, if you are upsidedown or losing money, that's a design issue and that's not an owner issue, so you just need to suck it up?

A. We were -- let me expand on that.

Q. Okay.

A. So there were add services paid to WLA for additional work, and that's what I'm referring to, that at the time that this was written, we had not rejected any add services from Buck Lindsay or WLA. So I wasn't aware of their financial -- it certainly wasn't a consequence of my rejecting supplemental services. And that's the only point I was making. If they have a financial issue, it was brought upon by themselves, had nothing to do with the owner.

Q. Right. If they're upsidedown and losing money, then maybe they underbid the project or maybe they didn't put in the appropriate amount in their contract. But whatever the reason was,

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the owner didn't feel like the owner was responsible and the architect needed to suck it up, correct?

A. Right. Yes.

MR. HILDEBRAND: We've been going about an hour. Why don't we go ahead and take five, everybody.

(A recess transpired.)

(EXHIBIT 69, E-mail chain dated 5/11/18, marked for identification.)

BY MR. HILDEBRAND:

Q. All right, I'm going to hand you what's been marked as Exhibit 69. Did you remember issues related to the punch list coming up on the project?

A. Yes.

Q. Okay. On the second page of Exhibit 69 -- or, actually, at the bottom of the first page from Jennifer Faulkinberry to Nick Starcevic.

Nick, see attached, quote, final, close quote, direction comment by the owner and WLA on each punch scope item in question and please proceed thus.

So this is an e-mail from Jennifer Faulkinberry, the architect, saying on behalf of the owner and the architect, this is how we're

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going to proceed with the punch list, correct?

A. Yes, sir.

Q. All right. And on the next page there's an e-mail from Nick Starcevic to you and Jennifer Faulkinberry which says: See our attached marked-up punch list. We highlighted items that are not in our scope. Some general notes below.

And Number 2, a flashlight cannot be used for punch, and the initials are from Jennifer Faulkinberry, okay. Correct?

A. Yes.

Q. The standard distance to punch is 5 feet off the finished surface. This goes for tile, drywall, wall coverings, caulk, et cetera. And Jennifer Faulkinberry initialed yes?

A. No, it says closer.

Q. Closer except in bathrooms where you can't get -- you can get 5 feet away in some locations, then that will be acceptable, correct?

A. The inference there is that 5 feet would be too far away because of the -- there's a lot of light in the bathroom, so deficiencies are more readily visible.

Q. Okay. In any event, this was the agreement on how the punch list would be done,

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agreed?
A. Yes.
Q. Okay.
A. Well, it's also -- I remember this correspondence. Let me give you some background. So Jennifer came out and as a team we looked at a bathroom and decided -- I looked at a unit to discuss the basis for the punch, you know, as described here, and this was going to set the standard but it also was to pick up scope.
For instance, the reference is to caulking. I asked Jennifer specifically to look at the contract documents and confirm what should have been caulked or not -- what is okay not to caulk per the contract documents. So that was part of this as well.
Q. Okay. The scope and the quality parameters. But, regardless, Exhibit 69 was the final agreement on how the punch list would be conducted, agreed?
A. In the guest rooms.
Q. Right. Right.
A. In reading this, this may be limited to the bathrooms.
Q. It says the guest room punch, doesn't

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it?
A. It says guest room punch, but all the comments are bathroom. There's no reference to guest room. I'm just talking about Jennifer's comments. But they are talking about WLA's subcontractor that did the guest room punch list, so I guess the topic should be guest rooms.
(EXHIBIT 70, Delay Notification Log, marked for identification.)
BY MR. HILDEBRAND:
Q. All right. If you'll turn to Exhibit 45, please. And then I'm going to hand you what I've marked as Exhibit 70. It goes along with that. All right. So Exhibit 45, which was previously marked, is a delay notification log that is then updated in Exhibit 70.
A. Hold on. I've got the wrong one. Okay.
Q. All right. Do you recognize that?
A. Yes.
Q. All right. And so with Exhibit 70, which has detail behind the delay notification log, I want to go through some of those with you. Let's look at the -- so the first page is a complete list of delay notifications that were provided to the

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owner from Balfour, correct?
A. It is, but that has to be qualified.
Q. Okay.
A. Because many of these were just an e-mail saying we're being delayed as opposed to a bona fide claim per the terms and conditions of the contract.
Q. Okay. Well, but you recognize -- whether it's an e-mail or some official form, a notice is a notice if they're saying we're being delayed. Do you see a distinction between --
A. I do.
Q. Why is that?
A. Because there's no basis or substance to support their claim. Just an e-mail doesn't really do anything other than it provides some high level of notice. I mean, I got -- we got many of these and they never amounted to anything because we worked around them.
Q. Okay.
A. As opposed to sixth floor where a bona fide delay notice with backup was presented in a timely manner as required by the contract documents.
Q. Okay. Let's talk about that sixth

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floor delay. Let's go back to that just for a minute. So on that one, Balfour did dot the I's and cross the T's and provide an official notice of claim and backup and such, and the owner -- the architect said, we agree with part of this, we don't agree with part of it. We talked about that yesterday, right?
A. Yes, sir.
Q. Okay. And even the part that the architect agreed on we talked about yesterday --
A. Yes, sir.
Q. -- the owner did not pay, correct?
A. The client -- or the contractor did not invoice either or never pursued the 177,000 dollars.
Q. But we can agree that the owner was told by the architect that we believe that this part is legitimate, but the owner for whatever reason did not pay it, correct?
A. Yeah. There may have been other reasons why.
Q. Okay. So my question is: If in that situation Balfour did dot its I's and cross its T's and follow all the procedures and that one resulted in the architect saying, yes, we agree that part of

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probably used the wrong word, so don't jump on me about that.

Let's go back to the previous discussion, though. The contract has specific terms to file a claim. It does. The contract does not include BIM coordination, which apparently which it seized upon that the owner doesn't owe it, honor it, but we can't pick and choose what's in the contract.

Q. Well, regardless, though, it's indisputable that the owner, Balfour, was providing delay notifications and saying we are getting -- having delays and we're having cost impacts whether that was --

A. Bona fide or not.

Q. -- under the contract. The fact is, the owner got those and can read the writing and understood that Balfour is making a claim whether it complied perfectly with the contract requirements or not, correct?

A. Balfour Beatty was making that claim.

Q. They were trying to.

A. Whether it was warranted or not, they were sending it out there.

Q. Right. And the owner was getting

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those?

A. And in many instances, as I just said, the plumbing fixture issue, we worked around those and there was no --

Q. Okay. Some may have been resolved, but even though -- to some extent Balfour may not have followed all the technical requirements, the fact is that they did provide notices to the owner and the owner can debate whether they were technically precise or not, but the fact is, as a result as is clear from the notices, Balfour was trying to make the claims, correct?

A. That is Balfour's intent, yes. That would be their intent, yes.

Q. Right. And the owner, when they would get those claims, would they ever contract -- contact the subcontractors to find out what the basis of them was?

A. Not to my knowledge. The owner would contact a subcontractor?

Q. Right.

A. Not to my knowledge.

Q. Did you ever have any direct communications with subcontractors on the job?

A. Yes.

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Q. Why would that happen?

A. We're just friends.

Q. I mean, other than just casual hello and how are things going, anything, you know, in an official capacity?

A. No. Not where I was -- never where I was at directing them to do work that I recall. I would leave that to Balfour Beatty.

Q. Are you working on any -- what projects are you currently working on right now?

A. What is the relevance of that question?

Q. I just would like to know what particular projects you're working on.

A. I don't think it's relevant to our conversation.

Q. Are you still working?

A. Yes. Not much.

Q. Have you done anything with Bennett Hospitality since this project?

A. No.

Q. All right. If you'll bear with me, I think I can get through these fairly quickly.

A. Are we done with 70?

Q. Yes, sir.

A. Okay.

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Q. If damage was done, what workers were in the buildings doing work who were not subcontractors of Balfour?

A. Well, certainly the low-voltage subcontractor was in the owner's court. Room controls was done by the owner. You know, FF&E items, hanging TV's, was by the owner. Artwork would be by the owner. OS&E would be by the owner. Signage by the owner.

Q. If those subcontractors who were direct contractors of the owner damaged the building or created any damage, who would be responsible for correcting that?

A. The vendor. Whoever did the damage.

Q. But it wouldn't be Balfour's responsibility, would it?

A. No, not -- no, not unless there was -- sorry. We're talking about the damage. Because there were plenty of instances where Balfour Beatty and them worked together to cut holes for access that wasn't provided, those types of things, but you're talking about recklessness. That would be the vendor's responsibility.

(EXHIBIT 71, E-mail dated 11/15/18, marked for identification.)

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hotel and that we complete the model room mock-up review at that time with the hotels and establish the final level of care, I guess.
Q. Right. But it wasn't a separate model, it was actually one of the rooms, wasn't it?
A. Oh, yes. Yes.
Q. Right. But what is the purpose for that model room?
A. Just as I said, for the owner to see the room and get feedback and for the contractor to use it from a means and methods and constructability evaluation as well as --
Q. Level of quality?
A. Establishing a level of quality, yeah.
Q. Right. And that model room would have been done and vetted by the owner, the architect if Balfour had agreed upon what would be in place and what level of quality would have been done?
A. Yes.
Q. And that would have been before the punch list?
A. Yes.
Q. Final punch list was done, correct?
A. Yes.
Q. All right. And that would have been

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before the Ray Mendoza punch list, correct?
A. Yes.
Q. Do you know if the Ray Mendoza punch list was -- whether the items that were noted in that were in conformity with the guest room that was noted as the model room?
A. If I recall correctly, Ray Mendoza and the owner of that company came out and punched Balfour Beatty's model room. And that was part and parcel with Jennifer's comments on the caulking issues and things like that, so the answer to that would be yes.
Q. Let me hand you what I'm going to mark as --
A. Are we done with 72?
Q. Yes, sir. I'm just trying to move it along.
A. That's good.
Q. Do you know when the rooms were repainted in late 2019, early --
A. Late '18.
Q. 2018, early 2019 by -- I think there were two subcontractors that did that and their name escapes me right now.
A. They were subcontractors.

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Q. Right. Do you know if the paint that was used was identical to what was specified in the contract?
A. I do not believe the trim paint -- I believe the trim paint was the same, but I recommended that they change to a flat paint as opposed to the eggshell, and that was accepted by the architect.
Q. Okay. And so the eggshell has kind of a sheen to it?
A. Yes, sir.
Q. And the flat paint obviously does not?
A. It does not.
Q. Right. Why did you make that recommendation?
A. Well, because the touch-ups, you can't touch up eggshell. You have to paint wall to wall. You can -- it will show a hot spot. And that was the problem -- that was a problem with the guest rooms through the punch-out process, is that there were hot spots on all the walls. You could see where all touch-ups were made.
Q. For a Level 5 finish, do you know if there's a recommendation in the literature as to whether a flat paint should be used or not?

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A. I do not know.
Q. Did you -- when the recommendation -- when you made the recommendation to use the flat paint, who did you make it to specifically?
A. DCI. Because when Balfour Beatty did their touch-ups, instead of painting wall to wall, they just spot painted, and that -- you could read them. It made -- actually, it didn't make it worse, but it didn't make it any better. And so rather than repainting the entire wall with eggshell, I said, as long as we're going to repaint, would you accept flat paint because it's very easy to touch up and he agreed to that. Woody -- whatever his name is. I can't remember his last name.
Q. Faust?
A. With DCI.
Q. Woody Faust?
A. Faust. Thank you.
Q. Okay. So when you made that recommendation and you made it to DCI, was it by phone or e-mail or in person?
A. In person.
Q. Was either Michael Bennett or Kim Brown present?

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A. Yes.
Q. Both of them?
A. Yes.
Q. Had any of the flat paint actually been painted on so that they could see what it would look like?
A. Not at the time. I think -- I recall now the first guest room we repainted, I asked permission and received permission to paint in a flat paint.
Q. As a mock-up?
A. Yeah. For the repainting process. It was accepted.
Q. Okay. So before all of the rooms were repainted, there was an example room or mock-up room or model room where flat paint was used. And then the interior designer, Michael Bennett and Kim Brown looked at that and said, yes, we agree that the flat paint is what we'd like to go with, correct?
A. I don't recall the interior designer being in the room when Mike and Kim accepted it, but they did accept it. I might have had that -- let me rephrase that. I did not have a face-to-face conversation with the interior

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designer. I called them and asked permission to do it or asked their feedback on doing it.
Q. So the chronology as I understand it was that the owner disagreed with the paint quality of the rooms and decided it was going to hire its own subcontractors to repaint them, correct?
A. No. No.
Q. I know that there's more to the chronology, but basically that's what happened, the owner said, okay, we're going to repaint them ourselves?
A. Balfour Beatty would not repaint them.
Q. I understand. But regardless, the owner was dissatisfied with the eggshell paint with the sheen and said, we want all the rooms repainted. Balfour said, we're not going to do that because we don't think it's required. Then the owner said, we're going to repaint them ourselves, correct?
A. The owner was not dissatisfied with the eggshell paint, he was dissatisfied with the touch-up process, as I explained, because Balfour did not paint wall to wall, they just spot painted. And that's -- you could see it from 15 feet -- well, not 15. More than 5 feet away.

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Q. Okay. But, in any event, when the -- so when was the mock-up -- was the mock-up room done before or after the owner decided to repaint the rooms?
A. After.
Q. Okay.
A. It was the first room done.
Q. Okay. So the owner decided to repaint the rooms and the original intent was to do it in eggshell?
A. Well, that was the specification for the rooms.
Q. Right. But you had decided even before then you didn't like --
A. No, I didn't decide until I was in the -- prior to doing that first room, prior to the owner repainting that first room, I asked to make the change because I thought from a -- from a lifecycle standpoint and maintenance standpoint it would be much easier for the hotel to have a flat paint in the guest rooms.
Q. Okay. And you vetted that with Michael Bennett and Kim Brown and they agreed?
A. Yes.
Q. And then ultimately the interior

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designer?
A. The interior designer first to make sure I had his recommendation. I took that recommendation to Mike and Kim.
(EXHIBIT 73, E-mail chain dated 12/13/18, marked for identification.)
BY MR. HILDEBRAND:
Q. I'm going to hand you what I've marked as Exhibit 73.
A. Thank you.
Q. Yes, sir. This is an e-mail from you to David Simonton and Jennifer Faulkinberry, Buck Lindsay copied. And it says door -- the subject is door issues. December 13, 2018. It says: Dave, thank you for your follow-up.
And this is in reference to a punch list for the doors, isn't it?
A. Doors for the -- pocket doors in the guest rooms.
Q. Right. And your comment is: Buck will be here Tuesday. Walk it off with him. He is the authority you need to convince. Neither of us have a role in his objective and final decision. Buck's here to assess BBC's overall completion status as well.

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So you were simply confirming that it is the architect -- it was the architect's job to determine substantial completion and whether the punch list was acceptable or not, correct?

A. Yes.

Q. All right. After the -- before the final punch list was done, was there any involvement with that process with governmental authorities as far as the -- did they have any involvement with the punch list?

A. AHJ?

Q. Right.

A. No.

(EXHIBIT 74, E-mail dated 12/18/18, with attachment, marked for identification.)

BY MR. HILDEBRAND:

Q. I'm going to hand you what I'm marking as Exhibit 74. This is an e-mail from you to Jennifer Faulkinberry and it's -- Balfour is not copied on it. It's dated December 18, 2018. It says: Attached is a recap of credits owed Library Associates or items -- I think that should be for items, shouldn't it?

A. Yes.

Q. For items in dispute between Library

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and BBC. Until these are resolved, Library Associates request offsetting funds be held from future BBC pay applications.

And then there's a list, a chart that's attached to that dated 12/18, that same date, that totals $277,469.75. Had Balfour been provided that chart prior to this date to your knowledge?

A. This specific chart?

Q. Right.

A. I don't think so.

Q. Had Balfour been provided with any notice of a claim for offsets for this amount or these individual amounts prior to this time to your knowledge?

A. I had discussed specific items with them.

Q. Is there any documentation that was provided to Balfour to your knowledge of either the individuals or the total sum as reflected on this Exhibit 74?

A. I don't recall. Honestly, I don't. There may have been, but I don't know. Some of these are Balfour numbers.

Q. The dissatisfaction that the owner had relative to the eggshell painting that you

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testified resulted in the owner repainting all of the rooms, do you have any documentation, photographic or video documentation, that's available to explain -- I can look at or anybody else can look at to show exactly what those issues are?

A. I don't have it, but the contractor that did the work, they photographed every room prior to it. That was one of the things required of them.

Q. Okay. And that was Robins & Morton?

A. And CWI or CPI?

Q. CPI?

A. CPI? They took photos. I'm sure I took some photos too, but they would have been in my e-mail correspondence or the files that you received.

MR. HILDEBRAND: All right. Why don't we take just a couple-minute break and then we'll go 'til lunch. Everybody, we'll take about a two-minute break.

(A recess transpired.)

BY MR. HILDEBRAND:

Q. I've referred you to Exhibit 25. It's an e-mail from Buck Lindsay to David Simonton

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February 11, 2019. And the very first line represents that he is responding to Pay Applications 43, 44 and 45 and states in Number 3 under there -- or, actually, Number 2. The contract amount remaining is $4,982,525.78. Do you see that?

A. Yes. But it's 4 million. You said 4,000.

Q. I'm sorry.

A. I'm just clarifying for the record.

Q. Okay. So Number 2, the amount remaining that was unpaid to Balfour was $4,982,525.78, correct?

A. Yes, sir.

Q. Do you disagree with that?

A. No. That's what it says.

Q. Okay. And then it says: The owner has specific claims to be asserted relative to time and amount.

And it says for repainting, approximately 2 million bucks; B, list of credits that we identified just a little while ago for 272,000 dollars; architect engineering fees incurred for days past 60 days, 187,123 dollars. And then D, liquidated damages, 530 days at 9,000

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dollars a day and then with a cap provided in the contract, so that totals 1,400,000 dollars.

So it has a total of the claims asserted by the owner and says account -- contract amount remaining $1,309,866.78. Did I read that correctly?

A. Yes.

Q. Do you know why the -- if the architect is saying that it agrees that the contractor is owed 1,309,866 dollars why that was not paid to Balfour?

A. I do not know.

Q. Do you know -- I could tell you that I -- and I went through this with Kim Brown. I am not aware of any prior notification from the owner to Balfour before this Exhibit 25 that the owner intended to assert any liquidated damages against Balfour. Are you familiar with that?

A. No, I am not. This is the first time I ever saw it.

Q. Right. There was nothing oral or in writing that I have been able to confirm, agreed?

A. I agree with that.

Q. Okay. And I've not seen anything that engineering fees of 187,123 dollars was going to be

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asserted against Balfour. Are you familiar with that?

A. I'm not so sure that is the case. Now, whether it's recorded someplace or not -- I don't know. I thought there was correspondence, but if you haven't found it, there must not be.

Q. What is the basis for asserting the architect engineering fees found in 3C?

A. That is simply the extended -- the cost for extended CA visits and -- contract administration by WLA unrelated to their own deficiencies, but as a consequence of the extended contract period time. I believe that's the basis for it.

Q. Okay. Under 3D, liquidated damages, according to this e-mail the owner is asserting that liquidated damages are computed at 530 days, so it's saying from -- if you simply look at the math, the original completion date with the one 20-day extension that was provided was supposed to have been August 19, 2017, so it's counting back to that August 19, 2017 date, agreed?

A. August, yes. That's -- under Item 1 enumerates it.

Q. Right. So my question is: If the

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owner is saying that in this letter that we contend that the owner -- that the contractor is liable for liquidated damages back to August of 2017, why is the owner just now providing first notice of liquidated damages to Balfour?

A. I don't know, to be honest with you.

Q. Okay.

A. I never was asked to comment on that, draft it up, none of it.

Q. Okay. But it's pretty clear from this letter that the owner is saying we're contending that Balfour caused delays all the way back to August of 2017?

A. That appears to be what it reports.

Q. Wouldn't you agree that if the owner contended that Balfour was late and that back on August of 2017 that Balfour's delays were causing liquidated damages, that it would be appropriate for the owner to advise Balfour right then that it had a claim and intended to assert liquidated damages?

A. I mean, just speaking in theory, I certainly would have reserved my rights. I think -- I don't think Mike, not knowing when the final project completion date was back in August, I

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don't think it was as hot a topic probably.

Q. But regardless, it's just he --

A. As a matter of contract administration?

Q. Right.

A. Yeah, should probably put him on notice.

Q. Right. And the reason is that --

A. It's fair.

Q. Pardon me?

A. Yeah, it's --

Q. It's just fair, right?

A. Fair comment.

Q. Right.

A. Give them the opportunity to accelerate or --

Q. Exactly. Exactly.

A. Yeah.

Q. It's just not -- unless and until you tell a contractor, look, we think that these delays are your fault, then the contractor obviously doesn't know that that claim is going to be made and can't take actions accordingly, correct?

A. I agree with the logic.

Q. Right. And just fundamental fairness, you need to give the contractor, it's just a matter

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of fairness, the opportunity if you're going to claim that he's delayed and intend to assert liquidated damages, give him a chance to make corrections or do what he needs to do to get on top of it, correct?

A. I think that's reasonable.

Q. Right. And fair?

A. Fair.

Q. Right. And you had no discussions with the owner prior to this date to your recollection and no e-mails wherein you said, look, I think we need to go ahead and assert delay claims or a liquidated damages claim against Balfour?

A. None. None that I recall.

Q. Okay. So it seems to me that there would have been -- and do you remember any discussions at all with anybody, whether it was with Kim Brown or Michael Bennett or DCI or Buck Lindsay or anybody else prior to this letter being written about, look, this project is way behind schedule and we think that it's Balfour's fault and we need to assert liquidated damages against them?

A. If I had thought that way on that exposure Matrix, I would have listed that as potential recapture.

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Q. I understand. Okay.

A. If I felt that way, if I knew that was in the offing, I would have listed it.

Q. Or if you felt that way, because --

A. I mean, whatever.

Q. Right. Okay.

A. Yeah. If it was a topic for consideration, I would have listed it.

Q. If you use one month of -- as being 30 days as a typical month, then the liquidated damages, if you use a figure of 9500 dollars, comes out to about 285,000 dollars a month?

A. I thought we agreed to use 9,000.

Q. Yeah, let me redo that math. So about 270,000 dollars for one month's liquidated damages. Assuming a 30-day month is 270,000 dollars, if the owner back in August of 2017 had notified Balfour that it had liquidated damages -- let me ask you this -- let me rephrase this question.

Certainly if an owner or an architect believe that a pay application should be reduced for whatever reason, then it is the absolute prerogative of the owner or architect to look at line items and say, okay, you might have a pay application for a million dollars, but we disagree

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with a hundred thousand dollars of it so we're only going to pay you 900,000 dollars and we'll leave the dispute to be decided however, correct?

A. Yes. We discussed that yesterday.

Q. Right. I understand that you have not had exposure -- just by good luck or circumstance or whatever, you have not had prior projects with delays anything like this job, correct?

A. I have not had projects that incurred liquidated damages.

Q. Right.

A. Where the contractor incurred liquidated damages.

Q. Right. But it would have been absolutely appropriate for the architect and owner if they felt back in August of -- or September of 2017 that Balfour was late and that liquidated damages were adding up to say, okay, we've got your pay app for this month, but you're late and we're going to assess liquidated damages, so we're going to reduce your pay application by the number of days it was late. That would have been within its prerogative, correct?

A. Yeah, had it felt that way. And my point is Mike Bennett didn't -- wasn't focused on

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liquidated damages at that time and I don't think that's why it came up as a topic. But from a contract administration, had that been there on somebody's mind, and it was not, they should have teed it up.

Q. Right. That's the way it should have been done, correct?

A. Right.

Q. So it would have been entirely appropriate and proper for the owner if it felt that liquidated damages should be assessed, then as soon as the contracted completion date was not met to say with each and every pay application, okay, you're now X number of days late, we're going to deduct from your pay application the liquidated damages and only pay you the undisputed amount, correct?

A. Yes. That would be appropriate.

Q. Right. When the -- by the time that the final pay application had been submitted and this letter from Buck Lindsay was written, were you part of any discussions or communications to your knowledge where anybody said, wait a second, you know, I don't think it's fair or appropriate at this late stage in the game to now be making this

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claim against Balfour?
A. No. I was not part of any conversation.
Q. If the owner had asserted approximately 270,000 dollars per month of liquidated damages against Balfour each and every month beginning in August or September of 2017, what would you -- based on your experience and knowledge, what do you think Balfour likely -- do you think its likely reaction would have been?
A. Counterclaim.
Q. It would have brought the claim to a head, I mean, there would have been --
A. Earlier.
Q. Much earlier?
A. Much earlier.
Q. Right. Right then and there the issue would have been addressed and however the chips may have fallen would have been -- before all of the rest of the work would have been done, it would have been brought to a head right there, correct?
A. Yes, sir, I agree.
Q. Now I'd like to go through with you some of the meeting minutes.
(EXHIBIT 75, Meeting Minutes dated

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3/19/15, marked for identification.)
BY MR. HILDEBRAND:
Q. I'm handing you what's been marked as Exhibit 75. These are meeting minutes of a meeting on March 19, 2015. So this is right at the very beginning of the project, correct?
A. Yes, sir.
Q. All right. And under items discussed, 101, the very first item under design issues, the second bullet says: Matrix noted that BBC will complete its purchasing by mid April and the lack of coordinated drawings places Library Associates at risk and requested WLA and DCI to work out a quicker turnaround.
So that was a notice right at the very inception of the project that Balfour was saying, look, we're starting to have problems already with the drawings, we're noticing busts, and the architect and the interior designer need to address them or there are going to be problems, correct?
A. It wasn't a notice from Balfour Beatty. There were ongoing design evolutions from the interior designer that had to be incorporated in the base contract buildings. The interior designer's always behind the base architect.

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And my point there was that they needed to all get on the same page with the final set of coordinated interior documents. Balfour Beatty wasn't placing us on notice or anything at the time. I was just from a housekeeping standpoint telling them to get their act together and get a consensus document.
Q. Okay. Maybe I phrased that improperly and I think you clarified it. What you were saying was, look, the design between DCI and the architects is not properly coordinated and if you all don't get it coordinated there are going to be problems, so you need to get on it?
A. Yes.
Q. Okay.
(EXHIBIT 76, Meeting Minutes dated 8/20/15, marked for identification.)
BY MR. HILDEBRAND:
Q. I'm handing you Exhibit 76.
A. Um-hum.
Q. These are meeting minutes dated August 20, 2015. So that's right at the beginning of the project, correct?
A. Yes, sir.
Q. All right. If you'll turn to the

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second page of that, the fourth paragraph down, 1.10. Do you see that?
A. Yes.
Q. It says: BBC noted the --
A. I'm sorry, 1.10, right?
Q. Right.
A. Oh, BBC noted the eighth-floor ceiling is loaded with conflicts?
Q. Yeah. And that note, it says: Balfour Beatty noted the eighth-floor ceiling is loaded with conflicts and requested one of the units from that floor be included in the mock-up.
A. Yes.
Q. So this is right at the very beginning of the project, Balfour Beatty way before they even got to the eighth floor is making a note that there are conflicts with the ceilings and that the design team needs to get on top of it, correct?
A. Right. Make a guest room for the eighth floor is what we wanted to do for our mock-up, for the mock-up.
Q. And turn to the next page, if you would. So this issue with the -- with the ceiling height, that just didn't spring up on anybody, that thing was way early in the project was noted was

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coming by the design people, so they had the opportunity -- even at that point they were on notice that there was an issue, explicitly with an issue, and they could have started working on that to correct it pretty early, correct?

A. Well, that was the intent of the guest mock-up, yes.

Q. Right. On the next page at the top under 2.01, the first bullet says: It was agreed by all that the target turnaround for RFI's is seven days and submittals is 15 days.

So the contract -- and we can turn to it if you would like to. I can represent to you it says that the architect will respond to RFI's within a reasonable time. Does that ring a bell with you?

A. Yes.

Q. Okay. Then that was then clarified and agreed upon in this meeting minute that the prospective date would be -- for RFI responses would be seven days and submittals 15, correct?

A. Right. It's SOP to agree to this at the beginning of a project because the contract that's used is reasonable.

Q. Right.

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A. Just to get everybody on the same page.

Q. Okay. So SOP, standard operating procedure.

A. Right.

Q. So then at that point in the -- these meeting minutes show that the architects were -- Jennifer Faulkinberry was actually in attendance and a copy of this was sent to Buck Lindsay. So everybody knew that's what the architects would be doing, correct?

A. Target, yes, sir.

Q. All right.

(EXHIBIT 77, Meeting Minutes dated 4/6/16, marked for identification.)

BY MR. HILDEBRAND:

Q. I hand you what has been marked Exhibit 77, which is an OAC meeting minute dated April 6, 2016. Buck Lindsay was actually in attendance at this one, as was Kim Brown. I'd like you to turn to the second page of that, please.

A. Yes, sir.

Q. Under 1.16, BIM coordination. Still working to finish 1 and 2. Team concern with staying ahead of concrete pour schedule. Likely no opportunity to jump ahead to 8 and 9.

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So as of the date of this particular meeting, which again was in April of 2016, before the sixth floor came to a head and that issue came up, there was a specific discussion about BIM coordination and the architects were being put on notice that, look, you need to get on top of this, if you don't, then the pour schedule is going to be affected, correct?

A. At risk.

Q. Right.

(EXHIBIT 78, Hotel Marion Square OAC Meeting Agenda 21 April 2016, marked for identification.)

BY MR. HILDEBRAND:

Q. Let's turn now to a separate meeting minutes that I'm going to hand you as Exhibit 78 as a follow-up to that. So it was no surprise to anybody that those design problems with the ceiling space, that was known way ahead of -- before the pour actually got to it, that was an item that was --

A. You're talking about the sixth floor?

Q. Yes, sir.

A. Yes, sir. No, we were struggling to get that coordination done starting with the

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baseline.

Q. And then the next month under -- on Page 1 of this meeting minutes of April 21, 2016 under 1-8, design BIM coordination, this shows that there's continuing discussion with the architects about this BIM issue and they need to get on top of it, correct?

A. Yes.

(EXHIBIT 79, Meeting Minutes dated 8/4/16, marked for identification.)

BY MR. HILDEBRAND:

Q. All right. This is a meeting minutes of August 4, 2016 and I'd like to turn to Page 3, if you would.

A. Okay.

Q. In the middle it says 2.04 and then below that do you see model rooms and then building?

A. Yes.

Q. And the bullet -- the first bullet under building, 6 west pour. Date is impacted by various conflicts on both west and east sides. Follow-up BIM call tomorrow in the hopes of starting MCC with sleeve layout on Monday.

So the impacts that were being

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discussed with these ceiling spaces that go I think you said back to the basement, and certainly by April of 2016 those were actually starting to come to a head by this point?
A. Well, the BIM coordination started on 1. The real problem developed on the guest room tower. Those are the floor heights.
Q. Okay. So the BIM started early, the ceiling spaces were at least back to April like we saw?
A. Were identified as a --
Q. A problem that was coming?
A. Right.
Q. Yeah, it's coming up. Architects need to get on top of it, correct?
A. Yes.
Q. Right. So here now we're seeing four months later obviously the corrections have not been made and we're starting to see actual impacts?
A. Yes.
Q. Okay. Just as predicted, correct?
A. Yes.
Q. All right.
(EXHIBIT 80, Meeting Minutes dated 9/15/16, marked for identification.)

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BY MR. HILDEBRAND:
Q. Exhibit 80 is what I'm now handing you. These are meeting minutes dated September 15, 2016. I'd like to ask you to turn to the second page, please. Under 1.16, BIM coordination, the third bullet.
A. Yes.
Q. WLA wrapping up BIM coordination of eighth floor overhead and distribution. Positive feedback received from subs.
So it looks like only at this point has WLA apparently gotten on top of the ceiling design bust and coordinated the fix to that, is that a correct statement?
A. Yeah.
Q. All right.
A. Yes. Sorry.
(EXHIBIT 81, Meeting Minutes dated 9/22/16, marked for identification.)
BY MR. HILDEBRAND:
Q. Okay, 81, sir. These are meeting minutes from September 22, 2016. On the second Page, 1.16, BIM coordination. WLA provided BBC dimension locations for added sleeves on 6 for hot water recirculation lines.

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So it sounds like even at this time, even though the eighth floor ceiling issues have been resolved appropriately, there were other issues that were coming up that continued to need to be developed by the architects and resolved by the architects and they were still working on that. Is that a fair reading of that?
A. Almost. So the actual sixth floor delay was only on half of the floor. So while we were resolving that half, I had WLA reconfirm the core locations for the other half of the floor. And ultimately you'll notice the reference to avoid shoring in those areas. Do you see that last sentence?
Q. I do.
A. The reason I requested that is I had Balfour Beatty at the owner's cost go ahead and X-ray the fifth floor to see if there would be any conflicts with those sixth-floor sleeves, and there were not and we proceeded with the sixth floor. That's why there's not a delay claim for the other half of the sixth floor.
Q. Okay.
A. I rolled the dice, so to speak.
Q. So as I understand it, this had become

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such an issue that Balfour was directed to go ahead and do a pour even though the design wasn't finished with the thought that remedial action could be taken after the pour was done?
A. Actually, before the pour was done. We X-rayed the fifth-floor ceiling, right, and confirmed that there was only one conflict found on the other side of that on the sixth floor.
Q. Okay. I'm with you.
A. If I had done that on the original part of the sixth floor, we would not have had the problem, but at the time I didn't know how lucky we could get in terms of conflicts.
Q. You saw what your experience know-how --
A. Rolling the dice, right.
Q. Got you. Okay.
(EXHIBIT 82, Meeting Minutes dated 1/11/18, marked for identification.)
BY MR. HILDEBRAND:
Q. I've handed you what's been marked as Exhibit 82. And these are minute meetings from January 11, 2018. So this is about a month before final completion. And I would ask you to turn to Page 6, please.

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A. January '18 would not be one month prior to completion.
Q. I'm sorry, did I say a month? A year.
A. Yeah, right.
Q. About a year prior to completion.
A. Yes, sir.
Q. All right. If you'll turn to Page 6.
A. I have it.
Q. All right. At the very top it says schedule impact. Outside of meeting BBC advised the following RCO's have or may have schedule impact and need Library Associates' decision. Matrix advised BBC to outline impact to assist Library Associates with a timely resolution.
And there's a listing of RCO's 123, 176, 180, 185, 192, 194, 195, 197, 199, 202, 203 and 206. Do you see those?
A. Yes, sir.
Q. So Balfour Beatty was saying we've got a bunch of RCO's that are going to have impacts on us. And we have seen I think earlier where some claims were made for those, correct?
A. Yes.
Q. And that was discussed in these meetings, correct?

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A. Yes.
Q. And if the owner at that point or the architect had had a beef with Balfour or had a contention that Balfour was actually the cause of delays itself or would be assessed liquidated damages, this would be a natural time to air that complaint to have it included in the meetings?
A. In terms of placing the blame on Balfour Beatty?
Q. Right. Yes, sir.
A. Yes.
Q. If they want to.
A. Right.
Q. Because that's -- we already talked about that. That's where the OAC meetings had open discussion and there's a claim against or a problem with Balfour, go ahead and get it out there, right?
A. Yes.
Q. All right.
(EXHIBIT 83, Meeting Minutes dated 4/12/18, marked for identification.)
BY MR. HILDEBRAND:
Q. I've just handed you meeting minutes which I've marked as Exhibit 83. They're dated April 12, 2018 and would like to direct you to Page 6, please.
A. I have it.
Q. All right. Under 2.04, construction progress update. Under the fourth bullet, it says: Excluding BAR mock-up requirements, currently Stair Number 4 still driving the hotel completion at the end of September. However, team is reviewing options to expedite completion.
What was the issue with Stair Number 4 that was by the terms of this affecting the critical path of completion?
A. At the time we were looking at I believe heavily paneling the stair with woodwork. And it was actually something that DCI was pushing and had been discussing with Mike. Ultimately I went to Mike and asked them if we could just paint the star. And he said yes, and we wallpapered it and it went away.
Q. Wow. Okay. But that was a -- that's one that's pretty clearly on the owner, agreed?
A. Yes. That was tied up in design. Actually, we painted it -- we wallpapered it as opposed to all the wood trim and such that he wanted.
(EXHIBIT 84, Meeting Minutes dated 4/18/18, marked for identification.)
BY MR. HILDEBRAND:
Q. Exhibit 84. Turn to Page 6, if you would, please.
A. I have it.
Q. All right. Same comment. This is a note 4/18/2018. Currently Stair Number 4 still driving, so that's still a delay to the critical path, correct?
A. Not to the completion of the project, but it was certainly a speed bump.
Q. Well, it says: Currently -- just looking at the wording of it. Currently Stair Number 4 still driving the hotel completion.
A. Oh, yeah, I do remember that. It was -- I do remember Balfour Beatty making that case. It was a small inconsequential stair at the end of the day. But, yes, that's certainly what it says. And it was probably one of the late -- on Balfour Beatty's critical path schedule, it was one of the last items to be completed due to its current design status. It wasn't an emergency it says stair.
(EXHIBIT 85, Meeting Minutes dated 5/24/18, marked for identification.)

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BY MR. HILDEBRAND:
Q. So if you'll turn to Page 4. On Page 4, Paragraph 2.04, construction progress.
A. I have it, yes.
Q. All right. It says Schedule, 4 May update issued. And these are actually meetings -- a meeting on May 24, 2018. It says: Matrix noted the amount of slippage in the schedule with CV --
A. CCD's.
Q. CCD's. Typo?
A. Yeah.
Q. -- for Stair 4 and private dining and requested a meeting with BBC next week to review mitigation measures. Substantial completion date has slipped to 26 October.
Those are your meeting minute notes?
A. Yes.
Q. And you're noting that the slippage -- that the completion of the hotel has slipped -- a completion date has slipped because of Stair 4 and private dining changes, and those are all on the owner, correct?
A. Well, the substantial completion date has slipped to 26 October is its own topic. I don't think it is specifically referencing the

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private dining area or Stair 4 as the driver.
Q. Well, if you look at the one above that, though, it says: Matrix noted the amount of slippage in the schedule for Stair 4 and private dining.
So that's a slippage --
A. Where is that?
Q. Right above that under 2.04.
A. Matrix noted the amount of slippage in the schedule, yes.
Q. Right. So that's a noted -- you made a comment that the schedule had slipped --
A. Yeah.
Q. -- because of Stair 4 and private dining, and those are owner items, correct?
A. Yes, but they were certainly part of the exposure in terms of completion, but other matters like ballroom doors and such were actually life safety events that would impact the substantial completion of the project.
Q. Okay. Well, the ballroom doors, that's a design issue as well, wasn't it?
A. No. Balfour Beatty installed the wrong doors.
Q. Didn't they install the doors ordered

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and then they were changed and then there was a long lead on those?
A. There was a change, but I believe the Balfour Beatty vendor had some role in all of that. Yeah, that's what it was. We had the wrong ballroom doors.
(EXHIBIT 86, Meeting Minutes dated 7/12/18, marked for identification.)
BY MR. HILDEBRAND:
Q. Maybe I can short-circuit this just a little bit. Handing you Exhibit 86. These are meeting minutes from July 12, 2018 and I'd like to refer you to Page 5 of that document under 2.04.
A. I have it.
Q. It's just simply that same note. Matrix noted the amount of slippage in the schedule with CCD's for Stair 4 and private dining. And I can represent to you this is the last time that that note was made. So from the time that first noted of that slippage, that took a long time for that issue to get resolved, didn't it?
A. It did.
Q. And again, that was an owner or design issue, agreed?
A. Yes.

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MR. HILDEBRAND: All right. It's 12:10, so this is a good time for lunch.
(A luncheon recess transpired.)
BY MR. HILDEBRAND:
Q. Mr. Clements, the first thing I'd like to ask you is that you had said that BIM was a specific line item that was going to be provided by Balfour as reflected in its GMP document, is that right?
A. No. I said I recall an entry for BIM in their detail list of general conditions.
Q. Okay. I can tell you that we have reviewed that and I don't see that in there.
A. Then I'm mistaken.
Q. I'd be happy for you to review the contract and all the documents if you'd like to see if you can find it, but I don't --
A. I'm talking about the pre-construction. There were multiple budgets provided by Teodoro, who was -- Manny Teodoro was our pre-construction person. I thought I recalled a specific line item from BIM in one of those general condition detail reports. If I'm mistaken, I'm mistaken.
Q. Okay.
(EXHIBIT 87, E-mail chain dated

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1/31/19, marked for identification.)
BY MR. HILDEBRAND:
Q. I'm handing you what's been marked as Exhibit 87. This is a -- the bottom e-mail is from Nick Starcevic to you. It's January 30, 2019, about the end of the project. And Nick asks you in the very last sentence of that e-mail and on that page: Also please amend the minutes to include that you directed the architect to certify Pay Application 44. Lastly, BBC has repeatedly noted that we cannot submit Number 45 without a certified 44.
And your response was that -- looks like the next day you responded to Nick and said: Like BBC, I can't force the architect to do anything. I did call Jennifer that morning and ask that she certify Pay App 44, but in reality all I can do is ask her -- all I can ask her to do is to review a pay app. So poor choice of words on my part. I stand corrected. I should have used the term review at our meeting.
So the -- you had a poor choice of words, but you had asked previously -- you said that you were going to request that the owner -- I'm sorry, that the architect certify for Payment

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Application 44, is that correct?
A. Yes.
Q. Did that request ever change?
A. No, not to my knowledge.
Q. Okay. So from your perspective as the owner's representative, you felt it was appropriate for the architect to certify payment for --
A. To complete the review.
Q. -- Pay App 44?
A. Complete the review. 43 got stuck because of the lien placed on the project. It kind of threw everything off. In fact, it was funded and then -- and check in hand and then somebody liened the project and that money had to go back to the bank. In the meantime, we were reviewing 44. And as I recall, as you said, I asked Jennifer to review and certify the pay application, but I can't -- I don't certify pay applications.
Q. Right. But you had reviewed it at that point and --
A. We had reviewed it as a team, yes.
Q. Right. And from your perspective it was appropriate for her to certify for payment?
A. For the amount requested for the work in place, yes.

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Q. Right.
(EXHIBIT 88, E-mail chain dated 2/18/19, marked for identification.)
BY MR. HILDEBRAND:
Q. All right, Exhibit 88. All right, this is an --
A. Oh, yeah, um-hum.
Q. -- e-mail from you, the top one, to Mike Tsiukes?
A. Tsiukes, yes.
Q. Tsiukes. Okay. And then the middle one -- who is Mike Tsiukes?
A. He's the president of the company that installed the punched windows. I don't remember their name. Well, it's right there. 1st Choice.
Q. Okay. The middle e-mail is from you to Mike Tsiukes --
A. Yes.
Q. -- dated February 17, 2019 and copied Kim Brown and says: Mike, good speaking with you on Friday and, yes, lunch was great.
Then the next sentence: I am one and done with Bennett Hospitality, but I agree that there is merit in your proposal and having a discussion, which I would be happy to attend.

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A. Um-hum.
Q. What did you mean by you were one and done?
A. I was off the project.
Q. But one and done, that implies that you would not or had no intention of working with Bennett Hospitality again. Is that an inappropriate inference on my part?
A. Yeah, that certainly -- that wasn't my intent.
Q. So you would have no reservations about working with Bennett Hospitality again?
A. No, I don't -- I wouldn't have any reservations.
Q. Sounded like you want to elaborate.
A. No. I mean, life goes on. My only hesitation is their -- they built four-star hotels and never -- I mean, sorry, limited service hotels. There would never be a need for me. So by that I meant they built one five-star hotel and that's it. Unless there's something new in the offing I don't know about.
Q. All right.
(EXHIBIT 89, Letter dated 9/5/17 to Ms. Kim Brown from Grady W. Query, with

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attachments, marked for identification.)
BY MR. HILDEBRAND:
Q. I've handed you what I've marked as Exhibit 89, and these are the narrative portions without all the attachments of Palmetto Scheduling reports which --
A. Yes, sir.
Q. -- begin on September 5, 2017 and looks like the last one dated August 16, 2018. Can you tell me how Palmetto Scheduling came to be hired on this project?
A. As I said yesterday, August 2017 Balfour Beatty was still predicting that they would open up -- the hotel would open up by the end of 2017. Mr. Bennett was anxious for them to confirm that. He didn't have faith in it because he was getting ready to make a huge commitment in terms of hiring and staffing, and that's when Palmetto Scheduling was hired by Mr. Bundy to come in and look at the project and try and quantify based on -- or to analyze the project and to come up with a completion schedule independently.
Q. Okay. So was the sole reason from your perspective for the retention of Palmetto Scheduling was that Mr. Bennett didn't believe --

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he thought that Balfour's completion dates were overly optimistic and he wanted an independent person to assess them to give him a more accurate picture?
A. Yes.
Q. And that's it? That's the only reason to your knowledge?
A. That was for the initial schedule. After that, additional schedules were done to track the completion and monitor the project, trying to confirm when it will be complete. They were continuing monitoring.
Q. Okay. But the reason for the -- for the review never changed, Palmetto was simply to try to prevent -- provide an independent confirmation or assessment of when it thought the actual opening would take place?
A. Yes.
Q. It wasn't to try to assess blame against Balfour or assess who might have been at fault for the delays or anything else like that, it was simply to project an independent completion date?
A. Yes.
Q. Correct?

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A. At the same time we understood that if things went south, their reports would be invaluable if there was a claim. Although we were constantly trying to figure out when the project was going to be done, we realized it would be a valuable resource if push came to shove and we needed an independent analysis of the progress by Balfour Beatty. But it was not -- they were not hired with that intent initially.
Q. Okay. Let me -- well, from reviewing the Palmetto Scheduling reports, and I've reviewed them in detail, it seems to me that all they did was look at Balfour's schedules and then comment on the level of completion of construction based on Balfour's schedules. I can't see that they ever did their own schedule or ever did an independent critical path analysis.
A. That is correct. I don't recall them ever doing that. They would come on the job site, look at the progress, compare it with Balfour's progress. I don't remember an independent schedule being done by Palmetto Scheduling.
Q. Okay.
A. You know, like a -- something -- I don't remember any independent schedule being done.

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Q. Like a forensic analysis?
A. Exactly. Thank you. I couldn't find the word.
Q. No problem. And who was the person with Palmetto Scheduling?
A. Grady Query.
Q. Have you worked with him before?
A. Since then, yes.
Q. At the time that he worked on Hotel Bennett, had you worked with him on anything?
A. No. I recommended somebody else.
Q. Who did you recommend?
A. A firm out of Columbia. They got bought by somebody. I can't remember the new name. And that firm recommended Grady Query because they had a conflict of interest with Balfour Beatty.
Q. Okay.
A. Cummings.
Q. Okay. Were the Palmetto Scheduling reports provided to Balfour, do you know?
A. Grady and I actually met with Balfour Beatty on a couple occasions to review his reports and progress and discuss critical path.
Q. Okay. Were all the reports -- were any or all of them provided -- actually provided to

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Balfour, do you know?
A. I don't recall, to be honest with you.
Q. What was the tenor of the meetings with Balfour? Was it cooperative?
A. Oh, yeah. Balfour was very cooperative.
Q. Mutual?
A. Yeah.
Q. Okay. I'm not sure if I heard or recall appropriately your testimony yesterday, but did you testify that in your view there were no major design changes to the building from the GMP design?
A. No. I was talking about Mr. Bennett making major design changes.
Q. Oh, okay. Because, in fact, there were major changes that took place that increased the contract amount by about 5 and a half million dollars, correct?
A. Yes.
Q. Okay.
A. I'll trust your accounting, but, yeah.
Q. If the original design had not contained any errors or omissions and had not been changed by design changes or owner changes, do you

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have an opinion as to approximately how many RFI's you would have expected to -- that the architect would have received on a project like this?
A. I don't know. I'd have to guess. 100, 150.
Q. Okay.
(EXHIBIT 90, Document entitled Matrix Program Management Services, LLC Income by Customer Detail, marked for identification.)
BY MR. HILDEBRAND:
Q. Handing you Exhibit 90. And what is that?
A. It looks like an AP report.
Q. All right. So this would show the -- your total compensation for the --
A. Period defined.
Q. And that's from start to finish?
A. Um-hum. Well, October 2013. Yeah.
Q. Okay. And it shows on Page 4 that the total amount billed and received was $701,527.15?
A. Yes, sir.
Q. And on the first page as of -- almost right there at the very bottom, five lines up. As of February 2, 2015, your total fees and expenses were about 192,000 dollars?

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A. Yes, sir.
Q. Okay. I'm going to hand you an exhibit marked 36 to Kim Brown's deposition and I'm going to go through this with you. What I've handed you which has been marked Exhibit 39 to Kim Brown's deposition is a copy of the RCO's that Balfour has submitted but not been paid for and which is part of its claim in this matter against Library Associates and they total approximately 3 million dollars, okay?
A. All right.
Q. And what I'd like to do is I'd like to go through each one of them with you and ask you what your recollection of them -- of it is and if you have a recollection as to why it was not paid or why it was not responded to or whatever, okay?
A. Yes, sir.
Q. All right. So on RCO -- the first tab, RCO 27, the hundred-year storm delay?
A. Yes, sir.
Q. Submitted January 13, 2016 and submitted for $124,089.10. And none of that was approved or paid. Do you know why?
A. Time only was granted. I believe a claim was made on builder's risk, but it had

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something to do with the coverage and -- something -- the impact of this storm was besides slowly stopping work was that the foundation retaining walls were propped by earth and banks on a 45-degree angle if you can picture that.
Q. Okay.
A. And the rain washed that dirt off the sheet piling. And there was some reason that it was rejected because it had something to do with the rain and the mud or something like that.
Q. You mean the insurance claim was rejected?
A. Right.
Q. Okay. If it was not an insurance claim, why would it not be paid as a change order by the owner?
A. I can give you my view, was that Balfour Beatty did nothing to protect those dirt banks at all. In fact, it was only after this occurred and the loss happened that Balfour Beatty protected those dirt banks, which probably should have been done in the first place.
Q. From hurricane?
A. From rain. From anything.
Q. All right. I've looked through the

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correspondence and I don't see a notation on that. Do you remember if you ever provided Balfour with an explanation?

A. Regarding -- Tim Spano and I met to review this. I don't recall the detail of the conversation, but I know that they accepted a change order for time only, which we executed, the 20 days.

Q. Okay.

A. Extension.

Q. But they reserved their rights for the rest of the money, did they not?

A. Not at the time. At the time they just signed the change order for 20 days. I don't recall any notations on the change order or anything. If you find the executed change order, we could look at it. Maybe I'm wrong. I know that the cost did reappear later.

Q. Okay. Well, if there are costs expended by the contractor to prepare for an emergency, would that be covered under the contract?

A. It would.

Q. And there would be -- if costs were incurred by the contractor because of damage caused

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by the storm, those would be recoverable unless the contractor were deemed negligent, is that right?

A. That would be my view, yes.

Q. Okay. Well, do you know how much of this 124,089 dollars was related to preparation for the storm?

A. I don't recall any of it being.

Q. But if it was storm prep, then that would be recoverable and should be paid?

A. Yeah, I would agree with that. Yeah.

Q. Okay.

A. I mean, we had a similar incident in 2017 that's the topic of a change order, I'm sure you're going to bring it up, where we had another hurricane and Balfour Beatty took down scaffolding and made the project safe. And as far as I'm concerned, that's the cost of work. And I paid that on other projects as well.

Q. So that should have been paid for -- the subsequent storm for storm preparation, that is a valid change order that should be paid?

A. It is a cost of work. It's one of those gray areas. But the fact that the owner derives the benefit of it, you know, helps protect the owner. I had this discussion with Bundy, to be

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honest with you, just to kind of clarify things. And I personally, it should be a cost of work.

Q. Okay. Let's go to Number 88, the Lithko change orders, $56,414.30. Can you tell me why that was not approved or rejected?

A. I don't recall, to be honest with you. When was it submitted? March 2017. Lithko was long off the job at that time, but I don't recall why it was not paid.

Q. Okay. How about RCO 122, which is a structural delay claim?

A. Yeah, I have no -- November 27th. So this is repackaging the sixth floor delay claim with 8 and 9 that we never received supporting documentation for, but I don't know why it wasn't paid. I don't -- I didn't reject it. I don't -- I didn't -- I don't recall the architect even reviewing it.

Q. How about 159 with those -- an expanded scope for the FF&E?

A. I believe we paid portions of this, but we did not pay for the extended storage believing that the delays were BBC's responsibility. I think some of this scope was taken out and given to Salamander to do, the operator.

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Q. How about 161, offsite mock-up drywall and plumbing reconciliations? Was it approved -- would you agree that it would be -- that the owner is obligated to either approve or reject an RCO?

A. Yes, I agree. And I -- this is one of the ones that when you reference that colored matrix where I had the note that I was going to meet with the design team, I was trying to get the interior designer to confirm the rework.

I wasn't opposed to paying it, I was just -- or recommending it for its payment, I just wanted to make sure that I had buy-in from the interior designer that he had requested the work, the work was completed.

Q. Do you know if that was done?

A. Apparently it wasn't signed. If it was done?

Q. Right.

A. The work?

Q. Right.

A. Yes. Yeah, I feel certain the work was done.

Q. Let me ask you this: For all of these RCO's, is there any debate from your standpoint that the work and materials that are reflected in

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them was actually installed on the job?
A. Not that I'm aware of. I mean, I think it all was installed. It's a matter of whether it was in the GMP or not because that's the reason why I had those conversations with the design team to go back and review their documents to confirm entitlement. Sometimes it was, sometimes it wasn't. Sometimes portions were included and sometimes portions were not.
Q. Okay.
A. But if there's entitlement, it's a change order, you know, by the terms of the contract you get paid.
Q. Right. Okay. So we have -- most of these were never acted on one way or the other, not accepted or rejected, virtually all of them. So you don't know why that was and it may well be that some of these should have been paid either in whole or in part, is that a fair statement?
A. Well, if something was rejected, it was rejected. And there weren't a lot of rejections if you can go and look at the report. There was a number of change orders that were just never done, work not completed. Perhaps some of those are in here as well. But I have no -- I don't have an

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answer if there was entitlement cost why it wasn't paid. Like this delivery and storage for DC 67, I think that's a light fixture if I'm not mistaken.
(EXHIBIT 91, E-mail chain dated 9/23/18, marked for identification.)
BY MR. HILDEBRAND:
Q. All right, let's look at -- I hand you what I have marked as Exhibit 91, and this relates to RCO 159.
A. Okay.
Q. And the e-mail at the top from you to Kim Brown says -- next e-mail is addressing FF&E that is outside BBC's scope, outside of GMP. And you have a quotation from Nick: However, we're not currently contracted to install or warehouse any added FF&E.
Then you say: Attached is the FF&E matrix from the GMP book. If there are added areas we wish Wesley to install, then we owe them a change order for both storage and installation. Upon my review of the GMP FF&E scope, I don't see any reference in the GMP matrix to the scope for the change request. My assumption is perhaps they were left off.
That's the last document that I see on

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that issue. And it seems to me that you're recommending that this be paid, but I don't see that it was. Do you have an explanation for that?
A. Yeah. Well, a partial explanation. I remember saying this to Kim. And Kim at the time had told me that I was quoting from the wrong FF&E scope matrix. And she showed me one that had different information on it, and that led to confusion on roles and responsibilities.
Q. I'm sorry? That led to confusion on?
A. On the validity of the change order in total. I don't know why -- I don't recall how it was ever resolved, to be honest with you.
Q. Or if it was ever resolved?
A. Financially or otherwise.
Q. Do you know if Balfour was ever advised by Kim or you as to the reason that this RCO was never accepted or rejected?
A. Oh, we had lots of conversations about the FF&E. There's a lot of correspondence about that, about storage particularly, from Kim.
Q. I don't see a follow-up to yours of 91.
A. I'm just -- I'm trying to think. I actually went through the FF&E book and proposed changes because there was scope in the FF&E matrix,

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which was developed by DCI, by the way, that was never used. There were monies set aside to that.
And so I went through and identified -- and sent it to Salamander, the operator, items they wanted to do and things that -- Balfour Beatty's scope. And I had repackaged basically an FF&E matrix to try and reconcile everything, but I -- honestly, I think that it never went beyond that due to Balfour's claim for the extended storage, which was judged certainly by the owner to be a Balfour Beatty issue.
Q. So there likely was some portion of the claim that probably should have been paid, but it didn't go beyond that because a beef with Balfour about extended storage?
A. I think that's a true statement.
Q. Okay. Let's turn to 161, which again there's no response one way or the other, no acceptance or approval or rejection.
A. I think we talked about 161, didn't we?
Q. We mentioned it, but we didn't -- I want to go through a couple documents with you on that.
A. Okay. I have it.
(EXHIBIT 92, E-mail chain dated

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11/19/18, marked for identification.)
BY MR. HILDEBRAND:
Q. I hand to you what's been marked as 92. This is the discussion that we've located regarding this RCO which is for 17,376 dollars. And it starts from Woody Faust with DCI.
It says: There was a model room revision done between the time they framed and the time they hung the drywall. The change was based on the owner's tour of the St. Regis Atlanta and what they saw in the bathroom. For PWall, the items they describe as six-inch curb, soffit for tub all seem valid. Also, I remember we added a soffit in the queen room TV wall to show one of the more challenging site conditions and moving fart fan, which is an owner's observation to get it in line with down light.
Then your response on Page 1 to this is: There was a lot of drywall reframing that had to be done up. Mike did direct us to move the bathroom exhaust fan. The room soffit was an add. We did ask PWall to reframe the corridor. Overall, I don't see any blatant misrepresentations on the drywall.
So it sounds like this probably should

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have been paid, do you agree?
A. Yeah. I agree.
Q. Okay. On 178, delivery and storage for DC 67 for 2,245 dollars.
A. Yeah, that's the same delay discussion the owner had.
Q. What do you mean the same delay discussion?
A. That the delay was the responsibility of Balfour Beatty and they should absorb those extra storage costs.
Q. Okay. 184, the Hurricane Irma prep and recovery.
A. Yes.
Q. Same comment there?
A. We talked about it earlier.
Q. Okay. So if it was not considered a builder's risk claim for what -- do you have any testimony that anything that Balfour did was wrong with the prep and recovery from Hurricane Irma?
A. Yes.
Q. What?
A. Well, the biggest chunk of this is 1st Choice Glass replaced two doors at L6 due to the hurricane. Balfour ultimately replaced those

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at their cost, reason being -- and those were four-point doors. They're hurricane-proof doors. They weren't locked. They weren't dogged down prior to the hurricane. The winds blew them open and ruined them and Balfour ended up paying for that themselves.
The rest of this honestly would have been paid, but I think this -- these open change orders were what I was working through at the end of the project to try and get cleaned up, and they're just -- we ran out of time I guess is the best way to describe it. I think -- my personal opinion is everything but the door on this should have been paid.
Q. Okay. But when you said you ran out of time, so when the lawsuit was filed you were instructed just to --
A. No. Sorry. I didn't mean to cut you off.
Q. So when the lawsuit was -- I'm just seeing if I can --
A. I was working through getting things caught up and paid. I was taking the design team through all these unapproved change orders.
Q. Okay.

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A. When the owner took over repainting all the guest rooms, I mean, that was a 24/7 project, we did nothing else. We had to repaint 200 guest rooms and large portions of the public areas. Nothing else happened on that job site. We worked all through Thanksgiving, Christmas, New Year, right until we got the hotel open in February, and by then -- and after that I was off the project. So this was left behind for others to handle.
Q. Okay. Do you know why it was not handled?
A. No, I don't.
Q. And it seems to me if you were the project -- if it's the owner's representative and it was your charge to handle this sort of thing, that the owner should have told you, look, you need to -- your job's not finished, you need to stay here and finish these, agreed?
A. Yeah. Yes, sir.
Q. Okay. Did the owner tell you not to -- to stop your work and to stop going and to move on, or how was that issue ever addressed?
A. I don't remember exactly how it happened, but it did. I don't -- you know, there wasn't a formal written cease-and-desist notice or

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anything like that. I don't recall how that -- what transpired off the top of my head, to be honest with you.

Q. Okay. So many of these -- all the RCO's in this Exhibit 59, can we agree that from your perspective probably some or many or whatever of them might be appropriate for payment, but for whatever reason you concluded you were still in the process of reviewing those at the completion of the job and then you left the job and that was just a task that was never completed?

A. I was going through all unapproved change orders. And I don't know what the full list is here, but assuming none of them were rejected change orders or work that we just never did, they all needed -- somebody had to go through and reconcile their cost, so that's what I was doing with the design team.

Q. Okay. Wouldn't you agree with me that it would have been appropriate for somebody to have finished, whether it was you or if the owner wanted to task somebody else to finish that, to respond to Balfour on the unaccepted change orders or to tell Balfour one way or the other whether they're going to be approved or not?

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A. I think that's a reasonable expectation. I mean, the owner had his claims against Balfour Beatty, obviously, as you saw in Buck's recap. But if there was work here that was put in place as a bona fide change condition, that there has to be some reconciliation.

Q. Right. And that's required under the contract, isn't it?

A. Yes.

Q. If you did not -- if you were not going to or did not perform the reconciliation of these RCO's in Exhibit 59, who else would or could or should have done it in your view?

A. Well, I mean, somebody at Bennett Hospitality. Kim Brown or somebody like that.

Q. Okay.

A. I know that -- I'm just trying to think. There wasn't anybody there at the time from a project management standpoint. Oh, that would have taken it on board I don't think.

Q. But as the owner's designated representative and Balfour's contractor, you would have been the right person and the person under the contract who should have done that?

A. Yes.

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Q. Okay. What role, if any, would the architect have with the review approval of RCO's?

A. They're the first point of call. I think I said that yesterday. When I get a change order, first thing I do is give it to the architect or to the designer to confirm entitlement. Once I know that there's entitlement, then it's worthy of my time to go ahead and dig into the details and try and reconcile it from a cost perspective, but I don't do a lot of legwork until I know that it has been signed off by the architects.

Q. Okay. Well, do you know why by the end of the project you had -- if you'll just accept my representation that all the RCO's shown in this Exhibit 59 had not been acted on one way or the other, approved or rejected, or virtually all of them, do you know why the owner -- why the architect had not reviewed them and made their recommendations by the end of the job?

A. I don't. I mean, there may be some review of these, but I'm not aware of or maybe I've missed or I had portions of for follow-up phone calls with them, but if -- I mean, the stack is the stack. If it wasn't acted upon, it wasn't acted upon for whatever reason.

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Q. Okay. Do you think that the -- if the -- would the architect's review of these RCO's would have been included under their original contractual proposal or would that have been --

A. There were change conditions from the original scope by the owner, not as a result of the architect's deficiencies. The architect would have been paid to review those change orders.

(EXHIBIT 93, E-mail chain dated 6/12/18, marked for identification.)

BY MR. HILDEBRAND:

Q. Your e-mail right there in the middle on June 12, 2018 says: Please advise if because the bracket submittal was approved by WLA but rejected by the BAR, Library Associates has no recourse with BBC or the sub to request a credit or offset the cost for the approved bracket.

Seems to me that you're saying that, look, if the BAR -- if this was ordered and this charge was incurred but the BAR rejected it, that should not be an issue that Balfour should have to bear, that should be something that either the design or ownership bear, is that a fair statement?

A. Yeah, partially. Yes, it is. However, the correct context is this: The miscellaneous

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metal subcontractor fabricated all these brackets prior to the mock-up approval. He took the risk and built them all and everybody knew that the BAR had to be satisfied first. I mean, that's the way business is done here.

So, in effect, WLA approved the bracket to be installed on the mock-up, but didn't approve the bracket to be installed on the entire project. It had to get preapproved to go onto the mock-up. There was a separate set of mock-up drawings.

Q. Okay. So was there a specific instruction then on that hardware not -- only to do it for the mock-up and not to do it for the entire project?

A. I don't recall, to be honest with you, but I don't recall any other instances where a sub went ahead and fabricated all its components ahead of the mock-up. I mean, all of the ornamental handrails, the Juilliard handrails, balcony grilles, all of that was a separate exercise just for the mock-up to get the feedback and comments so that design could be changed.

Q. Okay.

A. Can we take five minutes?

MR. HILDEBRAND: Absolutely. We'll

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take five, everybody.

(A recess transpired.)

BY MR. HILDEBRAND:

Q. 215, Lutron lighting control revision for 2,936.

(EXHIBIT 94, E-mail chain dated 2/14/19, marked for identification.)

BY MR. HILDEBRAND:

Q. I hand you Exhibit 94.

A. Um-hum.

Q. In the middle from you to Jennifer Faulkinberry, you say: Unless you have further comments, I'll send this to Kim for execution with our endorsement.

And she said: No further comment.

So is this one that you assume should be paid?

A. Yes. Hillary Wainer was the lighting design consultant.

Q. Okay. Let's turn to Number 221. I've got a few questions about that one. All right. This one is for tinting, Hope's Windows. It's not a lot, 846 dollars. If I found that on the street, I'd probably keep it.

(Off-the-record discussion.)

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THE WITNESS: We had them do a number of windows. I wasn't aware that anything was unpaid.

(EXHIBIT 95, E-mail chain dated 2/6/18, marked for identification.)

BY MR. HILDEBRAND:

Q. All right. Let me hand you what I've marked as Exhibit 95. And on the second page of that is an e-mail from you to Nick Starcevic for this RCO 221, Hope's window tinting, and it says: Kim and I just spoke and confirmed the tinting of the identified Hope's Windows. Please proceed.

So would you agree that's another one that should be paid?

A. Yes.

Q. All right. On 246, 2,185 dollars --

A. You said 46?

Q. 246.

A. 31,152?

Q. Right.

A. Okay.

Q. Actually, let's go to the next one. Let's go to 249.

A. Okay.

Q. To your knowledge, is there -- I'll

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tell you I've reviewed the contract and I'm not aware of any time constraints relative to when RCO's are to be proposed or are you aware of any?

A. Not -- no, I'm not.

Q. Okay. Next one I'd like to ask you about is 249.

(EXHIBIT 96, E-mail chain dated 2/13/19, with attachments, marked for identification.)

BY MR. HILDEBRAND:

Q. I want to hand you what I have marked as Exhibit 96.

A. I think the rule in the community is that if the contractor doesn't submit it in a timely manner, then your response is not due in a timely manner is what we've always followed. If they took two months to submit something, you take two months to respond back to them.

Q. Okay. Fair enough.

A. Okay. 96.

Q. 96. Okay. I would like to -- this is another one -- this is for 5,129 dollars for 249. And the e-mail from Jennifer Faulkinberry to you says -- actually, your e-mail to Jennifer Faulkinberry on September 3, 2018 at 6:00 in the

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morning, it says: Jennifer, please confirm entitlement for this change order.

And she responds: Confirmed. The scope was added and completed. The cost looks reasonable for materials added/changed in the system.

So that's another one you would agree should be paid?

A. Yes. To be honest with you, I thought it was already paid, though. Because that was part of a large change order. But if it wasn't, it wasn't.

Q. All right. 253, it's adding a crown at the dome rotunda for $10,055.16. Do you have any recollection of that one?

A. I do. It was added so that the mural had someplace to terminate in the rotunda.

Q. So would that be a change that there should be compensation for?

A. I think I was waiting on the interior designer to confirm this. I think we had some -- I think it was added. I know it was a topic of discussion because we wanted to terminate the mural into something. So if the crown mould is there now, it wasn't in the GMP, then it's owed. I don't

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know what the condition is right now, to be honest with you.

Q. Would it be a fair statement to the best of your recollection that's one that should be paid?

A. Yes.

Q. All right. Let's turn to 254, 41,000 dollars. Do you remember this one?

A. We didn't do the work.

Q. All right. So this is one that was not --

A. Wasn't done.

Q. And there was no materials ordered or any cost incurred on that one to your recollection?

A. No. Actually, we're owed a 50,000 dollar credit if I recall correctly.

Q. Okay. How about 260, does that ring a bell with you?

A. Added wall covering?

(EXHIBIT 97, E-mail chain dated 9/11/18, with attachment, marked for identification.)

BY MR. HILDEBRAND:

Q. I hand you what's been marked as 97 just to try to refresh your recollection on that

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one.

A. I remember Woody's e-mail now that you brought it up. So there's portions of this that are valid. That's why I was hesitating when I was reviewing it because I remember there was some part of it that wasn't right.

Q. All right. 261. Do you have any recollection on this one?

A. We didn't do the work.

Q. Are you sure about that?

A. I'm pretty sure. Fix accordion doors. These were at the bar? Let me look at this. I think the owner --

(EXHIBIT 98, E-mail chain dated 9/10/18, marked for identification.)

BY MR. HILDEBRAND:

Q. Let me hand you Exhibit 98.

A. I don't think this work has ever been installed, but show me what you got.

Q. Look at 98.

A. Sir?

Q. I just handed you what's marked as 98.

A. Oh. Sorry.

Q. From Woody Faust. Jim, RCO 261 seems complete and correct. They have incorporated the

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revised laser cut panel pricing we received.

A. Those laser cut panels were on the face of the bar I thought. I think this is -- this is different scope. So Bar 148 is the big bar downstairs and there were fixed really fancy partitions that were to separate it from the main hotel lobby. As I sit here today, I don't believe that work was done.

Q. If it was, shouldn't that have been paid?

A. Yes. Yeah. I think they were shown on the drawings, but this might have been an overage. What does Nick's backup say? Oh. Regardless, if it was additional scope approved by the architect and put in place, it should be paid.

Q. How about 264, 14,000?

A. No, this was rejected. Do you have correspondence that says otherwise?

Q. From what I can tell, yeah.

A. If I recall the architect's position, it was the head shouldn't have been put there in the first place.

(EXHIBIT 99, E-mail dated 9/4/18, marked for identification.)

BY MR. HILDEBRAND:

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these are just doors that happened to have metal grille on it and that was the reason it was rejected.

So there were stand-alone grills that were part of an allowance, a 50,000 dollar allowance. That work was never done. Balfour Beatty insisted that this metal work that's part of these doors should apply to that allowance and the architect's -- interior designer's position was that is not the case, these are doors that just happened to have some metal on them.

Q. Okay. So for the rest of these, 270 through 279 -- actually, let's do --

A. These are all after I was off the job, from March 7th --

Q. How about 272, ornamental metal change orders?

A. Okay. So I recall the second gate was added. That was a DHEC requirement. Stair pickets at pool terrace. I can't recall 2 and 3, but I do know we added a gate or gates at the pool terrace. I do recall that.

Q. So at least some of that you could specifically recall was installed and that should be paid?

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A. I believe so.

Q. All right. Let's go back up. I jumped over a couple. I want to go back to them. How about Number 270? Framing and drywall change orders, Precision Walls, from $49,895.72. Do you remember anything about that?

A. It's after my time. The change order is. But this would be something that I would send to the architect and the interior designer to review and confirm the changes. Subject of RFI's, I think -- I don't recall this scope. I never reviewed this change order and I don't recall these RFI's off the top of my head.

Q. Okay. How about 271?

A. Well, 5, 6 and 7 have to do with the pergola. And the original scope was a transparent stain as I recall, and it would be our request that a solid -- fill holes, apply two coats of stain. It was more of a transparent stain and it ended up being a solid stain, and so I think there would be entitlement for that. I don't recall these other items off the top of my head, though. Added moulding in elevator. I don't know -- I'd have to go back and review drawings to understand these better. But I think 5, 6 and 7, I think off the

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top of my head they do have merit.

Q. So based upon what you recollect sitting here today, you think that those should be paid?

A. We did change the finish on the pergola.

Q. All right. How about 274?

A. I think this is an extra work request to Balfour Beatty. I don't recall this being the subject of a change order. Owner repunch.

Q. Do you remember anything about that one?

A. No.

Q. Okay. How about --

A. I mean, I recognize topics, but I can't stand here today and tell you that repainting for the Salamander punch list was an additional cost or not. I mean, if it wasn't painted correctly and it was done on another go-around, then it wouldn't be a change.

Q. How about 275, guest room vanity rework for $67,384.91?

A. Well, that's interesting. Balfour Beatty had to go back and reframe a number of the guest room vanity openings. And as I recall, it

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was a coordination issue with Balfour Beatty. They had to take Sheetrock off or add Sheetrock to the alcoves for the vanities. Yeah, I remember the walls were out of plumb. This would have been rejected by the owner. I've never seen it before, but off the top of my head it would have been rejected because they proceeded with the work on their own.

Q. All right. How about 276? Do you have any recollection on that one for 78,000 dollars Case & Millwork change orders?

A. I don't recall this scope of work. I'd have to seek support from the design team, to be honest with you. Nothing jumps out at me.

(EXHIBIT 102, E-mail chain dated 3/13/19, marked for identification.)

BY MR. HILDEBRAND:

Q. Let me hand you Exhibit 102, an e-mail to you from Nick Starcevic. And you had left by this time, 3/13/19?

A. Oh, yeah, I was gone.

Q. Do you have any reason to dispute that this work is in place as --

A. Yeah, I don't have any knowledge of this work as I sit here today.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) CASE NO.: 2019-CP-10-01108

BALFOUR BEATTY CONSTRUCTION, LLC,

Plaintiff,

vs.

LIBRARY ASSOCIATES, LLC; and METROPOLITAN LIFE INSURANCE COMPANY, a New York Corporation,

Defendants.

LIBRARY ASSOCIATES, INC.,

Defendant/Third-Party Plaintiff,

vs.

LITHKO CONTRACTING, LLC, ET AL.,

Third-Party Defendants.

DEPOSITION OF JAMES CLEMENTS

DATE: October 5, 2020

TIME: 9:32 a.m. - 3:30 p.m.

LOCATION: Parker Poe Adams & Bernstein, LLP
200 Meeting Street, Suite 301
Charleston, South Carolina

REPORTED BY: Lorraine B. Whiteley

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September 2017 or something.

And we actually brought in a scheduler towards the latter part of 2016 because Mr. Bennett was in the process of releasing the operator to start hiring staff and training. And it did not appear to us that Balfour would complete in time, so that's when the -- an expert scheduler was brought on to systematically evaluate the Balfour Beatty schedule.

So that's -- that's the reference point.

Q Okay. So prior to that --

A So -- and let me explain further. When the scheduler came on board, he found that the Balfour Beatty schedule was missing ties. And that's -- it was more of a picture than a true CPM schedule. And when he got into it, he found that there -- things were not tied down.

Shortly after that, Joe Lorisella, the head scheduler, got involved and he started cleaning up the schedule. And even he was making commitments to the schedule.

But then, as times progressed, it just drew out and drew out and drew out, for various reasons. That's when I became concerned with the validity of the schedule and questioned it.

Q Okay. So prior to February of '17, did you have confidence in Balfour's schedule?

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A Very much, because I've used Balfour before.

Q Okay. And we talked a little bit before we get started here today and I understand that, during the project, you made Excel spreadsheets where you compared schedule milestone dates; correct?

A Yes. They -- they weren't voluminous, but there are Excel spreadsheets that I monitored milestone dates and slippage, so.

Q Do you remember which milestone dates you were monitoring?

A Not off the top of my head.

Q Okay. When you saw slippage in the milestone dates, did you note the reason for the slippage on your Excel spreadsheets?

A I don't think so, because I think the slippage was all recorded in the meeting minutes. I think if you look at the meeting minutes, there are a lot of critical dates identified and I think it probably is probably one of the best historical recaps of the schedule, of the project schedule.

Q When you were making the -- well, how long -- what periods of time were you making these Excel spreadsheets?

A I think it was probably only for about a year.

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Q Okay. Do you remember when you started?

A No.

Q Was it after February of 2017, when you lost confidence in the schedule?

A Yes. Definitely. It was -- yes. Because once we topped out, the rule was that -- or the thought was -- it's a year to open up the hotel. Even the operator was of that opinion. And that's kind of what we were focused on. Obviously, there was a lot to do between that point in time.

Q I just want to make sure I'm clear on when you were making these spread --

A Yeah.

Q -- Excel spreadsheets. Did you --

A There --

Q -- start making the Excel spreadsheets after February of '17?

A I don't recall, to be honest with you. They're in my documents.

Q Okay. What led you to start making the Excel spreadsheets?

A Just concerned with dates slipping. And, also, to help me in managing the OAC meetings, because I would identify slippage and then I would bring it up. It was more of a working tool. It wasn't a report that I

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sent to anybody. It was my internal tool that I used to help manage the project and to bring up dates at my LAC meetings.

Q I know you just answered my next question which was going to be, did you send the Excel spreadsheets to anyone at --

A No.

Q As a follow-up to that, did you discuss the Excel spreadsheets with anyone from Library Associates?

A No.

Q All right. You said that in -- I think you said late 2016, you brought in a scheduler?

A We did.

Q All right. And maybe I can identify that somewhere. Let's see.

A Grady --

Q Grady Query.

A Query. Correct.

Q Okay. Have you ever seen -- well, did Mr. Query create project schedules?

A He did. He did.

Q And did he use Balfour schedules to create his own or did he start from scratch?

A Balfour Beatty was giving us the data files, and Grady Query was going through theirs. And so he

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would, as I recall, generate excerpts of the schedule and bring certain things to our attention.
Q Okay.
A But he did not -- I don't recall him creating a new schedule, soup to nuts, so to speak.
Q You mentioned that Grady found that the schedule was missing ties. Do you mean the ties -- the logic between --
A Yes.
Q -- activities?
A Yes.
Q Are you aware if there's report somewhere showing what ties were missing?
A I think if you go back and look at his reports, you'll find those. He issued several reports. He was working for the attorney directly.
Q Okay. He was working for Mr. Bundy?
A Yes.
Q Okay. Do you know why Mr. Query was working for Mr. Bundy instead of Library Associates?
A I think there's some legal reason for it.
Q Was Mr. Bundy at any of the OAC meetings?
A No.
Q Did you have any meetings with Mr. Bundy during the course of the project?

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A Yes.
Q Who else was at those meetings?
A Mr. Bennett. Kim Brown. Myself. Brent McDonald, Mr. Bundy's partner, I guess. I believe that is all I recall.
Q All right. When Mr. Hildebrand was asking you questions, I believe he covered some meetings with Mr. Bundy that were after the project, at which even I think Mr. Baumbach attached those meetings.
A There was one meeting, just a few months ago, with Mr. Baumbach.
Q All right. The meetings that you had that Mr. Bundy attended -- well, let's put it this way. During the project, between Notice to Proceed and final completion, how many meetings did you attend at which Mr. Bundy was present?
A I -- I don't think there were more than two or three.
Q Okay.
A I specifically only remember one.
Q Okay. Let's talk about that.
A But Mr. Bennett met with Mr. Bundy.
Q All right. The one meeting that you had with Mr. Bundy that you specifically remember, what was it?
A Oh, I can't remember. I mean I would have

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thought it was in late 2016. I think in August we had the summit meeting with Balfour Beatty and the architect and interior designer and -- trying to work out how to get done. And I'm guessing it was probably very early 2017, that we had the -- had a meeting one Sunday morning in Mr. Bennett's office.
Q And why were you meeting with Mr. Bundy?
A I think to assess risk.
Q Risk, as it relates to what?
A Late completion. What we needed to do to protect ourselves -- or, sorry, not ourselves. Mr. Bennett.
Q What did Mr. Bundy tell you, you needed to do?
A Just document. I mean I did a pretty good job documenting, anyway. But he gave me certain templates to use to help document items.
Q Were you totally documenting delays, or other items?
A Well, I documented everything to my best ability. But, specifically, certain delays with -- we would get a notification or an e-mail from Balfour Beatty saying that, you know, they were being delayed or something like that or -- yes. That were being delayed or -- and so I would take that correspondence, package it

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in a format that Mr. Bundy wanted, and then I would circulate it to the architect and the owner -- Mr. Bundy -- just for documentation purposes.
Q Well, you said that this -- you said you bundled this information. Were you sending that to the architect, Mr. Bundy and others, all at the same time?
A Yes.
Q By e-mail?
A Yes. It'll be in my correspondence files.
Q Did Mr. Bundy respond, telling you any additional instructions?
A No. No. I spoke -- I didn't speak with Bill Bundy very much.
Q Okay.
A Brent McDonald and I spoke more often. But it wasn't like a daily conversation, by any means.
Q Okay. So we talked about one meeting that you said that you had with Mr. Bundy during the project, but you believe there was two or three. Let's stick with the one you remember more, most specifically. What else was discussed at that meeting?
A That was years ago. I'm just -- I'm just guessing on what we did discuss. But I think it was getting our house in order in terms of anticipating the worst, making a decision to hire the scheduler, making

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the decision for Mr. Bundy to hire the schedule. Just preparing for the worst outcome.

Q At that meeting, did you identify any delays caused by Library Associates to the project?

A Well, I think -- let me say this. You explain this for me. When you say "delays caused by Library Associates," are you referring to changes made by Mr. Bennett or his consultant team?

Q Okay. Let's do it this way. Do you agree that, from Balfour Beatty's perspective, that any delays caused by Library Associates or its employees, or any of its consultants or professionals that it hired, are all owner delays?

A I do.

Q Okay. At the meeting with Mr. Bundy, did you discuss any owner delays?

A Yes.

Q What owner delays did you discuss?

A Well, we discussed the -- I'm sure we discussed the Lithko claim, as an example. That was the -- really, the first, the biggest, and, really, the -- as I recall, the only formal claim that we ever received requiring the architect's response and initial decision.

Q How did you distinguish between a formal

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claim and an informal claim?

A Well, just sending an e-mail and telling me I'm delayed is not a claim, in my mind. It's correspondence. The contract is very specific in terms of laying out the claim, the architect's response. If Balfour Beatty doesn't like it, they have a certain amount of time to move forward on their own.

Q If Balfour Beatty sent you a letter stating that they were being delayed by Library Associates or its consultants, is that a formal notice of claim?

A No.

Q So what has to happen to rise from just a letter saying we're delayed to formal notice of claim?

A Well, they have to follow the contract. And most of the -- in fact, I -- I -- most of what we received were just e-mails. And I took them as correspondence: We've got a problem; let's fix it. And often, as was the case, we'd use that information to react and mitigate potential exposure.

Q Was Mr. Bundy involved in helping you mitigate that exposure?

A No, no. I would work with Balfour Beatty and the design team and -- to do work-rounds.

Q All right. Let's go back to this meeting, the one meeting that you do have specific recollection

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of. What other owner delays did you discuss at that meeting?

A I don't recall, to be honest with you. It was a long time ago. And there were no minutes taken of that meeting.

Q That was my next question.

A So. I just -- I'm actually -- I would have to believe we discussed the Lithko claim, but I don't recall more than that, to be honest with you.

Q Do you remember if Mr. Bennett took notes at that meeting?

A I do not.

Q Did Mr. Bennett normally take notes during meetings?

A No.

Q All right. Does anyone associated with Library Associates normally take notes during meetings?

A No.

Q During that meeting, did you tell Library Associates that its failure to make selections within a reasonable time was delaying work on the project?

A No. I don't recall that.

Q During that meeting, did you tell Library Associates that changes it was making to the project were delaying completion of the project?

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A No. Because they weren't, at that time. There weren't any delays, that I remember. Well, when you say "Library Associates," are you talking about the design team or Mr. Bennett?

Q Okay. The owner?

A The owner? No.

Q Okay. From now on, when I discuss "owner," I mean Library Associates and its consultants, design team, those people that would be considered to have caused owner delays by Balfour Beatty.

A Okay.

Q Did you discuss any owner changes that were causing delays to the project, during that meeting?

A I do not recall that; no.

Q Okay. Did owner changes ultimately cause delay to the project completion?

A You used the word "delay." So that -- when you say "delay," you're saying that that was the only circumstance that delayed the project. So were there changes made by the owner that were concurrent with Balfour Beatty delays? Yes.

Q Are you aware of any way of separating the impacts of these owner changes that caused delays to the Balfour Beatty delays?

A I believe there are scheduling experts on the

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on -- or Balfour was working on the 2nd floor or something like that. I don't recall.

Q So I've heard about Mr. Lindsay attempting to hire a BIM consultant.

A He did hire a BIM consultant.

Q He did. And was the purpose to get ahead of Balfour or to work with Balfour?

A To get -- to provide the model in the conflicts, ahead of Balfour doing it. We -- he actually gave Balfour the model. I think you'll find correspondence confirming that the model that was delivered initially was unusable, and there was subsequent conversation with the modeler and Balfour's modeler about some version or something that had to be done. But at the end of the day, Mr. Lindsay provided the -- a working model of the 8th floor.

Q Other than the BIM discussion you just had, what other decisions were made at the summit meeting?

A I can only speculate now. Again, there -- in fact, I think you might find that Sandeen minuted that meeting, Jeff Sandeen. I think you'll find that Balfour Beatty minuted that meeting. So that would probably be the best source for you. Because he called the meeting and he ran the meeting.

Q Okay. You've testified you had more

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communication with Mr. McDonald than Mr. Bundy. How often did you talk to Mr. McDonald during the project?

A Let me go back. I probably did not speak to Bundy a half a dozen times. It was Mr. McDonald that I spoke with more often because he was available to me. And I could call Brent with a question.

For instance, Mr. Bennett paid for a lot of change orders that he did not initiate because they were design issues. We all know that. And so a big part of my job was tracking those, accounting for those, going on record with those.

And so there would be a meeting with -- there would -- I would have a call with Brent and I would have a list of change orders and I'd say this is what happened, these are the circumstances. And then we would decide, at that time, whether there was recourse with the architect or not, put it on file.

We got -- if it was truly a change in that we had to -- to demo completed work and we re-do it, it was one thing. But if there was a quality of improvement to the building, that was another interpretation of it -- of it. So that's what I used them for: Just to make sure that I had all my ducks in a row.

Q Were you keeping track of these changes on a spreadsheet?

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A No. I mean Balfour Beatty had a spreadsheet that we used. But I did not have my -- I take that back. I would get Excel printout -- or Excel files from Balfour Beatty of their changes, and then I would often go back and kind of repackage them a little bit and use those internally.

Q Okay. And then did you send -- when you were having these discussions with Mr. McDonald about these change orders, were you sending him that Excel file?

A No, no. I would just go through the changes over the phone, just give him a brief narrative and explain to him.

Q Why were you having these discussions with Mr. McDonald?

A Just as a matter of risk management, to be honest with you. Not so much risk management, just from documenting accountability. Making sure that -- or making sure that my files were solid, that I was doing as good a job as I could to provide the client with the backup that he would need one day, if he needed it.

Q Any other -- well, your conversations with Mr. McDonald, did you talk about design -- or changes? What other issues were you talking about with Mr. McDonald?

A I think that we would -- I don't remember,

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specifically. But I'm sure we would talk about manpower, because manpower became a problem on the project. I feel certain that we spoke about the BAR and the external -- exterior of the building. I'm sure you recall the stucco issue and all the other issues we had. All those topics.

Q Anything else you specifically remember?

A No. I don't -- I don't, honestly, specifically remember them. But I have to believe that we were discussing those.

Q Okay. Manpower: You said that it became an issue. What were the issues with manpower?

A Well, there's a -- there weren't any workers on the job, toward the end. I mean once there was, really, a -- I'll say a breakdown of the team on site, not just between -- well, a perception I had, not just with Balfour Beatty and the client and the architect, but, also, between Balfour Beatty and some of its subs, that it became apparent to us that the project wasn't being properly manned.

And that's when Mr. Bennett reached out to -- I don't remember the name of the other general contractor. Maybe Tom does.

Q The one that had built his other hotels?

A No, no. The one that was doing the Children's Hospital. You've subpoenaed him, I thought.

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about Watson manpower issues during the rough-in of the tower. I do specifically remember that. That was separate and apart, before this other general contractor was on board.

Q Right.

A And that's when the -- that was when the discussion was about look for electricians and drywallers. It -- it was toward the top of the completion of the tower, six, seven and eight.

Q Okay. And so the complaint about electricians, was that -- that was during the tower. That, then, is -- are you now saying that's not during late 2018?

A Yes. I think I -- I've corrected my memory.

Q Okay. So I want to make sure I have this clear. Did --

A Well -- that's fine.

Q Was Balfour's complaint about electricians related to the rough-in on levels six, seven and eight of the project?

A That's what I recall. Electricians, and then getting the drywaller back: Precision Walls, in there. With Balfour, it was -- the electricians that Watson was getting were not what I would call a mechanic. They were more -- they were not journeymen. They were more

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whatever the right term is, "intern" or something like that. You know, people just pulling wire. And Balfour Beatty needed electricians, journeymen electricians, and they were not getting them.

Q So it wasn't necessarily the number of people, but the quality of the people?

A I think it was a little bit of both. But quality, obviously, was -- was the higher -- well, excuse me. I believe quality was the more critical factor.

Q At that point in time, were you making your manpower count?

A No.

Q Other than this period on levels six, seven and eight, are you aware of any other manpower issues related to Watson?

A No.

Q So let's go back --

A Well, let me go back -- go back. When we were installing the dimming system in the hotel, that subcontractor, I believe -- I recall was having some challenges getting that work done. And part of that problem was something to do with the rough-ins and how things were tied together. And I think that was particularly problematic towards the end of the project. It wasn't until the very last moment that the dimming

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system ever really fully functioned.

And as I recall, I believe Balfour Beatty was having a hard time with Watson, at the time, to support Lutron, that had come in to complete the dimming system. But that's a Balfour -- I mean you could ask Balfour Beatty that. But it was an extensive amount of work going back and rewiring things together to get the dimming system to work.

Q The Lutron -- there was change order for that Lutron lighting; right?

A Not that I'm aware of. Let me say this. It was always in the project. Fixtures changed: They got moved, they got changed out. But there was always a dimming system in the project. Was it impacted? I'm sure it was.

Q Impacted by what?

A By changes in fixtures.

Q And who was making those changes?

A The -- primarily, the interior designer.

Q Have you made any effort to determine -- have you made any effort to quantify delays by the owner and contractor on this project?

A There are spreadsheets of the change orders that myself, and even Balfour Beatty -- or maybe it was just me. I don't recall. But I adding a prefix of owner

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or contractor or design architect, to try and use it to sort the changes, to get a feel for where the trend was.

Q Okay. That's a little different than my question, I think.

A Oh.

Q So if you would explain --

A Yeah.

Q -- to me, how does you adding a prefix to the spreadsheet, how is that a method of you trying to quantify delays by various parties on the project?

A No; I never quantified delays by various parties on the project.

Q Have you attempted to?

A No.

Q So what was this prefix you added? What was that?

A Well, just in terms of identifying responsibility for costs and impact. Some changes have impact; some changes don't. Some changes have time consequences and some are strictly monetary.

Q Okay. While we're talking about changes, there are -- in the change orders, they appear to be bundled of, you know, stacks of pages, including the subcontractor supporting documents. Is the entire package the change order or just the first few sheets

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that are signed?
A Well, depending on what you're looking at. But the Balfour Beatty change orders -- one of the problems we had with Balfour Beatty was a -- he -- a big problem, is that they would not submit a complete change order for a change.
In other words, we would get two or three of the subs associated with the change order as a package, but not every sub. And so one of the problems -- one of the challenges that we had was getting a complete understanding of the financial impact of the change.
But to answer your question specifically, to the extent that Balfour Beatty was able, they bundled -- they packaged everything up -- they -- they -- the backup supported the first two or three page of the change order, the Balfour Beatty change.
(Letter dated 09/04/18 from Alec Dooley to Kim Brown re: Request for Change Order #246R1, SI 67 Elevator Cab Finishes (24 pages), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry, LLC's Exhibit No. 128 is marked for identification and made part of this deposition.)
BY MR. TERRY:
Q I'm going to hand you what I've marked

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Exhibit 128. So this is a change order request from Balfour Beatty on September 4th, 2018; correct?
A Yes, sir.
Q All right. So I realize this is not a signed change order. But when I've seen the change orders, they have some cover sheets to this, and then it would have, essentially, everything that's included in this Exhibit 128 attached to those change order cover sheets.
A Yes.
Q All right. And so my question is, if we were to package Exhibit 128 up with the change order cover sheet, and the whole thing the change order or just the cover sheets?
A So this is a -- all right. This is -- let's stop for a second. This is just a request for a change.
Q I understand.
A A formal change order would be a bundle of changes, unrelated. It could be soup to nuts. Right?
Q Sure.
A So we're talking about a request for a change or a change order.
Q I understand. When the change order -- I didn't bring any change orders with me. The change orders that I've seen have -- so this is Request for Change #246R1. Is that --

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A Right.
Q And there might be 247 attached to it, 248, 249, and that's all packaged up into a formal change order document; Correct?
A Yes.
Q All right. And each of these change order requests is attached to those change order documents?
A Yes.
Q All right. So does that mean that the change order incorporates everything we have in the packages that are attached?
A Yes, unless there are specific modifications to the Request for Change. You might find some where there's been a -- a -- a written change or something like that, to the original one. They would not re-issue this; they would just modify it, sign it and then it would attached to the formal AIA Change Order.
Q Okay. All right. So while we're talking about Exhibit 128, these are some elevator revisions. What facilitated or caused the elevator revisions?
A Well, the original elevators were bought as a standard gold package from Otis. The interior designer -- or maybe it was Mr. Bennett -- I think it was the interior designer, wanted to upgrade the elevators to bronze: Muntz metal. The cabs. And, with that, there

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was collateral impact to the design of the cabs. Handrails were changed, late in the day. So --
And then they also, if I recall correctly, added a relief on the exterior of the elevator, the face of the elevator doors. I think that's true. And so that was the primary reason that there was an elevator change. So it went from gold to bronze.
Q Do you know why the elevator changes were made after the contractural required completion date?
A No. Probably -- no; I don't. I don't know.
Q Do you have any belief as to why they were changed so late?
A Well, logically, if the project had finished early, there would not have been time to change them. So one assumption might be that there was time to change them.
Q So you don't know?
A I don't; no. I'm speculating.
Q Okay. When change orders were made -- so, for example, this change order request is September the 4th, 2018. Was there a discussion between the owner team, including yourself, about the impact on the completion date because of late change orders related to changes to the project?
A If there was -- if there were change orders

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that were going to impact the delivery of project -- for instance, adding the wine rack, the -- the wine cooler -- that was something we couldn't complete in time to complete the project. So we would take -- we worked with Balfour Beatty to just get the opening created, for instance.

If there were changes that were going to delay the project and they were owner changes, changes that we didn't have to do, we would absolutely discuss them.

Q Okay. And who were part of -- who was involved in those discussions?

A Mr. Bennett would be involved in that discussion.

Q Anyone else?

A His sister, Kim Brown.

Q And so were you telling Library Associates, Mr. Bennett and Ms. Brown, that changing the elevators in September of 2018 would delay completion of the project?

A The risk of delay had to do with delivery of the cabs, and it was monitored very, very closely. And, at the time, we had a date from Balfour Beatty of when they needed the cabs, and we had a date from Otis on how quickly they could get the cabs. And it was a very fine line. In fact, it looked like there would be a delay, if

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I recall correctly -- not an appreciable one, given the current status of the project. And so the decision was taken to go ahead and make the change.

I do remember having conversations with Balfour Beatty, using their schedule, and Mr. Bennett and the design team, talking about the potential impact. Because, obviously, elevators are critical to the occupancy of the building.

Q And so at the time -- in September of 2018 or thereafter, after this change order request was sent, did Mr. Bennett understand that by changing the elevators, that the project would be delayed?

A There was a risk; yes.

Q Well, you said that -- you just said that you understood there might be some delay. You understood there would be a delay?

A There was a potential delay; yes. But you're -- you're referencing this change order. This change order had nothing to do with delaying elevator cabs.

Q Well, but was there another change order that delayed elevator cabs?

A The one I just explained to you about the change in finishes, going from gold standard to the Muntz metal, the bronze finishes. That was a -- a big change.

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Q Okay. And so this change order then comes after that, then; right?

A Yeah.

Q Because this is -- these are millwork --

A This is catch-up. This is catch-up; right. Yeah.

Q What do you mean, "catch-up?"

A This wasn't executed specifically because the architect and interior designer rejected Watson's claim for these electrical revisions. And that's why it wasn't executed.

So what -- by "catch-up," I mean that the work was completed and some of these, obviously -- I think like the -- the millwork revisions, were approved. But the electrical revisions was -- was not. This work here --

Well, I don't know what I'm trying to say. Ask your question again and I'll try and answer it. I've lost --

Q I jumped ahead of my plans. So let's just go through the document and maybe we can --

A Sure.

Q Maybe we'll get the answer to my question. All right.

MR. HILDEBRAND: Can we take a couple-minute

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break when you get a chance?

MR. TERRY: Sure. We can take a break now.

(At this point there is a break in the deposition.)

BY MR. TERRY:

Q Okay. So we were looking at Exhibit 128. And this is September 4th, 2018. Balfour Beatty submits Change Order Request 246R1 in the amount of $31,157.12. There's some millwork revisions, electrical revisions, handrail finish and elevator cab millwork reduction. They're all related to Supplemental Instruction 67; right? At least according to this document?

I'm sorry; that's not right. The first -- the electrical, millwork revisions and handrail are all related to Supplemental Instruction 67; correct?

A Yes. That's what it says.

Q And then the elevator millwork reduction is related to Modification No. 1; correct?

A Where do you read that?

Q If you look right here on the -- where the bullet points are, it says Mod. 1.

A Oh.

Q And above it, it says Supplemental Instruction --

A Yes. That's what it says.

Q Okay. The electrical work for $27,331 -- I

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A Because it was his scope of work. The architect had all the back-of-house fixtures. The interior designer had all the front-of-house fixtures. That was their scope.

Q You talked a little bit about fixtures, changing and moving and things of that nature. Was that the interior designer that was --

A Yes.

Q -- making those changes?

A Yes.

Q Okay. Did the changes to the fixtures, were they a concurrent delay to the project?

A No, because we had the changes during rough-in. We had to have all the fixtures and their weights identified during rough-in. And so all the major fixtures were identified and went where they were -- where -- went where they were to go.

There were occasions, and I don't recall specifically, that the interior designer moved some light fixtures around, rough-in fixtures -- and I don't mean decorative fixtures, more -- yeah. More like spotlights and recessed fixtures and devices, to get -- to provide more symmetry, specifically, in the public areas.

But they certainly -- there were changes made. But there again, they were done during the

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rough-in stage. And I don't recall ever, any correspondence or a claim made for any of those changes. Speaker locations, those type of things.

Q My understanding, from talking with various witnesses, is that in nearly every guest room, vanity fixtures were moved after they were installed. Are you aware of that?

A No. That doesn't make any sense because they're part of the mirror. So that wasn't -- I mean that's not the case, whatsoever.

Q Okay. Were --

A The sconces are part of the mirror.

Q Right. Were there wall framing issues in the guest room bathrooms?

A Yes.

Q Okay. And did that cause fixtures to have to be moved?

A The -- the -- the bathrooms -- Balfour Beatty had problems with some of their openings, and they had to go back through and add sheetrock or take sheetrock out for the vanity openings. We didn't have side sconces, that I recall. Everything was mounted on the mirror. Could it impact rough-in? Absolutely. It certainly could impact outlet locations. But no claim was ever made for that work.

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Q Okay. We've gotten off a bunch of different tangents here so I'm going to get back a little bit.

We was started out talking about that you didn't have any faith in -- at one point, in Balfour's schedule. Did you regain faith in Balfour's schedule, at any point?

A Yeah, toward the end of the project, when there were less and less activities and the final critical path became more apparent; you know, getting the ballrooms open and the public spaces. Yes. There was just less activities.

Q How late in the project was that?

A The last six months of the project. Getting guest rooms ready for furniture and -- it was self-evident, where we were. And there wasn't much slippage, at that point, and maybe not any. I don't recall.

Q Okay. Ms. Brown testified about missing crystals on light fixtures.

A Yes.

Q What do you know about that?

A Well, even when I left the project, in the main ballroom there were crystals missing from large, large, large chandeliers that hung down. And that was a -- all the light fixtures came from China, so getting

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new crystals was a problem, and even she was trying to find a local vendor to get crystals out of.

Q Okay. And when the light fixtures were delivered, do you know who they were delivered to?

A I believe they were delivered to Watson.

Q Okay. And do you know where they were stored?

A No.

Q Were you on site when the fixtures were removed from their packages?

A No.

Q Do you have any idea where the crystals are today?

A No.

Q Have you had any conversations with anyone about why the crystals are missing?

A No.

Q Okay. Are you aware of any claim made by the owner related to those crystals?

A No.

Q If the owner was making a claim as it relates to those crystals, would you be aware of it?

A While I was on the project; yes. But it must be after the project was open, because I'm not aware of any claim made.

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Q Do you agree that if the owner was going to make a claim for those crystals, it should have done so during the project?
A I'm not sure that they didn't. But I'm not aware of them doing it. I mean I think it's just common courtesy, to make the claim concurrent with the impact.
Q Doesn't the contract require you to make claims concurrent with impact?
A Well, let's differentiate between a "claim" and a "change order request." No; it doesn't.
Q Okay. What's the difference between a "claim" and a "change order request?"
A Well, a delay claim has to occur within 20 days of the occurrence.
Q Okay.
A Change orders -- there's no restrictions in the contract on when a change order can be submitted. As we know, Balfour Beatty -- well, from my -- from the deposition, Balfour Beatty had what appeared to be several large change orders that were done after I left, maybe sweeping up some costs or something. So that was one of the unfortunate things that's in the contract: There is no requirement.
Q Does a change order request become a claim when rejected?

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A At the -- at the contractor's leisure.
Q By that, do you mean that if the contractor would like to make a claim for rejected change order requests, that the time period to make that claim starts on rejection?
A Yes. But I don't -- I'm not a -- yes. Yes.
Q During the project, were you provided with Grady Query's schedules?
A The reports?
Q Yes, sir.
A Yes.
Q Okay. Mr. Hildebrand asked you before, during your deposition, if the project was a successful project, and your response was that you were retained to undertake the role to make that happen. But you never testified -- you never answered his question. Was it a successful project?
A Well, I think it -- it depends on what your definition of "success" is. Is a beautiful building? Yes. Did everybody make money on it? No. Did all parties suffer? Yes. So I think in that respect, it wasn't a success. And my view of success is when we all succeed.
Q The last time during your deposition, you testified about Mr. Bennett being on site, and you also

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testified about how all change orders went to Kim Brown, but if it was a large change order, it also went to Mr. Bennett. you said that a "large" change order would be something $60,000, $70,000 or above. But then you said, not necessarily money, but the extent of the change. What do you mean? What did you mean by that?
A If it had something -- if it had aesthetic impact, Mr. Bennett wanted -- would want to be involved in that. Financially, Kim Brown signed everything. I don't remember Mr. Bennett signing anything but the contract. But I think that had something to do with the look of something; Mr. Bennett was very particular about that. And that -- that's probably what I was referring to in that conversation.
Q When you were talking about Mr. Bennett making decisions, you seemed to indicate that he could quickly make a decision on whether he liked something or not, but you had to bring him something he liked. In other words, he needs to see the product; is that fair?
A Yes; it is fair.
Q All right. And so were Mr. Bennett's decisions about finishes on this project -- strike that. Did Mr. Bennett's failure to make decisions as required or needed to maintain the project's progress, cost less?
A Well, I'm thinking about areas where he made

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decisions, so hardware -- door hardware, down. There was no delay from that. He didn't make any decisions on light fixtures. That was all applied to the interior designer. He didn't make any decisions about the paint colors.
The decision -- the decision to create executive -- or larger rooms in the last three floors, that was strictly Mr. Bennett's decision. He made the call on the bronze doors for the elevator cabs. Plumbing fixtures, he made the decision on.
But I don't recall those being the substance of a claim, other than the Lithko claim, obviously, because that -- that -- that -- creating the larger guest rooms, whatever term that is, did impact the BIM processing because it was kind of like normal BIM plus design at the same time. So I think there was certainly some impact there.
Does that --
Q How long --
A -- answer your question?
Q Sorry. Yeah.
A Okay.
Q How long did the changing the room sizes delay the BIM process?
A Well, the room size -- the rooms were changed

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ahead of the -- of the -- the BIM occurring.
Q Right.
A What happened was that the agreement I had with Balfour Beatty -- because they were well aware of the change and they knew what we were doing, is that we would move walls that didn't have risers in them, to -- to minimize the impact to the design. And that didn't work out, and so that complicated the BIM process. And I think you could -- my testimony speaks for itself, last time.
Q Okay.
A The 6th floor, or the 5th floor ceiling, the subject of the Lithko claim, that first half of it was impacted not so much from the change as it was from the challenges with the design and coordinating the design and making everything work.
So I blame more of the architect's -- the original design, the -- the plumbing engineer's design, than I do Mr. Bennett's change because he made a decision in advance. But it's the owner's team, as we know.
Q Sure. How long did the owner's team delay the project because of this room size change?
A Well, I think, according to the claim made by Balfour Beatty -- I don't recall what it is. Whatever that claim is, is what the impact would be.

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Q You're talking about the 6th floor?
A Right. Yeah.
Q Okay. I want to go back to talking about Mr. Bennett's involvement in change orders. Was he also involved in issuing change directives?
A Yes. Yes.
Q Do you remember which ones he was involved in?
A Like with -- the wine cellar, for instance, would be one. And I don't have the list of change directives in front of me. I'm just trying to think of -- I -- I don't have the list in front of me. If you give me a list, I could go through it and tell you.
Q Okay. So he wasn't involved in all Change Directors?
A No, no.
Q Okay.
A No. Kim Brown would have been the person to authorize that change. She would have to sign the change directive.
Q At one point, they stopped being what I'll call change orders and then just became change directives?
A Balfour Beatty insisted on that.
Q Okay. Did you have any discussions with

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Balfour about why they were insisting on change directives?
A They wanted to make sure they got paid, I believe. They were getting progress payments during the course of change directives.
Q For the change directives --
A As opposed to a change order that was approved and funded.
Q Okay. All right. You testified a little bit last time about Kim Brown. You said she did not attend the pay app. meetings. Do you know why?
A No.
Q Were the change orders discussed during the pay app. meetings?
A No.
Q Okay. That was a separate meeting, then?
A Yes. There were change order meetings with Balfour Beatty and -- and the owner --
Q All right.
A -- and the architects.
Q And then you also said that Ms. Brown was at the project for about three weeks, at the end, and she was there almost all day long, meeting with the design folks. Were the design folks still making changes during that last three weeks?

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A It wasn't the design folks. It was the people doing the FF&D: Furniture, artwork, those type of items. She was very involved in that. She wasn't -- if the archi -- the interior designer would come in every two weeks and they would walk the project with Kim, maybe once in a while with Mr. Bennett, and they might discuss some changes or some embellishments, at that time. But Kim was really on the job mainly at the end of the project, when pulling all the FF&D work together.
Q The design team -- and I understand -- I think it's Salamander, came in and made significant changes once they got involved; is that true?
A No.
Q Salamander did not?
A Salamander's the operator.
Q Yes.
A I thought you said interior designer.
They made changes more from an operational standpoint. And the changes that they made, which were the subject of a constructive change directive, were things relative to point-of-sale, additional bins in the bar, those type of items. I don't remember them making any cardinal changes to the hotel's design, but more of an operational thing.
And Watson, for instance, was involved in

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that, as well as our low-voltage sub. Those are the changes I recall Salamander making. I don't remember them making programmatic changes, but I could be wrong.

Q When in the -- I'm going to call it a "normal construction project," there are -- the contract says that you're not supposed to make -- do change order work until you have a signed change order, but, in the reality, that's usually not how things work.

And so what my question is, is on this project, was Balfour supposed to proceed with changes that it knew was coming or was it supposed to wait -- what happened? Was the practice that they were supposed to proceed or was the practice that they were supposed to wait?

A Objectively, I believe that, given the pace of the project, Balfour proceeded with changes made through modifications by the architect, and that those -- those changes in the entitlement for that work, based on change conditions, was judged in arrears.

I'd like to stop at 11:30 for lunch.

Q Great.

A Or sooner.

Q During the first part -- or the last time you here for your deposition, you testified that construction documents were not ready when Balfour wanted to start,

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and I wanted to follow up on that. What did you mean by that?

A I don't know. That sounds like a misstatement by myself. There were GMP documents issued with the Notice to Proceed. There were, quote, titled 101 percent. They were the basis of the GMP. So, for all intents and purposes, they were complete. I'm not sure what that is in reference to.

Q You also testified last time about some smoke detectors and that WLA agreed to reimburse Library Associates. And I think you said that you thought it was about $25,000 of a $60,000 issue.

A That's what I recall.

Q My first question is, why didn't WLA pay the whole amount?

A Because there was a percentage -- what -- the amount had to do with devices that WLA had left off the project. And the reason it was -- I -- I -- I don't remember the details. But had devices been where they were supposed to be, per code -- and it had something to do with elevator lobbies or something -- they could have been swapped out for like a strobe or a -- a pull station or something.

But they weren't there to start with, which required Watson to run new wire. And based on the

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quantity -- and I want to say it was like 11 of them missing or 15 of them missing, doing the math, I think it came out to some number, and I settled at $25,000 with WLA, and the owner accepted that.

Q Okay. How did you find out about the smoke detectors missing issue?

A Balfour Beatty brought it to our attention.

Q When did they bring it to your attention, if you recall?

A At the time when we had to make some modifications -- I think it was for the fire marshal -- that's when they brought up that, because the fix was just swapping out these fixtures for -- one for the other, and I don't recall what it is.

And only then did we find out that they weren't all where they were supposed to be, or they weren't included in the -- in the project, and Balfour Beatty brought it up to our attention.

Q So this fire marshal -- was the fire marshal on site, actually inspecting?

A I think so.

Q I'm just trying to figure out the timing. Are we --

A Yeah.

Q We're at the end of the project, where --

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A Yes. That -- I -- I -- I certainly believe so. I don't -- it wasn't holding up -- I don't think it was holding up a C.O. or anything like that; I think we'd found it out, earlier. But don't quote me on that. I mean it was untimely, whatever it was.

Q All right. We talked earlier about Balfour sending you e-mails of delay, and there are some letters saying they've been delayed. And you testified last time that -- you said that you told Balfour they needed to prove the claim, but that Balfour didn't approve that claim. What was required, at that time, for them to approve the claim?

A Well, I mean I -- I think Lithko is a good example, that the 5th floor delay was put together well and the architect had no -- had a minor amount of questions. I think there was a CPM schedule included and it was -- the architect felt it was complete.

The -- there were two subsequent claims by Lithko, as I recall, like the 7th and 8th floors, for instance. And it was just -- the backup was just a package of receipts and e-mails and no cohesive argument made and, I believe, a -- a -- a huge missed opportunity, probably, for -- for the subs that were impacted, that -- that it was never reconciled to a coherent claim, if in fact there was a claim.

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And the architects responded in kind: There's nothing here for me to make a decision on. All this is, is a bunch of receipts and correspondence. Don't quote me on that, but you can find the e-mail from WLA.

Q And so are you saying that there were delays that Balfour could have claimed, that it just simply failed to claim?

A Yeah; I think that's true.

Q Or failed to claim in accordance with what you believe --

A To --

Q -- was sufficient?

A Failed to -- to put together a cohesive argument demonstrating an impact for which the architect would be required to respond and give an initial decision, and for which then the -- depending on the decision, Balfour maybe would have the opportunity to follow up on.

Now, that's not saying it would have stopped the whole project. But I thought there were lots of opportunities missed, to be honest with you. Now let me -- not beyond what they submitted, but just by the fact of the way they submitted things, that there could have been a higher standard of care involved.

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Q If I understand Mr. Bennett's testimony correctly, he is seeking to recover, and has held, liquidated damages on Balfour Beatty for this project. Are you aware of that?

A I've -- I've never seen the claim. But, yeah. I'm sure that's the case; yes.

Q Okay.

A Or consequential damages, or whatever the right term is.

Q Well, you agree there was a liquidated damages amount in the contract?

A There is.

Q Okay. You've talked about concurrent delays. Do you know how many days of current delays there were, including delays that were caused by the owner and its team?

A No.

Q Could you have figured that out during the project?

A Yes; I could have figured it out.

Q How would you have figured it out during the project?

A Just by stacking up Balfour's progress versus change requests that had financial impact -- time impact, schedule impact.

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Q What do you mean by stacking up Balfour's progress with change requests that had time impact? I'm not sure I -- I just don't understand what you mean by that.

A Well, simply overlaying Balfour's progress, generally, with critical path scope not being impacted directly by owner changes or design changes, with design changes or owner changes that -- that did have cost and time impact.

Q How did you know what was on the critical path?

A Well, Balfour Beatty gave us regular schedules, and there were multiple critical paths. There's not one single critical path. So the guest room had its own critical path, the public areas, the exterior of the building.

And just by virtue of knowing what the precedent activities were, to get fire marshal approvals or life safety approvals or rough-in inspections or start furniture installation -- I mean, you know; it doesn't take a rocket scientist to go through and figure it out.

Q And during the period of time that you didn't have any faith in Balfour's schedule, how did you know what the critical path was?

A Well, I knew what the completion date was and

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I knew what we -- where we had to get.

Q And so just by knowing the completion date --

A Well, and you look at the -- the schedules. When things got compressed, the critical path lights up itself in the schedule.

Q Well, eventually --

A Everything becomes critical path. I agree.

Q Right.

A That's why it was so easy to manage towards the end of the project.

Q So towards the end of the project, you mean it was so easy to manage because everybody just had to go as fast as they could?

A Yes.

Q And everybody had to go as fast as they could because of prior delays to the project?

A Correct.

Q And so, effectively, there's an acceleration at some point that is caused by the fact that there are prior delays?

A I wouldn't use the term "acceleration" because I never really saw any acceleration, I mean, and I made -- testified for there was contingency in the project to use for acceleration. But it was never tapped for any reason -- for whatever reason, and I even invited

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Balfour Beatty to do it.
Q What do you mean, you -- how did you invite Balfour Beatty to --
A I think at my last testimony, I met with Jeff Dean and Pat Dean in their office and I -- and I told them -- I had -- I spoke with them, then. And -- and in subsequent conversations with Pat Dean, I said if we're delaying you, prove it, or run us over. There's a million -- over $1 million in contingency with four triggers. One of them is to accelerate the project. It was never used for that, so.
And I've done this on previous projects. And each time I've done it, the claims of delay evaporated because the contractor never could get to the point where they could run us over because they were delayed, themselves.
It's pretty simple: It we're -- if you're being delayed, the project comes to a stop, waiting for an owner to make a decision. That wasn't the case. It never was the case.
Q All right. Earlier, you mentioned the painting. And, at the end, the owner hired someone else to paint portions of the project again; right?
A Robins & Morton.
Q Okay. And --

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A And CPG.
Q The paint was changed from flat to eggshell; right?
A Yes.
Q And I understand that's at your -- because of your recommendation.
A Yes.
Q And is that because while you can touch up eggshell, you always see the --
A That is correct.
Q Do you think it was a mistake to specify eggshell paint, to start with?
A From a design standpoint; no. From an operational standpoint; yes.
Q Why? Why do you think not from a design standpoint?
A Because it -- it -- it looks -- aesthetically, it's more pleasing.
Q But you're always going to have to touch up walls in a hotel?
A Absolutely. Same thing in my house.
Q At the end of the project, do you know whether there was a reconciliation of all the construction change directives so that the owner could determine how much it owed Balfour for those change

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directives?
A No.
Q Who should have done that?
A You asked me should there have been a reconciliation of all the change directives. And the reason there could not have been -- well, I take it back. I thought we were pretty -- when I left the project, let's say in February, I thought we had received all the costs from Balfour Beatty for the change directives. And I was surprised when, at my last -- at the previous deposition, to see what I saw: The additional scope or additional requests.
I think from a responsibility standpoint, the contractor is to provide change order summaries. And I don't recall -- well, by the time I had left, that there was any type of a reconciliation done, at the time.
Q I want to go back to the manpower issues you mentioned with Watson. How long did that manpower issue occur?
A What I recall was just in the tower. I don't recall -- I think -- let me just be sure. I know it was in the tower. I believe, towards the end, when -- no. I only recall the tower, specific conversations. I thought there were conversations during the trim-out of the public areas with light fixtures, but I can't attest to

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that affirmatively.
Q Okay. During the tower area, how long did Watson's manpower issues last?
A I thought it -- I -- as I recall, it was only during the rough-in stage.
Q Was it the entire rough-in stage?
A No. Six, seven and eight.
Q Of the entire stage of rough-in? Well, are we talking walls, above ceiling? I'm just trying to understand the extent of what you're talking about.
A The rough-in of the guest rooms on six, seven and eight.
Q Okay.
A There wasn't very much in the ceilings because they were concrete.
Q How long did that guest room rough-in period last on floors six, seven and eight?
A It was probably -- these are the last several months.
Q Three?
A Say three.
Q All right. Other than the manpower issues that we discussed, are you aware of any other delays to the project caused by Watson's work?
A No. No. I thought they did a pretty good

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job. And I'm not sure that Watson delayed the project. I knew there was impact, based on what Balfour Beatty was telling me. But, no.

Q Okay. Are you aware of any defects in Watson's work on the project?

A No; I'm not.

Q If there were any defects, did Watson timely cure those defects?

A As far -- yes. I'm not aware of us hanging -- being hung out because of Watson having to go back and make changes and -- which impacted the completion of the project. The dimming system, getting it right was very involved. But even then, it got done by the time the hotel finally opened.

Q Were there other -- to the extent this dimming system caused delays, were there other delays at the same time?

A Yes.

Q Okay. With regard to Lithko, are you aware of any defects to its work that it did not timely cure?

A No.

Q All right. Are you aware of any project delays caused by Lithko?

A By Lithko? No.

Q Are you aware of any project delays caused by

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Old North State Masonry that did not have concurrent delays with --

A No, no. They got the exterior approved by June 2018, well ahead of the hotel's opening. It was a long slug fest, but it got done.

Q Okay. Did Lithko timely correct any defects in its work?

A I haven't -- I'm not aware of Lithko ever having any -- I mean they --

Q Well, I said "Lithko." Did Old North State Masonry timely correct any defects in its work?

A They were slow, but they got it done.

Q They got done well before the project was completed; right?

A Yeah. They took the exterior of the building off the critical path, at the end of the day, given the completion schedule.

Q All right.

It's 11:25-ish. You want to go ahead and break for lunch?

A Sure.

Q How much -- I probably have -- I'm really bad at guessing -- an hour, hour and a half left.

A Okay.

Q So however long you want to take, that's fine

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by me.

A Thirty minutes is good for me.

Q Okay.

A I'd rather knock it out.

Q Okay.

MR. HILDEBRAND: So we'll start back at noon?

THE DEPONENT: Yeah.

(At this point there is a lunch break.)

BY MR. TERRY:

Q All right, Mr. Clements. Earlier, you talked about manpower issues with electrical and drywall on floors six through eight. When you were talking about drywall, you mean physically the drywall, or just the drywall sub?

A The drywall sub.

Q And was the manpower issue related to framing or to something else?

A It was related to sheetrock.

Q To sheetrock.

A Getting the sheetrock hung and finished.

(Compilation of Documents with Top Page Titled Balfour Beatty Construction, MOD 4 Drawing Revision Pricing dated 07/01/2016 (35 pages), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry,

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LLC's Exhibit No. 129 is marked for identification and made part of this deposition.)

BY MR. TERRY:

Q I'm going to hand you Exhibit 129. And Exhibit 129; have you seen it before?

A I'm sure. It's my report. It sounds familiar.

Q Okay. So Exhibit 129, if I understand it correctly, is pricing on MOD 4 from Balfour Beatty to the project owner, in July of 2016.

A Okay.

Q And if you look at the first page, there's -- number seven is electrical systems, and it shows $90,961. It says it's included in RCO 48. Are you familiar with the work -- the electrical work shown?

A No.

Q Okay. Do you know whether MOD 4 required electrical revisions?

A I do not.

Q So if we look at the electrical portion of this document, would you know whether -- could you determine whether Watson's entitled to be paid for this work?

A If there was electrical revisions clouded, yes; I should be able to. There should be revisions

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clouded as MOD 4 on the drawing. Well, I'm not sure what the color scheme is, but it looks like there's framing changes, I presume the addition or deletion of cast stone. But I can't read it; it's just too small.

Q Sure. What I noticed from this was there are no electrical drawings, and MOD 4 is on the architectural drawings. Do you know whether that's correct?

A No; I don't.

Q Did the architect or design team regularly make changes on architectural drawings and then not make those same changes on the electrical drawings?

A No, no. They always came out as a complete package.

Q Do you have any reason to believe that Watson is not entitled to be paid for electrical revisions that would have been made on MOD 4?

A If changes are made, that they're additive or deductive, there should be a change order.

Q Thank you.

(Letter dated 12/12/16 from Nick Starcevic to Kim Brown re: Request for Change Order #074, Third Floor Carolina Lanterns, with Attachments (7 pages), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry, LLC's Exhibit No. 130 is marked for

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identification and made part of this deposition.)

BY MR. TERRY:

Q I'm handing you what I've marked Exhibit 130. If you would, take a look at that and tell me if you recognize Exhibit 130.

A Yes.

Q What's Exhibit 130?

A Third floor lanterns.

Q All right. This is a Request for Change Order number 74, for the third floor Carolina lanterns; correct?

A Yes.

Q All right. And there is -- if you'll turn over to the third page, it's the beginning of Watson's change order request; correct?

A Uh-huh. Yes, sir.

Q And if you turn over yet another page, it shows $19,004.99 for that work; correct?

A I see it; yes.

Q Is Watson entitled to be paid for that?

A It looks like this is a direct added change of light fixtures. That being the case, they would be entitled to it.

Q All right.

(Letter dated 06/09/17 from Alec Dooley to Kim

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Brown re: Request for Change Order #131, Supplemental Instructions 044, with Attachments (17 pages), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry, LLC's Exhibit No. 131 is marked for identification and made part of this deposition.)

BY MR. TERRY:

Q Exhibit 131.

A SI 44?

Q Right. So my first question is, do you recognize Exhibit 131?

A Not off the top of my head.

Q Okay. Exhibit 131 appears to be Request for Change Order 131 for Supplemental Instruction 44; is that correct?

A Yes, sir.

Q And it shows electrical revisions of $9,620; correct?

A I'm sorry.

Q Maybe I can speed this up. If Supplemental Instruction 44 required additional electrical work, is Watson entitled to be paid for doing that work?

A Absolutely.

Q Do you have any reason to believe that $9,620 is the wrong amount that Watson should be paid for that

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work?

A Not without further investigation.

Q At the time that you received the change order request, did you investigate them?

A It would have been turned over the design team for their evaluation.

Q You talked about that --

A But we did make changes in the private dining room, so. I do remember changes being made.

Q During the first part of your deposition last time, you talked about turning over change requests to the design team. Did you make recommendations to the design team, prior to sending them the change order information?

A Well, for some change orders, I'd deal with change orders. But I still -- the protocol was, they went to the design team to certify entitlement. I would make recommendations on price, knowing the terms of the contract.

I would not -- I would occasionally disagree with them and push the issue because fair is fair, particularly with the interior designer. Not so much with WLA; they were pretty -- I thought, pretty straightforward.

Q So when -- "disagree with." You meant you

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were disagreeing with the design team, not the change order?
A I would challenge them; yeah. Yes. If -- if the -- if the change order was valid, it was valid. It there's a changed condition, it's valid. If I felt that the architect or the consultant team was being unfairly biased or overly critical, I would make recommendations, and I would take those recommendations to the client.
Q During --
A That was an exception, though, not the rule, but -- they were pretty straight.
Q During your last deposition, Mr. Hildebrand went over quite a few change orders with you, and I'll represent to you those change orders don't appear to have been paid by the owner. Are you aware of why they haven't been paid?
A No. I sus -- no; I -- I don't.
Q To the extent that they were extra work, should the owner have to pay for those changes?
A If they were extra work; yes. Somebody has to go through and reconcile that. But, yes.
Q Do you know whether anyone is reconciling it?
A I have no idea, sir.
(Letter dated 06/14/17 from Alec Cooley to Kim Brown re: Request for Change Order #132, SI 39, Lobby

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Lighting Revisions, with Attachments (13 pages), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry, LLC's Exhibit No. 132 is marked for identification and made part of this deposition.)
BY MR. TERRY:
Q I'll hand you what I've marked as Exhibit 132. Do you recognize Exhibit 132?
A SI 39. I remember the topic; yes.
Q All right. And were there lobby lighting revisions as a result of SI 39?
A I'm trying to remember, is this -- I -- I -- I remember SI 39; I don't remember the specific scope of work. I'm wondering if it was in ...
Q Maybe I can help you refresh your recollection.
A Yeah; that would be --
Q If you'll turn to the last page of Exhibit 132, there's a price here for two -- I'm sorry. Four new LH light -- LH2 fixtures. And if you look down below, it says the Lutron control portion will be sent separately.
A Right.
Q And so it looks like they've added --
A Right.
Q -- these fixtures, and then there's going to

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be some Lutron control changes, as well.
A Right.
Q Does that help you remember what this change was about?
A Not -- not specifically. But, obviously, there's added fixtures.
Q All right. And --
A So the additional scope of work.
Q And do you agree that Watson should be paid for that additional scope of work?
A Any additional scope of work should be compensated.
Q Thank you.
(Letter dated 06/27/17 from Alec Dooley to Kim Brown re: Request for Change Order #135, SI 39, Starr 04 Revisions, with Attachments (9 pages), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry, LLC's Exhibit No. 133 is marked for identification and made part of this deposition.)
BY MR. TERRY:
Q I'm handing you what I've marked Exhibit 133.
A Stair floor.
Q I'm sorry?
A Stair floor revision.

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Q Yeah. Oh. This is the --
A It says SI 39, like the lobby lighting revision. That might be a typo.
Q I think you're right, because it was -- it was stair -- I think it was always referred to as Stair 4 revisions; right?
A Right. Yeah.
Q Okay.
A Yes, sir.
Q Were there electrical revisions that were part of the Stair 4 revisions?
A Yes.
Q Okay. And is Watson entitled to be paid for the work that it performed as it relates to the Stair 4 revisions?
A Subject to reconciliation; yes.
Q Okay. There's no reason you're aware of that Watson shouldn't be paid for that work?
A No. No.
(Letter dated 08/17/18 from Alec Dooley to Kim Brown re: Request for Change Order #246, SI 67, Electrical Cab Finishes, with Attachments (22 pages), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry, LLC's Exhibit No. 134 is marked for

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don't know what the case actually was.
Q Then he writes, "We will have a shortage of some fixtures and a surplus of others, based on these drawings. But we don't have time to compare three sets of drawings and guess what goes where or if it will fit where it was roughed-in. It was evident that the documents are not coordinated, so please let me know how to proceed."
Then, if you come to the prior page, you then write to --
A Right.
Q -- Woody Faust and to Nick and say, "Can we get on a call tomorrow at 10:00 to review this and put it to bed, or at least get as close as we can to keep BBC rolling?" If Balfour Beatty had misplaced or lost these documents -- drawings -- would you have told them, hey, you should have these drawings?
A Yes.
Q Okay. So it appears that there were actual light fixture changes in July of 2018?
A Yes; it does.
Q And it appears that DCI is now changing a light fixture schedule in certain areas, in July of 2018?
A I can't honestly confirm that. But the way it reads, it certainly sounds like that.

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Q Now if you go to the first page, at the top, the e-mail you were looking at before from Alyssa Foster, she says, "Nick, see attached PDF with the release dates for the reflected ceiling plans as promised on the call. DCI has also included the sheets that go along with this. I have included these as a link since the file is too large." And then, if you'll look on the last sheet, I've attached the attachment that was there, the Marion Square Reflected Ceiling Plan Last Release Dates.
A Uh-huh. Yes, sir.
Q My first question about that is, is there a way to determine, as far as you know, to what extent each of these reflected ceiling plans made revisions?
A Only by reviewing the documents.
Q And so from this, can we tell whether the reflected ceiling panels were changed everywhere or just in a specific location?
A Well, the ID sheets are specific sheets.
Q Okay.
A So they would be specific locations.
Q Okay. So if we look at ID-511, is that a room number?
A That's a sheet number.
Q That's a sheet number. Okay. And so it says that SI63R1, there was a revision made on February 19th,

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2018; right?
A That's what it says.
Q All right. Do you know why they were changing the reflected ceiling plans as late as February of 2018?
A Specifically? No.
Q Shouldn't that design have been done long before February of 2018?
A Yes.
Q Do you agree that DCI delayed the project at least until February of 2018?
A Delayed the completion, the final end date? No. But did they cause impact? Potentially, yes, based on this correspondence.
Q What impact did they cause?
A Well, if they're resourcing fixtures, it took time to get additional fixtures or additional scope, there could be impact to Watson's work.
Q Well, that impact actually occurs after the completion date; right? After the contractual completion date?
A Yes. But that doesn't mean there aren't other concurrent things going on delaying the project.
Q Okay. Do you agree that any delays, whether concurrent or otherwise, caused by DCI are owner delays?

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A I agree that they are.
(Letter dated 08/09/18 from David Simonton to Jim Clements re: Marion Square Hotel Notice of Non-Pay (1 page), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry, LLC's Exhibit No. 136 is marked for identification and made part of this deposition.)
BY MR. TERRY:
Q I'm going to hand you Exhibit 136. Do you recognize Exhibit 136?
A No, but I'm -- I'm reading it. I can see it.
Q Do you remember receiving, in August of 2018, a notice from Balfour Beatty for non-payment?
A Not off the top of my head, but it's addressed to me. I'm wondering -- I -- I -- I think this was a late payment as opposed to non-payment, but I'm not sure. Oh, wait a second. This is Pay Application 39. Yes; I do. I -- I believe I do recall this.
Q Okay. Do you know why payment for Pay Application No. 39 had not been paid as of August 9th, 2018?
A It was delayed because, as I recall, I believe a sub had filed a lien, originally, and that delayed it. And then, when that lien was finally cleaned up, I believe that the owner petitioned the architect to

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Exhibit 138. Do you recognize Exhibit 138?
A I remember the circumstances surrounding it.
Q All right. What were the circumstances?
A When the hotel was designed, all the light switches were manual. During the course of the project and the advent of the operator, the decision was taken that there should be low-voltage controls to operate shades, certain light switches in the vanity area, in lamps and things like that.
So a third-party was brought on. Watson actually had a -- was one of the bidders for -- to put in the -- I forget what -- I'll just call it -- it was in the guest rooms only. A remote system.
And one of the problems that occurred with this had -- and I'm not an -- I'm not the engineer of record, but there were switches in the guest room bathrooms that were wired such that this low-voltage system could not connect with them. It had something to do with a neutral.
And Watson installed the bathroom light fixtures, and they all worked just fine except when the time came to install this low-voltage system that connected to the switches. The way that Watson had wired them, there wasn't this free neutral or something that this --

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What happened is the -- this third party had come in, take out the switch, put in its new remote-control switch, but there was this neutral that wasn't there. And that created a conflict.
And so the engineer of record was brought on site on two occasions to go through and look at it, and I -- I believe this is Balfour Beatty confirming that they had made the corrections to that instance.
Q In this letter, if you look at the third paragraph -- I'm sorry. The second paragraph, it says, "As discussed with you previously, at every hotel room vanity mirror and light switch, a neutral was discovered to be in place."
So had Watson actually put the neutral in place to start with?
A If -- had they -- had that been the case, we wouldn't have never had the problem. It was -- it was -- Watson had wired it -- I forget the superintendent's name.
It required rewiring or -- it required some amount of rewiring. I don't remember specifically what it was. As I said, the switches all worked fine, but this neutral had something to do with not being there, the extra wire wasn't there or something like that.
Q Had Watson wired it per the contract documents?
A Yes, as far as I know.
Q So if any work was required by Watson to install an additional wire for the neutral, they should be paid for that; right?
A If the engineer of record says so; absolutely.
Q Well, you agree that would be additional work?
A If the -- yes. Absolutely.
Q Just from looking at some documents, it appears at the end of project there gets to be a point where the owner has expectations of finish level for the rooms. And do you have an opinion about whether the owner's expectations exceeded that which was required by the contract documents?
A No.
Q You don't have an opinion on that?
A Sorry. I do have an opinion. Yeah. I don't think the expectations was above that which was required by the contract documents.
Q Okay. You talked about Mr. Baumbach during your last deposition and you testified that, as far as you knew -- I think you testified; I don't want to put words in your mouth -- that he was the only one with

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high-end hotel experience, and then you do not speak highly of the folks that replaced Mr. Baumbach -- as a general statement. I think there's a few folks that you had good things to say about. Did you lose confidence in Balfour Beatty after Mr. Baumbach left?
A Not immediately; no. I didn't have an issue with anybody on the job site. They were all nice people, trying to get the job done.
But I think -- as I said in my original deposition, Mr. Bennett had never done a five-star hotel, and the reason Balfour was hired was because they had the Ritz experience. In fact, they -- I think they were the only contractor to complete a Ritz on time in the history of Ritz or something like that, to be honest with you.
And we were hiring the team that did the Ritz Carlton in Charlotte, and the only -- we received none of those people. In fact, most of them were left or fired -- sorry, not most of them. Several of them either left or fired.
And the team that we were left with was well-meaning: Tim Spano and Nick Starcevic. But they had no five-star experience. And the superintendents that they had in the -- in the building were young, like Nick. And it was my -- it's only my opinion, but it would be unfair to rely on them to assess the level of

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quality in a five-star-plus hotel.
And I believe that was a major problem on the project.
Q Did you eventually lose confidence in Balfour?
A Well, confidence, in -- in -- in what respect? That -- when we went to punch the first guest room with Mr. Bennett, I was excited about it because we were finally getting towards the end.
And we walked into the first guest room that they had prepared for Mr. Bennett and the bathroom doors -- the pocket doors were off the track. They didn't work. And my heart sank, that -- that very moment. I knew we wouldn't go well from there: Something as basic as a -- a door operating correctly.
Q When did it become aware -- or when did you become aware that the project would not finish by the contractually-required completion date?
A Well, we hadn't topped out. We didn't top out until February of two thousand -- or didn't pull the tower crane off 'til February 2017. Along the lines of August 2016, when we met with Balfour Beatty at the summit meeting that I spoke about, we hadn't topped out. I knew we needed at least a year to complete the interiors. I think it was self-evident, in my mind then,

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that we would be a few months late.
Q So in August of 2016, you understood that the project wouldn't be finished on time?
A I had my concerns; yes.
Q Okay.
A But I hadn't lost faith in Balfour Beatty because I had worked with them before. I'd done a project with them -- a large project -- that got behind, but they -- they did finish on time.
Q Did you ever lose faith in Balfour Beatty?
A I knew they would get done. I -- I wouldn't say I lost faith. I think we were all disappointed with each other. But I've not -- declined not to work with them again.
Q Well, you said you were all disappointed in each other. For what reason would people have been disappointed with your performance?
A Probably doing a better job of managing the client. I think I did an excellent job in terms of communications and doing everything I could to keep everybody on track. But there was such discord between design issues and even some team issues, that it was hard to -- it was just a lot to manage besides just building a building.
You know, if design had been perfect, if

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everybody had done everything they were supposed to do, we had a team that we were supposed to have from a management and operational standpoint, had the operator been on there Day One, it probably would have gone swimmingly. But that was not the case.
Q Well, how would the operator being there on Day One have changed this project?
A Well, because the operator was a five-star operator, and so decisions that could have influenced the building would have been made earlier. I mean at one time we talked about adding an additional freight elevator, through the course of the project, and Balfour Beatty even did an estimate for Mr. Bennett and realized that it would be too expensive.
But Mr. Bennett could have had his second freight elevator, had the operator been on board at that time, so. I'm not -- the building functions without it, but.
Q You said discord between the team. What were you talking about there?
A Well, I -- I think hard feelings developed between the ownership and Balfour Beatty. And so I was -- I'm not making excuses for myself, but I was constantly trying to get the two ends to work together, get change orders resolved, make decisions to do things

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or not do things. And then during -- just like the conversations I said I had with Pat Dean and others: Just get done, push.
And we always joked about, you know, once the concrete's poured, you can't change it, so get as much of the work in place as possible so it can't be changed. Because people think long and hard before changing completed work, but if they have an open wall that's just got wires hanging in it, they'll get a better idea and think it's not going to impact it.
Q Right. Were you joking about that because of the extent of changes that the design team had already made?
A Well, I -- I was more in terms of the -- talking about the changes that were made during the course of the project by the -- by the interior design team.
Q Did any of the different portions of the design team have trouble getting along?
A The interior designer and the architect of record butted heads, but that was it.
Q What problems, if any, did those two butting heads cause?
A I think it -- when the interior designer wanted to make a change, the architect of record would

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resist it or complain about it. It would get done, but there was -- they weren't happy about it.

Q Was the change --

A Like moving a light fixture, for instance, or something that impacted something that the architect of record had drawn. Right? I mean there were times when, you know, they weren't happy with one another. But it all got done.

Q Was it done --

A The discord did not delay the work, beyond the physical impact of the change. I mean they would get it done quickly, but they just weren't happy about it. And then the owner wouldn't want to pay the base building architect and, you know, we had to go through all that. But we would get that resolved, too. It's just aggravation.

Q Generally, what was the -- in your opinion, what delay made this project complete late?

A Well, I think if you could tick through the excuses, one would be the -- the design itself, you know, the conflicts and the amount of BIM that we went through. Had we started BIM earlier, we might have had a better chance and Lithko might not have caught us on the 6th floor. So maybe we should have started BIM earlier than we did; we should have started it in March, at the Notice

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to Proceed. But we didn't.

And then I think that what I mentioned earlier, the quicker you get the work in place, the least likely somebody is to make any changes. And so as the project dragged on, there was opportunity to improve the design, thinking that it would not have an additional impact to the completion schedule, and the opportunity was taken to tweak things.

Q And did it, in fact, actually have --

A Sure, it did.

Q -- an impact on the completion schedule?

A Yeah. Everybody impacted the completion. And then the final thing was just Balfour staffing. I mean they were all very nice, all extremely, extremely young. And other than when Simonton came on board -- and he was really there to do damage control -- I don't think anybody had hotel experience, that I dealt with.

I -- I was told that Tim Spano had, but then Mike Baumbach told me that he did not have hotel experience. We were supposed -- Mike Baumbach hired Jeff Sandeen to build that hotel. He had just come off a five-star hotel in Baltimore. And, in fact, it was Jeff Sandeen that we -- and Mike that we negotiated the final GMP.

Well, by December, Mike was gone. We were

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told Jeff never was the project manager. And when Mike left, Jeff took Mike's position, and then Tim Spano was the project -- the senior project manager, with -- he probably had 20 years of experience, became the superintendent.

And then Nick Starcevic, who's, you know, 30 years old, 32 years old and went to school with my son, he became the project manager, you know, of a $60 million five-star hotel. And Alec Dooley was his assistant, and he was younger than Nick. Alec was very, very bright. He left before the project completed.

In regards to the field, I mean Tim wasn't -- didn't have hotel experience, but he was the general superintendent, then. And then the other finishing superintendent -- it's not that there -- there were some MEP superintendents that did a good job. I didn't really deal with them much.

But the other superintendents -- or assistant superintendents, whatever you want to call them -- they were young, very well-intentioned, but you know, I don't think they had the horsepower with the subs, because of their youth or the bandwidth from an experience standpoint, to manage what they were held accountable for.

Q If you were the person who had to apportion

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damages amongst the design team, owner and the contractor, how would you apportion them? And by "damages," I mean delay damages.

A I would -- there would be very little I would bear on the owner, to be honest with you. The -- the greatest impacts were between design and -- and -- and the -- and the site itself. I'd have to give that some long, hard thought. It's not something that I could be flippant with because I know it will go on record.

But Mr. Bennett -- if you go back and find those change order logs where I put in the prefix, you won't find many "Os" in front of change orders.

Q You talked a lot about -- or you mentioned concurrent delays several times. Are you aware of any delays on the project by the contractors, that were also -- that weren't already concurrent delays by the design team at the same time?

A Not off the top of my head. I think concurrent is concurrent. I don't think it makes any difference; does it?

Q You mentioned the -- I'll use the -- when you were talking about Balfour's team, you seemed to describe them as inexperienced. Is that a fair synopsis?

A Yeah. For that specific type of work; yes.

Q At what point in time did you realize that

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their inexperience was having an impact on the project, a negative impact?
A Well, particularly when it came to level of finishes and acceptability.
Q So at the end?
A At the end.
Q So prior to the end of the project, this inexperience, did it have any impact?
A It wasn't evident; no. You know, once we -- finishes didn't really start until well after we topped out, obviously. Rough-in was going on. It wasn't until, you know, what people see and feel and touch, that things became a challenge. And that was really, you know, drywall and paint. The tile guys did a good job. The carpet people a good job. But -- you know.
Q So these finishes used were just drywall and paint?
A I mean if you look at what we had to re-do at the end of the project, it was really about drywall and paint, even in the public areas.
Q Okay. So if there were any delays caused by the inexperience, that was because of drywall and paint issues. Does that --
A Well, I think there's inexperience also with the ability to manage the subs in the tower for the

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rough-in, like I said. But Balfour complained that they couldn't get sheetrock people. Who was asking for more sheetrock people? Who's asking for more electricians, plumbers; right? How -- how do they, based on their experience, relate to the subs' inability to negotiate on behalf of Balfour Beatty?
(Marion Square Hotel Detailed Project Schedule, Data Date 03/22/16 (29 pages), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry, LLC's Exhibit No. 142 is marked for identification and made part of this deposition.)
BY MR. TERRY:
Q I'm going to hand you what I've marked as Exhibit 142. Take a look at that. What is Exhibit 142?
A It's schedule dated 3/31/16.
Q Okay. Do you know whether you've seen this schedule before?
A No.
Q Did Balfour provide you regular updates to the project schedule?
A Yes.
Q And they provide those at least on a monthly basis?
A Not every month, but generally.

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Q Okay. So this one has a data date of March 22nd, 2016. And what does that mean?
A That's the date that the -- the project -- I presume, that the project team updated their scheduler.
Q All right. And there's a few dates on here I want to look at, just -- and we're going to compare this schedule to some others in a moment. But the first item on the schedule, at the very top, Item 1010, Concrete Complete, do you know -- does that mean the floors, or do you have any idea?
A Concrete Complete would mean concrete complete, I would -- I mean they pulled the crane in February, so I don't think they're talking about structural concrete that required a tower crane. So there must be topping slabs or something else that's part of that. Maybe Lithko's last day on the job.
Q Okay. And then if you go down to Item 1020, building dry-in is supposed to be done February 9th, 2017.
A That's when Lithko pulled the crane out.
Q Ultimately, building dry-in -- and you'll see on the other schedules -- gets delayed. Do you know why?
A I know that -- well, certainly, it -- it had to do initially with the lack of BAR approval. Balfour Beatty was supposed to have the mockup for BAR approval,

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I want to say April 2016, maybe. By July 2016, we finally saw it, and the quality was terrible. I don't -- you can go back and look at the records, but I don't think the BAR ever got their first look at it until September, and then we discovered that only half the mockup material had been built.
And so Balfour was holding off, as they're required to do, not putting the skin up until they had BAR approval. And push came to shove where Balfour Beatty just took the risk and started installing the skin without BAR approval. The mockup wasn't finally approved until June 2017. Oh. June 27th, 2017.
Q Why do remember that date?
A Huh?
Q Why do you remember that date?
A Because I looked it up.
Q For what purpose?
A Because I thought I might be asked the question.
Q Okay. All right. If you'll turn over to page five. If you look in the bottom right-hand corner, it shows the page numbers. The third item from the top, Item 3074, Release, Fabricate and Deliver Light Fixtures, and then, in parentheses, "as owner."
A Uh-huh.

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Q Did you understand that that meant these are owner-provided light fixtures?
A Yes.
Q All right. And it shows that there is 169 days of float for that activity; right?
A Yes.
Q Did -- and it shows that that activity is supposed to be completed by August 16th, 2016; correct?
A Yes.
Q Did the owner provide those light fixtures by August 16th, 2016?
A I don't recall, to be honest with you.
Q Well, we know that the owner was still changing light fixtures in 2018; right?
A Yes. But you're talking about a minor amount of light fixtures. These that -- the -- the key with these light fixtures is getting the rough-ins, particularly for the cast-in-place requirements.
Q So if the owner did not meet the August 16th, 2016 date for that item, then, certainly, Watson couldn't install the light fixtures; right?
A True. If they were -- everything was on time, you're right. They wouldn't be able to do it.
Q Okay. And if you go down to -- you see where it says Elevators, Six?

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A Yes.
Q All right. And it says Release, Fabricate and Delivery Elevators.
A Uh-huh.
Q It has a completion date of July 22nd, 2016; right?
A Yes.
Q And it says it has four days of float; right?
A Yes.
Q Shows that activity on the critical path; right?
A Yes; it does.
Q And the owner didn't meet that date; correct?
A I don't think Balfour Beatty met that date, either.
Q You agree, the owner didn't meet that date; right?
A Release, Fabricate and Deliver. The owner's obligation was -- I mean Balfour Beatty is the one that's fabricating elevators. The owner's not fabricating elevators or releasing elevators.
Q Okay. The owner made changes to the elevator, which prevented the elevator from being delivered by July 22nd, 2016; correct?
A Yeah. But the building wasn't even ready for

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elevators, at that time.
Q I understand. I'm just --
A Right.
Q -- asking the question.
If you'll turn over to page nine. And we'll look under Foundation, Section 3, the first activity. And if you look in the Comments section, it says 3-15F, NB delay. Do you know what that "NB delay" means, is about?
A No; I don't. I would be guessing.
(Marion Square Hotel Detailed Project Schedule, Data Date 08/08/16 (28 pages), Third-Party Defendants Watson Electrical Construction Co., LLC's, Lithko Contracting, LLC's and Old North State Masonry, LLC's Exhibit No. 143 is marked for identification and made part of this deposition.)
BY MR. TERRY:
Q All right. Just set that one aside. Actually, we may come back to that one; just keep it nearby.
I'm handing you what I've marked Exhibit 143. What is Exhibit 143?
A Schedule dated 8/24/16, data date 8/8/16.
Q Okay. So this schedule was about five months after the schedule we just looked at as Exhibit 142;

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right?
A Yes.
Q All right. If you compare the building dry-in between Exhibit 142 and 143, you can see that there's about a two-month delay, or that date got moved out two months; right? It got moved from February --
A Yeah.
Q -- 9th to April 12th?
A Right.
Q Do you know what caused that delay, other than this BAR issue discussed before?
A No. I mean because we weren't -- I don't recall making changes on the exterior of the building.
Q How long did it take -- I -- I know you told me dates but I wasn't writing them down -- for this BAR issue to get resolved?
A Well, the original Balfour Beatty schedule -- which, actually, should be on here -- they had targeted, I thought -- I seem to recall April 2016 for the mockup to be complete, and it wasn't approved until -- I think the date was July 27th. When we opened the hotel, was it January 19th? So it was July 27, 2018.
Q The mockup; was it an individual mockup beside the -- outside the building or was it going to become incorporated into the building, if approved?

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A It was a stand-alone mockup. But we did get agreement with the BAR to relocate components of it into the building onto the skin, some bronze entrances and doors.
Q All right. If you'll turn over to page ten.
A [Complying.] Okay.
Q And if you look down to about the middle of the page where it says Exterior Envelope?
A Yes.
Q The third item down, Item 1980: Install roofing at Level 6. I'll represent to you that item, by the time we get to this point, is about six months behind. Do you know why?
A I can't imagine. Well, level VI would have been impacted by the 6/4 delay, for one reason. But that was about a 30-day delay, as I recall.
Q I gotcha.
A I think. I don't remember. You, I'm sure, remember it specifically. But there weren't any changes to the -- or of the vernacular on the building because it was so highly scrutinized by the BAR.
Q You talked earlier about getting construction in place so that people don't change it; right?
A Yes.
Q Was the design team and/or owner -- well,

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you've already testified the design team and owner were making changes as the building progressed, to improve the design; right?
A Well, I mean it's self-evident. That's -- you know. Nothing dramatic.
Q And because of that, could Balfour Beatty have accurately determined the extent of the delay? And by that, I mean this. So the 6th floor delay: When they were pricing the 6th floor delay and issuing this change order request, Balfour Beatty could not have known what other changes the owner might be making that would have actually extended or increased the impact of the 6th floor delay; right?
A Well, the 6th floor delay was specifically Lithko Concrete, so. There wasn't anything else to price. There wasn't anything else impacting that delay because it's specific to concrete, to the suspended structure. I understand what you're saying, but. What you're saying is that -- no; I don't know what you're saying.
Q Well, what I'm saying is that if the owner is regularly making changes to the design to improve the design, that doing a schedule analysis to determine the impact of any particular delay and how that's going to affect the ultimate impact of the project is extremely

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difficult, if not impossible; correct?
A On a macro level, it would be very difficult. But that's not to say that you shouldn't try.
Q But it's very difficult on all projects; right?
A Yes; it is. It is.
Q That's why delay claims come at the end?
A That's right, if certain areas are early and have no impact, and certain areas are late and have a great impact.
Q In certain areas, you don't really know what the impact's going to be --
A Right.
Q -- until the project plays out; right?
A If we had wanted to add an extra floor to the frame, that would have a -- would have been a big impact.
Q During this project, could Balfour Beatty have accurately determined the impact to the completion date that would have been caused by the owner and design teams changes?
A Well, I think they attempted to. They submitted enough letters or notices. I think with effort, an argument could have been made, at least to be submitted for a ruling.
Q That's a little different answer. You didn't

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exactly answer my questions.
A Well --
Q And it's good to have accurately depicted it, considering the number of changes that were occurring?
A Yes.
Q All right. How?
A By putting somebody on staff just to do nothing but that.
Q If Balfour Beatty had put someone on staff to nothing but determine the impact of the repeated owner changes, would Balfour Beatty be entitled to payment for that person's time?
A If they were to win the argument. I mean the owner paid to bring in a scheduler to assess Balfour Beatty; what's the difference? Balfour Beatty's a $4 billion company. One FTE to assess delay impact on a $60 million project, what's it going to cost? Worst case, a couple hundred thousand bucks?
Q What findings did Grady Query make?
A I don't remember. It's been a long time.
Q Did Grady Query determine who caused delays and when?
A I don't -- I don't recall that type of a narrative. I -- I believe his responses were just identifying what he felt was real versus proposed

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bar, redesign millwork.
A I think that has to do with the backdrop to the bar, not the bar itself.
Q Sure. Do you have any reason to believe the dates shown there, October 11th through December 20th, 2017, are incorrect?
A No.
Q And that was an owner or design team change?
A Well, the material change was driven by the lack of availability. So depending on who you blame for the extension, that would be their responsibility. But I do -- I do recall the interior designer making millwork changes.
Q So the millwork would be a design change?
A It had to do with millwork and kitchen equipment being coordinated, as I recall. But that would be owner.
Q All right. The next one is SI 44, electrical changes to private dining. What do you know about that?
A Well, private dining wasn't really -- well, it was designed as a pretty basic space --
Q Let me try to short-circuit this or shorten this a little bit.
A Yeah. Okay. I'm up for that.
Q It says release, fab and deliver Type LW2

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fixtures. It looks like they added fixtures to the project.
A They changed fixtures.
Q Okay. They changed the fixtures. And it looks like the review and approval process for that was from June 8th, 2017 to October 9th, 2017. It's still being reviewed; right?
A What -- what line are you at?
Q I'm sorry. Under the Issue line, on the fourth activity down: Activity 24709, on page three.
A All right. I see where you are. Right. Review/approve RCO. That actually became a CCD, I thought. But the changes to the private dining where drywall -- they were electrical changes. They added fabric paneling.
Q And those changes were made in late 2017; right?
A Yes.
Q And if you go down to the next one, SI 46, lobby bar millwork revisions, these are millwork revisions to the bar in the lobby; right?
A Yes.
Q All right. And those were also made in late 2017; right?
A Apparently. But they were not extensive

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changes compared to private dining.
Q Let's go back to --
A The private dining, again, was one of those areas that you could open up on the second day and it wouldn't hurt anything.
Q All right. Let's look back at the first issue there, the redesign of the rooftop bar. It indicates that there's going to be negative float of 160 days for that area; right?
A Uh-huh. Yes, sir.
Q And so that change, at least from a schedule logic standpoint, was significant for time; correct?
A Yes.
Q If you'll look down, the second one from the bottom barn door at guest room change, this is where the owner changed the guest rooms to have barn doors instead of some other type of door; right?
A Yes, sir.
Q All right. What other type -- what type door was there before?
A The original GMT, there was just an opening with a louvered screen, that I recall. There was no door. Originally in the design, there was a pair of louvered doors. We took them out completely and had a solid wall and got a credit of $190,000 or something.

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And then the decision was made to go back to create the opening, and that's when these barn doors -- these mirrored barn doors were installed. And they were, in fact, installed in the mock-up that Balfour Beatty did on the job site.
Q Were the walls already built when you decided to make the change?
A No.
Q But it looks like that -- according to the schedule, that change was made October 10th of 2017; correct?
A Yes.
Q Do you have any reason to doubt that that was the correct date?
A No.
Q Okay. All right. If you'll turn to the next page, Page 4 of 26. There's a Procurement section, and the first item under that is the owner-furnished wall covering. And it shows that that activity is going to be -- it shows it was on the critical path; right?
A Yes.
Q And it shows that, as of the date of this schedule, it's going to be 130 days negative float; right?
A That's what it says.

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And one time this afternoon I heard you also mention plumbers, and I just wanted to follow up on that and ask you if there were any specific times that you felt like there was a manpower concern with regard to plumbers?

A No. That statement I made was the ability of the young supervisors to negotiate resources with a company like MCC that's a very, very, very large company, as opposed to somebody that's got decades of experience and can anticipate manpower requirements well in advance of when they're needed on sit and have them ready, willing -- ready to go.

Q So your comments were directed at --

A Balfour Beatty.

Q Balfour Beatty's management and their ability to deal with the BMCC?

A I use it as an example. I -- I am not aware of MCC not providing adequate resources. I just cited that an inexperienced superintendent might have a challenge negotiating the right requirements for manpower for a plumber or electrician -- or anybody else, for that matter. But there's no specific comment to MCC.

Q Okay. So your reference to that was not even specific to anything that happened on this project; it was just an example of what might happen with an inexperienced superintendent for a general contractor?

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A That's correct.

Q Okay. Thank you.

You were asked some questions about the vanities in the guest rooms and the electrical rough-in, and I wanted to ask you about the plumbing rough-in and the vanities in the guest rooms. Do you remember those having to be reinstalled several times, the rough-in?

A Yes. Quite a bit, to be honest with you. And I don't really know why Balfour Beatty went ahead and did it. Maybe it had to do with the centering-up of the vanity on the wall or something. But there were a lot of -- there was a lot of sheetrock cut and plumbing behind the vanities moved during the course the project.

Q And who's responsible for determining the location of the vanities, whether it's centered on the wall or whether it's a dimension away from another wall? Who should give those instructions to the plumber?

A Well, the -- the general contractor.

Q And is the architect or the design team responsible for telling the general contractor that information --

A Yes.

Q -- through the plans?

A Yes. Yeah. But they're not -- they don't have a contract with the plumber, so they're not going to

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speak to the plumber directly; the general contractor is.

Q And who's responsible for making sure that the architect and the design team provide plans that match; in other words, that show the location of the plumbing rough-in at the same location as each other?

A They are, themselves.

Q And any mistakes they made are attributable to the owner?

A Are you referring to the owner as the owner's team?

Q Yes.

A Yes.

Q What about the main mechanical room? Do you remember any changes to it that occurred during the project?

A I remember we changed the wall separating the mechanical room from the -- I think from drywall to CMU. I remember that we had to make changes to the mezzanine area to access storage tanks, and we ended up taking out hot water heaters and putting in -- what do you call it -- tankless hot water heaters because we had -- didn't have enough room on the mezzanine, as I recall. So, yeah; I -- I re -- I remember some changes, to be early on.

Q And I think you may have just hit on my main

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question about it. Was the original design of the mechanical room such that it did not allow enough space for all of the mechanical equipment that would be needed for a hotel of this size?

A Specifically, I know the storage tanks area was undersized. I don't know anything about other pieces of equipment. But I know that we changed the hot water storage.

Q And that was because there wasn't sufficient room in the mechanical room for them, as designed originally?

A That's correct.

Q And the architect is responsible for making sure the mechanical room is large enough?

A Yes. Everybody -- everybody was paid to make the change.

Q Are you aware of any issues with deficient plumbing or mechanical work at the Hotel Bennett?

A When you say "deficient," are you talking about MCC's workmanship or design?

Q MCC's workmanship?

A The only one I'm aware of is the linear diffuser that's in the second floor rotunda around the circular stair. As I recall, that was -- the last time I was there, it was -- it was not installed correctly.

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Q And what is that? You said it's a -- can you repeat that?
A There's a linear diffuser, a circular linear diffuser, at the top of the rotunda, the second floor. And I seem to recall that there were issues with the installation and that the engineer of record was going back and forth with MCC on it. I don't recall anything else.
Q And when was that, that you're recalling that happening?
A It was during the finishing stages of the -- of the hotel. It was 2018.
Q Do you know whether the problem was fixed?
A It wasn't fixed when I left. I -- I believe they were still discussing it, when I left.
Q And is that the only issue that you're aware of with MCC's workmanship?
A I don't recall anything else.
Q Okay. And I think you just said this, but you're not sure whether that's already been remedied or not?
A I'm not sure. It may -- no. I'm not sure whether it was remedied or it needed to get remedied. But I think they had a difference of opinion.
Q And when I asked you in the original question

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about any complaints of plumbing or mechanical work, you mentioned design. Was BMCC responsible for design on this project?
A No.
Q So any complaints about the plumbing or mechanical design would be complaints properly directed to the architect or engineer of record?
A Yes.
Q Thank you. No further questions.
THE DEPONENT: Who's next?
MS. DiFRANCO: I'll go.
E-X-A-M-I-N-A-T-I-O-N
BY MS. DiFRANCO:
Q Mr. Clements, I'm Sarah DiFranco. I represent Cook & Boardman. Are you familiar with Cook & Boardman?
A I am.
Q Okay. And you're familiar with Cook & Boardman's scope of work on the project?
A I am.
Q Okay. Can you tell me what issues, if any, you saw with Cook & Boardman's scope of work on the project?
A There were building issues that I recall were in the public area on the 2nd floor. I believe the

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ballroom doors were ordered incorrectly, and there were other doors in the spa area that were ordered incorrectly.
Q Okay. The ballroom doors that were ordered incorrectly, were those the subject of a change during the project? Meaning were the original -- were the original plans, did they call for something else and then these doors that were ordered incorrectly were added later?
A I do not believe so. I believe that the original finish schedule called for the correct doors, but they were -- they were not ordered correctly. That's all I can remember.
Q Okay. And did that cause any delay?
A I think it would have been a concurrent impact with other things going on in the building. But we weren't standing there waiting to open up the hotel, waiting for a ballroom door to get installed.
Q Cook & Boardman has a change order that was approved -- well, has a change order, I don't know that it was ever approved, for ballroom doors and hardware, from July of 2018. It was a $102,000 change order. So do you have any idea why there would be a change order for ballroom doors and hardware if there was no change to the ballroom doors?

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A No. No. I actually thought -- I'm trying to recall a conversation I had with the interior designer. Maybe I'm just misremembering it. I just know that the wrong doors were delivered.
Q And the spa doors that you were talking about, can you tell me about that?
A The spa doors, I want to say they have something called a charuse, which is kind of a gray finish, kind of a wood finish, and a few of the doors were delivered and they did not have that special finish.
Q Were the doors that were delivered incorrectly -- were the correct doors later delivered and installed?
A Not at the time that I left the hotel.
Q And what about the ballroom doors; was that issue corrected by the time you left?
A No.
Q You were talking with Mr. Terry previously about some barn doors. And I apologize, but I was having a little trouble hearing. I think he was asking, essentially, there was a change late in the project dealing with barn doors being added. Were those the ones that were in the guest room bath or are we talking -- were y'all talking about different barn doors?
A No. Those are the ones in the guest room

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bath, between the -- between the bath and the guest room itself.

Q And those are the ones that you were saying that there was originally no plan to have doors there, then there was a plan for a screen and then the doors were added back?

A No. Originally, there -- during preconstruction there were louvered doors there. During preconstruction, they were taken out and the wall was made solid. Subsequent to that, the opening was created and these barn doors were added to the project.

Q And was it your testimony here today that you don't recall exactly when that change was made?

A Well, it was in advance -- the change was made to coordinate with Balfour Beatty's on-site mockup in the building. And I don't recall that date off the top of my head; I'd have to do a little research. But that mockup included the incorporation of the barn doors on site.

Q But once those barn doors were added to the plans and specifications and installed, there were no issues there, that you're aware of?

A No, no. They worked well.

Q I'm sorry. They worked well; is that what you said?

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A Yes. Yes. They were full --

Q Okay.

A Fully --

Q I thought you were still saying -- I thought you --

A No.

Q -- were still thinking.

You talked with Mr. Terry about, during a walk-through, pocket doors being off track and your heart sank?

A Yes.

Q Okay. Which doors are you talking about there?

A Those are the pocket doors that access the guest room from the vestibule. You come in the door and you turn into the bathroom, left or right. So they're bi-parting pocket doors.

Q And when did this walk-through take place, approximately?

A Well, it would probably be -- it was around Thanksgiving 2018, because I -- I'm pretty sure that's when it was. I was trying to get the guest room signed off in time for Thanks -- no; it was before that, because we actually started repainting the guest rooms and fixing guest rooms and fixing things over Thanksgiving weekend.

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So it must have been sometime in October 2018.

Q And was this seen in multiple rooms, or what was the extent of these pocket doors being off track?

A It -- it was not ubiquitous, but I would not hesitate to say it was more than 10 percent of the rooms. They were off the track or they were out of plan at the meeting edge.

Q And who was tasked with that punch list work or remedying that issue?

A Balfour Beatty.

Q And was that remedied to the owner's satisfaction?

A No. Because when we went back and repainted guest rooms, we have to take doors apart and reinstall them.

Q And when was that?

A Well, that lasted from Thanksgiving 2018, right through the Christmas holidays and into the new year.

Q So there was a walk-through in late October where this issue was identified. Balfour Beatty was tasked with remedying it. And then beginning Thanksgiving through the end of the year, it was discovered that it hadn't been remedied and you-all began taking doors apart and putting them back together?

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A Yes, while we were repainting the guest rooms.

Q And who, specifically, was taking the doors apart?

A We had two contractors involved: Robins & Morton and CPG. And depending -- they were assigned floors in rooms. And if they had a door that didn't work, they were assigned to fix it.

Q Are you aware of any manpower shortages that involved Cook & Boardman or its subcontractors, installers?

A No. No. I never heard a word about Cook & Boardman's installation -- resources.

Q Are you aware of any reason why Cook & Boardman shouldn't be paid in full for its work on the project?

A No. They're -- whatever they're due, they're due.

Q I have no further questions. Thank you.

A You're welcome.

MR. TIMBES: Folks, I'll jump in, if nobody else wants to go. This is Michael Timbes.

Can you hear me okay, sir?

THE DEPONENT: I can.

MR. TIMBES: All right. Great. Thank you.

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E-X-A-M-I-N-A-T-I-O-N

Q I'll represent to you, I am the attorney for Quantum Coatings. Are you familiar with them?
A Yes.
Q Okay. I just want to ask you a few questions about Quantum, in general. Based on your observations, did they have adequate forces during their time on the project?
A As far as I'm aware; yes.
Q Okay. Did you have any concerns that you expressed about any level of supervision that was lacking for their company?
A I did not deal with them directly, so I -- I really don't have an opinion of that.
Q Okay. And did you observe any facts or have any rumblings from others that would lead you to have an opinion about it?
A No.
Q How about skilled workers? Did they have an adequate number of skilled workers on site?
A I can't answer that. I didn't -- you know, I didn't deal with them. I think that, at the end of the day, we had to go back and repaint guest rooms due to a lack of skill and so I -- I can't say that we had skilled workers. But then again, I think the surface

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prep has everything to do with that.
Q Understood. We'll talk a little bit more about that in a minute.
The principal of Quantum Coatings is Scott McCormack. Do you have any opinions about Scott?
A I don't know him.
Q Okay. All right.
What I want to kind of drill into a little bit, see if you can help me with some of the timeline and what-not, is the punch list process. And so I guess let me start by asking, what was your role in the punch list process?
A My role was to help manage -- to get the work complete with Balfour Beatty, and, once complete, have the architect available, or the interior designer, to come in and inspect the work, make sure Balfour Beatty got their punch list done, submitted it to the consultants so that they would come in and do their punch list.
Q Okay. And with regard to the consultant's punch list, are you talking about the consultant for WLA?
A Yes. As well --
Q Okay.
A -- as the interior designer, who inspected their own work.

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Q Okay. And what punch lists are you talking about with regard to that?
A Well, Balfour Beatty was to do their own internal punch list, sign it off and then submit that to indicate they were ready for the architect's consultant to come in and punch the rooms. That's the punch list I'm talking about.
Q Okay. And that would be the one that Barbara DiMatteo did for WLA; right?
A After Balfour Beatty did their punch list; yes.
Q Yes, yes. And you and I are straight that there was a punch list that the contractor would do first, and then WLA would come in behind; right?
A Yes, sir.
Q Okay. With regard to any input that you, sir, had in the punch list, were you adding to or taking off items that were included in any punch list Barbara DiMatteo created?
A No. No. She created the punch list. I just made -- my role was to get it to Balfour Beatty to follow up and get it completed.
Q Understood. And with that regard, did you do anything, personally, to go behind WLA or Barbara DiMatteo to determine the adequacy of the punch list that

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she created?
A No.
Q Was that outside your scope?
A I did not feel it was necessary.
Q Okay. Not necessary because the list was adequate, in your mind?
A Not necessary because the owner had very high regard for this Barbara DiMatteo and I didn't think they needed anybody looking over their shoulder. I just wanted to make sure it got done at the -- at the right time and got completed and got transmitted to Balfour Beatty.
Q Understood. And if there was any disagreement about a particular item that made its way onto a punch list that Barbara DiMatteo generated, just hypothetically, but the contractor felt it met the standards and Ms. DiMatteo felt it did not, who resolved that dispute?
A I would, working with the consultant team. I mean we -- Barbara came onto the site during the original Balfour Beatty mockup, to inspect the mockup rooms to go through what was going to be inspected. That's when we discussed what would be caulked and what would not be caulked, kind of lay out the game plan for the future punch list process.

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Q Okay. And we'll come back to the mock unit in just a minute. I guess my -- what I'm really trying to distill is this: If there's a disagreement over whether or not an item should or should not be on a punch list that WLA took ownership of by virtue of hiring Barbara DiMatteo, that was your call or that was Buck Lindsay's call?
A That was Buck Lindsay's call.
Q Okay. All right. Now you mentioned the mock unit. And just to kind or orient us on a timeframe a little, it's my understanding that there was an effort kind of around the first of the year, around 2018, to have Ms. DiMatteo come on site with the architect to inspect -- or I guess to do a punch list of the mock unites; is that right? That sound about right?
A It sounds about right.
Q Okay. Did you participate in that, sir?
A I did.
Q Okay. Did Mike Bennett participate in that?
A No. Not that I recall.
Q Okay. Where were these mock units?
A They were on the 3rd floor.
Q Okay. So they were on site, in the building?
A Yes.
Q Do you remember the unit numbers?

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A No.
Q Okay. Why was it that Mike Bennett chose not to participate?
A You'd have to ask Mike Bennett. I don't know.
Q Okay.
A Kim Brown was there, I -- I believe.
Q Yeah. And the reason I ask this, because I understood from her deposition that he did participate in inspecting the mock units. But --
A Oh, no. Let's clarify that. You're -- you're -- he wasn't there when -- I don't recall him being there when Barbara DiMatteo was there with her assistant to look at the paint. Mike Bennett did walk through the mockup units, but I don't remember him being part of the architect inspecting -- the architect's consultant inspecting the units.
Q And that's a fair clarification. Thank you for that.
Do you know if, when Mr. Bennett inspected the mockup units, was it after the architect and Ms. DiMatteo had performed the punch list on the mockups?
A It would have been before.
Q Okay. You had indicated that Mr. Bennett was -- I think your phrase was "very particular" about

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appearances. Would it not have been wise to have Mr. Bennett participate in checking out these mock units at the time the architect and her inspector were there, to set the standards for the entire punch out?
A Well, I think -- I mean you have to ask Mr. Bennett. But his sister was there, Kim Brown, and she runs the company, and I'm sure he relies on her.
Q Okay. After Mr. Bennett inspected these mockup units, was there ever any comments about complaints that he had about the finish levels that were in them?
A Not that I recall.
Q Okay. And do you recall that it was during this time period that there was an agreed-upon standard that was set for determining what would and would not meet the standards required of the finish trades?
A Yes. I think that was spelled out with Barbara's team while she was there at --
Q Okay. And --
A You know, no --
Q And --
A No flashlight and things like that.
Q Okay. And just see if these jog your memory -- I know you may not have it in front of you, but -- well, maybe we can help that. Do you have Exhibit

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69 in front of you somewhere?
A I don't know. I don't think so. I've only seen --
Q Do you just have the old exhibits -- or I mean the new exhibits?
A I just have the -- today's exhibits.
Q All right. Well, we'll go about this a little differently.
MR. HILDEBRAND: I've got it right here.
THE DEPONENT: Hello. Tom says he can put his hands on it.
MR. TIMBES: Oh. Beautiful.
Thank you, Tom.
MR. HILDEBRAND: Yep.
A I'm looking at it.
BY MR. TIMBES:
Q Okay. According to my stack, Exhibit 69 is some e-mail dialogue back and forth around the spring of 2018. And if you will turn over maybe one or two pages in there -- I think it's the second page of this e-mail string -- there is an e-mail from March 21st, 2018, and below it are some enumerated rules for the punch list.
A Yeah.
Q Do you see those?
A Yes, sir.

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Q Okay. And do you agree with all of those that are enumerated there?
A That's the architect of record confirming that, and that was their domain. So if they agreed to it, I'm all good with that.
Q Okay. Very good. One of the ones I want to turn you to is -- well, let's just go through a couple of them. If we look at number two, standard distance for a punch list is five feet off the finished surface?
A Yeah.
Q Do you see where that says? That's number two.
A Yeah; I see that.
Q Okay. And that goes for tile, drywall, wall coverings, all finished services; correct? Except for in the bathrooms?
A That's what it says.
Q Okay. Of course, I think you already mentioned cannot use a flashlight for a punch list; right?
A Yes.
Q And then if we jump down to number six, it talks about sheetrock at the ceiling is an L-4 finish. Is that short for Level 4?
A That's my understanding; yes.

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Q Okay. And that's in relation to a drywall finish; right?
A Yes, sir.
Q Okay. Were there any Level 5 finished anywhere in the building?
A Not that I recall. In fact, I think Balfour Beatty excluded it in their qualifications.
Q Given Mr. Bennett's particular aesthetics -- or particular interest in aesthetics, I should say -- why was Level 5 not specified for this project by the owner?
A Well, because Level 4 is more than adequate, if done correctly.
Q Okay.
A The only time I've ever used Level 5 is if I'm in a faux marble, a column or something like that, where I need the entire wall floated.
Q All right. You mentioned that the Ritz was used as a -- kind of a go-by, previously, for why Balfour Beatty was hired. Do you know what finishes were in the Ritz?
A No. No.
Q Okay.
A I mean I've stated at the Ritz, but I don't know what the finishes are -- drywall finishes.
Q Was Level 5 ever discussed with the owners?

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A Not that I recall.
Q Okay. You also mentioned that Mr. Bennett -- he did not pick any of the paint colors, is something you said earlier; is that right?
A As far as I am aware, that was not something that he was really involved in.
Q All right. Do you know if he picked any of the paint finishes as far as eggshell versus flat or anything of that nature?
A No. I don't believe so. I think he went with the interior designer's recommendation.
Q I gotcha. Something I forgot to ask you about. The mockup unit that we were talking about earlier, I know we confirmed Mr. Bennett was not there. But you were there; correct?
A Yes.
Q Okay. Did you have any comments or changes about the mockup units in regards to how Ms. DiMatteo had punched it or whether or not the finishes were appropriate?
A I think we all -- it was an open discussion, an open form, you know, the five-foot rule, the flashlight rule. That's all pretty standard in the industry. We weren't trying to create --
Q Sure.

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A -- a new higher standard than general expectations. But, yes; I certainly voiced my opinion.
Q Okay. And I may have asked my question poorly. I'll try it again. As a result of the punch out of those mock units, okay, did you have any concerns about the level of the finish that you observed in there?
A No.
Q Okay. But those two mock units, or however many there were, were they repainted by Robins & Morton?
A I don't know.
Q Okay. Do you know if they were specifically excluded or did they get the same treatment as the rest of the guest rooms?
A I -- I honestly don't know.
Q But you didn't have any problems with them when you saw them?
A No.
Q Okay. So let's move away from the mock units and, if you could, sir, turn to Exhibit 86 in the stack.
A Okay.
Q And just for the benefit of the record, what is this?
A It's my meeting minutes of 7/12/2018.
Q Okay. And, sir, if you'll turn to page seven within these minutes?

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Q These aren't new fixtures that are being added; these are just furnishing ones that have already been roughed-in?
A Yes.
Q Okay. With regard to item number 11, punched low-voltage system A/B security. It says schedule NTI. Who is NTI?
A That's a third-party that did the low-voltage cabling.
Q Okay. Was that on the owner's side of the equation?
A Yes.
Q Okay. So in there doing work, at this period of time?
A Yes.
Q Or it says -- this is colored yellow, still under discussion, so. I'm trying to figure out where they are in the mix.
A Well, I think what it's saying there is that -- we had to get access to the guest rooms from Balfour Beatty, to put NTI in there. And so the reason it's yellow is that -- waiting for a date to put stuff in the guest rooms.
Q Would that, likewise, be true of items 13 and 14 which are installing furniture and artwork?

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A Well, 13 says "LA," meaning the owner, is getting a quote. 14 -- 14, there was -- furniture that was not in Balfour Beatty's scope to install. And so Salamander's the operator and they took it upon themselves to install that furniture.
Q Okay. And was that ongoing, at the time?
A No. That's why it's yellow.
Q Okay.
A It wasn't -- hadn't started yet.
Q Thank you. All right, sir. So next up, I want to kind of direct you into this reinspection process that I guess had just started right around this mid November process -- or mid November timeframe. As a consequence of that reinspection, it's my understanding that a fairly short punch list was left over, in the eyes of Ms. DiMatteo. Is that correct?
A I don't recall the extent of it. But, surely, it was less than the original punch list.
Q Okay. And it's also around this timeframe that there's some e-mail dialogue between yourself and with the architect. Can I turn you -- it's the next exhibit in the pack. It's No. 72, sir.
A Okay. I'm there.
Q Okay. And this is an e-mail, I guess starting just below the exhibit sticker. There is one

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from you to Jennifer and Dave on November 27, 2018. That's that Thanksgiving timeframe you were talking about earlier?
A Yes.
Q It says, "Confirming our discussion, Jennifer will issue a Certificate of Substantial Completion for guest rooms only and attach Ray's punch list." Okay?
A Yes.
Q And that she will do what she can to generate that certificate today, if not in the morning. So around Thanksgiving of 2018, the architect was ready to certify the guest rooms as substantially complete; correct?
A It was Jennifer's suggestion to do that; yes. Jennifer is the project manager for WLA, the architect.
Q And if you'll look behind that, if you roll down just a little bit from the -- I guess it's the next page, from 11/21/2018?
A Yes.
Q Okay. That's Ray's punch list that she was just referencing. It says, "Please find attached the reinspection for all floors." Do you see that?
A Yes; I see it.
Q Okay. And follow along with me. I see Room 307 mentioned, Room 422 mentioned --
A I don't know where you are.

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Q Okay. Do you see the reinspection checklist?
A Yes.
Q Okay. You see the first page? It has Room No. 307 in the left-hand column?
A I do.
Q Okay. It looks like just specific to this, middle of the page, there's kind of a guide over under the right side that says Trade, a couple of references to painting, touch-up above, door framed entry, touch up above, smoke detector in need of repair. Do you see that?
A Yes.
Q Okay. Do you see any reference to repainting the entire room?
A I do not.
Q Okay. Next room that's listed in this punch list is 422. You see that one?
A I do.
Q Okay. Next room is 513. Do you see that?
A I do.
Q Next is 607.
A I see it.
Q And then 813 is mentioned?
A Yes.
Q And 707?

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A I see it.
Q Okay. Do you have a rough idea of what percentage those handful of rooms constitutes of the entirety of the guest rooms available at the Hotel Bennett?
A I think there's 182 guest rooms so -- I don't know. Six or seven here.
Q Whatever the math generates?
A Yeah. Yes, sir.
Q Okay. The next exhibit I want to turn to, sir, is Exhibit No. 122.
THE DEPONENT: I don't have that, Tom. I stop at 100 -- 104.
MR. TIMBES: That's okay.
A I have it.
BY MR. TIMBES:
Q Okay. And, really, what I just want to kind of orient you around is the timeframe. I know we were talking earlier, when you were being questioned by others about when the repainting started of the guest rooms and when things had gone south with Mr. Bennett. So in this, if you look in the middle of the page under number three -- do you see that?
A Yes.
Q This is from Jennifer Faulkinberry to Buck

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Lindsay with WLC. And, to summarize, she indicates she's about to release the guest rooms, and Mike -- in reference to Mr. Bennett -- showed up and randomly checked some rooms. Were you with him when that happened?
A Well, as I -- well, maybe you weren't on the phone, earlier. But I actually took Mr. Bennett the -- Balfour Beatty gave me a list of guest rooms to inspect with Mr. Bennett, and Balfour Beatty accompanied me with that.
Q Okay. That's when the door fell off the track?
A Yes. It wasn't on the track.
Q Okay.
A Yes.
Q Okay. So here's what I'm trying to wrestle with. And kind of to give you an indicator of where I want the dialogue to go, several days prior to this -- I mean this was on December the 2nd. Okay? This is a Sunday, December the 2nd. So just a few days prior, the architect was prepared to issue a Certificate of Substantial Completion with a punch list that had just a handful -- you know, five or six rooms -- on it. And within two weeks, the owner is hiring Robins & Morton to repaint every single guest room.

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What happened?
A Well, Mike asked Balfour Beatty to go back into the guest rooms and do -- and make corrections, and Balfour Beatty refused.
Q Okay.
A So Mr. Bennett even tried -- no; I don't think contacted your owner directly. But we had heard that your owner was amenable to going back in there. But the bottom line is, Balfour Beatty would not cooperate. They just refused go back in. So Mr. Bennett didn't have a choice.
Q Well, it's the scope of that choice that I really want to focus in on because the architect just went through five or six rooms that needed some touch-up in Exhibit 72, and, two weeks later, we're repainting 179 guest rooms. So that's the scope that I want to focus on. How many guest rooms did Mike Bennett walk in?
A I don't know. I mean during the course of the -- of the repaint and punch list? I don't know. Quite a -- quite a few.
Q How many did he walk in before he made the decision he wanted to repaint all 179?
A I have no idea.
Q Okay. How many do you know, because you observed him walking in?

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A I was with him when we walked in two or three of the rooms that Balfour Beatty had set up for us for a final owner acceptance.
Q Okay. How many did you walk in before the decision was made to repaint all of them?
A Most of them.
Q Okay.
A I mean I walked the project continually, at this time.
Q All right. And having walked the project continuously at that time, why was there not a response to raise November 21st e-mail with the very, very short punch list of what the architect's consultant had said was left over to work? Why did you not respond and say all of these rooms have to be repainted?
A Because I didn't have that feeling, at the time.
Q Okay. Do you know what standards Mr. Bennett was applying when he walked through? You know, we talked about the standards, earlier. Was he applying those standards?
A I don't know.
Q Okay. Have you ever had a discussion with him about that?
A I had discussions with him while we were in

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the guest rooms, doing the two or three rooms that we inspected together.
Q Okay. Tell me about that discussion. What did you tell him?
A Well, I mean he pointed out areas where there were -- caulking wasn't smooth at certain joints -- I'm trying to remember. That's a long time ago. I don't remember the specifics of his comments. I do remember caulking and -- being an issue.
Q How about painting?
A Painting was an issue, but I -- I don't remember his specific comments.
Q Were those documented in any way?
A No. Not that I'm aware of.
Q And again, if we -- I want to ask you to see if you agree with a concept. If an owner takes the position that something is below standard and a contractor takes the position that it meets the standard, aren't the standards the objective measure to use to resolve that conflict?
A Well, the architect sets the standard. Right? So if the architect accepts the standard and the owner wants something different, then I think that's a change condition.
Q Okay. At the end of the day, you use an

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objective standard, whatever might be agreed to, you use that objective standard to decide thumbs-up or thumbs-down on the quality of the work?
A Agreed. But that doesn't mean that quality issues can't be found subsequent to that inspection that are not in conformance with the contract documents, that have to be remedied.
For instance, there probably shouldn't have been any globs of caulk. But if there was found one, it should be repainted. If there's a hotspot on a wall or a wall only had one coat of paint -- we had found some ceilings that had no paint on them, that the architect missed. That doesn't mean that those areas don't have to be corrected.
But I under --
Q Where's that? Where's that list, sir?
A I don't have a list of that. Those are just observations. We took photos of every room before we went and repainted them.
Q You don't have a list. Does a list exist?
A I don't know.
Q Who would -- was -- we'll come back to that.
Earlier in your testimony there were some questions about the switch to flat paint.
A Yes.

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Q I understand that that was a choice that you suggested the owner make --
A As long as we were --
Q Is that right?
A As long as we were repainting the rooms; yes.
Q Okay. And I think you mentioned it's because it's much easier to touch up than something like eggshell; right?
A Yes.
Q All right. Was Buck Lindsay consulted about that change?
A No.
Q Was there a reason why?
A Because that -- he left it up to the interior designer. The interior designer specified the paint, so I asked the interior designer.
Q Okay. Why was that not spec'd at the outset?
A I have no idea.
Q Should it have been?
A I have no opinion of that.
Q It would have been a good idea, or, otherwise, you wouldn't have recommended it at the end; right?
A Well, I -- yeah. I -- I -- I agree with that. As I said earlier in my testimony, it's not as

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nice a finish. But, operationally, it's easier to touch up.
Q Gotcha. So I realize my client's work comes in at the tail end of a project, not the front end. But there's a lot of talk over the days and witnesses that have testified in this about everybody's involvement, from like 2014 all the way through until the completion of this project, if that timeline is roughly correct.
A Yes, sir.
Q Okay. Was it never discussed about the wisdom of using flat paint back in any of those prior years?
A I am not aware of any discussion to that effect, in the guest rooms. I think back of house, I'm sure is all flat paint because those are high-traffic areas.
Q Right.
A But I don't remember any discussion in the guest rooms.
Q I want to ask you -- just kind of direct you where we're headed. I want to ask you about Robins & Morton and their work, CPI. I may just mention one of them by name. I'm really talking to any contractor that the owner hired to repaint. Okay?
A Yes.

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A Before painting.
Q Okay. How has the owner or -- I don't want to be presumptuous. Who takes ownership of the record, whatever it consists of: Photos, videos, whatever it may be? What record exists for each unit -- guest room -- of the items that Robins & Morton had to fix?
A I'm -- you know, I'm not aware of a record, other than the -- the surveys that they did before they went in the rooms.
Q So if I were to just pick a random room and say, all right, of the walls in here that needed attention from Robins & Morton with regard to painting, which one was it, or which two was it? There's not a record of that?
A I think there's a photo documentation of it.
Q Okay.
A Because we asked them to do that. But there's no written punch list, if that's what you're looking for.
Q No. I'm, literally, trying to figure out what-all was done. That's all. So if there's -- a photographic journal, is what we've got?
A That's my understanding.
Q Okay. And who took those pictures? You, Robins & Morton? Who?

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A The contractors, before they started the work in the rooms. But --
Q Okay.
A -- I was gone be -- I mean I never saw that. I -- that's what was asked. I can't vouch for its existence.
Q So at no point in time, I take it then, have you ever gone through to look at each room and that diary of photographs to determine what Robson & Morton did or didn't do?
A I have not.
Q Okay. The Lutron work that was done, low-voltage?
A Yes.
Q At the end of the -- yeah. You made a comment that said extensive rewiring was needed. Was that the type of extensive rewiring that required cutting drywall or was that just pulling wire?
A It could be as simple as changing wiring at the panel or at a device. I -- I'm -- I don't remember -- I'm sure some rewiring was required. I don't recall a bunch of drywall repair associated with it --
Q Okay.
A -- off the top of my head. I think more of it was more technical than physical.

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Q Understood. And that's what I was looking for.
Sir, did Salamander require any particular standards, as between it and Library Associates, as to what the building should look like?
A I -- I wasn't part of any of that.
Q Not a part of any of that?
A No.
Q Okay. Do you know of any standards they would have had, would have paired with the construction contract, about -- with Library Associates, or you just -- that's something that's completely off your radar?
A Well, as I mentioned earlier, they made changes to some kitchen equipment at the bars and point of sales, from an operational standpoint. But that's all I'm aware of.
Q Okay. Did Salamander have any input on the switch to flat paint or change of finishes or qualities or anything of that nature --
A Sounds --
Q -- outside of the punch list they generated?
A Not that I'm aware of; no. I mean, certainly, not the change to flat paint. I never would have thought it would have been such a topic. But, no.

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Q Okay. You also talked about some wallpaper issues.
A No --
Q I guess you were having some concerns with getting wallpaper measured?
A Yes.
Q Okay. Tell me about that.
A Well, the wallpaper orders couldn't be made until the painter provided the quantities.
Q All right. What was the line of communication for that? I guess was the owner purchasing the materials?
A Owner-furnished, contractor-installed.
Q Okay. So who did the owner communicate with to say, hey, we need these measurements?
A It's all in the meeting minutes. I mean we had calls weekly or biweekly with the procurement manager, and that was one of her agenda items.
Q Right. Was this anything that the owner, or any of the owner's folks on its side of the equation, were y'all communicating directly with anyone with Quantum Coatings or was this sticking to the contractual arrangement you were communicating with Balfour and that was your line of contact? I'm just trying to figure out who --

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referenced in your testimony, problems with manpower. And I just want to make sure that, for the record, that I've confirmed that in terms of your criticisms of inadequate manpower for the Bennett Hotel project, you're not referring to anything that Gulf Stream did or did not do?

A I -- that is correct.

Q Okay. And is the same true with respect to supervision? You don't have any criticism of any supervision provided by Gulf Stream?

A No. I had nothing to do directly with Gulf Stream.

Q Okay. Do you have any knowledge of any delays at the Hotel Bennett project that you believe would be attributable to the site work by Gulf Stream?

A No.

Q No one has told you of any delay-related issues attributable to the site work of Gulf Stream for the Hotel Bennett project?

A That's correct.

Q To your knowledge, there are no pending claims by the owner that there were any defects or problems in the site work of Gulf Stream relative to the Hotel Bennett project; correct?

A Correct.

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Q Are you aware of any portion of the scope of site work handled by Gulf Stream that has not been completed in any regard?

A I'm not aware.

Q Were you ever involved in any decision not to pay all or any portion of an application for payment presented by Balfour Beatty because of site work concerns?

A No. I'm not aware of that.

Q And do you know of any reasons that any Balfour Beatty pay application was not paid, in whole or part, due to any issue with site work at the project?

A I'm not aware of that.

Q Were you ever involved in any decision not to approve a request for a change order of Balfour because of site work concerns?

A No.

Q Do you know of any reasons that any requests for a change order presented by Balfour concerning any site work was not approved by the owner or architect?

A There were -- there was -- there were change orders, and I don't remember the specific one that I made comments on some of the pricing received from your client. But I think, at the end of the day, that change order was settled with Balfour Beatty.

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Q Okay. Do you remember what any issue was on the pricing, what the items were, the scope, the concern about pricing? Anything?

A I think it had to do with the cost of -- of a manhole, if I recall correctly.

Q Okay. A manhole cover or installing a manhole or something like that?

A Installing a manhole.

Q On Hudson Street?

A Yes.

Q Okay. And, to your knowledge, that was resolved?

A Yes.

Q Are you aware of any reason why Gulf Stream should not be paid for its site work for the Hotel Bennett project, in full?

A I am not aware of it.

Q And again, I think you -- you said this in answering one of my first questions. You're not aware of any defects or deficiencies in the site work performed by Gulf Stream for the Hotel Bennett project?

A I am not aware of any.

Q And as you sit here today, you don't have any criticisms of Gulf Stream's work?

A No. None.

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Q Thank you, so much, sir. I hope you have a good day.

A You, too. Thank you.

E-X-A-M-I-N-A-T-I-O-N

BY MR. HUGHES:

Q This is Robert Hughes. I represent Premier Exteriors, LLC. Are you familiar with that entity?

A The stucco company?

Q Yes. They were the stucco applicator for the project.

A Yeah. You guys did a great job.

Q I'm sure they'll be glad to hear that.

With that being said, I'm going to ask the same question that everybody else has been asking: Are you aware of any stucco-related workmanship deficiencies on this project?

A No. Everything's been satisfied, that I'm aware of.

Q Okay. As far as the manpower concerns that were raised earlier, would you attribute any manpower concerns to the stucco applicator on this job?

A None whatsoever.

Q I know, in the testimony of some of the others, that there was a discussion about a critical light issue that the BAR had raised, at one point,

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basically, meaning that the stucco appeared wavy at certain times of the day. To your knowledge, that was ultimately accepted by the BAR; correct?
A Yes; it was.
Q And there weren't any changes required to address that situation; were there?
A There were none.
Q Are you aware of any delays on this job that you would attribute to Premier's stucco work?
A No.
Q Are you aware of any claims asserted by Library Associates against Premier which would relate to either construction deficiencies or delays?
A I'm not aware of any.
Q Are you aware of any change orders that Balfour had submitted which related to stucco work, that were not approved?
A No; I'm not aware of any. There were, I don't recall, many at all.
Q Okay. Do you recall some work that was required in connection with Hurricane Irma preparation such as removal of scaffolding and netting?
A I do. I am.
Q And then replacing it?
A I am.

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Q And do you have knowledge as to whether Premier assisted with that task?
A I have no specific knowledge.
Q I'll represent to you that they did. And, to the extent that they did, was their removal and replacement of those items satisfactory to address the Hurricane Irma concerns?
A As far as I'm aware, they were.
Q Okay. Are you aware of any repairs that were required with respect to Premier's work at any point on the project?
A Not from a deficiencies standpoint. But repairs were made due to the absence of a control joint or -- on one part of the building. But that wasn't a workmanship issue.
Q Okay. And that item was addressed to the owner's satisfaction and accepted?
A Yes.
Q Okay. Are you aware of any reason why Premier should not be paid in full for its work on this project?
A No; I am not.
Q Okay. Thank you for your time, Mr. Clements.
A Thank you.
MR. RANNIK: Mr. Clements, good afternoon.

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My name is Jaan Rannik. I represent Lowcountry Case & Millwork. Mr. Clements, I'll be very quick.
E-X-A-M-I-N-A-T-I-O-N
BY MR. RANNIK:
Q Are you familiar with Lowcountry Case & Millwork and their work on the Hotel Bennett?
A I am.
Q And are you aware of any way in which they caused or contributed to any delay on the project?
A No.
Q Are you aware of any portion of their work that hasn't been completed?
A For which they were paid for or contractually obligated?
Q Let's just say in general.
A No. I'm not aware of any.
Q Okay. Are you aware of any defects or problems of any kind with their work?
A No.
Q And are you aware of any reason that Lowcountry should not be paid in full for its work?
A I'm not aware of any reason.
Q Okay.
Thank you, sir. That's all I've got for you.
A Okay.

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MR. HILDEBRAND: Anybody else on the phone?
THE DEPONENT: More questions?
MR. TERRY: Just a couple.
Anybody else on the phone?
MR. HILDEBRAND: I've got a couple, too. Go ahead.
MR. TERRY: All right.
R-E-E-X-A-M-I-N-A-T-I-O-N
BY MR. TERRY:
Q Mr. Clements, you mentioned a moment ago when talking about drywall, your conversation with David Stanton and the manpower issue. Originally, you testified to me that it was drywall and electricians that Mr. Stanton was complaining about. And there, you said -- here, just a few minutes ago, you said maybe it was just drywall. Are you changing your testimony?
A The conversation I had with Stanton when Mr. Bennett was there, as I recall, was strictly drywall.
Q Okay.
A The conversation about resources in the tower was a conversation I had with Tim Spano or Starcevic.
Q Okay. Do you have any actual knowledge about whether Watson Electrical had enough manpower on the project?
A No. I was just challenging why the floors

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weren't being completed faster.
Q Okay. Are you aware of any reason that Watson should not be paid for the work they performed on this project?
A No. I don't know of any deficiencies.
Q Are you aware of any reason that Lithko should not be paid in full for all the work it performed on this project?
A None whatsoever.
Q Are you aware of any reason that Old North State Masonry should not be paid in full for the work it performed on this project?
A No. All the work is complete. I'm not aware of any.
Q Okay. That's all I have.
A Okay.
MR. HILDEBRAND: I have a few follow-up questions.
R-E-E-X-A-M-I-N-A-T-I-O-N
BY MR. HILDEBRAND:
Q Okay. On the manpower issues, as I understand it, you haven't undertaken, either during the job or at this point, any objective professional analysis, to determine exactly what manpower was required at any point in time. You just had a general observation

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that it appeared to you, at times, that there was not -- you question why more people were not on the job. Does that --
A Yeah. I think that was -- when Robins & Morton -- when Mr. Bennett asked Robins & Morton to visit the job site, that was one of their comments: Lack of manpower. My personal references to manpower was the feedback I got from Balfour Beatty in the tower, in my conversations with David Stanton.
Q So it was those two instances?
A Yes.
Q But beyond that, you just have no opinions regarding --
A No.
Q -- any lack of manpower --
A No.
Q -- or anything else; correct?
A No. I was just focused on milestones and deliverables.
Q Okay. All right. I'd like to go back to your testimony about the meeting that occurred. As I understand it, it was on a Sunday morning in early 2017, with you -- I think you said Kim Brown, Mike Bennett and --
A Bill Bundy and Brent McDonald.

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Q Right. And where was that meeting?
A In Bennett's office.
Q So it was the Old Rice Mill building downtown?
A Yes, sir.
Q Okay. Do you know who called the meeting?
A Kim Brown called me, so.
Q But do you know who organized -- who said I think we need to have a meeting?
A No. I just got a call from Kim Brown. Asked me to attend a meeting.
Q Do you know why it was on a Sunday morning?
A No.
Q That just seems odd to me, to have a meeting on a Sunday morning. I don't know if I've ever had a business-related meeting on a Sunday morning.
A Maybe it was Saturday morning. But for some reason, I think it was a Sunday morning, to be honest with you.
Q Okay. Do you remember how long it lasted?
A A couple hours.
Q Okay. And it was specifically to discuss the -- what, by then, would be an obvious delay past the scheduled opening, the contract opening days; is that correct?

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A I think it was -- I don't want to use -- maybe -- maybe -- "obvious" sounds strong, but maybe that is the right word. It was also to discuss design deficiencies.
Q Okay. And the tenor of the meeting was, what do we need to do to try to prevent further delays and/or minimize our exposure, and "our" meaning --
A Right.
Q -- the hospitality; correct?
A That was the meeting that the decision was taken to hire Grady, the scheduling consulting, if I recall correctly. Or maybe that was a discussion point, at that time.
Q Okay. My understanding from deposing -- was Buck Lindsay at that meeting?
A No.
Q My understanding from deposing Buck Lindsay just a couple weeks ago was that his testimony was that Grady Query with Palmetto Scheduling was retained simply to look at when the schedule completion date was going to be by Balfour and that Michael Bennett didn't have confidence that Balfour's projected completion date was correct so he wanted to have a second opinion on that. It was not to assess fault or anything like that; it was simply to determine whether Balfour's completion date was

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correct?
A That was the initial scope of work; yes.
Q Did it ever change?
A I mean in terms of monitoring the completion and schedule updates. It was just mainly to -- he would get the data files for the primavera schedule, and he would go through them and check to make sure they were complete or if they were missing items or if there was something unusual about them. And then there -- I'm sure there were conversations between he and I on durations for certain things that were allowed.
As I said earlier, I actually had a meeting with Grady and Balfour Beatty, in Balfour Beatty's office, to go through -- at least one time, to go through schedule and assumptions.
Q And as I understand it, other than the manpower issue, you have no other criticisms of Balfour Beatty that would, from your perspective, cause or contribute to any of the delays; is that correct?
A You -- when you say "manpower," are you talking about Balfour Beatty staffing?
Q No. As far as the delays are concerned --
A Oh.
Q -- the potential delays, the only -- my understanding was the only potential criticism he had was

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a potential manpower issue. Is that correct?
A I mean at the end of the day, that's -- that's what I understood to be the problem getting done. That's what Balfour Beatty had expressed as one of their challenges with getting done, was manpower.
Q Right. But do you have any other criticisms --
A Well --
Q You, personally, have any other criticisms --
A I think, in my original testimony, I didn't understand why it took two months to mobilize on site from the notice of receipt. I mean you've only got a 27, 28-month schedule; you took almost ten percent out of it not doing anything.
Q That's a question. But you haven't data-dashed to determine what --
A No.
Q What issues there -- so beyond that and the manpower issues, are there any other speculations that you have at this point --
A No.
Q -- as to what --
A No.
Q -- Balfour did or didn't do that caused the delays or the issues in this suit?

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A Not that I'm aware of; no.
Q You also testified that there was a separate meeting that you had with scheduling experts who Mr. Bundy had put you in touch with --
A Yeah.
Q -- is that correct?
A Yes, sir.
Q And the attendees at that meeting were again, who, please?
A Mr. Bundy, Mr. McDonald, two people from this consulting company, and myself.
Q Nobody from Library Associates?
A I don't think so.
Q And can you tell me approximately when that meeting was?
A Two thousand -- well, it had to be in 2019.
Q After completion?
A Oh, yeah. It was long -- it was after completion, after Balfour Beatty submitted their -- lawsuit, or whatever the right term is.
Q Okay.
A I can't be more specific than that.
Q Okay. And how long did that meeting take place?
A A couple hours. It was more exploratory,

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what information I had, kind of a debriefing by me of what I think transpired, critical events for them to focus on.
Q Okay. You also, to my understanding, testified that there was a scheduling spreadsheet that you had compiled at some point that noted various --
A There's tracking -- right.
Q Right. Issues --
A Excel spreadsheet.
Q Excel spreadsheet, that noted construction issues and who you felt was --
A Oh, oh.
Q -- responsible for --
A Well, there's two different things. So there was an Excel spreadsheet that I would just plug in milestone dates and compare before and after.
Q Okay.
A Set that aside. But there were change order summaries that I got from Balfour Beatty in Excel form. And even I asked Balfour Beatty at one time to go ahead and identify a prefix for whom they felt were responsible for the change order.
Q Okay. I'm not sure that I've seen that document. That's one thing that --
A I think -- yeah. I mean it's --

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Okay?
A. Yes, sir.
Q. Please let me finish my question before you start your answer and I'll try to reciprocate on that. If at any time you need a break or anything, please just stop me and I'll be glad to take one whenever you like. Do you have any particular time that you'd like to break for lunch today?
A. No.
Q. Is there any hard stop this evening?
A. No.
Q. I think we got all of your background information last time. One thing that occurred to me is that you're actually the first expert of Library Associates we've taken and I want to just read to you the scheduling order that relates to what the expert's testimony -- some issues related to experts' testimony.
And it says that the identification must include full name and address of the expert, and then there has to be provided a complete statement of all opinions the witness will express and the general basis and reasons for them and the general facts and data considered by the witness.

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(The proceedings were interrupted.)
BY MR. HILDEBRAND:
Q. I was talking about the scheduling order we're operating under. And it says that if your opinion information is going to be provided in a report, then it shall be finalized and provided to all parties with the designation.
And as I understand, you have not done a report, is that correct?
A. Correct.
Q. All right. Then it says that the experts -- and I'll quote here. The experts shall be prepared to testify in their depositions as to their final conclusions and opinions subject to any subsequently produced evidence or new information and subject to rebuttal testimony from other experts.
So my simple question is -- I just don't want to get the deposition started and you say, well, I really haven't finished my evaluation, I'm still doing this or that. I just want to get on the record as far as you're concerned all of your opinions that you have that you're prepared to testify and that you anticipate testifying have been finalized and you're ready to offer your final opinions here today.

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A. Yes.
Q. Okay. Good. I made a copy of some documents that you have, that you brought with you. And other than the ones that I made the copies of, there's no work product or compilations or data organization or anything like that, is that correct?
A. Right.
Q. Okay. So can you tell me -- we took your deposition, gosh, a couple months ago. I think the first one was in October of last year, it was continued on October 5, I think it was finished at that time. Can you tell me what you have done since that time, if anything, to result in your having been named as an expert to testify?
A. Since that time I have been going through project correspondence, Balfour Beatty reports such as the daily logs. I have been reviewing Balfour Beatty's schedules that were issued to the owner, regular update schedules. Generally focused on project correspondence. I can't think of anything except that.
Q. Okay.
A. Project documentation, pay applications and the like.
Q. So all the documents that you've reviewed are documents that you already had in your files?
A. Yes.
Q. Have you reviewed any new documents or information?
A. Outside of the -- since the project, no.
Q. Yes, sir.
A. No, it's all existing project documentation.
Q. Okay. So just to make sure we're on the same page. So you have not reviewed any reports from any other --
A. Oh, sorry. Sorry. I have reviewed reports provided by Balfour Beatty's experts, including McAuliffe, is one, Contract Solutions was the other. I have reviewed reports by experts from Mr. Bundy's office, Cotton & Company, for one.
Q. Okay.
A. Let me think. Mark Boe's analysis of the schedule. I forget the name of his company.
Q. Okay.
A. I have been in correspondence with

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A. Specifically.
Q. Okay.
A. That's not to say that I accept everything in there, but I just -- I've not developed an opinion of that report.
Q. Okay. All right. And have you read your deposition from the prior time it was taken?
A. It's been some months ago, but, yes.
Q. Is that deposition accurate?
A. It is. It is. I told the truth at that time as I intend to do today. I think there are areas that are worth expanding upon from that deposition. And that may or may not come up in this discussion.
Q. Okay. Now, as I understand from the prior deposition, you have not been retained nor have you testified as an expert in a litigated case before, is that correct?
A. Correct.
Q. Okay. All right. So you said that you have had communications from Mark Boe and from Cotton & Company, is that correct?
A. I have not had communications with Cotton & Company since my original deposition. I have had conversations with Mark Boe.

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Q. Okay. And what was the nature of those discussions?
A. Those discussions were principally using Mark as a sounding board for some of the insights that I want to discuss today.
Q. Okay. Does the name Patrick O'Connor ring a bell with you?
A. It does not.
Q. I'll represent to you that he has been named as another expert. He's an attorney from Minnesota. Did you know that --
A. No.
Q. -- Library has named another attorney as an expert?
A. No.
Q. Okay. So you've not had any discussions with him or anybody from his office?
A. No, sir.
Q. Or communications?
A. No, sir.
(EXHIBIT 1, Library Associates, LLC's Second Supplemental Designation Of Expert Witnesses, was marked for identification.)
BY MR. HILDEBRAND:
Q. I am going to hand you what I have

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marked Exhibit 1 to your deposition. And I'm thinking this might be the easiest way to go through your opinions. This is -- if you turn to Page 5 of that document, you'll see Number 4, your name, James Clement.
A. Actually, it's Clements.
Q. Right. It should have an S. Anyway, this is a supplemental designation of excerpts and what their anticipated testimony is going to be relative to this case. And if you look at the bottom of Page 5 and then Page 6 through the end of Page 7, those are the points that are represented that you may have testimony relative to. My first question is: Have you seen this document before to your knowledge?
A. This document itself?
Q. Yes.
A. Yes, sir.
Q. Okay. What involvement, if any, did you have with drafting the paragraphs under your name that identify what your opinions will relate to?
A. Based on my work since my previous deposition with Bundy McDonald, they proposed the list to me.

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Q. Did they propose these as areas that they would like for you to testify, offer testimony?
A. That they feel like request suggest.
Q. All right. Did you review these prior to their being published to your knowledge?
A. I did.
Q. Did you make any revisions to them?
A. I did.
Q. Okay. So do these -- some of them are extremely broad and would cover anything related to the matter, but I guess this would be a complete listing of what your opinions might relate to?
A. Yes.
Q. Fair statement?
A. Yes.
Q. Okay. And then the -- when we got here this morning first thing, I asked you if there were any particular documents that relate to these opinions that you had and you provided me with a copy, a stack of documents.
A. My working documents, yes.
Q. Yeah. Maybe a quarter-inch thick or so. Are there any other specific documents that you have that relate to your opinion or any

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A. So much has been made of the BIM process and the adequacy of the architect's contract documents as well as whether or not Balfour Beatty was required to BIM the project, whether it was in their contract or not. And you and I had that discussion ad nauseam, you know, during my testimony.

Having considered that for some time now, it's clear to me that at no time did Balfour Beatty qualify its proposal for the RFP stage or at any time that Buck Lindsay would provide a Revit model to provide -- in order for Balfour Beatty to do a BIM model.

As Mr. McAuliffe, your expert, mentioned in his report, Balfour Beatty and his subs BIM'd the project. He noted that it was for their, I'll paraphrase it, exclusive use, but obviously if there was a conflict they would seek a solution from the architect of record.

I find it interesting that if the project was as disorganized or uncoordinated as claims have been made and reports and testimony that it was not until September of 2015, six months after notice to proceed, that the first formal BIM call took place.

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And I want to point out one important factor that I -- that has not been brought up, is that in my experience working on other projects where the architect has provided BIM services, he did not do it floor by floor. Customarily in my experience the architect took the contract documents, went through his BIM process, and provided the architect with the results of his clash detection at one time.

Q. I think you said the architect.

A. Architect. Right. The clash detections for resolution.

Q. Okay.

A. There was nothing to prevent Balfour Beatty from doing the same thing on this project. The contract -- in fact, it is customary to BIM a project prior to the shop drawing process to minimize the redrafting of shop drawings.

So having considered the project, Balfour Beatty took it upon themselves as their means and methods to BIM this project floor by floor when they certainly could have had the resources of their own company, a 4 billion dollar company, as well as very large subcontractors, BIM the entire building at one time and hand the model

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and all the clashes to the architect and the engineer and have them fix it at that time, but Balfour Beatty didn't do that. They went floor by floor, area by area, which led to in my opinion the conflict that resulted at the sixth floor.

You have to keep in mind we had months during the enablement stage and the foundation stage when this work could have been completed. It's all done electronically. It's not all that time consuming. The clashes appear all by themselves. But that did not happen. So I hold Balfour Beatty responsible for the pace of the BIM process and, as a consequence, for the resulting delay on the sixth floor as well as the upper floors.

Q. Okay. I don't see where there's anything -- any new opinions or new information that we have here. We've already been through that.

You said that it's the -- as I understand it in your prior testimony, and I've just read all of it in the last several days, that it's the architect's responsibility -- and I think you just enumerated it -- initially and under the AIA protocol, the architect is to be the manager of

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the BIM process and they are the ones that are responsible for the clash detection, correct?

A. No. I disagree with that. The architect provides the coordinated drawings.

Q. Right.

A. We understand that.

Q. Right.

A. But the architect does not manage a BIM process -- BIM is not the architect's tool. The contractor's tool is the BIM process.

Q. Right. What I'm getting at, all the BIM does from the -- whoever does it is detect clashes, correct?

A. Yes.

Q. All the BIM process does when it's in the hands of the contractor is to detect the clashes, correct?

A. Yes.

Q. Okay. The architect in this job represented that it was producing 100 percent drawings, which implies and is actually a representation by the architect, that what they are providing does not have clashes and is appropriate to build the structure by, agreed?

A. No.

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Q. Why do you disagree with that?
A. Because no design is perfect, that's why there is a BIM process.
Q. If you're saying that --
A. Your reference to the hundred percent dealt only with the latest information from a programmatic and a design requirement of the developer. It did not warrant anything beyond that.
Q. Did it --
A. In fact -- excuse me. A 101 percent document was issued which included some additional interior design information.
Q. Did anybody -- is it stated anywhere in the contract documents or the writings that you can refer me to where it says that the architect, when he says that -- and where the owner agrees that the design is going to be 100 percent or 101 percent, that there is some qualification to that and that that's not correct and that the contractor doesn't have a right to allow that?
A. The contractor has every right to rely on the information. That is correct.
Q. When -- okay.
A. But as Mike Baumbach testified in his

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deposition, the architect owes an envelope to put everything in and it's the contractor's responsibility to coordinate it and help make it fit. We did not -- at no time did this building grow because something wouldn't fit. And at the end of the day, through the coordination process and the BIM process, everything did fit and everything did function.
Q. What I'm getting at is that -- and I can bring out if I need to and I will later if I need to Buck Lindsay's deposition. But the simple fact is that what is shown on the drawings should be adequate to construct the building and there should not be -- you don't want conflicts in the drawings where two things go in the same space, do you?
A. No.
Q. That's called a clash, correct?
A. Correct.
Q. And a perfect set of architectural drawings, you won't have any clashes, correct?
A. Perfect set, yes.
Q. Right. And there is -- when you have a perfect set, then there's no reason for clash defection or further coordination because the

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drawings are perfect, everything fits and everything's good to go, correct?
A. Correct.
Q. All right. The only time that you need clash detection and further coordination is if what is shown in the drawings does not work, agreed?
A. Correct.
Q. Right. And if the contractor looks at the drawings and says, look, architect, I think your design is wrong, in other words, there's a clash and that they don't work, then what the contractor should do is raise its hand and through an RFI or other document say, architect, you've got a problem here, you need to tell me either how to fix or approve a fix from the design standpoint as to what I do, correct?
A. Correct.
Q. Okay.
A. But the point that you're missing is that Balfour Beatty assumed the adequacy of the drawings. Balfour Beatty took the position, as I have experienced in my industry, of not BIMing the project at one time. They could have done the whole building at once and handed that clash model to the architect early in the project. And the

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point of this testimony is they did not. They controlled the pace of the BIM process. Now, the adequacy of the drawings, it's a separate conversation. What we're talking about is the process of BIM and Balfour Beatty's means and methods.
Q. Okay. And we can refer to the contract if you want to. If the owner or architect had wanted or required Balfour in its contract to provide BIM services which were specifically excluded and if they had wanted Balfour to provide those services to the design documents right from the get-go and do it from start to finish, they could have contractually required Balfour to have done that very easily, agreed?
A. They could have done that.
Q. And they didn't, agreed?
A. Not contractually.
Q. Right.
A. Balfour Beatty provided the services.
Q. Right. So --
A. Balfour Beatty scheduled every BIM meeting. Balfour Beatty chaired every BIM meeting. Balfour Beatty produced deliverables and exhibits of every BIM exercise for the architect to take and

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A. These are projects that I have worked on.
Q. How many projects -- do you have an approximation of how many projects you've worked on in your career?
A. No. It's too long a career.
Q. Several thousand would you say? A thousand, 500?
A. I wouldn't think it's a thousand, no.
Q. Would you say 500?
A. I'll say 500 to move the discussion along.
Q. All right. Of those 500, how many of those projects were BIM'd?
A. Well, due to my age, not a lot of them --
Q. How many?
A. -- comparatively. Probably 10 percent.
Q. Okay. Tell me specifically what projects you've been involved in that were -- where BIM services of any type were used.
A. The St. Francis Cancer Center.
Q. Where is that?
A. That's in Greenville, South Carolina.
Q. And who was the general contractor on

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that?
A. Rodgers Builders.
Q. R-O-G-E-R-S?
A. R-O -- yes.
Q. No D?
A. There is a D there. I believe there is.
Q. And your testimony is that Rodgers -- that -- let me ask you this: Were the documents -- were there any substantive changes to the design documents after they were promulgated?
A. No.
Q. Okay. And it's your testimony that before construction started, Rodgers fully -- they -- it was obligated to and did provide BIM and provided full clash detection before the project started?
A. They were not obligated.
Q. So they just did it on their side?
A. They took the model from McMillan Pazdan Smith and did their clash detection.
Q. McMillan Pazdan Smith were the architects?
A. Yes, sir.
Q. Did McMillan Pazdan Smith have Revit?

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A. Yes.
Q. So they -- so McMillan Pazdan Smith BIM'd the documents before they were published?
A. They designed in Revit.
Q. Right. So contrary to what we have here, the architects did the BIM the appropriate way on that project because they did the clash detection before it was ever given to the contractor, so that you would assume that they then corrected their documents, and the documents -- design documents that were published to the contractor were pretty dang good and had very few, if any, clashes, correct?
A. I don't remember the number of clashes. There were clashes, but, yes. Yeah.
Q. So that was not --
A. There's obviously an advantage to designing in a Revit model, but this project was never designed in a Revit model and it's never presented to have been designed in a Revit model.
Q. Well, whether it's Revit or not, that doesn't change the architect's obligations to provide documents that work, does it?
A. No.
Q. The architect can decide, look, I want

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to do this the old fashioned way and buildings were built before BIM was used and the architect can take the time and effort to do that however they want to do it, that's up to them, but it's their obligation to provide documents that work, correct?
A. That is their intent, yes.
Q. All right. So on this other project, that really was not a problem project because the architect used BIM to start with and so there shouldn't have been any clashes, correct?
A. Certainly there should not have been.
Q. All right. And do you know for a fact that Rodgers, when it got the design and before construction was started, BIM'd all the drawings?
A. Yes.
Q. Okay. But, again, in hindsight, that would have been impossible on this project because a lot of the design was changed after construction began, wasn't it?
A. No.
Q. Weren't there six MODs -- seven MODs on this project?
A. There were, but you're talking -- I must not be communicating clearly to you.
My point is that if the drawings were

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in such bad shape -- if the drawings had been BIM'd --
Q. By the architect?
A. No. The architect never represented that he was going to BIM the drawings. If the contract documents when issued with the GMP had been -- had Balfour Beatty taken them and gone through the BIM process like it did subsequently over the course of probably a year, my position is that a number of these clashes would have been self-evident and could have been dealt with early on.
Q. Okay. What other projects -- so you told me about the St. Francis --
A. Actually, I'm trying to think right now. I can't think of another project. I might have misstated that. I'm trying to think of another large project where we used BIM. At this moment I can't think of one.
Q. Are there any others, large or small, that you can tell me about that BIM was used?
A. I can't think of them right now, to be honest with you.
Q. All right. Have we finished the BIM discussion?

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A. Yes.
Q. Okay. What topic would you next like to talk about?
A. I'd like to talk about scheduling.
Q. So which one? Can you refer me --
A. That's the second topic on Page 2.
Q. I'm sorry, on page what?
A. On the second page.
Q. On Page 6?
A. Oh, you're using your sheet. Sorry. My fault.
Q. What document are you working off of?
A. On my worksheet. It's the third topic on Page 6.
Q. Okay.
A. Related to scheduling of the project.
Q. Is that -- what document -- the document that you have right in front of you there, is that a document that I have a copy of?
A. Yes. Yeah. It's the second page of the document that I gave you.
Q. All right. So tell me what's your opinion relative to the schedule.
A. Well, I reviewed the document from Contract Solutions and the portion that I agree with is the critical path was through the structure itself. I think what's suspect is -- to start with is the basis or the tool or the information that they were provided.
Firstly, Balfour Beatty had a difficult time providing good scheduling. As in my previous testimony, the owner lost confidence in it and actually brought on Palmetto Scheduling to help verify the information that Balfour Beatty was providing.
Q. Okay. Let me stop you there. They brought --
A. Grady brought Palmetto Scheduling on.
Q. Grady Query. And I think all the testimony was real clear from all the depositions that they were brought on not to do any independent critical path analysis, but simply to determine whether in their view they felt that the completion dates as projected by Balfour were reasonable or not, is that correct?
A. They did.
Q. Okay.
A. They did basically to audit those schedules.
Q. All right.

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A. And so Palmetto Scheduling, located here in the great State of South Carolina, Grady Query, is an expert in its own right and I think the reports that they provided were very telling in the quality of the schedules that Balfour Beatty was providing and I'd like to recite excerpts from two of his reports.
Q. Okay. What document do I have that --
A. Right there. The second page.
Q. Okay. So let's -- hold up for a second, if you would, please. I'm marking as Exhibit 2 --
(EXHIBIT 2, typed listing of notes, was marked for identification.)
BY MR. HILDEBRAND:
Q. This Exhibit 2 is --
A. My worksheet.
Q. Your worksheet. Okay.
A. It's my notes for today.
Q. Okay.
A. It's not even a worksheet.
Q. And which -- where on Exhibit 2 is your -- does your testimony --
A. Second page, middle of the page. See the topic scheduling?

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Q. Okay. Let's talk about that. And we looked at -- in your last deposition we reviewed your Web site and we reviewed the contract that you signed with the owner where you said that representative, as one of the obligations that you were undertaking, was to review the schedules and ensure that the project was on time and on budget, correct?

A. Yes.

Q. So your criticisms sitting here today as a -- to use the common term, the Monday morning quarterback, the fact is that what you're doing here today, you had the same abilities when you got these schedules from Balfour from the get-go if you didn't think that they were correct or you had criticisms, then you, representing the owner, should have said, wait, Balfour, these schedules don't make sense, I'm reviewing them, I've got experience, you need to revise them?

A. And I did have conversations.

Q. Is there any documentation of that?

A. No. We did them at OAC meetings.

Q. Well, you as the owner's representative had the ability to tell Balfour, look, your schedules are inadequate and inaccurate and you

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need to change them so that they are correct, agreed?

A. Sure. Yes.

Q. Did you ever do that?

A. Yes.

Q. You're saying that the -- that the published schedules in the OAC meetings, you're telling me that if we look at the OAC meeting minutes that you pointed to, there are indications from you to Balfour saying that your schedule logic and the published schedules are inaccurate and inadequate?

A. They may be in the meeting minutes. I'm not sure. I know that I had those discussions with them, particularly when we brought in Grady Query and we had scheduling meetings.

Q. I don't see any -- I can tell you I don't see any notes in any of the meetings that Grady Query attended the OAC meetings.

A. No, he didn't attend OAC meetings. He attended scheduling meetings.

Q. Well, if you're -- and I can tell you this also, that none of the Grady Query reports were even among Balfour Beatty's construction files. And from what I understand from them, none

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of them were provided to Balfour Beatty. Do you disagree with that?

A. I'm not aware of that. That does sound correct, but Grady and I met in the Balfour Beatty.

Q. Well, if you're having an independent review of the Balfour schedules and if your independent expert has criticisms of the schedule, wouldn't it make sense and wouldn't it be appropriate in your view to just lay the cards on the table and say, look, here's Grady Query's criticisms of your schedule, take them and let's get this thing worked out and see whether you -- Joe Lauricello, you tell me whether you agree or not, let's get this resolved rather than complaining about it after the fact?

A. We provided that information to Balfour Beatty in those meetings. Not graphically, but conversationally. It was Balfour Beatty's choice to use it or not.

The point that I'm making here is that Balfour Beatty's schedules were less than perfect. And the position that Contract Solutions is using their as-built information based on what Balfour Beatty provided historically leads me to feel suspect. And I can -- and I can expand on that.

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Q. Okay. I'll let you expand in just a minute. Let me ask you this: Do you know -- I recall from the Grady Query reports that the first one or two were to Kim Brown and then, from then on, they were directed only to Bill Bundy. Do you know why that happened?

A. I don't remember any going to Kim Brown because Bundy hired Grady Query. Kim Brown might have signed the contract.

Q. Why did Bill Bundy, who is an attorney, hire Grady Query as opposed to you, who were the owner's representative, if the intention was that Palmetto Scheduling and Grady Query was someone who could look at the schedules and determine if they were inadequate, wouldn't it make sense for you to have hired that person and then to give that schedule to Balfour so that it could see specifically what the criticisms were and make corrections?

A. It was Mr. Bundy's opinion -- all I wanted was the information. Personally, I didn't care how I got it.

Q. But why did Mr. Bundy request those as opposed to you or why did he hire Grady Query as opposed to you?

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work. So that left us with, really, based on the staff at that time, only Mike Baumbach who had luxury hotel experience.

Now, as I testified before, all the Balfour Beatty people were good people and I enjoyed working with them, but I have to believe the absence of hotel experience and specifically high-end hotel experience once that Mike left did not help Balfour Beatty. Dan Ricci, who was a remarkable superintendent, but -- and his brother had been the proposed superintendent during the RFP process who had done the Ritz-Carlton, he left the project in January after the building was topped out.

Marty Dale, who had some Ritz-Carlton experience and who reported -- who filled out many of the daily reports, spent the better part of a year out with having both of his knees replaced. So that left a relatively young staff, including Ryan Ledford and Nick Starcevic, to be in more of a leadership role. And they were nice people, but extremely young. Tim Spano, who had -- who was going to be the project manager, was moved to the field to be the lead superintendent and then Nick Starcevic was placed in the role of project

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manager.

The point of it is that in various times in conversations with David Simonton, including in writing, I questioned the resources and their ability to determine a level of quality given the issues that we had with the hotel punch list. And, in fact, I wrote to David Simonton asking if he would please bring Knox Tate to the project.

Knox Tate is a Balfour Beatty employee whose primary role is in very, very high-end upfits. But he was at the original Balfour Beatty presentation. He is still an employee of Balfour Beatty. And I had hoped that he would come and help educate the Balfour Beatty staff on what expectations should be. That -- that did not occur. So I can't help -- as I said, I feel that Balfour Beatty did itself a disservice in the way that it manned the project in terms of the resources supplied.

Q. Okay. On that one -- even though I just read your deposition, I can't remember if we went through this line of questioning. But the -- as I understand, the factual chronology was that after the RF -- or when the RFP was sent out and

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interviews were made, I believe that it was anticipated that -- in that RFP that the start was going to be within several months.

A. Yeah.

Q. And it ended up being maybe 14 months or longer, correct?

A. Longer.

Q. Okay. But my point is is that you understand as somebody who is very knowledgeable about construction that if a -- if an owner wants to put in its contract that very particular key people must be assigned and must stay with a project, then it has the option to do that and contractually require it, correct?

A. Yes. I have done that in the past.

Q. Okay. Do you know why that was not done here?

A. Principally because Mike Bennett had developed such a strong relationship with Mike Baumbach and had a great deal of confidence. And we had had initial meetings with Jeff Sandeen, who was going to take a leadership role in the project and given his current experience. He had just completed a very large Marriott Hotel I want to say in Baltimore, I think.

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Q. Well, that's really on the owner, isn't it? If the owner -- again, if the owner wanted -- for the owner to come back now and say, well, I wish somebody else had been on the job, they could have easily prevented that very issue by simply including in the contract that certain people, listed people, are key people and they have to be made available for this particular project, agreed?

A. The owner has that option.

Q. Right.

A. But --

Q. And if that happens, then the owner would expect that if these people are sitting on the sidelines waiting for this project to start and it keeps getting delayed because of the design issues that we had here, that there would be -- it would be charged by the general contractor some amount to have those people sitting on the sidelines waiting for this to start, correct?

A. Sure. I would presume that.

Q. And do you have any idea what it would have cost the owner for these people to have been put on ice, so to speak?

A. Oh, hundreds of thousands of dollars.

Q. Was Mike Bennett prepared to pay that?

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there are no other --
A. Oh. Sorry.
Q. And maybe 1, what Mr. Bundy had set out, that's where he identified you as an expert and said that's what you're going to testify to. I just want to make it clear. There are no other -- I just don't want to be surprised.
A. No, no, I appreciate that. Let me just go back through.
Q. Any other opinions or significant facts that you're going to rely on or testify to regarding this matter?
A. I don't think there is -- everything that I have touched on covers what was in my list. I was asked, for instance, to speak about the pre-construction -- well, maybe I should do that just so that nobody is surprised when it comes time that we're in court. I was asked to talk about the pre-construction services provided by Balfour Beatty.
Q. Hang on. Where is this?
A. Bottom of Page 6.
Q. On Exhibit 2?
A. Yes, sir.
Q. Okay. Hold on. Okay.

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A. So as we've discussed, Balfour Beatty worked with Mr. Bennett, his team, me, particularly, and Buck, for about two years during the pre-construction process. One thing that was evident to me and as Mike Baumbach confirmed with me, that Manny Teodoro, who was my primary point of contact during the pre-construction period, was an estimator, and the pre-construction process over those years was really focused on hitting a budget number. By that I mean that our meetings were focused on substitutions, value engineering, all of which were incorporated in the drawings until we got to the 101 percent set.
Q. And that's something I want to touch on.
A. Sure.
Q. The primary instruction and direction that Balfour was charged to perform by Mike Bennett and yourself was to work towards a budget and getting budget figures together to determine what the project was going to cost, correct?
A. Well, it was one of the figures, yeah, would have been. There was no --
Q. It was the main one, wasn't it?
A. Well, there was no budget that they had

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to hit. There was never a budget that said you got the job if you hit 59,600,000 dollars. That was -- that was never the case.
Q. Well, determining --
A. What it was is --
Q. Determining a final -- a GMP.
A. Determining a GMP.
Q. Right.
A. Right.
Q. Do you remember documentation in the file where Michael Bennett said that the project -- that he had planned to spend 35 million dollars for this hotel?
A. I don't remember documentation, but I remember him telling me that.
Q. Was that a problem when the project went from 35 million to ultimately 65 million dollars?
A. Well, the GMP was 59 million and some change, but --
Q. Change orders went to 65?
A. No, no. The GMP was 59 million, then, of course, with change orders, it went to 64 million or something like that.
Q. Right.

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A. No, Mike Bennett knew what he wanted -- well, he felt he knew what he wanted and he worked with WLA and Balfour Beatty to get the design to where he wanted. Now, along the course of his I'll call it aspirations, Balfour Beatty did various typing exercises and Mike made decisions on barn -- or various things. The tub that was going to be used, the tile, carpet, bi-fold doors at the tubs, which later became -- were taken out of the project but later went back in as the barn doors.
So there were -- the period was predominantly focused on design revisions, refinements, as any construction -- pre-construction period should be until you got to the point where the client was satisfied with the design and with the practice.
And, case in point, you asked was Mike put off by the 59 million. He wasn't happy about it. What -- the most put off I saw him during the process was shortly before we finalized the GMP, I went to a meeting at Balfour's office. Jeff Sandeen was there, Mike Baumbach, their head of pre-construction. His name is Bill. I can't remember his last name. But that's when Jeff Sandeen announced that he was running the project.

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He added 800,000 dollars to the pre-construction. Now, that happened at the very tail of this.

Now, I wasn't happy, Mike Bennett wasn't happy, but at the end of the day Mike accepted it and signed that contract even with that last minute change of 800,000 dollars. So two important points. Mike never gave Balfour Beatty a timeframe to build the project. It's going to take what it takes. In fact, he said that to me on several occasions. And then the money was going to be the money, you know. Once he -- he did not have initially that 35 million dollar figure. I remember that well. I remember it very well. But as it evolved and the design flourished and refined, he accepted it because that's what he wanted.

Q. Okay. When you said that they -- one of the comments in that answer that you just gave was that the pre-construction went to 800,000 dollars?

A. No, no. Sorry. Not the pre-construction fee, the general conditions. I may have misspoken.

Q. All right. Any other opinions?

A. Well, the last thing is that we were

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focused on -- well, the bulk of those discussions were focused on cost. There was never in the time that I spent on the project were there discussions regarding constructability reviews or any type of means and methods discussion.

The only exception was that -- there was one exception, and that had to do with a walkway in the attic, which is the ninth floor. It's full of MEP and ductwork and there were walkways in that. And that was one constructability review that Balfour Beatty provided us, and during the process we ended up revising those walkways.

But with regard to their analysis of the building and constructability, there were never any roll up your sleeves, hands down, you know, hands on the table analysis with regard to how they were going to build the building.

Q. How do you know what was going on behind the scenes, I mean, what they were doing?

A. I'm talking about with us. With us.

Q. Oh, I got you.

A. There was never feedback that said would you design it this way because it's going to make it easier for us is my point, and I think that

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is worth stating.

Q. Okay.

A. And that's the end of my testimony unless you have questions.

Q. Okay. So you've reviewed the Exhibits 1 and 2 that have the categories and you have told me --

A. I might have missed a couple, but I think I'm close enough.

Q. Well, I need for you to tell me if there are any other opinions or any other significant facts that you plan to testify about at trial.

A. I do not recall being asked to testify about the installation of the fire protection on the project, so I'm not prepared to do that.

Q. Okay.

A. Change orders, daily logs, manpower, mockup, interior guest room mockup, personnel, consolidated claim. We did not touch on the punch list process or means and methods. We just discussed pre-construction. Closeout. So there's two more topics. Construction manager's punch process. Let me find that on my exhibit. So that's on Page 6, second paragraph. And that would

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be Exhibit 9. Do you have Exhibit 9?

Q. Yep.

A. Okay. So the punch list process most specifically relates to the guest rooms. And, of course, we talked about that ad nauseam in previous depositions. But I think it's important looking at Exhibit 9 where Pat Dean has written to me and to Buck Lindsay. Buck writes to Pat Dean, no matter who creates them, meaning punch lists, completing them are not releases from further duty to deliver contract compliant completeness, whether ever listed on a punch list or not.

In the trailing e-mail that Buck is responding to, Pat writes to me, Dave has clearly stated in his letter that we have completed our obligation in executing one punch list provided by the architect.

Now, I do not dispute that we really want to try and work with one punch list. I mean, that is the holy grail to get there.

Q. And the architect drafts that and they're the ones who under the contract are charged with approving it or not, correct?

A. Correct.

Q. All right.

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Plaintiff Balfour Beatty's Trial Exhibit # 312

(part 1 of 2)

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

From: James Clements
Sent: Tuesday, November 27, 2018 10:17 AM
To: rquinlan@hotelbennett.com; Paul Cherrett
Cc: Kim Brown; 'Prem Devadas'; Marty Wall (mwall@bennetthospitality.com); Dave Simonton (dsimonton@balfourbeattyus.com); 'Jennifer Faulkinberry'
Subject: Guest Room Turnover

Importance: High

Ryan and Paul

Per agreement with Dave Simonton and myself, in advance of the project's formal acceptance for Substantial Completion the guest rooms are complete and available for turnover to Library Associates and Salamander now. This will allow LA and Salamander sole possession of the rooms and its vendors such as Guest Tek access to complete their work. The only exception is the remaining rooms where the tub fixtures are currently being installed. BBC still has access to these but they have been punched.

The following link will take you to the punch list signed off by the AOR. The scope includes the Salamander punch list.

https://drive.google.com/file/d/1Cilyit8QSoTr3Oeya7X5WGPHiTsTf830/view?usp=drivesdk

Pls let me know if you have any questions. Otherwise get with Dave, check the rooms if you wish and Dave will turn the key over to you as formal acceptance of the guest rooms only. This turnover does not include the manager's apartment or any of the BOH or public areas, which are being re-inspected this week.

Jim Clements
Matrix Program Management Services, LLC

O. 704-676-9996
C. 704-905-1165
Jclements@matrixse.com

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
301	Bathroom	Tile Shower Surrnd	gap shows - where surround meets the ceiling thru out	Caulk		
301	Entry	Base Molding	gap shows - entry into bedroom - left side	Caulk		
301	Bathroom	Soaking Tub	clean backside	Cleaning		
301	Bathroom	Pocket Door	left side - tight	Door		
301	Entry	Closet Door	rough edge shows - bottom right / hinge side	Door		
301	Entry Door	Door Spring Closer	door does not close	Door		
301	Bathroom	Vanity Mirror Light	open hot	Electric		
301	Bedroom	Bedside Nightstand	drawer handles - not installed - right side	FF&E		
301	Bedroom	Desk Lamp	light shuts on and off when handling switch	FF&E		
301	Bedroom	TV Cabinet	right door rubs at left top	FF&E		
301	Bathroom	Exhaust Fan	appears to not be working	HVAC		
301	Bathroom	Exhaust Fan	appears to not be working	HVAC		
301	Bathroom	Exhaust Fan	appears to not be working	HVAC		
301	Bathroom	Ceiling Access Panel	touch up	Painting		
301	Bedroom	Wall	touch up - left side of desk - under outlet	Painting		
301	Bathroom	Tub Faucet Fixtures	loose	Plumbing		
301	Bathroom	Tub Stopper	does not hold water	Plumbing		
301	Bathroom	Vanity Faucet	loose - as marked both sinks	Plumbing		
301	Bathroom	Vanity Sink Drain	gap shows at escushion - left vanity sink	Plumbing		
301	Bathroom	Vinyl Wall Covering	shrinkage shows - caulk top of vinyl where it meets the crown molding - tp wall side	Wall Vinyl		
301	Commode Rm	Vinyl Wall Covering	loose vinyl - both sides of commode - towards the bottom	Wall Vinyl		

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11.

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11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
302	Bathroom	Vanity Backsplash	caulk bottom of backsplash to vanity top - clear	Caulk		
302	Bedroom	Door	wall bump - not installed	Door		
302	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
302	Living Room	Bedroom Door Frme	dent shows - lower left	Door		
302	Living Room	Closet Door	replace with hotel standard - temp door installed	Door		
302	Living Room	Closet Door Wall Bmp	not installed	Door		
302	Bathroom	Shower Ceiling Light	ring not installed	Electric		
302	Bathroom	Vanity Mirror Light	not straight - both sides	FF&E		
302	Bedroom	Lampshade Screw	decorative piece needs to be glued	FF&E		
302	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
302	Bedroom	Wall	molly shows - right side of mirror - as marked	FF&E		
302	Living Room	Desk	chip shows at left side of desk	FF&E		
302	Living Room	Dining Room Chair	leg appears to be shorter - as marked	FF&E		
302	Living Room	Dresser	left door - does not close	FF&E		
302	Living Room	Refrigerator	not working	FF&E		
302	Living Room	Wood Floor	gap shows at bottom of door frame into bedroom	Flooring		
302	Bathroom	Exhaust Fan	appears to not be working	HVAC		
302	Bathroom	Exhaust Fan	appears to not be working	HVAC		
302	Bathroom	HVAC Cover	touch up as needed	Painting		
302	Bedroom	Bedroom Door	paint peeling - on bottom	Painting		
302	Entry	Base Molding	touch up as marked	Painting		
302	Entry	Wall	touch up - corner as marked	Painting		
302	Living Room	Bedroom Door Frme	touch up as marked	Painting		
302	Living Room	Entry Door Frame	touch up as marked	Painting		
302	Bathroom	Tub Drain	does not hold water	Plumbing		
302	Bathroom	Tub Faucet Fixtures	caulk flanges to tile surround	Plumbing		
302	Bathroom	Vanity Faucet	loose - as marked	Plumbing		
302	Bathroom	Vanity Sink Drain	gap shows at escushion - yellow rag and dirt are present	Plumbing		
302	Bathroom	Vinyl Wall Covering	loose left side of tub	Wall Vinyl		
302	Bathroom	Vinyl Wall Covering	secure vinyl wall covering at tub tile surround	Wall Vinyl		



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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
303	Bathroom	French Door Sill	caulk both sides to wall casing	Caulk		
303	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
303	Bathroom	Vanity Light Fixture	base appears to be crooked	FF&E		
303	Bedroom	Bedside Nightstand	drawer handles - not installed - both left and right side nightstands	FF&E		
303	Bedroom	TV Cabinet	left door rubs drawer	FF&E		
303	Bedroom	TV Cabinet	top center drawer - veneer peeling underside	Millwork		
303	Bathroom	Pocket Door Frame	nail heads show - left side of frame	Millwork		
303	Bathroom	Vanity Cabinet Base	mark shows left bottom side	Painting		
303	Bathroom	Wall	hand print shows - above robe hook	Painting		
303	Bedroom	Wall	touch up as marked - left side of headboard	Painting		
303	Bedroom	Wall	touch up by vents and fire sprinkler	Painting		
303	Bedroom	French Sliding Doors	touch up as marked thru out	Plumbing		
303	Bathroom	Vanity Faucet Fixture	left handle loose			

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11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
304	Balcony	Tile Floor	clean tile floor	Cleaning		
304	Bedroom	French Door	does not open	Door		
304	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
304	Entry Door	Door Spring Closer	does not close	Door Adjust		
304	Bedroom	Bedside Nightstand	drawer handles not installed - left side	FF&E		
304	Bedroom	TV Cabinet	center draw knob loose	FF&E		
304	Bedroom	Built in Book Case	right side bottom shows damage	Millwork		
304	Balcony	Walls	crack shows	Painting		
304	Bathroom	Pocket Door	2nd coat as need thru out	Painting		
304	Bedroom	Wall	touch up right side of headboard	Painting		
304	Entry	Wall	touch up as marked	Painting		
304	Balcony	Drain Cover	rust shows	Plumbing		
304	Bathroom	Soaking Tub	drain is placed on the far side of soaking tub can't reach from bathroom side	Plumbing		
304	Bathroom	Soaking Tub Faucet	loose faucet handle	Plumbing		
304	Bathroom	Commode Door Trim	grout missing at top right side	Tile		
304	Bathroom	Vinyl Wall Covering	paint overage shows on vinyl - at soaking tub trim/right side of vanity	Wall Vinyl		
304	Bathroom	Vinyl Wall Covering	slices show at soaking tub faucet wall	Wall Vinyl		

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11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
305	Bedroom	Carpet	detail transition into entry	Carpet		
305	Bathroom	Pocket Doors	pocket doors don't align when both are closed	Door		
305	Commode	Commode Glass Door	clean all paint overages	Door		
305	Bedroom	Bedside Nightstand	drawer handles - not installed - both left and right side nightstands	FF&E		
305	Bedroom	TV Cabinet	left door does not close	FF&E		
305	Bedroom	TV Cabinet	right door rubs drawer	FF&E		
305	Bathroom	Vanity Base	chip shows - left bottom shelf	Millwork		
305	Bathroom	Vanity Base	chip shows - under cabinet door - left side	Millwork		
305	Bedroom	Base Molding	chips shows - top right edge - right of tv cabinet	Millwork		
305	Bedroom	Built in Book Case	markings show - left book case	Millwork		
305	Bedroom	Built in Book Case	markings show - lower right side of doors and below	Millwork		
305	Bathroom	Wall	markings show - above towel bar	Painting		
305	Bathroom	Wall	markings show - top left of vanity mirror	Painting		
305	Bathroom	Soaking Tub	does not hold water	Plumbing		
305	Bathroom	Vanity Faucet Fixtures	stem covers slide	Plumbing		
305	Commode	Vinyl Wall Covering	clean all markings - left of entrance	Wall Vinyl		
305	Commode Rm	Vinyl Wall Covering	secure all seams and gaps	Wall Vinyl		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
306	Balcony	Tile Floor	clean tile floor	Cleaning		
306	Bathroom	Soaking Tub	not clean	Cleaning		
306	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
306	Bedroom	Bedside Nightstand	drawer handles - not installed - both left and right side nightstands	FF&E		
306	Bedroom	Built in Book Case	door hits desk - standard where desk is setup next to book case	FF&E		
306	Bedroom	TV Cabinet	left door rubs left top drawer	FF&E		
306	Bathroom	Pocket Door Frame	nail heads show - as marked	Millwork		
306	Bathroom	Vanity Base	crack shows - right middle shelf - as marked	Millwork		
306	Bedroom	Divider Molding	nail holes show thru out - above French door and bedroom entry	Millwork		
306	Bathroom	Crown Molding	touch up right side of vanity	Painting		
306	Bedroom	French Doors	second coat - left door	Painting		
306	Bedroom	Wall	touch up left of headboard	Painting		
306	Bedroom	Wall	touch up under thermostat	Painting		
306	Entry	HVAC Cover	2nd coat	Painting		
306	Balcony	Drain Cover	rust shows	Plumbing		
306	Bathroom	Soaking Tub Faucet	gap shows at wall - both sides	Plumbing		

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11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
307	Bathroom	Soaking Tub	markings show - outside of tub - right of center line	Cleaning		
307	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
307	Entry Door	Door Spring Closer	door does not close	Door Adjust		
307	Bedroom	Bedside Lamp	appears to have a short at the switch - right side lamp	FF&E		
307	Bedroom	Bedside Nightstand	drawer handles - not installed - both left and right side nightstands	FF&E		
307	Bedroom	Built in Book Case	chip shows - above book case door	Millwork		
307	Bedroom	Wall	markings show - right of built in book case	Painting		
307	Bedroom	Wall	touch up - above door frame to entry	Painting		
307	Bedroom	Wall	touch up - above smoke detector for neater appearance	Painting		
307	Bathroom	Tile Grout	grout missing - at left side of door trim - bathrooms side	Tile		
307	Bathroom	Tile Grout	grout missing in front of vanity sink - as marked	Tile		
307	Entry	Tile Grout	grout missing at right side case trim at entry into bedroom	Tile		
307	Bathroom	Tile	chip shows - bottom at entry into shower - under sill plate	Tile Chip		
307	Bathroom	Soaking Tub	chip shows - bottom of soaking tub - bottom left of center line - bathroom side	Tub Chip		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
308	Bedroom	Carpet	mark shows at entry into bedroom	Carpet		
308	Bedroom	Carpet	secure carpet - right side into bedroom	Carpet		
308	Bathroom	Shower Faucet Fxtrs	caulk hand-held shower flange to tile surround	Caulk		
308	Balcony	Tile Floor	clean tile floor	Cleaning		
308	Bathroom	Vanity Backsplash	marking shows left of sink faucet	Cleaning		
308	Entry Door	Door Spring Closer	does not close	Door Adjust		
308	Bedroom	Curtain Rod	not installed	Drapes		
308	Bedroom	Curtains	not installed	Drapes		
308	Bathroom	Ceiling Light Fixture	not flush to ceiling	Electric		
308	Bathroom	Shower Ceiling	gap shows at light fixture	Electric		
308	Bedroom	Desk Glass Top	haze shows	FF&E		
308	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
308	Bedroom	Mirror	not installed - left of headboard - possible artwork to be installed	FF&E		
308	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
308	Bedroom	TV Cabinet Door	left door rubs	FF&E		
308	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
308	Balcony	Wall	crack shows	Masonry		
308	Balcony	Wall	clean / 2nd coat as needed	Painting		
308	Bathroom	Ceiling	complete patch at sprinkler cover	Painting		
308	Bathroom	Ceiling	touch up along back wall / french door	Painting		
308	Bathroom	French Door	touch up as marked	Painting		
308	Bathroom	French Door Wall Casng	touch up as marked	Painting		
308	Bathroom	Pocket Door	touch up as marked - spray paint run shows	Painting		
308	Bedroom	Wall	touch up as marked thru out	Painting		
308	Entry	HVAC Cover	2nd coat	Painting		
308	Entry	Wall	touch up - at mirror	Painting		
308	Entry Closet	Closet Door	touch up as marked - second coat is needed	Painting		
308	Entry Closet	Closet Frame	touch up as marked	Painting		
308	Entry Door	Door - Interior	touch up as marked	Painting		
308	Balcony	Drain Cover	rust shows	Plumbing		
308	Bathroom	Vanity Sink Drain	gap shows at escushion	Plumbing		
308	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
308	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
308	Balcony	Tile	gap shows at drain cover	Tile		
308	Bathroom	Tile Grout	tile grout missing - right corner behind soaking tub	Tile		
308	Bathroom	Vinyl Wall Covering	loose - upper left hand corner above tub faucet fixtures	Wall Vinyl		
308	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom - both sides	Wall Vinyl		

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11/20/2018	Marion Square, Charleston, SC		3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
309	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
309	Entry Door	Door Spring Closer	does not close	Door Adjust		
309	Bathroom	Ceiling Light Fixture	not flush to ceiling	Electric		
309	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
309	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
309	Bathroom	French Door	touch up as marked	Painting		
309	Bathroom	Pocket Door	touch up as marked	Painting		
309	Bathroom	Pocket Door Frame	touch up as marked	Painting		
309	Bedroom	Wall	touch up as marked	Painting		
309	Commode Rm	Ceiling	touch up above commode	Painting		
309	Commode Rm	Crown Molding	touch up above commode	Painting		
309	Entry	HVAC Cover	2nd coat	Painting		
309	Entry Closet	Closet Frame	touch up as marked	Painting		
309	Entry Door	Door - Interior	touch up as marked	Painting		
309	Bathroom	Soaking Tub Fauct Fxtr	gap shows	Plumbing		
309	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
309	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
309	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
309	Bathroom	Base Grout	grout missing - behind soaking tub	Tile		
309	Bathroom	Tile Wall	clean as marked - left of commode door	Tile		
309	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom - both sides	Wall Vinyl		
309	Bedroom	French Door Window	seal torn	Window		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
310	Bathroom	Shower Faucet Fxtrs	caulk handheld shower to the surround	Caulk		
310	Balcony	Ledge	copper stains show	Cleaning		
310	Balcony	Tile Floor	clean tile floor	Cleaning		
310	Bathroom	Pocket Door Handle	chipped at top	Door		
310	Entry Door	Door Spring Closer	does not close	Door Adjust		
310	Bedroom	Curtain Rod	not installed	Drapes		
310	Bedroom	Curtains	not installed	Drapes		
310	Bathroom	Ceiling Light Fixture	not flush to ceiling	Electric		
310	Entry	Ceiling Light Fixture	not flush to ceiling	Electric		
310	Entry Closet	Ceiling Access Panel	dented	Electric		
310	Bedroom	Bed Frame Base	packing residue shows - at the foot of the bed	FF&E		
310	Bedroom	Desk Glass Top	haze shows	FF&E		
310	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
310	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
310	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
310	Bathroom	Base Cabinet Filler	gap shows - left side	Millwork		
310	Balcony	Wall	touch up as needed	Painting		
310	Bathroom	Ceiling	2nd coat thru out	Painting		
310	Bathroom	Pocket Door	touch up as marked	Painting		
310	Bathroom	Pocket Door Frame	touch up as marked	Painting		
310	Bedroom	Case Opening	touch up as marked	Painting		
310	Bedroom	Wall	touch up as marked	Painting		
310	Entry Closet	Closet Door	touch up as marked	Painting		
310	Entry Door	Door - Interior	touch up as marked	Painting		
310	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
310	Bathroom	Vanity Sink Faucet Fxtr	loose	Plumbing		
310	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
310	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom - both sides	Wall Vinyl		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC		3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
311	Bathroom	Shower Faucet Fxtrs	caulk flange to tile surround	Caulk		
311	Bathroom	Pocket Door	sticks	Door		
311	Bathroom	Pocket Door Handle	chipped at top	Door		
311	Bathroom	Shower Door/Fxd Pnl	loose fixed panel	Door		
311	Entry Door	Door Striker	wide gap shows between striker and door	Door Frame		
311	Bedroom	Curtain Rod	not installed	Drapes		
311	Bedroom	Curtains	not installed	Drapes		
311	Bathroom	Vanity Mirror Lights	open hot	Electric		
311	Bedroom	Desk Lamp	test open hot	Electric		
311	Bedroom	Nightstand Lamp	open hot	Electric		
311	Bedroom	Bed Frame Base	packing residue shows - at the foot of the bed	FF&E		
311	Bedroom	Desk Glass Top	haze shows	FF&E		
311	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
311	Bedroom	Sitting Floor Lamp	open hot	FF&E		
311	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
311	Bedroom	Built in Book Case	touch up as marked	Millwork		
311	Bathroom	Pocket Door	touch up as marked	Painting		
311	Bathroom	Pocket Door Frame	touch up as marked	Painting		
311	Bedroom	Wall	touch up as marked	Painting		
311	Entry	HVAC Cover	2nd coat	Painting		
311	Entry	Wall	touch up as needed	Painting		
311	Entry Closet	Closet Wall	touch up	Painting		
311	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
311	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
311	Bathroom	Vanity Sink Faucet Fxtr	loose - faucet handle	Plumbing		
311	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
311	Commode Rm	Tile	finish chipping - at hinge side of glass door - commode room side	Tile		
311	Commode Rm	Tile Grout	different color grout shows - right of commode door entrance	Tile		
311	Commode Rm	Vinyl Wall Covering	clean vinyl behind commode	Wall Vinyl		
311	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom - both sides	Wall Vinyl		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
313	Bathroom	Tile Base	caulk at top of base - right side - corner wall - behind soaking tub	Caulk		
313	Bathroom	Pocket Door	sticks	Door		
313	Connector Door	Seals	loose - hinge side	Door		
313	Entry Door	Seals	loose at striker side - top	Door		
313	Entry Door	Door Spring Closer	door does not close fully on its own - must push on door to close completely	Door Adjust		
313	Entry Door	Door Frame	door frame crooked at striker side - top	Door Frame		
313	Bedroom	Curtain Rod	not installed	Drapes		
313	Bedroom	Curtains	not installed	Drapes		
313	Bedroom	Desk Glass Top	haze shows	FF&E		
313	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
313	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
313	Bathroom	Pocket Door	touch up as marked	Painting		
313	Bathroom	Pocket Door Frame	touch up as marked	Painting		
313	Connector Door	Door	2nd coat	Painting		
313	Entry	Ceiling	marking shows - next to HVAC cover - closest to entry door	Painting		
313	Entry	HVAC Cover	2nd coat	Painting		
313	Entry Closet	Closet Door	touch up marked	Painting		
313	Entry Closet	Closet Frame	touch up as marked	Painting		
313	Entry Door	Door - Int/Ext	touch up as marked	Painting		
313	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
313	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
313	Bathroom	Tile Grout	grout wall where it meets bottom of crown molding	Tile		
313	Entry	Tile Floor	markings show - as marked	Tile		
313	Commode Rm	Vinyl Wall Covering	markings show - as marked	Wall Vinyl		
313	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom - both sides	Wall Vinyl		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
315	Bathroom	Crown Molding	gap shows - right corner of shower - bathroom side	Caulk		
315	Bedroom Closet	Door Silencer	not installed	Door		
315	Commode Rm	Glass Door	smoke side appears to be reversed	Door		
315	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door Adjust		
315	Entry Door	Door Spring Closer	does not close	Drapes		
315	Bedroom	Curtain Rod	not installed	Drapes		
315	Bedroom	Curtains	not installed	Drapes		
315	Dining Room	Curtain Rod	not installed	Drapes		
315	Dining Room	Curtains	not installed	Drapes		
315	Living Room	Curtain Rod	not installed	Drapes		
315	Living Room	Curtains	not installed	Electric		
315	Bathroom	Ceiling Light Fixture	open hot - commode room and shower	Electric		
315	Bedroom	TV Outlet	open hot	Electric		
315	Dining Room	Chandelier	open hot	Electric		
315	Entry	Ceiling Light Fixture	open hot	FF&E		
315	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
315	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
315	Dining Room	Cabinet Glass Top	haze shows	FF&E		
315	Dining Room	Desk Glass Top	haze shows	FF&E		
315	Dining Room	Dining Table	not installed	FF&E		
315	Living Room	Cir End Table Glass Tp	not installed - glass top	FF&E		
315	Living Room	TV Cabinet Glass Top	haze shows	Flooring		
315	Entry	Hard Wood Floor	scratch shows as marked	Flooring		
315	Living Room	Hard Wood Floor	scratch shows - left and right of tv cabinet	Flooring		
315	Living Room	Hard Wood Floor	scuff marks show - towards dining room	HVAC		
315	Bathroom	Exhaust Fan	open hot	Millwork		
315	Dining Room	Built in Book Case	markings show - as marked	Millwork		
315	Living Room	TV Panel	complete repair - left side	Millwork		
315	Living Room	TV Panel	spacer shows - top left	Millwork		
315	Living Room	Wood Trim	nail holes and filler shows - detail as needed - as marked	Painting		
315	Bathroom	Pocket Door	touch up	Painting		
315	Bedroom	Pocket Door	touch up	Painting		
315	Bedroom	Pocket Door Frame	touch up	Painting		
315	Bedroom	Wall	touch up thru out	Painting		
315	Bedroom Closet	Closet Trim	touch up	Painting		
315	Bedroom Door	Door	touch up as marked	Painting		
315	Dining Room	Crown Molding	touch up as marked - above window	Painting		
315	Dining Room	Wall	touch up as marked - under HVAC vent	Painting		
315	Entry Door	Door - Interior	touch up	Painting		
315	Entry Door	Door - Interior Trim	touch up	Plumbing		
315	Bathroom	Shower Handheld	leaks	Plumbing		
315	Bathroom	Soaking Tub Faucet Fxtr	loose	Plumbing		
315	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
315	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides			

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection				
				Trade	SupC	BBC
Room #	Location	Item	Work To Be Completed	Plumbing		
315	Bathroom	Vanity Sink Faucet Hndl loose				

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11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection	Trade	SubC	BBC
Room #	Location	Item	Work To Be Completed		
317	Bathroom	Crown Molding	gap shows bottom side of crown molding - right of shower fixed glass panel	Caulk	
317	Entry Door	Seals	bottom left peels - striker side	Door	
317	Bedroom	Curtain Rod	not installed	Drapes	
317	Bedroom	Curtains	not installed	Drapes	
317	Bedroom	Desk Glass Top	haze shows	FF&E	
317	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
317	Bedroom	TV Cabinet Glass Top	haze shows	FF&E	
317	Bathroom	Pocket Door	touch up as marked	Painting	
317	Bathroom	Pocket Door Frame	touch up as marked	Painting	
317	Entry	HVAC Cover	2nd coat	Painting	
317	Entry Closet	Closet Door	touch up as marked	Painting	
317	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing	
317	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing	
317	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing	
317	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom - both sides	Wall Vinyl	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
319	Entry Closet	Closet Door Silencer	not installed	Door		
319	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
319	Bedroom	Curtain Rod	not installed	Drapes		
319	Bedroom	Curtains	not installed	Drapes		
319	Bathroom	Ceiling Light Fixture	not flush to ceiling	Electric		
319	Bathroom	Light Switch Cover	screw missing - 1	Electric		
319	Bathroom Shwr	Ceiling Light Fixture	not flush to ceiling - in shower	Electric		
319	Entry Door	Handi Door Bell	does not work	Electric		
319	Bathroom	Vanity Mirror Lights	lampshades not installed - both sides	FF&E		
319	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
319	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
319	Bathroom	Exhaust Fan	does not work	HVAC		
319	Bathroom	Vanity Base	complete repair - right side of vanity base	Millwork		
319	Bathroom	Pocket Door	touch up as marked	Painting		
319	Bathroom	Pocket Door Frame	touch up as marked	Painting		
319	Bedroom	Wall	masking tape paint line shows - left side of tv wall casing	Painting		
319	Bedroom	Wall	touch up as marked - above thermostat	Painting		
319	Entry Door	Door - Interior	touch up as marked	Painting		
319	Commode Rm	Vinyl Wall Covering	clean paint overages	Wall Vinyl		
319	Commode Rm	Vinyl Wall Covering	loose vinyl left wall - corner	Wall Vinyl		
319	Commode Rm	Vinyl Wall Covering	tear shows - left wall	Wall Vinyl		

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11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
321	Commode Rm	Tile Floor	glue shows at front of commode	Cleaning		
321	Bathroom	Pocket Door	sticks when opening - left door at entry side	Door		
321	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
321	Bathroom	Ceiling Light Fixture	not flush to ceiling	Electric		
321	Commode Rm	Ceiling Light Fixture	not flush to ceiling	Electric		
321	Bathroom	Vanity Mirror Lights	lampshades not installed - both sides	FF&E		
321	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
321	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
321	Bathroom	Vanity Base	complete repair - left side of vanity base	Millwork		
321	Bathroom	Pocket Door	touch up as marked	Painting		
321	Bathroom	Pocket Door Casing	touch up as marked	Painting		
321	Bathroom	Pocket Door Frame	touch up as marked	Painting		
321	Bedroom	Ceiling	touch up ceiling - above right side of tv cabinet	Painting		
321	Entry Closet	Closet Frame	touch up as marked	Painting		
321	Entry Door	Door Frame Exterior	touch up as marked	Painting		
321	Bathroom	Shower Drain	water pools in drain - water ran for 10 minutes	Plumbing		
321	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
321	Bathroom	Soaking Tub Fauct Fxtr	gap shows - at wall	Plumbing		
321	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
321	Bathroom	Soaking Tub Stopper	does not hold water	Wall Vinyl		
321	Bathroom	Vinyl Wall Covering	tear shows - at soaking tub water spout			

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
322	Bathroom	Handicap Grab Bar	not installed - at roll in shower	Accessories		
322	Bathroom	Tub	no handicap accessories installed	Accessories		
322	Balcony	Balcony Wall Cap	clean / copper stain shows	Cleaning		
322	Balcony	Tile Floor	clean tile floor	Cleaning		
322	Bathroom	Bathroom Door	check door swing for handicap access code	Door		
322	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
322	Bathroom	Shwr Ceiling Light Fxtr	not flush to ceiling	Electric		
322	Bathroom	Tub	dark - no light above tub	Electric		
322	Bedroom	Electrical Outlet	hot grd reverse - thermostat wall	Electric		
322	Bedroom	Electrical Outlet	hot grd reverse - TV outlet	Electric		
322	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
322	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
322	Bedroom	Nightstand Glass Top	not installed	FF&E		
322	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
322	Bedroom	Wheel Chair Access	ensure wheel chair access code; bed height,space in-between beds & built-in	FF&E		
322	Balcony	Wall	touch up / clean wall	Painting		
322	Bedroom	Wall	touch up right of headboard top	Painting		
322	Entry	HVAC Cover	2nd coat	Painting		
322	Entry Closet	Closet Shelf	2nd coat shelf and shelf base	Painting		
322	Balcony	Drain	rust shows	Plumbing		
322	Bathroom	Commode	appears to be too low for handicap cap access	Plumbing		
322	Bathroom	Commode	water runs and gargles	Plumbing		
322	Bathroom	Handheld Shower Bar	appears to be mounted high for wheel chair access	Plumbing		
322	Bathroom	Handheld Shower Bar	loose	Plumbing		
322	Bathroom	Shower Head	loose stem into wall	Plumbing		
322	Bathroom	Shwr Water Diverter	loose	Plumbing		
322	Bathroom	Tub	no handicap accessories installed if applicable	Plumbing		
322	Bathroom	Tub Faucet Fxtr	loose	Plumbing		
322	Bathroom	Tub Stem Covers	slides	Plumbing		
322	Bathroom	Tub Stem Covers	slides	Plumbing		
322	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
322	Bathroom	Tile Grout	grout missing - under shower bench seat - where wall and floor tile meet	Tile		
322	Bathroom	Tile Grout	grout missing - where tile base meets bathroom door trim	Tile		
322	Bathroom	Vinyl Wall Covering	secure seam in corner - next to commode - top to bottom	Wall Vinyl		
322	Bathroom	Vinyl Wall Covering	secure vinyl wall covering where it meets shower tile surround - top to bottom	Wall Vinyl		
322	Bathroom	Vinyl Wall Covering	secure vinyl wall covering where it meets tub tile surround - top to bottom	Wall Vinyl		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
323	Entry Door	Door Spring Closer	does not close	Door Adjust		
323	Entry Door	Door Frame	dent shows	Door Dent		
323	Entry Door	Door	wide gap shows - striker side - door does not seal	Door Frame		
323	Bathroom	Ceiling Light Fixture	not flush to ceiling	Electric		
323	Bathroom	Vanity Mirror Lights	lampshades not installed - both sides	FF&E		
323	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
323	Bedroom	TV Cabinet	resting on blocks	FF&E		
323	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
323	Bedroom	TV Panel	upper left vinyl padding - shows dents	FF&E		
323	Bathroom	Pocket Door	touch up as marked	Painting		
323	Bathroom	Wall	touch up as marked	Painting		
323	Bedroom	Wall	thermostat wall- touch up as marked	Painting		
323	Entry Door	Door - Interior	touch up	Painting		
323	Entry Door	Door - Interior Trim	touch up	Painting		
323	Entry Door	Door Frame Interior	touch up	Painting		
323	Entry Door	Door Frame Exterior	touch up as marked	Painting		
323	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
323	Bathroom	Vanity Sink Faucet Fxtr	gap shows	Plumbing		
323	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
323	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
323	Entry	Tile Grout	grout missing - inside of closet as marked	Tile		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
324	Balcony	Balcony Wall Cap	clean	Cleaning		
324	Balcony	Tile Floor	clean tile floor	Cleaning		
324	Bathroom	French Door	wood chip - right door - top left corner - bedroom side	Door		
324	Bathroom	Pocket Door	sticks - fall out of track	Door		
324	Bathroom	Pocket Door Handle	does not release - left door	Door		
324	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door Adjust		
324	Entry Door	Door Spring Closer	does not close	FF&E		
324	Bedroom	Desk Glass Top	haze shows	FF&E		
324	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
324	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
324	Bedroom	TV Cabinet Glass Top	haze shows	HVAC		
324	Bathroom	Exhaust Fan	does not work	Millwork		
324	Bathroom	Vanity Base	chip shows - left bottom	Painting		
324	Balcony	Wall	touch up / clean wall	Painting		
324	Entry	Wall	touch up as marked	Painting		
324	Entry Door	Door Frame Interior	touch up	Plumbing		
324	Balcony	Drain	rust shows	Plumbing		
324	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
324	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
324	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
324	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Safelock		
324	Entry Door	Card Reader	screw missing			

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	Subc
325	Bedroom	Base Molding	gap shows - left corner of left bookcase	Caulk	BBC
325	Commode Rm	Glass Door	rubber gasket shows at hinges	Door	
325	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door Adjust	
325	Entry Door	Door Spring Closer	does not close	Electric	
325	Bathroom	Ceiling Light Fixture	not flush to ceiling	Electric	
325	Entry	Ceiling Light Fixture	trim ring - not installed	FF&E	
325	Bedroom	Bed Frame Base	packing residue shows - right bed frame - right front corner	FF&E	
325	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
325	Bedroom	TV Cabinet Glass Top	haze shows	Millwork	
325	Bedroom	Built in Book Case	wood chips shows at top glass panel - left case right door	Painting	
325	Bedroom	Pocket Door	touch up	Painting	
325	Bathroom	Case Opening	touch up	Painting	
325	Bedroom	Wall	masking tape paint line shows - right side of tv wall casing	Painting	
325	Bedroom	Wall	touch up left of closet door frame	Painting	
325	Entry	Closet Door	touch up	Painting	
325	Entry Closet	Closet Frame	touch up	Painting	
325	Entry Closet	Door - Interior	touch up	Plumbing	
325	Entry Door	Soaking Tub Spout	loose	Plumbing	
325	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing	
325	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing	
325	Bathroom	Vanity Sink Stopper	does not hold water	Shwr Sill Chp	
325	Bathroom	Shower Sill	chip shows - at entrance to shower - bathroom side	Tile	
325	Bathroom	Tile Grout	grout is shallow at entrance into commode room right side wall	Tile	
325	Bathroom	Tile Grout	grout missing where tile meets the crown molding - end to end	Wall Vinyl	
325	Bathroom	Vinyl Wall Covering	gaps show where vinyl meets crown molding		
325	Commode Rm				

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11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
326	Balcony	Tile Floor	clean tile floor	Cleaning		
326	Bathroom	French Door	hard to open	Door		
326	Entry Door	Door Spring Closer	does not close	Door Adjust		
326	Bedroom	Curtain Rod	not installed	Drapes		
326	Bedroom	Curtains	not installed	Drapes		
326	Bathroom	Vanity Mirror Lights	lamp shade not installed	FF&E		
326	Bedroom	Desk Glass Top	haze shows	FF&E		
326	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
326	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
326	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
326	Bedroom	TV Panel	marking show - left side	FF&E		
326	Bedroom	Smoke Detector	battery holder is open	Fire		
326	Balcony	Wall	touch up / clean wall	Painting		
326	Bedroom	Ceiling	2nd coat as needed at bedroom entry	Painting		
326	Bedroom	Wall Molding	touch up corner at bedroom entry	Painting		
326	Entry Closet	Closet Ceiling	2nd coat	Painting		
326	Entry Closet	Closet Wall	2nd coat	Painting		
326	Balcony	Drain	gap shows	Plumbing		
326	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
326	Bathroom	Vanity Sink Drain	does not hold water	Plumbing		
326	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
326	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
326	Bathroom	French Door Sill	pencil mark - with room number	Tile		
326	Bathroom	Shower Tile	chip shows at hand held shower water supply - caulk for better seal	Tile Chip		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection	Trade	SubC	BBC
Room #	Location	Item	Work To Be Completed		
327	Bathroom	Handicap Grab Bar	not installed - at roll in shower	Accessories	
327	Bathroom	Tub	no handicap accessories installed	Accessories	
327	Bathroom	Bathroom Door	check door swing for handicap access code	Door	
327	Connector Door	Seals	not installed - smoke seal	Door	
327	Entry Door	Bottom Viewer	loose	Door	
327	Entry Door	Door Spring Closer	does not close	Door Adjust	
327	Bathroom	Tub	dark - no light above tub	Electric	
327	Bathroom	Vanity Outlet/GFI	questioning location for wheelchair access	Electric	
327	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
327	Bedroom	Nightstand Glass Top	not installed	FF&E	
327	Bedroom	TV Cabinet Door	veneer pulling away - as marked	FF&E	
327	Bedroom	TV Cabinet Glass Top	haze shows	FF&E	
327	Bedroom	Wheel Chair Access	ensure wheel chair access code; bed height,space in-between beds & built-in	FF&E	
327	Entry Closet	Closet Bar	not installed	Millwork	
327	Bathroom	Vanity Base Cover	cover not secured onto top mounting point - held by bottom mounting point only	Millwork	
327	Bedroom	Window Trim	chunk missing - left side	Painting	
327	Bedroom	Wall	masking tape paint line shows - left side of tv wall casing	Painting	
327	Entry	HVAC Cover	2nd coat	Painting	
327	Entry Closet	Closet Shelf	2nd coat shelf and shelf base	Painting	
327	Entry Door	Door Frame Interior	2nd coat	Plumbing	
327	Bathroom	Commode	appears to be too low for handicap cap access	Plumbing	
327	Bathroom	Commode	water runs and gargles	Plumbing	
327	Bathroom	Handheld Shower Bar	appears to be mounted high for wheel chair access	Plumbing	
327	Bathroom	Handheld Shower Bar	loose	Plumbing	
327	Bathroom	Shower Head	loose stem into wall	Plumbing	
327	Bathroom	Tub	no handicap accessories installed if applicable	Plumbing	
327	Bathroom	Tub Faucet Fxtr	loose	Plumbing	
327	Bathroom	Tub Stem Covers	slides	Plumbing	
327	Bathroom	Vanity Sink Faucet Fxtr	loose - both sides	Plumbing	
327	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing	
327	Bathroom	Water Diverter	loose	Tile	
327	Bathroom	Tile Grout	grout missing - left of floor drain - bathroom side	Tile	
327	Bathroom	Tile Grout	grout missing - where tile base meets bathroom door trim	Wall Vinyl	
327	Bathroom	Vinyl Wall Covering	secure seam in corner - next to commode - top to bottom	Wall Vinyl	
327	Bathroom	Vinyl Wall Covering	secure vinyl wall covering where it meets shower tile surround - top to bottom	Wall Vinyl	
327	Bathroom	Vinyl Wall Covering	secure vinyl wall covering where it meets tub tile surround - top to bottom		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
328	Balcony	Balcony Cap	copper stain shows	Cleaning		
328	Balcony	Tile Floor	clean tile floor	Cleaning		
328	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
328	Entry Door	Door Spring Closer	does not close	Door Adjust		
328	Bedroom	Desk Glass Top	haze shows	FF&E		
328	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
328	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
328	Balcony	Wall	touch up / clean wall	Painting		
328	Bathroom	Pocket Door	touch up	Painting		
328	Bedroom	Base Molding	touch up - under thermostat	Painting		
328	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
328	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
328	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
329	Connector Door	Seals	not installed - smoke seals	Door		
329	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
329	Entry Door	Door Spring Closer	does not close	Door Adjust		
329	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
329	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
329	Bathroom	Vanity Base Drawer	hits - tile trim when opening	Millwork		
329	Bedroom	Built in Book Case	chip shows - left cabinet	Millwork		
329	Bathroom	Pocket Door	touch up	Painting		
329	Bathroom	Wall	touch up as marked	Painting		
329	Bedroom	Wall	markings show - bottom of thermostat wall - left of outlet	Painting		
329	Entry	Wall	touch up - right side at entry	Painting		
329	Entry Door	Door - Interior	touch up	Painting		
329	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
329	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
329	Bathroom	Vanity Sink Faucet Fxtr	loose - both handles	Plumbing		
329	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
329	Bathroom	Vanity Top	chips shows at front edge - middle	Quartz Chip		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC		3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
331	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
331	Bedroom	Nightstand Lamp	open hot	Electric		
331	Entry Closet	Access Panel Cover	not installed	Electric		
331	Bedroom	Bed Frame Base	packing residue shows - left bed frame - right corner	FF&E		
331	Bedroom	Desk Glass Top	haze shows	FF&E		
331	Bedroom	Desk Lamp Left	open hot	FF&E		
331	Bedroom	Desk Lamp Right	open hot	FF&E		
331	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
331	Bedroom	Sitting Floor Lamp	open hot	FF&E		
331	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
331	Bathroom	Pocket Door	touch up as marked	Painting		
331	Entry Closet	Closet Frame	touch up	Painting		
331	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
331	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
331	Bathroom	Vanity Sink Stopper	not installed	Plumbing		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
333	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
333	Entry Door	Door Spring Closer	does not close	Door Adjust		
333	Bathroom	Vanity Mirror Lights	light bulbs not installed - both sides	FF&E		
333	Bedroom	Desk	glass top - not installed	FF&E		
333	Bedroom	Desk Lamp	loose switch - as marked	FF&E		
333	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
333	Bedroom	TV Cabinet Glass Top	haze shows	Painting		
333	Bathroom	Pocket Door	touch up	Painting		
333	Bathroom	Pocket Door Frame	touch up	Plumbing		
333	Bathroom	Soaking Tub Stopper	not installed			

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC		3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
335	Bathroom	Pocket Door	right door damaged	Door		
335	Connector Door	Deadbolt	screw missing	Door		
335	Entry Closet	Closet Door Lockset	top right lockset sticks - hard to close door	Door		
335	Bathroom	Ceiling Light Fixture	not flush to ceiling	Electric		
335	Bedroom	Desk Glass Top	haze shows	FF&E		
335	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
335	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
335	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
335	Bathroom	Sprinkler Cover	gap shows	Fire		
335	Bathroom	Pocket Door	touch up	Painting		
335	Bathroom	Pocket Door Frame	touch up	Painting		
335	Bathroom	Wall	touch up as marked	Painting		
335	Entry Closet	Closet Door	rough edge on bottom	Painting		
335	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
335	Bathroom	Soaking Tub Stopper	not installed	Plumbing		
335	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
335	Bathroom	Shower Tile	chip left of entry	Tile Chip		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Insp...on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
337	Bathroom	French Door	mirror is cracked	Door		
337	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
337	Entry Door	Door Spring Closer	does not seal	Door Adjust		
337	Bedroom	Desk Glass Top	haze shows	FF&E		
337	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
337	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
337	Bedroom	TV Panel	wide gap and bracket shows on top - at both sides	FF&E		
337	Bedroom	TV Panel Cushion	indentation shows - as marked	FF&E		
337	Bathroom	Vanity Base	gap shows - left of vanity base	Millwork		
337	Bathroom	French Door Wall Casin	touch up	Painting		
337	Bathroom	Pocket Door	touch up	Painting		
337	Bathroom	Pocket Door Frame	touch up	Painting		
337	Bathroom	Soaking Tub Fauct Hdl	gap shows	Plumbing		
337	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
339	Bathroom	Vanity Sink Drain	gap shows at escushion	Caulk		
339	Bathroom	Shwr Glass Fxd Panel	loose	Door		
339	Entry Door	Seals	not installed - smoke seals	Door		
339	Commode Rm	Ceiling Light Fixture	not flush to ceiling	Electric		
339	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
339	Bedroom	Refrigerator	not working	FF&E		
339	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
339	Bedroom	TV Panel	gap shows- left side	FF&E		
339	Bathroom	French Door	touch up as marked	Painting		
339	Bathroom	French Door Trim	touch up back side of trim	Painting		
339	Bathroom	Pocket Door	touch as marked	Painting		
339	Bathroom	Pocket Door Casing	touch up as marked	Painting		
339	Bathroom	Pocket Door Frame	touch as marked	Painting		
339	Bathroom	Wall	touch up as marked	Painting		
339	Entry Closet	Closet Door	touch up as marked	Painting		
339	Entry Closet	Closet Frame	touch up as marked	Painting		
339	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
339	Bathroom	Soaking Tub Stopper	not installed	Plumbing		
339	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
339	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
339	Bathroom	Shower Sill	chip at entry - bathroom side	Shwr Sill Chp		
339	Entry	Tile Grout	grout missing - by door frame - latch side	Tile		
339	Commode Rm	Vinyl Wall Covering	tear shows - left wall entrance	Wall Vinyl		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
340	Bathroom	French Door Sill	gap shows	Caulk		
340	Balcony	Tile Floor	clean tile floor	Cleaning		
340	Balcony	Balcony Door Seal	left door top seal loose	Door		
340	Bathroom	French Door Handle	hits case trim	Door		
340	Bathroom	Pocket Door	comes out of pocket at the bottom - right door entry side	Door		
340	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door Adjust		
340	Entry Door	Door Spring Closer	does not close	FF&E		
340	Bedroom	Desk Glass Top	haze shows	FF&E		
340	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
340	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
340	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
340	Entry Closet	Closet Bar	not installed	Millwork		
340	Entry Closet	Closet Shelf	not installed	Painting		
340	Balcony	Wall	copper stain shows	Painting		
340	Balcony	Wall	touch up / clean wall	Painting		
340	Bathroom	French Door	touch up as marked	Painting		
340	Entry	HVAC Cover	2nd coat	Plumbing		
340	Bathroom	Vanity Sink Faucet Fxtr	loose - faucet handle			

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
341	Bathroom	Vanity Sink Drain	gap at escushion	Caulk		
341	Entry	Ceiling	hole shows at HVAC Cover	Caulk		
341	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
341	Entry Door	Door Spring Closer	does not close	Door Adjust		
341	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
341	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
341	Entry Closet	Closet Ceiling	access panel is open	HVAC		
341	Bathroom	Ceiling	complete repair at access panel	Painting		
341	Bathroom	French Door	touch up - both sides	Painting		
341	Bathroom	Pocket Door	touch up as marked	Painting		
341	Bedroom	Wall	markings show right of headboard - side and top corner	Painting		
341	Entry Door	Door	touch up as marked	Painting		
341	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
341	Bathroom	Vanity Sink Stopper	not installed	Plumbing		
341	Bathroom	Shower Sill	pencil marks show	Tile		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
342	Balcony	Tile Floor	clean tile floor	Cleaning		
342	Balcony	Door Seal	tear in seal	Door		
342	Bathroom	Pocket Door	right door - entry side - extend beyond pocket	Door		
342	Commode Rm	Glass Door Hinge	rubber gasket shows at hinges	Door		
342	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
342	Entry Door	Sweep	rubs along the floor	Door Adjust		
342	Entry Door	Door Spring Closer	does not close	Electric		
342	Commode Rm	Ceiling Light Fixture	not flush to ceiling	FF&E		
342	Bedroom	Bed Frame Base	slight tear - right side corner - foot side	FF&E		
342	Bedroom	Desk Glass Top	haze shows	FF&E		
342	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
342	Bedroom	TV Cabinet Glass Top	haze shows	Painting		
342	Balcony	Walls	touch up as needed	Painting		
342	Bedroom	Wall	touch up trim at bedroom side entry	Plumbing		
342	Balcony	Drain	gaps show - drain is lower than others	Plumbing		
342	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
342	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
342	Bathroom	Vanity Sink Faucet Fxtr	loose handle	Plumbing		
342	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Tile		
342	Bathroom	Shower Tile Grout	grout missing in shampoo holder	Tile		
342	Commode Rm	Tile Grout	grout missing in commode room door trim entrance - as marked	Wall Vinyl		
342	Bathroom	Vinyl Wall Covering	missing at soaking tub water spout			

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC		3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
343	Bathroom	Pocket Door	shows bad panel trim - should have failed qc at the factory	Door		
343	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
343	Entry Door	Door Spring Closer	does not close	Door Adjust		
343	Bathroom	Ceiling Light Fixture	not flush to ceiling	Electric		
343	Commode Rm	Ceiling Light Fixture	not flush to ceiling	Electric		
343	Bedroom	Bed Frame Base	tear in vinyl - left front corner	FF&E		
343	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
343	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
343	Bathroom	Wall	touch up right of vanity base	Painting		
343	Bathroom	French Door	touch up as marked	Painting		
343	Bathroom	Vanity Sink Faucet Fxtr	loose handle	Plumbing		
343	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
343	Bathroom	Vanity Sink Stopper	not installed - debris shows inside drain	Plumbing		
343	Entry	Tile Floor	pencil line shows under mirror	Tile		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
344	Bathroom	French Door Sill	gap shows at wall casing	Caulk		
344	Balcony	Tile Floor	clean tile floor	Cleaning		
344	Bathroom	Pocket Door	door handle hits trimmed opening	Door		
344	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
344	Entry Door	Door Spring Closer	does not close	Door Adjust		
344	Commode Rm	Ceiling Light Fixture	not flush to ceiling	Electric		
344	Bathroom	Vanity Mirror Lights	not straight	FF&E		
344	Bedroom	Desk Glass Top	haze shows	FF&E		
344	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
344	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
344	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
344	Entry	HVAC	not working	HVAC		
344	Bathroom	Vanity Base Drw Hndl	loose	Millwork		
344	Balcony	Wall	touch up	Painting		
344	Entry Door	Door	repaint	Painting		
344	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
344	Bathroom	Vanity Sink Faucet Fxtr	loose - faucet handle	Plumbing		
344	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
345	Bathroom	Pocket Door	not flush when both doors are closed	Door		
345	Entry Door	Door Spring Closer	does not close	Door Adjust		
345	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
345	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
345	Entry Door	Door Frame Exterior	touch up as marked	Painting		
345	Bathroom	Handheld Shower	no water pressure	Plumbing		
345	Bathroom	Soaking Tub Fauct Hdl	gap shows	Plumbing		
345	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
345	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handles - both sides	Plumbing		
345	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
345	Bathroom	Vanity Sink Stopper	not installed	Tile		
345	Bathroom	Tile Grout	grout missing right bottom of shower door entrance	Tile		
345	Entry	Tile Grout	grout missing on tile floor below right corner of wall mirror			

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
346	Balcony	Tile Floor	clean tile floor	Cleaning		
346	Bathroom	French Door	complete installation	Door		
346	Bathroom	Pocket Door	doors fall out - door handle hits trim	Door		
346	Bathroom	Pocket Door	re-install - comes out of pocket	Door		
346	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
346	Entry Door	Sweep	rubs along the floor	Door		
346	Entry Door	Door Spring Closer	does not close	Door Adjust		
346	Bathroom	Vanity Mirror Lights	not straight - left side	FF&E		
346	Bedroom	Desk Glass Top	haze shows	FF&E		
346	Bedroom	Desk Lamp Dimmr Bulb	dimmer bulb needed	FF&E		
346	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
346	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
346	Bedroom	TV Panel	top center vinyl piece not flush	FF&E		
346	Bathroom	Sprinkler Head Cover	not installed	Fire		
346	Bathroom	Exhaust Fan	does not work	HVAC		
346	Balcony	Wall	touch up	Painting		
346	Entry Closet	Closet Door	touch up as marked	Painting		
346	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
347	Bathroom	Pocket Door	right door - hard to open	Door		
347	Commode Rm	Glass Door Handle	missing silver plating - pealing	Door		
347	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door Adjust		
347	Entry Door	Door Spring Closer	does not close	Electric		
347	Bathroom	Ceiling Access Panel	not flush to ceiling	Electric		
347	Bathroom	Ceiling Light Fixture	not flush to ceiling	FF&E		
347	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
347	Bedroom	TV Cabinet Glass Top	haze shows	Plumbing		
347	Bathroom	Soaking Tub Spout	loose - has a little play	Plumbing		
347	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
347	Bathroom	Vanity Sink Stopper	does not hold water	Tile		
347	Bathroom	Shower Tile Grout	excess grout in shampoo holder right side - left side gap shows	Tile		
347	Entry	Tile Grout	grout missing - right of entry switch			

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	3rd Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
348	Bedroom	Carpet	loose - at wood transition	Carpet		
348	Bathroom	Pocket Door	hard to open - left door entering bathroom	Door		
348	Bedroom	Pocket Door	not flush when both doors are closed	Door		
348	Bedroom	Pocket Door	replace 1 door - saw blade ran across door	Door		
348	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
348	Entry Door	Sweep	not installed	Door		
348	Entry Door	Door Spring Closer	does not close	Door Adjust		
348	Bedroom	CLOSET	NO CLOSET BUILT-IN possible armoire not installed	FF&E		
348	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
348	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
348	Living Room	Desk Glass Top	haze shows	FF&E		
348	Living Room	TV Cabinet Glass Top	haze shows	FF&E		
348	Bedroom	Pocket Door Frame	touch up as marked	Painting		
348	Bathroom	Shower Faucet Fxtrs	water pressure appears to be lower than others	Plumbing		
348	Bathroom	Soaking Tub Faucet	loose - gap shows	Plumbing		
348	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
348	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
348	Bathroom	Vanity Sink Faucet Fxtr	loose faucet holder	Plumbing		
348	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
348	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
348	Living Room	Access Panel Cover	not installed	Plumbing		
348	Bathroom	Shower Tile Floor	stain shows in grout	Tile		
348	Bathroom	Shower Tile Grout	holes show in shampoo holder	Tile		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Ma...on Square, Charleston, SC	3rd Floor Guestroom Re Inspe...on			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC**	**BBC**
349	Bathroom	Pocket Door	right door falls out of pocket	Door		
349	Entry Door	Door - Interior	door split - above latch and blank plate for card access	Door		
349	Entry Door	Sweep	not installed	Door		
349	Entry Door	Door Spring Closer	does not close	Door Adjust		
349	Bedroom	Desk Glass Top	haze shows	FF&E		
349	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
349	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
349	Main Entrance	Hardwood Floors	scratches show	Flooring		
349	Entry Door	Door - Exterior	touch up as marked	Painting		
349	Bathroom	Soaking Tub Stem Cvr	slides	Plumbing		
349	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
349	Bathroom	Vanity Sink Faucet Fxtr	loose handle	Plumbing		
349	Bathroom	Vanity Sink Faucet Fxtr	loose - stem covers slides	Plumbing		
349	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Ins	ion		SubC	BBC
Room #	Location	Item	Work To Be Completed	Trade		
401	Bathroom	Soaking Tub Faucet Fxt	caulk to wall	Caulk		
401	Commode Rm	Tile Trim	marking shows - red	Cleaning		
401	Entry Closet	Closet Door Handle	paint shows	Cleaning		
401	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
401	Bathroom	Pocket Door	gap shows - at top when both doors are closedclosed	Door		
401	Bathroom	Barn Door	mirror cracked	Door		
401	Bathroom	Barn Door Guide	not secured - falls out of place	Door		
401	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
401	Entry Door	Door Closer	does not close	Door		
401	Entry Door	Viewer	loose	Door		
401	Entry Door	Sweep	scrapes along the floor	Electrical		
401	Bedroom	Electrical Outlet	hot ground reverse	Electrical		
401	Entry	Electrical Outlet	hot ground reverse	Electrical		
401	Entry Closet	Light	hot open - does not turn on	Electrical		
401	Bathroom	Light Switch	no neutral	Electrical		
401	Bathroom	Light Switch	no neutral	FF&E		
401	Bedroom	Bed Frame Base	clean	FF&E		
401	Bedroom	Nightstand Draw Hndls	not installed	Millwork		
401	Bathroom	Vanity Base	gap shows - right side	Millwork		
401	Entry Closet	Closet Shelf	not installed - put in place	Painting		
401	Bathroom	Ceiling Access Panel	touch up	Painting		
401	Bathroom	Pocket Door	touch up	Painting		
401	Bathroom	Wall	touch up at light switch	Painting		
401	Entry	HVAC Cover	2nd coat	Painting		
401	Entry	Case Opening	touch up as marked	Painting		
401	Entry	Wall	touch up at light switch	Plumbing		
401	Bathroom	Shower Drain	does not drain	Plumbing		
401	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
401	Bathroom	Vanity Sink Drain	does not hold water	Plumbing		
401	Bathroom	Shower Diverter Handle	loose	Safe Lock		
401	Entry Door	Door	split between latch and blank plate card reader access blank plate	Tile		
401	Bathroom	Shower Tile Grout	gap shows - left tile surround - back corner	Tile		
401	Bathroom	Shower Tile Grout	gap shows at niche - shampoo holder	Tile		
401	Bathroom	Shwr Recsd Niche	sharp edge at 45 at niche - shampoo holder	Vinyl Wall		
401	Commode Rm	Vinyl Wall Covering	markings show - clean			

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...rion Square, Charleston, SC	4th Floor Guestroom Re Ins ...tion			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC** **BBC**
403	Bathroom	Pocket Door	hard to open - falls out of track - release button stuck	Door	
403	Bathroom	Barn Door	not installed	Door	
403	Bathroom	Barn Door	split at bottom - large	Door	
403	Entry Door	Door Closer	does not close	Door	
403	Entry Door	Viewer	loose	Door	
403	Entry Door	Sweep	scrapes along the floor	Door	
403	Entry Door	Smoke Seal	gap shows - not flush	Door Seals	
403	Bathroom	Light Switch	no neutral	Electrical	
403	Bathroom	Light Switch	no neutral	Electrical	
403	Bedroom	Headboard	mark show - top right	FF&E	
403	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
403	Bedroom	Bed Frame Base	tear shows - left side at foot	FF&E	
403	Bathroom	Pocket Door Frame	nail heads show - not recessed	Millwork	
403	Bathroom	Barn Door Wall Case	not installed	Millwork	
403	Bathroom	Pocket Door Frame	touch up	Painting	
403	Bathroom	Wall	touch up at light switch	Painting	
403	Entry	Wall	touch up at light switch	Painting	
403	Entry Closet	Closet Frame	touch up	Painting	
403	Bathroom	Shower Diverter Hndl	loose	Plumbing	
403	Bathroom	Vanity Sink Stopper	paint shows in drain	Plumbing	
403	Bathroom	Shwr Recsd Niche	sharp edge at 45 at niche - shampoo holder	Tile	

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11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Ins[illegible]tion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
404	Bathroom	Soaking Tub Faucet Fxt	caulk to wall	Caulk	
404	Bathroom	Barn Door Sill	gap shows	Caulk	
404	Bedroom	Window Trim	gap shows	Caulk	
404	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door	
404	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door	
404	Entry Door	Door Closer	does not close	Door	
404	Entry Door	Viewer	loose	Door	
404	Bathroom	Vanity Outlet/GFI	open hot - reset tripped - will not reset	Electrical	
404	Bathroom	Light Switch Cover	broke - 2 green light cover style	Electrical	
404	Entry	Light Switch Plate	not flush	Electrical	
404	Bathroom	Light Switch	no neutral	Electrical	
404	Bathroom	Light Switch	no neutral	Electrical	
404	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
404	Bedroom	Vent	drafting air - note- a/c off and bathroom vent is off	HVAC	
404	Bathroom	Barn Door Wall Casing	touch up	Painting	
404	Bathroom	Wall	touch up at light switch	Painting	
404	Bedroom	Window Trim	touch up	Painting	
404	Bedroom	Wall	touch up as marked	Painting	
404	Entry	HVAC Cover	2nd coat	Painting	
404	Entry	Base Moulding	gap show - touch up as marked	Painting	
404	Entry	Wall	touch up as marked	Painting	
404	Entry	Wall	touch up at light switch	Painting	
404	Entry Door	Door Trim Ext / Int	touch up - bottom striker side	Plumbing	
404	Bathroom	Shower - Handheld	loose	Plumbing	
404	Bathroom	Shower Diverter Hndl	loose	Plumbing	
404	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing	
404	Bathroom	Vanity Sink Stopper	stopper removed - paint show in drain	Plumbing	
404	Bathroom	Wall	water stain shows - right corner of soaking tub	Plumbing	

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	.arion Square, Charleston, SC	4th Floor Guestroom Re I	ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
405	Bathroom	Soaking Tub Faucet Fxt	caulk to wall	Caulk		
405	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
405	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
405	Entry Door	Door Closer	does not close	Door		
405	Entry Door	Viewer	loose	Door		
405	Entry Door	Sweep	scrapes along the floor	Door		
405	Entry Door	Smoke Seal	not flush in corner	Door Seals		
405	Bathroom	Light Switch	no neutral	Electrical		
405	Bathroom	Light Switch	no neutral	Electrical		
405	Entry Door	Door Trim Ext / Int	gap shows - wide - at bottom of door trim where it meets the floor	Millwork		
405	Bathroom	Pocket Door	touch up	Painting		
405	Bathroom	Wall	touch up at light switch	Painting		
405	Entry	Wall	touch up at light switch	Painting		
405	Entry Closet	Closet Wall	2nd coat - fall out from shelf install	Painting		
405	Entry Closet	Closet	complete install - nail hole shows - primer shows	Painting		
405	Entry Closet	Closet Door	touch up	Painting		
405	Bathroom	Shower Diverter Hndl	loose	Plumbing		
405	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
405	Bathroom	Shwr Recsd Niche	sharp edge at 45 at niche - shampoo holder	Tile		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
406	Bathroom	Barn Door Sill	gap shows - both sides	Caulk	
406	Bathroom	Pocket Door Guide	not installed	Door	
406	Bathroom	Barn Door	touch up	Door	
406	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
406	Entry Door	Door Closer	does not close	Door	
406	Entry Door	Sweep	scrapes along the floor	Door	
406	Entry	Light Switch Plate	not flush - warped looking	Electrical	
406	Bathroom	Light Switch	no neutral	Electrical	
406	Bathroom	Light Switch	no neutral	Electrical	
406	Entry	Light Switch	not flush - in box	Electrical	
406	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
406	Bathroom	Pocket Door Frame	nail shows - top left corner bathroom side	Painting	
406	Bathroom	Wall	touch up at light switch	Painting	
406	Entry	Wall	touch up at light switch - paint peeling	Painting	
406	Entry Closet	Closet Frame	2nd coat frame	Painting	
406	Entry Door	Door	touch up thru out	Painting	
406	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing	
406	Bathroom	Shower Diverter Hndl	loose	Plumbing	
406	Bathroom	Shower Faucet Fixtures	loose	Plumbing	
406	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing	
406	Bathroom	Shwr Recsd Niche	sharp edge at 45 at niche - shampoo holder	Tile	
406	Entry Door	Threshold	gap shows - both sides	Tile	

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
407	Bathroom	Barn Door Sill	gap shows - both sides	Caulk	
407	Bathroom	Crown Molding	gap shows along tiled wall	Caulk	
407	Commode Rm	Glass Door	frosted glass shows on inside - smooth on outside	Door	
407	Entry Door	Door Closer	does not close	Door	
407	Bathroom	Light Switch	no neutral	Electrical	
407	Bathroom	Light Switch	no neutral	Electrical	
407	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
407	Bathroom	Pocket Door Frame/Trim	touch up - at bottom	Painting	
407	Bathroom	Wall	touch up at light switch	Painting	
407	Entry	HVAC Cover	2nd coat	Painting	
407	Entry	Wall	touch up at light switch	Painting	
407	Bathroom	Shower Hand Hld Holdr	finish peeling	Plumbing	
407	Bathroom	Shower Diverter Hndl	loose	Plumbing	
407	Bathroom	Shower Tile Grout	gap shows - grout	Tile	
407	Bathroom	Shwr Recsd Niche	gap shows - grout	Tile	
407	Bathroom	Shower Tile	mark shows	Tile	

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11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re In[illegible]tion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
408	Entry Door	Door Trim Ext / Int	caulk missing at striker where it meets trim	Caulk	
408	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door	
408	Bathroom	Pocket Door	right entry door hard to close	Door	
408	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door	
408	Entry Door	Door Closer	closes :) ... fast :(	Door	
408	Entry Door	Sweep	scrapes along the floor	Door	
408	Bathroom	Vanity Outlet/GFI	open hot - reset tripped - will not reset	Electrical	
408	Bathroom	Light Switch	no neutral	Electrical	
408	Bathroom	Light Switch	no neutral	Electrical	
408	Bedroom	Book Case Cabinet	chip shows	FF&E	
408	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
408	Bathroom	Wall	touch up at light switch	Painting	
408	Bedroom	Wall	touch up	Painting	
408	Entry	Wall	touch up at light switch	Painting	
408	Entry Door	Door Exterior / Interior	touch up	Painting	
408	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing	
408	Bathroom	Shower Diverter Hndl	loose	Plumbing	

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11/20/201.	.arion Square, Charleston, SC	4th Floor Guestroom Re Ir.	ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
409	Bathroom	Barn Door Sill	gap shows	Caulk		
409	Entry Door	Door Trim Ext / Int	caulk missing at striker where it meets trim	Caulk		
409	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
409	Bathroom	Barn Door Handle	not straight - bathroom side - left door	Door		
409	Bathroom	Barn Door Handle	touches case opening	Door		
409	Entry Door	Sweep	scrapes along the floor	Door		
409	Bathroom	Light Switch	no neutral	Electrical		
409	Bathroom	Light Switch	no neutral	Electrical		
409	Bathroom	Light Switch	reinstall - not straight/flush gap shows - missing screw at plate	Electrical		
409	Bathroom	Vanity Mirror Lights	not straight - right light	FF&E		
409	Bathroom	Vanity Base	paint peeling - front and center top edge	FF&E		
409	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
409	Entry Closet	Closet Shelf	put in place	Millwork		
409	Bathroom	Pocket Door	hard to open	Painting		
409	Bathroom	Wall	touch up at light switch	Painting		
409	Entry Door	Door Exterior / Interior	touch up	Painting		
409	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
409	Bathroom	Shower Diverter Hndl	loose	Plumbing		
409	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
410	Bedroom	Book Case Cabinet	ceiling paint shows - left cabinet at top left side	Cleaning	
410	Bathroom	Pocket Door	comes out of pocket	Door	
410	Bathroom	Barn Door Guide	loose left side at bedroom	Door	
410	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door	
410	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
410	Entry Door	Door Closer	does not close	Door	
410	Entry Door	Sweep	not installed	Door Seals	
410	Entry Door	Smoke Seal	not flush to corner - bottom striker side	Electrical	
410	Bathroom	Light Switch	no neutral	Electrical	
410	Bathroom	Light Switch	no neutral	FF&E	
410	Bedroom	TV Cabinet	not flush - top center pad - right corner	FF&E	
410	Bedroom	Nightstand Draw Hndls	not installed	Millwork	
410	Entry Closet	Closet Shelf	not installed - laying on the floor	Painting	
410	Bathroom	Barn Door	touch up	Painting	
410	Bathroom	Pocket Door	touch up	Painting	
410	Bathroom	Wall	touch up at light switch	Painting	
410	Bedroom	Wall	touch up	Painting	
410	Entry	HVAC Cover	2nd coat	Painting	
410	Entry	Wall	touch up at light switch	Painting	
410	Entry Door	Door Exterior / Interior	touch up	Plumbing	
410	Bathroom	Shower Diverter Hndl	loose	Plumbing	
410	Bathroom	Shower Faucet Fixtures	loose	Tile	
410	Bathroom	Tile Grout	gap shows - commode rm - left corner behind commode		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Ins, tion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
411	Bathroom	Soaking Tub Faucet Fxt	caulk to wall	Caulk	
411	Bathroom	Barn Door	not installed	Door	
411	Entry Closet	Closet Door Handle	sticks - in downward position	Door	
411	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
411	Entry Door	Door Closer	does not close	Door	
411	Entry Door	Sweep	scrapes along the floor	Door	
411	Bathroom	Light Switch	hanging out of wall "LIVE"	Electrical	
411	Bathroom	Light Switch	no neutral	Electrical	
411	Bathroom	Light Switch	no neutral	Electrical	
411	Bedroom	Bed Frame Base	clean	FF&E	
411	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
411	Bedroom	Desk Lamp Switch	short	FF&E	
411	Entry Closet	Closet Frame	dent - striker side	Frame Dent	
411	Bathroom	Pocket Door	touch up	Painting	
411	Bathroom	Wall	touch up at light switch	Painting	
411	Entry	HVAC Cover	touch up	Painting	
411	Entry	Wall	touch up at light switch	Painting	
411	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing	
411	Bathroom	Shower Diverter Hndl	loose	Plumbing	
411	Bathroom	Vanity Sink Over Flow	peeling trim at over flow drain	Plumbing	
411	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock	
411	Bathroom	Shower Tile Grout	gap show - at drain & niche - shampoo holder	Tile	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...arion Square, Charleston, SC	4th Floor Guestroom Re In... tion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
413	Bathroom	Soaking Tub Faucet Fxt	caulk to wall	Caulk	
413	Connector Door	Sweep	not installed	Door	
413	Entry Door	Viewer	crooked - pivot point is at 6 o'clock - upside down - not loose	Door	
413	Entry Door	Door Closer	does not close	Door	
413	Entry Door	Night Latch	not installed	Door	
413	Bathroom	Light Switch	no neutral	Electrical	
413	Bathroom	Light Switch	no neutral	Electrical	
413	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
413	Entry Closet	Closet Shelf	put in place - leaning on back wall	Millwork	
413	Bathroom	Wall	touch up at light switch	Painting	
413	Entry	Wall	touch up at light switch	Painting	
413	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing	
413	Bathroom	Shower Diverter Hndl	loose	Plumbing	
413	Bathroom	Vanity Sink Faucet Fxtr	loose handle	Plumbing	
413	Bathroom	Shower Faucet Fixtures	loose handles	Plumbing	
413	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock	
413	Bathroom	Shower Tile Grout	gap show - as marked	Tile	
413	Commode Rm	Vinyl Wall Covering	overlaps onto grout - as marked	Vinyl Wall	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	ion Square, Charleston, SC	4th Floor Guestroom Re Ins ion			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC** **BBC**
417	Bathroom	Crown Molding	gap shows along tiled wall	Caulk	
417	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
417	Bathroom	Light Switch	no neutral	Electrical	
417	Bathroom	Light Switch	no neutral	Electrical	
417	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
417	Bathroom	Wall	touch up at light switch	Painting	
417	Entry	Wall	touch up at light switch	Painting	
417	Entry Closet	Closet Wall	touch up above shelf	Painting	
417	Bathroom	Shower Diverter Hndl	loose	Plumbing	
417	Bathroom	Shower Faucet Fixtures	loose faucet handle	Plumbing	
417	Bathroom	Shower Tile Grout	gap show - as marked	Tile	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...arion Square, Charleston, SC	4th Floor Guestroom Re In... tion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
419	Bathroom	Soaking Tub Faucet Fxt	caulk to wall	Caulk	
419	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door	
419	Entry Door	Viewer	loose	Door	
419	Bathroom	Light Switch	no neutral	Electrical	
419	Bathroom	Light Switch	no neutral	Electrical	
419	Bedroom	TV Panel	cracked as marked	FF&E	
419	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
419	Bathroom	Pocket Door Frame	touch up	Painting	
419	Entry	Wall	touch up at light switch	Painting	
419	Bathroom	Shower Diverter Hndl	loose	Plumbing	

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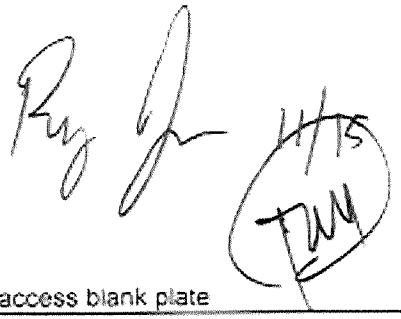
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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Ins[illegible]ion			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC** **BBC**
421	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door	
421	Entry Door	Sweep	scrapes along the floor	Door	
421	Bathroom	Light Switch Plate	gap shows	Electrical	
421	Bathroom	Light Switch	no neutral	Electrical	
421	Bathroom	Light Switch	no neutral	Electrical	
421	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
421	Bathroom	Pocket Door	touch up	Painting	
421	Bathroom	Wall	touch up at light switch	Painting	
421	Entry Closet	Closet Frame	rough - smooth and paint	Painting	
421	Bathroom	Shower Diverter Hndl	loose	Plumbing	
421	Bathroom	Vanity Sink Stopper	loose	Plumbing	
421	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock	



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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...rion Square, Charleston, SC	4th Floor Guestroom Re In...tion			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC** **BBC**
422	Bathroom	Crown Molding	gap shows along tiled wall	Caulk	
422	Bathroom	Pocket Door Guide	both stuck	Door	
422	Entry Door	Viewer	glued shut	Door	
422	Entry Door	Wall Bump	not installed	Door	
422	Bathroom	Light Switch	no neutral	Electrical	
422	Bathroom	Light Switch	no neutral	Electrical	
422	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
422	Bathroom	Pocket Door	touch up	Painting	
422	Bathroom	Wall	touch up at light switch	Painting	
422	Entry	HVAC Cover	2nd coat	Painting	
422	Entry	Wall	touch up at light switch	Painting	
422	Bathroom	Shower Diverter Hndl	loose	Plumbing	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...rion Square, Charleston, SC	4th Floor Guestroom Re In... tion			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC** **BBC**
423	Entry Door	Door Closer	does not close	Door	
423	Bathroom	Light Switch	no neutral	Electrical	
423	Bathroom	Light Switch	no neutral	Electrical	
423	Bedroom	Bed Frame Base	clean	FF&E	
423	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
423	Bedroom	Nightstand Lamp	open hot - does not turn on	FF&E	
423	Entry Door	Door-Frame Ext / Int	dent	Frame Dent	
423	Bathroom	Wall	touch up at light switch	Painting	
423	Entry	HVAC Cover	2nd coat	Painting	
423	Entry	Wall	touch up at light switch	Painting	
423	Bathroom	Shower Diverter Hndl	loose	Plumbing	

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11/20/2018	...arion Square, Charleston, SC	4th Floor Guestroom Re In... ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
424	Bathroom	Crown Molding	gap shows along tiled wall	Caulk	
424	Bathroom	Vanity Base	clean	Cleaning	
424	Bathroom	Pocket Door	door stuck 1 - release button stuck 1	Door	
424	Entry Door	Door Closer	does not close	Door	
424	Entry Door	Night Latch	not installed	Door	
424	Entry Door	Smoke Seal	not installed	Door Seals	
424	Bathroom	Light Switch	no neutral	Electrical	
424	Bathroom	Light Switch	no neutral	Electrical	
424	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
424	Bathroom	Barn Door	touch up	Painting	
424	Bathroom	Pocket Door	touch up	Painting	
424	Bathroom	Wall	touch up at light switch	Painting	
424	Bedroom	Base Molding	touch up as marked	Painting	
424	Entry	HVAC Cover	2nd coat	Painting	
424	Entry	Wall	touch up at light switch	Painting	
424	Entry Closet	Closet Door	touch up	Painting	
424	Bathroom	Vanity Sink Drain	gap shows at escushion	Plumbing	
424	Bathroom	Shower Diverter Hndl	loose	Plumbing	
424	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock	
424	Entry	Wall	joint shows high spots	Sheetrock	
424	Bathroom	Shower Tile Grout	high spot show and different grout color - at niche	Tile	

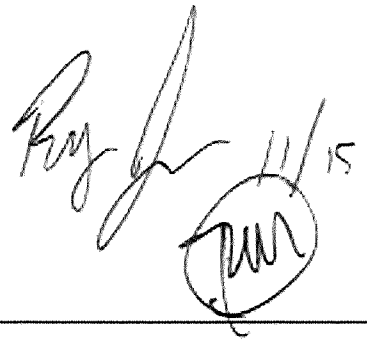
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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	rion Square, Charleston, SC	4th Floor Guestroom Re In ction			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC BBC**
425	Bathroom	Crown Molding	gap shows along tiled wall	Caulk	
425	Entry Closet	Closet Frame	re-caulk for neater appearance	Caulk	
425	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
425	Entry Door	Night Latch	not installed	Door	
425	Entry Door	Sweep	scrapes along the floor	Door	
425	Bathroom	Light Switch Plate	not flush	Electrical	
425	Bathroom	Light Switch	no neutral	Electrical	
425	Bathroom	Light Switch	no neutral	Electrical	
425	Bedroom	Bed Frame Base	clean	FF&E	
425	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
425	Bathroom	Wall	touch up at light switch	Painting	
425	Entry	Wall	touch up at light switch	Painting	
425	Bathroom	Shower Diverter Hndl	loose	Plumbing	



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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
426	Bedroom	Carpet	frayed at entry	Carpet	
426	Bathroom	Pocket Door	hard to open	Door	
426	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
426	Entry Door	Night Latch	not installed	Door	
426	Entry Door	Sweep	scrapes along the floor	Door	
426	Bathroom	Light Switch	no neutral	Electrical	
426	Bathroom	Light Switch	no neutral	Electrical	
426	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
426	Entry Door	Door-Frame Ext / Int	dent	Frame Dent	
426	Bathroom	Pocket Door	touch up	Painting	
426	Bathroom	Vanity Base	touch up at base	Painting	
426	Bedroom	Case Trim	touch up	Painting	
426	Bedroom	Wall	touch up	Painting	
426	Entry	HVAC Cover	2nd coat	Painting	
426	Entry	Base Moulding	touch up	Painting	
426	Entry	Wall	touch up at light switch	Painting	
426	Bathroom	Shower Diverter Hndl	loose	Plumbing	
426	Bathroom	Tile Grout	gap shows at pocket door	Tile	
426	Bathroom	Shower Tile Grout	gap shows thru out as marked at ceiling	Tile	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
428	Bathroom	Barn Door Sill	gap shows both sides	Caulk	
428	Entry Door	Door - Trim Int	caulk missing at striker where it meets trim	Caulk	
428	Bedroom	TV Panel	mark shows	Cleaning	
428	Bathroom	Pocket Door	door stuck	Door	
428	Bathroom	Shower Door	loose - fixed glass	Door	
428	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
428	Bathroom	Light Switch	no neutral	Electrical	
428	Bathroom	Light Switch	no neutral	Electrical	
428	Bedroom	TV Cabinet	chip show front center	FF&E	
428	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
428	Bedroom	Vent Cover	screw missing - 1	HVAC	
428	Bathroom	Vanity Base	gap shows at filler where it meets the base	Millwork	
428	Bathroom	Pocket Door	touch up	Painting	
428	Bathroom	Pocket Door Frame	touch up	Painting	
428	Bathroom	Wall	touch up at light switch	Painting	
428	Entry	HVAC Cover	2nd coat	Painting	
428	Bathroom	Shower Diverter Hndl	loose	Plumbing	
428	Bedroom	Wall	holes show - right of headboard	Sheetrock	
428	Bathroom	Shower Head	loose at stem	Tile	

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11.

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11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Ins, ion			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC** **BBC**
429	Bathroom	Pocket Door	door stuck	Door	
429	Connector Door	Sweep	not installed	Door	
429	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
429	Entry Door	Door Handle	loose	Door	
429	Entry Door	Sweep	scrapes along the floor	Door	
429	Bathroom	Light Switch	no neutral	Electrical	
429	Bathroom	Light Switch	no neutral	Electrical	
429	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
429	Bathroom	Pocket Door	touch up	Painting	
429	Bathroom	Wall	touch up at light switch	Painting	
429	Entry	Wall	touch up at light switch	Painting	
429	Bathroom	Shower Diverter Hndl	loose	Plumbing	
429	Bathroom	Vanity Sink Faucet Fxtr	loose handle	Plumbing	
429	Bathroom	Shower Tile Grout	gap shows - as marked	Tile	
429	Bathroom	Shwr Recsd Niche	sharp edge at 45 at niche - shampoo holder	Tile	

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11/20/2018	arion Square, Charleston, SC	4th Floor Guestroom Re In. tion			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC** **BBC**
431	Bedroom	Window Trim	clean	Cleaning	
431	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door	
431	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door	
431	Entry Door	Sweep	not installed	Door	
431	Entry Closet	Closet	open box shows	Electrical	
431	Bathroom	Light Switch	no neutral	Electrical	
431	Bathroom	Light Switch	no neutral	Electrical	
431	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
431	Bathroom	Vanity Base	gap shows right corner at qtr round and at filler panel right side	Millwork	
431	Bathroom	Pocket Door	touch up	Painting	
431	Bathroom	Pocket Door Frame	touch up	Painting	
431	Bathroom	Panel Molding/Framing	touch up as marked - right top corner	Painting	
431	Bathroom	Wall	touch up at light switch	Painting	
431	Bedroom	Base Molding	touch up as marked	Painting	
431	Bedroom	Wall	touch up as marked	Painting	
431	Entry	HVAC Cover	2nd coat	Painting	
431	Entry	Wall	touch up at light switch	Painting	
431	Entry Closet	Closet Door	touch up	Painting	
431	Entry Closet	Closet Frame	touch up	Painting	
431	Entry Door	Door	2nd coat	Painting	
431	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing	
431	Bathroom	Shower Diverter Hndl	loose	Plumbing	
431	Bathroom	Shower Tile	gap shows at foot rest - tile cut short and filled with grout	Tile	
431	Bathroom	Shwr Recsd Niche	sharp edge at 45 at niche - shampoo holder	Tile	
431	Entry	Tile Grout	gap show at threshold	Tile	
431	Entry	Tile Floor	gap shows / tile missing at pocket door - each side	Tile	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	4th Floor Guestroom Re Insp...on			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC** **BBC**
433	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door	
433	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
433	Entry Door	Sweep	scrapes along the floor	Door	
433	Bathroom	Light Switch	no neutral	Electrical	
433	Bathroom	Light Switch	no neutral	Electrical	
433	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
433	Bedroom	Desk Lamp Switch	short	FF&E	
433	Bedroom	TV Panel	cusion panel not flush	Millwork	
433	Bathroom	Wall	touch up at light switch	Painting	
433	Entry	HVAC Cover	2nd coat	Painting	
433	Entry	Ceiling	touch up at ceiling molding	Painting	
433	Entry	Wall	touch up at light switch	Painting	
433	Bathroom	Shower Diverter Hndl	loose	Plumbing	
433	Bathroom	Vanity Sink Stopper	stopper removed - paint show in drain	Plumbing	
433	Bedroom	Wall	left of headboard	Sheetrock	
433	Entry	Ceiling	gap shows at sprinkler	Sheetrock	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...rion Square, Charleston, SC	4th Floor Guestroom Re Ins ...tion			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC BBC**
437	Bedroom	Carpet	frayed at entry	Carpet	
437	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door	
437	Bathroom	Barn Door Guide	loose	Door	
437	Connector Door	Deadbolt	will not engage into striker	Door	
437	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
437	Entry Door	Door Closer	does not close	Door	
437	Bathroom	Light Switch Plate	loose not flush	Electrical	
437	Bathroom	Light Switch	no neutral	Electrical	
437	Bathroom	Light Switch	no neutral	Electrical	
437	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
437	Bathroom	Pocket Door	touch up	Painting	
437	Bathroom	Pocket Door Frame	touch up	Painting	
437	Bathroom	Wall	touch up at light switch	Painting	
437	Bedroom	Wall	2nd coat right of tv panel	Painting	
437	Entry	Wall	touch up at light switch	Painting	
437	Entry Door	Door Exterior / Interior	touch up	Painting	
437	Bathroom	Shower Diverter Hndl	loose	Plumbing	
437	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing	
437	Bathroom	Vanity Sink Stopper	stopper removed - paint show in drain	Plumbing	
437	Entry	Tile Grout	gap show at entry closet	Tile	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
439	Bathroom	Soaking Tub	not squared into space	BBC	
439	Entry	Base Moulding	gap shows at corner	Caulk	
439	Entry Door	Door Closer	does not close	Door	
439	Entry Door	Sweep	scrapes along the floor	Door	
439	Bathroom	Light Switch Plate	loose not flush	Electrical	
439	Bathroom	Light Switch	no neutral	Electrical	
439	Bathroom	Light Switch	no neutral	Electrical	
439	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
439	Entry Closet	Closet Shelf	re-place - cracked wood	Millwork	
439	Bathroom	Barn Door	touch up	Painting	
439	Bathroom	Wall	touch up at light switch	Painting	
439	Entry	Wall	touch up at light switch	Painting	
439	Bathroom	Soaking Tub Drain	appears to not drain well enough - drain opened while water is running - tub fills	Plumbing	
439	Bathroom	Shower Diverter Hndl	loose	Plumbing	
439	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing	
439	Entry Closet	Closet Wall	gap shows at wall plate	Sheetrock	
439	Bathroom	Tile Grout	gap shows behind soaking tub	Tile	

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Ins, tion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
440	Bathroom	Soaking Tub	not center - favors bathroom side vs barn door	BBC	
440	Bedroom	Carpet	frayed at entry	Carpet	
440	Entry	Crown Moulding	gap shows - at HVAC trim and bottom crown	Caulk	
440	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door	
440	Entry Door	Door Closer	does not close	Door	
440	Entry Door	Sweep	scrapes along the floor	Door	
440	Bathroom	Light Switch	no neutral	Electrical	
440	Bathroom	Light Switch	no neutral	Electrical	
440	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
440	Bathroom	Pocket Door	touch up	Painting	
440	Bathroom	Wall	touch up at light switch	Painting	
440	Commode Rm	Ceiling Panel	painted close	Painting	
440	Entry	Wall	touch up at light switch	Painting	
440	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing	
440	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing	
440	Bathroom	Shower Diverter Hndl	loose	Plumbing	
440	Bathroom	Vinyl Wall Covering	clean paint drips	Vinyl Wall	

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11/20/2018	Marion Square, Charleston, SC	4th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
441	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door	
441	Bathroom	Barn Door	not installed	Door	
441	Entry Door	Door Closer	does not close	Door	
441	Bathroom	Vanity Outlet/GFI	open hot - reset tripped - will not reset	Electrical	
441	Entry Closet	Closet Light	dimmer than others	Electrical	
441	Bathroom	Light Switch	no neutral	Electrical	
441	Bathroom	Light Switch	no neutral	Electrical	
441	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
441	Bathroom	Wall	touch up at light switch	Painting	
441	Entry	HVAC Cover	2nd coat	Painting	
441	Entry	Wall	touch up at light switch	Painting	
441	Bathroom	Shower Diverter Hndl	loose	Plumbing	
441	Bathroom	Vanity Sink Stopper	stopper removed - paint show in drain	Plumbing	
441	Bathroom	Shwr Recsd Niche	sharp edge at 45 at niche - shampoo holder	Tile	

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11/20/2018	rion Square, Charleston, SC	4th Floor Guestroom Re In tion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
442	Bathroom	Barn Door Sill	gap shows - both sides	Caulk	
442	Bathroom	Crown Molding	gap shows along tiled wall	Caulk	
442	Bathroom	Pocket Door	falls out of pocket - left at entry	Door	
442	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
442	Entry Door	Door Closer	does not close	Door	
442	Bedroom	Electrical	hot ground reverse - left of barn door	Electrical	
442	Entry	Ceiling Light Fixture	trim ring not installed	Electrical	
442	Bathroom	Light Switch	no neutral	Electrical	
442	Bathroom	Light Switch	no neutral	Electrical	
442	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
442	Bathroom	Panel Molding/Framing	gap shows at wall - touch up as marked	Painting	
442	Bathroom	Barn Door	touch up	Painting	
442	Bathroom	Wall	touch up at light switch	Painting	
442	Entry	HVAC Cover	2nd coat	Painting	
442	Entry	Wall	touch up at light switch	Painting	
442	Bathroom	Vanity Sink Drain	gap shows at escushion	Plumbing	
442	Bathroom	Shower Diverter Hndl	loose	Plumbing	

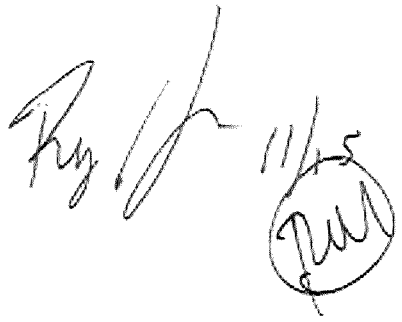
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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	rion Square, Charleston, SC	4th Floor Guestroom Re In tion			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC** **BBC**
443	Bathroom	Pocket Door	hard to open	Door	
443	Entry Door	Viewer	glued shut	Door	
443	Bathroom	Light Switch Plate	loose not flush	Electrical	
443	Bathroom	Light Switch	no neutral	Electrical	
443	Bathroom	Light Switch	no neutral	Electrical	
443	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
443	Bathroom	Barn Door	touch up	Painting	
443	Bathroom	Wall	touch up at light switch	Painting	
443	Entry	HVAC Cover	2nd coat	Painting	
443	Entry	Wall	touch up at light switch	Painting	
443	Bathroom	Vanity Sink Drain	gap shows at escusion	Plumbing	
443	Bathroom	Shower Diverter Hndl	loose	Plumbing	



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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	arion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
501	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
501	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
501	Bathroom	Soaking Tub Fauct Fxtr	caulk flange to vinyl wall	Caulk		
501	Entry	Base Molding	gap shows at corner	Caulk		
501	Bathroom	Barn Door	does not open	Door		
501	Bathroom	Shower Door Handle	loose	Door		
501	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
501	Entry Door	Door Closer	does not close	Door		
501	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
501	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
501	Entry Door	Dust Cover	not installed	Door		
501	Bathroom	Soaking Tub Light Fixtr	not installed	Electrical		
501	Bathroom	Vanity Mirror Lights	open hot	Electrical		
501	Bathroom	Light Switch	no neutral	Electrical		
501	Bathroom	Light Switch	no neutral	Electrical		
501	Entry	Light Switch	no neutral - at entrance into bedroom	Electrical		
501	Bedroom	Nightstand Glass Top	haze shows	FF&E		
501	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
501	Bedroom	Desk Glass Top	haze shows	FF&E		
501	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
501	Entry Closet	Closet Bar	complete install	FF&E		
501	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
501	Bathroom	Wall	rough edge - case opening at barn door bathroom side	Painting		
501	Bathroom	Pocket Door	touch up as marked - bathroom side	Painting		
501	Bedroom	Book Shelf	blue tape shows	Painting		
501	Entry	Wall	touch up edge as marked	Painting		
501	Entry Closet	Closet Shelf	touch up	Painting		
501	Entry Closet	Closet Wall	touch up	Painting		
501	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
501	Entry Door	Door-Frame Ext / Int	touch up	Painting		
501	Entry Door	Door Trim Ext / Int	touch up	Painting		
501	Bathroom	Vanity Sink Stopper	does not hold water - left sink	Plumbing		
501	Bathroom	Vanity Sink Faucet Fxtr	loose - handles	Plumbing		
501	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
501	Bathroom	Vanity Sink Faucet Fxtr	stem cvr - slides	Plumbing		
501	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
501	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
501	Entry Door	Threshold	gap shows - both bottom sides	Tile		
501	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
501	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
501	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11/20/201	.arion Square, Charleston, SC		5th Floor Guestroom Re In..pection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
502	Bathroom	Towel Bar	not installed	Accessories		
502	Bedroom	Carpet	frayed at transition	Carpet		
502	Bedroom	Carpet	loose at transition	Carpet		
502	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
502	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
502	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
502	Bathroom	Shower Faucet Fixtures	gap shows and faucet fixtures	Caulk		
502	Bathroom	Pocket Door Guide	not installed	Door		
502	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
502	Entry Door	Door Closer	does not close	Door		
502	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
502	Entry Door	Door	hits base qtr round - no door stop	Door		
502	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
502	Entry Door	Dust Cover	not installed	Door		
502	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
502	Bathroom	Vanity Mirror Lights	open hot	Electrical		
502	Bathroom	Light Switch Cover	not flush	Electrical		
502	Bathroom	Light Switch Plate	not flush	Electrical		
502	Bathroom	Light Switch	no neutral	Electrical		
502	Entry	Light Switch	no neutral	Electrical		
502	Bedroom	Bed Frame Base	clean - right bottom corner at foot	FF&E		
502	Bedroom	Nightstand Glass Top	haze shows	FF&E		
502	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
502	Bedroom	Desk Glass Top	haze shows	FF&E		
502	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
502	Living Room	Throw Rug	marking show at couch	FF&E		
502	Bathroom	Ceiling Access Panel	not closed	HVAC		
502	Bathroom	Pocket Door	chip shows - right pocket door - top right corner - bathroom side	Painting		
502	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
502	Bathroom	Wall	touch up at light switch	Painting		
502	Bedroom	Entry Casing	touch up	Painting		
502	Entry	Wall	touch up at light switch	Painting		
502	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
502	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
502	Bathroom	Shower - Handheld	gap shows at tile wall	Plumbing		
502	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
502	Bathroom	Vanity Sink Faucet Fxtr	stem cvr slides	Plumbing		
502	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
502	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
502	Bathroom	Threshold	gaps shows/wide - both sides of pocket door trim/casing	Tile		
502	Commode Rm	Vinyl Wall Covering	not installed - above entry	Vinyl Wall		
502	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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R - 9422

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201[illegible]	[illegible]arion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
503	Bedroom	Carpet	paint shows at foot of bed	Carpet		
503	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
503	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
503	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
503	Bathroom	Barn Door Handle	hits case opening	Door		
503	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
503	Entry Door	Door Closer	does not close	Door		
503	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
503	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
503	Entry Door	Dust Cover	not installed	Door		
503	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
503	Commode Rm	Ceiling Light Fixture	not flush	Electrical		
503	Entry	Master Light Switch	open hot thru out entire suite	Electrical		
503	Bedroom	Bed Frame Base	clean - left bottom corner - foot side	FF&E		
503	Bedroom	Nightstand Glass Top	haze shows	FF&E		
503	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
503	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
503	Bathroom	Pocket Door Frame	nails shows	Millwork		
503	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
503	Bathroom	Wall	touch up at light switch	Painting		
503	Entry	HVAC Cover	2nd coat	Painting		
503	Entry	Wall	touch up at light switch	Painting		
503	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
503	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
503	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
503	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
503	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
503	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
503	Bathroom	Shower Tile Grout	gap shows - back wall - top left	Tile		
503	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
503	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
503	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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R - 9423

11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
505	Bedroom	Carpet	loose at transition	Carpet		
505	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
505	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
505	Bathroom	Soaking Tub Fauct Fxtr	caulk flange to vinyl wall	Caulk		
505	Bathroom	Barn Door Sill	make neater appearance	Caulk		
505	Bathroom	Pocket Door	hard to open	Door		
505	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
505	Entry Door	Door Closer	does not close	Door		
505	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
505	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
505	Entry Door	Dust Cover	not installed	Door		
505	Bathroom	Ceiling Light Fixture	not flush	Electrical		
505	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
505	Bathroom	Vanity Mirror Lights	open hot	Electrical		
505	Bathroom	Vanity Outlet/GFI	open hot - reset tripped	Electrical		
505	Bathroom	Light Switch	no neutral	Electrical		
505	Bathroom	Light Switch	shared neutral	Electrical		
505	Bedroom	Nightstand Glass Top	haze shows	FF&E		
505	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
505	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
505	Bathroom	Vanity Base Door	touch each other when closing	Millwork		
505	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
505	Bathroom	Barn Door	touch up	Painting		
505	Entry	HVAC Cover	touch up	Painting		
505	Entry	Wall	touch up at light switch	Painting		
505	Entry Closet	Closet Frame	touch up	Painting		
505	Entry Closet	Closet Wall	touch up - left wall above shelf	Painting		
505	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
505	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
505	Bathroom	Soaking Tub Fauct Fxtr	gap shows	Plumbing		
505	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
505	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
505	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
505	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
505	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	arion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
506	Bedroom	Carpet	loose at transition	Carpet		
506	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
506	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
506	Bathroom	Soaking Tub Fauct Fxtr	caulk flange to vinyl wall	Caulk		
506	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
506	Bathroom	Pocket Door	handle hits opening when closing	Door		
506	Bathroom	Barn Door Handle	hits case opening	Door		
506	Bathroom	Pocket Door Guide	not installed	Door		
506	Commode Rm	Glass Door Hinge	black gasket shows past hinges	Door		
506	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
506	Entry Door	Door Closer	does not close	Door		
506	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
506	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
506	Entry Door	Dust Cover	not installed	Door		
506	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
506	Bathroom	Vanity Mirror Lights	open hot	Electrical		
506	Bathroom	Light Switch	no neutral	Electrical		
506	Bathroom	Light Switch	no neutral	Electrical		
506	Bedroom	Headboard	clean as marked	FF&E		
506	Bedroom	Bed Frame Base	clean as marked	FF&E		
506	Bedroom	Nightstand Glass Top	haze shows	FF&E		
506	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
506	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
506	Entry Door	Door-Frame Ext / Int	dent shows left side	Frame Dent		
506	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
506	Bathroom	Barn Door	touch up	Painting		
506	Bathroom	Pocket Door Frame	touch up	Painting		
506	Bathroom	Wall	touch up at light switch	Painting		
506	Bedroom	Base Molding	touch up along barn door - end to end	Painting		
506	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
506	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
506	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
506	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
506	Bathroom	Vanity Sink Faucet Fxtr	stem cvr slides	Plumbing		
506	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
506	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
506	Bathroom	Vinyl Wall Covering	overlaps onto trim molding - left of bottom of towel bar at soaking tub	Vinyl Wall		
506	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
506	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
506	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201[illegible]	arion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
507	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk	
507	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk	
507	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk	
507	Bathroom	Pocket Door	hard to open	Door	
507	Bathroom	Barn Door	jumps when opening	Door	
507	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door	
507	Entry Door	Door Closer	does not close	Door	
507	Entry Door	Door	door does not close tightly - has play - does not seal	Door	
507	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door	
507	Entry Door	Dust Cover	not installed	Door	
507	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical	
507	Bathroom	Light Switch	no neutral	Electrical	
507	Bathroom	Light Switch	no neutral	Electrical	
507	Bedroom	Headboard	clean	FF&E	
507	Bedroom	Nightstand Glass Top	haze shows	FF&E	
507	Bedroom	TV Cabinet Glass Top	haze shows	FF&E	
507	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
507	Bedroom	Book Case	touch up	FF&E	
507	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting	
507	Bathroom	Pocket Door	touch up	Painting	
507	Bathroom	Wall	touch up at light switch	Painting	
507	Entry	HVAC Cover	paint chips shows from end to end	Painting	
507	Entry	Wall	touch up at light switch	Painting	
507	Entry Door	Door	spray paint shows light spots / cloudiness	Painting	
507	Entry Door	Door	touch up	Painting	
507	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting	
507	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing	
507	Bathroom	Vanity Sink Stopper	not installed	Plumbing	
507	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing	
507	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing	
507	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing	
507	Bathroom	Vinyl Wall Covering	paint spots show - at soaking tub	Vinyl Wall	
507	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall	
507	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall	
507	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall	

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TWM

R - 9426

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
508	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
508	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
508	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
508	Bathroom	Barn Door Sill	clean	Cleaning		
508	Bathroom	Pocket Door	hard to open	Door		
508	Bathroom	Barn Door	shim shows - 12"	Door		
508	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
508	Entry Door	Door Closer	does not close	Door		
508	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
508	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
508	Entry Door	Dust Cover	not installed	Door		
508	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
508	Bathroom	Vanity Mirror Lights	open hot	Electrical		
508	Bedroom	Nightstand Glass Top	haze shows	FF&E		
508	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
508	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
508	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
508	Bathroom	Pocket Door	touch up	Painting		
508	Bathroom	Wall	touch up at light switch	Painting		
508	Bedroom	Wall	hand print shows at larger vent cover	Painting		
508	Bedroom	Wall	touch up under small vent cover - white trim shows on wall	Painting		
508	Bedroom	Entry Trim	wall paint shows on white trim left top corner	Painting		
508	Entry	HVAC Cover	painted shut along frame	Painting		
508	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
508	Bathroom	Barn Door	touch up	Painting		
508	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
508	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
508	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
508	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
508	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
508	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
508	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...arion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
509	Bedroom	Carpet	paint spot - left of bed	Carpet		
509	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
509	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
509	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
509	Bathroom	Pocket Door Guide	not installed	Door		
509	Bathroom	Pocket Door	out of pocket - does not stop	Door		
509	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
509	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door		
509	Entry Door	Door Closer	does not close	Door		
509	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
509	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
509	Entry Door	Dust Cover	not installed	Door		
509	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
509	Bathroom	Vanity Outlet/GFI	open hot - reset tripped	Electrical		
509	Bathroom	Light Switch	no neutral	Electrical		
509	Bathroom	Light Switch	no neutral	Electrical		
509	Bedroom	Nightstand Glass Top	haze shows	FF&E		
509	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
509	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
509	Bedroom	Book Case	touch up	FF&E		
509	Bedroom	Base Molding	nail shows - long —— at barn door - bedroom side	Millwork		
509	Bathroom	Shower Tile	paint spots show	Painting		
509	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
509	Bathroom	Pocket Door	touch up	Painting		
509	Bathroom	Barn Door	touch up	Painting		
509	Bathroom	Wall	touch up at light switch	Painting		
509	Bedroom	Wall	touch up	Painting		
509	Entry	Wall	touch up	Painting		
509	Entry	Wall	touch up at light switch	Painting		
509	Entry Closet	Closet Frame	touch up	Painting		
509	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
509	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
509	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
509	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
509	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
509	Bathroom	Tile Base	gap shows - right of vanity base	Tile		
509	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
509	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
509	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	arion Square, Charleston, SC		5th Floor Guestroom Re In ection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
510	Commode Rm	TP Holder	not straight	Accessories		
510	Bedroom	Carpet	frayed at transition	Carpet		
510	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
510	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
510	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
510	Bathroom	Tile Base	gap shows at left of vanity base	Caulk		
510	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
510	Entry Door	Door Closer	does not close	Door		
510	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
510	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
510	Entry Door	Dust Cover	not installed	Door		
510	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
510	Bathroom	Light Switch Plate	not flush at all	Electrical		
510	Bathroom	Light Switch	no neutral	Electrical		
510	Bathroom	Light Switch	no neutral	Electrical		
510	Bedroom	Nightstand Glass Top	haze shows	FF&E		
510	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
510	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
510	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
510	Bathroom	Wall	touch up at light switch	Painting		
510	Entry	Wall	touch up at light switch	Painting		
510	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
510	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
510	Bathroom	Vanity Sink Faucet Fxtr	stem cvr slides	Plumbing		
510	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
510	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
510	Entry	Tile Grout	grout missing - left of mirror - back wall corner	Tile		
510	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
510	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
510	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

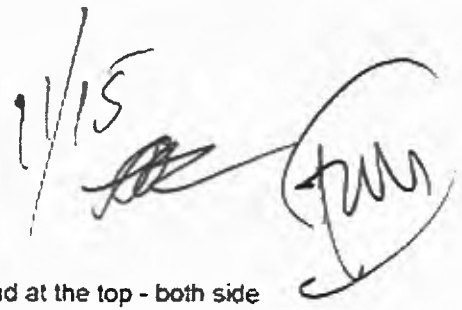
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11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	arion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
511	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
511	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
511	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
511	Bathroom	Pocket Door	hard to open	Door		
511	Commode Rm	Glass Door Hinge	black gasket shows past hinges	Door		
511	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
511	Entry Door	Door Closer	does not close	Door		
511	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
511	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
511	Entry Door	Dust Cover	not installed	Door		
511	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
511	Bathroom	Vanity Outlet/GFI	open hot - reset tripped	Electrical		
511	Bathroom	Light Switch	no neutral	Electrical		
511	Bathroom	Light Switch	no neutral	Electrical		
511	Bedroom	Nightstand Glass Top	haze shows	FF&E		
511	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
511	Bedroom	Desk Glass Top	haze shows	FF&E		
511	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
511	Bathroom	Ceiling Vent Cover	detail paint	Painting		
511	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
511	Bathroom	Wall	touch up at light switch	Painting		
511	Entry	HVAC Cover	2nd coat	Painting		
511	Entry	Wall	touch up at light switch	Painting		
511	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
511	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
511	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
511	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
511	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
511	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
511	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
511	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
511	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		



R - 9430

11.

ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201[illegible] arion Square, Charleston, SC			5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
513	Commode Rm	TP Holder	not straight	Accessories		
513	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
513	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
513	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
513	Bathroom	Pocket Door	hard to open	Door		
513	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
513	Entry Door	Door Closer	does not close	Door		
513	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
513	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
513	Entry Door	Dust Cover	not installed	Door		
513	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
513	Bathroom	Light Switch	no neutral	Electrical		
513	Bathroom	Light Switch	no neutral	Electrical		
513	Bedroom	Nightstand Glass Top	haze shows	FF&E		
513	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
513	Bedroom	Desk Glass Top	haze shows	FF&E		
513	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
513	Bathroom	Ceiling Access Panel	opened	Painting		
513	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
513	Bathroom	Wall	touch up at light switch	Painting		
513	Bedroom	Wall	touch up at head board	Painting		
513	Entry	Case Trim	paint overage left side into bedroom	Painting		
513	Entry	HVAC Cover	touch up	Painting		
513	Entry	Wall	touch up at light switch	Painting		
513	Entry Closet	Closet Frame	touch up	Painting		
513	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
513	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
513	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
513	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
513	Bathroom	Vanity Sink Faucet Fxtr	stem cvr slides	Plumbing		
513	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
513	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
513	Commode Rm	Tile Grout	missing as marked	Tile		
513	Entry Closet	Tile Grout	missing as marked	Tile		
513	Bathroom	Vinyl Wall Covering	paint spots show at soaking tub	Vinyl Wall		
513	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
513	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
513	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2015	arion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
515	Bathroom	Towel Bar	not installed at soaking tub	Accessories		
515	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
515	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
515	Bathroom	Shower Door Hinge	black gasket shows past hinges	Door		
515	Bathroom	Pocket Door	hard to open	Door		
515	Bedroom	Door	hits wall	Door		
515	Bedroom	Door Handle	loose suggestion place handle end at 6 o'clock - natural position to push door open	Door		
515	Bedroom	Door Silencer	not installed	Door		
515	Bedroom	Closet Door Handle	loose suggestion place handle end at 6 o'clock - natural position to push door open	Door		
515	Commode Rm	Glass Door Hinge	black gasket shows past hinges	Door		
515	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
515	Entry Door	Door Closer	does not close	Door		
515	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
515	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
515	Entry Door	Dust Cover	not installed	Door		
515	Entry Door	Sweep	not installed	Door		
515	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
515	Bathroom	Light Switch	only 1 nightstand lamp shuts off with switch - at nightstand	Electrical		
515	Bedroom	Light Switch	no neutral	Electrical		
515	Entry	Light Switch Plate	not flush	Electrical		
515	Bathroom	Light Switch	no neutral	Electrical		
515	Bathroom	Light Switch	no neutral	Electrical		
515	Bedroom	Closet Light	does not turn off	Electrical		
515	Bedroom	TV Cabinet	chip - at front edge	FF&E		
515	Bedroom	Nightstand Glass Top	haze shows	FF&E		
515	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
515	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
515	Dining Room	Dining Table	not installed	FF&E		
515	Living Room	Desk Glass Top	haze shows	FF&E		
515	Living Room	End Table Glass Top	haze shows - 2X's circular table	FF&E		
515	Living Room	End Table Glass Top	not installed	FF&E		
515	Entry	Hardwood Floor	clean - marks - scratches	Flooring		
515	Living Room	Hardwood Floors	marking show - as marked	Flooring		
515	Bathroom	Exhaust Fan	not square to wall	HVAC		
515	Bedroom	Base Molding	NAIL EXPOSED - right of tv cabinet	Millwork		
515	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
515	Bathroom	Wall	touch up at light switch	Painting		
515	Bedroom	Door Frame	touch up	Painting		
515	Bedroom	Wall	touch up at entry	Painting		
515	Bedroom	Closet Closer	does not close	Painting		
515	Bedroom	Closet Frame	touch up	Painting		
515	Dining Room	Wall	touch up	Painting		
515	Dining Room	Trim	touch up	Painting		
515	Entry	Connector Door Trim	2nd coat thru out	Painting		

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11/20/2015	...arion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
515	Entry	Wall	touch up at light switch	Painting		
515	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
515	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
515	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
515	Bathroom	Vanity Sink Drain	paint shows in drain	Plumbing		
515	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
515	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
515	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
515	Bathroom	Threshold	gap shows both sides - at both entry doors	Tile		
515	Commode Rm	Vinyl Wall Covering	rust type splatter shows	Vinyl Wall		
515	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
515	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
515	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11/20/2018	arion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
517	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
517	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
517	Bathroom	Pocket Door Guide	not installed	Door		
517	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
517	Entry Door	Door Closer	does not close	Door		
517	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
517	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
517	Entry Door	Dust Cover	not installed	Door		
517	Bedroom	Curtains	not installed	Drapes		
517	Bedroom	Curtain Rod	not installed	Drapes		
517	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
517	Bathroom	Light Switch Plate	not flush	Electrical		
517	Bedroom	Outlets	hot ground reverse - thru out bedroom	Electrical		
517	Bathroom	Light Switch	no neutral	Electrical		
517	Bathroom	Light Switch	no neutral	Electrical		
517	Bathroom	Light Switch	not straight	Electrical		
517	Bedroom	Nightstand Glass Top	haze shows	FF&E		
517	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
517	Bedroom	Desk Glass Top	haze shows	FF&E		
517	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
517	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
517	Bathroom	Wall	touch up at light switch	Painting		
517	Entry	Wall	touch up at light switch	Painting		
517	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
517	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
517	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
517	Bathroom	Vanity Sink Faucet Fxtr	stem cvr slides	Plumbing		
517	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
517	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
517	Bathroom	Vanity Top	chip - front edge	Quartz Chip		
517	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
517	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
517	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

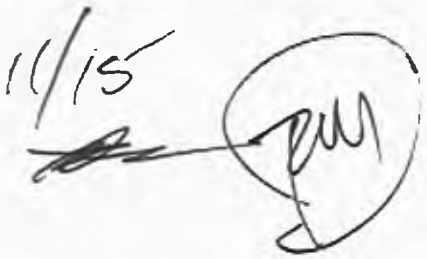
11/20/201	arion Square, Charleston, SC	5th Floor Guestroom Re In_ ection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
519	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
519	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
519	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
519	Bathroom	Pocket Door	hard to open	Door		
519	Bathroom	Shower Fixed Glass	loose	Door		
519	Bathroom	Pocket Door Guide	not installed	Door		
519	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
519	Entry Door	Door Closer	does not close	Door		
519	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
519	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
519	Entry Door	Dust Cover	not installed	Door		
519	Bedroom	Curtains	not installed	Drapes		
519	Bedroom	Curtain Rod	not installed	Drapes		
519	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
519	Entry	Light Switch Plate	not flush	Electrical		
519	Bathroom	Light Switch	no neutral	Electrical		
519	Bathroom	Light Switch	no neutral	Electrical		
519	Bathroom	Light Switch	not flush - not squared into box	Electrical		
519	Entry	Handi Door Switch	not flush - not squared into box	Electrical		
519	Entry	Light Switch	not flush - not squared into box	Electrical		
519	Bedroom	Nightstand Glass Top	haze shows	FF&E		
519	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
519	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
519	Bathroom	Exhaust Fan	humming noise	HVAC		
519	Bathroom	Shower Ceiling	gap shows at top	Painting		
519	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
519	Bathroom	Wall	touch up at light switch	Painting		
519	Bedroom	Ceiling	2nd coat at window	Painting		
519	Entry	HVAC Cover	2nd coat	Painting		
519	Entry	Wall	touch up at light switch	Painting		
519	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
519	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
519	Bathroom	Shower Diverter Hndl	loose	Plumbing		
519	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
519	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
519	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
519	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
519	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
519	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	arion Square, Charleston, SC		5th Floor Guestroom Re In[illegible]ction			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	SubC	BBC
521	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
521	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
521	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
521	Bathroom	Pocket Door	hard to open	Door		
521	Bathroom	Pocket Door Guide	not installed	Door		
521	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
521	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door		
521	Entry Door	Door Closer	does not close	Door		
521	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
521	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
521	Entry Door	Dust Cover	not installed	Door		
521	Entry Door	Sweep	scrapes along the floor	Door		
521	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
521	Bathroom	Light Switch Plate	not flush	Electrical		
521	Bathroom	Light Switch	no neutral	Electrical		
521	Bathroom	Light Switch	shared neutral	Electrical		
521	Bedroom	Nightstand Glass Top	haze shows	FF&E		
521	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
521	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
521	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
521	Bathroom	Pocket Door	touch up	Painting		
521	Bathroom	Wall	touch up at light switch	Painting		
521	Entry	Wall	touch up at light switch	Painting		
521	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
521	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
521	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
521	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
521	Bathroom	Vanity Sink Faucet Fxtr	stem cvr slides	Plumbing		
521	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
521	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
521	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
521	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
521	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
521	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		



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11/20/201	arion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
522	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
522	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
522	Bathroom	Barn Door Sill	clean	Cleaning		
522	Bathroom	Pocket Door	hits metal when closing	Door		
522	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
522	Entry Door	Door Closer	does not close	Door		
522	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
522	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
522	Entry Door	Dust Cover	not installed	Door		
522	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
522	Bathroom	Vanity Outlet/GFI	open hot - reset tripped	Electrical		
522	Bathroom	Light Switch Plate	not flush	Electrical		
522	Bathroom	Light Switch	no neutral	Electrical		
522	Bathroom	Light Switch	no neutral	Electrical		
522	Bathroom	Light Switch	open hot	Electrical		
522	Bedroom	Nightstand Glass Top	haze shows	FF&E		
522	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
522	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
522	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
522	Bathroom	Wall	touch up at light switch	Painting		
522	Entry	Wall	touch up at light switch	Painting		
522	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
522	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
522	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
522	Bathroom	Shower Diverter Hndl	loose	Plumbing		
522	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
522	Bathroom	Vanity Sink Faucet Fxtr	stem cvr slides	Plumbing		
522	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
522	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
522	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
522	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
522	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
522	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 6:54 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
523	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
523	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
523	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
523	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
523	Bathroom	Pocket Door	hard to open	Door		
523	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
523	Entry Door	Door Closer	does not close	Door		
523	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
523	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
523	Entry Door	Dust Cover	not installed	Door		
523	Entry Door	Sweep	not installed	Door		
523	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
523	Bathroom	Light Switch	no neutral	Electrical		
523	Bedroom	Nightstand Glass Top	haze shows	FF&E		
523	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
523	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
523	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
523	Bathroom	Wall	touch up at light switch	Painting		
523	Entry	Wall	touch up	Painting		
523	Entry	Wall	touch up at light switch	Painting		
523	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
523	Entry Door	Door	touch up	Painting		
523	Bathroom	Soaking Tub Stem Cvr	loose	Plumbing		
523	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
523	Bathroom	Shower Faucet Fxtr	loose handles	Plumbing		
523	Bathroom	Vanity Sink Faucet Fxtr	stem cvr slides	Plumbing		
523	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
523	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
523	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
523	Entry Closet	Tile Grout	missing at hinge side and inside	Tile		
523	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
523	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
523	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11/20/201	arion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
524	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
524	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
524	Bathroom	Shower Door Hinge	black gasket shows past hinges	Door		
524	Bathroom	Pocket Door	hard to open	Door		
524	Commode Rm	Glass Door Hinge	black gasket shows past hinges	Door		
524	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
524	Entry Door	Door Closer	does not close	Door		
524	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
524	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
524	Entry Door	Dust Cover	not installed	Door		
524	Bedroom	Curtains	not installed	Drapes		
524	Bedroom	Curtain Rod	not installed	Drapes		
524	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
524	Commode Rm	Ceiling Light Fixture	not flush	Electrical		
524	Entry	Light Switch Plate	not flush	Electrical		
524	Bedroom	Nightstand Glass Top	haze shows	FF&E		
524	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
524	Bedroom	Desk Glass Top	haze shows	FF&E		
524	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
524	Bedroom	Thermostat	does not turn on - no power	HVAC		
524	Bathroom	Vanity Base	gap shows - left side	Millwork		
524	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
524	Bathroom	Barn Door	touch up thru out	Painting		
524	Bathroom	Wall	touch up at light switch	Painting		
524	Entry	HVAC Cover	2nd coat	Painting		
524	Entry	Wall	touch up at light switch	Painting		
524	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
524	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
524	Bathroom	Shower Diverter Hndl	loose	Plumbing		
524	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
524	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
524	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
524	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
524	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
524	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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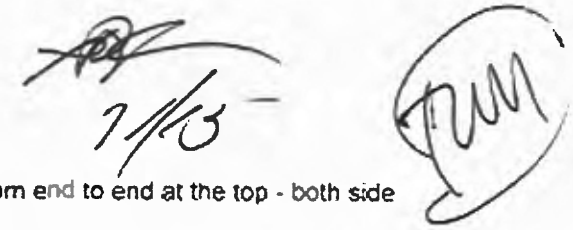
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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

Plaintiff Balfour Beatty's Trial Exhibit # 312

(part 2 of 2)

11/20/2018	arion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
525	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
525	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
525	Bathroom	Shower - Handheld	caulk flange to tile wall	Caulk		
525	Bathroom	Shower Door Hinge	black gasket shows past hinges	Door		
525	Bathroom	Pocket Door	hard to open	Door		
525	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
525	Entry Door	Door Closer	does not close	Door		
525	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
525	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
525	Entry Door	Dust Cover	not installed	Door		
525	Bedroom	Curtains	not installed	Drapes		
525	Bedroom	Curtain Rod	not installed	Drapes		
525	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
525	Bathroom	Light Switch	no neutral	Electrical		
525	Bedroom	Nightstand Glass Top	haze shows	FF&E		
525	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
525	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
525	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
525	Bathroom	Wall	touch up at light switch	Painting		
525	Entry	Wall	touch up at light switch	Painting		
525	Entry Closet	Closet Frame	touch up	Painting		
525	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
525	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
525	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
525	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
525	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
525	Bathroom	Shower Diverter Hndl	loose	Plumbing		
525	Bathroom	Vinyl Wall Covering	paint shows	Vinyl Wall		
525	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
525	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
525	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		



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11/20/201	arion Square, Charleston, SC	5th Floor Guestroom Re In[illegible]ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
526	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
526	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
526	Bathroom	Crown Molding	gap shows at tile wall	Caulk		
526	Bathroom	Pocket Door	hard to open	Door		
526	Bathroom	Barn Door Handle	hits case opening	Door		
526	Commode Rm	Glass Door Hinge	black gasket shows past hinges	Door		
526	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
526	Entry Door	Door Closer	does not close	Door		
526	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
526	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
526	Entry Door	Dust Cover	not installed	Door		
526	Entry Door	Sweep	scrapes along the floor	Door		
526	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
526	Bedroom	Nightstand Glass Top	haze shows	FF&E		
526	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
526	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
526	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
526	Bathroom	Barn Door	touch up	Painting		
526	Bathroom	Wall	touch up at light switch	Painting		
526	Entry	Wall	touch up at light switch	Painting		
526	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
526	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
526	Bathroom	Shower Diverter Hndl	loose	Plumbing		
526	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing		
526	Bathroom	Vanity Sink Faucet Fxtr	stem cvr slide	Plumbing		
526	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
526	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
526	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
526	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
526	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
526	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	arlon Square, Charleston, SC	5th Floor Guestroom Re In_ _ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
527	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
527	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
527	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
527	Entry Door	Door Closer	does not close	Door		
527	Entry Door	Door	door does not close lightly - has play - does not seal	Door		
527	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
527	Entry Door	Dust Cover	not installed	Door		
527	Entry Door	Wall Bump	not installed	Door		
527	Bedroom	Curtains	not installed	Drapes		
527	Bedroom	Curtain Rod	not installed	Drapes		
527	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
527	Bathroom	Light Switch Plate	not flush	Electrical		
527	Bathroom	Light Switch	no neutral	Electrical		
527	Bedroom	Nightstand Glass Top	haze shows	FF&E		
527	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
527	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
527	Bathroom	Wall	touch up at light switch	Painting		
527	Entry	Wall	touch up at light switch	Painting		
527	Entry Closet	Closet Door	touch up	Painting		
527	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
527	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
527	Bathroom	Tub	no handicap accessories installed if applicable	Plumbing		
527	Bathroom	Tub Drain Stopper	not installed	Plumbing		
527	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
527	Bathroom	Tile Wall	gap shows at ceiling thru out - at surround tile - both shower and tub	Tile		
527	Bathroom	Tile Base	missing behind entry door	Tile		
527	Bathroom	Vinyl Wall Covering	secure seam in corner - next to commode - top to bottom	Vinyl Wall		
527	Bathroom	Vinyl Wall Covering	secure vinyl wall covering where it meets shower tile surround - top to bottom	Vinyl Wall		
527	Bathroom	Vinyl Wall Covering	secure vinyl wall covering where it meets tub tile surround - top to bottom	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...arion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
528	Commode Rm	TP Holder	spindle missing	Accessories		
528	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
528	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
528	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
528	Entry Door	Door Closer	does not close	Door		
528	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
528	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
528	Entry Door	Dust Cover	not installed	Door		
528	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
528	Bathroom	Light Switch Plate	not flush	Electrical		
528	Bedroom	Nightstand Glass Top	haze shows	FF&E		
528	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
528	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
528	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
528	Bathroom	Barn Door	touch up	Painting		
528	Bathroom	Wall	touch up at light switch	Painting		
528	Entry	Wall	touch up at light switch	Painting		
528	Entry Closet	Closet Wall	touch up	Painting		
528	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
528	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
528	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
528	Bathroom	Shower Diverter Hndl	loose	Plumbing		
528	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
528	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
528	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
528	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
528	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
528	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	arion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	SubC / BBC
529	Bedroom	Carpet	frayed at transition	Carpet	
529	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk	
529	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk	
529	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk	
529	Bathroom	Pocket Door	hard to open	Door	
529	Commode Rm	Glass Door Hinge	black gasket shows past hinges	Door	
529	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door	
529	Entry Door	Door Closer	does not close	Door	
529	Entry Door	Door	door does not close tightly - has play - does not seal	Door	
529	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door	
529	Entry Door	Dust Cover	not installed	Door	
529	Entry Door	Sweep	scrapes along the floor	Door	
529	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical	
529	Bathroom	Light Switch	no neutral	Electrical	
529	Bedroom	Floor Lamp Shade	crease shows	FF&E	
529	Bedroom	TV Cabinet Glass Top	haze shows	FF&E	
529	Bedroom	Bed Frame Base	marking show - right side and left side	FF&E	
529	Bedroom	TV Panel	marking shows - top center	FF&E	
529	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
529	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting	
529	Bathroom	Wall	touch up at light switch	Painting	
529	Bedroom	Wall	touch up - thermostat	Painting	
529	Bedroom	Window Trim	touch up as needed	Painting	
529	Bedroom	Case Opening	touch up thru out as marked - nail head shows as well	Painting	
529	Entry	Wall	touch up at light switch	Painting	
529	Entry Door	Door	spray paint shows light spots / cloudiness	Painting	
529	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting	
529	Bathroom	Shower Diverter Hndl	loose	Plumbing	
529	Bathroom	Soaking Tub Stem Cvr	slide	Plumbing	
529	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing	
529	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing	
529	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall	
529	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall	
529	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall	

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	.arion Square, Charleston, SC	5th Floor Guestroom Re In..pection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
531	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
531	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
531	Bedroom	TV Panel	marking shows - right side	Cleaning		
531	Bathroom	Shower Door Hinge	black gasket shows past hinges	Door		
531	Bathroom	Pocket Door Guide	not installed	Door		
531	Bathroom	Pocket Door	re-install hits pocket	Door		
531	Commode Rm	Glass Door Hinge	black gasket shows past hinges	Door		
531	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
531	Entry Door	Door Closer	does not close	Door		
531	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
531	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
531	Entry Door	Dust Cover	not installed	Door		
531	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
531	Bathroom	Light Switch Plate	not flush	Electrical		
531	Bathroom	Light Switch	no neutral	Electrical		
531	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
531	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
531	Bedroom	TV Cabinet	spot shows - left side	FF&E		
531	Bedroom	Vent Cover	missing screw	HVAC		
531	Bedroom	Base Molding	rough edge - left of tv panel	Millwork		
531	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
531	Bedroom	Ceiling	2nd coat as needed	Painting		
531	Bedroom	Wall	touch up - left of tv panel	Painting		
531	Bedroom	Wall	touch up as marked thru out	Painting		
531	Bedroom	Window Trim	touch up as needed	Painting		
531	Entry	Wall	touch up at light switch	Painting		
531	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
531	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
531	Bathroom	Shower Diverter Hndl	loose	Plumbing		
531	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
531	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
531	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
531	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
531	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
533	Bedroom	Carpet	frayed at transition	Carpet		
533	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
533	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
533	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
533	Bedroom	Window Trim	caulk overage shows - touch up	Caulk		
533	Bathroom	Pocket Door	hard to open	Door		
533	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
533	Entry Door	Door Closer	does not close	Door		
533	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
533	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
533	Entry Door	Viewer	loose	Door		
533	Entry Door	Dust Cover	not installed	Door		
533	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
533	Bedroom	Bed Frame Base	clean - right bed - right corner	FF&E		
533	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
533	Bedroom	Desk Glass Top	haze shows	FF&E		
533	Bedroom	Desk Lamp Switch	loose	FF&E		
533	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
533	Bedroom	Case Opening	rough wood shows	Millwork		
533	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
533	Bathroom	Pocket Door Frame	touch up	Painting		
533	Bathroom	Wall	touch up at light switch	Painting		
533	Bedroom	Ceiling	2nd coat thru out	Painting		
533	Bedroom	Sprinkler Head Cover	paint overage shows	Painting		
533	Bedroom	Base Molding	touch up - paint overage - left of entry into bedroom	Painting		
533	Bedroom	Wall	touch up at thermostat	Painting		
533	Entry	Wall	touch up at light switch	Painting		
533	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
533	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
533	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
533	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
533	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
533	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
533	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
533	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	rion Square, Charleston, SC	5th Floor Guestroom Re in_ ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
535	Bedroom	Carpet	clean spilled paint - around bedframe	Carpet		
535	Desk Room	Carpet	clean spilled paint	Carpet		
535	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
535	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
535	Bedroom	Crown Molding	gap shows - above entry - bedroom side	Caulk		
535	Bathroom	Pocket Door	hard to open	Door		
535	Bathroom	Pocket Door Guide	not installed	Door		
535	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
535	Entry Door	Door Closer	does not close	Door		
535	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
535	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
535	Entry Door	Dust Cover	not installed	Door		
535	Desk Room	Curtains	not installed	Drapes		
535	Desk Room	Curtain Rod	not installed	Drapes		
535	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
535	Bathroom	Light Switch	no neutral	Electrical		
535	Bedroom	Nightstand Glass Top	haze shows	FF&E		
535	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
535	Bedroom	Desk Glass Top	haze shows	FF&E		
535	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
535	Desk	Dimmer Bulb	not installed	FF&E		
535	Bedroom	Sprinkler Head Cover	not flush	Fire		
535	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
535	Bathroom	Wall	touch up at light switch	Painting		
535	Bedroom	Case Opening	2nd coat thru out	Painting		
535	Desk Room	Ceiling	2nd coat thru out	Painting		
535	Desk Room	Wall	gap shows - right side as entering	Painting		
535	Desk Room	Window	touch up	Painting		
535	Desk Room	Window Trim	touch up - clean caulk overage - both windows	Painting		
535	Entry	Wall	touch up at light switch	Painting		
535	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
535	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
535	Bathroom	Shower Diverter Hndl	loose	Plumbing		
535	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
535	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
535	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
535	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
535	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201[illegible]	arion Square, Charleston, SC		5th Floor Guestroom Re In[illegible]ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
537	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
537	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
537	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
537	Entry Door	Door Closer	does not close	Door		
537	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
537	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
537	Entry Door	Night Latch	loose - bottom pin	Door		
537	Entry Door	Dust Cover	not installed	Door		
537	Bedroom	Curtains	not installed	Drapes		
537	Bedroom	Curtain Rod	not installed	Drapes		
537	Bathroom	Ceiling Light Fixture	not flush	Electrical		
537	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
537	Bathroom	Light Switch Plate	not flush	Electrical		
537	Bathroom	Light Switch	no neutral	Electrical		
537	Bedroom	Nightstand Glass Top	haze shows	FF&E		
537	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
537	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
537	Entry	Entry Mirror	not installed	FF&E		
537	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
537	Bathroom	Wall	touch up at light switch	Painting		
537	Bedroom	Ceiling	peeling - left side of tv panel	Painting		
537	Bedroom	Window Trim	rough wood shows - touch up	Painting		
537	Bedroom	Wall	touch up - at thermostat	Painting		
537	Bedroom	Wall	touch up - small wall vent cover	Painting		
537	Entry	Wall	touch up at light switch	Painting		
537	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
537	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
537	Bathroom	Vanity Sink Stopper	does not hold water - paint in the drain	Plumbing		
537	Bathroom	Shower Diverter Hndl	loose	Plumbing		
537	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
537	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
537	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
537	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
537	Bathroom	Shower Tile	gap at shower head stem	Tile		
537	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
537	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
537	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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R - 9449

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
539	Bedroom	Carpet	frayed and gap shows at transition	Carpet		
539	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
539	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
539	Bathroom	Shower Faucet Fixtures	loose	Caulk		
539	Bathroom	Pocket Door Hndl Relse	does not push / release button	Door		
539	Bathroom	Pocket Door Guide	not installed	Door		
539	Bathroom	Shower Door Handle	plating coming off	Door		
539	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
539	Entry Door	Door Closer	does not close	Door		
539	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
539	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
539	Entry Door	Dust Cover	not installed	Door		
539	Entry Door	Sweep	scrapes along the floor	Door		
539	Bedroom	Curtains	not installed	Drapes		
539	Bedroom	Curtain Rod	not installed	Drapes		
539	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
539	Bathroom	Light Switch	no neutral	Electrical		
539	Bedroom	Nightstand Glass Top	haze shows	FF&E		
539	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
539	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
539	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
539	Bathroom	Wall	touch up at light switch	Painting		
539	Bedroom	Wall	detail where molding meets wall - barn door wall	Painting		
539	Entry	HVAC Cover	2nd coat	Painting		
539	Entry	Wall	touch up at light switch	Painting		
539	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
539	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
539	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
539	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
539	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
539	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	arion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
540	Bedroom	Carpet	frayed at transition	Carpet		
540	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
540	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
540	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
540	Bathroom	Crown Molding	gap shows end to end at tile wall	Caulk		
540	Bedroom	Wall	clean at barn door	Cleaning		
540	Bathroom	Pocket Door Guide	not installed	Door		
540	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
540	Entry Door	Door Closer	does not close	Door		
540	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
540	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
540	Entry Door	Dust Cover	not installed	Door		
540	Bedroom	Curtains	not installed	Drapes		
540	Bedroom	Curtain Rod	not installed	Drapes		
540	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
540	Bathroom	Light Switch	no neutral	Electrical		
540	Bathroom	Light Switch	no neutral	Electrical		
540	Bedroom	Nightstand Glass Top	haze shows	FF&E		
540	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
540	Bedroom	Couch	marking shows	FF&E		
540	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
540	Bathroom	Vanity Base	chip at kicker board	Millwork		
540	Bathroom	Vanity Base Draw	hot glue shows - left side	Millwork		
540	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
540	Bathroom	Wall	touch up at light switch	Painting		
540	Entry	HVAC Cover	2nd coat	Painting		
540	Entry	Wall	touch up at light switch	Painting		
540	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
540	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
540	Bathroom	Vanity Sink Drain	does not hold water	Plumbing		
540	Bathroom	Shower Diverter Hndl	loose	Plumbing		
540	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
540	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
540	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
540	Bathroom	Shower Tile Grout	clean inside shower at ceiling - fixed glass side	Tile		
540	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
540	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
540	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201[illegible]arion Square, Charleston, SC			5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
541	Bedroom	Carpet	frayed at transition	Carpet		
541	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
541	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
541	Bathroom	Shower Faucet Fxtrs	caulk flange to vinyl wall	Caulk		
541	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
541	Bedroom	Crown Molding	gap shows - above barn doors	Caulk		
541	Bedroom	TV Panel	paint drips show - ceiling paint	Cleaning		
541	Bathroom	Pocket Door	hard to open	Door		
541	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
541	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door		
541	Entry Door	Door Closer	does not close	Door		
541	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
541	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
541	Entry Door	Dust Cover	not installed	Door		
541	Entry Door	Sweep	scrapes along the floor	Door		
541	Entry Door	Night Latch	stuck - will not open	Door		
541	Bedroom	Curtains	not installed	Drapes		
541	Bedroom	Curtain Rod	not installed	Drapes		
541	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
541	Bedroom	Nightstand Glass Top	haze shows	FF&E		
541	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
541	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
541	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
541	Bathroom	Wall	touch up at light switch	Painting		
541	Entry	Wall	touch up at light switch	Painting		
541	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
541	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
541	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
541	Bathroom	Shower Diverter Hndl	loose	Plumbing		
541	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
541	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
541	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
541	Bathroom	Shower Tile Grout	gap shows under shower sill	Tile		
541	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
541	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
541	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20	Marion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
542	Bedroom	Carpet	frayed at transition	Carpet		
542	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
542	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
542	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
542	Bathroom	Pocket Door Guide	not installed	Door		
542	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
542	Entry Door	Door Closer	does not close	Door		
542	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
542	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
542	Entry Door	Dust Cover	not installed	Door		
542	Bedroom	Curtains	not installed	Drapes		
542	Bedroom	Curtain Rod	not installed	Drapes		
542	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
542	Bathroom	Light Switch	no neutral	Electrical		
542	Bathroom	Light Switch	no neutral	Electrical		
542	Bedroom	Nightstand Glass Top	haze shows	FF&E		
542	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
542	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
542	Bedroom	Crown Molding	seam shows - left of sprinkler	Millwork		
542	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
542	Bathroom	Pocket Door Frame	touch up	Painting		
542	Bathroom	Wall	touch up at light switch	Painting		
542	Bedroom	Window Trim	touch up as marked	Painting		
542	Bedroom	Wall	touch up at thermostat	Painting		
542	Entry	Wall	touch up at light switch	Painting		
542	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
542	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
542	Bathroom	Shower Diverter Hndl	loose	Plumbing		
542	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
542	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
542	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
542	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
542	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
542	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20	Marion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
543	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
543	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
543	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
543	Bathroom	Crown Molding	gap shows from end to end - above commode door	Caulk		
543	Bedroom	TV Panel	clean at top	Cleaning		
543	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
543	Entry Door	Door Closer	does not close	Door		
543	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
543	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
543	Entry Door	Dust Cover	not installed	Door		
543	Entry Door	Wall Bump	not installed	Door		
543	Bedroom	Curtains	not installed	Drapes		
543	Bedroom	Curtain Rod	not installed	Drapes		
543	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
543	Bathroom	Light Switch Plate	not flush	Electrical		
543	Bathroom	Light Switch	no neutral	Electrical		
543	Bathroom	Light Switch	no neutral	Electrical		
543	Entry Closet	Closet Light	open hot - does not turn on	Electrical		
543	Bedroom	Nightstand Glass Top	haze shows	FF&E		
543	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
543	Bedroom	Desk Glass Top	haze shows	FF&E		
543	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
543	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
543	Bathroom	Pocket Door	touch up	Painting		
543	Bathroom	Wall	touch up at light switch	Painting		
543	Bedroom	Wall	touch up - above barn door trim	Painting		
543	Bedroom	Case Opening	touch up - left side	Painting		
543	Entry	Wall	touch up at light switch	Painting		
543	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
543	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
543	Bathroom	Shower Diverter Hndl	loose	Plumbing		
543	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
543	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
543	Bathroom	Vanity Top	chip - front edge	Quartz Chip		
543	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
543	Entry	Tile Floor	crack shows at entry closet door - sticker side - make cleaner line	Tile		
543	Commode Rm	Vinyl Wall Covering	not installed - left of entry	Vinyl Wall		
543	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
543	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
543	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	.arion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
544	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
544	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
544	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
544	Bathroom	Crown Molding	gap shows at tile wall - above commode door	Caulk		
544	Bathroom	Shower Faucet Fixtures	loose	Caulk		
544	Bedroom	Wall	gap shows at thermostat	Caulk		
544	Entry	Ceiling	gap at moldings	Caulk		
544	Bathroom	Pocket Door Guide	not installed	Door		
544	Bathroom	Barn Door Guide	not installed	Door		
544	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
544	Entry Door	Door Closer	does not close	Door		
544	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
544	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
544	Entry Door	Dust Cover	not installed	Door		
544	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
544	Bathroom	Light Switch	no neutral	Electrical		
544	Bathroom	Light Switch	no neutral	Electrical		
544	Bedroom	Nightstand Lamp	does not operate	FF&E		
544	Bedroom	Nightstand Glass Top	haze shows	FF&E		
544	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
544	Bedroom	Desk Glass Top	haze shows	FF&E		
544	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
544	Bedroom	Book Case	paper stuck at base molding	FF&E		
544	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
544	Bathroom	Pocket Door	touch up	Painting		
544	Bathroom	Wall	touch up at light switch	Painting		
544	Entry	Wall	touch up at light switch	Painting		
544	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
544	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
544	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
544	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
544	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
544	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
544	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
544	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
544	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20	Marion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
545	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
545	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
545	Bathroom	Barn Door Guide	not installed	Door		
545	Bathroom	Pocket Door Guide	not installed	Door		
545	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
545	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door		
545	Entry Door	Door Closer	does not close	Door		
545	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
545	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
545	Entry Door	Dust Cover	not installed	Door		
545	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
545	Bathroom	Vanity Mirror Lights	open hot	Electrical		
545	Bathroom	Light Switch	no neutral	Electrical		
545	Bathroom	Light Switch	shared neutral	Electrical		
545	Bedroom	Nightstand Glass Top	haze shows	FF&E		
545	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
545	Bedroom	Desk Glass Top	haze shows	FF&E		
545	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
545	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
545	Bathroom	Wall	touch up at light switch	Painting		
545	Bedroom	Wall	paint cleaner line along vent wall & left side wall entering bedroom	Painting		
545	Entry	Wall	touch up at light switch	Painting		
545	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
545	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
545	Bathroom	Shower Diverter Hndl	loose	Plumbing		
545	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
545	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
545	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
545	Bathroom	Shower Tile Grout	gap shows at ceiling - left back wall	Tile		
545	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
545	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
545	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	Marion Square, Charleston, SC		5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
547	Bedroom	Carpet	loose at transition	Carpet		
547	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
547	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
547	Bathroom	Wall	detail where tile trim and painted wall meet for neater appearance - at vanity	Caulk		
547	Bedroom	TV Panel	marking shows - right side	Cleaning		
547	Bathroom	Pocket Door Guide	not installed	Door		
547	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
547	Entry Door	Door Closer	does not close	Door		
547	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
547	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
547	Entry Door	Dust Cover	not installed	Door		
547	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
547	Bathroom	Vanity Mirror Lights	open hot	Electrical		
547	Commode Rm	Ceiling Light Fixture	not flush	Electrical		
547	Bathroom	Light Switch	no neutral	Electrical		
547	Bedroom	Nightstand Glass Top	haze shows	FF&E		
547	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
547	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
547	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
547	Bathroom	Wall	touch up at light switch	Painting		
547	Bedroom	Base Molding	touch up - along barn door wall thru out	Painting		
547	Entry	Wall	touch up at light switch	Painting		
547	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
547	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
547	Bathroom	Shower Diverter Hndl	loose	Plumbing		
547	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
547	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
547	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
547	Commode Rm	Tile Trim	gap shows - detail top of tile trim where it meets the bottom of the crown molding	Tile		
547	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
547	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
547	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20	Marion Square, Charleston, SC	5th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
548	Bathroom	Towel Bar	not installed at soaking tub	Accessories		
548	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
548	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
548	Living Room	Wall	gap shows at vent cover	Caulk		
548	Living Room	TV Panel	marks show	Cleaning		
548	Bathroom	Pocket Door Guide	not installed	Door		
548	Bedroom	Pocket Door	re-install - 1 fell out - 1 stuck	Door		
548	Bedroom	Pocket Door Trim	shows rough edges	Door		
548	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
548	Entry Door	Door Closer	does not close	Door		
548	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
548	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
548	Entry Door	Dust Cover	not installed	Door		
548	Entry Door	Wall Bump	not installed - hits bottom qtr round	Door		
548	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
548	Bathroom	Vanity Mirror Lights	open hot	Electrical		
548	Bedroom	Light Switch	no neutral	Electrical		
548	Commode Rm	Ceiling Access Panel	open	Electrical		
548	Bathroom	Light Switch	no neutral	Electrical		
548	Entry	Light Switch	no neutral	Electrical		
548	Bedroom	Nightstand Glass Top	haze shows	FF&E		
548	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
548	Bedroom	Closet	not installed	FF&E		
548	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
548	Living Room	Desk Glass Top	haze shows	FF&E		
548	Living Room	Dining Table Glass Top	haze shows	FF&E		
548	Living Room	Couch	marking shows at arm	FF&E		
548	Entry	Hardwood Floor	scratches show	Flooring		
548	Living Room	Hardwood Floors	gouge shows - at entry	Flooring		
548	Living Room	Hardwood Floors	scratches show - entry into bedroom	Flooring		
548	Bathroom	Ceiling	detail at hvac frame	Painting		
548	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
548	Bathroom	Pocket Door Frame	touch up	Painting		
548	Bathroom	Wall	touch up at light switch	Painting		
548	Bedroom	Pocket Door Trim	2nd coat	Painting		
548	Bedroom	Wall	touch up - bathroom entry	Painting		
548	Bedroom	Base Molding	touch up - right of bathroom entry	Painting		
548	Entry	Wall	touch up at light switch	Painting		
548	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
548	Entry Door	Door Exterior / Interior	touch up	Painting		
548	Entry Door	Door-Frame Ext / Int	touch up	Painting		
548	Living Room	Access Panel	2nd coat	Painting		
548	Living Room	Ceiling	peeling paint - TV panel - right side	Painting		
548	Bathroom	Soaking Tub Faucet Fxt	loose	Plumbing		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20	arion Square, Charleston, SC	5th Floor Guestroom Re l. ection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
548	Bathroom	Vanity Sink Faucet Fxtr	loose - handle	Plumbing		
548	Bathroom	Shower Faucet Fixtures	loose faucet handle	Plumbing		
548	Bathroom	Shower Faucet Fixtures	low water pressure	Plumbing		
548	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
548	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
548	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
548	Bathroom	Threshold	gap shows - both side	Tile		
548	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
548	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
548	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2(	Marion Square, Charleston, SC	5th Floor Guestroom Re . pection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
549	Bathroom	Towel Bar	not installed at soaking tub	Accessories		
549	Bedroom	Carpet	frayed at transition	Carpet		
549	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
549	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
549	Bedroom	Crown Molding	gap shows - entry wall - sprinkler	Caulk		
549	Bathroom	Pocket Door Guide	not installed	Door		
549	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
549	Entry Closet	Door Silencer	not installed	Door		
549	Entry Door	Door Closer	does not close	Door		
549	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
549	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
549	Entry Door	Dust Cover	not installed	Door		
549	Entry Door	Sweep	scrapes along the floor	Door		
549	Bathroom	Soaking Tub Light Fxtr	not installed	Electrical		
549	Bathroom	Vanity Mirror Lights	open hot	Electrical		
549	Bathroom	Light Switch	no neutral	Electrical		
549	Bathroom	Light Switch	no neutral	Electrical		
549	Entry	Light Switch	no neutral	Electrical		
549	Entry	Light Switch	no neutral	Electrical		
549	Bedroom	Nightstand Glass Top	haze shows	FF&E		
549	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
549	Bedroom	Desk Glass Top	haze shows	FF&E		
549	Bedroom	Desk Lamp Switch	loose	FF&E		
549	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
549	Bathroom	Vanity Base	shows outward dents from inside screw at center opening side walls	Millwork		
549	Bedroom	Base Molding	gap shows - right of desk	Millwork		
549	Bedroom	Window Trim	rough edge - at desk	Millwork		
549	Bathroom	Panel Molding/Framing	not flush - gaps show	Painting		
549	Bathroom	Tile Wall	paint overage shows as marked	Painting		
549	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
549	Bathroom	Barn Door	touch up	Painting		
549	Bathroom	Wall	touch up at light switch	Painting		
549	Entry	Wall	touch up at light switch	Painting		
549	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
549	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
549	Bathroom	Shower Water Fxtrs	H2o pressure varies when soaking tub cold is on and off	Plumbing		
549	Bathroom	Soaking Tub Faucet Fxt	loose	Plumbing		
549	Bathroom	Shower Diverter Hndl	loose	Plumbing		
549	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
549	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
549	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
549	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
549	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
549	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	6th Floor Guestroom Re Insp. ...on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
601	Bedroom	Carpet	frayed - loose at balcony door	Carpet		
601	Entry	Carpet	stain shows	Carpet		
601	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
601	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
601	Bathroom	Vanity Base	gap shows - right side	Caulk		
601	Bathroom	Vanity Top	gap shows right side	Caulk		
601	Bathroom	Pocket Door Guide	not installed	Door		
601	Bathroom	Pocket Door Casing	rough edges show - from door handle scraping it	Door		
601	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
601	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
601	Connector Door	Sweep	not installed	Door		
601	Connector Door	Overhead Stop	not installed - hits top case opening into bedroom	Door		
601	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
601	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
601	Entry Door	Dust Cover	not installed	Door		
601	Entry Door	Sweep	not installed	Door		
601	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
601	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
601	Bathroom	Light Switch	no neutral	Electric		
601	Bathroom	Light Switch	no neutral	Electric		
601	Bathroom	Light Switch Plate	not flush - loose box	Electric		
601	Bedroom	Bed Frame Base	clean - right side	FF&E		
601	Bedroom	Nightstand Glass Top	haze shows	FF&E		
601	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
601	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
601	Bedroom	Smoke Detector	not flush	Fire		
601	Bathroom	French Door HVAC Sw	not installed - hvac cut off sensor - spec'd ?	HVAC		
601	Bathroom	Wall	paint overage onto all grouted items - base and tiled shower wall	Painting		
601	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
601	Bathroom	Pocket Door Frame	touch up	Painting		
601	Bathroom	French Door	touch up - door and casing thru out	Painting		
601	Bathroom	Wall	touch up at light switch	Painting		
601	Bedroom	Wall	touch up as marked - entry into bathroom - left side	Painting		
601	Bedroom	Book Case Cabinet	touch up at top crown molding	Painting		
601	Connector Door	Door	2nd coat	Painting		
601	Entry	Case Opening	2nd coat	Painting		
601	Entry	HVAC Cover	2nd coat	Painting		
601	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
601	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
601	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
601	Bathroom	Vanity Sink Stopper	does not hold water - paint in the drain	Plumbing		
601	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
601	Bathroom	Shower Diverter Hndl	loose	Plumbing		
601	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
601	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		

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R - 9461

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Ins... ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
601	Commode Rm	Water Supply Eschusion	not secure to wall	Plumbing		
601	Bedroom	Vent Cover	gap shows - right side	Sheetrock		
601	Bathroom	Threshold	gap shows - both sides	Tile		
601	Bathroom	Tile Floor	gap shows at french door bottom threshold	Tile		
601	Connector Door	Threshold	gap shows - both sides	Tile		
601	Entry	Threshold	gap shows	Tile		
601	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
601	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
601	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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R - 9462

11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	[illegible]ion Square, Charleston, SC	6th Floor Guestroom Re Insp[illegible]ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
603	Living Room	Carpet	stain shows - hvac	Carpet		
603	Living Room	Carpet	loose - at french door - behind couch and french door entering onto balcony	Carpet		
603	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
603	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
603	Entry	Case Opening	gap shows at bottom	Caulk		
603	Living Room	Book Case Cabinet	marking shows - left side	Clean		
603	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
603	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
603	Connector Door	Sweep	not installed	Door		
603	Connector Door	Wall Bump	not installed	Door		
603	Entry Door	Door Closer	does not close	Door		
603	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
603	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
603	Entry Door	Dust Cover	not installed	Door		
603	Entry Door	Sweep	scrapes along the floor	Door		
603	Bathroom	Curtains	not installed	Drapes		
603	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
603	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
603	Bathroom	Light Switch	no neutral	Electric		
603	Bathroom	Light Switch	no neutral	Electric		
603	Bathroom	Light Switch Plate	not flush - loose	Electric		
603	Entry	Light Switch Plate	not flush - loose	Electric		
603	Entry	Light Switch	no neutral	Electric		
603	Bedroom	Nightstand Glass Top	haze shows	FF&E		
603	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
603	Bedroom	Desk Glass Top	haze shows	FF&E		
603	Living Room	TV Cabinet Glass Top	haze shows	FF&E		
603	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
603	Bathroom	Pocket Door	touch up - as marked	Painting		
603	Bathroom	Pocket Door Frame	touch up - as marked	Painting		
603	Bathroom	French Door	touch up thru out	Painting		
603	Bedroom	Case Opening	touch up thru out	Painting		
603	Bedroom	French Door	touch up thru out - both doors	Painting		
603	Entry	HVAC Cover	2nd coat	Painting		
603	Entry	Wall	touch up - as marked	Painting		
603	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
603	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
603	Bathroom	Vanity Sink Stopper	does not hold water - paint in the drain	Plumbing		
603	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
603	Bathroom	Shower Diverter Hndl	loose	Plumbing		
603	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
603	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
603	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
603	Bathroom	Vanity Top	rough edge shows - front edge and center	Quartz		
603	Bedroom	Transition	clean - grout shows and blue ape	Tile		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...ion Square, Charleston, SC	6th Floor Guestroom Re Ins, ...ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
603	Connector Door	Threshold	gap show - both sides	Tile		
603	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
603	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
603	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Ins... ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
606	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk	
606	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk	
606	Bathroom	Pocket Door Guide	not installed	Door	
606	Bathroom	Pocket Door Frame	rough wood - handles hit	Door	
606	Bedroom	Door Stopper	not installed - HITS TV PANEL	Door	
606	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door	
606	Entry Closet	Closet Door Stop	not installed - DOOR HANDLE HITS MIRROR	Door	
606	Entry Door	Door	door does not close tightly - has play - does not seal	Door	
606	Entry Door	Dust Cover	not installed	Door	
606	Entry Door	Sweep	scrapes along the floor	Door	
606	Bathroom	Soaking Tub Light Fxtr	not installed	Electric	
606	Bathroom	Light Switch	no neutral	Electric	
606	Bathroom	Light Switch	no neutral	Electric	
606	Entry	Light Switch	no neutral	Electric	
606	Bedroom	Nightstand Glass Top	haze shows	FF&E	
606	Bedroom	TV Cabinet Glass Top	haze shows	FF&E	
606	Bedroom	Desk Glass Top	haze shows	FF&E	
606	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
606	Sitting Room	End Table Glass Top	not installed - circular X's 2	FF&E	
606	Bathroom	Sprinkler Cover	not flush	Fire	
606	Entry	HVAC	does not circulate into all rooms - 1/2 hr a/c test - rooms are still warm	HVAC	
606	Bedroom	Book Case Cabinet	chipped - chunk of wood gonner	Millwork	
606	Bedroom	Crown Molding	gap shows - right of tv panel	Millwork	
606	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting	
606	Bathroom	Pocket Door	touch up	Painting	
606	Entry	HVAC Cover	2nd coat	Painting	
606	Entry	Wall	touch up thru out	Painting	
606	Entry	Trim Molding	touch up thru out	Painting	
606	Entry	Wall	touch up thru out	Painting	
606	Entry	Base Molding	wide gap shows right side - floor has a high spot which transitions into sitting room	Painting	
606	Entry Door	Viewer	painted shut	Painting	
606	Entry Door	Door	spray paint shows light spots / cloudiness	Painting	
606	Entry Door	Door	touch up	Painting	
606	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting	
606	Sitting Room	Wall	touch up at vent cover	Painting	
606	Bathroom	Vanity Sink Stopper	does not hold water - paint in the drain	Plumbing	
606	Bathroom	Shower Diverter Hndl	loose	Plumbing	
606	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing	
606	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing	
606	Bathroom	Tile Grout	gap shows - right of soaking tub	Tile	
606	Entry Door	Threshold	gap shows	Tile	
606	Entry Door	Threshold	gap shows	Tile	
606	Bathroom	Vinyl Wall Covering	paint splatter shows thru out	Vinyl Wall	
606	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall	
606	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall	

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R - 9465

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	.on Square, Charleston, SC	6th Floor Guestroom Re Ins, ion			
Room #	Location Item	Work To Be Completed	Trade	SubC	BBC
606	Commode Rm Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		



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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Ins... ...on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
607	Bedroom	Carpet	frayed at french door	Carpet		
607	Bedroom	Carpet	high at base along thermostat wall	Carpet		
607	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
607	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
607	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
607	Commode Rm	Crown Moulding	gap where it meets vinyl wall covering	Caulk		
607	Bedroom	Book Case Cabinet	marking shows	Clean		
607	Bathroom	Pocket Door Handle	hits pocket opening	Door		
607	Bathroom	Pocket Door	stuck 1/2 closed	Door		
607	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
607	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
607	Entry Closet	Closet Door	HITS MIRROR	Door		
607	Entry Door	Door Closer	does not close - bounces open	Door		
607	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
607	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
607	Entry Door	Dust Cover	not installed	Door		
607	Entry Door	Sweep	not installed	Door		
607	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
607	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
607	Bathroom	Light Switch	no neutral	Electric		
607	Bathroom	Light Switch	no neutral	Electric		
607	Entry	Light Switch Plate	not flush - loose box	Electric		
607	Bedroom	Nightstand Glass Top	haze shows	FF&E		
607	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
607	Bedroom	Desk Glass Top	haze shows	FF&E		
607	Bedroom	TV Panel	marking shows	FF&E		
607	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
607	Bedroom	Sprinkler Cover	not flush	Fire		
607	Bathroom	Shower Ceiling	paint shows onto grout - trending	Painting		
607	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
607	Bathroom	French Door	touch up frame and door	Painting		
607	Bathroom	Wall	touch up at light switch	Painting		
607	Bedroom	French Door	clean / touch up thru out	Painting		
607	Entry	HVAC Cover	2nd coat	Painting		
607	Entry	Wall	touch up at light switch	Painting		
607	Entry	Wall	touch up marked	Painting		
607	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
607	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
607	Entry Door	Door-Frame Ext / Int	touch up as marked	Painting		
607	Bathroom	Shower Diverter Hndl	loose	Plumbing		
607	Bathroom	Vanity Sink	not installed	Plumbing		
607	Bathroom	Vanity Sink Faucet Fxtr	not installed	Plumbing		
607	Bathroom	Soaking Tub Stopper	not tested	Plumbing		
607	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
607	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Insp...ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
607	Bathroom	Vanity Top	not installed	Quartz		
607	Bathroom	Vanity Backsplash	not installed	Quartz		
607	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
607	Bathroom	French Door	excess grout shows - clean	Tile		
607	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
607	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
607	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Ins...ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
610	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
610	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
610	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
610	Living Room	Book Case Cabinet	mark shows - left case - left side	Clean		
610	Bathroom	Pocket Door Guide	not installed	Door		
610	Bedroom	Pocket Door	hits pocket opening	Door		
610	Bedroom	Pocket Door Guide	not installed	Door		
610	Bedroom	Pocket Door Frame	rough wood shows	Door		
610	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
610	Entry Door	Door Closer	does not close	Door		
610	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
610	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
610	Entry Door	Dust Cover	not installed	Door		
610	Entry Door	Sweep	scrapes along the floor	Door		
610	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
610	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
610	Bathroom	Light Switch	no neutral	Electric		
610	Bathroom	Light Switch	no neutral	Electric		
610	Bedroom	Light Switch	no neutral	Electric		
610	Bedroom	Outlet	open hot	Electric		
610	Entry	Light Switch Plate	not flush - loose	Electric		
610	Entry	Light Switch	no neutral	Electric		
610	Entry	Outlet	open hot	Electric		
610	Living Room	Outlet	open hot	Electric		
610	Bedroom	Nightstand Glass Top	haze shows	FF&E		
610	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
610	Living Room	TV Cabinet Glass Top	haze shows	FF&E		
610	Living Room	Desk Glass Top	haze shows	FF&E		
610	Bedroom	Base Molding	rough wood shows - left of window	Millwork		
610	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
610	Bathroom	Pocket Door	touch up	Painting		
610	Bathroom	Wall	touch up at light switch	Painting		
610	Bedroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
610	Bedroom	Pocket Door	touch up	Painting		
610	Entry	HVAC Cover	2nd coat	Painting		
610	Entry	Wall	touch up at light switch	Painting		
610	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
610	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
610	Bathroom	Shower Diverter Hndl	loose	Plumbing		
610	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
610	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
610	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
610	Bathroom	Shower Tile Grout	gap shows at niche - top inside	Tile		
610	Bathroom	Vinyl Wall Covering	mark shows	Vinyl Wall		
610	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	.on Square, Charleston, SC	6th Floor Guestroom Re Ins .on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
610	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
610	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...ion Square, Charleston, SC	6th Floor Guestroom Re Ins... ...ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
611	Bedroom	Carpet	frayed	Carpet	
611	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk	
611	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk	
611	Bathroom	Crown Molding	gap shows along tiled wall	Caulk	
611	Bedroom	Book Case Cabinet	clean - left cabinet	Clean	
611	Bathroom	Pocket Door	stuck - hard to open	Door	
611	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door	
611	Entry Door	Door Closer	does not close	Door	
611	Entry Door	Door	door does not close tightly - has play - does not seal	Door	
611	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door	
611	Entry Door	Dust Cover	not installed	Door	
611	Entry Door	Sweep	scrapes along the floor	Door	
611	Bathroom	Vanity Outlet/GFI	open hot - tripped does not reset	Electric	
611	Bathroom	Soaking Tub Light Fxtr	not installed	Electric	
611	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric	
611	Bathroom	Light Switch	no neutral	Electric	
611	Bathroom	Light Switch	no neutral	Electric	
611	Entry	Light Switch Plate	not flush - loose	Electric	
611	Bedroom	Headboard	clean - left side	FF&E	
611	Bedroom	Nightstand Glass Top	haze shows	FF&E	
611	Bedroom	TV Cabinet Glass Top	haze shows	FF&E	
611	Bedroom	Desk Glass Top	haze shows	FF&E	
611	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
611	Bedroom	Crown Molding	gap shows in corner - left of headboard	Millwork	
611	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting	
611	Bathroom	Pocket Door Frame	touch up	Painting	
611	Bathroom	Pocket Door	touch up	Painting	
611	Bathroom	French Doors	touch up trim	Painting	
611	Bathroom	Wall	touch up at light switch	Painting	
611	Bedroom	Wall	touch up as marked - left of headboard	Painting	
611	Entry	HVAC Cover	2nd coat	Painting	
611	Entry	Base Moulding	touch up	Painting	
611	Entry Closet	Closet Trim	touch up	Painting	
611	Entry Door	Door	spray paint shows light spots / cloudiness	Painting	
611	Entry Door	Door	touch up	Painting	
611	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting	
611	Bedroom	French Doors	touch up trim	Painting	
611	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing	
611	Bathroom	Shower Diverter Hndl	loose	Plumbing	
611	Bathroom	Vanity Sink Stopper	paint in the drain	Plumbing	
611	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing	
611	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing	
611	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock	
611	Bathroom	Tile Trim	detail at entry into shower	Tile	
611	Bathroom	Shwr Recsd Niche	sharp edge on 45 cut at shampoo holder niche	Tile	

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11/20/2018	[illegible]on Square, Charleston, SC	6th Floor Guestroom Re Ins[illegible]on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
611	Entry	Tile Grout	gap shows - at entry door trim left side	Tile		
611	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
611	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
611	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Ins, ...ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
622	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk	
622	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk	
622	Bathroom	Crown Molding	gap shows along tiled wall	Caulk	
622	Bathroom	Pocket Door	re- install - falls out of pocket 1 - stuck - hard to close 1	Door	
622	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door	
622	Entry Closet	Closet Door Handle	sticks - does not open or close smoothly	Door	
622	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door	
622	Entry Door	Door Closer	does not close	Door	
622	Entry Door	Door	door does not close tightly - has play - does not seal	Door	
622	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door	
622	Entry Door	Dust Cover	not installed	Door	
622	Entry Door	Sweep	scrapes along the floor	Door	
622	Bathroom	Soaking Tub Light Fxtr	not installed	Electric	
622	Bathroom	Vanity Outlet/GFI	open hot	Electric	
622	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric	
622	Bathroom	Light Switch	no neutral	Electric	
622	Bathroom	Light Switch	no neutral	Electric	
622	Bedroom	Outlet	open hot	Electric	
622	Bedroom	Nightstand Glass Top	haze shows	FF&E	
622	Bedroom	TV Cabinet Glass Top	haze shows	FF&E	
622	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
622	Bedroom	Bed Frame Base	tear shows - right side foot of base	FF&E	
622	Entry Door	Door-Frame Ext / Int	dent shows top hinge side	Frame Dent	
622	Bedroom	Crown Molding	gap shows - above headboard	Millwork	
622	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting	
622	Bathroom	Pocket Door	touch up	Painting	
622	Bathroom	Pocket Door Frame	touch up	Painting	
622	Bathroom	Wall	touch up at light switch	Painting	
622	Bedroom	Window Trim	touch up	Painting	
622	Entry	HVAC Cover	2nd coat	Painting	
622	Entry Door	Door	spray paint shows light spots / cloudiness	Painting	
622	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting	
622	Bathroom	Shower Diverter Hndl	loose	Plumbing	
622	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing	
622	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing	
622	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock	
622	Bathroom	Shwr Recsd Niche	sharp edge on 45 cut at shampoo holder niche	Tile	
622	Entry	Threshold	gap shows	Tile	
622	Entry	Tile Grout	gap shows - closet door - right side	Tile	
622	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall	
622	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall	
622	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall	

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	h. .on Square, Charleston, SC		6th Floor Guestroom Re Insp .on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
623	Bedroom	Carpet	frayed	Carpet		
623	Bedroom	Carpet	frayed	Carpet		
623	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
623	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
623	Bedroom	Data Port	out of wall	Data		
623	Bathroom	Pocket Door	hard to open and close	Door		
623	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
623	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
623	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
623	Entry Door	Dust Cover	not installed	Door		
623	All Locations	All Oulets	open hot	Electric		
623	Bathroom	Vanity Outlet/GFI	open hot	Electric		
623	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
623	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
623	Bathroom	Light Switch	no neutral	Electric		
623	Bathroom	Light Switch	no neutral	Electric		
623	Bathroom	Light Switch Plate	not flush	Electric		
623	Entry Closet	Ceiling Access Panel	opened	Electric		
623	Bedroom	Bed Frame Base	clean	FF&E		
623	Bedroom	Nightstand Glass Top	haze shows	FF&E		
623	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
623	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
623	Bedroom	Mattress	not installed	FF&E		
623	Bedroom	Corner Guards	remove protectors	FF&E		
623	Entry Door	Door-Frame Ext / Int	dent shows	Frame Dent		
623	Bedroom	Thermostat	open hot - no power	HVAC		
623	Bedroom	Vent Cover	screw missing	HVAC		
623	Bathroom	Vanity Base	gap shows at filler	Millwork		
623	Bedroom	Crown Molding	seam shows - above tv panel	Millwork		
623	Entry Closet	Closet Bar	removed	Millwork		
623	Entry Closet	Closet Shelf	upright	Millwork		
623	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
623	Bedroom	Window Trim	touch up	Painting		
623	Bedroom	Door Trim	touch up as marked	Painting		
623	Bedroom	Wall	touch up at fire sprinkler	Painting		
623	Bedroom	Wall	touch up at sitting chair - paint peeling	Painting		
623	Entry	HVAC Cover	2nd coat	Painting		
623	Entry	Trim	detail behind door	Painting		
623	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
623	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
623	Bathroom	Shower Diverter Hndl	loose	Plumbing		
623	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
623	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
623	Entry	Threshold	gap shows	Tile		
623	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Ins... ...on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
623	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
623	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	6th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
624	Bedroom	Carpet	spots show	Carpet		
624	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
624	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
624	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
624	Bathroom	Barn Door	chip/split- right door top left bedroom side	Door		
624	Bathroom	Pocket Door	hard to open	Door		
624	Bathroom	Pocket Door Handle	hits pocket opening	Door		
624	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
624	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
624	Entry Closet	Closet Door Handle	sticks	Door		
624	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
624	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
624	Entry Door	Dust Cover	not installed	Door Frame		
624	Entry Door	Door Frame	not square - door rubs	Electric		
624	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
624	Bathroom	Light Switch	no neutral	Electric		
624	Bathroom	Light Switch	no neutral	Electric		
624	Bathroom	Light Switch Plate	not flush	FF&E		
624	Bedroom	Ottoman	clean	FF&E		
624	Bedroom	Nightstand Glass Top	haze shows	FF&E		
624	Bedroom	TV Cabinet Glass Top	haze shows	HVAC		
624	Entry	HVAC Cover	removed	Millwork		
624	Bathroom	Vanity Base	gap shows at filler	Millwork		
624	Bedroom	Crown Molding	seam show above tv	Millwork		
624	Entry Closet	Closet Door Trim	rough wood shows - ripped wood shows saw blade cut	Painting		
624	Bathroom	Shower Ceiling	2nd coat - paint shows on grout - trending	Painting		
624	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
624	Bathroom	Barn Door	touch up as marked	Painting		
624	Bathroom	Pocket Door	touch up as marked thru out	Painting		
624	Bathroom	Door Trim	touch up where near fixed glass	Painting		
624	Bathroom	Wall	touch up at light switch	Painting		
624	Bedroom	Case Trim	touch up as marked	Painting		
624	Bedroom	Wall	touch up thru out - 2nd coat under crown along tv wall	Painting		
624	Entry	Wall	touch up as marked thru out	Painting		
624	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
624	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Plumbing		
624	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
624	Bathroom	Shower Diverter Hndl	loose	Plumbing		
624	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
624	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
624	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Safe Lock		
624	Entry Door	Door	split between latch and blank plate card reader access blank plate	Tile		
624	Entry	Tile Floor	chip shows at entrance	Tile		
624	Entry	Tile Grout	gaps show as marked -	Tile		
624	Entry	Tile Floor	high spots show - right of mirror			

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11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Ins...ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
624	Entry Door	Threshold	gap shows - both sides	Tile		
624	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
624	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
624	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		



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11/20/2018	on Square, Charleston, SC	6th Floor Guestroom Re Ins, on			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	SubC / BBC
625	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk	
625	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk	
625	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door	
625	Bathroom	Shower Fixed Glass	loose	Door	
625	Bathroom	Pocket Door Guide	not installed	Door	
625	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door	
625	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door	
625	Entry Door	Door Closer	does not close	Door	
625	Entry Door	Door	door does not close tightly - has play - does not seal	Door	
625	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door	
625	Entry Door	Dust Cover	not installed	Door	
625	Entry Door	Sweep	not installed	Door	
625	Bathroom	Vanity Outlet/GFI	open hot	Electric	
625	Bathroom	Soaking Tub Light Fxtr	not installed	Electric	
625	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric	
625	Bathroom	Light Switch	no neutral	Electric	
625	Bathroom	Light Switch	no neutral	Electric	
625	Bathroom	Light Switch Plate	not installed	Electric	
625	Bedroom	Nightstand Glass Top	haze shows	FF&E	
625	Bedroom	TV Cabinet Glass Top	haze shows	FF&E	
625	Bedroom	Nightstand Draw Hndls	not installed	FF&E	
625	Bedroom	Mattress	not installed	FF&E	
625	Bedroom	TV Cabinet	sitting on a 2x4	FF&E	
625	Bedroom	Crown Molding	nail shows - seams show	Millwork	
625	Entry Closet	Closet Bar	appears to be close to closet door - check dimensions	Millwork	
625	Entry Closet	Door Trim	rough wood shows - ripped wood shows saw blade cut	Millwork	
625	Bathroom	Shower Ceiling	2nd coat	Painting	
625	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting	
625	Bathroom	Wall	touch up at light switch	Painting	
625	Bedroom	Window Trim	touch up	Painting	
625	Bedroom	Wall	cut in for neater appearance along tv wall	Painting	
625	Bedroom	Case Opening	touch up as marked	Painting	
625	Entry	HVAC Cover	2nd coat	Painting	
625	Entry	Wall	touch up at light switch	Painting	
625	Entry Door	Door	spray paint shows light spots / cloudiness	Painting	
625	Bathroom	Soaking Tub	close to wall	Plumbing	
625	Bathroom	Vanity Sink Drain	does not drain	Plumbing	
625	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing	
625	Bathroom	Shower Diverter Hndl	loose	Plumbing	
625	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing	
625	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing	
625	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing	
625	Bathroom	Shower Sill	gap at shower sill - left side	Tile	
625	Bathroom	Shower Tile Grout	gap shows at ceiling	Tile	
625	Entry	Tile Grout	clean at door entry	Tile	

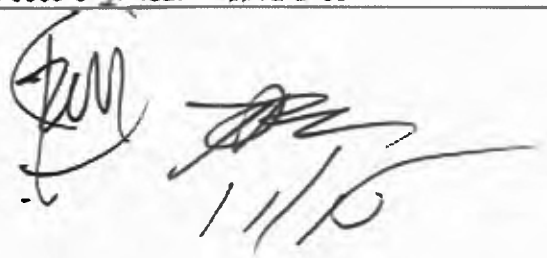
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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...ion Square, Charleston, SC		6th Floor Guestroom Re Ins, ...ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
625	Entry Door	Threshold	gap shows	Tile		
625	Commode Rm	Vinyl Wall Covering	clean	Vinyl Wall		
625	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
625	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
625	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		



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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...ion Square, Charleston, SC	6th Floor Guestroom Re Ins...ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
626	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
626	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
626	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
626	Bathroom	Pocket Door Guide	crooked	Door		
626	Bathroom	Pocket Door	hard to close	Door		
626	Bathroom	Shower Fixed Glass	loose	Door		
626	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
626	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
626	Entry Closet	Closet Door Handle	hard to open	Door		
626	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
626	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
626	Entry Door	Dust Cover	not installed	Door		
626	Entry Door	Viewer	painted - hard to open	Electric		
626	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
626	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
626	Bathroom	Light Switch	no neutral	Electric		
626	Bathroom	Light Switch	no neutral	Electric		
626	Bathroom	Light Switch Plate	not flush - loose	FF&E		
626	Bedroom	Nightstand Glass Top	haze shows	FF&E		
626	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
626	Bedroom	Bed Frame Base	tear right side	Millwork		
626	Bedroom	Window Trim	touch up	Millwork		
626	Bedroom	Crown Molding	seam shows	Painting		
626	Bathroom	Ceiling Light Fixture	paint overage	Painting		
626	Bathroom	Shower Ceiling	2nd coat	Painting		
626	Bathroom	Shower Ceiling Light	paint overage	Painting		
626	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
626	Bathroom	Pocket Door	touch up	Painting		
626	Bathroom	Pocket Door Frame	touch up	Painting		
626	Bathroom	Wall	touch up at light switch	Painting		
626	Bedroom	Wall	touch up	Painting		
626	Bedroom	Case Opening	touch up	Painting		
626	Bedroom	Case Trim	touch up	Painting		
626	Bedroom	Base Molding	touch up a barn door	Painting		
626	Entry	HVAC Cover	2nd coat	Painting		
626	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
626	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
626	Bathroom	Shower Diverter Hndl	loose	Plumbing		
626	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
626	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
626	Bathroom	Vanity Top	chip - front edge	Quartz		
626	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
626	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
626	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11/20/2018	[illegible]on Square, Charleston, SC		6th Floor Guestroom Re Insp[illegible]on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
627	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
627	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
627	Bathroom	Crown Molding	detail at tub - gaps show	Caulk		
627	Connector Door	Sweep	not installed	Door		
627	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
627	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
627	Entry Door	Dust Cover	not installed	Door		
627	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
627	Bathroom	Light Switch	no neutral	Electric		
627	Bathroom	Light Switch	no neutral	Electric		
627	Bedroom	Nightstand Glass Top	haze shows	FF&E		
627	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
627	Bedroom	TV Panel	marking shows	FF&E		
627	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
627	Bedroom	Mattress	not installed	FF&E		
627	Bedroom	Corner Guards	remove protectors	FF&E		
627	Entry	Thermostat	open hot	HVAC		
627	Entry	HVAC Cover	removed	HVAC		
627	Bathroom	Vanity Base	scraped - left front corner	Millwork		
627	Bedroom	Crown Molding	seam shows - right of right bed	Millwork		
627	Bedroom	Window Trim	touch up	Painting		
627	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
627	Bathroom	Shower Diverter Hndl	loose	Plumbing		
627	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
627	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
627	Bathroom	Ceiling Light Fixture	gap shows	Sheetrock		
627	Bedroom	Wall	gap show at sprinkler	Sheetrock		
627	Bathroom	Crown Molding	detail at tub - gaps show	Tile		
627	Bathroom	Vinyl Wall Covering	secure all seams and gaps	Vinyl Wall		
627	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
627	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
627	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	6th Floor Guestroom Re Inspection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
628	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
628	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
628	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
628	Commode Rm	Crown Moulding	gap shows at entry door	Caulk		
628	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
628	Bathroom	Shower Door Handle	loose	Door		
628	Bathroom	Pocket Door Guide	not installed	Door		
628	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
628	Commode Rm	Glass Door Handle	loose	Door		
628	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
628	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door		
628	Entry Door	Door Closer	does not close	Door		
628	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
628	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
628	Entry Door	Dust Cover	not installed	Door		
628	Entry Door	Sweep	scrapes along the floor	Door		
628	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
628	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
628	Bathroom	Light Switch	no neutral	Electric		
628	Bathroom	Light Switch	no neutral	Electric		
628	Bathroom	Light Switch Plate	loose	FF&E		
628	Bedroom	Headboard	clean	FF&E		
628	Bedroom	Nightstand Glass Top	haze shows	FF&E		
628	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
628	Bedroom	TV Panel	right panel not flush	FF&E		
628	Entry Closet	Closet Bar	trim stmt	Frame Dent		
628	Entry Door	Door-Frame Ext / Int	dent shows	Millwork		
628	Bedroom	Crown Molding	seam shows - at headboard	Millwork		
628	Entry	Base Moulding	not installed - right of closet	Painting		
628	Bathroom	Shower Ceiling	paint shows on the grout	Painting		
628	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
628	Bathroom	Wall	touch up at light switch	Painting		
628	Bedroom	Book Case Cabinet	2nd coat top molding	Painting		
628	Entry	Wall	touch up as marked - see also at door trim - detail	Painting		
628	Entry Closet	Closet Wall	2nd coat - paint runs show	Painting		
628	Entry Door	Door	spray paint shows light spots / cloudiness	Plumbing		
628	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
628	Bathroom	Shower Diverter Hndl	loose	Plumbing		
628	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
628	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
628	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Tile		
628	Bathroom	Tile Trim	gap show at shower fixed glass	Tile		
628	Bathroom	Tile Trim	hole shows at shower fixed glass	Vinyl Wall		
628	Bathroom	Vinyl Wall Covering	paint shows	Vinyl Wall		
628	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom			

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	M...on Square, Charleston, SC	6th Floor Guestroom Re Insp ...on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
628	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
628	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		



ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Insp...on			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	**SubC**	**BBC**
629	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
629	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
629	Bedroom	TV Panel	markings show	Clean		
629	Bathroom	Pocket Door	handle hits opening - rough wood shows	Door		
629	Bathroom	Pocket Door Guide	not installed	Door		
629	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
629	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
629	Entry Door	Viewer	crooked - pivot point not at 12 o'clock	Door		
629	Entry Door	Door Closer	does not close	Door		
629	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
629	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
629	Entry Door	Dust Cover	not installed	Door		
629	Entry Door	Sweep	scrapes along the floor	Door		
629	Connector Door	Frame	not square - door rubs	Door Frame		
629	Bathroom	Vanity Outlet/GFI	open hot	Electric		
629	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
629	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
629	Bathroom	Light Switch	no neutral	Electric		
629	Bathroom	Light Switch	no neutral	Electric		
629	Entry	Light Switch	open hot	Electric		
629	Bedroom	Bed Frame Base	clean	FF&E		
629	Bedroom	Nightstand Glass Top	haze shows	FF&E		
629	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
629	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
629	Bedroom	Mattress	not installled	FF&E		
629	Entry	HVAC Cover	screw missing	HVAC		
629	Entry Closet	Closet Trim	nail shows	Millwork		
629	Bathroom	Shower Ceiling	2nd coat	Painting		
629	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
629	Bathroom	Wall	touch up at light switch	Painting		
629	Entry	HVAC Cover	2nd coat	Painting		
629	Entry	Wall	touch up at light switch	Painting		
629	Entry Door	Door	2nd coat	Painting		
629	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
629	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
629	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
629	Bathroom	Shower Diverter Hndl	loose	Plumbing		
629	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
629	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
629	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
629	Bathroom	Shower Tile Grout	gap shows at niche	Tile		
629	Bathroom	Tile Floor	missing at pocket door - both sides	Tile		
629	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
629	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
629	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	on Square, Charleston, SC	6th Floor Guestroom Re Ins	ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
635	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
635	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
635	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
635	Bathroom	Pocket Door Guide	not installed	Door		
635	Bedroom	Balcony Door Lock	does not lock	Door		
635	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
635	Entry Door	Door Closer	does not close	Door		
635	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
635	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
635	Entry Door	Dust Cover	not installed	Door		
635	Entry Door	Sweep	scrapes along the floor	Door		
635	Balcony	Outlet/GFI	not installed	Electric		
635	Balcony	Outlet Cover	not isntalled	Electric		
635	Bathroom	Vanity Outlet/GFI	not flush	Electric		
635	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
635	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
635	Bathroom	Light Switch	no neutral	Electric		
635	Bathroom	Light Switch	no neutral	Electric		
635	Entry	Oulet	not flush to plate - recessed	Electric		
635	Entry	Handi Door Bell	does not have power until master light switch is on	Electric		
635	Living Room	Outlet	open hot thru out	Electric		
635	Bedroom	Nightstand Glass Top	haze shows	FF&E		
635	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
635	Bedroom	Headboard	not installed - in front of balcony door	FF&E		
635	Bedroom	Bed Frame Base	not installed - in front of balcony door	FF&E		
635	Living Room	Desk Glass Top	haze shows	FF&E		
635	Bathroom	Sprinkler Cover	not installed	Fire		
635	Bedroom	Ceiling Alarm	not flush	Fire		
635	Commode Rm	Sprinkler Cover	not installed	Fire		
635	Living Room	Sprinkler Cover	not flush	Fire		
635	All Locations	Wood Floor	scratches show	Flooring		
635	Living Room	Wood Floor	gap shows at balcony doors	Flooring		
635	Entry	HVAC Cover	screw missing	HVAC		
635	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
635	Bathroom	Pocket Door	touch up	Painting		
635	Bathroom	Ceiling	touch up	Painting		
635	Bathroom	Wall	touch up at light switch	Painting		
635	Bedroom	Closet Access Panel	touch up	Painting		
635	Bedroom	Book Case Cabinet	touch up	Painting		
635	Bedroom	Wall	touch up as marked	Painting		
635	Entry	HVAC Cover	2nd coat	Painting		
635	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
635	Entry Door	Door Trim Ext / Int	touch up	Painting		
635	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
635	Living Room	Case Opening	detail thru out	Painting		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	N...ion Square, Charleston, SC		6th Floor Guestroom Re Ins...on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
635	Living Room	Balcony Door	touch up through out	Painting		
635	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
635	Bathroom	Shower Diverter Hndl	loose	Plumbing		
635	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
635	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
635	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
635	Bedroom	Wall	gap shows at light switch	Sheetrock		
635	Balcony	Tile	gap shows - no grout	Tile		
635	Bathroom	Threshold	gap shows - both sides	Tile		
635	Bedroom	Threshold	gap shows both sides	Tile		
635	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
635	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
635	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Marion Square, Charleston, SC	6th Floor Guestroom Re Insp ...on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
639	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
639	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
639	commode Room	Crown Molding	gap shows	Caulk		
639	Bedroom	TV Panel	clean	Clean		
639	Bathroom	Pocket Door Guide	not installed	Door		
639	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
639	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
639	Entry Door	Door Closer	does not close	Door		
639	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
639	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
639	Entry Door	Dust Cover	not installed	Door		
639	Entry Door	Wall Bump	not installed	Door		
639	Entry Door	Sweep	scrapes along the floor	Door Dent		
639	Entry Closet	Closet Door Frame	dent shows	Electric		
639	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
639	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
639	Bathroom	Light Switch	no neutral	Electric		
639	Bathroom	Light Switch	no neutral	Electric		
639	Bathroom	Master Light Switch	not flush	Electric		
639	Bathroom	Light Switch Cover	loose	Electric		
639	Bathroom	Light Switch Plate	loose	FF&E		
639	Bedroom	Headboard	clean	FF&E		
639	Bedroom	Nightstand Glass Top	haze shows	FF&E		
639	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
639	Bedroom	Desk Glass Top	haze shows	FF&E		
639	Bedroom	Nightstand Draw Hndls	not installed	Millwork		
639	Bedroom	TV Panel	gap shows	Painting		
639	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
639	Bathroom	Pocket Door Trim	touch up	Painting		
639	Bathroom	Panel Molding/Framing	touch up	Painting		
639	Bathroom	Wall	touch up at light switch	Painting		
639	Entry	HVAC Cover	2nd coat	Painting		
639	Entry	Wall	touch up	Painting		
639	Entry	Case Trim	touch up	Painting		
639	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
639	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Plumbing		
639	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
639	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
639	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
639	Bathroom	Shower Diverter Hndl	loose	Plumbing		
639	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
639	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
639	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Vinyl Wall		
639	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
639	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base			

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	ı. .on Square, Charleston, SC	6th Floor Guestroom Re Insp .on			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
639	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall	



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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Insp...on			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
640	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
640	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
640	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
640	Bedroom	Book Case Cabinet	clean	Clean		
640	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
640	Bathroom	Pocket Door Guide	not installed	Door		
640	Bedroom	Wall Bump	not installed	Door		
640	Bedroom	Door	scrapes the rug	Door		
640	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
640	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
640	Entry Closet	Wall Bump	not installed	Door		
640	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
640	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
640	Entry Door	Dust Cover	not installed	Door		
640	Entry Door	Sweep	scrapes along the floor	Door		
640	Bedroom	Door Frame	not square - door hits	Door Frame		
640	Bathroom	Vanity Outlet/GFI	open hot	Electric		
640	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
640	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
640	Bathroom	Light Switch	no neutral	Electric		
640	Bathroom	Light Switch	no neutral	Electric		
640	Entry	Light Switch	not flush	Electric		
640	Entry	Master Light Switch	open hot	Electric		
640	Bedroom	Nightstand Glass Top	haze shows	FF&E		
640	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
640	Bedroom	Desk Glass Top	haze shows	FF&E		
640	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
640	Entry Door	Door-Frame Ext / Int	dent shows	Frame Dent		
640	Entry	HVAC Cover	replace	HVAC		
640	Bathroom	Shower Ceiling	2nd coat	Painting		
640	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
640	Bedroom	Door Trim	touch up thru out	Painting		
640	Entry	Wall	touch up	Painting		
640	Entry	Wall	touch up at light switch	Painting		
640	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
640	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
640	Living Room	Wall	2nd coat as needed	Painting		
640	Bathroom	Soaking Tub Faucet Hdl	loose	Plumbing		
640	Bathroom	Shower Diverter Hndl	loose	Plumbing		
640	Bathroom	Vanity Sink Faucet Fxtr	loose faucet handle	Plumbing		
640	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
640	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
640	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
640	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
640	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	N...on Square, Charleston, SC	6th Floor Guestroom Re Insp...on			
Room #	Location	Item	Work To Be Completed	Trade	SubC BBC
640	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall	



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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	Mission Square, Charleston, SC	6th Floor Guestroom Re Ins	ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
644	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
644	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
644	Living Room	TV Panel	clean	Clean		
644	Bathroom	Pocket Door	falls out	Door		
644	Bathroom	Pocket Door Guide	not installed	Door		
644	Bathroom	Pocket Door	split shows	Door		
644	Bedroom	Pocket Door Guide	not installed	Door		
644	Bedroom	Pocket Door	split shows	Door		
644	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
644	Entry Door	Door Closer	does not close	Door		
644	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
644	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
644	Entry Door	Dust Cover	not installed	Door		
644	Entry Door	Wall Bump	not installed	Door		
644	Entry Door	Night Latch	not installed	Electric		
644	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
644	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
644	Bathroom	Light Switch	no neutral	Electric		
644	Bathroom	Light Switch	no neutral	FF&E		
644	Bedroom	TV Cabinet Draw	broken	FF&E		
644	Bedroom	Nightstand Glass Top	haze shows	FF&E		
644	Living Room	TV Cabinet Glass Top	haze shows	FF&E		
644	Living Room	Desk Glass Top	haze shows	Millwork		
644	Bathroom	Vanity Base	gap shows	Millwork		
644	Entry Closet	Door Trim	nail shows	Painting		
644	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
644	Bathroom	Pocket Door Frame	touch up	Painting		
644	Bedroom	Window Trim	touch up	Painting		
644	Bedroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
644	Bedroom	Pocket Door Frame	touch up	Painting		
644	Entry	HVAC Cover	2nd coat	Painting		
644	Entry	Wall	touch up	Painting		
644	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
644	Entry Door	Door Trim Ext / Int	touch up	Painting		
644	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
644	Living Room	Window Trim	touch up	Painting		
644	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
644	Bathroom	Shower Diverter Hndl	loose	Plumbing		
644	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
644	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
644	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
644	Bathroom	Shwr Recsd Niche	sharp edge on 45 cut at shampoo holder niche	Tile		
644	Commode Rm	Vinyl Wall Covering	loose at entry	Vinyl Wall		
644	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
644	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	...on Square, Charleston, SC	6th Floor Guestroom Re Ins...ion			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
644	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

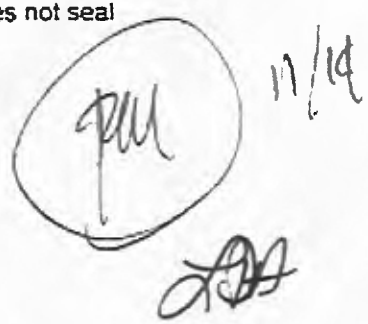


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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/2018	arion Square, Charleston, SC	8th Floor Guestroom Re In ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
801	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
801	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
801	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
801	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
801	Bathroom	Pocket Door Guide	not installed	Door		
801	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
801	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
801	Entry	Connector Door	sweep not installed	Door		
801	Entry Closet	Closet Frame	not square	Door		
801	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
801	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
801	Entry Door	Dust Cover	not installed	Door		
801	Entry	Connector Door	frame not square	Door Frame		
801	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
801	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
801	Bathroom	Light Switch	no neutral	Electric		
801	Bathroom	Light Switch	no neutral	Electric		
801	Bathroom	Curtain	not installed	FF&E		
801	Bathroom	Curtains	not installed	FF&E		
801	Bedroom	Nightstand Glass Top	haze shows	FF&E		
801	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
801	Bathroom	Splinker Head Cover	not flush	Fire		
801	Bathroom	Shower Ceiling	2nd coat	Painting		
801	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
801	Bathroom	Pocket Door Frame	raw wood shows inside near door handle	Painting		
801	Bathroom	Wall	touch up at light switch	Painting		
801	Bedroom	Window Trim	touch up	Painting		
801	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
801	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
801	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
801	Bathroom	Shower Diverter Hndl	loose	Plumbing		
801	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
801	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
801	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
801	Bathroom	Threshold	gap shows both sides	Tile		
801	Entry	Connector Door	threshold shows gap both sides	Tile		
801	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
801	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
801	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		



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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20\	.arion Square, Charleston, SC		8th Floor Guestroom Re l, ection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
803	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
803	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
803	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
803	Bathroom	Vanity Base	clean base	Clean		
803	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
803	Bathroom	Shower Fixed Glass	loose	Door		
803	Bedroom	Connector Door	sweep not installed	Door		
803	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
803	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
803	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
803	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
803	Entry Door	Dust Cover	not installed	Door		
803	Bedroom	Connector Door	frame not square	Door Frame		
803	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
803	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
803	Bathroom	Light Switch	no neutral	Electric		
803	Bathroom	Light Switch	no neutral	Electric		
803	Bathroom	Light Switch Plate	not flush	Electric		
803	Bathroom	Curtains	not installed	FF&E		
803	Bedroom	Desk Glass Top	haze shows	FF&E		
803	Bedroom	Nightstand Glass Top	haze shows	FF&E		
803	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
803	Bedroom	Desk Lamp	not installed	FF&E		
803	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
803	Bathroom	Window Trim	2nd coat	Painting		
803	Bathroom	Pocket Door	2nd coat - paint runs show	Painting		
803	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
803	Bathroom	Wall	touch up	Painting		
803	Bathroom	Wall	touch up at light switch	Painting		
803	Entry	HVAC Cover	2nd coat	Painting		
803	Entry Closet	Closet Access Panel	complete painting or not - remove paper cover	Painting		
803	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
803	Living Room	Case Opening	detail - 2nd caot thru out - caulk, paint overage show	Painting		
803	Bathroom	Vanity Sink Drain	does not drain	Plumbing		
803	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
803	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
803	Bathroom	Shower Diverter Hndl	loose	Plumbing		
803	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
803	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
803	Entry	Wall	finish repair at light switch	Sheetrock		
803	Entry Closet	Closet Wall	recessed blank plate cover	Sheetrock		
803	Bedroom	Connector Door	threshold shows gap both sides	Tile		
803	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
803	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
803	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20	Marion Square, Charleston, SC	8th Floor Guestroom Re I	ection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
806	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
806	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
806	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
806	Bedroom	Ceiling	gap shows at vent cover - at ceiling trim molding	Caulk		
806	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
806	Bathroom	Shower Fixed Panel	loose	Door		
806	Bedroom	Door	hits tv panel trim	Door		
806	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
806	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
806	Entry Closet	Closet Door Handle	sticks	Door		
806	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
806	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
806	Entry Door	Dust Cover	not installed	Door		
806	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
806	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
806	Bathroom	Light Switch	no neutral	Electric		
806	Bathroom	Light Switch	no neutral	Electric		
806	Bathroom	Light Switch Plate	not squared in box	Electric		
806	Bedroom	Desk Glass Top	haze shows	FF&E		
806	Bedroom	Nightstand Glass Top	haze shows	FF&E		
806	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
806	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
806	Bedroom	TV Panel Pads	not installed - removed	FF&E		
806	Bedroom	Desk Lamp	not installed 2x's	FF&E		
806	Sitting Room	End Table Glass Top	not installed - circular 2x's	FF&E		
806	Sitting Room	Splinker Head Cover	not flush	Fire		
806	Sitting Room	Thermostat	mounted behind tv :o my ... why	HVAC		
806	Bathroom	Shower Ceiling	paint overage onto grout tile surround	Painting		
806	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
806	Bathroom	Pocket Door	spray paint runs shows thru out and onto trim	Painting		
806	Bathroom	Wall	touch up at light switch	Painting		
806	Bedroom	Window Trim	touch up	Painting		
806	Entry	HVAC Cover	2nd coat	Painting		
806	Entry Closet	Closet Ceiling	clean up access panel and aroung blank plate cover	Painting		
806	Entry Closet	Closet Wall	touch up	Painting		
806	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
806	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
806	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
806	Bathroom	Vanity Sink Stopper	does not hold water	Plumbing		
806	Bathroom	Shower Diverter Hndl	loose	Plumbing		
806	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
806	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
806	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
806	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
806	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20	Marion Square, Charleston, SC	8th Floor Guestroom Re I.	action			
Room #	**Location**	**Item**	**Work To Be Completed**	**Trade**	SubC	BBC
807	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
807	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
807	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
807	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
807	Entry Door	Door Closer	does not close	Door		
807	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
807	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
807	Entry Door	Dust Cover	not installed	Door		
807	Entry Door	Viewer	not installed - lower	Door		
807	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
807	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
807	Bathroom	Light Switch	no neutral	Electric		
807	Bathroom	Light Switch	no neutral	Electric		
807	Bathroom	Light Switch Plate	not flush	Electric		
807	Entry	Light Switch	touch up at switch	Electric		
807	Bathroom	Curtains	not installed	FF&E		
807	Bedroom	Nightstand Glass Top	haze shows	FF&E		
807	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
807	Bedroom	TV Panel Pad	not installed - removed	FF&E		
807	Bedroom	Book Case Cabinet	right case - left door not squared off with adjacent door	FF&E		
807	Living Room	Desk Glass Top	haze shows	FF&E		
807	Living Room	TV Cabinet Glass Top	haze shows	FF&E		
807	Bedroom	Thermostat	gap - yellow shows	HVAC		
807	Bathroom	Panel Molding/Framing	gap shows at window wall	Millwork		
807	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
807	Bathroom	Pocket Door	touch up	Painting		
807	Bathroom	Pocket Door Frame	touch up	Painting		
807	Bedroom	Window Trim	touch up	Painting		
807	Commode Rm	Ceiling Light Fixture	paint overage	Painting		
807	Entry	HVAC Cover	2nd coat	Painting		
807	Entry Door	Door	2nd coat	Painting		
807	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
807	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
807	Bathroom	Shower Diverter Hndl	loose	Plumbing		
807	Bathroom	Vanity Sink Drain	not installed	Plumbing		
807	Bathroom	Vanity Sink Faucet Fxtr	not installed	Plumbing		
807	Bathroom	Vanity Sink Stopper	not installed	Plumbing		
807	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
807	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
807	Bathroom	Vanity Backsplash	not installed	Quartz		
807	Bathroom	Vanity Sidesplash	not installed	Quartz		
807	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
807	Entry	Tile Floor	gap at closet frame	Tile		
807	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
807	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		

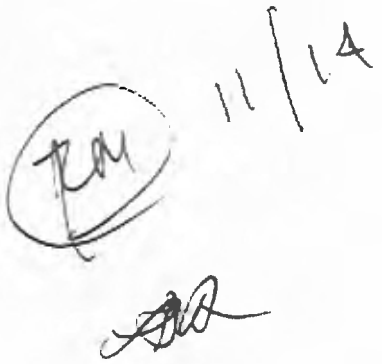
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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/201	arion Square, Charleston, SC	8th Floor Guestroom Re l.	ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
807	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		



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11/20/20..	...larion Square, Charleston, SC		8th Floor Guestroom Re I... ...ction			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
810	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
810	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
810	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
810	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
810	Bedroom	Pocket Door Opener	not installed	Door		
810	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
810	Entry Door	Door Closer	does not close	Door		
810	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
810	Entry Door	Sweep	extended past door	Door		
810	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
810	Entry Door	Dust Cover	not installed	Door		
810	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
810	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
810	Bathroom	Light Switch	no neutral	Electric		
810	Bathroom	Light Switch	no neutral	Electric		
810	Bedroom	Nightstand Glass Top	haze shows	FF&E		
810	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
810	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
810	Living Room	TV Panel pads	not installed	FF&E		
810	Bedroom	Splinker Head Cover	not flush	Fire		
810	Bathroom	Ceiling Access Panel	opened	HVAC		
810	Bedroom	Thermostat	open hot - does not turn on	HVAC		
810	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
810	Bathroom	Pocket Door	touch up	Painting		
810	Bedroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
810	Bedroom	Pocket Door	touch up	Painting		
810	Bedroom	Window Trim	touch up	Painting		
810	Entry	Base Moulding	touch up	Painting		
810	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
810	Entry Door	Door Exterior / Interior	touch up	Painting		
810	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
810	Bathroom	Shower Diverter Hndl	loose	Plumbing		
810	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
810	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
810	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
810	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
810	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
810	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20..	Marion Square, Charleston, SC		8th Floor Guestroom Re... ection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
811	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
811	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
811	Bathroom	Crown Molding	gap shows along tiled wall	Caulk		
811	Bathroom	Shower Faucet Fixtures	loose	Caulk		
811	Bathroom	Curtains	not installed	Caulk		
811	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
811	Bathroom	Shower Fixed Panel	loose	Door		
811	Bathroom	Pocket Door	touch up	Door		
811	Commode Rm	Cmmd Door Hinge Gskt	black gasket shows past hinges	Door		
811	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
811	Entry Closet	Closet Door	split shows lower left corner	Door		
811	Entry Door	Door Closer	does not close	Door		
811	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
811	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
811	Entry Door	Dust Cover	not installed	Door		
811	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
811	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
811	Bathroom	Light Switch	no neutral	Electric		
811	Bathroom	Light Switch	no neutral	Electric		
811	Bedroom	Oulet	open hot - thermostat wall	Electric		
811	Entry	Ceiling Light Fixture	installed closer than others to HVAC cover - no space shows	Electric		
811	Bathroom	Curtains	not installed	FF&E		
811	Bedroom	Nightstand Glass Top	haze shows	FF&E		
811	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
811	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
811	Bedroom	TV Panel Pad	not installed	FF&E		
811	Bathroom	Vanity Base	gap shows atfiller panel	Millwork		
811	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
811	Bathroom	Window Trim	touch up	Painting		
811	Bathroom	Wall	touch up	Painting		
811	Bedroom	Window Trim	touch up	Painting		
811	Bedroom	Ceiling	paint overage onto sprinkler head cover	Painting		
811	Entry	HVAC Cover	2nd coat	Painting		
811	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
811	Entry Door	Door - Interior Trim	touch up - dead bolt marks the trim when extended and door closes	Painting		
811	Bathroom	Vanity Sink Stopper	does hold water	Plumbing		
811	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
811	Bathroom	Shower Diverter Hndl	loose	Plumbing		
811	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
811	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
811	Entry Door	Door	split between latch and blank plate card reader access blank plate	Safe Lock		
811	Bathroom	Shower Ceiling	gap shows at tiled surround	Tile		
811	Commode Rm	Vinyl Wall Covering	secure vinyl where it meets tile trim from top to bottom	Vinyl Wall		
811	Commode Rm	Vinyl Wall Covering	vinyl loose at bottom corners where it meets tile base	Vinyl Wall		
811	Commode Rm	Vinyl Wall Covering	vinyl overlaps in corners - trim and secure for neater appearance	Vinyl Wall		

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11.

ELECTRONICALLY FILED - 2023 May 12 7:11 PM - CHARLESTON - COMMON PLEAS - CASE#2019CP1001108

11/20/20 .	Marion Square, Charleston, SC	8th Floor Guestroom Re	ection			
Room #	Location	Item	Work To Be Completed	Trade	SubC	BBC
813	Bathroom	Vanity Backsplash	caulk backsplash to both right and left sidesplash(s) top to bottom - clear	Caulk		
813	Bathroom	Vanity Sidesplash	caulk both right and left sidesplash(s) bottom end to vanity top - clear	Caulk		
813	Bathroom	Crown Molding	gap show along tiled wall	Caulk		
813	Bathroom	Shwr Door Hinge Gskt	black gasket shows past hinges	Door		
813	Bathroom	Pocket Door Guide	not installed	Door		
813	Bathroom	Pocket Door	seam shows left door top - bathroom side	Door		
813	Commode Rm	Glass Door	oil shows at handle and hinges - clean frosted glass properly	Door		
813	Entry Door	Door	corner gouge	Door		
813	Entry Door	Door Closer	does not close	Door		
813	Entry Door	Door	door does not close tightly - has play - does not seal	Door		
813	Entry Door	Door Striker	lockset loose inside striker - door does not seal	Door		
813	Entry Door	Dust Cover	not installed	Door		
813	Entry Door	Sweep	not installed	Door		
813	Bedroom	Curtains	not installed	Drapes		
813	Bathroom	Soaking Tub Light Fxtr	not installed	Electric		
813	Bathroom	Vanity Mirror Lights	open hot - does not turn on	Electric		
813	Bathroom	Light Switch	no neutral	Electric		
813	Bathroom	Light Switch	no neutral	Electric		
813	Bathroom	Light Switch Plate	not flush	Electric		
813	Bathroom	Curtains	not installed	FF&E		
813	Bedroom	Desk Glass Top	haze shows	FF&E		
813	Bedroom	Nightstand Glass Top	haze shows	FF&E		
813	Bedroom	TV Cabinet Glass Top	haze shows	FF&E		
813	Bedroom	Headboard	not installed	FF&E		
813	Bedroom	Nightstand Draw Hndls	not installed	FF&E		
813	Bedroom	Nightstand Lamp	not installed	FF&E		
813	Bedroom	TV Panel Pads	not installed	FF&E		
813	Bedroom	TV Panel Pads	not installed - removed	FF&E		
813	Bathroom	Ceiling	paint peeling at access panel	Painting		
813	Bathroom	Pocket Door Casing	raw wood shows inside from end to end at the top - both side	Painting		
813	Bedroom	Wall	touch up - right wall	Painting		
813	Commode Rm	Ceiling Light Fixture	paint overage	Painting		
813	Entry	HVAC Cover	2nd coat	Painting		
813	Entry Door	Door	spray paint shows light spots / cloudiness	Painting		
813	Bathroom	Soaking Tub Stopper	does not hold water	Plumbing		
813	Bathroom	Shower Diverter Hndl	loose	Plumbing		
813	Bathroom	Soaking Tub Faucet	loose	Plumbing		
813	Bathroom	Vanity Water Fixtures	not installed - all	Plumbing		
813	Bathroom	Soaking Tub Spout	water sprays onto back vinyl wall when faucet(s) are opened all the way	Plumbing		
813	Bathroom	Water Fixtures - All	system not balanced for temperature testing	Plumbing		
813	Bathroom	Vanity Backsplash	not installed	Quartz		
813	Bathroom	Vanity Sidesplash	not installed	Quartz		
813	Bathroom	Light Switch Cover	gap shows	Sheetrock		
813	Bathroom	Threshold	gap bot sides at pocket door	Tile		
813	Bathroom	Shwr Ceiling Light Fxtr	not flush	Tile		

R - 9500

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