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**Apr 29 2026**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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Appeal from Charleston County  
Jennifer B. McCoy, Circuit Court Judge

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Circuit Court Case No. 2016-CP-10-03783

Court of Appeals Case No. 2021-001050  
Opinion No. 6099 (S.C. Ct. App. filed May 21, 2025)

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Supreme Court Case No. 2025-001224

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The Retreat at Charleston National Country Club Home Owners Association, Inc., and The Retreat at Charleston National Country Club Horizontal Property Regime, .....Plaintiffs,

v.

Winston Carlyle Charleston National, LLC; Colin R. Campbell Construction, Inc.; Colin Campbell, individually; Builders FirstSource-Southeast Group, LLC; Builders FirstSource, Inc.; Americo Roofing Concepts, Inc.; DVS, Inc.; Advanced Building Connection, LLC; Guy C. Lee Building Materials, LLC; WS Contractors, LLC; Dino Schwartz, Individually; Charleston Exteriors, LLC; ECC Contracting, LLC; Hurley Services, LLC; McDaniel Construction Co., LLC; AC Construction Corp.; AC Construction, Inc.; L&G Construction Group, LLC; Liollio Architecture; JC Contractors, LLC; Soto & Vasquez Construction, LLC; Costa De Oliveira Construction, LLC; Solesmar Jesus De Oliveria; Wilson Lucas Sales d/b/a Miracle Siding; Miracle Siding, LLC; Royal Homes of SC, Inc.; Collen Batissa; Christopher Batissa; Norma Ferreira Bruno; Mendez Construction, LLC; Juan Garza Ramos, individually; Juan Garza Ramos d/b/a Juan Constructors; Jessica Marroquin, individually; Jessica Marroquin d/b/a Marroquin Construction; Carlos Marroquin, individually; Carlos Marroquin Construction; Carlos and Jessica Marroquin d/b/a Marroquin Construction; Feliciano Cruz Silva; Garcia Roofing, LLC; Givair De Caris; and Mario Salgado, .....Defendants,

Builders FirstSource-Southeast Group, LLC,.....Third-Party Plaintiff and Appellant,

v.

Pohlman Quality Contractors; Pohlman Quality Exteriors; Palmetto Trim and Renovation; and East Coast Carpentry, .....Third-Party Defendants.

Of which Palmetto Trim and Renovation; Hurley Services, LLC; ECC Contracting, LLC; East Coast Carpentry; AC Construction, Inc.; WS Contractors, LLC; Pohlman Quality Exteriors, Inc.;

and L&G Construction Group, LLC are the Respondents.

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MOTION TO SUPPLEMENT RECORD ON APPEAL / APPENDIX

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*s/ Stephen P. Hughes*

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Attorneys for Appellant Builders FirstSource-Southeast  
Group, LLC

Appellant/Petitioner Builders FirstSource-Southeast Group, LLC (“BFS”), hereby moves the Court to supplement the record on appeal with exhibits of deposition testimony from fact witnesses. Specifically, BFS seeks to supplement the record with deposition testimony from BFS fact witness Bill Crabtree and ECC Contracting, LLC’s Rule 30(b)(6) designee Rod Assis.

This motion arises from Respondents’ contentions that they were “labor-only subcontractors” to BFS at the Retreat at Charleston National project. See e.g. Pohlman Brief, p. 1, Hurley Brief, p. 1. This motion also arises from Respondents’ contentions that BFS was responsible for supervision of the work performed by the Respondent subcontractors. See e.g. ECC and AC Construction Briefs.

BFS believes that justice requires the record on appeal to be supplemented by the deposition testimony of these fact witnesses as the lower courts’ decisions were based in part on allegations regarding the parties’ scopes of work. BFS does not believe that supplementing the record with the deposition testimony from these fact witnesses will prejudice any party to this appeal as the parties’ arguments on appeal are based on the evidence obtained by the parties’ in discovery.

#### **A. Bill Crabtree**

The parties, including Respondents, deposed Bill Crabtree on October 15, 2019. See Exhibit A, Deposition of Bill Crabtree, p. 1. Mr. Crabtree testified, in relevant part, that he was the install sales manager for BFS in 2001 for around 12 to 14 years and in 2015 he became the general manager for BFS’s Summerville, South Carolina location. See Exhibit A, Deposition of Bill Crabtree, p. 10, ll. 16-20; p. 12, ll. 20-23. As it relates to construction of the Retreat at Charleston National project, Mr. Crabtree testified that Respondent subcontractors, who installed windows, were responsible for installing the window components pursuant to the manufacturers’

instructions. See Exhibit A, Deposition of Bill Crabtree, p. 60, ll. 18-22. Mr. Crabtree also testified that BFS did not supply the fasteners and that the Respondent subcontractors, who installed windows, were responsible for supplying their own fasteners. See Exhibit A, Deposition of Bill Crabtree, p. 60, ll. 23-25, p.61, ll. 1-3. Mr. Crabtree testified that Hurley installed house wrap, windows, and exterior doors at the project. See Exhibit A, Deposition of Bill Crabtree, pp. 113-114. Mr. Crabtree testified that Rooster Cannon [of BFS] inspected Hurley's work to see if it was complete, not that it was correct. See Exhibit A, Deposition of Bill Crabtree, p. 115, ll. 4-15. Mr. Crabtree also testified that Hurley performed good work most of the time and that it knew how to do the work it was hired to perform. See Exhibit A, Deposition of Bill Crabtree, p. 115, ll. 16-21. Mr. Crabtree testified further in response to ECC's counsel examination regarding BFS's expectations of the window installation subcontractors, more details regarding his prior testimony as to BFS's inspections of the work performed by the subcontractors. See Exhibit A, Deposition of Bill Crabtree, pp. 116-120. As to AC Construction, Mr. Crabtree testified that it performed framing installation at the project that included roof felt and house wrap and that's the way it is on every job between BFS and AC Construction. See Exhibit A, Deposition of Bill Crabtree, p. 124. In response to AC Construction's examination, Mr. Crabtree reiterated that AC Construction's framing work included installation of house-wrap and that Hurley installed house-wrap for a couple of buildings due to the framing subcontractor being replaced. See Exhibit A, Deposition of Bill Crabtree, p. 125, ll. 2-18.

## **B. Rod Assis**

The parties, including Respondents, deposed Mr. Rod Assis on July 16, 2019. See Exhibit B, Deposition of Rod Assis 30(b)(6) ECC, p. 1. Mr. Assis testified that the windows and doors that ECC installed were selected by the builders or the architect. See Exhibit B, Deposition of Rod

Assis 30(b)(6) ECC, p. 37, ll. 13-15. Mr. Assis also testified that with respect to installing windows into the building envelope where house-wrap is already installed, ECC is not going to install a product on top of something that it knows is wrong. See Exhibit B, Deposition of Rod Assis 30(b)(6) ECC, p. 39, ll. 7-16. Moreover, Mr. Assis testified that in terms of installing the windows, the manufacturer of the window determines whether ECC installs the windows with screws or nails. See Exhibit B, Deposition of Rod Assis 30(b)(6) ECC, p. 42, ll. 2-6. Mr. Assis testified that the window installation instructions are normally attached to every window. See Exhibit B, Deposition of Rod Assis 30(b)(6) ECC, p. 42, ll. 7-9. With respect to windows, Mr. Assis testified that BFS only supplied the window, tape, and caulk and that ECC provides the fasteners. See Exhibit B, Deposition of Rod Assis 30(b)(6) ECC, p. 42, ll. 16-22. Mr. Assis testified that ECC determines what type of fastener to use from review of the South Carolina [building] code and manufacturer instructions with the latter being attached to the window itself. See Exhibit B, Deposition of Rod Assis 30(b)(6) ECC, p. 42, ll. 23-25, p. 43, ll. 1-10. Regarding ECC's installation of the window fasteners, in terms of fastener spacing on the window nailing flange, Mr. Assis testified that it depends on the manufacturer's instructions included on the window packaging. See Exhibit B, Deposition of Rod Assis 30(b)(6) ECC, p. 43, ll. 11-23.

Exhibit A, BFS Motion to Supplement 1 (1-4)

Deposition of Bill Crabtree

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1 IN THE COURT OF COMMON PLEAS  
 2 FOR THE STATE OF SOUTH CAROLINA  
 3 CHARLESTON COUNTY

4 DEPOSITION OF BILL CRABTREE

5 THE RETREAT AT CHARLESTON NATIONAL COUNTRY CLUB  
 6 HOMEOWNERS ASSOCIATION, INC. and THE RETREAT AT  
 7 CHARLESTON NATIONAL COUNTRY CLUB HORIZONTAL  
 8 PROPERTY REGIME,  
 9 Plaintiffs,  
 10 vs. CASE NO. 2016-CP-10-3783

11 WINSTON-CARLYLE CHARLESTON NATIONAL, LLC; COLIN  
 12 R. CAMPBELL CONSTRUCTION, INC.; COLIN CAMPBELL,  
 13 INDIVIDUALLY, BUILDERS FIRSTSOURCE-SOUTHEAST  
 14 GROUP, LLC; BUILDERS FIRSTSOURCE, INC.; AMERICO  
 15 ROOFING CONCEPTS, INC.; DVS, INC.; ADVANCED  
 16 BUILDING CONNECTION, LLC; GUY C. LEE BUILDING  
 17 MATERIALS, LLC; WS CONTRACTORS, LLC; DINO  
 18 SCHWARTZ, Individually, CHARLESTON EXTERIORS,  
 19 LLC; ECC CONTRACTING, LLC; HURLEY SERVICES, LLC;  
 20 McDANIEL CONSTRUCTION CO., LLC; AC CONSTRUCTION  
 21 CORP.; AC CONSTRUCTION, INC.; L&G CONSTRUCTION  
 22 GROUP, LLC; POHLMAN QUALITY CONTRACTORS; POHLMAN  
 23 QUALITY EXTERIORS, INC., and LIOLLIO  
 24 ARCHITECTURE, et al.,  
 25 Defendants.

DEPONENT: BILL CRABTREE

DATE: OCTOBER 15, 2019

TIME: 10:00 a.m.

LOCATION: MULLEN WYLIE  
 CHARLESTON, SOUTH CAROLINA

REPORTED BY: DARAH L. NEKOLA, RPR, CSR(IA)  
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 Charleston, SC 29412

1 A. '92.  
 2 Q. And how long did you do that?  
 3 A. I did that for a year, and then I moved  
 4 to the Goose Creek 84 Lumber Company as that  
 5 location's general manager.  
 6 Q. And how long there approximately? This  
 7 doesn't have to --  
 8 A. Probably another year, just another  
 9 year.  
 10 Q. I am just trying to get a feel. After  
 11 that?  
 12 A. After that I went to what was then  
 13 Pelican Building Centers in '94. And --  
 14 Q. Where at?  
 15 A. Goose Creek.  
 16 Q. Is Pelican Building Center, you know, a  
 17 similar operation as 84 Lumber?  
 18 A. Pelican Building Center is now Builders  
 19 FirstSource.  
 20 Q. Right. But when you went to Pelican  
 21 Building Center, was it pretty much a lateral --  
 22 you went to being a manager of an 84 Lumber store  
 23 to a --  
 24 A. I went to be an outside salesman for  
 25 Pelican.

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1 Q. Are they mostly a commercial supplier or  
 2 are they like anybody can walk into an 84 Lumber?  
 3 A. We're typically -- anybody can walk into  
 4 a Builders FirstSource and buy stuff, but we are,  
 5 I would say, 80 percent builder --  
 6 Q. Geared towards commercial sales?  
 7 A. Builder sales, yes.  
 8 Q. And how long were you an outside  
 9 salesman at Pelican Building before you changed  
 10 jobs or it changed names?  
 11 A. I'm not exactly sure when we changed  
 12 names, but I have been with that company ever  
 13 since. I have never left it. Now, the positions  
 14 that I have held throughout my time at Builders  
 15 FirstSource, I started off as an outside  
 16 salesman. Then I became the install sales  
 17 manager for about 7 years -- so '94, so I would  
 18 say somewhere around 2001 I was the install sales  
 19 manager. I held that position for probably  
 20 around 12 to 14 years. Then I became the -- kind  
 21 of a dual role of install sales manager, door  
 22 shop manager at our door shop facility in North  
 23 Charleston.  
 24 Q. Is that separate from the store? Is it  
 25 a different location?

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1 A. It's at the same location. It's all the  
 2 same building.  
 3 Q. And is this the Pelican -- the one in  
 4 Goose Creek, is this the Arco Builders  
 5 FirstSource store?  
 6 A. No.  
 7 Q. It's a different store?  
 8 A. No. It's a different store. And the  
 9 way our market -- that was just basically where  
 10 my office was. I mean, we're a multistore  
 11 market, so I just say Goose Creek because that's  
 12 where my office was.  
 13 Q. But where is the Pelican Building  
 14 Center? Is it in Goose Creek?  
 15 A. It's no longer Pelican or BFS now.  
 16 Q. So when -- and do you have any  
 17 approximations when Builders FirstSource bought  
 18 Pelican?  
 19 A. I think it was -- well, we went public I  
 20 think in 2005. So maybe 2002. I can't answer.  
 21 That's a guess.  
 22 Q. I am just trying to get a feel again.  
 23 A. Right.  
 24 Q. So when you were an outside salesmen,  
 25 you were working out of the Pelican Building

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1 Center in Goose Creek?  
 2 A. Yes.  
 3 Q. And did that become a BFS store when  
 4 they bought them?  
 5 A. Yes.  
 6 Q. Did you continue to work out of that  
 7 store?  
 8 A. Yes, sir.  
 9 Q. And then you became install sales  
 10 manager. Were you still working out of that  
 11 store?  
 12 A. Yes, sir.  
 13 Q. And then when you combined the role of  
 14 install sales and door sales, that was still out  
 15 of that store?  
 16 A. That went to Arco.  
 17 Q. So when you became install sales --  
 18 A. My office relocated to the Arco Lane  
 19 store.  
 20 Q. Any other jobs?  
 21 A. Within the company, yes. I guess around  
 22 2015 I became the general manager of the  
 23 Summerville location.  
 24 Q. Okay.  
 25 A. Did that for about a year, and then in

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1 A. DP47 or higher.  
 2 Q. And how do you know that?  
 3 A. The confirmation is with the MW company.  
 4 Q. Have you actually seen that?  
 5 A. Yes, sir.  
 6 Q. Where did you see that?  
 7 A. In the documents, acknowledgments.  
 8 Q. Do you know what the DP requirements  
 9 were for the building?  
 10 A. I would say DP 45.  
 11 Q. If it was DP 50, DP 47 would not be  
 12 sufficient?  
 13 A. It should be. I mean, that's kind of  
 14 the -- when people say DP 50, it's not  
 15 necessarily the -- these are the windows that  
 16 were designed for that DP 50, in quotes,  
 17 category.  
 18 Q. So a DP 47 does meet DP 50?  
 19 A. I wouldn't say that. But I would say DP  
 20 47 is what was used at the time.  
 21 Q. What did BFS do to ensure that the DP  
 22 rating for these buildings was met by the windows  
 23 it was supplying?  
 24 A. When we order the windows, we specify  
 25 the DP upgrade.

1 Q. Did you talk to anybody, for instance,  
 2 the architect or the engineer, to find out what  
 3 the DP requirements were?  
 4 A. No, sir.  
 5 Q. So you picked a DP rating for a window  
 6 based on what?  
 7 MR. HUGHES: Object to the form.  
 8 Q. How did you go about picking a window  
 9 with a certain DP rating that you thought would  
 10 be sufficient?  
 11 MR. HUGHES: Object to the form.  
 12 A. It was just -- we used the window that  
 13 was used in that particular area.  
 14 Q. And the window installation, would that  
 15 also have included window flashing?  
 16 A. Yes.  
 17 Q. And what window flashing would have been  
 18 included in BFS's installation of a window?  
 19 A. The windowsill tape, the side tape that  
 20 goes over the nailing flange and the head tape.  
 21 Q. Okay. So if I -- take me through that.  
 22 If I have a rough opening, who installs -- I  
 23 think Mr. Cannon said that generally speaking,  
 24 his experience was the framer would have  
 25 installed the WRB, whatever it was, and folded it

1 into the rough opening?  
 2 A. Correct.  
 3 Q. You agree with that?  
 4 A. Yes.  
 5 Q. And then when it was the window  
 6 installer's turn, they would have the rough  
 7 opening there, and they would put something at  
 8 the sill as a peel-and-stick when you say tape?  
 9 A. Yes, sir.  
 10 Q. And does that run all the way up the  
 11 sides or just across the sill or --  
 12 A. The 6-inch tape or -- would go on the  
 13 inside of the sill, and it's 6 inches up the  
 14 side. Then on the part that overhangs and sticks  
 15 out on the front side of the building, you cut a  
 16 diagonal in it so it will fold over flat. At  
 17 that point you put butterfly pieces of tape in  
 18 the corners to cover up the cut that you just  
 19 made.  
 20 At the top of the window, you would  
 21 diagonal cut the house wrap and just kind of tack  
 22 it up to get it out of your way. Then you run a  
 23 bead of caulk around the window on the sides and  
 24 the top, set the window, nail it every other  
 25 hole, starting at the corners, getting nails on

1 both sides. Then you would put the side flashing  
 2 tape on the window.  
 3 Q. Again, is that a peel-and-stick type of  
 4 material?  
 5 A. It's a peel tape, yes, sir. I'm sorry.  
 6 I am trying not to say "yeah" too often.  
 7 Q. That's fine.  
 8 A. You run the side tape up the sides, and  
 9 at the top you would run the 6-inch head flashing  
 10 tape and untack the house wrap, fold it back down  
 11 over top of the head tape and then use the house  
 12 wrap tape to cover where the house wrap and the  
 13 window tape connect.  
 14 Q. And you said every other hole in the  
 15 nailing flange. Where does that requirement come  
 16 from?  
 17 A. I think it's on the directions.  
 18 Q. Is it fair to say that the window  
 19 installers hired by BFS should have been  
 20 following the MW or Ply Gem instructions at the  
 21 time for the installation of the windows?  
 22 A. Yes, sir.  
 23 Q. As far as fasteners, did BFS supply  
 24 those to the window installer?  
 25 A. No, sir.

1 Q. So they would have supplied their own  
 2 fasteners?  
 3 A. Yes, sir.  
 4 Q. Would BFS, Mr. Cannon, or whoever your  
 5 on-site supervisor, would they have insured the  
 6 fasteners were consistent with the manufacturer's  
 7 instructions?  
 8 A. As possible, as permissible.  
 9 Q. That should have been something they  
 10 were --  
 11 A. Correct.  
 12 Q. -- making sure they were aware of what  
 13 they were using and it complied?  
 14 A. Correct.  
 15 Q. BFS also supplied the French doors?  
 16 A. Yes, sir.  
 17 Q. And installed those?  
 18 A. Yes, sir.  
 19 Q. Same contractor that installed windows  
 20 would have done the outside doors?  
 21 A. Yes, sir.  
 22 Q. BFS would not have installed either the  
 23 asphalt or metal roofs?  
 24 A. No, sir.  
 25 Q. It would have -- when the roofer got

1 there, they would have building felt on the  
 2 exposed plywood sheathing, but other than that,  
 3 everything else after that would have been by  
 4 other trades?  
 5 A. Correct.  
 6 Q. Did BFS, when it would frame the rears  
 7 of the building, frame in the -- if you will, the  
 8 2-by-4s used for the screen porches?  
 9 A. No, sir.  
 10 Q. So who would have done that?  
 11 A. Typically that would be -- it would be  
 12 the siding contractor.  
 13 Q. So when you-all -- if there was going to  
 14 be a screen porch on a back porch, that would be  
 15 just one big opening that somebody else would  
 16 have to come in and put whatever supports were  
 17 needed to support the screen system?  
 18 A. Yes.  
 19 Q. Did BFS install the sunrooms on the  
 20 buildings that had sunrooms?  
 21 A. Yes.  
 22 Q. I think Mr. Cannon said the same thing,  
 23 so if it was a screen porch, it would have left  
 24 one big opening. And then I think he said maybe  
 25 some supports, temporary supports, but on the

1 sunrooms those would have been framed in and  
 2 whatever windows or whatever was installed would  
 3 have been supplied and installed by BFS?  
 4 A. Correct.  
 5 Q. Did BFS require its subs to have a  
 6 commercial general liability policy if it was  
 7 going to be a sub working for them?  
 8 A. Yes.  
 9 Q. And did BFS also require that those  
 10 policies add BFS as an additional insured on  
 11 those subcontractor policies?  
 12 A. Yes, sir.  
 13 Q. So that was a fairly standard thing for  
 14 you-all when you entered into a master  
 15 subcontract with the subcontractors?  
 16 A. Yes, sir.  
 17 Q. Would that be part of the vetting  
 18 process initially, was to make sure they had  
 19 general liability coverage at whatever level you  
 20 demanded and that BFS was added as an additional  
 21 insured?  
 22 A. That's the only way to do it, yes.  
 23 Q. Just saying that would have been part of  
 24 what you were doing initially and certainly what  
 25 would have been done in Dallas?

1 A. Yes, sir.  
 2 Q. How was BFS -- we have established you  
 3 don't think there was a written contract for  
 4 BFS's work for Colin Campbell or Winston  
 5 Carlisle.  
 6 A. Correct.  
 7 Q. How was it paid? Did you generate pay  
 8 apps or invoices, or how did you go about  
 9 getting -- showing Mr. Parker or Mr. Campbell  
 10 that it was time to be paid for something on a  
 11 specific building?  
 12 A. When the job was complete, we would send  
 13 them an invoice through their AR account.  
 14 Q. Is that another document that would be  
 15 in the file somewhere if we had the entire file?  
 16 A. That document would be in the operating  
 17 system.  
 18 Q. So that -- have you seen those invoices  
 19 as part of your review for today?  
 20 A. Yes. I'm sure I have.  
 21 Q. But there should be invoices -- let me  
 22 make sure I understand. And it would be for the  
 23 entire building or would it be for like all the  
 24 framing when the framing was done and then  
 25 another invoice for the windows and doors?

1 Mr. Gallagher?  
 2 A. No, sir.  
 3 MR. CRAVEN: I appreciate it. That's  
 4 all I have. Thank you.  
 5 MR. LADY: Anybody on the phone?  
 6 MR. McLEAN: Joe McLean here. I have  
 7 some questions.  
 8 EXAMINATION  
 9 BY MR. McLEAN:  
 10 Q. Can you hear me okay, Mr. Crabtree?  
 11 A. Yes, sir.  
 12 Q. My name is Joe McLean. We represent --  
 13 I'm asking questions on behalf of Hurley  
 14 Services, and I do have just a few for you. Do  
 15 you recall working with Hurley Services on The  
 16 Retreat project?  
 17 A. Yes, sir.  
 18 Q. Do you recall the owner of Hurley  
 19 Services, Mr. Giovanni Mendez?  
 20 A. Yes, sir.  
 21 Q. Do you remember him?  
 22 A. I do.  
 23 Q. He was one of the subcontractors in the  
 24 approved subcontractors with BFS, correct?  
 25 A. That is correct.

1 Q. And in addition to The Retreat, did he  
 2 do work for BFS at other projects, other  
 3 locations?  
 4 A. Yes, sir.  
 5 Q. Okay. What did he do at The Retreat?  
 6 When I say "he," I'm referring interchangeably to  
 7 Hurley and to Giovanni Mendez. What did he do at  
 8 The Retreat, if you recall?  
 9 A. Some house wrap, windows, and exterior  
 10 door installation.  
 11 Q. Was he a framer?  
 12 A. No, sir.  
 13 Q. Would he deal with house wrap that was  
 14 left behind by the framers when he was installing  
 15 windows, for example, or would he install  
 16 additional house wrap?  
 17 A. He could have done an entire building.  
 18 We can separate that out, if necessary, but I  
 19 hope that answers the question.  
 20 Q. Okay. Did he do the Tyvek sheets or the  
 21 other woven material that you described earlier?  
 22 A. Which product he did, I'm not sure, sir.  
 23 Q. Okay. How did Hurley Services get paid?  
 24 A. Most likely most of my subcontractors  
 25 got paid by ACH.

1 Q. Was Hurley's work inspected before he  
 2 got paid?  
 3 A. Yes, sir.  
 4 Q. Would you say Rooster Cannon was the  
 5 inspector that would have most likely inspected  
 6 Hurley's work?  
 7 A. To make sure it was complete, sir?  
 8 Q. Yes, sir, so he could get paid.  
 9 A. Yes, sir.  
 10 Q. And he would not have gotten paid if  
 11 Rooster Cannon had not approved his work,  
 12 correct?  
 13 A. Well, I don't know if it would be  
 14 approved his work. But he certainly would have  
 15 made sure that it was complete.  
 16 Q. Well, did Hurley do good work?  
 17 A. I have to say most of the time, yes,  
 18 sir.  
 19 Q. Do you know if he knew how to do the  
 20 work that he was hired to do?  
 21 A. Yes, sir.  
 22 Q. Okay. That's all I have. Thank you.  
 23 MR. LADY: Anybody else on the phone?  
 24 EXAMINATION  
 25 BY MR. CHAPARRO:

1 Q. This is Shanter Chaparro for ECC  
 2 Contracting. Mr. Crabtree, we have talked a  
 3 little bit today about the AppWright system and  
 4 the information in the purchase orders and  
 5 invoices. In situations where the AppWright  
 6 system indicates that a certain subcontractor did  
 7 the work, but there's no other purchase orders or  
 8 invoices reflecting that work, in effect, there's  
 9 purchase orders invoices for another  
 10 subcontractor for that same work, which should we  
 11 rely on? The purchase orders or the AppWright  
 12 system?  
 13 A. Purchase order would supersede  
 14 AppWright.  
 15 Q. So the purchase orders are what we  
 16 should go by to determine which subcontractor  
 17 performed the work if the AppWright -- if  
 18 AppWright represents another subcontractor did  
 19 that work?  
 20 A. Yeah. Yes, sir. The purchase order  
 21 would be more indicative than AppWright.  
 22 Q. Okay. Earlier I think we looked at -- I  
 23 think it was Exhibit 28 that was shown to you.  
 24 Do you have that in front of you?  
 25 A. I can have. Yes, sir. I have it in

1 front of me.  
 2 Q. I think you said it references just  
 3 single door labor, and does it say building A1 on  
 4 it?  
 5 A. Yes, sir.  
 6 Q. Is there any building identifier on  
 7 there?  
 8 A. No, sir. This is one of the ones that  
 9 I've written down to see if I can go back, you  
 10 know, within the next couple of days and  
 11 determine what building it went to. But this  
 12 particular document itself does not.  
 13 Q. Okay. And where it says single door  
 14 labor, those are just single exterior doors,  
 15 right? They're not -- I guess they wouldn't be  
 16 double -- like a French door?  
 17 A. Correct.  
 18 Q. What's the expectation of the window  
 19 installers when you know you're paying, I guess  
 20 -- what is it -- 12 dollars for each window  
 21 installed? Is that how I should read the  
 22 invoice?  
 23 A. Yes, sir.  
 24 Q. Is that a normal rate, 12 dollars per  
 25 window?

1 A. Yes, sir.  
 2 Q. And you expect them to install it as  
 3 directed by the Builders FirstSource supervisor?  
 4 A. You know, I expect them to install it  
 5 based upon the manufacturer recommendations as  
 6 well as any --  
 7 Q. That's something you guys don't provide  
 8 to them?  
 9 A. It comes with the windows, the  
 10 instructions, and then --  
 11 Q. It would.  
 12 A. Go ahead, sir.  
 13 Q. You're fine. You can finish.  
 14 A. Okay. And obviously the first point of  
 15 instruction is the installation instructions  
 16 provided by the manufacturer along with any kind  
 17 of guidance that we may give them in the field.  
 18 You know, they have also got to make sure that  
 19 they're following the guidelines of the flashing  
 20 tapes' recommendations. So you have got any --  
 21 on any particular job, any scope, as simple as it  
 22 might sound, you have to incorporate the  
 23 directions that everybody tries to give you and  
 24 mesh that into one method.  
 25 Q. But if Builders FirstSource directed a

1 subcontractor to install the window a different  
 2 way, would you expect them to follow the  
 3 directions they receive in the field?  
 4 MR. HUGHES: Object to the form.  
 5 A. It's kind of hard -- if the way that  
 6 they were instructed is incorrect, I would not  
 7 expect them to follow that direction. If the way  
 8 that they are instructed by a BFS person, if it  
 9 was one of the project managers in the field and  
 10 it differed -- I am not going to say one iota,  
 11 but if it differed to any degree, I would expect  
 12 them to come to me and make sure it was okay to  
 13 do it that way.  
 14 Q. Ultimately, the window installers, their  
 15 work would be inspected and approved by the  
 16 Builders FirstSource supervisor, correct?  
 17 A. Yes, sir.  
 18 Q. That would happen before they would pay  
 19 for the work?  
 20 A. Yes, sir. And again, I want to make  
 21 sure that I'm clear on that. Some of the  
 22 inspection is just to make sure that it's  
 23 complete. There's a difference between being  
 24 inspected for -- you know, for quality and a fine  
 25 tooth comb inspection as opposed to inspecting it

1 to pay them. I'm going to pay a guy if he's got  
 2 all the holes filled. Now, does that mean it's  
 3 all perfect? No, sir, it doesn't. What it does  
 4 mean is that he deserves to get paid for the job.  
 5 Now, if we go back and find something that's  
 6 deficient, then that's a whole other avenue that  
 7 we have to take.  
 8 Q. Okay. But with respect to the  
 9 flashings, I mean, when they are walking around  
 10 and inspecting the work, they can tell if the  
 11 window has flashing over the sill flange or  
 12 beneath the sill flange on the jambs and at the  
 13 head, right?  
 14 A. Correct.  
 15 Q. And that's something that Builders  
 16 FirstSource would have seen and would have been  
 17 able to tell if there was a deficiency in that  
 18 work, correct?  
 19 A. Yes. I mean, even on the completion  
 20 inspection, we can tell if there's flashing tape  
 21 on the sides of the windows, that there was a  
 22 sill tape. We can certainly tell that -- whether  
 23 or not, you know, those things are done. But  
 24 like I said, at that particular time, we're not  
 25 necessarily feeling for every other nail hole to

1 get the guy paid. That's kind of what I'm  
 2 saying.  
 3 MR. CHAPARRO: Okay. I think that's all  
 4 I have. Thanks a lot.  
 5 EXAMINATION  
 6 BY MR. BOGER:  
 7 Q. Sir, do you have any knowledge of a JC  
 8 Construction working on the project?  
 9 A. JC Construction?  
 10 Q. Yes. Have you heard of JC Construction  
 11 or JC Contracting?  
 12 A. I can't say that I have, sir. No, sir.  
 13 Q. Okay. And suffice to say, without  
 14 knowing who they are, you would not know of the  
 15 work they completed at the project as well?  
 16 A. No, sir.  
 17 MR. BOGER: Okay. That's all I have.  
 18 Thank you very much.  
 19 MR. LADY: Anyone else?  
 20 MR. FISHBURNE: This is Barnwell  
 21 Fishburne. I can go ahead.  
 22 EXAMINATION  
 23 BY MR. FISHBURNE:  
 24 Q. Mr. Crabtree, good afternoon. Can you  
 25 hear me okay?

1 A. Yes, sir.  
 2 Q. I just have a few questions. I'm here  
 3 for AC Construction today. And most of my  
 4 questions are going to relate to framing and WRB  
 5 at the project. Before we get into that, I do  
 6 have a few clarifying questions that gets into  
 7 some prior testimony, but if you will just bear  
 8 with me while I try to clean up a few of my notes  
 9 here.  
 10 One question I have is that there's been  
 11 a lot of discussion between purchase orders at  
 12 the project, receipts at the project, the Gemini  
 13 operating system. And my question is, what is  
 14 the best evidence that you believe would show a  
 15 subcontractor's scope of work at the project?  
 16 A. The actual scope of work would probably  
 17 -- the best thing would be an e-mail or recorded  
 18 conversation probably, but -- because that part  
 19 of it is kind of just -- it's just so understood.  
 20 A lot of things are transferred just with a  
 21 verbal, you know, conversation.  
 22 Q. So that would be the best evidence.  
 23 What would be the second best evidence? Would  
 24 that be the purchase orders?  
 25 A. Yes, sir.

1 Q. And then going down the list. Did you  
 2 say the third best evidence would be, what, the  
 3 contract or something else?  
 4 A. I don't know if there would be a third  
 5 best. I mean, I will try to think.  
 6 Q. How about the receipts? Would that be  
 7 possibly a third best evidence?  
 8 A. Yes, sir.  
 9 Q. Okay.  
 10 A. That would certainly indicate that the  
 11 subcontractor performed the work.  
 12 Q. Well, let's start with -- let's start  
 13 with e-mails then. Have you seen any e-mails  
 14 that would reflect AC Construction's scope of  
 15 work at the project?  
 16 A. I haven't.  
 17 Q. Okay. Have you seen any purchase orders  
 18 that would indicate AC Construction's scope of  
 19 work at the project?  
 20 A. No, sir.  
 21 Q. Have you seen any receipts that would  
 22 indicate AC Construction's scope of work at the  
 23 project?  
 24 A. No, sir.  
 25 Q. So as we sit here today, do you know AC

1 Construction's scope of work at the project?  
 2 A. Yes, sir.  
 3 Q. How do you know that?  
 4 A. I just know because we frame so many  
 5 jobs using AC Construction. Their scope of work  
 6 was always from, you know, paper to paper, which  
 7 means from the roof felt all the way to the house  
 8 wrap.  
 9 Q. Well, just explain to all of us how you  
 10 could know that for this particular project  
 11 having not seen any e-mails, purchase orders, or  
 12 receipts related to AC Construction?  
 13 A. It's just the incredible amount of  
 14 volume of work that we have done with AC  
 15 Construction. I mean, this wasn't the first time  
 16 we ever used AC Construction. So we used them  
 17 prior to this, and we use them after this  
 18 project. And it's always been -- it's always  
 19 been roof felt to house wrap. They never wanted  
 20 to install windows and exterior doors, so that's  
 21 where we stopped.  
 22 Q. Okay. And as far as the house wrap  
 23 goes, without having looked at any e-mails or  
 24 purchase orders or receipts, are you able to  
 25 testify today the extent of house wrap installed,

1 if any, by AC Construction?  
 2 A. Yes, sir. If they framed it, they  
 3 installed the house wrap.  
 4 Q. Okay. Well, what about Hurley? I think  
 5 you indicated earlier that Hurley might have  
 6 installed some house wrap as well; is that true?  
 7 A. He did.  
 8 Q. Okay. So how do we differentiate  
 9 between Hurley's work, another sub's work, and AC  
 10 Construction's work as it relates to house wrap  
 11 at the project?  
 12 A. Hurley installed some house wrap for a  
 13 couple of buildings that the framing  
 14 subcontractor had to be replaced. So that left  
 15 us in a position where that particular framing  
 16 subcontractor wasn't a viable option because I  
 17 removed him from the job. So Hurley had to pick  
 18 up some house wrap for that gentleman. I have  
 19 never replaced AC from a job.  
 20 Q. Okay. So it sounds like you and others  
 21 at BFS were satisfied and content with AC  
 22 Construction's work at the project. Is that a  
 23 fair statement?  
 24 A. Yes, sir.  
 25 Q. Okay. And I take it you are also

1 familiar with Mr. -- I might mispronounce his  
 2 name -- Cleyber Doamaral?  
 3 A. Doamaral, yeah. Cleyber.  
 4 Q. And you have had good experiences  
 5 working with Cleyber?  
 6 A. Can you repeat that question, please?  
 7 Q. Have you had good experiences working  
 8 with Cleyber?  
 9 A. Yes, sir. Yes, sir, I have.  
 10 Q. And it sounds like you were -- sounds  
 11 like this particular project was no exception; in  
 12 other words, you were likewise satisfied with  
 13 Mr. Cleyber's work and his workmanship at the  
 14 project at The Retreat, correct?  
 15 A. Correct.  
 16 Q. And you said you were -- I know you said  
 17 you were on site approximately once a week. Is  
 18 that fair? Is that a fair statement?  
 19 A. Yes, sir.  
 20 Q. Okay. And did you ever witness Cleyber  
 21 installing any house wrap or working on the  
 22 framing while you were out there at the project?  
 23 A. Yes, sir.  
 24 Q. Okay. And did you see any other  
 25 subcontractors aside from AC Construction

1 installing house wrap at the project?  
 2 A. Yes, sir.  
 3 Q. Okay. And who would those other  
 4 subcontractors be?  
 5 A. I know I have seen Hurley do it.  
 6 Q. Okay. Anybody else? Any other  
 7 subcontractor?  
 8 A. No, sir.  
 9 Q. And going back to what -- some earlier  
 10 testimony. You said you had to remove a  
 11 subcontractor due to, it sounded like, poor work;  
 12 is that right?  
 13 MR. HUGHES: Object to the form.  
 14 A. No, sir. I don't recall saying it was  
 15 poor work. It was an ethical question that he  
 16 was removed from the job.  
 17 Q. Okay. And which subcontractor was that?  
 18 A. L&G Construction.  
 19 Q. And just to refresh my memory, what was  
 20 L&G Construction's scope of work?  
 21 A. Framing.  
 22 Q. Okay. Do you know which buildings L&G  
 23 worked on?  
 24 A. Yes, sir. He worked on buildings 25 and  
 25 26.

1 MR. FISHBURNE: Okay. Mr. Crabtree, I  
 2 think that's all I have for you at this time.  
 3 Thank you, sir.  
 4 MR. LADY: Anybody else?  
 5 MR. KALWAJTYS: Michal Kalwajtys here  
 6 for L&G Construction.  
 7 EXAMINATION  
 8 BY MR. KALWAJTYS:  
 9 Q. Mr. Crabtree, can you hear me?  
 10 A. I can hear you well.  
 11 Q. I just wanted to make sure. I represent  
 12 L&G Construction Group, and you just mentioned my  
 13 client, so I wanted to follow up. The reason he  
 14 was removed -- L&G was removed from the project  
 15 was for reasons unrelated to actual performance  
 16 of the scope of work; is that right?  
 17 A. Correct.  
 18 MR. KALWAJTYS: Okay. Thank you.  
 19 MR. LADY: Anyone else?  
 20 EXAMINATION  
 21 BY MR. LADY:  
 22 Q. I'll finish the question. What was L&G  
 23 removed for?  
 24 A. The reason he was removed is there was a  
 25 time -- I can't recall if I was on vacation or

Page 1

1 IN THE COURT OF COMMON PLEAS  
 2 FOR THE STATE OF SOUTH CAROLINA  
 3 CHARLESTON COUNTY

4 DEPOSITION OF ROD ASSIS,  
 5 as 30(b)(6) representative of  
 6 ECC CONTRACTING

7 JULY 16, 2019

8 THE RETREAT AT CHARLESTON NATIONAL COUNTRY CLUB  
 9 HOMEOWNERS ASSOCIATION INC. AND THE RETREAT AT  
 10 CHARLESTON NATIONAL COUNTRY CLUB HORIZONTAL  
 11 PROPERTY REGIME,  
 12 Plaintiffs,  
 13 vs. CASE NO. 2016-CP-10-3783

14 WINSTON CARLYLE CHARLESTON NATIONAL, LLC; COLIN  
 15 R. CAMPBELL CONSTRUCTION, INC.; and COLIN  
 16 CAMPBELL, INDIVIDUALLY, BUILDERS  
 17 FIRSTSOURCE-SOUTHEAST GROUP, LLC; AMERICO ROOFING  
 18 CONCEPTS, INC.; DVS, INC.; ADVANCED BUILDING  
 19 CONNECTION, LLC; GUY C. LEE BUILDING MATERIALS,  
 20 LLC; WS CONTRACTORS, LLC; DINO SCHWARTZ,  
 21 INDIVIDUALLY,  
 22 Defendants.

23 TIME: 10:03 AM

24 LOCATION: RICHARDSON, PLOWDEN & ROBINSON  
 25 MOUNT PLEASANT, SOUTH CAROLINA

26 REPORTED BY: DARAH L. NEKOLA  
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1 entire file, they're not able to pull up all  
 2 their documentation.  
 3 So taking out the documentation, if  
 4 Mr. Cannon's testimony is he does remember that  
 5 ECC did this work -- and this being the work in  
 6 Exhibit 241 and 244 -- are you in a position to  
 7 dispute that testimony at trial?  
 8 A. I can't say -- I cannot say he's right  
 9 or wrong. People make mistakes, so --  
 10 Q. But you have no recollection of what ECC  
 11 did, one way or the other?  
 12 A. No, sir.  
 13 Q. The windows and doors that ECC  
 14 installed, who would have selected those?  
 15 A. The builder, the architect.  
 16 Q. ECC didn't have anything to do with  
 17 selecting what specific windows were chosen to be  
 18 used on the project?  
 19 A. No.  
 20 Q. The windows and doors would have been  
 21 shipped to the project, and you would have  
 22 installed whatever?  
 23 A. Yes.  
 24 Q. Take me through, in your opinion, the  
 25 proper way to install a window at The Retreat.

1 A. Well, you flash the bottom of it --  
 2 Q. Tell me how you do that. With what  
 3 material?  
 4 A. With a 6-inch flashing tape that is  
 5 provided by Builders FirstSource.  
 6 Q. And is that like a peel-and-stick or  
 7 something?  
 8 A. Yes, sir.  
 9 Q. And that's at the sill?  
 10 A. Yes, at the bottom. And you go 6 inches  
 11 up on each side. Caulk the window on three  
 12 sides.  
 13 Q. Let me stop you there. What's the  
 14 status of the building wrap when you get there?  
 15 A. It's supposed to be wrapped.  
 16 Q. If it's not, you would not start to  
 17 install?  
 18 A. Generally not.  
 19 Q. And is the wrap folded, or is it cut off  
 20 at the jambs, or how does that need to be done?  
 21 A. There is -- depending on which company,  
 22 everybody -- normally folded, but I've seen  
 23 situations that they request windows to be  
 24 installed prior to the house wrap. They request  
 25 the house wrap to stop, and then you tape all the

1 way around the opening before you install the  
 2 window. There's different ways that different  
 3 builders request.  
 4 Q. Do you recall how it was done at The  
 5 Retreat?  
 6 A. No, sir.  
 7 Q. However the wrap is done, when you get  
 8 there to install the window, you would accept  
 9 that that's not part of your scope.  
 10 A. Yes.  
 11 Q. So if it's cut off at the jambs or  
 12 folded in or sliced or however it's done, however  
 13 it's done, from your standpoint, doesn't matter?  
 14 A. Oh, it does matter. You're not going to  
 15 install something on top of something that you  
 16 know is wrong.  
 17 Q. Okay. So how is -- what's the correct  
 18 way to do it, the wrap?  
 19 A. I mean, there's more than one way to do  
 20 it. The correct way is the way the builder asks  
 21 you to do it.  
 22 Q. Ad if you got there and the wrap was  
 23 wrong, what would you be looking for?  
 24 A. I would notify somebody. If the house  
 25 wrap is torn off or, you know, had to be

1 restapled, I would let somebody know.  
 2 Q. But the building wrap would not have  
 3 been done by ECC?  
 4 A. No, sir.  
 5 Q. That would have been done by the framer  
 6 or somebody else before you got there?  
 7 A. Yes.  
 8 Q. And when the windows and doors are asked  
 9 to be installed, the building is framed?  
 10 A. Yes.  
 11 Q. And so there are -- basically, the  
 12 building is framed, and there is building wrap  
 13 covering the wood, and there's openings for the  
 14 windows and doors to be installed in?  
 15 A. Correct.  
 16 Q. And take me through. So you have a  
 17 window, and you have an opening.  
 18 A. After you flash the window the way  
 19 you're told to, you caulk three sides of it, set  
 20 it in place, lift it up, you shim the bottom of  
 21 it, level, square, and then you nail it or screw  
 22 it, depending on which type of window you  
 23 installed.  
 24 Q. If nobody was telling you how to do it,  
 25 how would you install a window?

1 A. Same way I described.  
 2 Q. So take me through that. There's a  
 3 rough opening window. You take a peel-and-stick  
 4 material and put it across --  
 5 A. The bottom.  
 6 Q. And then does it go up the side?  
 7 A. Go up the side about 6 inches or so.  
 8 Q. Is it one continuous piece?  
 9 A. Yes, sir.  
 10 Q. And then the window is installed, or is  
 11 there a caulk installed?  
 12 A. Caulk is put around the window.  
 13 Q. The two jambs and the head?  
 14 A. Yes.  
 15 Q. Not the sill?  
 16 A. Not the bottom.  
 17 Q. And then the window is slid into the  
 18 rough opening?  
 19 A. Yes.  
 20 Q. Over top of the --  
 21 A. The flashing, the building tape.  
 22 Q. How about over top of the building wrap  
 23 as well?  
 24 A. Yes, sir.  
 25 Q. All the way around?

1 Carolina code states that we cannot use  
 2 windows -- nails smaller than an inch and a half.  
 3 We focus on an inch and half nail. If it's a  
 4 screw, you just go by the manufacturer  
 5 instructions.  
 6 Q. Where do you get that information, where  
 7 the manufacturer requires a different or a  
 8 specific type of fastener?  
 9 A. At the window. There is a piece of  
 10 paper stuck to the window.  
 11 Q. And so then you put it in. Does every  
 12 hole -- and the window has a flange?  
 13 A. Yes, it has a nailing flange.  
 14 Q. With holes in it for whatever the  
 15 fastener is supposed to go in?  
 16 A. Yes.  
 17 Q. Do you put a nail or a screw in every  
 18 hole?  
 19 A. Depending on the manufacturer  
 20 instructions, every hole or every other hole.  
 21 Q. So it will -- that will also be on the  
 22 packaging?  
 23 A. Yes, sir.  
 24 Q. And then you do that all the way around?  
 25 A. Yes.

1 A. All the way around.  
 2 Q. And then what do you do -- you said you  
 3 install it with either screws or nails?  
 4 A. Yes.  
 5 Q. And who determines that?  
 6 A. The manufacturer of the window.  
 7 Q. And the installation instructions for  
 8 the window, is it on the delivery package?  
 9 A. It's attached to every window normally.  
 10 Q. So there's a diagram or something that  
 11 shows you how it's supposed to be installed?  
 12 A. Yes sir.  
 13 Q. And then it'll tell you a specific type  
 14 of nail or screw that's appropriate?  
 15 A. Yes.  
 16 Q. And Builders FirstSource is supplying  
 17 you both the window and whatever the fastener --  
 18 the appropriate fastener is?  
 19 A. Just the window, tape, and caulk.  
 20 Q. So the actual fasteners are something  
 21 you would provide?  
 22 A. Yes.  
 23 Q. And the way you know what to provide is  
 24 by looking on the window itself?  
 25 A. I believe that the code -- South

1 Q. All four sides?  
 2 A. All four sides.  
 3 Q. And then is there anything done over the  
 4 nailing flange?  
 5 A. Tape.  
 6 Q. Is that again like a tape tape, or is it  
 7 a peel-and-stick?  
 8 A. Peel-and-stick tape.  
 9 Q. And take me through that. Is there any  
 10 order to which that tape is applied?  
 11 A. You put the sides first and then the top  
 12 later, and you unfold the house wrap on the top  
 13 of the top piece of tape, and you tape the 45s,  
 14 because they're supposed to cut the house wrap on  
 15 the 45 angle, and you just tape it.  
 16 Q. Take me -- because we talked about the  
 17 house wrap. So if there is -- the house wrap  
 18 that is cut, you're putting peel-and-stick on a  
 19 45-degree angle at the corners?  
 20 A. No. The house wrap is cut at the top  
 21 and folded back --  
 22 Q. I gotcha.  
 23 A. -- so we can get the windows installed.  
 24 And then we fold it back towards the tape, on top  
 25 of the tape, and then we tape both sides of it.