

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

May 06 2026

SC Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Court of Common Pleas

James O. Spence, Circuit Court Judge

Case No. 2022-CP-32-02217

Dennis Gilpatrick.....Appellant,

v.

Gregory Lucas.....Respondent.

Appellate Case No. 2025-001607

RECORD ON APPEAL

Volume 1 of 3

Rolf M. Baghdady / SC Bar # 0464
Rolf M. Baghdady, P.A.
118 Cobblestone Court
Chapin, South Carolina 29036-9705
(803) 345-7653
E-mail: rolf@rolfbaghdady.com
Attorney for Appellant

Theodore von Keller
Crawford & von Keller, LLC
Post Office Box 4216
Columbia, South Carolina 29204
Telephone 803-790-2626
Attorney for Respondent

INDEX

Transfer of Magistrate’s Court case 2022-CV-32-1100873.....	1
Order consolidating cases filed December 27, 2023.....	2
Order referring to Master filed August 23, 2023.....	5
Final Order filed July 30, 2025	8
Notice of Appeal filed August 11, 2025.....	22
Lis pendens.....	23
Summons and Complaint.....	25
Application for Ejectment Magistrate’s Court case 2022-CV-32-1100873.....	31
Answer and Counterclaim.....	67
Reply	89
Amended Answer and Counterclaim.....	95
Reply to Amended Answer and Counterclaim.....	126
Trial Transcript.....	135
Direct Examination of Plaintiff Dennis Gilpatrick by Mr. Baghdady.....	160
Cross Examination of Plaintiff Dennis Gilpatrick by Mr. von Keller.....	191
Direct Examination of Defendant Gregory Lucas by Mr. Baghdady.....	217
Cross Examination of Defendant Gregory Lucas by Mr. von Keller.....	220
Cross Examination of Defendant Gregory Lucas by Mr. Baghdady.....	284
Redirect Examination of Defendant Gregory Lucas by Mr. von Keller.....	296
Direct Examination of Defendant Gregory Lucas by Mr. von Keller.....	299
Cross Examination of Defendant Gregory Lucas by Mr. Baghdady.....	306

Redirect Examination of Defendant Gregory Lucas by Mr. von Keller.....	307
Plaintiff Dennis Gilpatrick’s Exhibits	
Plaintiff’s Exhibit 1	338
Plaintiff’s Exhibit 2.....	340
Plaintiff’s Exhibit 3.....	343
Plaintiff’s Exhibit 4.....	348
Plaintiff’s Exhibit 5.....	350
Plaintiff’s Exhibit 6.....	351
Plaintiff’s Exhibit 7.....	352
Plaintiff’s Exhibit 8.....	369
Plaintiff’s Exhibit 9.....	371
Plaintiff’s Exhibit 10.....	372
Plaintiff’s Exhibit 11.....	375
Plaintiff’s Exhibit 12.....	380
Plaintiff’s Exhibit 13.....	384
Defendant Gregory Lucas’s Exhibits	
Defendant’s Exhibit 1.....	435
Defendant’s Exhibit 2.....	436
Defendant’s Exhibit 3.....	438
Defendant’s Exhibit 4.....	440
Defendant’s Exhibit 5.....	435
Defendant’s Exhibit 6.....	444

Defendant’s Exhibit 7.....	445
Defendant’s Exhibit 8.....	440
Defendant’s Exhibit 9.....	458
Defendant’s Exhibit 10.....	460
Defendant’s Exhibit 11.....	462
Defendant’s Exhibit 12.....	467
Defendant’s Exhibit 13.....	468
Defendant’s Exhibit 14.....	469
Defendant’s Exhibit 15.....	490
Defendant’s Exhibit 16.....	494
Defendant’s Exhibit 17.....	535
Defendant’s Exhibit 18.....	536
Defendant’s Exhibit 19.....	537
Defendant Gregory Lucas’s Deed to 117 Noah Lucas Road.....	348
Defendant Gregory Lucas’s Motion for Summary Judgment filed February 14, 2024.....	568
Defendant Gregory Lucas’s Exhibits to Motion for Summary Judgment.....	571
Certificate of Counsel	



Lexington County Eleventh Judicial Circuit Public Index



[Lexington County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

Gregory Lucas VS Dennis James Gilpatrick

Case Number:	2022CV321100873	Court Agency:	Swansea Magistrate Court	Filed Date:	07/19/2022
Case Type:	Civil	Case Sub Type:	Rule to Vacate	File Type:	
Status:	Transferred	Assigned Judge:	Whittle (Magistrate), Scott D.		
Disposition:	Transferred Civil	Disposition Date:	08/15/2022	Disposition Judge:	Whittle (Magistrate), Scott D.
Original Source Doc:		Original Case #:			
Judgment Number:	2022CV321100873	Court Roster:			

Case Parties **Judgments** **Tax Map Information** **Associated Cases** **Actions** **Financials**

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Lucas, Gregory	Civil Court	Event		08/15/2022-13:00	08/15/2022-17:00	
Lucas, Gregory	RTV	Action		08/08/2022-07:49	07/26/2022-07:49	
Lucas, Gregory	Archived Court Summons	Filing		08/01/2022-00:00	08/15/2022-00:00	
Lucas, Gregory	Service/Proof Of	Filing		07/26/2022-00:00	08/15/2022-00:00	
Lucas, Gregory	Archived RTV	Filing		07/19/2022-00:00	08/15/2022-00:00	
Lucas, Gregory	Archived RTV	Filing		07/19/2022-00:00	08/15/2022-00:00	

CMSWeb 7.2 © 2024 South Carolina Judicial Branch • All rights reserved

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	CIVIL ACTION NO: 2022-CP-32-02217

Dennis Gilpatrick	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<u>CONSENT ORDER TO</u>
Gegory Lucas	)	<u>CONSOLIDATE</u>
Defendant	)	
	)	CIVIL ACTION NO: 2022-CP-32-02217
Gegory Lucas	)	
.	)	And
	)	
Plaintiff,	)	CIVIL ACTION NO: 2022-CP-32-02944
	)	
vs.	)	
	)	
Dennis Gilpatrick	)	
	)	
Defendant.	)	
	)	
	)	

This matter came before the Court on motion of Theodore von Keller, attorney for Gregory Lucas to consolidate the above-captioned actions. As it appears that the actions involve common questions of law and fact, and it further appearing that the Plaintiff and Defendant, by and through counsel, have consented to the motion, it is therefore

ORDERED, ADJUDGED AND DECREED that the civil actions of Dennis Gilpatrick and Gregory Lucas ,Nos. CIVIL ACTION NO: 2022-CP-32-02217 and 2022-

CP-32-02944 are hereby consolidated under case number 2022-CP-32-02217, for purposes of discovery and trial.

AND IT IS SO ORDERED.

WE MOVE:

By:s/Theodore von Keller

Theodore von Keller, SC Bar. No. 5718
Crawford & von Keller, LLC
Attorneys for Gregory Lucas

WE CONSENT:

By:s/Rolf M. Baghdady

Rolf M. Baghdady
Rolf M. Baghdady, P.A.
Attorney for Dennis Gilpatrick

[Judge's electronic signature appears on separate page]



Lexington Common Pleas

Case Caption: Gregory Lucas VS Dennis James Gilpatrick

Case Number: 2022CP3202944

Type: Order/Consolidate

Circuit Judge (Code #2050)

s/ William P. Keesley

Electronically signed on 2023-12-27 12:25:56 page 3 of 3

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis Gilpatrick,

Plaintiff,

v.

Gregory Lucas,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO: 2022-CP-32-02217

ORDER OF REFERENCE

(Non-Jury Specific Performance Sale of Real Estate)

It appearing that pursuant to Rule 53(b) SCRPC, the herein action is an appropriate action to be referred to James O. Spence. Master-in-Equity for Lexington County with authority to enter a final judgment in the case;

NOW, upon motion by the Plaintiff, IT IS ORDERED, that this case is referred to James O. Spence, Master-in-Equity for Lexington County, who, pursuant to Rule 53(b) SCRPC, shall exercise all power and authority that a circuit judge sitting without a jury would have, including but not limited to, the following:

- 1) Making findings of fact and conclusions of law;
- 2) Directing entry of final judgment in this action under Rule 53(b) SCRPC;

Pursuant to Rule 53(b) SCRPC, any appeal from the final judgment entered by the Master-in-Equity shall be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules.

AND IT IS SO ORDERED.

Date: _____

Presiding Judge Lexington County

Order prepared by:

Rolf M. Baghdady (SC Bar # 0464)
ROLF M. BAGHDADY, P.A.
118 Cobblestone Court
Chapin, S.C. 29036-9705
(803) 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR PLAINTIFF



Lexington Common Pleas

Case Caption: Dennis Gilpatrick VS Gregory Lucas
Case Number: 2022CP3202217
Type: Order/Referred to Master or Special Referee

So Ordered

Mona Huggins, Deputy Clerk of Court for Lisa
Comer, Clerk of Court

Electronically signed on 2023-12-08 14:12:09 page 3 of 3

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
Dennis Gilpatrick)

Plaintiff,)
v.)
Gregory Lucas)

Defendant)
_____)

IN THE COURT OF COMMON PLEAS
Case No. 2022-CP-32-02217

RECEIVED

Aug 11 2025

ORDER

SC Court of Appeals

SUMMARY

The parties tried this landlord/tenant contractual dispute case on May 21, 2025.

Plaintiff seeks specific performance of a Residential Lease Purchase Agreement dated November 28, 2014, over about 2 acres of land at 117 Noah Lucas Rd. in Pelion, South Carolina. Plaintiff's second cause of action for damages was dismissed at trial. Plaintiff argues that he has a binding Residential Lease Purchase Agreement with Defendant and an equitable right of redemption to buy the property. Plaintiff argues that he was coerced into entering into the Month-to-Month Lease and that the Month-to-Month Lease is not binding as there was no consideration and that Defendant was unjustified in alleging a breach of the Residential Lease Purchase Agreement as any default was not material. Plaintiff further argues that the Magistrate lacked subject matter jurisdiction to rule on the agreement between the parties and that any ruling was not a final, binding ruling.

Defendant seeks a declaratory judgment that the Residential Lease Purchase Agreement dated November 28, 2014 was terminated by mutual consent of the parties who entered into a novation, to wit, a Month-to-Month Lease Agreement. Defendant asserts that Plaintiff consented to the new Month-to-Month Lease Agreement that was supported by adequate consideration in the form of mutual promises and the forbearance of eviction litigation. Defendant argues that Plaintiff is equitably

estopped from denying the novation as he performed under the Month-to-Month lease for two years without objection. Defendant further asserts that in two Magistrate Court hearings, the Magistrate previously found and held that the controlling agreement between the parties was a Month-to-Month Lease which, Defendant contends, is the controlling law of the case and has the right to the benefits of the doctrines of res judicata and collateral estoppel. Defendant further asserts that Plaintiff is not entitled to specific performance due to Plaintiff's inequitable conduct. Defendant seeks an order that the Plaintiff has defaulted on the Month-to-Month Rental Agreement and should be evicted and pay rental damages for the unpaid rent.

While the court is sympathetic to both parties financial and personal issues, and it is unfortunate the parties could not resolve their disputes, *Rivers v. Smith*, 2025 S. C. LEXIS 24 (SC February 19, 2025) is controlling authority for this case analysis. *Rivers* provides a framework to review the proper steps when a tenant disputes the landlord-tenant relationship in an eviction action. It is this court's experience that in many former cases, if a tenant raised title, the Magistrate Judge would decline jurisdiction. *Rivers* holds otherwise. The tenant merely raising title does not deprive the magistrate of jurisdiction. *Rivers* establishes that the controlling issue is if there is a landlord-tenant relationship. If the Magistrate Judge rules there is a landlord-tenant relationship, then the situation is reversed from former practice, that is, the tenant cannot raise title as defense since the Magistrate Judge has already found a Landlord-Tenant relationship exists.

Here, Magistrate Judge Whittle found twice that the Landlord-Tenant Relationship existed. The second time, Plaintiff moved for Reconsideration. That Motion was denied. The Magistrate Judgment was not appealed. Only the absence of a landlord-tenant relationship defeats Magistrate authority to evict; challenges to title must be litigated elsewhere if that landlord-tenant relationship does not exist.

The parties called no witnesses but personally testified and submitted multiple exhibits.

For the reasons stated below, the Court rules:

THE COURT FINDS THE FOLLOWING UNDISPUTED FACTS

1. On or about November 28, 2014, Defendant Gregory Lucas entered into a Residential Lease Purchase Agreement with Dennis and Kristen Gilpatrick, under which the Gilpatrick's agreed to lease about 2 acres of land at 117 Noah Lucas Rd. in Pelion, SC for a term of 96 months beginning November 28, 2022. Defendants Trial Exhibit Number Two. Trial transcript page 91, line 16 to page 97, line 18 to page 98 line 11.
2. The Gilpatrick's promised to pay monthly rent for the premises for \$725 in 96 monthly installments beginning November 28, 2022 of which \$575 was allocated towards the purchase of the land and mobile home for a total purchase price of \$63,200. Defendants Trial Exhibit Number 3; trial transcript page 97.
3. Further under the Residential Lease Purchase Agreement, the Gilpatrick's agreed to pay \$8000 down; maintain renters' insurance until the end of the contract and pay \$400 every February towards house taxes. Defendants Trial Exhibit Number Two.
4. Under the Residential Lease Purchase Agreement, Defendant Lucas agreed that after payment of the full amount of monthly payments by Plaintiff, he would convey a fee simple deed of the property to Plaintiff. Defendants Trial Exhibit Number Two.
5. The Residential Lease Purchase Agreement further stated that upon default of the Gilpatrick's, Defendant Lucas could declare the term of the lease ended and repossess the premises and peacefully expel and remove the tenant and that no monies would be refunded if tenant broke the contract. Defendant's Trial Exhibit Number Two.
6. Plaintiff understood and agreed to all terms of the Residential Lease Purchase Agreement. Trial transcript page 58, line 12 to page 59, line 12; Defendant's Trial Exhibit Number Three; Deposition of Gilpatrick, pp.18-24, Defendant's Trial Exhibit Number 18.
7. Lucas did not pay the 2018 taxes and maintain rental insurance which were breaches of the Residential Lease Purchase Agreement. Deposition of Gilpatrick, pp.28-34, Defendant's Trial Exhibit Number 18.
8. That on October 31, 2019, Lucas informed the Gilpatrick's that they were in breach of the Residential Lease Purchase Agreement contract due to their failure to pay the 2018 taxes by February 2019 as agreed and failure to maintain rental insurance. Lucas advised the Gilpatrick's that the Residential Lease Purchase Agreement was being terminated and they were given 90 days' notice to move or eviction would be filed. Defendant's Trial Exhibit Number 4; trial transcript page 104, line 11 to page 105 line 20.

9. That on November 6, 2019 and November 7, 2019, Mr. Lucas offered Mr. Gilpatrick a six-month lease to avoid eviction and grant time for Mr. Gilpatrick to obtain a loan for the purchase price of the home Defendants Trial Exhibits Number 5, 6 and 7; trial transcript, page 105 to page 109 line 23.
10. That on January 28, 2020, Mr. Gilpatrick agreed to enter into a new Month-to-Month Rental Agreement and agreed to sign the Month-to-Month Lease that was emailed him on January 28, 2020. Mr. Gilpatrick's email stated "I agree to the terms and to conditions of the Month-to-Month Rental Agreement" Defendant's Trial Exhibit Number 8. Trial transcript page 110 line 13 to page 115 line18; page 73, line 13 to page 76, line 22.
11. Mr. Lucas provided Mr. Gilpatrick with a copy of the Month-to-Month Lease to review. Defendant's Trial Exhibit Number Nine; trial transcript page 115 line 19 to line 24.
12. Mr. Gilpatrick did not qualify his acceptance of the Month-to-Month Lease and was not threatened to enter into the Month-to-Month Lease. Deposition of Gilpatrick, page 49, line 9; Defendants Trial Exhibit Number18; trial transcript page 73, lines 3-18.
13. Mr. Gilpatrick was aware that he could have sought legal remedies rather than to sign the Month-to-Month Lease. Deposition of Gilpatrick, page 48, line 11. Defendants Trial Exhibit Number 18; trial transcript page 120 lines 4 -21.
14. That as of January 28, 2020, the date of the parties entering into the new Month-to-Month Lease, Plaintiff had paid the agreed-upon monthly payments of \$750 from November 28, 2014 to October 1, 2019, of which \$575 was applied towards the purchase price per the Residential Lease Purchase Agreement. The total amount of \$41,925 was paid towards the purchase price of \$63,200. Defendants Trial Exhibit Number 11. Trial transcript page 116 to page 119 line 12 to line 21; page77, line24 to page 78, line 9; Plaintiff's Trial Exhibit Two.
15. That Mr. Gilpatrick began to pay the newly agreed-upon \$900 Month-to-Month Rental payments on January 28, 2020, and made the initial monthly rental payments for January 2020 and February 2020. Mr. Gilpatrick acknowledged the Month-to-Month Lease in writing and performed by making the new \$900 rental payment from January 2020 through June 1, 2022. Defendants Trial Exhibit Number 17.
16. That Mr. Gilpatrick did not pay the 2019 taxes as required by the Month-to-Month Lease and on August 25, 2021, Mr. Gilpatrick was given 90-day notice in writing to vacate the property. Defendant's Trial Exhibit Number 12. Trial transcript page 125 line 8 to page 126, line 21.

17. That on or about January 18, 2022, Defendant filed an Application for Ejectment against Mr. Gilpatrick in case number 2022-CV-33-110-0077 alleging that the Month-to-Month Lease had expired and Mr. Gilpatrick was further in breach of the Month-to-Month Lease for failure to pay taxes in February 2019 and for lapses in rental insurance coverage. Defendants Trial Exhibit Number 13.
18. That at the eviction hearing on February 7, 2022, Magistrate Judge Whittle ruled that the parties had terminated the Residential Lease Purchase Agreement and had entered into a Month-to-Month Lease Agreement. The eviction was denied, however, based on the Defendant Lucas's failure to give Gilpatrick the statutorily required 30 days' Notice of Termination of a Month -to-Month Lease. Defendant's Trial Exhibit Number 14.
19. Mr. Gilpatrick did not appeal the final February 7, 2022 oral ruling of Judge Whittle.
20. That on June 12, 2022, Defendant Lucas gave Plaintiff the statutorily required 30 days' Notice of Termination of a Month-to-Month Lease and filed a second Application for Ejectment in case number 2022-CV-33-110-0873. Defendant's Trial Exhibit Number 15.
21. That on August 15, 2022, an eviction hearing was held and Judge Whittle reaffirmed that the previous ruling that the parties had terminated the Residential Lease Purchase Agreement and entered into a Month-to-Month Lease Agreement but transferred the case to Circuit Court based on the motion to amend by Mr. Gilpatrick's attorney. Defendant's Trial Exhibit Number 16.
22. On July 1, 2022, Plaintiff filed suit asserting the first cause of action for specific performance of the Residential Lease Purchase Agreement, a second cause of action for damages for breach of contract and filed a *Lis Pendens* over the entire 4 acre tract. Plaintiff did not join Kristin Gilpatrick in the action.
23. Plaintiff paid Month-to-Month rental payments of-\$900 from January 28, 2020 through June 1, 2022, and the total amount of \$27,000. Defendants Trial Exhibit Number 17.
24. On October 13, 2023, Defendant filed its Answer and Counterclaims.
25. That by Quit Claim dated December 1, 2023, Kristin Gilpatrick conveyed whatever interest she had in the November 28, 2014 Residential Lease Purchase Agreement to Dennis Gilpatrick. Plaintiff's Trial Exhibit Number 3.
26. That by Consent Order filed December 6, 2023 civil actions number 2022-CP-32-02217 and 2022-CP-32-0294 were consolidated.
27. An Order of Reference was filed August 23, 2023.

28. This matter was tried before the Master in Equity on May 21, 2025. Plaintiff's counsel and Defendant's counsel stipulated to the admissibility of all offered exhibits.
29. When Plaintiff's case ended, Defendant moved for and was granted a directed verdict/nonsuit as to Plaintiff's cause of action for damages.

DISPUTED FACTS

1. The parties dispute whether a binding novation was entered into by the parties in November 2019.

Plaintiff argues that he was coerced into entering into the Month-to-Month Rental Agreement, that there was no consideration for the agreement, and that the asserted breaches of the Residential Lease Purchase Agreement were not material.

Defendant argues that Plaintiff's breaches of the Residential Lease Purchase Agreement were material as the failure to maintain insurance and reimburse Defendant for property taxes was expressly required by the Residential Lease Purchase Agreement and exposed Defendant to financial risk and loss, and were therefore material breaches of the specified duties of Plaintiff under the Residential Lease Purchase Agreement.

The Court finds that the elements of a novation were met and that Plaintiff unequivocally consented to the novation and the new Month-to-Month Rental Agreement in writing as required by Defendant. The court finds that the breaches asserted by Defendant were material. The Court further finds that the novation was supported by adequate consideration in the form of mutual promises and the forbearance of eviction litigation. The Court finds that the parties did enter into a novation by which the Residential Lease Purchase Agreement was terminated and a new Month-to-month Rental Agreement was agreed upon. The Court finds that the elements of a binding novation existed between Plaintiff and Defendant. The Court also finds that Plaintiff performed under the new Month-to-Month Rental Agreement for two years without complaint and is equitably estopped from denying its existence.

2. The parties dispute whether Plaintiff and/or his ex-wife are entitled to the equity of redemption.

Plaintiff contends that both he and his ex-wife Kristin Gilpatrick are entitled to the equity of redemption and may redeem the property by paying any outstanding sums.

Defendant contends that the right of redemption was surrendered by Plaintiff when he voluntarily agreed to the novation and the extinguishment of the Residential Lease Purchase Agreement. Defendant contends that Plaintiff's ex-wife transferred any rights of redemption she may have had in the property when she executed the quit claim deed stating that she release and forever quitclaimed under Dennis Gilpatrick all of her right title and interest in the Residential Lease Purchase Agreement dated November 28, 2014.

The Court finds that the Defendant Dennis Gilpatrick surrendered any right of redemption when he voluntarily extinguished the Residential Lease Purchase Agreement and entered into a Month-to-Month lease Agreement, which he maintained for over two years. The Court further finds that the ex-wife, Kristen Gilpatrick, also released and surrendered her right of redemption because of the quitclaim deed in which she conveyed “whatever interest she had in the November 28, 2014 Residential Lease Purchase Agreement”.

3. The parties dispute whether the Magistrate Court had authority to rule on the issue of agreement between the parties.

Plaintiff argues that the Magistrate’s Court lacked jurisdiction to make a ruling as the agreement between the parties.

Defendant argues that the Magistrate Court had authority to make an initial ruling as to whether it had jurisdiction.

The Court finds that under the recent authority of *Rivers v. Smith*, 2025 S. C. LEXIS 24 (SC February 19, 2025) ,the Magistrate’s Court had appropriate authority to decide that it had jurisdiction to consider the issue of the agreement between the parties and to make a finding that the controlling agreement between the parties was a month-to-month lease.

4. The parties dispute whether the ruling of the Magistrates Court was a final, binding order.

Plaintiff contends that the Magistrate’s Court ruling was not a final, binding order.

Defendant contends that the Magistrate’s Court ruling was a final, binding order and is the law of the case.

The Court finds that the Magistrate’s Court ruling that the binding agreement between the parties was a Month-to-Month Lease is a final binding order that is the law of this case. Plaintiff’s argument that the ruling is dicta is not persuasive. The finding of the landlord-tenant relationship is paramount to the next finding the case had to be dismissed since the 30 day notice was not followed or jurisdictional amount was exceeded. If there was no landlord-tenant relationship, there would be no 30 day or jurisdictional statutory notice or amount to follow.

5. The parties dispute whether Plaintiff has the right to an order of specific performance.

Plaintiff argues that he has the right to an order of specific performance compelling the Defendant to perform under the Residential Lease Purchase Agreement and convey clear title to 2 acres of land to the Plaintiff.

Defendant argues that Plaintiff is barred from specific performance as he has not fully performed, is guilty of inequitable behavior and that the Residential Lease Purchase Agreement was terminated by mutual agreement. Defendant argues that Plaintiff has not made all of the payments required under the Lease Purchase Agreement, failed to pay the property taxes and failed to maintain rental insurance. Defendant argues that Plaintiff is guilty of inequitable behavior in misleading Defendant by stating he agreed to the new month-to-month lease agreement but is now disavowing the agreement.

The Court finds that Plaintiff has no right to specific performance as the Residential Lease Purchase Agreement was terminated by the mutual agreement of the parties and the parties entered into a novation in which a Month-to-Month Lease was entered into. By such actions Plaintiff surrendered his right of redemption. Further, Plaintiff did not fully perform as required by the Residential Lease Purchase Agreement which also bars specific performance and, finally, Plaintiff is guilty of inequitable behavior which further bars specific performance.

6. The parties dispute whether Defendant has the right to an order of eviction.

Plaintiff argues that the controlling agreement between the parties is a Residential Lease Purchase Agreement and not a Month-to-Month Lease and therefore eviction is inappropriate.

Defendant argues that the controlling agreement between the parties is a Month-to-Month Lease and Plaintiff has breached the lease by failure to pay for over two years and that Defendant is therefore entitled to an order of eviction.

The Court finds that the controlling agreement between the parties is a Month-to-Month Lease and that the Plaintiff's breach of lease for failure to pay the rental payments agreed-upon and Defendant is therefore entitled to an order of eviction.

7. The parties dispute whether Defendant has the right to an award of damages for unpaid rent.

Plaintiff argues that the controlling agreement between the parties is a Residential Lease Purchase Agreement and not a Month-to-Month Lease and no damages are due.

Defendant argues that the controlling agreement between the parties is a Month-to-Month Lease and Plaintiff has breached the lease by failure to pay for over two years and that

Defendant is entitled to an order of damages for \$30,600 constituting rent from July 1, 2022 through and including May 1, 2025.

The Court finds that the controlling agreement between the parties is a Month-to-Month Lease and that the Plaintiff's breach of lease for failure to pay the rental payments agreed-upon and Defendant is entitled to an award of damages for unpaid rent for \$30,600 constituting rent from July 1, 2022 through and including May 1, 2025.

8. The parties dispute whether the *Lis Pendens* filed by Plaintiff was proper.

Defendant argues that filing the *Lis Pendens* over the entire 4 acres was an abuse of process because the parties agreement only concerned 2 acres and at the time of filing the *Lis Pendens*, Plaintiff had agreed to substitute a Month-to-Month Lease Agreement for the Residential Lease Purchase Agreement.

Plaintiff argues there is no contradiction between the approximately 2 acres and the actual 4 acres as specifically reference for the property address is recorded and even if the Defendant created any ambiguity, it is construed against the Defendant as a drafter of the installment land sales contract.

The Court finds that filing the *Lis Pendens* was improper and an abuse of process as the parties only agreement concerned 2 acres and that at the time of filing the *Lis Pendens*, Plaintiff had agreed to substitute a Month-to-Month Lease Agreement for the Residential Lease Purchase Agreement.

CONCLUSIONS OF LAW

1. Jurisdiction is proper before the Lexington County Master pursuant to the Order of Reference filed with this Court on December 8, 2023.
2. The Appellate Court scope of review for legal actions is primarily limited to the correction of errors of law. The South Carolina Constitution and statutory provisions, such as S.C. Const. Ann. Art. V, § 5 and S.C. Code Ann. § 14-3-330, establish that appellate courts, including the South Carolina Supreme Court and Court of Appeals, review legal issues without deference to the lower court's legal conclusions. However, factual findings by the trial court are generally upheld unless they are clearly erroneous or unsupported by evidence S.C. Const. Ann. Art. V, § 5, S.C. Code Ann. § 14-3-330, State v. Asbury, 328 S.C. 187, State v. Sweat, 379 S.C. 367, Houston v. Deloach & Deloach, 378 S.C. 543.
3. The appellate Court scope of review for an equitable action allows the court to review both factual and legal issues de novo, allowing it to make its own findings based on the preponderance of the evidence. McKinney v. Pedery, 413 S.C. 475, Lewis v. Lewis, 392 S.C. 381, Taylor v. Taylor, 434 S.C. 307.

4. "A **novation** is an agreement between all parties concerned for the substitution of a new obligation between the parties with the intent to extinguish the old obligation." *Wayne Dalton Corp. v. Acme Doors, Inc.*, 302 S.C. 93, 96, 394 S.E.2d 5, 7 (Ct. App. 1990) (citing *Ophuls & Hill Inc. v. Carolina Ice & Fuel Co.*, 160 S.C. 441, 158 S.E. 824 (1931)). There must be an intention to create a **novation**. *Adams v. B & D, Inc.*, 297 S.C. 416, 377 S.E.2d 315 (1989). There can be no **novation** unless both parties so intend. *Id.* "The circumstances attending the transaction alleged to be a **novation** must show the intention to substitute a new obligation in place of the existing one." *Wellman, Inc. v. Square D Co.*, 366 S.C. 61, 72, 620 S.E.2d 86, 92 (Ct. App. 2005).
5. The Court concludes that Plaintiff and Defendant entered into a novation extinguishing the Residential Lease Purchase Agreement and substituting a Month-to-Month Lease.
6. Under South Carolina law, a contract is formed when there is an offer, acceptance, valuable consideration. *Hennes v. Shaw*, 397 S.C. 391, 725 S.E.2d 501 (Ct. App. 2012).
7. In South Carolina, if a party to a contract is "in position to learn the contents of the paper and thus fully to protect himself by reading it or having it read," that party's acceptance to the agreement binds it to all terms and conditions, absent actionable fraud. *J.B. Colt Co. v. Britt*, 129 S.C. 266, 123 S.E.2d 845 (1924).
8. "The consideration to support an agreement need not of necessity be a pecuniary one, nor even a beneficial one to the person promising. If it be a loss or even an inconvenience to the promisee, the relinquishment of a right, as the discharge of a debt, or the postponement of a remedy, as the discontinuance of a suit, or a forbearance to sue it is enough. *Timmons v. Boyd*, 89 S.C. 11, 71 S.E. 298 (1911).
9. The Court finds no persuasive evidence of coercion or duress and that Plaintiff Gilpatrick agreed to enter into the Month-to-Month Agreement to avoid an eviction lawsuit. The Court finds the mutual promises and the forbearance of the litigation to be sufficient consideration to support the Month-to-Month Lease Agreement.
10. The Court finds that the parties agreed to a novation by which they terminated the Residential Lease Purchase Agreement dated November 28, 2014, and voluntarily agreed to substitute a Month-to-Month Lease Agreement with clear terms and Plaintiff is bound by its terms.
11. Courts only have the authority to specifically enforce contracts that the parties themselves have made; they do not have the authority to alter contracts or to make new contracts for the parties. *Amick v. Hagler*, 286 S.C. 481, 485, 334 S.E.2d 525, 527 (Ct. App. 1985). Parties have the right to make their own contracts. *Torrington Co. v. Aetna Cas. & Sur. Co.*, 264 S.C. 636, 643, 216 S.E.2d 547, 550 (1975); *MailSource, LLC v. M.A. Bailey & Assocs.*, 356 S.C. 363, 369, 588 S.E.2d 635, 638-39 (Ct. App. 2003). A court has no authority to rewrite a contract and impose unwanted obligations and terms under the guise of specific performance or judicial construction... See, e.g., *Lewis*

v. Premium Inv. Corp., 351 S.C. 167, 171, 568 S.E.2d 361, 363 (2002) ("It is not the function of the court to rewrite contracts for parties.").

12. A mortgagor may waive the right of redemption through a subsequent agreement provided it is made fairly, voluntarily, with full understanding by the mortgagor and for valuable consideration. *Hall v. Hall*, 41 S.C. 163, 19 S.E.305(1894).
13. All releases of the equity of redemption shall be binding and effectual in law. S. C. Code Anno. § 29 – 3– 10.
14. The Court concludes that Dennis Gilpatrick waived and released the right of redemption by extinguishing the Residential Lease Purchase Agreement dated November 28, 2014, and entering into the Month-to-Month Rental Agreement, which was made fairly, voluntarily with full understanding by Gilpatrick, and for valuable consideration in the form of the forbearance of litigation and the exchange of mutual promises.
15. The Court concludes that Kristen Gilpatrick waived and released the right of redemption by executing a quit claim deed conveying all her right, title and interest in the Residential Lease Purchase Agreement dated November 28, 2014, and expressly stating that the consideration was the previously executed divorce agreement with her and Defendant Dennis Gilpatrick, of which Kristen Gilpatrick acknowledged the receipt and sufficiency thereof.
16. The Court concludes that because of the quit claim deed, Plaintiff is the sole owner of any and all interest arising out of the Residential Lease Purchase Agreement dated November 28, 2014 and his extinguishing of the Residential Lease Purchase Agreement, and entering into the Month-to-Month Rental Agreement is binding upon any interest previously held by Kristin Gilpatrick.
17. In South Carolina that, “in order to compel specific performance, a court of equity must find: (1) there is clear evidence of a valid agreement; (2) the agreement had been partly carried into execution on one side with the approbation of the other; and (3) the party who comes to compel performance has performed his or her part, or has been and remains able and willing to perform his or her part of the contract. Gibson v. Hrysikos, 293 S.C. 8, 358 S.E.2d 173 (Ct. App. 1987) ... *King v. Oxford*, 282 S.C.307, 318 S.E.2d 125(Ct. App.1984).
18. “Unclean hands precludes a Plaintiff from recovering in equity if he acted unfairly in a manner that is the subject of the litigation to the prejudice of the Defendant” *First Union Nat. Bank of South Carolina v. Soden*, 333S.C. 554, 511 S.E.2d 372 (Ct. App. 1998). Intentional misleading actions constitute unclean hands. *Ingram v. Kasey’s Associates et al.* 340 S.C. 531 S.E.2d 287 (2000).

19. The Court concludes that Plaintiff has not established the elements of specific performance as the novation extinguished the Residential Lease Purchase Agreement and substituted a Month-to-Month Lease. Also, at the time of the novation and the entering into the Month-to-Month Agreement, Plaintiff had failed to fully perform the terms and conditions of the Residential Lease Purchase Agreement. Plaintiff is also estopped from seeking specific performance because he acted with unclean hands in misleading Defendant by promising he agreed to the month-to-month lease and then later disavowing same. The Court further finds that Plaintiff acted with the improper ulterior motive of filing a *Lis Pendens* over greater property than ever discussed between the parties.
20. A Magistrate's Court is not deprived of the authority to conduct an eviction proceeding simply because the tenant claims [that the underlying contract is installment land sales contract] rather, the magistrate court must first answer the primarily factual question of whether a landlord-tenant agreement exists between the parties. If the Magistrate's Court find that it does then the magistrate may proceed to determine whether tenant breached the agreement and, if so whether eviction is warranted" *Rivers v. Smith*, 2025 S. C. LEXIS 24 ((SC February 19, 2025).
21. Under South Carolina law a magistrate must first resolve the question of whether there a contract between the parties, express or implied which created the relationship of landlord and tenant. *Rivers v. Smith*, 2025 S. C. LEXIS 24 (SC February 19, 2025).
22. The Court concludes that the Magistrate's Court had authority to determine what contract governed the relationship between Plaintiff and Defendant and in determining that the Residential Lease Purchase Agreement had been terminated and a Month-to-Month Lease Agreement had been substituted.
23. A final ruling in South Carolina refers to a judgment that resolves all issues in a case, leaving nothing further for the court to determine. *Fullmer v. Cain*, 380 S. C. 466, 670-S.E.2d 652(2008).
24. The Court concludes that at the February 7, 2022 eviction hearing and again at the August 15, 2022 eviction hearing, Magistrate Judge Whittle made a binding, final ruling that the agreement between the parties was a month-to-month lease Agreement and not the Residential Lease Purchase Agreement. The denial of an order of eviction was procedural and did not alter the final ruling on the main issue of the case.
25. "The proper action against a maliciously filed *Lis Pendens* is under abuse of process or malicious prosecution." *Pallares v. Seinar*, 407 S.C. 359, 756 S.E.2d 128 (2014).
26. The Court concludes that the *Lis Pendens* against all 4 acres was filed improperly and not in good faith and constitutes an abuse of process.

27. A tenant may be ejected upon application of the landlord or his agent when (1) the tenant fails or refuses to pay the rent when due or when demanded, (number two) the term of tenancy or occupancy is ended, or (3) the terms or the conditions of the lease have been violated SC Code of Laws Section 27–37–10.
28. The Court concludes that a landlord-tenant relationship exists between Defendants and Plaintiff and that Defendant has breached the Month-to-Month Lease by failing to pay rent when due or demanded thus entitling Defendant to judgment on its counterclaim for an order of ejectment.
29. If the Rental Agreement is terminated, the landlord has a right to possession and for rent and a separate claim for actual damages for the breach of the Rental Agreement and reasonable attorney's fees SC Code of Laws Section 27–40–750.
30. The Court concludes that Defendant has the right to judgment on its counterclaim for unpaid rent for \$30,600 representing rent from July 1, 2022 through and including May 2025.

IT IS ORDERED THAT:

1. Plaintiff's cause of action for specific performance is denied.
2. Defendant's cause of action for a declaratory judgment declaring that Plaintiff and Defendant entered into a novation extinguishing the Residential Lease Purchase Agreement and substituting a month-to-month lease is granted.
3. Defendant's cause of action for ejectment is granted. Plaintiff shall vacate the property within 21 days of the entry of this order.
4. Defendant's cause of action for damages for unpaid rent is granted. Judgment for \$30,600 shall be entered against Plaintiff.
5. The Lexington County Register of Deeds is hereby ordered to cancel Plaintiff's *Lis Pendens* as to the property.

AND IT IS SO ORDERED.

PRESIDING JUDGE'S SIGNATURE TO FOLLOW



Lexington Common Pleas

Case Caption: Dennis Gilpatrick VS Gregory Lucas

Case Number: 2022CP3202217

Type: Master/Order/Other

AND IT IS SO ORDERED.

S/JUDGE JAMES O. SPENCE-3068

Electronically signed on 2025-07-30 13:25:07 page 14 of 14

RECEIVED

Aug 11 2025

SC Court of Appeals

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

James O. Spence, Circuit Court Judge

Case No. 2022-CP-3202217

Dennis Gilpatrick.....Appellant,

v.

Gregory Lucas.....Respondent

NOTICE OF APPEAL

Dennis Gilpatrick appeals the judgment of the Lexington County Master in Equity dated July 30, 2025. Respondent received electronic notice of entry of this judgment on July 30, 2025.

August 11, 2025

s/ Rolf M. Baghdady

Rolf M. Baghdady / SC Bar # 0464

Rolf M. Baghdady, P.A.

118 Cobblestone Court

Chapin, S.C. 29036-9705

(803) 345-7653

E-mail: rolf@rolfbaghdady.com

Attorney for Appellant

Other counsel of record:

Theodore von Keller

P.O. Box 4216

Columbia, S.C. 29240

Attorney for Respondent Gregory Lucas

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

CASE NO:

Dennis Gilpatrick,

Plaintiff,

LIS PENDENS

v.

Gregory Lucas,

Defendant.

NOTICE IS HEREBY GIVEN THAT an action has been or will be commenced in this Court upon petition of the above-named Petitioner against the above-named Respondents for the determination of interest and for the sale of real estate in the above captioned estate as to certain real estate lying and being in Union County, South Carolina.

The premises at issue in this matter are described as follows:

All that certain piece, parcel, or tract of land, situate, lying and being near Edmund, County of Lexington, State of South Carolina, and containing 4.00 Acres on a Plat prepared for Jimmy A. Porth by Allen Associates dated November 17, 1982, and to be recorded with the RMC's Office for Lexington County. Said 4.00 acres having the following boundaries and measuring: On the North by Noah Lucas Road Forth (40') feet; unpaved county maintained road whereon it fronts and measures for a total distance of 544.0' feet; On the East by lands now or formerly of A. P. Lucas whereon it measures a total distance of 821.3' feet; and on the West by lands now or formerly of Gladys Lucas whereon it measures 672.3' feet. Said property being triangular in shape. All measurements being a little more or less.

This being the same property conveyed to East Coast Homes, Inc., by Deed of Bankers Trust Company of California, N.A., as Trustee for Asset Backed Securities Corporation Long Beach Home Equity Loan Trust f2000-LB-I, recorded on April 16, 2003 in the Office of the Register of Deeds for Lexington County in Deed Record Book 8114 at Page 9.

Property Address: 117 Noah Lucas Road, Pelion, SC 29123

TMS# 009800-03-050

Date: July 1, 2022

By: /s/ Rolf M. Baghdady

Rolf M. Baghdady (SC Bar # 0464)
ROLF M. BAGHDADY, P.A.
118 Cobblestone Court
Chapin, S.C. 29036-9705
(803) 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR PLAINTIFF

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis Gilpatrick,

Plaintiff,

v.

Gregory Lucas,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO:

SUMMONS

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this Complaint upon the subscriber at the address shown below within thirty (30) days after service hereof, exclusive of the day of such service. If you fail to answer the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

Date: July 1, 2022

By: /s/ Rolf M. Baghdady
Rolf M. Baghdady (SC Bar # 0464)
ROLF M. BAGHDADY, P.A.
118 Cobblestone Court
Chapin, S.C. 29036-9705
(803) 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR PLAINTIFF

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis Gilpatrick,

Plaintiff,

v.

Gregory Lucas,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO:

COMPLAINT

By and through undersigned counsel, Rolf M. Baghdady, the Plaintiffs allege upon information and belief:

PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff Dennis Gilpatrick is a resident and citizen of Lexington County with an address of 117 Noah Lucas Road, Lexington, SC 29073.
2. The Defendant Gregory Lucas is a resident and citizen of Wyoming, with a mailing address of 536 East 12th Street, Casper, Wyoming 82601.
3. The Defendant entered into a residential lease/purchase agreement on November 28, 2014 with Plaintiff Dennis Gilpatrick and Kristin Gilpatrick for the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately 2 acres of property. (Copy attached as Exhibit A.)
4. Defendant has failed and refused to sell the contracted property to Plaintiff and attempted to terminate and/or re-negotiate the contract multiple times.
5. Plaintiff has fulfilled his obligations under the contracted agreement, as well as made significant improvements to the property, and is entitled to purchase the property from the

Defendant.

6. Subject matter jurisdiction is proper in the Lexington County Court of Common Pleas for this action for enforcement of the real estate contract between the Defendant and the Plaintiff.
7. Venue is proper on this suit because the real estate at issue is in Lexington County, South Carolina
8. The real property at issue is described on the Lis Pendens associated with this action.

FOR FIRST CAUSE OF ACTION – SPECIFIC PERFORMANCE

9. Each and every allegation contained in paragraphs 1-8 above is repeated and re-alleged as though fully set forth herein.
10. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR SECOND CAUSE OF ACTION – DAMAGES

11. Each and every allegation contained in paragraphs 1-10 above is repeated and re-alleged as though fully set forth herein.
12. Plaintiff is entitled to recover damages for breach of contract for the amount of payments that he has made under the contract and for the improvements that he has made to the property, both in materials and in labor, as well as the costs of this action.

WHEREFORE, Plaintiff prays that the Court will enter an Order as follows:

1. Enter an order of specific performance ordering the Defendant to convey the property to Plaintiff;
2. Enter judgment for Plaintiff against Defendant for damages for breach of contract;
3. For the costs of this action;

4. For such other and further relief as may be just and proper.

Date: July 1, 2022

By: /s/ Rolf M. Baghdady
Rolf M. Baghdady (SC Bar # 0464)
ROLF M. BAGHDADY, P.A.
118 Cobblestone Court
Chapin, S.C. 29036-9705
(803) 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR PLAINTIFF

RESIDENTIAL LEASE-PURCHASE AGREEMENT

THIS AGREEMENT, dated 11/28/14, is between GREG LUCAS, the Landlord(s) and DENNIS & KRISTIN GILPATRICK, the Tenant(s).

In consideration of the payment of rent and the keeping and performance of the covenants and agreements by the Tenant hereinafter set forth, the Landlord(s) do hereby lease unto the Tenant(s), the following described premises situate in the County of LEXINGTON State of SC and better known as: 117 NOAH LUCAS RD LEXINGTON, SC 29073 (including approx. 2 acres. The said premises, as described above, with all appurtenances, are hereby leased to the Tenant for a term of 96 months commencing 11/28, 2022. Rent for the premises is payable in monthly installments of: \$ 725, to be paid on or before the fifth day of the month for which rent is due. \$ 575 of each rent payment shall be credited toward the purchase price of the property.

THE TENANT, CONSIDERATION OF THE LEASING OF SAID PREMISES AS AFORESAID, COVENANTS AND AGREES AS FOLLOWS:

To pay the rent for said premises as hereinabove provided;

To keep said premises in good condition and repair and at the expiration of this lease to surrender and deliver up the same in as good order and condition as when entered upon, loss by fire, inevitable accident, act of God or ordinary wear and tear excepted;

IT IS FURTHER AGREED that in case said premises are left vacant, then the Landlord may, without being obligated to do so and without terminating this lease, re-take possession of the premises. If any part of the rent herein reserved be unpaid, the Landlord may rent the same for such rent as the Landlord may be able to do so, making such changes and repairs as may be required, giving credit for the amount so received, less all expenses.

It is agreed that if the tenant shall be in arrears in the payments of any installment of rent, or any portion thereof, or in default of any of the covenants or agreements herein contained to be performed by the Tenant, which default shall be uncorrected for a period of five (5) days after the Landlord has given written notice thereof, Landlord may, at his option, without liability for trespass or damages, enter into and upon said premises, or a portion, thereof; declare the term of this lease ended; repossess the said premises as of the Landlord's former estate; peaceably expel and remove the Tenant, those claiming under him, or any person or persons occupying the same and their effects; all without prejudice to any other remedies available to the Landlord for arrears of rent or breach of covenant.

IT IS FURTHER MUTUALLY AGREED that the Landlord, in consideration of the performance of all the covenants and agreements herein to be performed by the Tenant under the lease, and for Tenant agreeing to perform all minor repairs to the property during the term of the said lease, hereby grants to Tenant an exclusive option to purchase said above described premises at any time during the term of this lease for the sum of \$ 63,200, payable as follows: \$8k down pymt upon move in + 1st mo. rent \$725.

96 mo term of \$725 \$575 crediting toward purchase
 *NO MONIES BEING REFUNDED IF TENANT BREAKS CONTRACT
 The Landlord, upon payment of said purchase money, shall convey said premises by Fee Simple Deed free from all

encumbrances except: End of term, title will be transferred into tenants name/s (NO EXCEPTIONS)

Scanned by CamScanner

Additional provisions:

Any/all repairs - except weather related
 1. **Repairs:** Tenant shall be responsible for repairs not to exceed \$_____ per year. PLEASE REPORT ANY WEATHER RELATED DAMAGE TO GREG IMMEDIATELY

2. **Title:** All documents necessary for title transfer shall be executed and held in escrow with closed escrow instructions. At closing, taxes, water, sewer, HOA dues and mortgages will be prorated as of date of title transfer.

3. **Inspection:** This agreement is subject to final inspection and approval of the property by the Tenant/Buyer prior to taking possession. TENANT AGREES THIS IS AN "AS IS, WHERE IS" CONTRACT

4. **Insurance:** Landlord/Seller shall protect Tenant/Buyer's equitable interest by maintaining hazard insurance upon the property. In the event of destruction in whole or in part of the property, Tenant/Buyer shall have the option to proceed with the closing and accept the insurance proceeds for said damage, or to declare this agreement null and void, releasing both parties from any obligations hereunder, except for the return of monies paid by Tenant/Buyer which shall become immediately due and payable from the insurance proceeds. TENANT WILL BE RESPONSIBLE FOR RENTER'S INSURANCE UNTIL END OF CONTRACT

5. **Assignment:** Tenant/buyer X shall _____ shall not be permitted the right of subletting or assignment. If this agreement is assigned with the approval of the Landlord/Seller, Tenant/Buyer shall be released from any further liability hereunder.

6. **Other provisions:**
Tenants agree to pay \$400 every February towards house taxes. If tenant is late more than 30 days on a pymt, it will be considered breach of contract.

[Signature] 11-28-14
 Landlord Date
[Signature] 11/28/14
 Landlord Date

[Signature] 11/28/14
 Tenant Date
[Signature] 11/28/14
 Tenant Date

* Possession of keys on 11/30/14

Visit www.pottstownmortgage.com for all of your PA mortgage needs
 ©1999 Allegiance Mortgage Services. Sample Lease-Purchase form.

Scanned by CamScanner

2022CP3202

2022/0873

CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

Gregory Lucas

PLAINTIFF(S)

VS.

Dennis Gilpatrick

DEFENDANT(S)

IN THE MAGISTRATE'S COURT

APPLICATION FOR
EJECTMENT
(Eviction)

2022 AUG 26 PM 4:00

FILED

I, Gregory Lucas, plaintiff in this action, state that I am the landlord-lessor of premises within the jurisdiction of Magistrate Whittle which is described as: (address and description of premises apartment, house, etc.)

117 Noah Lucas Rd Lexington, S.C. 29073

I further state that, with regard to the above-described premises, a landlord-tenant relationship exists between myself and the defendant, Dennis Gilpatrick, the tenant-lessee, as evidenced by the following: (Attach lease papers or other written proof.)

Grounds for this ejectment are one or more of the following:

☐ The tenant fails or refuses to pay the rent when due or when demanded in the amount of \$ _____; or

☒ The term of tenancy or occupancy has ended; or

☒ The terms or conditions of the lease have been violated as follows: Please see attached

Sworn to before me
this 9th day of July, 2022

Madeline
Magistrate or Notary Public for South Carolina

My Commission expires 10/05/2024

[Signature]
PLAINTIFF (or his attorney/agent)

117 Noah Lucas Rd

Address

Lexington S.C. 29073

City/State/Zip

701.388.0477

Phone Number



SCCA/732 (Amended 11/2019)

SWANSEA MAGISTRATE COURT

To the Honorable Judge Whittle

The vacate notice below was sent via FedEx on June 12, 2022. Dennis has refused to respond to emails or phone calls. He has not tried to remedy any of my requests from this notice. On July 2nd, I received a money order for July rent. I have since sent that back to him via priority mail.

Dennis, on 5/23/22 I sent a text and email regarding violations and the opportunity to fix those violations by 6/1/22. I have never received a response, nor have you attempted to rectify my requests. I am giving you until 6/30/22 to vacate 117 Noah Lucas Rd. Lexington, SC. 29073

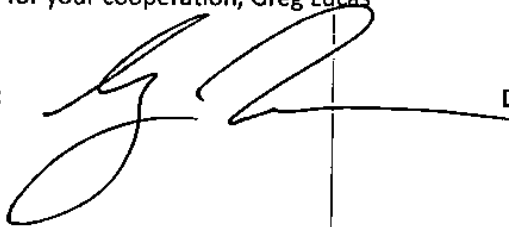
Violations as of 6/1/22

failure to provide proof of renter's insurance
fire damage to my land at 117 Noah Lucas Rd. due to your admittance being lack of parental supervision
failure to remove excess trash and debris around the exterior of the home and land
failure to remove non-running vehicles from the property
no response as to whether there may be extra tenants residing in the home
using 117 Noah Lucas Rd as your personal business address for Tighten Up Home Repair and Remodeling LLC and/or D&D Home Repair and Remodeling. It clearly states in the month to month rental agreement you may not run a business out of the home.

After you have vacated, I will inspect the home and property. Should you leave it in good condition, I will refund any deposit monies (minus cleaning or repairs) within 30 days from the date of move out.

Thank you for your cooperation, Greg Lucas

Signature:



Date:

Fwd: FedEx Shipment 274186624135 Delivered

From: Lucas (galucas1224@gmail.com)
 To: krispychicken12221@yahoo.com
 Date: Tuesday, June 14, 2022, 09:24 PM MDT

----- Forwarded message -----

From: <TrackingUpdates@fedex.com>
 Date: Tue, Jun 14, 2022 at 12:48 PM
 Subject: FedEx Shipment 274186624135 Delivered
 To: <galucas1224@gmail.com>

This tracking update has been requested by:

Name: GREGORY LUCAS
 E-mail: galucas1224@gmail.com

Ship date: [REDACTED]
 Signed for by: [REDACTED]
 Delivery location: [REDACTED]
 Delivered to: Residence
 Delivery date: [REDACTED]
 Service type: FedEx Express Saver®
 Packaging type: FedEx® Envelope
 Number of pieces: 1
 Weight: 0.50 lb.
 Special handling/Services: Deliver Weekday
 Residential Delivery
 Direct Signature Required
 Standard transit: 6/15/2022 by 8:00 pm
 Tracking number: 274186624135

Shipper Information	Recipient Information
CASPER	LEXINGTON
WY	SC
US	US

Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 1:48 PM CDT on 06/14/2022.

All weights are estimated.

The shipment is scheduled for delivery on or before the scheduled delivery displayed above. FedEx does not determine money-back guarantee or delay claim requests based on the scheduled delivery. Please see the FedEx Service Guide for terms and conditions of service, including the FedEx Money-Back Guarantee, or contact your FedEx customer support representative.

To track the status of this shipment online, please use the following: <https://www.fedex.com/apps/fedextrack/?action=track&tracknumbers=274186624135&language=en&opco=FX&clienttype=ivothor>

Standard transit is the date and time the package is scheduled to be delivered by, based on the selected service, destination and ship date. Limitations and exceptions may apply. Please see the FedEx Service Guide for terms and conditions of service, including the FedEx Money-Back Guarantee, or contact your FedEx Customer Support representative.

© 2022 Federal Express Corporation. The content of this message is protected by copyright and trademark laws under U.S. and international law. You can access our privacy policy by searching the term on [fedex.com](https://www.fedex.com). All rights reserved.

Thank you for your business.

UNITED STATES
POSTAL SERVICE

PRIORITY
MAIL
EXPRESS

To schedule free
Package Pickup,
scan the QR code.



USPS.COM/PICKUP



PS10001000006

EP13F Oct 2018
OD: 12 1/2 x 9 1/2

UNITED STATES
POSTAL SERVICE
PRIORITY
MAIL
EXPRESS

CUSTOMER USE ONLY

FROM: (PLEASE PRINT)
Dennis Gilpatrick
117 Noah Lucas Rd.
Lexington, SC 29073

PHONE: () - -

DELIVERY OPTIONS (Customer Use Only)

☒ Signature Required: The mailer must check the "Signature Required" box if the mailer:
1) Requires the addressee's signature; OR 2) Purchases additional insurance; OR 3) Purchases COD service; OR 4) Purchases Return Receipt service. If the box is not checked, no Signature Required is required for delivery.
Delivery Options:
☐ No Saturday Delivery (delivered Monday through Friday)
☐ Sunday/Holiday Delivery Required (additional fee, where available)
*Turn to USPS.com or local Post Office for availability.

TO: (PLEASE PRINT)
Gregory Lucas
536 E. 12th St.
Casper WY
82601

ZIP + 4 (U.S. ADDRESS ONLY)
8 2 6 0 1

For pickup or USPS Tracking, visit USPS.com or call 800-323-1811.
\$100.00 Insurance Included.

PAYMENT BY ACCOUNT (if applicable)
USPS Corporate Acct. No. Federal Agency Acct. No. or Postal Service Acct. No.

ORIGIN (POSTAL SERVICE USE ONLY)

☒ 1-Day
☐ 2-Day
PO ZIP Code: 29073
Date Received (MM/DD/YYYY): 07/01/22
Schedule Delivery To: 06/30/22
Time (AM/PM): 2:58
Special Handling/Notes: MKE

Weight: 2.56 lbs
Dimensions: 12x9x5
Postage: \$26.95
Insurance Fee: \$
COD Fee: \$
Return Receipt Fee: \$
Live Airmail Transportation Fee: \$
Total Postage & Fees: \$26.95

DELIVERY (POSTAL SERVICE USE ONLY)

Delivery Attempt (MM/DD/YYYY):
Delivery Address (MM/DD/YYYY):
Employee Signature: [Signature]
Employee Signature: [Signature]

PSN 7880-02-000-0000

PEEL FROM THIS COFFER



117 Noah Lucas



 me May 23
to Dennis ✓



Hey man, If you're still interested in purchasing the home, I will sell just the mobile home for \$45k. You will have the option to move it or it can remain on my land. I will rent a 1/2 an acre for \$250 a month.

On 5/12/22, I requested a copy of renter's insurance and photos of the fire damage to my land. Please provide proof of your renter's insurance coverage from 3/1/20-current as soon as possible.

I did have a family member take pictures of the exterior of the property after the fire. As a result of the damage and in compliance with my homeowners insurance, I am prohibiting any outdoor fire burning.

This is to include:

Outdoor grill use

Fire pit use

Burning trash of any kind

I am also requesting you remove all trash and debris in the yard & around the exterior of the home. You will also need to remove the 2 inoperable vehicles from the property.



prohibiting any outdoor fire burning.

This is to include:

Outdoor grill use

Fire pit use

Burning trash of any kind

I am also requesting you remove all trash and debris in the yard & around the exterior of the home. You will also need to remove the 2 inoperable vehicles from the property.

I have been notified that you may have extra occupants living in the home than originally agreed upon with the month to month rental agreement. Please verify this with me or my wife so we can revise your current rental agreement.

Failure to comply with all requests concerning the fire restrictions, trash & debris clean up, removal of the 2 vehicles & possible unauthorized tenants by June 1st, will automatically result in a 30 day notice to vacate.

Should you decide to purchase the home, I will need payment in full on or before July 1st, 2022. Thank you, Greg Lucas 5/23/22

← Reply

→ Forward

RENTAL AGREEMENT (MONTH-TO-MONTH)Date: 01/28/2020

Agreement between [REDACTED] Owner(s), and
[REDACTED] Tenant(s), for a dwelling located at
[REDACTED] (Location).

Tenant(s) agree to rent this dwelling on a month-to-month basis for \$ 900.00 per month,
 payable in advance on the 3rd day of the calendar month for which Owner(s) will give
 Tenant(s) a rebate/discount of \$ 10.00.

The first month's rent for this dwelling is \$ 900.00.

The security/cleaning deposit on this dwelling is \$ 900.00. It is refundable if Tenant(s)
 leave the dwelling reasonably clean and undamaged.

Tenant(s) will give 20 days' notice in writing before they move and will be responsible
 for paying rent through the end of this notice period or until another tenant approved by the
 Owner(s) has moved in, whichever comes first.

Owners will refund all deposits due within 30 days after Tenants has/have moved
 out completely and returned the keys.

Only the following 1 persons and 2 pets are to live in this dwelling described as
dogs

Without Owners' prior permission written permission, ~~no other persons may live there and~~
~~no other persons may live there, even temporarily, without the written permission of the~~
~~Owner(s).~~

Use of the following is included in the rent:

Fridge, stove

90 Day Eviction Inbox



G

me Nov 6, 2019
to gilpatrick1988 ▾



This is a PDF copy of the 90-Day Eviction Notice. A copy will be placed in the mailbox @ 117 Noah Lucas Rd. My wife informed me you were willing to make a payment, however, the current contract has been breached. I will no longer honor that contract.

My wife has also informed me you are going through a tough time. She mentioned you are trying to get custody of your children. As soon as I receive notice the property has been vacated, I will inspect it.

I am willing to offer you a 6 month lease contract. This will hopefully help you provide a place for you & your children to stay while you work through personal legal issues. Rent will be \$900 a month. When that lease expires, you will have the option to acquire a bank loan to purchase the home & have move it to another location or vacate the property.

Thank you for your cooperation with this matter.



D

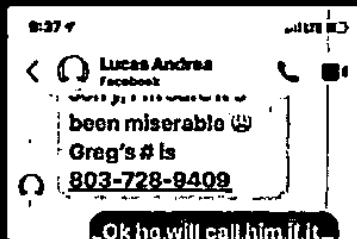
Dennis Gilpatrick Nov 6, 2019
to me ▾



U guys said taxes were waived for last year.
.tho only thing was renters insurance. .from
esurance to a company called homesite. .we
didnt have it for like a month I think. .I dont
understand. .it feels like u guys waited for
us to fix it up then all the sudden want us
out. .kristin knows more on the renters
insurance. .but y wait until now to say
something about it in the first place?

If u open up the picture it was dated in June
of 2018

...



G

me Nov 7, 2019
to Dennis ▾



I have given y'all a few breaks regarding the
\$400 towards taxes & the insurance lapses.
Lowered the monthly payment 2x. You've
had other occupants staying there, that
weren't on the original agreement. The
payment was substantially lower than rental



After our conversation yesterday, I'm willing to offer you the said property (outlined in red) as a month to month rental.

As I stated per our discussion on 12/3/19 I am not willing to honor the previously breached contract nor will I agree to a contract moving forward.

The monthly rent will be \$900. If at anytime you decide to acquire a loan the purchase the property, the purchase price will be \$42,000.

Should you choose to vacate the property by February 1, 2020, I will reimburse you \$2,500 for the A/C unit & up to additional \$2,000 after I inspect the property & find it to be in move-in condition.

If Kristin has vacated the property, please let me know. I will need an email from her stating she is no longer a tenant.

Please call & let me know if you'd like to proceed with my offer. I will require 1st & last month rent for a total of \$1800. I can

you the option to acquire a loan to purchase the home property for \$42k. In a previous email it was stated the home property would need to be moved after purchase. I hadn't heard anything from you regarding the offers.

I called January 19th, 2020 to schedule a walk-through of the property on January 20th, 2020. While meeting with you at the property on January 20th, you stated you were in the process of acquiring a loan. You also informed me you still were not legally allowed to reside at the property.

On January 26th, 2020 I received a call from you informing me you had been pre-approved for purchase. I

...

Dennis Gilpatri... Jan 28, 2020
to me ▾

As I have previously stated, I do want to rent the house. I have the money for it. I have also been pre approved for the loan, however the agent at the loan company had an emergency to tend to yesterday and could not have a chance to send me the pre approval letter.

...

G me Jan 28, 2020
to Dennis ▾

I realize it's been a very difficult time for you. I need the confirmation. The eviction letter stated 90 days from the date of the letter. The 90 days is up tomorrow. If you plan to rent, I will need the 1st & last months rent sent by 9pm today. You can send the \$1800 via Zelle or Walmart transfer. My cell service is intermittent at my job site, please text or email me to let me know how you would like to send the rent & I will send the proper info you'll need to send it to me. Thank you

...

have any questions. If you agree, please print a copy & sign it. You can leave a copy in my sister's mailbox @ 144 Noah Lucas Rd. Also, would you please take a picture of the signed agreement & email it to me. Do you have a time frame when you plan on moving the mobile home after you purchase it? I spoke with my wife & we would be open to selling 1 acre of land if you'd like to keep it where it is. If you plan to send the money via Zelle, you can use my email address. Thank you.

...

G

me Jan 28, 2020
to Dennis ▾



...

RENTAL AGREEMENT (MONTH-TO-MONTH)

Date: 01/28/2020

Agreement between Gregory Lucas, Owner(s), and
Dennis Gilpatrick, Tenant(s), for a dwelling located at
117 Noah Lucas Rd. (Location).

Tenant(s) agree to rent this dwelling on a month-to-month basis for \$ 900.00 per month,
payable in advance on the 3rd day of the calendar month for which Owner(s) will give
Tenant(s) a rebate/discount of \$ 10.00.

The first month's rent for this dwelling is \$ 900.00.

The security/cleaning deposit on this dwelling is \$ 900.00. It is refundable if Tenant(s)
leave the dwelling reasonably clean and undamaged.

Tenant(s) will give 20 days' notice in writing before they move and will be responsible
for paying rent through the end of this notice period or until another tenant approved by the
Owner(s) has moved in, whichever comes first.

Owners will refund all deposits due within 30 days after Tenants has/have moved
out completely and returned the keys.

Only the following 1 persons and 2 pets are to live in this dwelling described as
dogs

G

to Dennis ✓

G

me NOV 6, 2019

to gilpatrick1988 ✓

This is a PDF copy of the 90-Day Eviction Notice. A copy will be placed in the mailbox @ 117 Noah Lucas Rd. My wife informed me you were willing to make a payment, however, the current contract has been breached. I will no longer honor that contract.

My wife has also informed me you are going through a tough time. She mentioned you are trying to get custody of your children. As soon as I receive notice the property has been vacated, I will inspect it.

I am willing to offer you a 6 month lease contract. This will hopefully help you provide a place for you & your children to stay while you work through personal legal issues. Rent will be \$900 a month. When that lease expires, you will have the option to acquire a bank loan to purchase the home & have move it to another location or vacate the property.

Thank you for your cooperation with this matter.



After our conversation yesterday, I'm willing to offer you the said property (outlined in red) as a month to month rental.

As I stated per our discussion on 12/8/19 I am not willing to honor the previously breached contract nor will I agree to a contract moving forward.

D

Dennis Gilpatri... Jan 28, 2020
to me ▾



But there is an agreement on the renting. I was just clarifying a few things on it.

...

D

Dennis Gilpatri... Jan 28, 2020
to me ▾



Where do we not have an agreement of the renting part of this? Other than me asking a few questions? The buying the house part was the part that I didnt understand.

...

G

me Jan 28, 2020
to Dennis ▾



I will need you to sign it and send a picture to me, before I accept payment tonight. An email stating you've agreed with the terms and conditions of the month to month rental agreement will be sufficient too.

...

D

Dennis Gilpatri... Jan 28, 2020
to me ▾



I agree with the terms and conditions of the month to month rental agreement.

D

Dennis Gilpatri... Jan 28, 2020

to me ▾



And it also says below the second circle that I can purchase the property for 42k. It uses the same reference as it does with renting the property month to month. It does not say to just purchase the mobile home. That was a suggestion that was made after the fact not in your original proposal.

...

D

Dennis Gilpatri... Jan 28, 2020

to me ▾



And I need the information so I can send in the money for the month to month rental, just wanted to address a few things on the contract agreement. I will be using Zelle to send it in.

...

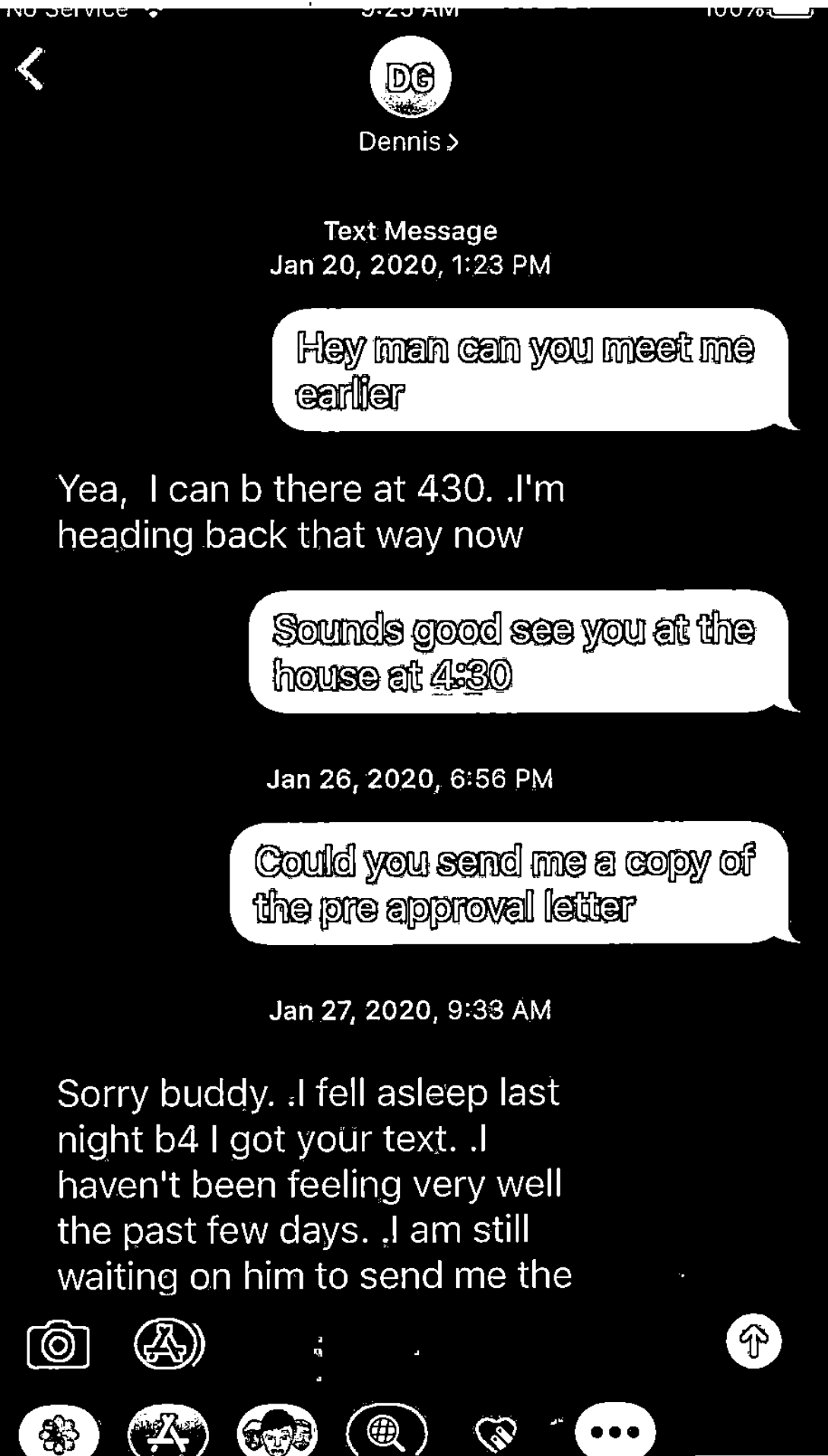
G

me Jan 28, 2020

to Dennis ▾



The children were not included on the rental agreement because they are under the age of 18. It only pertains to adults residing in the home. You never notified me regarding the appliances until today. I'm not sure why there was a misunderstanding





Dennis

haven't been feeling very well the past few days. I am still waiting on him to send me the letter of pre approval but I will send it to you as soon as I receive it. I'm sorry it's taking some time, but I am trying as hard as possible to be able to show you some results

Jan 28, 2020, 9:10 AM

I still wanted to rent the place. I have the money in order to rent it right now. The eviction notice says on february 1st and I did not have a deadline other than that. I am trying on the loan and the loan officer said that I do have a pre approval, however he had an emergency yesterday and could not get the pre approval sent to me. I am just waiting to get back in contact with him right now. He is



Remarks (if any):

Tenant is responsible for any & all repairs, unless weather related

TENANTS AGREE TO THE FOLLOWING:

- 1) to accept the dwelling "as is," having already inspected it.
- 2) ~~to keep the dwelling in good condition~~
- 3) to keep from making loud noises and disturbances and to play music and broadcast programs at all times so as not to disturb other people's peace and quiet.
- 4) not to paint the dwelling without first getting Owner(s) written permission.
- 5) ~~to park motor vehicles on the street and keep that space clear of~~
~~stopping and~~
- 6) ~~to not park motor vehicles on the street (unless it is in an enclosed garage)~~
~~responsible for damage to the~~
- 7) to allow Owner(s) to inspect the dwelling, work on it, or show it to prospective tenants at any and all reasonable times.
- 8) not to keep any liquid-filled furniture in this dwelling.
- 9) to pay rent by check or money order made out to the Owner(s) (returned checks will have applicable late payment fees).
- 10) to pay for repairs of all damage, they or their guests have caused.
- 11) to pay for any windows broken in the dwelling while they live there.

~~Violation of any part of this Agreement or nonpayment of rent when due shall be cause for~~
~~eviction under applicable law.~~ The prevailing party (shall/shall not) recover reasonable legal service fees involved.

Tenants hereby acknowledge that they have read this Agreement, understand it, agree to it, and have been given a copy.

Owner: Gregory Lucas Tenant: _____

By: _____ Tenant: _____



Dennis >

Please give me a call when you get a chance

Dec 31, 2020, 7:28 AM

So have you made a decision on buying the house?

Working on it

Jan 1, 2021, 7:53 PM

Hey man. Just wanted to check in with you. I don't mean to rush you, but I'd just like to have an idea what your plans are. As I mentioned, I'd like to get my family moved back to SC as soon as possible. I'd appreciate if you'd let me know by January 15th if you're going to purchase it. If you decided not to purchase the home I will need you to move out by February 28th. Here's a couple options



Text Message





Dennis >

with him right now. He is supposed to call today. I agree to rent it for another month at least until this is taken care of. I am trying my hardest to get everything going on, however everything seems to be working against me.

Aug 16, 2020, 3:40 PM

Hey man, haven't heard from you in a while. I just wanted to get an update & see how things are going. Are you still trying to acquire a loan through the bank?

Dec 27, 2020, 8:05 AM

Please give me a call when you get a chance

Dec 31, 2020, 7:28 AM



Text Message





Dennis >

Hey man. Just wanted to check in with you. I don't mean to rush you, but I'd just like to have an idea what your plans are. As I mentioned, I'd like to get my family moved back to SC as soon as possible. I'd appreciate if you'd let me know by January 15th if you're going to purchase it. If you decided not to purchase the home I will need you to move out by February 28th. Here's a couple options for purchase. I will sell you the home itself for \$35k & you move it to another location. \$58k for the home & 2 acres. \$80k for the home & 4 acres. Also when you get a chance could you please send me a copy of the renters insurance. Thank you!

Jan 16, 2021, 3:18 PM



TEXT MESSAGE





Dennis >

mentioned, I'd like to get my family moved back to SC as soon as possible. I'd appreciate if you'd let me know by January 15th if you're going to purchase it. If you decided not to purchase the home I will need you to move out by February 28th. Here's a couple options for purchase. I will sell you the home itself for \$35k & you move it to another location. \$58k for the home & 2 acres. \$80k for the home & 4 acres. Also when you get a chance could you please send me a copy of the renters insurance. Thank you!

Jan 16, 2021, 3:18 PM

Hey man. I haven't heard anything from you regarding the house. Do you have an decision for me?



:



10:57

LTE 

New Message

Cancel

To: Dennis Gillpatrick

Text Message
Thu, Feb 25, 8:22 AM

Hi Dennis. it's Greg Lucas I need to talk to you about the house please give me a call at this number

Fri, Apr 30, 8:41 PM

Hey Dennis Greg Lucas again was wondering how the bank was coming on the loan for the house I'm starting to look in SC for a house and need to sell that one so please give me an update on how things are coming

Wed, Jun 2, 6:23 AM

Need you to approve the transfer through zelle. its saying you're needing to register your phone number or email

Wed, Jun 2, 10:02 AM

It should be good now. how are things coming with buying the house cause I'm looking to move back very soon?



Text Message



New Message

To: Dennis Gillpatrick

It should be good now. how are things coming with buying the house cause I'm looking to move back very soon?

Sun, Jun 27, 2 19 PM

Tenant(s) will give 20 days' notice in writing before they move and will be responsible for paying rent through the end of this notice period or until another tenant approved by the Owner(s) has moved in, whichever comes first.

Owners will refund all deposits due within 30 days after Tenant(s) have moved out completely and returned the keys.

Only the following 1 persons and 2 pets are to live in this dwelling described as 100%

Without Owners' prior permission written permission, no other persons may live there and no other pets may stay there, even temporarily, nor may the dwelling be sublet or used for business purposes.

Use of the following is included in the rent:

Fridge, stove

Remarks (if any):

Tenant is responsible for any & all repairs, unless weather related

TENANTS AGREE TO THE FOLLOWING:

- 1) to accept the dwelling "as is," having already inspected it.
- 2) to keep yards and garbage areas clean.
- 3) to keep from making loud noises and disturbances and to play music and broadcast programs at all times so as not to disturb other people's peace and quiet.
- 4) not to paint the dwelling without first getting Owner(s) written permission.
- 5) to park motor vehicles in the assigned space and to keep that space clean of oil drippings and grease.
- 6) not to repair motor vehicle on the premises (unless it is in an enclosed garage) if such repairs will take longer than a day.
- 7) to allow Owner(s) to inspect the dwelling, work on it, or show it to prospective tenants at any and all reasonable times.
- 8) not to keep any liquid-filled furniture in this dwelling.
- 9) to pay rent by check or money order made out to the Owner(s) (returned checks will have applicable late payment fees).
- 10) to pay for repairs of all damage, they or their guests have caused.
- 11) to pay for any windows broken in the dwelling while they live there.

Violation of any part of this Agreement or nonpayment of rent when due shall be cause for

Agreement between Gregory Lopez, Owner(s), and Dennis Gillpatrick, Tenant(s), for a dwelling located at 117 North Lucas Rd. (Location).

Tenant(s) agree to rent this dwelling on a month-to-month basis for \$ 2,900.00 per month, payable in advance on the 1st day of the calendar month for which Owner(s) will give



New Message



Lexington County Fire Service : 2022-007473



Station: 13

Station: 13

Shifts Or Platoon: A Shift

Location: 117 MOBILE AVE EXTINGUISH, SC 29673	Incident Type: 141 - Forest, woods or wildland fire
Lat/Long: N 33° 50' 17.29" W 81° 14' 28.01"	FDID: 32501 Incident #: 2022-007473 Exposure ID: 66052736 Exposure #: 0 Incident Date: 05/10/2022
Zone: Battalion 2 - South - Battalion 2 - South Location Type: 1 - Street address Population Density: Rural	Dispatch Run #: 2022189692

Report Completed by:	Miller , Robert Hall	ID: E73740	Date: 05/12/2022
Report Reviewed by:	Miller , Robert Hall	ID: E73740	Date: 05/12/2022
Report Printed by:	Lalntz, Julie Davis	ID: E72194	Date: 7/1/2022 Time: 08:51

Structure Type:		Property Use: 419 - 1 or 2 family dwelling			
Automatic Extinguishment System Present: ☐		Detectors Present: ☐		Cause of Ignition: Unintentional	
Aid Given or Received: None		Primary action taken: 81 - Incident command			
Additional actions: 11 - Extinguishment by fire service personnel , -					
Losses		Pre-Incident Values			
Property: \$0.00	Property:	Civilian Injuries: 0	Fire Service Injuries:	0	
Contents: \$0.00	Contents:	Civilian Fatalities: 0	Fire Service Fatalities:	0	
Total: \$0.00	Total:	Total Casualties: 0	Total Fire Service Casualties:	0	
Total # of apparatus on call:		5		Total # of personnel on call: 6	

Special Studies	
COVID 19 was a factor in this incident.	No, COVID 19 was not a factor.

Narrative from dispatch:

{E313} QUARTER ACRE WOOD FIRE AT THIS TIME [05/12/22 16:53:33 LLUNSFORD] Radio Channel: OPS 2 [05/12/22 16:46:03 EOHANDLEY] Questions: -- No one is trapped or in immediate danger. -- N/A -- The fire is spreading. -- The fire is spreading: THROUGH THE WOODS -- No one is reported to be injured. [EFD] [05/12/22 16:44:17 HOODA] Dispatch Code: 67B01 (SMALL OUTSIDE fire) Suffix: R (Residential) Response: _bravo Questions: -- The caller is on scene (1st party). -- This is an OUTSIDE fire. -- A SMALL area is burning. -- The fire has not been reported by the caller as extinguished. -- Residential areas are being threatened by the fire. -- No hazardous materials are reported. [EFD] [05/12/22 16:43:36 HOODA] Caller Statement: WOODS ARE ON FIRE NEAR HERE Chief Complaint: Outside Fire [EFD] [05/12/22 16:42:24 HOODA]

NARRATIVE (2)	
Narrative Title: Bt324 Narrative Author: Shirey, Christopher Narrative Date: 05/12/2022 18:23:47 Narrative Apparatus ID: BT324 Narrative: Brush 324 responded to an outside fire at the request of E313. Brush 324 responded and reported to command upon arrival. The crew from Brush 324 extinguished some hot spots and was cleared. Brush 324 filled up with water and went available.	

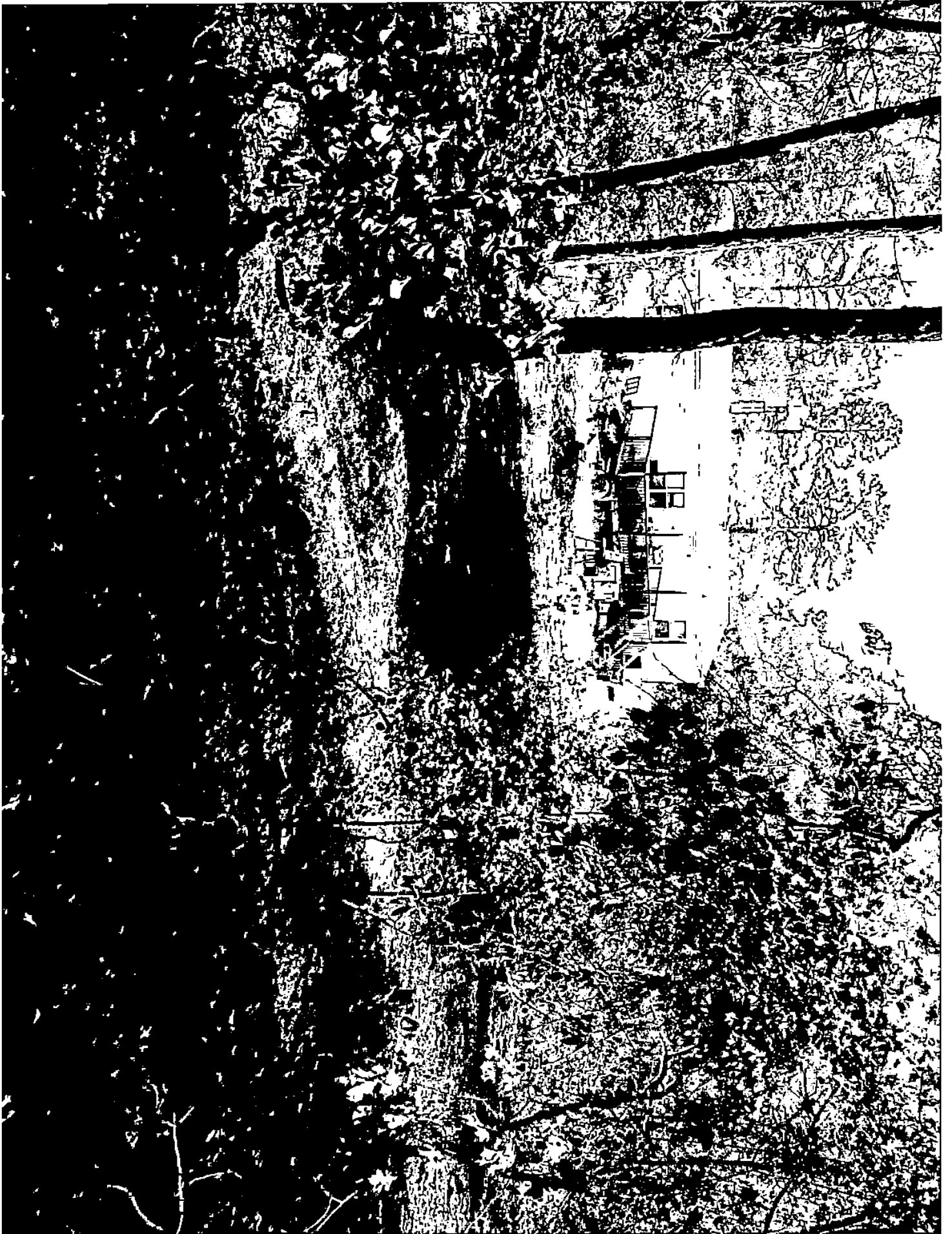
NARRATIVE (3)**Narrative Title:** E313**Narrative Author:** Lybrand, Cody**Narrative Date:** 05/12/2022 19:56:52**Narrative Apparatus ID:** E313**Narrative:**

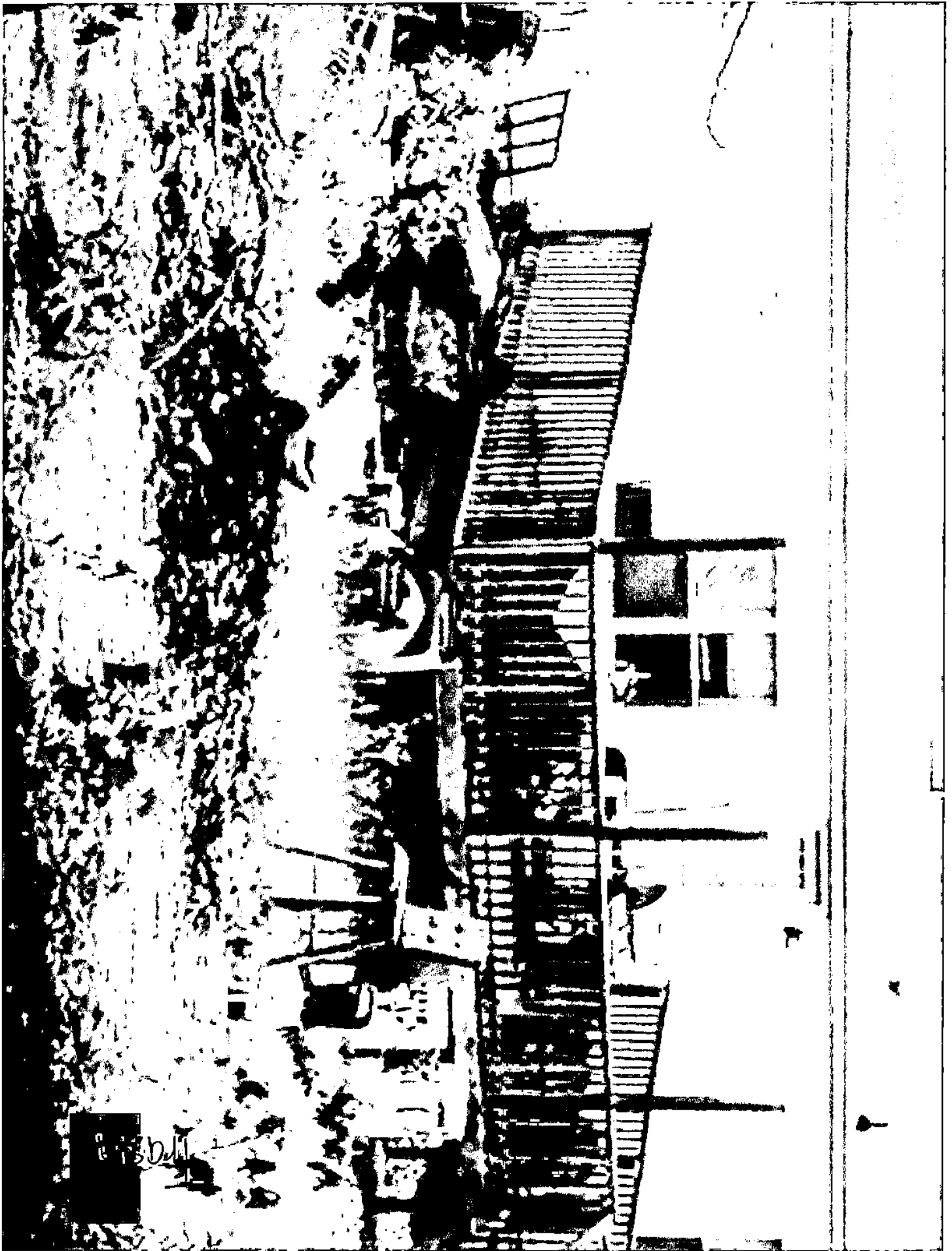
On the date and time above E 313 responded to the address listed for a woods fire. On arrival E 313 driver established command and reported a slow moving 1/4 acre woods fire, and requested for the next available brush truck to respond. Crew of E 313 began hand raking a break around the fire while awaiting the arrival of BT 324. On arrival of BT 324, crews from 324 and 313 extinguished the fire and mopped up any hot spots. [REDACTED] the parents of the child were explained the county burn ordinance and given a copy. Command was terminated and E 313 was placed in service.

NARRATIVE (4)**Narrative Title:** Battalion 392**Narrative Author:** Miller, Robert**Narrative Date:** 05/12/2022 20:07:57**Narrative Apparatus ID:** BA392**Narrative:**

Battalion 392 responded to the listed address at the listed time and date for a woods fire. Upon arrival on scene, Battalion 392 met with command and was notified that the fire was under control. Battalion 392 then explained to the home owner the county burn ordinance. Battalion 392 then returned to service.



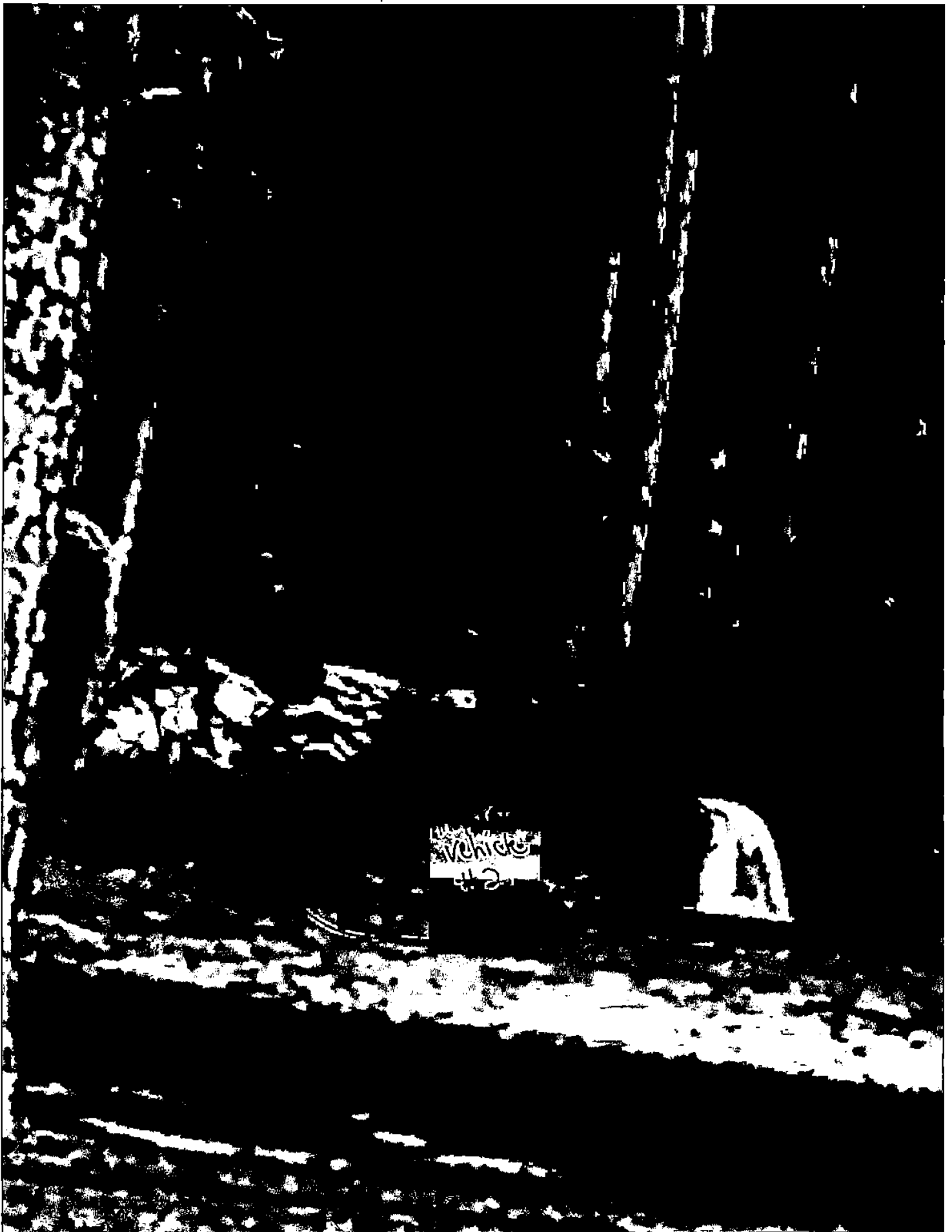


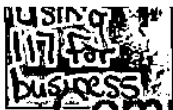












Company Name: TIGHTEN UP HOME REPAIR
AND REMODELING LLC

Entity Type: DOMESTIC LIMITED-LIABILITY
COMPANY

File Number: 987889

Filing State: South Carolina (SC)

Filing Status: Good standing

Filing Date: September 11, 2019

Company Age: 2 Years, 8 Months

Registered Agent:



[REDACTED]
[REDACTED]
[REDACTED]

Governing Agency: South Carolina Secretary of State

COMPANY CONTACTS

DENNIS GILPATRICK

Agent



117 Noah Lucas Road
Lexington, SC 29073

News Feed

Watch

Profile

Menu

<

Dennis's Post

...

1y

Like

2 



LOgan Kmmrlin

Looking good man.

1y

Like

1 



Dennis Gilpatrick

LOgan Kmmrlin thanks man

1y

Like



Joey Spitzmesser

Very nice, I did that for 7 years before getting the job I have now

1y

Like

1 



Dennis Gilpatrick

Joey Spitzmesser I do it all man, bt I like doing it. Makes me feel good at the end of the day. I may not b there to enjoy it, bt I work on my skills and I know the person living there will enjoy it for years to come

66

4/6

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	C/A NO: 2022-CP-32-02217
	)	
Dennis Gilpatrick	)	
Plaintiff,	)	
	)	DEFENDANT'S ANSWER TO
vs.	)	PLAINTIFF'S COMPLAINT
	)	
Gregory Lucas	)	
Defendant.	)	
	)	

TO: ROLF MOUIN BAGHDADY, ATTORNEY FOR THE PLAINTIFF:

The Defendant Gregory Lucas (hereinafter "Defendant") answering the Complaint of Plaintiff would show as follows:

1. Defendant admits the allegations of paragraphs 1, 2 and 3.
2. Defendant denies the allegations of paragraph 4, 5, 6 and 7.

AS TO THE 1ST CAUSE OF ACTION

3. Responding to the allegations of paragraph 9, Defendant would repeat and realleges the allegations of paragraphs 1 and 2 above as though fully set forth herein.
4. Defendant denies allegations of paragraph 10.

AS TO THE 2ND CAUSE OF ACTION

5. Responding to the allegations of paragraph 11, Defendant would repeat and realleges the allegations of paragraphs 1 through 4 above as though fully set forth herein.
6. Defendant denies the allegations of paragraph 12.

**AS A 2ND DEFENSE TO ALL CAUSES OF ACTION AND AS A 1ST COUNTERCLAIM
(DECLARATORY JUDGMENT)**

7. As on or about November 28, 2014, Defendant entered into a Residential Lease-Purchase Agreement ("the Contract") with Dennis and Kristen Gilpatrick, involving property at 117 Noah Lucas Rd., Lexington, SC ("the subject property"). A copy of the Agreement is attached hereto as Exhibit A.
8. That under the terms of the Contract, Plaintiff was to pay rent for 96 months commencing November 5, 2018.
9. That Plaintiff defaulted in the terms of the Contract by failing to remit payments to on or about September 2019.
10. That by text message dated November 6, 2019, Defendant provided notice to Plaintiff of the default and breach of the Contract and provided Plaintiff with 90 days' Notice to Vacate the property. A copy of the text message is attached hereto as Exhibit B.

11. That by text messages dated January 28, 2020, Plaintiff and Defendant agreed to terminate the Contract and to enter into a Month-to-Month Rental Agreement.

That Defendant provided Plaintiff with a written Month-to-Month Lease pursuant to the agreement between the Parties.

That by text message dated January 28, 2020, Plaintiff agreed to the terms and conditions of the Month-to-Month Rental Agreement. A copy of the January 28, 2020 texts are attached hereto as Exhibit C.

12. That in performance of the Month-to-Month Lease Agreement, Plaintiff commenced making \$900 a month payments on August 20, 2022 and continued such month-to-month payments until January 2022. A copy of the payment history is attached hereto as Exhibit D.
13. That Defendant is informed and believes that it is entitled to an Order of this Court declaring that the Residential Lease Purchase Contract between the parties was terminated by mutual agreement and performance and that the Plaintiff and Defendant entered into an oral Month-to-Month Rental Agreement for the subject property.

**AS A 3rd DEFENSE AND 2ND COUNTERCLAIM
(RES JUDICATA- COLLATERAL ESTOPPEL)**

14. That Defendant filed an Application for Ejectment against Plaintiff in the Swansea Magistrate's Court in Case No. 2022CV321100077, alleging a breach in the oral Month-to-Month Lease between the Parties.
15. That at the hearing on February 7, 2022, the Court found and ordered that the Residential Lease Purchase Agreement had been canceled between the Parties and that an oral Month-to-Month Lease existed between Plaintiff and Defendant.
16. That the February 7, 2022 Order of the Court was not appealed from and is *res judicata*.
17. That Plaintiff is collaterally estopped from asserting that a Residential Lease Purchase Agreement exists between the Parties.
18. Defendant is informed and believes that it is entitled to an Order of this Court declaring that the Order that the Residential Lease Purchase Agreement was canceled, and that the Parties entered into an oral Month-to-Month Lease is entitled to *res judicata* effect.

AS A 4th DEFENSE AND 3RD COUNTERCLAIM

19. That on January 28, 2020, Plaintiff and Defendant entered into an oral Month-to Month Lease.
20. That Plaintiff performed under the oral Month-to-Month Lease by making lease payments to Defendant.
21. That Plaintiff breached the terms of the Month-to-Month Lease by failing to remit monthly payments as agreed upon by the Parties.

22. The Defendant provided notice of the breach of the Month-to-Month Lease to Plaintiff, but Plaintiff failed to cure such default.
23. That Defendant is informed and believes that it is entitled to an Order of this Court evicting Plaintiff pursuant to the provisions of South Carolina Code of Laws Section 27 – 37 – 10 (a).

AS A 5th DEFENSE AND 4th COUNTERCLAIM

24. That Plaintiff continues to inhabit the subject property without paying rent to Defendant as required under the Month-to-Month Rental Agreement.
25. The Defendant is informed and believes that it is entitled to an Order of this Court, pursuant to the provisions of South Carolina Code of Laws Section 27 – 40 – 790, requiring Plaintiff to pay all past due rent to Defendant and all rent as it becomes due to Defendant during the pending of this action.

Wherefore, having fully answered defendant prays as follows:

1. For an Order of this Court declaring that the Residential Lease Purchase Contract between the Parties was terminated by mutual agreement and performance and that the Plaintiff and Defendant entered into a Month-to-Month Rental Agreement for the subject property.
2. For an Order of this Court declaring that the Magistrate's Order in Case No. 2022CV321100077, that the Residential Lease Purchase Agreement was canceled, and the Parties entered into a Month-to-Month Lease is entitled to *res judicata* effect.
3. For an Order evicting Plaintiff from the subject premises pursuant to the provisions of South Carolina Code of Laws Section 27 – 37 – 10 (a).
4. For an Order of this Court pursuant to the provisions of South Carolina Code of Laws Section 27 – 40 – 790, requiring Plaintiff to pay all past due rent and all rent as it becomes due to Defendant.
5. And for such other relief as the court deems just and proper.

Crawford & von Keller, LLC

s/Theodore von Keller

Theodore von Keller, SC Bar No. 5718

B. Lindsay Crawford, III

B. Lindsay Crawford, IV

Charley S. FitzSimons

Attorneys for Defendant Gregory Lucas

October 13, 2022

EXHIBIT A

RESIDENTIAL LEASE-PURCHASE AGREEMENT

THIS AGREEMENT, dated 11/28/14, is between GREG LUCAS
_____, the Landlord(s) and DENNIS
& KRISTIN GILPATRICK, the Tenant(s).

In consideration of the payment of rent and the keeping and performance of the covenants and agreements by the Tenant hereinafter set forth, the Landlord(s) do hereby lease unto the Tenant(s), the following described premises situate in the County of LEXINGTON State of SC, and better known as: 117 NOAH LUCAS RD LEXINGTON, SC 29073
(including) approx. 2 acres.
The said premises, as described above, with all appurtenances, are hereby leased to the Tenant for a term of 96 months commencing 11/28, 2022. Rent for the premises is payable in monthly installments of: \$ 725, to be paid on or before the fifth day of the month for which rent is due.
\$ 575 of each rent payment shall be credited toward the purchase price of the property.

THE TENANT, CONSIDERATION OF THE LEASING OF SAID PREMISES AS AFORESAID, COVENANTS AND AGREES AS FOLLOWS:

To pay the rent for said premises as hereinabove provided;
To keep said premises in good condition and repair and at the expiration of this lease to surrender and deliver up the same in as good order and condition as when entered upon, loss by fire, inevitable accident, act of God or ordinary wear and tear excepted;

IT IS FURTHER AGREED that in case said premises are left vacant, then the Landlord may, without being obligated to do so and without terminating this lease, re-take possession of the premises. If any part of the rent herein reserved be unpaid, the Landlord may rent the same for such rent as the Landlord may be able to do so, making such changes and repairs as may be required, giving credit for the amount so received, less all expenses.

It is agreed that if the tenant shall be in arrears in the payments of any installment of rent, or any portion thereof, or in default of any of the covenants or agreements herein contained to be performed by the Tenant, which default shall be uncorrected for a period of five (5) days after the Landlord has given written notice thereof, Landlord may, at his option, without liability for trespass or damages, enter into and upon said premises, or a portion thereof, declare the term of this lease ended; repossess the said premises as of the Landlord's former estate; peaceably expel and remove the Tenant, those claiming under him, or any person or persons occupying the same and their effects; all without prejudice to any other remedies available to the Landlord for arrears of rent or breach of covenant.

IT IS FURTHER MUTUALLY AGREED that the Landlord, in consideration of the performance of all the covenants and agreements herein to be performed by the Tenant under the lease, and for Tenant agreeing to perform all minor/major repairs to the property during the term of the said lease, hereby grants to Tenant an exclusive option to purchase said above described premises at any time during the term of this lease for the sum of \$ 63,200 payable as follows:

\$8k down pymt upon move in + 12 mo rent \$725
96 mo term of \$725 \$575 crediting toward purchase
*** NO MONIES BEING REFUNDED IF TENANT BREAKS CONTRACT**
The Landlord, upon payment of said purchase money, shall convey said premises by Fee Simple Deed free from all encumbrances except: End of term, title will be transferred
into tenants name/s (NO EXCEPTIONS)

Additional provisions:

1. **Repairs:** Tenant shall be responsible for repairs not to exceed \$_____ per year.

PLEASE REPORT ANY WEATHER RELATED DAMAGE TO GREG IMMEDIATELY

2. **Title:** All documents necessary for title transfer shall be executed and held in escrow with closed escrow instructions. At closing, taxes, water, sewer, HOA dues and mortgages will be prorated as of date of title transfer.

3. **Inspection:** This agreement is subject to final inspection and approval of the property by the Tenant/Buyer prior to taking possession. **TENANT AGREES THIS IS AN "AS IS, WHERE IS" CONTR**

4. **Insurance:** Landlord/Seller shall protect Tenant/Buyer's equitable interest by maintaining hazard insurance upon the property. In the event of destruction in whole or in part of the property, Tenant/Buyer shall have the option to proceed with the closing and accept the insurance proceeds for said damage, or to declare this agreement null and void, releasing both parties from any obligations hereunder, except for the return of monies paid by Tenant/Buyer which shall become immediately due and payable from the insurance proceeds. **TENANT WILL BE RESPONSIBLE FOR RENTER'S INSURANCE UNTIL END OF CONTRACT**

5. **Assignment:** Tenant/buyer ~~X~~ shall not be permitted the right of subletting or assignment. If this agreement is assigned with the approval of the Landlord/Seller, Tenant/Buyer shall be released from any further liability hereunder.

6. Other provisions:

6. Other provisions:
Tenants agree to pay \$400 every February towards house taxes. If tenant is late more than 30 days on a pymt, it will be considered breach of contract.

Landlord Greg [Signature] Date 11-28-14

Landlord _____ Date 11/28/14

Tenanti: Kristen D. Date: 11/28/14

Tenant: Thomas Silgutrich Date: 11/28/14

* Possession of keys on 11/30/14

EXHIBIT B



90 DAY EVICTION NOTICE

As of October 31st, 2019, I, Greg Lucas, have found Dennis & Kristin Gilpatrick to be in breach of contract.

I did not receive the agreed upon \$400 towards yearly taxes in February 2019. As tenants, you agreed to keep renters insurance until end of contract & send documentation yearly. There have been several lapses in coverage since the beginning of the contract.

I am giving you 90 days (rent
free) from the date of this

I am giving you 90 days (rent free) from the date of this notice to vacate the premises at 117 Noah Lucas Road, Lexington, SC 29073.

On February 15th, 2020, I will inspect the currently occupied property at 117 Noah Lucas Road.

As noted on the contract no monies will be refunded if contract is breached, however, I will be open to refund up to \$2,000 of the monies I acquired as a down payment. This refund will be determined after I inspect the condition. ⁷⁵Repairs for

determined after inspect
the condition. Repairs for
any damages or cleaning will
be subtracted from that
\$2,000.

Please email me at
galucas1224@gmail.com or
leave a message on my cell
803-728-9409 when the
property has been vacated.

The keys may be left in my
sister's mailbox at 144 Noah
Lucas Rd.

Thank you for your
cooperation,

Greg Lucas
10/31/19

EXHIBIT C



After our conversation yesterday, I'm willing to offer you the said property (outlined in red) as a month to month rental.

As I stated per our discussion on 12/3/19 I am not willing to honor the previously breached contract nor will I agree to a contract moving forward.

The monthly rent will be \$900. If at anytime you decide to acquire a loan the purchase the property, the purchase price will be \$42,000.

Should you choose to vacate the property by February 1, 2020, I will reimburse you \$2,500 for the A/C unit & up to additional \$2,000 after I inspect the property & find it to be in move-in condition.

If Kristin has vacated the property, please let me know. I will need an email from her stating she is no longer a tenant.

Please call & let me know if you'd like to proceed with my offer. I will require 1st & last month rent for a total of \$1800. I can

have any questions. If you agree, please print a copy & sign it. You can leave a copy in my sister's mailbox @ 144 Noah Lucas Rd. Also, would you please take a picture of the signed agreement & email it to me. Do you have a time frame when you plan on moving the mobile home after you purchase it? I spoke with my wife & we would be open to selling 1 acre of land if you'd like to keep it where it is. If you plan to send the money via Zelle, you can use my email address. Thank you.

000

G

me Jan 28, 2020

to Dennis ✓



RENTAL AGREEMENT (MONTH-TO-MONTH)

Date: 01/28/2020

Agreement between Gregory Lucas Owner(s), and
Dennis Gilpatrick Tenant(s), for a dwelling located at
117 Noah Lucas Rd. (Location).

Tenant(s) agree to rent this dwelling on a month-to-month basis for \$ 800.00 per month,
 payable in advance on the 3rd day of the calendar month for which Owner(s) will give
 Tenant(s) a rebate/discount of \$ 10.00.

The first month's rent for this dwelling is \$ 800.00.

The security/cleaning deposit on this dwelling is \$ 800.00. It is refundable if Tenant(s)
 leave the dwelling reasonably clean and undamaged.

Tenant(s) will give 20 days' notice in writing before they move and will be responsible
 for paying rent through the end of this notice period or until another tenant approved by the
 Owner(s) has moved in, whichever comes first.

Owners will refund all deposits due within 30 days after Tenants has/have moved
 out completely and returned the keys.

Only the following 1 persons and 2 pets are to live in this dwelling described as
dogs

- 7) to allow Owner(s) to inspect the dwelling, work on it, or show it to prospective tenants at any and all reasonable times.
- 8) not to keep any liquid-filled furniture in this dwelling.
- 9) to pay rent by check or money order made out to the Owner(s) (returned checks will have applicable late payment fees).
- 10) to pay for repairs of all damage, they or their guests have caused.
- 11) to pay for any windows broken in the dwelling while they live there.

Violation of any part of this Agreement or nonpayment of rent when due shall be cause for eviction under applicable code sections. The prevailing party (shall/shall not) recover reasonable legal service fees involved.

Tenants hereby acknowledge that they have read this Agreement, understand it, agree to it, and have been given a copy.

Owner: Gregory Lucas

Tenant: _____

By: _____ Tenant: _____

D

Dennis Gilpatri... Jan 28, 2020

to me ▾

From my understanding of the agreement, it was to come with the land that you outlined in the photo on the email when you first offered to sell it? I was not planning on moving it because it was shown what land comes with it. I am looking at the contract now.

G

me Jan 28, 2020

to Dennis ▾

G

to Dennis ✓

G

Fri Nov 6, 2019

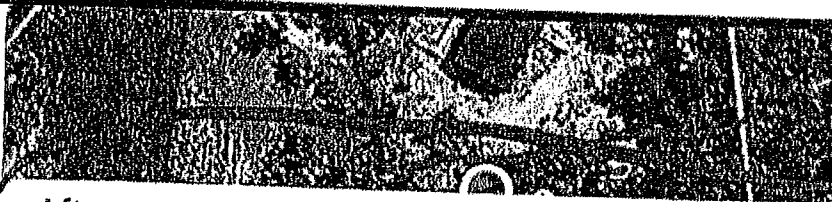
to gilpatrick1988 ✓

This is a PDF copy of the 90-Day Eviction Notice. A copy will be placed in the mailbox @ 117 Noah Lucas Rd. My wife informed me you were willing to make a payment, however, the current contract has been breached. I will no longer honor that contract.

My wife has also informed me you are going through a tough time. She mentioned you are trying to get custody of your children. As soon as I receive notice the property has been vacated, I will inspect it.

I am willing to offer you a 6 month lease contract. This will hopefully help you provide a place for you & your children to stay while you work through personal legal issues. Rent will be \$900 a month. When that lease expires, you will have the option to acquire a bank loan to purchase the home & have move it to another location or vacate the property.

Thank you for your cooperation with this matter.



After our conversation yesterday, I'm willing to offer you the said property (outlined in red) as a month to month rental.

As I stated per our discussion on 12/3/19 I am not willing to honor the previously breached contract nor will I agree to a contract moving forward.

Thank you, Greg Lucas 12/4/19

The outline is red was pertaining to the month to month rental option.

D

Dennis Gilpatri... Jan 23, 2020

to me ▾

My children will also be staying at the house, my soon to be ex and I have a 50/50 custody share, and they are not included in the paperwork. And you already know that I have a small fish tank in the house, I am still allowed to have that right? I do not plan on getting a waterbed or anything of that nature. And the fridge and stove are items that I have bought because the appliances there before broke and needed to be replaced. I am still planning on purchasing the property and will get the pre approval sent in to you soon, I want to show you that I am not just pulling you leg and i have been working on this the best i can.



Dennis Gilpatri... Jan 23, 2020

D Dennis Gilpatri... Jan 28, 2020
to me ✓

But there is an agreement on the renting. I was just clarifying a few things on it.

...

D Dennis Gilpatri... Jan 28, 2020
to me ✓

Where do we not have an agreement of the renting part of this? Other than me asking a few questions? The buying the house part was the part that I didnt understand.

...

G me Jan 28, 2020
to Dennis ✓

I will need you to sign it and send a picture to me, before I accept payment tonight. An email stating you've agreed with the terms and conditions of the month to month rental agreement will be sufficient too.

...

D Dennis Gilpatri... Jan 28, 2020
to me ✓

I agree with the terms and conditions of the month to month rental agreement.

I agree with the terms and conditions of the month to month rental agreement.

I will print and sign the agreement as soon as I can get to a computer and printer. I currently have no printer available to me at the moment.

...

G

me Jan 28, 2020



...

to Dennis ▾

Thank you for sending the agreement acceptance. I believe my Zelle is set up via my email or phone number 803-728-9409. I will try to meet with you next time I'm in town.

...

EXHIBIT D



WELLS FARGO

02/01/21

+ \$900.00

ZELLE FROM DENNIS GILPATRICK ON 01/01 REF
BACE6B3DDB1D

01/04/21

+ \$900.00

ZELLE FROM DENNIS GILPATRICK ON 11/30 REF
BACB528DA0AB

11/30/20

+ \$900.00

ZELLE FROM GILPATRICK DENNIS ON 11/02 REF
BAC5A2D02241

11/02/20

+ \$900.00

ZELLE FROM GILPATRICK DENNIS ON 09/30 REF
BAC07FC2AC82

10/01/20

+ \$900.00

ZELLE FROM GILPATRICK DENNIS ON 08/31 REF
BAC7E127A0C2

09/01/20

+ \$900.00

ZELLE FROM GILPATRICK DENNIS ON 08/01 REF
BAC53684DA7C

08/03/20

+ \$900.00



ous

Next >



Accounts



Transfer



Zelle®



Deposit



Menu



WELLS FARGO



ZELLE FROM DENNIS GILPATRICK ON 08/01 REF
BACGT6X6KT9I HOUSE PAYMENT

08/02/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 07/02 REF
BACSD7BST1HV HOUSE PAYMENT

07/02/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 06/02 REF
BACNIWVRT6X2 HOUSE PAYMENT

06/02/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 04/30 REF
BACPG6HUYHBO HOUSE PAYMENT

04/30/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 04/01 REF
BACJB910O6M1 HOUSE PAYMENT

04/01/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 03/01 REF
BAC96865FDA6 HOUSE PAYMENT MARCH 1ST

03/01/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 01/31 REF
C0128C19CD

02/01/21

+ \$900.00



Accounts



Transfer



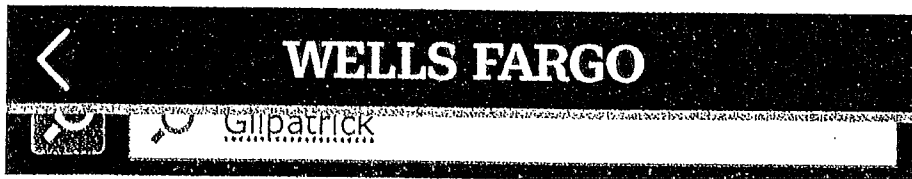
Zelle®



Deposit



Menu



Pending Transactions

No pending transactions meet your search criteria.
Please try again.

Posted Transactions

-  ZELLE FROM DENNIS GILPATRICK ON 01/02 REF
BACTHVPHX9QK HOUSE PAYMENT

01/03/22 + \$900.00
-  ZELLE FROM DENNIS GILPATRICK ON 12/01 REF
BACRNGRQS2MJ HOUSE PAYMENT

12/01/21 + \$900.00
-  ZELLE FROM DENNIS GILPATRICK ON 11/01 REF
BACTOXXF47QB HOUSE PAYMENT

11/01/21 + \$900.00
-  ZELLE FROM DENNIS GILPATRICK ON 10/01 REF
BACP8VBLJA1C

10/01/21 + \$900.00
-  ZELLE FROM DENNIS GILPATRICK ON 09/01 REF
CTJF949C0F HOUSE PAYMENT

09/01/21 + \$900.00



Accounts



Transfer



Zelle®



Deposit



Menu

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis Gilpatrick,

Plaintiff,

v.

Gregory Lucas,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO: 2022-CP-32-02217

**PLAINTIFF'S REPLY TO
DEFENDANT'S ANSWER
AND COUNTERCLAIM**

**TO: THEODORE VON KELLER, ET. AL., ATTORNEYS FOR DEFENDANT
GREGORY LUCAS:**

The Plaintiff, responding to the Answer and Counterclaim of Defendant Gregory Lucas (herein referred to as "Defendant") respectfully alleges as follows:

FOR A FIRST REPLY

1. Plaintiff realleges all the allegations of the Plaintiff's Complaint as though fully set forth herein and each and every allegation of Defendant's Answer and Counterclaim not specifically admitted

FOR A SECOND REPLY—ESTOPPEL

2. Plaintiff realleges all of the allegations of paragraph 1 above as though fully set forth herein.
3. Plaintiff detrimentally relied on the promise of Defendant to sell him the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately 2 acres of property. Plaintiff made the payments and improvements to purchase the property on the terms in the Residential Lease/Purchase Agreement dated November 28, 2014. (Copy attached to the Complaint as Exhibit A.)
4. Defendant's course of conduct violates the very foundations of right and fair dealing and the

Court should give effect and meaning to the contract among the parties.

5. The Defendant's conduct induced a payment stream from Plaintiff and Plaintiff's improvements of the property, the disavowal of which would be inequitable and Defendant which held out the inducement of a right to purchase is estopped from disavowing the contract to purchase.
6. Equitable estoppel arises from Defendant's conduct and prevents assertion of technical rights contrary to equity and good conscious.
7. Defendant's oppressive course of conduct which involved abusing the Plaintiff in moments of weakness and during holidays precludes Defendant from averring anything to the contrary.
8. Defendant's intended deception in his conduct and declarations as to the status of the contract misled the Plaintiff to his injury; therefore, estoppel applies against Defendant to assert a novation of the contract into a mere lease without option to purchase.
9. The doctrine of estoppel is flexible and should be applied in this case for the benefit of Plaintiff.
10. The Defendant, by his words and conduct, attempted to mislead the Plaintiff that by virtue of a technical non-material alleged breach to believe that the purchase agreement was rescinded, and Defendant should be estopped to deny the effect of the agreement.
11. The very foundations of right and fair dealing consider the Defendant's wrongful abuse of Plaintiff in his dealings with him and require common sense and justice to give effect to the purchase agreement.
12. Defendant is estopped to deny the sale of the property.
13. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR A THIRD REPLY— FORFEITURE IS ABHORRED

14. Plaintiff realleges all of the allegations of paragraphs 1 - 13 above as though fully set forth herein.
15. Application of any of Defendant's defenses and denying Plaintiff the relief sought would work a forfeiture
16. Both in law and equity forfeitures are abhorred.
17. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.
18. Both in law and equity forfeitures are abhorred.

FOR A FOURTH REPLY— NO WAIVER

19. Plaintiff realleges all of the allegations of paragraphs of 1 - 18 above as though fully set forth herein.
20. There was no intentional waiver of a known right to purchase the property under the agreement to purchase the property on the terms in the Residential Lease/Purchase Agreement dated November 28, 2014 (Copy attached to the Complaint as Exhibit A.) with Plaintiff Dennis Gilpatrick and Kristin Gilpatrick for the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately 2 acres of property.
21. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR A FIFTH REPLY— NO CONSIDERATION FOR NOVATION

22. Plaintiff realleges all of the allegations of paragraphs 1 -21 above as though fully set forth herein.

23. There is no consideration for any novation of the right to purchase the property (e.g. paragraphs 11, 12, and 13 of Defendant's Answer and Counterclaim) on the terms in the Residential Lease/Purchase Agreement dated November 28, 2014 (Copy attached to the Complaint as Exhibit A.) with Plaintiff Dennis Gilpatrick and Kristin Gilpatrick for the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately 2 acres of property, and to covert the agreement among the parties to a mere rental agreement.
24. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

**FOR A SIXTH REPLY— NO SUBJECT MATTER JURISDICTION
IN MAGISTRATE'S COURT**

25. Plaintiff realleges all of the allegations of paragraphs of 1 -24 above as though fully set forth herein.
26. Any and all previous magistrate's Court hearings/adjudications (e.g as alleged in paragraphs 15, 16, 17, and 18 of Defendant's Answer and Counterclaim) on the subject matter of Plaintiff's right to purchase the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately 2 acres of property, were without subject matter jurisdiction and of no *res judicata* effect nor is able to work a collateral estoppel against Plaintiff.
27. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR A SEVENTH REPLY— NO MATERIAL DEFAULT

28. Plaintiff realleges all of the allegations of paragraphs 1 - 27 above as though fully set forth herein.

29. Plaintiff denies that any alleged default (e.g. paragraph 9 of the Defendant's Answer and Counterclaim) by Plaintiff in Defendant's Answer and Counterclaim is not material.

30. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR AN EIGHTH REPLY— FULL PAYMENT NO OBLIGATION TO PAY RENT

31. Plaintiff realleges all of the allegations of paragraphs 1- 30 above as though fully set forth herein.

32. Plaintiff denies that there is any obligation to pay rent (e.g. as alleged in paragraph 12 and its referenced attachment and paragraphs 19-25 of Defendant's Answer and Counterclaim) because Plaintiff has fully performed and made all required payments under his right to purchase the property on the terms in the Residential Lease/Purchase Agreement dated November 28, 2014 (Copy attached to the Complaint as Exhibit A.) with Plaintiff Dennis Gilpatrick and Kristin Gilpatrick for the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately 2 acres of property.

33. Defendant is not entitled to an Order to vacate the property in the 4th and 5th defenses of Defendant's Answer and Counterclaim and Plaintiff is entitled to an Order of specific performance of Defendant conveying the real property to Plaintiff.

WHEREFORE, Plaintiff prays as follows:

1. For an Order of this Court dismissing Defendant's Answer and Counterclaims;
2. For an Order of this Court entering judgment for Plaintiff against Defendant for damages for breach of contract;
3. For an Order of this Court for specific performance ordering the Defendant to convey the property to Plaintiff;

4. For the Court to enter a judgement against Defendant for costs of this action;
5. For such other and further relief as may be just and proper.

Date: November 14, 2022

By: /s/ Rolf M. Baghdady
Rolf M. Baghdady (SC Bar # 0464)
ROLF M. BAGHDADY, P.A.
118 Cobblestone Court
Chapin, S.C. 29036-9705
(803) 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **PLAINTIFF'S REPLY TO DEFENDANT'S ANSWER AND COUNTERCLAIM** were served via the e-filing portal upon Defendant's counsel, Theodore von Keller, Esq. this 14th day of November, 2022.

By: /s/ Rolf M. Baghdady
Rolf M. Baghdady (SC Bar # 0464)
ROLF M. BAGHDADY, P.A.
118 Cobblestone Court
Chapin, S.C. 29036-9705
(803) 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR PLAINTIFF

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	C/A NO: 2022-CP-32-02217
	)	
Dennis Gilpatrick	)	
Plaintiff,	)	
	)	DEFENDANT'S AMENDED ANSWER TO
vs.	)	PLAINTIFF'S COMPLAINT
	)	
Gregory Lucas	)	
Defendant.	)	
	)	

TO: ROLF MOUIN BAGHDADY, ATTORNEY FOR THE PLAINTIFF:

The Defendant Gregory Lucas (hereinafter "Defendant") answering the Complaint of Plaintiff would show as follows:

1. Defendant admits the allegations of paragraphs 1, 2 and 3.
2. Defendant denies the allegations of paragraph 4, 5, 6 and 7.

AS TO THE 1st CAUSE OF ACTION

3. Responding to the allegations of paragraph 9, Defendant would repeat and realleges the allegations of paragraphs 1 and 2 above as though fully set forth herein.
4. Defendant denies allegations of paragraph 10.

AS TO THE 2nd CAUSE OF ACTION

5. Responding to the allegations of paragraph 11, Defendant would repeat and realleges the allegations of paragraphs 1 through 4 above as though fully set forth herein.
6. Defendant denies the allegations of paragraph 12.

**AS A 2nd DEFENSE TO ALL CAUSES OF ACTION AND AS A 1st COUNTERCLAIM
(DECLARATORY JUDGMENT)**

7. As on or about November 28, 2014, Defendant entered into a Residential Lease-Purchase Agreement ("the Contract") with Dennis and Kristen Gilpatrick, involving property at 117 Noah Lucas Rd., Lexington, SC ("the subject property"). A copy of the Agreement is attached hereto as Exhibit A.
8. That under the terms of the Contract, Plaintiff was to pay rent for 96 months commencing November 5, 2018.
9. That Plaintiff defaulted in the terms of the Contract by failing to remit payments to on or about September 2019.
10. That by text message dated November 6, 2019, Defendant provided notice to Plaintiff of the default and breach of the Contract and provided Plaintiff with 90 days' Notice to Vacate the property. A copy of the text message is attached hereto as Exhibit B.

11. That by text messages dated January 28, 2020, Plaintiff and Defendant agreed to terminate the Contract and to enter into a Month-to-Month Rental Agreement. A copy of the Month-to-Month Rental Agreement is attached hereto as Exhibit C and its terms and conditions are incorporated herein by reference.
12. That Defendant provided Plaintiff with a written Month-to-Month Lease pursuant to the agreement between the Parties.
13. That by text message dated January 28, 2020, Plaintiff agreed to the terms and conditions of the Month-to-Month Rental Agreement. A copy of the January 28, 2020 texts are attached hereto as Exhibit D.
14. That in performance of the Month-to-Month Lease Agreement, Plaintiff commenced making \$900 a month payments on August 20, 2022 and continued such month-to-month payments until January 2022. A copy of the payment history is attached hereto as Exhibit E.
15. That Defendant is informed and believes that it is entitled to an Order of this Court declaring that the Residential Lease Purchase Contract between the parties was terminated by mutual agreement and performance and that the Plaintiff and Defendant entered into an oral Month-to-Month Rental Agreement for the subject property.

**AS A 3rd DEFENSE AND 2nd COUNTERCLAIM
(RES JUDICATA- COLLATERAL ESTOPPEL)**

16. That Defendant filed an Application for Ejectment against Plaintiff in the Swansea Magistrate's Court in Case No. 2022CV321100077, alleging a breach in the oral Month-to-Month Lease between the Parties.
17. That at the hearing on February 7, 2022, the Court found and ordered that the Residential Lease Purchase Agreement had been canceled between the Parties and that an oral Month-to-Month Lease existed between Plaintiff and Defendant.
18. That the February 7, 2022 Order of the Court was not appealed from and is *res judicata*.
19. That Plaintiff is collaterally estopped from asserting that a Residential Lease Purchase Agreement exists between the Parties.
20. Defendant is informed and believes that it is entitled to an Order of this Court declaring that the Order that the Residential Lease Purchase Agreement was canceled, and that the Parties entered into an oral Month-to-Month Lease is entitled to *res judicata* effect.

AS A 4th DEFENSE AND 3rd COUNTERCLAIM

21. That on January 28, 2020, Plaintiff and Defendant entered into an oral Month-to Month Lease.
22. That Plaintiff performed under the oral Month-to-Month Lease by making lease payments to Defendant.

23. That Plaintiff breached the terms of the Month-to-Month Lease by failing to remit monthly payments as agreed upon by the Parties.
24. The Defendant provided notice of the breach of the Month-to-Month Lease to Plaintiff, but Plaintiff failed to cure such default.
25. That Defendant is informed and believes that it is entitled to an Order of this Court evicting Plaintiff pursuant to the provisions of South Carolina Code of Laws Section 27 – 37 – 10 (a).

AS A 5th DEFENSE AND 4th COUNTERCLAIM

26. That Plaintiff continues to inhabit the subject property without paying rent to Defendant as required under the Month-to-Month Rental Agreement.
27. The Defendant is informed and believes that it is entitled to an Order of this Court, pursuant to the provisions of South Carolina Code of Laws Section 27 – 40 – 790, requiring Plaintiff to pay all past due rent to Defendant and all rent as it becomes due to Defendant during the pending of this action.

AS A 6th DEFENSE AND 5th COUNTERCLAIM

28. That at all times relevant to this action, any and all agreements between Plaintiff and Defendant concerned two acres of property. See Exhibit A and C (Installment Land Sales Contract and Month-to Month Lease).
29. At no time relevant to this action did Plaintiff have any claim to or concerning the entire four acres reflected by TMS # 009800-03-050
30. That on July 1, 2022, Plaintiff filed a lis pendens over the entire four-acre tract (the “Lis Pendens”). A copy of the Lis Pendens is attached hereto as Exhibit F.
31. In the within litigation, Plaintiff contends that he has fully complied with an Installment Land Contract and that he is entitled to title to two acres only.
32. That nothing in the within litigation concerns the entire four-acre tract.
33. That the Lis Pendens falsely asserts that there is litigation pending over the entire four-acre tract.
34. That, on information and belief, Plaintiff’s filing of the Lis Pendens is motivated by an ulterior purpose to harass Defendant and further delay this lawsuit.
35. That Plaintiff misused the process by undertaking the filing of an inaccurate Lis Pendens in furtherance of its ulterior purpose.
36. That, under South Carolina law, “the proper action against a maliciously filed lis pendens is under abuse of process or malicious prosecution.” *Pond Place Parnters, Inc. v. Poole*, 351 S.C. 1, 31, 567 S.E.2d 881, 897 (Ct. App. 2002).

37. That Plaintiff's abuse of process has caused Defendant to suffer unnecessary legal expenses, injury to property, injury to financial standing, and mental injury for the stress and worry Plaintiff's conduct has brought upon Defendant. *See Huggins v. Winn-Dixie Greenville, Inc.*, 252 S.C. 353, 363-53, 166 S.E.2d 297 (1969)(defining the kinds of damages that are appropriate under abuse of process claims).

38. That the injuries to Defendant were a natural and probable consequence of the delicts of Plaintiff.

Wherefore, having fully answered defendant prays as follows:

1. For an Order of this Court declaring that the Residential Lease Purchase Contract between the Parties was terminated by mutual agreement and performance and that the Plaintiff and Defendant entered into a Month-to-Month Rental Agreement for the subject property.
2. For an Order of this Court declaring that the Magistrate's Order in Case No. 2022CV321100077, that the Residential Lease Purchase Agreement was canceled, and the Parties entered into a Month-to-Month Lease is entitled to *res judicata* effect.
3. For an Order evicting Plaintiff from the subject premises pursuant to the provisions of South Carolina Code of Laws Section 27 – 37 – 10 (a).
4. For an Order of this Court pursuant to the provisions of South Carolina Code of Laws Section 27 – 40 – 790, requiring Plaintiff to pay all past due rent and all rent as it becomes due to Defendant.
5. Granting Defendant a judgment against Plaintiff as to the Sixth Defense and Sixth Counterclaim in an amount to be determined at trial.
6. And for such other relief as the court deems just and proper.

Crawford & von Keller, LLC

s/Theodore von Keller
Theodore von Keller, SC Bar No. 5718
B. Lindsay Crawford, III
B. Lindsay Crawford, IV
Charley S. FitzSimons
Jason Hunter
Attorneys for Defendant Gregory Lucas

May 16, 2023

EXHIBIT A

RESIDENTIAL LEASE-PURCHASE AGREEMENT

THIS AGREEMENT, dated 11/28/14, is between GREG LUCAS
 _____, the Landlord(s) and DENNIS
\$ KRISTIN GILPATRICK, the Tenant(s).

In consideration of the payment of rent and the keeping and performance of the covenants and agreements by the Tenant hereinafter set forth, the Landlord(s) do hereby lease unto the Tenant(s), the following described premises situate in the County of LEXINGTON State of SC, and better

known as: 117 NOAH LUCAS RD LEXINGTON, SC 29073
 (including) approx. 2 acres.

The said premises, as described above, with all appurtenances, are hereby leased to the Tenant for a term of 96 months commencing 11/28, 2022. Rent for the premises is payable in monthly installments of: \$ 725, to be paid on or before the fifth day of the month for which rent is due.

\$ 575 of each rent payment shall be credited toward the purchase price of the property.

THE TENANT, CONSIDERATION OF THE LEASING OF SAID PREMISES AS AFORESAID, COVENANTS AND AGREES AS FOLLOWS:

To pay the rent for said premises as hereinabove provided;

To keep said premises in good condition and repair and at the expiration of this lease to surrender and deliver up the same in as good order and condition as when entered upon, loss by fire, inevitable accident, act of God or ordinary wear and tear excepted;

IT IS FURTHER AGREED that in case said premises are left vacant, then the Landlord may, without being obligated to do so and without terminating this lease, re-take possession of the premises. If any part of the rent herein reserved be unpaid, the Landlord may rent the same for such rent as the Landlord may be able to do so, making such changes and repairs as may be required, giving credit for the amount so received, less all expenses.

It is agreed that if the tenant shall be in arrears in the payments of any installment of rent, or any portion thereof, or in default of any of the covenants or agreements herein contained to be performed by the Tenant, which default shall be uncorrected for a period of five (5) days after the Landlord has given written notice thereof, Landlord may, at his option, without liability for trespass or damages, enter into and upon said premises, or a portion thereof, declare the term of this lease ended; repossess the said premises as of the Landlord's former estate; peaceably expel and remove the Tenant those claiming under him, or any person or persons occupying the same and their effects; all without prejudice to any other remedies available to the Landlord for arrears of rent or breach of covenant.

IT IS FURTHER MUTUALLY AGREED that the Landlord, in consideration of the performance of all the covenants and agreements herein to be performed by the Tenant under the lease, and for Tenant agreeing to perform all minor/major repairs to the property during the term of the said lease, hereby grants to Tenant an exclusive option to purchase said above described premises at any time during the term of this lease for the sum of \$ 63,200, payable as follows:

\$8K down pymt upon move in + 12 mo rent \$725

96 mo term of \$725 + \$575 credited toward purchase

*NO MONIES BEING REFUNDED IF TENANT BREAKS CONTRACT

The Landlord, upon payment of said purchase money, shall convey said premises by Rec Simple Deeds free from all

encumbrances except End of term, title will be transferred
into tenants names (NO EXCEPTIONS)

Additional provisions:

1. **Repairs:** Tenant shall be responsible for repairs not to exceed \$_____ per year. Any/all repairs - except weather related

PLEASE REPORT ANY WEATHER RELATED DAMAGE TO GREG IMMEDIATELY

2. **Title:** All documents necessary for title transfer shall be executed and held in escrow with closed escrow instructions. At closing, taxes, water, sewer, HOA dues and mortgages will be prorated as of date of title transfer.

3. **Inspection:** This agreement is subject to final inspection and approval of the property by the Tenant/Buyer prior to taking possession. TENANT AGREES THIS IS AN "AS IS, WHERE IS" CONTRACT

4. **Insurance:** Landlord/Seller shall protect Tenant/Buyer's equitable interest by maintaining hazard insurance upon the property. In the event of destruction in whole or in part of the property, Tenant/Buyer shall have the option to proceed with the closing and accept the insurance proceeds for said damage, or to declare this agreement null and void, releasing both parties from any obligations hereunder, except for the return of monies paid by Tenant/Buyer which shall become immediately due and payable from the insurance proceeds. TENANT WILL BE RESPONSIBLE FOR RENTER'S INSURANCE

5. **Assignment:** Tenant/buyer X shall not be permitted the right of subletting or assignment. If this agreement is assigned with the approval of the Landlord/Seller, Tenant/Buyer shall be released from any further liability hereunder.

6. **Other provisions:**

Tenants agree to pay \$400 every February towards house taxes. If tenant is late more than 30 days on a pymt, it will be considered breach of contract.

[Signature] 11/28/14
Landlord Date

[Signature] 11/28/14
Tenant Date

[Signature] 11/28/14
Landlord Date

[Signature] 11/28/14
Tenant Date

* Possession of keys on 11/30/14

Dennis and Kristin Gilpatrick
424 Crystal Springs drive
Lexington, SC 29073

November 28, 2014

Mr. Greg Lucas,

We both realize this is a purchase contract and that this is an "as is, where is" purchase. We also understand that no money will be refunded should we choose to break the contract. We are aware the house needs repairs. Along with the current conditions, any damage or repairs that may occur, it is our responsibility to repair it until end of contract. If it is found to be environmental or weather related, we understand and agree to report it immediately to Greg in order for an insurance claim to be filed.

We will acquire renters insurance and provide a copy year until the HUD is transferred.

Kristin Gilpatrick

Dennis Gilpatrick

EXHIBIT B



90 DAY EVICTION NOTICE

As of October 31st, 2019, I, Greg Lucas, have found Dennis & Kristin Gilpatrick to be in breach of contract.

I did not receive the agreed upon \$400 towards yearly taxes in February 2019. As tenants, you agreed to keep renters insurance until end of contract & send documentation yearly. There have been several lapses in coverage since the beginning of the contract.

I am giving you 90 days (rent
free) from the ¹⁰⁴date of this

I am giving you 90 days (rent free) from the date of this notice to vacate the premises at 117 Noah Lucas Road, Lexington, SC 29073.

On February 15th, 2020, I will inspect the currently occupied property at 117 Noah Lucas Road.

As noted on the contract no monies will be refunded if contract is breached, however, I will be open to refund up to \$2,000 of the monies I acquired as a down payment. This refund will be determined after I inspect the condition. Repairs for

determined after inspect
the condition. Repairs for
any damages or cleaning will
be subtracted from that
\$2,000.

Please email me at
galucas1224@gmail.com or
leave a message on my cell
803-728-9409 when the
property has been vacated.

The keys may be left in my
sister's mailbox at 144 Noah
Lucas Rd.

Thank you for your
cooperation,

Greg Lucas
10/31/19

EXHIBIT C

RENTAL AGREEMENT (MONTH-TO-MONTH)

Date: 01/28/2020

Agreement between Gregory Y. Yavonov, Owner(s), and
~~Matthew C. Glatfelter~~ Tenant(s), for a dwelling located at
~~1117 N. 10th St. Raleigh, NC 27601~~ (Location).

Tenant(s) agree to rent this dwelling on a month-to-month basis for \$ 900.00 per month,
 payable in advance on the 3rd day of the calendar month for which Owner(s) will give
 Tenant(s) a rebate/discount of \$ 10.00.

The first month's rent for this dwelling is \$ 900.00.

The security/cleaning deposit on this dwelling is \$ 900.00. It is refundable if Tenant(s)
 leave the dwelling reasonably clean and undamaged.

Tenant(s) will give 20 days' notice in writing before they move and will be responsible
 for paying rent through the end of this notice period or until another tenant approved by the
 Owner(s) has moved in, whichever comes first.

Owners will refund all deposits due within 30 days after Tenant(s) has/have moved
 out completely and returned the keys.

Only the following 1 persons and 2 pets are to live in this dwelling described as
dogs

Without Owners' prior permission written permission, no other person may live there and
 no other person may use them, even temporarily, and the dwelling is not to be used for
 any business purposes.

Use of the following is included in the rent:

Fridge, stove

Remarks (if any):

Tenant is responsible for any & all repairs, unless weather related

TENANTS AGREE TO THE FOLLOWING:

- 1) to accept the dwelling "as is," having already inspected it.
- 2) to keep yards and parking areas clean.
- 3) to keep from making loud noises and disturbances and to play music and broadcast programs at all times so as not to disturb other people's peace and quiet.
- 4) not to paint the dwelling without first getting Owner(s) written permission.
- 5) to park motor vehicles in the assigned space and to keep that space clean of oil, scrapings and grease.
- 6) not to repair motor vehicles on the premises (unless it is in an enclosed garage) or repair equipment with tank longer than 4' long.
- 7) to allow Owner(s) to inspect the dwelling, work on it, or show it to prospective tenants at any and all reasonable times.
- 8) not to keep any liquid-filled furniture in this dwelling.
- 9) to pay rent by check or money order made out to the Owner(s) (returned checks will have applicable late payment fees).
- 10) to pay for repairs of all damage, they or their guests have caused.
- 11) to pay for any windows broken in the dwelling while they live there.

Violation of any part of this Agreement or nonpayment of rent when due shall be cause for eviction under applicable code provisions. The prevailing party (shall/shall not) recover reasonable legal service fees involved.

Tenants hereby acknowledge that they have read this Agreement, understand it, agree to it, and have been given a copy.

Owner: Gregory Lucas

Tenant: _____

By: _____

Tenant: _____

EXHIBIT D



After our conversation yesterday, I'm willing to offer you the said property (outlined in red) as a month to month rental.

As I stated per our discussion on 12/3/19 I am not willing to honor the previously breached contract nor will I agree to a contract moving forward.

The monthly rent will be \$900. If at anytime you decide to acquire a loan the purchase the property, the purchase price will be \$42,000.

Should you choose to vacate the property by February 1, 2020, I will reimburse you \$2,500 for the A/C unit & up to additional \$2,000 after I inspect the property & find it to be in move-in condition.

If Kristin has vacated the property, please let me know. I will need an email from her stating she is no longer a tenant.

Please call & let me know if you'd like to proceed with my offer. I will require 1st & last month rent for a total of \$1800. I can

have any questions. If you agree, please print a copy & sign it. You can leave a copy in my sister's mailbox @ 144 Noah Lucas Rd. Also, would you please take a picture of the signed agreement & email it to me. Do you have a time frame when you plan on moving the mobile home after you purchase it? I spoke with my wife & we would be open to selling 1 acre of land if you'd like to keep it where it is. If you plan to send the money via Zelle, you can use my email address. Thank you.

G

me Jan 28, 2020

to Dennis ✓

RENTAL AGREEMENT (MONTH-TO-MONTH)

Date: 01/20/2020

Agreement between Gregory Lucas Owner(s), and
Dennis Gilpatrick Tenant(s), for a dwelling located at
117 Noah Lucas Rd. (Location).

Tenant(s) agree to rent this dwelling on a month-to-month basis for \$ 800.00 per month, payable in advance on the 3rd day of the calendar month for which Owner(s) will give Tenant(s) a rebate/discount of \$ 10.00.

The first month's rent for this dwelling is \$ 800.00.

The security/cleaning deposit on this dwelling is \$ 800.00. It is refundable if Tenant(s) leave the dwelling reasonably clean and undamaged.

Tenant(s) will give 20 days' notice in writing before they move and will be responsible for paying rent through the end of this notice period or until another tenant approved by the Owner(s) has moved in, whichever comes first.

Owners will refund all deposits due within 30 days after Tenants has/have moved out completely and returned the keys.

Only the following 1 persons and 2 pets are to live in this dwelling described as dogs.

- 7) to allow Owner(s) to inspect the dwelling, work on it, or show it to prospective tenants at any and all reasonable times.
- 8) not to keep any liquid-filled furniture in this dwelling.
- 9) to pay rent by check or money order made out to the Owner(s) (returned checks will have applicable late payment fees).
- 10) to pay for repairs of all damage, they or their guests have caused.
- 11) to pay for any windows broken in the dwelling while they live there.

Violation of any part of this Agreement or nonpayment of rent when due shall be cause for eviction under applicable code sections. The prevailing party (shall/shall not) recover reasonable legal service fees involved.

Tenants hereby acknowledge that they have read this Agreement, understand it, agree to it, and have been given a copy.

Owner: Gregory Lucas

Tenant:

By:

Tenant:

D

Dennis Gilpatri... Jan 28, 2020



to me v

From my understanding of the agreement, it was to come with the land that you outlined in the photo on the email when you first offered to sell it? I was not planning on moving it because it was shown what land comes with it. I am looking at the contract now.

G

me Jan 28, 2020



to Dennis v

G

to Dennis ✓

G

Tue Nov 6, 2019

to gllpatrick1988 ✓

This is a PDF copy of the 90-Day Eviction Notice. A copy will be placed in the mailbox @ 117 Noah Lucas Rd. My wife informed me you were willing to make a payment, however, the current contract has been breached. I will no longer honor that contract.

My wife has also informed me you are going through a tough time. She mentioned you are trying to get custody of your children. As soon as I receive notice the property has been vacated, I will inspect it.

I am willing to offer you a 6 month lease contract. This will hopefully help you provide a place for you & your children to stay while you work through personal legal issues. Rent will be \$900 a month. When that lease expires, you will have the option to acquire a bank loan to purchase the home & have move it to another location or vacate the property.

Thank you for your cooperation with this matter.

After our conversation yesterday, I'm willing to offer you the said property (outlined in red) as a month to month rental.

As I stated per our discussion on 12/6/19 I am not willing to honor the previously breached contract nor will I agree to a contract moving forward.

Thank you, Greg Lucas 12/4/19

The outline is red was pertaining to the month to month rental option.

D

Dennis Gilpatrick... Jan 28, 2020



000

to me v

My children will also be staying at the house, my soon to be ex and I have a 50/50 custody share, and they are not included in the paperwork. And you already know that I have a small fish tank in the house, I am still allowed to have that right? I do not plan on getting a waterbed or anything of that nature. And the fridge and stove are items that I have bought because the appliances there before broke and needed to be replaced. I am still planning on purchasing the property and will get the pre approval sent in to you soon, I want to show you that I am not just pulling you leg and i have been working on this the best i can.

000



Dennis Gilpatrick... Jan 28, 2020



000

D Dennis Gilpatri... Jan 28, 2020
to me ✓

But there is an agreement on the renting. I was just clarifying a few things on it.

D Dennis Gilpatri... Jan 28, 2020
to me ✓

Where do we not have an agreement of the renting part of this? Other than me asking a few questions? The buying the house part was the part that I didnt understand.

G me Jan 28, 2020
to Dennis ✓

I will need you to sign it and send a picture to me, before I accept payment tonight. An email stating you've agreed with the terms and conditions of the month to month rental agreement will be sufficient too.

D Dennis Gilpatri... Jan 28, 2020
to me ✓

I agree with the terms and conditions of the month to month rental agreement.

I agree with the terms and conditions of the month to month rental agreement.

I will print and sign the agreement as soon as I can get to a computer and printer. I currently have no printer available to me at the moment.

...

G

me Jan 28, 2020

to Dennis ▾



...

Thank you for sending the agreement acceptance. I believe my Zelle is set up via my email or phone number 803-728-9409. I will try to meet with you next time I'm in town.

...

EXHIBIT E

8:58

2

Dennis >

- 08/05/19 + \$725.00
⊕ ZELLE FROM GILPATRICK KRISTIN ON 08/04 REF
BAC84E507909 AUGUST HOUSE PAYMENT 2019
08/05/19 + \$725.00
- ⊕ ZELLE FROM GILPATRICK KRISTIN ON 07/02 REF
BACC7F069509 JULY HOUSE PAYMENT 2019
07/02/19 + \$725.00
- ⊕ ZELLE FROM GILPATRICK KRISTIN ON 06/02 REF
BAC1BFF57F0E JUNE HOUSE PAYMENT 2019
06/03/19 + \$725.00
- ⊕ ZELLE FROM GILPATRICK KRISTIN ON 05/02 REF
BAC623655468 MAY HOUSE PAYMENT 2019
05/02/19 + \$725.00
- ⊕ ZELLE FROM GILPATRICK KRISTIN ON 03/31 REF
BAC8F0B73C15 APRIL HOUSE PAYMENT 2019
04/01/19 + \$725.00
- ~~⊕ TRANSFER FROM GILPATRICK KRISTIN ON 03/02~~
- ⊕ TRANSFER FROM GILPATRICK KRISTIN ON 02/03
REF # BAC16A6A6D0B FEBRUARY HOUSE
PAYMENT 2019
02/04/19 + \$725.00
- ⊕ TRANSFER FROM GILPATRICK KRISTIN ON 01/01
REF # BAC9479C2B83 JANUARY HOUSE PAYMENT
2019
01/02/19 + \$725.00
- ⊕ TRANSFER FROM GILPATRICK KRISTIN ON 12/01
REF # BAC4E9B6B708 DECEMBER HOUSE
PAYMENT 2018
12/03/18 + \$725.00
- ⊕ TRANSFER FROM GILPATRICK KRISTIN ON 11/03
REF # BACCAC84FE8E NOVEMBER HOUSE
PAYMENT 2018
11/05/18 + \$725.00

< Previous

Next >

* Account Disclosures

Deposit products offered by Wells Fargo Bank, N.A. Member
FDIC.

Equal Housing Lender



WELLS FARGO

02/01/21

+ \$900.00

ZELLE FROM DENNIS GILPATRICK ON 01/01 REF
BACE6B3DDB1D

01/04/21

+ \$900.00

ZELLE FROM DENNIS GILPATRICK ON 11/30 REF
BACB528DA0AB

11/30/20

+ \$900.00

ZELLE FROM GILPATRICK DENNIS ON 11/02 REF
BAC5A2D02241

11/02/20

+ \$900.00

ZELLE FROM GILPATRICK DENNIS ON 09/30 REF
BAC07FC2AC82

10/01/20

+ \$900.00

ZELLE FROM GILPATRICK DENNIS ON 08/31 REF
BAC7E127A0C2

09/01/20

+ \$900.00

ZELLE FROM GILPATRICK DENNIS ON 08/01 REF
BAC53684DA7C

08/03/20

+ \$900.00



OUS

Next >



Accounts



Transfer



Zelle®



Deposit



Menu

459

LTE



ZELLE FROM DENNIS GILPATRICK ON 08/01 REF
BACGT6X6KT9I HOUSE PAYMENT

08/02/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 07/02 REF
BACSD7BST1HV HOUSE PAYMENT

07/02/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 06/02 REF
BACNIWVRT6X2 HOUSE PAYMENT

06/02/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 04/30 REF
BACPG6HUYHBO HOUSE PAYMENT

04/30/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 04/01 REF
BACJB910O6M1 HOUSE PAYMENT

04/01/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 03/01 REF
BAC96865FDA6 HOUSE PAYMENT MARCH 1ST

03/01/21

+ \$900.00



ZELLE FROM DENNIS GILPATRICK ON 01/31 REF
C0128C19CD

02/01/21

+ \$900.00



Accounts



Transfer



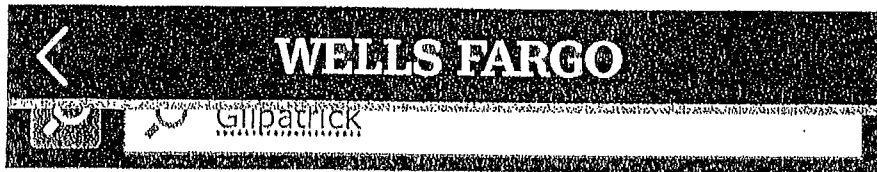
Zelle®



Deposit



Menu



Pending Transactions

No pending transactions meet your search criteria.
Please try again.

Posted Transactions



ZELLE FROM DENNIS GILPATRICK ON 01/02 REF
BACTHVPHX9QK HOUSE PAYMENT

01/03/22 + \$900.00



ZELLE FROM DENNIS GILPATRICK ON 12/01 REF
BACRNGRQS2MJ HOUSE PAYMENT

12/01/21 + \$900.00



ZELLE FROM DENNIS GILPATRICK ON 11/01 REF
BACTOXXF47QB HOUSE PAYMENT

11/01/21 + \$900.00



ZELLE FROM DENNIS GILPATRICK ON 10/01 REF
BACP8VBLJA1C

10/01/21 + \$900.00



ZELLE FROM DENNIS GILPATRICK ON 09/01 REF
CTJF949C0F HOUSE PAYMENT

09/01/21 + \$900.00



Accounts



Transfer



Zelle®



Deposit



Menu

EXHIBIT F

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis Gilpatrick,

Plaintiff,

v.

Gregory Lucas,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO:

LIS PENDENS

NOTICE IS HEREBY GIVEN THAT an action has been or will be commenced in this Court upon petition of the above-named Petitioner against the above-named Respondents for the determination of interest and for the sale of real estate in the above captioned estate as to certain real estate lying and being in Union County, South Carolina.

The premises at issue in this matter are described as follows:

All that certain piece, parcel, or tract of land, situate, lying and being near Edmund, County of Lexington, State of South Carolina, and containing 4.00 Acres on a Plat prepared for Jimmy A. Porth by Allen Associates dated November 17, 1982, and to be recorded with the RMC's Office for Lexington County, Said 4.00 acres having the following boundaries and measuring: On the North by Noah Lucas Road Porth (40') feet; unpaved county maintained road whereon it fronts and measures for a total distance of 544.0' feet; On the East by lands now or formerly of A. P. Lucas whereon it measures a total distance of 821.3' feet; and on the West by lands now or formerly of Gladys Lucas whereon it measures 672.3' feet. Said property being triangular in shape. All measurements being a little more or less.

This being the same property conveyed to East Coast Homes, Inc., by Deed of Bankers Trust Company of California, N.A., as Trustee for Asset Backed Securities Corporation Long Beach Home Equity Loan Trust #2000-LB-1, recorded on April 16, 2003 in the Office of the Register of Deeds for Lexington County in Deed Record Book 8114 at Page 9.

Property Address: 117 Noah Lucas Road, Pelion, SC 29123

TMS# 009800-03-050

Date: July 1, 2022

By: /s/ Rolf M. Baghdady

ELECTRONICALLY FILED - 2022 Jul 01 12:21 PM - LEXINGTON - COMMON PLEAS - CASE#2022LP3200393

Rolf M. Baghdady (SC Bar # 0464)
ROLF M. BAGHDADY, P.A.
118 Cobblestone Court
Chapin, S.C. 29036-9705
(803) 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR PLAINTIFF

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis Gilpatrick,

Plaintiff,

v.

Gregory Lucas,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO: 2022-CP-32-02217

**PLAINTIFF'S REPLY TO
DEFENDANT'S AMENDED ANSWER
AND COUNTERCLAIM**

**TO: THEODORE VON KELLER, ET. AL., ATTORNEYS FOR DEFENDANT
GREGORY LUCAS:**

The Plaintiff, responding to the Answer and Counterclaim of Defendant Gregory Lucas (herein referred to as "Defendant"), respectfully alleges as follows:

FOR A FIRST REPLY

1. Plaintiff realleges all the allegations of the Plaintiff's Complaint as though fully set forth herein and each and every allegation of Defendant's Answer and Counterclaim not specifically admitted.

FOR A SECOND REPLY—ESTOPPEL

2. Plaintiff realleges all of the allegations of paragraph 1 above as though fully set forth herein.
3. Plaintiff detrimentally relied on the promise of Defendant to sell him the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately two (2) acres of property. Plaintiff made the payments and improvements to purchase the property on the terms in the Residential Lease/Purchase Agreement dated November 28, 2014. (Copy attached to the Complaint as Exhibit A.)
4. Defendant's course of conduct violates the very foundations of right and fair dealing and the

Court should give effect and meaning to the contract among the parties.

5. The Defendant's conduct induced a payment stream from Plaintiff and Plaintiff's improvements of the property, the disavowal of which would be inequitable, and Defendant, who held out the inducement of a right to purchase, is estopped from disavowing the contract to purchase.
6. Equitable estoppel arises from Defendant's conduct and prevents assertion of technical rights contrary to equity and good conscious.
7. Defendant's oppressive course of conduct, which involved abusing the Plaintiff in moments of weakness and during holidays, precludes Defendant from averring anything to the contrary.
8. Defendant's intended deception in his conduct and declarations as to the status of the contract misled the Plaintiff to his injury; therefore, estoppel applies against Defendant to assert a novation of the contract into a mere lease without option to purchase.
9. The doctrine of estoppel is flexible and should be applied in this case for the benefit of Plaintiff.
10. The Defendant, by his words and conduct, attempted to mislead the Plaintiff by virtue of a technical non-material alleged breach to believe that the purchase agreement was rescinded, and Defendant should be estopped to deny the effect of the agreement.
11. The very foundations of right and fair dealing consider the Defendant's wrongful abuse of Plaintiff in his dealings with him and require common sense and justice to give effect to the purchase agreement.
12. Defendant is estopped to deny the sale of the property.
13. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR A THIRD REPLY— FORFEITURE IS ABHORRED

14. Plaintiff realleges all of the allegations of paragraphs 1 - 13 above as though fully set forth herein.
15. Application of any of Defendant's defenses to deny Plaintiff the relief sought would work a forfeiture.
16. Both in law and in equity, forfeitures are abhorred.

17. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.
18. Both in law and in equity, forfeitures are abhorred.

FOR A FOURTH REPLY— NO WAIVER

19. Plaintiff realleges all of the allegations of paragraphs of 1 - 18 above as though fully set forth herein.
20. There was no intentional waiver of a known right to purchase the property under the agreement to purchase the property on the terms in the Residential Lease/Purchase Agreement dated November 28, 2014 (copy attached to the Complaint as Exhibit A) with Plaintiff Dennis Gilpatrick and Kristin Gilpatrick for the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately two (2) acres of property.
21. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR A FIFTH REPLY— NO CONSIDERATION FOR NOVATION

22. Plaintiff realleges all of the allegations of paragraphs 1 -21 above as though fully set forth herein.
23. There is no consideration for any novation of the right to purchase the property (e.g. paragraphs 11, 12, and 13 of Defendant's Answer and Counterclaim) on the terms in the Residential Lease/Purchase Agreement dated November 28, 2014 (copy attached to the Complaint as Exhibit A) with Plaintiff Dennis Gilpatrick and Kristin Gilpatrick for the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately two (2) acres of property and to convert the agreement among the parties to a mere rental agreement.
24. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

**FOR A SIXTH REPLY— NO SUBJECT MATTER JURISDICTION
IN MAGISTRATE’S COURT**

25. Plaintiff realleges all of the allegations of paragraphs of 1 -24 above as though fully set forth herein.
26. Any and all previous magistrate’s Court hearings/adjudications (e.g as alleged in paragraphs 15, 16, 17, and 18 of Defendant’s Answer and Counterclaim) on the subject matter of Plaintiff’s right to purchase the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately two (2) acres of property, were without subject matter jurisdiction and of no *res judicata* effect. Nor is the Magistrate Court’s judgment able to work a collateral estoppel against Plaintiff.
27. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR A SEVENTH REPLY— NO MATERIAL DEFAULT

28. Plaintiff realleges all of the allegations of paragraphs 1 - 27 above as though fully set forth herein.
29. Plaintiff denies that he has committed any alleged default (e.g. paragraph 9 of the Defendant’s Answer and Counterclaim) by Plaintiff in Defendant’s Answer and Counterclaim is not material.
30. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR AN EIGHTH REPLY— FULL PAYMENT NO OBLIGATION TO PAY RENT

31. Plaintiff realleges all of the allegations of paragraphs 1- 30 above as though fully set forth herein.
32. Plaintiff denies that there is any obligation to pay rent (e.g. as alleged in paragraph 12 and its referenced attachment and paragraphs 19-25 of Defendant’s Answer and Counterclaim) because Plaintiff has fully performed and made all required payments under his right to purchase the property on the terms in the Residential Lease/Purchase Agreement dated November 28,

2014 (copy attached to the Complaint as Exhibit A) with Plaintiff Dennis Gilpatrick and Kristin Gilpatrick for the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately two (2) acres of property.

33. Defendant is not entitled to an order to vacate the property as noted in the 4th and 5th defenses of Defendant's Answer and Counterclaim and Plaintiff is entitled to an Order of Specific Performance of Defendant conveying the real property to Plaintiff.

FOR AN NINTH REPLY— SPECIFIC DENIALS

34. Plaintiff realleges all of the allegations of paragraphs 1- 33 above as though fully set forth herein.
35. Any of Defendant's allegations not expressly admitted or explained are denied.
36. Plaintiff denies the allegation that there was a "default" as alleged in paragraph 9 of Defendant's Amended Answer and Counterclaim.
37. Plaintiff denies the allegation that there was a "default and breach of contract" as alleged in paragraph 10 of Defendant's Amended Answer and Counterclaim.
38. Plaintiff denies the allegation that "Plaintiff and Defendant agreed to terminate the contract" as alleged in paragraph 11 of Defendant's Amended Answer and Counterclaim.
39. Plaintiff denies that there was such an "agreement between the parties" as alleged in paragraph 12 of Defendant's Amended Answer and Counterclaim.
39. Plaintiff denies that he "agreed" as alleged in paragraph 13 of Defendant's Amended Answer and Counterclaim.
40. Plaintiff denies that "in performance of the Month- to- Month Lease Agreement, Plaintiff commenced making \$900 a month payment," as alleged in paragraph 14 of Defendant's Amended Answer and Counterclaim, and instead asserts that some months he paid more than the required payments towards the Residential Lease-Purchase Agreement on the property.

41. Plaintiff denies that Defendant is entitled to the relief as alleged in paragraph 15 of Defendant's Amended Answer and Counterclaim.
42. Plaintiff denies that the alleged order "is *res judicata*" as alleged in paragraph 18 of Defendant's Amended Answer and Counterclaim.
43. Plaintiff denies the allegations of paragraphs 19, 20, 21, 22, 23, 24, and 25 of Defendant's 4 Amended Answer and Counterclaim.
44. Plaintiff denies that "paying rent to defendant" is "required under the Month-to-Month Rental Agreement" as alleged in paragraph 26 of Defendant's Amended Answer and Counterclaim.
45. Plaintiff denies that Defendant is entitled to the relief as alleged in paragraph 27 of Defendant's Amended Answer and Counterclaim.
46. Plaintiff denies that there was any Month-to -Month Agreement as alleged in paragraph 28 of Defendant's Amended Answer and Counterclaim.
47. Plaintiff denies that any portion of the property designated as TMS# 009800-03-050 is excluded from being considered to be a part of "117 Noah Lucas Road" being subject to the "including two (2) acres" Plaintiff purchased and so explains the allegations of paragraph 29 of Defendant's Amended Answer and Counterclaim.
48. Plaintiff denies that the *lis pendens* covers anything other than as alleged in this case as alleged in paragraph 30 of Defendant's Amended Answer and Counterclaim.
49. Plaintiff denies that the litigation is limited to "two acres only" as alleged in paragraph 31 of Defendant's Amended Answer and Counterclaim, because the Complaint filed July 1, 2022 specifically plead in paragraph 3 "which includes a residence and approximately 2 acres of property. (Copy attached as Exhibit A.)"
50. Plaintiff denies the allegations of paragraph 32 of Defendant's Amended Answer and

Counterclaim, because a court may determine to interpret “117 Noah Lucas Road, Lexington, SC 29073 (including) approx. 2 acres” as all of the property known as TMS# 009800-03-050 and with property address 117 Noah Lucas Road and as conveyed to Defendant and recorded in the office of the Register of Deeds of Lexington County, South Carolina as follows:

“Instrument Number: 2003037504

06/06/2003
 Recorded Date: 03:33:56
 PM
 Instrument Type: DEED
 Book Type: RECORD
 BOOK
 Book: 8288
 Page: 0206”

Or, in the alternative, where within the four (4) acres, two (2) acres are to be conveyed.

51. Plaintiff denies the allegations as alleged in paragraph 34 of Defendant’s Amended Answer and Counterclaim and alleges that the *lis pendens* and this action are solely motivated by the legitimate purpose of resolving the claims arising out of the Lease Purchase Agreement attached to Plaintiff’s Summons and Complaint.
52. Plaintiff denies the allegations of paragraph 35 of Defendant’s Amended Answer and Counterclaim as alleged above.
53. Plaintiff denies that South Carolina law entitles Defendant to bring the action he alleges, as non-justiciable in the instance either as abuse of process or malicious prosecution as alleged in paragraph 36 of Defendant’s Amended Answer and Counterclaim.
54. Plaintiff denies that there is any abuse of process or wrongful conduct by Plaintiff as alleged in paragraph 37 of Defendant’s Amended Answer and Counterclaim. Plaintiff further alleges that all unnecessary legal expenses, injury to financial standing, and mental injury for the stress and worry are all proximately caused by Defendant’s own breach of contract and

dereliction of duty.

55. Plaintiff denies that there are any “delicts” by Plaintiff as alleged in paragraph 38 of Defendant’s Amended Answer and Counterclaim and any injuries in connection with this litigation are all proximately caused by Defendant’s own breach of contract, dereliction of duty, and litigiousness.

WHEREFORE, Plaintiff prays as follows:

1. For an Order of this Court dismissing Defendant’s Amended Answer and Counterclaims;
2. For an Order of this Court entering judgment for Plaintiff against Defendant for damages for breach of contract;
3. For an Order of this Court for specific performance ordering the Defendant to convey the property to Plaintiff;
4. For the Court to enter a judgement against Defendant for costs of this action; and,
5. For such other and further relief as may be just and proper.

Date: May 24, 2023

By: /s/ Rolf M. Baghdady
 Rolf M. Baghdady (SC Bar # 0464)
 ROLF M. BAGHDADY, P.A.
 118 Cobblestone Court
 Chapin, S.C. 29036-9705
 (803) 345-7653
 rolf@rolfbaghdady.com
 ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **PLAINTIFF’S REPLY TO DEFENDANT’S ANSWER AND COUNTERCLAIM** were served via the e-filing portal upon Defendant’s counsel, Theodore von Keller, Esq. this 24th day of May, 2023.

By: /s/ Rolf M. Baghdady
 Rolf M. Baghdady (SC Bar # 0464)
 ROLF M. BAGHDADY, P.A.

118 Cobblestone Court
Chapin, S.C. 29036-9705
(803) 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR PLAINTIFF

State of South Carolina	)	
	)	
County of Lexington	)	
Dennis Gilpatrick,	)	2022-CP-32-02217
	)	
Plaintiff,	)	Transcript
v.	)	
	)	of
Gregory Lucas,	)	
	)	Hearing
Defendant.	)	
	)	

Date: May 21st, 2025

Time: 10:02 a.m.

Location: Lexington County Judicial Center, 205 East Main
Street, Lexington, South Carolina

Reporter:
Breanna Sharper

COPY

APPEARANCES

Presiding:

The Honorable James O. Spence, MIE
Master-In-Equity
Lexington County Judicial Center

For the Plaintiff:

Rolph M. Baghdady, Esq.
Rolph M. Baghdady, PA
Columbia, South Carolina

For the Defendant:

Theodore von Keller, Esq.
Crawford & von Keller, LLC
Columbia, South Carolina

Also present:

Elizabeth Steelman

INDEX

Proceedings: 5

OPENING STATEMENT

Opening Statement by Mr. Baghdady: 11
Opening Statement by Mr. von Keller: 16

PLAINTIFF'S CASE IN CHIEF EXAMINATION OF DENNIS GILPATRICK

Direct Examination by Mr. Baghdady: 26
Cross-examination by Mr. von Keller: 57

EXAMINATION OF GREGORY LUCAS
Direct Examination by Mr. Baghdady: 83

DEFENDANT'S CASE IN CHIEF
EXAMINATION OF GREGORY LUCAS
Direct Examination by Mr. von Keller: 86
Bench Conference 136

Cross-examination by Mr. Baghdady:	150
Redirect Examination by Mr. von Keller:	162

EXAMINATION OF DENNIS GILPATRICK

Direct Examination by Mr. von Keller:	165
Cross-examination by Mr. Baghdady:	172
Redirect Examination by Mr. von Keller:	173

Final instructions	175
--------------------	-----

PLAINTIFF'S EXHIBITS

Plaintiff's Exhibit Number 1, Lease	26
Plaintiff's Exhibit Number 2, Payment Breakdown	31
Plaintiff's Exhibit Number 3, "Quit Claim Deed"	39
Plaintiff's Exhibit Number 4, Deed to Gregory Lucas	39
Plaintiff's Exhibit Number 5, Land Plot	41
Plaintiff's Exhibit Number 6, Address Information	41
Plaintiff's Exhibit Number 7, Mortgage	42
Plaintiff's Exhibit Number 8, UCC for Mobile Home	42
Plaintiff's Exhibit Number 9, Eviction Notice	33
Plaintiff's Exhibit Number 10, Written Month-to-Month Contract	38
Plaintiff's Exhibit Number 11, Court Ruling	44
Plaintiff's Exhibit Number 12, Court Ruling	49
Plaintiff's Exhibit Number 13, Gregory Lucas Deposition	82

DEFENDANT'S EXHIBITS

Defendant's Exhibit Number 1, Map	89
Defendant's Exhibit Number 2, Lease	91

Defendant's Exhibit Number 3, Handwritten Letter	61
Defendant's Exhibit Number 4, Email	65
Defendant's Exhibit Number 5, November 6th Email	105
Defendant's Exhibit Number 6, November 7th Email	107
Defendant's Exhibit Number 7, December Email	109
Defendant's Exhibit Number 8, January 28th Email	
Chain	110
Defendant's Exhibit Number 9, Rental Agreement	115
Defendant's Exhibit Number 10, Lease Purchase	
Agreement	117
Defendant's Exhibit Number 11, Payment Record	118
Defendant's Exhibit Number 12, Eviction Notice	126
Defendant's Exhibit Number 13, Application of	
Ejectment	82
Defendant's Exhibit Number 14, Transcript	128
Defendant's Exhibit Number 15, Rule to Vacate	130
Defendant's Exhibit Number 16, Gregory Lucas v.	
Dennis Gilpatrick Audio Transcript	139
Defendant's Exhibit Number 17, Month to Month Lease	
Payments	142
Defendant's Exhibit Number 18, Dennis Gilpatrick	
Deposition	57
Defendant's Exhibit Number 19, Photographs	169
(Defendant's Exhibit 18 was e-filed with the Court.)	

1

PROCEEDINGS

2

THE COURT: We're here on "Gilpatrick v. Lucas." This is case 2022-CP-32-2217. Plaintiff is represented by Mr. Baghdady. Defendant is represented by Mr. Von Keller. This is a contract action between the two parties involving a lease with option to purchase and some other matters.

8

I want to go through for the attorneys and the folks, parties in the case and the witnesses, how we're going to do things today. First thing is -- is that while you can have a phone in the courtroom, you cannot record anything. You can't take a picture. You can't take any audio. So make sure none of that's going on. They had a rather major issue upstairs earlier this week about that, so make sure that that's not going on. The Supreme Court order, I think, is posted on the doorway back there as you come in. And you -- there's some pretty substantial contempt stuff if you violate it. So make sure you do not do that.

21

Second thing is -- is we've started, and we are going to go until we finish. So what that means is, is that if you need to speak with your attorney, if you need to go to the restroom, if you want to eat lunch or do anything like that, tell

25

1 your attorney or raise your hand, and we'll take
2 necessary breaks as needed, all right? But
3 normally when it's a one-day trial, the attorneys
4 are going to start and go straight through. And if
5 you have any issues --

6 MR. BAGHDADY: (To the Court) That's the plaintiff's
7 mother.

8 THE COURT: Okay. All right. All right.

9 UNKNOWN FEMALE: Sorry.

10 THE COURT: That's okay. We're just -- we're just
11 starting. You can have a phone in the courtroom,
12 but you can't record. You can't take pictures.
13 There's a Supreme Court order, as you came in
14 through the door. You can be subject to contempt,
15 various sanctions if you violate it. So make sure
16 cell phones are -- are basically used for reading
17 text messages, things like that.

18 Next thing is, as y'all can see, I have a
19 laptop up here, and you're going to see me typing
20 on it during the hearing, today's trial. I'm not
21 looking at any news. I don't know how to play
22 bridge or any of the poker. I'm not playing any
23 video games, anything like that. As I told the
24 attorneys, I don't spell particularly well, and I
25 type even worse. So it's a laborious process for

1 me to do trial notes.

2 I've also been told that sometimes I don't
3 look happy when I'm concentrating. So if you look
4 up here and I'm typing, and I look like I'm not
5 happy and your person's talking, it doesn't --
6 don't take that to mean anything. That's my
7 concentration face, okay? So don't take anything
8 about if I type a lot while your person's talking
9 and type less when another person's talking. I've
10 gone through, and I've read everything. We've got
11 a summary judgment motion. I've read all that, and
12 I have a trial format that I'm typing in stuff as
13 we go along. So that's what that is.

14 Now, also, we have a court reporter. The
15 court reporter can only take down one person
16 talking at a time. And everybody wants to have a
17 good record of what got said -- what gets said
18 today. Very often, attorneys may make objections.
19 If an attorney makes an objection or I interrupt to
20 ask something, then everybody stop talking, all
21 right? And then what I'll do is I'll go around the
22 room to ensure everybody -- everybody says what
23 they need to say, but more importantly, so she can
24 take down what everybody says, because she can't
25 take down if three or two people are talking at the

1 same time.

2 Similarly, a lot of -- a lot of human
3 communication is nonverbal, right? We do this. We
4 do "uh-huh." Or there's phrases like, "You know
5 what I mean." There's a picture on the wall back
6 there. Those are the appellate judges. They don't
7 know what you mean unless you say it, all right?
8 So protect your record. Make sure that you let the
9 person who's asking you the question finish asking
10 the question and then answer so the question person
11 and the answer person don't talk over each other.
12 Let everybody finish, do your answer, listen to it
13 and answer. You've always got a question --
14 there's always a chance to ask another question to
15 get a clarification, all right? Does that make
16 sense to everybody?

17 All right. What's going to happen in a moment
18 is plaintiff is going to make a brief opening
19 statement, and then defendant will. And then
20 plaintiff will call their witnesses. Witnesses
21 will need to come right here. Have a seat there.
22 And then Mr. Smith, or if Mr. Smith is not back,
23 our bailiff, I'll swear you, and you'll be sworn
24 in. And that's where you'll come each time. After
25 you have been asked direct questions by your

1 attorney, the other side can ask you cross-
2 examinations. Generally, we'll allow a little
3 redirect and a little recross, but not a whole lot.
4 And then -- and then you will sit down and the next
5 witness will take. Plaintiff goes first; defendant
6 goes next.

7 Once the testimony and evidence has been done
8 and the trial is concluded, what will happen next
9 is I'll direct the attorneys to go outside with
10 y'all, outside for about ten minutes. And
11 basically they're going to say -- I'll paraphrase
12 what they'll say: "I'll call you when I know."
13 All right? Because they're going to come back in
14 the room with me and Madam Court Reporter, and then
15 we're going to do two things. The first thing
16 we're going to do is we're going to put in dates
17 for when their orders are due. And it'll say --
18 Madam Court Reporter is going to get on the
19 transcript. They're going to swap first version
20 this date. They're going to get final version to
21 the judge on this date. That'll be filed online.
22 So it'll be online. Everybody knows when
23 everything's supposed to be done.

24 All right. The next thing is, as I've told
25 y'all, I've got a trial format. We're going to

1 have some rigorous discussions between the
2 attorneys and me. Based on what I heard, I am
3 going to make them commit to the specifically-
4 worded disputed facts they want me to decide. And
5 I'll use this as an example. If this was a wreck
6 case involving a traffic light, the key question
7 would be, "Was the light red, or was the light
8 green?" And so the disputed facts would read
9 something like, "Plaintiff argues the light's
10 green; defendant argues the light's red. Court
11 finds it's blank because the testimony showed this.
12 They argued this, we argued this, Court finds
13 this." But we want our orders the same way so
14 everybody knows they argued their point, something
15 wasn't left out of what they wanted to get in. So
16 -- so we'll do the disputed facts.

17 We will also go through and confirm what's
18 still at play legally. You understand that when
19 you initially come in to talk to your attorney
20 about a lawsuit, you tell them stuff. Based on
21 what you tell them, they make pleadings. Well,
22 then there's discovery, and that stuff can come out
23 that wasn't communicated or understood. And then
24 there's depositions, and then there's motions. So
25 by the time, normally, you've pled stuff and you

1 get to trial, some of it may not be at play. You
2 may be able to legally do it, but you don't
3 factually have it. So we don't want to re-argue
4 stuff that's not at play. So I talk with the
5 attorneys, and we make sure what the legal theories
6 are. Because what we're trying to do is I want to
7 get one order back from your attorney, and I don't
8 want to get into the cycle of, "But you said this
9 at trial, and they didn't address it. It wasn't in
10 my order, I will respond." We want to do it one
11 time, in one shot. So does everybody understand
12 that? So they're going to go back, tell you, "Go
13 home. I'll tell you when we come back." And
14 they're not being mean. That's me. But that's
15 just the best way it works, I think.

16 Okay. Anything from either attorney before we
17 begin?

18 MR. VON KELLER: Nothing from the defendant, Your Honor.

19 MR. BAGHDADY: Nothing from plaintiff.

20 THE COURT: Okay. Brief opening from plaintiff.

21 PLAINTIFF'S OPENING STATEMENT

22 MR. BAGHDADY: All right. We see this actually as a
23 very simple case, and that is the plaintiff and his
24 former wife entered into an installment land sale
25 contract designated as a residential lease-purchase

1 agreement on November 28th of 2014. That agreement
2 was not in the handwriting of either of the
3 plaintiffs. Whose handwriting it is I don't think
4 has ever been determined, but we assume it's the
5 seller. There's an ambiguity in the contract in
6 the sense that it describes 117 Noah Lucas Road as
7 the property being transferred, and it indicates
8 that it includes approximately two acres. There
9 has never -- other than in a settlement plat that
10 was prepared and which is not being introduced into
11 evidence, that we made proposing how the two acres
12 would be split up, there's never been any agreement
13 among the parties what the two acres encompasses.

14 The agreement also provided for the transfer
15 of the property free of encumbrances.
16 Unfortunately, in the discovery, it was determined
17 that there is, in fact, still a mortgage that's on
18 the property and a UCC agreement on the mobile
19 home. And in the depositions that we believe are
20 going to be introduced, the -- the defendant
21 believes it's like a \$32,000 mortgage encumbering
22 all four acres that will need to be dealt with if
23 there's --

24 THE COURT: (To Mr. Baghdady) All right. Hold -- wait
25 a minute. You said including all four acres or two

1 acres?

2 MR. BAGHDADY: All four acres.

3 THE COURT: Four acres.

4 MR. BAGHDADY: All the property descriptions on the deed
5 we're introducing, the deed into the property to
6 Mr. Lucas and the mortgage and the plat are all
7 four acres.

8 THE COURT: Four. But the contract's supposed to be
9 two?

10 MR. BAGHDADY: Well, it says "approximately."

11 THE COURT: Right. Approximately two.

12 MR. BAGHDADY: Whatever that means.

13 THE COURT: Okay. All right. That's my understanding.

14 I wanted to make sure.

15 MR. BAGHDADY: All right. The -- the plaintiff then
16 proceeded to and his wife proceeded to make their
17 payments under the mortgage -- I mean under the
18 residential lease-purchase agreement -- throughout
19 the time period until there was a dispute in 2019,
20 when the -- the defendant disabled the Zelle, and
21 the plaintiff couldn't make any -- any further
22 payments. And that is where this case, we think,
23 is going to focus, what happened on those dates,
24 what the communications were. And, ultimately, we
25 think that the case is going to turn on whether

1 that is fair.

2 There are actually other words used around in
3 the courts, as free of oppression, the
4 circumstances. We think that's how the case is
5 going to turn. Because there is an email that my
6 client said -- in order to get to the ability to
7 continue to make payments, which he did, he said,
8 "Well, I'll accept this month-to-month lease," in
9 an email. The month-to-month lease was submitted
10 to him. He never signed it. And that'll go into
11 evidence.

12 Interestingly, and I think which is very
13 significant, is that at no time, I don't think
14 anywhere in the evidence, does it show that Kristin
15 Gilpatrick, the wife, the half -- the -- one of the
16 two parties, which would otherwise, we think, be a
17 tenants-in-common type agreement, ever gave up her
18 right of redemption. And, ultimately, they got in
19 -- they had a divorce, which was subsequent to the
20 2019 dispute. The actual date we can put in. And,
21 ultimately, in late '23, a quitclaim deed of her
22 interest was given to Dennis, the plaintiff. We
23 believe that that -- that half interest is
24 absolutely unencumbered by any arguments of
25 novation at all.

1 And in addition to all of the payments -- we
2 have a payment schedule. We believe that the total
3 number of payments that were made for everything,
4 including the taxes, is in excess of the \$63,200
5 option price in installment land sale agreement, in
6 excess by about \$1,200. And that's applying -- at
7 a certain point in time, he increased how much he
8 was paying per month to \$900 a month. And the
9 calculations that the plaintiff makes say that the
10 excess over the original portion that went to
11 essentially the interest, which was -- or rent,
12 however you want to describe it, and principal
13 payment, he attributed all that additional amount
14 to the principal payment, and then it's in excess,
15 so he's fully paid under the contract.

16 So there was some argument about whether or
17 not there was a lapse in -- in renters insurance
18 that was a covenant of the agreement, but -- and
19 there's a dispute whether there ever was a lapse.
20 But in any case, there was no claim made. There's
21 no harm, no damages, as a result even if there was.
22 So we believe that the plaintiff in this case has
23 fully performed under the agreement. And to the
24 extent they want to try to avoid the equity of
25 redemption that comes with it, the installment land

1 sale contract, that they -- they have the burden of
2 proving that it is fair and proper post original
3 agreement. And so I think that pretty much
4 outlines the evidence in the case that we intend to
5 introduce.

6 THE COURT: All right. Thank you. Mr. Von Keller.

7 DEFENDANT'S OPENING STATEMENT

8 MR. VON KELLER: Good morning, Your Honor. Ted Von
9 Keller for the defendant, Mr. Gregory Lucas. In
10 2003, Mr. Lucas purchased the property in question
11 on Noah -- Noah Lucas Road from East Coast Homes,
12 which had bought it at a tax sale. He paid
13 \$112,000 for it. The reason that he bought this
14 property is -- is -- one of the exhibits that I
15 will show you is that all of the surrounding
16 property on Noah Lucas Road is owned by his family,
17 his mother, his sister, his daughter's mother, and
18 other relatives. And he wanted to acquire this
19 property, which is dead in the center of all this
20 family land, and get it back into his name. So he
21 buys it in 2003, and for the first ten years, he --
22 his relatives live in it in the mobile home on the
23 property. And what he bought was four acres and a
24 mobile home. The -- his relatives live in it.
25 There was a period in which he had renters in it.

1 During this time, Mr. Lucas works for an
2 energy company and lives in Wyoming. He has lived
3 in Wyoming from 2010 until February of this year.
4 They come back in -- he and his wife come back in
5 2014 during a vacation, and they had evicted the
6 renters, and they fix up the mobile home, put a new
7 floor in it, and make renovations.

8 At about that time, they are contacted by Mr.
9 and Mrs. Gilpatrick, who are looking for a place to
10 live. Negotiations go back and forth over any kind
11 of ways that they can make this work because the
12 Gilpatricks are struggling to find payments that
13 they can live with. What is ultimately agreed upon
14 by the parties is this -- this installment land
15 sales contract. In November of 2014, they reach an
16 agreement, which is signed by the parties, in which
17 the Gilpatricks are going to basically pay 96
18 payments of \$725. The agreement says that \$575 of
19 that payment is going to go towards the purchase
20 price of \$62,000, and they're going to put up a
21 down payment of \$8,725, and they're going to pay
22 the taxes of \$400 every February. Very clear
23 terms, no -- no ambiguities there.

24 The -- in October of 2019 -- a number of
25 problems occur between the signing of this in '14

1 and 2019, difficulty getting payments, problems
2 with the occupancy of the property that Mr. Lucas
3 will indicate to you. But this basically leads to
4 the point in October of 2019 that Mr. Lucas is just
5 tired of being Mr. Gilpatrick's banker. He has not
6 received the taxes that were clearly due. He's not
7 received copies of rental insurance. He feels that
8 the property is at risk and that if something
9 happens to the property, he is financially exposed
10 and he's having to cover the taxes out of his
11 pocket. So he contacts Mr. Lucas and says, "You
12 know, I'm done here. I'm giving you 90 days to
13 vacate."

14 Mr. Gilpatrick, who is going through very
15 serious problems with his wife -- he had been
16 charged with criminal domestic violence and had
17 been put out of the home, was under restraining
18 order, could not come to the home. He is having
19 these difficulties, and Mr. Lucas is communicating
20 with Mr. Gilpatrick about how he can avoid this.
21 There is no dispute that he did not pay these
22 taxes. There's no dispute that he did not maintain
23 rental insurance. All of that is undisputed. Mr.
24 Gilpatrick has only indicated that he wants him to
25 vacate, but that if he doesn't, he intends to bring

1 an action to terminate this agreement or evict him.
2 Mr. Lucas -- excuse me -- Mr. Gilpatrick is trying
3 to find some way out of this. Mr. Lucas, out of
4 compassion, says, "Okay. I will offer you a six-
5 month, month-to-month lease. You go get a loan,
6 you buy the property. I'll still sell it to you,
7 but I'm not going to be your banker. So we're
8 going to have this six-month lease and you're going
9 to pay -- instead of \$725, you're going to pay \$900
10 a month rent."

11 Mr. Gilpatrick unequivocally accepts that
12 offer. You've seen the emails. You're familiar
13 with them. He says, "Yes. I want to enter into a
14 lease. Yes. I agree to the month-to-month," which
15 he reads.

16 Mr. Lucas says, "You don't need to sign this.
17 You just need to put in writing that you agree to
18 it." And Mr. Gilpatrick does that.

19 Our position is that it is just unequivocally
20 a novation. The consideration was the forbearance
21 of litigation, the mutual promises, which our case
22 law says are adequate consideration.

23 So they're now in a month-to-month lease. Mr.
24 Gilpatrick pays that \$900 for two years, and
25 problems emerge again. Cars parked on the

1 property, failure to make the proper payments, a
2 fire that almost destroys the mobile home, all
3 sorts of problems.

4 Mr. Lucas now decides to bring an eviction
5 action to evict him. So he does a pro se eviction
6 action in January of 2022. At the hearing of
7 February 7th, 2022, Mr. Gilpatrick's lawyer asserts
8 to the Court that the Court does not have
9 jurisdiction, that this is a residential rent-to-
10 own contract, an installment land sales contract.
11 Judge Whittle specifically rules, "No. There was
12 an offer and acceptance. This is a month-to-month
13 agreement." He says, "But I don't think that you
14 gave the right amount of notice to complete the
15 eviction." But it is a clear ruling and holding by
16 the Court.

17 Mr. -- Mr. Lucas then files a second eviction
18 on July 19. A hearing was on August 15 of 2022.
19 Mr. Baghdady is representing him at the time. I'm
20 representing Mr. Lucas. I make the argument that
21 this is already decided. Mr. Baghdady says, "Well,
22 then what we need to do is have the Court
23 reconsider its ruling because it was in error."

24 Judge Whittle says, "No. It was not in error.
25 I was right. That's the law of the case. My

1 ruling stands." But Mr. Gilpatrick had asserted
2 counterclaims in excess of the jurisdictional
3 authority, the jurisdictional limit of the Court,
4 and the Court sends -- the Magistrate Court sends
5 it to Circuit Court. Mr. -- by now Mr. Baghdady
6 has filed this action seeking specific performance
7 and damages. We filed an answer denying the right
8 to specific performance, seeking a declaratory
9 judgment that the month-to-month agreement is the
10 agreement between the parties, that Mr. Lucas is
11 entitled to an order of eviction.

12 Mr. Gilpatrick has lived in the house. I
13 think the last payment in here was made in 2022.
14 He has not made any payments on this in over three
15 years. On that point, the evidence that we will
16 present will show that in that -- in Phase 1, when
17 they had the residential installment land sales
18 contract, Mr. Gilpatrick paid a total of \$41,000 of
19 the \$63,000 the contract called for. He has not
20 fully performed. He then entered into a new
21 contract in which he was paying rent. Rent is not
22 part of the payments in the first contract because
23 that contract no longer existed; the parties had
24 terminated by mutual agreement.

25 So Mr. -- so in terms of the issues before the

1 Court, the first issue is whether a novation
2 occurred. As I've indicated, we believe that under
3 the requirements of the case law, a clear novation
4 was entered into between the parties substituting
5 the month-to-month lease for the installment land
6 sales contract. We believe that we are entitled to
7 the benefit of the doctrines of res judicata and
8 collateral estoppel. We believe that Judge
9 Whittle, under the recent case, the Rivers case
10 that Your Honor directed us to, the Supreme Court
11 Justice Few -- I got Justice writing this down --
12 Justice Few made -- traced the history of
13 magistrate court jurisdiction and made it very
14 clear that the magistrate has initial jurisdiction
15 to look at the issues and make a ruling whether or
16 not he has jurisdiction to make a determination.
17 In this case, Judge Whittle, under the Rivers case,
18 clearly had jurisdiction to consider what was the
19 agreement between the parties, and he did that not
20 once but twice and made it very clear that the --
21 that was his ruling. And we believe that we're
22 entitled to the benefit of the doctrine of res
23 judicata and collateral estoppel.

24 We do not believe that the plaintiff is
25 entitled to specific performance for a variety of

1 reasons. They did not fully perform. They did not
2 tender. They did not -- they did not pay the full
3 amount of the -- the installment land sales
4 contract, that the agreement no longer exists. You
5 cannot have specific performance of an agreement
6 that no longer exists. The -- and also equitable
7 reasons. We believe that Mr. -- the case law says
8 that if you seek the equitable remedy of specific
9 performance, you have to have clean hands. We
10 believe that Mr. Gilpatrick has intentionally
11 misled my client and defrauded my client. You've
12 seen the emails, where he made it absolutely clear
13 that he agreed to the month-to-month agreement.
14 You've seen the payment history, where he made
15 month-to-month different payments for two years.
16 And then two years later, he now comes up and says,
17 "Well, I really didn't agree to this." I think he
18 intentionally misled my client. My client could
19 have resolved this matter in early 2020 and had a
20 court rule on it. Then he would have known where
21 he stood. But no, now he's changing the story. So
22 we believe that he is barred by specific
23 performance.

24 We're asking that Your Honor make a ruling
25 that the plaintiff is not entitled to specific

1 performance, that a month-to-month contract exists
2 between the parties, that Mr. Gilpatrick has
3 breached that agreement, that Mr. Lucas is entitled
4 to eviction, and that Mr. Lucas is entitled to an
5 award of damages for the unpaid rent in the amount
6 of \$30,000. Thank you.

7 THE COURT: (To Mr. Von Keller) Hold on. I've got one
8 other -- I got one other question because I don't
9 know if it was discussed in detail at the summary
10 judgment motion. Mr. Baghdady, in his opening,
11 mentioned that there is an unaccounted-for half
12 interest by quitclaim deed. Where does that figure
13 in your argument?

14 MR. VON KELLER: We -- we drafted a quitclaim deed by --
15 by which the former Ms. Gilpatrick quitclaimed
16 whatever interest she had in the residential
17 installment land sales contract. That's what she
18 quitclaimed to Mr. Gilpatrick. So we have an
19 executed quitclaim deed by whatever interest she
20 had in that contract she conveyed to him. We
21 believe that that extinguished whatever half
22 interest. In the divorce -- you know, Mr.
23 Gilpatrick didn't own the property. At that point
24 he was only renting it, so there was no conveyance
25 to be done, no deed of distribution or anything, or

1 -- or that would be the wrong word. There was no
2 conveyance by her. But the divorce decree settled
3 all issues between the parties, division of all
4 their property. And we believe that -- Mr.
5 Baghdady and I believe that the quitclaim deed
6 basically terminated her interest in that
7 installment land sales contract.

8 THE COURT: All right. So your argument is, is that Mr.
9 Dennis Gilpatrick has 100 percent ownership of
10 whatever rights he has?

11 MR. VON KELLER: Whatever -- that is precisely.

12 THE COURT: Ex-wife not playing?

13 MR. VON KELLER: That is exactly my position.

14 THE COURT: That's your argument. Okay. All right.

15 Thank you.

16 MR. VON KELLER: Yes, sir.

17 THE COURT: Yes, sir. All right. First witness.

18 MR. BAGHDADY: All right. I'll call Mr. Dennis
19 Gilpatrick to the stand.

20 (Witness is sworn.)

21 THE COURT: All right. One -- one moment before we get
22 started, one last thing I left out that is
23 important. There's a water pitcher on both -- both
24 tables. They are designed in a horrible fashion,
25 so if you decide to use that, pour it outside the

1 confines of the table because we've had various
2 instances where all the ice comes in and you wet
3 everything on top of your table. So don't -- don't
4 spill water on your exhibits. All right. Yes,
5 sir.

6 DIRECT EXAMINATION OF DENNIS GILPATRICK

7 BY MR. BAGHDADY:

8 Q All right. Will you please state your name?

9 A Dennis Gilpatrick.

10 Q All right. I'd like to go ahead and hand you what
11 has been marked as Plaintiff's Exhibit 1.

12 Plaintiff's Exhibit Number 1, Lease

13 Q Can you identify that document?

14 A That is the original residential lease-purchase
15 agreement.

16 Q All right. That's a copy of it, right?

17 A Yes, sir.

18 Q All right.

19 MR. BAGHDADY: And I would move to introduce
20 that into evidence.

21 THE COURT: Plaintiff's Number --

22 MR. VON KELLER: I -- I thought we had
23 stipulated to all of the exhibits.

24 THE COURT: Yeah. They're already stipulated.

25 MR. BAGHDADY: They're all already in? These

1 are all in? Okay.

2 MR. VON KELLER: Yes, sir.

3 THE COURT: Yeah.

4 MR. BAGHDADY: All right.

5 Q So go ahead. Walk me through some of the principal
6 terms of that agreement, please, starting with --
7 who are the parties?

8 A The parties were me and my ex -- ex-wife and Greg
9 Lucas --

10 Q All right.

11 A -- and his wife.

12 Q And the date?

13 A The date was -- well, it -- the date -- the date
14 was November 28th of 2014.

15 Q All right. And what was he selling you?

16 A It was the mobile home and approximately two acres.

17 Q All right. And what's -- what -- what is the --
18 what is the description of the property he was
19 selling you known as?

20 A Everywhere on the description, it just -- it just
21 has the address as 117 Noah Lucas Road.

22 Q Okay. Under the terms, what was the option price
23 that you were going to pay for the property?

24 A The -- the sum?

25 Q The total sum, right.

1 A That was \$63,200.

2 Q Okay. And how was that paid? Did you have an

3 initial down payment?

4 A Yes.

5 Q And how much was that?

6 A \$8,000.

7 Q All right. And did you also make monthly rent

8 payments under the -- the residential lease-

9 purchase agreement?

10 A Yes.

11 Q All right. What was that initial monthly rent

12 payment?

13 A The initial on that was 1800.

14 Q Well, that was your -- that was a -- in terms of

15 the monthly rent, how much was that?

16 A On -- you mean the -- the breakdown of --

17 Q The monthly rent, the starting monthly rent.

18 A The starting monthly rent? For the lease purchase?

19 Q Yes.

20 A Oh, okay. \$725.

21 Q Right. And you also made a down payment, correct?

22 A Yes.

23 Q And how much of that 725 was credited to the

24 purchase price?

25 A Oh, \$575 monthly.

1 Q All right. And at the end of the term when you
2 paid it, the title would be transferred to who?

3 A To me and what would've been my -- my wife if we
4 were still married, but --

5 Q Right. And did the contract or the residential
6 lease-purchase agreement specifically provide that
7 it was to be sold free of encumbrances?

8 A Yes, sir.

9 Q And did you have a few other conditions to do with
10 respect to the property?

11 A Well, it stated in the contract that we had some
12 minor repairs that needed to be taken care of.

13 Q Okay.

14 A And we knew that as far as it was -- it was a as
15 is, where is sales contract.

16 Q Okay. And tell me about renters insurance. What
17 do you know about the renters insurance?

18 A As far as I know, the renters insurance has been
19 carried all the way through. My ex-wife used to
20 handle finances on that end until we -- until we
21 broke up. So some of it could be a little
22 ambiguous on my end, but as far as I know,
23 everything was paid on time -- or as far as I -- I
24 knew.

25 Q Was there any damage to the -- to the mobile home

1 from any hazard whatsoever during the time of your

2 --

3 A No. No damage --

4 Q -- possession?

5 A -- whatsoever.

6 Q All right. Did you also agree to pay \$400 a month
7 in each year for taxes?

8 A Yes, sir.

9 Q All right. Tell me about what you know about the
10 payments of those taxes across the entire time
11 period, that \$400 --

12 A As far as I knew, everything was paid except for
13 the exception of a few times where Mr. Lucas had
14 waived them. Like, for example, we had a time
15 where my ex-brother-in-law was having major
16 surgery, so he waived the fees. And then the last
17 one actually in question for the tax payment, I had
18 actually received a text because I had to buy a new
19 heat and air unit for the home in the middle of the
20 summertime. And Mr. Lucas had said, "Well, don't
21 worry about the taxes for this year." So from my
22 understanding, with taxes being prorated, I was
23 assuming that it was for the -- you know, the
24 monthly payment -- or the payment for taxes coming
25 up in February, like that next February.

1 Q All right. I'm now going to hand you what has been
2 marked as -- well, let me ask you one other thing.
3 You also made repair -- you also made improvements
4 to the property?

5 A Yes.

6 Q Could you describe that list of improvements for
7 me?

8 A I built a 12 by 24 deck on the back, a large ramp
9 in the front. I remodeled one bathroom, remodeled
10 the laundry room. I installed tile in the kitchen.
11 I bought all new appliances when the old appliances
12 went bad. Installed a new front and back door to
13 be of house size instead of mobile home size. All
14 new light fixtures and ceiling fans throughout the
15 home. I actually had to do one here recently where
16 I had to change out the -- the water heater because
17 the water heater failed in the house and started
18 leaking and almost actually fell through the floor.
19 And I think that's about it that I can think of off
20 the top of my head.

21 Q Okay. I'm now going to hand you what has been
22 introduced as Plaintiff's Exhibit Number 2.

23 Plaintiff's Exhibit Number 2, Payment
24 Breakdown

25 A And most --

1 Q Can you identify that document for me?

2 A Yes. This is the breakdown of the home payments
3 throughout the course of me being there.

4 Q All right. Who created this schedule?

5 A Oh, I did.

6 Q All right. So would you walk us through what are
7 the -- what was happening across time here? So
8 when you begin, the very first entry is November
9 28, 2014. What's the first entry?

10 A That is the -- that is the deposit that we put
11 down, the move-in deposit.

12 Q And then December 1, you have \$1,000 entry.

13 A That's where a little short at the very beginning,
14 so we were waiting on -- to -- to get the rest of
15 the money for the -- the down deposit, so --

16 Q All right. So that was the full amount of the
17 8,000 plus 575 credit towards the purchase price?

18 A Yes.

19 Q And then on the far -- then there in the next
20 column, which you call "Greg's Interest per Month,"
21 that's what you're describing the difference
22 between the total amount you paid and the amount
23 that was credited towards the purchase price under
24 the agreement?

25 A Yes, sir.

1 Q All right. And then the last column is the "Total
2 Payment per Month." That reflects each -- the
3 total payments you made across time?

4 A Yes, sir.

5 Q All right. So as we go through it, the -- it's
6 very consistent beginning in 2014, '15, '16, '17,
7 '18, '19. October 1, 2019 -- actually, November 1,
8 2019, there's a total now paid, credited towards
9 the mobile home and the land, of \$41,925?

10 A Yes, sir.

11 Q All right. And then what happens -- you have a
12 notation for November 1 of 2019.

13 A Yes, sir.

14 Q What happens there?

15 A Greg disabled Zelle, the -- the only way that I
16 knew to be able to pay him. He was always moving
17 around, so I never really had a permanent address.
18 He was always kind of in a different state.

19 Q All right. Let's pause there a second. Okay. I'm
20 going to hand what has already been admitted as
21 Plaintiff's Exhibit 9.

22 Plaintiff's Exhibit Number 9, Eviction
23 Notice

24 Q Can you tell me what that document is?

25 A This is a --

1 MR. VON KELLER: (To Mr. Baghdady) Excuse me.

2 THE COURT: Hold on.

3 MR. VON KELLER: I'm sorry. Mine aren't
4 numbered. I -- I just had -- I don't know
5 what 9 is.

6 MR. BAGHDADY: Oh, oh, 9 --

7 MR. VON KELLER: In fact, 9 is numbered. I'm
8 sorry.

9 MR. BAGHDADY: Well, let me show it to you.
10 That'll be easier, so you can pull it out.

11 MR. VON KELLER: Okay. You've got -- wait a
12 minute. Let me just -- okay. This is 9, you
13 say?

14 MR. BAGHDADY: Yeah. That was marked. That's
15 the court reporter's mark.

16 MR. VON KELLER: Okay.

17 Q All right. Can you tell approximately the date
18 that came out, that was sent to you?

19 A Right around the beginning of November of 2019.

20 Q All right. And what does he communicate to you in
21 -- when he -- around the time he disables the
22 Zelle? Go ahead and publish that. Read that
23 document.

24 A Read the whole thing?

25 Q Yeah. Go ahead and read it. Publish it to the

1 Court.

2 A "This is a PDF copy of the 90-day eviction notice.

3 A copy will be placed in the mailbox at 117 Noah

4 Lucas Road. My wife informed me you're willing to

5 make a payment. However, the current contract has

6 been breached. I will no longer honor that

7 contract."

8 Q Stop. What did -- what was the last sentence of

9 that first paragraph?

10 A "I will no longer honor that contract."

11 Q And this is -- this is -- this is when he disables

12 the Zelle in November of 2019?

13 A Yes, sir.

14 Q All right. Continue reading.

15 A "My wife has also informed me that you are going

16 through a tough time. She mentioned you are trying

17 to get custody of your children. As soon as I

18 receive notice the property has been vacated, I

19 will inspect it."

20 Q All right. Stop.

21 A Okay.

22 Q So at this point, he knows that you're having a

23 tough time?

24 A Yes, sir.

25 Q Describe your tough time to me.

1 A I'm going through a divorce -- going through a
2 divorce with also battling for custody and, as
3 well, trying to be able to pay all the bills by
4 myself for the -- for the home and try to keep
5 everything paid and up to date.

6 Q Were you even allowed to be in the home at that
7 time?

8 A At that time, I was not.

9 Q Okay. Why?

10 A When things were heated between me and my ex-wife,
11 she called the police on me at first, and with what
12 she said, they did take me to jail, but later on it
13 was dropped.

14 Q Ultimately, it was dismissed?

15 A Yes.

16 Q All right. But nonetheless, you could -- under the
17 -- during that time period, you couldn't be in the
18 home, but you still had to pay the expenses?

19 A Yes, sir. They wouldn't allow me in the home until
20 she was fully moved out because she was already
21 working on that process.

22 Q All right. And so how -- how were you handling it?
23 Was it a difficult time for you? Can you describe
24 to the judge? It's going to be very, very
25 important that the judge understands your

1 circumstances at that time.

2 A It was a very difficult time. I had to actually
3 move back in at my mom's house, which her house --
4 her home is kind of already overcrowded. So at
5 that time, I had to move back in. And we were --
6 when I had my children, all my children were there,
7 and they would have to kind of sleep with me in the
8 same bed. But like I said, every -- you know, life
9 goes on. So I had to try to continue to pay bills
10 and do everything that I was doing under all that
11 amount of stress in itself.

12 Q Okay. And so this is when he makes some kind of
13 offer to you. Go ahead and finish publishing the
14 -- this early November document.

15 A "I am willing to offer you a six-month lease
16 contract. This will hopefully help you provide a
17 place for you and your children to stay while you
18 work through personal legal issues. Rent will be
19 900 a month. When that lease expires, you will
20 have the option to acquire a bank loan to purchase
21 the home and have -- and have to move it to another
22 location or vacate the property."

23 Q All right. This is what he's offering you. Okay.
24 Let me take you a little bit further in time. Does
25 that ultimately end up with him sending you a

1 written . . .

2 MR. VON KELLER: (To Mr. Baghdady) Which one
3 is this now?

4 MR. BAGHDADY: That's 10.

5 Q I'm handing you what is marked as Plaintiff's
6 Exhibit 10.

7 Plaintiff's Exhibit Number 10, Written
8 Month-to-Month Contract

9 Q Can you tell me what that document is?

10 A This is the month-to-month rental agreement.

11 Q All right. And where did it come from?

12 A It was sent to me from Greg Lucas -- Mr. Lucas.

13 Q Okay. And what's the date on that agreement?

14 A 1/28 of 2020.

15 Q Did you ever sign this document?

16 A No, sir.

17 Q Is Kristin on this document?

18 A No, sir.

19 Q Okay.

20 MR. VON KELLER: (To Mr. Baghdady) Okay.
21 What's -- what's this one now?

22 MR. BAGHDADY: Plaintiff's Exhibit 3.

23 MR. VON KELLER: Got it.

24 Q I now hand you what's been marked as Plaintiff's
25 Exhibit 3.

1 Plaintiff's Exhibit Number 3, "Quit Claim
2 Deed"

3 Q What is that document?

4 A This is the quitclaim deed from my ex-wife.

5 Q What's the date on that document?

6 A The date on this is December 1st of 2023.

7 Q All right. So you didn't have Kristin's interest
8 in the real estate before the date on that
9 quitclaim?

10 A No. I did not.

11 Q Unless you even considered the divorce decree.
12 What was the date of your divorce decree?

13 A August 15th of 2022.

14 Q August 15, 2022, well after the emails in 2020
15 about canceling your right of redemption or your
16 right to purchase and exchanging it with a mere
17 month-to-month tenancy?

18 A Yes, sir.

19 Q Which would, in any case, only been in your name?

20 A Yes, sir.

21 Q All right. As you look at that deed, I'd now like
22 you to look at what has been marked as Plaintiff's
23 Exhibit 4.

24 Plaintiff's Exhibit Number 4, Deed to
25 Gregory Lucas

1 MR. VAN HOLLER: Okay. That is -- okay. All
2 right.

3 Q Can you tell me what Plaintiff's Exhibit 4 is?

4 A Exhibit 4 seems to be the original mortgage for the
5 --

6 Q Not mortgage. Is it the deed into Greg Lucas?

7 A The deed for the -- the mobile home and the land
8 for Greg Lucas.

9 Q All right. And does the description on the deed to
10 Greg Lucas match exactly the description of the
11 deed to -- from Kristin Gilpatrick to you? If you
12 look at Exhibit A, I think.

13 A As far as the -- the address --

14 Q Description of the property.

15 A -- the physical address?

16 Q Uh-huh. And the description -- what's the --

17 A And --

18 Q -- physical address? What's the property address
19 for the four acres?

20 A 117 Noah Lucas Road.

21 Q On both the quitclaim and the deed -- and deed to
22 Lucas?

23 A On both, yes, sir.

24 Q All right. I'm now going to hand you what's been
25 marked as Plaintiff's Exhibit 5.

1 Plaintiff's Exhibit Number 5, Land Plot

2 Q Can you identify what Plaintiff's Exhibit 5 is?

3 A This is the land plot of the -- the property for
4 117 Noah Lucas Road.

5 Q Okay. And that's what's identified in the deed
6 description?

7 A Yes.

8 Q All right. I'm now going to hand you what's been
9 marked as Plaintiff's Exhibit 6.

10 Plaintiff's Exhibit Number 6, Address
11 Information

12 Q Can you identify that document?

13 A This looks like information pertaining to the --
14 the address of 117 Noah Lucas Road.

15 Q All right. So the property address is 117 Noah
16 Lucas Road. And what is the acreage reflected on
17 that?

18 A 4.0 acres.

19 Q And that's the only tax map number that you know of
20 related to the property?

21 A Yes, sir.

22 Q All right.

23 MR. VON KELLER: (To Mr. Baghdady) Seven?

24 MR. BAGHDADY: Uh-huh.

25 MR. VON KELLER: Okay.

1 Plaintiff's Exhibit Number 7, Mortgage

2 Q Can you identify what has been marked as
3 Plaintiff's Exhibit 7?

4 A Exhibit 7 looks like the mortgage for the -- for
5 the mobile home.

6 Q All right. And maybe -- and on the land itself.
7 If you look at the very last page, the property
8 description, it probably relates to both the four
9 acres and then it has some kind of mobile home
10 description.

11 A Yes. For a 1999 mobile home.

12 Q Something like "1999 South DSD," etc.?

13 A Yes.

14 Q And that mortgage was executed by whom?

15 A Mr. Lucas.

16 Q And what -- what was the date on that mortgage? On
17 the front page.

18 A Oh, yeah. June 25th of 2003.

19 Q All right. Now I'm going to hand you what's marked
20 as Plaintiff's Exhibit 8.

21 Plaintiff's Exhibit Number 8, UCC for
22 Mobile Home

23 Q Can you identify that document? If you see the
24 letters "UCC," that might -- you can -- you can
25 identify it that way.

1 A The UCC for the mobile home.

2 Q Uh-huh. All right. And does it have the mobile
3 home, just year, description, and data on the form?

4 A The 1999 South DSD.

5 Q Okay. All right. So, ultimately, you had
6 communications with him. In January 2020, he
7 disabled the Zelle for three months, according to
8 Plaintiff's Exhibit 2, I believe.

9 A Yes. Two. Yeah.

10 Q And so in 2019, he disables the Zelle. You have
11 communications with him and you alone with him, and
12 he decides to ultimately give you the Zelle -- the
13 Zelle information?

14 A Yes.

15 Q And then you resume payments?

16 A Yes, sir.

17 Q All right. And you continue to make payments all
18 through the rest of -- catching up those three that
19 he disabled the Zelle for. Then you continue to
20 make payments through 2020 and 2021. And then in
21 2022, he disables the Zelle again in February. Is
22 that what happens?

23 A Yes.

24 Q All right. I'm now going to hand you --

25 MR. VON KELLER: (To Mr. Baghdady) Okay. Can

1 you -- I'm sorry. Can you slow down just a
2 wee bit?

3 MR. BAGHDADY: Sure.

4 MR. VON KELLER: So we're looking at Exhibit
5 Number 2, Plaintiff's 2.

6 MR. BAGHDADY: Right.

7 MR. VON KELLER: And you were eliciting
8 testimony from him --

9 MR. BAGHDADY: On 2020, those three disabled
10 --

11 MR. VON KELLER: Okay. And you're referring
12 to the payment made on January 28th, right?

13 MR. BAGHDADY: Right.

14 MR. VON KELLER: Thank you.

15 MR. BAGHDADY: All right.

16 MR. VON KELLER: All right. This is Exhibit
17 11?

18 MR. BAGHDADY: -- 11. That's the January one.

19 Q I'm now going to hand you what's been marked as
20 Plaintiff's Exhibit 11.

21 Plaintiff's Exhibit Number 11, Court
22 Ruling

23 Q What is that document?

24 A This is for the rule to vacate for magistrate court
25 for Swansea.

1 Q Oh, so this is in January of what year? Tell --
2 give us the date that it's served on you?

3 A January 18th of 2022.

4 Q And this corresponds exactly when he once again
5 disables the Zelle?

6 A Yes, sir.

7 Q All right. What is the ultimate --

8 MR. VON KELLER: (To Mr. Baghdady) I'm sorry.
9 Excuse me, please. I'm just trying to follow
10 your various --

11 MR. BAGHDADY: Right.

12 MR. VON KELLER: So this is February 1 of
13 2022?

14 MR. BAGHDADY: Right.

15 MR. VON KELLER: Okay. Thank you.

16 Q What is the ultimate disposition at the hearing on
17 that application for judgment?

18 MR. VON KELLER: Your Honor? Never mind. I
19 withdraw the objection. I'm sorry. I do have
20 an objection. I think it's improper.

21 THE COURT: State it, please.

22 MR. VON KELLER: I think it's improper for him
23 to ask: What was the disposition? He can
24 testify as what he understood it to be. But
25 he -- that's asking him to render a legal

1 opinion.

2 THE COURT: (To Mr. Baghdady) Please
3 rephrase. You can ask him --

4 MR. BAGHDADY: Okay.

5 THE COURT: -- what happened, but he -- he
6 can't --

7 MR. BAGHDADY: Right.

8 THE COURT: -- make a legal opinion. That's
9 sustained.

10 MR. BAGHDADY: That's fair enough.

11 Q I'd like to direct your attention to -- I'm going
12 to direct your attention to Page 3, beginning with
13 the sentence on Line 14. What -- sentence from
14 Line 14 through the second sentence on Line 19 of
15 Page 3 of the transcript, which is the third page
16 of the exhibit. What does the judge say?

17 MR. VON KELLER: If I may, Your Honor.
18 Objection. Just so that we can get the
19 entirety, could we please start on -- at the
20 bottom of Page 2, where the Court starts
21 talking on Page (verbatim) 10? We're sort of
22 picking up in the middle of a sentence.

23 THE COURT: All right. Let's read it all so
24 we can get the entire context, and we don't
25 have to do this on direct and cross.

1 MR. VON KELLER: Great. Got it.

2 THE COURT: We can do this one time.

3 Q All right. Start on Page 2, maybe the beginning of
4 3, Line 10. What does the Court say? Publish the
5 whole thing.

6 A Where it starts off with "MS. BURKETT"?

7 Q Uh-huh. After, "No, Your Honor." "THE COURT,"
8 Line 10. Start with Line 10.

9 A "THE COURT: You know, it does appear to me that
10 when he began paying 900 a month, he did enter into
11 this lease agreement. He began paying offer and
12 acceptance; however, there is a -- a notice issue.
13 There was no notice or testimony to give proper
14 notice was given to the defendant. And based on
15 that, I'm going to find for the defendant in this
16 matter. All right. Thank you." Well, I
17 guess --

18 Q All right. So that's --

19 A -- that is the summary.

20 Q All right. Now let's go back to your schedule of
21 payments. You continue making payments?

22 A Yes, sir. When -- when able.

23 Q And March you caught up, right?

24 A Yes.

25 Q And then you continued making payments April, May,

1 and June?

2 A Yes, sir.

3 Q All right. And at that point in time, by June --
4 this case was filed in July --

5 A Right.

6 Q -- July 1st?

7 A Yes.

8 Q Do you remember? The -- the total amount year to
9 date towards the purchase price that's credited is
10 how much by the time you filed this case?

11 A \$64,425.

12 Q And that was compared to the \$63,200 purchase price
13 -- option price?

14 A Yes, sir.

15 Q So it was over by some -- some amount?

16 A Yes, sir.

17 Q And that was to compensate for -- for a couple of
18 \$400 payments that are in dispute, whether they
19 were due or waived, with respect to the taxes?

20 A Yes, sir.

21 Q It would even cover three of those?

22 A Yes, sir.

23 Q All right. Then after this case was filed -- I'm
24 going to now hand you what is marked as Defendant's
25 Exhibit 12.

1 Plaintiff's Exhibit Number 12, Court
2 Ruling

3 Q What was the date that that document was served
4 upon you?

5 A This was served on July 26th of 2022.

6 Q All right.

7 THE COURT: (To Mr. Baghdady) What about --
8 hold on a minute. All right. I may have
9 misunderstood, but I thought your question
10 was: "When was it filed?" And he just said,
11 "It was served."

12 MR. BAGHDADY: The service date. Right.

13 THE COURT: Okay. So --

14 MR. BAGHDADY: I'm -- well, let's go -- my
15 question should be the service date.

16 THE COURT: Okay.

17 MR. BAGHDADY: The previous -- the filing date
18 was on the summons and complaint in this
19 action.

20 THE COURT: Right. And that date was?

21 MR. BAGHDADY: It was like July 1, early July
22 --

23 THE COURT: All right. So --

24 MR. BAGHDADY: -- before this July 26 date.

25 THE COURT: All right. Hold on. July 30 --

1 MR. BAGHDADY: It would be what -- I would
2 just refer to the record that's in the case,
3 whatever date it was. I think it's like July
4 1 or July 5.

5 THE COURT: All right. July what -- what
6 year?

7 MR. BAGHDADY: Of 2022.

8 THE COURT: 2022.

9 MR. VON KELLER: What date are we -- what --

10 MR. BAGHDADY: Well, there's two dates. One
11 is the date for the summons and complaint in
12 this action in the common -- court of common
13 pleas. That is all I'm doing is showing the
14 time. You have a copy?

15 MR. VON KELLER: Right.

16 MR. BAGHDADY: What's the date of the filing
17 date?

18 MR. VON KELLER: July 1.

19 MR. BAGHDADY: Yeah.

20 MR. VON KELLER: And an acceptance of service
21 on September 16.

22 MR. BAGHDADY: But the acceptance of service
23 was by you, I believe.

24 MR. VON KELLER: Right. But there's no other
25 service. That was the service.

1 THE COURT: All right. Acceptance of service
2 was when by attorney -- by counsel?

3 MR. VON KELLER: I have a copy here of the
4 public index, Your Honor. It reflects that
5 the summons and complaint was filed on July 1
6 of 2022. And the only service that is shown
7 is an acceptance of service on September 16,
8 2022.

9 THE COURT: Thank you. All right. Thank you.

10 THE EXAMINATION BY MR. BAGHDADY CONTINUES.

11 Q All right. July 26, 2022, you were served with the
12 rule to vacate or show cause?

13 A Yes, sir.

14 Q All right. And I'd like to direct you to the last
15 page of the transcript by the Court, which starts
16 on Line 11.

17 A "THE COURT: Well, that's what he testified to, and
18 I'm going to transfer it to the Court" --

19 MR. VON KELLER: Just a moment, if I --

20 A -- "of Common Pleas."

21 MR. VON KELLER: -- may, Your Honor. I'm
22 sorry. I'm trying to -- what -- on which page
23 are we, Mr. Baghdady?

24 MR. BAGHDADY: It's Page 32 of the audio
25 transcript, last page of the exhibit, Line 11.

1 MR. VON KELLER: You're on Page 32, Line 11?

2 MR. BAGHDADY: Correct.

3 MR. VON KELLER: Okay.

4 Q Go ahead. Read the conclusion of the Court.

5 A The Court stated, "Well, that's what he testified
6 to, and I'm going to transfer it to the Court of
7 Common Pleas."

8 Q All right. If I were going to use the word
9 "oppression" with you, how would you define that
10 word?

11 A Oppression? Basically being forced into doing
12 something that you don't really want to do, but you
13 just feel like you have no other option at the
14 time.

15 Q All right. Would that be a fair word to use to
16 describe how you felt about how Mr. Lucas was
17 dealing with you in your divorce situation in 2019?

18 A Uh-huh. That's definitely how I felt. When I was
19 going through the divorce and, you know, everything
20 else going on, I felt like I was stuck between a
21 rock and a hard place. I had no other option to
22 try to have some stability for me and my children.

23 Q You had to have a place to put your children?

24 A Yes.

25 Q There's another words that are used. It's called

1 "undue advantage." If you were going to define
2 undue advantage --

3 MR. VON KELLER: Your Honor --

4 A -- what would you say --

5 MR. VON KELLER: -- I object to -- this is
6 clearly leading and impermissible.

7 THE COURT: I'm going to sustain that. (To
8 Mr. Baghdady) Rephrase it. I think the rule
9 is, is he can talk about how he feels, but he
10 can't classify it as a legal -- I mean, he can
11 say how he felt.

12 MR. BAGHDADY: Right.

13 THE COURT: But he can't say it's legally
14 this.

15 MR. BAGHDADY: I think that's true.

16 THE COURT: Right.

17 MR. BAGHDADY: And I can --

18 THE COURT: Okay. Sustained.

19 MR. BAGHDADY: I think I could probably ask
20 him, what does he think those words mean, not
21 that it means that.

22 MR. VON HOLLER: I --

23 THE COURT: I -- I don't --

24 MR. BAGHDADY: Or, no?

25 THE COURT: I don't -- I think all he can do

1 is he can say what he feels, what he feels and
2 how it impacted him. I think as trier of
3 fact, I have to listen to the testimony, and
4 then I have to decide if it legally means it.
5 And I don't think either one of them, either
6 of the parties, it's proper for them to tell
7 me. Y'all can make argument, but I don't
8 think it's proper to come out of the
9 witnesses.

10 MR. BAGHDADY: Okay.

11 THE COURT: So --

12 THE EXAMINATION BY MR. BAGHDADY CONTINUES.

13 Q Did you feel that there was undue advantage?

14 MR. VON KELLER: Your Honor, this is
15 impermissible. I think the rules say, "How
16 did you feel" --

17 THE COURT REPORTER: Right.

18 MR. VON KELLER: -- and not lead the witness
19 by suggesting an answer.

20 THE COURT: Right.

21 MR. BAGHDADY: Fair enough. I agree.

22 THE COURT: All right.

23 Q How did you feel?

24 A Of course, I felt pretty bad. I was already going
25 through a divorce, you know, and having to stay

1 over at my mom's house, you know, being -- kind of
2 being forced out of the home originally until my
3 ex-wife left.

4 And then kind of on top of that, when, you
5 know, I contacted Mr. Lucas and asked him, "Well,
6 how do I pay -- pay," because I didn't want to get
7 behind in payments, that was when he informed me
8 that he was sending me the initial eviction notice.
9 And he stated that it was for -- or because I had
10 missed one property tax payment. And I had the
11 money at the time. So I asked him, when I was on
12 the phone with him directly, if I could just go
13 ahead and pay it and make it right, because that
14 was the very first time I was even informed of it.
15 And he just -- he just told me, no, that -- that
16 the contract was breached and that was that. So
17 either -- I had the option just to be gone by those
18 three months' time. And that was really the only
19 option I was given until a little bit down the
20 road, I was given other options to purchase, which
21 every time I'd get an option, the mobile home would
22 increase in value that he wanted and the land offer
23 itself would decrease up until it was a point where
24 it was simply just being able to buy the mobile
25 home and have to move it to somewhere else.

1 MR. BAGHDADY: Thank you. I have no further questions
2 for the witness.

3 THE COURT: All right. Thank you. Cross, Mr. Von
4 Keller?

5 MR. VON KELLER: Yes, sir. Just a moment to kind of
6 gather my --

7 THE COURT: All right. (To the witness) It's been a
8 long direct. Do you need water or anything?

9 THE WITNESS: I need to use the restroom.

10 THE COURT: All right. All right. Let's do this.
11 We're going to take an approximate -- until 11:15.
12 He wants to take a restroom break.

13 MR. VON KELLER: Sure.

14 THE COURT: (To the witness) So go to the bathroom.
15 You're under oath. Don't talk to anybody. Don't
16 talk to your attorney. Don't talk to any
17 relatives. Don't talk to anybody. Go to the
18 bathroom. Come back in. Everybody be back in at
19 11:15. All right?

20 THE WITNESS: Yes, sir.

21 THE COURT: Okay. Off the record. Everybody's under
22 oath.

23 (Off the record from 11:08 a.m.
24 until 11:16 a.m.)

25 THE COURT: All right. We're back on the record. Mr.

1 Von Keller, cross?

2 MR. VON KELLER: Thank you, Honor.

3 THE COURT: Yes, sir.

4 MR. VON KELLER: As a preliminary motion, I'd like to
5 move to admit Mr. Gilpatrick's deposition, which
6 has been filed with the Court, into evidence.

7 MR. BAGHDADY: Oh, no objection.

8 THE COURT: Without objection.

9 MR. VON KELLER: Thank you. I've handed up 17 exhibits,
10 so rather than renumber them, we'll just make that
11 Number 18.

12 THE COURT: All right.

13 Defendant's Exhibit Number 18, Dennis
14 Gilpatrick Deposition

15 CROSS-EXAMINATION OF DENNIS GILPATRICK

16 BY MR. VON KELLER:

17 Q Mr. Gilpatrick, you remember I took your deposition
18 on 9/20/24 in my office?

19 A Yes, sir.

20 Q And you were sworn in and were instructed that --
21 that I was taking your deposition under oath and
22 your answers would be just like today, you'd be
23 testifying under oath, subject to the penalty of
24 perjury?

25 A Yes, sir.

1 Q You understood the seriousness of the questions and
2 answers?

3 A Yes, sir.

4 Q You have to speak up, sir.

5 A Yes, sir.

6 Q Okay. And you answered truthfully to the best of
7 your knowledge, correct?

8 A Yes, sir.

9 Q And fully and completely to the best of your
10 knowledge?

11 A Yes, sir.

12 Q All right. So I -- I asked you in that deposition
13 -- there's no doubt but that you agreed to the
14 residential installment land sales contract,
15 correct?

16 A Yes, sir.

17 Q And you knew what the terms of it were?

18 A Yes, sir.

19 Q All right. And you knew one of those terms
20 required you to pay the taxes in the amount of \$400
21 every February?

22 A Yes, sir.

23 Q That's very clear?

24 A Yes, sir.

25 Q No prorating, no waiting on a bill, just \$400 every

1 February, correct?

2 A Correct.

3 Q You have no trouble understanding that? All right.

4 A But as I stated, my -- my ex-wife used to handle
5 finances, so I was unaware that there was even
6 anything --

7 Q Okay.

8 A -- that was not paid.

9 Q Is there anything in that agreement that said that
10 you -- you could be excused from performing because
11 you -- you've assigned those duties to your wife?

12 A No. There was not.

13 Q Right.

14 A But I was also never notified until it was that
15 late, that there was even anything missing from --

16 Q Is --

17 A -- Mr. Lucas.

18 Q Is there anything in that contract that requires
19 Mr. Lucas to notify you? You knew the payments
20 were to be made. Why is it his duty or obligation
21 to notify you of what you contractually agreed to?

22 A I mean, not in the contract, no, but from my
23 understanding, if you're buying something from
24 somebody like that, it's to be treated as a bank,
25 where they would notify you and at least let you

1 know to be able to make it right.

2 Q You have before you the exhibits. Point out to me
3 and the Court, if you would, anything in that
4 agreement that places an obligation on Mr. Lucas to
5 tell you, you know, that you haven't performed your
6 obligations.

7 A I mean, there's nothing on any of these papers that
8 I'm aware of. But that was just my understanding.
9 This is the first time that I've bought a home, so
10 I'm still kind of learning everything as I go. I'm
11 not perfect with it. Sorry.

12 Q And in your deposition -- excuse me just -- Mr. --
13 first of all, the -- let me show you what is
14 Plaintiff's (verbatim) Exhibit Number 3. I think
15 --

16 MR. VON KELLER: (To Mr. Baghdady) Are you
17 going to -- you're going to hold onto the
18 exhibits I gave you? Because I'm handing them
19 to him.

20 MR. BAGHDADY: Yeah, no. I -- I'm good. I
21 know -- I know what you're looking at.

22 MR. VON KELLER: Let me -- let me get another
23 copy here since . . .

24 THE COURT: All right.

25 MR. VON KELLER: Let me show you what --

1 THE COURT: Hold on.

2 MR. VON KELLER: -- has been admitted --

3 THE COURT: Hold on one moment. Hold on one
4 moment. I've got a stack of exhibits that I
5 understand -- this says "Defendant Lucas's
6 exhibits."

7 MR. VON KELLER: Did I just say "plaintiff"?

8 THE COURT: Yes.

9 MR. VON KELLER: It is defendant. My
10 apologies.

11 THE COURT: It's Defendant 3. Okay.

12 MR. VON KELLER: Thank you for catching me on
13 that.

14 THE COURT: All right. Thank you. So it --
15 so it's handwritten November 28th --

16 MR. VON KELLER: It is. It's the November 28,
17 2014 --

18 THE COURT: Okay.

19 MR. VON KELLER: -- handwritten.

20 THE COURT: Thank you.

21 Q I'm showing you Defendant Lucas's Exhibit Number 3.
22 Defendant's Exhibit Number 3, Handwritten
23 Letter

24 Q That's a handwritten letter from you and your wife
25 in November of 2014, basically saying that you

1 understand the terms of the contract, correct?

2 A Yes, sir. And that we know that there's repairs
3 that need to be -- need to be made to the home.

4 Q What did you say?

5 A And that there was repairs that needed to be made
6 to the home.

7 Q And -- that's correct. And what does it say about
8 that? Read the sentence that says, "We are aware
9 the house needs repairs." What does it say right
10 after? What are the two sentences that follow?
11 What are the two sentences that follow that?

12 A "Along with the current conditions, any damage or
13 repairs that may occur is our responsibility repair
14 -- to repair until the end of contract. If it is
15 found to be environment or weather related, we
16 understand and agree to report immediately to Greg
17 for an insurance claim to be filed."

18 Q Okay. So you clearly understood that any repairs
19 or renovations or whatever to the property were on
20 you? You were accepting it as is?

21 A Yes. Repairs. But renovations are totally
22 different from repairs.

23 Q Okay. Tell me -- show me in the contract where you
24 were permitted to make renovations.

25 A I mean, it didn't say it in the contract, but, you

1 know, even people that are buying homes from banks,
2 they are able to change their homes and do
3 renovations as they please while they're still
4 purchasing the property.

5 Q You have an agreement with Mr. Lucas that controls
6 your -- what you can do and what you can't do
7 regarding that house. And that agreement says that
8 you are -- in writing, you're accepting it as is
9 and that you have to get permission for work and
10 repairs. And no repairs -- repairs except weather
11 related. Where is it that you think that you can
12 perform -- where in the contract does it say that
13 you can do renovations?

14 A I don't believe it said anywhere in there that I
15 wasn't able to do renovations.

16 Q Okay. So it doesn't -- it doesn't say you're not
17 allowed to?

18 A It doesn't say I'm not allowed to. All it says is
19 that we know that there are repairs that need to be
20 made.

21 Q And it goes on to say that you understand that you
22 are accepting it as is. And it says that, "It is
23 our responsibility to repair until the end of the
24 contract." I mean, that's what you wrote, isn't
25 it?

1 A Yes. And I did repairs where needed.

2 Q Okay.

3 A But I also went above and beyond doing renovations
4 while I was still under the contract, too.

5 Q Excuse me one minute, please. If you will look at
6 your Exhibit Number -- I think it's -- sorry, I
7 don't have Mr. Lucas's -- I don't have Mr.
8 Baghdady's exhibits in numerical order.

9 A It's Exhibit 1.

10 MR. BAGHDADY: (To Mr. von Keller) I left all
11 the exhibits --

12 Q Your Plaintiff's Exhibit 1, which is the
13 residential lease-purchase agreement, that document
14 basically says that tenant shall be responsible for
15 repairs, any and all repairs except weather-related
16 damage, correct?

17 A Yes.

18 Q Is that correct, sir?

19 A Yes.

20 Q All right. And nowhere in here -- and you
21 promised, in the second paragraph, to keep the
22 premises in good repair -- good conditions and
23 repair. That's what you agreed under the contract,
24 correct?

25 A Yes.

1 Q So you -- let me show you Defendant's Exhibit
2 Number 4.

3 Defendant's Exhibit Number 4, Email

4 Q That is the letter that -- or email that Mr. --
5 that Mr. Lucas sent you, telling you that he felt
6 that you were under -- you were in default of the
7 contract, correct?

8 A Correct.

9 Q All right. And what's the date of that?

10 A October 31st, Halloween, of 2019.

11 Q Bear with me one second, please. I have a few too
12 many exhibits floating around here. Sorry. Here
13 is what I'm looking for, right on my desk. So you
14 -- he's advising you that you have not received the
15 agreed \$400 towards the taxes. So you're aware
16 that there was a breach, correct?

17 A Yes. And that was right at the same time where the
18 eviction started. But that was -- that all
19 coincided. It was at the same time when I was
20 notified.

21 Q Did you -- did you -- did you attempt to tender
22 that -- those taxes to Mr. -- to Mr. Lucas?

23 A Yes. I talked to him on the phone. I asked -- I
24 told him I had the money right there and then, if I
25 could go ahead and pay to -- to make it correct.

1 And I wasn't allowed to pay.

2 Q If you -- did you attempt to tender, where you
3 actually offered the money? Did you write him a
4 check and mail it to him?

5 A I didn't have an address for where he stayed to be
6 able to do that.

7 Q Well, you testified in your deposition that you had
8 an address.

9 A I would -- I'd be able to get an address here and
10 there, but he's always moving with work, so --

11 Q Did you tender --

12 A -- I never knew exactly where he would be. But I
13 made the offer and stated that I had the money,
14 right there and then, and that I would like to pay
15 to catch up.

16 Q Did you -- did you -- so just answer the question
17 directly, if you will. Did you in any way try to
18 convey money to him in a -- by letter, by any
19 attempt, by dropping it off at one of his
20 relatives? Did you ever attempt to tender the
21 missed insurance payments or tax payments?

22 A No. The Zelle was cut off, and I didn't have no
23 way to.

24 Q What did you say?

25 A The Zelle was cut off, so I didn't have any way to

1 try to tender it to him.

2 Q Well, yes, you did. You could have mailed it to
3 him. So did you do that? Did you write a check
4 and mail it to him?

5 A I didn't have an address.

6 Q Well, you did have an address, you testified in
7 your deposition.

8 A At a certain --

9 Q Did you mail it to the address that you had?

10 A At a certain point in time, I had an address for
11 him, but it was not constant where I always had a
12 permanent address for him.

13 Q All right. Just if --

14 A Because I would always --

15 Q What I'd like --

16 A He would be in different states.

17 Q What I'd like you to do is answer the question that
18 I've asked you. Did you mail him a check to any
19 address that you had for him?

20 A Not at that time, but I did --

21 Q It's a simple question. Yes or no?

22 A Not at that time, but I did at another point where
23 he had turned Zelle off.

24 Q It's not -- not the other time that I'm talking
25 about.

1 A Okay. At that time, no.

2 Q Okay. At one point in your deposition, on Page 21,
3 Line 10, I asked you -- you said, in regards to the
4 -- in regards to the taxes, you said, "As far as I
5 knew, it was waived, not that we had to pay it
6 back."

7 And I asked you, "Did you ever try to clear
8 any of that in writing?"

9 And you stated, "No, we did not." So when he
10 told you that you had not paid the taxes, did you
11 go to any effort whatsoever to clear up, if you
12 thought they had been paid?

13 A I mean, by that time, he was already serving me
14 with the eviction notice.

15 Q Just, if you would, please, sir -- if you would
16 answer the question first and then give your
17 explanation. So did you take -- take any steps to
18 clear that up?

19 A No.

20 Q Okay.

21 A I actually thought everything was cleared. Like I
22 said, I had a message from Mr. Lucas, where he
23 said, "Do not -- don't worry about the taxes for
24 this year," because me and my ex-wife had to buy a
25 new air conditioner unit in the middle of summer.

1 And he said that was for that reason. And that was
2 in 2018 where he said, "Don't worry about the taxes
3 for this year." And since taxes are prorated, from
4 my understanding, I thought that meant for 2019
5 coming up.

6 Q Where -- where do you get that understanding when
7 the contract says pay \$400 every February? Where
8 do you get that?

9 A Because I thought the taxes --

10 Q Let me finish, if you would, please. Where do you
11 get this idea that they're prorated when you've
12 agreed that your agreement said to pay \$400 in
13 every February? So where do you -- where do you
14 come up with the idea that it's prorated?

15 A Because at that time, I thought it was already paid
16 for that -- for that year. Taxes are prorated for
17 that year for paying for the taxes in the next
18 year, the beginning of the next year.

19 Q But your obligation, Mr. Gilpatrick, is to pay Mr.
20 Lucas. If -- if the County is prorating taxes or
21 whatever, that's irrelevant. Your obligation under
22 the contract says pay him \$400 every February,
23 doesn't it?

24 A At that point, I was unaware that there was a
25 payment that was missed for it.

1 Q What?

2 A At that point, there was a -- I was unaware that
3 there was a payment missed for it, for the taxes.

4 Q Well, yes, you were. He just -- we've shown you
5 the exhibit where he's told you that, so -- and I'm
6 asking you --

7 A And that --

8 Q -- did you make any effort to tender, and you said
9 no. And I'm asking you, did you -- if you thought
10 it had been paid, did you make any effort to clear
11 it up? And that's the question I'm trying to get
12 an answer to. Did you make any effort to clear
13 that up?

14 A Only if it was when I talked to him on the phone
15 and --

16 Q Remember, answer --

17 A -- I was trying to.

18 Q -- yes or no, please, and then explain it. Did you
19 make any effort to clear that up?

20 A I mean, yes, when I talked to him on the phone, and
21 I asked him if I could go ahead and pay it because
22 I didn't know that it was not paid.

23 Q Okay. I'm -- you've confused me. One minute you
24 said you weren't sure it wasn't paid, and now you
25 said since it wasn't paid. And what I'm trying to

1 find out, did you try to clear up whether or not
2 your ex-wife paid it?

3 A I mean, I was notified that it wasn't paid, but
4 like I said, I didn't know.

5 Q Okay. Well, try one more time. When you were
6 notified that it had not been paid, did you make
7 any effort to try to clear up -- and you weren't
8 sure, did you make any effort to determine if it
9 had been paid?

10 A No.

11 Q What?

12 A No.

13 Q Thank you.

14 A Because I was not allowed to. (Inaudible.)

15 Q You said you were not allowed to. You could've
16 written a check and placed it into the mail to the
17 address that you had. If it was not -- the wrong
18 address, maybe it get forward, maybe it come back.
19 But did you tender a payment?

20 A No.

21 Q Just simple -- that's a yes-or-no question, Mr. --

22 A No.

23 Q -- Gilpatrick.

24 A No.

25 Q Thank you. So in December, you get a notice. In

1 October, you get a notice. In December, you and
2 Mr. Lucas -- Mr. Lucas starts offering you a month-
3 to-month lease agreement. He's indicated to you
4 that he is giving you a notice to vacate. He's not
5 filed an eviction yet, but he's giving you a notice
6 to vacate and -- but he gives you the opportunity
7 to enter into a month-to-month agreement. Did you
8 understand that?

9 A Yes.

10 Q Okay.

11 A Can I also add that this is also during times for
12 holidays and stuff, too, when I had my children.
13 So it caused me more undue stress at that time.

14 Q Okay. And when he indicated that he was -- you
15 know, wanted you to vacate, if you had not agreed
16 with him, if you thought he was wrong, you knew you
17 could seek -- you could assert your position in
18 court, correct?

19 A Correct. But I didn't have the finances to be able
20 to do that. I already had a divorce lawyer, plus
21 everything else I had going on. I had no finances
22 to do anything.

23 Q Okay. You could -- you could certainly represent
24 yourself, right? Well, yes or no --

25 A I mean --

1 Q -- Mr. Gilpatrick?

2 A -- I could, yes. I could, yes.

3 Q Okay. And you testified in your deposition he
4 never threatened you, correct? He just asked you
5 to vacate, giving you 90 days, said he would waive
6 rent and asked you to vacate. You could've ignored
7 that and made him make this an issue, correct?

8 A Correct.

9 Q And you elected to go along with this agreement so
10 as not to go through that process, correct?

11 A Yes. I already had too many things going on in my
12 life at the time.

13 Q Okay. Now we could go over the -- the lengthy
14 emails that I, you know, talked to you at length
15 about in your deposition in which you stated that
16 you want to enter into a rental agreement. Do I
17 need to direct your attention to that email?

18 A I know the email.

19 Q And you said that, "I want to enter into the rental
20 agreement"?

21 A Yes.

22 Q Okay. And at one point, he thinks you're waffling
23 on him and basically says, "I don't think we have
24 an agreement."

25 And you say to him, "No. Where do we not have

1 an agreement?" You remember that email where you
2 said that?

3 A Yes. Because --

4 Q Okay.

5 A -- all I was trying to do was ask my question, and
6 all of a sudden, it's, "We don't have a deal for
7 anything. That's it. I want you evicted, out."

8 Q Okay.

9 A That was my only other full option.

10 Q Well, no. Your other option was if you thought he
11 was -- if this was wrong, you were not in default
12 and -- or he didn't have the right to terminate
13 this agreement, you could assert your rights in a
14 later court action. I mean, you could do that,
15 couldn't you, Mr. Gilpatrick?

16 A Yes. But --

17 Q But you didn't want to do that, correct?

18 A Financially, I needed to have representation. I'm
19 not that great with home law. I mean, I can't
20 represent myself and be successful with it at that
21 time because I don't know the laws for anything.

22 Q But that law's an -- an option available to you.
23 But you chose that you did not want to do that,
24 correct?

25 A Yes. That'd have been more stress put on me all at

1 the same time with everything else I had going on
2 in my life.

3 Q And you recall in the emails in which you -- he
4 asked -- he was thinking you were waffling, and you
5 specifically stated, "I agree to the month-to-month
6 tenancy." You remember that email, correct?

7 A Yes.

8 Q You don't deny that that's what you wrote?

9 A No. I don't.

10 Q And you don't deny that you were clearly explaining
11 to Mr. Lucas that you were going along with this
12 agreement, correct?

13 A Yes. But like -- like I said at the time, I felt
14 like I was backed into a corner there. I had
15 really no options.

16 Q All right. Well, you keep saying that. And we've
17 discussed that you might not have perceived other
18 options, but there were, in fact, other options.
19 They may not have been attractive to you. They may
20 not have been desirable to you, but you did, in
21 fact, have other options if you thought you were
22 right?

23 A Yes, sir.

24 Q And you went along with the month-to-month. He
25 provided you with a copy of a month-to-month lease

1 for you to review. Did you review it?

2 A Yes.

3 Q Okay. And you saw what the terms were, correct?

4 A There really weren't any terms other than it was
5 month to month --

6 Q And it's a different rent --

7 A -- and -- besides the restrictions that were put on
8 me and the different --

9 Q It all --

10 A -- financial cost.

11 Q I'm sorry. Don't mean to interrupt you. Excuse
12 me.

13 A And the different financial cost. Yes.

14 Q And -- but it also said no repairs to the property,
15 also, correct?

16 A Yes.

17 Q Okay. And you informed Mr. Lucas -- he told you
18 that you did not need to sign it, but he did need
19 in writing that you agreed to it, and you expressly
20 wrote, "I agree to the month-to-month tenancy,"
21 correct?

22 A Correct.

23 Q But now -- and you -- and you started making \$900 a
24 month payments, correct?

25 A Correct.

1 Q So when Mr. Baghdady started talking to you about
2 the payment history, he at one point said that you
3 -- that in January 2020 -- 2020 you got caught up
4 with the payments, and you said yes. You remember
5 your testimony just a few minutes ago on that?

6 A Yes.

7 Q Well, if you look at the payment history, though,
8 that Mr. Baghdady put into evidence, the -- which
9 is his Plaintiff's Exhibit Number 2, up until that
10 point, you were making a total payment of \$725 a
11 month, correct?

12 A Correct.

13 Q And then when he shows it -- in January 28, you --
14 you get caught up \$1,800. That's the two months,
15 January and February, at \$900 a month, correct?

16 A Correct.

17 Q That's the new month-to-month lease payment,
18 correct?

19 A Correct.

20 Q So you didn't catch up. What you did is you
21 started making totally new payments under a totally
22 new agreement; isn't that correct, Mr. Gilpatrick?

23 A According to the rent contract, yes.

24 Q Okay. So while we're on Plaintiff's Exhibit Number
25 2, let me ask you another question. Mr. Baghdady's

1 exhibit in Plaintiff's 2 breaks down the payment
2 into the total payment per month and the amount
3 credited towards purchase. And at the end of
4 October 1, 2019, the amount under the contract that
5 was to be applied towards the payment, towards the
6 purchase of the house, is how much, please?

7 A End of October 2019?

8 Q Yes, sir.

9 A \$41,925.

10 Q And the contract we talked about before was a
11 purchase price of 63,000; is that correct?

12 A Correct.

13 Q So you did not fully perform under the installment
14 land sales contract. I mean, 41,000 and 63 are
15 different numbers, correct?

16 A Correct.

17 Q All right. I'm just looking at some things that
18 you stated in your direct examination. In
19 Plaintiff's 10, Mr. Baghdady showed you the month-
20 to-month contract and asked if you ever signed, and
21 you said no. And we talked just a moment ago that
22 Mr. Lucas made it clear that he did not require
23 your signature, but he did need in writing that you
24 agreed to it. And you testified that, in fact, you
25 did email him and say that you agreed to the terms,

1 correct?

2 A Correct.

3 Q All right.

4 A Like I said, at the time, I felt like I had no
5 other choice.

6 Q Yeah. You -- you've said that. Thank you, sir.

7 The -- one of the things that Mr. Baghdady talked
8 about in your initial examination was that the
9 installment land sales contract stated that the --
10 the contract required, at the end of the term, the
11 title to the land would be conveyed to you,
12 correct?

13 A Correct.

14 Q And that's at the end of the term. That's if you
15 pay the full amount, correct?

16 A Uh-huh. Correct.

17 Q And the contract also said that at the end of the
18 term, the -- the property would be conveyed to you
19 free and clear of any liens, correct?

20 A Correct.

21 Q So that, again, is at the end of the term if and
22 when you've fully complied, correct?

23 A Correct.

24 Q And you've just testified that you didn't fully
25 comply; you only paid \$41,000?

1 A That's because I was stopped before, but yes.

2 Q What did you say?

3 A I said that was before -- that was because I had --
4 I was forced to stop before due to the other
5 contract. But, like, I'd also like to add that all
6 payments up until that point were all on time for
7 the home.

8 Q Okay.

9 MR. VON KELLER: Just one moment, Your Honor.
10 Ask the Court's indulgence. I think I'm done.
11 Just want to make sure that I've not
12 overlooked anything.

13 Q In the first eviction, the -- you were represented
14 by counsel, correct? It was a female.

15 A The -- the first magistrate's --

16 Q The first magistrate's --

17 A -- yes.

18 Q -- court eviction?

19 A Yes.

20 Q And for the life of me, I cannot remember her name.

21 A Ms. Burkett, I believe.

22 Q Okay. And in that hearing, Ms. Burkett took the
23 position that the magistrate court did not have
24 jurisdiction because the governing agreement
25 between you and Mr. Lucas was an installment land

1 sales contract. Did you understand that?

2 A Yes.

3 Q And did you understand that Judge Whittle ruled
4 against her on that point? Do you recall the
5 transcript where -- that you -- that you read just
6 a few moments ago, where he said, no, that they had
7 a month-to-month agreement?

8 A Yes.

9 Q So understood that?

10 A Uh-huh. Yes.

11 Q And you -- at the second hearing, the eviction
12 hearing where Mr. Baghdady was representing you,
13 you were present for that, correct?

14 A Yes.

15 Q And you recall that the judge at that point
16 basically again said that he believed that to be a
17 ruling that he had made and to be the -- the law of
18 the case. You recall him saying something to that
19 effect?

20 A Yes. But then he did transfer it to the higher
21 court.

22 MR. VON KELLER: That's all the questions I have, Your
23 Honor.

24 THE COURT: Redirect, Mr. Baghdady?

25 MR. BAGHDADY: No. I don't think I need any redirect.

1 THE COURT: All right. Thank you. All right. (To the
2 witness) You can step down.

3 (Witness stood aside.)

4 MR. VON KELLER: (To Mr. Baghdady) Is that your case?

5 MR. BAGHDADY: No. A couple more things. I would like
6 to go ahead and introduce as -- as Plaintiff's
7 Exhibit Number 13, the deposition of the defendant,
8 Gregory Lucas.

9 THE COURT: All right. Mr. Von Keller, any objection to
10 that?

11 MR. VON KELLER: He's admitting the deposition?

12 THE COURT: Right.

13 MR. VON KELLER: I have no objection.

14 THE COURT: No objection.

15 MR. BAGHDADY: She's marking it now as 13.

16 Defendant's Exhibit Number 13,
17 Application of Ejectment

18 MR. BAGHDADY: All right. I'd like to call as an
19 adverse witness the defendant, Mr. Lucas.

20 THE COURT: All right. Mr. Lucas, if you'd come forward
21 and be sworn.

22 (Witness is sworn.)

23 THE BAILIFF: State -- have a seat. State your name for
24 the court reporter.

25 THE WITNESS: Gregory Lucas.

1 DIRECT EXAMINATION OF GREGORY LUCAS

2 BY MR. BAGHDADY:

3 Q You remember we took your deposition in this case?

4 A Yes, sir.

5 Q All right. Did you grab the exhibits from right
6 there?

7 A Yeah.

8 Q Okay.

9 A I did.

10 Q Do you remember your deposition was taken in this
11 case?

12 A Yes, sir.

13 Q All right. Do you remember in your deposition I
14 asked you about the mortgage on the property?

15 A Yes, sir.

16 Q All right. At that time, you weren't sure of the
17 amount due on the mortgage. Do you know today what
18 the amount due on the mortgage is?

19 A Roughly 34,000.

20 Q About \$34,000?

21 A Yes, sir.

22 Q And if this Court ultimately decides that you need
23 to transfer this property, 117 Noah Lucas Road, to
24 the plaintiff, will you be able to satisfy the
25 mortgage?

1 A Yes, sir.

2 MR. BAGHDADY: Okay. I have no further questions for
3 him.

4 MR. VON KELLER: No redirect, Your Honor.

5 THE COURT: Or no cross?

6 MR. VON KELLER: No. I'll reserve my right to put him
7 under direct --

8 THE COURT: Right. You can call --

9 MR. VON KELLER: -- in my case in chief.

10 THE COURT: You can call him in your case in chief, but
11 do you want to cross him now?

12 MR. VON KELLER: I do not want to cross him.

13 THE COURT: Okay. (To the witness) All right. You can
14 step down.

15 (Witness stood aside.)

16 THE COURT: (To Mr. Baghdady) Anything further?

17 MR. BAGHDADY: That is the case.

18 THE COURT: All right. Thank you. Plaintiff's case.

19 MR. VON KELLER: Your Honor, if I may, at the end of
20 plaintiff's case, I'd like to move for a directed
21 verdict on the issue of Mr. --

22 THE COURT: Not --

23 MR. VON KELLER: -- excuse me, Mr. Gilpatrick --

24 THE COURT: Right.

25 MR. VON KELLER: -- has asserted a cause of action for

1 damages and for reimbursement for the repairs.

2 Whether you call them repairs, renovations,
3 improvements, no testimony has been put into the
4 record about the value of those improvements or
5 repairs. And I would move to -- for a directed
6 verdict striking that cause of action.

7 THE COURT: All right. Mr. Baghdady, I think this is
8 technically nonsuit, but -- yes, sir.

9 MR. BAGHDADY: Right. And I think our -- we've elected
10 the remedy of specific performance --

11 THE COURT: Right.

12 MR. BAGHDADY: -- and equity.

13 THE COURT: All right. So that will be granted.

14 MR. VON KELLER: All right, sir. I'm sorry. I've got
15 more exhibits floating around here.

16 THE COURT: All right. He's finished with his case in
17 chief.

18 MR. BAGHDADY: Yes.

19 THE COURT: You've rested?

20 MR. BAGHDADY: Yes.

21 THE COURT: All right. Let's do this. Let's take a
22 ten-minute break before we start your side of the
23 case. You can get all your exhibits ready, and
24 will y'all be ready -- ten minutes be good?

25 MR. VON KELLER: Five minutes is fine. Thank you.

1 THE COURT: Okay. Then we'll be back in five minutes.

2 Off record.

3 (Off the record from 11:49 a.m.

4 until 11:49 a.m.)

5 THE COURT: And wait a minute. Back on the record a

6 minute. Mr. Lucas, you have been sworn. You are

7 going to be called again. Don't talk to anybody

8 about your testimony.

9 WITNESS LUCAS: Yes, sir.

10 THE COURT: In five minutes. All right. Thank you.

11 (Off the record from 11:50 a.m.

12 until 11:58 a.m.)

13 THE COURT: All right. Back on record. Just one

14 moment. All right. Mr. von Keller.

15 MR. VON KELLER: Your Honor, the defendant would call

16 Greg Lucas to the stand, please.

17 THE COURT: All right. (To Witness Lucas) If you would

18 come back, and remember, you're still under oath.

19 WITNESS LUCAS: Yes, sir.

20 MR. VON KELLER: Your Honor, I'm going to give the

21 witness a copy of the exhibits which we've already

22 stipulated to.

23 THE COURT: Yeah.

24 DIRECT EXAMINATION OF GREGORY LUCAS

25 BY MR. VON KELLER:

1 Q Mr. Lucas, what is your full name, please, sir?

2 A Gregory Allen Lucas.

3 Q All right. You're going to need to speak up now.

4 A Gregory Allen Lucas.

5 Q Oh, there you go. And where do you reside

6 currently?

7 A Currently at 582 Crystal Springs Drive.

8 Q Now, before that, where did you reside?

9 A Casper, Wyoming.

10 Q And how long were you in Casper, Wyoming?

11 A Roughly 14 years.

12 Q All right. What is your line of work?

13 A In the renewable energy.

14 Q For those of us who, you know, made a D in science,

15 what exactly does that mean?

16 A So wind power, solar power, hydropower, so forth.

17 Q Okay. And you -- are you an engineer?

18 A No, sir. I'm a field operations manager.

19 Q Okay. And it was in Wyoming, when you moved there,

20 that you met your wife; is that right?

21 A Yes, sir. That's correct.

22 Q All right. And she's a Wyoming girl?

23 A She is.

24 Q All right. And her name is Andrea?

25 A Yes, sir.

1 Q And how many children do you have, and what are
2 their names and ages?

3 A We have a total of five, but we have one together.
4 My son Braden, he's 14. And then my daughter,
5 she's 20, Hannah. And then we also have Jacob,
6 Alex, and Isaac.

7 Q So let's turn our attention to the property at Noah
8 Lucas Road.

9 A Yes, sir.

10 Q And when and how did you acquire that property?

11 A I -- I seen the home up for sale, inquired on it,
12 and I -- I purchased it through -- or I got a
13 mortgage from PNC. It was a 30-year mortgage from
14 PNC through -- I think it's Coastal Homes is who I
15 paid it to.

16 Q Okay. And why is it that you bought this property?

17 A My entire family lives on this road. I mean, it's
18 all family there. You know, I wanted to move
19 closer to -- to my family.

20 Q And what was on the property when you bought --
21 what did the property consist of and what was on
22 it?

23 A It consisted of four acres and a single -- or a
24 double-wide mobile home, a '99.

25 Q Okay. Let me -- take a look at Plaintiff's

1 (verbatim) Exhibit Number 1.

2 Defendant's Exhibit Number 1, Map

3 Q And that's a county map, and it shows the -- which
4 of these numbers is the property that we're talking
5 about?

6 A It's the one in the center of the page, 117.

7 Q All right. So let's start at the bottom right-hand
8 corner. 582 is right below 568. Who owns that
9 property?

10 A My mother. She's at 582.

11 Q And at 568?

12 A 568, I'm not sure of their names. They -- they are
13 not family members.

14 Q Now, 568 and 556 used to be owned by your mother,
15 correct?

16 A Correct. That used to be owned by my mother. That
17 is correct.

18 Q Okay.

19 A She -- she had sold that.

20 Q And over here on the left, 145?

21 A 145, that is my daughter's home.

22 Q And 138, up in the upper left-hand corner?

23 A 138? That is my Aunt Louise's -- my late Aunt
24 Louise, but --

25 Q I think you told me --

1 A -- my family still lives there.

2 Q -- 138A is a business there, that your aunt --

3 A 138A is a business. Yes, sir. That's her --

4 Q What's -- what that?

5 A -- tax service.

6 A Okay. And 122?

7 A 122? That's my cousin Robert.

8 Q So essentially all of this was -- you know, you --
9 you were getting this property to get it back in
10 the family; is that right?

11 A Yes, sir. That was the intent.

12 Q All right. So how was it that you were contacted
13 by the Gilpatricks?

14 A My wife had put a Facebook post up for the home and
15 approximately two acres. And that's when Kristin
16 had reached out to her and suggested that she had
17 interest in -- in the home.

18 Q Did you have any understanding what Mr. and Ms.
19 Gilpatrick were looking for?

20 A At the time, they were telling me their credit was
21 poor, and they were just looking to get a place to
22 stay and they can start their family. You know,
23 they were a young family and they wanted to get a
24 place and -- and kind of get established until they
25 could get their credit built up to purchase their

1 own home, before purchasing the said home.

2 Q Now, were you living in the property at the time?

3 A No, sir. I was currently in Wyoming.

4 Q Okay. Why did you agree to enter into a contract
5 with the Gilpatricks?

6 A You know, they were a young family. They had also
7 -- or Kristin had also stated her grandfather was
8 kin to my family. So, you know, for me it was a
9 win-win. You know, it was family moving on family
10 land, so . . .

11 Q Okay. So let's take a look at Exhibit Number 2.
12 And that is the residential lease-purchase
13 agreement.

14 Defendant's Exhibit Number 2, Lease

15 A Yes, sir.

16 Q Is this the agreement that you presented to Mr.
17 Gilpatrick?

18 A Yes, sir.

19 Q All right. And we've gone over the terms. Who --
20 how did you acquire this document? Who drafted
21 this?

22 A Me and my wife had found this online, and then we
23 had wrote in the exact details down at the bottom.

24 Q And what was your intention in entering this --
25 entering into this agreement with the Gilpatricks?

1 A The intention was to sell the home to them.

2 Q Okay. So let's talk about some of the terms of
3 this. The -- they were going to rent it for 96
4 months; is that right?

5 A Yes, sir.

6 Q And that was going to start on November 28th of
7 2022, correct?

8 A Yes, sir.

9 Q And they were going to make a total payment of \$725
10 to be paid before the 5th of the month; is that
11 right?

12 A Yes, sir.

13 Q Of which 575 was to go towards the purchase price;
14 is that right?

15 A That is correct.

16 Q And down here in the bottom of the typed stuff, it
17 -- the purchase price was 63,200?

18 A Yes, sir.

19 Q And they were going to put \$8,000 down, right?

20 A Well --

21 Q Is there --

22 A There's a discrepancy here. That wasn't 8,000
23 down. That 8,000 was to adjust the monthly payment
24 because they couldn't afford the original. The
25 original was a thousand dollars a month. So they

1 said -- Kristin stated she couldn't afford the
2 thousand dollars a month. So my wife and me
3 adjusted it back to 825. She stated then, "Is
4 there any way we can do 725?" And that's when she
5 had offered the 8K down to help make the
6 adjustments for those payments to be at 725.

7 Q All right. So this was a result of a negotiation?

8 A Correct.

9 Q To try to get the payments down to what they could
10 afford?

11 A Yes, sir.

12 Q But the agreement that was entered into was \$8,000
13 down and first month's rent of 725 --

14 A Yes, sir.

15 Q -- right?

16 A Yes, sir.

17 Q Okay. And what does it say at the very bottom
18 there in handwriting, "End of term"?

19 A "End of term, title will be transferred into
20 tenants' names, no exceptions."

21 Q All right. And it was your understanding that if
22 they fully complied, you would have to give them
23 title free and clear?

24 A Yes, sir.

25 Q And you had a mortgage on this property, right?

1 A Yes, sir.

2 Q And were you using these funds to pay that
3 mortgage?

4 A Yes, sir.

5 Q All right. And it had been your anticipation that
6 you would -- if he fully complied, you would have
7 the money to pay off a mortgage to release two
8 acres?

9 A Yes, sir. I was relying on that. Yes, sir.

10 Q Was it your intention that the -- what two acres
11 would be later surveyed and agreed upon?

12 A It would be discussed once he fully performed under
13 the contract. We were going to meet up, and then I
14 would have a survey team come out, and we would
15 both decide and have the surveyor do the layout.

16 Q Okay. And turning to Page 2, it says, "Tenant
17 shall be responsible for repairs," and then it
18 handwrites "all -- any/all repairs except weather-
19 related damage"?

20 A Yes, sir.

21 Q What was your intention there? What were you
22 trying to do?

23 A Well, you know, most mobile homes, they have minor
24 repairs, you know, fixing trim or something like
25 that. That wasn't a concern. If they wanted to

1 paint the walls, you know, we had already told
2 Kristin that, "Yeah, you can do cosmetic work."

3 Q Sure.

4 A But major repairs needed to be brought to my
5 attention and my wife's attention so we could look
6 at it and approve it. And if it was -- you know,
7 if it was an insurance claim, then we needed to get
8 to our insurance company so we can get it taken
9 care of depending on how severe it was.

10 Q You were living in Wyoming, right?

11 A Yes, sir.

12 Q And you -- was -- was this your intention to try to
13 maintain some control that, you know, he didn't do
14 something to the home and then seek reimbursement
15 for it --

16 A Yes, sir.

17 Q -- without your knowledge?

18 A Yes, sir.

19 Q Okay. Because you also wrote in here, "Agrees this
20 is an as is, whereas contract"?

21 A Yes, sir.

22 Q Now, you also required the tenant -- you handwrote
23 in, "Tenant responsible for renters insurance"?

24 A Yes, sir.

25 Q What was exactly the point of that?

1 A So if there was a theft, a fire, anything that
2 could've damaged anything inside the home, I felt
3 like I would be responsible if they didn't have
4 that insurance. Because if they could come back
5 and say, "Hey, all my stuff was damaged because of
6 faulty wiring in the home. It burned down. It
7 burned all my stuff. I'm suing you for all my
8 material items," I wanted them to have that
9 insurance. That way we didn't get to that point.
10 It was just a peace of mind for me.

11 Q And if they didn't fully perform, at some point,
12 you would get them off of the property --

13 A Yes, sir.

14 Q -- and you would -- it'd be yours?

15 A Yes, sir.

16 Q So the rental insurance was protecting -- is it
17 fair to say it was protecting your investment?

18 A Yes, sir. A hundred percent.

19 Q All right. So was that important to you?

20 A Very important.

21 Q What about -- you handwrote in here, "Tenant agrees
22 to pay \$400 every February towards house taxes. If
23 the tenant is late more than 30 days on a payment,
24 it will be considered breach of contract." What --
25 why did you write that in?

1 A So that goes back to them asking if we could adjust
2 the monthly payment. The monthly payment, we
3 adjusted it back to 725. And upon that agreement
4 to go to 725, we had mentioned -- or we had stated
5 to them that they needed to pay the 400 every
6 February because that would -- that would all work
7 together to where they were paying 725. We
8 adjusted it where they needed it. We were working
9 with them. They agreed to pay the 400 every
10 February for the taxes. And they were -- that was
11 extremely important because, I mean, I needed that
12 money to --

13 Q Okay.

14 A -- you know.

15 Q Take a look at Exhibit Number -- and this was the
16 agreement. Exhibit 2 was the agreement signed by
17 both Mr. and Mrs. Gilpatrick, right?

18 A Yes, sir.

19 Q All right. So take a look at Exhibit Number 3,
20 please. Can you identify what this document is,
21 please?

22 A Yes, sir. A handwritten letter from Kristin and
23 Dennis.

24 Q Okay. And it's telling -- it's basically no money
25 will be refunded if they break the contract. The

1 house -- they understand the house needs repairs.
2 Along with the current conditions, any damage or
3 repairs that may occur is their responsibility to
4 repair. That all basically said that, "We will
5 acquire renters insurance and provide a copy yearly
6 until title is transferred," right?

7 A Yes, sir.

8 Q So this is a handwritten, basically going along
9 with everything that they -- was put into the
10 contract?

11 A Yes, sir.

12 Q And do you recall how you received that? Did they
13 mail that to you? It appears to be a letter.

14 A It was -- I want to say it was mailed to us.

15 Q To your knowledge, did they have an address for you
16 during the duration of this contract?

17 A No, sir. Just other than the return address here
18 that she had put up there for the 424 Crystal
19 Springs Drive.

20 Q Right. But to you?

21 A No, sir.

22 Q Okay. So they would've -- would they have mailed
23 this to you?

24 A Yes, sir. This would've been mailed.

25 Q Okay. So they would've had an address for you to

1 mail to?

2 A Yes, sir. Yes, sir. I see what you're saying.

3 Yes, sir. They would've --

4 Q You misunderstood me?

5 A I did. I misunderstood. Yes.

6 Q All right. So, again --

7 A They would've had an address.

8 Q During the course of this -- this contract, did
9 they -- did you live at one address in Casper,
10 Wyoming?

11 A There were two different addresses over the 14-year
12 span. Yes, sir.

13 Q Okay. And if you moved from one to the other, you
14 had -- mail would be forwarded?

15 A Yes, sir. Mail was forwarded straight to the new
16 address.

17 Q And to the best of your knowledge, did Mr.
18 Gilpatrick -- did Mr. and Mrs. Gilpatrick have that
19 address in Casper, Wyoming?

20 A Yes, sir.

21 Q Okay. All right. So let's take a look at the --
22 let's talk about the early days of this rent-to-own
23 contract from November of '14 to October of '19.

24 How did everything go initially?

25 A I'm sorry.

1 Q We're going to get to that in a minute. Just --
2 just listen to my question.

3 A Yes, sir. Sorry.

4 Q So we're talking about the early days of the
5 contract from November of '14 to October of '19.
6 How did things go initially?

7 A It was a little rocky at first, you know, having to
8 make the adjustments for the house payments. It
9 wasn't something that me and my wife had expected.
10 You know, we thought they would've came in and
11 agreed to everything right up front, we wouldn't
12 have to make any adjustments. It seemed like we
13 were putting a lot of work in to help accommodate
14 them for their -- their struggle for money is the
15 way it felt.

16 Q And how were payments to be made?

17 A They could do payments through Zelle. We also
18 instructed them that my sister that lives straight
19 down the road at 144 Noah Lucas Road, he could take
20 those payments to her if Zelle was not able to be
21 processed.

22 Q Was there an alternate way that payments could be
23 made?

24 A Yes, sir. My mother, she also lived at the -- the
25 582 address, right -- right up from the house

1 there, so --

2 Q Okay. And you said earlier they had your mailing
3 address? They could mail you a check?

4 A Yes, sir. They could've mailed me a check.

5 Q So did you have any problems during this time
6 period that I'm talking about, which is from the
7 beginning of rent-to-own payments in November of
8 '14 to October 31 of '19?

9 A We did. The first late payment was in 2014, in
10 December. And then it felt like there was constant
11 struggle. Like, it just -- every time we talked
12 with them, they were telling us, you know, "The AC
13 is broke, so we had to spend money on that." And
14 it was just a constant. I mean, there was just so
15 many reasons why they couldn't make the payment on
16 time. I mean, Kristin called plenty of times. I
17 -- I don't know right off the top of my head, but
18 she called several times to let us know that the
19 payments were going to be late because --

20 Q What about the renters insurance? Did you have
21 problems ensuring that they had that?

22 A Yes, sir. We did. They never provided renters
23 insurance to us.

24 Q What about the property taxes? Did they pay that
25 promptly and timely?

1 A No, sir. They -- they missed 2015, '16, '17, '18
2 and '19. At a later date in March, we did forgive
3 '15 and '18.

4 Q Let's go a little bit slower.

5 A Okay. Sorry.

6 Q So they didn't pay '15, '16, '17 and '19?

7 A Correct, '19.

8 Q Okay. So they paid 2018?

9 A Yes. Eighteen was paid. Seventeen was a partial;
10 that was 275. And then '15 was waived.

11 Q Because of the air conditioning thing you talked
12 about?

13 A Yes, sir. Because of the air condition. I felt
14 bad for them. Like, they -- they didn't have
15 money. They were telling me that the light bill
16 was too much. I think the light bill was up to
17 like \$600 or something, and they were just
18 struggling.

19 Q Right.

20 A And I wanted them to succeed. I mean, you know, I
21 wanted him to fully perform and to purchase the
22 home. And he didn't.

23 Q Okay. So just let me get clear on this. The --
24 the February 2015 taxes --

25 A Yes, sir.

1 Q -- you waived that because of the air conditioner;
2 is that right?

3 A Yes, sir. To help them out financially.

4 Q 2016 taxes were never paid; is that right?

5 A Right. That's correct.

6 Q 2017 taxes were partially paid?

7 A Partially. Yes, sir.

8 Q 2018 taxes were not paid, but you forgave that
9 because of the high energy bill, right?

10 A Yes, sir.

11 Q And the 2019 taxes were never paid?

12 A Never paid.

13 Q Did that create a financial problem for you?

14 A Yes, sir. That was unexpected payments that I
15 needed to make.

16 Q And did you consider that, those failures to make
17 those taxes, a breach of your agreement of your
18 installment land sales contract?

19 A Yes, sir. I relied on him to make those payments,
20 and he did not.

21 Q Did you believe that those two, that the failure to
22 give you -- or the rental insurance, did you
23 consider that to be a breach of your agreement?

24 A Absolutely. Yes, sir.

25 Q Did you think that the failure to maintain -- to

1 give you proof of insurance and to pay the taxes,
2 were those significant to you? Important?

3 A Very important. Very significant.

4 Q The law uses the term "material," and it largely
5 means significant or meaningful. Did you believe
6 that these were significant, meaningful defaults?

7 A Yes, sir. I did.

8 Q Okay. So what did you do?

9 A I moved forward with the eviction process. I
10 reached out to him.

11 Q All right. Let's take a look at Exhibit Number 4,
12 please. Is this the notice that you sent to the
13 Gilpatricks?

14 A Yes, sir. This is the notice I sent.

15 Q And you -- you -- in this Exhibit 4, you're saying
16 that the -- they're in breach, you've not gotten
17 the February '19, they've not given you renter
18 insurance, and there's been lapses in coverage, and
19 you're basically giving them 90 days to vacate?

20 A Yes, sir.

21 Q But then you go on to say that if they vacate, you
22 would be -- you'd refund some of their money?

23 A Yes, sir.

24 Q Why'd you do that?

25 A I knew they were struggling financially. I just --

1 I just wanted to make sure that they were okay. I
2 -- I didn't want them to feel as though they were
3 locked into a solid contract and had to pay all
4 this. You know, I wanted to give them an out,
5 basically. I didn't want them to struggle. I saw
6 the struggles. I mean, every time they talked to
7 us, they were telling us all the bad things that
8 were happening to them, that was going on in their
9 life. And I -- I didn't want, you know, to be
10 another pressure on him for --

11 Q Okay.

12 A -- not making payments.

13 Q And on the last part of this October 31 email, you
14 say the keys can be left in your sister's mailbox
15 at 144 Noah Lucas Road?

16 A Yes, sir.

17 Q So they were on notice of where -- where
18 communications you could be -- could occur?

19 A Yes, sir.

20 Q All right. Let's go to Plaintiff's (verbatim)
21 Exhibit Number 5.

22 Defendant's Exhibit Number 5, November
23 6th Email

24 Q So you're now emailing him on November 6, 2019.

25 A Yes, sir.

1 Q This is some seven days later in which you are --
2 you're still telling them that it's -- they
3 breached and you're no longer going to honor the
4 contract, right?

5 A Yes, sir.

6 Q And you tell them that you are willing to provide
7 them with a month-to-month lease?

8 A Yes, sir.

9 Q Why were you making that offer?

10 A At that time, when we had met with Dennis, when he
11 was not allowed at the home, we were talking to him
12 and he had stated that his --

13 Q You need to speak up a bit.

14 A I'm sorry. I'm trying to remember. At that time,
15 he had stated that his wife had left him and that
16 he was going through a lot of issues with trying
17 to, you know, get his children back home with him
18 and that she left him for another man. And at that
19 point, I was like, "I really feel for this
20 gentleman here." Because no one should ever have
21 to have their significant other run away on them.
22 I really did. I felt terrible. And this is why I
23 was like, "Well, okay -- well, what if we did a
24 short-term lease? This will give you a little bit
25 of time to get your court stuff squared away and

1 that if you are able during that short-term lease
2 to get a loan approval letter, we'll sell you the
3 home." That -- I felt like that was -- that was
4 justifiable. You know, I -- I felt bad for him,
5 and I wanted to make sure he had time to handle his
6 other personal items so we could get back on track.

7 Q So you go on to say that if you're offering him a
8 -- I mean, did you -- had you become tired of being
9 his bank, essentially?

10 A Very, very tired, very, very exhausted. It was --
11 the communication was poor, very poor
12 communication.

13 Q But you were still willing -- if he entered into a
14 month-to-month lease, you were still willing to
15 sell him the property, just not you finance it?

16 A Yes, sir. That was for him to get a preapproval
17 loan.

18 Q And so you give him a variety of options at the
19 bottom of this Exhibit 5. "You can get a bank
20 loan, buy the home"; is that correct?

21 A Yes, sir. That is correct.

22 Q All right. Let's take a look at Exhibit Number 6,
23 which is an email from the next day.

24 Defendant's Exhibit Number 6, November
25 7th Email

1 Q You're talking about all the times you tried to
2 work with them, lowering the payment two times.
3 And then the things that they've done that you
4 consider to be breaches. You say here that,
5 "You've had other occupants staying there." What
6 -- what's that about?

7 A So originally it was their two friends that were
8 going to move in. We knew about those occupants.
9 The occupant we didn't know about was their -- I
10 think it was Kristin's brother. He had moved in,
11 and we had no recollection. We just noticed a
12 handicap ramp that got installed on the front of
13 the house and then a porch that was installed on
14 the rear. And then Kristin, in just passing, in
15 conversation with my wife, stated that her brother
16 had an accident and they were going to move him
17 into the home, after he'd already moved in and they
18 had made the renovations to accommodate for the
19 handicap restroom and the ramp and so on and so
20 forth. So that was the tenant we didn't -- we
21 didn't know about till after.

22 Q Is this what you're talking about in Exhibit 6? "I
23 have no idea on the current condition of the home.
24 If you've made changes or upgrades, I have no
25 knowledge as what, nor did I approve any structural

1 changes"?

2 A That is correct. Yes, sir. That is what I'm
3 talking to.

4 Q All right. Then in December, you send the email in
5 Exhibit 7; is that correct?

6 Defendant's Exhibit Number 7, December
7 Email

8 A Yes, sir.

9 Q And you're still basically saying that you're
10 willing to offer a month-to-month rental?

11 A Yes, sir.

12 Q But you're not going to honor the previously
13 breached agreement; is that right?

14 A That is correct.

15 Q And you're going to -- you're again offering a
16 month-to-month rental at \$900. And you say, "If at
17 any time you decide to acquire a loan," the
18 purchase price will be that?

19 A Yes, sir.

20 Q Okay. And you say, "If you want to proceed with
21 this, I'll -- I'll require first and last month's
22 rent"?

23 A Yes, sir.

24 Q All right. Do you ever hear from Mr. Gilpatrick?
25 You're sending all these emails. You ever hear

1 from him?

2 A No, sir. He went radio silent for quite some time.

3 Q Do you get the 2019 taxes?

4 A No, sir. I do not.

5 Q They were due in February, right?

6 A That is correct.

7 Q Did you ever get the other taxes that had not been
8 fully paid?

9 A No, sir.

10 Q Okay. Did you ever get the rental insurance
11 information?

12 A No, sir.

13 Q All right. Take a look at Exhibit Number 8,
14 please, in which we have a variety of e-mails.

15 Defendant's Exhibit Number 8, January
16 28th Email Chain

17 Q And this is not a particularly good copy, but
18 January 28th, there's a lot of emails going back
19 and forth, right?

20 A Yes, sir.

21 Q And you basically are saying, "Look, this thing
22 says 90 days. I asked you to vacate. It's coming
23 up"; is that right, sir?

24 A That is correct. Yes, sir.

25 Q All right. And you reiterate the -- the month-to-

1 month rental, right?

2 A Yes, sir.

3 Q And if we flip through these emails, I'm looking on
4 the -- on Page -- if you flip, the third page in,
5 January 20th -- 28th, Dennis Gilpatrick. What does
6 Mr. Gilpatrick say to you in response to these
7 emails?

8 A "As I have previously stated, I do want to rent the
9 house. I have the money for it. I have also been
10 preapproved for the loan. However, the agent at
11 the loan company had an emergency to tend to
12 yesterday and could not have a chance" --

13 Q Did you ever see --

14 A -- "to send you the" --

15 Q -- any documents whatsoever about a preapproval of
16 a loan?

17 A No, sir. We were just told that he was preapproved
18 at one point, and we --

19 Q Okay.

20 A -- never received any preapproval letters.

21 Q Now let's flip over here. And I apologize that
22 these are not numbered, and they don't actually
23 even bear -- but flip over. I think we're on -- we
24 would be on Page 5 of this. And it starts -- it's
25 an email from you that starts off by saying, "I

1 will be sending."

2 A Okay. I got it right here. For January 28, 2020?

3 Q It's January 28th. Yeah.

4 A Yes, sir. I got that one.

5 Q "I will be sending the" -- you see that?

6 A Yes, sir.

7 Q Can you read that out loud for me?

8 A Yes, sir. "I will be sending the rental agreement
9 to you shortly. This is a new agreement between
10 you and I. Please let me know if you have
11 questions. If you agree, please print a copy and
12 sign it."

13 Q Okay. And once again, you give the -- your
14 sister's address, right?

15 A Yes, sir.

16 Q Okay. All right. So you're making it clear that
17 what you're offering is a new, different agreement?

18 A Yes, sir.

19 Q I have included -- you'll forgive me, I've included
20 a whole bunch of other -- so, you know, we have the
21 whole trail here. So the agreement's giving y'all
22 -- on January 28th, you're just emailing each other
23 back and forth, back and forth, and he's asking you
24 questions. Are you starting to believe that he
25 doesn't want to do this deal with you?

1 A Yes, sir. I am getting that feeling he didn't want
2 to do the deal with me.

3 Q And do you email him and say, "I don't think we
4 have an agreement"?

5 A Yes, sir. I did.

6 Q Okay. And if you turn to the page -- again, sorry
7 for the bad copy -- that starts -- up at the very
8 top. It's two pages from the back, where you're
9 emailing him. It starts off, "I don't believe."

10 A Okay. I got it right here. "I don't believe we
11 have an agreement. There is no need to send a
12 payment."

13 Q How does he respond to that?

14 A He says, "But there is an agreement on the renting.
15 I was just clarifying a few things on it."

16 Q And what else does he say?

17 A He says, "Where do you -- where do we not have an
18 agreement of the renting part of this other than me
19 asking a few questions? The buying the house part
20 was the part that I didn't understand."

21 Q All right. And look down at the bottom of that
22 page.

23 A Yes, sir.

24 Q Do you insist that he sign it, or were you willing
25 to go with his -- essentially, his statement that