

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Mikell R. Scarborough, Master-In-Equity

Appellate Case No. 2024-000788

RECEIVED
Aug 12 2026
SC Court of Appeals

Balfour Beatty Construction, LLC, Appellant,

v.

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

And

Library Associates, LLC, Third-Party Plaintiff,

v.

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

Of which Library Associates, LLC is the Respondent.

SUPPLEMENT TO THE RECORD ON APPEAL – VOLUME 5 OF 22

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“Supp. R.” refers to this Supplement to the Record on Appeal, submitted electronically pursuant to the Court’s June 23, 2026 Order granting Respondent leave to file an electronic supplemental record. The Supplement contains materials from the proceedings below designated by Respondent that do not appear in the printed Amended Record on Appeal, together with the complete versions of voluminous exhibits whose first pages appear in the printed Record (cross-referenced under “Printed R-”). Library Associates, LLC’s Filing of March 13, 2024 Hearing Exhibits appears in full in the printed Record at R-8793 to R-9825 and is not duplicated here.

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1 Beatty.

2 Q. All right. And it is pay application
3 28?

4 A. That's correct.

5 Q. And it is dated when?

6 A. February 28th, 2018.

7 Q. Okay. And if you could turn to the
8 second of the last page. Do you recognize that
9 document?

10 A. Yes.

11 Q. And this is the same claim lien waiver
12 document that we looked at earlier, just from a
13 different subcontractor, correct?

14 A. That's correct.

15 Q. And what is the date that this one runs
16 through?

17 A. Runs through the 28th day of February
18 2018.

19 Q. And are any items identified on the line
20 for open change order request claims or disputes?

21 A. No, it's blank.

22 Q. All right. Let's go to request for
23 change order 159, the next one in Plaintiff's
24 Exhibit 12. Are you there?

25 A. Yes.

1 Q. Okay. And when is this dated?

2 A. August 21st, 2017.

3 Q. And it proposes to be for FF&E changes;
4 is that right?

5 A. Expanded scope for the FF&E installer,
6 yes.

7 Q. Okay. And the FF&E installer is who?

8 A. Wesley Contracting.

9 Q. Okay. And on Plaintiff's Exhibit 329,
10 do you see Wesley?

11 A. Yes.

12 Q. And are they getting any RCO money?

13 A. No.

14 Q. Okay. Now, on the first page of the
15 August 21st, 2017 document, it says, Wesley's
16 expanded scope, right?

17 A. Yes.

18 Q. And it has 19 entries?

19 A. Correct.

20 Q. Was the work proposed in entries 3
21 through 18 actually done?

22 A. No.

23 Q. Attached to -- it also says, extended
24 storage. Do you see that?

25 A. Yes.

1 Q. Okay. Includes current storage and
2 transportation fees, includes demurrage fees paid
3 by the contractor. It includes a \$40,000
4 allowance. Do you see that?

5 A. Yes.

6 Q. For projected continued storage; is that
7 right?

8 A. Correct.

9 Q. Did you receive anything in addition to
10 this on that allowance?

11 A. No.

12 Q. But we know that allowance of projected
13 continued storage is included in 242,632.32,
14 right?

15 A. Yes.

16 Q. All right. Let's go to the next page.
17 This says -- the first page says, Wesley's
18 expanded scope, right? It's the header for the 1
19 through 19.

20 A. Yes.

21 Q. And you didn't do 3 through 18, right?

22 A. Correct.

23 Q. Is there an attachment to this letter --
24 is there an attachment identified on this letter
25 entitled Wesley's expanded scope of work PDF?

1 A. No.

2 Q. Well, let's look at the second page.
3 What is identified as Exhibit B?

4 A. Oh, I'm sorry. Down at the bottom,
5 under the signature, it says, Exhibit B, Wesley's
6 expanded scope of work.

7 Q. Okay. And was that in Plaintiff's
8 Exhibit 13? Is that actually attached?

9 A. No.

10 Q. Okay. So this is a request for change
11 order in the amount of \$242,000 that includes 16
12 items that weren't done, correct?

13 A. Correct.

14 Q. At one time, purportedly included a
15 document entitled Wesley's expanded scope of
16 work, correct?

17 A. Correct.

18 Q. And they just didn't bother to attach it
19 or can you find it attached to the document that
20 they submitted into evidence?

21 A. No.

22 Q. Okay. Now, there's also an Exhibit D,
23 BBC demurrage invoice. Do you see that?

24 A. Yes.

25 Q. And that's what we looked at earlier.

1 It includes demurrage fees?

2 A. Yes.

3 Q. Is that attached?

4 A. No.

5 Q. Well, let's do it again. Exhibit D, it
6 says it's attached, right?

7 A. It says it's attached, yes.

8 Q. And is it actually attached?

9 A. No.

10 Q. All right. And once again, on Exhibit
11 329, there's no RCO money going to Wesley,
12 correct?

13 A. Correct.

14 Q. Let's go to request for change order
15 161, the next one on there. When was this dated?

16 A. August 26th, 2017.

17 Q. And this is actually signed by
18 Mr. Dooley?

19 A. Correct.

20 Q. And which subcontractors are involved in
21 this change order?

22 A. Precision Walls and BMCC.

23 Q. And is Precision Walls a party to this
24 action?

25 A. No, I don't believe so.

1 Q. Were they at one time a party to this
2 action?

3 A. Yes.

4 Q. Did you pay -- did Library Associates
5 pay Precision Walls?

6 A. Yes.

7 Q. How much did y'all pay them?

8 A. \$75,000.

9 Q. Okay. And they quit after that,
10 correct?

11 A. Correct.

12 Q. And then the other subcontractor is
13 BMCC, correct?

14 A. Correct.

15 Q. And y'all paid -- Library Associates
16 paid BMCC directly, correct?

17 A. Correct.

18 Q. And let's talk about some of this
19 backup. The RCO is dated -- the request for
20 change order is dated August 26th, 2017?

21 A. Correct.

22 Q. All right. The first piece of backup
23 for Precision Walls is dated when?

24 A. September 27th, 2016.

25 Q. So 11 months prior?

1 A. Correct.

2 Q. And what about the next extra work
3 order? When is it dated?

4 A. December 7th, 2015.

5 Q. Okay. So now we're 20 months, something
6 like that?

7 A. Yes.

8 Q. And when's the next attachment?

9 A. 12/14/2015.

10 Q. Okay. When's the next one dated?

11 A. It looks like 1/4/2016.

12 Q. Okay. So 18 or 19 months. All right.

13 Then we've got what?

14 A. 1/25/2016.

15 Q. Okay. And the last one is what?

16 A. July 21st, 2016.

17 Q. Okay. So between 20 months and 11
18 months, prior to the request for change order 161
19 being transmitted to the owner?

20 A. Correct.

21 Q. And the BMCC documents are dated when?

22 A. June 3rd, 2016.

23 Q. Okay. So that's 14 months prior to
24 getting around to you, right?

25 A. Correct.

1 Q. And attached to BMCC is Ferguson
2 documents. Who is Ferguson?

3 A. Ferguson is a plumbing material
4 supplier.

5 Q. Okay. And when is the Ferguson document
6 dated?

7 A. May of 2016.

8 Q. May of 2016?

9 A. Yes.

10 Q. So that's 15 months, something like
11 that?

12 A. Correct.

13 Q. All right. Let's go to request for
14 change order 178 in Balfour's Exhibit 12. When
15 is this change order dated?

16 A. October 10th, 2017.

17 Q. Okay. And which subcontractor is this
18 for?

19 A. It appears to be Wesley.

20 Q. Okay. All right. Is Wesley getting any
21 RCO money?

22 A. No.

23 Q. And it's for \$2,142, right?

24 A. Correct.

25 Q. All right. Let's go to request for

1 change order 184, the next request in Plaintiff's
2 Exhibit 12. Do you recognize this document?

3 A. Yes.

4 Q. And which is dated November 9th, 2017?

5 A. Correct.

6 Q. And which -- what is this for?

7 A. This is for Hurricane Irma prep and
8 recovery.

9 Q. Okay. And did that take place at or
10 about -- did Hurricane Irma come through here in
11 October or November of '17?

12 A. It was September of '17.

13 Q. September of '17. Okay. And we've
14 got -- which subcontractors were in this one?

15 A. Premier Exteriors and First Choice
16 Glass.

17 Q. Okay. Let's see. Is Premier Exteriors
18 getting any RCO money on Plaintiff's Exhibit 329?

19 A. No.

20 Q. And is First Choice Glass a party to
21 this lawsuit?

22 A. No.

23 Q. Do you know if at one time they were?

24 A. Yes.

25 Q. Did they quit?

1 A. Yes.

2 Q. How long ago did they quit?

3 A. I believe it was right at the beginning
4 of 2019.

5 Q. All right. Let's go to Exhibit 212 --
6 or excuse me, request for change order 212 in
7 Plaintiff's Exhibit 12. When is this dated?

8 A. October 19th, 2018.

9 Q. Okay. And what is this for?

10 A. This is for the decorative brackets by
11 Robert Thomas.

12 Q. This comes up a number of times in
13 Balfour's claim, does it not?

14 A. Yes, it does.

15 Q. Can you give the Judge a little history
16 as to what happened as far as Library Associates
17 is concerned related to this issue?

18 A. So the BAR wanted to see the decorative
19 brackets on the mockup wall. The original
20 brackets were fabricated by, I believe it was,
21 Tate Ornamental, which was one of Balfour
22 Beatty's subs.

23 The BAR disapproved those brackets. We
24 asked the BAR if Robert Thomas, a local iron man,
25 could perform the brackets, and so we put Balfour

1 Beatty in touch with Robert Thomas, and they had
2 Robert Thomas do a mockup. The BAR finally
3 approved Robert Thomas' mockup, and so Balfour
4 Beatty then contracted with Robert Thomas to make
5 and install the brackets.

6 Q. Okay. And did Robert Thomas end up
7 filing a lien on the job?

8 A. Yes, he did.

9 Q. Okay. And who paid Robert Thomas to get
10 rid of that lien?

11 A. Library Associates.

12 Q. Paid him directly?

13 A. Yes.

14 Q. And this request for change order 212 in
15 Plaintiff's Exhibit 12 has Robert Thomas for
16 \$20,050, correct?

17 A. Correct.

18 Q. Okay. And then a BBC markup of \$1,203,
19 correct?

20 A. Correct.

21 Q. And if you look at the third page, you
22 can see how those numbers were arrived at,
23 correct?

24 A. Correct.

25 Q. And you actually signed this?

1 A. I did.

2 Q. It's a signed request for change order?

3 A. It is.

4 Q. And you approved it?

5 A. I did.

6 Q. Okay. Now -- and y'all paid Robert
7 Thomas directly?

8 A. We did.

9 Q. But you didn't pay him the full \$20,050,
10 did you?

11 A. No. It was approximately 10,000.

12 Q. Okay. That's how much he liened the job
13 for?

14 A. Correct.

15 Q. You paid him the full amount of his
16 lien?

17 A. Correct.

18 Q. Okay. And this is in Exhibit 212 as an
19 RCO?

20 A. Correct.

21 Q. Excuse me, Plaintiff's Exhibit 12, RCO
22 212, correct?

23 A. Correct.

24 Q. So it's in Plaintiff's Exhibit 12?

25 A. Correct.

1 Q. Does Plaintiff's Exhibit 329 show Robert
2 Thomas getting any RCO money?

3 A. No.

4 Q. Okay. Do you see the \$20,050 anywhere
5 else on this?

6 A. I do. That is in -- under the OCO
7 column, which is in the yellow highlighted area.

8 Q. So the 20,050 is also in the OCO
9 portion?

10 A. Yes, it is.

11 Q. Okay. And then in the open contract
12 balance, they've got \$10,820. Do you see that,
13 for Robert Thomas?

14 A. That's correct.

15 Q. Is that the amount you paid Robert
16 Thomas?

17 A. Approximately, yes.

18 Q. So are they asking for it three times?
19 How many times are they asking for it?

20 A. It looks to be that they were asking for
21 it originally in the RCO. That got signed and
22 put into the OCO, and now also in the open
23 contract balance.

24 Q. Okay. Even though you've already paid
25 the \$10,820?

1 A. Correct.

2 Q. All right. Let's go to request for
3 change order 215 in Exhibit 12. When is this
4 dated?

5 A. August 14th, 2018.

6 Q. August 14, 2018. Okay. And it's signed
7 by Alec Dooley, and which is for Lutron Lighting
8 Control revision, correct?

9 A. Correct.

10 Q. And which subcontractor is involved in
11 this one, RCO 215?

12 A. Watson Electrical.

13 Q. Okay. Is Watson Electrical getting any
14 RCO money up there?

15 A. No.

16 Q. And this request for change order is
17 dated August 14, 2018. When is the Watson
18 Electrical backup dated?

19 A. January 8th, 2018.

20 Q. And does it have backup to itself from
21 Shealy?

22 A. Yes, it does.

23 Q. And when is that dated?

24 A. July 20th, 2017.

25 Q. So Watson's is dated eight months before

1 August 14, 2018, and then Watson's backup is
2 dated 13 months before RCO 215?

3 A. Correct.

4 Q. Let's go to RCO, request for change
5 order 221, Plaintiff's Exhibit 12. Do you
6 recognize that?

7 A. Yes.

8 Q. And what is it?

9 A. It is a change order for some additional
10 tinting on Hope's Window dated February 6th,
11 2018.

12 Q. Is it unsigned?

13 A. Yes.

14 Q. It is not signed by Mr. Starcevic?

15 A. It's signed by Mr. Starcevic.

16 Q. Okay. Is it signed by you?

17 A. No.

18 Q. And who is the subcontractor associated
19 with it?

20 A. Koch also known as Strong Tower.

21 Q. Okay. Is Strong Tower or Koch getting
22 any RCO money?

23 A. No.

24 Q. Are you sure? Take a look at
25 Plaintiff's Exhibit 329.

1 A. I'm sorry. These lines are little. It
2 appears 18,401.65.

3 Q. Do you know whether or not Strong Tower,
4 a/k/a Koch, has asked this Court to be dismissed
5 from the case?

6 A. Yes.

7 Q. Do you know whether they're pursuing the
8 \$18,194.70?

9 A. I know they --

10 MR. HILDEBRAND: That's
11 speculation, Your Honor.

12 A. -- have requested summary judgment. I
13 don't know the exact amount.

14 Q. Okay. Let's go to request for change
15 order 223 in Plaintiff's Exhibit 12. Are you
16 there?

17 A. Yes.

18 Q. Okay. What is the date of this change
19 order?

20 A. There is no date.

21 Q. Is there any backup documentation
22 associated with it?

23 A. There is no backup, and there is no
24 signature.

25 Q. And do you know what subcontractor is

1 involved?

2 A. No.

3 Q. Let's go to request for change order 227
4 of Plaintiff's Exhibit 12. Do you recognize this
5 document?

6 A. Yes.

7 Q. Okay. And when is this dated?

8 A. February 6th, 2018.

9 Q. Are you on 227, Ms. Brown?

10 A. No, I'm sorry. I think what's happened
11 here is they have copied 221 and put it in the
12 tab of 227, but on the back of the page 2, there
13 is actually 227.

14 Q. 221?

15 A. In my copy.

16 Q. May I approach?

17 A. Sure. You have tab number 227. Then
18 you have again 221, the backup for 221, and then
19 you have -- and then on the second page, the back
20 of that, you've got the request for change order
21 227.

22 Q. Well, let's talk about 227.

23 A. Okay.

24 Q. How much is 221 for?

25 A. It was the --

1 Q. Oh, okay. The one we just went through?

2 A. The one we just went through, yes. It
3 looks like it was copied twice somehow.

4 Q. Gotcha. Okay. So now, you're at 227,
5 right?

6 A. Yes.

7 Q. Okay. And you recognize -- this is
8 dated when?

9 A. April 9th, 2018.

10 Q. And do you recognize this request for
11 change order 223?

12 A. Yes.

13 Q. Do you recall it?

14 A. Yes.

15 Q. Okay. Is there any backup associated
16 with it?

17 A. No.

18 Q. Just an e-mail from Mr. Mahoney to
19 Mr. Starcevic?

20 A. Correct.

21 Q. Okay. And what is this request for
22 change order related to?

23 A. For additional storage of -- and
24 handling of the guest bathroom mirrors.

25 Q. Okay. And why are they contending --

1 why is Balfour contending they're entitled to a
2 change order in the amount of \$9,169.01 for
3 additional storage for bathroom mirrors?

4 A. I'm not sure why they feel like they are
5 entitled to that. They were responsible for
6 storing and the installation of the bathroom
7 mirrors.

8 Q. Okay. And were the mirrors used on the
9 project?

10 A. Some of the mirrors were used on the
11 project; some of the mirrors were broken.

12 They were -- Balfour Beatty was also
13 responsible for receiving all goods and checking
14 all goods as they came in to determine if there
15 was any damage to the goods or not. And so it
16 was their responsibility if anything was broken
17 to notify us as soon as they -- quickly so that
18 we could go back to the supplier.

19 In this case, we weren't notified until
20 late 2018 after they had sat in the warehouse
21 for, you know, over -- almost a year, that there
22 were some broken mirrors. And now they're
23 charging us for the storage of the broken mirrors
24 that they didn't tell us that were broken.

25 Q. Okay. Let's go to request for change

1 order 244. Are you there?

2 A. Yes.

3 Q. Okay. And what is this for?

4 A. This is a credit change order for the
5 installation of the light fixtures over the
6 bathroom tubs.

7 Q. Okay. So when you say a credit, so this
8 is money that should go back to Library
9 Associates?

10 A. Correct.

11 Q. All right. And do you see where you get
12 that on Plaintiff's 329?

13 A. No.

14 Q. Do you see where you get your \$1,000 on
15 Plaintiff's 329?

16 A. No.

17 Q. Let's go to request for change order
18 246. Request for change order 246 on Plaintiff's
19 Exhibit 12. When is it dated?

20 A. September 4th, 2018.

21 Q. Do you recall the submission of this
22 request for change order?

23 A. No, I do not.

24 Q. Okay. And do you know what its related
25 to?

1 A. It's related to the millwork in the
2 elevator cabs.

3 Q. Okay. And do you recall what that issue
4 was?

5 A. So Balfour Beatty is responsible for
6 supplying the shop drawings to the -- from the
7 elevator company to the interior designer so they
8 can design the millwork for the elevator cabs.
9 Mr. Starcevic supplied the shop drawing to the
10 designer.

11 They designed the interiors; however,
12 when the elevator cabs were installed, the
13 elevator cabs were not as were -- that were not
14 as described in the shop drawings causing some
15 additional millwork to have to be fabricated and
16 installed.

17 Q. And who was responsible for the shop
18 drawings?

19 A. Balfour Beatty.

20 Q. Let's go to request for change order 249
21 on Plaintiff's Exhibit 12. When is this dated?

22 A. August 10th, 2018.

23 Q. And what is this for?

24 A. Changes to the ballroom walls from block
25 to studs.

1 Q. And who is the subcontractor?

2 A. Premier Exteriors.

3 Q. Is Premier Exteriors getting any RCO
4 money on Plaintiff's Exhibit 329?

5 A. No.

6 Q. Do you even know if this work was done?

7 A. I do not.

8 Q. Request for change order 250, 2-5-0.
9 Are you there?

10 A. Yes.

11 Q. Okay. And when is this dated?

12 A. August 13th, 2018.

13 Q. Okay. And it's signed by Mr. Dooley,
14 correct?

15 A. Correct.

16 Q. All right. And the subcontractor is
17 who?

18 A. First Choice Glass.

19 Q. And is First Choice Glass still in this
20 lawsuit?

21 A. No.

22 Q. Did they quit?

23 A. Yes.

24 Q. The e-mails that are attached to this
25 request for change order 250, when are those

1 dated?

2 A. August 31st and September 1st of 2016.

3 Q. Okay. And when is the request for
4 change order dated?

5 A. August 13th, 2018.

6 Q. Okay. So some two years later?

7 A. Yes.

8 Q. Okay. Let's go to request for change
9 order number 251. Are you there?

10 A. Yes.

11 Q. Okay. And it's dated August 31st, 2018?

12 A. Correct.

13 Q. Okay. And what was the subcontractor
14 associated with this?

15 A. Low Country Case and Millwork.

16 Q. Was this work done?

17 A. Maybe not all of it.

18 Q. But some of it was done?

19 A. Yes.

20 Q. And some of it that was completed would
21 have been a change?

22 A. Yes.

23 Q. Do you know whether or not this RCO 251
24 was ever presented to you?

25 A. No, I don't believe so.

1 Q. All right. And when you said -- you
2 don't believe it was presented to you by Balfour?

3 A. That's correct. And this is not signed
4 by Mr. Dooley either.

5 Q. It's not signed by Mr. Dooley, and it's
6 not signed by you?

7 A. Correct.

8 Q. Okay. Let's go to RCO 253 in
9 Plaintiff's Exhibit 12. 253, request for change
10 order 253 in Plaintiff's Exhibit 12.

11 A. Yes.

12 Q. When is that dated?

13 A. August 14th, 2018.

14 Q. And this is actually signed by
15 Mr. Dooley, correct?

16 A. Correct.

17 Q. And do you recall receiving this?

18 A. I do.

19 Q. Okay. And give us -- tell the Judge a
20 little background as to this request for change
21 order 253.

22 A. The subcontractor, Low County Case and
23 Millwork, their position is this crown work was
24 not in the original drawings, and the interior
25 designers design continuum contend that it was in

1 the original drawings, and it should have been in
2 their original scope.

3 Q. And so it was rejected?

4 A. That's correct.

5 Q. And do you know whether or not -- after
6 it was rejected in or about August 14 of 2018,
7 when was the next time you heard about it?

8 A. After the lawsuit was filed.

9 Q. All right. Let's go to request for
10 change order -- and who is the -- before we leave
11 the request for change order 253, who was the
12 subcontractor?

13 A. Low Country Case and Millwork.

14 Q. Let's go to RCO, request for change
15 order 254 in Plaintiff's Exhibit 12. Now, do you
16 know whether or not Balfour withdrew this request
17 for change order from its claim?

18 A. Yes.

19 Q. Okay. But let's take a look at it. Is
20 there an allowance in request for change order
21 254?

22 A. Yes, there is.

23 Q. And how much is that allowance?

24 A. 50,000.

25 Q. 50,000?

1 A. Yes.

2 Q. Do you see your 50,000 up on Plaintiff's
3 Exhibit 329?

4 A. No.

5 Q. Let's go to request for change order 255
6 in Plaintiff's Exhibit 12. All right. And when
7 is it dated?

8 A. August 31st, 2018.

9 Q. August 31st, 2018?

10 A. Yes.

11 Q. And signed by Mr. Dooley?

12 A. Yes.

13 Q. It's not signed by you, correct?

14 A. Correct.

15 Q. All right. And when is the backup
16 dated?

17 A. December 8th, 2017.

18 Q. December 8th, '17?

19 A. Yes.

20 Q. Some nine months prior?

21 A. Yes.

22 Q. And it says it's to add trim to conceal
23 pocket door header.

24 A. Correct.

25 Q. Do you recall receiving this change

1 order?

2 A. I do not.

3 Q. Is there a picture attached?

4 A. Yes.

5 Q. And can you describe for the Judge what
6 that picture is showing? Well, let me ask you
7 this: Are you familiar with this location?

8 A. I'm not exactly sure what particular
9 room this was taken in, but I'm familiar with
10 what this picture shows.

11 Q. Okay. Explain to the Judge, what does
12 it show?

13 A. It's the pocket doors leading from
14 the -- in the guest room from the hallway into
15 the bathroom. The pocket doors split open, and
16 when they're split open, you can look and see raw
17 wood when you look above.

18 Q. And that's what that picture is
19 depicting?

20 A. Yes. It's showing the raw wood when
21 looking up.

22 Q. Okay. And so what was this change order
23 for?

24 A. It was to conceal that issue.

25 Q. In the original design intent, were you

1 supposed to see the raw wood in that cavity?

2 MR. HILDEBRAND: Objection, Your
3 Honor. She can't comment on design intent. If
4 she wants to look at the drawings, then we can
5 look at the drawings if she's qualified to do
6 that and see whether that was shown on those
7 drawings or not.

8 MR. MCDONALD: I will withdraw it.

9 BY MR. MCDONALD:

10 Q. All right. RCO, request for change
11 order 258, Plaintiff's Exhibit 12.

12 A. Yes.

13 Q. Okay. When is this dated?

14 A. March 28th, 2019.

15 Q. Was that after the claim was submitted
16 to the architect?

17 A. Yes.

18 Q. Is that after the lawsuit was filed?

19 A. Yes.

20 Q. Who were the subcontractors purportedly
21 involved in this?

22 A. It looks likes Merit also known as
23 Quantum Coatings.

24 Q. Okay.

25 A. Remove and reinstall the Hope's door,

1 which would be Strong Tower and Warco.

2 Q. Okay. Let's take a look at some of
3 the -- this request for change order 258 is dated
4 March 28th, 2019?

5 A. '19, yes.

6 Q. And the first piece of backup, when is
7 it dated?

8 A. July 24th, 2017.

9 Q. Okay. So some 20 months, something like
10 that?

11 A. Correct.

12 Q. And Merit Professional Coatings is the
13 same as Quantum?

14 A. Correct.

15 Q. And they've settled?

16 A. Correct.

17 Q. And the next one is Gulf Stream?

18 A. Correct.

19 Q. When is that dated?

20 A. August 17th, 2018. This was for the
21 demo mockup.

22 Q. Okay. So that's seven months prior to
23 getting over to you?

24 A. Correct.

25 Q. Okay. And after the lawsuit was filed?

1 A. Correct.

2 Q. Do you know whether or not Gulf Stream
3 did this work?

4 A. I don't believe they did this work.

5 Q. Who did this work?

6 A. We had to hire CBI to do this work.

7 Q. We've got Deco in here. It's the next
8 piece of backup. Who is Deco?

9 A. I have no idea.

10 Q. So you've got Gulf Stream purportedly
11 demoing the mockups in August of 2018, right?

12 A. Correct.

13 Q. Then you've got Deco showing up on March
14 28th, 2019?

15 A. Correct.

16 Q. And they're demoing the mockups, too,
17 right?

18 A. Correct.

19 Q. But the people that actually demoed the
20 mockups were CPI?

21 A. Yes. We had CPI demo the mockups.

22 Q. Then we've got Quantum?

23 A. Yes.

24 Q. And when is Quantum's invoice dated?

25 A. July 2nd, 2018.

1 Q. Okay. So eight months prior to getting
2 over to you?

3 A. Yes.

4 Q. And Quantum has settled?

5 A. Yes.

6 Q. All right. Then we've got Koch. When
7 is Koch's invoice dated?

8 A. August 6th, 2018.

9 Q. And this is to remove -- furnish labor
10 and materials to remove mockup door from mockup
11 area and install in the building?

12 A. Correct.

13 Q. Is that the Hope's door?

14 A. Yes, that's the Hope's door.

15 Q. Okay. That was done. We know that was
16 done, right?

17 A. That's correct.

18 Q. All right. Then we've got Warco. When
19 is its invoice dated?

20 A. February 7th, 2018.

21 Q. Okay. So that 13 months prior to
22 getting over to you?

23 A. Correct.

24 Q. All right. Let's go to request for
25 change order 259. Do you see that?

1 A. Yes.

2 Q. When is it dated?

3 A. August 30th, 2018.

4 Q. And who is the subcontractor that's
5 claiming this money?

6 A. Gulf Stream.

7 Q. Is Gulf Stream getting any request for
8 change order money?

9 A. No.

10 Q. Do you know whether this was ever paid
11 to Gulf Stream?

12 A. I don't believe it was.

13 Q. Okay. And Gulf Stream has settled,
14 correct?

15 A. Correct.

16 Q. RCO 260, when is this dated?

17 A. March 1, 2019.

18 Q. All right.

19 A. And it's unsigned.

20 Q. It's not signed by Mr. Starcevic, and
21 it's not signed by you, correct?

22 A. Correct.

23 Q. All right. Do you know whether or not
24 this work was done?

25 A. The 88 guest rooms part was -- may have

1 been done. I don't recall as I sit here today.

2 Q. Okay. And Quantum, a/k/a Merit, has
3 settled in this action, correct?

4 A. That's correct.

5 Q. And part of that was direct payment from
6 Library Associates, correct?

7 A. Correct.

8 Q. Okay. 261 has been withdrawn. RCO 261
9 in Plaintiff's Exhibit 12 has been withdrawn.
10 That's the accordion doors. Is that your
11 understanding?

12 A. Correct.

13 Q. And that work was done, correct?

14 A. Correct.

15 Q. They were originally, on day one of this
16 trial, looking for \$71,723.42, right?

17 A. Correct.

18 Q. And then they withdrew it?

19 A. Correct.

20 Q. RCO 262 in Plaintiff's Exhibit 12,
21 request for change order 262. Do you see that?

22 A. Yes.

23 Q. Okay. And when is it dated?

24 A. August 31st, 2018.

25 Q. Okay. And it is for which

1 subcontractors?

2 A. Precision Wall.

3 Q. Is Precision Wall still in this action?

4 A. No.

5 Q. Okay. And did you pay them directly?

6 A. Yes.

7 Q. And they quit, right?

8 A. Yes.

9 Q. And who is the other?

10 A. Watson.

11 Q. All right. Is Watson getting any
12 request for change order money?

13 A. No.

14 Q. All right. And so this is dated -- RCO
15 262, request for change order 262 is dated August
16 31st, 2018, right?

17 A. Correct.

18 Q. All right. And when is the Precision
19 Walls backup dated?

20 A. August 31st, 2017.

21 Q. So that's --

22 A. Exactly one year.

23 Q. Exactly one year. Okay. And then when
24 is Watson's backup dated?

25 A. January 30th, 2018.

1 Q. Okay. So that's about eight months
2 prior?

3 A. Correct.

4 Q. Seven months, something like that.
5 Well, there's two Watson backups, right?

6 A. Yes.

7 Q. Okay. So one is dated January 30th,
8 2018, and when is the other one dated?

9 A. January 29th, 2018.

10 Q. And Watson says their quotes are only
11 good for 30 days, right?

12 A. Correct.

13 MR. MCDONALD: All right. I can
14 stop at this point, Your Honor.

15 THE COURT: Okay. All right. So
16 we're done through 262. It looks like 264 is
17 your next one.

18 Let's go ahead -- it's right at noon.
19 Why don't we go ahead and break for the week. I
20 know y'all have got some logistics you've got to
21 deal with. Those rooms are going to be open
22 downstairs. I would suggest to pick one.

23 MR. BUNDY: I did want to -- just
24 before we break -- we are in -- Grady Query left.
25 He's off the stand. I can talk to him. The same

1 STATE OF SOUTH CAROLINA
 IN THE COURT OF COMMON PLEAS
 2 COUNTY OF CHARLESTON
 FOR THE NINTH JUDICIAL CIRCUIT

3 BALFOUR BEATTY CONSTRUCTION,)
 4 LLC,) VOLUME SIXTEEN
) Case No.
 5 Plaintiff,) 2019-CP-10-1108
)
 6 -versus-)
)
 7 LIBRARY ASSOCIATES, LLC; AND)
 METROPOLITAN LIFE INSURANCE)
 8 COMPANY, A NEW YORK CORPORATION)
)
 9)
 Defendants.)

10 -----
 LIBRARY ASSOCIATES, INC.,)
 11)
 Defendant/Third-Party Plaintiff,)
 12)
 -versus-)
 13)
 LITHKO CONTRACTING, LLC; GUY M.)
 14 BEATY, INC.; BERNHARD MMC, LLC)
 GULF STREAM CONSTRUCTION CO.,)
 15 INC; PRECISION WALLS, INC.;)
 PALMETTO AUTOMATIC SPRINKLER)
 16 COMPANY, INC.; ET AL,)
)
 17 Third-Party Defendants.)

18
 19 Hearing before the Honorable Mikell R.
 20 Scarborough, reported by Jennifer M. Huggins,
 21 Court Reporter and Notary Public, at 10:00 a.m.
 22 on November 1, 2021 at 100 Broad Street,
 23 Courtroom 2A, Charleston, South Carolina.

24

25

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1 May it please the Court?

2 THE COURT: Certainly.

3 DIRECT EXAMINATION

4 BY MR. MCDONALD:

5 Q. Good morning, Ms. Brown.

6 A. Good morning.

7 Q. When we left off, we were going through
8 Plaintiff's Exhibit 12, which is the request for
9 change order backup documentation, correct?

10 A. Correct.

11 Q. All right. And where were we left off,
12 Ms. Brown, was request for change order number
13 264 in Plaintiff's Exhibit 12.

14 A. I had had the sheet of that exhibit kind
15 of tucked in here. I don't know what happened to
16 my sheet.

17 Q. I think rather than searching for it, I
18 have another copy for you.

19 A. Thank you.

20 Q. And the sheet you're referring to is
21 Plaintiff's Exhibit 329?

22 A. That's correct.

23 Q. All right. Ma'am, do you recognize
24 request for change order 264 in Plaintiff's
25 Exhibit 12?

1 A. Yes, I do.

2 Q. And when is it dated?

3 A. September 4th, 2018.

4 Q. Okay. And it is not signed on the
5 second page by Mr. Dooley, correct?

6 A. That's correct.

7 Q. Do you know when Mr. Dooley left the
8 employee of Balfour Beatty?

9 A. I believe Mr. Dooley testified that he
10 left right at Labor Day in 2018.

11 Q. Okay. So right at about the time of
12 this request for change order?

13 A. That's correct.

14 Q. All right. And do you know which subs
15 or subcontractors are involved with this change
16 order?

17 A. Pasco.

18 Q. Okay. And that's Palmetto Automatic
19 Sprinkler?

20 A. That's correct.

21 Q. Okay. Do you have a memory of receiving
22 this request for change order?

23 A. I don't recall receiving the request for
24 change order, no, but I do recall this work had
25 to be done.

1 Q. Okay. And do you know why this work had
2 to be done?

3 A. Because the location of the sprinkler
4 heads were in the walls where the TVs were going,
5 and they were too close to the TVs.

6 Q. Okay. And who selected the location to
7 the sprinkler head?

8 A. Pasco.

9 Q. So the subcontractor selected the
10 original locations of the sprinkler head?

11 A. Yes. The fire protection subcontractor
12 self designs the fire protection location for the
13 sprinkler heads, et cetera, in the plan.

14 Q. And for that reason, is that why this
15 change order would be rejected?

16 A. Correct.

17 Q. And did the interior designer, in fact,
18 reject this change order?

19 A. I believe he did, yes.

20 Q. Let's go to request for change order 266
21 in Plaintiff's Exhibit 12. Are you there?

22 A. Yes.

23 Q. And this is -- when is this request for
24 change order dated?

25 A. September 7, 2018.

1 Q. Okay. And are you able to make a
2 determination as to which subcontractors were
3 involved with this request for change order?

4 A. The Precision Walls. Yes, Precision
5 Walls.

6 Q. All right. And Precision Walls was
7 originally in this action, correct?

8 A. Correct.

9 Q. And they quit?

10 A. That's correct.

11 Q. And did you all pay Precision Walls
12 money?

13 A. Yes, we did.

14 Q. And this change order is purportedly
15 dated September 7th, 2018, correct?

16 A. That's correct.

17 Q. Are you able to make a determination as
18 to the date of the backup documentation?

19 A. The date of the backup documentation
20 from Precision Walls was April the 12th, 2017 and
21 March the 28th, 2017.

22 Q. So some 17 months prior?

23 A. Correct.

24 Q. All right. Let's go to request for
25 change order 267 in Plaintiff's Exhibit 12. Are

1 you there?

2 A. Yes.

3 Q. Okay. And when is this change order
4 dated?

5 A. September 7th, 2018.

6 Q. And it is not signed by Mr. Dooley,
7 correct?

8 A. That's correct.

9 Q. Okay. And are you able to make a
10 determination as to which subcontractors are
11 involved?

12 A. Low Country Case and Millwork.

13 Q. Any other subcontractors?

14 A. No.

15 Q. And what is the date that Low Country
16 Case and Millwork's backup documentation is
17 attached to request for change order 267?

18 A. June 14th, 2017.

19 Q. So approximately 15 months prior to
20 submission?

21 A. Correct.

22 (DFT. EXH. 145 was marked for
23 identification.)

24 Q. Okay. Ms. Brown, I'm going to hand you
25 what's been marked for ID purposes as Defendant's

1 Exhibit 145 and ask if you recognize that
2 document?

3 A. Yes, I do.

4 Q. Okay. What do you recognize it to be?

5 A. It's an e-mail from Jim Clements to Nick
6 Starcevic requesting the breakdown from Balfour
7 Beatty on roof mod one through eight, millwork
8 change order.

9 Q. Okay. And let's start at the bottom.
10 Are you copied on the first e-mail from
11 Mr. Dooley?

12 A. Yes, I am. That one was actually sent
13 to me, yes.

14 Q. Okay. And are you on the next e-mail?

15 A. Yes, I am.

16 Q. And are you on the final e-mail?

17 A. Correct.

18 Q. And is this a true and accurate copy of
19 this e-mail exchange?

20 A. Yes.

21 MR. MCDONALD: Your Honor, at this
22 time, I move Defendant's 145 into evidence.

23 MR. HILDEBRAND: No objection.

24 THE COURT: Without objection.

25 (DFT. EXH. 145 was received in

1 evidence.)

2 BY MR. MCDONALD:

3 Q. Now, on the e-mail on the bottom, are
4 you able to determine what request for change
5 order this relates to?

6 A. Yes. It says RCO 267.

7 Q. And is that the request for change order
8 we're looking at in Plaintiff's Exhibit 12?

9 A. Yes.

10 Q. Okay. And Mr. Dooley transmits it on,
11 it looks like, Friday September 7, 2018?

12 A. Correct.

13 Q. And what response does he get from
14 Mr. Clements?

15 A. Mr. Clements actually returns the e-mail
16 to Nick Starcevic because I believe --

17 Q. Do you -- go ahead.

18 A. I believe Mr. Dooley had left as of
19 September the 13th and requesting additional
20 information and a credit for RCO 149.

21 Q. Okay. And then the final e-mail is from
22 Mr. Clements to Mr. Starcevic, and then the
23 second e-mail is dated September 13, 2018,
24 correct?

25 A. That's correct.

1 Q. And then the final e-mail is from
2 Mr. Clements to Mr. Starcevic, correct?

3 A. That's correct.

4 Q. And when is it dated?

5 A. February 6th, 2019.

6 Q. Okay. And what does it say to
7 Mr. Starcevic?

8 A. Nick, following up on a response to the
9 trailing e-mail.

10 Q. Okay. And do you know whether or not
11 Mr. Clements or anybody at Library Associates
12 ever got a response from Mr. Starcevic as to the
13 inquiry related to request for change order 267?

14 MR. HILDEBRAND: Objection, Your
15 Honor, calls for speculation. She can testify
16 about what she got -- what information she got,
17 but not anything else.

18 THE COURT: Sustained.

19 BY MR. MCDONALD:

20 Q. Do you know whether or not anybody at
21 Library Associates received any additional
22 information related to RCO 267?

23 MR. HILDEBRAND: Same objection,
24 Your Honor.

25 THE COURT: It's overruled.

1 THE WITNESS: Not to my knowledge.

2 BY MR. MCDONALD:

3 Q. Okay. All right. Let's move on to
4 request for change order 268 -- 268 in
5 Plaintiff's 12. When is that change order dated?

6 A. September 24th, 2018.

7 Q. Okay. And are you able to make a
8 determination as to which subcontractors are
9 involved?

10 A. Yes.

11 Q. Okay. And who is that?

12 A. The Low Country Case and Millwork, SEAS,
13 which is Southeastern Architectural System, and
14 First Choice Glass.

15 Q. All right. So let's go over first --
16 was First Choice Glass in this action?

17 A. Yes, they were.

18 Q. And they quit, right?

19 A. Correct.

20 Q. All right. And what about SEAS? Were
21 they in this action?

22 A. Yes.

23 Q. Okay. And did Library Associates pay
24 SEAS money directly?

25 A. I believe we did, yes.

1 Q. Okay. And they're no longer in this
2 action, correct?

3 A. Correct.

4 Q. Do you know what -- the final Low
5 Country Case and Millwork, do you know what that
6 backup documentation is for?

7 A. It is for wire mesh -- decorative wire
8 mesh that was to be installed in the Camellia's
9 bar cabinets.

10 Q. Okay. And do you know whether or not
11 that was in fact installed?

12 A. We did. We did install this alternate
13 decorative wire mesh from Low Country.

14 Q. Okay. And if that was in fact
15 installed, was it a change?

16 A. There was always wire mesh shown in the
17 documents, in the plans for that area --

18 Q. Okay.

19 A. -- or metal inserts.

20 Q. Let's go to request for change order 270
21 in Plaintiff's Exhibit 12. All right. And when
22 is this change order dated?

23 A. March 12th, 2019.

24 Q. Was that after the claim was submitted
25 to the architect by Balfour Beatty?

1 A. Yes, it was.

2 Q. Was that after the lawsuit was filed?

3 A. Yes, it was.

4 Q. And are you able to make a determination
5 as to which subcontractor is involved in request
6 for change order 270?

7 A. Precision Walls.

8 Q. And Precision Walls is no longer a party
9 to this action?

10 A. Correct.

11 Q. And y'all paid Precision Walls money
12 directly?

13 A. Correct.

14 Q. All right. Let's look at some of these
15 tickets from Precision Walls. The first ticket,
16 are you able to make a determination as to the
17 date of that ticket?

18 A. It is dated March 13th, 2017.

19 Q. Okay. So some two years prior to the
20 request for change order 270?

21 A. Correct.

22 Q. And just generally, if you would, inform
23 the Judge of the various dates of the purported
24 backup documentation in the request for change
25 order 270.

1 A. It appears it starts at the -- March 13,
2 2017 and continues on until about June 18th,
3 2018, which is the last backup.

4 Q. So it's two years to nine months old,
5 something like that?

6 A. Correct.

7 Q. Okay. If you would, Ms. Brown, this
8 request for change order is in the amount of
9 \$49,885.72; is that right?

10 A. Correct.

11 Q. And it's for Precision Walls?

12 A. Correct.

13 Q. If you would -- are you able to find the
14 Precision Walls backup documentation? It is
15 about 10 pages from the end, dated November 17th,
16 2017?

17 A. Yes.

18 Q. And do you see the note section of that
19 document?

20 A. I do.

21 Q. All right. And can you read the first
22 sentence of the note section?

23 A. All the mobilization costs for framing,
24 painting and finishing openings that could not be
25 completed during the construction of the

1 respected areas due to the outer sequenced
2 installation of exterior windows and doors shown
3 on the attached take off.

4 Q. Okay. Do you know who was responsible
5 for the sequencing of the work?

6 A. Balfour Beatty.

7 Q. And so that one from November 17th of
8 2017 is \$19,590 of the total change order,
9 correct?

10 A. Correct.

11 Q. All right. Let's go to request for
12 change order 271 -- 271, Plaintiff's Exhibit 12.
13 When is that request for change order dated?

14 A. March 12th, 2019.

15 Q. Okay. And is that after the claim was
16 submitted to the architect?

17 A. Yes, it was.

18 Q. And was that after the lawsuit was
19 filed?

20 A. Yes, it was.

21 Q. Okay. And are you able to make a
22 determination as to what subcontractor is
23 involved in this request for change order 271?

24 A. Quantum Coatings.

25 Q. And Quantum Coatings has since settled

1 in this case?

2 A. That's correct.

3 Q. Take a look, if you would, at the
4 tickets, Quantum Coatings' tickets that are
5 attached. And if you'd go to the first -- to the
6 second one, that's dated June 5th, 2018.

7 A. Yes.

8 Q. Are you there?

9 A. Yes.

10 Q. All right. And so this would have been
11 some nine months prior to submission to you all,
12 correct?

13 A. Correct.

14 Q. Do you know why these PWI, Pasco, Watson
15 and LLI are listed on these statements?

16 A. Because they were being back charged.

17 MR. HILDEBRAND: Objection, Your
18 Honor. She doesn't know anything about this
19 document. She can read what's on it, but she
20 didn't author it. She wasn't -- she didn't have
21 any involvement with its generation. I think it
22 just calls for speculation.

23 MR. MCDONALD: Your Honor, may I
24 respond?

25 THE COURT: Yeah.

1 MR. MCDONALD: Balfour Beatty sent
2 this document after the law ordered it, March
3 12th, 2019, after the lawsuit was filed to
4 Ms. Brown. Okay?

5 And now, they're going to stand up in
6 Court in front of you and say, Ms. Brown isn't
7 qualified to know anything about this document.
8 If that's the case, what was she supposed to do
9 with it? Why would they send it to her?

10 MR. HILDEBRAND: Your Honor, his
11 question was, does she know why Balfour listed
12 those people, and she can't testify about that.
13 That would be speculation. She can testify about
14 facts and her knowledge, but she sure can't
15 testify about what our intents were or what
16 our --

17 MR. MCDONALD: I'll rephrase the
18 question.

19 THE COURT: Restate the question.

20 BY MR. MCDONALD:

21 Q. What was your understanding of why this
22 ticket included other subcontractors, if any?

23 A. Because they were going to be back
24 charged for the work.

25 MR. HILDEBRAND: Your Honor,

1 that -- I would move to strike that testimony.
2 She didn't -- she can't testify what was in
3 Balfour's knowledge. If they want to
4 introduce --

5 THE COURT: I agree with that. It
6 was -- the question was, what was her
7 understanding, and that was her understanding.
8 So she's entitled to give that opinion. All
9 right. I will overrule it.

10 BY MR. MCDONALD:

11 Q. Okay. And let's move on to the next
12 one, June 4th, 2018. It's on the same page.

13 A. Yes.

14 Q. And what is the description of work for
15 that?

16 A. Description of work is shrinkage and
17 splitting, caulk and sand at adjoining surfaces,
18 trim base crown, columns, ceilings, soffits, and
19 operable wall tracks, crown and soffit finish
20 coat, column finish coat, ceiling upper trade cut
21 in.

22 Q. Okay. And does that June 4, 2018
23 document also list varying subcontractors?

24 A. That's correct.

25 Q. Okay. Let's go to the next one, June 7,

1 2018. What does that say?

2 A. Prime and finish coat, sprinkler repairs
3 in the sixth floor guest room ceilings, Pasco BC.

4 Q. And did you have an understanding what
5 Pasco BC meant?

6 A. Yes. That's a back charge.

7 Q. Okay. And let's go to the next one,
8 June 6th, 2018. What is that for?

9 A. Shrinkage, splitting in upper tray
10 ceiling, gypsum wall boards and crown, box soffit
11 off of the wall track, prime and finish coat
12 flat.

13 Q. And does that list various
14 subcontractors, including Low Country, Precision
15 Walls, Watson, Pasco and Low Country Millwork?

16 A. Yes.

17 Q. All right. Let's go to the next one,
18 June 8, 2018. What is that one for?

19 A. Pasco sprinkler head ceiling repair,
20 prime, sand and finish two coats.

21 Q. And then the next one, June 7, 2018.
22 What is that one for?

23 A. Upper ceiling tray and crown, sand and
24 prime applied, finish coat, shrinkage, splitting.

25 Q. And does it list various subcontractors?

1 A. It does.

2 Q. All right. Let's go to request for
3 change order 272. 272. And when is that
4 change -- Plaintiff's Exhibit 12, when is that
5 order dated -- or request for change order dated?

6 A. March 7th, 2019.

7 Q. And is that after the lawsuit was filed?

8 A. Yes, it was.

9 Q. Was that after the claim was submitted
10 to the architect?

11 A. Yes.

12 Q. Who is the subcontractor that is
13 involved in this claim?

14 A. It appears to be Tate Ornamental.

15 Q. And when is the backup documentation for
16 Tate Ornamental dated?

17 A. February 1st, 2018.

18 Q. Okay. So a year before the request for
19 change order 272 is dated?

20 A. That's correct.

21 Q. Do you know whether or not this work was
22 done?

23 A. I don't recall.

24 Q. All right. Are any of these change
25 order request authorizations signed by anybody?

1 A. No.

2 Q. Is Tate Ornamental a party to this
3 action, or have they ever been a party to this
4 action?

5 A. Not that I can recall.

6 Q. Okay. Let's go to request for change
7 order 273 in Plaintiff's Exhibit 12. When is
8 this document dated?

9 A. There's no date.

10 Q. Who is it to?

11 A. It's addressed to Mr. Nick Starcevic.

12 Q. And who is it from?

13 A. Mr. Nick Starcevic.

14 Q. Is it signed by Nick Starcevic?

15 A. No, it is not.

16 Q. And if you look at the fourth page of
17 the cover letter to the request for change order
18 or the fourth page of the request for change
19 order, do you see who was meant to grant
20 authorization for the change order?

21 A. Yes.

22 Q. Who is that?

23 A. Mr. Nick Starcevic.

24 Q. Okay. So he sent it to himself in order
25 to get authorization from himself?

1 A. That's what it appears to be.

2 Q. All right. The backup associated with
3 it, Ms. Brown, if you would turn to that. Do you
4 know anything about this backup documentation?

5 A. It appears to be a change order request
6 log with David Allen Company.

7 Q. Okay. And what are the dates included
8 on the change order request log?

9 A. On the columns below or up on the box up
10 at the top?

11 Q. Well, let's talk about both. On the box
12 at the top, what's the date?

13 A. It says 12/31/19, or it just says, from
14 date, which is blank, to 12/31/19.

15 Q. Okay. Which is after -- well, this
16 document is not dated, right?

17 A. Correct.

18 Q. Okay. And then let's talk about the
19 other dates.

20 A. In the columns, there's a column for
21 origination date, and then there's a quote
22 submitted date and a date approved column.

23 Q. Okay. And those dates run from, it
24 looks like, April of '16 through January of '19,
25 right?

1 A. Correct.

2 Q. I see one for January 25th, 2019.

3 A. Correct.

4 Q. How much is that for?

5 A. The one for January 25th or the total?

6 Q. Yes, the one for January 25th.

7 A. \$150.

8 Q. And that's the date this document was
9 printed?

10 A. That's correct.

11 Q. Are you able to make a determination,
12 based upon this backup provided, as to what, if
13 any, changes were being requested?

14 A. No. It appears in the description,
15 that's repair work and floor prep.

16 Q. Let's go to request for change order 274
17 in Plaintiff's Exhibit 12. When is that dated?

18 A. There is no date.

19 Q. No date. Okay. Is it signed?

20 A. No, it is not.

21 Q. And is this -- who is it addressed to?

22 A. Mr. Nick Starcevic.

23 Q. And who is it from?

24 A. Mr. Nick Starcevic.

25 Q. And who's meant to grant authorization?

1 A. Mr. Nick Starcevic.

2 Q. And what does it say it's for?

3 A. Salamander punch list, guest room, all
4 floors.

5 Q. Okay. And are you able to make a
6 determination as to which subcontractor?

7 A. Quantum Coatings.

8 Q. Okay. And Quantum Coatings has settled
9 out of this action?

10 A. Correct.

11 Q. Let's go to our request for change order
12 275, Plaintiff's Exhibit 12. Are you there?

13 A. Yes.

14 Q. All right. And when is that dated?

15 A. April 12th, 2019.

16 Q. And is that after the claim was
17 submitted to the architect?

18 A. Yes.

19 Q. And was that after the lawsuit was
20 filed?

21 A. Yes.

22 Q. And this one was addressed to you,
23 correct?

24 A. Correct.

25 Q. All right. And it's not signed, but who

1 is sending it to you?

2 A. Mr. Nick Starcevic.

3 Q. And are you able to make a determination
4 as to which subcontractors are involved in this
5 request for change order 275?

6 A. It appears to be David Allen Tile,
7 Quantum Coatings, Precision Walls, MCC
8 Mechanical.

9 Q. Okay. And do you know what this request
10 for change order relates to?

11 A. It relates to the installation of the
12 guest room bathroom vanities and the plumbing
13 work.

14 Q. Okay. Turn if you would, Ms. Brown, to
15 the -- about 10 pages in, there's an e-mail from
16 Marty Dale to Michael Zinna, and Troy Williams.
17 Are you there?

18 A. Yes.

19 MR. HILDEBRAND: I'm sorry. Where
20 is it?

21 MR. MCDONALD: It's about 10 pages
22 in, maybe 12 pages in.

23 MR. HILDEBRAND: In 275?

24 MR. MCDONALD: Yes, sir.

25 THE COURT: I think you just passed

1 it.

2 MR. HILDEBRAND: I'm just having
3 trouble finding it. I'm sorry. I've got it.

4 MR. MCDONALD: Are you there?

5 MR. HILDEBRAND: Yeah.

6 BY MR. MCDONALD:

7 Q. All right. And this e-mail is dated
8 when, Ms. Brown?

9 A. September 19, 2017.

10 Q. Okay. And this request for change order
11 is dated April 12, 2019?

12 A. That's correct.

13 Q. Would you read the last two sentences of
14 the first paragraph?

15 A. Multiple crews working on multiple
16 floors would be preferred.

17 Q. The first paragraph.

18 A. Oh, I'm sorry. The first paragraph.

19 We realize that previously, BBC did
20 direct you to frame the opening 52 and a half
21 inches to 52 and five-eighth inch maximum width.
22 So any and all openings less than the maximum
23 dimensions we gave, the cost for repairs will be
24 on BBC. The cost for repairs for all other
25 openings exceeding the 52 and five-eighth inch or

1 less than 52 inch will be the responsibility of P
2 Walls.

3 Q. Okay. And then on the next page,
4 there's a spreadsheet, right?

5 A. Correct.

6 Q. And what does it say on the bottom?

7 A. We owe highlighted rooms 24.

8 Q. And is your copy in color?

9 A. No, it is -- I can see the blue. I
10 don't see any highlights.

11 Q. Okay. Let me go through some of these
12 other ones, if we could. Turn just by way of
13 example, to four pages in. It's an extra work
14 order after October 4, 2017.

15 A. Four pages from there or the beginning?

16 Q. Yeah. Four pages from the e-mail we
17 were looking at -- or three pages, the back page
18 of the third page.

19 MR. MCDONALD: May I approach, Your
20 Honor?

21 THE COURT: This is from the front
22 or from the back? I'm sorry, Mr. McDonald, from
23 the front?

24 MR. MCDONALD: No, no, no. If you
25 go to that e-mail we were just at, Your Honor.

1 THE COURT: Right.

2 MR. MCDONALD: And just go --

3 THE COURT: About three pages
4 further?

5 MR. MCDONALD: -- two pages to the
6 back side of the second page.

7 THE COURT: Okay.

8 BY MR. MCDONALD:

9 Q. Are you able to read that document?

10 A. No.

11 Q. Are there any documents in here that are
12 of the same legibility?

13 A. Yes. There's several, but they appear
14 to be on a yellow page.

15 Q. About how many of them are there?

16 A. 31.

17 Q. Pages that you can't read?

18 A. Correct.

19 Q. All right. And all the Precision Walls
20 stuff that you can read is dated fall of 2017?

21 A. Correct.

22 Q. Once you get through the Precision Walls
23 stuff, which subcontractor do you come to next?

24 A. Bernhard MCC.

25 Q. And when is that dated?

1 A. July 18th, 2018.

2 Q. So some 13 months prior to submission of
3 RCO, request for change order 275?

4 A. Yes.

5 Q. Turn if you would to the second page of
6 the BMCC stuff. Before I get to that question,
7 Precision Walls is no longer a party to this
8 action, correct?

9 A. Correct.

10 Q. And the owner paid Precision Walls money
11 directly?

12 A. Correct.

13 Q. This letter -- when is this dated, this
14 letter here, in the Bernhard MCC section?

15 A. There's a letter from Balfour Beatty to
16 Mr. Phillip Garcia with Bernhard MCC. It's dated
17 November 9th, 2017.

18 Q. And who sent it?

19 A. Mr. Nick Starcevic.

20 Q. Okay. And is that the same person that
21 sent request for change order 275?

22 A. Yes.

23 Q. If you would, read to the Judge the last
24 sentence of that letter from Mr. Starcevic dated
25 November 9th, 2017.

1 A. BBC will compile all the available
2 information and associated costs to determine
3 fair and equitable payment upon completion of
4 which BMCC agrees they're responsible for
5 one-third of the total costs.

6 Q. All right. And the owner has paid BMCC
7 directly, correct?

8 A. Correct.

9 Q. And they're no longer a party to this
10 action?

11 A. Correct.

12 Q. All right. Let's go to -- flip one full
13 page from the letter -- November 9th, 2017
14 letter. It looks like there's a timesheet dated
15 January 12th, 2018.

16 A. Yes.

17 Q. Okay. And do you see where it says job
18 description?

19 A. Yes.

20 Q. Would you read that for the Judge?

21 A. Relocating Lav valves for the second
22 time on the fifth floor due to walls being out of
23 square. Work was performed 1/11/2018.

24 Q. Okay. Turn to the next page. This is
25 labor, equipment, material ticket from Bernhard

1 MCC, right?

2 A. Correct.

3 Q. All right. It's included as backup
4 documentation for request for change order 275,
5 correct?

6 A. Correct.

7 Q. Do you know if Bernhard MCC framed the
8 building?

9 A. No.

10 Q. Who did that?

11 A. Precision Walls.

12 Q. Okay. And Precision Walls was in this
13 request for change order, too, right?

14 A. That's correct.

15 Q. Okay. Would you read to the Judge what
16 this work is for?

17 A. Relocating Lav valve for second time on
18 level 5 due to walls not being squared. Work was
19 performed 1/10/2018.

20 Q. Okay. Let's go to the next one. When
21 is it dated?

22 A. 12/22/2017.

23 Q. And what work was that for?

24 A. Relocating Lav values on level 3 due to
25 framing not being squared, second time this has

1 been moved. Work performed 12/22/2017.

2 Q. Okay. Let's go to the next one. When
3 is that dated?

4 A. 12/22/2017.

5 Q. Now, is that the same one as before?

6 A. It has the same description, but it
7 looks like it appears to be 12/21/2017.

8 Q. Okay. All right. And what is it for?

9 A. Relocating Lav valves on the third floor
10 due to framing not being squared, second time
11 relocating.

12 Q. Okay. Let's go to the next one. What
13 work is that for?

14 A. Same work, relocating Lav valves on
15 level 3 due to walls not being squared. Work was
16 performed 12/20/2017. This is the second time.

17 Q. All right. The next one.

18 A. Relocating Lav valves on level 3 on
19 second time due to walls not being squared. Work
20 was performed 12/19/2017.

21 Q. All right. And the next one.

22 A. Relocated Lav valves due to framing
23 being wrong. Rooms listed below. Work was
24 performed 11/29/2019. And the rooms listed below
25 are -- appears to be fifth floor rooms.

1 Q. Okay. And the next one.

2 A. Relocating Lav valves due to framing
3 being wrong. Rooms listed below. Work was
4 performed 11/28/2017.

5 Q. And the next one.

6 A. Relocating Lav valves due to framing
7 being wrong. Rooms listed below. Work was
8 performed 11/27/2017.

9 Q. And the next one.

10 A. Relocating Lav values due to framing
11 being wrong. Rooms listed below. Work was
12 performed 11/22/2017.

13 Q. And the next one.

14 A. Relocating Lav valves due to framing
15 being wrong. Rooms listed below. Work was
16 performed 11/21/2017.

17 Q. And the remaining of the MCC backup
18 documentation, does it have similar language that
19 it's for framing being wrong?

20 A. Yes, it does.

21 Q. And then the last subcontractor is who?

22 A. Low Country Case and Millwork.

23 Q. Okay. And the backup documentation,
24 what does it say it's for?

25 A. Can you repeat the question? I'm sorry.

1 Q. The Low Country Framing and Millwork,
2 when is the backup documentation dated for it?

3 A. November 21st, 2017.

4 Q. Okay. And request for change order 275
5 again is dated April of '19?

6 A. That's correct.

7 Q. All right. And are you able to look at
8 this and see what work Low Country Case and
9 Millwork is submitting a change order for?

10 A. They were modifying four guest room
11 vanities.

12 Q. All right. Let's go to request for
13 change order 276 in Plaintiff's Exhibit 12. Are
14 you there?

15 A. Yes, I am.

16 Q. When is that change order dated?

17 A. March 13th, 2019.

18 Q. All right. And is that after the
19 lawsuit was filed?

20 A. Yes, it was.

21 Q. Is that after the claim was submitted to
22 the architect?

23 A. Yes, it was.

24 Q. All right. And are you able to make a
25 determination as to which subcontractor was

1 involved in this?

2 A. Low Country Case and Millwork.

3 Q. And I will have you pull out -- and I
4 will grab it for you and make it easier -- pay
5 application 36.

6 MR. MCDONALD: And that is Exhibit
7 3, Your Honor.

8 BY MR. MCDONALD:

9 Q. All right. If you would, turn on
10 request for change order 276 to the second page.
11 It's still the first page because it's two-sided.
12 Are you there?

13 A. Yes.

14 Q. Okay. It has a line item there that
15 says added back band at windows for an amount.
16 Do you see that?

17 A. Yes.

18 Q. Do you recall that work?

19 A. We're talking about the list here or the
20 backup?

21 Q. I'm just referring to the list right
22 now. We will get to the backup in a second. Do
23 you recall any work that would be described as
24 added back band at windows?

25 A. Yes.

1 Q. And if you go to the backup
2 documentation in this document, are you able to
3 find the backup documentation for that work?

4 A. Yes.

5 Q. Okay. And when is that dated?

6 A. 11/1/2017. That's the last page of the
7 backup.

8 Q. And how much is that for?

9 A. That's for 39,725.

10 Q. I hand you what's been marked as
11 Defendant's Exhibit 3 and ask if you recognize
12 that document in toto, the whole document.

13 A. This is the -- the entire document is
14 the pay application number 36 from Balfour Beatty
15 to Library dated for the period March 1st, 2018
16 to March 31st, 2018.

17 Q. And was pay application 36 funded in
18 full?

19 A. Yes, it was.

20 Q. Okay. Can you see if Low Country Case
21 and Millwork got any money in that pay
22 application?

23 A. Yes. They're included in the pay
24 application.

25 Q. And did they get paid the \$39,725?

1 A. Yes, they did.

2 Q. Okay. And the owner has already paid
3 that?

4 A. Yes, it has been paid.

5 Q. And that's been true since March of
6 2018?

7 A. That's correct.

8 Q. And on a change order that on its face
9 is dated November 1st, 2017?

10 A. That's correct.

11 Q. Do you know whether or not they paid --
12 that Balfour paid Low Country for that work?

13 A. That I don't know.

14 Q. Did Balfour submit a pay application 37?

15 A. Yes, they did.

16 Q. And did they certify pay application 37,
17 that all the monies that they received in pay
18 application 36 had in fact been paid?

19 A. Yes.

20 MR. HILDEBRAND: Objection, Your
21 Honor. He's leading the witness. If he wants to
22 have her read the certification, but Nick
23 Starcevic explained this. So I think it's
24 improper.

25 Again, it's quite leading and it's an

1 improper recitation of the facts, and certainly
2 what Nick Starcevic testified about, what was the
3 custom in the industry for each of these pay
4 application that were submitted.

5 MR. MCDONALD: May I respond, Your
6 Honor?

7 THE COURT: Yeah.

8 MR. MCDONALD: I don't recall
9 Mr. Starcevic saying from the stand that we
10 accepted \$39,725 from the owner, okay, and are
11 now asking for it again. I don't recall that
12 testimony. If he's saying that that occurred, I
13 don't recall it.

14 So what I'm getting into -- whatever
15 Nick Starcevic testified, that's his -- that's
16 his witness. The notion that she can't respond
17 to this, especially the egregious nature of this
18 nonsense, I --

19 MR. HILDEBRAND: Well, this all
20 started --

21 THE COURT: The objection is as to
22 what Nick Starcevic did; is that right?

23 MR. HILDEBRAND: Well, it's really
24 the leading question, and she's already testified
25 that she doesn't know what happened with Balfour

1 having paid this subcontractor or not. So it's
2 all based on speculation.

3 THE COURT: All right.

4 MR. MCDONALD: I will rephrase,
5 Your Honor.

6 THE COURT: All right. Let's get
7 back to this pay app, and then if you want to go
8 to the next pay app, we will turn the page and go
9 there.

10 BY MR. MCDONALD:

11 Q. On Defendant's Exhibit 3, pay
12 application 36, this amount of 39,725 is included
13 in there for Low Country Case and Millwork,
14 correct?

15 A. Correct.

16 Q. And the owner funded that pay
17 application, correct?

18 A. Correct.

19 Q. Okay. Now, let's look at pay
20 application 37. Ms. Brown, let me ask you this:
21 Was pay application 37 funded by the owner?

22 A. Yes, it was.

23 Q. All right. And that was after pay
24 application 36?

25 A. Yes.

1 Q. Okay. All right. Let's take a look at
2 additional backup in this request for change
3 order 276. If you would, go back to the first
4 page. On it's back, it has an amount for \$9,486.
5 Do you see that?

6 A. Yes, I do.

7 Q. And do you recall what that was for?

8 A. It says rotunda mod 1 through 8
9 millwork.

10 Q. And what work was that? Do you recall?

11 A. That was millwork done in the rotunda
12 that the -- but it was rejected by the designer
13 because the designer said it was already in the
14 plans.

15 Q. Okay. If you would, would you turn back
16 to request for change order 253 in the notebook.
17 Are you there?

18 A. Yes.

19 Q. And when is that change order dated or
20 request for change order dated?

21 A. August 14, 2018.

22 Q. And it's your testimony that that was
23 rejected?

24 A. That's correct.

25 Q. Okay. And was it rejected on or

1 about -- or some time after August 14, 2018?

2 A. Correct.

3 Q. And what is the amount of that change
4 order?

5 A. \$9,486.

6 Q. And what is it for?

7 A. Add crown and dome at rotunda layer.

8 Q. Is that the same amount that's in
9 request for change order 253, that's in request
10 for change order 276?

11 A. Yes, it is.

12 Q. All right. Let's go to request for
13 change order 277. Are you there, Ms. Brown?

14 A. I am.

15 Q. This is request for change order 277 in
16 Plaintiff's Exhibit 12. When is this dated?

17 A. March 13th, 2019.

18 Q. And is that after the lawsuit was filed?

19 A. Yes, it is.

20 Q. And is that after the claim was
21 submitted to the architect?

22 A. Yes.

23 Q. Okay. And are you able to make a
24 determination as to which subcontractor is
25 involved in this change order?

1 A. Miscellaneous Steel Industries.

2 Q. Okay. And what do they do?

3 A. They provided the steel for the project.

4 Q. And are you able to look at this --
5 let's look at the backup documentation. Are you
6 able to make a determination as to when this
7 stuff was dated?

8 A. If you go through about four or five
9 pages, there's a submittal summary and an MSI
10 transmittal, and that's dated -- that's just like
11 shop drawings there. But that's dated 2015.

12 Q. What is the exact date of it?

13 A. August 5th, 2015.

14 Q. So some almost four years prior to
15 request for change order 277?

16 A. Correct.

17 Q. Is Miscellaneous Steel Industries a
18 party to this lawsuit?

19 A. No.

20 Q. Have they ever been a party to this
21 lawsuit?

22 A. No.

23 Q. All right. Then we go through here, the
24 backup documentation behind that August 5, 2015.
25 Well, what is the August 5th, 2015 correspondence

1 from Miscellaneous Steel? What are they doing?

2 A. We are sending you enclosed the
3 following design drawings, erection drawings to
4 be returned by August 19, 2015. This material is
5 being transmitted for the purpose listed below,
6 for approval (inaudible).

7 Q. And after that, you've got shop
8 drawings, right?

9 A. Correct.

10 Q. And then you get to some subcontractor
11 estimate pricing. Do you see that?

12 A. Yes.

13 Q. And is that accepted by or signed by
14 anybody?

15 A. No.

16 Q. Then after you get through the MSI
17 stuff, then we get Acero Construction Services.
18 Do you see that? It's towards the -- it's after
19 all the shop drawings. It's for -- it's a time
20 and materials sheet.

21 A. Yes.

22 Q. Do you know who they are?

23 A. I do not.

24 Q. And when are -- when is this work dated?

25 A. March 8, 2017.

1 Q. So you've got shop drawings being
2 submitted in August of 2015, and then you've got
3 a time and materials sheet. Is it signed by the
4 contractor?

5 A. From Acero?

6 Q. Yeah, from Acero.

7 A. It's signed by Acero but not --

8 Q. The spot for contractor is blank?

9 A. That's correct.

10 Q. Okay. And that's from March of '17?

11 A. Yes.

12 Q. And do you know -- and then we've got --
13 at the end, you've got two pictures, right?

14 A. Correct.

15 Q. All right. Let's go to request for
16 change order 278. And when is that dated?

17 A. March 29, 2019.

18 Q. Okay. And that's after the lawsuit was
19 filed, correct?

20 A. Correct.

21 Q. All right. And after, the claim was
22 submitted to the architect, correct?

23 A. Correct.

24 Q. And are you able to make a determination
25 as to which subcontractor is involved in this?

1 A. It would be Koch Corporation and also
2 Strong Tower doing business as Koch Corporation.

3 Q. All right. And what is the date of that
4 backup documentation?

5 A. June 25, 2018.

6 Q. So nine months prior?

7 A. Correct.

8 Q. All right. Then we've got finally
9 request for change order 279. Are you there?

10 A. Yes.

11 Q. And when is it dated?

12 A. There's no date.

13 Q. Is there a person that signed it?

14 A. No.

15 Q. Have you had an opportunity to review
16 this Plaintiff's Exhibit 12 specifically request
17 for change order 279?

18 A. Yes.

19 Q. And were you in the courtroom when
20 Mr. Starcevic gave his testimony about this
21 particular request for change order?

22 A. I was.

23 Q. And did you understand any better after
24 his testimony -- any better or any worse after
25 his testimony?

1 MR. HILDEBRAND: Objection, Your
2 Honor. It's leading. It's speculative. It's
3 pitting one witness against another.

4 THE COURT: All right. Why don't
5 you rephrase that.

6 BY MR. MCDONALD:

7 Q. All right. Let's look at the second
8 page of the letter, the undated letter --
9 undated, unsigned letter. It says it's for --
10 well, the first page says it's for constructive
11 change directives, January and March draw, right?

12 A. Correct.

13 Q. Okay. And then it has 43 entries,
14 right?

15 A. Correct.

16 Q. All right. And then it has tabs A
17 through X?

18 A. Correct.

19 Q. Okay. Let's go to tab A. Do you
20 recognize that document?

21 A. Yes.

22 Q. Okay. What do you recognize it to be?

23 A. It's a Balfour Beatty projected final
24 cost report, and it says -- has a job number, and
25 it says, CCD -- Marion Square CCD 46.

1 Q. Marion Square CCD 46?

2 A. Correct.

3 Q. So that would relate to number 20 on the
4 RCO log, right?

5 A. It looks like 11 and 20, yes.

6 Q. Okay. And if you look at tab A, where
7 it says, costs for this period, what number is on
8 that?

9 A. Zero.

10 Q. Okay. Go to Exhibit H -- or tab H of
11 request for change order 279 on Plaintiff's
12 Exhibit 12. What is in tab H?

13 A. SEAS.

14 Q. Okay. And is SEAS out of this action?

15 A. Yes.

16 Q. And did y'all pay them directly?

17 A. Yes.

18 Q. And look at tab J. Who is that for?

19 A. Old North State Masonry.

20 Q. And on Exhibit 329, does Old North State
21 Masonry owe any OCO money?

22 A. No.

23 Q. And other than tabs H, J and C, are all
24 the rest of the backup documentation in this
25 Balfour Beatty cost reports?

1 A. There's nothing in F.

2 Q. F doesn't have anything?

3 A. F doesn't have anything.

4 Q. Okay. What about, does your S have
5 anything?

6 A. M has a Lowe's receipt.

7 Q. Okay.

8 A. My S does have a backup sheet.

9 Q. Okay. That's the job cost sheet?

10 A. Yes.

11 Q. Okay.

12 A. And that's all.

13 Q. Were you ever -- was this ever submitted
14 to you, this undated RCO, request for change
15 order 279?

16 A. No.

17 Q. And that's everything? We've been
18 through every single one of them, correct?

19 A. That's correct.

20 Q. In Plaintiff's Exhibit 12?

21 A. Correct.

22 MR. MCDONALD: I don't know what
23 time it is. It might be a good time for a break.

24 THE COURT: All right. Let's take
25 about five minutes.

1 (A recess transpired.)

2 THE COURT: All right.

3 Mr. McDonald?

4 MR. MCDONALD: May it please the
5 Court?

6 THE COURT: Yes, sir.

7 BY MR. MCDONALD:

8 Q. Ms. Brown, we were looking at request
9 for change orders, correct?

10 A. Correct.

11 Q. And one of those request for change
12 orders, the final one we looked at included the
13 request for change order 279, correct?

14 A. Correct.

15 Q. And also as a part of Balfour's claim is
16 an OCO column, correct?

17 A. Correct.

18 Q. And what is an OCO?

19 A. An OCO is the owner change order that
20 the request for change orders get compiled and
21 then put into an OCO, which then gets submitted
22 to the owner and the architect to sign off on.

23 Q. And included as Plaintiff's Exhibit
24 226 -- I'll hand it to you -- are various OCOs
25 that Balfour Beatty is asking for, right?

1 A. Yes. This is binder 2 of 2 starting
2 with change order 10 through 22.

3 Q. Okay. And so in that binder,
4 Plaintiff's Exhibit 226, some of those OCOs have
5 in fact been funded, correct?

6 A. That's correct.

7 Q. Okay. So just because it's in there
8 doesn't mean it's part of the claim --

9 A. Correct.

10 Q. -- as far as you know?

11 A. Correct.

12 Q. And if you would, turn to owner change
13 order 19 in that notebook.

14 A. Okay.

15 Q. And this is an owner change order for
16 29,260.04, right?

17 A. Correct.

18 Q. All right. And this is executed by you
19 on November 23, 2018?

20 A. Correct.

21 Q. Has this owner change order been paid?

22 A. No.

23 Q. And was there a certified pay
24 application by the architect that included change
25 order 19?

1 A. No.

2 Q. Does the owner pay owner change orders?

3 A. No.

4 Q. What does the owner pay?

5 A. Certified pay requests.

6 Q. And let's go through this owner change
7 order number 19. On the first page, it has
8 various construction change directives; is that
9 right?

10 A. Correct.

11 Q. Can you explain to the Judge -- I know
12 Mr. Clements touched on it. Can you explain to
13 the Judge what -- how the construction change
14 directives were used on this job?

15 A. The construction change directives were
16 issued to the contractor for two different
17 reasons. One reason, if there was work in the
18 contract -- that we felt was in the contract, and
19 they decided -- they refused to do, we issued
20 them a construction change directive to get them
21 to do the work.

22 There was also times instead of -- at
23 the end of the job where change -- request for
24 change orders or different changes that needed to
25 be done, we would issue a construction change

1 directive to eliminate the time required to, you
2 know, price out certain changes.

3 Q. And so this particular -- and I
4 apologize for the acronyms. I will try not to
5 use them. This particular owner change order
6 includes construction change directives?

7 A. Correct.

8 Q. Okay. And if you look at the first one,
9 just so we can understand it, the first chart
10 after the signature page is a spreadsheet. Do
11 you see that?

12 A. Yes.

13 Q. Okay. And when is the -- this period
14 for?

15 A. October 2018.

16 Q. October of 2018?

17 A. Correct.

18 Q. Okay.

19 A. It would be the last column on this
20 spreadsheet.

21 Q. Gotcha. And is there any backup
22 documentation to any of this? Well, let's just
23 go through it.

24 A. Okay.

25 Q. All right. The first one is a CCD 002

1 tracking matrix, correct?

2 A. Correct.

3 Q. All right. And is there an October
4 column?

5 A. Yes.

6 Q. And what is in that column for this
7 one -- for this month, October of '18?

8 A. BBC \$163.01, markup 9.78. Total 172.79.

9 Q. Okay. And there's description of
10 services, right?

11 A. Yes.

12 Q. And it's got Ms. Pieniak, Mr. Starcevic,
13 and Mr. Spano?

14 A. Correct.

15 Q. All right. And in this month, are there
16 any charges for -- in this month, October of
17 2018, are there any charges for any
18 subcontractors?

19 A. Not for this particular CCD, no.

20 Q. Okay. Do you know what Shanti Pieniak
21 was doing in October of 2018 for administration
22 of change orders and billings?

23 A. Shanti was an intern on the -- that they
24 had hired. I'm not sure what she was doing
25 there.

1 Q. Do you know what change orders she was
2 reviewing?

3 A. I do not.

4 Q. Do you know what billing she was
5 reviewing?

6 A. I do not.

7 Q. Then you've got Mr. Starcevic doing
8 field coordination and review administration of
9 change orders and billings, right?

10 A. Correct.

11 Q. Okay. Do you know who he was
12 coordinating out in the field?

13 A. I do not.

14 Q. Do you know what change orders he was
15 administering?

16 A. Nope.

17 Q. Do you know what billings he was
18 reviewing?

19 A. No.

20 Q. Then you've got Mr. Spano. He is doing
21 some -- October of 2018, he is doing some field
22 coordination and some T&M review, right?

23 A. Correct.

24 Q. Do you know who he was coordinating in
25 the field?

1 A. No, I do not.

2 Q. Do you know what T&M materials he was
3 reviewing?

4 A. No.

5 Q. All right. Let's go to the next one,
6 CCD 003. And that one doesn't have any entries
7 for October, right?

8 A. Correct.

9 Q. And the next one that has entries for
10 October is CCD 6, correct?

11 A. Correct.

12 Q. And this has a subcontractor involved;
13 is that right?

14 A. Yes, Low Country Case and Millwork.

15 Q. Okay. And you've got the same three
16 people working out there: Ms. Pieniak,
17 Mr. Starcevic, and Mr. Spano, correct?

18 A. Correct.

19 Q. And they're all doing the same thing?

20 A. Correct.

21 Q. And the next one is CCD 7, right?

22 A. Also on CCD 6, just looking at the
23 backup, this -- it has a charge of BBC of \$488,
24 but on this backup page, which is the final cost
25 report, the cost for this period is only \$244.

1 Q. Okay. All right. CCD 7, does it have a
2 billing for October?

3 A. Yes.

4 Q. Of '18?

5 A. Yes.

6 Q. And it's got a description of service,
7 right?

8 A. Yes.

9 Q. And it's got Mr. Dooley. He's doing
10 administration of change orders and billings?

11 A. That's what this description says, yes.

12 Q. Now, do you know when Mr. Dooley left
13 the job?

14 A. I believe Mr. Dooley testified that he
15 left at Labor Day.

16 Q. Of?

17 A. 2018.

18 Q. Okay. And this billing is for October
19 of 2018?

20 A. Yes. It's dated October 26, 2018.

21 Q. Okay. And this doesn't involve any
22 subcontractors, right?

23 A. Correct.

24 Q. And you've got Mr. Spano and
25 Mr. Starcevic doing their field coordination,

1 administrative change orders and billings,
2 correct?

3 A. Correct.

4 Q. Do you know what they were doing, what
5 they were administering, what change orders they
6 were administering and what billings they were
7 reviewing?

8 A. I do not.

9 Q. The next one is CCD 8. Does that have
10 an entry for October?

11 A. Yes.

12 Q. Does that have Mr. Dooley working out
13 there still?

14 A. It does.

15 Q. Does it have any entry for any
16 subcontractors?

17 A. No.

18 Q. What about CCD 9?

19 A. There's one entry for Watson Electric.

20 Q. Okay. Is Watson Electric getting any
21 OCO money on Plaintiff's Exhibit 329?

22 A. No.

23 Q. And this is -- what we're looking at is
24 owner change order 19, right?

25 A. That's correct.

1 Q. But when we get to the backup, we're
2 referring to the construction change directives?

3 A. That's correct.

4 Q. All right. And is Mr. Dooley still
5 working out there in October of '18?

6 A. No.

7 Q. All right. And is he listed on this CCD
8 9?

9 A. Yes. And again, looking at this backup
10 on the final cost report, it appears BBC is
11 billing 570, but it says cost this period \$244.

12 Q. Okay. And go to CCD 10, which is
13 behind owner change order 19 in Plaintiff's 226.
14 Is there any subcontractors being billed that
15 month in October?

16 A. No.

17 Q. Is Mr. Dooley being charged for it?

18 A. Yes.

19 Q. And what about -- and then we've got
20 Mr. Starcevic. He is doing submittals, field
21 coordination and administration change orders,
22 correct?

23 A. Correct.

24 Q. Okay. Do you know, once again, what
25 he -- who he's coordinating or what change orders

1 he is administering?

2 A. No.

3 Q. 11, 12, 13 don't have any entries and
4 then we go to 14. Are you there?

5 A. Yes.

6 Q. Okay. And does it have any
7 subcontractors?

8 A. No.

9 Q. And it just has Mr. Starcevic under
10 description of service, right?

11 A. Correct.

12 Q. Field review and contract
13 administration?

14 A. Correct.

15 Q. Do you know what he was reviewing in the
16 field?

17 A. I do not.

18 Q. Do you know what contracts he was
19 administering?

20 A. I do not.

21 Q. I don't know if I asked you, but there
22 were no subcontractors for CCD 14 in October of
23 '18, correct?

24 A. Correct.

25 Q. All right. 15 doesn't have an entry.

1 16 doesn't have an entry. 17 doesn't have an
2 entry. All right. Let's go to change order, CCD
3 19 in -- owner change order 19 in Plaintiff's
4 226.

5 A. CCD 19?

6 Q. Yes.

7 A. Okay.

8 Q. Is there an entry for October?

9 A. No.

10 Q. Is there an entry for November?

11 A. Yes.

12 Q. And when is this document formally
13 dated?

14 A. October 26, 2018.

15 Q. Okay. All right. Nothing for 21. And
16 we've got 22, right?

17 A. Yes.

18 Q. Does that have a subcontractor involved?

19 A. Yes. It has Watson and Merit also known
20 as Quantum Coatings.

21 Q. Okay. That's the painter?

22 A. That's correct.

23 Q. The painter settled?

24 A. That's correct.

25 Q. Number 23 doesn't have any entries.

1 Let's go to 24. Does that have a subcontractor?

2 A. Watson.

3 Q. All right. Is Watson getting any OCO
4 money?

5 A. No.

6 Q. 25. Does it have an entry for October?

7 A. Yes.

8 Q. And who is it for?

9 A. BBC.

10 Q. Do they tell you who is doing what on
11 this one?

12 A. No.

13 Q. What about 26?

14 A. Just BBC.

15 Q. Excuse me. The next one is 25, and then
16 it goes to 27, it looks like?

17 A. That's correct.

18 Q. Okay. Is there any subcontractors
19 involved in that?

20 A. No.

21 Q. All right. And once again, is there a
22 description of services like there was
23 previously?

24 A. Correct.

25 Q. No, is there a description of services?

1 A. No, there's not. I'm sorry. I couldn't
2 hear you. A truck was passing.

3 Q. That's okay. Then we go to -- and
4 that's in the amount of 430 bucks?

5 A. Correct.

6 Q. And then we go to CCD 28. Any
7 subcontractors involved in that one?

8 A. No.

9 Q. All right. And is there any entry as to
10 description of services?

11 A. No.

12 Q. Go to CCD 30. Is there a subcontractor
13 involved in that?

14 A. Watson Electric.

15 Q. Is Watson getting any OCO money?

16 A. No.

17 Q. Is there a description of services for
18 Balfour on CCD 30?

19 A. No.

20 Q. And this is all still in owner change
21 order 19 in Plaintiff's Exhibit 226?

22 A. Correct.

23 Q. All right. Then you go to CCD 33,
24 right?

25 A. Correct.

1 Q. Is there a subcontractor involved there?

2 A. Low Country Case and Millwork.

3 Q. Okay. And this one has a subcontractor,
4 but it doesn't have any direct BBC money, right?

5 A. That's correct.

6 Q. It's just a markup?

7 A. Correct.

8 Q. Then you've got CCD 36. Does that have
9 any subcontractors involved?

10 A. No.

11 Q. And does it have the description of
12 services?

13 A. No.

14 Q. Now, let's go to owner change order 20.

15 A. Okay.

16 Q. All right. And this contains
17 construction change directives, correct?

18 A. Correct.

19 Q. And it is in the total amount of
20 \$57,274.27?

21 A. Correct.

22 Q. Did you sign this particular owner
23 change order?

24 A. No.

25 Q. All right. Was this change order

1 ever -- this owner change order ever included in
2 a certified pay application?

3 A. No.

4 Q. What date did Ms. Faulkinberry sign
5 owner change order?

6 A. January 28, 2019.

7 Q. Okay. And that would be owner change
8 order 20, correct?

9 A. Correct.

10 Q. Okay. And do you know whether or not
11 Balfour Beatty had already filed a 9 million
12 dollar lien at that time? 8 or 9 million dollar
13 lien?

14 A. I believe it was in the 8 range, yes.

15 Q. Okay. And this owner change order 20 is
16 for the -- let's look at that third page. This
17 appears to be for what month and year?

18 A. Can you repeat the question?

19 Q. This owner change order 20 is for what
20 months and year?

21 A. November 2018.

22 Q. And let's go through some of these. Two
23 doesn't have an entry. Three has an entry,
24 correct?

25 A. Yes.

1 Q. Is there any subs involved?

2 A. No.

3 Q. All right. It's got AJ -- it's got the
4 description of services, correct?

5 A. Correct.

6 Q. It's got AJ Wachsberger?

7 A. Correct.

8 Q. It says he's doing field review and
9 contract administration?

10 A. Correct.

11 Q. Do you know what he is reviewing in the
12 field?

13 A. I do not.

14 Q. Do you know what contracts he's
15 administering?

16 A. I do not.

17 Q. Okay. Is this time supposed to be
18 related to this specific construction change
19 directive?

20 A. Yes.

21 Q. And is that what's going on here? Is
22 that why there's so many of them because they're
23 saying that Wachsberger was working on CCD 3?

24 A. I can't tell from this.

25 Q. All right. Four doesn't have an entry.

1 Five doesn't have an entry. Then we've got CCD

2 6. Do you see that?

3 A. Yes.

4 Q. Does that have a subcontractor?

5 A. Yes.

6 Q. And how --

7 A. Low Country Case and Millwork.

8 Q. How much is Low Country Case and
9 Millwork billing on CCD 6 in November of 2018?

10 A. \$143.

11 Q. All right. And how much is BBC billing
12 to administer Low Country's 143 worth of work?

13 A. \$650.

14 Q. Okay. They've got three people working
15 on that \$143, right?

16 A. Correct.

17 Q. Pieniak, Starcevic and Spano?

18 A. Correct.

19 Q. And they're administering change orders
20 and billings, doing submittals, field
21 coordination and field review and coordination,
22 right?

23 A. Correct.

24 Q. All right. Let's go to the next one.

25 7, CCD 7. Does it have an entry?

1 A. No -- excuse me, for Balfour Beatty,
2 yes.

3 Q. Okay. And so there's no subs?

4 A. Correct.

5 Q. All right. And this is November of '18?

6 A. Correct.

7 Q. And is Mr. Dooley listed under
8 description of services?

9 A. Yes, he is.

10 Q. And then we've got Starcevic and Spano,
11 too, right?

12 A. Correct.

13 Q. CCD 8. Is there a sub involved in that?

14 A. Yes, David Allen.

15 Q. Okay. And is there any backup to
16 support that?

17 A. No.

18 Q. And is Mr. Dooley being charged for it?

19 A. Yes.

20 Q. And then we've got Mr. Starcevic,
21 Mr. Spano, and Mr. Wachsberger, correct?

22 A. Correct.

23 Q. And even though there's no backup, how
24 much work do they say David Allen is doing out
25 there?

1 A. \$13,477.

2 Q. And the four: Dooley, Starcevic, Spano
3 and Wachsberger, how much work in order to do all
4 of this administration and change orders and
5 field coordination, field review of that \$13,477,
6 how much are they -- how much is it costing them?

7 A. \$325.

8 Q. So it cost \$650 to look after \$143 worth
9 of work, and it cost them \$325 to look after
10 \$13,477 worth of work?

11 A. Correct.

12 Q. All right. The next one is CCD 9. Any
13 subcontractors on that one?

14 A. No.

15 Q. They got Mr. Dooley still working out
16 there?

17 A. Correct.

18 Q. Mr. Starcevic, Mr. Spano?

19 A. Correct.

20 Q. CCD 10. Any subcontractors?

21 A. No.

22 Q. They got Mr. Dooley and Mr. Starcevic,
23 right?

24 A. Correct.

25 Q. Nothing on CCD 11. Nothing on CCD 12.

1 Nothing on 13. And we've got 14. Any
2 subcontractors included on that?

3 A. No.

4 Q. Just BBC time?

5 A. Yes.

6 Q. Nothing on 15. Then we've got 16. Any
7 subcontractors on CCD 16 in owner change order 20
8 in Plaintiff's Exhibit 226?

9 A. Yes.

10 Q. All right. And which subcontractor is
11 that?

12 A. TriMark.

13 Q. And was TriMark in this action?

14 A. No.

15 Q. Were they previously in the action?

16 A. I believe so, yes.

17 Q. All right. And they've got -- we've got
18 Balfour on change order 16 charging for Dooley,
19 Starcevic and AJ Wachsberger, right?

20 A. That's what the description said. There
21 is no BBC amount under number 18.

22 Q. Okay. Just a markup?

23 A. Correct, just a markup.

24 Q. All right. CCD 19. Any subcontractors
25 on that one?

1 A. No.

2 Q. And we're still in owner change order
3 20, correct?

4 A. Correct.

5 Q. And then we've got BBC billing \$305,
6 right?

7 A. Correct.

8 Q. And the next one is CCD 22. Any
9 subcontractors in November of '18 on CCD 22?

10 A. No.

11 Q. All right. Any money BBC is charging?

12 A. \$615.

13 Q. And do they have the description of
14 services boxed on that one?

15 A. No.

16 Q. All right. Nothing on 23. Nothing on
17 24 or 25. And then we've got 26. Any
18 subcontractors involved in 26?

19 A. No.

20 Q. All right. We've got a BBC direct
21 billing?

22 A. Correct.

23 Q. All right. And any description of
24 services charged?

25 A. No.

1 Q. Then we go to CCD 27. Are there any
2 subcontractors being billed there?

3 A. Yes.

4 Q. All right. And who is that for?

5 A. Precision Walls and Merit also known as
6 Quantum Coatings.

7 Q. All right. And Precision Walls isn't in
8 the action anymore, right?

9 A. Correct.

10 Q. Is there any backup with this?

11 A. No.

12 Q. And BBC has a direct charge of \$3,200?

13 A. Correct.

14 Q. Was there any description of services or
15 backup for that?

16 A. No.

17 Q. Next one is CCD 28. Does that have any
18 subcontractor entries?

19 A. No.

20 Q. Was that BBC entries?

21 A. Yes.

22 Q. Was there any description of services or
23 otherwise backed up?

24 A. No.

25 Q. CCD 30. Does that have any

1 subcontractors?

2 A. No.

3 Q. CCD 30. There's no entry for November?

4 A. Correct.

5 Q. CCD 31, in November, for owner change
6 order 20.

7 A. Yes.

8 Q. Does that have any subcontractors?

9 A. Yes, SEAS.

10 Q. All right. And is SEAS in this action
11 anymore?

12 A. No.

13 Q. And did the owner pay them directly?

14 A. Yes.

15 Q. And is there any backup associated with
16 it in any way?

17 A. No.

18 Q. CCD 33. Does that have any
19 subcontractors?

20 A. Low Country Case and Millwork.

21 Q. All right. Was there any backup
22 associated with it?

23 A. No.

24 Q. Was there any description of services
25 for Balfour?

1 A. No.

2 Q. Shutters, CCD 36. Is there a
3 subcontractors involved?

4 A. No.

5 Q. Is there any backup?

6 A. No.

7 Q. Is there any description of services?

8 A. No.

9 Q. CCD 39. Is there any subcontractors
10 involved?

11 A. No.

12 Q. Is there any backup?

13 A. No.

14 Q. Is there any description of services?

15 A. No.

16 Q. Then we've got CCD -- excuse me, owner
17 change order 21?

18 A. Yes.

19 Q. And that is in Plaintiff's Exhibit 226,
20 correct?

21 A. Correct.

22 Q. And this is not signed by the architect.
23 What date is it signed by Mr. Starcevic?

24 A. 1/21/19.

25 Q. And was owner change order 21 ever

1 included in a certified pay application?

2 A. No.

3 Q. All right. Do you see in Plaintiff's
4 Exhibit -- excuse me, owner change order 21 and
5 Plaintiff's Exhibit 226, do you see any of the
6 similar charts that we have been going through
7 that had the overview and the -- Balfour's
8 description of services?

9 A. No.

10 Q. So those aren't in this one?

11 A. No.

12 Q. So the first two pages are cost reports
13 from Balfour, right?

14 A. Correct.

15 Q. And you've got a Quantum Coatings change
16 order request with tickets, right?

17 A. Correct.

18 Q. Has Quantum Coatings settled out of this
19 action?

20 A. Yes.

21 Q. And then you've got another cost report
22 and another Quantum Coatings, right? Are you
23 there?

24 A. Yes. This Quantum Coatings is dated
25 August 7, 2018.

1 Q. I was going to ask you that. I thought
2 this was for CCDs in -- well, what's the time
3 period of CCDs for this owner change order? Can
4 you tell?

5 A. No. This doesn't specifically say.

6 Q. The previous two were from -- 19 was for
7 October of '18, right?

8 A. Correct.

9 Q. And 20 was for November of '18?

10 A. Correct.

11 Q. And this one doesn't say when it's for?

12 A. Correct.

13 Q. All right. And when I say this one, I
14 mean, owner change order 21.

15 A. Correct.

16 Q. We just know it was signed by
17 Mr. Starcevic on January 21, 2019?

18 A. Correct.

19 Q. And this particular Quantum change order
20 request is for -- is dated August 7th of 2018?

21 A. Correct.

22 MR. MCDONALD: I apologize, Your
23 Honor. Just one second.

24 BY MR. MCDONALD:

25 Q. Okay. The next document is a Napa tile

1 document?

2 A. Correct.

3 Q. What is that?

4 A. That was kind of a padded tile for the
5 private dining area.

6 Q. Okay. Then we've got another Balfour
7 Beatty cost report, and this one says for the
8 period ending December 31st, 2018. Do you see
9 that?

10 A. Yes.

11 Q. And that would follow the October and
12 November time periods we looked at earlier?

13 A. Correct.

14 Q. We've got a Low Country pay application
15 here next, right?

16 A. Correct.

17 Q. Got more Quantum Coatings. Quantum
18 Coatings, Low Country. More Quantum Coatings.
19 This is Low Country and Quantum Coatings and a
20 bunch of cost reports. Quantum Coatings. All
21 right. Then we get to a document entitled
22 attachment F. Do you see that?

23 A. Yes.

24 Q. And that is the last bit of backup
25 documentation other than Balfour job cost

1 reports, right?

2 A. Correct.

3 Q. All right. And does this identify the
4 subcontractor?

5 A. This attachment F does not.

6 Q. So Marion Hotel, and then it has a block
7 for subcontractor. Do you see that?

8 A. Oh, I'm sorry. It says Warco
9 Construction.

10 Q. Okay. And what is the amount of those?

11 A. \$67,966.15.

12 Q. And when is it dated?

13 A. 2/26/2018.

14 Q. And are you able to look on your
15 Plaintiff's Exhibit 329 and see if Balfour is
16 claiming \$67,966.15 on behalf of Warco?

17 A. It says \$67,966.

18 Q. Even?

19 A. Even.

20 Q. Okay. And this has .15?

21 A. Correct.

22 Q. And do you know whether or not the owner
23 has paid that amount?

24 A. The owner has paid Warco.

25 Q. For the \$67,966?

1 A. I believe that's the amount, yes.

2 Q. Okay. And the owner has paid Balfour
3 for that? Do you know?

4 A. Yes.

5 Q. And do you know whether or not Balfour
6 has in fact paid Warco for that?

7 A. I'm not sure if they've paid Warco or
8 not.

9 Q. Okay. All right. Then we've got owner
10 change order 22, right?

11 A. Yes.

12 Q. And we've got -- and this is dated when?

13 A. January 9th, 2019.

14 Q. Okay. And when is this signed by
15 Mr. Starcevic?

16 A. 1/21/19.

17 Q. Is that the same day as owner change
18 order 21?

19 A. Yes.

20 Q. All right. And was owner change order
21 22 ever included in a certified pay application?

22 A. No.

23 Q. And this particular owner change order
24 does not relate to construction change
25 directives, correct?

1 A. That's correct because we would -- in
2 order to make it easier for everyone to
3 understand, an OCO either had all construction
4 change directives.

5 There was no mixing of RCOs and
6 construction change directives in an OCO. So
7 those were -- anything that had construction
8 change directives in an OCO, it was all
9 construction change directives. This is all
10 RCOs.

11 Q. Okay. And that's what I was going to
12 ask you. The numbers on the left-hand side, does
13 that correlate to the request for change order
14 numbers?

15 A. Yes.

16 Q. Okay. Let's look at Robert Thomas
17 decorative brackets 212R1. Do you know whether
18 that's also in the request for change order
19 notebook we looked at earlier?

20 A. Yes, it is.

21 Q. Do you know where that number \$21,253
22 comes from?

23 A. We can look at the RCO, but it was --
24 the total amount and then the architect, I
25 believe, had deducted some monies from the total

1 amount, and they came up with the 21,253.

2 Q. All right. And is this the exact one we
3 looked at in the request for change order?

4 A. Yes.

5 Q. Okay. If you'd look at the backup for
6 this in owner change order 22 and Plaintiff's
7 226.

8 A. Yes.

9 Q. Okay. So it's got \$20,050?

10 A. Correct.

11 Q. And a markup of \$1,203, correct?

12 A. Correct.

13 Q. Okay. And Library has paid \$10,820?

14 A. Correct.

15 Q. Let's take a look at Hutson Street storm
16 drain repair, 259. RCO 259 as listed on the
17 owner change order 22.

18 A. Okay.

19 Q. What is that for? Well, let's just go
20 through this so we can organize it. The first
21 pack of documentation is dated October 19th,
22 2018, and it relates to the Robert Thomas issue,
23 right?

24 A. So we're going to go through each one?

25 Q. Yeah.

1 A. Oh, yes.

2 Q. Just to touch on them. There's not many
3 of them. And that relates to the Robert Thomas
4 issue that we went over, correct?

5 A. Correct.

6 Q. And it's also included in the RCO
7 notebook?

8 A. Correct.

9 Q. Okay. And then you've got a July 26th,
10 2018 letter for a request for change order 141R2?

11 A. Correct.

12 Q. Okay. And that is not included in the
13 request for change order notebook?

14 A. Correct.

15 Q. Okay. What is this for? Is it signed
16 by Mr. Dooley?

17 A. No.

18 Q. Is it signed by you?

19 A. No.

20 Q. Do you know what this relates to?

21 A. This is in regards to some -- it says
22 paint grade sculptor panels at lobby bar. This
23 says 141R2. That's not signed, and it says, to
24 correct value but R41, R1 was signed by me for a
25 lower value of 2,338.36.

1 Q. And that was all the way back in 2017?

2 A. That's correct.

3 Q. And do you know whether --

4 A. I signed it in -- the letter is dated
5 September 13, 2017.

6 Q. Signed it September of '18?

7 A. That's correct.

8 Q. Okay. After the first -- the first one
9 that relates to it as backup is July 26th, 2018,
10 R2?

11 A. That's correct.

12 Q. And they just have them both in here for
13 some reason?

14 A. Correct.

15 Q. And do you know whether or not the
16 \$2,338 was paid?

17 A. I would have to look at the pay app.

18 Q. Well, if it wasn't paid, is it due? I
19 mean, is this an actual change?

20 A. The 2,338.36, yes.

21 Q. Because you signed that one, right?

22 A. Yes.

23 Q. All right. And then we're back to
24 Robert Thomas and the backup, right?

25 A. Correct.

1 Q. We originally had an October 19, 2018
2 backup. Now, we're back to Robert Thomas, and
3 we're at January 11th, 2018?

4 A. Correct.

5 Q. It's just a letter from Starcevic to
6 you, right?

7 A. Correct.

8 Q. Then we're back to Robert Thomas again?

9 A. Correct.

10 Q. Okay. Then we go to September 4, 2018.
11 What is this?

12 A. This is for changes for the elevator
13 cabs.

14 Q. Okay. So this is 246?

15 A. That's correct.

16 Q. All right. And was that included in the
17 RCO notebook? If you need to look, please do.

18 A. Yes.

19 Q. It was?

20 A. Yes.

21 Q. Then we've got an August 14, 2018 letter
22 here. It's signed by you, right?

23 A. That's for RCO 252?

24 Q. Yes.

25 A. Yes.

1 Q. And once again, this -- all these
2 documents are backing up owner change order 22,
3 correct?

4 A. Correct.

5 Q. And there was never a certified pay
6 application from the architect with the included
7 order change order 22, right?

8 A. Correct.

9 Q. But you did sign this particular RCO 252
10 on November 16th, 2018?

11 A. Yes.

12 Q. Okay. And is this a change? Is this
13 otherwise a legit change order?

14 A. Yes.

15 Q. Okay. All right. The next one is
16 August 21, 2018.

17 A. Yes.

18 Q. And you signed that one, too, right?

19 A. I did.

20 Q. And is this -- I mean, was this included
21 in a certified pay application and signed by the
22 architect?

23 A. No.

24 Q. Is this a legit change?

25 A. Yes.

1 Q. And is that why you signed it?

2 A. Yes.

3 Q. The next one is dated August 21st, 2018?

4 A. Yes, for RCO 257.

5 Q. Okay. And is that a legit change? Is
6 that why you signed it?

7 A. Yes.

8 Q. And was this RCO 257 ever included in
9 the pay application signed by the architect,
10 certified by the architect?

11 A. No.

12 Q. Then we've got an August 30, 2018. What
13 is this?

14 A. This is for storm repairs to Hutson
15 Street.

16 Q. Okay. And so is there any backup for
17 it?

18 A. No.

19 Q. But you've signed it on September 6th,
20 2018, right?

21 A. I did.

22 Q. Okay. And do you know what
23 subcontractor would have been involved in this?

24 A. Gulf Stream.

25 Q. Do you know whether Gulf Stream is still

1 claiming this money?

2 A. No, I don't believe so.

3 Q. Has Gulf Stream settled?

4 A. Yes.

5 Q. We've got two more. We've got October

6 15, 2018. That's signed by you, right?

7 A. Yes.

8 Q. What is this for?

9 A. To paint and prep the barn doors.

10 Q. Okay. And is this a legitimate change?

11 A. Yes.

12 Q. And was it ever included in a certified

13 pay application?

14 A. No.

15 Q. But you signed it on -- but you signed

16 it?

17 A. I did.

18 Q. Okay. And then September 4th, 2018?

19 A. Yes.

20 Q. All right. And this is -- what is this

21 for?

22 A. Trim rings around the ballroom can

23 lights.

24 Q. Okay. And it's a request for change

25 order 265?

1 A. Correct.

2 Q. You signed this one, right?

3 A. Correct.

4 Q. Okay. And was this otherwise a legit
5 change?

6 A. Yes.

7 Q. But was this ever included in the
8 certified pay application?

9 A. No.

10 Q. We went through all owner change orders,
11 19 through 22?

12 A. Yes.

13 Q. And 1 through 18 have been funded by the
14 owner, correct?

15 A. That's correct.

16 Q. Pursuant to certified pay application?

17 A. Correct.

18 Q. Ms. Brown, turn, if you would, to
19 Plaintiff's 209. Are you there, Ms. Brown?

20 A. I am.

21 Q. Okay. And have you had an opportunity
22 to look through Plaintiff's 209, which is already
23 in evidence?

24 A. Yes.

25 Q. Okay. And did Balfour ever advise you

1 that it was going to enter into joint prosecution
2 defense and tolling agreements with
3 subcontractors on this job?

4 A. No.

5 Q. Did you ever receive any notice from
6 Balfour that it was going to take funds from
7 Library but not -- take funds from Library for
8 its subcontractors but not pay its
9 subcontractors?

10 A. No.

11 MR. HILDEBRAND: Object to the
12 leading questions, Your Honor.

13 MR. MCDONALD: Your Honor, I have
14 to have -- this is not a leading question. I
15 asked, did they ever receive notice, and describe
16 what type of notice, I'm asking, that they
17 received.

18 THE COURT: All right. Well, she
19 answered the notice question. I will allow that
20 one. The next one, you will have to restate that
21 one.

22 BY MR. MCDONALD:

23 Q. The answer is, no, you didn't receive
24 any notice from Balfour?

25 A. Correct.

1 Q. Now, we talked earlier about your role
2 with regard to the construction process on behalf
3 of Bennett Hospitality and Library Associates.
4 Do you remember that?

5 A. Yes.

6 Q. I guess it was more than three days ago
7 now because we had the weekend.

8 A. Thursday, yes.

9 Q. Okay. What role do you have with regard
10 to the accounting records of -- reviewing the
11 accounting records, compiling the accounting
12 records of Library Associates?

13 A. We have two bookkeepers that work under
14 me, and I review all the accounting records for
15 Library Associates.

16 Q. Okay. So the two bookkeepers report to
17 you?

18 A. That's correct.

19 Q. Okay. And you review all the accounting
20 records?

21 A. Correct.

22 Q. Okay. And does Library Associates keep
23 its accounting records within the ordinary course
24 of its business?

25 A. Yes.

1 Q. Did Balfour Beatty provide Library
2 Associates information throughout the
3 construction process regarding the opening date
4 or the proposed opening date of the hotel?

5 A. Yes.

6 Q. Okay. And did Library Associates rely
7 on that information?

8 A. We did.

9 Q. And why is it important to know the
10 opening date of a five-star hotel with some
11 accuracy?

12 A. Because you need to know that date in
13 order to hire the employees, to start your
14 advertising, doing your web designs, your
15 e-commerce, and to -- groups book about a year in
16 advance, weddings book about a year in advance,
17 and so we needed to have that group business and
18 that wedding business already booked a year prior
19 to opening.

20 Q. Okay. And let's --

21 A. Because otherwise you wouldn't get that
22 business for another year.

23 Q. Okay. So you have that lag?

24 A. Correct.

25 Q. And let's talk about the advertising.

1 Can you tell the Judge a little bit about that,
2 why it's important to note an accurate opening
3 date as it relates to advertising?

4 A. Well, for many reasons. You need to
5 start your web design and your web page, and that
6 takes a long time to do. And you've got to start
7 taking reservations. So you need to know when to
8 open that reservation.

9 Q. And how important is advertising to a
10 hotel that doesn't have a -- we talked about it
11 earlier -- a flagged hotel and a not flagged
12 hotel?

13 A. Correct.

14 Q. How important is advertising to a new
15 hotel that's not flagged?

16 A. I mean, it's the most important thing to
17 getting your name and your product out there.

18 Q. And based upon the representations as to
19 the projected opening date of Balfour Beatty, did
20 Library Associates make decisions on advertising
21 and timing of advertising?

22 A. Absolutely.

23 Q. Okay. And based upon the
24 representations made by Balfour Beatty related to
25 the projected opening of the hotel, did Library

1 Associates make decisions on the booking of
2 groups, weddings and things we talked about
3 before?

4 A. Absolutely.

5 Q. Okay. Now, let's revisit staffing.
6 Tell me about staffing. Why is it important to
7 know an accurate date on a hotel opening as it
8 relates to staffing?

9 A. Well, the first staff member, you always
10 hire your director of sales. Most people would
11 think it might be your general manager, but it's
12 your director of sales because they need to hit
13 the ground running and to -- and to market the
14 hotel. And that's usually done at least a year
15 out, and then the general managers typically hire
16 around 12 to 9 months out as well.

17 Q. Okay. And is all that -- that would be
18 the, I guess, executive level staffing?

19 A. That's correct. You hire the director
20 of sales, the general manager, and then from
21 there, you would hire all of your salespeople
22 again because they have to sell the hotel. And
23 then you'd start bringing in your executive chef
24 to start compiling the menus for the F&B outlets,
25 et cetera. So you would always hire your -- kind

1 of your executive team first.

2 Q. And it all relates to the projected
3 opening date of the hotel?

4 A. Correct.

5 Q. Whenever that projected opening date is,
6 you just -- it needs to be accurate so you can do
7 the build up, I guess?

8 A. That's correct.

9 Q. Did Library Associates in fact incur
10 additional actual expenses as a result of the
11 projected dates -- projected opening dates that
12 Balfour Beatty gave Library Associates?

13 A. Absolutely.

14 MR. HILDEBRAND: Objection to the
15 leading question, Your Honor.

16 THE COURT: All right. I will
17 sustain it.

18 BY MR. MCDONALD:

19 Q. Did Balfour Beatty provide Library
20 Associates projected opening dates?

21 A. Yes.

22 Q. Did those projected opening dates at
23 Library Associates provide a change over time?

24 A. Yes.

25 Q. Did Library Associates make decisions on

1 this build up that we went through based upon the
2 projected opening dates that Balfour gave it?

3 A. Correct, yes.

4 Q. Were there costs incurred, actual costs
5 incurred by Library Associates based upon those
6 projected opening dates?

7 A. Yes.

8 Q. Had the projected opening dates provided
9 by Balfour Beatty been accurate, would you have
10 incurred those costs?

11 MR. HILDEBRAND: Objection, Your
12 Honor. It's calls for speculation, and again,
13 it's just blatantly leading. He can ask her
14 about the openings and what they did in
15 anticipation of the opening, but --

16 THE COURT: I'm going to sustain
17 that. Why don't you ask her directly what it is
18 you're going at.

19 MR. MCDONALD: I was just laying
20 the foundation. If I wouldn't have done that, I
21 would have had a foundation objection.

22 (DFT. EXH. 146A and B were marked
23 for identification.)

24 BY MR. MCDONALD:

25 Q. All right. Ms. Brown, I'm going to hand

1 you what's marked for ID purposes as Defendant's
2 Exhibit 146. I ask if you have seen this
3 document before. Have you seen that document
4 before?

5 A. Yes.

6 Q. And did you have an actual involvement
7 in its creation?

8 A. Yes.

9 Q. Okay. All right. And the first page
10 is?

11 MR. HILDEBRAND: Objection, Your
12 Honor.

13 Q. -- numerical line items, correct?

14 THE COURT: Just one second. You
15 had an objection, I'm sorry.

16 MR. HILDEBRAND: Yes, sir. I've
17 got a strong objection to this entire document.
18 What this purports to be --

19 THE COURT: All right. Well, let
20 me stop you because he hadn't done anything yet,
21 so let's get --

22 MR. HILDEBRAND: I know. Before he
23 even gets into it -- he's about to ask her
24 questions about it, and I think it's --

25 THE COURT: Well, when he asks her

1 Q. And what is it related to?

2 A. It states that I'm in receipt of the
3 mechanic's lien, and I'm asking him, per the
4 contract, to bond off the lien.

5 Q. Okay. Did you actually send this
6 letter?

7 A. I did.

8 Q. Is it a true and accurate copy of the
9 letter?

10 A. Yes, it is.

11 MR. MCDONALD: At this time, I
12 would like to move Defendant's Exhibit 147 into
13 evidence, Your Honor.

14 THE COURT: Any objection?

15 MR. TERRY: No objection.

16 THE COURT: Without objection.

17 (DFT. EXH. 147 was received in
18 evidence.)

19 BY MR. MCDONALD:

20 Q. All right. And when is this letter
21 dated?

22 A. February 10, 2019.

23 Q. And what lien does it reference?

24 A. The Gulf Stream Construction Company
25 versus Library Associates, et al.

1 Q. And how much is that lien?

2 A. 119,152.17.

3 Q. All right. And what are you asking

4 Balfour Beatty to do?

5 A. Per the contract, to bond off the lien.

6 Q. And did they in fact bond off the lien?

7 A. No, they did not.

8 Q. What was that amount again?

9 A. 119,152.17.

10 Q. And that's for Gulf Stream?

11 A. Yes.

12 (DFT. EXH. 148 was marked for

13 identification.)

14 Q. I'm going to hand you what's been marked
15 for ID purposes as Defendant's Exhibit 148 and
16 ask if you have seen that document before?

17 A. Yes, I have.

18 Q. What do you recognize it to be?

19 A. It's a similar letter that I wrote on
20 the same day to Mr. Dean regarding a mechanic's
21 lien for Precision Walls.

22 Q. And it's dated February 10th, 2019?

23 A. Correct.

24 Q. And how much is the Precision Walls
25 lien?

1 A. \$1,236,284.65.

2 Q. And is this a true and accurate copy of
3 your February 10th, 2019 letter?

4 A. Yes, it is.

5 MR. MCDONALD: Your Honor, at this
6 time, I would move to put Defendant's Exhibit 148
7 in evidence.

8 THE COURT: All right. In evidence
9 as 148.

10 (DFT. EXH. 148 was received in
11 evidence.)

12 BY MR. MCDONALD:

13 Q. And what were you asking Balfour Beatty
14 to do in Defendant's Exhibit 148?

15 A. To honor the contract and bond off the
16 lien.

17 Q. And did they in fact bond off the lien?

18 A. No.

19 Q. And the lien was for 1.2 million?

20 A. And some change.

21 Q. And some change. And when was the lien
22 filed?

23 A. This lien was filed on January 31st,
24 2019.

25 Q. When was the lien, the Gulf Stream lien

1 we looked at before that, which was Defendant's
2 Exhibit 147, when was that filed?

3 A. February 4, 2019.

4 (DFT. EXH. 149 was marked for
5 identification.)

6 Q. Okay. I'm going to hand you what's been
7 marked as -- for ID purposes, as Defendant's
8 Exhibit 149 and ask if you have ever seen that
9 document before?

10 A. Yes, I have.

11 Q. Okay. What do you recognize it to be?

12 A. It's the similar letter that I wrote to
13 Mr. Dean in regard to a lien for Bernhard MCC.

14 Q. And what is Exhibit 149? What is the
15 date of that letter?

16 A. The date of the letter is February 10,
17 2019.

18 Q. And is that a true and accurate copy of
19 your February 10, 2019 letter?

20 A. Yes.

21 MR. MCDONALD: Your Honor, at this
22 time, I would move to put Defendant's Exhibit 149
23 into evidence.

24 THE COURT: All right. In
25 evidence.

1 (DFT. EXH. 149 was received in
2 evidence.)

3 BY MR. MCDONALD:

4 Q. What are you asking Balfour Beatty to do
5 in Defendant's Exhibit 149?

6 A. To honor the terms of the contract and
7 bond off the lien that was filed by Bernhard MCC.

8 Q. And did they in fact bond off the lien
9 that was filed by Bernhard MCC?

10 A. No, they did not.

11 Q. Okay. And what was the date of the
12 Bernhard MCC lien?

13 A. February 5th, 2019.

14 Q. And how much was that lien for?

15 A. 6,539,992.14.

16 Q. So in rough numbers, as of February 4th,
17 2019, there was 15 plus million dollars in liens
18 on the property?

19 A. Correct.

20 Q. Were other liens filed?

21 A. Yes, there were.

22 Q. Did you request Balfour to bond those
23 off?

24 A. I did.

25 Q. Did they?

1 A. No.

2 Q. If you would, Ms. Brown, Plaintiff's
3 Exhibit 56 is in evidence. I believe that's the
4 contract, going from memory. Let me see if I can
5 get it for you. It might be in volume 3. Are
6 you there?

7 A. Yes.

8 Q. Okay. Specifically, section 9.3.1.1.
9 Just let me know when you're ready.

10 A. I'm here.

11 Q. All right. Would you read that section
12 into the record, please?

13 A. 9.3.1.1. Such applications may not
14 include requests for payment for portions of the
15 work for which the contractor does not intend to
16 pay a subcontractor or material supplier unless
17 such work has been performed by others whom the
18 contractor intends to pay.

19 Q. Okay. Did Balfour Beatty ever submit a
20 final pay application with a final accounting?

21 A. No.

22 Q. Did Library Associates call the employee
23 and accountant to do an audit of the work?

24 A. Yes.

25 Q. Who was that?

1 A. Cotton and Company.

2 Q. And who specifically at Cotton and
3 Company?

4 A. Sam Hadley and Jason Boberg.

5 Q. And when did you-all hire Ms. Hadley and
6 Mr. Boberg?

7 A. In March of 2019.

8 Q. So a month after all of these liens were
9 filed?

10 A. Correct.

11 MR. MCDONALD: Thank you very much,
12 Ms. Brown. Please answer any questions other
13 counsel may have for you.

14 MR. HILDEBRAND: Can I have just a
15 couple minutes to get organized, Your Honor?

16 THE COURT: Yeah. Do you want to
17 take five minutes?

18 MR. HILDEBRAND: Yes, sir.

19 THE COURT: Let's do that. Let's
20 take a little break.

21 (A recess transpired.)

22 THE COURT: All right.

23 Mr. Hildebrand?

24

25

1 don't pay letters from the architect. I pay
2 certified pay apps, and if they would have
3 submitted an RCO, which would have been signed,
4 which would have been turned into a change order
5 and then they would have been paid the \$72,000.
6 And they would have received the 20 days of
7 extension.

8 Q. Do you know whether or not Balfour or
9 Lithko incurred additional rental costs for that
10 scaffolding or fall protection?

11 A. I do not. I only know what's in the RCO
12 requested by Balfour Beatty for that additional
13 scaffolding.

14 MR. WINDLE: Okay. Thank you. No
15 further questions.

16 THE COURT: All right. Mr. Terry?

17 MR. TERRY: May it please the
18 Court?

19 CROSS-EXAMINATION

20 BY MR. TERRY:

21 Q. Good afternoon, Ms. Brown.

22 A. Good afternoon.

23 Q. I'm Don Terry. I represent Watson
24 Electrical Construction. I don't think you're
25 going to need to turn to Plaintiff's Exhibit 56

1 for this, but you might. Exhibit 56 was the --
2 if I remember correctly, it was the contract
3 between Library Associates and Balfour Beatty,
4 right?

5 A. Correct.

6 Q. All right. And Library Associates hired
7 a construction manager, not a general contractor,
8 right?

9 A. Correct.

10 Q. You testified earlier about some
11 chandelier crystals. Do you remember that?

12 A. Yes.

13 Q. You don't know -- assuming those
14 crystals were lost by someone, you don't know who
15 lost them, right?

16 A. We went back to the provider. Well, the
17 purchasing agent went back to the provider. The
18 provider had submitted pictures showing that the
19 crystals were in a box of X, and that that box
20 was in the crate, included in the packing slips.
21 So they are stating that the crystals were
22 shipped with the rest of the light fixtures.

23 MR. TERRY: Your Honor, I move to
24 strike her answer as nonresponsive to my
25 question.

1 REDIRECT EXAMINATION

2 BY MR. MCDONALD:

3 Q. Ms. Brown, you were handed Plaintiff's
4 Exhibit 346. Do you still have that in front of
5 you?

6 A. Yes.

7 Q. And do you recall you were asked some
8 questions about the certifications that were made
9 on that?

10 A. Yes.

11 Q. You weren't asked about certifications
12 little v, little i. Can you read that into the
13 record, please?

14 A. What number?

15 Q. Little v, little i, 6.

16 THE COURT: Roman numeral VI.

17 MR. MCDONALD: Roman numeral VI.

18 THE WITNESS: All amounts
19 previously disbursed by you for direct
20 construction costs for labor, services and/or
21 materials pursuant to previous requests for
22 disbursement have been paid to the parties
23 entitled thereto with the proper designation of
24 contract and account for which payment was made.

25 BY MR. MCDONALD:

1 Q. Okay. And if you would turn to the page
2 of this document. It's got a little Bates stamp
3 here, LA box 3791. It's the G702. Are you
4 there?

5 A. 003561?

6 Q. 3791. It's the front page of the pay
7 application.

8 A. Oh, I'm sorry.

9 Q. No, that's all right.

10 A. Yes, 791.

11 Q. And is the contractor making a
12 certification to you-all on that page, above the
13 signature, contractor Balfour Beatty
14 Construction, LLC?

15 A. Yes.

16 Q. And what does that certification say?

17 A. The undersigned contractor certifies, to
18 the best of the contractor's knowledge,
19 information and belief the work covered by this
20 application for payment has been completed in
21 accordance with the contract documents, that all
22 amounts have been paid by the contractor for work
23 for which previous certificate for payments were
24 issued and payment received from the owner, and
25 that the current payment shown herein is now due.

1 Q. Okay. Now, turn, if you would, the
2 final question on this document, it's the third
3 page of the document. It's got little boxes. Do
4 you see that right above your signature?

5 A. Right above my signature? Yes.

6 Q. And it says bank name, NBSC, a Synovus
7 Bank. Who is that?

8 A. That is our depository account. So we
9 were asking MetLife to fund that amount of money
10 into our account.

11 Q. And would they wire that fund into your
12 account at NBSC?

13 A. Yes.

14 Q. Now, turn if you would -- you might not
15 have it in front of you anymore -- to Exhibit 56,
16 the contract. Do you have that? I think it's in
17 that notebook right there on the top.

18 A. Yes.

19 Q. Are you there?

20 A. Yes.

21 Q. If you would, turn to the 201 in that
22 document, specifically to section 9.5.1.6. Are
23 you there?

24 A. 9.5.1.6, yes.

25 Q. Okay. Will you read that into the

1 record for the Judge?

2 MR. HILDEBRAND: Your Honor, I
3 don't see how this is appropriate on redirect. I
4 don't remember anything about this portion of the
5 contract being read into the record or otherwise.

6 THE COURT: Where are we going on
7 this one?

8 MR. MCDONALD: Relating to the
9 liquidated damages, Your Honor. He just asked
10 tons of questions about liquidated damages.

11 THE COURT: All right.

12 BY MR. MCDONALD:

13 Q. Would you read that into the record,
14 please.

15 A. 9.5.1.6. Reasonable evidence that the
16 work will not be completed within the contract
17 time and that the unpaid balance would not be
18 adequate to cover actual or liquidated damages
19 for the anticipated delay.

20 Q. Thank you. And what is the title of
21 that section as a whole?

22 A. Decisions to withhold certification.

23 Q. Thank you. All right. Turn to 2.4 of
24 the 201, please, ma'am. Would you read the title
25 of that section?

1 A. 2.4, owner's right to carry out the
2 work.

3 Q. Okay. And does that section contain the
4 provisions as to when the owner can self-perform
5 the work?

6 A. Yes.

7 MR. HILDEBRAND: Your Honor, again,
8 there was nothing about this in the -- on
9 cross-examination. He's going far into the field
10 for the appropriate redirect.

11 THE COURT: I think you did ask
12 about that, did you not?

13 MR. MCDONALD: He specifically
14 asked her about the painting and the owner's work
15 and all of that stuff. We're just simply
16 pointing out that that's the provision. And,
17 Your Honor, I would request a little bit of
18 leeway.

19 If I recall, when the case started, I
20 think you specifically asked that if we had a
21 contract section, that we would like Your Honor
22 to be aware of, that we point it out. I don't
23 have any more questions on this. That's all I
24 was trying to do.

25 THE COURT: Okay. All right.

1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF DORCHESTER

4 I, Jennifer M. Adams, Certified
5 Shorthand Reporter and Notary Public for the
6 State of South Carolina at Large, do hereby
7 certify that the witness whose attached in the
8 foregoing hearing was by me duly sworn to testify
9 to the truth, the whole truth, and nothing but
10 the truth in the within-entitled cause; that said
11 hearing was taken at the time and location
12 therein stated; that the testimony of the witness
13 and all objections made at the time of the
14 examination were recorded stenographically by me
15 and were thereafter transcribed by computer-aided
16 transcription; that the foregoing is a full,
17 complete and true record of the testimony of the
18 witness and of all objections made at the time of
19 the examination; and that the witness was given
20 an opportunity to read and correct said hearing
21 and to subscribe the same.

22 Should the signature of the witness
23 not be affixed to the hearing, the witness shall
24 not have availed himself/herself of the
25 opportunity to sign or the signature has been
26 waived.

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

30 Witness my hand, I have hereunto
31 affixed my official seal on November 9, 2022 at
32 Charleston, Charleston County, South Carolina

33

34

35

36

37

38

39

40

Jennifer M. Adams
Court Reporter And Notary Public
My commission expires: 03/15/2032

1 up in Wisconsin. I went to college in Wisconsin,
2 got an accounting degree and moved to the DC area
3 when I was 21.

4 Q. When you were 21?

5 A. Uh-huh.

6 Q. And for what purpose did you move to the
7 DC area?

8 A. I got a job at Cotton and Company, which
9 was an accounting firm in that area.

10 Q. And we're going to go through some of
11 your experience, but I'd like to start off -- can
12 you explain to the Judge what you do? What is
13 your job right now, and then we'll get into how
14 we got there. Okay?

15 A. My job at Cotton and Company, which was
16 the majority of my career, was to evaluate
17 contract or project costs. It's not a typical
18 accounting firm. We don't do typical audits. We
19 don't do taxes and debits and credits. We're not
20 an accounting service firm for the contractor.

21 We're hired typically to evaluate costs
22 incurred on a project to ensure that they
23 complied with the contract terms or the grant or
24 the program that the federal government might be
25 funding to ensure that those costs were spent in

1 have?

2 A. Yes.

3 Q. To section 6.11.1.

4 A. I'm there.

5 Q. Are you there?

6 A. Yes.

7 Q. What I'd like to do, Ms. Hadley, is, I'd
8 like to publish that section with the
9 understanding that Madam Court Reporter has to
10 type it at the rate in which you speak. Thank
11 you.

12 A. I've learned my lesson, yes, through
13 others.

14 MR. HILDEBRAND: I'm sorry, which
15 one? Where are we?

16 MR. MCDONALD: 6.11.1 of the 133,
17 Tom.

18 THE WITNESS: The construction
19 manager shall keep full and detailed records and
20 accounts related to the cost of the work and
21 exercise such controls as may be necessary for
22 proper financial management under this contract
23 and to substantiate all costs incurred.

24 The accounting and control systems shall
25 be satisfactory to the owner. The owner and the

1 owner's auditors shall, during regular business
2 hours and upon reasonable notice, be afforded
3 access to and shall be permitted to audit and
4 copy the construction manager's records and
5 accounts including complete documentation
6 supporting accounting entries, books,
7 correspondence, instructions, drawings, receipts,
8 subcontracts, subcontractor's proposals, purchase
9 orderers, vouchers memoranda and other data
10 relating to this contract.

11 The construction manager shall preserve
12 these records for a period of (four) years after
13 final payment or for such longer period as may be
14 required by law.

15 Q. Okay. Turn next, Ms. Hadley, if you
16 would, to section 7.1.11 of the A133, which is
17 Plaintiff's Exhibit 56.

18 A. I'm there.

19 Q. Okay. Would you publish that, please?

20 A. The owner has the right, at his sole
21 discretion, to perform periodic examinations,
22 audits, and verifications of the construction
23 manager's costs, accounting records, and other
24 project documentation.

25 The contractor shall make all its

1 records available to the owner upon reasonable
2 advanced notice and shall provide the owner with
3 copies of specific records from time to time upon
4 reasonable request.

5 Q. Okay. And there is a provision before
6 that, 7.1.10. I'd like you to publish that.

7 A. In taking action on the construction
8 manager's application for payment, the architect
9 shall be entitled to rely on the accuracy and
10 completeness of the information furnished by the
11 construction manager and shall not be deemed to
12 represent that the architect has made a detailed
13 examination, audit, or arithmetic verification of
14 the documentation submitted in accordance with
15 section 7.1.4 or other supporting data.

16 That the architect has made exhaustive
17 or continuous on-site inspection or that the
18 architect has made examinations to ascertain how
19 or for what purposes the construction manager has
20 used amounts previously paid on account of the
21 contract.

22 Such examinations, audits, and
23 verifications, if required by the owner, will be
24 performed at the owner's and auditors acting in
25 the sole interest of the owner.

1 Q. Now, let's go down to section 7.2 again
2 in the A133, Plaintiff's Exhibit 56. What is the
3 heading of that section?

4 A. Final payment.

5 Q. And would you go down and publish 7.2.1?
6 Are you there?

7 A. Yes. 7.2.1.

8 Final payment, constitute of the entire
9 unpaid balance of the contract sum, shall be made
10 by the owner to the construction manager when .1,
11 the construction manager has fully performed the
12 contract except for construction manager's
13 responsibility to correct work as provided in
14 section 12.2.2 of the AIA document, A201-2007,
15 and to satisfy other requirements, if any, which
16 extend beyond final payment.

17 .2, the construction manager has
18 submitted a final accounting for the cost of the
19 work and a final application for payment.

20 And .3, all closeout documents, as
21 required by the contract documents, including but
22 not limited to, as-built drawings in paper and
23 electronic format, instructions to the owner's
24 representative on all building systems, and
25 completion of all punch list items outstanding.

1 have been met, the architect will, within seven
2 days after receipt of the written report of the
3 owner's auditor either issue to the owner a final
4 certificate of payment with a copy to the
5 construction manager or notify the construction
6 manager and owner in writing of the architect's
7 reasons in plural for withholding a certificate
8 as provided in section 9.5.1 of the AIA document,
9 A201-2007.

10 The time period stated in this section
11 supercede those stated in the section 9.4.1 of
12 the AIA document A201-2007. The architect is not
13 responsible for verifying the accuracy of the
14 construction manager's final accounting.

15 Q. And finally, for our purposes now, if
16 you would turn to A201, and specifically section
17 9. It's going to be a lot of numbers, so --
18 section 9.10.1.2.3. So I would like you read the
19 lead in and then into .3.

20 THE COURT: Bear with me a second.

21 MR. MCDONALD: Yes. It is page 38
22 of the A201, Your Honor.

23 THE WITNESS: Are we good?

24 THE COURT: Okay. Yes.

25 THE WITNESS: 9.10.1.2.

1 The final payment of retained amount due
2 to contractor on account of the contract shall
3 not become due until the contractor has furnished
4 to the owner through the architect, completion
5 documents as enumerated below and as elsewhere
6 noted in the contract documents.

7 .3, release and waiver of the claims by
8 the general contractor, including representations
9 that all subcontractors of any tier and material
10 supplies have been paid, that there are no past
11 due amounts, and that all amounts due and owing
12 shall be paid immediately.

13 BY MR. MCDONALD:

14 Q. And is any portion of that in bold?

15 A. The last phrase, that all amounts due
16 and owing shall be paid immediately is bolded.

17 Q. And this section relates to final
18 completion and final payment, correct?

19 A. Yes.

20 Q. Okay. And as we just talked about,
21 Balfour Beatty has never submitted the final
22 payment, correct?

23 A. It has not submitted that, yes.

24 Q. Okay. All right. Now, Ms. Hadley, what
25 I would like to do next is generally and then

1 we'll go through it specifically, and at the risk
2 of insulting Your Honor, I have to make a record.

3 I know you've heard about this for many
4 years now, but would you explain to the Court
5 what a GMP contract is, and then we're going to
6 talk about the costs of the work. Okay? Or if
7 you want to explain that in the reverse order,
8 whatever is easier for you.

9 A. I think the easiest way is to talk about
10 the GMP first.

11 Q. Okay.

12 A. The GMP contract, the guaranteed maximum
13 price contract is a cost reimbursable contract
14 that allows a contractor to get reimbursed for
15 its costs subject to that guaranteed maximum
16 price.

17 In this particular situation
18 specifically, there are two guaranteed maximum
19 prices: One for the general conditions portion
20 of the work and one for what we call the primary
21 portion of the work which is the bulk of the
22 costs paid to the subs.

23 Q. And we're going to come back to that,
24 but let's try and talk it in small bites. Just
25 generally, the GMP construct with the cost of the

1 work. Let's stay there from a general view, and
2 then we'll break it down as it relates to this
3 case.

4 A. So I don't think that there's much more
5 that's generic to all GMP contracts. You know,
6 the contract is an AIA template, as we can see
7 that we were reading from, that does get modified
8 and altered as needed for the individual
9 circumstance.

10 So things like the fee is established
11 either as a dollar amount or a percentage, and
12 those sort of things can be tailored within the
13 contract terms. But the basic component is
14 really that it is a cost reimbursable contract
15 with a stated maximum that can't be exceeded.

16 Q. So when you say GMP, that's the
17 guaranteed maximum price? That's the ceiling for
18 the contractor as far as dollars unless there's
19 approved change orders that changes the GMP?

20 A. Right. And then it's a circular
21 reference because the GMP is now larger.

22 Q. Okay.

23 A. So you can't exceed the guaranteed
24 maximum price.

25 Q. Okay. And what happens if there are --

1 well, explain this first. Explain to the Judge
2 what costs of the work are.

3 A. So costs of the work is a term of the
4 contract, and it's defined in the contract as
5 those costs that are incurred by the contractor
6 that comply with the terms of the contract.

7 Q. And where is that -- if the Judge wanted
8 to look at this contract and find out what would
9 constitute a cost of the work, what section would
10 his Honor look to?

11 A. The primary definitions of cost of the
12 work are article 6 of the A133 portion of the
13 contract.

14 There are other areas, even article 5,
15 and frankly, even things within the A201 portion
16 of the contract that will define whether
17 something can be considered reasonable and
18 allowable which is the sub-element of the
19 definition of cost of the work.

20 Q. Explain that in a little more detail.

21 A. So the section -- article, excuse me,
22 not section. Actually, I will look to see it.

23 Q. Sure.

24 A. So article 6 of the A133 is the
25 descriptions of what type of costs are allowable.

1 So it goes through each cost element like labor
2 or materials or equipment, and it provides for
3 what would make those costs eligible to be deemed
4 cost of the work.

5 So there are certain compliance
6 requirements that have to be met in order for
7 that cost to be deemed cost of the work. But
8 what I was referring to is that, the first
9 sentence of article, the first sentence of
10 article 6 talks about the costs have to be
11 necessarily incurred.

12 And there are other sections throughout
13 the A133 and the 201 that talk about the fact
14 that the costs have to be reasonable. So, for
15 instance, labor costs are allowable, but if you
16 paid a superintendent \$5 million a year, that
17 wouldn't be necessary or reasonable.

18 So I just wanted to point out that
19 article 6 is the primary place that us auditors
20 go to see if something can be considered cost of
21 the work. But it otherwise still has to be
22 reasonable and necessary to perform the work.

23 Q. So you start out with a generic term of
24 costs, and those wouldn't necessary be
25 reimbursable unless they meet the definition of

1 costs of the work?

2 A. Correct. And there are other articles
3 in the contract that clearly itemize that other
4 costs will be incurred, but they're not
5 considered costs of the work, and that those
6 costs must be performed by the contractor.

7 Q. Okay. So in that instance, the
8 contractor could spend something that they
9 could -- related to the contract and incur a
10 cost, but if it doesn't meet the definition of
11 cost of the work, it wouldn't be reimbursable?

12 A. Sorry. It's putting a flashlight in my
13 face.

14 THE COURT: Mr. Windle, be glad I'm
15 not Judge Dennis. You'd be gone. But don't pour
16 it in the witness' face, please. I know that was
17 by accident. I'll give you that one. All right.
18 Why don't you ask that question again for
19 Ms. Hadley.

20 MR. MCDONALD: I will do, Your
21 Honor.

22 THE WITNESS: Why.

23 BY MR. MCDONALD:

24 Q. So a contractor or a construction
25 manager can incur a cost, write a check, whatever

1 A. I believe that was a fourth affidavit
2 that I wrote at that time.

3 Q. What, was it related to duplication?

4 A. Yeah, saying really nothing more than
5 what had been said in the past about duplication.

6 Q. Okay. And was there any excess of \$11
7 million at that time of duplication that you
8 identified?

9 A. Yes, which again, logically is
10 approximately the amount of BBC's claim because
11 it is an accumulation of subcontractor claims for
12 the most part.

13 Q. All right. And the next entry is
14 September 10th, 2021. Well, let me ask you this:
15 As of December 16th, 2020, how much was your
16 understanding was Balfour's claim?

17 A. 22,452,282, which was the amount of that
18 January 2019 letter, although I will say, I had
19 sent spreadsheets to BBC with updated claim
20 amounts, as we were learning about Watson's
21 revised claim, for example, and some other things
22 that were -- that came up during field work.

23 I would change the total and say, well,
24 this is where I am like right now. But since
25 they never officially adopted a new claim amount,

1 I think it would only be fair to say that, you
2 know, the only amount that they've ever asserted
3 was the 22 million that was issued in the January
4 2019 letter.

5 Q. So you would send Balfour updates
6 basically giving overviews of your findings as
7 that audit was progressing?

8 A. No. I think the characterization would
9 be, I was attempting to accumulate what the
10 project costs were.

11 I was also attempting to accumulate what
12 their claim would be, and if I said, well, look,
13 if I use this RCO log, then your claim would
14 change to this amount because your letter has
15 this and this log has this, so it's different.
16 Or if I use this new letter from Watson Electric
17 as their claim amount, then your \$11 million that
18 you put in your January letter would be \$9.2
19 million.

20 So therefore, the new total -- you know,
21 it was basically a simple Excel spreadsheet of
22 their claim from the letter and then anything
23 that I knew subsequent to that that would make
24 that number wrong, and it would give me a new
25 total.

1 So I just want to make sure I'm clear
2 that it's something that I was preparing and
3 providing to them, not that they were preparing.
4 So they weren't asserting that it was their
5 claim. I was -- I don't want to say guessing. I
6 was trying to calculate their claim, and it would
7 change.

8 Q. And I'm sorry, I probably asked it a
9 poor way. That's what I was trying to ask. It
10 sounds like you were trying to come up with the
11 numbers and then submitting them to Balfour and
12 saying, here's what I've got, what are y'all
13 thinking?

14 A. Correct.

15 Q. And did you ever get a response from
16 them adopting any of your numbers that you had
17 submitted or conceding that that was in fact a
18 change that needed to occur?

19 A. No. On a couple of occasions they might
20 have -- like Mr. Simonton replied at one point
21 with, I don't know why the amounts are different.
22 You know, here's a new number for Watson.

23 But there would have never been a
24 process where they would have said, oh, yeah,
25 Sam, we're going to go with this one, or this is

1 our new number. Nothing official like that.

2 Q. All right. So as of December 16, 2020,
3 the only recognized claim amount you had from
4 Balfour was 22,452,287 as referenced in that
5 January 2019 four-page letter, right?

6 A. Yes.

7 Q. All right. And the next entry is
8 September 10, 2021. And what is that entry for?

9 A. That was a claim that was submitted -- I
10 believe that was the Sunday before trial started,
11 where BBC updated their claim to \$11,872,194.

12 Q. Well, it looks likes trial starts on
13 September 13, 2021, so maybe that was -- the
14 September 10th would have been the Friday before
15 trial?

16 A. Yes.

17 Q. Okay. So the Friday before trial, you
18 get a claim. What was it? What did you get?

19 MR. HILDEBRAND: Objection, Your
20 Honor. If he can just ask her -- all these
21 questions are just very leading. I'd ask him to
22 rephrase it, please.

23 THE COURT: Okay. What did you
24 get?

25 MR. MCDONALD: Thank you, Your

1 Honor.

2 THE WITNESS: A new claim. I can't
3 remember if the format was PowerPoint or a PDF of
4 Excel at this point, but it just had new amounts
5 and were footing to 11.8 million or 11.9,
6 rounding.

7 BY MR. MCDONALD:

8 Q. And when you say "footing", are you --
9 does that mean totaling?

10 A. Totaling, yes.

11 Q. Okay. And that's probably a common
12 phrase. I just wanted to be clear. All right.
13 And that's September 10th of 2021, right?

14 A. Correct.

15 Q. Okay. So that is 31 months after the
16 January '19 letter?

17 A. Yes.

18 Q. Is that fair? Okay. Three days before
19 the trial starts?

20 A. Yes.

21 Q. All right. And then what's the next
22 entry?

23 A. Then Sunday before the trial started,
24 another claim came in, an updated amount of
25 \$13,064,917.

1 Q. Okay. That's September 12, 2021?

2 A. Yes.

3 Q. And was that claim in the same format as
4 the previous one had been submitted two days
5 prior?

6 A. Yes.

7 Q. All right. And it's for \$13,064,917?

8 A. Correct.

9 Q. And the next entry is a green one. What
10 is that for?

11 A. The trial started on the 13th of
12 September, 2021.

13 Q. All right. And then we've got two more
14 entries. It looks like there's one on September
15 20, 2021. What is that for?

16 A. So during that first week of trial, the
17 week that started on the 13th, there was some
18 discussion about the fact that Library still did
19 not have BBC's updated claim information, and we
20 didn't have the information to support these
21 amounts.

22 I think Judge recommended that I work
23 with BBC. And we had a phone call and an e-mail
24 or two, and we discussed some things. And as a
25 result of that, BBC updated the amounts the

1 subsequent week on the 20th to 13,569,659, and
2 then the following day --

3 Q. Well, hold on. We'll get there in a
4 second. So it went from 22,452,000 to 11.8
5 million, and it took 31 months to do that, right?

6 A. Correct.

7 Q. Then it went to 13 million and only took
8 two days to do that, right? 13,064,000?

9 A. Correct.

10 Q. Then eight days later, it went to
11 \$13,569,659?

12 A. It did.

13 Q. And what is the final entry on this
14 document?

15 A. On September 21, 2021, BBC submitted its
16 last update, that I know of, for its claim of
17 13,896,742.

18 Q. Okay. So the next day it went up
19 300,000 bucks, something like that?

20 A. Approximately, yes.

21 Q. And that's the last one you're familiar
22 with?

23 A. Correct.

24 Q. All right. Now, in these -- from
25 September 10th to September 21st; so in these

1 four updates over 11 days, clearly there must
2 have been something taken out because they don't
3 add up to 22 million anymore, right?

4 A. Yes. The majority of the duplication
5 between BBC and its subcontractors was
6 eliminated.

7 Q. And was there anything added?

8 A. Yes. It depends on which one of the
9 four you're talking about, but there was -- one
10 of them added in interest. There was also a new
11 claim element for general trades that wasn't in
12 the claim letter or in the previous claims. I
13 think that's \$700-and-some thousand. The
14 identification of the claims also changed.

15 Q. What does that mean?

16 A. For instance, in the January 2019 claim
17 letter, the additional monies that BBC wanted for
18 general conditions were split into two groups.

19 Expanded general conditions, which means
20 we incurred more general conditions during the
21 contract period and then extended general
22 conditions; meaning, we want general conditions
23 because we felt we were on the project longer,
24 and it was the owner's fault.

25 Q. Okay. So let me just stop you to make

1 sure I understand. So there were two -- in the
2 January '19 claim letter, there were two separate
3 types of general conditions claims?

4 A. Yeah. I think that's fair. When you
5 say types, I would say causations.

6 Q. Okay.

7 A. It's all their general conditions, but
8 it was basically identified from their accounting
9 system as, these were incurred over the 28 months
10 that we had only hoped to be there, and we spent
11 more than we had in that GMP.

12 Q. During the original 28 months of the
13 project?

14 A. Correct.

15 Q. Okay.

16 A. And then they had identified other
17 costs, and I want to use the right term; so I'm
18 looking for their January claim letter.

19 The first group was called additional
20 general condition costs incurred during the
21 contract period, and then the next group was
22 called general condition costs incurred during
23 the extended period through January 21st, 2019.
24 So they're all general conditions, but they were
25 just identifying a different cause of why they

1 wanted that amount.

2 Q. Okay. Or when they were actually
3 incurred?

4 A. Based on when they were actually
5 incurred.

6 Q. Okay.

7 A. And then subsequent to this letter,
8 through the interrogatory process, BBC identified
9 that all of the costs for general conditions were
10 incurred within the contract period, within the
11 28 months.

12 So the nature of what caused those costs
13 to be included in the claim now took on a
14 different -- a different meaning because it was
15 specifically identified that, when you added
16 these two amounts in -- and we're roughly talking
17 about 3.1 or 3.2 million.

18 They were all incurred during the
19 project, which then makes them all expanded
20 general conditions, which again, it's the same
21 general conditions but it's saying something
22 completely different.

23 Now you're not saying, you may be on the
24 project longer, and it's all your fault. You're
25 saying, during the original contract period, we

1 spent twice as much and it's all your fault. So
2 there's just a different cause and effect through
3 the interrogatory process.

4 Q. Okay.

5 A. And then in the subsequent claims that
6 were submitted --

7 Q. These are the four in September of 2021?

8 A. In September of 2021.

9 Q. Okay.

10 A. There no longer is a distinction between
11 expanded and extended. I have struggled without
12 looking at all four side by side. I had a
13 spreadsheet at one point, but now I believe
14 they're all considered extended general
15 conditions.

16 Q. Which would be essentially delay general
17 conditions?

18 A. Which would be delay; so, you know, how
19 you test the reasonableness of those costs as far
20 as a claims perspective is quite different.

21 If you had to spend more money during
22 the original period, you would take a look at
23 those costs and say, well, is this a reasonable
24 salary to pay, or did you really need seven
25 security officers.

1 But if you're looking at costs because
2 it's an extended period, you're going to say, oh,
3 it looks like you were spending about 8 grand a
4 day before. You're spending about 8 grand later.
5 It's an extra how many days. You rely on
6 somebody like Mr. Boe or Mr. Durand to talk about
7 how many days the project -- whose fault the days
8 were, and I kind of just do the math.

9 Sometimes we graph out, you know, the
10 costs to show that they were really time-driven
11 costs and that they weren't -- the damages were
12 all time-related.

13 But again the nature of what BBC is
14 saying caused these additional costs to be
15 incurred has been changing over time, and now the
16 latest that was submitted in September, they're
17 all identified as just under that green column as
18 delay. So there's no more expanded. It's just
19 all extended.

20 Q. Even though previously they took the
21 position, they actually incurred those costs
22 during the initial 28 months?

23 MR. HILDEBRAND: Objection to the
24 leading question again, Your Honor.

25 THE COURT: He is trying to

1 characterize that testimony.

2 MR. HILDEBRAND: All right.

3 THE COURT: All right. I'm going
4 to allow it. Go ahead.

5 THE WITNESS: I'm sorry, I forgot
6 whether it was -- which way to answer the
7 question. Can you say it again?

8 BY MR. MCDONALD:

9 Q. Yes. I'll reask the question. The
10 expanded general conditions, during the original
11 28 months, in final submission, became extended
12 general conditions? They switched it?

13 A. They switched it. In January of 2019,
14 it was a little of both. Then it was all
15 expanded, and now it's all extended.

16 Q. Is the general conditions that we're
17 talking about, regardless of what you call them,
18 is it -- are they trying to get all their general
19 conditions of the total cost claim?

20 A. Yes. It's a total cost claim. It's
21 taking the costs from their accounting system and
22 subtracting what the GMP was and asking for all
23 of the rest of them as a total cost claim.

24 Q. How much have you been paid to do what
25 you have done on this project?

1 Let's just come back at 3 o'clock.

2 (A recess transpired.)

3 THE COURT: Mr. McDonald?

4 MR. MCDONALD: Thank you, Your
5 Honor. May it please the Court?

6 THE COURT: Yes, sir.

7 BY MR. MCDONALD:

8 Q. Ms. Hadley, when we left off, we were
9 talking about the various iterations of the
10 claims and the Balfour Beatty claims. In the
11 final one on the chart that we were looking at,
12 dated September 21st, 2021, what was the total of
13 that claim amount?

14 A. \$13,896,742.

15 Q. Okay. And is that the same amount as
16 listed on Plaintiff's Exhibit 329? Do you have a
17 copy of that with you?

18 A. Yes.

19 Q. But for some rounding.

20 A. Yes, 20 cents of rounding, but I just
21 didn't report the pennies.

22 Q. And you were in the courtroom, were you
23 not, for Ms. Brown's testimony, correct, where we
24 went through each and every single request for
25 change order of Plaintiff's Exhibit 12?

1 A. Yes, most of it.

2 Q. All right. Did you in fact assist
3 Ms. Brown in her review of Plaintiff's Exhibit
4 12? Did you participate with her in that?

5 A. Yes.

6 Q. All right. In your review of
7 Plaintiff's Exhibit 12, did you see any request
8 for change order for Balfour Beatty in the amount
9 of \$1,019,127.49?

10 A. No.

11 Q. And mercifully, I'm not going to go back
12 through that document with you again. If
13 something comes up and you need to refer to it,
14 just let me know. Okay?

15 A. Okay.

16 Q. Okay. So what I would like to do is
17 start over here with the yellow section. Okay?

18 A. Okay.

19 Q. And that is entitled, contract balance,
20 correct?

21 A. Yes.

22 Q. All right. And when was the first time
23 you saw this particular document, Plaintiff's
24 Exhibit 329?

25 A. I believe it was September 21st, 2021.

1 Q. Okay. All right. What is an open
2 contract balance as it relates to a GMP contract?

3 A. In this instance, the open contract
4 balance relates to the portion of the
5 subcontractor's contract that the subcontractor
6 has not submitted invoices for and may not need.

7 Q. And is under the -- how does an open
8 contract balance relate to a cost of the work?

9 A. I don't think there is a relationship
10 between an open contract balance and cost of the
11 work.

12 Specifically, on the contractor's
13 payment applications each month, this would be
14 that very -- I believe it's the very last
15 right-hand column that is work still to be
16 completed or unused contract balance, or, you
17 know, something to that effect. At the end of
18 the project, it would just be the portion that
19 wasn't needed.

20 Q. Okay. So an open contract balance would
21 never be a cost of the work, if they didn't spend
22 it?

23 A. It cannot be cost of the work. It can't
24 be because it's not a cost. It's not a payment,
25 and it doesn't represent an expenditure.

1 Q. It cannot be cost of the work. So in
2 order to recover costs under a GMP contract, does
3 it have -- does the cost have to be a cost of the
4 work?

5 A. Yes. And in fact, it would at least
6 have to be a cost and then it would have to be
7 cost of the work.

8 Q. So are you saying that an open contract
9 balance is not even a cost -- wouldn't be a cost
10 or a cost of the work?

11 A. Correct. It's, again, an unused portion
12 of the contract. You know, every subcontractor
13 has a story, but for example, in this particular
14 project, the subcontractors are listed
15 alphabetically on the left-hand side. If you go
16 to Elite Awnings, you see a 12,000 --

17 Q. Wait, hold on. Let's get there. Elite
18 Awnings over here?

19 A. Yes. You see a \$12,000 open contract
20 balance.

21 MR. MCDONALD: Your Honor, do you
22 still have your copy?

23 THE COURT: I've got it right here.

24 THE WITNESS: So in the beginning,
25 Balfour contracted with Elite Awnings for a

1 \$12,000 contract to do awnings. I can't
2 remember -- I think they were fabric. I don't
3 remember the exact material. But ultimately
4 through the construction process, someone decided
5 to go with copper awnings instead, and these
6 awnings were never purchased or never needed.

7 So I understand why it's an open
8 contract balance because that contractor wasn't
9 used, but it is not a cost, and I don't believe
10 it would be justifiably something that Library
11 should have to pay BBC for as far as a claim or a
12 cost. It's a contractor that was never needed on
13 the project.

14 BY MR. MCDONALD:

15 Q. So this \$12,000 all the way across, they
16 also want, what, \$3,024,000.02 in interest for
17 that?

18 A. No. I think it would be \$3,024.

19 Q. \$3,024.02 on that one for Elite Awnings?

20 A. Yes.

21 Q. Money that was never spent; contractor
22 that never did the work?

23 A. Right. And I'm not sure that that's
24 interest because the title says, miscellaneous
25 claims and interest. It's very hard for an

1 auditor like myself to audit because I don't know
2 if that amount was a miscellaneous claim or an
3 interest amount or a little bit of both.

4 But given that BBC didn't spend \$12,000
5 to Elite, will never pay Elite \$12,000. If it is
6 interest, it certainly doesn't represent a
7 damage. I don't think BBC is out the money at
8 this point.

9 THE COURT: If it wasn't incurred,
10 it's not a cost is what you're testifying to?

11 THE WITNESS: Right. And so I'm
12 just parlaying that into, why would there be
13 interest penalties on something that didn't
14 happen.

15 BY MR. MCDONALD:

16 Q. Why would it even be in the claim? Why
17 would it even be on this document?

18 A. I can take an educated accounting guess,
19 but it shouldn't be there. I can maybe guess as
20 to how it got there, but it would be a guess.

21 Q. All right. What is in your business, an
22 open payable?

23 A. So an open payable is when you receive a
24 bill from someone, and you book it as an expense
25 in your accounting system, but you haven't cut

1 the check yet. So it's a payable. You owe it to
2 someone.

3 Q. And in this Plaintiff's Exhibit 329,
4 it's got Balfour Beatty Construction with
5 \$191,088.78 open payable; is that right?

6 A. That's what this spreadsheet says.

7 Q. Okay. Can you have an open payable to
8 yourself?

9 A. You cannot. It's just nonsensical,
10 really. What this piece of paper is saying is
11 that Balfour owes Balfour \$191,000 for bills that
12 Balfour sent itself.

13 Q. Let's talk about on this line item, BBC
14 retainage. \$612,952.17, right?

15 A. That's what the amount shows on the
16 spreadsheet.

17 Q. Have you reviewed any backup where
18 Balfour Beatty had \$612,952 in retainage on this
19 job?

20 A. I have not seen any backup that would
21 support that amount, but it can't be retainage
22 for Balfour Beatty's work.

23 Q. Why not?

24 A. Because as we've previously discussed,
25 they did not self-perform a significant part of

1 the work.

2 So if you were to go to any of the more
3 recent payment applications, anywhere from
4 payment application 42 to 45 and identify the
5 retainage related to the work that BBC would have
6 done; i.e., general conditions, maybe a couple
7 elements of general trades or staging and
8 hoisting, at best, you're going to come up with,
9 you know, \$200,000 that might have been retained
10 for expenses that BBC paid directly. But even
11 that is a significant overstatement, I believe.

12 Q. The \$200,000 would be?

13 A. The 200,000. There's a document that
14 BBC produced in its response to the set of
15 interrogatories where it identified all the
16 different subcontractors that were associated
17 with each schedule of value.

18 And rightfully so, some of them are a
19 perfect match. That's the sub that does that
20 work. In general trades and staging and
21 hoisting, there's a variety of vendors like
22 Sunbelt Rentals and that sort of thing, and
23 Wesley that did a lot of work.

24 But there will be some self-performed --
25 I just call them maybe general laborers and then

1 general conditions costs that BBC did. But the
2 amount of that work is so low, so limited, that
3 in order to get \$600,000 worth of retainage even
4 at 10 percent, that would be \$6 million worth of
5 work.

6 And, you know, they didn't do \$6 million
7 worth of work in general trades and staging and
8 hoisting. The values aren't even that high. So
9 it's impossible for that number to be related to
10 BBC's work.

11 But I think maybe more over, you can
12 tell that, again, I'm kind of brainstorming just
13 on the -- on what I know about the project and
14 what I know about BBC's costs. But I wouldn't
15 have to if this number had any support behind it
16 and came from somewhere that had been produced
17 thus far.

18 Q. All right. Let's talk about the OCOs,
19 \$82,124.79. Was there any backup? Did you see
20 any backup for those OCOs?

21 A. I don't recall seeing any backup for
22 that particular amount, but I know through
23 testimony and reviewing their original claims,
24 that that would represent work that BBC did for
25 the last four OCOs, 19 through 22.

1 The problem with that amount being
2 claimed here as an OCO is that the costs that
3 were incurred by BBC that were billed as an
4 OCO -- I think Kim testified that it was for
5 maybe Alec Dooley's time or Nick's time or
6 Mr. Spano's time. Those costs are charged to
7 general conditions.

8 So now that we've previously discussed
9 that you already have a general conditions total
10 cost claim, all of your costs incurred less the
11 GMP and you want the difference, then you're also
12 going to claim those costs that are in the OCOs
13 for the same folks. This \$82,000 is duplicative
14 of the 3.889 million that's in the green column.

15 Q. That's in the delay damages?

16 A. Correct.

17 Q. Did you review the support for the owner
18 change orders, specifically 19, 20, 21 and 22?

19 A. Yes.

20 Q. Okay. And what, if anything, did you
21 understand about the Balfour Beatty portion after
22 your review of the backup for those owner change
23 orders 19 through 21 -- through 22, excuse me.

24 A. The detailed backup that relates to CCDs
25 did not support the amount that was being claimed

1 for that activity.

2 Specifically, Kim would discuss the fact
3 that the current amount per an accounting report
4 was about \$200, but the amount that was being
5 claimed in the OCO was \$400 or that -- I believe
6 she testified that Mr. Dooley had already left
7 employment at that time even though he was still
8 identified as the scope of the work for that
9 month.

10 So, you know, I came to those
11 conclusions myself when I was reviewing the OCOs.
12 But now that I see it being presented here again
13 on the same BBC line with all of the general
14 conditions in the green section, I don't know if
15 it matters so much that it isn't supported
16 because now it's duplicative.

17 Q. Duplicative in the total cost claim?

18 A. Correct.

19 Q. Let's talk about Quantum a/k/a Merritt
20 a/k/a SBC Group. Are they on here?

21 A. Under SBC Group.

22 Q. SBC Group, LLC?

23 A. Correct.

24 Q. All right. And how much are they asking
25 for for Quantum?

1 A. In total, it's \$324,858.

2 Q. And are they ever going to incur those
3 costs, \$324,858.06?

4 A. No, they won't.

5 Q. Why not?

6 A. Quantum is no longer a party, and
7 Quantum has been paid.

8 Q. Were there any back charges associated
9 with Quantum?

10 A. It was a significant amount of back
11 charges associated with Quantum.

12 Q. And I'm going to hand you a few
13 exhibits, Ms. Hadley. I hand you what's been
14 marked for ID purposes as Defendant's Exhibit
15 152, 153, and 154. And I'm going to ask you if
16 you recognize those documents.

17 A. These are three change order requests as
18 from SBC on this project.

19 Q. SBC being Quantum, Merritt, and SBC
20 Group, all the same outfit?

21 A. Yes.

22 Q. Okay.

23 A. I believe so.

24 Q. Now, do you know the amount that Quantum
25 settled for?

1 A. I believe it was \$175,000.

2 Q. Okay. And is that amount reflected on
3 Plaintiff's Exhibit 329?

4 A. No.

5 Q. Okay. And the documents that I just
6 handed you: 152, 153, and 154, Defendant's
7 Exhibits, do those relate to back charges?

8 A. Change order 37 specifically identifies
9 the back charges and what subcontractor had to do
10 the work that was being then back charged against
11 SBC.

12 Q. Okay. And what is the exhibit number on
13 change order 37?

14 A. Exhibit 154.

15 Q. 154. And explain to the Judge, if you
16 would at this time, how back charges -- what that
17 means, how that works.

18 MR. HILDEBRAND: Objection, Your
19 Honor. I don't think he's laid a foundation for
20 that, for her to explain how back charges work;
21 and particularly, how they might work in this
22 particular situation.

23 I don't see how she can testify about
24 the underlying data for this document. It calls
25 for speculation.

1 MR. MCDONALD: Your Honor.

2 THE COURT: All right. Do you want
3 to lay some foundation for that?

4 MR. MCDONALD: I thought I laid
5 some foundation when I spent all the time going
6 through the fact that she's a construction
7 auditor.

8 THE COURT: Yeah. Ask her the
9 general question then.

10 BY MR. MCDONALD:

11 Q. Have you had the opportunity in your
12 experience to assess back charges as it relates
13 to, from one subcontractor to another
14 subcontractor?

15 A. Well, you said assess. I have never
16 assessed or applied back charges, but we
17 definitely review back charges.

18 From an audit perspective, the concept
19 is pretty simple that, if you're going to
20 increase the subcontractor's contract to do extra
21 work that was caused by another sub, you're going
22 to take the money from one sub as a negative and
23 say, that guy had to clean up your mess. That
24 guy had to repaint your wall. I'm going to
25 reduce your contract, and I'm going to give the

1 money to the contractor that had to redo the
2 work.

3 Q. Okay. So it's kind of like a water
4 balloon, squeezing the end of a water balloon?
5 It just goes -- the money goes from one sub to
6 another sub. It's a raise and a lower?

7 A. Yes, unless the back charge related to
8 something that the prime, BBC, in this instance,
9 did then, you know, it would -- then that would
10 just result in a change order that you're not
11 assessing against another sub.

12 Q. Okay.

13 A. It would just be a change order that you
14 wouldn't present to the owner because maybe it
15 was something that the primary cause to be
16 incurred.

17 Q. And my simple question is, as it relates
18 to Exhibits 152, 153, and 154, did you see where
19 any of those back charges were given credits
20 rather than an increase to Quantum's contract
21 amount?

22 A. No. And logically, given the work that
23 Quantum did, it is more logical that they're
24 having to -- they're coming in towards the very
25 end of the project and they're running into

1 little things that need to be fixed before the
2 painting can be done; so they're patching and
3 doing some things.

4 And then those will be accumulated.
5 Quantum was preparing work order tickets,
6 detailed handwritten tickets about extra things
7 that they had to do and whose fault that they
8 thought it was. And then those would get
9 submitted to BBC.

10 Those tickets then get accumulated, you
11 know, onto the chart like you see on Exhibit 152.
12 They get, you know, added up and tallied,
13 periodically batched up, and then that additional
14 money gets given to Quantum. And then in theory,
15 what BBC would do would be then to go take that
16 money --

17 MR. HILDEBRAND: Your Honor, her
18 testimony is obviously speculative. She says in
19 theory and these people do this and that. She
20 doesn't know what happened here, and she can't
21 testify about these documents.

22 THE COURT: Overruled.

23 THE WITNESS: And you can see on
24 Defendant's Exhibit 154, the second page
25 documents what I'm talking about, where BBC is

1 identifying that this particular increase to
2 Quantum is going to come as a back charge and
3 that box is blacked out against another
4 subcontractor.

5 So this document, the supporting
6 document to the change order talks about, where's
7 this money coming from? Is it coming from the
8 owner because the owner has an approved change
9 order?

10 Am I doing a budget transfer because I
11 have to move some of my contingency around, or am
12 I going to go get this money from another sub?
13 So this one would tell the accountant -- I guess
14 Shanti in this particular example -- that it's a
15 back charge.

16 So the difficulty here -- and maybe I
17 didn't say it properly in the very beginning --
18 is that these change orders are being added to
19 Quantum's contract without a negative being
20 assessed against the other subs.

21 But moreover now, Quantum is out.
22 They've been paid their money, \$175,000, not the
23 amount that's being requested here -- without
24 Library getting the benefit of going to reduce a
25 subcontractor's contract for the money that was

1 being paid to Quantum.

2 MR. MCDONALD: Your Honor, at this
3 time I would move Exhibits 152, 153, and 154 as
4 Defendant's Exhibits into evidence.

5 THE COURT: Okay.

6 MR. HILDEBRAND: Your Honor, she
7 hasn't -- she was not copied on these documents.
8 She hasn't been provided them. I note that 154,
9 looking at it, is not even signed.

10 So she's not -- we went through this
11 with -- again with my experts, where it's okay
12 if she wants to reference them, but I don't
13 believe that it's appropriate for them to come
14 into evidence because she can't authenticate
15 these documents.

16 THE COURT: Okay. Do you want to
17 lay any more foundation for that?

18 BY MR. MCDONALD:

19 Q. Did you receive and consider Exhibits
20 152, 153, and 154 in performing your audit?

21 A. Yes.

22 Q. Did you take them into consideration in
23 performing your audit?

24 A. Yes. We looked at all the subcontractor
25 files, support for the change orders and again

1 back charges. And assuring the debits equal the
2 credits is a pretty standard audit test.

3 MR. MCDONALD: Okay.

4 MR. HILDEBRAND: Your Honor, it's
5 no different than our experts when they reviewed
6 documents and tried to introduce e-mails and
7 other documents that they say underlay their
8 opinions.

9 She was not copied on these. She simply
10 looked at them, and there's no evidence that she
11 had any direct communication with these
12 subcontractors or Balfour about them. So I don't
13 think that it's appropriate for them to come into
14 evidence.

15 THE COURT: All right. Well, I
16 think her testimony as to how it relates to her
17 analysis from an accounting or an auditing
18 standpoint, not even as to the validity of the
19 document.

20 You're going to be able to ask her about
21 it on cross if you'd like. So I'm going to
22 overrule the objection. I'll allow it. All
23 right.

24 MR. MCDONALD: Your Honor, this is
25 152.

1 MR. HILDEBRAND: I'm sorry, which
2 one is 152?

3 MR. MCDONALD: 152 is the
4 12/14/2018, the big chart.

5 153, Your Honor, this is the Merritt.

6 THE COURT: Merritt?

7 MR. MCDONALD: Yes, sir. And 154,
8 Your Honor, is the last one.

9 THE COURT: All right.

10 (DFT. EXH. 152, 153 and 154 were
11 marked for identification and admitted into
12 evidence.)

13 BY MR. MCDONALD:

14 Q. All right. Now, let's talk about
15 Bernhard MCC. Are they up here?

16 A. I'm not sure.

17 Q. You've got your 329?

18 A. I lost it.

19 Q. Okay. And what is your understanding of
20 the status of the BMCC claims?

21 A. BMCC has received a settlement from
22 Library directly, and they're out.

23 MR. MCDONALD: All right. On
24 Plaintiff's Exhibit 329, Your Honor, just to
25 explain, in order for ProCopy to blow this up to

1 where you could actually see it --

2 THE COURT: Right.

3 MR. MCDONALD: -- which didn't end
4 up being big enough, we cut out the margins. So
5 on -- you will notice on your 329, there's some
6 things that appear that don't appear on this.

7 THE COURT: Yeah.

8 MR. MCDONALD: And that's the
9 reason, just for clarification.

10 THE COURT: Yeah. I have noticed
11 that.

12 BY MR. MCDONALD:

13 Q. At the bottom of that document, is there
14 a reference to Bernhard MCC on Exhibit 329,
15 Plaintiff's 329?

16 A. Yes. There's a number 625 BMCC.

17 Q. And do you know how much the
18 plaintiff -- how much Library Associates has
19 agreed to pay Bernhard MCC directly?

20 A. \$625,000 roughly.

21 Q. All right. Does that appear to be
22 taking into account on this chart for Bernhard
23 MCC?

24 A. No. It's just the opposite. There's
25 \$491,387 included in this claim for BMCC, but I

1 know, having worked with BMCC, that they've
2 received their payment and they're out. They're
3 not going to get any additional money and
4 definitely not from BMCC.

5 Q. You said you've worked with BMCC. What
6 are you talking about?

7 A. I communicated with them regarding the
8 claims that they had, what monies they felt that
9 they were owed. I provided them documentation to
10 prove to them that some of the money that they
11 were asking for, Library had already paid to BBC
12 through routine pay apps.

13 And I gathered information from them
14 just on what their claims were. I provided
15 information to Bundy McDonald, and I was in
16 direct communication with them through that
17 settlement process.

18 Q. Tell the Judge about money that was paid
19 by Library Associates to BBC for Bernhard that
20 wasn't paid to Bernhard, what you just touched
21 on.

22 A. So BMCC submitted a payment application
23 to BBC.

24 Q. Let me just stop you. I'm not trying to
25 interrupt. Let's use Bernhard and Balfour

1 because --

2 A. Okay.

3 Q. -- it's going to get crazy with all of
4 these C's and B's.

5 A. Bernhard submitted its --

6 MR. HILDEBRAND: Objection, Your
7 Honor. She's issued reports and has testified
8 about none of this in her prior reports, to my
9 knowledge, nor in her deposition, when I asked
10 her all of her opinions.

11 They've already called witnesses to
12 testify about these facts, but for her to render
13 new opinions on these, I think, is in
14 appropriate.

15 THE COURT: All right. The timing
16 of this would be just before trial?

17 MR. MCDONALD: Well, it's in the --
18 the pay application is in evidence. This chart
19 was sent on September 21st of 2021 during the
20 trial of their case.

21 THE COURT: Okay.

22 MR. MCDONALD: And I think it's
23 incredibly important for her to say, having
24 done -- tried to do an audit, as she's testified
25 to, that I've now went back, and here's BMCC

1 popping up again.

2 Wonder where the \$137,000 that's been
3 paid to Balfour is -- which they still have.
4 They still have it to this day. They haven't
5 given it out to anybody.

6 I think not only is it incredibly
7 relevant, the notion that she -- he took her
8 deposition and then updated the damages to 13
9 from 22 and now she's precluded from talking
10 about anything?

11 I think it goes to the heart of this
12 matter, not to mention, I will lay the foundation
13 that this money not only was paid to Balfour,
14 they certified that they had paid it to Bernhard,
15 which they had, which is a crime and is relevant
16 to our causes of action for civil conspiracy and
17 unfair trade practices.

18 How it happened was --

19 THE COURT: All right. Let's stop
20 right there. That's enough.

21 MR. MCDONALD: Okay. Thank you.

22 THE COURT: All right. Your
23 objection again is as to what?

24 MR. HILDEBRAND: She has not --

25 THE COURT: Not previously

1 testified to it?

2 MR. HILDEBRAND: Yes, sir. And
3 what we -- what he's talking about, yes, we have
4 had -- our damages have changed and compilations
5 have changed.

6 There have been settlements with
7 subcontractors, and the interest amounts have
8 changed. And that's what the documents have
9 reflected, and they're -- they went through
10 several iterations, certainly with the passage of
11 time, inevitably.

12 And she can certainly testify that she's
13 aware of settlements, and there's already been
14 testimony. You're aware of that because it was
15 at a hearing where Mr. Linton advised the Court
16 that there was a settlement.

17 THE COURT: Right.

18 MR. HILDEBRAND: So all of those
19 are prior facts. This change order was something
20 that was done during the project. So the facts
21 weighed very extensively preexist the reports and
22 the deposition that she gave.

23 So now she's offering new opinions that
24 have not been previously expressed, and it has
25 nothing to do with this chart because this is

1 based on data that -- all that preexisted her
2 testimony, and certainly insofar as this pay
3 application 38 is concerned.

4 THE COURT: All right. And the
5 purpose you seek to introduce it is to establish
6 that they've been paid or they should have been
7 paid? Is that what you're trying to establish?

8 MR. MCDONALD: Seeking to introduce
9 it for settlement purposes. The first is, they
10 came in here --

11 THE COURT: Now, wait, wait,
12 Mr. McDonald. Just tell me why you're doing it.
13 Don't tell me what they did. Tell me why
14 you're --

15 MR. MCDONALD: Because they asked
16 for \$400,000 for BMCC with no credit for this
17 \$137,000.

18 THE COURT: Okay.

19 MR. MCDONALD: We had to pay it.
20 We had to pay that directly to him.

21 THE COURT: Right.

22 MR. MCDONALD: So this is --
23 they're still asking for \$500,000 for BMCC
24 without regard to this credit that we, at the
25 very least, should be given. That's the first

1 purpose I'm offering it for.

2 THE COURT: Okay.

3 MR. MCDONALD: The second purpose
4 I'm offering it for is, this goes to the root of
5 the reliability of this document. I'm going to
6 spend hours going through it with the -- and show
7 this over and over and over and over again.

8 THE COURT: All right.

9 MR. MCDONALD: And it's relevant to
10 that, to their damages.

11 THE COURT: All right. And the
12 document itself appeared during the trial; is
13 that right?

14 MR. MCDONALD: And this document
15 appeared on the 21st of September.

16 THE COURT: All right. On that
17 basis, I will allow it. Okay. Go ahead.

18 BY MR. MCDONALD:

19 Q. All right. You testified that you
20 reviewed Balfour pay applications in regard to
21 Bernhard monies, correct?

22 A. Correct.

23 Q. Okay. Did Library Associates pay
24 Balfour monies that were not ultimately paid to
25 Bernhard?

1 A. Yes.

2 Q. How much money was that?

3 A. \$137,918.

4 Q. And in what pay application did the
5 owner pay to Balfour that \$137,918?

6 A. It was Balfour's pay app number 38.

7 Q. Okay. And you've qualified that as
8 Balfour's pay application. Is that because
9 Bernhard's had a different number?

10 A. Yes. Bernhard's payment application is
11 number 31 but then gets incorporated into
12 Balfour's pay app 38.

13 Q. And did the owner fund pay application
14 38?

15 A. Yes, it did.

16 Q. Did the owner fund pay application --
17 subsequent pay application 39?

18 A. Yes, it did.

19 Q. Did the owner pay Bernhard MCC directly
20 for its remaining retainage?

21 A. Yes, it did.

22 Q. And is there retainage up here on
23 Exhibit 329?

24 A. For Bernhard, there is retainage of
25 \$28,672.

1 Q. And based upon Library Associates paying
2 Bernhard directly for the costs as depicted on
3 Plaintiff's Exhibit 329 ever be costs for the
4 work?

5 A. No. The only way those could be
6 considered cost of the work is if Balfour were to
7 reimburse Library for what Library has paid to
8 the subcontractor.

9 Q. Okay. Let's talk about Lithko. Are
10 they on Plaintiff's Exhibit 329?

11 A. Lithko is a subcontractor on Exhibit 329
12 for a total claim amount of \$979,702.

13 Q. It's over here, right?

14 A. Correct. That's the total amount of
15 that row all the way across on the right.

16 Q. You just add up everything that they
17 have for Lithko including \$182,341.52 for quote,
18 "miscellaneous claims and interests." If you add
19 up everything, you get \$979,701.57 for Lithko?

20 A. That's what they have, yes.

21 Q. I'm going to hand you what's been marked
22 as Defendant's Exhibit 28 and ask if you've seen
23 that document before.

24 A. Yes, I have seen it. It is Lithko's
25 change order number 34.

1 Q. And when is that document dated?

2 A. The date on the upper left of the
3 document is April 7th, 2015 -- oh, no, sorry.
4 That says to contract dated April 7, 2015.

5 The top page where it says date of this
6 change order is not filled in, but the two
7 parties: Lithko and Balfour, signed the document
8 on March 14, 2019 and April 9, 2019,
9 respectively.

10 MR. MCDONALD: Okay. Your Honor,
11 this is already in evidence. This is Defendant's
12 Exhibit 28. I know you have -- I have an extra
13 copy if you want to follow along with this one.

14 THE COURT: Sure. Then I don't
15 have to dig it up.

16 BY MR. MCDONALD:

17 Q. And was this change order included in
18 the Lithko subcontract filed for Balfour Beatty's
19 records?

20 A. Yes.

21 Q. Okay. Let's go through this document.
22 What is the total amount of this change order?

23 A. The total amount of the change order is
24 a deduction to Lithko's contract for \$7,985.08.

25 Q. Okay. So if you start at the top, the

1 previous contract amount, this is a negative
2 change order, right?

3 A. Correct.

4 Q. And then you arrive at the new contract
5 amount?

6 A. Correct.

7 Q. Okay. And how do you get there? How do
8 you get there with this chart that they have
9 here? Can you explain to the Judge how this
10 works?

11 A. So this particular change order
12 accumulates all of the issues. Well, I can't say
13 all because I don't know for sure.

14 This change order accumulates many of
15 the issues that remained unsettled between
16 Balfour and Lithko in both Lithko's request for
17 additional contract value for doing work that it
18 believed it did outside of the scope of its
19 contract and then negative amounts that you see
20 in the amount column for things that got back
21 charged against Lithko, where BBC believe that
22 Lithko did something that it should be back
23 charged for because another contractor had to do
24 the work.

25 So there's a significant amount of back

1 charges against Lithko, and there are a
2 significant amount of change orders for all of
3 the additional costs that Lithko had been
4 accumulating on its request for change orders
5 over the life of the project.

6 Q. Okay. And the result of the back
7 charges and the positive work, does that result
8 in Balfour paying Lithko any money, any
9 additional money?

10 A. No. It would result in lowering the
11 contract value. It wouldn't necessarily be
12 receiving money. It would just allow Lithko to
13 invoice a total that's less than what it was able
14 to invoice for the day before this was signed
15 because it's lowering the contract value.

16 Q. Gotcha. All right. And the back
17 charges -- let's look at CI number 1545.

18 A. The very first one?

19 Q. Yes. And what does that say?

20 A. Marion MC cable L7 and L8 back charge,
21 and it's in the amount of \$55,500. And there's a
22 description right below it. It includes
23 replacing all of the damaged MC cable on L7 and
24 L8 after testing was performed. Does not include
25 testing.

1 Q. What is L7 and L8?

2 A. It's referring to the two levels of the
3 hotel: L7 and L8.

4 Q. And what is the next negative number
5 that we have? What is the CI number for the
6 next?

7 A. The next negative number is on the next
8 page. It would be CI number 3061.

9 Q. Okay.

10 A. The description is block mason sleeves,
11 and the amount is \$22,500.

12 Q. And what is the next one?

13 A. The next one is CI number 3062, ninth
14 floor pool deck. The negative amount is \$79,475.

15 Q. And the next one?

16 A. CI number 3063, elevator shafts, a
17 negative \$7,000.

18 Q. The next one?

19 A. CI number 3064, L4, ceiling height,
20 negative \$15,000.

21 Q. And the next one?

22 A. CI number 3065, floors out of tolerance,
23 and I give them \$10,000.

24 Q. And the next one?

25 A. CI number 3066, stucco walls out of

1 tolerance, \$13,000, negative.

2 Q. Okay. Now, let's talk about CI number
3 3059. What is that for?

4 A. CI 3059 is adding money to the contract
5 for crane breakdown for the fifth time. So it's
6 awarding Lithko \$2,671.

7 Q. Because the crane broke down for the
8 fifth time?

9 A. Yes. You can see other crane breakdowns
10 a little higher up on the page that's causing
11 delays. They'll say like crane and layout
12 delays.

13 Q. We're going to go through them.

14 A. Okay.

15 Q. That 3059 is the crane breakdown for the
16 fifth time, right?

17 A. Correct.

18 Q. And that's an add to Lithko's contract?

19 A. Correct.

20 Q. And then what is 3057, CI -- well, let
21 me back up. What is CI? What is that? Do you
22 know what that stands for?

23 A. It's the acronym that Lithko is using
24 for change requests. It's like an RCO. Every
25 sub and every contractor kind of uses a different

1 acronym. It's a tracking mechanism to, you know,
2 keep track of all the pending approved and
3 rejected changes.

4 Q. Okay. Let's go to -- what is 3057?
5 Excuse me, 3058.

6 A. 3058 is an add to the contract per
7 arched wall, \$18,027.32.

8 Q. And then 3057?

9 A. That issue is lost concrete due to down
10 crane and pump rental, \$4,966.

11 Q. Okay. And that's an add, correct?

12 A. Correct.

13 Q. All right. And then what is 3048?

14 A. Crane and layout delays (back charge)
15 adding \$67,200 to Lithko's contract.

16 Q. Okay. And then what is 3047?

17 A. Crane delays times two (back charge)
18 \$975 being added to the contract.

19 Q. And it specifically has back charge in
20 parentheticals?

21 A. Correct.

22 Q. Both 3047 and 3048 do?

23 A. Correct.

24 Q. This is an add. These are adds, right?
25 Crane breakdown for the fifth time. Crane and

1 layout delays and crane for those times two.

2 Those are adds to Lithko, correct?

3 A. Right. They're increased costs --
4 Lithko's increased costs for these crane and
5 other layout delays and other issues that's
6 impacting Lithko in a negative way.

7 Q. Who's getting back charged?

8 A. It doesn't identify the subcontractors
9 that are causing the delay or the crane breakdown
10 or the layout delays.

11 Q. And this is what we talked about
12 earlier. The way a back charge works is, if you
13 increase the subcontractor's amount, some other
14 subcontractor's contract amount should be
15 decreased?

16 A. Yes, unless it was an issue that was
17 caused by Balfour themselves. Contractors still
18 do call that a back charge on occasion, but
19 typically, when the prime uses the term back
20 charge, it's kind of like playing the parent with
21 two fighting kids. And it's just, you know,
22 administering the funds between the parties.

23 Q. Okay. And the CI numbers that we looked
24 at so far have been from 3047 with some missing
25 ones but through 3066, right? It's not

1 completely numerical, but the lowest one is 3047
2 and the highest is 3066, right?

3 A. Correct.

4 Q. And then the one on the first page is
5 called 1545?

6 A. The first back charge, the negative,
7 yes, is CI 1545.

8 Q. Okay. Now, let's go to the body of this
9 document. Can you read the first sentence to the
10 Judge?

11 A. This change order represents full
12 settlement on any known internal change orders
13 between Lithko and Balfour Beatty.

14 Q. What are internal change orders?

15 A. Those would be change orders --

16 MR. HILDEBRAND: Objection, Your
17 Honor. She doesn't know that. She can't testify
18 what other parties or what other people meant by
19 the terminology in this particular document. And
20 the plaintiffs have had an opportunity to ask
21 Balfour about it. They can ask Lithko about it.

22 Moreover, you can read this document,
23 and you can determine whether it's a settlement
24 or not. There's already been discussion on it.
25 So I think it's -- that's for the Court to decide

1 and with the rest of the information in this.

2 Lastly, my objection would be that it's
3 cumulative. There's already been questions asked
4 of Mr. Starcevic and others about this. So I
5 think for all of those reasons, she can't
6 interpret someone else. It's hearsay. It's
7 cumulative. It's irrelevant.

8 THE COURT: Noted. All right.
9 We've covered this before, have we not?

10 MR. MCDONALD: Well, this -- these
11 are the numbers. This is going to explain the
12 numbers.

13 THE COURT: We haven't talked about
14 the numbers, but --

15 MR. MCDONALD: We talked about
16 the --

17 THE COURT: -- the bottom and the
18 language we talked about.

19 MR. MCDONALD: Yes. And I'm going
20 to explain how these exact numbers relate to this
21 document. That's where I'm going. I'm just
22 laying the foundation.

23 And I'm not familiar with a plaintiff or
24 Mr. Starcevic, just because he's explained it,
25 that my witness doesn't get to give her take on

1 it, the expert in the construction field. And
2 I've heard that objection now five --

3 THE COURT: All right. I will
4 allow it on the basis you're going to coordinate
5 the numbers. Let's just go there.

6 MR. MCDONALD: Thank you.

7 BY MR. MCDONALD:

8 Q. And then the next one says that, this
9 change order -- well, publish it into the record,
10 for that sentence.

11 A. I don't know how to read into the record
12 when something is stricken through. Do I read it
13 and say it's stricken through?

14 Q. Sure. I think that would be
15 appropriate.

16 A. Okay. This change order includes -- and
17 then being stricken -- select design-related
18 change orders, quote, "BB design-related change
19 orders", specifically including CI numbers
20 3049-3056, 0734-0736, 0@738-0741, that are part
21 of a claim against the owner/design team.

22 Balfour Beatty has agreed to include
23 these change order requests upon execution of
24 this change order, and in full return, will
25 receive the first \$100,650.60 of any monies

1 recovered from aforementioned claim. Lithko
2 agrees --

3 Q. Wait. Let me just stop you there. Are
4 any of the back charges that we just went over
5 included in the numbers that you just read, the
6 CI numbers you've just read in the body of the
7 paragraph?

8 THE COURT: They're not, I can tell
9 you. I've already looked at it.

10 THE WITNESS: No. The positives
11 are in the body of that paragraph. The negatives
12 are not.

13 BY MR. MCDONALD:

14 Q. Okay. And does the owner on this
15 document, how much -- what is the total of the
16 back charge negatives? Do you know?

17 A. I did at one time. I believe it's
18 \$204,000 roughly.

19 Q. Okay. And does the owner on Plaintiff's
20 Exhibit 329 get any credit as it relates to
21 Lithko for that \$204,000 in back charges?

22 A. No. Those credits get absorbed with the
23 other additions to their contract due to other
24 delays caused by others apparently, and you don't
25 know if BBC could have possibly reduced another

1 subcontract for these because they don't identify
2 the sub.

3 Q. And what we've talked about earlier, the
4 reason that this change order 34, Plaintiff's
5 Exhibit -- or Defendant's Exhibit 28, the reason
6 that it results in a negative amount to Lithko is
7 because of these back charges, correct?

8 A. Right. The back charges against Lithko
9 are more than the back charges against other subs
10 that they're now awarding to Lithko in the
11 positive change orders.

12 Q. And then, notwithstanding that, they
13 take the positives in the CIs we just looked at
14 in the body of this, and say, they're still going
15 to pursue it against the owner?

16 A. Right. They're going to pursue it
17 against the owner, but Balfour will then get
18 \$100,650.60 of anything recovered by the owner.

19 Q. Okay. And how does that work under a
20 cost-plus contract? How do you do that?

21 A. You don't do that. From an accounting
22 standpoint, it can't be done because this is a
23 cost reimbursable contract. So as long as monies
24 are spent by Balfour and they meet the conditions
25 of the contract and then they become cost of the

1 work, then Balfour can recover and get reimbursed
2 for those actual costs.

3 If Balfour receives cash in this
4 instance \$100,650.60, then that would be a credit
5 to the cost of the work that would then have to
6 be given to Library, just as if they got a
7 discount on a volume purchase, or they, you know,
8 sold something for scrap or another issue where
9 you have a credit in a project.

10 Q. All right. Let's talk about the \$67,200
11 back charge.

12 A. Crane and layout delays, back charge.

13 Q. All right. And Lithko has a delay
14 claim -- or it has an RCO and delay claim,
15 correct?

16 A. Lithko had a delay claim. The amount on
17 this exhibit on the easel is an amount that I've
18 never recognized that's \$12,459.96. That's
19 what's in the delay column.

20 But I do believe that Lithko has an RCO
21 that relates to delay in the blue column in one
22 of -- but I'm not a hundred percent sure whether
23 it's in that amount that's listed there. But
24 they did have one. They have one.

25 Q. Do you know where the \$12,459.96 comes

1 from?

2 A. I don't.

3 Q. The \$375,000 in retainage for Lithko, do
4 you see that amount?

5 A. Yes.

6 Q. If you subcontract, how -- it was
7 \$204,000 of back charges?

8 A. I probably should add them up right now,
9 but I think it was 202,000 and some change.
10 That's what I recall.

11 Q. Okay. And then in addition, does that
12 202 include the 67,000 that's for the crane and
13 layout delays, the back charge?

14 A. No, because that's going the other way.
15 So these are apparently delays suffered by Lithko
16 due to the crane and layout delays versus the
17 202,000, which are charges against Lithko for
18 either increased costs of other subs or, you
19 know, delays to other subs -- delays suffered by
20 other subs.

21 Q. Gotcha. And we don't know who -- which
22 sub, if any, was actually back charged that
23 amount, the 67,000?

24 A. Correct, nor do we know the subs that
25 may or may not have been given the increases that

1 are assessed against Lithko as well.

2 To me, the issue is somewhat of which
3 subs are impacted because you do want to make
4 sure that the pluses equal the minuses, and that
5 essentially the owner got treated fairly and that
6 money just isn't given to one sub. It needs to
7 be taken from another sub to wipe that out;
8 otherwise, it wouldn't be an internal change
9 order. It would be an owner change order.

10 The bigger issue is that money is being
11 given to Lithko for delays. They also have a
12 delay claim. So Library already lost the benefit
13 of this money in this delay and now is being
14 asked to pay directly to BBC to apparently be
15 given to Lithko for delay claims.

16 Why wouldn't that just be this delay
17 that's in this change order that Library already
18 paid for?

19 Q. Do you know if Lithko -- in part of your
20 audit, did you review the joint prosecution
21 defense and tolling agreements?

22 A. Yes, I did.

23 Q. Okay. And were that any terms in those
24 joint prosecution defense and tolling agreements
25 that were relevant to you in performing your

1 audit?

2 A. Absolutely.

3 MR. HILDEBRAND: Objection, Your
4 Honor.

5 THE COURT: All right. Basis?

6 MR. HILDEBRAND: There has been
7 absolutely no disclosure prior to here about her
8 offering any opinions regarding the joint defense
9 agreement. We've taken her deposition. She's
10 issued reports, and for them to now try to elicit
11 testimony from her about the joint defense
12 agreement is an ambush and improper.

13 THE COURT: All right. And
14 Mr. Terry?

15 MR. TERRY: Your Honor, she been
16 identified as an expert. I didn't write it down
17 quite fast enough, but --

18 THE COURT: Forensic accounting.

19 MR. TERRY: -- construction
20 accounting.

21 THE COURT: Forensic and
22 construction accounting.

23 MR. TERRY: She's not qualified to
24 testify about the terms of any agreement, any
25 legal agreement here, nor has she been qualified

1 to do that.

2 MR. MCDONALD: I'm not sure the
3 question actually came out because of the --

4 THE COURT: Okay. Where are you
5 going?

6 MR. MCDONALD: I asked her whether
7 or not -- had she reviewed in the scope of her
8 audit, that she's been qualified to give her
9 testimony on, whether she reviewed the joint
10 defense tolling agreement, whatever the title is.

11 She said yes. And I said, were any
12 portions of that joint defense tolling agreement,
13 prosecution defense relevant to you in performing
14 your audit. That was the question.

15 THE COURT: Okay. You can ask that
16 question, and there may well be an objection
17 after that, but anyway, go ahead. You can answer
18 the question.

19 THE WITNESS: Yes. An agreement
20 like that is the same as a change order. It has
21 less numbers and more words, but it all relates
22 to contract compliance and whether a cost is
23 reasonable or allowable and basically what you're
24 buying and selling in that agreement. So it's
25 just like a change order.

1 BY MR. MCDONALD:

2 Q. Okay. And what portions of that
3 agreement were relevant to you in performing your
4 audit?

5 MR. HILDEBRAND: Your Honor, again,
6 this joint defense agreement was entered into
7 well before her report, well before her
8 deposition, and there's been no testimony,
9 whatsoever, no findings or anything else about
10 her testifying about this joint defense
11 agreement. So it's -- and the fact is that --

12 THE COURT: All right. Let me ask
13 you that. When y'all propounded her as an
14 expert, was this area upon which she was going to
15 opine, or how was that described?

16 MR. MCDONALD: That she was going
17 to perform -- she was an expert in performing an
18 audit, which she did perform. Now, I'm -- the
19 problem that keeps coming up is --

20 THE COURT: All right. Wait a
21 minute. Mr. McDonald, you like to explain
22 yourself. I'm just looking for an answer.

23 MR. MCDONALD: Sorry. That she was
24 going to perform, that she was going to give
25 expert testimony on the audit. That's why I

1 asked that question.

2 THE COURT: All right.

3 MR. MCDONALD: And if this is
4 relevant and it existed, and if she took it into
5 account, Your Honor, I think it's appropriate for
6 her to go into it.

7 THE COURT: Okay. I gotcha.

8 Mr. Terry, anything further?

9 MR. TERRY: Same objection.

10 THE COURT: Mr. Windle?

11 MR. WINDLE: Objection, Your Honor,
12 on the basis that she was qualified in
13 accounting, auditing and construction accounting.

14 She's not qualified to interpret a legal
15 document between other people. There will be
16 testimony explaining the terms of the joint
17 defense agreement, but it's ultimately your
18 decision to interpret, not hers.

19 THE COURT: All right. I agree
20 with that explanation; however, she did say that
21 she has -- that she believes it impacts her
22 decision in the audit, and so, on that basis, I'm
23 going to allow the testimony.

24 MR. MCDONALD: Thank you, Your
25 Honor.

1 BY MR. MCDONALD:

2 Q. How is it relevant to your opinions as
3 it relates to your audit of Balfour Beatty's
4 construction records, project records?

5 A. As in any contract modification, this is
6 a modification to that contractual relationship
7 between the parties. So just as a change order
8 will modify and provide for additional monies to
9 do additional work, this is something that the
10 parties are buying and selling amongst
11 themselves.

12 The agreement is very clear that they
13 have claims against each other, that they're
14 willing to ignore for now, as they now work
15 together to file claims against the owner.

16 So that will definitely impact how this
17 change order is viewed and how the reasonableness
18 of those costs are viewed because we just got
19 done talking about the fact that this change
20 order is give Lithko at least \$67,200 for delays.

21 And then there's an agreement signed
22 that says, we know we have issues against each
23 other, but we're going to ignore them for now and
24 go work against the owner, and now there's a
25 delay claim on the board. It's all assets and

1 liabilities and debits and credits from an
2 accounting standpoint.

3 THE COURT: Okay. All right.

4 MR. HILDEBRAND: Your Honor, this
5 is such a stretch. It's for you to look at the
6 joint defense agreement and where they stand and
7 who was in it and who's not. You can look at
8 those terms, and you can reach your own decisions
9 and conclusions based on it.

10 But to have this auditing expert -- and
11 I think Ms. Hadley is very comfortable trying to
12 testify about what the parties meant and how this
13 impacts and it's a change to the contract. It's
14 not. For her to try to tie this into this
15 document -- that joint defense agreement is such
16 a stretch.

17 And, again, it has not been disclosed.
18 It's beyond her testimony. If she wants to
19 testify about the audit and what she thinks were
20 for appropriate deductions, then go ahead. Let's
21 get to it. But this is way far afield.

22 MR. WINDLE: Objection, Your Honor.
23 In regard to whether or not there are any claims
24 against each other, actual -- there actually are,
25 she doesn't know if there actually are or not.

1 That is going to be testimony from Lithko, or it
2 could be Balfour Beatty.

3 THE COURT: Okay. All right. I
4 think we're getting somewhat far afield; however,
5 part of the defendant's claim is that, for
6 whatever reason, it's constantly befuddled this
7 Court as to why the plaintiff, Balfour Beatty,
8 was unable to perform the audit that the contract
9 provided for or provide the documentation for the
10 audit.

11 She's saying that this is a basis for
12 her -- to render her opinion as to the values
13 that are in here. So it's on that basis that I'm
14 going to allow the testimony. Okay? All right.

15 MR. MCDONALD: Thank you, Your
16 Honor.

17 BY MR. MCDONALD:

18 Q. All right. Let's go to Miscellaneous
19 Steel Industries, MSI. Do they appear on
20 Plaintiff's Exhibit 329?

21 A. Yes, they do.

22 Q. And who is Miscellaneous Steel
23 Industries?

24 A. They're a subcontractor.

25 Q. And do you know what the scope of their

1 work was?

2 A. I believe they did metal work similar to
3 Tate.

4 Q. And did you review Balfour's
5 subcontractor file for Miscellaneous Steel
6 Industries during the performance of your work on
7 this project?

8 A. I did.

9 Q. Okay. And what, if anything, did you
10 find in there?

11 A. Miscellaneous Steel, one of the amounts
12 that's being claimed here, in the yellow section
13 in the contract balance section -- I just can't
14 remember the change order number, 13, I
15 believe -- was included in a previous pay
16 application that Library had already paid to
17 Balfour.

18 Q. Okay. So the money had been paid to
19 Balfour for Miscellaneous Steel but not paid to
20 Miscellaneous Steel?

21 A. Correct.

22 Q. And did you review, on this document,
23 there is -- on Plaintiff's Exhibit 329, there's
24 \$130,000 for RCOs. Do you see that?

25 A. I do.

1 Q. Did you review backup documentation for
2 that \$130,476 for request for change orders on
3 behalf of Miscellaneous Steel Industries?

4 A. I did.

5 Q. Okay. And what, if anything, were you
6 able to determine upon your review of that backup
7 documentation?

8 A. That some of the same amounts that have
9 already been paid are now also included in that
10 RCO in the blue column.

11 Q. And is Miscellaneous Steel Industries
12 making a -- are they a party in this action?

13 A. No, they're not. They're out.

14 Q. Were they ever in?

15 A. I can't remember. They're one of the 22
16 that had a lien.

17 Q. Okay. I'm going to hand you what's been
18 marked for ID purposes as Defendant's Exhibit 155
19 and ask if you recognize that document?

20 A. This was in the subcontract file for
21 MSI. It's change order 12.

22 Q. And when you say, the sub, you're
23 talking about Balfour's subcontract file?

24 A. I believe so. I don't remember the --
25 what box that I saw it at first. I'm sorry. I

1 just remember seeing it.

2 Q. All right. And is this a true and
3 accurate copy of the document that you saw?

4 A. Yes, that I saw. It was a zero change
5 order with an attachment of that Excel file of
6 the different outstanding issues, similar to what
7 we just discussed with Lithko. It's kind of a
8 closeout, if you will, kind of change order that
9 identifies all of the open issues between the
10 parties.

11 Q. Okay. Is it signed?

12 A. It is not.

13 Q. Is it dated?

14 A. It's not.

15 Q. And take a look at the top right-hand
16 corner.

17 A. The top right-hand corner regarding the
18 date?

19 Q. Yes.

20 A. February 11, 2019.

21 Q. All right. And what name is on the
22 buyer on the second page?

23 A. Shanti Pieniak.

24 Q. Okay. And what is the entry there for
25 the description of the scope of work being added

1 or removed?

2 A. It's called the final settlement.

3 Q. Okay. And what is the value on this
4 change order?

5 A. Zero.

6 Q. All right. And then the third page of
7 it is an Excel spreadsheet, correct?

8 A. Correct.

9 Q. All right. Does the Excel spreadsheet
10 contain credits?

11 A. Yes. There's credits that are in red
12 font and additional amounts that are in black.

13 MR. MCDONALD: Okay. Your Honor,
14 at this time, I would move Defendant's Exhibit
15 155 into evidence.

16 MR. TERRY: Objection, Your Honor.
17 She's just testified she doesn't even know where
18 she saw the document; so she can't authenticate
19 the document to begin with, as a true and
20 accurate copy or -- and she said, she doesn't
21 even know what box she found the document in.
22 It's not signed.

23 THE COURT: It was provided to you
24 how?

25 THE WITNESS: Well, unfortunately,

1 I've had to dump out a lot of shoeboxes on this
2 job; so I don't always remember where I first saw
3 a document.

4 It could have been in the four claim
5 binders. It could have been going through the
6 payment applications. It could have just been a
7 document that Library had, or it could have
8 ultimately been in the production.

9 I don't remember when I first saw it.
10 But I do remember seeing it, especially because
11 of the date and what it's doing based on what MSI
12 did on this job.

13 THE COURT: So your opinion is
14 based upon your reliance on the data in the
15 document; is that right?

16 THE WITNESS: Oh, absolutely.
17 MSI's work was in 2015 and 2016.

18 THE COURT: Okay. All right. I'll
19 allow it. Is that 155?

20 MR. MCDONALD: Yes, Your Honor.
21 Thank you.

22 (DFT. EXH. 155, was marked for
23 identification and admitted into evidence.)

24 BY MR. MCDONALD:

25 Q. And you just -- MSI's work was in '15

1 and '16.

2 A. Right. MSI did work that was very early
3 on in the project.

4 Q. So this document is dated February 11,
5 2019, and it is a zero dollar final settlement
6 change order, correct?

7 A. Correct.

8 Q. I know I said I wasn't going to do this
9 to you, but let's look at RCO -- do you have
10 those in front of you?

11 A. Is that Exhibit 12?

12 Q. Exhibit 12, yes, ma'am.

13 A. Is it just one binder?

14 Q. It is just one binder, yes, ma'am.

15 A. What's the RCO number?

16 Q. We're going to look at 277.

17 A. Okay.

18 MR. HILDEBRAND: Your Honor, I
19 would just like to note for the record that I'm
20 making an objection on the prior exhibit for the
21 same basis. It's not signed.

22 THE COURT: All right. So noted.

23 BY MR. MCDONALD:

24 Q. Are you there?

25 A. I am.

1 Q. And what does this RCO relate to?

2 A. RCO 277 is the -- I've been calling
3 them, when I was doing the audit, kind of like
4 settlement, global RCOs. There's seven or eight
5 of them in the 270 range, one for each
6 contractor.

7 So what 277 does is it identifies all of
8 those open issues between the subcontractor and
9 the contractor, and it's basically re-requesting
10 those change orders to the owner.

11 So 277 is specifically for MSI's work,
12 and you can see that in -- not only in the letter
13 but then on the attachment. It says in bold,
14 structural steel change orders MSI, and it lists
15 13 items there that Balfour is asking the owner
16 to approve in an RCO.

17 Q. Okay. And when is that request for
18 change order 277 dated?

19 A. March 13, 2019.

20 Q. Okay. And the MSI plaintiff's -- or
21 Defendant's Exhibit 155 unsigned change order is
22 February 11th of 2019?

23 A. Correct.

24 Q. All right. Now, attached to the
25 Plaintiff's Exhibit 155 is an Excel spreadsheet,

1 correct?

2 A. Yes. It's their change order log.

3 Q. Are the amounts that are included on
4 request for change order 277 also included on
5 this Excel spreadsheet?

6 A. 277 takes the positive amounts from the
7 change order log that haven't already been
8 approved as a change order in the past and
9 incorporates those into 277.

10 So if I said that differently, MSI's
11 change order log that's attached as an Excel
12 spreadsheet, in this instance for this
13 subcontractor, identifies all the change orders,
14 whether they were previously approved or not. So
15 in the second column where it says CO amount,
16 that's an amount that was actually approved in a
17 previous change order between Balfour and MSI.

18 But any amounts that don't have
19 something in the CO amount column are still open.
20 If you take those that are in black font, the
21 majority of those, I think, stands except for
22 one, the very last one, I believe. It's then
23 recast into RCO 277.

24 Q. Okay. And you said the positives?

25 A. Correct. There are -- there's two

1 negatives, and then in this particular
2 subcontractor, instead of using RCO or CI, they
3 used XO, and so XO6 is for \$3,050 negative and 26
4 is for \$76,491 negative that were again on their
5 pending log. Those don't make it to 277, the
6 positive ones do.

7 Q. The positive make it but then the
8 negative don't quite make it into RCO 277?

9 A. Correct.

10 Q. And once again -- well, all right.
11 Let's go to Otis. Is Otis up here on Exhibit
12 329?

13 A. Yes.

14 Q. All right. And what are they -- what is
15 it saying with regard to Otis? Does it have a
16 retainage number?

17 A. Yes. The claimed amount for Otis for
18 retainage is \$161,561.90.

19 Q. Okay. And then it has OCOs. How much
20 is that?

21 A. \$1,995.

22 Q. It talks about open contract amounts.
23 This one has a negative \$57,485. Do you know
24 what that is?

25 A. No. A negative open contract balance

1 would mean that the subcontractor would have
2 invoiced for more than their contract amount. So
3 that's not typical, not usual.

4 Q. Okay. And then you've got a total over
5 here of what number?

6 A. The total amount for Otis is
7 \$132,766.08.

8 Q. Before we get there, the total in the
9 yellow?

10 A. The total in the contract balance
11 section of Balfour's claim is \$106,071.90.

12 Q. And then they've got miscellaneous
13 claims and interests in how much?

14 A. \$26,694.18.

15 Q. And then they're claiming for a total
16 for Otis, Balfour is claiming a total for Otis of
17 \$132,766.08, right?

18 A. Correct.

19 Q. And is that just adding the 106 and the
20 26? Is that how you get there?

21 A. Yes.

22 Q. Okay. All right. Now, did Otis have
23 \$161,561.90 in retainage on this job?

24 A. No.

25 Q. Why not?

1 A. Well, let me rephrase that. You know,
2 they may have, but that wasn't their ending
3 retainage given the amounts that Library had paid
4 and then what Otis later recorded as to what its
5 retainage was.

6 Q. Okay. You're going to have to explain
7 that to me.

8 A. This one gets a little complicated
9 because Otis's retainage of \$161,000 is made up
10 of the amount that you see in Balfour's pay app,
11 I believe, 42. And then Otis submits another
12 invoice subsequent to that, and if you take 10
13 percent retainage on that invoice, you will get
14 to the 161,000 that you see here to the penny.

15 In that same month, what Balfour did
16 is -- and we heard prior testimony of it -- was
17 reducing the retainage from 10 percent to 5
18 percent; so in this case, roughly \$80,700. So
19 what Balfour did in that month's pay app was then
20 request that Library make that payment as well.

21 Q. Okay. So let me stop you there just to
22 make sure that I understand. So in the same pay
23 application, Otis billed -- made a bill, and that
24 resulted in there being \$161,561.90 in retainage,
25 Otis's money retainage, right?

1 A. Right, at that time.

2 Q. At that time?

3 A. Yes.

4 Q. And in the same pay application, Balfour
5 drew or made a draw reducing the 10 percent
6 retainage to 5 percent?

7 A. For the subcontractor, yes.

8 Q. For Otis?

9 A. Yes.

10 Q. Okay. So that would have been reducing
11 it to 80,000?

12 A. Yes, approximately.

13 Q. Okay. So Balfour received the 80,000 in
14 retainage?

15 A. Yes, because that was the done prior to
16 pay app 42, which is the last pay app that
17 Library has paid.

18 Q. So Library paid -- of the \$161,561.90,
19 Library has paid \$80,000 of it to Balfour?

20 A. Correct.

21 Q. Why then is Balfour back in here
22 claiming \$161,561.90 in Otis retainage?

23 A. I don't know.

24 Q. Did Balfour pay Otis the \$80,000
25 reduction in retainage?

1 A. It did not.

2 Q. Did Balfour certify that it had paid
3 Otis the \$80,000 reduction in retainage?

4 A. Yes, in the subsequent pay application
5 that it submitted to Library.

6 Q. What do you know about Library
7 Associates -- strike that. Let's move on to
8 Pasco.

9 MR. MCDONALD: Your Honor, I have
10 no idea what time it is. When you're ready, let
11 me know.

12 THE COURT: About 4:30. Let's
13 press on for about another half hour or so.

14 MR. MCDONALD: Okay.

15 BY MR. MCDONALD:

16 Q. Let's move on to Pasco. Are they on
17 here? That's also Automatic Sprinkler.

18 A. Yes, they are here.

19 Q. On here, they're called Palmetto
20 Automatic Sprinkler C, right?

21 A. Correct.

22 Q. All right. And so Balfour has
23 \$19,554.19 in the open payables column?

24 A. Yes.

25 Q. All right. What do you know about that

1 amount?

2 A. That amount is the amount that Palmetto
3 Automatic Sprinklers invoiced BBC over five
4 different payment applications.

5 I believe payment applications 35 to 40.
6 Actually, that would be six, so payment
7 applications 36 to 40. It invoiced for that
8 amount of \$19,554.19. Balfour then incorporated
9 that into their payment application to the owner.

10 The owner paid those amounts. And they
11 are amounts that Pasco has not been paid, and you
12 can see that through both their claim, and
13 frankly, this record here showing it as an open
14 payable. Balfour obviously knows that it hasn't
15 paid it to Pasco either.

16 Q. So that money, that \$19,554.19 has
17 already been paid by the owner to Balfour Beatty
18 over five different pay applications?

19 A. Yes.

20 Q. And with each subsequent pay
21 application, did Balfour Beatty certify that they
22 had in fact paid Pasco that money?

23 A. Yes.

24 Q. Under what theories of the general --
25 GMP contract, would they be entitled to pay that

1 money again? How does that work?

2 A. Well, it doesn't work. Again, from an
3 accounting perspective, the logical debit and
4 credit answer is that whoever prepared this
5 didn't know that Library had already paid that
6 amount in those payment applications. But
7 honestly, I'm just guessing.

8 Q. Now, are you aware of any claimed back
9 charges by Balfour as it relates to Pasco?

10 A. Yes. There's about \$107,000 worth of
11 back charges that Balfour is asserting that Pasco
12 should pay.

13 Q. Okay. So you got \$19,554.19 that the
14 owner has already -- that Library has already
15 paid Balfour, right?

16 A. Yes, that Balfour is holding.

17 Q. Okay. That Balfour has got,
18 notwithstanding the fact that they're asking for
19 it again. Then you've got \$46,815.19 in
20 retainage as it relates to Pasco, right?

21 A. Correct.

22 Q. All right. And you've got \$49,355.67
23 for RCOs as it relates to Pasco?

24 A. That is also correct.

25 Q. And if you add those two numbers

1 together, is it less than or more than 107,000 in
2 back charges?

3 A. If you add those two numbers together?

4 Q. If you add 46,000 to 49,000, it's less
5 than \$107,000.

6 A. So you're leaving out the -- okay. I'm
7 sorry. So, yes, if you add the retainage amount
8 of 46,815 and the RCOs of 49,355, it is less than
9 \$100,000.

10 Q. And should I have not left out the open
11 payable that we've already paid? Was I wrong to
12 do that? You tell me.

13 A. No. I was just comparing what their
14 total -- what BBC's total claim for Pasco is,
15 but, yes, Library has already paid \$19,554 of
16 that amount. And additionally, Balfour has told
17 Pasco that they have \$107,000 worth of back
18 charges that Pasco owes Balfour for.

19 Q. And notwithstanding that, they still
20 have miscellaneous claims and interests of
21 \$27,417.21?

22 A. That is on the claim, yeah. And I
23 couldn't determine whether that, again, was just
24 interest by trying to back into it or if there's
25 claims, miscellaneous claims in there as well.

1 Q. Did you -- when you were performing your
2 work during September of 2021, when these four
3 new things came in, did you ever have any
4 conversations with Mr. Simonton about back
5 charges?

6 A. Yes, on --

7 MR. HILDEBRAND: Objection, Your
8 Honor, calls for hearsay.

9 MR. MCDONALD: Your Honor, it's
10 801(d)(2)(b). Mr. Simonton is the representative
11 of Balfour, is presented as a representative of
12 Balfour. It is absolutely not hearsay.

13 MR. HILDEBRAND: He testified he's
14 retired from Balfour back in I think --

15 THE COURT: I hope he's getting
16 paid because he's been sitting back there
17 patiently since he testified. I'm going to allow
18 it.

19 BY MR. MCDONALD:

20 Q. You may answer.

21 A. Yes. I had a phone call with
22 Mr. Thompson and Mr. Simonton as the Court
23 requested to have them work with me to get me the
24 last of the accounting records so they're now
25 going to support their September claims.

1 And in that conversation, the three of
2 us were discussing what accounting records needed
3 to be provided to, you know, support the latest
4 version of the project costs. And again, I know
5 that we haven't spent a lot of time with the
6 earlier versions of the September claims, the
7 September 10th, September 12th and whatever the
8 third date was.

9 But the first two didn't recognize any
10 summary judgments, partial or full. And I said
11 to Mr. Thompson and Mr. Simonton, well, why would
12 you be still claiming all of the RCOs for this
13 particular sub, for example? They've got a
14 summary judgment. They're done. Why not just
15 put in that amount for them instead of what
16 you've always, you know, had in your records?

17 And Mr. Simonton explained that the
18 amount that the summary judgment was for may not
19 be paid to that sub because they're still
20 assessing back charges against those particular
21 subs, which again comports exactly to the motions
22 that Balfour has filed contrary to all of the
23 summary judgments where Balfour states that the
24 amount may be improper because of attorney's fees
25 not being applicable and because of -- instead of

1 back charges, I think they called them setoffs in
2 that -- in all of those documents.

3 So they didn't want to put the summary
4 judgment amount in their claim. They wanted to
5 leave the claim the way it was before, but you
6 can see on this form, especially because it's
7 blown up and it's a little bit larger, some of
8 those grayed-out cells.

9 And that's what they're doing there is,
10 when you see a grayed area, you will also see off
11 to the far right, it will either say SJ full or
12 SJ partial. And not that they're doing what I
13 told to them to do, but subsequent to our phone
14 call when I said, well, why can't we just use the
15 summary judgment amounts versus all the detail,
16 then those amounts now appear in this new section
17 called summary judgment.

18 And you can see that it's grayed out.
19 Like here, I'm taking it out of here is what I --
20 what I think that Excel spreadsheet is telling
21 me, and I'm putting it over here.

22 Q. And as it relates to Palmetto Automatic
23 Sprinkler, there's no indication that those back
24 charge -- there's no indication that's
25 \$107,000 in back charges on that line item?

1 A. No. Those back charges have not yet
2 been assessed against Pasco.

3 Q. All right. Let's go to First Choice.
4 Do you have First Choice up here?

5 A. Yes, fourth from the top.

6 Q. And is First Choice a party to this
7 action anymore?

8 A. No. They are no longer a party to this
9 action.

10 Q. Were they in the action?

11 A. They were.

12 Q. And then they quit?

13 A. Yes, they did.

14 Q. Tell me about the monies -- tell me
15 about what you know about the monies being
16 claimed by Balfour on Plaintiff's Exhibit 329 as
17 it relates to First Choice.

18 A. Specifically, the amount in the open
19 payables column is \$36,694.34. It's part of a
20 \$75,000 amount that Library has paid Balfour
21 through payment applications that Balfour has not
22 passed on to First Choice.

23 Q. Let me stop you there. So the
24 36,694.34, Library has already paid that to
25 Balfour?

1 A. That's correct.

2 Q. And Balfour has not paid it to First
3 Choice?

4 A. That's correct.

5 Q. And yet they're in here claiming it
6 again?

7 A. Yes.

8 Q. Okay. What else do you know about these
9 numbers?

10 A. Well, the difference between \$75,000 and
11 the amount you see in the open payables column is
12 also an additional amount that Library has paid
13 Balfour for First Choice Glass. It also has not
14 made it to First Choice Glass.

15 It doesn't -- it unfortunately is a very
16 complicated scenario where you have to dig
17 through all the pay apps. But it would be in the
18 retainage column at this point. And the
19 \$112,093.80 is an additional amount that was
20 invoiced to Library that Library paid that didn't
21 make its way to First Choice.

22 Q. And so there's this is full amount in
23 the open payables for First Choice, and then
24 whatever the difference between \$75,000 and
25 \$36,694.34, it finds its way over into the

1 retainage column?

2 A. Correct.

3 Q. That Library has paid Balfour, and
4 Balfour hasn't paid First Choice?

5 A. Correct.

6 Q. Okay. First Choice quit. They're not
7 in the lawsuit anymore?

8 A. No, they're not.

9 Q. And Balfour is asking for it again?

10 A. They're asking for it again but in
11 addition, whatever amount is on this row for
12 them, won't ever be cost of the work because
13 First Choice won't be receiving any additional
14 funds. Or if they do, it won't be cost of the
15 work.

16 THE COURT: Let me make -- ask a
17 question just so I'm clear. You mentioned the
18 figure 75,000. That's the amount that has been
19 paid? The \$75,000 figure has been paid in --
20 which includes the \$36,000?

21 THE WITNESS: Yes, correct.

22 THE COURT: Okay.

23 THE WITNESS: It's the net amount
24 that Library has paid to Balfour, that Balfour
25 has not passed on to First Choice. It didn't

1 happen in one transaction.

2 THE COURT: Right.

3 THE WITNESS: Like BMCC's \$137,000
4 transaction, where it's one invoice, and you can
5 see it, or the five transactions that Pasco
6 didn't get paid.

7 This is a little more complicated
8 because of the release of retainage and a couple
9 of other things happening in the same payment
10 application. It just works out to be exactly
11 \$75,000 that Library has paid in excess of what
12 First Choice has received.

13 THE COURT: Okay. All right.

14 BY MR. MCDONALD:

15 Q. Was it confusing to you to try and
16 figure all of this out?

17 A. It was extremely difficult, and I am
18 very sure I haven't figured it all out.

19 Q. Did Balfour issue a negative change
20 order in October of 2020?

21 A. I don't remember the date.

22 Q. Was there a negative change order issued
23 for glass credits?

24 A. Yes, there was.

25 Q. And how much was that for?

1 A. I don't remember.

2 Q. Okay. All right. Let's go to Precision
3 Walls. Are they up there?

4 A. Precision Walls is on the board, yes.

5 Q. And is Precision Walls a party to this
6 case?

7 A. No, Precision Walls is not a party to
8 this case. They're out.

9 Q. And did they used to be a party to the
10 case?

11 A. They did.

12 Q. All right. And do you know whether or
13 not Precision Walls is pursuing any money for
14 Balfour Beatty?

15 A. Precision Walls is not seeking any funds
16 in this -- related to this contract.

17 Q. And therefore, it couldn't be cost of
18 the work?

19 MR. HILDEBRAND: Objection, Your
20 Honor. How does she know whether Precision Walls
21 is pursuing any money or not? I mean, there's
22 no -- and that's my objection. There's no
23 foundation for that.

24 They were a party. They're not a party.
25 But she doesn't -- it's just speculation on her

1 as to whether Precision Walls has a right or
2 isn't -- going to pursue a right or isn't
3 pursuing a claim.

4 MR. MCDONALD: I will lay some
5 further foundation, Your Honor.

6 THE COURT: All right. Go ahead.

7 BY MR. MCDONALD:

8 Q. Did you review the 30(b)(6) deposition
9 of Precision Walls?

10 A. I did.

11 Q. And based upon that, your review of the
12 30(b)(6) deposition of Precision Walls, what is
13 your understanding of any claims that Precision
14 Walls is pursuing against Balfour as it relates
15 to this contract?

16 A. In the 30(b)(6) deposition, the
17 representative stated that he was not aware, did
18 not believe that there were any claims that would
19 be filed. In addition, there was a motion to
20 dismiss in this action for that particular
21 subcontractor.

22 THE COURT: All right. I will
23 allow it in.

24 MR. MCDONALD: Your Honor, I have
25 four more, and then I think it would be a good

1 stopping point. Does that work for your time?

2 THE COURT: That would be perfect.

3 THE WITNESS: And just as a --
4 maybe because this has happened that many times,
5 but in fact, I was in the courtroom when
6 Mr. Floyd, I believe, made a motion to dismiss
7 himself from this action. It was a long time ago
8 when I was here giving some testimony about the
9 right to audit; so that was in 2019.

10 THE COURT: That's the day I found
11 out Sam was a female.

12 THE WITNESS: As long as you know
13 now.

14 BY MR. MCDONALD:

15 Q. All right. Let's go to Robert Thomas.
16 Are they up here?

17 A. Robert Thomas, yes, they're on the
18 board.

19 Q. And what is the total amount that they
20 want for Robert Thomas?

21 A. The total amount for the contract
22 section and the miscellaneous claims and interest
23 are \$38,285.95.

24 Q. Okay. So on this, they have a contract
25 balance, OCOs of \$20,050 for Robert Thomas,

1 right?

2 A. Correct.

3 Q. And this is on Plaintiff's Exhibit 329,
4 right?

5 A. Correct.

6 Q. And then they've got open contract
7 balance of \$10,820, right?

8 A. That is true.

9 Q. And then they totaled those at \$30,870,
10 right?

11 A. The total for the contract section, the
12 yellow section is \$30,870.

13 Q. And how do they -- how do they get to
14 that number?

15 A. Well, simplistically on this Excel
16 spreadsheet, it's just the addition of the
17 \$10,820 of open contract balance and the 20, 050
18 in OCOs.

19 Q. Okay.

20 A. And those are added together.

21 Q. Okay. And once you left staring at the
22 Excel spreadsheet, how do they -- do you have an
23 understanding of how they got to those numbers,
24 how they're able to add those two numbers
25 together?

1 A. Once you get past the Excel spreadsheet,
2 you can't add those two numbers together because
3 one is a subset of the other.

4 Q. Okay. And do you know whether or not
5 Library paid Robert Thomas directly?

6 A. Library paid \$16,000 through the regular
7 payment application process to Balfour, and
8 additionally, Library paid Robert Thomas directly
9 for the \$10,820 that you see there in the open
10 contract balance.

11 Q. So how is Balfour in here claiming that
12 amount?

13 A. It will never be a cost of the work.
14 Robert Thomas has been paid in full.

15 Q. With Library Associates' money?

16 A. In both instances, yes.

17 Q. Let's go to Trimark up there.

18 A. Trimark Foodcraft, yes, they are up
19 there.

20 Q. All right. Were they in this action?

21 A. They were in this action, yes. They had
22 a lien.

23 Q. Do they have a lien anymore?

24 A. They do not.

25 Q. Are they in the action anymore?

1 A. No. They are out.

2 Q. All right. Warco. Is Warco up here?

3 A. Yes. Warco has an OCO amount of
4 \$67,966, and then RCO amount of \$7,283. There
5 are miscellaneous claims and interests, and then
6 the summary judgment is also identified in the
7 gray section.

8 Q. Yeah. And we will get to that tomorrow.
9 I just want to focus on the yellow section for
10 right now. Okay? The 67,966 is on the line item
11 for Warco, correct?

12 A. Correct.

13 Q. Do you know whether or not Library
14 Associates has already paid BBC that amount?

15 A. Yes, that amount has already been paid.

16 Q. What rights under the contract do they
17 have to come in here and ask you for this again?

18 A. I don't think it's a valid claim, and it
19 will not be cost of the work.

20 Q. Is it included in any of the OCOs?

21 A. Well, the amount that's being claimed is
22 the OCO, yes. And then that OCO was also
23 included. It's -- the amount has already been
24 invoiced through the payment application process
25 through the OCOs, yes.

1 MR. MCDONALD: Your Honor, this is
2 a good stopping point for me.

3 THE COURT: All right.

4 MR. MCDONALD: Thank you, Your
5 Honor.

6 THE COURT: It's just about 5
7 o'clock. Let's break for the day and come back
8 tomorrow at 9:30.

9 (The hearing adjourned at 4:56 p.m.)

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1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF DORCHESTER

4 I, Jennifer M. Adams, Certified
5 Shorthand Reporter and Notary Public for the
6 State of South Carolina at Large, do hereby
7 certify that the witness whose attached in the
8 foregoing hearing was by me duly sworn to testify
9 to the truth, the whole truth, and nothing but
10 the truth in the within-entitled cause; that said
11 hearing was taken at the time and location
12 therein stated; that the testimony of the witness
13 and all objections made at the time of the
14 examination were recorded stenographically by me
15 and were thereafter transcribed by computer-aided
16 transcription; that the foregoing is a full,
17 complete and true record of the testimony of the
18 witness and of all objections made at the time of
19 the examination; and that the witness was given
20 an opportunity to read and correct said hearing
21 and to subscribe the same.

22 Should the signature of the witness
23 not be affixed to the hearing, the witness shall
24 not have availed himself/herself of the
25 opportunity to sign or the signature has been
waived.

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

29 Witness my hand, I have hereunto
30 affixed my official seal on October 15, 2022 at
31 Charleston, Charleston County, South Carolina

32

33

34

35 _____
Jennifer M. Adams
Court Reporter And Notary Public
My commission expires: 03/15/2032

36

37

38

39

1 STATE OF SOUTH CAROLINA
 IN THE COURT OF COMMON PLEAS
 2 COUNTY OF CHARLESTON
 FOR THE NINTH JUDICIAL CIRCUIT

3 BALFOUR BEATTY CONSTRUCTION,)
 4 LLC,) VOLUME EIGHTEEN
) Case No.
 5 Plaintiff,) 2019-CP-10-1108

6 -versus-)
)

7 LIBRARY ASSOCIATES, LLC;)
 METROPOLITAN LIFE INSURANCE)
 8 COMPANY, A NEW YORK)
 CORPORATION,)
 9)

10 Defendants.)

11 LIBRARY ASSOCIATES, INC.,)
)
 12 Defendant/Third-Party Plaintiff,)

13 -versus-)
)

14 LITHKO CONTRACTING, LLC; GUY M.)
 BEATY, INC.; BERNHARD MMC, LLC)
 15 GULF STREAM CONSTRUCTION CO.,)
 INC; Precision Walls, INC.;)
 16 PALMETTO AUTOMATIC SPRINKLER)
 COMPANY, INC.; ET AL,)
 17)

18 Third-Party Defendants.)

19 Hearing before the Honorable Mikell R.
 20 Scarborough, reported by Jennifer M. Huggins,
 21 Court Reporter and Notary Public, at 9:30 a.m. on
 22 November 3, 2021 at 100 Broad Street, Courtroom
 23 2A, Charleston, South Carolina.

24

25

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1 THE COURT: We are still on
2 Ms. Hadley, aren't we?

3 MR. MCDONALD: Yes, Your Honor.

4 THE COURT: Any other matters we
5 need to take up?

6 MR. MCDONALD: No, sir.

7 THE COURT: Ms. Hadley, come on
8 forward. You're still under oath. We'll pick up
9 where we left off yesterday.

10 All right. Mr. McDonald?

11 MR. MCDONALD: Thank you very much,
12 Your Honor. May it please the Court.

13 DIRECT EXAMINATION

14 BY MR. MCDONALD:

15 Q. Ms. Hadley, where we left off yesterday
16 is we had gone through the yellow section of
17 Plaintiff's Exhibit 329; is that correct?

18 A. Yes, for the most part.

19 Q. And what I would like to do now is move
20 over to the green section entitled delay damages.
21 Okay?

22 A. Okay.

23 Q. And I believe you touched on this
24 earlier, but is this -- do you know what is
25 included in the \$3,889,189.52 cents in delay

1 damages on the Balfour Beatty line item?

2 A. No.

3 Q. All right. Do you know whether or not
4 that item includes the \$700,000 in general trades
5 we talked about yesterday?

6 A. I don't know where that number comes
7 from. I haven't seen that number before, and it
8 hasn't been a previous number. But because the
9 general trades number doesn't appear anywhere
10 else, I think it's logical, but I would just be
11 assuming whether in that \$3,000,000 in the green
12 column.

13 Q. Okay. And have you had an opportunity
14 to look at the general trades claim that's been
15 made by Balfour Beatty?

16 A. Yes.

17 Q. Okay. And can you explain to the Judge
18 what the upshot of that inquiry was into the
19 general trades claim?

20 A. So general trades is a line on the
21 schedule of values in the pay apps. There hadn't
22 been a previous claim for general trades in the
23 January of 2019 letter or in the binders. It
24 first appeared in one of the four versions that
25 came in September.

1 The support that was provided, which is
2 the PowerPoint presentation that Mr. Casey spoke
3 from when he was testifying, accumulates -- if I
4 could look at that PowerPoint presentation?

5 Q. Sure. I believe that is Plaintiff's
6 Exhibit 332.

7 A. Yes, that's what I was thinking about.
8 The PowerPoint presentation is -- I think it's
9 roughly 15 pages. It's the very last page that
10 has the general trades information on it.

11 And how this claim amount was prepared
12 is Balfour took eight different cost codes from
13 their accounting system and compared what they
14 had internally budgeted for those eight codes to
15 what they had actually spent in those eight
16 codes, and then took the difference. So the
17 difference was \$770,134.

18 MR. HILDEBRAND: Your Honor, I've
19 got an objection that's going to take me just a
20 minute. And I would like to work you through a
21 few facts in this letter -- in this matter, if I
22 may.

23 THE COURT: All right. First of
24 all, what's the objection?

25 MR. HILDEBRAND: The objection is

1 to her rendering an opinion on this issue, and I
2 would like to go through, if I may, the basis for
3 that.

4 One, she just said that the general --
5 the general trades overages is something that we
6 never made reference to or made a claim for until
7 September, but our first interrogatory responses
8 or second interrogatory responses to the
9 defendant dated September 24, 2019. The very
10 second --

11 THE COURT: All right. Well, that
12 sounds like a cross-examination question.

13 MR. HILDEBRAND: But here's where
14 I'm going to with the -- you're right on that
15 one. The merits are, we asked the plaintiff to
16 identify their experts and to identify the
17 opinions of their experts back in May 29 of 2019.

18 I've got their responses. Their
19 responses are simply, we will -- we haven't
20 decided who our experts will be. We'll identify
21 them later in the subject matter; so we never got
22 anything else.

23 We then got a scheduling order from the
24 Court, Your Honor. There was an amended
25 scheduling order requiring all experts to provide

1 their opinions in detail and basis -- factual
2 basis for their opinions. There were several
3 extensions to that scheduling order, you may
4 recall, with the last deadline for experts to
5 render opinions running on August 16 of this
6 year, 2021.

7 And you will recall, the Court has said
8 that scheduling orders are not frivolous
9 documents, and that if it hasn't been produced,
10 then it can't be introduced and such. So as of
11 August, they could have updated any of their
12 opinions if they wanted to.

13 In September of this year, we received
14 expert designations from Mr. Bundy with a copy of
15 all of the -- I would like to mark this for
16 identification.

17 THE COURT: Well, you're getting
18 way ahead of yourself, Mr. Hildebrand. You've
19 got an objection, and I want to rule on your
20 objection. But you're -- now, you're trying to
21 put evidence in. The basis for the objection is
22 that this expert has not previously opined on
23 this? Is that the objection?

24 MR. HILDEBRAND: Absolutely, Your
25 Honor.

1 THE COURT: Okay. All right.

2 MR. HILDEBRAND: Yes, sir.

3 THE COURT: All right.

4 Mr. McDonald, where are we going?

5 MR. MCDONALD: Where we're going
6 is, she couldn't have previously opined on this
7 because it was produced, once again, as this
8 issue came up yesterday, in September of 2021.

9 All she has done -- and I tried to laid
10 the foundation for it -- is conduct this audit of
11 a moving target that continually moved into
12 September of 2021. In fact, as Your Honor will
13 recall, one of the things that she was doing at
14 the start of this trial was try to get the
15 updated numbers that she had -- didn't have.

16 And so she's doing the best that she can
17 to understand this claim and to explain to Your
18 Honor, based upon her experience, what this is
19 and what it means and how it breaks down and
20 whether it's reliable. And that's all -- that's
21 all she's doing. They knew she was going to
22 audit. They knew she has been auditing.

23 THE COURT: Okay. All right.

24 Based on that, Mr. Hildebrand, what's your
25 position?

1 MR. HILDEBRAND: Well, it's very
2 simple, Your Honor. This -- these are new
3 opinions. These general trade cost overages were
4 identified over two years ago for \$796,850.07.
5 It's in our responses to the defendant's
6 interrogatories, and they're dated September 24,
7 2019. We set forth our general trade overages.

8 Since then, Ms. Hadley has issued
9 several reports that they have said -- when I've
10 asked them, what is her opinion going to be?
11 They've said, it's going to be on these four
12 reports. They have nothing to do with these
13 general trade cost overages.

14 She's now coming into Court, after all
15 of this time, after your scheduling orders, after
16 their discovery responses, and trying to offer
17 opinions that she has not professed. Our -- I've
18 taken her deposition. She didn't testify about
19 that. It was not in the reports for her
20 designations.

21 And frankly, Your Honor, it's
22 prejudicial to me for her to come in as their
23 last witness, and now offer opinions on these
24 issues when many of our witnesses have already
25 testified. They're from out of state. So she

1 hasn't testified about it, but they could have
2 cross-examined Casey Thompson about it, had they
3 wanted to.

4 But these are opinions that have not
5 been espoused, have not been produced, and
6 according to your order, they should have been.
7 All of this -- there's no new information on our
8 general trade cost overages. Thank you.

9 THE COURT: Well, let me ask this
10 question: Does general trade costs show up on
11 this Plaintiff's Exhibit 329?

12 MR. HILDEBRAND: They do, and they
13 did in our discovery responses back in 2019.
14 It's the same ones. It's the general -- all this
15 is, Your Honor, is --

16 THE COURT: It's demonstrative, I
17 understand that.

18 MR. HILDEBRAND: It's
19 demonstrative.

20 THE COURT: It's how we calculate
21 how we got to the damages.

22 MR. HILDEBRAND: Right, right. But
23 it's the same -- the damages have changed a
24 little bit. The primary reason that they
25 vacillated in September was simply based on the

1 fact that we had summary judgments, some
2 subcontractors were in and out, and some of the
3 interest rates were -- had to be calculated.

4 But all of this underlying data, Your
5 Honor, none of this has changed since January of
6 2019, when this project was finished and all of
7 the data was done. I mean, the project was
8 overall. All the data was done; so there's no
9 new data here.

10 THE COURT: So the underlying data
11 then, is it -- it sounded like she is estimating,
12 and that's the basis for this is what it sounded
13 like to me.

14 MR. MCDONALD: May I ask her why
15 this is new information?

16 THE COURT: Sure, if it is.

17 BY MR. MCDONALD:

18 Q. Why was this new information,
19 Ms. Hadley?

20 A. General trades claim was never made in
21 their January 2019 letter. The response to
22 interrogatories that Mr. Hildebrand is talking
23 about is a question regarding what's in their
24 lien. It was never in their claim. It was only
25 in a lien.

1 On the phone call that I had with
2 Mr. Simonton and Mr. Casey last month, I asked
3 them why this new item appeared. And Mr.
4 Thompson explained, well, it had always been in
5 our lien, but now we're including it in the
6 claim.

7 So I had never had the opportunity to
8 evaluate it as far as me trying to determine
9 total project cost, which was what -- was in
10 their accounting record, plus their claim, and it
11 was a new item.

12 THE COURT: And that was as of
13 when? When was that conversation?

14 THE WITNESS: That was as of
15 September 14th, 2021, when you ordered them to
16 have a phone call with me. The number that
17 Mr. Hildebrand just read out that was in his
18 response to the interrogatories was
19 790-some-thousand. The amount that they're
20 claiming as of last month was 770,000; so even
21 that number is outdated as of three weeks ago.

22 MR. HILDEBRAND: Your Honor, if
23 it's changed a few thousand dollars, the numbers
24 are the same, and they could have cross-examined
25 our witnesses on it. The point is, Your Honor,

1 one, if she -- she can't testify based on your
2 scheduling order, but, two, if they wanted to
3 have her testify in a claim that she has new
4 opinions based upon new evidence, then they have
5 to notify us.

6 And I would refer the Court -- there's a
7 very specific provision on this in Rule 26(e)
8 supplementation of responses.

9 A party who has responded to a request
10 for discovery with a response that was complete
11 when made is under no duty to supplement his
12 response to include information acquired except
13 that request for discovery under Rule 31, 33, 34
14 and 36 shall be deemed to continue from the time
15 of service until the time of trial, so that
16 information sought, which comes to the knowledge
17 of the party or his representative or attorney,
18 after his original answers have been submitted
19 shall be properly transmitted to the other party.

20 And then it goes on to specifically talk
21 about experts, and it says, in addition, a party
22 is under a duty seasonably to supplement his
23 responses with respect to any question directly
24 addressed to number two, the identity of each
25 person expected to be called as an expert

1 witness, the subject matter of which he's
2 expected to testify, and the substance of his
3 testimony.

4 So it was barred -- the due date was
5 long ago under your scheduling order, which you
6 said. If she says that she has got new
7 opinions -- I don't think that any of this
8 evidence is new. I don't think any of this data
9 is new. It all goes -- nothing has happened
10 since January of 2019.

11 THE COURT: Well, her statement was
12 that she had a conversation with Casey Thompson
13 on September 14; is that right?

14 THE WITNESS: I don't know if it
15 was the 14th, maybe the 15th with Mr. Thompson
16 and Mr. Simonton.

17 THE COURT: But that was after
18 trial commenced?

19 THE WITNESS: Right. It was after
20 trial in response to us trying to get the new
21 numbers. And two new claims had been submitted
22 as of that time, and we didn't have the
23 accounting records to support those two numbers.

24 THE COURT: All right. Based on
25 that, I'm going to allow it. I'm going to

1 overrule the objection, and I am going to allow
2 it. The numbers are changing. We're still going
3 forward. It impacts her analysis, and I think
4 where you're going with this is certainly right
5 for cross-examination, but I'm going to allow her
6 to give her opinion. Okay?

7 MR. MCDONALD: Thank you, Your
8 Honor.

9 BY MR. MCDONALD:

10 Q. All right. Ms. Hadley, would you
11 explain the general trades as claimed by Balfour
12 Beatty?

13 A. The general trades amount that's being
14 claimed now is the difference between the amount
15 budgeted internally for those eight cost codes
16 and the amount that was actually incurred for
17 those eight cost codes.

18 There are other general trades cost
19 codes that were not included in this claim.
20 These were just the eight that were identified to
21 be used in this claim. So there's several things
22 that I have a problem with. First of all, this
23 is a total cost claim, and a total cost claim is
24 very unfavored in the courts for very good
25 reasons because you --

1 MR. HILDEBRAND: Objection, Your
2 Honor. She can't tell you -- that's a legal
3 issue for you to decide. There's -- it's not a
4 total cost claim, and if they want to decide
5 cases where the courts have addressed a total
6 cost claim, that's fine. But I think it's
7 improper for her to render a legal conclusion to
8 tell you what the courts have been doing.

9 THE COURT: Didn't we have somebody
10 opine on that already? Didn't somebody talk
11 about that already in the case, the total cost
12 claim, the different types of claims?

13 MR. HILDEBRAND: Somebody said it
14 was the total cost.

15 THE COURT: Yeah. Okay. All
16 right.

17 MR. HILDEBRAND: Not our witness.

18 THE COURT: Yeah. Okay. All
19 right. I will sustain that one. Go ahead.

20 BY MR. MCDONALD:

21 Q. You may continue, Ms. Hadley.

22 A. The claim is the difference between the
23 amount that they budgeted internally. That
24 amount hadn't been provided to Library or
25 approved. It wasn't as if a budget had been

1 submitted, and we saw those details.

2 It was an internal accounting, where
3 they had taken the contract and broken it out
4 into more detail than what you see on the
5 schedule of values. But that individual one line
6 item for general trades was apparently made up of
7 many items, and this was the budget for that many
8 item.

9 The risk, when you're requesting in a
10 claim, the difference between what you internally
11 budgeted and what you actually spent is now it
12 comes into question the reasonableness of what
13 you had internally budgeted because that becomes
14 completely relevant on a dollar for dollar
15 situation.

16 In addition, the actual cost would also
17 need to be reasonable, and then the third element
18 is that you would need to prove that every one of
19 those dollars of cost overruns was the
20 responsibility of the contractor -- or the owner,
21 and none of those overruns were the
22 responsibility of the contractor.

23 So even in this situation where you have
24 at least Mr. Doran talking about a 20 day
25 non-compensable period, by claiming the full

1 amount of costs that were purportedly delay
2 driven, you're no longer acknowledging that 20 of
3 those days were non-compensable. But moreover,
4 when you are requesting money because of a
5 delay --

6 MR. HILDEBRAND: Objection, Your
7 Honor. She is going into delay damages that --
8 or delay issues that have been testified about,
9 the scheduling issues. As to what is compensable
10 and what is not compensable on delays, that's a
11 critical path analysis that she's not qualified
12 to give.

13 THE COURT: Overruled. Go ahead.

14 THE WITNESS: When you identify
15 these costs as delay driven as BBC did on the
16 easel there, as -- from an audit perspective,
17 what we look at is we look at the costs and see
18 whether they really are increasing due to time.

19 It was a monthly cost for the
20 superintendent. Typical general condition-type
21 costs, then that make sense, and we talked -- or
22 I spoke yesterday about the difference audit
23 tests you do when it's in a claim for expanded
24 costs versus a claim for extended costs.

25 When you take a look at some of the

1 costs that are being claimed here. For instance,
2 \$127,000 of the 770,000 that's being claimed is
3 for a one time purchase for generators that was
4 done in 2015. So it wasn't as if they were
5 renting generators from Sunbelt or extending
6 their costs. That was a purchase that doesn't
7 appear to be damage due to delay. There's no
8 increased cost due to delay.

9 So what we would expect to see when
10 people are preparing -- companies are preparing
11 claims is to evaluate these costs to really
12 identify those that are time driven and due to
13 delay, and then represent that they increased due
14 to the length of time. But in this situation,
15 through some simple tests, I can see that those
16 costs all are not related to time.

17 A fixed cost like that, a one time
18 purchase at the beginning of the job, you know,
19 typical move and demove, fencing, those sort of
20 things, they don't increase due to a delay, and
21 that's what we're seeing in some of these costs.
22 BY MR. MCDONALD:

23 Q. Were the general trades that are being
24 claimed in this action, were they billed during
25 the job?

1 A. So this is another issue that gets to be
2 very confusing, but if you recall, there's a
3 general conditions line item on this -- on the
4 pay application, and then the very next line is
5 general trades.

6 While each one of them have separate
7 ceilings, on an interim basis, the general
8 conditions were just billed as a fixed monthly
9 amount for the first 28 months of the project,
10 which is pretty common when you have general
11 conditions in a GMP.

12 Because, otherwise, it would require the
13 contractor to accumulate labor and accounting
14 reports and payroll records every single month to
15 support their supervision and management costs,
16 and it is very paper intensive. So you typically
17 just bill those costs equally or at some
18 agreement between the parties until the end when
19 you do this final accounting and final
20 reconciliation.

21 So the cost here, the biggest cost here,
22 which is the temporary power cost, actual cost of
23 \$694,000 had never been billed on the schedule of
24 values that are reimbursable each month; i.e., on
25 the general trades line or on the staging and

1 hoisting line, which is the other line where BBC
2 would incur the costs internally versus
3 subcontracted or there's some self-performed
4 costs, if you will.

5 So the only way that BBC has ever been
6 reimbursed for any of these actual costs would
7 have been through the general conditions line.
8 So in my audit report, I identified these costs
9 as being general conditions costs and not general
10 trades costs for that reason.

11 Additionally, I included two attachments
12 to my audit report regarding these costs where I
13 had noted that Mr. Clements' RFP that he had
14 submitted and asked the contractors to respond to
15 told the contractors what type of costs to put as
16 general conditions and what type of costs to put
17 as general trades and what type of costs would be
18 billed via the subcontractors.

19 Then, as a separate attachment to my
20 audit report, I attached BBC's response to that
21 RFP, where they had identified that temporary
22 power would be included as general conditions
23 cost. And all of that aligned with what we saw
24 happening every single month because, once again,
25 they've never billed for these costs, so one has

1 to assume that they have been part of general
2 conditions.

3 The other issue is that the response to
4 the RFP that BBC submitted had general conditions
5 costs --

6 MR. HILDEBRAND: Objection, Your
7 Honor.

8 THE COURT: What's the objection?

9 MR. HILDEBRAND: She's referring
10 to -- part of her opinion apparently is based on
11 a request for proposal that defense counsel has
12 been arguing, look, we've got a contract. The
13 contract includes all the terms. Preexisting
14 documents doesn't matter. And you said, yeah, I
15 agree, I'm not going to allow that in.

16 This RFP is not -- inarguably, I can go
17 through the specific provisions with you. It's
18 not a part of the contract, and it's improper for
19 her to include that in her opinions or even to
20 reference it.

21 THE COURT: Yeah. An RFP, right?

22 MR. HILDEBRAND: Yes, sir.

23 THE COURT: Okay.

24 MR. MCDONALD: The RFP is in
25 evidence. It's an exhibit, and more importantly,

1 what she's using it to do is to explain how the
2 general trades were in fact applied, and she
3 started off with, throughout the project, pay
4 applications.

5 I think this is just another example
6 that she's showing how these costs were actually
7 coded by Balfour Beatty inconsistent with what
8 they are saying now.

9 THE COURT: That's what you
10 mentioned about Jim Clements saying this is how
11 it should be done; is that what you --

12 THE WITNESS: And how BBC said they
13 were going to do it and both of those documents
14 are included as attachments to my audit report to
15 support my opinion about these costs.

16 THE COURT: Okay.

17 MR. HILDEBRAND: But, Your Honor, I
18 know that she says that's what she includes as
19 part of her opinion. She says, the RFP says this
20 about general conditions, but it's not in the
21 contract.

22 So it's absolutely inappropriate for an
23 expert to come in here and say, well, I saw a
24 document. It is not a part of the contract.
25 They didn't include it in the contract, but I'm

1 going to testify here in Court and use that as
2 the basis for my opinion. It's just
3 inappropriate.

4 THE COURT: She's trying to --
5 first of all, she is trying to quantify the level
6 of damages, and at this point in time, it seems
7 to me her testimony is, in what category you put
8 those damages.

9 That's really what this Exhibit 329, I
10 think, is trying to do, at least for the
11 plaintiff. And now it's the defense's time to
12 attack that. So I'm going to allow it. I'm
13 going to overrule your objection. I'm going to
14 allow it.

15 THE WITNESS: So in BBC's response
16 to the RFP, they identified X's as to where
17 certain costs would be billed, and I'm simply
18 noting the alignment of their response to the RFP
19 to their actions over the contemporaneous life of
20 the project, which was to not bill these costs as
21 general trades, but to instead incorporate them
22 into the general conditions costs.

23 The last item that I wanted to mention
24 was that --

25 THE COURT: That being in support

1 of your opinion that it was included in the
2 general conditions, right?

3 THE WITNESS: Correct.

4 THE COURT: Okay. All right.

5 THE WITNESS: And the only reason
6 we didn't include it contemporaneously over the
7 life of the project was because of the agreement
8 between the parties that on an interim basis for
9 general conditions, they were just going to bill
10 a fixed amount and figure it out at the end.

11 The difficult part, again, is that BBC's
12 response to the RFP had identified 2.4 million
13 dollars of general conditions, and as
14 Mr. Clements testified and as you can see in the
15 award of the GMP, BBC requested an additional
16 \$760,000 roughly in order to get the job done for
17 general conditions.

18 So the amounts in the RFP as proposed
19 don't line up exactly to what they have in their
20 budget now because they did get that extra
21 \$750,000 that they felt was necessary in order
22 to, you know, break even or make money on the
23 project.

24 So now we have these accounts that
25 Library has never seen before in a billing now

1 being claimed for roughly the same amount,
2 \$770,000, that they're saying that they were over
3 budget. But their budget wasn't ever revised for
4 the extra \$750,000 that they received at the very
5 end of the negotiation for the A133 amendment.

6 So, again, with the total cost -- when
7 you're claiming the difference between your
8 budget and your actual costs, it is very
9 important to recognize any additional budget that
10 you've received through the life of project;
11 i.e., change orders, the approval to use
12 contingency.

13 As you received more money in the GMP
14 for those budgeted items, you have to recognize
15 that your budget increased and that the owner has
16 already paid for some of that budget increase.
17 And the calculations that are in the PowerPoint
18 presentation are only recognizing the original
19 initial budget that BBC put into its accounting
20 records.

21 If you take a look at the budget
22 adjustments that BBC made throughout the life of
23 the project because they received money and
24 change orders or because they got the approval to
25 use contingency or other budget transfers, the

1 budget significantly increased. And if you were
2 to compare that increased budget to their actual
3 costs that they're not showing here, this claim
4 would drop down to about \$221,000.

5 So I think it is inappropriate to
6 include in a claim now the difference between
7 what you originally wanted to spend and not
8 acknowledge the fact that you got budget
9 increases throughout the life of the project, but
10 additionally, if that original budget does not
11 acknowledge the fact that you negotiated a higher
12 amount for this issue right prior to the A133
13 amendment.

14 BY MR. MCDONALD:

15 Q. All right. And on that note, while
16 you're on the PowerPoint, is RCO 122 in general
17 conditions, is that referenced in that
18 PowerPoint?

19 A. In the general conditions portion of the
20 claim, which is the page just prior to the
21 general trades page in the PowerPoint, Balfour
22 identifies their actual costs that they have
23 incurred for general conditions, and then they
24 make three adjustments to their actual costs.

25 They subtract out legal fees. They

1 subtract out general conditions for RCO 122, and
2 they then subtract the budget to again request
3 the difference between what their actual costs
4 are and what they've budgeted to spend.

5 Q. What they had originally budgeted to
6 spend?

7 A. What they had originally.

8 Q. And what is the number that they
9 subtract out for RCO 122?

10 A. So the credit that they apply for RCO
11 122 is \$290,353, which is the amount that Balfour
12 had included in their RCO 122 when Mr. Starcevic
13 submitted the RCO to Library on November 27th.

14 But on that same day, Mr. Simonton sent
15 in another RCO 122 called 122R1, and in that
16 letter, Mr. Simonton noted that this was
17 replacing the previous RCO.

18 And the letter states that the amounts
19 now being claimed for Lithko and BBC were being
20 reduced, and here's a revision. Mr. Simonton was
21 mistaken. The amount for BBC wasn't reduced. It
22 actually increased. Lithko's claim --

23 Q. They actually what?

24 A. Increased.

25 Q. Increased.

1 A. So while Lithko's amount did go down
2 significantly, the amount now being requested for
3 BBC actually increased to \$320,000, and that's
4 the latest version of RCO 122. And that amount
5 that's being claimed for RCO 122R1 is shown in
6 their RCO claim in the blue column there at the
7 revised amount for BBC.

8 But when they applied the credit in the
9 general conditions claim here, they're using the
10 original RCO, which is a much lower amount to the
11 tune of about \$30,000.

12 So I don't know which one is the right
13 one, but I do think -- or I do know that you have
14 to use the same one when you're claiming costs as
15 when you're crediting that same cost in another
16 claim element in order to avoid duplication, and
17 that isn't what was done here.

18 THE COURT: So it's either 290 or
19 it's 320, but it's not both?

20 THE WITNESS: It is not both --

21 THE COURT: It can't be both?

22 THE WITNESS: -- to make the
23 highest claim in both situations.

24 THE COURT: All right.

25 BY MR. MCDONALD:

1 Q. When you're doing an audit and you find
2 a situation like this that we just discussed, do
3 you -- and I'm going to use the term, you know,
4 whatever it is, an inconsistency, okay -- do you
5 make an effort to look and see if there are any
6 inconsistencies that are in the favor of the
7 other party?

8 A. Well, I'm not looking for
9 inconsistencies going in either direction. I'm
10 taking just auditing, just taking the amount
11 that's being claimed now, and I'm reconciling it
12 to the supporting documentation. I'm going to
13 point out an inconsistency either way.

14 Q. Thank you. And I believe we touched on
15 this earlier. The Lithko portion of the delay,
16 the \$12,459.96, do you have any idea where that
17 comes from?

18 A. I do not. Like I said, Lithko did have
19 a revised number in RCO 122, and their amount did
20 go down. I think it's around 390,000 right now.
21 So I have no idea where \$12,000 came from.

22 Q. Okay. And let's talk about the next
23 one, which is for Old North State Masonry
24 \$1,970,717.07. Was any support provided for that
25 number?

1 A. There is no support for that number. I
2 have spent a lot of time looking at Old North's
3 claim over time. And the amount did change over
4 time. It has never been the amount that's listed
5 here.

6 Q. Okay. And take a look, if you would,
7 and they are Plaintiff's Exhibits. They're to
8 your right. I will grab them for you -- excuse
9 me, Defendant's Exhibit 36 and 32. I will ask if
10 you have seen those documents before?

11 A. Yes. These are two change orders that
12 were issued to Old North State Masonry, change
13 orders 19 and change orders 20.

14 Q. Okay. Let's start with 19, Ms. Hadley,
15 which is Exhibit 36.

16 A. 36, yes.

17 Q. And what does that show?

18 A. Change order 19 is another summary
19 settlement change order that I was speaking of
20 yesterday that basically takes all of the
21 remaining outstanding issues between Old North
22 and BBC and wraps it together into, you know,
23 one -- it takes the negatives and the positives
24 and puts them together to come up with one
25 number.

1 In this instance, which is different
2 from Lithko from yesterday, this is actually an
3 added change order, so it's adding \$68,740.20 to
4 Old North's contract, presumably for the
5 additional items that are listed in the box, in
6 the middle of the page to the top page.

7 Q. And are there any numbers listed in that
8 box?

9 A. No. There's no numbers listed on the
10 box. The box represents an excerpt from Old
11 North's change order log, which it had attached
12 at various times to its lien waiver reservations.

13 And you can see in the record at various
14 stages in time, it had included the things that
15 it was -- it believed was an outstanding change,
16 but the bottom third of that, that talks about
17 all of the back charges that should be assessed
18 against Old North State Masonry for window reload
19 and caulking hadn't appeared on the change order
20 log in the past.

21 So I do know the amounts for some of the
22 positive items, but I don't have any values for
23 the negative items because the excerpt that's on
24 this change order excludes all of the dollar
25 amounts.

1 Q. And when is this change order dated?

2 A. Well, the date of the change order says
3 July 9, 2019, but the parties signed it at
4 various dates in September of 2019.

5 Q. September of 2019?

6 A. Yes.

7 Q. And one of the things on here, albeit
8 none of them having numbers is stucco buildup due
9 to exterior masonry issues; is that right?

10 A. Yes. That's one of the items that's
11 being resolved through this change order.

12 Q. Okay. Do you know who the stucco
13 subcontractor was?

14 A. I sure did. I often refer to this item
15 that BBC produced in its response to this set of
16 interrogatories -- it's a copy of their pay
17 application, and in red, they wrote who the
18 subcontractors are. So I have to use this all
19 the time. It's Premier Exteriors.

20 Q. Premier Exteriors?

21 A. So in Premier Exteriors' change orders,
22 you can see their contract value growing for the
23 additional work that they're having to get paid
24 for due to correction of Old North's work. So
25 these are those --

1 MR. WINDLE: Objection, Your Honor.

2 There's no evidence or foundation that this
3 relates to -- that anything in Premier's pay
4 application relates to Old North's work.

5 MR. MCDONALD: Your Honor, we
6 submitted the 30(b)(6) deposition testimony of
7 Premier Exteriors where the 30(b)(6)
8 representative of Premiere Exteriors was adamant
9 on four to five occasions that the stucco buildup
10 was very clear in that deposition testimony. It
11 was a result of masonry issues.

12 THE COURT: All right. Overruled.
13 Go ahead.

14 THE WITNESS: So Premier Exteriors
15 has several change orders. Six and seven are the
16 two biggest ones that I can think of and also 10
17 and 11, where monies are being added to Premier
18 Exteriors' contract to correct where we're
19 talking about stucco and caulking issues.

20 So the debits and credits that I was
21 talking about yesterday where you're adding money
22 to one contractor, you would take from another
23 contractor in a back charge situation. But in
24 this situation, the back charges are just being
25 wiped against the additional work that BBC wants

1 to award to Old North.

2 But in the very next change order, which
3 is a zero dollar change order, the parties
4 recognize that the first \$70,000 that BBC is
5 going to get from Library in this litigation
6 would go back to Library -- would go back to BBC.
7 So in essence, BBC sold these negative back
8 charges that Library owns and --

9 MR. HILDEBRAND: Objection, Your
10 Honor.

11 THE WITNESS: -- and was getting
12 \$70,000.

13 MR. HILDEBRAND: Objection, Your
14 Honor. That's speculation. She can't make an
15 inference as to what the intentions of the
16 parties were. She can read the document.

17 THE COURT: All right. Objection
18 noted.

19 MR. WINDLE: Objection, same
20 objection. She can't opine on whether something
21 was sold to somebody else.

22 THE COURT: All right.

23 MR. MCDONALD: It's an accounting.
24 She is explaining it from an accounting
25 perspective. This is the owner's money.

1 THE COURT: All right. I'm going
2 to allow it. Overruled. Go ahead.

3 THE WITNESS: So the back charges
4 that were going to be assessed against Old North
5 State Masonry, and I can see that they were going
6 to be assessed because they're identified here as
7 negative back charges for issues that somebody
8 believes was Old North State Masonry's fault --
9 are being absolved and credited against the
10 additional scope of work that Old North received
11 for these other items relocating something or
12 frankly increased costs that Old North had due to
13 back charges from a different activity.

14 And so from an accounting perspective,
15 if you are the owner, typically back charges
16 don't affect you because, again, those two subs
17 are arguing. One money goes from one to the
18 other.

19 But in this situation, the contract
20 increased for Premier Exteriors to do the
21 additional work, but there was no equal decrease
22 to Old North's contract for the back charges that
23 it had caused that made Premier's go up. But
24 instead, in the next change order 20, now it's
25 BBC --

1 MR. WINDLE: Objection, Your Honor.
2 She has no evidence, hadn't discussed anything
3 that Old North State caused. That was her
4 testimony, "Went up for something Old North
5 caused." There's no evidence that Old North
6 State caused anything yet.

7 MR. MCDONALD: That's the same
8 objection.

9 THE COURT: I think that was the
10 same objection of the 30(b)(6). Yeah, I'm going
11 to allow it. Go ahead.

12 THE WITNESS: Premier Exterior, the
13 change orders that I identified, there are five
14 or six of them.

15 But I know number 6, 7, 10, and 11 at
16 least that identify those increased costs for
17 stucco, for example, again, are causing the
18 contract from Library's perspective to increase
19 because the subcontractor is getting more money
20 for these issues to do these things that were not
21 part of their original scope and are seemingly
22 necessary due to issues from another contractor.

23 In a back charge situation, the debits
24 equal the credits, and the owner kind of comes
25 out equal. But in this situation, again, the GMP

1 went up for the Premier Exterior increases.
2 There was no equal decrease in Old North's
3 contract, and instead, the monies that BBC may
4 recover for the positive issues are now going to
5 go to BBC.

6 Again, given that BBC is a fiscal agent
7 for the owner, then BBC would be required to give
8 that money to Library as a credit and, you know,
9 to the contractor. Otherwise, what happens is
10 Library pays for increases, doesn't get the
11 benefit of decreases, and then Balfour would end
12 up with \$70,000.

13 BY MR. MCDONALD:

14 Q. All right. Let's look at Exhibit 32,
15 which is change order 20. Is that where it's
16 memorialized, the \$70,000 that you keep
17 referencing?

18 A. Yes. Change order 20 identifies that
19 Balfour will get the first 70 percent of any
20 monies recovered through the pursuit of claims
21 that Old North had, up to \$70,000, although the
22 claim amount that you see here, Old North's claim
23 is \$1,139,509, which isn't the amount that we
24 were just referring to previously of \$1,097,000.
25 I assume the amount must have been modified at

1 some point in time, but I don't have any of that
2 documentation.

3 Q. And can you read -- publish into the
4 record the final sentence of paragraph 1?

5 A. Are you referring to the paragraph that
6 the final sentence is underlined?

7 Q. Yes, ma'am.

8 A. Notwithstanding the foregoing, both
9 parties reserved their respective rights as
10 specified in the joint defense agreement dated
11 June 19th, 2019.

12 Q. And then if you would publish the second
13 paragraph in toto, and please note when there's a
14 portion that is stricken.

15 A. The next paragraph. This change order
16 constitutes full and complete settlement of any
17 and all costs referred to and/or described herein
18 including, but not necessarily limited to all
19 applicable taxes, insurance, bond, delivery,
20 supervision, overhead and profit, labor, labor
21 impacts, materials, changes, delays, acceleration
22 and inefficiency or any claims thereof, and the
23 subcontractor hereby waives any and all claims
24 for such items associated with or related to the
25 work covered by this change order, all previous

1 change orders, and base subcontract agreement,
2 and all conditions incurred to date.

3 Then the last sentence, which is
4 stricken says, notwithstanding the foregoing,
5 both parties reserve their respective rights as
6 specified in the joint defense agreement dated
7 June 19, 2019.

8 Q. So in the second paragraph, the final
9 sentence is struck through?

10 A. Correct.

11 Q. And then initialed?

12 A. And initialed.

13 Q. All right. There's no more until the
14 green delay column, correct? We covered all of
15 them.

16 A. Let me get mine because I can't see
17 yours.

18 Q. I'm sorry.

19 A. Yes, there's only three months.

20 Q. Okay.

21 A. The amount for BBC, the \$12,000 for
22 Lithko, and the million dollars for Old North
23 State Masonry.

24 Q. Okay. All right. Move over to -- and I
25 believe you touched on this, so we don't have to

1 spend a lot of time on it, the miscellaneous
2 claims and interests. Were you given any backup
3 documentation on the calculation of the -- we'll
4 start with interest.

5 A. Well, no. There's no segregation
6 between whether the amounts shown here are a
7 miscellaneous claim or interest. I wasn't given
8 any backup documentation, and I was not able to
9 just back into it using -- you know, trying to
10 develop relationships between the numbers.

11 Q. And do you know what a miscellaneous
12 claim is?

13 A. Only generically from knowing what the
14 two words mean separately, but I don't know what
15 that means.

16 Q. You don't know how it relates to this
17 column?

18 A. No. I don't know if there were claims
19 that are outside of RCOs, and now they're
20 included in that column or what that would be.

21 I would assume that, because the numbers
22 in this column are bigger when the other claims
23 for those subs are bigger, that the majority of
24 it is probably related to interest versus
25 miscellaneous claims, but I don't know for sure.

1 Q. Okay.

2 A. But I think I pointed out yesterday the
3 illogical relationship of asking for interest on
4 claims that BBC has not paid and that Library has
5 paid portions of.

6 In addition, I think there was prior
7 testimony regarding whether interest accrues when
8 the pay application of the claim hadn't been
9 certified by the architect. But from a
10 mathematical standpoint, I can't get there.

11 Q. Okay. And you just mentioned that. If
12 you would -- do you still have Exhibit 56
13 available? I think it might be to your right.

14 A. What is it?

15 Q. It is the contract documents.

16 A. Yes.

17 Q. Okay. If you would, Ms. Hadley, could
18 you turn to 13.6 of the 201.

19 A. Okay. I'm there, 13.6 interest.

20 Q. Okay. Would you publish that section,
21 please?

22 A. Payments due and unpaid under the
23 contract documents shall bear interest from the
24 date payment is due at such rate as the parties
25 may agree upon in writing or in the absence

1 thereof, at the legal rate prevailing from
2 time-to-time at the place where the project is
3 located.

4 Q. And under this contract, when is a
5 payment due?

6 A. I believe it's either 30 or 60 days
7 after the architect certifies the payment
8 application.

9 Q. Okay. And has the owner paid all
10 certified pay applications in this action or with
11 regard to this project?

12 A. Yes, and some of those amounts are on
13 the board.

14 Q. Let's go over to the gray section here.
15 Were you provided any backup associated with the
16 summary judgment section, other than the numbers,
17 the actual numbers themselves?

18 A. No, no. There was no backup
19 documentation provided for the amounts in the
20 gray columns.

21 Q. And yesterday, you testified about your
22 conversation with Mr. Simonton and the back
23 charges that still have to shake out in the
24 future, right?

25 A. Correct.

1 Q. And was that in reference to this
2 section here? Is that the context -- I don't
3 want to take it out of context. You tell me if
4 that is the context.

5 A. When we had that phone call, this claim
6 hadn't been prepared in this manner, and I was
7 actually advocating for this change because what
8 was being claimed previously was different RCOs
9 and different amounts that those subcontractors
10 had wanted, but given that they're out of
11 litigation and amounts had been either settled,
12 like Quantum.

13 Quantum had received \$175,000 from BBC,
14 and they're out. Or other subcontractors have
15 received partial summary judgment or full summary
16 judgments, and those amounts would be the more
17 proper amount to include now as the amount that
18 BBC wants to get reimbursed because that would
19 seem to me the amount that BBC would end up
20 having to pay.

21 So I said, why don't you use summary
22 judgment amounts versus these old amounts that
23 you have, you know, in your claims.

24 MR. HILDEBRAND: Objection, Your
25 Honor. She can't -- the issue is, what is

1 Balfour's exposure. Unless -- and she's
2 testifying to a legal conclusion as to what the
3 legal rights of the parties are relative to the
4 settlement agreements that these subcontractors
5 have entered into.

6 We have to look into each one. Were
7 there assignments? Were there not assignments?
8 Did they dismiss all claims with prejudice and
9 they have no further claims, or do they still
10 have potential ones to make? I think she's going
11 beyond her realm of expertise.

12 MR. MCDONALD: He just said it, do
13 they still have potential claims to make. That's
14 all she's -- that's what she's referencing.

15 THE COURT: All right. I'm going
16 to allow it. I understand the argument.

17 MR. MCDONALD: Okay.

18 THE WITNESS: My point being that,
19 the claim wasn't prepared in this manner, and
20 apparently, BBC agreed with me because then the
21 subsequent claims that were done in the second
22 week of the trial now do include summary judgment
23 amounts versus the amounts that were previously
24 in there that I was criticizing.

25 So it appears, like I said, with the

1 grayed out areas, those amounts -- there used to
2 be amounts there, and I was talking to
3 Mr. Simonton and Mr. Casey about the fact that
4 that was inappropriate.

5 MR. HILDEBRAND: Objection, Your
6 Honor. Hearsay.

7 THE COURT: That's not hearsay, but
8 I do want to find out, was it done in lieu of or
9 in addition to, I guess, is where my inquiry
10 would be.

11 THE WITNESS: It was done in lieu
12 of. So the old amounts for those subs are now
13 grayed out. And there's no amounts being claimed
14 in the gray shaded cells, and instead, they're
15 being claimed as a base summary judgment amount.

16 THE COURT: That's been issued.

17 THE WITNESS: And I thought that
18 was an improvement because that would, in my
19 mind, more represent what BBC might have to pay.

20 Again, Mr. Simonton did explain to me
21 that that might not be the amount that they have
22 to pay because they are still assessing back
23 charges against those subs. And now I'm also
24 learning from Mr. Hildebrand that there are other
25 issues that may be happening once the -- whatever

1 the joint defense prosecuting tolling agreement
2 goes away, and those issues have to be resolved
3 with those folks.

4 But ultimately under a GMP contract,
5 what should be called cost of the work and what
6 should be reimbursed to BBC is the amount that
7 BBC actually has to pay, assuming those costs
8 meet the definition of cost of the work in
9 section 6 of the A133 contract.

10 So given that, for instance, Quantum is
11 going to receive \$175,000 as a settlement that
12 they made with BBC, not a motion for summary
13 judgment or a ruling, that, to me, would be the
14 amount that you would include in your claim as
15 now, you know, having to be paid to them.

16 THE COURT: All right.

17 THE WITNESS: Assuming it does get
18 paid, then it will become cost of the work once
19 it's paid.

20 BY MR. MCDONALD:

21 Q. And now, these summary judgments were
22 granted against Balfour Beatty, correct?

23 A. Correct.

24 Q. Okay. And was there any distinction
25 made between the monies that the subcontractor

1 was seeking against Balfour Beatty as a result of
2 the conduct of Balfour Beatty or the amounts that
3 it was seeking with allegations as a result of
4 the conduct of the owner?

5 MR. HILDEBRAND: Objection, Your
6 Honor. We would have to -- if she wants to
7 introduce each one of those documents, that's
8 been a big point from their perspective.

9 If we're going to refer to documents,
10 then let's refer to the actual documents for her
11 to speculate and try to testify about each one of
12 those documents and what they -- in terms of that
13 they convey, then I think we need to go through
14 those.

15 THE COURT: Yeah. I was confused
16 by the question as well, so.

17 MR. MCDONALD: I can clear it up.

18 THE COURT: All right.

19 BY MR. MCDONALD:

20 Q. Was any documentation provided to you to
21 backup any of these numbers in the summary
22 judgment? Just the summary judgment line item in
23 the summary judgment gray box.

24 A. No.

25 Q. Okay. All right. There is also two

1 things in here called attorney's fees and costs
2 and prejudgment interest. Do you see that?

3 A. I do.

4 Q. Could those ever been cost of the work
5 under the contract in this -- in this action
6 between the contract between Balfour and Library
7 Associates?

8 A. It's remotely possible, but unlikely
9 that attorney's fees and costs or prejudgment
10 interest would be an eligible cost of the work
11 under the contract.

12 Again, I do believe or I have read that
13 BBC has filed motions against those summary
14 judgments, and in those, they have also addressed
15 that attorney's fees are not appropriate in that
16 ruling, and I agree.

17 Q. All right. Now, Cook and Boardman, are
18 they up there for -- in the summary judgment
19 column?

20 A. Yes. Cook and Boardman has a summary
21 judgment amount in this document of \$257,651.39.

22 Q. And then, if you go over that, it says,
23 SJ full, right?

24 A. It says that, yes.

25 Q. Has Library Associates paid any money to

1 Balfour on behalf of Cook and Boardman that
2 Balfour has not been paid for?

3 A. I'm sorry, can you say that again?

4 Q. Has Library Associates paid Balfour any
5 money for Cook and Boardman's work that Balfour
6 has not been paid by Cook and Boardman?

7 A. Yes. Library Associates paid a Cook and
8 Boardman invoice of \$102,000 that BBC had
9 incorporated into pay application 40, and that
10 amount was not then -- BBC did not transfer those
11 funds to Cook and Boardman. It was their change
12 order number 12.

13 Q. Okay. And did the owner fund pay
14 application 41, Balfour pay application 41?

15 A. Yes. The owner paid pay applications 41
16 and 42.

17 Q. And that was \$102,000 that was paid to
18 Balfour, but not paid to Cook and Boardman?

19 A. Yes. It was the full amount of that
20 change order. I don't remember the smaller
21 dollar amount, but it's \$102,000, which I believe
22 is what's remaining on the lien.

23 Q. All right. So Cook and Boardman lien
24 for money that Library had paid Balfour, but
25 Balfour had not paid Cook and Boardman?

1 A. Correct. Cook and Boardman liened for
2 \$360,000. The ruling was that, that they got a
3 partial summary judgment for \$257,000, the amount
4 that you see on the board.

5 It says summary judgment full on that
6 document, but it was actually partial because I
7 read the transcript and the issue that the Cook
8 and Boardman attorney noted is that change order
9 12 had not been approved, so that amount was not
10 awarded to them.

11 Change order 12 actually was approved,
12 and it was incorporated through an OCO into the
13 contract and then billed with pay application 40
14 and Library Associates paid that amount to BBC.
15 So the issue --

16 Q. What's the -- oh, I'm sorry.

17 A. The mathematical problem here is that,
18 while I appreciate maybe that BBC took that
19 \$102,000 and didn't put it on the board, because
20 the lien is against the owner, now, the owner is
21 going to have to pay potentially that amount.

22 It already paid the 102 before, and now,
23 if they get an award on their lien, Library will
24 have to pay the 102 again to Cook and Boardman
25 directly. And then BBC will have received the

1 \$102,000, but won't have to disburse it.

2 MR. HILDEBRAND: Objection, Your
3 Honor. And I just would like to restate my
4 grounds.

5 Listen, if they -- just like with the
6 audit that she did earlier, if she has legitimate
7 questions about some of the payments, okay, bring
8 them to our attention, bring them to us in
9 advance. And there were some in the audit that
10 we said, yeah, we agree with you that those were
11 legitimate.

12 These, if she has opinions, then she
13 could give those to us -- well, she said she got
14 them at -- take best case scenario, in September.
15 Give us these opinions under the discovery rules.
16 They have to supplement them.

17 And then we have a chance to respond to
18 them. We have a chance to get the underlying
19 documents and respond to them. For her to come
20 in here now and offer opinions for the first time
21 is against the rules. Okay?

22 THE COURT: Well, let me play
23 devil's advocate for you for a second,
24 Mr. Hildebrand. Had your client done the audit
25 under the contract, her whole testimony and the

1 basis for her testimony would be totally
2 different, would it not?

3 MR. HILDEBRAND: But she did the
4 audit.

5 THE COURT: Well, I realize that,
6 but I've seen a contract that says your client
7 was supposed to do an audit. I have heard no
8 testimony from Balfour Beatty of an audit.

9 MR. HILDEBRAND: Well, if the audit
10 was --

11 THE COURT: There is a contract.
12 It's in black and white. Her job initially
13 should have been to come in and review that
14 audit. That would have been fairly simple,
15 fairly straightforward. That was not done. So
16 she had to come in with basically a blank slate
17 and go back through and do this whole thing
18 herself.

19 MR. HILDEBRAND: Well, I don't
20 believe so, Your Honor, because what happened was
21 each --

22 THE COURT: Y'all are going to have
23 to answer that question for me before we resolve
24 this case, I can tell you that. That's one issue
25 that I've got. It's big time in my mind as to

1 how we got to where we got to. She's the one
2 that's putting the numbers on the table.

3 Now, y'all put numbers up there, and I
4 understand that, but her job is go back and try
5 and reconcile those numbers is really from an
6 audit standpoint. That's all she is really
7 trying to do, explain the basis for those
8 numbers. That's what she's doing in her
9 testimony.

10 MR. MCDONALD: Right. And to that
11 point, Your Honor, there -- as you may recall,
12 during the audit process, there are two --
13 there's numbers that get audited as part of the
14 GMP, and then there's an entirely separate basket
15 of claims and delays and such that are not part
16 of the audit provision, and we went through that.

17 So that is an issue that we -- so what
18 she was auditing were the payments that were --
19 came under the GMP and the contract that was
20 agreed upon. So that's a completely separate
21 thing that these claims -- and there has been a
22 lot of intermingling in the discussion with her.

23 And for each of those pay applications,
24 there -- we can certainly discuss it, but they
25 were in effect audited because each one went

1 through many iterations, went through a paper.
2 There would be questions that were asked by the
3 architect, and all the information was provided
4 to their satisfaction.

5 So that, I think, is the simple answer.
6 We can certainly re-call our people to answer
7 that question, but I think that that's how, for
8 each of those pay applications, and that's what
9 she was audited, the pay applications that were
10 made.

11 THE COURT: Okay. All right. Just
12 for my edification, when I do the -- because I
13 recall the Cook and Boardman, and I don't recall
14 the attorney's name. It was a female attorney
15 from Charlotte, as I recall.

16 MR. MCDONALD: Ms. DeFranco.

17 THE COURT: What was her name?

18 MR. HILDEBRAND: Sarah DeFranco.

19 THE COURT: Sarah DeFranco, yeah.

20 So when I do the simple math, the claim was 360.
21 I awarded 257. That was partial summary
22 judgment. The difference, by my math, is
23 103,000. So we're close to 102.

24 My recollection was that was in dispute.
25 That's why they didn't get summary judgment, so

1 just so y'all know. So that was back in the back
2 in the recesses of my mind. Okay? So I'm glad
3 we got some agreement on some of that.

4 MR. HILDEBRAND: Right. Is this a
5 good time to take five, Your Honor?

6 MR. MCDONALD: I've got one more on
7 this board.

8 THE COURT: All right. Let's do
9 one more, and then we can be finished with this
10 one.

11 MR. MCDONALD: And it will probably
12 take 10 minutes. Is that all right,
13 Mr. Hildebrand?

14 MR. HILDEBRAND: Yeah.

15 BY MR. MCDONALD:

16 Q. All right. Is Watson up there on this
17 summary judgment?

18 A. Watson Electric does have an amount in
19 this summary judgment section, three months
20 actually. The summary judgment amount is
21 \$921,671.39.

22 Q. Okay. Take a look, if you would, it's
23 to your left, pay application 40. It is
24 Defendant's Exhibit 5. And what is the pay
25 period on Defendant's Exhibit 5, pay application

1 40?

2 A. I'm sorry. Can you say that question
3 again, please?

4 Q. Sure. What is the pay period on pay
5 application 40, which is Defendant's Exhibit 5?

6 A. The period is from July 1st, 2018 and to
7 July 31st, 2018.

8 Q. So July 2018?

9 A. Yes.

10 Q. All right. And was pay application 40
11 funded by the owner?

12 A. Yes, it was.

13 Q. And does it include funds that have a
14 Watson pay application in there?

15 A. Yes. There's an amount that BBC has
16 included for Watson, and Watson also has its own
17 payment application number 32 as part of the
18 supporting documentation.

19 Q. Okay. And as of that time, what is the
20 amount left on the contract in July of 2018 for
21 Watson?

22 A. Well, the amount left on the contract as
23 far as work to be done is negative because the
24 contract was 4,505,000, but the work completed
25 and stored to date was 4,507,000 roughly, in

1 rounding by the thousands.

2 But given that they still had not been
3 paid their retainage of \$450,685, the net amount
4 on the cover sheet of the payment application
5 notes that the balance to finish including
6 retainage would be \$449,451.

7 Q. Okay. So \$449,451 is the amount left on
8 the contract based upon Watson's accounting?

9 A. Correct.

10 Q. As of July of '18?

11 A. Their payment application is dated,
12 signed July 10th, 2018.

13 Q. Okay. And that \$449,000 would be
14 representative of just the retainage?

15 A. It is actually a couple dollars less
16 than retainage because of the fact that they had
17 billed a thousand dollars more than their actual
18 contract value.

19 Q. Okay. And is there a claim and lien
20 waiver attached to that?

21 A. There is a --

22 MR. TERRY: Your Honor, I object.

23 The Court has already issued an order related to
24 Watson's lien claim, and in that order, it says,
25 all claims between Watson and Library related to

1 or arising out of Watson mechanic's lien are
2 resolved; therefore, I object, that this is
3 irrelevant.

4 THE COURT: Okay. That one's
5 subject to the motion to reconsider as well?

6 MR. TERRY: No, Your Honor.

7 THE COURT: If y'all are out of the
8 case, why are you participating?

9 MR. TERRY: Your Honor, we're a
10 defendant and our lien payment hasn't been
11 resolved.

12 THE COURT: Got it.

13 MR. MCDONALD: And it's a lien and
14 claim waiver as it relates to Balfour, and this
15 predates that. I'm just pointing that out, as it
16 relates to summary judgment. I'll get there real
17 quick.

18 THE COURT: All right.

19 MR. MCDONALD: If I can get some
20 leeway on it.

21 THE COURT: All right. I'm going
22 to allow it. Go ahead.

23 BY MR. MCDONALD:

24 Q. Is there a lien and claim waiver
25 attached to this pay application by Watson?

1 A. Yes, there are two.

2 Q. And what date does it run through?

3 A. It runs through the 31st of July, 2018.

4 Q. Okay. And does it have any exceptions?

5 A. Watson -- I reviewed all of Watson's
6 payment applications and their lien waivers.
7 They never identified any reservations to their
8 lien waivers.

9 Q. Okay. And claim waivers, is that
10 inclusive of claims against the contractor as
11 well?

12 A. In the verbiage of the waiver, yes.

13 Q. Okay. So as of July '18, the amount in
14 Watson's pay application that was left was
15 \$449,451; is that right?

16 A. That's correct.

17 Q. Okay. And up here on Plaintiff's
18 Exhibit 329, in summary judgment, they've got
19 \$921,671.39; is that right?

20 A. That's correct.

21 Q. Okay. So some \$500,000, plus more,
22 something like that?

23 A. Not quite.

24 Q. Okay. Now, of the \$449,451, did Library
25 pay any money to BBC that BBC didn't get around

1 to paying to Watson?

2 A. Yes. I believe in my audit report, I
3 identified \$206,000 that had been paid to Library
4 Associates for Watson payment applications, but
5 BBC did not transfer that money to Watson.

6 Q. \$206,000?

7 A. It is in my report. I don't remember
8 the exact amount.

9 Q. We got 206,540. Does that sound about
10 right?

11 A. It does sound right, yes.

12 Q. Okay. Any reference to that number up
13 here on Plaintiff's Exhibit 329, the amount that
14 had been paid to Balfour, but not paid to Watson?

15 A. No. In fact, if Watson does receive the
16 full amount that's noted in gray there,
17 obviously, you wouldn't put the full amount as a
18 claim against Library because Library has already
19 paid \$206,000 of that, I believe --

20 Q. And there's a waiver --

21 A. -- in the summer of 2018.

22 Q. There's a waiver for all of \$449,000,
23 right?

24 A. Yes. There's a waiver for the full
25 contract value.

1 Q. Do you have an opinion, to a reasonable
2 degree of accounting certainty, as to whether or
3 not the claim documents submitted in September of
4 2021 by BBC are reliable?

5 MR. HILDEBRAND: Objection, Your
6 Honor, for all the reasons prior -- previously
7 stated. They have not supplemented their
8 discovery responses under rules of civil
9 procedure, nor under the scheduling order. None
10 of the information that they're relying on is
11 recent information except for the summary
12 judgments.

13 So I think she's trying to render an
14 opinion that's improper, and it's also just too
15 general an opinion to go to the whole document.
16 If there are particular items that they -- that
17 she has opinions on, that's fine, but certainly
18 not the entire thing.

19 THE COURT: Overruled. You can
20 answer.

21 THE WITNESS: Sorry. Can you
22 repeat the question?

23 BY MR. MCDONALD:

24 Q. Did you have an opinion, to a reasonable
25 degree of accounting certainty, whether or not

1 the claim documents submitted in September of
2 2021 by BBC are reliable?

3 THE COURT: Objection noted. Go
4 ahead.

5 THE WITNESS: If I might add that
6 it's to an accounting and auditing degree of
7 certainty because sampling comes in as an audit
8 concept first and then an accounting concept
9 primarily.

10 So given the magnitude of errors and the
11 fact that there's a lot of money on there that
12 Library has already paid, and there is a
13 significant amount of money on there that's
14 duplicative of other amount on there, you can't
15 rely on this document to make payments to BBC
16 because I've identified duplication errors and
17 unsupported amounts that are too significant to
18 rely on it in part or in whole.

19 MR. MCDONALD: I think it's a good
20 time to take a break.

21 THE COURT: All right. Very good.
22 Let's take a 10-minute break.

23 (A recess transpired.)

24 MR. MCDONALD: May it please the
25 Court.

1 BY MR. MCDONALD:

2 Q. Ms. Hadley, if you could get 56 in front
3 of you, Plaintiff's Exhibit 56.

4 A. Is it the contract?

5 Q. Contract, yes.

6 A. Okay. I'm there.

7 Q. Okay. And in the 201, if you would turn
8 to section 9.6.3, and when you get there, if
9 you'd publish that section.

10 MR. HILDEBRAND: I'm sorry, what?

11 MR. MCDONALD: 9.6.3.

12 MR. HILDEBRAND: Of the 133?

13 MR. MCDONALD: Of the 201.

14 THE COURT: 201? Okay.

15 THE WITNESS: 9.6.3. The architect
16 will, upon request, furnish to a subcontractor,
17 if practicable, information regarding percentages
18 of completion or amounts applied for by the
19 contractor and actions taken thereof by the
20 architect and owner on account of portions of the
21 work done by such subcontractor.

22 BY MR. MCDONALD:

23 Q. Thank you. All right. Ms. Hadley, your
24 testimony yesterday was that there were two
25 categories of costs of the work and GMPs in this

1 contract, right?

2 A. Correct. General conditions and what I
3 call primary.

4 Q. And what you call primary, okay. And
5 what I would like to do now is -- have you made a
6 determination as to reasonable degree of
7 accounting certainty -- well, let me back up.
8 What is the first -- is the starting point the
9 eligible cost of the work?

10 A. You have to do both numbers, and you can
11 do either one first. You can determine the cost
12 of the work -- eligible cost of the work or you
13 can determine the final GMPs for both sections of
14 the contract, and then ultimately, you compare
15 them.

16 Q. Okay. So let's start with the eligible
17 cost of the work. Have you made a determination,
18 to a reasonable degree of accounting and auditing
19 certainty, as to the eligible cost of the work
20 for the general conditions portion?

21 A. Yes.

22 Q. Okay. And what is that number?

23 A. Sorry, you asked me for the eligible
24 cost of the work for the general conditions
25 portion of the contract?

1 Q. For the general conditions portion, yes,
2 ma'am.

3 A. I'm sorry, I'm going to have to make it
4 a little bit more complicated. The total
5 eligible cost would be \$6,243,537.

6 So I just want to put an asterisk on
7 that amount to say that, within the AIA section
8 of the contract, it does state that any amounts
9 that exceed the GMP, actually then change their
10 identity and don't become eligible costs of the
11 work. So this is the amount before you compare
12 it to the GMP, and if there is any overages, it
13 gets re-labeled, re-classified.

14 Q. Understood. Just got to start
15 somewhere, right?

16 A. Correct.

17 Q. Okay. And do you have an opinion as to
18 a reasonable degree of accounting certainty as to
19 the eligible cost of the work under the primary
20 portion of auditing?

21 A. Yes.

22 Q. Of accounting and auditing certainty?

23 A. Yes.

24 Q. What is that opinion? What is that
25 number?

1 A. \$55,544,734.

2 Q. Okay. Now, let's talk about the GMP
3 numbers. Do you have an opinion, to a reasonable
4 degree of accounting certainty and auditing
5 certainty as to the guaranteed maximum price, the
6 GMP for the general conditions portion of the
7 contract?

8 A. Yes. For the general conditions portion
9 of the contract, the -- I took the highest value
10 I could find on pay app 45 for the GMP, which is
11 \$3,319,212.

12 Q. \$3,319,212; is that right?

13 A. Correct.

14 Q. Okay. And do you have an opinion as to
15 a reasonable degree of accounting and auditing
16 certainty as to the GMP for the primary portion?

17 A. Yes, that amount is \$59,323,601.

18 Q. Okay. All right. And have you done a
19 final reconciliation based upon eligible costs of
20 the work and the guaranteed maximum price
21 numbers?

22 A. Yes.

23 MR. HILDEBRAND: Objection, Your
24 Honor. She's -- again, we're -- she's already
25 testified. She's already been required to

1 provide her final opinions, and to the extent
2 that any of these opinions differ from the
3 opinions that she stated within the scheduling
4 order as required -- all of this part of the
5 audit that she did.

6 And she issued an audit report dated
7 December 10, 2020. Under the rules, if she's
8 changing any of those opinions into that,
9 whatsoever, then we're entitled to notice that
10 and under your scheduling order.

11 So if he wants to have her read the
12 audit report, I think that's entirely appropriate
13 because that's what she did was issue an audit.
14 But to the extent that she testifies any
15 differently than what she's previously published,
16 I object.

17 THE COURT: All right.

18 MR. MCDONALD: This is the same
19 issue as --

20 THE COURT: Yeah. Objection noted,
21 but overruled. All right.

22 BY MR. MCDONALD:

23 Q. Do you have an opinion, to a reasonable
24 degree of accounting and audit certainty, of the
25 final reconciliation of the eligible costs of the

1 report.

2 Q. Okay. And how much was that amount?

3 A. Those costs were -- which costs are you
4 referring to? She had two groups of costs.

5 Q. Yes. And I'm trying to -- we're going
6 to do --

7 MR. MCDONALD: Your Honor, just for
8 your edification, I'm trying to segregate the
9 ones that came into evidence. That's the ones
10 I'm talking about now, and then I will ask your
11 permission to proffer the rest of it.

12 THE COURT: All right. Okay.

13 BY MR. MCDONALD:

14 Q. I'm referring to the BBC contract costs
15 incurred by Library.

16 A. The BBC contract costs for painting and
17 punch lists and those sort of things --

18 Q. Yes.

19 A. -- was \$2,256,764.

20 MR. MCDONALD: Okay. Your Honor,
21 at this time, I would like to proffer the other
22 number.

23 THE COURT: All right.

24 MR. MCDONALD: So the proffer will
25 begin now.

1 before. I took your deposition, and I've got
2 some questions for you. You said that you -- you
3 went through quite a bit of testimony about your
4 background and what you do as a professional,
5 right?

6 A. Yes.

7 Q. Right. And what you do -- what you
8 primarily do is you audit jobs at the end of the
9 job to determine whether the costs are
10 appropriate or not. Is that a fair statement?

11 A. That is something that I do. It isn't
12 the substantive part of my work right now.

13 Q. Okay. But what you do and what you were
14 asked to do at this -- let me ask you this:
15 Generally, what you were frequently asked to do
16 is, after a project is completed, you were
17 approached by an owner and/or asked, look, would
18 you mind, we've got a GMP contract. We would
19 like for you to do an audit to determine whether
20 the GMP cost that the contractor is alleging are
21 appropriate or not and should be paid, correct?

22 A. That is something that I do, yes. More
23 often, I'm asked to provide an opinion on claims
24 or proposed change orders.

25 Q. Okay. Well, but let's make sure that we

1 understand. There are two clarifications here.
2 There's an audit of the GMP, which is what we
3 went through in this case at length with the
4 Judge where there is a provision in the A133 for
5 an audit that would be done during the job and
6 then at the end of the job, and that is to
7 determine the allowability or the recoverability
8 of the GMP costs, correct?

9 A. That is to identify total project costs,
10 the eligible costs of the work. Then you compare
11 that to any revisions to the GMP and take the
12 lesser of the two of those.

13 Q. Right. Right. So what you're doing is
14 you're looking at, what is the -- if it's a GMP
15 contract, and that's what we have here. You have
16 to look at the contract documents to determine
17 what is the agreed upon GMP.

18 You look at that. Then you look at the
19 costs that have been submitted by the general
20 contractor, and you make a determination of which
21 of those costs are eligible, incurred costs under
22 the -- for the GMP audit analysis. Is that a
23 fair statement?

24 A. I believe that is generally true, yeah.
25 I think that is a very general statement to

1 describe the typical process.

2 Q. Right. So you have one -- you have your
3 audit that's done under the contract to determine
4 the recoverability of the GMP cost, and then, if
5 you were asked, you can do a separate analysis if
6 there are claims that are outside of the contract
7 GMP, correct?

8 A. No. I think that that would
9 mischaracterize things. If there's a claim
10 within a GMP contract, you can't do the first
11 step without the second step because we have to
12 keep reminding ourselves that the GMP contract is
13 a cost, reimbursable contract with the GMP
14 ceiling.

15 So it would be -- it wouldn't make any
16 sense to only take a look at some of the costs
17 now and compare those to the -- where the GMP is
18 right now, kind of an interim basis, and then
19 look at claims without going back through the
20 process of incorporating the eligible cost of the
21 work from the claims and then determining how
22 much of those claims would actually increase the
23 GMP.

24 Some of the claims don't have anything
25 to do with the GMP because it's part of the

1 contract balance, for example, but other things
2 like a request for a change order that has yet to
3 be approved by the owner would increase the GMP.

4 So to do that audit process first,
5 without evaluating the claims, would be a
6 wasteful exercise because you're going to have to
7 pull it all together in the end.

8 Q. Well, you can do that. You can get --
9 if Balfour were not making a claim for delays
10 and/or the RCOs and the claim amounts, you could
11 have simply audited the amount that was due under
12 the GMP contract at that point and made a
13 determination under the contract of which costs
14 were eligible or not. Agreed?

15 A. If there were no outstanding claims to
16 increase the GMP and there were no assertions
17 that additional costs were going to be incurred,
18 then, yes, I would agree in that hypothetical
19 situation.

20 Q. Right. And often that's what you do.
21 Often there is no claim, and you're just simply
22 asked to come in and say, the owner says, look,
23 we want to make sure that what we're being billed
24 under the GMP are allowable costs. We want you
25 to take a look at that and do an audit, and then

1 report back to us, correct?

2 A. I have done that exercise, yes.

3 Q. Right. And that's not unusual to have
4 that. Even if there's no acrimony or claims or
5 lawsuits or anything else on the job, it's not
6 unusual for an owner to say at the end, look, I
7 just want to avail myself of the audit provisions
8 of the contract just to make sure that I get it
9 vetted by an accountant, such as you, to
10 determine whether the appropriate costs have been
11 billed, correct?

12 A. Yes. I think typically a contractor
13 prepares that final accounting, produces their
14 own audit or full accounting of the project at
15 close out, and then the owner would, as you
16 mentioned, avail himself to somebody like me that
17 could take a look at what that contractor put
18 forth.

19 Q. Okay. And in the usual -- let's assume
20 that Balfour had not made a claim for delay costs
21 and the RCOs. Then you would have done your
22 audit as is referenced in Plaintiff's Exhibit
23 350. You would have done your audit to determine
24 the maximum allowable cost of the work and the
25 fee, correct?

1 A. Yeah. Yes. I mean, I think that's
2 fair.

3 Q. Right. Right. And you have that
4 ability. You can look at the GMP amount, and
5 then you can look at the cost of the work that
6 have been asserted by the contractor and make
7 that determination and tell the owner, look,
8 under the GMP, here are the costs that I think
9 are allowable under -- for payment under the
10 contract. Agreed?

11 A. Yes.

12 Q. Okay. All right. And in the usual case
13 or in a case where there aren't outstanding
14 claims, that's where your inquiry would end
15 normally.

16 You would issue your audit, telling the
17 owner, okay, I've looked at the GMP. Here is my
18 audit. Here are the costs that I do not think
19 are appropriate costs of the work, and here's
20 what I think you should pay, correct?

21 A. Yes.

22 Q. Right. And then, typically in the
23 industry -- let's assume hypothetically that the
24 contractor said that it submitted costs of the
25 work for 60 million, and your audit says it's 59

1 million, so there's a million dollar delta. Then
2 usually there's some sort of negotiation that
3 takes place between the owner and the contractor,
4 and most of them get resolved, correct?

5 A. Ultimately, most of them get resolved,
6 maybe through litigation or maybe through
7 negotiation.

8 Q. Okay. Well, some of them are resolved
9 in negotiations and some of them have to -- the
10 parties can't -- you say it's 59 million; the
11 contractor, maybe his expert says it's 60 million
12 dollars, and you can't come to an agreement and
13 it proceeds to whatever the claim resolution is,
14 right?

15 A. That may happen, yes.

16 Q. Okay. So in this case, what you did as
17 referenced in Exhibit 350 is -- well, let's look
18 at -- let's just go through it sequentially. On
19 page 1, are you with me?

20 A. Yes.

21 Q. Okay. This report contains the results
22 of Cotton and Company's evaluation of the
23 guaranteed maximum price contract between Library
24 Associates, LLC, which you referred to as Library
25 or owner before, and Balfour Beatty Construction,

1 LLC, BBC, related to BBC's services as the
2 construction manager as constructor for the hotel
3 at Marion Square hotel, correct?

4 A. Yes.

5 Q. All right. And then skipping down to
6 the last sentence of the third paragraph on the
7 bottom, we performed our analysis in accordance
8 with the American Institute of Certified Public
9 Accountants' statement on standards of consulting
10 services, correct?

11 A. Standards for consulting services, yes.

12 Q. Okay. And then what you did was, on
13 page 15, if you will turn to that, schedule B.
14 Are you with me?

15 A. Yes.

16 Q. All right. It says, schedule of costs
17 of work, fee, GMP values and paid amounts. So
18 this is the portion of the audit that you
19 performed under the GMP aspect of the contract,
20 correct?

21 A. I don't think I understand that
22 question. Say that again.

23 Q. This is where you looked at the GMP
24 value of the contract, and you looked at the
25 maximum allowable cost of the work of the -- and

1 fee, and you rendered an opinion and put in this
2 chart as to, under the GMP aspect of the
3 contract, what you felt was more appropriate
4 costs, correct?

5 A. The way you say it isn't correct. What
6 exhibit -- excuse me, what schedule B does, is it
7 compares the eligible costs of the work, which is
8 on the previous schedule, and simply compares it
9 to the current GMP.

10 Q. Right.

11 A. And you had mentioned that I evaluated
12 the GMP. I didn't in that instance, but I was
13 comparing the eligible costs of the work to the
14 current GMP, and then you're basically just
15 identifying the lesser of those two.

16 Q. Right.

17 A. As long as we appreciate -- because you
18 said the term evaluate the GMP, but we read the
19 paragraph beneath the table that clearly
20 specifies yet another scope limitation of this
21 audit, which is that I didn't modify the GMP for
22 any of the entitlement issues.

23 And the reason that that's so important
24 is because there's costs in eligible costs of the
25 work on row 1 of that schedule. For instance,

1 BBC's payment to Gulf that are currently not in
2 the GMP because what BBC was saying is, look, we
3 had to keep paying Gulf even though Library
4 didn't approve the RCO or increase the GMP for
5 that work. But we are going to go ahead and keep
6 paying them.

7 So their costs are ineligible costs of
8 the work, but the contract has yet to be modified
9 for the GMP. So I had to put that scope
10 limitation in there along with the seven other
11 scope limitations that are extremely significant
12 in the beginning of this report, to make sure
13 that everybody realized that this is a very
14 interim report with very limited information.

15 Q. Well, Balfour has not been provided any
16 report by you subsequent to this report. Agreed?

17 A. Only orally through the phone calls that
18 the Judge recommended that we have in September,
19 where I identified the weaknesses, and they've
20 been making changes since then.

21 Q. So the answer is, no, you have done no
22 other -- where this is listed as the GMP contract
23 evaluation, you have done no other report or GMP
24 contract evaluation such as this. Agreed?
25 Because I haven't seen it.

1 that that, you know, hadn't been approved.

2 Q. Okay.

3 A. So, yes, I was taking the GMP as it --
4 the two parties had agreed that it was at that
5 time.

6 Q. Right. There are certain documents that
7 increased the contract GMP. It's a formal
8 increase. Agreed? The GMP can be formally
9 increased, and that's typically through OCOs or
10 change orders that are agreed upon, correct?

11 A. Correct.

12 Q. Right. And what you did was, you looked
13 at what the parties had agreed the GMP was on
14 this project, and you said, okay, for my audit
15 report and after conferring with your clients and
16 looking at the documents, you included that GMP
17 cost of what? Tell me what that is, Ms. Hadley.

18 A. I'm sorry?

19 Q. What was the GMP that you used in your
20 report?

21 A. I believe the GMP that I used in my
22 report was -- and I would like to actually double
23 check to say it right -- either from pay app 42
24 or from pay app 45.

25 Q. Okay. And what was that amount?

1 A. Which GMP do you want?

2 Q. The pay app, the GMP that you used for
3 schedule B.

4 A. I'm just -- I'm not quite understanding
5 you. So there's each -- the contract has two
6 GMPs, one for general conditions and one for
7 primary.

8 Q. And what is that total?

9 A. The total with or without the fee?

10 Q. With the fee.

11 A. The total amount of the GMPs and the
12 fees that I reported on schedule B in my report
13 is \$65,171,688.

14 Q. All right. The actual eligible costs of
15 the work at the time that you rendered this
16 report and this opinion was 60 -- so you went
17 back through, and you looked at all the costs
18 that had been provided to you by Balfour. And
19 you looked at the contract, and in your view, the
20 eligible costs were \$65,745,441, correct?

21 A. As long as, again, you continue to read
22 this with the seven very significant scope
23 limitations in the beginning of the report that
24 identified the documentation that BBC had yet to
25 provide.

1 Q. Well, when you issued this report,
2 Ms. Hadley, this was done after a major exchange
3 of information. You had requested all sorts of
4 information from Balfour Beatty job costs -- what
5 you wanted to do was to be -- make yourself
6 satisfied that, when you issued this report, that
7 it was accurate, correct?

8 A. Right. And I was still unsatisfied that
9 I had to issue the scope limitations, and there's
10 not seven, there's only five, that are listed on
11 page 2 and page 3 of this report. They were so
12 significant that I had to identify each one
13 individually to talk about the documentation that
14 BBC did not provide.

15 And for example, to talk about the fact
16 that the change order log did not support the
17 change orders and all of the different issues
18 that we were struggling with, as further itemized
19 and discussed between the parties in many e-mails
20 between Mr. Simonton, Mr. Thompson, and I
21 regarding the lack of information that I had.

22 Q. Well, let's talk about the costs under
23 the contract. There are certain costs that are
24 allowable under the contract and certain costs
25 that are not, correct?

1 A. Correct.

2 Q. Right. And what you did was, you
3 reviewed all of the -- you said, Balfour, what I
4 want you to do is to show me the costs that you
5 contend are -- make up the current GMP of the
6 contract so that I can take a look at them,
7 correct?

8 A. No, that is not correct at all. And
9 it's not what they did because they refused to do
10 that. So what I did was, I attempted to
11 accumulate all the project costs for the project
12 so that everybody knew what the eligible project
13 costs were, and then others, not an accountant
14 like myself, could argue about what the GMP
15 values should be, increase for change orders,
16 increase for delay plans, up or down, whatever
17 the litigation issues are.

18 And once that litigation was over, you
19 could simply take the costs that I'd already
20 taken a look at and compare it to the GMP and do
21 that simple lesser of and fee stuff at the
22 bottom.

23 But when I went to BBC and said, what
24 are the project costs? They said, look, we're
25 only going to give you this job cost report.

1 Here's all the costs that we put into this job
2 cost report. I said, well, that's not the whole
3 project. That's only what you have in this job
4 cost report.

5 And in addition, there are many, many,
6 many costs -- many costs in the job cost report
7 that don't have anything to do with this current
8 GMP, the Gulf being just one anecdote that I'm
9 talking about, at any time Library has incurred a
10 cost but hasn't increased the GMP or modified the
11 GMP up or down for that issue.

12 I was in -- I was struggling with this
13 apples and oranges comparison, and that -- I
14 attempted to properly articulate it in this
15 report, the fact that this is apples and oranges.
16 In this report, in those e-mails, and in my
17 deposition with you, I tried to explain that.

18 Q. Well, all of the costs that were
19 incurred relative to the construction were
20 finalized, were they not, by the time -- by
21 the -- say March of 2019? The job was over. All
22 the costs actually incurred by Balfour were
23 finalized by then, correct?

24 A. No, that is very incorrect.

25 Q. Okay. What costs increased? What other

1 costs of the project that were allowable costs
2 increased after that time?

3 A. Well, I would hope that BBC believes
4 that some of these costs that they're claiming
5 now that they haven't yet paid will be eligible
6 costs of the work.

7 Otherwise, they will just simply be a
8 cost that has to be paid to the sub without an
9 increase in the GMP, and they won't receive
10 reimbursement for that. But the opposite is also
11 true. We have roughly 6 million dollars in
12 general conditions. We only have a 3 million
13 dollar GMP.

14 The GMP will need to be impacted for
15 delays, or maybe it won't, depending on how the
16 litigation goes, and then we will isolate just
17 general conditions, and we will compare the
18 eligible costs to the GMP as modified.

19 But I can't stress enough that the
20 general -- the job cost report that I was given
21 already includes costs that are outside of the
22 GMP.

23 Q. Okay. And --

24 A. And it's an apples and oranges
25 comparison.

1 Q. Well, let me ask you this, Ms. Hadley:
2 What documents -- what additional documents
3 existed at the -- say in March of 2019, that came
4 into existence -- actually came into existence
5 after that time that were costs of the work that
6 were allowed?

7 A. Well, all of the change orders that BBC
8 entered into with the subs, those settlement
9 change orders, would definitely impact the
10 eligible costs of the work. There were other
11 change orders, the MSI examples. I think that
12 was dated as late as 2020.

13 For instance, just last month -- or was
14 it September -- BBC entered into a settlement
15 with Quantum. That's going to be a significant
16 impact to the cost of the work. Assuming that
17 settlement is eligible, once BBC pays it, that's
18 a cost of the work.

19 Q. Okay. Well, other than the settlements
20 with the subcontractors that are at issue, what
21 other eligible costs of the work have changed, if
22 at all, from the time that substantial completion
23 was achieved?

24 A. Okay. So other than the settlements and
25 other than change orders that happened after that

1 point.

2 Q. Right.

3 A. And -- which would eliminate all of
4 those RCOs in the 270 range-ish, what other
5 costs. It's a really tough question to come up
6 with more examples, but the best one I think I
7 could come up with would be the back charges.

8 Since we know that back charges haven't
9 been assessed against all of the subcontractors,
10 while that won't be a cost to BBC, it will be a
11 reduction potentially of a cost that was paid to
12 the subcontractor. So it's going to impact the
13 eligible costs of the work.

14 The GMP has already been potentially
15 impacted by the increase to the sub that did the
16 work. But there hasn't been that corresponding
17 decrease either to the cost of the work, the GMP
18 or both for the deduction to the -- what do you
19 call it -- the back charge fee, you know, the sub
20 that caused the cost.

21 So as BBC has explained, and as you put
22 it in your motions, and as we've seen, there is
23 back charges that need to be assessed against
24 those subs. And that's definitely going to
25 impact the amount of eligible cost of the work I

1 have there.

2 The biggest dollar impact would be to
3 note that this eligible cost of the work,
4 65,745,441, millions of dollars of that hasn't
5 been paid to the subs at this point. So now I
6 understand, again through subpoenas, through your
7 motions, and through Mr. Simonton, and through
8 other documentation, that those costs that
9 haven't been paid to the subs won't be paid to
10 the subs.

11 Q. That's a supposition on your part. You
12 don't know how much might be paid to subs and
13 what they might be entitled to, do you?

14 A. I'm asserting your statement that said
15 that there were setoffs that need to be applied
16 to the subs. I'm noting that Mr. Simonton also
17 agreed that back charges have to be assessed.

18 But moreover, this amount included the
19 full amount that was listed as the retainage and
20 unpaid contract balance to those subcontractors.
21 Anybody that's now gotten a partial summary
22 judgment, a full summary judgment or a
23 settlement, the amount that was listed here is
24 obsolete.

25 Because it wasn't paid to the subs, and

1 it's not going to be paid to the subs. So now
2 that I've learned that, this number is no longer
3 eligible cost of the work.

4 Q. Where is a compilation of the back
5 charges that -- of the potential back charges
6 that -- has that been produced, that you've
7 arrived at?

8 A. I think BBC has produced a lot of
9 information about those back charges that is hard
10 to accumulate, but the best places to go would be
11 the Premier Exterior charge orders.

12 Q. My question to you is, have you produced
13 that to Balfour Beatty?

14 A. Have I given those change orders back to
15 you? Personally, I have not.

16 Q. Right. Have you done any compilation of
17 back charges that you think went into -- should
18 have gone into your report that you provided to
19 Balfour Beatty?

20 A. Yes. I discussed them either yesterday
21 or the day before. We went through the Lithko
22 change order 34. We went through the Old North
23 change orders 19 and 20, and we talked about the
24 Premier Exterior changes 6, 7, 10 and 11. Change
25 orders for Quantum, we went through numbers 37,

1 40, and 129. But all of the since back charges
2 against others have been settled.

3 Q. Right. I understand that you've
4 testified about that. Have you produced any
5 compilation or any document or documentation of
6 that, where you've compiled that? Any sort of
7 reports to Balfour where you've compiled that
8 information?

9 A. Some of that. Only a portion of what I
10 just said is in this report. But until certain
11 subs have responded to subpoenas, and other
12 information was found out after the date of this
13 report, I have identified more since then.

14 Q. So your testimony here today is that
15 until you received -- did you understand that
16 what was referenced as Plaintiff's 345 was our
17 compilation of where the damages stood for the
18 Judge to consider?

19 A. I just don't know what 345 is.

20 Q. That's the large blow up that
21 Mr. McDonald had.

22 THE COURT: That's 329, isn't it?

23 MR. HILDEBRAND: I'm sorry, 329.

24 THE COURT: Okay. All right.

25 THE WITNESS: I'm sorry. What was

1 the question again?

2 BY MR. HILDEBRAND:

3 Q. I will withdraw that. Let's go back to
4 your report and your GMP. Your report that you
5 provided to Balfour, which is Plaintiff's 350.
6 So what you did in this report -- you said you
7 had some qualifiers.

8 What you did was, you represented in
9 this report to -- I guess it doesn't say to whom
10 it's being sent. It just says it's being
11 prepared by you -- that the eligible costs for
12 \$65,745,441, and then you deducted, based upon
13 your review of all of the documents, the costs
14 that you thought were not allowable under the
15 contract, correct?

16 A. That I could find with the limited
17 documentation provided, yes.

18 Q. What other documents, if any, existed at
19 that time that you had not been -- that you had
20 requested that you were not provided with?

21 A. I asked for an updated RCO log. I was
22 told to go into the four binders of the claim to
23 get that. I went to the four binders of the
24 claim. There was more than one version.

25 I prepared an Excel spreadsheet because

1 it was only in PDF. That Excel spreadsheet is
2 Exhibit E of this report -- to explain that the
3 amounts that I see here are not the amounts that
4 you guys were claiming as RCOs. Can anybody help
5 me? What's wrong with these numbers? Which ones
6 are outdated? But I couldn't get that
7 information.

8 Then I also asked them to identify what
9 subcontractors were associated with each of the
10 RCOs, so that I could determine whether the
11 amounts had been paid or not, you know, in the
12 eligible cost of the work or not. I couldn't get
13 that information.

14 Q. Well, the RCOs, what Balfour is going to
15 be entitled to recover, that's something that the
16 Judge is going to have to decide, isn't it,
17 Ms. Hadley?

18 A. Yes. But that's exactly the problem is,
19 some of these costs that are in this RCO that are
20 in my Exhibit E, for instance RCO 27, which is
21 still being claimed today, is for an amount that
22 BBC is now saying it's already incurred, and it's
23 already an ineligible cost of the work in my
24 audit.

25 But if the Judge doesn't award the

1 change -- RCO 27 to BBC, then those costs are
2 going to need to be removed out of the eligible
3 costs of the work because that -- whatever it
4 was, Builder's Risk claim or storm claim
5 shouldn't be recoverable.

6 Q. Right. I understand that the -- that
7 part of the costs in this case are going to be
8 decided by the Judge, the RCOs. He's heard the
9 testimony by Nick Starcevic about the RCOs and
10 Kim Brown, and he will have to make a decision on
11 that.

12 He will also have to look at the delays
13 and make a decision on those costs and the other
14 costs that Casey Thompson articulated. But there
15 were some costs that were inarguably set and did
16 not change at the time that the contract -- at
17 the time that the substantial completion was
18 done; isn't that correct?

19 A. The general conditions costs would be
20 those that would fall under that category, but
21 it's not the subcontractor costs, which is the 59
22 and a half million out of 65 million.

23 Q. So you took all of the job costs,
24 allocate the RCOs, and the delay damages and
25 others -- you took all of the costs at the end of

1 the job, and that's what this schedule B
2 reflected? You looked at those, and you
3 determined which -- the maximum allowable cost of
4 the work would be based on the documents at that
5 time, correct?

6 A. Again, yeah, with the caveat of the fact
7 that many of the costs were not adequately
8 supported, and the sentence right beneath this
9 table that says, some of these costs have -- will
10 not be eligible once the GMP entitlement issues
11 get resolved, and that adjustment is going to
12 have to be made. As long as you read the
13 sentences with the table, I agree with you.

14 Q. Well, I understand that is -- unless and
15 until -- when the Judge rules and he decides what
16 the final RCO costs are and delays, then this is
17 going to be somewhat continuous, correct?

18 A. This will need to be adjusted.

19 Q. Right. So all we have at the end of the
20 job were the costs that were incurred under the
21 contract that were provided to you as reflected
22 in the GMP, and that's what you did your analysis
23 on?

24 A. No, that is not correct. And I'm not
25 saying it right, but I'm going to try it one more

1 time. The eligible costs of the work, schedule A
2 on that top row, already include costs that the
3 Judge has not ruled upon that should increase the
4 GMP.

5 So the costs have been incurred.
6 They're already in there. If it gets ruled that
7 the RCOs should not be approved, then those costs
8 would need to come out. So I don't think it's
9 fair to characterize it to say, well, this was
10 what it was at one point in time, and then if the
11 Judge rules that these RCO should get approved,
12 then the number gets higher.

13 It's going to go both ways. The bigger
14 issue, though, besides some of the RCOs,
15 especially the delay claim RCOs, because BBC has
16 already incurred those costs because they kept
17 the lights on -- is the fact that the eligible
18 costs of the work here had millions of amounts
19 listed as an expense on the job cost report that
20 it had not yet paid to the subs.

21 And we're learning that they were
22 withheld from the subs for either good reasons or
23 bad reasons, but the subs won't see those dollars
24 anymore. So those adjustments have to be made.
25 They can be made now before the Judge rules on

1 the RCOs, but then other adjustments would have
2 to be made after that as well.

3 Q. The parties agreed through an original
4 GMP of approximately 59 million dollars, and
5 then, through contract changes, that the agreed
6 upon GMP was going to be \$65,171,688, correct?

7 A. Yes, with the little asterisk. But I
8 appreciate you reading from my bottom number of
9 my table on page 1. That excludes the
10 preconstruction, \$66,779. I took that out
11 because it was a fixed amount that the parties
12 agreed to, and I don't have to test those costs.

13 Q. Right. And then -- so what you did was
14 you looked at what the parties agreed the GMP was
15 going to be, as revised, and then you said, okay,
16 I'm going to make deductions from the amounts
17 included in that agreed upon GMP, correct?

18 A. No. I don't make deductions to a GMP.
19 I've never touched it, I promise. The GMP is
20 what the GMP is.

21 Q. I stand corrected. What you did was you
22 looked at the costs that were appropriately
23 attributable or allowable under that GMP,
24 correct?

25 A. Absolutely not. That's the point I keep

1 trying to make. If Balfour would have asserted
2 here, Ms. Hadley, these are the costs that are
3 attributable as it relates to this GMP, then you
4 would be correct.

5 But that isn't what BBC asserted. What
6 BBC gave me, they said, here's our job cost
7 report. You know, have a good time. And that
8 job cost report includes costs that have nothing
9 to do with the current GMP.

10 For instance, it includes 3 million
11 dollars more of general conditions that are --
12 that have nothing to do with the current GMP. So
13 I can make that correction just by comparing it
14 to the current GMP, but there were also costs
15 within those cost codes that I mentioned in note
16 1 to this report, that BBC said shouldn't be
17 billed.

18 And then there are other costs in the
19 primary amount, the \$59,500,733 that have nothing
20 to do with the current GMP. And that's the
21 example that I keep trying to give you. Maybe
22 RCO 122 is a good example, but RCO 127 is another
23 example.

24 So I would not have minded at all to do
25 the work the way you described it, but that's not

1 the way it was presented to me, and that's why I
2 kept writing affidavits and complaining that I
3 wasn't getting apples to apples.

4 Q. Schedule B, the eligible costs of the
5 work, you referenced that, and then you came to a
6 conclusion in the report that you provided that
7 the maximum allowable costs of the work was
8 \$64,435,030, correct?

9 A. Yes, as long as we read the sentence
10 below the table because that says, the GMP has
11 yet to be impacted, and the costs are already
12 ineligible costs of the work.

13 Q. Right. So what you did was -- in this
14 report, what you provided to the parties in this
15 Court and in this case, was the figure at 65.
16 Then you said -- you looked at the allowable
17 costs based on all the information that was
18 provided to you and all of your conversations
19 with Balfour Beatty and with Casey Thompson and
20 David Simonton.

21 And you said, look, I'm going to -- I
22 don't believe that all those costs that you are
23 claiming as part of the GMP are allowable as
24 costs under the contract, and I'm going to
25 deduct -- if we turn to schedule A on page 4,

1 Ms. Hadley, if you will turn to that.

2 Page 4, schedule A. The top half of
3 that where it says, eligible costs in job cost
4 report. Do you see that?

5 A. I do see that.

6 Q. All right. So what you did, you have
7 notes on here to the -- you have the costs
8 incurred for the job cost report, and then you
9 went through and made an assessment of which
10 costs you felt were not appropriate as costs for
11 the work, correct?

12 A. That part is correct as long as you
13 don't add on the other part of the sentence that
14 you were doing before within the current GMP.
15 The amount here represents all costs that have
16 been incurred as of that time, whether they
17 relate to the GMP or not, and we evaluated those
18 costs, and we did find these deductions.

19 Then, if you look at the last half of
20 the page, there's another \$20 million of
21 adjustments that I'm also recommending because
22 other amounts that were requested to be increased
23 to the GMP were not adequately supported.

24 Q. But those weren't in the GMP that was
25 agreed upon by the parties, though, was it?

1 A. And those were some of these. That's
2 kind of my point.

3 Q. Okay. You arrived at the GMP that
4 was -- you felt was agreed upon by the parties,
5 correct?

6 A. I did not arrive at the GMP. I took the
7 GMP as it is currently approved by both of the
8 parties.

9 Q. Right.

10 A. And I evaluated the total costs incurred
11 by BBC, which they would not assert relates to
12 that GMP, but rather related to the entire
13 project, which is not the same thing.

14 Q. And then what you did was, you made
15 deductions, like for -- you deducted for
16 adjustments between GCs and primary. What was
17 that deduction?

18 A. That \$731,000 deduction represents the
19 general trades issue that we talked about earlier
20 where the amounts had been billed as general
21 conditions, but were booked into a 400 code. But
22 because they were general conditions, I was
23 moving them from primary into GCs.

24 Q. And if we -- so where it says, note one,
25 if we turn the page, the costs that you felt were

1 not costs of the work, there's a description of
2 what that total is, the 731. There's a
3 description by you of why that is not
4 appropriate, correct?

5 A. Yes. And it also explains why the costs
6 in here don't relate solely to the current GMP,
7 you know, and I think you can see it on page 6
8 and others.

9 Q. So what you did was, you looked at all
10 of the job costs and all of the data that the --
11 that Balfour provided. Did you see all of
12 Balfour's construction files and all of its job
13 data that existed at that time when you made your
14 audit?

15 A. No, I'm sure I did not. I was given the
16 four binders, which we know to be very
17 incomplete. They didn't include all of the OCOs
18 that are being claimed. They didn't include the
19 correct amounts for the RCOs. They didn't
20 include Watson's claim. It had been not put in
21 there yet.

22 And then I also had the job cost report
23 and accounting reports from Mr. Simonton and
24 Mr. Thompson. Then, when I picked samples of
25 transactions, they provided me the receipts and

1 the backup for those items.

2 And then I had full payment applications
3 that I received from Library Associates, and as
4 we all know, those things are hundreds of pages,
5 and there's a lot of information in the payment
6 applications as well.

7 Q. Okay. You reviewed all of that data,
8 and you identified costs that you felt were not
9 appropriate to be included in the allowable costs
10 of the work, correct?

11 A. Correct.

12 Q. All right. And when you add up all of
13 those deducts that are in that -- the top page of
14 this -- the top half of this page, they add up to
15 \$1,170,389, correct?

16 A. Correct.

17 Q. Right. So based on this report, those
18 were the costs that you identified to Balfour as
19 being, in your view, costs that were not
20 recoverable under the contract, correct?

21 A. That would be some of them, but you will
22 have to then add in any of the costs that have
23 been incurred in the job cost report that relate
24 to something that's not in the current GMP, based
25 on how the litigation gets resolved.

1 But I do have to say that I did allow at
2 that time, the non-payments that BBC, you know,
3 didn't make to its subcontractors. It was
4 holding retainage or any amount that it had not
5 yet paid. I did not exclude those amounts
6 because I assumed it was just a matter of
7 retainage needs to be released.

8 Now that I realize that the
9 subcontractors are going to be receiving
10 different amounts; some lower, like Quantum; some
11 higher, potentially like Watson. The amounts
12 that were audited in here are obsolete for that
13 reason.

14 It is very clear that back charges need
15 to be assessed, as you guys have stated, BBC has
16 stated and through various venues, as well as
17 settlements are being made. This audit was done
18 just based on the amount that was in the
19 accounting report.

20 Q. Just so I understand, so what you've
21 done now is that, any costs that are reflected in
22 Plaintiff's Exhibit -- I think it was 329.

23 THE COURT: The table?

24 Q. -- that are otherwise payable to
25 subcontractors that have not been paid, you have

1 not -- when you rendered your opinion here today,
2 you deducted -- you did not include as costs of
3 the work, any payments that Balfour owed
4 subcontractors; is that correct, that had not
5 been paid?

6 A. Yes.

7 Q. Have you looked at -- do you know, from
8 a legal standpoint, as to whether the work is
9 still obligated in its subcontracts with its
10 subcontractors, to pay them for the work and
11 materials that they provided on this job?

12 MR. MCDONALD: Objection, Your
13 Honor. I believe that the beginning of that
14 question had a legal standpoint thrown in there;
15 so I object to that question.

16 THE COURT: Object to the --
17 seeking her opinion on a legal matter?

18 MR. HILDEBRAND: No, sir. I'm
19 asking her, based on her review of the contract,
20 it's simply that, is she aware of a contractual
21 provision in Balfour's contracts with its
22 subcontractors, where it still is obligated to
23 pay the subcontractors for their time and
24 materials. That's a big part of the case.

25 MR. MCDONALD: That's a different

1 question. I also object for the previous reason
2 and the existence of the pass-through agreement
3 that we've talked about, that has amended
4 Balfour's contract with its subcontractors.

5 And I would submit, Your Honor, there's
6 only one subcontract in evidence, and it's
7 Lithko's subcontract, that Lithko is a party to
8 the very agreement that said, we're going to
9 shake it all after this at the end of it. So I
10 object for all of those reasons.

11 THE COURT: All right. Objection
12 noted. You can ask the question.

13 BY MR. HILDEBRAND:

14 Q. All right. Have you looked at the
15 subcontracts to make an assessment and render an
16 opinion here today as to whether Balfour is
17 obligated -- what obligations Balfour has to pay
18 the subcontractors who provided work and
19 materials on this job and who have not been paid?
20 Do you know what Balfour's obligations are under
21 its contracts with those subcontractors?

22 A. I haven't read every subcontract, but
23 Balfour's obligations will differ based on the
24 subcontract and the change orders.

25 So Old North, Lithko, for example, where

1 the parties have agreed that they don't owe each
2 other anything but the first 100,000, or the
3 first 70,000, if anything recovered, would go to
4 Balfour. Those change orders then do articulate
5 those debits and credits of what -- what BBC has
6 to pay.

7 That change order says nothing. We
8 aren't going to pay you anything, but if we
9 recover anything, we get the first -- and unless
10 you recover more than that, then I guess you
11 would release the excess. If you take a look at
12 the financial obligation as defined in the joint
13 defense agreements, again, that's going to be a
14 change to the original subcontract.

15 And as those parties negotiate and
16 potentially litigate those issues, the amount
17 that BBC may be entitled to pay will be
18 completely dependent upon that litigation and
19 that negotiation.

20 Q. Well, how many parties are currently --
21 are still involved with the joint defense
22 agreement?

23 A. I have the list with me. I believe
24 there were somewhere between 8 to 11.

25 Q. There are 8 to 11 who are still involved

1 in it? If I told you there are only two that are
2 still involved in it, would you dispute that?

3 A. If there's only two that are still
4 involved in it, then there's been some
5 settlements with the others that I don't know the
6 finances of.

7 Q. Or maybe they just -- there is -- they
8 opted out of the joint defense agreement.

9 A. So did they also then opt out of
10 receiving any additional money from BBC?

11 Q. Well, there's a lot of hypotheticals
12 that you don't know relative to the
13 subcontractors.

14 A. But it's only hypothetical to me. You
15 know. I just don't know.

16 Q. Let's go through page 5 on the first --
17 the general conditions noted on schedule A, which
18 you said should result in \$731,259 not being
19 allocable to the cost of the work, correct?

20 A. What it actually says -- I think it's on
21 the subsequent page after this one is, I'm moving
22 it from the primary codes to general conditions.
23 And if you take a look at those accounts that are
24 on the top of page 6, you will see that those
25 are, for the most part, the new general trades

1 claim.

2 Q. And the basis that you used to make that
3 determination on this report was the response to
4 the request for production -- I'm sorry, the
5 request for information that was issued by
6 Library prior to the contract being signed?

7 A. No, that's --

8 Q. The request for proposal?

9 A. Yeah, that's -- the request for proposal
10 is quite a bit different than a request for
11 information.

12 But in addition, as I stated in the
13 report, that was just one element that led me to
14 that conclusion. The other element is that BBC
15 never billed for any of these costs throughout
16 the life of the project. They had never been
17 identified by BBC as a general trade cost.

18 The only thing that Library had ever
19 seen throughout the course of the project was the
20 fixed amount being billed for general conditions,
21 which comported to what they put in their
22 response for the proposal, where they said that
23 those costs would be part of general conditions.
24 So everything was aligning until the general
25 trades claim came about in September of 2021.

1 Q. In your report and in your deposition,
2 you stated numerous times, you have no opinion as
3 to entitlement either to Balfour or Library
4 regarding liquidated damages or the RCOs or
5 anything else. That's going to be for the Judge
6 to decide, correct?

7 A. You will have to send me to the page in
8 this report that talks about liquidated damages.
9 Is it -- is it a particular note?

10 Q. Hold on a second. I think it's on page
11 15, the current GMP has not been modified for any
12 entitlement claims by either parties.

13 A. Right. I don't know what that would
14 have to do with liquidated damages, though. The
15 GMP wouldn't get modified for the sole reason of
16 liquidating damages being assessed.

17 MR. HILDEBRAND: Can you give me a
18 few minutes, Your Honor? I need to check my
19 notes.

20 THE COURT: Sure.

21 MR. BUNDY: Your Honor, can I
22 inquire about what's going on?

23 THE COURT: I think they're just --
24 hopefully they're wrapping up, trying to figure
25 out whether or not they want to ask any more

1 questions, I think. We can take a break. Let's
2 take five minutes.

3 (A recess transpired.)

4 MR. HILDEBRAND: Nothing further.

5 MR. MCDONALD: Nothing for me, Your
6 Honor.

7 THE COURT: Mr. Windle?

8 CROSS-EXAMINATION

9 BY MR. WINDLE:

10 Q. Ms. Hadley, Al Windle on behalf of Old
11 North State Masonry. And I want to ask you these
12 questions. In regard to the testimony about
13 Premier Stucco, the additional payments to
14 Premier Stucco --

15 A. Yes.

16 Q. Do you recall your testimony on that?

17 A. I do.

18 Q. And your testimony is that, if there is
19 an added change order to Premier for additional
20 stucco work, in your opinion, there should be a
21 deductive change order to Old North State
22 Masonry; is that correct?

23 A. I don't think I said it exactly like
24 that. I think I said, if Premier's contract was
25 increased due to damages caused by Old North,

1 then an appropriate back charge credit should be
2 a part of it.

3 Q. That's said a little differently, but it
4 means the same, right?

5 A. No, I don't think it does. The way you
6 said it was just additional stucco work versus
7 additional work because of defective work by
8 another.

9 Q. Okay. The next question is this: Do
10 you know whether or not there was actually any
11 defective work by Old North State Masonry in the
12 case, in that situation?

13 A. From an audit perspective, I rely on
14 what BBC and Premier said. I didn't inspect the
15 work.

16 Q. You don't know whether or not Old North
17 State Masonry's work was actually defective or
18 not, do you?

19 A. No. From an audit perspective, I do
20 rely on the evaluations for that.

21 Q. Do you know whether or not Old North
22 State Masonry provided evidence to Balfour that
23 convinced Balfour that Old North State Masonry's
24 work was not defective?

25 A. It must not have because BBC wouldn't

1 have entered into change order 19 and 20 with Old
2 North State Masonry that identified the defective
3 work on the back charges if it believed there
4 weren't any.

5 Q. Thank you. Are you also aware of the
6 fact that Balfour -- excuse me, Old North State
7 produced evidence that convinced Balfour that the
8 actual problem that required additional stucco
9 work was defective design?

10 A. Sorry. I was paying attention, but what
11 was the first part of the question?

12 Q. Are you aware that Old North State
13 Masonry produced evidence to Balfour that
14 convinced Balfour that the actual reason that
15 Premier had to do additional stucco work was due
16 to defective design?

17 Mr. McDonald: Objection, lack of
18 foundation.

19 THE COURT: Overruled.

20 THE WITNESS: I am not aware, but
21 it would have had to have been produced after
22 change orders 19 and 20 were entered into;
23 otherwise, again, 19 and 20 wouldn't make any
24 sense. But if it was produced after in the
25 summer of 2019, that's possible.

1 BY MR. WINDLE:

2 Q. All right. Switching subjects now,
3 talking about the lien waivers that contain the
4 release language. They're attached or included
5 with every subcontractor application for payment
6 as well as every Balfour application for payment,
7 right?

8 A. They should be.

9 Q. Okay. And did you attempt to review, as
10 part of your audit, all of the Balfour
11 applications for payment, which included the
12 subcontractor application for payment?

13 A. Yes.

14 Q. Well, in doing that review, did you
15 notice that there are instances where work is
16 performed by a subcontractor in one pay period?

17 The subcontractor generates a request
18 for change order that goes to Balfour, and
19 Balfour and the owner discussed that request for
20 change order for several months, but then it gets
21 approved for payment.

22 But at the time it's paid, the
23 subcontractor has signed at least one lien waiver
24 with the release language, maybe more. Did you
25 see that in your analysis?

1 A. In that situation, there is a specific
2 place in the lien waiver to reserve for those
3 pending changes, as Old North did, by attaching
4 its change order log to every single one of the
5 lien waivers. As a reservation, it referred to
6 something called Exhibit A that identified all of
7 its outstanding issues.

8 Q. It was a poor question. I'm not asking
9 the question now just on behalf of Old North
10 State. I'm asking on behalf of Old North State
11 and all the other subs.

12 Let me ask it this way and ask it more
13 specifically: Did you notice situations, and
14 most generally change order work, like I said,
15 where a sub did change order work in one pay
16 period, signed a lien waiver including the
17 release for that pay period, submitted a RCO for
18 the change order work that had been performed.

19 That change order work gets negotiated
20 by the owner and Library for a month or more. It
21 finally gets approved and gets paid, but in the
22 meantime, the sub has signed one or more lien
23 waivers with release language it in. Did you
24 notice that?

25 MR. MCDONALD: Objection.

1 THE COURT: Overruled. You can
2 answer it, if you can.

3 THE WITNESS: Is the question
4 hypothetical to any construction project or is --
5 BY MR. WINDLE:

6 Q. This project.

7 A. -- the question relating to these --

8 Q. This project and the documents you
9 reviewed on this project.

10 A. In the documents that I reviewed on this
11 project, I did do a detailed lien waiver
12 reservation analysis for many sites. And what I
13 found, for example, Watson never had a
14 reservation identified on any of its lien
15 waivers.

16 Old North attached an exhibit that the
17 amounts would change and RCOs would come and go,
18 again, as they get approved. And if they didn't
19 get approved, they would just stay on there.

20 Every sub is a little bit different, but
21 I am not recalling a particular subcontractor
22 name where it had performed work and not put the
23 RCO on its lien waiver, nor would it make logical
24 sense for it to do so because, as you said, it
25 billed for it.

1 So if it's already in the payment
2 application and identified in the pay app, it
3 wouldn't be something that you would also put as
4 a reservation to the lien waiver.

5 Q. Okay. Let me ask the question one more
6 time, and I'll try to be very -- ask a better
7 question. In regard to lien waiver forms that
8 had no reservation language on it, the sub didn't
9 reserve any rights to anything. They just signed
10 the lien waiver form with the release language on
11 there.

12 Did you see instances where the
13 subcontractor, nevertheless, got paid for that
14 work, even though the lien waiver and release
15 form had been signed at least once, maybe more,
16 in subsequent monthly pay periods?

17 A. Okay. So the situation is, they did the
18 work. They got paid for the work, but they never
19 put it on their reservation?

20 Q. No, they didn't get paid for the work.

21 A. They never got paid for the work?

22 Q. Well, not never. They got paid several
23 months later, but in the meantime, they had to
24 sign a lien waiver and release forms with no
25 reservations, but nevertheless, they still got

1 paid.

2 A. I don't have a particular instance of
3 that.

4 Q. Do you recall that at all?

5 A. No.

6 Q. Do you recall the owner ever refusing to
7 pay Balfour or Balfour refusing to pay a sub
8 because a lien waiver form had been signed
9 without any reservation during the course of this
10 whole project?

11 A. So Library would refuse to pay Balfour
12 because Library didn't see enough reservations on
13 the subcontractor lien waivers? No, I did not
14 see that.

15 Q. Okay. Did you look for that?

16 A. I didn't look for the reasons why
17 Library Associates would refuse to pay a pay app
18 because, my understanding is they've been paid
19 all through pay app 42. So the only three that
20 didn't get paid would have been 43, 44, and 45,
21 and I think there's been a lot of testimony as to
22 why that happened. So ultimately, Library did
23 pay the pay app.

24 Q. You don't recall any instance where
25 Library refused to pay because some work that was

1 being requested was precluded by a release in a
2 lien waiver?

3 A. Oh, that's a different scenario. I
4 don't think I understood you right. So this is a
5 situation where a sub did put something, it was
6 trying to preserve its rights for something, and
7 Library was like, I don't want to pay this pay
8 app because that sub is trying to preserve its
9 rights for something?

10 Q. No, ma'am. I'm sorry.

11 A. I'm sorry. I really am trying.

12 Q. Do you recall any instance on this
13 project where any sub was refused payment, either
14 by the owner or Balfour, because they had failed
15 to make a reservation of rights on a lien waiver
16 and a release form?

17 A. No.

18 MR. WINDLE: No further questions.

19 THE COURT: Mr. Terry?

20 MR. TERRY: Your Honor, will you
21 bear with me just for one moment.

22 THE COURT: Sure. Yeah.

23 CROSS-EXAMINATION

24 BY MR. TERRY:

25 Q. Ms. Hadley, I'm Don Terry. I represent

1 Watson Electrical Construction, and I believe we
2 met virtually during your deposition. Today
3 during your testimony, you have utilized some
4 documents that you to appear to have brought with
5 you, correct?

6 A. Yes.

7 Q. Okay. I would like to take a look at
8 those documents, please. Is this all of them?

9 A. Yes.

10 Q. Thank you. What is in this notebook
11 here?

12 A. The stuff on the left-hand side is a
13 blow up of Exhibit 329 because I couldn't read
14 it. It's the timeline again because I couldn't
15 read it, and Balfour's pay app 38 that they
16 provided in their responses to (inaudible) sub
17 interrogatories where they identified the
18 subcontractors that are associated with each line
19 item on the schedule of values.

20 So that's just in the little folder part
21 on the left side. Then the tabs, I don't have
22 them all memorized, but, like, the first one is
23 my resume, and the other documents that Bundy,
24 McDonald was planning on or could have
25 potentially introduced.

1 Q. Did you prepare this notebook? Let me
2 it a different way. Did you participate in
3 preparing this notebook?

4 A. Yes.

5 MR. TERRY: And, Your Honor, I
6 would like to -- I don't know how we're going to
7 mark Watson's exhibits, but I'd like to mark
8 this, if possible as 1.

9 THE COURT: Do you want that to be
10 your exhibit?

11 MR. TERRY: I want it in the
12 record, yes, sir.

13 THE COURT: Has she properly
14 identified it all?

15 MR. TERRY: It can be her exhibit,
16 I don't care. At this point, I want to mark it
17 as an exhibit.

18 MR. MCDONALD: I don't think it can
19 be a witness's exhibit. If he wants to mark an
20 exhibit, he's going to have to mark it on behalf
21 of Watson because he wasn't --

22 THE COURT: What's the purpose of
23 putting that into evidence? These are her notes,
24 her reflections she's referred to during her
25 testimony?

1 MR. TERRY: Yes, Your Honor.

2 THE COURT: What would be the rule
3 upon which you would put that into evidence?

4 MR. TERRY: Unfortunately, Your
5 Honor, I can't cite a rule.

6 THE COURT: Well, there is one, and
7 it's past recollection recorded. And that stuff
8 doesn't come into evidence.

9 MR. TERRY: All right. Thank you,
10 Your Honor.

11 BY MR. TERRY:

12 Q. Who made this notebook, Ms. Hadley,
13 besides yourself?

14 A. It really was me. I pulled together PDF
15 change orders from subs and things and just had
16 it printed. I mean, I'm not the originator of
17 many of those because they are just old PDFs or
18 the joint prosecuting agreement or my resume.

19 Q. To your knowledge, is there any
20 handwriting in this notebook that's not yours?

21 A. If there's handwriting in the document
22 that's not mine, it would be a photocopy from
23 someone else's handwriting, maybe Nick Starcevic
24 or something like that. If it's in ink -- like,
25 I don't know how to say it. Live ink, it would

1 be me. I'm the only one that's ever had that
2 notebook.

3 MR. TERRY: That's all the
4 questions I have. Thank you.

5 MR. MCDONALD: Nothing for me, Your
6 Honor. Thank you very much.

7 THE COURT: Ms. Hadley, I have a
8 few questions for you, I hate to tell you. And
9 they are in, I think, largely three areas. I
10 just want to be clear on your testimony.

11 You said about -- to determine what the
12 guaranteed maximum price was in the contract,
13 based on the record, how far -- you've testified
14 about all the documentation you've looked at.
15 How far did you go in the pay apps to support
16 those numbers? Was it through pay application
17 42, or did you include 43, and I think there was
18 a 44 and a 45? I know there was a 42.

19 THE WITNESS: So Mr. Hildebrand
20 asked me that question, and I said I would kind
21 of like to check. The table that I have in my
22 report on page 1, and then the numbers that he
23 and I were both referring to that are also in
24 Exhibit B identify the current GMP value.

25 THE COURT: That's schedule B.

1 THE WITNESS: Schedule B, as well
2 as the table on page 1. And I just can't
3 recollect whether the change orders that I
4 recognized would have stopped at pay app 42.

5 I believe that these are the current
6 values as of pay app 45 because, for example, one
7 of the OCOs was approved after pay app 42, and I
8 know that to be the case. So if I could just
9 have a look at pay app 45, if it's around, I
10 could probably confirm that.

11 THE COURT: We could probably find
12 that.

13 MR. MCDONALD: I can get that, Your
14 Honor. I've got it right here, Your Honor. Do
15 you want me to --

16 THE COURT: Sure. Just hand it to
17 her.

18 THE WITNESS: So the numbers in my
19 schedule B and the table on page 1 are reflective
20 of pay app 45.

21 THE COURT: Okay. All right. So
22 while we're on that Exhibit 350, let's look at
23 schedule B because I noted that was on page 15 of
24 your report. And I want to -- you repeated
25 several times that you took the guaranteed

1 maximum price of the contract as was; is that
2 correct?

3 THE WITNESS: Yes. That row called
4 current GMP, those amounts come right out from
5 pay app 45, which would be the latest contract
6 values that the parties, I will say, agreed to.
7 I appreciate pay app 45 wasn't paid, but it --
8 there were a couple of OCOs and a couple of
9 change orders that were approved late in the
10 game. So this would incorporate all of that.

11 THE COURT: Okay. And I'm sure
12 your testimony is consistent in how you
13 determined the general conditions and what you
14 talked about primary costs. But I noted that, in
15 your schedule B, you show a figure of \$3,322,074.
16 Your testimony earlier today said that general
17 conditions were \$3,319,212. Do you recall that?

18 THE WITNESS: Yes.

19 THE COURT: I get a difference of
20 \$2,862 over a 3.3 million dollar claim.

21 THE WITNESS: The difference is
22 actually explainable.

23 THE COURT: Well, it's less than
24 1/10th of 1 percent is what I come up with. Is
25 that significant, an accounting of what you've

1 been doing here?

2 THE WITNESS: It is not
3 significant, and the difference is due to the
4 fact that the pay applications didn't recognize
5 two GMPs. They were kind of standard monthly pay
6 apps.

7 So that top page that brings the whole
8 thing together didn't have two columns; one for
9 the GCs and for the primary. So you had to dig
10 into the detailed pages in the back to get those
11 numbers.

12 And when you think about a particular
13 change order, the change order is most likely for
14 increased costs for a subcontractor, but then
15 there is a small amount of markup for BBC.

16 THE COURT: Right.

17 THE WITNESS: And BBC didn't move
18 that markup that was approved into the general
19 conditions line all the time, and it just got a
20 little fuzzy by a very immaterial amount, by them
21 not recognizing that additional GMP. It stayed
22 on -- let's say, the stucco or electrical
23 scheduled row for the whole change order, on
24 occasion.

25 THE COURT: All right. And

1 likewise, I noted, but I pulled this off a
2 different line, it was amount paid to-date on
3 your schedule B was 55,486,480, and you testified
4 today it was 55,549,730. That's some \$63,000
5 more.

6 Is that reflective in the updates and
7 what you've seen since or what would be the
8 difference? Again, that's .001 percent; so I
9 don't know that it's significant, but --

10 THE WITNESS: That amount should
11 not have changed.

12 THE COURT: Okay.

13 THE WITNESS: The amount paid
14 to-date -- I must have just misspoke because it's
15 always been 59,994,390.

16 THE COURT: The amount paid?

17 THE WITNESS: That's the amount
18 paid to-date.

19 THE COURT: Okay. In the total
20 column?

21 THE WITNESS: In the total column,
22 yes. The amount on schedule B as amount paid
23 to-date --

24 THE COURT: Okay.

25 THE WITNESS: -- is accurate.

1 Again, maybe the amount I quoted was a reduction
2 for that preconstruction fixed price. I don't
3 know what the other number is.

4 THE COURT: I'm sorry. Say that
5 again.

6 THE WITNESS: I was saying, it's
7 possible that the other number that you just
8 quoted was without the preconstruction services
9 fixed fee. I'm not sure where that number came
10 from, the other one that you read.

11 THE COURT: I could have written it
12 down wrong. I think that was reflective of the
13 cost of the work.

14 THE WITNESS: Oh, yeah. That is
15 potentially the addition of the general
16 conditions of the primary and the preconstruction
17 costs before the fee gets added on.

18 THE COURT: Right. Your testimony
19 then was -- the 59 that's in there is correct?

20 THE WITNESS: Yes. The 59 million,
21 as amount paid to-date in the schedule B of my
22 report is correct.

23 THE COURT: Okay. All right. And
24 you testified that, under the contract, it was
25 some 60,413,815, and it was -- led to a balance

1 due back to Library Associates of 419,425.

2 That's what my notes reflect.

3 THE WITNESS: No, I said it wrong.
4 The \$419,425 would be the amount that Library
5 would owe Balfour in that situation prior to the
6 assessment of the LDs.

7 THE COURT: Okay. All right. Now,
8 let's go back to what we had talked about all
9 through the course of getting ready for this
10 trial. What was it that you needed that you were
11 seeking from Balfour Beatty in order to properly
12 do your audit? What was it that you wanted that
13 you never got?

14 THE WITNESS: I wanted to know what
15 their final accounting was of what the project
16 cost. Some of those amounts didn't have to be
17 paid, but they would be an accrual of the costs.
18 Instead what I got was a very thick wall between
19 two different things. Here's our accounting
20 report. Here's our job cost report, and here's
21 our claim as supported by the four binders.

22 The problem is there's overlap. There
23 are things in the job cost report that is part of
24 the claim, and you can't just simply add those
25 two things together to figure out what the total

1 project costs are. There are also things in the
2 job cost report that never intended to get
3 billed.

4 You can do a lot of things as a
5 contractor that might be a very -- you know, a
6 thing to do, but it isn't necessarily an eligible
7 cost of the work. So there are things that even
8 Balfour never intended to invoice to Library.
9 And it doesn't mean you shouldn't incur them and
10 put them in the job cost report. But until it's
11 Balfour making an assertion of, here's what our
12 total project cost us and then, okay, Sam, you
13 know, go take a look. But I never did know what
14 they want to assert as the cost of the project.

15 In addition when I was, you know, trying
16 to accumulate them and add them together, the
17 problem would be that the four binders didn't
18 support the claim letter, which is the only claim
19 that we've ever had until September of six weeks
20 ago. So I couldn't get the binder to support the
21 claim, but the claim and the job cost report
22 overlapped.

23 So I met with BBC and said, you know,
24 the only way we're really going to figure this
25 out is if we take the following steps. And I

1 itemized the steps and I sent them in the e-mail,
2 and they said, that's for you to do. We're not
3 going to do that.

4 THE COURT: Right.

5 THE WITNESS: And if you find
6 anything wrong, just put it in your audit report,
7 and we'll deal with it down the road. But right
8 now, here's our accounting report, and that's all
9 we're going to do.

10 THE COURT: And have you had that
11 problem before?

12 THE WITNESS: No. Most of the time
13 the contractors want to get paid, and they're
14 willing to provide the information to support the
15 amount they want to get paid.

16 It wasn't until just September that
17 they've identified the amount that they want to
18 get paid, but even that schedule, Exhibit 329,
19 includes contract balance, things that are in the
20 GMP now, and things that have been incurred.

21 So we can't just simply write a check
22 for 13.8 million because some of that has already
23 been paid, some of it's part of the GMP. It will
24 depend on also Your Honor's decision about the
25 merits of the RCOs and the claims.

1 THE COURT: Right. Right. So the
2 final question is, do you have the ability to
3 determine exactly how much is actually owed or
4 ultimately owed without knowing how much the subs
5 are going to be paid and credits were given and
6 back charges and that type of thing?

7 THE WITNESS: In previous
8 situations like this where the -- all the checks
9 haven't cleared, the contractor does typically
10 put forth a schedule or an estimate of, here's
11 what I'm negotiating with this sub.

12 So that's what I'm going to book as the
13 expense in my accounting system, and then that's
14 what I want to get reimbursed for. If there is a
15 delta, then we sometimes do a true open
16 reconciliation between them. But, you know,
17 settlements with subs happen all the time.

18 THE COURT: Sure.

19 THE WITNESS: And as long as the
20 prime acts reasonable and, you know, isn't
21 saying, you know, I will pay you this and then I
22 want a hot tub at my house -- as long as it's a
23 reasonable settlement amount, that amount becomes
24 an eligible cost of the work.

25 THE COURT: Okay.

1 THE WITNESS: But if they had
2 estimated and accrued for a slightly different
3 amount or a significantly different amount, we do
4 make that adjustment later. One of the contract
5 provisions specifically said, subcontractors have
6 to be paid. It has to be a paid amount to be an
7 eligible cost of the work.

8 So that is one of the reasons why you
9 can't just accrue expenses or identify the
10 retainage. If you don't release the retainage to
11 the sub for a potentially very good reason, then
12 that retainage will never be cost of the work.

13 THE COURT: All right. Those are
14 my questions. Any follow-up from anybody?

15 Mr. McDonald?

16 MR. MCDONALD: No, Your Honor.

17 THE COURT: Mr. Hildebrand?

18 MR. HILDEBRAND: No, sir.

19 MR. TERRY: No, Your Honor.

20 MR. WINDLE: No, sir.

21 THE COURT: Ms. Hadley, thank you
22 very much.

23 THE WITNESS: This was the report.
24 It's not marked.

25 THE COURT: Yeah, it's in evidence

1 \$128 million on a \$62 million loan. So he had
2 about 60 million dollars in cash from MetLife,
3 who is not a bank, but a lender. Plenty of
4 money.

5 Why is that significant? Because that's
6 what they believed. They believed the general
7 contractor and these conspiratorial
8 subcontractors all believe that Mike Bennett had
9 no money. Now, why was that important? It was
10 important because they knew he had a loan, and
11 they knew he had to get permanent financing.

12 And they knew that if they over-liened
13 his job, that he would have to bend to their will
14 and submit to their extortion because 90 percent
15 of the developers out there cannot afford to do
16 what Mike Bennett did, and they don't have a
17 lender who will stand behind them in the face of
18 extortion.

19 So what they did was, they filed 24
20 million dollars worth of liens, and we're now
21 down here, and they come into Court three years
22 later and it's down to 13 million. We put up
23 somebody who says they don't have the 400,000.
24 They're entitled to nothing.

25 Now, the Spearin Doctrine allows for

1 (TIM SPANO, having already been
2 duly sworn, testified as follows:)

3 REDIRECT EXAMINATION

4 BY MR. HILDEBRAND:

5 Q. All right. Mr. Spano, there were --
6 you've been -- we're not going to go through much
7 background with you, but you've been -- what's
8 your current position with Balfour?

9 A. Currently, project manager.

10 Q. During this project?

11 A. During this project, still project
12 manager.

13 Q. All right. And how long have you been
14 with Balfour in a supervisory capacity when this
15 project was going on?

16 A. Gosh, probably at the time, I -- through
17 my career, I've been superintendent and project
18 manager. So from a project manager standpoint,
19 probably 15 years, somewhere in there, somewhere
20 in that ballpark. 12, 15 prior to this project.

21 Q. Okay. And is it unusual for -- when
22 Balfour is working on a project, to have issues
23 that come up that are not anticipated?

24 MR. BUNDY: Objection.

25 THE COURT: Basis?

1 doing on that mockup that basically they ended up
2 approving it with the shutters that we had on
3 there some time in 2018, which is what I think
4 Mr. Clements was referring to, that final mockup
5 approval.

6 Q. Do you have any recollection when in
7 2018 that happened?

8 A. I want to say July, somewhere in that
9 time frame.

10 MR. HILDEBRAND: Okay. All right.
11 Thank you very much. That's all I have.

12 MR. BUNDY: That's it?

13 MR. HILDEBRAND: Yep.

14 RE CROSS-EXAMINATION

15 BY MR. BUNDY:

16 Q. Mr. Spano, I believe we've established,
17 through your testimony, that y'all -- by y'all I
18 mean Balfour Beatty. Y'all were aware that the
19 crane was going to have to come down at some
20 point, correct?

21 A. Yes.

22 Q. Y'all weren't under any illusion that
23 the crane was going to be part of the hotel, were
24 you?

25 A. No.

1 Q. Okay. And you were planning on putting
2 that swimming pool up with a helicopter? Is that
3 how y'all were going to do that?

4 A. No.

5 Q. You were going to use the crane?

6 A. Yes.

7 Q. Okay. Now, you were -- however, you
8 were going to close in the second floor ceiling
9 while the crane was still there, correct?

10 A. No.

11 Q. Oh, you weren't?

12 A. No.

13 Q. Okay. Well, if the schedule showed the
14 closing in of the second floor ceiling months
15 before the pool was going to be installed, can
16 you give me that sequence of construction?

17 A. If it was shown to be out -- say that
18 one more time.

19 Q. Yeah. If the pool was going to be
20 installed in, let's say, April, okay?

21 A. Uh-huh.

22 Q. And the schedule showed the second floor
23 ceiling was going to be closed in four months
24 earlier, how were y'all going to do that?

25 A. You couldn't completely close it in

1 Q. How many times did you read it,
2 Mr. Spano?

3 A. I don't know. All the way through,
4 probably once; bits and pieces, when -- here and
5 there.

6 Q. And had you ever read an AIA A201 or 133
7 contract before in your career?

8 A. I had.

9 Q. Okay. Had you ever read this particular
10 contract since it was different from, in many
11 respects, the standard form agreement?

12 A. Had I ever what? Say it again.

13 Q. You're familiar with the standard form?

14 A. I am.

15 Q. Are you familiar with the absolute fact
16 that this contract was different from -- because
17 there were agreed upon amendments to the AIA 201.
18 Were you aware of that?

19 A. I'm aware there was an amendment, sir.

20 Q. Okay. And did you compare at any point
21 in time, the standard agreement with what was
22 actually agreed to by your employer?

23 A. Did I compare it? No.

24 Q. Sir?

25 A. Did I compare?

1 Q. Yes.

2 A. I took the signed contract, and that's
3 what I read.

4 Q. Okay. So your prior knowledge of A201
5 didn't come into play when you went to determine
6 what your obligations were? You went straight to
7 this agreement to determine that, correct?

8 A. Sure.

9 Q. Okay. And you said earlier, you were
10 asked, do you still work for Balfour Beatty as
11 you sit here today?

12 A. I do.

13 Q. Sir?

14 A. I do.

15 Q. Okay. And what is your job now?

16 A. Project manager, but I'm with Balfour
17 Beatty Investments now.

18 Q. Were you aware that there were change
19 order procedures in this contract?

20 A. Yes.

21 Q. Sir?

22 A. Yes.

23 Q. Okay. And did you follow them? Did you
24 follow the change order procedures?

25 A. I believe so.

1 A. We're talking about a date of when the
2 original mockup was completed or approved back in
3 December of 2016, to clarify that the mockup
4 wasn't approved in '18. It was a second or third
5 mockup that was approved in '18.

6 Q. Did you request a time extension?

7 A. No.

8 Q. Why are we talking about it?

9 A. To clarify the approval of the original
10 mockup date.

11 Q. Does the contractor have any obligation,
12 under this contract when it makes a delay claim,
13 to provide a critical path analysis?

14 A. I don't know.

15 Q. Okay. What role did you play,
16 Mr. Spano, in this pass-through agreement? Were
17 you involved in that?

18 A. I was not.

19 Q. Were you even aware of it?

20 A. I had heard of it.

21 Q. When did you hear of it, Mr. Spano?

22 A. I don't recall.

23 Q. Is this a usual -- is the usual course
24 of business for Balfour Beatty to enter into
25 these agreements?

1 Q. And your job was what? You were the
2 project manager?

3 A. Uh-huh.

4 Q. I want to show you this document -- this
5 poster here. This is Exhibit 329. Have you ever
6 seen this?

7 A. In Court today.

8 Q. In Court. Okay. Let me ask you this:
9 You were the project manager on this job for how
10 long?

11 A. The duration.

12 Q. The duration. Look at 329, and tell me
13 which numbers you calculated.

14 A. Those numbers were made up of contract
15 balances, change orders, et cetera.

16 Q. Okay. And what role did you play in the
17 preparation of this document?

18 A. None that I'm aware of. That's the
19 accountant's.

20 Q. Right. There you go. So the
21 construction -- what was your job again?

22 A. Project manager.

23 Q. Project manager?

24 A. Yep.

25 Q. For the whole job?

1 A. Yep.

2 Q. And you weren't consulted at all about a
3 claim for \$11,896,000? Is that your testimony?

4 A. Maybe questioned, but that was it. I
5 didn't put it together.

6 Q. Well, what would have been the
7 questions? Give me an example.

8 A. If they had particular questions about
9 maybe a change order or --

10 Q. Who is they?

11 A. Our accountants, our project managers,
12 our vice presidents, our legal, our team.

13 Q. And do you have any specific
14 recollection of any particular questions you were
15 asked?

16 A. I don't, I mean.

17 Q. Have you had any meetings with these
18 subcontractors to determine how y'all would
19 divide this up, the money later if you get any?

20 A. No.

21 MR. BUNDY: Okay. That's all I
22 have. Thank you.

23 MR. HILDEBRAND: Nothing further,
24 Your Honor.

25 THE COURT: Thank you, Mr. Spano,

1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF DORCHESTER

4 I, Jennifer M. Adams, Certified
5 Shorthand Reporter and Notary Public for the
6 State of South Carolina at Large, do hereby
7 certify that the witness whose attached in the
8 foregoing hearing was by me duly sworn to testify
9 to the truth, the whole truth, and nothing but
10 the truth in the within-entitled cause; that said
11 hearing was taken at the time and location
12 therein stated; that the testimony of the witness
13 and all objections made at the time of the
14 examination were recorded stenographically by me
15 and were thereafter transcribed by computer-aided
16 transcription; that the foregoing is a full,
17 complete and true record of the testimony of the
18 witness and of all objections made at the time of
19 the examination; and that the witness was given
20 an opportunity to read and correct said hearing
21 and to subscribe the same.

22 Should the signature of the witness
23 not be affixed to the hearing, the witness shall
24 not have availed himself/herself of the
25 opportunity to sign or the signature has been
26 waived.

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

30 Witness my hand, I have hereunto
31 affixed my official seal on December 2, 2022 at
32 Charleston, Charleston County, South Carolina

33

34

35

36

37

38

39

40

Jennifer M. Adams
Court Reporter And Notary Public
My commission expires: 03/15/2032

1 because Ms. DiFranco says Cook and Boardman is
2 out of the case, so.

3 MR. WINDLE: Okay.

4 THE COURT: Okay?

5 MR. WINDLE: Yes, sir.

6 THE COURT: All right. If we could
7 get that done tomorrow, that would be great.

8 MR. BUNDY: Your Honor, there's
9 another issue I need to bring to your attention.
10 In anticipation of what occurred five minutes
11 ago, I have prepared this brief. It's very
12 short, and, you know, there's only one issue.
13 And that is, what is the appropriate issue for a
14 reply testimony.

15 THE COURT: All right.

16 MR. BUNDY: The law in this state
17 is manifestly clear. Reply testimony should be
18 limited to rebuttal of matters raised by the
19 defense rather than to complete the plaintiff's
20 case-in-chief.

21 The admission of reply testimony is
22 within your sound discretion. Testimony that is
23 arguably contradictory and in reply to that
24 offered by the defense is admissible. But it has
25 to be contradictory, and it has to be in reply.

1 However, reply testimony should be
2 limited to that which refutes or rebuts testimony
3 presented by the defendant. Finding reply
4 testimony proper noting the reply testimony did
5 not go beyond a refutation of that which the
6 defendant's witness had asserted. I hate to read
7 it out loud to you, but I think this is
8 important.

9 THE COURT: Okay.

10 MR. BUNDY: Affirming admissibility
11 of reply testimony that rebutted the defendant's
12 claim that he did not own a pistol or fire one.

13 Finding admission of rebuttal testimony
14 appropriate when the commission properly limited
15 the rebuttal evidence to a strictly -- reply
16 evidence demonstrates clearly that rebuttal is
17 offered only to the specific issue. Since reply
18 testimony is limited to issues raised by the
19 defense -- this is important -- the element of
20 surprise is eliminated when reply is properly
21 restricted.

22 Now, I was just handed five minutes
23 ago -- which I don't want to hand up because I
24 don't think it's appropriate for you to see
25 this --

1 THE COURT: All right.

2 MR. BUNDY: -- a completion of
3 their case. They are amending their damage
4 claim. This is evidence -- these -- the
5 documents attached to this evidence, six of them,
6 is evidence that was created.

7 This evidence did not exist -- did not
8 exist when we left this courtroom after they said
9 they were through. They have manufactured
10 evidence and are now before you trying to put in
11 manufactured evidence. This is not
12 after-discovered evidence. This is
13 after-manufactured evidence.

14 It's entirely improper, and so I wanted
15 to make clear my position before we started,
16 because apparently, opposing counsel is just
17 going to -- through his own statements, start
18 introducing evidence. So thank you, Your Honor.

19 THE COURT: All right. Very good.
20 Mr. Hildebrand?

21 MR. HILDEBRAND: Yes, sir. Your
22 Honor, what I've prepared -- this is an unusual
23 case. As you well know, we've got a lot of
24 subcontractors. And typically, the Court's
25 encourage parties to settle matters. Matters

1 have been settled.

2 While the trial has been ongoing, we've
3 been -- the Court has encouraged Balfour to pay
4 its subcontractors. And so from the time that we
5 adjourned last time until today, we've settled
6 with a couple of subcontractors.

7 In response to testimony from
8 Ms. Hadley, where she said that it appeared to
9 her that Balfour had been -- had submitted pay
10 applications, which included pay applications for
11 subs, and then some monies had not been passed
12 through to the subs. Balfour, in response to
13 that, went back and looked at a couple of those
14 and said, yeah, we think you're right.

15 So what we have simply done, Your
16 Honor -- I'm not manufacturing anything. But we
17 think that it is appropriate for the Court to
18 have just an accurate picture of where we stand.
19 And these damages have actually been reduced.

20 And all I've done is asked -- I've
21 prepared a simple update to a couple of the
22 exhibits that have already been done to reflect
23 the settlement and a few of the payments that we
24 acknowledged were not passed down that we've now
25 paid. We've actually paid with checks, the subs

1 that have been paid. So I just want to update
2 that, and it certainly is to -- in your
3 discretion, Your Honor.

4 THE COURT: Sure.

5 MR. HILDEBRAND: But I would think
6 that you would want to have an accurate and
7 updated picture before you.

8 THE COURT: All right. Well, we
9 can get to that, but that's not in reply to
10 anything, right? That's just updating where we
11 are with the -- with where the claim of damages
12 lies, is it not?

13 MR. HILDEBRAND: It's primarily an
14 update, Your Honor, but it also is in reply to
15 Ms. Hadley's testimony about some of the
16 payments. So it's in response -- it was prompted
17 as a --

18 MR. BUNDY: It cannot be --

19 THE COURT: Hold on. Let him
20 finish. In response to that, Ms. Hadley has
21 said?

22 MR. HILDEBRAND: Right.

23 THE COURT: Is that what you're
24 telling me?

25 MR. HILDEBRAND: Yes, sir. But

1 it's really an update to the damages.

2 THE COURT: That's what it's being
3 offered for. And how do you intend to produce
4 this?

5 MR. HILDEBRAND: Well, it's simply
6 an update on our damages so that the Court has --
7 so that you have, when you're looking at the
8 final -- making your decision, you will know
9 exactly what has been settled and what has not
10 been settled and what has been paid. That's what
11 it's intended for. You're right, as an update
12 primarily.

13 THE COURT: Okay. All right.

14 MR. BUNDY: I've only been doing
15 this 43 years. I have never heard of an update
16 in trial. There's no such thing as an update.
17 What -- suppose you issue an order. Is he going
18 to send you an update on your order? Is he going
19 to send an update to a case I lost eight years
20 ago in the Court of Appeals?

21 THE COURT: I don't think so. But
22 I hadn't gotten there yet. I hadn't found
23 damages yet.

24 MR. BUNDY: This cannot be in
25 contradiction to Ms. Hadley. She said it hadn't

1 been paid. This is a confession. This is not --
2 this evidence that they put in is going to be
3 very helpful to them in the sentencing phase of
4 the criminal trial which is going to be brought
5 against them because they're going to be
6 mitigating their damages.

7 THE COURT: Okay. All right.

8 MR. BUNDY: She said they didn't
9 pay it. It was not paid, and now they're
10 producing evidence that they didn't pay it by
11 paying it. That doesn't make it reply testimony.

12 THE COURT: All right. I'm with
13 you.

14 MR. BUNDY: In addition to that,
15 don't you remember when he's finished, I said,
16 are we now through? Is he through? Because he
17 changed his numbers five times already. I don't
18 care whether they've gone down to zero. It
19 doesn't matter.

20 THE COURT: All right. I'm with
21 you.

22 MR. HILDEBRAND: Your Honor, in
23 every case I've been in, you have settlements
24 that occur during a case, and you have some
25 developments that occur during the case. And

1 that's all -- with all due respect, what this
2 reflects is a couple of settlements that have
3 been reached and some monies that have been paid
4 to subcontractors.

5 So I think it's -- I think it's entirely
6 appropriate, and it's up to you if you want to
7 hear this evidence, to have an accurate number on
8 what the damages are. It's certainly in your own
9 discretion.

10 THE COURT: All right. Well --

11 MR. HILDEBRAND: Thank you.

12 THE COURT: Okay. So the motion is
13 to limit testimony -- as I understand it limited
14 evidence. We were here to take testimony on
15 reply, was what I understood. But what they've
16 asked to do is to update their damages figure
17 based upon where we are today. Okay?

18 MR. BUNDY: Yeah, Your Honor.

19 THE COURT: Do you plan to present
20 that just as a fact? I mean, most of the people
21 have put their settlements on the record, this is
22 what we did, this is what we did.

23 MR. HILDEBRAND: Yes, sir. And I
24 would like to re-call Casey Thompson just on that
25 limited point to have him --

1 THE COURT: I don't know that I
2 need any testimony on that. Either it is or it
3 is not, right?

4 MR. HILDEBRAND: It is, Your Honor,
5 and I can just hand it to you, or I can --

6 THE COURT: What I'm going to do
7 is, because I think it's going to be beneficial
8 to the trier of fact, I'm going to allow them to
9 present evidence as to what has been paid to-date
10 through the course of this trial. I don't need
11 any evidence on that.

12 If y'all object to the admission of
13 that -- which is what I'm hearing you say -- I'm
14 going to allow you to state your objection on the
15 record. But they -- we've had -- I can't
16 remember how many subs we had in this case, but
17 we're down to about three or four at this point
18 in time. We had a lot more previously. But go
19 ahead.

20 MR. BUNDY: The only thing I would
21 say is, that may be evidence in those cases.

22 THE COURT: Right.

23 MR. BUNDY: That may be evidence in
24 the subcontract he's got with them. It's not
25 evidence in my case.

1 THE COURT: In your case. I'm with
2 you.

3 MR. BUNDY: I mean, you know.

4 THE COURT: I'm with you.

5 MR. BUNDY: A lot of settlements
6 going on across the country. I'm not involved in
7 those either.

8 THE COURT: They addressed it
9 except for one witness as to presentation of the
10 case, and this is in reply. I got you.

11 MR. BUNDY: Thank you, Your Honor.

12 THE COURT: Let's talk about that.
13 Before we get into the numbers, let's talk about
14 where we are. As far as moving forward reply, do
15 you have Mr. Doran here?

16 MR. HILDEBRAND: Yes, sir.

17 THE COURT: All right. Do you plan
18 to put -- is there any other issue I need to take
19 up before he comes forward?

20 MR. HILDEBRAND: I don't think so.

21 THE COURT: All right. Well, I
22 want to see how his turkey was over Thanksgiving.
23 I'm looking forward to that aspect of this case.

24 MR. HILDEBRAND: Your Honor, what
25 we do -- I will have a motion for directed

1 RECROSS-EXAMINATION

2 BY MR. BUNDY:

3 Q. Still one day of delay for your
4 analysis. That's all my client's -- that's the
5 only delay that Balfour Beatty caused is one day?
6 Is that still your testimony?

7 A. I haven't changed my testimony.

8 Q. You haven't changed your testimony.
9 Okay. You wouldn't do that, would you?

10 A. No.

11 Q. All right. Now, you said earlier that
12 every court you've ever appeared in front of has
13 accepted your analysis; is that correct? That's
14 what you just testified to under oath; is that
15 correct?

16 A. Yes.

17 Q. All right. Are you familiar with WECC,
18 Inc.? Have you ever heard of that company?

19 A. Yes.

20 Q. Okay. And you, I believe, represented
21 them as a scheduling expert in front of the Armed
22 Services Board of Contract Appeals, ASBCA number
23 60949; is that correct?

24 A. That's correct.

25 Q. And I believe they issued a decision

1 just in October of 2021, right? Roughly less
2 than a month ago, right?

3 A. Around that.

4 Q. All right. Page 9, footnote number 9,
5 Mr. Doran's opinion jumped from stating that the
6 additional 31 days for WECC's responsibility, to
7 their being nobody's responsibility, to finally
8 contending they were excusable. His lack of
9 certainty leaves us unconvinced that we should
10 find for WCC upon the latter. Do you remember
11 that footnote?

12 A. I do.

13 Q. So at least that's one court that
14 doesn't agree with your delay analysis, the Armed
15 Services Board of Contract Appeals, less than 30
16 days ago, correct?

17 A. That's not true. There's a lot more in
18 there than that decision, that they did agree
19 with my analysis.

20 Q. I read that correctly, did I not?

21 MR. HILDEBRAND: Your Honor, if
22 he's going to ask him a question, he's got to
23 give him a chance to respond. And I think
24 Mr. Doran was about to explain -- was trying to
25 explain his answer, so please let him.

1 THE COURT: Go ahead. You can
2 explain.

3 THE WITNESS: Throughout most of
4 that report or that decision, the Judge, the
5 Court agreed with my analysis and said that I
6 was -- that I was -- I don't want to put words
7 out there.

8 But they agreed with my analysis. The
9 board made a mistake at one point and didn't
10 award delays for delaying that certain period.
11 Now -- and it had to do with like 40-some days.
12 And in that decision, he says, they found
13 because -- just because the contract works on
14 weekends does not make it a delay.

15 The reason that was wrong in that
16 decision was, the delay analysis was based -- and
17 that contract and that project was based on a
18 seven day work calendar. It's not that they
19 didn't work on those days. It's that they
20 couldn't work on those days. So they got that
21 wrong. But my client didn't go back to ask for
22 another bite of the apple, so to speak. They
23 just accepted it and went on.

24 BY MR. BUNDY:

25 Q. Okay. Let me see if I understand it.

1 The Court got it wrong or you got it wrong?

2 A. The Court got that issue wrong.

3 Q. The Court got it. Okay. So if this
4 Judge disagrees with you, he's wrong, right?

5 A. No. Because in the beginning of that
6 decision that the Court specifically says and
7 acknowledges that the schedule was based on a
8 seven day work week.

9 MR. BUNDY: Judge, I hope you get a
10 good grade. No further questions.

11 THE COURT: Anything at all?

12 MR. HILDEBRAND: No, sir.

13 THE COURT: All right. Mr. Doran,
14 thank you very much for coming. Good to see you,
15 sir.

16 THE WITNESS: Thank you, Your
17 Honor.

18 MR. HILDEBRAND: All right. Your
19 Honor, I would like to -- based upon your prior
20 admonition -- okay.

21 THE COURT: Sure.

22 MR. HILDEBRAND: I have got some
23 documents I would like to hand to the Court as a
24 proffer. I can testify about them as well.

25 THE COURT: Is this on the damages

1 had been amended. All they did was took out the
2 requirement of special damages, otherwise, we
3 would have been up here hearing about special
4 damages.

5 So it's all pretty clear now, and
6 Justice Few, in his concurring opinion -- I think
7 it was concurring opinion. I think it was a
8 concurring opinion. I don't think it's a
9 dissent. I would commend Justice Few's this
10 concurring opinion to you because in it, he has
11 reservations about the Court's decision, Justice
12 Bay's decision on conspiracy.

13 And he has specific concerns, and that
14 specific concern is that it can be used by crafty
15 plaintiffs lawyers, such as myself, to try to
16 broaden it and make somebody responsible for what
17 they're not responsible for. Fortunately for me
18 and my client, that's not a concern in this
19 particular case because this particular case is
20 exactly why our jurisdiction needs a civil
21 conspiracy cause of action.

22 It is exactly why the Court was correct
23 in dispensing with the requirement of special
24 damages. And I would commend the decision to you
25 overall because it is a very erudite disposition

1 of how the conspiracy law in South Carolina, the
2 civil conspiracy law started out with this notion
3 of special damages. It was really a rule of
4 evidence that somehow got misinterpreted. And,
5 of course, you know how that goes. And finally,
6 Justice Beatty fixed it.

7 So where we are in this case is that, in
8 the complaint, and it -- when we alleged
9 conspiracy, we, like most people who have been
10 conspired against, were unaware of the full depth
11 and breadth of the conspiracy that had been
12 occurring. So all we knew was this agreement.
13 Okay? That's all we complete because that's all
14 we knew about.

15 Now, since that time, evidence has been
16 presented in this case, hard evidence, which has
17 in fact been admitted to as recently as today by
18 Balfour Beatty, that they committed no less than
19 six misdemeanors. And those are unlawful acts.
20 They're also acts and are a breach of contract.

21 Our contract says that you will pay
22 money to subcontractors we pay on subcontractors'
23 behalf. What makes that not only a breach of
24 contract but a fraudulent breach of contract --
25 because every single pay request in which that

1 money was asked for was sworn to under oath as
2 being true, and said that the money we're asking
3 for is owed, and we're going to pay it, if you
4 paid us.

5 And it's not like in the UCC, corn going
6 into a bin and you don't know whose corn it was,
7 was in there. We knew exactly whose money it
8 was. We know exactly whose money it was asked
9 for, whose benefit it was asked for, how much it
10 was for, and we knew where it was supposed to go.

11 Now, the next fraudulent act that
12 occurred as it related to those unlawful
13 misdemeanor transactions was the next pay
14 request, wherein the same people testified, not
15 only did we swear to God under oath that we were
16 going to pay the money when we got it, we have
17 now paid it. And they admit they did that. That
18 was an unlawful act.

19 It was also a breach of contract. It
20 was a fraudulent act accompanying the breach of
21 that contract. It was also a conspiracy. They
22 conspired with these subcontractors to inflate
23 the liens and to not disclose change -- back
24 charges, trading back charges that we should have
25 gotten the benefit, that they traded -- they

1 traded our money back and forth.

2 And they did it knowingly, and they did
3 it with the intent -- in a nutshell, this is what
4 our case is. I wrote this down the other night.
5 Balfour Beatty told the subs that Library
6 Associates was not paying their pay requests, to
7 motivate the subs to file excessive liens against
8 the owner in breach of contract, the subcontract,
9 and the law.

10 This was a lie, a fraudulent act
11 accompanying the breach, told for the expressed
12 purpose of angering the subs and causing them to
13 file excessive liens because the liens included
14 money BBC had been paid by Library Associates
15 that was required to be paid by the subs.

16 The lien that Watson filed included the
17 \$200,000 that they were paid the other day. The
18 lien that all of these people filed include all
19 of these fraudulent funds they held, and they
20 made interest on it the whole time. These are --
21 this unlawful purpose here was extortion.

22 It was founded upon BBC's lies not only
23 to the subcontractors, to Library Associates, but
24 to you. They have lied to this Court to
25 perpetrate their lies. Watson came in here and

1 got partial summary judgment.

2 Balfour Beatty did not defend it, did
3 not divulge to you they were holding \$200,000 of
4 their money, allowed them to get attorney's fees
5 under a contract they were not entitled to and
6 did not put in front of you releases of liens,
7 claims, back charges, and all of those things.

8 These -- that summary judgment was a
9 fraud on this Court, and I advised the Court of
10 it before it began, if Your Honor may remember.
11 Having the subs file excessive liens gave facial
12 confidence -- or credence to the excessive lien
13 amounts. There was \$750,000 of money they were
14 holding that was included in the millions and
15 millions of dollars worth of liens.

16 And they've admitted it. Hence, that's
17 why Judge Price refused to address that issue
18 when we in front of him and tried to get some
19 relief for \$24 million worth of liens. That's a
20 lot of money, Judge, on a \$55 million contract.
21 And it's why you, being hoodooed just like Judge
22 Price, encouraged the subcontractors to file
23 summary judgment motions and get down here and
24 get their money.

25 Remember how long it took for any of

1 them to file summary judgment? Why was that? I
2 wonder. Particular with the conspirators. They
3 didn't want to get in front of you on that all
4 that stuff. You've -- you've watched these
5 depositions. You've seen Simonton or whatever
6 the heck his name was and me trying to get some
7 information out of him.

8 This has been going on since day one,
9 that letter -- the piece of evidence I put back
10 in front of you, that was the kernel. But where
11 this started was in Charlotte, when they first
12 got sideways with Old North State Masonry. And
13 that's how you got these same three people
14 represented by the same two lawyers. I'm telling
15 you, that's what this is.

16 The unlawful and disingenuous
17 machinations when combined with shutting down the
18 Egnyte site, which we had no knowledge of, could
19 not have known about, the true purpose of it. We
20 just thought it may be whatever it was.

21 But it wasn't until Simonton got up here
22 and told you he did it on purpose, and he did it
23 for the exclusive purpose so we couldn't get into
24 these documents. That's when we found out about
25 secret change orders. That's when we found out

1 about project manager hold backs. There's no
2 such thing as a project manager hold. We were
3 never told about it.

4 And then Simonton gets paid \$500,000,
5 telling you he worked 40 to 45 hours a week for
6 two years preparing this case. And you saw what
7 they put up. It was embarrassing, embarrassing
8 the stuff that they put up in front of you.
9 There's no backup for any of it.

10 They want 2 and a half million dollars
11 for RCOs. They came in here with a black
12 notebook. This is our 2.3 million dollars, and
13 that's all they said. Did you have a lot of
14 trouble? Yeah, yeah, simple case here. We just
15 want our money.

16 I had to put up Kim Bennett Brown, my
17 partner did. Two and a half hours, went through
18 every single page. There was one legitimate
19 charge in the whole book, and we'd written them a
20 change order for it. That's where that went.

21 When you -- when we provide for you the
22 difference between what this says, what was just
23 told to you by a lawyer, as an officer of this
24 Court, that the changes made were the ones
25 described, that was not true. There are more

1 changes on here, and there are other things that
2 were done and were not disclosed to you, and will
3 provide that to you at the appropriate time in a
4 brief.

5 This is not true. There's no other
6 conclusion you could make, other than this was an
7 intentional premeditated scheme and evidence to
8 extort money from Library Associates with the
9 cooperation of their co-conspirators. They've
10 admitted as much.

11 They came to you the first day. Mike
12 Bennett doesn't have any money. We're going to
13 put a 24 million dollar lien on his hotel and
14 bring him to his knees, and he will pay us.
15 Wrong choice. Wrong choice because two years
16 later, almost to the day, we're right here. And
17 now you know what happened.

18 Damages? Oh, I've got damages. I've
19 got damages. The conspiracy damages are 24
20 million dollars in lost profits, which there's
21 been not a single shred of evidence to combat it
22 or to put any other number in front of you.
23 That's the only number you've got.

24 MR. HILDEBRAND: Your Honor --

25 MR. BUNDY: 24 million dollars.

1 MR. HILDEBRAND: -- he testified
2 about damages that you've ruled are -- what he
3 did was --

4 MR. BUNDY: Wait, I'm talking.

5 THE COURT: Go ahead and let him
6 finish. Let him finish. All right. Go ahead.

7 MR. BUNDY: 24 million dollars we
8 lost in lost profits because of this conspiracy,
9 because this breach of contract accompanied by a
10 fraudulent act. This is clearly an unfair trade
11 practice. How could this not be an unfair trade
12 practice? To file false documents to commit
13 crimes, to hide evidence?

14 The contract that we have with them --
15 and apparently, they still refuse to read the
16 contract. During this thing, of course, I told
17 Brent, I said, I've been doing this for a long
18 time. One thing you can count on, generally, the
19 construction cases, nobody reads the contract but
20 me and them. They just don't like reading it.
21 They just read over stuff they don't like.

22 The contract says, prejudice will be
23 assumed. If you don't give notice, prejudice
24 will be assumed, and you agreed that we're
25 prejudiced. Why are we talking about prejudice?

1 And then we talk about waiver and estoppel,
2 dotting I's and crossing T's. My goodness,
3 really? We're estopped from doing anything.

4 Apparently, if we did one thing wrong
5 eight years ago, everything is good after that.
6 That's the most ridiculous thing I've ever heard.
7 Prior breach. That's not the law. This contract
8 is the law of this case, and it says clearly that
9 they agreed to do everything in the best
10 financial interest and in the most efficient
11 manner in the owner's best interest.

12 Have they done that? Absolutely not, at
13 every turn. At every turn. Simonton cut down
14 the Egnyte site, and then they sent out subpoenas
15 out. Then they were in litigation, which meant
16 that they could hide all the documents because we
17 didn't know what they had. They sent the
18 subpoenas out.

19 Simonton says, two years to comparing
20 what's in the Egnyte site to what has been --
21 they get back from us. So now they know what
22 we've got. What do they disclose? What we
23 already have. So we have no way of knowing
24 what's really going on.

25 And that's how we found out, through

1 other subcontractors because they actually said,
2 well, I know we -- you had found somewhere else.
3 It's not an easier egg hunt, Judge. They're
4 supposed to tell us the truth. You've already
5 told these subcontractors, they can't put 70,000
6 pages of documents in at the last minute. We've
7 been fighting this thing for two years.

8 And finally, and then I'll quit, but I
9 don't think we're at a procedural point to
10 really -- I mean, you've already ruled, as I
11 understand it. I didn't hear anything in reply
12 today to change everything that's happened for
13 the last five weeks.

14 So at any rate, I would respectfully
15 request that we're entitled to a directed verdict
16 on the excessiveness of the mechanic's lien. I
17 don't think there's any way to get around that,
18 that they filed an excessive mechanic's lien.
19 They sworn under oath they were entitled this
20 money.

21 And if they filed an excessive
22 mechanic's lien, that in and of itself is an
23 unfair trade practice. That in and of itself is
24 a breach of contract accompanied by a fraudulent
25 act, and that in and of itself was another act of

1 conspiracy in furtherance of the conspiracy.

2 So they filed excessive liens in an
3 attempt to extort money. They hide documents.
4 They shut down -- the Egnyte site belongs to us.
5 It doesn't belong to them. We're entitled to
6 those documents. They then engage in subsequent
7 agreements with contractors changing the terms of
8 the subcontract.

9 This pass-through agreement changes the
10 terms of the subcontract. They said, we're not
11 telling the owner anything. They owe us a
12 fiduciary duty not to do any of that. What's
13 more, pass-through claims only in a lump sum
14 contract. They don't work on a cost plus job.

15 We hired them to monitor the work and
16 lookout for us, not lookout for them. And we
17 certainly didn't hire them to conspire with
18 subcontractors to try to steal money from us.
19 And this whole thing about liquidated damages is
20 just nonsense. This is nonsense.

21 The new AIA document, the language is
22 exactly the same as it is in the current
23 document. There's only an additional sentence
24 for the num-nuts that don't know how to read.
25 And it says, and liquidated damages is not a

1 claim.

2 They didn't change the language of the
3 word at -- they didn't change the language of it
4 at all. Okay? It's just a clarification for
5 people who don't do this kind of work, who think
6 they can come in here with those ridiculous
7 arguments, which flies in the face of common
8 sense.

9 He says that, if we'd have notified him,
10 they would have done something. Now, what would
11 they have done? Gone slower? Time was always of
12 the essence. This contract is a time is of the
13 essence case. It has always been. (Inaudible).
14 That's my case. We can get lost profits for
15 not -- and there was no data completion. The
16 time was of the essence, and the Court set a
17 reasonable time.

18 What were they going to do if we said,
19 we want liquidated damages even though we didn't
20 know when the job was going to -- were they going
21 to terminate the contract? I don't think so. I
22 think that would have been a breach of contract
23 in and of itself for wrongful termination.

24 They say we didn't pay them. They've
25 got absolute rights to file notices of leaving

1 the job if we don't get paid. Waiver and
2 estoppel. What? I think waiver and estoppel
3 ought to go both ways. Okay? Both ways.

4 And clean -- unclean hands. Mr. Howe
5 used to say to me, it comes with some ill grace.
6 Okay? It comes with some ill grace. For Balfour
7 Beatty Construction, anybody over there, to talk
8 about clean hands. Thank you.

9 THE COURT: All right.
10 Mr. Hildebrand, do you want to be heard on the
11 issue of the mechanic's lien? He brought up the
12 directed verdict on that.

13 MR. HILDEBRAND: Yes, sir. So what
14 happened here was that, Mr. Bundy -- mechanic's
15 liens were filed by Balfour and its
16 subcontractors for amounts that were -- Mr. Bundy
17 argued to Judge Price that the South Carolina,
18 that some of the liens were duplicative, and that
19 was the basis.

20 You can go back and look at the record.
21 The liens were duplicative. And what Judge Price
22 looked at was the law, and the South Carolina
23 legislature says that, subcontractors have liens
24 if they don't get paid, liens against the owner,
25 and Balfour has liens against the owner.

1 And there might be some duplication.

2 There's no question about that. There's no
3 question about -- we've been very candid with the
4 Court to show -- I think extremely detailed to
5 show, of our mechanic's lien, how much is owed to
6 the subcontractors and what work they did and
7 supplied that needs to be passed through to those
8 subcontractors.

9 That's what the -- that's what those
10 motions were about. And I argued with the judge,
11 and Judge Price accepted it. I said, look,
12 that's what the legislature says. Subs have
13 liens; we have liens. If the sub -- if the
14 legislature wants to change that, then they can
15 do that, but there will be some duplication.

16 So at most, what Mr. Bundy has argued is
17 that, okay, of the 59 million dollars that was --
18 was actually paid by Library Associates, that
19 after a lot of time and effort and work, it's
20 been discovered that they were some discrepancies
21 to the tune of \$552,733.44 where we were --
22 Balfour had billed for work performed by subs,
23 and apparently was paid.

24 And we said, yep, we acknowledge that.
25 We see that. That's not how we do business. We

1 acknowledge that they're entitled to that money.
2 So -- and most of it was in oversight. But that
3 is a small percentage. I'm not saying that --
4 again, we like perfection. We don't get it, but
5 that figure in comparison to the total billings
6 is not good, but it is very small by comparison.
7 I have done the math and what the percentage is.

8 So that's my response to the mechanic's
9 lien issue. Certainly we have mechanic liens.
10 The subs have the right to file their owner
11 mechanic liens.

12 Any other particular questions, Your
13 Honor?

14 THE COURT: No. That was my
15 particular one. Okay.

16 MR. HILDEBRAND: All right.

17 THE COURT: All right. Let me tell
18 you what I would like to do now, and I've debated
19 about whether or not to do this now or do this at
20 the end of the week. But let me go ahead and do
21 it now because both of those were directed
22 verdict or nonsuit motions, but similar to
23 closing arguments, and it might save us some time
24 later.

25 I'm going to give y'all some of my

1 y'all's up if you would like.

2 Let me address these e-mails and this
3 correspondence that we've gone into the last
4 couple days about the -- this joint defense
5 agreement. I've been looking -- like I said, I
6 just found it today, but I've been looking for
7 the last couple of days further into the common
8 interest rule and this joint defense and
9 prosecution agreement.

10 I found a number of cases, but the two
11 starting points for me have been law review
12 articles or law articles and not law reviews.
13 They were in -- frankly they're in South Carolina
14 Lawyer magazine. One is from Nathan Crystal from
15 2013, and the one I had a hard time finding was
16 from -- also from South Carolina Lawyer magazine
17 and it was prepared by John Freeman of the law
18 school.

19 And that was in 1995. And as I
20 anticipated, it would probably provide me more
21 information about this. And then I found out
22 that John Freeman just died in October of this
23 year.

24 Apparently, these joint defense
25 privilege agreements or common interest rule

1 doctrine agreements have been around since the
2 late 19th Century in reference to a case from
3 1871. They generally appeared in the criminal
4 context because it was used when there were
5 multiple defendants in a criminal case.

6 And the purpose, of course, it was to
7 allow attorneys and their parties to communicate
8 about something without waiving the
9 attorney-client privilege that opened up the door
10 to allow others to share in that privilege.

11 Our state first recognized the common
12 interest doctrine in the case called Tobaccoville
13 USA v. McMaster. We talked about that the other
14 day. That's from 2010. It is really -- the
15 purpose behind it is really an evidentiary
16 document, so you don't have it as a
17 attorney-client privilege of rule of evidence.

18 But the common interest doctrine is an
19 exception to the rule. It's an exception to the
20 waiver of the rule because the rule -- because
21 the privilege can be waived in the event it is
22 broadcast to someone not entitled to it.

23 So then the Court goes on to talk about
24 whether or not a document was, quote, "Prepared
25 in anticipation of litigation, which is the

1 standard for work product doctrine." And
2 Mr. Crystal goes on to say, "This requirement is
3 met when the prepared case is an actual or
4 potential claim. The primary motive for the
5 preparation of the document must be the
6 anticipation of litigation."

7 So that's sort of generally where we
8 are. There are some other cases in here. The
9 Tobaccoville case is the only state court case
10 discussed in this that I could find, and it was
11 limited -- under that circumstance, it was
12 limited to the facts of the case, which was the
13 Attorney General's around -- around the country
14 or involved in tobacco litigation. It was an
15 attempt to keep some of that stuff privileged.

16 And our Supreme Court, through Chief
17 Justice Toal, said it was going to be utilized in
18 that fashion. There have been other Federal
19 Court cases in this state, which have then gone
20 further and applied the doctrine in other
21 circumstances.

22 Typically, one of which would be when
23 you have multiple representation in an insurance
24 case, the attorney for the insured will have
25 their own lawyer and the insurance company will

1 provide another one.

2 This is State Farm vs. Admiral Insurance
3 Company from February of 2016, in which Judge
4 Gergel found it was protected. The common
5 interest doctrine was available in that case.
6 That was a bad faith claim arising out of a
7 hazing at a fraternity house apparently. 225
8 F.3d 474, Judge Gergel, who this Court holds in
9 high regard.

10 Another case of a judge that the Court
11 holds in high regard is Judge David Norton from
12 across the street. And Judge Norton, it was in
13 the Wellin case, W-E-L-L-I-N. There's been a
14 substantial amount of litigation in that family.
15 And I don't know that I have the direct site on
16 that one, but there's been both State and Federal
17 litigation in that context.

18 There the Court found that -- I believe
19 the Court found there was not a common interest
20 in that situation. But, again, this was a family
21 situation. The family was fighting over the
22 heirs of Mr. Wellin.

23 And then it looks like I had to go
24 outside of this jurisdiction for some authority.
25 One case cited in Wellin, cited by Mr. Freeman

1 was the basis for the privilege to where it's
2 needed to protect, quote, "The free flow of
3 information applied to attorney whenever multiple
4 clients share a common interest about a legal
5 matter." That's US v. Schwimmer, S-C-H-W,
6 Schwimmer. 8923 F.2nd 237. That was in the
7 Second Circuit in 1989.

8 And then there's one more case I found
9 instructive, and that was in re: Santa Fe
10 International Corporation. In this case, it was
11 an attempt -- this was a case involving patent
12 law -- excuse me, this was an antitrust case.
13 This particular one was an antitrust case. And
14 it was a divided opinion of the Fifth Circuit
15 Court of Appeals.

16 Let me see if I can find the cite on
17 this one. But anyway, in re, Santa Fe
18 International. Here, the Court found that there
19 was not a privilege, but it was largely because,
20 as I recall, it was a memorandum of law in 1991.
21 Litigation commenced in like 2000 over an
22 attorney's memoranda, whether or not this
23 attorney's memoranda was going to be disclosed.

24 And basically, it was the length of time
25 between the time the legal memoranda was prepared

1 and the time that it came to trial. But the
2 Court found that it was not prepared in
3 anticipation of litigation, and they allowed the
4 document to be discovered. And he used the
5 language, there must be a quote, "Palpable threat
6 of litigation at the time of the communication
7 for it to be privileged." So that's in re:
8 Santa Fe.

9 I read these last night. I located this
10 site for Mr. Freeman's last night. I just didn't
11 find that until today. Freeman's article, the
12 common interest rule is really an attempt to
13 state what is the common interest rule? When
14 does it apply and how do you make sure you keep
15 it?

16 Well, you make sure you keep it, number
17 one. And his system is, you have a written
18 agreement which provides for what you're going to
19 do. That's the joint defense and prosecution
20 agreement we've got here.

21 It should cover all participating
22 clients, attorneys, set forth the rules that they
23 live by. When someone leaves it, that needs to
24 be clearly made, that they would -- they get out
25 and are no longer a party to the agreement. All

1 right?

2 The statute of limitations will be
3 tolled as to claims asserted by one party against
4 the other. There is nothing that I have seen in
5 the agreement that would give me any indication
6 that it is anything other than an attempt to
7 satisfy the common interest rule doctrine, that
8 particular document.

9 I made the point yesterday -- because
10 the document apparently wasn't exercised until
11 June of '19. I was concerned about the
12 correspondence in Exhibit 158, which took place
13 some months before that. That was in August of
14 '18.

15 Today, we've been presented with
16 information indicating that maybe there was
17 discussions about this or an attempt to implement
18 this. That was 165 -- as early as July of '17.
19 That's the purpose of Defendant's Exhibit 165
20 marked for identification purposes, and the other
21 ones just handed up: 164, 65, 66 and 167.

22 However, it's pretty clear to this Court
23 now that there in fact were claims made at that
24 time, that those claims had been made as early as
25 December of 2016 by Lithko. Lithko was a

1 subcontractor, and the best I can tell, was the
2 first one to file their lien. They filed one in
3 December of '16, and the next one was in February
4 of '17. They got bonded off. They filed suit in
5 February of '18, I think it was.

6 So based upon that, it's my finding that
7 this -- these communications should be considered
8 privileged. They should be covered then by the
9 common interest rule and the joint defense and
10 prosecution agreement.

11 So what I'm going to do is I'm -- we've
12 marked them for identification purposes. They
13 can stay in the record as ID documents. I'm
14 going to pull back the 158 that we used
15 yesterday. It will be marked again for
16 identification purposes and that stuff comes out.
17 Y'all get to litigate that thing and maybe the
18 Court will find that it doesn't apply in this
19 state.

20 But I think that's the state of the law.
21 What I found, even the language of the
22 Tobaccoville, when I read Tobaccoville the first
23 time, they seemed very limited to what the Court
24 was doing. But when I read these other cases
25 around the country, I find it to be otherwise.

Plaintiff Balfour Beatty's Trial Exhibit # 27

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TASK ID	TASK	WORK DAYS	START DATE	FINISH DATE	Total Float
10828	OWNER ARTWORK COMPLETE	30	24-Dec-18 A	01-Feb-19 A	
10818	SECURITY SYSTEMS & CAMERA'S FULLYFUNCTIONAL	1	28-Dec-18 A	28-Dec-18 A	
10822	ALL TELEPHONE, IT SYSTEMS, INTERNET HD TELEVISION COMPLETE	1	25-Jan-19 A	25-Jan-19 A	
10796	OWNER FFE COMPLETE	0		01-Feb-19 A	
INSPECTIONS		572	13-Mar-17 A	31-May-19	0
		572	13-Mar-17 A	31-May-19	0
		572	13-Mar-17 A	31-May-19	0
		572	13-Mar-17 A	31-May-19	0
		572	13-Mar-17 A	31-May-19	0
1134	BACKFLOW CERTIFICATION	12	13-Mar-17 A	28-Mar-17 A	
1142	SMOKE PRESSURIZATION TEST	38	30-May-18 A	20-Jul-18 A	
1062	NFPA 72 INSPECTION	2	31-May-18 A	01-Jun-18 A	
1066	ANSUL SYSTEM TEST	2	31-May-18 A	01-Jun-18 A	
1136	SPRINKLER NFPA 14	2	09-Jul-18 A	10-Jul-18 A	
1074	FIRE MARSHALL FINAL INSPECTION NFPA 13	2	09-Jul-18 A	10-Jul-18 A	
1138	FIRE PUMP NFPA 20	2	09-Jul-18 A	10-Jul-18 A	
1058	FINAL PLUMBING INSPECTION	3	28-Aug-18 A	28-Aug-18 A	
1056	FINAL MECHANICAL INSPECTION	1	29-Aug-18 A	29-Aug-18 A	
1054	ELECTRICAL FINAL INSPECTION	2	19-Sep-18 A	19-Sep-18 A	
10800	HOTEL LIFE SAFETY INSPECTION COMPLETE - ALARM FINAL	0		25-Sep-18 A	
1064	HEALTH INSPECTION - DHEC (POOL EXCLUDED) DUE TO CCD ISSUES DESIGN	1	03-Oct-18 A	03-Oct-18 A	
337483	PARKS FINAL	0		09-Nov-18 A	
25104	ELEVATOR FINAL TEST & ACCEPTANCE (STATE) FREIGHT	0		09-Nov-18 A	
1052	BUILDING FINAL INSPECTION	7	13-Nov-18 A	21-Nov-18 A	
1078	PARKS INSPECTION	1	14-Nov-18 A	14-Nov-18 A	
337479	ENGINEERING FINAL	0		14-Nov-18 A	
337485	B.A.R. FINAL (TBD - PENDING CCD'S)	0		15-Nov-18 A	
337507	BBC COMPLETE FIRE MARSHAL ITEMS FOR CERTIFICATE OF OCCUPANCY (13 ITEMS)	24	19-Nov-18 A	20-Dec-18 A	
1186	BBC COMPLETE BUILDING INSPECTOR ITEMS FOR CERTIFICATE OF OCCUPANCY	33	20-Nov-18 A	03-Jan-19 A	
337493	ELEVATOR FINAL TEST & ACCEPTANCE (STATE) PASSANGER (ELEVATOR #5)	0		28-Nov-18 A	
337509	BBC WALK WITH FIRE MARSHAL TO VERIFY 13 ITEM LIST	1	21-Dec-18 A	21-Dec-18 A	
337491	ELEVATOR FINAL TEST & ACCEPTANCE (STATE) PASSANGER (ELEVATOR #4)	0		28-Dec-18 A	
1068	ELEVATOR FINAL TEST & ACCEPTANCE (STATE) PASSANGER (ELEVATOR #1)	0		28-Dec-18 A	
337487	ELEVATOR FINAL TEST & ACCEPTANCE (STATE) PASSANGER (ELEVATOR #2)	0		28-Dec-18 A	
337489	ELEVATOR FINAL TEST & ACCEPTANCE (STATE) PASSANGER (ELEVATOR #3)	0		28-Dec-18 A	
337511	BBC CERTIFICATE OF OCCUPANCY WALKS (CONVERT TCO'S TO CO'S)	1	31-May-19	31-May-19	-101
337513	CHARLESTON COMPLETE & ISSUE CERTIFICATE OF OCCUPANCY	1	31-May-19	31-May-19	-101
EXECUTED CHANGE ORDERS		423	09-Dec-16 A	31-May-19	0
CCD-2 BLACKOUT STAIR WINDOWS & DRYWALL		125	30-Mar-18 A	20-Sep-18 A	
STAIR 4		70	30-Mar-18 A	05-Jul-18 A	
		70	30-Mar-18 A	05-Jul-18 A	
		70	30-Mar-18 A	05-Jul-18 A	
1284	MOCKUP WINDOW @ STAIR 4	1	30-Mar-18 A	30-Mar-18 A	
1358	ORDER BLANK OFF PANELS & DELIVER @ STAIR 4	11	02-Apr-18 A	16-Apr-18 A	
1366	INSTALL BLANK OFF PANELS @ STAIR 4	2	17-Apr-18 A	18-Apr-18 A	
1368	INSTALL PLYWOOD, FURRING & HANG DRYWALL @ STAIR 4	15	23-Apr-18 A	11-May-18 A	
1372	TAPE & FINISH SHEETROCK @ STAIR 4	16	07-May-18 A	29-May-18 A	
1374	PRIME & PAINT @ STAIR 4 (LEVELS 3-9) DOES NOT INCLUDE LVL 6 CCD WORK	24	04-Jun-18 A	05-Jul-18 A	
STAIR 3 MOCK UP WINDOW		98	30-Mar-18 A	15-Aug-18 A	
		98	30-Mar-18 A	15-Aug-18 A	
		98	30-Mar-18 A	15-Aug-18 A	
337423	MOCKUP WINDOW @ STAIR 3	1	30-Mar-18 A	30-Mar-18 A	
337425	ORDER BLANK OFF PANELS & DELIVER @ STAIR 3	11	02-Apr-18 A	16-Apr-18 A	

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TASK ID	TASK	WORK DAYS	START DATE	FINISH DATE	Total Float
		11	30-May-18 A	13-Jun-18 A	
		11	30-May-18 A	13-Jun-18 A	
1322	DELIVER ACCESS PANEL - SECOND FLOOR CORRIDOR	1	30-May-18 A	30-May-18 A	
1446	REFRAME CEILING OPENING FOR ACCESS PANEL - CCD17	2	31-May-18 A	01-Jun-18 A	
1456	INSTALL ACCESS PANEL @ CCD17	2	31-May-18 A	01-Jun-18 A	
1448	H/T/F DRYWALL @ CCD17 ACCESS PANEL	5	04-Jun-18 A	08-Jun-18 A	
1458	PAINT CEILING & PANEL @ CCD17	4	09-Jun-18 A	13-Jun-18 A	
CCD-18 ROOF TOP BAR		5	14-May-18 A	18-May-18 A	
		5	14-May-18 A	18-May-18 A	
		5	14-May-18 A	18-May-18 A	
1318	RELOCATE THERMOSTAT @ ROOF TOP BAR	5	14-May-18 A	18-May-18 A	
CCD-19 200V SHIFT FIRE ALARM		39	25-Jun-18 A	16-Aug-18 A	
		39	25-Jun-18 A	16-Aug-18 A	
		39	25-Jun-18 A	16-Aug-18 A	
1516	DEMO SELETED DRYWALL @ LVL 2 CORRIDOR	2	25-Jun-18 A	26-Jun-18 A	
1522	SHIFT DEVICE ROUGH IN @ LVL 2 CORRIDOR	2	27-Jun-18 A	28-Jun-18 A	
1524	DRYWALL, PATCH & POINT UP @ LVL 2 CORRIDOR	3	29-Jun-18 A	03-Jul-18 A	
1526	PRIME PAINT WALL @ LVL 2 CORRIDOR	2	04-Jul-18 A	05-Jul-18 A	
1528	INSTALL WALL COVERING @ LVL 2 CORRIDOR	5	06-Jul-18 A	12-Jul-18 A	
1544	BBC TO DIRECT WATSON ELEC TO ADVISE ON REVISED DESIGN OF F/A DEVICE PLACEMENT	5	08-Aug-18 A	14-Aug-18 A	
1532	DEVICE TRIMOUT @ LVL 2 CORRIDOR	2	15-Aug-18 A	16-Aug-18 A	
CCD-21 ADDED CHILLED WATER LINE @ L1 & L9		19	25-Jun-18 A	19-Jul-18 A	
		19	25-Jun-18 A	19-Jul-18 A	
		19	25-Jun-18 A	19-Jul-18 A	
1518	TRIMARK MOBILIZE TO SITE	1	25-Jun-18 A	25-Jun-18 A	
1534	INSTALL CHILLED WATER LINE @ LEVELS 1 & 9	8	26-Jun-18 A	05-Jul-18 A	
1536	INSULATE CHILLED WATER LINE @ LEVELS 1 & 9	1	06-Jul-18 A	12-Jul-18 A	
1542	INSTALL ICE MAKERS @ LEVELS 9	8	10-Jul-18 A	19-Jul-18 A	
CCD-22 PATTISserie		159	08-Jun-18 A	16-Jan-19 A	
		159	08-Jun-18 A	16-Jan-19 A	
		159	08-Jun-18 A	16-Jan-19 A	
1314	BBC RECEIVED INCOMPLETE CCD-22 (MISSING PLUMBING DESIGN)	2	08-Jun-18 A	08-Jun-18 A	
1504	BBC TO RECEIVE COMPLETED CCD-22 SUBMITTAL, FAB & DELIVER	5	09-Jun-18 A	27-Jun-18 A	
1506	COMPLETE CCD-22 WORK - MILLWORK	85	28-Jun-18 A	28-Jun-18 A	
1386	ADDED SCOPE TO CCD-22	5	01-Aug-18 A	01-Aug-18 A	
1606	OFCI GLASS RCD'S & INSTALL @ CCD-22	5	14-Nov-18 A	14-Nov-18 A	
1608	BBC PUNCH @ CCD-22	54	15-Nov-18 A	16-Jan-19 A	
CCD-24 BALLROOM CAN LIGHTS		20	15-Aug-18 A	11-Sep-18 A	
		20	15-Aug-18 A	11-Sep-18 A	
		20	15-Aug-18 A	11-Sep-18 A	
1602	CCD RECEIVED @ CCD-24	1	15-Aug-18 A	15-Aug-18 A	
1610	WATSON FAB, DELIVER & INSTALL @ CCD-24	18	16-Aug-18 A	10-Sep-18 A	
1612	PAINT BALLROOM @ CCD-24	1	11-Sep-18 A	11-Sep-18 A	
CCD-25 FCI RELOCATION OF ELECTRICAL ROOM		13	20-Aug-18 A	07-Sep-18 A	
		13	20-Aug-18 A	07-Sep-18 A	
		13	20-Aug-18 A	07-Sep-18 A	
1598	CCD RECEIVED @ CCD-25	1	20-Aug-18 A	20-Aug-18 A	
1614	BMCC MOBILIZE CREW & RELOCATE FCI UNIT @ CCD-25	13	21-Aug-18 A	06-Sep-18 A	

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1616	WATSON COMPLETE FCI RELOCATION @ CCD-25	1	07-Sep-18 A	07-Sep-18 A	
CCD-26 TELKONET THERMOSTAT CHANGES		64	06-Sep-18 A	14-Dec-18 A	
		64	06-Sep-18 A	14-Dec-18 A	
		64	06-Sep-18 A	14-Dec-18 A	
		64	06-Sep-18 A	14-Dec-18 A	
1596	CCD RECEIVED @ CCD-26	1	06-Sep-18 A	06-Sep-18 A	
1618	MOBILIZE & COORDINATE DETAILS / CREW FOR INSTALLATION @ CCD-26	51	07-Sep-18 A	17-Nov-18 A	
1622	TELKONET INSTALLATION STARTED @ CCD-26	1	19-Nov-18 A	19-Nov-18 A	
1624	SERVER DELAYS(OWNER) @ CCD-26	16	20-Nov-18 A	11-Dec-18 A	
1626	TELKONET INSTALLATION COMPLETE @ CCD-26	3	12-Dec-18 A	14-Dec-18 A	
CCD-27 GARAGE RAMP CEILING		58	13-Aug-18 A	30-Oct-18 A	
		58	13-Aug-18 A	30-Oct-18 A	
		58	13-Aug-18 A	30-Oct-18 A	
1594	CCD RECEIVED @ CCD-27	1	13-Aug-18 A	13-Aug-18 A	
1628	PWALLS COORDINATE, PRICING & INSTALLATION @ CCD-27	55	14-Aug-18 A	29-Oct-18 A	
1632	PAINT COMPLETE @ CCD-27	1	30-Oct-18 A	30-Oct-18 A	
CCD-28 SUPPORT FOR DAS SYSTEM		83	13-Aug-18 A	03-Dec-18 A	
		83	13-Aug-18 A	03-Dec-18 A	
		83	13-Aug-18 A	03-Dec-18 A	
1592	CCD RECEIVED @ CCD-28	1	13-Aug-18 A	13-Aug-18 A	
1634	OWNER SUBCONTRACTOR COORDINATION & INSTALLATION @ CCD-28	80	14-Aug-18 A	03-Dec-18 A	
CCD-30 KITCHEN LIGHTING ADDITIONS		27	20-Aug-18 A	21-Sep-18 A	
		27	20-Aug-18 A	21-Sep-18 A	
		27	20-Aug-18 A	21-Sep-18 A	
1588	CCD RECEIVED @ CCD-30	1	20-Aug-18 A	20-Aug-18 A	
1636	WATSON PRICING, COORDINATION & INSTALLATION @ CCD-30	24	21-Aug-18 A	21-Sep-18 A	
CCD-31 TRANSFORMER & SERVICE YARD		164	10-Sep-18 A	26-Apr-19 A	
		164	10-Sep-18 A	26-Apr-19 A	
		164	10-Sep-18 A	26-Apr-19 A	
1586	CCD RECEIVED @ CCD-31	1	10-Sep-18 A	10-Sep-18 A	
1638	SUBMITTALS, REVIEW, REVISE & APPROVE @ CCD-31	84	11-Sep-18 A	04-Jan-19 A	
1642	FABRICATE & DELIVER SCREENWALL @ CCD-31	26	07-Jan-19 A	11-Feb-19 A	
1644	COMPLETE INSTALLATION OF SCREENWALL @ CCD-31	54	12-Feb-19 A	26-Apr-19 A	
CCD-33 ROOFTOP BACK BAR		5	20-Aug-18 A	07-Nov-18 A	
		5	20-Aug-18 A	07-Nov-18 A	
		5	20-Aug-18 A	07-Nov-18 A	
1584	CCD RECEIVED @ CCD-33	1	20-Aug-18 A	20-Aug-18 A	
1646	DISTRIBUTION TO SUBCONTRACTORS @ CCD-33	5	21-Aug-18 A	18-Sep-18 A	
1648	PRICING, SUBMITTALS, REVIEW & APPROVE @ CCD-33	5	19-Sep-18 A	24-Oct-18 A	
1652	UNINSTALL ORIGINAL CABINETS, INSTALL NEW CABINETS / TOPS BRACKETS & PUNCH @	5	10-Oct-18 A	07-Nov-18 A	
CCD-34 GRILLES		26	01-Nov-18 A	05-Dec-18 A	
		26	01-Nov-18 A	05-Dec-18 A	
		26	01-Nov-18 A	05-Dec-18 A	
1582	CCD RECEIVED @ CCD-34	1	01-Nov-18 A	01-Nov-18 A	
1654	FABRICATE, DELIVER & INSTALL GRILLES @ CCD-34	24	02-Nov-18 A	05-Dec-18 A	
CCD-35 PLYNTHS		45	24-Sep-18 A	09-Jan-19 A	
		45	24-Sep-18 A	09-Jan-19 A	

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		45	24-Sep-18 A	09-Jan-19 A	
		45	24-Sep-18 A	09-Jan-19 A	
1578	CCD RECEIVED @ CCD-35	1	24-Sep-18 A	24-Sep-18 A	
1656	SUBMITTALS, REVIEW & APPROVE @ CCD-35	5	25-Sep-18 A	07-Nov-18 A	
1658	FABRICATE, DELIVER & INSTALL PLYNTHS & LIGHTS @ CCD-35	45	08-Nov-18 A	09-Jan-19 A	
CCD-36 SHUTTER REVISIONS		375	20-Dec-17 A	31-May-19	-102
		375	20-Dec-17 A	31-May-19	-102
		375	20-Dec-17 A	31-May-19	-102
		375	20-Dec-17 A	31-May-19	-102
1164	A/E B.A.R. DELAY - SHUTTER DESIGN REVIEW PROCESS	52	20-Dec-17 A	05-Mar-18 A	
1222	OWNER TO ISSUE APPROVED CCD TO BBC - SHUTTERS	5	06-Mar-18 A	12-Mar-18 A	
1188	BBC TO RELEASE SHUTTERS	1	13-Mar-18 A	13-Mar-18 A	
1192	FAB & DELIVER MOCK UP SHUTTERS (EXPEDITED)	10	14-Mar-18 A	27-Mar-18 A	
1224	A/E TO REVIEW AND APPROVE SHUTTERS	1	28-Mar-18 A	28-Mar-18 A	
1276	BBC TO SUBMIT REQUEST FOR APPROVAL TO BAR	32	30-Apr-18 A	13-Jun-18 A	
1194	BAR FOR APPROVAL OF SHUTTERS (CHANGED)	1	27-Jun-18 A	27-Jun-18 A	
1282	WLA TO FINALIZE DESIGN OF SHUTTERS & SHOP DRAWING SUBMITTALS	41	23-Jul-18 A	19-Sep-18 A	
1576	CCD RECEIVED @ CCD-36	1	28-Aug-18 A	28-Aug-18 A	
1278	BBC TO RELEASE FOR FABRICATION THE BALANCE OF SHUTTERS TO WARCO	58	19-Sep-18 A	07-Dec-18 A	
1378	BBC TO RELEASE FOR FABRICATION THE BALANCE OF SHUTTER HARDWARE	68	19-Sep-18 A	21-Dec-18 A	
1538	ISSUE WITH CCD-36 SIZE FOR 3RD FLOOR SHUTTER - OWNER TO PROVIDE & INSTALL TO	99	14-Jan-19 A	31-May-19	-101
CCD-37 TUB FIXTURES		46	01-Nov-18 A	05-Jan-19 A	
		46	01-Nov-18 A	05-Jan-19 A	
		46	01-Nov-18 A	05-Jan-19 A	
1574	CCD RECEIVED @ CCD-37	1	01-Nov-18 A	01-Nov-18 A	
1662	COORDINATION OF UL RATING & INSTALLATION @ CCD-37	56	02-Nov-18 A	05-Jan-19 A	
CCD-38 COBBLES & IRRIGATION		5	25-Sep-18 A	23-Oct-18 A	
		5	25-Sep-18 A	23-Oct-18 A	
		5	25-Sep-18 A	23-Oct-18 A	
1572	CCD RECEIVED @ CCD-38	1	25-Sep-18 A	25-Sep-18 A	
1664	COORDINATION, FABRICATE & INSTALLATION @ CCD-38	5	26-Sep-18 A	23-Oct-18 A	
CCD-39 WINE ROOM		113	25-Sep-18 A	01-Mar-19 A	
		113	25-Sep-18 A	01-Mar-19 A	
		113	25-Sep-18 A	01-Mar-19 A	
1568	CCD RECEIVE @ CCD-39	1	25-Sep-18 A	25-Sep-18 A	
1666	COORDINATION, MEP ROUGH IN & COOLER INSTALLATION @ CCD-39	113	26-Sep-18 A	01-Mar-19 A	
CCD-40 DOORS TO ATTIC SPACE		19	21-Sep-18 A	16-Oct-18 A	
		19	21-Sep-18 A	16-Oct-18 A	
		19	21-Sep-18 A	16-Oct-18 A	
1566	CCD RECEIVED @ CCD-40	1	21-Sep-18 A	21-Sep-18 A	
1668	LEVEL 5 COORDINATION, FAB / DELIVER & INSTALLATION OF DOORS @ CCD-40	17	22-Sep-18 A	16-Oct-18 A	
CCD-44 POOL EQUIPMENT REVISIONS		41	08-Nov-18 A	28-Dec-18 A	
		41	08-Nov-18 A	28-Dec-18 A	
		41	08-Nov-18 A	28-Dec-18 A	
1564	CCD RECEIVED @ CCD-44	1	08-Nov-18 A	08-Nov-18 A	
1672	COORDINATION, FAB / DELIVER & INSTALLATION OF DOORS @ CCD-44	36	09-Nov-18 A	28-Dec-18 A	
CCD-45 SPA THERMOSTAT LOCATION CHANGE		20	11-Dec-18 A	07-Jan-19 A	
		20	11-Dec-18 A	07-Jan-19 A	

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		20	11-Dec-18 A	07-Jan-19 A	
		20	11-Dec-18 A	07-Jan-19 A	
1562	CCD RECEIVED @ CCD-45	1	11-Dec-18 A	11-Dec-18 A	
1674	CCD DISTRIBUTION & RELOCATION OF THERMOSTAT @ CCD-45	19	12-Dec-18 A	07-Jan-19 A	
CCD-46 DOL REQUIREMENTS		62	22-Oct-18 A	28-Dec-18 A	
		62	22-Oct-18 A	28-Dec-18 A	
		62	22-Oct-18 A	28-Dec-18 A	
3518	PREPARE ELEVATORS FOR FINAL INSPECTIONS	6	22-Oct-18 A	29-Oct-18 A	
3520	SCHEDULE DOL ELEVATOR INSPECTIONS	5	30-Oct-18 A	05-Nov-18 A	
3522	DOL INITIAL ELEVATOR INSPECTION & ISSUE LIST FOR COMPLETION (ELEV 6 & 5)	2	06-Nov-18 A	07-Nov-18 A	
3526	OTIS TO COMPLETE INITIAL INSPECTION LIST (ELEV 6)	1	08-Nov-18 A	08-Nov-18 A	
3528	DOL ADDITIONAL INSPECTION & ISSUE LIST FOR COMPLETION OF ELEV 5	2	08-Nov-18 A	09-Nov-18 A	
3540	OTIS TO COMPLETE INITIAL INSPECTION LIST (ELEV 5)	15	08-Nov-18 A	28-Nov-18 A	
3530	RE-SCHEDULE DOL INSPECTION FOR DECEMBER 28TH (PER OTIS REQUEST)	1	09-Nov-18 A	09-Nov-18 A	
3538	FINAL DOL ELEVATOR APPROVAL & SIGN OFF - ELEVATOR 6 (FREIGHT)	1	09-Nov-18 A	09-Nov-18 A	
3532	RE-DESIGN, COMPLETION OF WORK & RE-INSPECT ELEVATOR 4	47	12-Nov-18 A	28-Dec-18 A	
3542	DOL INITIAL ELEVATOR INSPECTION & ISSUE LIST FOR COMPLETION (ELEV 1, 2, 3 & 4)	2	15-Nov-18 A	16-Nov-18 A	
337495	BBC TO COMPLETE INITIAL INSPECTION LIST (ELEV 1, 2, 3 & 4)	8	15-Nov-18 A	26-Nov-18 A	
337497	DOL ADDITIONAL INSPECTION ELEVATORS 1, 2, 3 & 4 & TEST BACKUP GENERATOR	1	27-Nov-18 A	27-Nov-18 A	
337499	DOL INSPECTOR REQUESTS ADDITIONAL LIGHTING & A LETTER OR SMOKE DOORS	1	27-Nov-18 A	27-Nov-18 A	
337501	BBC COMPLETE DOL LIST FOR ELEVATORS 1, 2 & 3 & REQUEST EARLIER DOL INSPECTION	11	28-Nov-18 A	12-Dec-18 A	
1604	CCD RECEIVED @ CCD-46	1	11-Dec-18 A	11-Dec-18 A	
337503	SCHEDULE FOR DOL RE-INSPECTION ON ELEVATORS 1, 2 & 3	12	13-Dec-18 A	28-Dec-18 A	
337505	DOL RE-INSPECT ELEVATORS 1, 2 & 3	1	28-Dec-18 A	28-Dec-18 A	
STONE TOP THICKNESS ISSUE AT SPA & RETAIL		76	02-Mar-18 A	18-Jun-18 A	
		76	02-Mar-18 A	18-Jun-18 A	
		76	02-Mar-18 A	18-Jun-18 A	
1252	OWNER TO ISSUE APPROVE RCO 228 - STONE TOP @ SPA & RETAIL	30	02-Mar-18 A	12-Apr-18 A	
1266	SHOP DRAWING - STONE TOP @ SPA & RETAIL	6	13-Apr-18 A	20-Apr-18 A	
337445	RELEASE FAB & DELIVER - CASEWORK @ SPA & RETAIL	46	13-Apr-18 A	18-Jun-18 A	
1272	REV/ APPROVE SHOP DRAWINGS STONE TOP @ SPA & RETAIL	1	20-Apr-18 A	20-Apr-18 A	
RCO 193 SI 36R1 GUEST ROOM REVISIONS		0	29-Mar-18 A	29-Mar-18 A	
		0	29-Mar-18 A	29-Mar-18 A	
		0	29-Mar-18 A	29-Mar-18 A	
1208	SI 36R1 GUEST ROOM REVISIONS - OWNER CHANGE REQUIRED FOR CORRIDOR TRIMOUT	0		29-Mar-18 A	
RCO 176		99	30-Jan-18 A	18-Jun-18 A	
		99	30-Jan-18 A	18-Jun-18 A	
		99	30-Jan-18 A	18-Jun-18 A	
337405	SHOP DRAWINGS FOR RECEIVED CONCIERGE LOUNGE MILLWORK RCO 176	44	30-Jan-18 A	30-Mar-18 A	
337417	REV/APPROVAL - CONCIERGE LOUNGE MILLWORK RCO 176 - SHOP DRAWINGS	10	02-Apr-18 A	13-Apr-18 A	
337421	OWNER TO PROVIDE APPROVED CCD FOR RCO 176	5	16-Apr-18 A	20-Apr-18 A	
337399	RELEASE, FAB & DELIVER - CONCIERGE LOUNGE MILLWORK/ CASEWORK RCO 176	40	23-Apr-18 A	18-Jun-18 A	
RCO 42 & 183 ADDED MILLWORK GUESTROOMS		2	09-Dec-16 A	13-Dec-16 A	
		2	09-Dec-16 A	13-Dec-16 A	
		2	09-Dec-16 A	13-Dec-16 A	
337459	BBC RECEIVED RCO 42 & 183 FROM DESIGN TEAM (MOD 8)	0		09-Dec-16 A	
337461	BBC DIRECTED TO PROCEED WITH ADDITIONAL MILLWORK & LABOR REQUIRED	2	12-Dec-16 A	13-Dec-16 A	
WOOD FLOORING SELECTION BY OWNER		48	24-Jan-18 A	30-Mar-18 A	
		48	24-Jan-18 A	30-Mar-18 A	

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		48	24-Jan-18 A	30-Mar-18 A	
1156	RELEASE FAB & DELIVER WOOD FLOORING @ PRIVATE DINING	43	24-Jan-18 A	23-Mar-18 A	
1158	WOOD ACCLIMATION @ PRIVATE DINING - INSTALL WITHIN CCD6&7	5	26-Mar-18 A	30-Mar-18 A	
SI -40R1 RE-DESIGN OF ROOF TOP BAR		178	11-Oct-17 A	22-Jun-18 A	
		178	11-Oct-17 A	22-Jun-18 A	
		178	11-Oct-17 A	22-Jun-18 A	
24687	FAB & DELIVER - ROOF TOP BAR REDESIGN MILLWORK (WEST TERRACE)	178	11-Oct-17 A	22-Jun-18 A	
ORNAMENTAL SUPPORT BRACKETS		0	22-Jun-18 A	22-Jun-18 A	
		0	22-Jun-18 A	22-Jun-18 A	
		0	22-Jun-18 A	22-Jun-18 A	
1990	OWNER TO ISSUED APPROVED RCO 212 - SUPPORT BRACKETS FOR (34) CANOPIES	0		22-Jun-18 A	
PENDING CHANGE ORDERS		95	14-Feb-18 A	27-Jun-18 A	
ADDITIONAL HOPES DOOR @ SOUTHEAST ELEV		95	14-Feb-18 A	27-Jun-18 A	
		95	14-Feb-18 A	27-Jun-18 A	
		95	14-Feb-18 A	27-Jun-18 A	
1236	OWNER TO ISSUE CCD TO ORDER ADDITIONAL HOPES DOOR @ SOUTH EAST ELEV - NOT	95	14-Feb-18 A	27-Jun-18 A	
ISSUES		978	26-Jun-15 A	26-Apr-19 A	
		145	26-Jun-15 A	26-Jan-16 A	
		145	26-Jun-15 A	26-Jan-16 A	
		145	26-Jun-15 A	26-Jan-16 A	
1910	JOBSITE SHUTDOWN DUE TO SERVICES	1	26-Jun-15 A	26-Jun-15 A	
1930	SHEET PILE CONNECTION (CETCO) WATERPROOFING DETAIL	7	26-Aug-15 A	03-Sep-15 A	
1038	BBC ENCOUNTERED UNSUITABLE SOIL @ SITE (IMPACT MF3)	2	25-Jan-16 A	26-Jan-16 A	
GUESTROOM PUNCH		35	27-Sep-18 A	15-Nov-18 A	
		35	27-Sep-18 A	15-Nov-18 A	
		35	27-Sep-18 A	15-Nov-18 A	
9836	BBC COMPLETES ARCHITECT'S PUNCH LIST COMPETE @ GUEST ROOMS	0		27-Sep-18 A	
9844	SALAMANDER REVIEW & PUNCH @ GUEST ROOMS	6	28-Sep-18 A	05-Oct-18 A	
9842	BBC COMPLETE SALAMANDER PUNCH LIST @ GUEST ROOMS	29	08-Oct-18 A	15-Nov-18 A	
9840	ARCHITECT VERIFY PUNCH LIST COMPLETION & NOTIFY BBC @ GUEST ROOMS	3	13-Nov-18 A	15-Nov-18 A	
ARCHITECTURAL		2	02-May-16 A	03-May-16 A	
ROOFTOP DESIGN		2	02-May-16 A	03-May-16 A	
		2	02-May-16 A	03-May-16 A	
3286	ISSUE ROOFTOP DESIGN / DRAWINGS	2	02-May-16 A	03-May-16 A	
MOCK UP REMOVAL		53	27-Jun-18 A	07-Sep-18 A	
		53	27-Jun-18 A	07-Sep-18 A	
		53	27-Jun-18 A	07-Sep-18 A	
1242	BAR FINAL APPROVAL	0		27-Jun-18 A	
1244	FINAL MOCK UP PHOTO REQUIRED & APPROVAL TO REMOVE PARTS / DEMO	24	28-Jun-18 A	31-Jul-18 A	
1238	OWNER TO REMOVE THEIR PORTION OF MOCK UP	15	06-Aug-18 A	24-Aug-18 A	
1228	BBC TO REMOVE OUR PORTION OF MOCK UP @ SOUTHEAST ELEV	10	27-Aug-18 A	07-Sep-18 A	
RCO 171.1 - PRIVATE DINING MILLWORK / CASEWORK		69	30-Nov-17 A	08-Mar-18 A	
		69	30-Nov-17 A	08-Mar-18 A	
		69	30-Nov-17 A	08-Mar-18 A	

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1212	RCO 171.1 - CHANGE ORDER APPROVED	0		30-Nov-17 A	
1214	MILLWORK SHOP DRAWINGS @ PRIVATE DINING	26	30-Nov-17 A	08-Jan-18 A	
1216	DESIGNER REVIEW & APPROVE - PRIVATE DINING MILLWORK SHOP DRAWINGS	18	09-Jan-18 A	01-Feb-18 A	
1232	OWNER TO ISSUE APPROVED CCD - PRIVATE DINING MILLWORK RCO-171.1 (TO PROCEED	0		08-Mar-18 A	
RCO 176		65	09-Oct-17 A	12-Jan-18 A	
		65	09-Oct-17 A	12-Jan-18 A	
		65	09-Oct-17 A	12-Jan-18 A	
		65	09-Oct-17 A	12-Jan-18 A	
337395	SUBMITTALLS - CONCIERGE LOUNGE MILLWORK RCO 176	0		09-Oct-17 A	
337397	REV/APPOVAL - CONCIERGE LOUNGE MILLWORK RCO 176	65	10-Oct-17 A	12-Jan-18 A	
RCO 195		0	16-Jan-18 A	16-Jan-18 A	
		0	16-Jan-18 A	16-Jan-18 A	
		0	16-Jan-18 A	16-Jan-18 A	
1166	REMOBILIZATION - DC-04	0		16-Jan-18 A	
STAIR 04 MILLWORK		61	11-Dec-17 A	08-Mar-18 A	
		61	11-Dec-17 A	08-Mar-18 A	
		61	11-Dec-17 A	08-Mar-18 A	
1168	SUBMITTALLS - STAIR 04 MILLWORK	0		11-Dec-17 A	
1226	OWNER REDESIGN SHOP DRAWING DUE TO STAND PIPE	35	19-Jan-18 A	08-Mar-18 A	
1234	OWNER TO ISSUE APPROVED CCD UPON APPROVAL OF DESIGN - STAIR 4	1	08-Mar-18 A	08-Mar-18 A	
SI-38 ADDITIONAL ELECTRICAL ROUGH IN AT 2ND FLR KITCHEN		88	06-Feb-17 A	08-Jun-17 A	
		88	06-Feb-17 A	08-Jun-17 A	
		88	06-Feb-17 A	08-Jun-17 A	
36412	WAITING DIRECTION ON SI 38 PRICING (FEEDER)	88	06-Feb-17 A	08-Jun-17 A	
WOOD FLOORING SELECTION BY OWNER		37	30-Nov-17 A	23-Jan-18 A	
		37	30-Nov-17 A	23-Jan-18 A	
		37	30-Nov-17 A	23-Jan-18 A	
1154	OWNER TO SELECT WOOD FLOORING FOR DINING / PRIVATE DINING AREA'S	37	30-Nov-17 A	23-Jan-18 A	
SI -40R1 RE-DESIGN OF ROOF TOP BAR		223	05-May-17 A	16-Mar-18 A	
		223	05-May-17 A	16-Mar-18 A	
		223	05-May-17 A	16-Mar-18 A	
24682	REDESIGN OF ROOF TOP BAR	0		05-May-17 A	
24683	SHOP DRAWING @ ROOF TOP BAR REDESIGN	96	08-May-17 A	21-Sep-17 A	
24685	REV/APPROVE SHOP DRAWING - ROOF TOP BAR REDESIGN	13	22-Sep-17 A	10-Oct-17 A	
337419	FAB & DELIVER - ROOF TOP BAR REDESIGN MILLWORK (EAST TERRACE)	114	11-Oct-17 A	16-Mar-18 A	
SI-40R1 REDESIGN ROOF TOPBAR LIGHTING		90	05-May-17 A	13-Sep-17 A	
		90	05-May-17 A	13-Sep-17 A	
		90	05-May-17 A	13-Sep-17 A	
24689	SI-41 ADDITIONAL LIGHT FIXTURE TYPES LZ & LN FOR BAR REDESIGN	0		05-May-17 A	
24691	RELEASE ADDITIONAL LIGHT FIXTURES	52	08-May-17 A	20-Jul-17 A	
24693	FAB & DELIVER TYPE LZ & LN	30	02-Aug-17 A	13-Sep-17 A	
SI-42 LEVELS 6 & 7 MANAGER'S APT REVISIONS		36	31-Mar-17 A	19-May-17 A	
		36	31-Mar-17 A	19-May-17 A	
		36	31-Mar-17 A	19-May-17 A	
24695	SI-42 REVISIONS TO MANAGER'S APT'S @ LVL 6 & 7	36	31-Mar-17 A	19-May-17 A	
SI-43 BATHROOM GRAB BAR REVISIONS		86	11-Apr-17 A	10-Aug-17 A	

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		86	11-Apr-17 A	10-Aug-17 A	
		86	11-Apr-17 A	10-Aug-17 A	
		86	11-Apr-17 A	10-Aug-17 A	
24697	SI-43 GRAB BAR REVISIONS	40	11-Apr-17 A	17-May-17 A	
24699	RESUBMIT GRAB BARS @ GUEST ROOM BATHROOMS	10	04-May-17 A	17-May-17 A	
24701	REV/APPROVE - GRAB BARS @ GUEST ROOM BATHROOMS	13	18-May-17 A	06-Jun-17 A	
24703	FAB & DELIVER - GRAB BARS @ GUEST ROOM BATHROOMS	30	29-Jun-17 A	10-Aug-17 A	
SI-44 ELECTRICAL CHANGES TO PRIVATE DINING		116	14-Apr-17 A	09-Oct-17 A	
		116	14-Apr-17 A	09-Oct-17 A	
		116	14-Apr-17 A	09-Oct-17 A	
24705	DESIGN CHANGES TO PRIVATE DINING LIGHTING 6 ADDITION LW2 FIXTURES	0		14-Apr-17 A	
24709	REVIEW/APPROVE RCO	86	08-Jun-17 A	09-Oct-17 A	
SI-45 WON DOOR SIZING TO BE REVISED		59	18-Apr-17 A	11-Jul-17 A	
		59	18-Apr-17 A	11-Jul-17 A	
		59	18-Apr-17 A	11-Jul-17 A	
34987	WON DOOR SIZING TO BE REVISED - SI 45 (TOTAL OF 9 DOORS) - LEVELS 2,3 & 9	59	18-Apr-17 A	11-Jul-17 A	
SI-46 LOBBY BAR MILLWORK REVISIONS		130	18-Apr-17 A	27-Oct-17 A	
		130	18-Apr-17 A	27-Oct-17 A	
		130	18-Apr-17 A	27-Oct-17 A	
34989	SI-46 LOBBY BAR MILLWORK REVISIONS	0		18-Apr-17 A	
34991	BAR 148 REVISE MILLWORK SHOP DRAWINGS	45	09-May-17 A	12-Jul-17 A	
34995	FAB & DELIVER MILLWORK BAR 148 (SI-46)	40	01-Sep-17 A	27-Oct-17 A	
SI-49 REVISE & RESUBMIT ROTUNDA & RETAIL MILLWORK SHOP DRAWING:		75	26-Apr-17 A	10-Aug-17 A	
		75	26-Apr-17 A	10-Aug-17 A	
		75	26-Apr-17 A	10-Aug-17 A	
35005	SI-49 REVISE & RESUBMIT ROTUNDA & RETAIL MILLWORK	1	26-Apr-17 A	26-Apr-17 A	
35013	SI-49 PRICING & REVIEW & APPROVE MILLWORK - ROTUNDA & RETAIL MILLWORK	31	27-Apr-17 A	09-Jun-17 A	
35007	SI-49 REVISE MILLWORK SHOP DRAWINGS @ ROTUNDA & RETAIL	9	13-Jun-17 A	23-Jun-17 A	
35009	SI-49 REV / APPROVE MILLWORK @ ROTUNDA & RETAIL	4	23-Jun-17 A	28-Jun-17 A	
35011	SI-49 FAB & DELIVER MILLWORK @ ROTUNDA & RETAIL	30	29-Jun-17 A	10-Aug-17 A	
SI-50 MIRROR CUT'S & LIGHT LOCATIONS		103	14-Mar-17 A	07-Aug-17 A	
		103	14-Mar-17 A	07-Aug-17 A	
		103	14-Mar-17 A	07-Aug-17 A	
1944	OWNER TO PROVIDE MIRROR CUT LOCATIONS AT CAMELIA'S LOUNGE FOR LIGHT FIXT	34	14-Mar-17 A	28-Apr-17 A	
37842	FAB & DELIVERY OF MIRRORS @ CAMELIA'S LOUNGE	69	01-May-17 A	07-Aug-17 A	
SI-51 TILE REVISIONS AT CAMELIA'S LOUNGE		41	09-May-17 A	07-Jul-17 A	
		41	09-May-17 A	07-Jul-17 A	
		41	09-May-17 A	07-Jul-17 A	
37844	SI-51 TILE LAYOUT REVISIONS TO CAMELIA'S LOUNGE FLOOR TILE	0		09-May-17 A	
37846	SI-51 REVISE TILE LAYOUT SHOP DRAWINGS @ CAMELIA'S LOUNGE	35	10-May-17 A	28-Jun-17 A	
37848	SI-51 REV / APPROVE REVISED TILE LAYOUT @ CAMELIA'S LOUNGE	2	28-Jun-17 A	29-Jun-17 A	
37850	SI-51 REVISED TILE CUTS IF REQUIRED	5	30-Jun-17 A	07-Jul-17 A	
RCO 125R1 SPA MILLWORK CO		55	11-Aug-17 A	27-Oct-17 A	
		55	11-Aug-17 A	27-Oct-17 A	
		55	11-Aug-17 A	27-Oct-17 A	
24711	RCO 125R1 SPA MILLWORK CHANGE ORDER	15	11-Aug-17 A	31-Aug-17 A	

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24713	FAB & DELIVER MILLWORK RCO125R1	40	01-Sep-17 A	27-Oct-17 A	
DRYWALL MOLD					
		81	16-May-17 A	08-Sep-17 A	
		81	16-May-17 A	08-Sep-17 A	
		81	16-May-17 A	08-Sep-17 A	
34822	CONTRACTOR TO REMOVE AND TREAT ALL MOLDY DRYWALL FOR ENTIRE BUILDING - EVENT I	1	16-May-17 A	16-May-17 A	
34984	P-WALLS TO PATCH AND REPAIR ALL AREAS WHERE MOLD WAS REMOVED	78	19-May-17 A	08-Sep-17 A	
DESIGN TEAM TO PROVIDE LIGHT ALIGNMENT OF FIXTURES AT BALLROOM					
		44	03-Apr-17 A	02-Jun-17 A	
		44	03-Apr-17 A	02-Jun-17 A	
		44	03-Apr-17 A	02-Jun-17 A	
25314	ELECTRICAL ROUGH IN WAITING OF LIGHT FIXTURE ALIGNMENT AT BALLROOM BARREL	44	03-Apr-17 A	02-Jun-17 A	
PRICING FOR SI'S PENDING LIGHT FIXTURE AVAILABILTY					
		87	03-Apr-17 A	03-Aug-17 A	
		87	03-Apr-17 A	03-Aug-17 A	
		87	03-Apr-17 A	03-Aug-17 A	
25312	HANGING OF DRYWALL AT THE SPA RETAIL AREA BEING DELAYED DUE TO PRICING OF SI'S 39 THRU 42 - RCO	87	03-Apr-17 A	03-Aug-17 A	
ELEVATOR 6 MOTOR ROOM DESIGN CHANGE					
		7	09-Jun-17 A	19-Jun-17 A	
		7	09-Jun-17 A	19-Jun-17 A	
		7	09-Jun-17 A	19-Jun-17 A	
3412	APPROVAL OF PRICING FOR PAN @ ELEVATOR 6 MOTOR ROOM	1	09-Jun-17 A	09-Jun-17 A	
3410	PROCURE PAN @ ELEVATOR 6 MOTOR ROOM	3	12-Jun-17 A	14-Jun-17 A	
3392	INSTALL PAN ABOVE CEILING @ ELEVATOR 6 MOTOR ROOM	2	13-Jun-17 A	14-Jun-17 A	
3398	FRAME 2 HOUR CEILING ASSEMBLY BELOW PAN @ ELEVATOR 6 MOTOR ROOM	2	15-Jun-17 A	16-Jun-17 A	
3400	H/T/F DRYWALL @ ELEVATOR 6 MOTOR ROOM	2	16-Jun-17 A	19-Jun-17 A	
3402	PRIME PAINT @ ELEVATOR 6 MOTOR ROOM	2	17-Jun-17 A	19-Jun-17 A	
3408	INSTALL RATED TEMPORARY DOOR 2 ELEVATOR 6 MOTOR ROOM	1	17-Jun-17 A	17-Jun-17 A	
3406	INSTALL LIGHT FIXTURE @ ELEVATOR 6 MOTOR ROOM	1	19-Jun-17 A	19-Jun-17 A	
REDESIGN OF 10 FIXTURE TYPES					
		158	08-Feb-17 A	20-Sep-17 A	
		158	08-Feb-17 A	20-Sep-17 A	
		158	08-Feb-17 A	20-Sep-17 A	
1938	DESIGN TEAM NEEDS TO IDENTIFY AND PROVIDE FIXTURE TYPE'S FOR LEVEL'S 1,2 & 9 (SPEC SHEET RECEIVED)	43	08-Feb-17 A	07-Apr-17 A	
1947	WAITING ON PLUMBING ENGINEER FOR DIRECTION - RFI 0960	25	10-Apr-17 A	12-May-17 A	
19874	BBC / DESIGN TEAM TO CONFIRM TOTAL AMOUNT OF FIXTURES REQUIRED	0		09-Jun-17 A	
1942	FAB & DELIVER FIXTURES - LAV 3 (10 FIXTURES) @ LEVELS 1, 2 & 9	64	16-Jun-17 A	15-Sep-17 A	
1946	INSTALL LAV 3 FIXTURES @ LEVELS 1, 2 & 9 (10 FIXTURES TOTAL)	3	18-Sep-17 A	20-Sep-17 A	
HURRICANE IRMA IMPACTED DAYS					
		8	05-Sep-17 A	13-Sep-17 A	
		8	05-Sep-17 A	13-Sep-17 A	
		8	05-Sep-17 A	13-Sep-17 A	
1950	IMPACTED DAYS TO PROJECT DUE TO HURRICANE IRMA - 9/4 THRU 9/13	8	05-Sep-17 A	13-Sep-17 A	
ORNAMENTAL SUPPORT BRACKETS					
		26	13-Oct-17 A	20-Nov-17 A	
		26	13-Oct-17 A	20-Nov-17 A	
		26	13-Oct-17 A	20-Nov-17 A	
1958	OWNER TO PROVIDE ORNAMENTAL SUPPORT BRACKET FOR 6TH FLOOR BALCONY - MOCK UP	0		13-Oct-17 A	
1960	BBC TO PROVIDE PHOTO OF MOCK UP TO BAR BY 12 NOON	1	16-Nov-17 A	16-Nov-17 A	
1956	EXTERIOR MOCK UP APPROVAL BY BAR - ORNAMENTAL SUPPORT BRACKET	1	20-Nov-17 A	20-Nov-17 A	
EXTERIORS PAVERS					
		67	02-Oct-17 A	08-Jan-18 A	
		67	02-Oct-17 A	08-Jan-18 A	
		67	02-Oct-17 A	08-Jan-18 A	

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		67	02-Oct-17 A	08-Jan-18 A																																																	
1970	DESIGN TEAM TO PROVIDE COLOR FOR EXTERIOR PAVER	32	02-Oct-17 A	14-Nov-17 A		1970 DESIGN TEAM TO PROVIDE COLOR FOR EXTERIOR PAVER																																															
1148	OWNER ISSUED STOP WORK ORDER NOTICE FOR EXTERIOR WORK	26	15-Nov-17 A	22-Dec-17 A		1148 OWNER ISSUED STOP WORK ORDER NOTICE FOR EXTERIOR WORK																																															
1152	BBC TO PRICE REVISED PLAN ISSUED BY OWNER & REM OBILES PLEASENT PLACES	5	02-Jan-18 A	08-Jan-18 A		1152 BBC TO PRICE REVISED PLAN ISSUED BY OWNER & REM OBILES PLEASENT PLACES																																															
DESIGN SHUTTERS IMPACT		564	06-Feb-17 A	26-Apr-19 A																																																	
		564	06-Feb-17 A	26-Apr-19 A																																																	
		564	06-Feb-17 A	26-Apr-19 A																																																	
		564	06-Feb-17 A	26-Apr-19 A																																																	
1934	DESIGN IMPACT SHUTTERS - FAB & DELIVERY (METAL) - OWNER DESIGN ISSUE	564	06-Feb-17 A	26-Apr-19 A		1934 DESIGN IMPACT SHUTTERS - FAB & DELIVERY (METAL) - OWNER DESIGN ISSUE																																															
RFI # 0812 - CHANGE IN DEPTH OF WALL & ADDED CLOCK OUTLETS & REL		72	13-Dec-16 A	25-Mar-17 A																																																	
		72	13-Dec-16 A	25-Mar-17 A																																																	
		72	13-Dec-16 A	25-Mar-17 A																																																	
		72	13-Dec-16 A	25-Mar-17 A																																																	
1924	RFI # 0812 DESIGN CHANGE IN DEPTH OF WALL, ADDED CLOCK OUTLETSAND RELO LIGH	17	13-Dec-16 A	06-Jan-17 A		1924 RFI # 0812 DESIGN CHANGE IN DEPTH OF WALL, ADDED CLOCK OUTLETSAND RELO LIGH																																															
1926	REQUEST PRICING FOR CHANGE IN SCOPE @ DINING & PRIVATE DINING	18	09-Jan-17 A	01-Feb-17 A		1926 REQUEST PRICING FOR CHANGE IN SCOPE @ DINING & PRIVATE DINING																																															
1928	X-RAY SLAB FOR CHANGE @ DINING & PRIVATE DINING	5	12-Jan-17 A	18-Jan-17 A		1928 X-RAY SLAB FOR CHANGE @ DINING & PRIVATE DINING																																															
1932	ADDED ELECTRICAL WORK @ DINING & PRIVATE DINING	35	14-Feb-17 A	25-Mar-17 A		1932 ADDED ELECTRICAL WORK @ DINING & PRIVATE DINING																																															
RFI # 0806 HOOD HEIGHT ISSUE		96	07-Dec-16 A	21-Apr-17 A																																																	
		96	07-Dec-16 A	21-Apr-17 A																																																	
		96	07-Dec-16 A	21-Apr-17 A																																																	
		96	07-Dec-16 A	21-Apr-17 A																																																	
1918	RFI # 0806 -ACT GRID CONFLICTS WITH KITCHEN HOOD	4	07-Dec-16 A	12-Dec-16 A		1918 RFI # 0806 -ACT GRID CONFLICTS WITH KITCHEN HOOD																																															
1922	ARCHITECT REQUESTED HOOD MANUFACTURES TO BUILD SHROUD TO ACCOMMODATE	77	13-Dec-16 A	31-Mar-17 A		1922 ARCHITECT REQUESTED HOOD MANUFACTURES TO BUILD SHROUD TO ACCOMMODATE GRID																																															
1948	INSTALL UDS FEEDERS @ KITCHEN	15	03-Apr-17 A	21-Apr-17 A		1948 INSTALL UDS FEEDERS @ KITCHEN																																															
PATISSERIE REDISGN		47	12-Dec-16 A	16-Feb-17 A																																																	
		47	12-Dec-16 A	16-Feb-17 A																																																	
		47	12-Dec-16 A	16-Feb-17 A																																																	
		47	12-Dec-16 A	16-Feb-17 A																																																	
1916	PATISSERIE REDESIGN - BBC WAS ISSUED A STOP WORK ORDER ON 12/12/16 BY OWNER F	47	12-Dec-16 A	16-Feb-17 A		1916 PATISSERIE REDESIGN - BBC WAS ISSUED A STOP WORK ORDER ON 12/12/16 BY OWNER FOR CEILING WORK ONLY.																																															
RFI 787 EQUIPMENT LINE UP POWER AT LVL 2		37	22-Nov-16 A	17-Jan-17 A																																																	
		37	22-Nov-16 A	17-Jan-17 A																																																	
		37	22-Nov-16 A	17-Jan-17 A																																																	
		37	22-Nov-16 A	17-Jan-17 A																																																	
1912	RFI 787 TO REDESIGN POWER REQUIREMENTS FOR KITCHEN LINE UP	17	22-Nov-16 A	16-Dec-16 A		1912 RFI 787 TO REDESIGN POWER REQUIREMENTS FOR KITCHEN LINE UP																																															
1914	REVISE POWER REQUIREMENTS PER REDESIGN	20	19-Dec-16 A	17-Jan-17 A		1914 REVISE POWER REQUIREMENTS PER REDESIGN																																															
LIFT STATION PUMP		181	01-Sep-16 A	19-May-17 A																																																	
		181	01-Sep-16 A	19-May-17 A																																																	
		181	01-Sep-16 A	19-May-17 A																																																	
3300	OWNER CHANGE TO INSTALL LIFT STATION PUMP	0	01-Sep-16 A	01-Sep-16 A		3300 OWNER CHANGE TO INSTALL LIFT STATION PUMP																																															
3302	PRICING REQUESTED FROM BBC TO MCC	68	02-Sep-16 A	09-Dec-16 A		3302 PRICING REQUESTED FROM BBC TO MCC																																															
3304	RELEASE FAB & DELIVER LIFT STATION PUMP & STORAGE TANK	113	12-Dec-16 A	19-May-17 A		3304 RELEASE FAB & DELIVER LIFT STATION PUMP & STORAGE TANK																																															
MOD 7 REVISED WALL LOCATION IN SPA & RETAIL AREA		73	15-Nov-16 A	01-Mar-17 A																																																	
		73	15-Nov-16 A	01-Mar-17 A																																																	
		73	15-Nov-16 A	01-Mar-17 A																																																	
		73	15-Nov-16 A	01-Mar-17 A																																																	
3292	MOD 7 REVISED WALL LOCATION @ SPA & RETAIL AREA	73	15-Nov-16 A	01-Mar-17 A		3292 MOD 7 REVISED WALL LOCATION @ SPA & RETAIL AREA																																															
RFI 788 STAIR 6		63	15-Nov-16 A	15-Feb-17 A																																																	
		63	15-Nov-16 A	15-Feb-17 A																																																	
		63	15-Nov-16 A	15-Feb-17 A																																																	
3290	OWNER DESIGN CHANGES (RFI 788)	17	15-Nov-16 A	09-Dec-16 A		3290 OWNER DESIGN CHANGES (RFI 788)																																															
3294	REVISE / REVIEW & APPROVE - SHOP DRAWING	18	12-Dec-16 A	06-Jan-17 A		3294 REVISE / REVIEW & APPROVE - SHOP DRAWING																																															

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CRANE ISSUES					
		5	17-Feb-16 A	21-Feb-16 A	
		5	17-Feb-16 A	21-Feb-16 A	
		5	17-Feb-16 A	21-Feb-16 A	
1036	CRANE NON OPERATIONAL DUE TO MECHANICAL ISSUES	5	17-Feb-16 A	21-Feb-16 A	
HURRICANE MATTHEW DELAY					
		1	04-Oct-16 A	11-Oct-16 A	
		1	04-Oct-16 A	11-Oct-16 A	
		1	04-Oct-16 A	11-Oct-16 A	
1118	HURRICANE MATTHEWS DELAY	1	04-Oct-16 A	11-Oct-16 A	
BIM COORDINATION MOD 1,2 & 3					
		287	06-Jan-16 A	24-Feb-17 A	
1ST LEVEL A & B					
		37	06-Jan-16 A	02-Mar-16 A	
		37	06-Jan-16 A	02-Mar-16 A	
		37	06-Jan-16 A	02-Mar-16 A	
1012	DESIGN COMPLETE @ 1ST LEVEL A & B	0		06-Jan-16 A	
1014	SHOP DRAWINGS DRAWN / SUBMITTED @ 1ST LEVEL A & B	2	12-Jan-16 A	13-Jan-16 A	
1016	ARCHITECT SHOP DRAWING SUBMIT / APPROVAL @ 1ST LEVEL A & B	5	14-Jan-16 A	20-Jan-16 A	
1018	RELEASE & PROVIDE MATERIALS FOR PREFAB @ 1ST LEVEL A & B	5	21-Jan-16 A	27-Jan-16 A	
1026	FABRICATE PREFAB @ 1ST LEVEL A & B	20	28-Jan-16 A	24-Feb-16 A	
1028	PROVIDE PREFAB TO SITE FOR INSTALL @ 1ST LEVEL A & B	5	25-Feb-16 A	02-Mar-16 A	
1ST LEVEL C & D					
		41	20-Apr-16 A	17-Jun-16 A	
		41	20-Apr-16 A	17-Jun-16 A	
		41	20-Apr-16 A	17-Jun-16 A	
10592	DESIGN COMPLETE @ 1ST LEVEL C & D	0		20-Apr-16 A	
10594	SHOP DRAWINGS DRAWN /SUBMITTED @ 1ST LEVEL C & D	6	21-Apr-16 A	28-Apr-16 A	
10596	ARCHITECT SHOP DRAWING APPROVAL @ 1ST LEVEL C & D	5	29-Apr-16 A	05-May-16 A	
10598	RELEASE & PROVIDE MATERIALS FOR PREFAB @ 1ST LEVEL C & D	5	06-May-16 A	12-May-16 A	
10600	FABRICATE PREFAB @ 1ST LEVEL C & D	20	13-May-16 A	10-Jun-16 A	
10602	PROVIDE PREFAB TO SITE FOR INSTALL @ 1ST LEVEL C & D	5	13-Jun-16 A	17-Jun-16 A	
LEVEL 2					
		48	01-Jun-16 A	08-Aug-16 A	
		48	01-Jun-16 A	08-Aug-16 A	
		48	01-Jun-16 A	08-Aug-16 A	
10606	SHOP DRAWINGS DRAWN/SUBMITTED @ LEVEL 2	14	01-Jun-16 A	20-Jun-16 A	
10604	DESIGN COMPLETE @ LEVEL 2	0		10-Jun-16 A	
10608	ARCHITECT SHOP DRAWING SUBMIT/ APPROVAL @ LEVEL 2	2	21-Jun-16 A	22-Jun-16 A	
10610	RELEASE & PROVIDE MATERIALS FOR PREFAB @ LEVEL 2	5	23-Jun-16 A	29-Jun-16 A	
10612	FABRICATE PREFAB @ LEVEL 2	20	30-Jun-16 A	28-Jul-16 A	
10614	PROVIDE PREFAB TO SITE FOR INSTALL @ LEVEL 2	7	29-Jul-16 A	08-Aug-16 A	
LEVEL 3					
		69	06-Jun-16 A	12-Sep-16 A	
		69	06-Jun-16 A	12-Sep-16 A	
		69	06-Jun-16 A	12-Sep-16 A	
10618	SHOP DRAWINGS DRAWN / SUBMITTED @ LEVEL 3	15	06-Jun-16 A	24-Jun-16 A	
10616	DESIGN COMPLETE @ LEVEL 3	0		16-Jun-16 A	
10620	ARCHITECT SHOP DRAWING SUBMIT / APPROVAL @ LEVEL 3	2	27-Jun-16 A	28-Jun-16 A	
10622	RELEASE & PROVIDE MATERIALS FOR PREFAB @ LEVEL 3	18	29-Jun-16 A	25-Jul-16 A	
10624	FABRICATE PREFAB @ LEVEL 3	15	26-Jul-16 A	15-Aug-16 A	
10626	PROVIDE PREFAB TO SITE FOR INSTALL @ LEVEL 3	23	16-Aug-16 A	12-Sep-16 A	
LEVEL 4					
		75	27-Jun-16 A	11-Oct-16 A	
		75	27-Jun-16 A	11-Oct-16 A	
		75	27-Jun-16 A	11-Oct-16 A	
10630	SHOP DRAWINGS DRAWN / SUBMITTED @ LEVEL 4	15	27-Jun-16 A	18-Jul-16 A	
10628	DESIGN COMPLETE @ LEVEL 4	0		08-Jul-16 A	
10632	ARCHITECT SHOP DRAWING SUBMIT / APPROVAL @ LEVEL 4	2	25-Jul-16 A	26-Jul-16 A	
10634	RELEASE & PROVIDE MATERIALS FOR PREFAB @ LEVEL 4	5	26-Jul-16 A	01-Aug-16 A	

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3324	A/E TO APPROVE SHOP DRAWINGS @ LEVEL 8	2	18-Nov-16 A	21-Nov-16 A		3324 A/E TO APPROVE SHOP DRAWINGS @ LEVEL 8																																															
LEVEL 9		90	28-Sep-16 A	06-Feb-17 A																																																	
		90	28-Sep-16 A	06-Feb-17 A																																																	
		90	28-Sep-16 A	06-Feb-17 A																																																	
		90	28-Sep-16 A	06-Feb-17 A																																																	
3266	COORDINATION MEETING #1 @ LEVELS 9	1	28-Sep-16 A	28-Sep-16 A		3266 COORDINATION MEETING #1 @ LEVELS 9																																															
3268	COORDINATION MEETING #2 @ LEVELS 9	9	04-Nov-16 A	16-Nov-16 A		3268 COORDINATION MEETING #2 @ LEVELS 9																																															
3264	MODEL @ LEVELS 9	6	09-Nov-16 A	16-Nov-16 A		3264 MODEL @ LEVELS 9																																															
3270	PREPARE SHOP DRAWING @ LEVELS 9	44	16-Nov-16 A	20-Jan-17 A		3270 PREPARE SHOP DRAWING @ LEVELS 9																																															
3272	FINALIZE SHOP DRAWING & SUBMIT TO A/E FOR APPROVAL @ LEVEL 9	11	20-Jan-17 A	03-Feb-17 A		3272 FINALIZE SHOP DRAWING & SUBMIT TO A/E FOR APPROVAL @ LEVEL 9																																															
3274	A/E TO APPROVE SHOP DRAWINGS @ LEVEL 9	2	03-Feb-17 A	06-Feb-17 A		3274 A/E TO APPROVE SHOP DRAWINGS @ LEVEL 9																																															
PRECONSTRUCTION		227	11-Nov-14 A	30-Sep-15 A																																																	
		227	11-Nov-14 A	30-Sep-15 A																																																	
		227	11-Nov-14 A	30-Sep-15 A																																																	
		227	11-Nov-14 A	30-Sep-15 A																																																	
1060	100% CONSTRUCTION DOCUMENTS (IFC/PERMIT SET)	1	11-Nov-14 A	11-Nov-14 A		100% CONSTRUCTION DOCUMENTS (IFC/PERMIT SET)																																															
1080	SUBCONTRACTOR SOLICITATION & BIDDING	16	12-Nov-14 A	03-Dec-14 A		SUBCONTRACTOR SOLICITATION & BIDDING																																															
1090	SUBCONTRACTOR BID DAY	1	04-Dec-14 A	04-Dec-14 A		SUBCONTRACTOR BID DAY																																															
1100	SUBCONTRACTOR INTERVIEWS	4	05-Dec-14 A	10-Dec-14 A		SUBCONTRACTOR INTERVIEWS																																															
1110	PREPARE GMP DELIVERABLE	5	11-Dec-14 A	17-Dec-14 A		PREPARE GMP DELIVERABLE																																															
1120	PRESENT & REVIEW GMP DELIVERABLE	2	18-Dec-14 A	19-Dec-14 A		PRESENT & REVIEW GMP DELIVERABLE																																															
1130	OWNER APPROVAL OF GMP & VENDOR SELECTIONS	14	22-Dec-14 A	09-Jan-15 A		OWNER APPROVAL OF GMP & VENDOR SELECTIONS																																															
1140	PRIME CONTRACT CHANGE ORDER #001 EXECUTED FOR GMP	10	12-Jan-15 A	23-Jan-15 A		PRIME CONTRACT CHANGE ORDER #001 EXECUTED FOR GMP																																															
1150	NOTICE TO PROCEED	1	30-Mar-15 A	30-Mar-15 A		NOTICE TO PROCEED																																															
1160	SUBCONTRACTOR AWARDS & CONTRACTING	108	31-Mar-15 A	01-Sep-15 A		SUBCONTRACTOR AWARDS & CONTRACTING																																															
1920	RE-ISSUE MOD-1 DRAWINGS	0		30-Sep-15 A		RE-ISSUE MOD-1 DRAWINGS																																															
BUYOUT PACKAGES		200	02-Mar-15 A	14-Dec-15 A																																																	
SUBCONTRACTOR PROCUREMENT		200	02-Mar-15 A	14-Dec-15 A																																																	
PHASE 1		61	04-Mar-15 A	28-May-15 A																																																	
		61	04-Mar-15 A	28-May-15 A																																																	
		61	04-Mar-15 A	28-May-15 A																																																	
1820	DEWATERING	41	04-Mar-15 A	29-Apr-15 A		DEWATERING																																															
1480	DEEP FOUNDATIONS & SHORING	55	12-Mar-15 A	28-May-15 A		DEEP FOUNDATIONS & SHORING																																															
1840	SITE FENCE	22	31-Mar-15 A	29-Apr-15 A		SITE FENCE																																															
1460	SITework & UTILITIES	22	31-Mar-15 A	29-Apr-15 A		SITework & UTILITIES																																															
1470	SITE LOGISTICS	22	31-Mar-15 A	29-Apr-15 A		SITE LOGISTICS																																															
1830	RECONSTRUCTION SURVEY	21	07-Apr-15 A	05-May-15 A		RECONSTRUCTION SURVEY																																															
1850	OVERHEAD PROTECTION	1	13-Apr-15 A	13-Apr-15 A		OVERHEAD PROTECTION																																															
PHASE 2		192	02-Mar-15 A	02-Dec-15 A																																																	
		192	02-Mar-15 A	02-Dec-15 A																																																	
		192	02-Mar-15 A	02-Dec-15 A																																																	
1570	ELEVATORS / WHEEL CHAIR LIFTS	62	02-Mar-15 A	27-May-15 A		ELEVATORS / WHEEL CHAIR LIFTS																																															
1500	CONCRETE	64	06-Mar-15 A	04-Jun-15 A		CONCRETE																																															
1550	WATERPROOFING	67	06-Mar-15 A	09-Jun-15 A		WATERPROOFING																																															
1590	FIRE PROTECTION	36	11-Mar-15 A	29-Apr-15 A		FIRE PROTECTION																																															
1580	HVAC / PLUMBING	43	11-Mar-15 A	11-May-15 A		HVAC / PLUMBING																																															
1600	ELECTRICAL	54	13-Mar-15 A	28-May-15 A		ELECTRICAL																																															
1560	STUCCO	93	23-Mar-15 A	03-Aug-15 A		STUCCO																																															
1510	MASONRY, CAST STONE, PRECAST	92	26-Mar-15 A	05-Aug-15 A		MASONRY, CAST STONE, PRECAST																																															
1520	MASONRY - INTERIOR CAST STONE	92	26-Mar-15 A	05-Aug-15 A		MASONRY - INTERIOR CAST STONE																																															
1530	MISC METALS	170	01-Apr-15 A	02-Dec-15 A		MISC METALS																																															
1490	CRANES / HOISTS	54	10-Apr-15 A	25-Jun-15 A		CRANES / HOISTS																																															

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2968	RELEASE, FABRICATE & DELIVER - PLUMBING FIXTURES (TOLIETS/SINKS)	125	19-Dec-16 A	14-Jun-17 A	
WATER HEATERS		265	08-Oct-15 A	24-Oct-16 A	
		265	08-Oct-15 A	24-Oct-16 A	
		265	08-Oct-15 A	24-Oct-16 A	
2970	SUBMITTALS - WATER HEATERS	10	08-Oct-15 A	22-Oct-15 A	
2972	REV / APPROVE -WATER HEATERS	5	23-Oct-15 A	30-Oct-15 A	
2974	RELEASE, FABRICATE & DELIVER - WATER HEATERS	20	27-Sep-16 A	24-Oct-16 A	
SPRINKLER		381	20-May-15 A	18-Nov-16 A	
FIRE PUMP		381	20-May-15 A	18-Nov-16 A	
		381	20-May-15 A	18-Nov-16 A	
		381	20-May-15 A	18-Nov-16 A	
2982	SUBMITTALS - FIRE PUMP	97	20-May-15 A	07-Oct-15 A	
2984	REV / APPROVE -FIREPUMP (REJECTED)	10	09-Oct-15 A	22-Oct-15 A	
3148	REVISE @ RESUBMIT - FIRE PUMP	59	23-Oct-15 A	20-Jan-16 A	
3150	REV / APPROVE -FIREPUMP (2ND) (REJECTED)	18	28-Jan-16 A	22-Feb-16 A	
3198	REVISE & RESUBMIT - FIRE PUMP (3RD)	44	30-Mar-16 A	01-Jul-16 A	
3200	REVIEW & APPROVE - FIREPUMP (4TH)	14	01-Jun-16 A	20-Jun-16 A	
2986	RELEASE, FABRICATE & DELIVER - FIRE PUMP	107	21-Jun-16 A	18-Nov-16 A	
PERMITTING		1	19-Mar-15 A	19-Mar-15 A	
		1	19-Mar-15 A	19-Mar-15 A	
		1	19-Mar-15 A	19-Mar-15 A	
		1	19-Mar-15 A	19-Mar-15 A	
1170	BUILDING PERMIT	1	19-Mar-15 A	19-Mar-15 A	
2210	SITE PERMIT RECEIVED	0		19-Mar-15 A	
GUESTROOM/EXTERIOR MOCK UP		495	20-May-15 A	03-May-17 A	
EXTERIOR MOCK UP		397	20-May-15 A	14-Dec-16 A	
		397	20-May-15 A	14-Dec-16 A	
		397	20-May-15 A	14-Dec-16 A	
1180	SUBCONTRACTOR SUBMITTALS / REVIEW & APPROVE	85	20-May-15 A	21-Sep-15 A	
1190	FABRICATE, PROCURE, & DELIVER	38	07-Aug-15 A	30-Sep-15 A	
1200	CONSTRUCT MOCK UP	181	22-Sep-15 A	08-Jun-16 A	
1202	REVIEW & ACCEPT MCKC UP - OWNER	18	09-Jun-16 A	26-Jun-16 A	
1210	REVIEW & ACCEPT MCKC UP - BAR (GMP)	119	27-Jun-16 A	14-Dec-16 A	
GUESTROOM MOCK UP		495	20-May-15 A	03-May-17 A	
		495	20-May-15 A	03-May-17 A	
		495	20-May-15 A	03-May-17 A	
1220	SUBCONTRACTOR SUBMITTALS / REVIEW & APPROVE	85	20-May-15 A	21-Sep-15 A	
1230	FABRICATE, PROCURE, & DELIVER	38	07-Aug-15 A	30-Sep-15 A	
1240	CONSTRUCT MOCK UP	102	01-Sep-15 A	28-Jan-16 A	
1250	REVIEW & ACCEPTANCE OF MOCK UP	37	15-Jan-16 A	07-Mar-16 A	
1254	INTERIOR MOCK UP REVISIONS	292	08-Mar-16 A	28-Apr-17 A	
1256	OWNER FINAL APPROVAL OF MOCK UP	3	01-May-17 A	03-May-17 A	
1258	MOCK UP COMPLETE FOR BBC USE	0		03-May-17 A	
CONSTRUCTION		943	30-Apr-15 A	11-Jan-19 A	
PRELIMINARY SITEWORK		17	30-Apr-15 A	22-May-15 A	
		17	30-Apr-15 A	22-May-15 A	
		17	30-Apr-15 A	22-May-15 A	
No (MSH) AREA		17	30-Apr-15 A	22-May-15 A	
2230	SITE PREP/ FENCING BLUE STONE REMOVAL & DEMOLITION @ SITE	7	30-Apr-15 A	08-May-15 A	
1270	INSTALL PRECAST TEST PILES @ SITE (4)	1	15-May-15 A	15-May-15 A	

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3924	INSTALL WATERPROOFING @ SECTION 7	3	29-Feb-16 A	02-Mar-16 A	
3944	INSTALL REBAR DOWELS @ SECTION 7	3	02-Mar-16 A	04-Mar-16 A	
3954	POUR FOOTING @ SECTION 7	1	07-Mar-16 A	07-Mar-16 A	
3964	STRIP FOOTING @ SECTION 7	1	08-Mar-16 A	08-Mar-16 A	
SECTION 6		14	29-Feb-16 A	17-Mar-16 A	
		14	29-Feb-16 A	17-Mar-16 A	
		14	29-Feb-16 A	17-Mar-16 A	
4046	EXCAVATE WEDGE @ SECTION 8	5	29-Feb-16 A	04-Mar-16 A	
4044	EXCAVATE / FORM FOOTING @ SECTION 8	3	07-Mar-16 A	09-Mar-16 A	
10758	PENHALL CUT PILES @ SECTION 8	2	07-Mar-16 A	08-Mar-16 A	
4054	INSTALL WATERPROOFING @ SECTION 8	2	09-Mar-16 A	10-Mar-16 A	
4074	INSTALL REBAR / DOWELS @ SECTION 8	2	11-Mar-16 A	14-Mar-16 A	
4084	POUR FOOTING @ SECTION 8	1	15-Mar-16 A	15-Mar-16 A	
4086	INSTALL U/G PLUMBING @ SECTION 8	1	16-Mar-16 A	16-Mar-16 A	
4094	STRIP FOOTING @ SECTION 8	1	17-Mar-16 A	17-Mar-16 A	
SECTION 7		14	10-Mar-16 A	29-Mar-16 A	
		14	10-Mar-16 A	29-Mar-16 A	
		14	10-Mar-16 A	29-Mar-16 A	
4174	EXCAVATE / FORM FOOTING @ SECTION 9	9	10-Mar-16 A	19-Mar-16 A	
10760	PENHALL CUT PILES @ SECTION 9	1	11-Mar-16 A	11-Mar-16 A	
4184	INSTALL WATERPROOFING @ SECTION 9	2	21-Mar-16 A	22-Mar-16 A	
4204	INSTALL REBAR / DOWELS @ SECTION 9	2	23-Mar-16 A	24-Mar-16 A	
4214	POUR FOOTING @ SECTION 9	1	25-Mar-16 A	25-Mar-16 A	
10762	INSTALL U/G PLUMBING @ SECTION 9	2	28-Mar-16 A	29-Mar-16 A	
4224	STRIP FOOTING @ SECTION 9	1	28-Mar-16 A	28-Mar-16 A	
SLAB ON GRADE		149	18-Dec-15 A	20-Jul-16 A	
SECTION 1-3		10	18-Dec-15 A	05-Jan-16 A	
		10	18-Dec-15 A	05-Jan-16 A	
		10	18-Dec-15 A	05-Jan-16 A	
2390	INSTALL EDGE FORM / PREP @ SECTION 1-3	2	18-Dec-15 A	21-Dec-15 A	
2360	MUD MAT @ SECTION 1-3	2	18-Dec-15 A	21-Dec-15 A	
2370	INSTALL WATERPROOFING @ SECTION 1-3	2	21-Dec-15 A	22-Dec-15 A	
2380	INSTALL REBAR @ SECTION 1-3	2	21-Dec-15 A	22-Dec-15 A	
2350	BACKFILL @ SECTION 1-3	3	21-Dec-15 A	23-Dec-15 A	
2400	POUR SOG @ SECTION 1-3	2	23-Dec-15 A	24-Dec-15 A	
2500	STRIP SOG @ SECTION 1-3	1	04-Jan-16 A	04-Jan-16 A	
2510	INSTALL BRACING @ SECTION 1-3	2	04-Jan-16 A	05-Jan-16 A	
SECTION 2A & 2B		24	25-Jan-16 A	25-Feb-16 A	
		24	25-Jan-16 A	25-Feb-16 A	
		24	25-Jan-16 A	25-Feb-16 A	
3594	BACKFILL @ SECTION 2A	2	25-Jan-16 A	26-Jan-16 A	
3604	MUD MAT @ SECTION 2A	1	26-Jan-16 A	26-Jan-16 A	
3614	INSTALL WATERPROOFING @ SECTION 2A	5	27-Jan-16 A	02-Feb-16 A	
3634	INSTALL REBAR @ SECTION 2A	3	28-Jan-16 A	01-Feb-16 A	
3624	INSTALL EDGE FORM / PREP @ SECTION 2A	3	28-Jan-16 A	01-Feb-16 A	
3644	POUR SOG @ SECTION 2A	1	02-Feb-16 A	02-Feb-16 A	
3654	STRIP SOG @ SECTION 2A	1	03-Feb-16 A	03-Feb-16 A	
3664	INSTALL BRACING @ SECTION 2A	2	04-Feb-16 A	05-Feb-16 A	
3674	EXCAVATE WEDGE @ SECTION 2B	6	09-Feb-16 A	16-Feb-16 A	
10764	BACKFILL @ SECTION 2B	1	10-Feb-16 A	10-Feb-16 A	
10766	INSTALL WATERPROOFING @ SECTION 2B	2	15-Feb-16 A	16-Feb-16 A	
10768	INSTALL REBAR @ SECTION 2B	2	16-Feb-16 A	17-Feb-16 A	
10734	POUR SOG @ SECTION 2B	1	19-Feb-16 A	19-Feb-16 A	
10736	STRIP SOG @ SECTION 2B	1	22-Feb-16 A	22-Feb-16 A	

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10738	INSTALL BRACING @ SECTION 2B	2	24-Feb-16 A	25-Feb-16 A	
SECTION 3		6	29-Mar-16 A	05-Apr-16 A	
		6	29-Mar-16 A	05-Apr-16 A	
		6	29-Mar-16 A	05-Apr-16 A	
3714	INSTALL EDGE FORM / PREP @ SECTION 3	3	29-Mar-16 A	31-Mar-16 A	
3684	BACKFILL @ SECTION 3 SOG	1	29-Mar-16 A	29-Mar-16 A	
3704	INSTALL WATERPROOFING @ SECTION 3	2	29-Mar-16 A	30-Mar-16 A	
3724	INSTALL REBAR @ SECTION 3	1	31-Mar-16 A	31-Mar-16 A	
3734	POUR SOG @ SECTION 3	1	01-Apr-16 A	01-Apr-16 A	
3744	STRIP SOG @ SECTION 3	1	05-Apr-16 A	05-Apr-16 A	
SECTION 4		6	15-Feb-16 A	22-Feb-16 A	
		6	15-Feb-16 A	22-Feb-16 A	
		6	15-Feb-16 A	22-Feb-16 A	
3844	BACKFILL @ SECTION 4	2	15-Feb-16 A	16-Feb-16 A	
3864	INSTALL WATERPROOFING @ SECTION 4	2	17-Feb-16 A	18-Feb-16 A	
3874	INSTALL REBAR @ SECTION 4	1	18-Feb-16 A	18-Feb-16 A	
3884	INSTALL EDGE FORM / PREP @ SECTION 4	1	18-Feb-16 A	18-Feb-16 A	
3894	POUR SOG @ SECTION 4	1	19-Feb-16 A	19-Feb-16 A	
3904	STRIP SOG @ SECTION 4	1	22-Feb-16 A	22-Feb-16 A	
SECTION 5		5	08-Mar-16 A	14-Mar-16 A	
		5	08-Mar-16 A	14-Mar-16 A	
		5	08-Mar-16 A	14-Mar-16 A	
3974	BACKFILL @ SECTION 5	1	08-Mar-16 A	08-Mar-16 A	
3994	INSTALL WATERPROOFING @ SECTION 5	1	09-Mar-16 A	09-Mar-16 A	
4014	INSTALL REBAR @ SECTION 5	2	10-Mar-16 A	11-Mar-16 A	
4004	INSTALL EDGE FORM / PREP @ SECTION 5	2	10-Mar-16 A	11-Mar-16 A	
4024	POUR SOG @ SECTION 5	1	12-Mar-16 A	12-Mar-16 A	
4034	STRIP SOG @ SECTION 5	1	14-Mar-16 A	14-Mar-16 A	
SECTION 6		5	18-Mar-16 A	24-Mar-16 A	
		5	18-Mar-16 A	24-Mar-16 A	
		5	18-Mar-16 A	24-Mar-16 A	
4104	BACKFILL @ SECTION 6	2	18-Mar-16 A	21-Mar-16 A	
4124	INSTALL WATERPROOFING @ SECTION 6	1	21-Mar-16 A	21-Mar-16 A	
4134	INSTALL REBAR @ SECTION 6	2	21-Mar-16 A	22-Mar-16 A	
4144	INSTALL EDGE FORM / PREP @ SECTION 6	1	21-Mar-16 A	21-Mar-16 A	
4154	POUR SOG @ SECTION 6	1	23-Mar-16 A	23-Mar-16 A	
4164	STRIP SOG @ SECTION 6	1	24-Mar-16 A	24-Mar-16 A	
SECTION 7		4	29-Mar-16 A	01-Apr-16 A	
		4	29-Mar-16 A	01-Apr-16 A	
		4	29-Mar-16 A	01-Apr-16 A	
4264	INSTALL EDGE FORM / PREP @ SECTION 7	2	29-Mar-16 A	30-Mar-16 A	
4234	BACKFILL @ SECTION 7	2	29-Mar-16 A	30-Mar-16 A	
4254	INSTALL WATERPROOFING @ SECTION 7	2	29-Mar-16 A	30-Mar-16 A	
4274	INSTALL REBAR @ SECTION 7	1	31-Mar-16 A	31-Mar-16 A	
4284	POUR SOG @ SECTION 7	1	01-Apr-16 A	01-Apr-16 A	
RAMPS		12	05-Jul-16 A	20-Jul-16 A	
		12	05-Jul-16 A	20-Jul-16 A	
		12	05-Jul-16 A	20-Jul-16 A	
4296	INSTALL RAMP @ SOG	12	05-Jul-16 A	20-Jul-16 A	
4298	INSTALL ELEVATED RAMP	12	05-Jul-16 A	20-Jul-16 A	
STRUCTURE		207	29-Feb-16 A	20-Dec-16 A	
LEVEL 1		81	29-Feb-16 A	21-Jun-16 A	
AREA A - WEST		74	29-Feb-16 A	10-Jun-16 A	
HORIZONTAL		74	29-Feb-16 A	10-Jun-16 A	

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2540	FIRST LIFT WALLS & COLUMNS @ AREA A LVL 1	18	29-Feb-16 A	23-Mar-16 A	
2550	INSTALL FORMS @AREA A LVL 1	12	16-Mar-16 A	31-Mar-16 A	
2560	INSTALL REBAR / MEP@ AREA A LVL 1	7	28-Mar-16 A	05-Apr-16 A	
2570	POUR @ AREA A LVL 1	1	06-Apr-16 A	06-Apr-16 A	
2580	CURE @AREA A LVL 1	1	07-Apr-16 A	07-Apr-16 A	
2590	STRESS @ AREAA LVL 1	2	11-Apr-16 A	12-Apr-16 A	
2600	STRIP FORMS @AREA A LVL 1	4	11-Apr-16 A	14-Apr-16 A	
2620	WALLS / COLUMNS @ AREA A LVL 1	9	13-Apr-16 A	22-Apr-16 A	
2610	REMOVE RESHORE @ AREAA LVL 1	5	06-Jun-16 A	10-Jun-16 A	
AREA D - EAST		56	04-Apr-16 A	21-Jun-16 A	
HORIZONTAL		56	04-Apr-16 A	21-Jun-16 A	
4504	FIRST LIFT WALLS & COLUMNS @ AREA D LVL 1	8	04-Apr-16 A	13-Apr-16 A	
4514	INSTALL FORMS @AREA D LVL 1	6	08-Apr-16 A	15-Apr-16 A	
4524	INSTALL REBAR / MEP@ AREA D LVL 1	4	20-Apr-16 A	23-Apr-16 A	
4564	STRIP FORMS @AREA D LVL 1	3	21-Apr-16 A	25-Apr-16 A	
4534	POUR @ AREA D LVL 1	1	24-Apr-16 A	24-Apr-16 A	
4544	CURE @AREA D LVL 1	3	24-Apr-16 A	26-Apr-16 A	
4554	STRESS @ AREA D LVL 1	1	26-Apr-16 A	26-Apr-16 A	
4484	WALLS / COLUMNS @ AREA D LVL 1	1	27-Apr-16 A	27-Apr-16 A	
4494	REMOVE RESHORE @ AREA D LVL 1	5	15-Jun-16 A	21-Jun-16 A	
LEVEL 2		55	19-Apr-16 A	06-Jul-16 A	
AREA A - WEST		52	19-Apr-16 A	30-Jun-16 A	
HORIZONTAL		52	19-Apr-16 A	30-Jun-16 A	
4594	INSTALL FORMS @AREA A LVL 2	7	19-Apr-16 A	27-Apr-16 A	
4604	INSTALL REBAR / MEP@ AREA A LVL 2	7	25-Apr-16 A	03-May-16 A	
4614	POUR @ AREA A LVL 2	1	04-May-16 A	04-May-16 A	
4624	CURE @AREA A LVL 2	3	04-May-16 A	06-May-16 A	
4644	STRIP FORMS @AREA A LVL 2	2	05-May-16 A	06-May-16 A	
4654	WALLS / COLUMNS @ AREA A LVL 2	14	06-May-16 A	25-May-16 A	
4634	STRESS @ AREAA LVL 2	1	06-May-16 A	06-May-16 A	
4584	REMOVE RESHORE @ AREAA LVL 2	1	30-Jun-16 A	30-Jun-16 A	
AREA D - EAST		48	28-Apr-16 A	06-Jul-16 A	
HORIZONTAL		48	28-Apr-16 A	06-Jul-16 A	
4834	INSTALL FORMS @AREA D LVL 2	14	28-Apr-16 A	13-May-16 A	
4844	INSTALL REBAR / MEP@ AREA D LVL 2	5	12-May-16 A	18-May-16 A	
4854	POUR @ AREA D LVL 2	1	19-May-16 A	19-May-16 A	
4864	CURE @AREA D LVL 2	3	19-May-16 A	23-May-16 A	
4894	WALLS / COLUMNS @ AREA D LVL 2	10	20-May-16 A	03-Jun-16 A	
4874	STRESS @ AREA D LVL 2	1	23-May-16 A	23-May-16 A	
4884	STRIP FORMS @AREA D LVL 2	4	24-May-16 A	27-May-16 A	
4824	REMOVE RESHORE @ AREA D LVL 2	1	06-Jul-16 A	06-Jul-16 A	
LEVEL 3		77	19-May-16 A	07-Sep-16 A	
AREA A - WEST		69	19-May-16 A	25-Aug-16 A	
HORIZONTAL		69	19-May-16 A	25-Aug-16 A	
4914	INSTALL FORMS @AREA A LVL 3	7	19-May-16 A	27-May-16 A	
4924	INSTALL REBAR / MEP@ AREA A LVL 3	5	26-May-16 A	02-Jun-16 A	
4944	CURE @AREA A LVL 3	2	03-Jun-16 A	06-Jun-16 A	
4934	POUR @ AREA A LVL 3	1	03-Jun-16 A	03-Jun-16 A	
4954	STRESS @ AREAA LVL 3	1	06-Jun-16 A	06-Jun-16 A	
4974	WALLS / COLUMNS @ AREA A LVL 3	5	06-Jun-16 A	10-Jun-16 A	
4964	STRIP FORMS @AREA A LVL 3	3	13-Jun-16 A	15-Jun-16 A	
4904	REMOVE RESHORE @ AREAA LVL 3	2	24-Aug-16 A	25-Aug-16 A	
AREA D - EAST		70	31-May-16 A	07-Sep-16 A	
HORIZONTAL		70	31-May-16 A	07-Sep-16 A	

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4160	SET PRECAST - GROUND LEVEL @ EAST	5	13-Feb-17 A	17-Feb-17 A	
LEVELS 2 THRU 5		510	18-Jan-17 A	11-Jan-19 A	
		510	18-Jan-17 A	11-Jan-19 A	
4178	INSTALL PREMIER SCAFFOLDING @ EAST	2	18-Jan-17 A	19-Jan-17 A	
4172	SET PRECAST @ LEVEL 1 @ EAST ELEVATION (LULL)	16	20-Feb-17 A	13-Mar-17 A	
4170	SET PRECAST - CORNICE 2ND FLR @ EAST ELEVATION	14	24-Feb-17 A	15-Mar-17 A	
4166	PREMIER SCAFFOLD - UP TO 6TH FLR @ EAST ELEVATION	4	14-Mar-17 A	17-Mar-17 A	
4246	INSTALL BALANCE OF LENTAL @ EAST ELEVATION	5	16-Mar-17 A	16-Mar-17 A	
4248	INSTALL & INSP 5TH FLOOR TOP OF WALL PLATES @ EAST ELEVATION	3	20-Mar-17 A	22-Mar-17 A	
4250	WATERPROOFING BEHIND CAST STONE @ EAST ELEVATION	1	23-Mar-17 A	23-Mar-17 A	
4168	SET 6TH FLR LARGE PRECAST & HAND SET QUOINS @ EAST ELEVATION	22	28-Mar-17 A	21-Apr-17 A	
4176	FLOAT & REPAIR CMU WALL @ EAST ELEAVTION	8	17-Apr-17 A	26-Apr-17 A	
4198	WATERPROOFING @ EAST ELEVATION	2	26-Apr-17 A	27-Apr-17 A	
24860	INSTALL BEAD & SCRATCH & BROWN COAT STUCCO @ EAST ELEVATION (LEVELS 3 THRL	11	28-Apr-17 A	12-May-17 A	
4182	CURE STUCCO @ EAST ELEVATION	7	13-May-17 A	19-May-17 A	
4196	INSTALL ARRISCRAFT @ EAST ELEVATION	29	15-May-17 A	17-Jun-17 A	
4186	APPLY FINISH STUCCO COAT @ EAST ELEVATION	8	18-May-17 A	26-May-17 A	
4188	CAULKING @ EAST ELEVATION	6	26-May-17 A	02-Jun-17 A	
4192	REMOVE STUCCO SCAFFOLDING @ EAST ELEVATION	4	20-Jun-17 A	23-Jun-17 A	
4190	INSTALL SHUTTERS ONLY @ EAST ELEVATION (SNORKEL LIFT INSTALLATION)	2	10-Jan-19 A	11-Jan-19 A	
LEVELS 6 THRU 8		290	23-Mar-17 A	11-May-18 A	
		290	23-Mar-17 A	11-May-18 A	
25228	INSTALL 8TH FLR TOP OF WALL PLATES (RFI 902)	2	23-Mar-17 A	24-Mar-17 A	
25256	WATERPROOFING BEHIND CAST STONE @ EAST ELEVATION LVLS 6-8	1	29-Mar-17 A	29-Mar-17 A	
4194	SET PRECAST - LEVEL 8 @ EAST ELEVATION (SCISSOR LIFT)	17	30-Mar-17 A	18-Apr-17 A	
25244	CMU REPAIR OF WALL GROUT & POINT UP @ EAST ELEVATION	10	07-Apr-17 A	16-Apr-17 A	
24892	INSTALL CMU PARTITION WALLS (2 COURSES) @ EAST ELEVATION	3	20-Apr-17 A	24-Apr-17 A	
24890	INSTALL FLASHING, MERKERETE, WATER TEST & PROTECTION @ EAST ELEV	17	20-Apr-17 A	12-May-17 A	
24891	INSTALL EXTERIOR DOORS @ EAST ELEVATION	3	11-May-17 A	15-May-17 A	
24868	INSTALL SCAFFOLDING @ EAST	3	15-May-17 A	17-May-17 A	
29863	FLOAT & REPAIR CMU WALL @ EAST ELEAVTION	6	12-Jun-17 A	19-Jun-17 A	
25072	APPLY W.P STUCCO COAT @ EAST	3	20-Jun-17 A	22-Jun-17 A	
4180	INSTALL BEAD & SCRATCH & BROWN COAT STUCCO @ EAST ELEVATION (LEVELS 6 THRL	5	23-Jun-17 A	28-Jun-17 A	
24862	CURE STUCCO @ EAST ELEVATION	7	29-Jun-17 A	05-Jul-17 A	
24864	APPLY FINISH STUCCO COAT @ EAST ELEVATION	2	06-Jul-17 A	07-Jul-17 A	
24866	CAULKING @ EAST ELEVATION	3	06-Jul-17 A	10-Jul-17 A	
24870	INSTALL ALUMINUM FRAMING & CORNICE @ ROOF	10	31-Jul-17 A	11-Aug-17 A	
24872	REMOVE STUCCO SCAFFOLDING @ EAST ELEVATION	3	14-Aug-17 A	16-Aug-17 A	
29774	INSTALL ROOF FRAMING & CMU PARTITION WALLS @ EAST ELEVATION	8	22-Aug-17 A	31-Aug-17 A	
28775	INSTALL COPPER ROOFING, SOFFIT & GUTTER @ EAST ELEAVTION	5	05-Sep-17 A	11-Sep-17 A	
29665	INSTALL FLOOR TILE @ EAST ELEAVTION	15	18-Sep-17 A	04-Oct-17 A	
337385	INSTALL CANOPIES @ EAST ELEAVTION	5	16-Oct-17 A	20-Oct-17 A	
29667	BALANCE OF FLASHING,STUCCO & CURE TIME @ EAST ELEAVTION	11	03-Nov-17 A	17-Nov-17 A	
28000	PUNCH & REPAIRS @ EAST ELEAVTION	5	19-Dec-17 A	26-Dec-17 A	
28778	INSTALL LANTERNS @ EAST ELEVATION (OWNER DELAY)	5	07-May-18 A	11-May-18 A	
SOUTHEAST ELEVATION		499	25-Jan-17 A	03-Jan-19 A	
LEVEL 1		38	25-Jan-17 A	17-Mar-17 A	
		38	25-Jan-17 A	17-Mar-17 A	
24910	APPLY W.P STUCCO COAT @ SOUTHEAST	3	25-Jan-17 A	27-Jan-17 A	
24934	SET PRECAST & SURROUNDS - GROUND LEVEL @ SOUTHEAST	19	21-Feb-17 A	17-Mar-17 A	
LEVELS 2 THRU 5		461	20-Mar-17 A	03-Jan-19 A	
		461	20-Mar-17 A	03-Jan-19 A	
25128	INSTALL ARRISCRAFT @ SOUTHEAST ELEVATION	4	20-Mar-17 A	23-Mar-17 A	
24914	SET PRECAST @ LEVEL 1 @ SOUTHEAST ELEVATION (FORKLIFT)	2	23-Mar-17 A	24-Mar-17 A	

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A1018	PUNCH & REPAIRS @ SOUTHWEST ELEVATION	14	15-Mar-18 A	30-Mar-18 A	
32687	INSTALL COPPER MARQUIS @ SOUTHWEST ELEVATION	17	14-May-18 A	06-Jun-18 A	
24960	INSTALL SHUTTERS @ SOUTHWEST ELEVATION	2	04-Jan-19 A	07-Jan-19 A	
LEVELS 6 THRU 8		286	27-Mar-17 A	09-May-18 A	
		286	27-Mar-17 A	09-May-18 A	
25082	APPLY W.P STUCCO COAT @ SOUTHWEST ELEVATION	4	27-Mar-17 A	30-Mar-17 A	
24964	SET PRECAST - LEVEL 8 @ SOUTHWEST ELEVATION (MOBILE CRANE)	6	10-Apr-17 A	17-Apr-17 A	
24966	INSTALL PREMIER SCAFFOLDING @ SOUTHWEST ELEVATION	3	06-Jul-17 A	08-Jul-17 A	
34691	FLOAT & REPAIR CMU WALL @ SOUTHWEST ELEVATION	2	10-Jul-17 A	11-Jul-17 A	
34693	WATERPROOFING @ SOUTHWEST ELEVATION	2	12-Jul-17 A	13-Jul-17 A	
24968	INSTALL BEAD & SCRATCH & BROWN COAT STUCCO @ SOUTHWEST ELEVATION	4	14-Jul-17 A	19-Jul-17 A	
24970	CURE STUCCO @ SOUTHWEST ELEVATION	8	17-Jul-17 A	24-Jul-17 A	
24974	CAULKING @ SOUTHWEST ELEVATION	3	27-Jul-17 A	31-Jul-17 A	
24972	APPLY FINISH STUCCO COAT @ SOUTHWEST ELEVATION	3	27-Jul-17 A	31-Jul-17 A	
24976	INSTALL ALUMINUM CORNICE @ ROOF	5	07-Aug-17 A	11-Aug-17 A	
24978	REMOVE PREMIER SCAFFOLDING @ SOUTHWEST ELEVATION	3	14-Aug-17 A	16-Aug-17 A	
34695	INSTALL ROOF FRAMING @ SOUTHWEST ELEVATION	7	30-Aug-17 A	08-Sep-17 A	
34697	INSTALL COPPER ROOFING, SOFFIT & GUTTER @ SOUTHWEST ELEVATION	5	18-Sep-17 A	22-Sep-17 A	
25234	INSTALL FLASHING, MERKERETE, WATER TEST & PROTECTION @ SOUTHWEST ELEV	9	06-Nov-17 A	15-Nov-17 A	
34701	INSTALL FLOOR TILE @ SOUTHWEST ELEVATION	9	01-Dec-17 A	11-Dec-17 A	
29767	BALANCE OF STUCCO @ SOUTHWEST ELEVATION	12	07-Dec-17 A	22-Dec-17 A	
29765	PUNCH & REPAIRS @ SOUTHWEST ELEVATION	20	02-Apr-18 A	27-Apr-18 A	
34705	INSTALL LANTERNS @ SOUTHWEST ELEVATION	3	07-May-18 A	09-May-18 A	
WEST ELEVATION		497	01-Feb-17 A	08-Jan-19 A	
LEVEL 1		51	01-Feb-17 A	12-Apr-17 A	
		51	01-Feb-17 A	12-Apr-17 A	
24776	APPLY W.P STUCCO COAT @ WEST ELEVATION	2	01-Feb-17 A	02-Feb-17 A	
24778	SET PRECAST & SURROUNDS - GROUND LEVEL @ WEST ELEVATION	12	28-Mar-17 A	12-Apr-17 A	
LEVELS 2 THRU 5		453	04-Apr-17 A	08-Jan-19 A	
		453	04-Apr-17 A	08-Jan-19 A	
24808	INSTALL ARRISCRAFT @ WEST ELEVATION	34	04-Apr-17 A	12-May-17 A	
24784	SET PRECAST - CORNICE 2ND FLR @ WEST ELEVATION	4	12-Apr-17 A	17-Apr-17 A	
25142	INSTALL METAL TRACK FOR CANOPIES @ WEST ELEVATION	3	19-Apr-17 A	21-Apr-17 A	
24848	INSTALL WATERPROOFING BEHIND PRECAST @ WEST ELEVATION (SNORKEL LIFT)	11	12-May-17 A	26-May-17 A	
24806	SET 6TH FLR LARGE PRECAST BAND @ WEST ELEVATION	4	23-May-17 A	26-May-17 A	
35874	PREMIER SET SCAFOLDDING UP TO 6TH FLR @ WEST ELEVATION	11	11-Jul-17 A	22-Jul-17 A	
25204	FLOAT & REPAIR CMU WALL @ WEST ELEVATION	3	24-Jul-17 A	26-Jul-17 A	
24786	SET PRECAST QUOINS @ WEST ELEVATION	24	31-Jul-17 A	31-Aug-17 A	
25206	WATERPROOFING @ WEST ELEVATION	2	03-Aug-17 A	04-Aug-17 A	
24792	INSTALL BEAD & SCRATCH & BROWN COAT STUCCO @ WEST ELEVATION	31	05-Aug-17 A	11-Sep-17 A	
24794	CURE STUCCO @ WEST ELEVATION	10	09-Sep-17 A	18-Sep-17 A	
24796	APPLY FINISH STUCCO COAT @ WEST ELEVATION	5	21-Sep-17 A	27-Sep-17 A	
24798	CAULKING @ WEST ELEVATION	5	28-Sep-17 A	04-Oct-17 A	
24802	REMOVE STUCCO SCAFFOLDING @ WEST ELEVATION	3	04-Oct-17 A	06-Oct-17 A	
24804	INSTALL STOREFRONT & CAULKING @ WEST ELEVATION	11	09-Oct-17 A	23-Oct-17 A	
35876	INSTALL BALANCE OF STEEL FOR MARQUIS @ WEST ELEVATION	3	11-Dec-17 A	13-Dec-17 A	
35878	FRAMING, DECKING & TPO ROOFING & MEP TIE IN'S @ WEST ELEVATION	45	05-Mar-18 A	04-May-18 A	
35880	INSTALL COPPER MARQUIS @ WEST ELEVATION	5	14-May-18 A	18-May-18 A	
35884	INSTALL SHUTTERS @ WEST ELEVATION	2	04-Jan-19 A	07-Jan-19 A	
35882	PUNCH & REPAIRS @ WEST ELEVATION	1	08-Jan-19 A	08-Jan-19 A	
LEVELS 6 THRU 8		296	13-Mar-17 A	09-May-18 A	
		296	13-Mar-17 A	09-May-18 A	
25246	CMU REPAIR OF WALL GROUT & POINT UP @ WEST ELEVATION	10	13-Mar-17 A	24-Mar-17 A	
25076	APPLY W.P STUCCO COAT @ WEST	1	28-Mar-17 A	28-Mar-17 A	

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4352	INSTALL DOWELS & WATERPROOFING @ NORTH ELEVATION	6	01-Aug-17 A	08-Aug-17 A	
4344	INSTALL PRECAST - 2ND FLOOR @ NORTH ELEVATION	4	02-Aug-17 A	07-Aug-17 A	
4316	INSTALL PREMIER SCAFFOLDING @ NORTH ELEVATION	6	14-Aug-17 A	21-Aug-17 A	
36947	FLOAT & REPAIR CMU WALL @ NORTH ELEVATION	7	11-Sep-17 A	19-Sep-17 A	
4324	INSTALL WATERPROOFING FOR 8TH FLR PRECAST @ NORTH ELEVATION	4	20-Sep-17 A	23-Sep-17 A	
4332	INSTALL PRECAST @ 8TH FLOOR NORTH ELEVATION	2	25-Sep-17 A	26-Sep-17 A	
4318	INSTALL BEAD & SCRATCH & BROWN COAT STUCCO @ NORTH ELEVATION	5	25-Sep-17 A	29-Sep-17 A	
4320	CURE STUCCO @ NORTH ELEVATION	9	30-Sep-17 A	08-Oct-17 A	
4322	APPLY FINISH STUCCO COAT @ NORTH ELEVATION	3	09-Oct-17 A	11-Oct-17 A	
4326	CAULKING @ NORTH ELEVATION	5	12-Oct-17 A	18-Oct-17 A	
4328	INSTALL JULIETTE BALCONIES @ NORTH ELEVATION	2	16-Oct-17 A	17-Oct-17 A	
4330	REMOVE STUCCO SCAFFOLDING @ NORTH ELEVATION	3	18-Oct-17 A	20-Oct-17 A	
4340	INSTALL PRECAST - GROUND LEVEL @ NORTH ELEVATION	3	01-Nov-17 A	03-Nov-17 A	
4334	INSTALL ARRISCRAFT @ NORTH ELEVATION	7	07-Dec-17 A	15-Dec-17 A	
4346	INSTALL ONS SCAFFOLDING UP TO 2ND FLOOR 2 NORTH ELEVATION	2	07-Dec-17 A	08-Dec-17 A	
36949	INSTALL BALANCE OF STEEL FOR MARQUIS @ NORTH ELEVATION	3	18-Dec-17 A	20-Dec-17 A	
36951	FRAMING, DECKING & TPO ROOFING & MEP TIE IN'S @ NORTH ELEVATION	37	15-Mar-18 A	04-May-18 A	
39547	INSTALL HOPES DOORS @ NORTH ELEVATION	5	14-May-18 A	18-May-18 A	
4336	INSTALL MARQUIS @ NORTH ELEVATION	3	23-May-18 A	25-May-18 A	
37641	PUNCH & REPAIRS @ NORTH ELEVATION	5	11-Jun-18 A	15-Jun-18 A	
FINISH SITEWORK		309	07-Aug-17 A	19-Oct-18 A	
		309	07-Aug-17 A	19-Oct-18 A	
		309	07-Aug-17 A	19-Oct-18 A	
		309	07-Aug-17 A	19-Oct-18 A	
2130	INSTALL PATIO DRAIN TO TABACCO RD	5	07-Aug-17 A	11-Aug-17 A	
2060	FINAL GRADING / FOOTINGS/ DRAINS @ SOUTH ELEVATION	5	14-Aug-17 A	18-Aug-17 A	
39551	ROUGH GRADE BLUE STONE & CONCRETE @ WEST ELEV	13	30-Oct-17 A	15-Nov-17 A	
39549	INSTALL HARDSCAPE @ SOUTH ELEV	49	09-Jan-18 A	16-Mar-18 A	
2070	INSTALL HARDSCAPE / PAVERS @ EAST ELEV	13	12-Feb-18 A	28-Feb-18 A	
39553	CONCRETE SIDEWALKS @ NORTH ELEV	5	27-Apr-18 A	03-May-18 A	
39557	RE-PAVE HUDSON STREET @ NORTH ELEVATION	3	21-Jul-18 A	24-Jul-18 A	
39555	COMPLETE BALANCE OF HARDSCAPES @SOUTHEAST ELEV (MOCK UP LOCATION)	30	10-Sep-18 A	19-Oct-18 A	
INTERIOR		685	18-Apr-16 A	04-Jan-19	104
SPRINKLER		3	27-Mar-17 A	29-Mar-17 A	
PREFUNCTION ROOM AND BALL ROOM		3	27-Mar-17 A	29-Mar-17 A	
FRAMING & MEPROUGHIN		3	27-Mar-17 A	29-Mar-17 A	
		3	27-Mar-17 A	29-Mar-17 A	
25172	SPRINKLER ROUGH IN AT PARTIAL BARREL CEILING @ PREFUNCTION & BALL ROOM	3	27-Mar-17 A	29-Mar-17 A	
SERVICE YARD (GROUND LEVEL)		158	18-Apr-16 A	30-Nov-16 A	
		158	18-Apr-16 A	30-Nov-16 A	
		158	18-Apr-16 A	30-Nov-16 A	
3156	INSTALL GREASE TRAP @ SERVICE YARD	2	18-Apr-16 A	19-Apr-16 A	
3152	SET & INSTALL CHILLERS (2) @ SERVICE YARD	6	02-Aug-16 A	09-Aug-16 A	
3256	INSTALL SCEG PRIMARY TRANSFORMER @ VAULT	3	13-Sep-16 A	15-Sep-16 A	
3154	SET, HOOK UP & TEST GENERATOR @ SERVICE YARD	29	19-Oct-16 A	30-Nov-16 A	
LOWER LEVEL		559	25-Jul-16 A	28-Sep-18 A	
		559	25-Jul-16 A	28-Sep-18 A	
		80	25-Jul-16 A	14-Nov-16 A	
		80	25-Jul-16 A	14-Nov-16 A	
3160	INSTALL CMU BLOCK @ LOWER LEVEL	10	25-Jul-16 A	05-Aug-16 A	
3162	INSTALL OVERHEAD MEPPF ROUGH IN @ LOWER LEVEL	62	08-Aug-16 A	08-Oct-16 A	
3164	INSTALL WALL FRAMING & DOOR FRAMES @ LOWER LEVEL	17	08-Aug-16 A	30-Aug-16 A	

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2296	INSTALL INGRID HVAC ROUGH IN @ 1ST FLOOR KITCHEN	2	12-May-17 A	15-May-17 A	
2278	INSTALL F.R.P. @ 1ST FLOOR KITCHEN	4	12-May-17 A	17-May-17 A	
2294	INSTALL INGRID ELECTRICAL ROUGH IN @ 1ST FLOOR KITCHEN	5	15-May-17 A	19-May-17 A	
2276	INSTALL EPOXY FLOOR @ 1ST FLOOR KITCHEN	5	24-May-17 A	30-May-17 A	
2282	SET KITCHEN EQUIPMENT @ 1ST FLOOR KITCHEN	13	05-Jun-17 A	21-Jun-17 A	
2286	FINAL PLUMBING CONNECTIONS TO KITCHEN EQUIPMENT @ 1ST FLOOR KITCHEN	43	05-Jul-17 A	01-Sep-17 A	
2284	FINAL ELECTRICAL CONNECTIONS TO KITCHEN EQUIPMENT @ 1ST FLOOR KITCHEN	153	05-Jul-17 A	09-Feb-18 A	
2642	BMCC FINAL DELIVERY OF STARTERS @ 1ST FLOOR KITCHEN	0		19-Oct-17 A	
2298	OVERHEAD & INGRID INSPECTIONS @ 1ST FLOOR KITCHEN	3	09-Mar-18 A	13-Mar-18 A	
2302	INSTALL ACT TILE @ 1ST FLOOR KITCHEN	2	14-Mar-18 A	15-Mar-18 A	
PUNCH & REPAIRS		9	17-Apr-18 A	27-Apr-18 A	
2014	BBC CREATES PUNCLIST @ 1ST FLOOR KITCHEN	4	17-Apr-18 A	20-Apr-18 A	
2304	FINAL PUNCH, REPAIRS & CLEAN @ 1ST FLOOR KITCHEN	6	20-Apr-18 A	27-Apr-18 A	
DINING & PRIVATE DINING		529	15-Aug-16 A	10-Sep-18 A	
FRAMING & MEP ROUGH IN		70	15-Aug-16 A	21-Nov-16 A	
2308	INSTALL OH MECHANICAL & PLUMBING ROUGH IN @ DINING & PRIVATE DINING	34	15-Aug-16 A	30-Sep-16 A	
1982	WALL & MEP LAYOUT & DOOR FRAMES @ DINING & PRIVATE DINING	3	06-Sep-16 A	08-Sep-16 A	
2012	INSTALL OH SPRINKLER ROUGH IN @ DINING & PRIVATE DINING	13	19-Sep-16 A	05-Oct-16 A	
2316	WALL FRAMING / BLOCKING, FURRING & INSULATION @ DINING & PRIVATE DINING	6	20-Sep-16 A	27-Sep-16 A	
2318	INSTALL INWALL ELECTRICAL ROUGH IN @ DINING & PRIVATE DINING	8	28-Sep-16 A	07-Oct-16 A	
2322	INSTALL INWALL PLUMBING ROUGH IN @ DINING & PRIVATE DINING	4	04-Oct-16 A	07-Oct-16 A	
2314	INSTALL OH ELECTRICAL ROUGH IN @ DINING & PRVATE DINING	12	06-Oct-16 A	21-Oct-16 A	
2312	MECHANICAL & PLUMBING INSULATION & TESTING @ DINING & PRIVATE DINING	6	13-Oct-16 A	20-Oct-16 A	
2306	INSTALL OH DUCTWORK @ DINING & PRIVATE DINING	25	18-Oct-16 A	21-Nov-16 A	
2324	INWALL INSPECTIONS @ DINING & PRIVATE DINING	4	20-Oct-16 A	25-Oct-16 A	
DRYWALL, HARDTILE, & PRIME PAINT		269	16-Nov-16 A	16-Nov-17 A	
2326	HANG DRYWALL & TOP OUT @ DINING & PRIVATE DINING	14	16-Nov-16 A	07-Dec-16 A	
2016	INSTALL CEILING FRAMING @ DINING & PRIVATE DINING	13	11-Jan-17 A	27-Jan-17 A	
2328	INSTALL HARD CEILING ELECTRICAL @ DINING & PRIVATE DINING	21	24-Jan-17 A	21-Feb-17 A	
2332	INSTALL SPRINKLER TURNDOWNS @ DINING & PRIVATE DINING	24	08-Feb-17 A	13-Mar-17 A	
2334	OVERHEAD INSPECTIONS @ DINING & PRIVATE DINING	4	20-Feb-17 A	23-Feb-17 A	
2336	H / T / F DRYWALL CEILINGS @ PRIVATE DINING	34	20-Mar-17 A	04-May-17 A	
2524	INSTALL PLASTER CEILING PANELS @ DINING	22	18-Sep-17 A	17-Oct-17 A	
2338	PRIME PAINT & 1ST COAT @ DINING & PRIVATE DINING	20	13-Nov-17 A	16-Nov-17 A	
FINAL FINISHES, MILLWORK, & MEP TRIMOUT		366	06-Apr-17 A	10-Sep-18 A	
2342	INSTALL MILLWORK @ DINING	12	06-Apr-17 A	21-Apr-17 A	
3460	SI-44 NOT APPROVED BBC TO PROCEED PER CONTRACT DRAWINGS	0		01-Nov-17 A	
2348	FINAL POINT UP @ DINING & PRIVATE DINING	1	11-Dec-17 A	11-Dec-17 A	
2352	FINAL PAINT @ DINING & PRIVATE DINING	2	21-Dec-17 A	22-Dec-17 A	
2346	INSTALL FINAL MEP FIXTURES & TRIMOUT @ DINING & PRIVATE DINING	2	27-Dec-17 A	28-Dec-17 A	
3492	INSTALL LIGHT FIXTURES @ DINING & PRIVATE DINING	2	02-Jul-18 A	03-Jul-18 A	
336984	INSTALL CASEWORK BAR 148 @ LOBBY / DINING (SI-46)	5	02-Jul-18 A	06-Jul-18 A	
3158	INSTALL HOPES DOOR & BAL OF FINISHES INTERIOR & EXTERIOR @ DINING AREA (SOUT	15	23-Jul-18 A	10-Aug-18 A	
2576	INSTALL OWNER FFE @ DINING & PRIVATE DINING (ADDED BUILT IN UNIT) - **BY OWNER**	26	06-Aug-18 A	10-Sep-18 A	
CAMELIAS LOUNGE		591	30-Aug-16 A	04-Jan-19	79
FRAMING & MEP ROUGH IN		53	30-Aug-16 A	04-Jan-19	3
4200	WALL & MEP LAYOUT & DOOR FRAMES @ CAMELIAS LOUNGE	21	30-Aug-16 A	28-Sep-16 A	
4206	INSTALL OH MECHANICAL & PLUMBING ROUGH IN @ CAMELIAS LOUNGE	10	12-Sep-16 A	23-Sep-16 A	
4202	INSTALL OH SPRINKLER ROUGH IN @ CAMELIAS LOUNGE	17	12-Sep-16 A	04-Oct-16 A	

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4210	WALL FRAMING / BLOCKING, FURRING & INSULATION @ CAMELIAS LOUNGE	37	22-Sep-16 A	11-Nov-16 A	
2022	INSTALL INWALL ELECTRICAL ROUGH IN @ CAMELLIAS LOUNGE	13	23-Sep-16 A	11-Oct-16 A	
4212	INSTALL OH ELECTRICAL ROUGH IN@ CAMELLIAS LOUNGE	6	03-Oct-16 A	10-Oct-16 A	
2356	INSTALL INWALL PLUMBING ROUGH IN @ CAMELLIAS LOUNGE	4	11-Oct-16 A	14-Oct-16 A	
4218	MECHANICAL & PLUMBING INSULATION & TESTING @ CAMELIAS LOUNGE	5	14-Oct-16 A	20-Oct-16 A	
4208	INSTALL OH DUCTWORK @ CAMELLIAS LOUNGE	4	18-Oct-16 A	20-Oct-16 A	
2358	INWALL INSPECTIONS @ CAMELLIAS LOUNGE	2	20-Oct-16 A	04-Jan-19	3
4216	INSULATE DUCTWORK & TESTING @ CAMELIAS LOUNGE	4	21-Oct-16 A	26-Oct-16 A	
DRYWALL, HARDTILE, & PRIME PAINT		155	16-Nov-16 A	27-Jun-17 A	
4222	H / T / F DRYWALL WALLS @ CAMELLIAS LOUNGE	27	16-Nov-16 A	27-Dec-16 A	
4220	INSTALL CEILING FRAMING @ CAMELLIAS LOUNGE	29	07-Dec-16 A	18-Jan-17 A	
4242	FIELD MEASURE GFRG PANELS @ CAMELLIAS LOUNGE	3	30-Jan-17 A	01-Feb-17 A	
4244	FAB / DELIVER GFRG PANELS @ CAMELLIAS LOUNGE	46	02-Feb-17 A	06-Apr-17 A	
4232	OVERHEAD INSPECTIONS @ CAMELLIAS LOUNGE	2	22-Feb-17 A	23-Feb-17 A	
4228	H / T / F DRYWALL CEILINGS @ CAMELLIAS LOUNGE	22	06-Mar-17 A	04-Apr-17 A	
4230	INSTALL HARD CEILING ELECTRICAL @ CAMELLIAS LOUNGE	2	28-Apr-17 A	01-May-17 A	
4252	INSTALL PLYWOOD SUB-CEILING @ CAMELLIAS LOUNGE	4	22-Jun-17 A	27-Jun-17 A	
FINAL FINISHES, MILLWORK, & MEP TRIMOUT		343	07-Aug-17 A	06-Dec-18 A	
2024	INSTALL MIRRORS @ CAMELLIAS LOUNGE	4	07-Aug-17 A	10-Aug-17 A	
4226	INSTALL GFRG PANELS @ CAMELLIAS LOUNGE	13	17-Aug-17 A	05-Sep-17 A	
4238	INSTALL MILLWORK @ CAMELLIAS LOUNGE	38	01-Sep-17 A	25-Oct-17 A	
4236	PRIME PAINT WALLS @ CAMELLIAS LOUNGE	1	20-Sep-17 A	20-Sep-17 A	
2362	FINAL PAINT @ CAMELLIAS LOUNGE	19	10-Oct-17 A	03-Nov-17 A	
2364	INSTALL FINAL MEP FIXTURES & TRIMOUT @ CAMELIAS LOUNGE	3	06-Nov-17 A	08-Nov-17 A	
2366	INSTALL HARD TILE @ CAMELLIAS LOUNGE (SI-51)	13	19-Jan-18 A	02-Feb-18 A	
3480	FRAME BAR WALL / INSTALL CASEWORK @ CAMELLIAS LOUNGE	34	13-Feb-18 A	30-Mar-18 A	
2520	INSTALL STONE TOPS AT CASEWORK @ CAMELLIAS LOUNGE	5	12-Jun-18 A	18-Jun-18 A	
25250	INSTALL SPECIALTY DOOR @ CAMELLIAS LOUNGE	2	05-Dec-18 A	06-Dec-18 A	
PUNCH & REPAIRS		11	07-Dec-18 A	21-Dec-18 A	
2026	BBC CREATES PUNCHLIST @ CAMELLIAS LOUNGE	3	07-Dec-18 A	11-Dec-18 A	
2368	FINAL PUNCH, REPAIRS & CLEAN @ CAMELIAS LOUNGE	8	12-Dec-18 A	21-Dec-18 A	
LEVEL 2		576	15-Aug-16 A	15-Nov-18 A	
2ND FLOOR SPA		549	15-Aug-16 A	05-Oct-18 A	
FRAMING & MEPROUGH IN		88	15-Aug-16 A	19-Dec-16 A	
5200	WALL & MEP LAYOUT & DOOR FRAMES @ 2ND FLOOR SPA	32	15-Aug-16 A	28-Sep-16 A	
5208	INSTALL OH MECHANICAL & PLUMBING ROUGH IN @ 2ND FLOOR SPA	18	06-Sep-16 A	29-Sep-16 A	
5202	WALL FRAMING / BLOCKING, FURRING & INSULATION @ 2ND FLOOR SPA	35	19-Sep-16 A	04-Nov-16 A	
5218	INSTALL INWALL ELECTRICAL ROUGH IN @ 2ND FLOOR SPA	41	23-Sep-16 A	11-Nov-16 A	
5220	INSTALL INWALL PLUMBING ROUGH IN @ 2ND FLOOR SPA	23	19-Oct-16 A	18-Nov-16 A	
5212	INSTALL OH ELECTRICAL ROUGH IN @ 2ND FLOOR SPA	34	19-Oct-16 A	07-Dec-16 A	
5210	INSTALL OH DUCTWORK @ 2ND FLOOR SPA	45	24-Oct-16 A	16-Dec-16 A	
5206	INSTALL OH SPRINKLER ROUGH IN @ 2ND FLOOR SPA	38	25-Oct-16 A	19-Dec-16 A	
5216	MECHANICAL & PLUMBING INSULATION & TESTING @ 2ND FLOOR SPA	7	15-Nov-16 A	23-Nov-16 A	
5226	INWALL INSPECTIONS @ 2ND FLOOR SPA	1	21-Nov-16 A	21-Nov-16 A	
DRYWALL, HARDTILE, & PRIME PAINT		211	22-Nov-16 A	21-Sep-17 A	
2028	HANG DRYWALL WALLS @ 2ND FLOOR SPA	20	22-Nov-16 A	21-Dec-16 A	
2372	TAPE & FINISH DRYWALL WALLS @ 2ND FLOOR SPA	26	28-Nov-16 A	04-Jan-17 A	
2388	INSTALL CEILING FRAMING @ 2ND FLOOR SPA	53	16-Dec-16 A	02-Mar-17 A	
2394	INSTALL SPRINKLER TURNDOWNS @ 2ND FLOOR SPA	7	17-Feb-17 A	27-Feb-17 A	

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