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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable J. Cordell Maddox, Circuit Court Judge

Appellate Case No. 2025-000455

Brock Landscape Contractors, LLC d/b/a Brock Landscape, Respondent,

v.

Clyde E. Abernathy, Sharon M. Abernathy, Linda M. Abernathy, and Michael L. Abernathy, individually and d/b/a Abernathy Welding & Sandblasting, Appellants,

AND

Michael L. Abernathy d/b/a Abernathy Welding & Sandblasting, Appellant,

v.

William Harold Brock, Jr., Respondent.

RECORD ON APPEAL

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Attorney for the Respondents

INDEX

Summons and Complaint with Exhibits 4

Amended Answer and Counterclaim 30

Trial Transcript from June 3, 2024 44

Direct Examination of Dennis Rankin by Mr. Raffini 47
Cross-Examination of Dennis Rankin by Mr. Cole 51
Direct Examination of Gail Glick by Mr. Cole 54
Cross-Examination of Gail Glick by Mr. Raffini 59
Redirect Examination of Gail Glick by Mr. Cole 62
Recross-Examination of Gail Glick by Mr. Raffini 63

Trial Transcript from June 4, 2024 67

Direct Examination Larry Helms by Mr. Raffini 73
Cross-Examination of Larry Helms by Mr. Cole 85
Redirect Examination of Larry Helms by Mr. Raffini 90
Direct Examination of Douglas Merritt by Mr. Raffini 91
Cross-Examination of Douglas Merritt by Mr. Cole 100
Direct Examination of William Harold Brock, Jr. by Mr. Raffini 105
Cross-Examination of William Harold Brock, Jr. by Mr. Cole 137
Redirect Examination of William Harold Brock, Jr. by Mr. Raffini 146
Motion for Directed Verdict by Mr. Cole 150
Direct Examination of Jacob Britt Abernathy by Mr. Cole 153

Trial Transcript from June 5, 2024 202

Direct Examination of Jacob Britt Abernathy by Mr. Cole 205
Cross-Examination of Jacob Britt Abernathy by Mr. Raffini 215
Redirect Examination of Jacob Britt Abernathy by Mr. Cole 259
Direct Examination of Michael Abernathy by Mr. Cole 260
Cross-Examination of Michael Abernathy by Mr. Raffini 280
Motion for Directed Verdict by Mr. Raffini 294
Direct Examination of William Harold Brock, Jr. by Mr. Raffini 297
Cross-Examination of William Harold Brock, Jr. by Mr. Cole 305

Trial Exhibits 308

Respondents' Exhibit 1 308
Respondents' Exhibit 4 311
Respondents' Exhibit 5 316
Respondents' Exhibit 6 323
Respondents' Exhibit 7 326
Respondents' Exhibit 8 328

Respondents' Exhibit 9 330
Respondents' Exhibit 10 331
Respondents' Exhibit 11 335
Appellants' Exhibit 1 341
Appellants' Exhibit 2 342
Appellants' Exhibit 3 356
Appellants' Exhibit 4 366
Appellants' Exhibit 5 369
Appellants' Exhibit 7 379
Appellants' Exhibit 8 381
Appellants' Exhibit 9 382
Appellants' Exhibit 10 383
Appellants' Exhibit 11 384
Appellants' Exhibit 12 385
Appellants' Exhibit 13 386
Appellants' Exhibit 14 387
Appellants' Exhibit 15 388
Appellants' Exhibit 16 390
Appellants' Exhibit 17 391
Appellants' Exhibit 18 411
Appellants' Exhibit 19 412

Appellants' Post Trial Memorandum 413

Respondents' Post Trial Memorandum 416

Order filed January 6, 2025 419

Motion to Reconsider, Alter, or Amend / New Trial 431

Motion for Attorney's Fees 437

Order Denying Motion to Reconsider, Alter, or Amend 441

Certificate of Appellants 444

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

C.A. No. 2019-CP-04-

Brock Landscape Contractors, LLC d/b/a Brock Landscape

Plaintiff,

vs.

Clyde E. Abernathy, Sharon M. Abernathy, Linda M. Abernathy and Michael L. Abernathy, individually and d/b/a Abernathy Welding & Sandblasting

Defendants.

SUMMONS

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Complaint upon the subscribers at their office, 704 East McBee Avenue, Greenville, South Carolina 29601, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court and judgment by default will be rendered against you for the relief demanded in the Complaint.

KENISON, DUDLEY & CRAWFORD, LLC

s/John T. Crawford, Jr.
John T. Crawford, Jr. (SC Bar# 69682)
Virgil K. Thompson, III (SC Bar# 103035)
704 E. McBee Avenue
Greenville, South Carolina 29601
T: (864) 242-4899
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E: thompson@conlaw.com
Counsel for Plaintiff

April 19, 2019
Greenville, South Carolina

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STATE OF SOUTH CAROLINA COUNTY OF ANDERSON Brock Landscape Contractors, LLC d/b/a Brock Landscape, Plaintiff, vs. Clyde E. Abernathy, Sharon M. Abernathy, Linda M. Abernathy and Michael L. Abernathy, individually and d/b/a Abernathy Welding & Sandblasting Defendants.	IN THE COURT OF COMMON PLEAS C.A. No. 2019 CP 04 **FORECLOSURE COMPLAINT** **(Non-Jury)**

COMES NOW, the Plaintiff, Brock Landscape Contractors, LLC d/b/a Brock Landscape ("Brock"), complaining of the Defendants, Clyde E. Abernathy, Sharon M. Abernathy, Linda M. Abernathy and Michael L. Abernathy, individually and d/b/a Abernathy Welding & Sandblasting ("Abernathy") (collectively "Owners" or "Defendants") and would show the following:

1. Brock is a limited liability company organized and existing in the State of South Carolina and, at all times herein, was authorized to transact business in Spartanburg County, South Carolina.

2. Upon information and belief, Defendants, are residents in Anderson County and are Owners of real property known as 1280 Cannon Bottom Road, Belton, South Carolina 29627 (the "Project" or "Subject Property"), which is the Subject Property of the foreclosure cause of action forthcoming in this Complaint more fully described in the property description attached hereto as **"Exhibit A".**

3. Brock and Abernathy entered into an agreement (the "Agreement"), with express consent of Defendants, whereby Brock would supply Abernathy with labor and materials on the Project.

4. Brock provided the labor and materials pursuant to the Agreement on the Project.

5. Abernathy requested the labor and materials from Brock, with expressed consent of Defendants, on the Project. Brock provided its labor and materials as required by the Agreement with Abernathy and invoiced Abernathy for the labor and materials provided.

6. Brock has satisfied and performed all requirements associated with the Agreement and has completed all its obligations pursuant to the Agreement.

7. On or about, December 18, 2018, within ninety days from last supplying labor and materials on the Project, Brock filed and served its Notice and Certificate of Mechanic's Lien in the amount of Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars. A true and correct copy of the Notice and Certificate of Mechanic's Lien, Statement of Account, Verification and legal description are attached hereto as **"Exhibit B"** respectively and are incorporated herein by reference.

8. Despite Brock's demand letter sent to the Defendants dated December 14, 2018, via process server to Abernathy and via certified mail to remaining Defendants, all Defendants have failed and/or refused to pay the Agreement balance in excess of Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars. The demand letter is attached hereto and incorporated herein by reference as **"Exhibit C"**.

9. Defendants have no defenses to the payment obligations owed pursuant to the Agreement.

10. Jurisdiction and venue are proper in this Court.

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

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FOR A FIRST CAUSE OF ACTION
(Breach of Contract - Abernathy)

11. Brock re-alleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

12. Abernathy has wrongfully failed and refused to pay Brock for services furnished by Brock in the amount of at least Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars, as set forth on Brock's invoice ("Invoice"). A true and correct copy of the Invoice is attached hereto and incorporated herein respectively as **"Exhibit D".**

13. Abernathy has no defenses to its payment obligations pursuant to the Agreement.

14. Abernathy's failure and refusal to pay Brock constitutes a breach of the Agreement and Invoice. As a result of Abernathy's breach of the Agreement and Invoice, Brock has been damaged in excess of Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars, for which it hereby sues together with interest at the pre-judgment rate per annum until date of judgment, interest thereafter at the post-judgment rate per annum until paid in full, interest at the contract rate, reasonable attorney's fees and costs.

FOR A SECOND CAUSE OF ACTION
(Quantum Meruit/Unjust Enrichment)

15. Brock alleges its Second Cause of Action as an alternative claim to its First Cause of Action and Brock re-alleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

16. Brock furnished labor and materials for the use and benefit of Defendants; the labor and materials were accepted, used, and enjoyed by Defendants. At the time that the labor and material were provided to Defendants, it was understood that Brock was to be paid for the services; further, Defendants specifically requested the services. The acceptance of the services by Defendants created an implied agreement or contract between Brock and Defendants.

17. Such labor and materials were furnished under circumstances that it was clear that Brock expected to be paid for the labor and material. Defendants will be unjustly enriched if Brock is not paid for the services supplied by Brock to Defendants.

18. The reasonable market value of the services provided is at least Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars, for which Brock hereby sues in quantum meruit or other equitable theory for the reasonable value of the materials and labor supplied.

FOR A THIRD CAUSE OF ACTION
(S.C. Code Ann. § 27-1-15)

19. Brock re-alleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

20. Pursuant to S.C. Code Ann. § 27-1-15, Brock sent written demand dated December 14, 2018 via process server to Abernathy and via certified mail, return receipt requested to remaining Defendants to perform a reasonable investigation and pay all undisputed amounts to Brock within Forty-Five (45) days from the date of the demand letter. *See* **"Exhibit C"**.

21. To date, Defendants have failed to perform a reasonable investigation and pay any undisputed amounts claimed to be owed to Brock and thus, pursuant to S.C Code Ann. § 27-1-15, Defendants are liable to Defendants for attorneys' fees and interest from the date of the demand letters.

FOR A FOURTH CAUSE OF ACTION
(Foreclosure of Mechanic's Lien)

22. Brock re-alleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

23. Defendants are the Owners of the Subject Property more particularly described in the property description attached hereto as "**Exhibit A"**.

24. Pursuant to the terms of the Agreement with Abernathy, by and with expressed consent of remaining Defendants, Brock furnished labor and materials for improvements to the

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Subject Property.

25. On or about, December 18, 2018, within ninety days from last supplying labor and materials on the Project, Brock filed in the Register of Deed's Office for Spartanburg County, its Notice and Certificate of Mechanic's Lien in the amount of Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars. A true and correct copy of the Notice and Certificate of Mechanic's Lien, Statement of Account, Verification and legal description are attached hereto as **"Exhibit B"** respectively and is incorporated herein by reference.

26. Defendants were and upon further information and belief, still are, the record owners of the Subject Property.

27. Brock claims a mechanic's lien on the Subject Property, more particularly described in the Notice and Certificate of Mechanic's Lien and Statement of Account referenced herein as "**Exhibit B".**

28. Defendants have failed and neglected to pay Brock for services provided on the Subject Property in the sum of Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars, and there is, as of the filing of this Complaint, still due and owing Brock a sum of of Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars for the labor and materials provided on the Subject Property which may be accounted for by the properly filed Mechanic's Lien.

29. Upon information and belief, by virtue of its duly perfected Mechanic's Lien and properly filed Lis Pendens, attached hereto and incorporated herein by reference as "**Exhibit E**", Brock is entitled to foreclose on the Subject Property more fully described in "**Exhibit E**", have said property sold, and have its Lien, along with interest and attorneys' fees, satisfied from the proceeds thereof.

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WHEREFORE, Plaintiff, Brock Landscape Contractors, LLC d/b/a Brock Landscape prays for:

(a) Judgment against Defendant, Michael L. Abernathy d/b/a Abernathy Welding & Sandblasting, for the First Cause of Action in the amount of at least of Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars, for which it hereby sues together with interest at the pre-judgment rate per annum until date of judgment, interest thereafter at the post-judgment rate per annum until paid in full, reasonable attorney's fees and costs;

(b) Judgment against Defendants, jointly and severally, for the Second Cause of Action in the amount of at least of Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31) Dollars, together with interest at the legal rate;

(c) Judgment against Defendants jointly and severally, for the Third Cause of Action pursuant to S.C. Code Ann. § 27-1-15, together with attorneys' fees and interest at the legal rate from the date of the demand letters;

(d) As to the Fourth Cause of Action, Plaintiff demands the foreclosure of its mechanics lien against Defendants, for the property located at 1280 Cannon Bottom Road, Belton, South Carolina, be sold and the proceeds used to satisfy debt due Plaintiff for the unpaid services provided on the Subject Property in the amount of of Sixteen Thousand Seven Hundred Eleven and 31/100ths ($16,711.31), plus attorneys' fees, interest, and costs;

(e) For attorneys' fees;

(f) For costs of this action; and

(g) For such other and further relief that this Court deems just and proper.

Respectfully submitted,

KENISON, DUDLEY & CRAWFORD, LLC

s/John T. Crawford, Jr.

John T. Crawford, Jr. (SC Bar# 69682)
Virgil K. Thompson, III (SC Bar# 103035)
704 E. McBee Avenue
Greenville, South Carolina 29601
T: (864) 242-4899
F: (864) 242-4844
E: crawford@conlaw.com
E: thompson@conlaw.com
Counsel for Plaintiff

April 19, 2019
Greenville, South Carolina

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ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract 2-D, containing 10.00 acres, more or less, on a plat made for AGTIM, In. by Dunn & Dunn, Inc., Barry K. Dunn, SCRLS #8857, dated October 25, 2001, recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Plat Slide 1277 at Page 4-A. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.

This being the same property conveyed unto Clyde E. Abernathy and Sharon M. Abernathy by deed of Mark L. Tanner and Sara T. Tanner dated December 20, 2006, and recorded December 28, 2006, in Record Book 7775 at Page 148 in the Anderson County, South Carolina Register of Deeds.

THIS conveyance is specifically made subject to any and all recorded rights-of-way, easements, restrictions and zoning ordinances pertaining to said premises, and in addition is subject to any of the foregoing which may appear from an inspection of said premises.

TMS No.: 261-00-02-008

Physical Address: 1280 Cannon Bottom Road, Belton, South Carolina 29627

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

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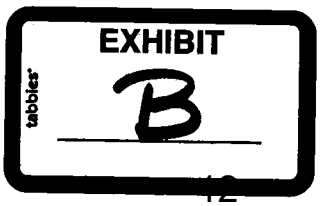
STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
Petitioner,	)	
vs.	)	**NOTICE AND CERTIFICATE OF MECHANIC'S LIEN**
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
Respondents.	)	

TO: THE RESPONDENTS ABOVE NAMED:

PLEASE TAKE NOTICE that the Petitioner, Brock Landscape Contractors, LLC d/b/a Brock Landscape ("Brock"), by virtue of the attached Statement of Account and Verification, hereby claims and holds a Mechanic's Lien upon the building and structures and upon the interest of the owners, Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy ("Owners"), for labor and materials supplied to the Owners. This lien is in the amount of Sixteen Thousand Seven Hundred Eleven Dollars and 31/100 ($16,711.31) for materials furnished and used in the construction of the improvements situated on the real estate commonly known as **1280 Cannon Bottom Road, located in Belton, South Carolina**. Said real estate is also further described in "**Exhibit A**" which is attached hereto and incorporated herein by reference.

FURTHER NOTICE IS HEREBY GIVEN that the labor and materials were last furnished within ninety (90) days of the date hereof; that Petitioner has and claims a lien on the stated premises, structures, buildings and tract of land, pursuant to § 29-5-10, et seq. of the Code of Laws of South Carolina, 1976, as amended, to secure the payment of the debt, an itemized and

Kenison, Dudley & Crawford, LLC
704 E. McBee Ave.
Greenville, SC 29601



verified statement of which is attached hereto and incorporated herein by reference; that the said Petitioner has a claim on said premises, structures, buildings and said tract of land to secure payments of an additional sum to cover the costs and disbursements of any action to foreclose the aforementioned lien, including reasonable attorneys' fees, all pursuant to the provisions of the statutes applicable to such cases.

This the 18 day of December, 2018.

Witness

Witness

By:

John T. Crawford, Jr., Esq.
Kenison, Dudley & Crawford, LLC
704 E McBee Ave.
Greenville, SC 29601
T: 864-242-4899
F: 864-242-4844
Attorneys for Petitoner

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

ACKNOWLEDGEMENT

I, Megan Goudy, Notary Public, do hereby certify that John T. Crawford, Jr., the attorney for Petitioner, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand this the 18th day of December, 2018.

Notary Public for South Carolina
My Commission Expires: May 23, 2027

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STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
Petitioner,	)	
vs.	)	**STATEMENT OF ACCOUNT**
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
Respondents.	)	

PERSONALLY APPEARED before me, William H. Brock, Jr., who first being duly sworn, deposes and says:

1. That I am the Sole Member of Brock Landscape Contractors, LLC d/b/a Brock Landscape.

2. That the sum of Sixteen Thousand Seven Hundred Eleven Dollars and 31/100 ($16,711.31) is past due and owed to Brock Landscape Contractors, LLC d/b/a Brock Landscape.

3. That the same sum is past due for labor and materials supplied by Brock Landscape Contractors, LLC d/b/a Brock Landscape in connection with the certain improvements located at the real estate commonly known as **1280 Cannon Bottom Road, located in Belton, South Carolina** and further described in "**Exhibit A**" attached hereto and incorporated herein, which is owned by Respondents Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy.

FURTHER AFFIANT SAYETH NAUGHT.

William H. Brock, Jr., Sole Member
Brock Landscape Contractors, LLC d/b/a Brock Landscape

Sworn to and subscribed before me
this the 18th day of December, 2018.

Megan Goudy
Notary Public, State of South Carolina
My Commission Expires: May 23, 2027

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Exhibit A

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract 2-D, containing 10.00 acres, more or less, on a plat made for AGTIM, In. by Dunn & Dunn, Inc., Barry K. Dunn, SCRLS #8857, dated October 25, 2001, recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Plat Slide 1277 at Page 4-A. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.

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THIS conveyance is specifically made subject to any and all recorded rights-of-way, easements, restrictions and zoning ordinances pertaining to said premises, and in addition is subject to any of the foregoing which may appear from an inspection of said premises.

TMS No.: 261-00-02-008

Physical Address: 1280 Cannon Bottom Road, Belton, South Carolina 29627

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030003312 12/18/2018 Bk: 55 Pg: 251

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**VERIFICATION**
	)	
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
	)	
Respondents.	)	

PERSONALLY APPEARED before me, William H. Brock, Jr., who first being duly sworn, deposes and says that he is a duly authorized representative for Petitioner, Brock Landscape Contractors, LLC d/b/a Brock Landscape; that he has read the foregoing Notice and Certificate of Mechanic's Lien and Statement of Account; that the materials set forth herein are true of his own knowledge, except those matters and things therein alleged on information and belief, and as to those he believes them to be true.

Further, Brock Landscape Contractors, LLC d/b/a Brock Landscape is not required to have a license pursuant to licensing statute.

William H. Brock, Jr.
Brock Landscape Contractors, LLC d/b/a
Brock Landscape

Sworn to and subscribed before me
this the 18th day of December, 2018.

Megan Goudy
Notary Public, State of South Carolina
My Commission Expires: May 23, 2027

030003312 12/18/2018 03:01:39 PM
FILED, RECORDED, INDEXED
Bk: 55 Pg: 247 Pages: 5
Rec Fee: 11.00 St Fee: 0.00
Co Fee: 0.00
REGISTER OF DEEDS, ANDERSON CO, SC
Wendy Reffel

ANTHONY PROIETTA & ASSOCIATES INVESTIGATIONS, INC.

AFFIDAVIT OF SERVICE

Brock Landscape Contractors, LLC d/b/a Brock Landscape

(Plaintiff)

VS

Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy

(Defendant)

Case No.

Court In the Office of the Register of Deeds, Anderson County

Personally appeared before me the undersigned, who being duly sworn, deposes and states that he/she served a copy of the following: Cover Letter, Notice and Certificate of Mechanic's Lien, Statement of Account, Exhibit A, Verification.

UPON Michael L. Abernathy, Sharon M. Abernathy, Clyde E. Abernathy, Linda M. Abernathy **by delivering to him/her a copy of the same at** 1280 Cannon Bottom Road Belton, SC 29627

On the 18th **day of** December **2018 at** 5:40 **am/pm, and that the above papers were served in compliance with all state and local laws.**

MANNER OF SERVICE-

_____ **Personal: By personally delivering copies to the person being served.**

XXX **Substituted at Residence: By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household of suitable age and explaining the general nature of the papers** Jacob Abernathy (Son of Michael Abernathy).

_____ **Substituted at Business: By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof** _____

_____ **Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed below, I have been unable to effect process upon the person/entity being served because of the following reason(s):** Son states all four subjects are currently in Florida.

SWORN to before me this 19 day of December 2018

Notary Public for SC

My Commission Expires 6/10/26

(process server) Christian St. Amour

code Kenison Dudley and Craword

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KENISON, DUDLEY & CRAWFORD, LLC
ATTORNEYS AT LAW

KEVEN K. KENISON
(1964-2015)
THOMAS E. DUDLEY, III
Practicing Attorney in South Carolina and North Carolina
JOHN T. CRAWFORD, JR.
Practicing Attorney in South Carolina
BRIAN A. AUTRY
Practicing Attorney in South Carolina
F. JAMES WARMOTH
Practicing Attorney in South Carolina and North Carolina
MARK A. BIBLE, JR.
Practicing Attorney in South Carolina
VIRGIL K. THOMPSON, III
Practicing Attorney in South Carolina and California

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December 14, 2018

Via Process Server
Michael L. Abernathy
Abernathy Welding & Sandblasting
1280 Cannon Bottom Road
Belton, SC 29627

Via Certified Mail
Sharon M. Abernathy
1280 Cannon Bottom Road
Belton, SC 29627

Via Certified Mail
Clyde E. Abernathy
1280 Cannon Bottom Road
Belton, SC 29627

Via Certified Mail
Linda M. Abernathy
1280 Cannon Bottom Road
Belton, SC 29627

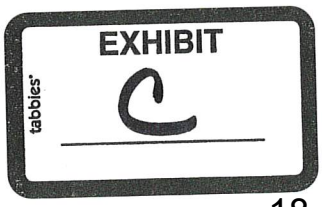
Re: ***Brock Landscape Contractors, LLC***
Project: 1280 Cannon Bottom Road, Belton, South Carolina

Dear All:

This firm represents Brock Landscape Contractors, LLC d/b/a Brock Landscape ("Brock"). We have been asked to assist Brock in obtaining payment for labor and materials which have been provided to Michael L. Abernathy and Abernathy Welding & Sandblasting ("Abernathy") on the above-referenced project ("the Project") with the express consent of the owners, Michael L. Abernathy, Linda M. Abernathy d/b/a Abernathy Welding & Sandblasting, Clyde E. Abernathy, and Sharon M. Abernathy (collectively "Owners"). It is our understanding that Brock has fulfilled its obligations to Owners and has provided all materials requested on the Project, but, that Owners have nonetheless failed and refused to pay the outstanding balance of $16,711.31.

All prior attempts to amicably resolve this matter have been to no avail. Because Brock's prior demands and attempts to resolve this matter have been refused and unsuccessful, Brock, by and through its undersigned attorneys, herewith makes the following demands and gives the following Notices:

- This letter serves as Brock's demand for payment of $16,711.31 under its agreement with Abernathy on the Project. Pursuant to South Carolina Code Ann. § 27-1-15, you have a duty to make a reasonable and fair investigation of the merits of these claims and pay them, or whatever portion of it is determined to be valid, within forty-five (45) days from the date of mailing of this demand. If you unreasonably refuse to pay the claim or proper portion, you shall be liable for reasonable attorneys' fees and interest at the judgment rate from the date of this demand. At a minimum, such investigation should include you providing this office with complete



GREENVILLE
704 East McBee Avenue ▪ Greenville, South Carolina 29601
Phone 864.242.4899 ▪ Fax 864.242.4844
COLUMBIA
1320 Main Street, Suite 300 ▪ Columbia, South Carolina 29201
Phone 803.605.5271
ATLANTA
2346 Wisteria Drive ▪ Suite 220 ▪ Snellville, Georgia 30078
Phone 770.513.6400 ▪ Fax 770.513.3239

documentation of any evidence that the sums demanded are incorrect, as well as complete documentation of any claims you assert are properly offset from sums otherwise due Brock. This documentation should include, without limitation, documentation of costs incurred and compliance with legal and/or contractual notice requirements.

- Pursuant to the South Carolina Prompt Pay Act, South Carolina Code Ann. § 29-6-50, Brock herewith demands payment in full of the principal amount listed above. Further, pursuant to the Prompt Pay Act, you will be liable for 1% interest per month as set forth in the above-referenced statute.

- Please find enclosed, herewith and served upon you a copy of the Mechanic's Lien which is being filed against the Project.

Please direct all future correspondence concerning the outstanding amount to the undersigned at this law firm's Greenville, South Carolina office.

I appreciate your immediate response to this demand.

Regards,
KENISON, DUDLEY & CRAWFORD, LLC

John T. Crawford, Jr., Esq.

cc: Brock Landscape Contractors, LLC

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**NOTICE AND CERTIFICATE OF MECHANIC'S LIEN**
	)	
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
	)	
Respondents.	)	

TO: THE RESPONDENTS ABOVE NAMED:

PLEASE TAKE NOTICE that the Petitioner, Brock Landscape Contractors, LLC d/b/a Brock Landscape ("Brock"), by virtue of the attached Statement of Account and Verification, hereby claims and holds a Mechanic's Lien upon the building and structures and upon the interest of the owners, Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy ("Owners"), for labor and materials supplied to the Owners. This lien is in the amount of Sixteen Thousand Seven Hundred Eleven Dollars and 31/100 ($16,711.31) for materials furnished and used in the construction of the improvements situated on the real estate commonly known as **1280 Cannon Bottom Road, located in Belton, South Carolina**. Said real estate is also further described in "**Exhibit A**" which is attached hereto and incorporated herein by reference.

FURTHER NOTICE IS HEREBY GIVEN that the labor and materials were last furnished within ninety (90) days of the date hereof; that Petitioner has and claims a lien on the stated premises, structures, buildings and tract of land, pursuant to § 29-5-10, et seq. of the Code of Laws of South Carolina, 1976, as amended, to secure the payment of the debt, an itemized and

Kenison, Dudley & Crawford, LLC
704 E. McBee Ave.
Greenville, SC 29601

verified statement of which is attached hereto and incorporated herein by reference; that the said Petitioner has a claim on said premises, structures, buildings and said tract of land to secure payments of an additional sum to cover the costs and disbursements of any action to foreclose the aforementioned lien, including reasonable attorneys' fees, all pursuant to the provisions of the statutes applicable to such cases.

This the 18 day of December, 2018.

Witness

Witness

By: _____
John T. Crawford, Jr., Esq.
Kenison, Dudley & Crawford, LLC
704 E McBee Ave.
Greenville, SC 29601
T: 864-242-4899
F: 864-242-4844
Attorneys for Petitoner

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

ACKNOWLEDGEMENT

I, Megan Goudy, Notary Public, do hereby certify that John T. Crawford, Jr., the attorney for Petitioner, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand this the 18th day of December, 2018.

Notary Public for South Carolina
My Commission Expires: May 23, 2027

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STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**STATEMENT OF ACCOUNT**
	)	
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
	)	
Respondents.	)	

PERSONALLY APPEARED before me, William H. Brock, Jr., who first being duly sworn, deposes and says:

1. That I am the Sole Member of Brock Landscape Contractors, LLC d/b/a Brock Landscape.

2. That the sum of Sixteen Thousand Seven Hundred Eleven Dollars and 31/100 ($16,711.31) is past due and owed to Brock Landscape Contractors, LLC d/b/a Brock Landscape.

3. That the same sum is past due for labor and materials supplied by Brock Landscape Contractors, LLC d/b/a Brock Landscape in connection with the certain improvements located at the real estate commonly known as **1280 Cannon Bottom Road, located in Belton, South Carolina** and further described in "**Exhibit A**" attached hereto and incorporated herein, which is owned by Respondents Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy.

FURTHER AFFIANT SAYETH NAUGHT.

William H. Brock, Jr., Sole Member
Brock Landscape Contractors, LLC d/b/a Brock Landscape

Sworn to and subscribed before me
this the 18th day of December, 2018.

Megan Goudy
Notary Public, State of South Carolina
My Commission Expires: May 23, 2027

Exhibit A

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract 2-D, containing 10.00 acres, more or less, on a plat made for AGTIM, In. by Dunn & Dunn, Inc., Barry K. Dunn, SCRLS #8857, dated October 25, 2001, recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Plat Slide 1277 at Page 4-A. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.

This being the same property conveyed unto Clyde E. Abernathy and Sharon M. Abernathy by deed of Mark L. Tanner and Sara T. Tanner dated December 20, 2006, and recorded December 28, 2006, in Record Book 7775 at Page 148 in the Anderson County, South Carolina Register of Deeds.

THIS conveyance is specifically made subject to any and all recorded rights-of-way, easements, restrictions and zoning ordinances pertaining to said premises, and in addition is subject to any of the foregoing which may appear from an inspection of said premises.

TMS No.: 261-00-02-008

Physical Address: 1280 Cannon Bottom Road, Belton, South Carolina 29627

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**VERIFICATION**
	)	
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
	)	
Respondents.	)	

PERSONALLY APPEARED before me, William H. Brock, Jr., who first being duly sworn, deposes and says that he is a duly authorized representative for Petitioner, Brock Landscape Contractors, LLC d/b/a Brock Landscape; that he has read the foregoing Notice and Certificate of Mechanic's Lien and Statement of Account; that the materials set forth herein are true of his own knowledge, except those matters and things therein alleged on information and belief, and as to those he believes them to be true.

Further, Brock Landscape Contractors, LLC d/b/a Brock Landscape is not required to have a license pursuant to licensing statute.

William H. Brock, Jr.
Brock Landscape Contractors, LLC d/b/a
Brock Landscape

Sworn to and subscribed before me
this the 18th day of December, 2018.

Megan Goudy
Notary Public, State of South Carolina
My Commission Expires: May 23, 2027

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

Brock Landscape Contractors
2522 River Road, Piedmont, SC 29673
(p) 864/295-4435 (f) 864/295-2796
brocklandscape@bellsouth.net

Mike Abernathy/ Abernathy Welding & Sandblasting
1280 Cannon Bottom Road
Belton, SC 29627

11/12/18

Date	Equipment	Hours	Rate	Total	Loads
Initial Clean-up with Dozer					
5/2	Dump Truck	2	125.00	$250.00	
	Dozer	1.5	85.00	$127.50	4
	Loader	4.5	125.00	$562.50	
	Roller	4.5	125.00	$562.50	
		4.5	85.00	$382.50	
5/3	Dump Truck	6	85.00	$510.00	24
	23 Truck	3.5	85.00	$297.50	7
	Loader	6	125.00	$750.00	
	Dozer	6	125.00	$750.00	
	Roller	6	85.00	$510.00	
5/4	Dump Truck	8	85.00	$680.00	22
	Loader	8.5	125.00	$1062.50	
	Dozer	4	125.00	$500.00	
	Roller	2	85.00	$170.00	
5/5	Dump Truck	6.5	85.00	$552.50	24
	23 Truck	8.25	85.00	$701.25	14
	23 Truck	8.25	85.00	$701.25	11
	Dozer	2.5	125.00	$312.50	
	Loader	9.5	125.00	$1187.50	
	Roller	3	85.00	$255.00	
7/10	Dump Truck	6	85.00	$510.00	20
	Loader	5	125.00	$625.00	
	Dozer	1	125.00	$125.00	
			Total:	$12,085.00	126

EXHIBIT D

7/11	Loader	7	125.00	$875.00	
	Dozer	2	125.00	$250.00	
	Roller	1	85.00	$85.00	
7/13	Dozer	3	125.00	$375.00	
7/14	Loader	9	125.00	$1125.00	
	23 truck	5	85.00	$425.00	18
	Dump Truck	7.5	85.00	$637.50	34
			Total	$16,857.50	
			Pd	$16,000.00	
			Balance Forward	$857.50	
7/16	Loader	11	125.00	$1375.00	
	Dump Truck	6	85.00	$510.00	20
7/17	Dozer	4	125.00	$500.00	
	Shot Grade with Ricky			$150.00	
	Loader	7	125.00	$875.00	
	Dozer	1	85.00	$85.00	
7/18	Loader	7	125.00	$875.00	
	Dump truck	7	85.00	$595.00	25
	23 truck	7	85.00	$595.00	16
	Dozer	2	125.00	$250.00	
	Roller	2	85.00	$170.00	
7/19	Dozer	9	125.00	$1125.00	
	Roller	2	85.00	$170.00	
	Shot Grade with Ricky			$100.00	
7/21	Dozer	4	125.00	$500.00	
	Roller	4	85.00	$ 340.00	
9/1	Loader (Harold) Push up dirt	6	125.00	$750.00	
9/8	Loader	4.5	125.00	$562.50	
	Dozer	4.5	125.00	$562.50	
	Roller	4.5	85.00	$382.50	
	23 truck	4.5	85.00	$362.50	11
	23 truck	4.5	85.00	$362.50	11

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

	Dozer		3.5	125.00	$437.50
	Laser		3	85.00	$255.00
9/14	Dozer (Ricky track slope)		2.5	125.00	$312.50
9/26	Dozer		6.5	125.00	$812.50
	Dump Truck	11-3	5	85.00	$425.00
	Crusher Run	3 loads	66 tons	$18.25	$1204.50
				Tax	$84.31
9/26	Dozer		2	125.00	$250.00
	Loader		3	125.00	$250.00
10/19	Tractor with power rake		5	125.00	$625.00 261

Total Due $16,711.31

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

STATE OF SOUTH CAROLINA COUNTY OF ANDERSON Brock Landscape Contractors, LLC d/b/a Brock Landscape Plaintiff, vs. Clyde E. Abernathy, Sharon M. Abernathy, Linda M. Abernathy and Michael L. Abernathy, individually and d/b/a Abernathy Welding & Sandblasting Defendant.	IN THE COURT OF COMMON PLEAS C.A. No. **LIS PENDENS**

TO THE ABOVE NAMED DEFENDANT(S):

NOTICE IS HEREBY GIVEN, pursuant to *South Carolina Code Ann.* §15-11-10, that not more than 20 days from the filing of this Notice of Lis Pendens, an action will be commenced by the above-named Plaintiff against the above-named Defendants for the purpose of foreclosing the Mechanics Lien filed with the Register of Deeds for Anderson County, South Carolina on December 18, 2018, in Book 55, Page 247 against the real property located in the State of South Carolina, County of Anderson known as 1280 Cannon Bottom Road, Belton, South Carolina and more fully described in **Exhibit "A"** attached hereto and incorporated by reference.

KENISON, DUDLEY & CRAWFORD, LLC

s/John T. Crawford, Jr.
John T. Crawford, Jr. (SC Bar# 69682)
Virgil K. Thompson, III (SC Bar# 103035)
704 E. McBee Avenue
Greenville, South Carolina 29601
T: (864) 242-4899
F: (864) 242-4844
E: crawford@conlaw.com
E: thompson@conlaw.com
Counsel for Plaintiff

April 18, 2018
Greenville, South Carolina

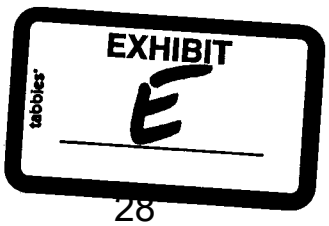

Exhibit A

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract 2-D, containing 10.00 acres, more or less, on a plat made for AGTIM, In. by Dunn & Dunn, Inc., Barry K. Dunn, SCRLS #8857, dated October 25, 2001, recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Plat Slide 1277 at Page 4-A. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.

This being the same property conveyed unto Clyde E. Abernathy and Sharon M. Abernathy by deed of Mark L. Tanner and Sara T. Tanner dated December 20, 2006, and recorded December 28, 2006, in Record Book 7775 at Page 148 in the Anderson County, South Carolina Register of Deeds.

THIS conveyance is specifically made subject to any and all recorded rights-of-way, easements, restrictions and zoning ordinances pertaining to said premises, and in addition is subject to any of the foregoing which may appear from an inspection of said premises.

TMS No.: 261-00-02-008

Physical Address: 1280 Cannon Bottom Road, Belton, South Carolina 29627

ELECTRONICALLY FILED - 2019 Apr 19 12:36 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
	)	
BROCK LANDSCAPE CONTRACTORS, LLC	)	**AMENDED**
d/b/a BROCK LANDSCAPE,	)	**SUMMONS TO COUNTERCLAIM**
Plaintiff,	)	**AND THIRD PARTY COMPLAINT**
vs.	)	
	)	
CLYDE E. ABERNATHY,	)	
SHARON M. ABERNATHY,	)	
LINDA M. ABERNATHY, and	)	CASE NUMBER: 2019-CP-04-0760
MICHAEL L. ABERNATHY,	)	
Individually, and d/b/a ABERNATHY	)	
WELDING & SANDBLASTING	)	
Defendants.	)	
	)	
AND	)	
	)	
MICHAEL L. ABERNATHY d/b/a	)	
ABERNATHY WELDING	)	
& SANDBLASTING,	)	
Third Party Plaintiff,	)	
	)	
vs.	)	
	)	
WILLIAM HAROLD BROCK, JR.,	)	
Third Party Defendant.	)	
_____	)	

TO THE PLAINTIFF AND THIRD PARTY DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Amended Counterclaim and Third Party Complaint herein, a copy of which is herewith served upon you, or otherwise appear and defend, and to serve a copy of your answer to said Amended Counterclaim and Third Party Complaint upon the subscriber at his office, 32 E. Main Street, P.O. Box 315, Williamston, South Carolina, 29697, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Amended Counterclaim and Third Party Complaint within the time aforesaid, or otherwise appear and defend, the Defendants and Third Party Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Amended Counterclaim and Third Party Complaint.

s/ G. Lee Cole, Jr._____
G. Lee Cole, Jr.
SC Bar Number 100352
COX & COLE, ATTORNEYS AT LAW
P.O. Box 315
Williamston, SC 29697
Tel. (864) 847-9289
Fax (864) 847-7895
LeeCole@CoxandCole.com

ATTORNEY FOR THE DEFENDANTS
AND THIRD PARTY PLAINTIFF

Williamston, South Carolina
Dated: **_08/28/2019_____**

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
	)	
BROCK LANDSCAPE CONTRACTORS, LLC	)	**AMENDED**
d/b/a BROCK LANDSCAPE,	)	**ANSWER, COUNTERCLAIM, AND**
Plaintiff,	)	**THIRD PARTY COMPLAINT**
vs.	)	(JURY TRIAL DEMANDED)
	)	
CLYDE E. ABERNATHY,	)	
SHARON M. ABERNATHY,	)	
LINDA M. ABERNATHY, and	)	CASE NUMBER: 2019-CP-04-0760
MICHAEL L. ABERNATHY,	)	
Individually, and d/b/a ABERNATHY	)	
WELDING & SANDBLASTING	)	
Defendants.	)	
	)	
AND	)	
	)	
MICHAEL L. ABERNATHY d/b/a	)	
ABERNATHY WELDING	)	
& SANDBLASTING,	)	
Third Party Plaintiff,	)	
	)	
vs.	)	
	)	
WILLIAM HAROLD BROCK, JR.,	)	
Third Party Defendant.	)	
	)	

The Defendants and Third Party Plaintiff, by and through their undersigned attorney, responding to the allegations of the Plaintiff's Complaint, would respectfully show unto the Court and allege as follows:

FOR A FIRST DEFENSE

1. That the Defendant, Sharon M. Abernathy, is deceased, and hereinafter the term "Defendants" shall refer to the Defendants, Clyde E. Abernathy, Linda M. Abernathy, Michael L. Abernathy, and Abernathy Welding & Sandblasting.
2. That any allegations raised in the Complaint not specifically admitted, qualified, or otherwise explained herein are specifically denied and strict proof demanded thereof.

3. That the Defendants are without sufficient information and belief to form an opinion regarding the allegations contained in Paragraph 1 of the Complaint; therefore, the Defendants deny the same.
4. That the Defendants admit the allegations in Paragraph 2 of the Complaint.
5. That the Defendants admit the allegations in Paragraph 3 of the Complaint.
6. That the Defendants deny the allegations in Paragraph 4 of the Complaint.
7. That the Defendants deny the allegations in Paragraph 5 of the Complaint.
8. That the Defendants deny the allegations in Paragraph 6 of the Complaint.
9. That the Defendants admit the allegations in Paragraph 7 of the Complaint.
10. That the Defendants deny the allegations in Paragraph 8 of the Complaint.
11. That the Defendants deny the allegations in Paragraph 9 of the Complaint.
12. That the Defendants admit the allegations in Paragraph 10 of the Complaint.
13. That the Defendants deny the allegations in Paragraph 11 of the Complaint.
14. That the Defendants deny the allegations in Paragraph 12 of the Complaint.
15. That the Defendants deny the allegations in Paragraph 13 of the Complaint.
16. That the Defendants deny the allegations in Paragraph 14 of the Complaint.
17. That the Defendants deny the allegations in Paragraph 15 of the Complaint.
18. That the Defendants deny the allegations in Paragraph 16 of the Complaint.
19. That the Defendants deny the allegations in Paragraph 17 of the Complaint.
20. That the Defendants deny the allegations in Paragraph 18 of the Complaint.
21. That the Defendants deny the allegations in Paragraph 19 of the Complaint.
22. That the Defendants deny the allegations in Paragraph 20 of the Complaint.
23. That the Defendants deny the allegations in Paragraph 21 of the Complaint.
24. That the Defendants deny the allegations in Paragraph 22 of the Complaint.
25. That the Defendants admit the allegations in Paragraph 23 of the Complaint.
26. That the Defendants deny the allegations in Paragraph 24 of the Complaint.

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

27. That the Defendants admit the allegations in Paragraph 25 of the Complaint.

28. That the Defendants admit the allegations in Paragraph 26 of the Complaint.

29. That the Defendants admit the allegations in Paragraph 27 of the Complaint.

30. That the Defendants deny the allegations in Paragraph 28 of the Complaint.

31. That the Defendants deny the allegations in Paragraph 29 of the Complaint.

32. That the Defendants deny all allegations in the Plaintiff's Prayer for Relief and request that the same be denied.

FOR A SECOND DEFENSE
(Waiver and Estoppel)

33. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.

34. That the Plaintiff, by its own conduct, has waived any rights that it may have to collect any damages against the Defendants, and therefore, is estopped from doing so. Such waiver and estoppel are pled as complete defenses and bars to Plaintiff's causes of action.

FOR A THIRD DEFENSE
(Failure to State a Claim)

35. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.

36. That the Complaint fails to state a claim on which relief can be granted and, accordingly, should be dismissed pursuant to Rule 12(b)(6), SCRCP.

FOR A FOURTH DEFENSE
(Unclean Hands)

37. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.

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38. That the Plaintiff acted wrongfully with respect to the matters alleged in the Complaint in ways that shall be established at trial. Thus, the Plaintiff is barred from recovery due to its own unclean hands.

FOR A FIFTH DEFENSE
(S.C. Code Ann. Sec. 29-5-10, *et seq.*)

39. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.
40. That the Plaintiff's lien is in violation of S.C. Code Ann. Sec. 29-5-10, *et seq.* Thus, the Plaintiff is not entitled to recover based on an allegation of the Defendants' failure to pay said lien.

FOR A SIXTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Slander of Title / Frivolous Lien)

41. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.
42. That the purported Mechanics' Lien filed against the Defendants' real property by the Plaintiff on December 18, 2018, in the Office of the Register of Deeds for Anderson County in Deed Book 55 at Page 247 is frivolous and in violation of S.C. Code Ann. Sec. 29-5-10, *et seq.*
43. That, by filing the purposed Mechanics' Lien and filing this action for foreclosure, the Plaintiff has published representations affecting the Defendants' title to the real property at issue in this case.
44. That said representations published by the Plaintiff within its purported Mechanics' Lien and this present action for foreclosure are false, derogatory to the Defendants' title, and made with malice.
45. That, as a direct and proximate result of the false representations published by the Plaintiff, the Defendants have suffered pecuniary loss in the form of actual, consequential, and special injuries, including, but not limited to the costs associated with the bringing of this action and attorney's fees.

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

46. That, as a direct and proximate result of the false representations published by the Plaintiff, the value of the Defendants' real property at issue in this case has been reduced in the eyes of third parties.

47. That the Defendants are further entitled to recovery under S.C. Code Ann. Sec. 29-5-10, *et seq.*, for the Plaintiff's filing of a lien in violation of S.C. Code Ann. Sec. 29-5-10, *et seq.*

48. That the Defendants therefore seek a judgment against the Plaintiff for actual, consequential, and punitive damages, as well as costs and attorney's fees.

FOR A SEVENTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Breach of Contract)

49. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.

50. That during the period from on or about March 2018 through August 2018, the Defendant, Michael L. Abernathy d/b/a Abernathy Welding & Sandblasting, at the specific instance and request of Plaintiff, provided services to the Plaintiff as fully set forth in the invoice attached hereto as Exhibit A.

51. That the aforesaid services were received by the Plaintiff, and said Defendant provided an invoice for the same to the Plaintiff, a copy of which is attached as Exhibit A.

52. That as a result of the provision of the services by said Defendant, the Plaintiff remains indebted to said Defendant, as of this date, in the amount of $30,810.00.

53. That said Defendant has made demand on the Plaintiff to pay the above-described indebtedness, but the Plaintiff have failed and refused to do so. This refusal constitutes a breach of the Plaintiff's contractual obligations under the invoices listed in Exhibit A.

54. That all conditions precedent to said Defendant's enforcement of the contract have been satisfied or performed.

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

55. That as a direct and proximate cause of the Plaintiff's failure and refusal to pay the balance due as set forth above, said Defendant is entitled to a judgment against the Plaintiff in the amount of $30,810.00, plus interest and costs.

FOR AN EIGHTH DEFENSE AND BY WAY OF COUNTERCLAIM
(*Quantum Meruit*)

56. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.
57. That at the specific instance and request of the Plaintiff, and for its use and benefit, the Defendant, Michael L. Abernathy d/b/a Abernathy Welding & Sandblasting, provided welding services and other services to the Plaintiff.
58. That the services provided by said Defendant to the Plaintiff, and as yet unpaid for, have a reasonable fair market value of at least the sum of $30,810.00.
59. That despite said Defendant's reasonable expectation to be fully paid by the Plaintiff for the services, during and since the provision of the services to the Plaintiff by said Defendant, the Plaintiff has failed to pay said Defendant for said services.
60. That the Plaintiff received the services with knowledge or reason to know that said Defendant expected to be fully paid for the services.
61. That said Defendant has made demand on the Plaintiff to fully pay said Defendant the above-stated sum for the services, but the Plaintiff has failed and refused to do so.
62. That as a result of the Plaintiff's failure and refusal to pay said Defendant the above-stated sum for the services, the Plaintiff has become unjustly enriched in at least the amount of $30,810.00, at the expense of said Defendant.
63. That said Defendant is therefore entitled to recover from the Plaintiff in *quantum meruit* and/or on the basis of implied contract the reasonable value of the services, which reasonable value amounts to at $30,810.00 plus interest thereon since the date of the provision of the services.

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

FOR A NINTH DEFENSE AND BY WAY OF COUNTERCLAIM
(Piercing Corporate Veil of Limited Liability Company)

64. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.

65. That the corporate veil of the Plaintiff should be pierced and individual liability should be imposed on its member, officer, and agent, William Harold Brock, Jr. (hereinafter referred to as "Brock"), in that at all times relevant herein:

    a. The Plaintiff was grossly undercapitalized;

    b. The Plaintiff failed to observe corporate formalities;

    c. The Plaintiff did not pay dividends;

    d. Brock siphoned funds from Plaintiff for his personal use;

    e. The Plaintiff's officers and directors did not function as such;

    f. The Plaintiff has an absence of corporate and LLC records;

    g. The Plaintiff was merely a facade for operations of Brock;

    h. The Plaintiff has been used to perpetuate a breach of contract and commit other wrongful acts that shall be proved at trial, and;

    i. Injustice or fundamental unfairness would result to the Defendant, Michael L. Abernathy d/b/a Abernathy Welding & Sandblasting, if the acts of the Plaintiff are not regarded as acts of Brock.

69. That Brock has used the Plaintiff in an attempt to breach a contract, justify wrong, and defeat public policy; therefore, the law should regard the Plaintiff as an association of individual(s).

70. That Brock should be held jointly and severally liable for the debts, torts, and obligations of the Plaintiff.

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

FOR A TENTH DEFENSE AND BY WAY OF THIRD PARTY CLAIM
(Breach of Contract)

66. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.
67. That the Third Party Plaintiff is a citizen and resident of Anderson County, South Carolina.
68. That, upon information and belief, the Third Party Defendant, William Harold Brock, Jr. is a citizen and resident of Anderson County, South Carolina.
69. That all acts or omissions alleged herein occurred in Anderson County, South Carolina.
70. That this Court has jurisdiction over all parties, matters, and things herein, as well as the subject matter hereof, and venue is proper in Anderson County.
71. That during the period from on or about March 2018 through August 2018, the Third Party Plaintiff, at the specific instance and request of Third Party Defendant, provided services to the Third Party Defendant as fully set forth in the invoice attached hereto as Exhibit A.
72. That the aforesaid services were received by the Third Party Defendant, and the Third Party Plaintiff provided an invoice for the same to the Third Party Defendant, a copy of which is attached as Exhibit A.
73. That as a result of the provision of the services by the Third Party Plaintiff, the Third Party Defendant remains indebted to the Third Party Plaintiff, as of this date, in the amount of $30,810.00.
74. That the Third Party Plaintiff has made demand on the Third Party Defendant to pay the above-described indebtedness, but the Third Party Defendant has failed and refused to do so. This refusal constitutes a breach of the Third Party Defendant's contractual obligations under the invoices listed in Exhibit A.
75. That all conditions precedent to the Third Party Plaintiff's enforcement of the contract have been satisfied or performed.

76. That as a direct and proximate cause of the Third Party Defendant's failure and refusal to pay the balance due as set forth above, the Third Party Plaintiff is entitled to a judgment against the Third Party Defendant in the amount of $30,810.00, plus interest and costs.

FOR AN ELEVENTH DEFENSE AND BY WAY OF THIRD PARTY CLAIM
(*Quantum Meruit*)

77. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.
78. That at the specific instance and request of the Third Party Defendant, and for their use and benefit, the Third Party Plaintiff provided welding services and other services to the Third Party Defendant.
79. That the services provided by the Third Party Plaintiff to the Third Party Defendant, and as yet unpaid for, have a reasonable fair market value of at least the sum of $30,810.00.
80. That despite the Third Party Plaintiff's reasonable expectation to be fully paid by the Third Party Defendant for the services, during and since the provision of the services to the Third Party Defendant by the Third Party Plaintiff, the Third Party Defendant has failed to pay the Third Party Plaintiff for said services.
81. That the Third Party Defendant received the services with knowledge or reason to know that the Third Party Plaintiff expected to be fully paid for the services.
82. That the Third Party Plaintiff has made demand on the Third Party Defendant to fully pay the Third Party Plaintiff the above-stated sum for the services, but the Third Party Defendant has failed and refused to do so.
83. That as a result of the Third Party Defendant's failure and refusal to pay the Third Party Plaintiff the above-stated sum for the services, the Third Party Defendant has become unjustly enriched in at least the amount of $30,810.00, at the expense of the Third Party Plaintiff.

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

84. That the Third Party Plaintiff is therefore entitled to recover from the Third Party Defendant in *quantum meruit* and/or on the basis of implied contract the reasonable value of the services, which reasonable value amounts to at $30,810.00 plus interest thereon since the date of the provision of the services.

FOR A TWELFTH DEFENSE AND BY WAY OF THIRD PARTY CLAIM
(Piercing Corporate Veil of Limited Liability Company)

85. That each and every allegation contained in the paragraphs set forth above is reiterated as if fully set out herein and incorporated as part of this defense.

86. That the corporate veil of the Plaintiff, Brock Landscape Contractors, LLC d/b/a Brock Landscape, should be pierced and individual liability should be imposed on its member, officer, and agent, the Third Party Defendant, in that at all times relevant herein:

j. The Plaintiff was grossly undercapitalized;

k. The Plaintiff failed to observe corporate formalities;

l. The Plaintiff did not pay dividends;

m. The Third Party Defendant siphoned funds from Plaintiff for his personal use;

n. The Plaintiff's officers and directors did not function as such;

o. The Plaintiff has an absence of corporate and LLC records;

p. The Plaintiff was merely a facade for operations of the Third Party Defendant;

q. The Plaintiff has been used to perpetuate a breach of contract and commit other wrongful acts that shall be proved at trial, and;

r. Injustice or fundamental unfairness would result to the Third Party Plaintiff if the acts of the Plaintiff are not regarded as acts of the Third Party Defendant.

71. That the Third Party Defendant has used the Plaintiff in an attempt to breach a contract, justify wrong, and defeat public policy; therefore, the law should regard the Plaintiff as an association of individual(s).

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

72. That the Third Party Defendant should be held jointly and severally liable for the debts, torts, and obligations of the Plaintiff.

WHEREFORE having fully answered the Complaint, the Defendants and Third Party Plaintiff pray for the following relief against the Plaintiff and the Third Party Defendant, jointly and severally, jointly and alternatively, and *pendente lite* and permanently:

1. For an Order dismissing the Plaintiff's Complaint.
2. For an Order denying the relief requested in the Plaintiff's Complaint.
3. On the Defendants' First Counterclaim, for a judgment against the Plaintiff for actual, consequential, and punitive damages, as well as costs and attorney's fees.
4. On the Defendants' Second Counterclaim, for a judgment against the Plaintiff in the amount of $30,810.00, plus interest and costs.
5. On the Defendants' Third Counterclaim, for a judgment against the Plaintiff in the amount of $30,810.00, plus interest and costs.
6. On the Defendants' Fourth Counterclaim, for an order piercing the corporate veil of the Plaintiff and holding William Harold Brock, Jr. jointly and severally liable its debts, torts, and obligations.
7. On the Third Party Plaintiff's first claim, for a judgment against the Third Party Defendant in the amount of $30,810.00, plus interest and costs.
8. On the Third Party Plaintiff's second claim, for a judgment against the Third Party Defendant in the amount of $30,810.00, plus interest and costs.
9. On the Third Party Plaintiff's third claim, for an order piercing the corporate veil of the Plaintiff and holding the Third Party Defendant jointly and severally liable its debts, torts, and obligations.
10. For any such further relief as the Court deems just and proper.

THE DEFENDANTS AND THIRD PARTY PLAINTIFF DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE.

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

s/ G. Lee Cole, Jr._____
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AND THIRD PARTY PLAINTIFF

Williamston, South Carolina
Dated: **_08/28/2019_____**

ELECTRONICALLY FILED - 2019 Nov 17 10:01 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

1 STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON
2 IN THE COURT OF COMMON PLEAS
3 _____
4 BROCK LANDSCAPE CONTRACT, CASE NO.
2019-CP-0400760
5 Plaintiff,
6 v.
7 CLYDE E ABERNATHY
8 Defendant.
9 _____/
10
11 H E A R I N G
12
13 BEFORE THE HONORABLE J. CORDELL MADDOX, JR.
14
15
16
DATE: June 3, 2024
17 LOCATION: South Carolina Circuit Court 10
TRANSCRIBED BY: Velvet Mills
18
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APPEARANCES

On behalf of the Plaintiffs:

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ANDERSON, SC 29625
.

On behalf of the Defendants:

GREGORY LEE COLE JR., ESQUIRE
COX & COLE, ATTORNEYS AT LAW
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WILLIAMSTON, SC 29697

1 I N D E X

2 Proceedings.....4
3 Certificate of Transcriber.....23

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7 E X H I B I T S
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20 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH
21 MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE
22 SPEAKER.)
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25

1
2 P R O C E E D I N G S
3 THE COURT: All right. Sorry about that. I
4 appreciate your patience this morning. So what
5 we're going to do is we want to go back up to one
6 and Brock Landscaping (inaudible). Which is a day
7 and a half non jury case. I don't know what
8 happened, to be honest with you. I've been out of
9 town doing another type of case in another county
10 and I didn't get back to late Friday night after
11 the he came back. I was told this was set for
12 tomorrow and Wednesday and as a result I've set
13 some (inaudible) for an hour and 15 minutes. So
14 what I think we're going to do is take the
15 testimony even out of turn of two witnesses who
16 might be traveling and then -- then we'll start up
17 again tomorrow morning. Okay? Whoever wants to
18 call the first witness, you can.
19 MR. RAFFINI: Thank you, your honor, I plan to
20 call Dennis Rankin.
21 **DENNIS RANKIN,**
22 the witness was called to testify, duly sworn, and
23 provided the following testimony:
24 CLERK OF COURT: Will your please state your
25 name? And spell your last name.

1 MR. RANKIN: Dennis Rankin. R-A-N-K-I-N.
2 MR. RAFFINI: Thank you, please the court.
3 **DIRECT EXAMINATION BY MR. RAFFINI**
4 Q: Mr. Rankin, how do you know Harold Brock?
5 A: Former employer.
6 Q: And what type of work did you do for Mr. Brock?
7 A: Was -- ran equipment, moved dirt. Also did some
8 retaining wall work.
9 Q: How long - how long ago did you work for him?
10 A: Six -- five to six years ago.
11 Q: And were you working for him in 2018?
12 A: Yes.
13 Q: Okay. And did you do work for Mr. Brock at any
14 property owned by the Abernathy's?
15 A: I did.
16 Q: Okay. And you recall the work you did on that
17 project?
18 A: Yes, sir.
19 Q: Can you tell me about that work, please?
20 A: We loaded dump trucks with dirt with a large track
21 loading equipment. Move the dirt to the dump trucks,
22 would take the dirt to the Abernathy's, where we would
23 dump it and spread it there to build a pattern.
24 Q: What was your role in the project?
25 A: Just assist in various different ways. Anything

1 from loading to spreading. Mostly limited to loading
2 and spreading.
3 Q: And how often did you work on this project?
4 A: Several days.
5 Q: Okay. And was that over a period of time or all at
6 once?
7 A: The part that I played was all in one week. Several
8 days in one week. And then I believe we may have came
9 back once again in a different week.
10 Q: Okay. And I think you said you did a little bit of
11 everything, but can you be more specific about that?
12 A: We service equipment, assist in the repairing of
13 equipment when needed.
14 Q: Okay. And you say hauling dirt, where was this dirt
15 coming from?
16 A: From location seem to be about a block or so down
17 the road.
18 Q: So is it close by? Is that fair to say?
19 A: Yes, sir.
20 Q: Okay. Now, how were you paid for your work for Mr.
21 Brock?
22 A: Hourly.
23 Q: And so who was keeping track of your time for that
24 hourly pay?
25 A: Well, I would keep track of my time and send in the

1 reports at the end of the week.
2 Q: And that was typical of your work for Mr. Brock?
3 A: Yes, sir.
4 Q: And so you did that for all your time on this
5 particular project?
6 A: Yes, sir.
7 Q: Okay. Now, Mr. Brock ever questioned how much time
8 you spent working on this property?
9 A: I don't recall.
10 Q: Okay. Now, what, if any, interactions did you have
11 with the Abernathy's?
12 A: Sure, there were some, but it was very minimal. And
13 being it was as long ago as it was, I don't recall very
14 vividly much interaction with them.
15 Q: You said moving dirt, and you were moving it -- was
16 it to the Abernathy's property?
17 A: Yes.
18 Q: Did you do any work on the Abernathy's property for
19 this property?
20 A: I did.
21 Q: And what work was that?
22 A: Spread the dirt, the same dirt that I loaded from
23 the other property.
24 Q: And are you familiar with the reason for this
25 project?

1 A: Probably because it was built a building pad for, I
2 think, what they were going to build a shop.
3 Q: Okay. So you were involved kind of both ends of
4 this particular project, is that right?
5 A: Yes, sir.
6 Q: Okay. Now, do you have any information about what,
7 if any, what the terms of the contract may have been
8 between Mr. Brock and Abernathy?
9 A: I do not.
10 Q: And did you have anything to do with billing or
11 payment on this particular project?
12 A: I do not.
13 Q: Other than your building with Mr. Brock.
14 A: Yeah, just limited to my pay.
15 Q: Now, were you Mr. Brock's employee?
16 A: Yes.
17 Q: Okay. But you're no longer his employee?
18 A. No, sir.
19 MR. RAFFINI: Okay, thank you very much. I
20 don't have any more Questions for you but if you
21 could answer any questions that Mr. Cole may have.
22 MR.COLE: Your Honor, may it please the court?
23 **CROSS-EXAMINATION BY MR. COLE.**
24 Q. Mr. Rankin, so did you actually haul dirt from the
25 Dawson property to my client's property?

1 A: I did not operate the dump trucks? No, sir.
2 Q: And did you -- so did you use equipment to, for
3 lack of a better term, scoop dirt from the Dawson
4 property into those dump trucks?
5 A: Yes, sir. I don't recall the name of that
6 other property, but if you say it's Dawson, that
7 sounds correct, but, yes, I loaded the dirt into
8 the trucks at that property.
9 Q: And did you personally operate equipment to
10 take dirt out of the dump trucks and put it on my
11 client's property?
12 A: No, we dumped it and then sprayed it.
13 Q: So did you do what -- what part of that did you
14 personally do?
15 A: Sprayed.
16 Q: And -- and you say you were there -- would you
17 say you were there doing work three days total?
18 A: There's one week. I recall it was three days.
19 I'm vague on what happened after that.
20 Q: And that would that have been -- and that was
21 in the fall of 2018, is that correct?
22 A: No.
23 Q: When was it?
24 A: The summer. May -- I'm sorry, the May of
25 summer 2018.

1 Q: So the work that you did was in May of 2018?
2 A: Yes.
3 Q: What type of machine was used to spread the dirt at
4 the Abernathy's property?
5 A: Bobcat skid steer.
6 Q: Was it -- was it like an enclosed or an open
7 machine?
8 A: It was enclosed but not with a door, but like a cab.
9 Q: So, yeah. I don't know if I quite understand that.
10 Can you explain it to me kind of in layman's terms?
11 A: Well, it just has a cab, like a typical skid steer
12 would. Some have doors, and those are. I would
13 consider enclosed, but that are air conditioned.
14 Q: And so did it have a -- this did not have a door, is
15 that correct?
16 A: If I remember right, I don't remember that we had a
17 door.
18 Q: And did the cab have a roof on it?
19 A: Yeah, if I remember, correctly.
20 Q: And when did you stop working for Mr. Brock?
21 A: 2000, I believe later. Later in the year of 2018.
22 Q: But other than the three days that you worked on
23 this property, you didn't have any -- anything else to
24 do with this project, is that correct?
25 A: I don't recall. I just -- I found some time sheets

1 and noticed the three days that I know for certain
2 that's six years ago or so, so it's hard to recall.
3 Q: At the end of the three days, would you say that the
4 project on the Abernathy's property, as far as the --
5 the spreading of the dirt, would you say that it was --
6 was about done?
7 A: No, sir.
8 Q: How -- how far done would you say it was at the end
9 of your time?
10 A: I think we were probably just getting started
11 because I remember that I was working at a different
12 location and Mr. Brock had gone back to -- to finish on
13 many occasions.
14 Q: Did you ever work at a location on Ballard Road in
15 Pelzer for Mr. Brock?
16 A: Don't recall.
17 Q: Did you ever work on the dirt that was going to the
18 Abernathy -- I'm sorry, let me rephrase that. The dirt
19 that was taken from the field that I called the Dawson
20 field. But you said that the other field where you're
21 bringing the dirt from, did you ever spread that dirt
22 anywhere other than Abernathy's?
23 A: No, sir.
24 MR. COLE: No further questions.
25 THE COURT: Okay. Anything on redirect?

1 MR RAFFINI: No, your honor.
2 THE COURT: Okay, thanks. Sir, you can step
3 down. Is he under subpoena?
4 MR. RAFFINI: He is, your honor. I just
5 (inaudible).
6 THE COURT: All right, you're released from
7 your subpoena.
8 MR. RANKIN: Thank you, sir. Thank you.
9 THE COURT: All right, so my understanding is
10 the next witness is a defense witness who we are
11 calling out of order just to accommodate the
12 travel?
13 MR. COLE: Yes, your honor, if we may.
14 THE COURT: And again, I apologize for any --
15 whatever happened. You can call your witness.
16 MR. COLE: Thank you. I'd like to call Gail
17 Glick.
18 THE COURT: Okay.
19 CLERK OF COURT: Please state your name.
20 Spell your last name for me please.
21 MR. GLICK: Gail Glick. G-L-I-C-K.
22 MR. COLE: Thank you. Your Honor, may it
23 please the Court?
24 THE COURT: Sure.
25 **DIRECT EXAMINATION BY MR. COLE.**

1 Q: Mr. Glick, where do you live?
2 A: I live at 2106 Cannon Bottom Road.
3 Q: And is that --
4 THE COURT: I'm sorry. Speak up into the
5 microphone.
6 Q. Where do you live? Do you live close to my client,
7 the Abernathy?
8 A: Probably about two and a half miles.
9 Q: And do you live close to the other subject property,
10 in this case, the Dawson property?
11 A: Yes. About a mile away. He lives. Mr. Dawson is
12 between me and the Abernathy, kind of in the middle.
13 Q: If you were described -- if you were to describe
14 first, Williamston and then all three properties and
15 then Belton, what order would it go in? Just to give us
16 an idea.
17 A: When you leave Williamston, I live about two miles
18 out of town, and then Mr. Dawson lives about a mile from
19 me toward the Abernathy's, and then Abernathy's another
20 mile past him. And then Belton is about five miles from
21 the Abernathy's.
22 Q: So from the -- from Mr. Dawson's, then, if somebody
23 was leaving Mr. Dawson's property, how would they go?
24 Which way would they turn to go to the Abernathy's?
25 A: They would come out of Mr. Dawson's driveway and

1 turn to the left to go to the Abernathy's about a mile
2 away.
3 Q: Would they pass your house?
4 A: No.
5 Q: I'm sorry, say that again.
6 A: No, they would be going the other way.
7 Q: Now, if on -- did you know that this was going on --
8 that this project was going on in 2018?
9 A: Yes.
10 Q: And how did you know that?
11 A: Mike told me they were building the shop and they
12 were going to be moving dirt from the Dawson place
13 because Mike had done some welding for me in the
14 previous time before the shop was built. He'd done
15 mobile welding for me.
16 Q: And were you able to see this when this work was
17 being done?
18 A: Riding by my farm is on the way down that way, and I
19 go down there to check cows just about every day. And
20 you can see the progress as you work.
21 Q: During the time that this work was over, this time
22 this work was being done, did you notice any dump trucks
23 with dirt?
24 A: Yes.
25 Q: And where did you notice those?

A: They were loading from the Dawson property, going to the Abernathy property.
Q: And did you notice any -- did you notice the dump trucks going anywhere else?
A: Yes.
Q: And where'd you see those dump trucks?
A: They come by my house on the way to Williamston on two different occasions.
Q: And when approximately, you said on two different occasions, is that correct?
A: Yes, I made phone calls to Mike and one to Mike and one to Jacob because I couldn't get a hold of Mike. On the second instance.
Q: On the first occasion, how many dump trucks came by your house?
A: Two.
Q: And did those dump trucks have dirt in them?
A: Yes, they were loaded.
Q: And when you say loaded, they were full?
A: Yes. And I had the tarps over the top of the dirt.
Q: And then on the second occasion, how long was the second occasion after that?
A: Probably about a week from the first occasion.
Q: And how many trucks did you see that?
A: That was also two.

1 Q: And did they have dirt in them?
2 A: Yes, sir.
3 Q: And how full were those?
4 A: They were loaded with the tarps crossed as well.
5 Q: And those trucks, could they have been going from
6 Mr. Dawson's property to the Abernathy property if they
7 came by your house?
8 A: No. Unless they went five or six miles around.
9 Q: So your house is not on the way?
10 A: No.
11 Q: To Mr. To the Abernathy's property, from Mr.
12 Dawson's?
13 A: No.
14 MR. COLE: No further questions, your Honor.
15 THE COURT: Yes, sir.
16 MR. RAFFINI: Thank you, Your Honor. May it
17 please the Court. Mr. Glick --
18 THE COURT: Yes.
19 **CROSS-EXAMINATION BY MR. RAFFINI**
20 Q: Mr. Glick, these trucks, did you see who was driving
21 them?
22 A: There was a black woman driving one and a white guy
23 driving the other one.
24 Q: And do you recall whether there was any name on the
25 truck?

1 A: 23 was on the door.
2 Q: I'm sorry?
3 A: 23,
4 Q: 1 - 3?
5 A: 23. 2 - 3 was on the doors. They white dump trucks.
6 Q: Now, if I understand correctly, if I'm leaving the
7 Dawson property and I'm going to the Abernathy property,
8 I need to turn to the left --
9 A: Yeah.
10 Q: Is that right?
11 A: Yes, sir.
12 Q: And so if I'm leaving the Dawson property and coming
13 to your property I need to turn to the right?
14 A: Yes, sir.
15 Q: So if I'm leaving the Dawson property and I turn to
16 the right in a dump truck, would there be anywhere for
17 me to turn around between the Dawson property and your
18 property?
19 A: Probably at the crossroad at the stop sign.
20 Q: Okay.
21 A: You could back in. There used to be a general store
22 there at the corner. There was plenty of room for a
23 dump truck to turn around.
24 Q: So if the dump truck were leaving the Dawson
25 property and coming towards your property, you think it

1 could turn around before it got to your house?
2 A: At that stop sign before it got to my house. Yes.
3 That (inaudible) store.
4 Q: You say the stop sign, you mean like turn around in
5 the intersection, or is there somewhere you can --
6 A. You can pull up into the road and back into the
7 general store and turn back around. I drive a truck as
8 well.
9 Q: Yes, sir. Understand? Let me ask this then. If
10 the truck were to leave this Dawson property, going
11 towards your property, would it be easy for them to do
12 this turnaround you're describing?
13 A. Yes.
14 Q. What if they had already passed the intersection
15 before they tried to make a turn?
16 A. Well, there's another road as well between the store
17 and my property by (inaudible) Road.
18 Q. You said you drive a truck, too?
19 A. Yeah.
20 Q. You don't -- you don't know the identity of the
21 people driving one of these trucks?
22 A. I haul heavy equipment. I haul. I drive a dump to
23 our truck as well.
24 Q. And you didn't see what destination these trucks
25 were?

1 A. No, I didn't get in the car and follow them to town.
2 They went past my house like they were going to
3 Williamston and they came back empty.
4 Q. Did you see any trucks delivering dirt to the
5 Abernathy property?
6 A. No, I didn't.
7 Q. Okay, so you have no way of knowing where the dirt
8 in the trucks you saw was unloaded either?
9 A. No, I don't know where they unloaded the trucks at.
10 I just called them because they were telling by my
11 house.
12 Q. Okay. And you said two occasions, two trucks that
13 occurred, is that right?
14 A. Yes.
15 MR. RAFFINI: That's all the questions I have,
16 your honor.
17 MR. COLE: Briefly recall --
18 THE COURT: Sure.
19 **REDIRECT EXAMINATION BY MR. COLE.**
20 Q. On those two occasions, those two trucks. So would
21 that be four trucks total?
22 A. Yes.
23 Q. With those, did you ever see them come back by your
24 house heading towards the apparatus?
25 A. Yes.

1 Q. And did you see all four of them?
2 A. Not all four of them. I saw the first two come back
3 empty. I saw the second two go loaded toward town.
4 Q. So the first two you saw come back?
5 A. Yes.
6 A. Yes.
7 Q. And when they came back, did they have dirt in them?
8 A. No.
9 Q. And the second two you never saw?
10 A. I didn't see them come back by, no.
11 MR. COLE: No further questions.
12 MR. RAFFINI: Just to clarify, your Honor.
13 RECROSS EXAMINATION BY MR. RAFFINI
14 Q. What's the time frame we're talking the difference
15 between the times you see these trucks?
16 A. Probably about a week apart.
17 Q. From the time you saw the truck full to the time you
18 saw the truck?
19 A. No, from the two different occasions.
20 Q. When you say you saw a truck full --
21 A. Probably about an hour. They came back by.
22 Q. Okay. And so were they -- they were coming, you
23 said, from town?
24 A. Yes, sir.
25 Q. So they would pass your property?

1 A. Yes, sir.
2 Q. Then the Dawson property.
3 A. They would be going to the Dawson property before
4 they got to the Abernathy property.
5 Q. And that was the only two occasions where you saw
6 trucks was on those two occasions?
7 A. Yes, sir.
8 Q. Okay. And so you don't have any information about
9 how many loads those trucks would have make it on those
10 days, do you?
11 A. No.
12 MR. RAFFINI: That's all the questions I have
13 Your Honor.
14 THE COURT: Okay, you can step down. Okay.
15 For planning purposes, how many more witnesses do
16 y' all have tomorrow and the next day?
17 MR. RAFFINI: I have three short witnesses and
18 in addition I have my clients, so a total of four,
19 your Honor.
20 MR. COLE: I have my client and one additional
21 witness.
22 THE COURT: So two. Any problem starting
23 tomorrow about 10:30?
24 MR. RAFFINI: That works for us, your Honor.
25 MR. COLE: That's fine.

1 THE COURT: Okay. I'm just not sure what I
2 have in the morning and I'm getting ready to go
3 find out. I'm sorry about this and appreciate you
4 working with me. Things happen. It's just seem to
5 happen a lot, though. All right, see y'all at
6 10:30 tomorrow. Good to see you.
7 MR. RAFFINI: Thank you, Your Honor.
8 MR. COLE: Thank you.
9
10
11
12
13 (THERE BEING NOTHING FURTHER, THIS HEARING IS CONCLUDED)
14
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CERTIFICATE OF TRANSCRIBER

I, Velvet Mills, a court-approved transcriber, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of proceedings had and evidence presented at the proceeding held in the above-styled case in Anderson County, South Carolina in 10th Judicial Circuit Court on the 3rd of June, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Velvet Mills

Velvet Mills

August 26, 2024

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	2019-CP-04-00760
	)	
	)	
	)	
	)	
	)	
BROCK LANDSCAPE CONTRACTORS,	)	
LLC D/B/A BROCK LANDSCAPE,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
CLYDE E. ABERNATHY, SHARON M.	)	
ABERNATHY, LINDA M. ABERNATHY	)	
AND MICHAEL L. ABERNATHY,	)	
INDIVIDUALLY AND D/B/A	)	
ABERNATHY WELDING &	)	
SANDBLASTING,	)	
DEFENDANTS.	)	
_____	)	

June 4, 2024
Anderson, South Carolina

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JR., JUDGE.

A P P E A R A N C E S:

JOSHUA B. RAFFINI, ESQ.
Attorney for the Plaintiff

G. LEE COLE, JR., ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

Page No.

Matters of Law.....4

(PW) LARRY HELMS:
Direct Examination by Mr. Raffini.....7
Cross-Examination by Mr. Cole.....19
Redirect Examination by Mr. Raffini.....24

(PW) DOUGLAS MERRITT:
Direct Examination by Mr. Raffini.....26
Cross-Examination by Mr. Cole.....34

(PW) WILLIAM HAROLD BROCK, JR.:
Direct Examination by Mr. Raffini.....40
Cross-Examination by Mr. Cole.....71
Redirect Examination by Mr. Raffini.....80

Plaintiff Rests.....83
Motions.....84

(DW) JACOB BRITT ABERNATHY:
Direct Examination by Mr. Cole.....88

INDEX (CONTINUED)

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
	(Plaintiff's Exhibits)		
P-7	Invoice	83	83
	(Defense Exhibits)		
D-7	Letter		107
D-8	Photograph		115
D-9	Photograph		118
D-10	Photograph		120
D-11	Photograph		122
D-12	Photograph		123
D-13	Photograph		126
D-14	Photograph		129
D-15	Photograph		132

All Exhibits were retained by the Clerk of Court for Anderson County.

1 P R O C E E D I N G S

2 THE COURT: Okay. Who's the first witness for today?

3 MR. RAFFINI: Our first witness is going to be Larry

4 Helms, Your Honor.

5 But before we call him, I do believe we have a few

6 stipulations we can put on the record just to try to make

7 the flow a little bit easier.

8 THE COURT: Perfect, perfect.

9 MR. RAFFINI: The first -- me and Mr. Cole have

10 discussed -- the primary cause of action is for a

11 mechanics lien. So attorneys fees will be an issue.

12 THE COURT: Yeah.

13 MR. RAFFINI: Both sides have submitted affidavits of

14 attorneys fees. Once the case is over and the Court has

15 made a ruling, I would propose about 10 days to file a

16 post-trial motion to have that issue addressed, if that's

17 acceptable to the Court.

18 THE COURT: That's fine with me. That's what I do

19 anyway. So 10 days to file your motions and the

20 affidavits for attorneys fees?

21 MR. RAFFINI: Yes, sir.

22 As far as Plaintiff's Exhibits, I believe the

23 exhibits that I know I want to introduce are all going to

24 be stipulated to by Mr. Cole. He does have copies. It's

25 Plaintiff's Exhibit No. 1, which is a copy of the invoice

1 for Rock Landscape Contractors, which is, also, already on
2 file with the Court. Plaintiff's Exhibit No. 4, which is
3 a copy of the filed mechanics lien. Plaintiff's Exhibit
4 No. 5, which is a letter regarding a request to
5 investigate the particulars of the mechanics lien, which,
6 also, has a copy of the mechanics lien attached to it.
7 And then Plaintiff's Exhibit No. 6 is a deed for the
8 property concerning this foreclosure of the mechanics lien
9 action.
10 So those are the four that, I believe, we have
11 stipulated to. And I believe Mr. Cole has a couple that
12 I've discussed, also, being able to stipulate to.
13 THE COURT: Okay. Yes, sir.
14 MR. COLE: Yes, Your Honor. Defendant's Exhibit No.
15 2 is a mortgage on my client's property, which is of
16 record in the Register of Deeds. And then, also, Your
17 Honor, we have Defendant's Exhibit No. 6, which is my
18 client's invoice. And --
19 THE COURT: That's Defendant's Exhibit No. 6?
20 MR. COLE: Yes, Your Honor.
21 And, Your Honor, we have -- I don't know if this will
22 be stipulated to. But we have a -- our last exhibit is
23 going to be a video, Your Honor, that we have a -- we have
24 it on a flash drive. And I have a transcript of the
25 video. And we didn't know how the Court would understand

1 that there -- the technology may be limited in this room.
2 But I, certainly -- I have my laptop to play it for Your
3 Honor, or if Your Honor puts it on his computer and plays
4 it. And then, like I said, we, also, have the -- the
5 transcript that the rest of the -- everybody else can
6 follow along with.
7 THE COURT: How long is it?
8 MR. COLE: It is approximately seven -- seven
9 minutes.
10 THE COURT: Oh, yeah. We'll figure out something,
11 even if we have to just all jump around with it.
12 MR. RAFFINI: Your Honor, I can stipulate on
13 Defendant's Exhibit Nos. 2 and 6.
14 As far as the video and the transcript, I'm not going
15 to have an objection when it is presented. I cannot
16 stipulate to it, I think, because of the nature of the
17 exhibit. There's going to have to be a witness that can
18 provide a little bit of foundation before it can come in.
19 But at that time, I'm almost, certainly, not going to have
20 an objection. But I just couldn't stipulate to it.
21 THE COURT: Okay.
22 MR. COLE: Thank you, Your Honor.
23 THE COURT: Sure. And, you know, this is non-jury.
24 So I'm going to be as forgiving as possible. I'll let a
25 little more in and just, you know, you can shortcut it a

1 little bit.
2 Anything that you have that you might want to argue
3 by a motion -- a written motion, rather than testimony,
4 that's fine, too. It, actually, helps me on these things.
5 Okay. You can call your next witness.
6 MR. RAFFINI: Thank you, Your Honor.
7 May it please the Court.
8 We'll call Larry Helms.
9 THE CLERK: Would you, please, come forward and raise
10 your right hand.
11 WHEREUPON,
12 LARRY HELMS,
13 after first having been duly sworn, testified as follows:
14 THE CLERK: Thank you, sir.
15 If you would, please, take a seat there on the
16 witness stand.
17 And if you would, please, state your name. And spell
18 your last name for the court reporter.
19 THE WITNESS: Larry Helms, H-E-L-M-S.
20 THE CLERK: Thank you.
21 DIRECT EXAMINATION
22 BY MR. RAFFINI:
23 Q All right. Thank you, Mr. Helms.
24 And I'm just going to remind you as we start, make
25 sure to keep your voice up. That way, our court reporter

1 can take everything down. Okay.
2 A Yes, sir.
3 Q Mr. Helms, how do you know Harold Brock?
4 A As a friend and a -- I helped him out a little after
5 I retired.
6 Q Okay. And you said "retired," so you're no longer a
7 full-time employee anywhere?
8 A No, sir. I retired from Roadway Express after
9 37 years.
10 Q I'm sorry. Where -- where did you retire from?
11 A Roadway Express. I was there 37 years.
12 Q What did you do for them?
13 A I drove a truck for them for 37 years and was a
14 safety coordinator. And I trained drivers at the company.
15 Q And how long ago did you retire?
16 A 10 years ago.
17 Q Now, you said you did a little bit of work for
18 Mr. Brock. What type of work do you do for him?
19 A Drove a truck, delivered equipment, delivered gravel,
20 things of that nature.
21 Q How often do you do work for Mr. Brock?
22 A I don't anymore.
23 Q How often did you do work for Mr. Brock?
24 A I helped him out for about four years.
25 Q And that was the four years immediately after you

1 retired?
2 A Yes, sir.
3 Q Okay. And did you work on various projects or just
4 one project for him?
5 A Various.
6 Q Okay. Now, did you work with Mr. Brock on a
7 project -- a property owned by the Abernathys?
8 A Yes, sir.
9 Q And can you tell me a little bit about that project,
10 please?
11 A Yes, sir. It was -- they wanted to fill in a spot to
12 build a building. And the land tapered off very sharply.
13 I don't know the size of the property. But we went down
14 and started putting all the equipment on the job. And
15 then we started hauling in dirt to try to bring it up to
16 the level they needed to put the building in.
17 Q When you say "we," meaning yourself and Mr. Brock, or
18 were there more people involved?
19 A Oh, there were more people involved. We had drivers.
20 And we had dozer operators. We had loader operators.
21 Q Now, what was your role in this project work for
22 Mr. Brock?
23 A I drove a truck. And I drove the -- we would pack
24 the dirt down after we put a few loads in. And we would
25 level it out with a dozer. And then we would pack it in.

1 Q Now, when you say, loaded dirt and -- and packed it,
2 what was the order of this project?
3 A Well, the place they were getting the dirt was about
4 a half a mile from where the property was. And we went
5 there and loaded. We had a gentleman there loading the
6 truck. Once we got it loaded, I would pull it to that
7 property, back in, and dump it. And I would go back
8 immediately and get another load to build up the barrier
9 where we could start filling in the -- the ground.
10 Q Okay. So it would be fair to say you have to move
11 dirt before you can do much with it; is that right?
12 A Yes, sir. Yes, sir.
13 Q Okay. Now, was this a long-term project?
14 A Yes, sir. I mean, it was -- we would work a while,
15 and slow a while, and work a while. So I figure I
16 probably put in 80 hours myself, actually, driving down
17 there back and forth and delivering equipment.
18 Q But were you involved for most of the duration of
19 this project?
20 A Yes, sir.
21 Q Okay. Now, as far as the people that were working
22 for Mr. Brock, who was the most involved in working on
23 this project?
24 A I think we all were. I mean, the loader had to be
25 there in order to make it work. And we had to have people

1 there to use, you know, the other equipment to roll it in
2 when we got there. So there were two other people that
3 had to be there with us most of the time.
4 Q Let me ask it like this, were there people who only
5 worked a little bit on this particular project?
6 A Excuse me?
7 Q Were there some people who only worked for a few
8 days, or something like that for this project?
9 A I think -- you know, most of the time, at least, two
10 people were there at all times, at least, two, most of the
11 time three, you know, and sometimes four. It was just
12 depending on what that day presented, you know, how the
13 weather was, and what all we had to haul in and put in.
14 Q Now, were all the -- the -- all the people working,
15 were they all employees of Mr. Brock?
16 A Yes, sir.
17 Q Were there any contractors used?
18 A No, sir.
19 Q Okay. And what can you tell me about that?
20 A Well, they wanted to get it quicker, and the weather
21 permitting. They had all the trucks contracted from
22 another company to haul the dirt. And the same process I
23 was doing, they were doing it with just rotating back and
24 forth to get more in within a certain time period.
25 Q But when contractors were working, you weren't

1 driving those trucks; is that right?
2 A I was driving our truck -- his truck.
3 Q All right. I just wanted to make the clarification.
4 A Yes, sir.
5 Q Now, as this is -- as this is going on, who's
6 supervising the work being done?
7 A Mr. Brock.
8 Q Okay.
9 A He'd come down and tell us what needed to be done and
10 make sure everything was being done properly.
11 Q And as you're driving the truck, who are you
12 reporting to?
13 A Mr. Brock.
14 Q Were you keeping track of your time working on this
15 project?
16 A I was keeping track of the time and my loads.
17 Q And when you say, keeping track of the loads, you
18 weren't there every time something was loaded, were you?
19 A Just the ones I hauled.
20 Q Okay. But were you keeping track of the other
21 drivers loads?
22 A No, sir. But they were turning it in to Mr. Brock at
23 the end of the day.
24 Q And were you part of reviewing what was turned in as
25 well?

1 A Yes, sir.
2 Q Okay. And approximately how many loads were overall
3 hauled on this project?
4 A About 250 that I -- that I know of. And they -- if I
5 may, they kept asking me questions every day at the end of
6 the day, well, how many more do you think it's going to
7 take? Because I think it started out as everybody down
8 there presented it was going to be about 50 loads. It
9 turns out it was, like, 250 or, you know, maybe even a
10 little more.
11 Q When you say "they" were asking you, are you talking
12 about other employees, or someone else?
13 A No, sir. Mike and his son.
14 Q And when you say "Mike," do you mean Mike Abernathy?
15 A Mike Abernathy and his son.
16 Q And so when you say "his son," you mean Jacob
17 Abernathy?
18 A Yes, sir.
19 Q That's here with him in the courtroom today?
20 A I -- I can't tell. My eyes, I just had them operated
21 on. So I really have a hard time with vision for a
22 distance.
23 Q So you had some interaction with the Abernathys
24 during this project as well?
25 A Yes, sir. About every day when I was hauling dirt,

1 they were there. I mean, you know, they would ask
2 questions about how much more, how much more, how much
3 more, so.
4 Q And so that was an ongoing thing?
5 A Pardon me?
6 Q That was an ongoing thing, not just one conversation?
7 A Oh, yeah. Just about every day, it was about the
8 same questions wanting to know how much more it was going
9 to take.
10 Q Now, as you were working with Mr. Brock, were you
11 involved in how this project was being billed?
12 A Well, I knew what had to be done. I knew what the
13 objective was to --
14 Q Let me ask it this way, was this -- how was this
15 project being billed with the Abernathys?
16 MR. COLE: Objection, Your Honor. As to -- I think
17 that calls for hearsay. How was it being billed saying --
18 he can say what he billed. But as to --
19 THE COURT: I don't understand what -- what it means
20 to say how is it being billed.
21 THE WITNESS: That's me --
22 THE COURT: Why don't you --
23 MR. RAFFINI: I can rephrase the question.
24 THE COURT: Yeah. Rephrase it and lay a little
25 foundation.

1 MR. RAFFINI: Yes, sir.
2 BY MR. RAFFINI:
3 Q Now, Mr. Helms, you testified you worked with
4 Mr. Brock regarding records on the project; is that right?
5 A Yes, sir. Yes, sir.
6 Q Now, was this billed by the load, for example?
7 A The way their deal was -- I don't know what the --
8 the financial part was, or anything like that. All I know
9 is the property sloped off at a very deep slope. They
10 cleared trees off of it. And then we were to fill in
11 after it got leveled off with the trees. We had to go
12 fill in the hole and bring it up to street level so that
13 they could build their building.
14 Q Yes, sir. But you were keeping track of your time on
15 the project; right?
16 A Yes, sir. Yes, sir.
17 Q Now, were there times where equipment broke down
18 during this project?
19 A Yes, sir. We had a couple of times a cylinder would
20 leak, and stuff like that. Yes, sir.
21 Q And did you have any involvement on -- with those
22 issues?
23 A No, sir.
24 Q And did you ever do anything to help Mr. Brock repair
25 the issues that came up?

1 A No, sir.
2 Q Okay. Are you aware of any work the Abernathys did
3 for Mr. Brock?
4 A They -- I was told that they did the cylinder and put
5 it back on one machine where it was -- it was leaking.
6 And they replaced the seals and put it back in.
7 Q But you wouldn't -- you weren't present for anything
8 like that?
9 A No, sir.
10 Q Okay. Now, when this project was completed, did you
11 have any involvement in the final billing of this project?
12 A No, sir.
13 Q And did you have any further meetings where the
14 Abernathys were present?
15 A Just the one where we went -- when they decided they
16 wanted to pay the bill. And they called us and asked us
17 the come down and settle up. And that's when the film
18 they're talking about, or whatever, the recording was
19 there going on between the two.
20 Q All right. When you say "the film," you were present
21 in a meeting between with Mr. Brock and Jacob Abernathy?
22 A Yes.
23 Q And why were you present on that occasion?
24 A Well, when he went down, he asked me to ride. I
25 happened to be at the office that day. And he said, you

1 know, how about riding down with us. And I rode with him
2 to the Abernathys.
3 Q Okay. Can you tell me about your recollection of
4 that meeting, please?
5 A Yes, sir. We came up and Mr. Bob presented his bill.
6 And then Mr. Abernathy come out with a bill. And there
7 was a disagreement about it.
8 And I was on the other side of the truck. And I came
9 around the truck just to get closer where I could hear
10 what was going on. And I was told it was none of my
11 affair. And I was like, well, you know, basically, it
12 kind of is. Because this is a guy that I work with. And
13 he needs witnesses as well as everybody else, you know.
14 Q So were you there the entire time?
15 A Yes, sir.
16 Q And how would you characterize that meeting between
17 the parties?
18 A At first, it wasn't bad. And then it -- then it just
19 became heated. And it was just a back and forth
20 transaction between the two. But nobody got physical, or
21 anything. It was just, okay, we'll see you -- we'll
22 settle this out -- in court, or whatever.
23 Q Now, you testified you -- you worked on several
24 projects for Mr. Brock; right?
25 A Yes, sir.

1 Q How would you characterize this particular project in
2 terms of the scope?
3 A Well, it was really a -- the -- the property -- the
4 basic job that Mr. Brock does, he builds walls, retainer
5 walls. And it, basically, works the same, except you put
6 a wall from around the ground up and you put dirt in front
7 of the wall. This way, it's just a sloped off valley.
8 But they're just wanting to get a flat spot to build a
9 building. And it's just all packing dirt and doing the
10 groundwork to get it ready for a building.
11 Q Okay. But in terms of the overall size, how would
12 you describe it?
13 A As far as the size of some of the jobs that we do,
14 well, it's just -- we do all kinds of jobs. He did every
15 size jobs. This was a medium job. But still, it took a
16 lot of time for what they wanted to do. None of the block
17 laying, and things like that.
18 It was just a lot of machine work, and things to get
19 it to where it's at now. And the dirt had to be packed
20 just right before they could put the building down, and
21 all this stuff, for the operations of the building to be
22 sat on top of it.
23 MR. RAFFINI: Okay. I believe that's all the
24 questions I have for you right now. Please answer any
25 questions Mr. Cole may have. Okay.

1 THE WITNESS: Yes, sir.
2 MR. COLE: Thank you, Your Honor.
3 May it please the Court.
4 THE COURT: Yes, sir.
5 CROSS-EXAMINATION
6 BY MR. COLE:
7 Q All right. Mr. Helms, isn't it true that you brought
8 a Bobcat piece of equipment to my client, to the
9 Abernathys shop on two different occasions for it to be
10 repaired?
11 A Yes, sir.
12 Q And now, 23 Logistics was the primary company that
13 was subcontracted to move -- to haul the dirt --
14 A No.
15 Q -- in this situation; is that correct?
16 A No, sir. No, not the primary. I think it was NW
17 White hauled a lot of the dirt.
18 Q So it was -- was -- NW White was a -- I guess a
19 contractor that hauled dirt as well?
20 A Just a -- just a trucking company. That's what they
21 do. They move dirt, gravel, things like that.
22 Q And was 23 Logistics -- did they move dirt, also, for
23 this project?
24 A I can't remember if 23 Logistics was there or not. I
25 know that they have -- we have used them before. But I

1 don't remember if they hauled any down there. I don't
2 think they hauled any down there. I think it was all NW
3 White.
4 Q And isn't it true, Mr. Helms, that you didn't,
5 actually, haul any dirt yourself for this project, did
6 you?
7 A Did I, actually, haul any?
8 Q Yes.
9 A Yes. Yes. I was hauling a load of dirt every 25 to
10 30 minutes when I was there on the days I was there.
11 Q And did you -- you -- you haul that in NW White's
12 trucks?
13 A No. Mr. Brock's truck.
14 Q And you didn't -- it's true -- isn't it true that you
15 did not, actually, pack any dirt for this project, did
16 you?
17 A No, it's not. I did pack some of the dirt for this
18 thing. They put it out -- pushed it out with the dozer
19 and I'd ride the packer and would pack it down. You've
20 got two different pieces of equipment there doing the
21 work.
22 You have to push it down and level it with the dozer.
23 And then you have to go over it with a packer and pack it
24 and make it a compact station where it's good enough to
25 hold the building up.

1 Q Well, which one of those pieces of equipment did you
2 use?
3 A I used the packer.
4 Q What about the -- what about the skid steer that has
5 been testified to?
6 A Yeah. There was a skid steer there. But I didn't
7 never run the skid steer. There was other people running
8 the skid steer.
9 Q What did they use a skid steer for?
10 A Moving certain objects around. They was moving the
11 trees and stuff out of the way and was getting the edges
12 ready, and all that stuff.
13 Q So you said there's two pieces of equipment, but
14 there's, actually, three; is that right?
15 A No, sir. On the whole job, there was four pieces of
16 equipment. There was one at the dirt site where we were
17 loading, and stuff. And then there was three at the job
18 site where it was being repaired, plus the dump trucks.
19 So you're talking about four pieces of equipment at that
20 job site going back and forth.
21 Q So what was the piece of equipment at the Dawson
22 property where it was being loaded?
23 A It was a -- it was a loader. It was a -- a loader
24 that you load dump trucks with, just a big dozer. But
25 it's got a loader bucket on it.

1 Q And the three other pieces of equipment you just
2 described, they were at the Abernathys property; is that
3 right?
4 A Yes, sir. Yes.
5 Q And you never, actually, dug any of the -- any of the
6 dirt to be hauled, did you?
7 A No.
8 Q And your job was just to deliver equipment --
9 equipment to the property; isn't that right?
10 A And drive the dump truck to haul the dirt.
11 Q And the work that was done that you testified you
12 witnessed, that was in September and October of 2018?
13 A I think that's the right dates.
14 Q And how many days total would you say you were there?
15 A Like I said, there was certain periods of time where
16 I worked probably 80 hours there, but it was on different
17 days. We'd go there for a day -- and, like I said, you've
18 got to deal with the weather, and everything else when
19 you're doing this. So when it was wet, we couldn't go
20 down there and work.
21 Q How many pieces of equipment did you personally
22 deliver to either Mr. Dawson's property or to my client's
23 property?
24 A Total, I delivered three to the Abernathy property,
25 one to Mr. -- that guy where we got the dirt, and one

1 tractor at the last -- at the end of the day when
2 everything was done. Mr. Brock took the initiative to go
3 back and -- and plow -- to smooth out the man's yard where
4 we had gotten so much dirt out of his yard.
5 He was just having a fit about the yard being torn
6 up. He didn't realize that that much dirt was fixing
7 coming -- to come out of that yard. But he took the
8 initiative to do it. And I ran on the damn [phonetic] and
9 fixed everything around the place and smoothed it out
10 before we left. That was late at night when we left and
11 it was already dark. And that was just something
12 Mr. Brock done on the side to help him out.
13 Q And you also -- you, also, brought property to the --
14 I'm sorry. You, also, brought equipment to the Abernathys
15 property to be repaired; is what -- is that right?
16 A I brought -- like I said a while ago, a couple of
17 times, I brought a Bobcat by on the way to the job site.
18 And they were working on it for an hour and a half, two
19 hours max.
20 Q And on the date of the -- the date of the video and
21 the -- the confrontation that you testified to earlier,
22 you -- did you see the invoice that Mr. Brock handed to
23 Jacob Abernathy?
24 A I just saw it in his hand. I, also, saw
25 Mr. Abernathy's in his hand.

1 Q And the invoice -- Mr. Brock's invoice that he handed
2 to Mr. Abernathy, it was for approximately 16,000; isn't
3 that correct?
4 A I didn't get in on the financial side of it. I have
5 no idea.
6 Q And it's, also, correct you were never present when
7 Mike Abernathy paid Mr. Brock any funds, were you?
8 A No, sir.
9 MR. COLE: No further questions, Your Honor.
10 THE COURT: Anything else?
11 MR. RAFFINI: Just one clarification, Your Honor.
12 REDIRECT EXAMINATION
13 BY MR. RAFFINI:
14 Q The equipment you're describing, was it all on the
15 job site all the time?
16 A Yes, it was --
17 MR. RAFFINI: All right. Thank you very much.
18 THE WITNESS: -- from the time he put it there until
19 the job was finished. We left it there.
20 MR. RAFFINI: All right. Thank you very much.
21 No further questions.
22 THE COURT: Okay. You can step down.
23 THE WITNESS: Thank you.
24 THE COURT: Is he under subpoena?
25 MR. RAFFINI: He is, Your Honor. We'd ask to release

1 him.
2 THE COURT: All right. Any objection to me releasing
3 him?
4 MR. COLE: No objection, Your Honor.
5 THE COURT: Before you call your next witness, give
6 me two minutes.
7 MR. RAFFINI: Yes, sir.
8 (Pause.)
9 THE COURT: Okay. Who have you got?
10 MR. RAFFINI: Douglas Merritt, Your Honor.
11 THE COURT: All right.
12 THE CLERK: Will you, please, come forward.
13 And raise your right hand.
14 WHEREUPON,
15 DOUGLAS MERRITT,
16 after first having been duly sworn, testified as follows:
17 THE CLERK: Thank you, sir.
18 Please take a seat at the witness stand.
19 And if you would, please, state your name. And spell
20 your last name for the court reporter.
21 THE WITNESS: Douglas Merritt, M-E-R-R-I-T-T.
22 THE CLERK: Thank you.
23 THE WITNESS: Am I too close to that? I can't tell.
24 THE CLERK: Probably scoot back just a little bit.
25 THE WITNESS: Here is good?

1 THE CLERK: Yeah.
2 THE COURT: All right. You can go ahead.
3 MR. RAFFINI: Thank you, Your Honor.
4 DIRECT EXAMINATION
5 BY MR. RAFFINI:
6 Q Mr. Merritt, what do you do for a living?
7 A I sell recycling machinery, rock crushers, topsoil
8 screeners, tree grinders, things of that nature.
9 Q How long have you been doing that?
10 A 18 years.
11 Q And is that, I take it, your primary profession?
12 A Yes, sir.
13 Q Now, how do you know Harold Brock?
14 A Mr. Brock had shown some interest in a used
15 machine -- a top used machine that I knew I was taking on
16 trade. And so, you know, I -- I took the machine on trade
17 and told him about it. And he ended up purchasing the
18 machine.
19 Q Well, what type of timeframe are we talking about
20 when this occurred?
21 A As far as when was it?
22 Q Yes, sir.
23 A This was -- I just looked at a picture on the phone.
24 It was May the 19th, 2018.
25 Q And is that the only equipment you ever sold to

1 Mr. Brock?
2 A Yes, sir.
3 Q Okay. Now, the machine you're describing, can you
4 tell us that don't sell machines on a regular basis what
5 that machine is used for?
6 A The machine is used for removing unwanted items from
7 soil. So if you had soil that had, say, something in it
8 and you needed the rock out to use the soil for something,
9 or it had tree roots in it and you wanted to remove it, or
10 if you wanted to screen out surface sized sand, or that
11 type of thing.
12 Q Now, how big a piece of equipment is this?
13 A I believe this machine would weigh about 55,000
14 pounds.
15 Q So, I take it, it's larger than an average automobile
16 then?
17 A Oh, yeah.
18 Q Okay. Now, you said you sold it, I believe, in May
19 of 2018; is that right?
20 A Yes, sir. I told Mr. Brock about the machine. And I
21 was selling the machine to a company in Atlanta. And he
22 drove down and looked at the machine I was going to take
23 on trade. We talked about a price. And he agreed to the
24 price, based on me having to deliver to his facility in
25 South Carolina from Atlanta.

1 Q So did you personally deliver it to Mr. Brock?
2 A No. I hired a contractor, a company to load. So I
3 coordinated the trucking and had the machine delivered.
4 And then I showed up when the machine arrived at his
5 facility to make sure everything was good.
6 Q When you say you "showed up," was that at Mr. Brock's --
7 A At Mr. Brock's facility where the machine was
8 delivered.
9 Q Okay. So what was the reason you were at Mr. Brock --
10 Brock's place of business?
11 A First of all, I wanted to make sure that it showed up
12 in one piece. Sometimes, machines get damaged when
13 they're moved by another hauler in transit. So I wanted
14 to make sure that what I anticipated to be there to
15 fulfill the agreement I made with him was what showed up
16 in that condition, number one.
17 Number two, there were some items on that machine
18 that needed to be addressed as far as -- that needed to be
19 addressed because it was moving from a mulch application
20 it had lived its life in to soil. So he asked me to come
21 here and show him what needed to be addressed on the
22 machine.
23 Q Now, when you say you were checking the condition, I
24 take it that's not a quick thing you're doing on a piece
25 of equipment of this size; is that fair?

1 A I had already inspected the machine before making the
2 sale, so I pretty much knew. I just needed to point it
3 out to Mr. Brock.
4 Q When you say "point it out," what exactly are you
5 pointing out to Mr. Brock?
6 A So this machine was being used, like I said, in a
7 mulch application. And, surprisingly, wood is rough on
8 metal over time. And in the area of this machine where
9 you load the soil that has to be processed, there are
10 sides that are steel. And there was wear where the steel
11 had gotten thin and it needed to be welded to repair it.
12 Because it wouldn't hold the rubber that keeps the
13 material from spilling out of the machine.
14 Q Now, was anybody else there with you when you met
15 with Mr. Brock?
16 A Initially, it was just Mr. Brock. And then
17 Mr. Abernathy was there, I believe, working on another
18 piece of equipment doing welding work.
19 So Mr. Brock brought him over there and said, Show
20 these gentlemen, you know, what needs to be addressed on
21 the machine. They're going to go ahead and weld it while
22 they're here.
23 Q So at the time you're meeting with Mr. Brock, you're
24 showing the same things to Mr. Abernathy?
25 A I'm not a hundred percent sure if it was at the same

1 time or if it was after Mr. Brock left that I walked
2 through the machine with these gentlemen. It's been six
3 years. So I'm not sure.
4 Q Okay. But you showed the items to Mr. Brock first?
5 A Yes.
6 Q But you showed the items to the Abernathys as well?
7 A Yes.
8 Q Okay. Now, you described some cracks, I believe,
9 that needed welding; is that accurate?
10 A Yeah. The material had become thin, the metal
11 material. And it just needed to be welded so that it
12 wouldn't break loose.
13 Q Is that the type of thing you've seen in other
14 equipment you've sold?
15 A Oh, yeah.
16 Q And so is it something you have to address on a
17 regular basis?
18 A Yes, sir.
19 Q Okay. Now, when you say this was a piece of
20 equipment you -- you took on trade, help me understand
21 what you mean by that, please.
22 A So at the time, I was selling a brand of screeners
23 and rock crushers that -- I sold a brand new machine to a
24 customer in Atlanta. The machine that I sold to Mr. Brock
25 was a machine they already owned. And they traded it in

1 to me against the cost of the new machine that I sold to
2 them.
3 So it was a -- reduced their cost in the new machine
4 they traded in a used one to me.
5 Q You've identified the condition of this machine. How
6 does that factor into setting a price for a piece of
7 equipment?
8 A Well, it definitely does. Because, you know, the
9 cost of -- of doing repairs to a machine is not only labor
10 to do the repair, but parts. And sometimes, those parts
11 aren't readily available. There's a lead time involved
12 for them to be delivered.
13 Q So when you're meeting with a customer like
14 Mr. Brock, that's a regular part of your business?
15 A That's -- that's why prior to him purchasing the
16 machine, he made the trip to Atlanta for me to physically
17 show him the machine running so he knew what I was talking
18 about, not just pictures and hearsay of what it was.
19 Q Can you tell me how much work this particular machine
20 needed?
21 A This machine needed some welding done on the -- one
22 of the conveyer frames. And then it needed welding -- the
23 main welding that I remember was on the hopper portion you
24 load. The walls had -- had worn through so thin that they
25 were cracked. And it needed to be welded up so they

1 didn't break off completely.
2 Q Well, help me understand how -- how substantial were
3 the repairs that you're describing?
4 A The -- the hopper area that needed to be welded was
5 maybe 22-foot long. And it was broken through in several
6 spots on each side. So, you know, maybe 40 foot of
7 welding down both walls.
8 Q Okay. And what about the other condition issues you
9 described?
10 A I believe it was just a -- a brace and a -- like, a
11 shoot that went on into the machine, maybe some hand
12 rails. So not -- not like a substantial, you know,
13 two-week job of welding, or anything like that. It was --
14 it was not, you know, a large fabrication job from
15 scratch, or anything.
16 Q So the repairs you're describing, can you tell us
17 about how much that would have factored into the price of
18 the piece of equipment?
19 A It would have factored in probably -- you know, this
20 is from me knowing -- knowing and trying to explain it to
21 you guys. But I would say if -- if those repairs would
22 have been done, I would have wanted four or $5,000 for the
23 machine, if I had had them done myself prior to offering
24 the machine to Mr. Brock.
25 Q And you said you would have wanted four or 5,00 for

1 the machine or four or 5,000 more?
2 A More for the machine if I would have had to execute
3 those repairs prior to offering it to Mr. Brock.
4 Q Okay. Were you present when any of those repairs
5 were, actually, made?
6 A Yes. The first day, I believe that most of the time
7 the Abernathys spent working on the bulldozer towards the
8 end of the day, you know, we walked over to the machine.
9 And then the second day, I was only there for a
10 couple of hours. And they were working on the machine
11 when I left. And then that's the last I had any
12 involvement with the machine.
13 Q When you were there on the second day, how much of
14 the work had been completed while you were there?
15 A On the second day, I believe was the first full day
16 that it was focused on the machine, if I can remember
17 correctly. But the -- the portion in the hopper was being
18 repaired. I mean, it was maybe a third done. I don't
19 know. I can't remember. It's been six years. I'm just
20 being totally honest with you.
21 Q Okay. But the -- the repairs were underway at that
22 time?
23 A Yes, sir.
24 MR. RAFFINI: All right. Thank you very much.
25 I don't have any more questions for you right now.

1 But answer any questions Mr. Cole may have.
2 CROSS-EXAMINATION
3 BY MR. COLE:
4 Q And, Mr. Merritt, this machine that you sold to
5 Mr. Brock, it was used. It was not new; is that correct?
6 A That's correct.
7 Q And about how old was it?
8 A I would say the machine was 10 to 12 years old.
9 Q And what was the sales price that you sold it to
10 Mr. Brock for?
11 A $65,000.
12 Q How much would one -- at that time in 2018, how much
13 would a new one cost?
14 A $225,000.
15 Q And when it was delivered to Mr. Brock, it was
16 delivered in more than one piece; isn't that correct?
17 A The only thing that was -- that was off the machine
18 was a shoot that bolts on to the end of the machine. It
19 was being used in a different configuration than it could
20 have been used when it got to Mr. Brock. So the only
21 loose piece was, like, a component that could have been
22 put in the back of a pickup truck, if I remember
23 correctly.
24 Q And so it was -- it was in two pieces then; is that
25 right?

1 A It would be like taking the shoelaces off of your
2 shoe. There's two pieces now, you know, it's not half the
3 shoe.
4 Q So, from your knowledge of this transaction, it --
5 Mr. Brock's intended use of this piece of equipment was
6 different than the previous owner's intended use; is that
7 right?
8 A The previous user was using it in a manner that would
9 not be common, so yes.
10 Q And how many days total were you at Mr. Brock's
11 office -- or his shop when this piece was there?
12 A The day it was delivered and the next day.
13 Q And -- but you only witnessed my client working on
14 the machine that second day; is that correct?
15 A I believe that's correct. I think that they had
16 started working on it the first day maybe towards the end
17 of the day. But I -- like I said, it's been six years.
18 But I know they were working on it the second day that I
19 was there.
20 Q Would you say you were there about four hours that
21 second day?
22 A That's probably accurate.
23 Q And it was -- the work was not completed when you
24 left; is that right?
25 A It was not completed.

1 Q And so you don't know how long they stayed there
2 after that second day; is that right?
3 A I do not.
4 Q And you're not a welder, are you?
5 A No, sir. I have an uncle that is, but I'm not.
6 MR. COLE: No further questions, Your Honor.
7 THE COURT: Anything on redirect?
8 MR. RAFFINI: No, Your Honor.
9 THE COURT: Okay. You can step down.
10 If he's --
11 MR. RAFFINI: Also, under subpoena. And I'd ask that
12 he be released, Your Honor.
13 THE COURT: Any objection?
14 MR. COLE: No objection, Your Honor.
15 THE COURT: All right. You're released from your
16 subpoena.
17 THE WITNESS: Thank you.
18 MR. RAFFINI: Your Honor, that is our last, what I
19 would call, short witness for today. My next witness is
20 going to be my client, which I think will take a rather
21 substantial amount of time. I'm happy to start with him
22 or if you'd like to go ahead and take our -- our break and
23 start fresh with him this afternoon. I'm fine either way,
24 Your Honor. But I wanted to let you know what our kind of
25 schedule was.

1 THE COURT: Who -- who will be your longest witness?
2 I'm just trying to figure, if we stop at 4:00, I mean, I
3 don't mind stopping for lunch now and then coming back in
4 an hour and 15 minutes and then...
5 MR. COLE: Your Honor, mine will probably be similar
6 length. I'd say my client, Mike Abernathy, I was planning
7 to call him first and then Jacob Abernathy. So they will
8 be -- I feel like they will -- they will be at --
9 without -- with guessing what Mr. Brock's testimony is
10 going to be, they will be his or shorter.
11 THE COURT: So we'll probably go into tomorrow
12 morning?
13 MR. RAFFINI: That would be my guess, Your Honor.
14 THE COURT: Okay. Well, then let's go ahead and do
15 lunch now. And then try to get as much as we can get
16 done. I'm sorry about the 4:15 thing.
17 And now is a good time to start -- to break so that
18 you can talk to your client. I always hate to take a
19 break when somebody is on the stand.
20 So it's a little bit before 12:00. But we'll be back
21 at -- will 1:30 be enough?
22 MR. RAFFINI: I think it's, certainly, enough to give
23 Mr. Brock time. And depending on how long it goes with
24 cross-examination, maybe we can fit an additional witness
25 in.

1 THE COURT: Well, there's no point in cramming
2 everybody. I mean, you know, I want to give y'all plenty
3 of time.
4 MR. RAFFINI: Yes, sir.
5 THE COURT: Okay. I'll see y'all at 1:30.
6 (WHEREUPON, a lunch break was taken.)
7 THE COURT: All right. What have we got?
8 MR. COLE: Judge, there's one thing I wanted to bring
9 to the Court's attention that I didn't think about before
10 when we were talking about the scheduling earlier. I have
11 General Sessions hearings in the morning. However, the --
12 I think all that -- there's only -- there's one that's a
13 bond hearing that I would like to do, if possible. And I
14 talked to the assistant solicitor over lunch.
15 THE COURT: Sure.
16 MR. COLE: And I'm just going to try to do that first
17 thing in the morning, if the Court will -- I think I'll be
18 here before we get started. But if not, if the Court will
19 give us a little grace on that, then we --
20 THE COURT: We'll be substantially through everything
21 today; right?
22 MR. COLE: I believe so.
23 THE COURT: So you take your time. We can just
24 schedule to start at 11:00 so you don't have to hurry.
25 MR. COLE: Thank you, Judge.

1 THE COURT: Does that work for you?
2 MR. RAFFINI: That'll be fine with me, Your Honor.
3 Although, I -- I believe we're probably going to need --
4 it might be a couple of hours tomorrow.
5 THE COURT: Okay. I mean, that's fine. You've got
6 tomorrow is what I'm saying. So we'll start at 11:00.
7 Tomorrow is Thursday --
8 MR. COLE: Wednesday.
9 MR. RAFFINI: Wednesday.
10 THE COURT: Wednesday. It doesn't matter. We'll
11 work it out.
12 MR. COLE: Thank you, Your Honor.
13 THE COURT: Okay. Yes, sir.
14 MR. RAFFINI: Thank you, Your Honor.
15 The Plaintiff would call Harold Brock.
16 THE CLERK: If you would, please, come forward and
17 raise your right hand.
18 WHEREUPON,
19 WILLIAM HAROLD BROCK, JR.,
20 after first having been duly sworn, testified as follows:
21 THE CLERK: Thank you, sir.
22 Please take a seat at the witness stand.
23 And if you would, please, state your name. And spell
24 your last name for the court reporter.
25 THE WITNESS: Harold Brock, B-R-O-C-K.

1 THE CLERK: Thank you, sir.
2 THE COURT: Okay.
3 MR. RAFFINI: Thank you, Your Honor.
4 May it please the Court.
5 DIRECT EXAMINATION
6 BY MR. RAFFINI:
7 Q Mr. Brock, can you give us your full name, please?
8 A William Harold Brock, Jr.
9 Q And what do you do for a living, sir?
10 A I build retaining walls, grading, a little bit of
11 landscape, general landscaping.
12 Q Do you have a company that you work through?
13 A Brock Landscape Contractors, LLC.
14 Q And who are the owners of that company?
15 A Me, myself.
16 Q Okay. So there's only one member of the LLC; is that
17 right?
18 A Yes, sir.
19 Q Okay. How long have you been in business?
20 A 37 years.
21 Q And you've been doing the same thing that entire
22 time?
23 A Yes, sir.
24 Q Okay. Now, how do you know the Abernathys?
25 A A friend of mine told me about he had his dump truck.

1 I called and asked him who I could get. And he told me
2 about Mike. And I called Mike. And he worked on one of
3 my dump trucks at first.
4 Q And that would be the Defendant, Michael Abernathy;
5 is that right?
6 A Michael Abernathy.
7 Q Okay. And so do you remember about when it was you
8 had Mr. Abernathy do the work for you?
9 A It was probably in early '17 -- 2017 or '18.
10 Q Now, did he work for you more than one time?
11 A Yeah. He -- he fixed some -- some buckets for me.
12 He fixed some mast on my forks that we pick up retaining
13 wall blocks with.
14 Q Now, how did it work when you were having
15 Mr. Abernathy work on your equipment?
16 A He'd -- he would give me an invoice. And I'd write
17 him a check and pay him.
18 Q Okay. And when he gave you an invoice, what was the
19 basis of the charges?
20 A You know, he'd charge me for welding on a bucket or
21 putting some extensions on a set of forks on the mast of
22 the forks.
23 Q Well, let me ask it this way, did he charge you by
24 the job or by the hour?
25 A He charged me by the hour.

1 Q And do you remember how much he charged you by the
2 hour?
3 A $95 an hour.
4 Q Now, what about in situations where there were parts
5 involved. How did that work?
6 A There never was really any parts. He pretty much,
7 you know, had some metal or something, you know, had to
8 beef a bucket up, or -- or weld a tooth back on, or, you
9 know, he -- he provided the metal for the mast to, you
10 know, extend the height of the mast of the -- of the
11 forks.
12 Q Now, on several occasions where you had him do work
13 for you, did the process always work the same?
14 A Yes, sir.
15 Q And when he presented you with an invoice, what would
16 you do?
17 A I would write him a check. Basically, I would send a
18 check to Larry to pick up whatever he'd welded for me.
19 And he would, you know -- he would have the invoice.
20 Q So how long between the time you got the invoice and
21 the time you made payment?
22 A I paid him during the time that I picked the stuff
23 up.
24 Q All right. Now, how did you come to do work for the
25 Abernathys?

1 A You know, during the time that he was working on
2 stuff, he asked me -- told me he wanted to build him a
3 shop. And he kept talking about that, you know. He
4 said he -- you know, would I be interested in helping him.
5 And I said, Yeah. We'll look at it, you know.
6 So he started off talking about he needed some dirt.
7 And I kind of pointed him to a direction to get some dirt
8 pretty close by there. He talked to me. He said there
9 was a farmer that had some dirt up the street that was
10 going to let him have some dirt.
11 So we went up there and talked to the farmer. And
12 the farmer showed us to the location he said we could get
13 some dirt. So he, you know, basically, told the guy he
14 was going to get about 15 loads starting off.
15 Q Now, did you look at Mr. Abernathy's property?
16 A Yeah. I looked at the -- the load -- the area we was
17 filling in to build his shop.
18 Q Now, when you say "filling in," help me out. What
19 needed to happen before a shop could be built?
20 A Oh, we had to kind of drug [phonetic] it out a little
21 bit to get all the stuff down in the bottom that had been
22 sitting there for a long time and push it out to one side
23 and, basically, use the Bobcat to do that with before we
24 started coming up with the dirt.
25 Q Now, could a shop have been built at that location --

1 A No, sir.
2 Q -- without any movement of dirt?
3 A No, sir.
4 Q Now, at that time, did you and Mr. Abernathy -- and,
5 again, I'm talking about Mike Abernathy. Did you talk
6 about what you were proposing as far as working for him?
7 A Yeah. I mean, I gave him some hourly rates of my
8 bulldozer, compactor, and my loader, and my dump trucks.
9 Q And so was that going to be the basis of your
10 agreement with him?
11 A Yes, sir.
12 Q And did you reach an agreement on how you were going
13 to charge him for this job?
14 A I never -- never gave him a set amount. I just told
15 him I could do an hourly. Because I didn't really know
16 how much it was going to take of the soil to go in there.
17 Q Did he ask you for a set amount?
18 A No, sir.
19 Q Okay. But did you have a contract with Mr. Abernathy
20 at that point?
21 A No, sir. We just had a verbal agreement.
22 Q Let me put it to you like this, did he offer to let
23 you do work at his property?
24 A Yes, sir.
25 Q And did you accept that on the terms that you just

1 talked about?
2 A Yes, sir.
3 Q Okay. Now, about when did you start working at
4 Mr. Abernathy's property?
5 A Early May.
6 Q And how long did you expect this project to take?
7 A Well, there was a lot of factors there on -- on the
8 dirt, you know. We were going to need a considerable
9 amount of dirt.
10 So, basically, you know, he told the guy he was going
11 to get 15 loads. And then the guy was riding around on
12 his four wheeler shaking his head the whole time I'm
13 getting the dirt. And so I, you know, basically -- you
14 know, he says, How much more are y'all going to get?
15 And, you know, we kept getting a little more, a
16 little more. So he, basically, kind of cut us off, you
17 know. I had to go back there and talk to him and said,
18 Hey, you know, I'm going to build a sloping pasture like
19 this if you'll let us get some more.
20 So, basically, I pushed him for about 50 loads of
21 dirt before I called the dump trucks in.
22 Q Now, were you out there every day, every week
23 consistently while you were working for the Abernathys?
24 A I'd -- I'd work there a couple days a week. And I
25 was, basically, trying to do this in my spare time, as a

1 friend, to help him out, you know. I wasn't charging like
2 I would be charging somebody else.
3 Q Okay. So tell me, how did your charges in this case
4 differ from any other job you might do?
5 A Well, I'm, basically, charging for whatever equipment
6 was -- was working, you know. Like, I have a roller down
7 there and a bulldozer. If we wasn't using it, I didn't
8 charge him by the hour. Anybody else would have charged
9 for the job.
10 Q So if you were doing a normal job, was -- were you
11 charging him more or less?
12 A I charged him less. I didn't even charge him a
13 mobilization for my equipment.
14 MR. RAFFINI: Your Honor, if I could retrieve
15 Plaintiff's Exhibit No. 1.
16 THE COURT: Sure.
17 MR. RAFFINI: And approach the witness.
18 THE COURT: Sure.
19 BY MR. RAFFINI:
20 Q Mr. Brock, I'm going to hand you what has already
21 been admitted as Plaintiff's Exhibit No. 1. If you'll
22 just take a look at that for me.
23 A (Witness complied.)
24 Q All right. If you could just tell us what that is,
25 please.

1 A This is, basically, my invoice that was created from
2 some timesheets that I had that my secretary summarized
3 and created this invoice.
4 Q All right. Well, I'm not going to take you through
5 every single item on there. But just give me a little bit
6 of information about some of these line items on there,
7 please. Start with -- start with the first one there.
8 When you say dump truck, what does that mean?
9 A That was the dump truck that we loaded to tote the
10 dirt from point A to point B from Ronnie's property to
11 Mike's property?
12 Q And when you have an amount of time by hour on there,
13 how is that information obtained?
14 A By keeping up with the time of the truck.
15 Q And so would the same be true for each piece of
16 equipment listed?
17 A Yes, sir.
18 Q Okay. Now, when was this document prepared?
19 A At the very end of the job.
20 Q Now, how are you keeping track of these totals along
21 the way?
22 A I have timesheets.
23 Q And so was this document prepared from those sheets?
24 A Yes, sir. My secretary summarized them and put them
25 on this document.

1 Q Now, on your invoice here where you have an
2 indication for loads, tell me what that is, please.
3 A That's, basically, how many loads we hauled that day.
4 Q And were you charging Mr. Abernathy per load?
5 A No, sir. I was charging my hourly rate from the
6 trucks that I used.
7 Q Why was that information about loads recorded on
8 there?
9 A Well, I just wanted him to be able to keep up with
10 how many loads I'd hauled that day.
11 Q Okay. Now, who did you have working for you on this
12 project?
13 A Larry Helms was driving the dump truck. I had a guy
14 name Ricky Sweet running a bulldozer. And when Ricky
15 wasn't around, I had Dennis Rankin there. And then I
16 had -- Larry would ride the roller once we got finished
17 with the dirt.
18 Basically, what I would do is push the dirt up in a
19 pile, haul it. And then we'd spend the rest of the day
20 spreading it and rolling it in.
21 Q Did you employ that wasn't -- excuse me. I take that
22 back.
23 Did you have anybody working on this project that
24 wasn't an employee of yours?
25 A Yeah. I hired -- I leased some trucks out from 23

1 Logistics and NW White. But I, basically, used 23
2 Logistics more than NW White.
3 Q Tell me how that worked, please.
4 A You know, I, basically, would get the dirt in a pile.
5 And I would call them and tell them I needed two trucks
6 and we would start loading the trucks out and transport it
7 down the street and dump it.
8 Q And how often were they on -- on this job site?
9 A You know, I would call them once I got a -- you know,
10 once I worked something out with Ronnie on getting some
11 more dirt, I would, basically, push the dirt in a pile.
12 And then I would get the trucks lined up.
13 Q When you say "Ronnie," do you mean Mr. Dawson?
14 A Mr. Dawson.
15 Q And is that where all the dirt from this project came
16 from?
17 A Yes, sir.
18 Q Did you ever have to pay Mr. Dawson anything for the
19 material?
20 A No, sir.
21 Q Okay. So you weren't using contractors every day; is
22 that right?
23 A I wasn't using them every day. I would, basically,
24 have to schedule and find out when they had somebody
25 available once I had the dirt pushed in a pile.

1 Q Okay. And so the contract companies on -- on days
2 during this project, would -- could they have been working
3 for other contractors as well?
4 A Well, 23 Logistics was working down the road there
5 for Parker at the steam plant. And I, basically, knew he
6 was close by that, you know -- that, you know, once he got
7 cut off down there, I could get him to come up there and
8 use his trucks the rest of the day.
9 Q So directing your attention back Plaintiff's Exhibit
10 No. 1 there, when you have an indication of 23 truck, can
11 you tell me what that means, please?
12 A You say 23 trucks?
13 Q Yeah. Where it says, 23 trucks. If you'll take a
14 look at -- it looks like on May the 3rd there.
15 A Yeah. That was 23 Logistics trucks.
16 Q And so when you had that on this invoice, that's to
17 indicate who was doing the work?
18 A Yeah. That's who was hauling that day.
19 Q Okay. Just a couple other specifics for you. If you
20 can look at Page 3 for me, Mr. Brock. Look there to
21 September 26th where it says, Crusher run. Can you tell
22 me what that is?
23 A Well, I -- at the very end of the job, I asked him
24 did he want me to, you know, grade out the -- his entrance
25 way since we had been coming in and out, you know. So

1 when he got ready to pour his concrete, I asked him did he
2 want me to give him some crush and run to make him a
3 driveway. That way, you know, when the concrete truck
4 comes in or people is working, they're not tracking mud
5 out on the road or tracking it in his building once he's
6 poured the concrete.
7 Q And when you say "him," who are you referring to?
8 A Mr. Abernathy.
9 Q Okay. Now, were you paid while you were working on
10 this project?
11 A Yeah. I asked Mr. Abernathy for a progress payment
12 in July in which he -- you know, he said no problem. And
13 he paid me.
14 Q Okay. And how much did he pay you at that time?
15 A He paid me $16,000.
16 Q How did he make the payment?
17 A He paid me in cash.
18 Q And what was the reason you were paid in cash?
19 A I have no idea. I mean, he -- he told me he would
20 pay me in cash.
21 Q And was that acceptable to you?
22 A That was acceptable to me.
23 Q Now, where did that amount come from, the $16,000?
24 A That was at the point of time -- that was how much I
25 had in the job, my hourly rates.

1 Q Okay. And was that explained to Mr. Abernathy at the
2 time?
3 A Yes, sir.
4 Q Okay. Did you receive any further payments for this
5 project?
6 A No, sir.
7 Q Okay. Now --
8 MR. RAFFINI: Pardon. I beg the Court's indulgence
9 for one moment here.
10 THE COURT: Okay. No problem.
11 BY MR. RAFFINI:
12 Q Now, you talked a little bit about Mr. Abernathy
13 doing some welding. Did he do any welding for you while
14 you were doing work for him?
15 A I had bought that screen machine. And I had asked
16 him to -- when Douglas brought the machine in there and
17 he -- you know, the machine had to be -- it's a huge
18 machine. So it had -- you know, all the things have to be
19 set out on it that's connected to it. It's got hydraulic
20 cylinders. And they have to open it up, basically.
21 Q And was that machine being used at Mr. Abernathy's
22 property?
23 A No, sir.
24 Q But he was doing the work on it while you were
25 working for him?

1 A Yes, sir.
2 Q Okay. Now, when did you finish working for
3 Mr. Abernathy on this project?
4 A Probably in about September.
5 Q Okay. And according to what you have on Plaintiff's
6 Exhibit No. 1 there, I believe there was one final item
7 there. Can you tell me about that?
8 A Yeah. He had told Mr. Dawson he was going to grass
9 his field when he got finished planting grass on it. So I
10 called Mr. Abernathy and asked him who was going to do it.
11 And I called the guy and asked him how he was going to do
12 that. And he said he was going to drag a chain link fence
13 around on the man's property.
14 And -- and so, you know, I, basically, called Ronnie.
15 And he said, Nah, I'm not going to let him do it like
16 that. I'll bring my tractor with a power rake. And I
17 came down there and run a power rake, you know, that day
18 and got everything levelled up for him.
19 Q But that was at Mr. Dawson's property; is that right?
20 A That was on Mr. Dawson' property.
21 Q And you have it on this invoice because it was
22 related to Mr. Abernathy's?
23 A Yes, sir.
24 Q Okay. The last tame you worked on Mr. Abernathy's
25 property, tell me where that's indicated here on your

1 invoice.
2 A When I put the crush and run in his driveway. That
3 would be on 9/26.
4 Q All right. Now, when you completed the work, did you
5 discuss that with Mr. Abernathy?
6 A Yeah. The day I got finished levelling out and power
7 raking Ronnie's field, I said, you know, Mike, I need to
8 get paid.
9 And he says to he -- he says, Well, how much do I owe
10 you? And I said -- you know, he said, I hope it ain't
11 going to be as much as it was the previous time.
12 I said, Well, probably just a little bit more.
13 And he said, That's highway robbery, man. I will
14 never do no business with you again. But I'll pay you. I
15 pay my bills, you know.
16 Q But you told him what to expect?
17 A Yes, sir.
18 Q Did you have an invoice at that time?
19 A No, sir.
20 Q Okay. So how did you make arrangements to get paid?
21 A You know, I kept, you know, calling and telling him I
22 needed to get my money. I needed to get paid. And pretty
23 much Jacob said he was in -- out of town and that he was
24 going to be coming back in town and he would get with me.
25 And he called me and, you know, asked me about coming down

1 there. And I took my invoice down there.
2 Q Okay. When you say, "down there," you're talking
3 about --
4 A Down to Mr. Abernathy's house.
5 Q Okay. And when you say "Jacob," you're talking about
6 Jacob Abernathy?
7 A Yes, his son.
8 Q Okay. And do you know about when you met with Jacob
9 Abernathy?
10 A It was probably early, you know, November.
11 Q And did you take anybody with you?
12 A I took Larry. He rode down there with me because he
13 was up at my office. And Ricky, who had worked down
14 there, he -- he -- he followed us down there.
15 Q Why did you take other people with you for this?
16 A Because I felt like there was going to be some
17 confrontation due to the fact that, you know, when I told
18 him that day how much he -- what he owed me.
19 Q So tell me that day -- when you meet to present the
20 invoice, tell me what happened.
21 A I pulled up and Mike wasn't around. Jacob walked out
22 with his brother. And I handed him this invoice. And he
23 told me he had an invoice for me. So I looked on the
24 invoice. And I said, you know, This is crazy. These --
25 these -- they didn't work on a couple of these things for

1 me --
2 Q Hang on. When you say you handed him an invoice,
3 that would be your invoice that's Plaintiff's Exhibit
4 No. 1?
5 A Uh-huh.
6 Q And when you say he handed you an invoice, was that
7 the invoice we've talked about that's Defendant's Exhibit
8 No. 6?
9 A Yes, sir.
10 Q Okay. I just wanted to clarify which invoice we're
11 talking about. So you can go back to telling me -- what
12 did you tell Jacob at that time?
13 A I looked at some of the items on there. And I said,
14 You never welded on a Bobcat boom for me. There were
15 several items on there that nothing was ever done. And
16 then when I seen the item of the 78 hours working on my
17 screen, you know, I really kind of blowed [sic] up, you
18 know.
19 Q And how much were you being charged per hour?
20 A $195.
21 Q And did that differ from your prior experience
22 with --
23 A Yes, sir.
24 Q -- Mr. Abernathy?
25 A Yes, sir.

1 Q Okay. How did that meeting end?
2 A It didn't end very good. I just told him that, you
3 know, I'd see him in court.
4 Q Did you get angry with him?
5 A Yes, sir.
6 Q And so neither one of you got paid that day; is that
7 right?
8 A That's right.
9 Q Okay. Now, soon thereafter, is that when you
10 initiated this action?
11 A Yes, sir.
12 MR. RAFFINI: If I can retrieve Plaintiff's Exhibit
13 No. 4, Your Honor.
14 THE COURT: Sure.
15 MR. RAFFINI: And approach the witness.
16 THE COURT: Absolutely.
17 BY MR. RAFFINI:
18 Q Now, Mr. Brock, I'm going to hand you what's already
19 been admitted as Plaintiff's Exhibit No. 4. Just take a
20 quick look and see if you can tell me what that is,
21 please.
22 A This is the mechanics lien I placed on Mr. Abernathy's
23 property.
24 Q Okay. And if you can look at the top and tell me
25 when that was filed.

1 A It was filed on 12/16/2018.
2 Q Okay. And so that was within the 90 days when you
3 told us you were last working on Mr. Abernathy's
4 property?
5 A Yes, sir.
6 Q Okay. Now, once you filed your lien, did you, also,
7 contact Mr. Abernathy?
8 A No, sir.
9 Q Did you retain counsel at that point?
10 A Yes, sir.
11 MR. RAFFINI: If I could retrieve Plaintiff's Exhibit
12 No. 5, Your Honor.
13 THE COURT: Sure.
14 MR. RAFFINI: And approach the witness.
15 THE COURT: Absolutely.
16 BY MR. RAFFINI:
17 Q Mr. Brock, if you can take a look at that for me,
18 please.
19 A Okay.
20 Q Can you tell me what that is, please?
21 A That's where I contracted with Kenison, Dudley &
22 Crawford to represent me in this case.
23 Q And did you ever receive a response to your demand
24 for payment?
25 A No, sir.

1 Q And did you ever receive any response about any work
2 that hadn't been done?
3 A No, sir.
4 Q Did you ever receive further payment?
5 A No, sir.
6 Q And so after that, that is when you initiated this
7 action; is that correct?
8 A Yes, sir.
9 MR. RAFFINI: Your Honor, we've already admitted
10 Plaintiff's Exhibit No. 6. I'm not going to ask the
11 witness -- I'd just ask that the Court take judicial
12 notice of that, even though it's an admitted exhibit.
13 It's the deed to the property in question here.
14 THE COURT: Okay.
15 MR. RAFFINI: Now, if I could retrieve Defendant's
16 Exhibit No. 6, Your Honor.
17 THE COURT: Sure.
18 MR. RAFFINI: And approach the witness.
19 THE COURT: Sure.
20 I assume no objection.
21 MR. COLE: No objection, Your Honor.
22 THE COURT: All right.
23 MR. RAFFINI: And before I do that, if I could get
24 the other exhibits back so we can keep track of them.
25 THE COURT: Yeah.

1 BY MR. RAFFINI:
2 Q I'll hand you Defendant's Exhibit No. 6 here. And if
3 you can take a look at that and tell me if you're familiar
4 with it, please.
5 A I am.
6 Q Okay. Can you tell me what that is?
7 A This is an invoice that was presented to me the day I
8 presented my invoice to Jacob Abernathy.
9 Q Okay. And so you indicated before there were a
10 couple of concerns about that. Let's -- let's kind of
11 talk through it. If you'll look at that first item there
12 at the very top.
13 A Yes, sir.
14 Q Tell me about that one, please.
15 A Basically, I was working on a bulldozer at my house.
16 And I had talked to Mike. And he said that they were
17 going to Walmart or Sam's. And I told him what I was
18 doing. And he came by there and helped me get a pin out
19 of a bulldozer I was working on.
20 Q Okay. So you admit he worked on a bulldozer?
21 A Yes, sir.
22 Q How long did that take?
23 A It probably took one or two hours.
24 Q And when he got done, did you talk to him about
25 payment?

1 A No, sir. I asked him what I owed him. And he said,
2 Don't worry about it.
3 Q And look at that second item on the list for me
4 there. Can you tell me about that?
5 A That was when I had a cylinder. It was leaking. And
6 Jacob came up there and helped us get the -- sometimes,
7 you have to heat the pins out to get them out. And he
8 heated the pins out so we could take it apart so we could
9 take it to southern [phonetic] and have it repacked.
10 Q But you admit Mike did something for you related to
11 that item; right?
12 A Yes, sir.
13 Q How long did it take him?
14 A It probably took an hour to heat it up and get the
15 pin out.
16 Q And when he got done, did you talk to him about
17 payment?
18 A No, sir.
19 Q Okay. What'd you say to him?
20 A I just pretty much loaded up the cylinder and took it
21 and had it repacked.
22 Q Okay. Take a look at that third item there.
23 A Okay.
24 Q Tell me what that is, please.
25 A That's at my house. And my gates were just a little

1 bit off and not lining up straight. So, you know, I'd --
2 I'd asked Mr. Abernathy one day about, you know, I needed
3 to look at them.
4 So one day, he told me he was going somewhere or he
5 was coming back from somewhere. He had his stuff on his
6 truck. He would stop by there. So, basically, he stopped
7 by there and heated up the hinges on it while I stood on
8 it, you know, and bounced on it until we got it to the
9 right position.
10 Q And so how long did y'all work on that?
11 A Probably an hour, at that.
12 Q And what is indicated on this invoice you have?
13 A 12 hours.
14 Q And when you got done helping him with the gate, did
15 you talk to him about paying him?
16 A Yeah. I asked him what I owed him then. He said,
17 Don't worry about it.
18 Q Now, was anybody else present when you were doing
19 that work with Mr. Abernathy that day?
20 A No, sir.
21 Q If you could look at the next item down there for me,
22 I believe, the fourth item on the list. Can you tell me
23 about that, please?
24 A That's where my screen arrived. And -- and Douglas
25 told me that, you know, there was some areas on there that

1 needed to be welded off. He asked me did I have somebody
2 to weld them. I said, Yes. So I called Mike. Mike came
3 up there and looked at -- looked at them.
4 Q When you say "Douglas," you're talking about
5 Mr. Merritt?
6 A Douglas Merritt.
7 Q And so you believe that item, at first, it was a
8 screen machine?
9 A Yes, sir.
10 Q And you acknowledge that Mr. Abernathy worked on that
11 piece of equipment for you?
12 A Yes, sir.
13 Q Okay. And how much work did he do on that piece of
14 equipment?
15 A Well, the first day, he was there for about five
16 hours. And, you know, he -- he needed some metal, or
17 something. And I think -- I had a bulldozer sitting right
18 there that -- I told him would he help me, you know, blow
19 the bolts off where I could flip the blade around, you
20 know, on a bulldozer when it gets -- it's double-sided.
21 So when it gets wore on one -- one side, you can always
22 flip it one more time to get some more life out of it.
23 Q Okay. How much work did he do on your machine?
24 A He did some welding for -- for Douglas. And, you
25 know, the -- the first day, he was by himself. The second

1 day, he brought Jacob Abernathy with him.
2 Q Okay. How much total between the two days?
3 A I'd say five hours one day, four hours the next.
4 Q And did you expect to pay him for that work?
5 A Yes, sir.
6 Q Did you ask him about payment for that work?
7 A I didn't ask him, but I felt that he would send me an
8 invoice. I wouldn't have asked him for nothing for free.
9 Q Why would you expect him to send you an invoice?
10 A Well, due to the fact that any other time that I'd
11 asked him to do something like that, the other times he
12 was, like, stopping by or, you know, his wife -- the day
13 he stopped for my bulldozer, his wife went up to my house
14 and sit up there and talked to my wife.
15 Q Okay. So when you say you expected an invoice, how
16 much were you expecting to be charged for that work?
17 A A thousand, $1,500.
18 Q And what's the basis of that?
19 A Well, due to the fact of how much he had to -- to
20 weld and -- and, basically, what he'd charged me before,
21 $95 an hour.
22 Q If you can take a look at the next item there
23 referring to a skid steer. Do you know what I'm talking
24 about?
25 A Yes, sir.

1 Q Can you tell me about that?
2 A That never happened.
3 Q Okay. When you say "never happened," are you saying
4 Mr. Abernathy never worked on a skid steer for you?
5 A No, sir.
6 Q So you don't know anything about that charge?
7 A No, sir. The only thing Mr. Abernathy would do for
8 work for me would be an attachment for a skid steer, like
9 a bucket or some forks.
10 Q Okay. Continuing on down there, it refers to a
11 patched track. Do you know anything about that?
12 A No, sir.
13 Q And so did Mr. Abernathy ever work on an item like
14 that for you?
15 A No, sir. You can't patch a bulldozer track.
16 Q Okay. And the final item on that page there, can you
17 tell me anything about that one?
18 A Yeah. The second time I had a cylinder leaking and
19 Dennis was down there working, Dennis Rankin. And he told
20 me that he had a cylinder down there that was leaking.
21 Well, Jacob took it off and took it and had it repacked
22 for us and put back on.
23 Q Okay. And so did you make any payment for that item?
24 A No, sir.
25 Q Why not?

1 A I never was presented an invoice.
2 Q Okay. And what would have happened if you had been
3 presented with an invoice?
4 A Well, I would have brought him a check the next day I
5 came down there.
6 Q Okay. Now if you'll flip to that second page for me.
7 If you'll look at that first item there.
8 A Uh-huh.
9 Q Can you tell me about that?
10 A I -- I never had a -- a trailer leave spring [phonetic]
11 welded on anything.
12 Q Okay. So you're saying Mike Abernathy never did that
13 work for you?
14 A No, sir.
15 Q Okay. Now, the last two items on that list there
16 referring to, I believe, the forklift and a -- and a
17 Bobcat, can you tell me about those entries, please?
18 A The forklift -- the forklift mast was cut and
19 repaired, plus materials. I had paid Mr. Abernathy when
20 he done that. I've got a copy of the check.
21 Q And when you say you -- you paid him, was that while
22 you were working on his property or --
23 A No, sir. This was previously when we took a bunch of
24 set of forks down there. Larry used to deliver the -- the
25 blocks. And, you know, he always worried about the blocks

1 falling in his lap with a Bobcat. So, basically, he
2 wanted them to be as tall as the pallet of the blocks.
3 That way, if anything fell back, it wouldn't be falling on
4 top of him.
5 Q So just to be clear, Mr. Abernathy didn't do that
6 same work at a later time?
7 A He did this -- he did this work at a previous time
8 before I ever started working for him.
9 Q Now, you've identified a couple of items on this
10 invoice that you expected to pay for; is that right?
11 A Yes, sir.
12 Q Why have you not made payment?
13 A I never was presented an invoice.
14 Q Okay. And when you say presented with "an invoice,"
15 what was your expectation for how you were going to be
16 charged?
17 A I figured, basically, the hourly rate. I told you
18 he, basically, charged me before, plus the time that --
19 that it took to -- to do the repairs.
20 Q Okay. Just a couple of kind of housecleaning
21 questions for you, Mr. Brock. You've talked about how
22 much you charged Mr. Abernathy. Is it similar to the
23 rates you charged on other projects?
24 A No, sir. I mean, I didn't charge him for the stuff
25 that wasn't running. If it was sitting on the job, I

1 didn't charge him for it. I didn't charge him for
2 mobilization of the -- of the equipment, you know.
3 I, basically, thought we had a friendship, you know.
4 I mean, him and his wife took me and my wife to an oyster
5 roast at a church. And, you know, I was -- I was,
6 basically, trying to help him. That's kind of the reason
7 I was doing this in my spare time.
8 Q As far as the rates you were charging him, are those
9 similar to the rates you would charge in other projects?
10 A No, sir. They're substantially lower.
11 Q So how would your rates compare to your rates
12 you're -- strike that.
13 The question is this: Are your rates consistent with
14 what are charged for similar work in this community?
15 A No, sir.
16 Q And how so?
17 A Well, due to the fact that I cut him a break. That's
18 due to the fact -- that's why I pushed the dirt up before
19 I called the trucks. That way, they weren't sitting there
20 waiting on me to dig it out of a bank and come up with the
21 dirt.
22 I mean, when you talk about working on a flat field
23 where you're having to push dirt down a hill to accumulate
24 some dirt. It's not like you had a stockpile of dirt you
25 could load out of.

1 So, basically, I wanted to get the piles of dirt in
2 place before I called the trucks.
3 Q Now, you filed a mechanics lien in this case. What
4 are you asking the Court to do?
5 A I just, basically, want to be paid. I'm a
6 businessman. I just want to get paid for what I did.
7 Q And if you don't get paid, are you asking the Court
8 to foreclose on the Abernathys property?
9 A Yes, sir.
10 Q Do you want to have to foreclose on their property?
11 A No, sir.
12 Q Now, you said you've been in business how long?
13 A 37 years.
14 Q And you've been a contractor that whole time?
15 A Yes, sir.
16 Q And so you're familiar with mechanics liens then?
17 A Yes, sir. But I never had filed a mechanics lien
18 before.
19 Q Your entire time as a contractor, this is the first
20 mechanics lien you've ever filed?
21 A Yes.
22 Q Okay. Now, if Mr. Abernathy would present you with
23 an invoice for the work you acknowledge he did, are you
24 still willing to pay him?
25 A Yes, sir. I mean, that's just common business, you

1 know. You do something for me, you know, I do something
2 for you and I -- you get paid, you know.
3 Q And just to clarify, the only payment you ever
4 received was the 16,000 in July of 2018; is that right?
5 A Yes, sir.
6 Q Okay. Is -- the total amount reflected on
7 Plaintiff's Exhibit No. 1, is that still the total amount
8 that is outstanding?
9 A Yes, sir.
10 MR. RAFFINI: All right. That's all the questions I
11 have right now. Please answer any questions Mr. Cole has.
12 THE COURT: Before you start, what was that amount?
13 THE WITNESS: What is that amount on there on my
14 invoice? 16,000.
15 MR. RAFFINI: It's on Page 3. But I can give it to
16 you, Judge. It's 16,711.31.
17 THE WITNESS: Yeah. I don't have that paper...
18 MR. RAFFINI: Your Honor, I do have additional copies
19 of Plaintiff's Exhibit No. 1 and Defendant's Exhibit No.
20 6, if you'd like them.
21 THE COURT: That would help. It's just easier than
22 trying to print off these printers.
23 Do you need a break before we start?
24 MR. COLE: No, Your Honor.
25 THE COURT: All right.

1 CROSS-EXAMINATION
2 BY MR. COLE:
3 Q So, Mr. Brock, as to your invoice, which is
4 Plaintiff's Exhibit No. 1, now, it appears that it just
5 lists a -- the dozer, loader, and roller as your pieces of
6 equipment that were used on this project; is that correct?
7 A There's a skid steer on there, too. But, basically,
8 the only thing I listed on there was what was being used.
9 Q Could you tell me when the skid steer -- where the
10 skid steer is on Plaintiff's Exhibit No. 1?
11 A I don't have that in front of me.
12 MR. COLE: May I approach, Your Honor?
13 THE COURT: Oh, sure.
14 BY MR. COLE:
15 Q Mr. Brock, this is Plaintiff's Exhibit No. 1. Would
16 you tell me where the skid steer is listed as a piece of
17 equipment that you used?
18 A I don't have it listed on here, no, sir.
19 Q But was the skid steer used on the property?
20 A Yeah. I had a skid steer down there. Because, you
21 know, we'd straight up with the skid steer, you know. I
22 didn't list it as any time on there.
23 But I used the skid steer to, basically, straighten
24 up. Because you can do a lot of finish grade work with
25 it. And during the times when the -- when the -- that

1 dozer was broke down, we had to use something to push dirt
2 with it.
3 Q So you said you did previous work -- or I'm sorry,
4 that Mr. Abernathy -- Mike Abernathy did previous work for
5 you prior to this deal; is that correct?
6 A Yes, sir.
7 Q But the -- as far as this deal is concerned, isn't it
8 correct that you and Mike Abernathy had an agreement that
9 you would perform this dirt removal and putting it onto
10 his property for him and he would perform welding services
11 for you during this period of time in 2018?
12 A No, sir. We never had an agreement like that.
13 Basically, our agreement was I -- I, basically, told him
14 what I would charge him for an hourly rate.
15 So why would I be having an agreement like that?
16 Q And isn't it true, Mr. Brock, that you -- you told my
17 client, Mike Abernathy, that he would -- you would just
18 charge him for the third-party trucks that you were having
19 to rent out. You would just charge him for your cost.
20 And that he would charge you $195 an hour for welding?
21 A I never -- never heard the 195. All I told him I
22 would charge him for was what the trucks cost. And that's
23 what I charged him for.
24 Q And you also -- isn't it, also, true that it was in
25 October of 2024 when you first asked Mike Abernathy for

1 $16,000?
2 A No, sir. I asked him -- I needed -- told him I
3 needed a progress payment in July. And he said, Well, how
4 much do you need? And I told him. And he said, Okay,
5 give me a couple of days and I'll get it for you. And he
6 did. He gave it to me in cash.
7 Q And when Mike Abernathy paid you, you told him
8 something to the effect of, Mike, I know I owe you a lot
9 of money; is that correct?
10 A No, sir. I mean, why would -- why would I say that
11 when I've been paying him any time he did any work for me?
12 I mean, I got paid -- I've got checks in my -- you know,
13 you've -- you've got all that.
14 Q And -- but, regardless, when he paid you, you never
15 gave him an invoice for that $16,000?
16 A No, sir. I didn't -- I didn't really think I had to.
17 I mean, I felt like he was a friend of mine. And I was
18 trying to help him out by doing this work down here for
19 him.
20 Q And then --
21 A I mean, this -- this job should have lasted two
22 months, if we could have got the dirt. But, you know, we
23 had to wait on the dirt, you know, to be able to make the
24 deal with the guy to get the dirt.
25 Q But isn't it true, Mr. Brock, that you -- the amount

1 of time you, actually, spent working on this property
2 would have been over a period of two months or less?
3 Isn't that right?
4 A No, sir. You know, the way -- the way this job
5 worked -- if I would have done this job for somebody else,
6 I would have had the dirt already in a stockpile so where
7 I would have probably went with the dirt -- I told
8 Mr. Abernathy it was -- because it was sitting over there
9 in a stockpile.
10 All I had to do was load it and haul it. I didn't
11 have to push it down a hill or -- and try to get -- come
12 up with dirt, you know. This guy had a flat pasture with
13 a little bit of rise in it. And I pretty much had to push
14 the dirt down the hill to accumulate some dirt so we could
15 have enough dirt to use.
16 Q But don't you agree, you didn't start digging dirt
17 until around September 2018? Don't you agree with that?
18 A No, sir. I started digging -- I started -- started
19 digging dirt in May.
20 Q When you -- you testified that you met Jacob
21 Abernathy for him to give you his invoice and then you
22 gave him an invoice; is that correct?
23 A I never expected to get an invoice from
24 Mr. Abernathy. I -- basically, he told me if I'd come
25 down there, he'd pay me.

1 Q But when you came down there, you do agree that
2 before you gave him an invoice, he gave you an invoice?
3 A No, sir. I brought my invoice out and handed it to
4 him. And he said, Well, I've got a little invoice for you
5 too. And that's when he handed me the invoice and I
6 looked over the invoice.
7 Q And the invoice that you handed to Jacob Abernathy
8 that day, that invoice was for the total amount of
9 $16,857; isn't that correct?
10 A Yes, sir. Because I had took off the payment he
11 made.
12 Q However, after you saw his invoice and it was over
13 $30,000 -- or it was about $30,000, you came back later
14 and prepared this new invoice that you've presented today
15 that was for over $30,000; isn't that correct?
16 A No, sir. It's the same invoice I -- I gave him the
17 first time.
18 Q And this invoice is completely accurate?
19 A Yes, sir. He, basically, got the same invoice and
20 showed where he had -- you see a balance forward on the
21 second page where he made a payment. He's only got one
22 invoice.
23 Q But you agree that you testified there was a skid
24 steer used and it's not listed anywhere; right?
25 A Yes, sir, I did. Because I had a skid steer down

1 there when I first started to kind of drug up and clean
2 up. There was a lot of wood, and trees, and some stuff
3 that had been laying there for a while. I had to push
4 them out of the way. You can't put dirt on, you know,
5 organic material and let it rot. Then you're going to
6 have sediment [phonetic].
7 Q And you agree that on this -- on the last entry on
8 this invoice that you listed the tractor with the power
9 rake and five hours worth of work that was done on Ronnie
10 Dawson's property; isn't that correct?
11 A Yes, sir. Because I had made a commitment to
12 Mr. Dawson that everything Mr. Abernathy told me he was
13 going to do for Mr. Dawson, it was going to be done right.
14 Q And --
15 A Mr. Dawson was -- was good enough to give
16 Mr. Abernathy all the dirt without charging him.
17 Q And you agree that my client didn't authorize you to
18 do this last work on October 19th for those five hours?
19 Don't you agree to that?
20 A He never -- he never objected to it either. He
21 watched me unloaded the machine and watched me run the
22 machine.
23 Q And then, also, as far as the third party that you
24 used, you used 23 -- 23 Trucking; is that correct?
25 A 23 Logistics.

1 Q 23 Logistics. And that's the only third party that
2 you used to, basically, contract out this work to; right?
3 A I used NW White, too.
4 Q And -- and NW White's not listed on this invoice, is
5 it?
6 A No, sir. Because I didn't -- they only hauled for me
7 one time.
8 Q And you're -- 23 Logistics, at the time, leased
9 property from you, didn't they?
10 A Yes, sir.
11 Q And so they gave you a deal because they lease from
12 you; right?
13 A No, sir. If I was -- if they was giving me a deal, I
14 would be giving them a deal on their lease of the
15 building. I just knew that they were available because
16 they had to come -- they were working at Lee's Steam plant
17 down there for Harper Corporation.
18 Q Now, let's go back to the invoice that my client gave
19 to you, which is Plaintiff's [sic] Exhibit No. 6. And do
20 you have a copy of that in front of you?
21 A I do.
22 Q So with that invoice, you have -- you agreed that my
23 client has done -- did some of the work that's listed on
24 there; isn't that right?
25 A Yes, sir.

1 Q As you went through in detail in your testimony?
2 A Yes, sir.
3 Q And -- but you said that my client did not do any
4 work on the Bobcat for you; is that right?
5 A No, sir.
6 Q Did my client do any work on a Bobcat for you?
7 A No, sir. No, sir.
8 Q And you were in the courtroom when Larry Helms
9 testified that he took a Bobcat on your behalf to my
10 client on two different occasions; isn't that right?
11 A Yes, sir. But there's a bucket attached to that
12 Bobcat. It's called a Bob-Tachment [phonetic]. And
13 that's what Mr. Abernathy welded on.
14 Q So --
15 A Your Bob -- your Bobcat don't need to be welded on.
16 It's never wore and use to be -- have wear and tear on it.
17 Q So you agree then that they worked on the Bobcat
18 bucket; is that right?
19 A Yes, sir.
20 Q And then -- and on this -- you agree they worked on
21 the Bobcat boom there; right?
22 A Yes, sir. I paid them for that, not the boom, but
23 the forks. He never agreed -- he never done any welding
24 on my boom on my Bobcat.
25 Q So you --

1 A In fact -- in fact, Larry was -- was carrying that
2 piece of equipment to a job for me. And he told me that
3 the bucket had a crack in it. But I -- he run by Mike's
4 and Mike welded it.
5 Q So you agree that he did perform work on attachments
6 to your Bobcat --
7 A Yes, sir.
8 Q -- that are listed on this invoice?
9 A Previously, he did, previously, where I had paid him.
10 And you should have the checks and the invoice that was
11 paid.
12 Q When was that?
13 A From the time I met Mr. Abernathy, he welded on my
14 dump truck, you know. It probably started in '16, '17,
15 right in that area.
16 Q So, regardless, you have agreed that you do owe my
17 client some money?
18 A I feel like I owe him a reasonable amount of money,
19 based off the work he did do for me, yes, sir.
20 MR. COLE: Your Honor, may I beg the Court's
21 indulgence for just a second?
22 THE COURT: Absolutely.
23 (Pause.)
24 MR. COLE: No further questions, Your Honor.
25 THE COURT: Anything on redirect?

1 MR. RAFFINI: Just briefly, Your Honor.
2 REDIRECT EXAMINATION
3 BY MR. RAFFINI:
4 Q Mr. Brock, when you're talking about a skid steer --
5 skid steer -- excuse me -- why didn't you charge
6 Mr. Abernathy for a skid steer?
7 A You know, that's something that I kind of had it down
8 there. I didn't use it that much. But it's there
9 because, you know, Dennis was used to running a skid steer
10 than a bulldozer. And we had problems with that
11 bulldozer. We had the skid steer there to back up the
12 bulldozer, you know. When we're hauling this dirt, we've
13 still got to keep moving.
14 Q So was it used on a regular basis?
15 A No, sir. We just used it -- I mean, you, basically,
16 use a skid steer to do finish work. So, like, you know,
17 you get finished at the end of the day and want to slick
18 something off, so if you've got rain coming or something,
19 you want to slick it off. And you can do it a lot better
20 than with a bigger piece of equipment.
21 Q Now, if you had charged him for use of the skid
22 steer, would that have made his final bill higher or
23 lower?
24 A It would have made it higher.
25 Q Okay. Now, Mr. Cole was asking you about money you

1 may owe Mr. Abernathy. And in summarizing the items on
2 this invoice, you've identified, I believe, three. The
3 first three items were you believe he welded for about an
4 hour. Does that sound correct?
5 A Yes, sir.
6 Q And then on your rock machine, you indicated you
7 think he spent about nine hours on that; is that correct?
8 A Yes, sir.
9 Q And then you identified on the hydraulic cylinder one
10 to two hours. Does that sound correct?
11 A Yes, sir.
12 Q And so to be fair, we could maybe use two hours on
13 that. Is that all right with you?
14 A Yes, sir.
15 Q So that would be a total of about 14 hours you've
16 identified that you agree to; is that correct?
17 A Yes, sir.
18 Q And so what charges do you think would be
19 appropriate?
20 A $95 an hour. That's what's on my invoice that I had
21 paid.
22 Q Now, if Mr. Abernathy would present you with an
23 invoice for that amount, what would you do?
24 A I would pay him.
25 MR. RAFFINI: If I could approach the witness, Your

1 Honor.
2 THE COURT: Sure.
3 BY MR. RAFFINI:
4 Q Mr. Brock, I'm going to hand you a two-page document
5 there. If you could take a look and see if you can
6 identify that for us, please.
7 A That's where Mr. Abernathy in 2017 welded on my
8 buckets and two -- and two forks, you know.
9 Q And that's on Page 1. What's on Page 2?
10 A It's a copy of the check I paid Mr. Abernathy.
11 Q Now, when Mr. Cole was asking you about work on
12 the -- the Bobcat parts, is this the invoice you're
13 referring to?
14 A Yes, sir.
15 Q What is the date on the invoice?
16 A January 17, 2017.
17 Q And what is the date of payment?
18 A 1/17.
19 Q And so was it, in fact, paid the same day it was
20 presented to you?
21 A Yes, sir.
22 Q Now, on that first page there, if you'll look at the
23 top. What was the basis of the charge identified?
24 A $95 per hour.
25 Q And you've already testified that's consistent with

1 every invoice you got from Mr. Abernathy?
2 A Yes, sir.
3 MR. RAFFINI: Your Honor, I'd like to have this
4 marked and admitted as Plaintiff's Exhibit No. 7.
5 THE COURT: Any objection?
6 MR. COLE: No objection, Your Honor.
7 THE COURT: Without objection.
8 (WHEREUPON, Plaintiff's Exhibit No. 7 was marked for
9 identification and admitted into evidence.)
10 MR. RAFFINI: If I could retrieve the exhibit from --
11 THE COURT: Sure.
12 MR. RAFFINI: That's all the questions I have, Your
13 Honor.
14 THE COURT: All right. Sir, you can step down.
15 Let's take a 10-minute break so everybody can stretch
16 a little bit.
17 How many more -- you've got two more?
18 MR. RAFFINI: I'm going to rest, Your Honor.
19 THE COURT: All right. We'll take 10 minutes and be
20 right back.
21 (WHEREUPON, a break was taken.)
22 THE COURT: All right. Did you say you were resting?
23 MR. RAFFINI: Yes.
24 THE COURT: Okay. Any motions you want to make just
25 pro forma?

1 MOTIONS

2 MR. COLE: Yes, Your Honor. I would like to make
3 a -- a motion for directed verdict at this time, Your
4 Honor. And the basis for it is as -- I'm just making it
5 as to the Plaintiff's cause of action for foreclosure of
6 the mechanics lien.
7 The -- the invoice that was presented today as an
8 exhibit was attached to the mechanics lien and referenced
9 in the mechanics lien that was filed. It was filed with
10 verification that it was accurate and true pursuant to --
11 which is required, as the Court knows, pursuant to
12 29-5-90.
13 However, the testimony -- the totality of the
14 testimony in the Plaintiff's case I would say,
15 specifically, from the Plaintiff, Mr. Brock, was that
16 there were inaccuracies in this -- in this verification
17 and that the inaccuracies were brought up as far as
18 equipment that was on the property as far as the scope of
19 work that was done. And those inaccuracies were echoed by
20 the other witnesses.
21 And I understand, Your Honor, obviously, the next
22 section that -- 29-5-100 that it's not a -- that by itself
23 is not enough to make it inaccurate, unless it could be
24 shown that the -- it was willfully charged more than what
25 was owed.

1 And I think we have that, Your Honor, in this
2 situation with this last item on the -- the invoice, this
3 tractor with power rake that the Plaintiff admitted it was
4 used on Ronnie Dawson's property without the consent of
5 the -- of my clients.
6 It was on Ronnie Dawson's property. It was not on my
7 clients property. And that resulted in a $625 additional
8 charge to my client. I think that combined -- even though
9 that's not that much of an additional charge, that
10 combined with the admission that there were other
11 inaccuracies in this would be enough to invalidate that
12 part of the cause of action.
13 Now, he still would have his other causes of action
14 as far as the breach of contract, and then the other
15 things. However, I believe we're entitled to a directed
16 verdict on the foreclosure of the mechanics lien.
17 THE COURT: Yes, sir.
18 MR. RAFFINI: Your Honor, the testimony from the
19 Plaintiff was that he willfully charged less for his work.
20 And that he had equipment that he didn't charge for. That
21 it was out there and it was for a limited period of time.
22 And that -- that was his testimony is that he was
23 willfully charging less. The omission of items that he's
24 not charging for doesn't render an invoice inaccurate.
25 And the final -- final item on there reflects work to

1 restore land where dirt was removed for the unquestionable
2 benefit of the property that is being improved. I think
3 that's inherent from his entire testimony that everything
4 he's doing, hauling dirt, moving dirt -- of course, the
5 moving of dirt is down the roadway. But it's coming to
6 the property where the mechanics lien is attached. All
7 for the purpose of improving that property.
8 I agree with Mr. Cole that the minor inaction would
9 not invalidate the entire thing. But, again, the
10 testimony reflects, if anything, that if there are
11 inaccuracies here, it's because it's to the benefit of the
12 Defendant, which I don't think would be the basis for
13 invalidating a mechanics lien.
14 THE COURT: Okay. Well, what I'm going to do at this
15 point -- most likely, I'm going to deny your motion. But
16 you're protected for the record. Most likely, I will -- I
17 am going to reduce any judgment by that amount for that
18 piece of equipment. I think that's fair.
19 Now, after I hear the rest of the testimony, I don't
20 know if someone else -- now, just so I'm caught up, the
21 allegation is that there's a bill for $16,711 with $31 and
22 minus whatever that piece of equipment -- $650 from Brock
23 Landscaping.
24 And then the counter claim is for $28,080?
25 MR. COLE: Yes, Your Honor, in addition to -- well,

1 we have the -- also, the cause of action for slander of
2 title. So we have damages for --
3 THE COURT: I got you. I got you. Okay.
4 All right. So you're protected for the record. But
5 I'm going to deny your motion right now.
6 MR. COLE: Your Honor, could I beg the Court's
7 indulgence? I had a piece of paper within the last five
8 minutes that I've somehow -- if I could ask the Court --
9 THE COURT: It's almost magic the way that happens.
10 No, I understand. Just take a minute.
11 (Pause.)
12 THE COURT: Okay. Yes, sir.
13 MR. COLE: Thank you, Your Honor.
14 I would like to call Jacob Abernathy.
15 THE COURT: Okay.
16 THE CLERK: Come forward and raise your right hand.
17 WHEREUPON,
18 JACOB BRITT ABERNATHY,
19 after first having been duly sworn, testified as follows:
20 THE CLERK: Thank you.
21 Please take a seat there at the witness stand.
22 If you would, please, state your name. Spell your
23 last name for the court reporter.
24 THE WITNESS: Jacob Britt Abernathy. Abernathy,
25 A-B-E-R-N-A-T-H-Y.

1 THE CLERK: Thank you.
2 THE COURT: Okay. Yes, sir.
3 MR. COLE: Thank you, Your Honor.
4 May it please the Court.
5 DIRECT EXAMINATION
6 BY MR. COLE:
7 Q Mr. Abernathy, you may want to step back just a
8 little from the microphone.
9 Mr. Abernathy, during the -- all the time at issue in
10 this case, what did you do for a living?
11 A I work with Abernathys Welding, which is now
12 Abernathys Fabrication & Maintenance. My dad started the
13 company before I was born. I was raised in it.
14 Q And is that where you still work?
15 A Correct.
16 Q And what do you know about the project that's the
17 issue of this case?
18 A I know everything about it. I was there the entire
19 time. Me and my dad -- which he's my best friend. We
20 work together every day. We talk about jobs and issues
21 we're having, our projects that are upcoming, or so forth.
22 Q And what is your understanding of the agreement
23 between your father and Mr. Brock?
24 A Well, the agreement with Mr. Brock and my dad, that
25 started in -- let's see here -- I want to say that was --

1 we met Mr. Brock at a church function, an oyster roast in
2 2016. 2017, first -- right there at the end of the
3 month -- end of the year in 2016, we did a job, and then
4 another job the first of 2017 which was 1/17, a check that
5 he wrote my dad.
6 Further on, we -- further on in the year, we decided
7 to build a shop and further expand our business and grow.
8 And we had met Mr. Brock at an oyster roast. And we
9 thought that, you know, we welded on his stuff before and
10 thought that that would be a benefit for both of our
11 parties for -- you know, if he needed work done and we
12 needed work done. And we could work together on
13 something.
14 And we had asked Mr. Brock if, you know, he could,
15 you know, do that for us. And it went on months and
16 months looking for some dirt, trying to figure out the
17 best pricing. And, you know, we had gotten prices from
18 multiple companies on, you know, buying the dirt from them
19 and having it delivered.
20 And a neighbor of ours said that, you know, they
21 would be more than happy to give us the dirt that we
22 needed to build our shop to further expand our business.
23 The agreement was, you know, with the work that was
24 performed by Abernathys for Mr. Brock was -- you know,
25 there's a reason -- you know, nobody works for free.

1 There's a reason why there was no amount of money
2 issued, or anything like that. Because there was an
3 agreement of the understanding that both parties knew that
4 there was going to be work performed for both parties.
5 So work that was performed through Abernathy that
6 there was no invoice given at the time. There was an
7 amount told at that time through that and was down through
8 Abernathys. I was told later -- at a later date that, you
9 know, if somebody's memory was good and that they could
10 remember everything -- I'm -- I'm young. I can't remember
11 everything. I write things down.
12 But I was told that they were going by the memory of
13 the prices and costs of things that were done and issued.
14 And we just can't do that, you know. We're a business.
15 And we have to be professional in what we do and what we
16 perform on peoples equipment, let alone the cost of the
17 equipment that we work on.
18 Q Let me ask you this, Mr. Abernathy, is -- as part of
19 the agreement -- the agreement that's the subject of this
20 case, what year was that agreement -- what year did the
21 agreement and the performance by each side on that
22 agreement take place in?
23 A The agreement between Abernathys and Mr. Brock, that
24 was in 2018. Anything before that, which is the check
25 that he wrote my father was before any agreement was made

1 and before we even knew that we were going to build a
2 shop. We were still a small outfit and had just a few
3 employees. And we didn't know at that time that we were
4 going to grow as much as we -- we have.
5 MR. COLE: May I approach the witness, Your Honor?
6 THE COURT: Sure.
7 BY MR. COLE:
8 Q Mr. Abernathy, this has been admitted as Plaintiff's
9 Exhibit No. 7. Do you recognize that document?
10 A Yes, sir, I do.
11 Q And the work -- that document, when was the work done
12 that was -- that that document is invoicing for?
13 A This invoice was wrote the day of -- that my dad
14 worked on the bucket and forks of Mr. Brock's equipment.
15 And, for the record, the buckets and forks were not
16 attached to any equipment at this time. It was just --
17 it's an attachment, as Mr. Brock said. And that
18 attachment was not on a piece of equipment.
19 Q And what was that date?
20 A That was 1/17 of 2017, prior before any agreement
21 between both parties.
22 Q And what did you -- what did Abernathy Welding charge
23 Mr. Brock at that time?
24 A We charged him $95 per hour. And at that time, that
25 was the beginning of the year. And we told Mr. Brock that

1 we would stand behind our agreement for the 95 per hour
2 for this invoice. After any further invoices, we would
3 have to charge the 225 per hour to accommodate our growing
4 business, and consumables and material costs as well.
5 Q So around when did your prices go up?
6 A They went up the first of the year. But since he did
7 not know about the cost when he called -- he called us out
8 there, we gave him that price and told him at that job --
9 that after this, the price will go up.
10 Q So in 2018, what was the standard fee that Abernathy
11 Welding charged?
12 A It was 225 per hour through the 33 accounts that I
13 have.
14 Q And as part of this agreement with -- between
15 Abernathy Welding -- or between Mike Abernathy and
16 Mr. Brock, what did -- what did Abernathy Welding agree to
17 do?
18 A Abernathys Welding agreed to do the work for
19 Mr. Brock. And Mr. Brock agreed that -- you know, when we
20 made the agreement that we were looking for dirt and that
21 we would like Mr. Brock to be the one to -- to bring us
22 the dirt -- we just had to locate the dirt. Any further
23 work would be addressed after the work was completed,
24 which at that time nobody knew what it would take and
25 involve.

1 So we were, basically, working with an amount for,
2 you know, each party -- each party knew at the time when
3 the work was done what was owed. And we kept a record of
4 that. And that was the record that I have that was given.
5 And at that time, Mr. Brock had done no work for us. It
6 was us only doing work for Mr. Brock.
7 Q And during the course of this agreement, how was it
8 determined what work Abernathy Welding would do?
9 A Mr. Brock would call my dad. Dad would call -- then
10 call me if he was either there. And at the time, my dad
11 had some medical issues going on. And he would say, hey,
12 do you got a service truck -- you know, one of the guys
13 available? Are you available? I'd say -- I'd either have
14 my brother at the time or I'm available to do a job. And
15 he'd say, well, hey, Mr. Larry is bringing a Bobcat with a
16 fork mast on it.
17 And then he would bring that over. And we would find
18 other issues while he was there. Because Mr. Brock would
19 sell stuff in Columbia. And Mr. Helms would take it. And
20 on the way, can you hurry up because I got to get it to
21 the auction house before 5:00, you know.
22 I said, there's going to be a bunch of issues you're
23 going to see with this junk that we buy. But it is what
24 it is. And we got to get it to the auction. And that's
25 what we were told, so.

1 Q Now, as part of the -- the work that Abernathy
2 Welding was doing, what was the agreement as far as the
3 fee?
4 A The fee was already discussed with Mr. Brock. And
5 Mr. Brock was the only -- I -- it was my dad, Mr. Brock,
6 and me when we had talked about the cost rise in our
7 business. And that was in the video is when I told
8 Mr. Helms that he did not have a dog in this fight.
9 Because Mr. Brock was the only one there and understood
10 that it was 195 an hour -- 225, but we were only going to
11 charge him 195.
12 Q So Abernathy Welding's agreement with Brock
13 Landscaping was 195 an hour; is that correct?
14 A Correct. Correct.
15 Q Now, as a part of this agreement, what did Mr. Brock
16 and Brock Landscaping agree to do?
17 A Say that again.
18 Q As part of this -- this overarching agreement in 2018
19 that you had, what did Mr. Brock and Brock Landscaping
20 agree to do for -- for your family?
21 A Mr. Brock agreed that he would be the one to bring us
22 dirt and -- because he knew that we had done a -- a
23 substantial amount of work for Mr. Brock. And he thought
24 that, you know, it was his obligation to fulfill his end
25 of the agreement.

1 Q And as far as price, what was discussed as far as
2 what would Mr. Brock charge Abernathy Welding for the
3 work?
4 A There -- there was no -- there was no charge that
5 Mr. Brock said, like, hey, I'm charging you this much
6 amount for, you know -- it was basically -- there was no
7 amount of money -- I didn't -- to be honest, I didn't
8 know -- even know Mr. Brock's hourly rate for his business
9 if I was involved or not. I didn't know an hourly rate
10 was even involved. I, basically, thought that the work
11 that we had performed was basically -- and he knew at the
12 time it was well over 30 that -- at the time that -- you
13 know, with what I'm fixing to do with the Abernathys, it's
14 either not going to reach that, or he's going to do
15 everything in his power to reach that to even out the
16 playing field.
17 Q And was there any discussion as to the cost that
18 Mr. Brock or his company would incur and how that would be
19 paid?
20 A I -- I don't understand the question. Can you relay
21 that to a country boy here now? What's that?
22 Q As far as Mr. Brock's cost in loading -- I'm sorry --
23 in -- in carrying the dirt, was there any discussion
24 between Abernathy Welding and Mr. Brock about that?
25 A The cost with the -- the trucking deal, Brock said to

1 my dad -- he said, well, the good thing about it is 23
2 Logistics rents a building from me. And they're working
3 right up the road, which is beneficial on fuel. Well,
4 that's not beneficial for us. It would be beneficial for
5 Brock. I was still charged.
6 But he, basically, rents them a building. And that
7 he would work that out between 23 Logistics and himself
8 with the cost of the building with what -- whatever
9 building they -- 23 Logistics rents from Mr. Brock, he
10 would take care of that.
11 Q What -- as far as your role during this agreement in
12 2018, what did you do?
13 A I mean, I was, basically, the right hand man of the
14 owner of the company. I was there the entire time, you
15 know, the agreement was met -- or the agreement was set in
16 place.
17 When the money was -- when Mr. Brock came to our
18 house and, you know, when we had first started, I had to
19 pull permits for Anderson County to be able to build a
20 building in Anderson County. Okay. Anderson County had
21 come out and said that, you know, you needed this many
22 loads of dirt to be able to build a shop. I said, Okay.
23 I painted a pink mark on the pine trees of where the
24 dirt needed to be. Mr. Brock come out and he said, Is
25 that where you're hoping the dirt needs to be?

1 And I said, Well, that's where Anderson County needs
2 it to be for me to be able to build a -- a red iron
3 building as big as we are here.
4 And he said, That's going to be a substantial amount
5 of dirt.
6 And I said, Well, if we -- you know, if we have to do
7 that, we have to do that. I said, Anderson County said
8 it's going to be 160 loads of dirt.
9 I don't think it will be that, but you'll be close.
10 That's what I was told.
11 Anderson County the next day come out and Mr. Brock
12 had come out and talked with Anderson County. And
13 Anderson County told him that for us to be able to build a
14 building and meet with Anderson County codes -- building
15 and codes that 160 loads of dirt needed to be on our
16 property for us to build a building.
17 Q As far as while the -- the dirt work was being done,
18 the digging and the pushing, the loading and the -- all
19 the dirt -- all the work with the dirt, did you observe
20 that?
21 A I observed every day. It was a time span of about
22 50 days. Mr. Brock, like he said for the Court, he said
23 that, you know, he would come out on his own time. He
24 would come out and push dirt to pile it up for 23
25 Logistics to come in. Because, I mean, common sense, you

1 know, you -- you want to push dirt into a pile before you
2 would hire trucks to just sit there and wait.
3 But he would come out and push dirt into a pile,
4 work -- work two or three hours and said, we're good.
5 Well, rain would move in Tuesday, Wednesday, Thursday,
6 Friday. Saturday, Sunday, Monday, Tuesday, Wednesday,
7 it'd dry. And he would come back out, hey, I'm coming out
8 Thursday to load the trucks that I pushed up. Well, the
9 trucks would come out, run half a day, get 20 loads
10 between the two.
11 And at that time, we were still working on his
12 equipment. Mr. Helms would pull up with a Bobcat and some
13 fork masts that were headed to the auction. Before
14 Mr. Brock started any equipment as soon as he dropped the
15 equipment on the property, things had to be worked on his
16 equipment. Because of the issues that he had had with the
17 maintenancing [sic] and, you know, like, a -- like, you
18 know, the cylinder.
19 And, you know, like, a cylinder on a dozer, for
20 instance, you know, his equipment, you know -- there's a
21 $200,000 piece of machinery. A hydraulic cylinder isn't
22 going to run a $200 deal to rebuild it.
23 I remember spending about $3,100 in hydraulic fluid
24 and parts to fix that hydraulic cylinder that I was -- out
25 of my own pocket. But I felt like he was doing us a solid

1 by, you know, digging our dirt, granted we had already
2 earned that back. I felt like, you know, what, you know,
3 it's -- it's a -- it's a good thing to do, you know, to
4 help him get his machinery going to work on my property.
5 Q As far as the -- the dirt work was concerned, what
6 period of time, in general, did that take place over,
7 like, the dates?
8 A I -- well, I, specifically, remember it because -- I
9 mean, we worked very hard to be able to build a shop. I
10 mean, this isn't something that you can do overnight.
11 There was a lot of planning involved and a lot of money
12 saved.
13 So every day that somebody was there to work for us
14 or do work on our behalf, I was there taking pictures or
15 making sure that the load count was going to reach the 160
16 for Anderson County. Because I had to reach that goal to
17 be able to build the shop on the property.
18 So throughout the entire time, there was about 50
19 days there with his machinery hitting my property and
20 taking it off. But the amount of work involved -- like he
21 said, he didn't charge for it sitting there. He only
22 charged for his work involved. The work involved equaled
23 out to about nine days -- nine days, to be exact.
24 Q And when was that work completed around?
25 A That -- that work was completed September 26th, which

1 is corresponding with his invoice.
2 Q And who -- who was doing the dirt work? Who was
3 involved?
4 A Mr. Brock was the one pushing it up. He was --
5 Mr. Dawson was pushing the dirt. And he would then push
6 the dirt at Mr. Dawson's, come to our property, and make
7 sure his equipment was ready to go since it was tore apart
8 or what not, and say, Hey, I'm bringing in trucks next
9 week after it rains and dries. We need to be ready to go
10 Monday morning. I'm going to have trucks come in.
11 I said, Yes, sir, not a problem.
12 The trucks would come in. Mr. Brock would then jump
13 from one machine to the next machine so he would -- dirt
14 was already pushed. Mr. Ricky Sweet would load the trucks
15 for 23 Logistics. NW White -- Mr. Jason was never
16 involved with this job. We know him personally. He -- he
17 was not involved in this. It was 23 Logistics the entire
18 time.
19 But he would push the dirt. But then he would jump
20 down to the AC machine, which was at our property, and is
21 a finished grade dozer. Which a finished grade dozer
22 means that is a six-way position. You can final grade and
23 spread the dirt into a -- a final resting place for -- to
24 finish -- to try to hurry up and finish the project.
25 Q So is it -- are you correct -- then Mr. Brock did

1 dirt work; is that correct?
2 A Correct. Mr. Brock did all the digging. 23
3 Logistics hauled it. Ricky Sweet loaded some trucks when
4 Mr. Brock couldn't. He would be at our job -- or our --
5 our site spreading the dirt. And then the only two -- the
6 only people that were on the site at all times was
7 Mr. Brock and Ricky Sweet.
8 Q And so did anybody assist Mr. Brock, other than Ricky
9 Sweet out there?
10 A No, sir.
11 Q And did -- who hauled the dirt from Mr. Dawson's
12 property to your property?
13 A That was 23 Logistics, the company that rents a
14 building from Mr. Brock.
15 Q Did any -- did Mr. Brock haul dirt in any of his own
16 trucks?
17 A No, sir.
18 Q Was -- did anybody haul any dirt in any of
19 Mr. Brock's own trucks?
20 A No, sir. The only trucks that were used for
21 Mr. Brock's is when Harold Brock's trucks -- the name on
22 the side of the truck would hit my driveway is when
23 Mr. Helms would bring a piece of equipment. And that was
24 to be worked on.
25 Q Did Mr. Helms do any of the dirt work?

1 A No, sir.
2 Q Did -- did -- this -- the other company that was
3 mentioned, White, did they do any -- was any dirt hauled
4 on their trucks?
5 A No, sir.
6 Q And so is it correct then in your testimony that only
7 23 Logistics trucks hauled the dirt?
8 A Correct.
9 Q And were you out there every day that 23 Logistics
10 was hauling -- hauling dirt?
11 A Yes, sir. Because it was a special occasion when 23
12 Logistics would come. We had to be prepared. The dirt
13 had to be piled up. The dirt had to be -- it had to be
14 ready to be loaded. We couldn't play around when the
15 trucks come.
16 Because this is a separate company that we had -- had
17 an agreement with. And when the trucks come, they had to
18 be loaded and they had to be brought to be unloaded in a
19 quick -- quickly fashion.
20 Q When 23 Logistics was out there, were they just
21 hauling dirt to your home or to your property?
22 A No, sir.
23 Q Where else did they haul dirt to?
24 A They hauled dirt to Ballard Road. And that's
25 about -- maybe an eight mile run from my address -- or

1 from Mr. Dawson's address.
2 Q So where -- where did the dirt come from that they
3 hauled to Ballard Road?
4 A It come from Mr. Dawson's.
5 Q And how do you know that they took dirt to Ballard
6 Road?
7 A Well, Mr. Gail [phonetic] had called that testified
8 earlier. He called my dad and said, Hey, I see trucks
9 going into town loaded and coming back empty. What's up
10 with that?
11 Dad said, I don't know. Let me call Mr. Brock.
12 My dad then called Mr. Brock. And instead of
13 Mr. Brock saying, well, hang on, I'll call you back and
14 I'll find out. Mr. Brock said, Oh, they're just going to
15 lunch.
16 Well, he automatically knew why would you go 10 --
17 eight miles into town to go to lunch when you could dump a
18 load of dirt and go empty. That just didn't make any
19 sense. So I said, Dad, how about I'll just, you know, get
20 off the job and I'll watch for the rest of the day.
21 About two, three hours later, there was two -- two
22 other trucks running in tandem. They had went, again, to
23 Ballard Road. When I would follow them to Ballard Road, I
24 noticed that there was already multiple loads of dirt
25 already at the address of where those trucks were going.

1 And there was a fellow running a piece of equipment
2 that I don't know who was running the equipment there.
3 But he seemed like he was spreading it just as fast as he
4 could. But then I noticed -- I started writing down
5 addresses and called my dad at that time.
6 Q So did you personally see trucks take dirt from
7 Mr. Dawson's property and dump that dirt at Ballard Road?
8 A Yes, sir. And I -- I called my dad and my dad's
9 answer was, Well, maybe he's got a deal with Ronnie.
10 Well, at that time, my dad was in the hospital. That
11 afternoon is when he was checked into the hospital with
12 issues. And he said, Well, maybe he's got dealings with
13 Ronnie about Ronnie selling him some dirt.
14 Well, later on we found out Ronnie said no --
15 MR. RAFFINI: Objection. Hearsay.
16 THE COURT: Sustained. It's non-jury. I'll...
17 BY MR. COLE:
18 Q Mr. Abernathy, let's move on to what's previously
19 been admitted into evidence as Plaintiff's Exhibit -- I'm
20 sorry, Defendant's Exhibit No. 6.
21 MR. COLE: And, Your Honor, may I pass a copy up as
22 well?
23 THE COURT: Sure.
24 Thanks.
25 MR. COLE: May I approach the witness, Your Honor?

1 THE COURT: Yes, sir.
2 BY MR. COLE:
3 Q Now, Mr. Abernathy, do you recognize this document
4 that is Defendant's Exhibit No. 6?
5 A Yes, sir.
6 Q Now, what is this document?
7 A This is Abernathy's invoice for Mr. Brock on work
8 performed on his equipment.
9 Q And who prepared this invoice?
10 A We have a secretary at the office. Myself had -- was
11 sitting with her to make sure everything was invoiced
12 correctly.
13 Q And so -- so you supplied her the information to
14 prepare it; is that correct?
15 A I'm not computer friendly, so, yes, sir.
16 Q How did you know how to -- what the hours were and
17 what was -- what was done each time?
18 A I keep a document book with me at all times. It is
19 a -- like, a spiral notebook. I keep -- we keep one in
20 every service truck with multiple pens. And that way, if
21 there is work performed, we have a -- an account on when
22 the drug [phonetic] was ran and the hours that were
23 involved.
24 Q Mr. Abernathy, I'm going to present you with a
25 document that has been marked as Defendant's Exhibit No. 7

1 for identification purposes. What is that document?
2 A This document here is of my brother's handwriting and
3 my handwriting.
4 Q And is -- is that document that spiral notebook you
5 just referred to?
6 A Yes, sir.
7 Q And what does that document contain?
8 A It contains work performed on Mr. Brock's equipment.
9 The reason why it was just me and my brother is because,
10 at that time, we had an agreement with Mr. Brock that we
11 would do work for him for the shop for the dirt. And we
12 were trying to build a shop. So instead of paying an
13 employee to do the work, we would do the work ourselves
14 and eat the labor, basically, so we could have a shop.
15 Q And so is the information on that document what you
16 used to come up with the invoice that is Defendant's
17 Exhibit No. 6?
18 A Correct. Yes, sir. I can't remember everything. So
19 everything that was wrote done -- it's just like when
20 Mr. Brock came to the house when we tried to share
21 invoices, I told him -- I said, Mr. Brock, everything --
22 it's the hours that we have written down and everything on
23 this invoice is accurate. If it is not, I will take that
24 off the invoice, which is clearly in the video. And I
25 will take that off the invoice. And I truly apologize if

1 it is on the invoice.
2 Q Everything in your notes in that document, were you
3 there to witness that work being done?
4 A Correct.
5 Q And -- and then some of it you did the work yourself?
6 A Correct.
7 MR. COLE: Your Honor, I would move to admit this
8 into evidence as the Defendant's Exhibit No. 7.
9 MR. RAFFINI: No objection.
10 THE COURT: Any objection?
11 MR. RAFFINI: No, Your Honor.
12 THE COURT: All right. Without objection.
13 (WHEREUPON, Defendant's Exhibit No. 7 was admitted into
14 evidence.)
15 MR. COLE: And, Your Honor, I have a copy for the
16 Court as well.
17 THE COURT: Thank you.
18 BY MR. COLE:
19 Q Mr. Abernathy, going back to Defendant's Exhibit
20 No. 6, the invoice, I would like to -- very -- as briefly
21 as possible, please, start with the first entry into that
22 invoice and describe the work that was done?
23 A There was a bulldozer at Mr. Brock's location that
24 needed some pins heated, and beat, and removed, and
25 installed, and plates welded to the pins with holes

1 punched out so they could bolt that pin and it would stay
2 in the bulldozer so it wouldn't vibrate out.
3 There's a lot -- a lot -- the -- the invoice that we
4 wrote down could have been a lot more in detail. But at
5 the time, Mr. Brock knew the work involved. And at the
6 time, we didn't think that Mr. Brock would back step on
7 his word.
8 Q All right. And then the next item on the invoice?
9 A Panels, pins -- panels and pins removed off bulldozer
10 on new property. Those --
11 Q Can you explain what that is?
12 A Yes, sir. Panels and pins removed on the bulldozer.
13 He's got a track loader and another finished grade
14 bulldozer. The bulldozer itself, the panels and pins on
15 it, we had -- they had to be removed to access the pins.
16 And to take them off is a job. I mean, there's two hours
17 in itself to be able to get to the actual part to be able
18 to even work.
19 And Mr. Brock at that time knew that we were fully
20 capable and -- of working on heavy equipment like we
21 always have. And he had heard from other people that we
22 do great work. And that's what he had us to do.
23 And it should -- to be honest, it should have been a
24 10-hour job. But it -- it was cut down to six. Because,
25 like, my dad had told me and my brother, you limit

1 everything you do so we can make sure that Mr. Brock gets
2 the best possible outcome out of all our capabilities.
3 Q And third item on that invoice, if you could very
4 briefly describe that work.
5 A The third. That is the dirt and rock shaker machine,
6 the biggest project we did for Mr. Brock. And I,
7 specifically, remember that piece of equipment. Because,
8 boy, the man that he traded for told us that day he left,
9 You sure do have your hands cut out for you, don't you,
10 brother. And we sure enough did.
11 Like he said in his testimony that he said that they
12 were converting it from mulch to sand. Mulch tree work is
13 a lot heavier than sand. And to be able to do that with
14 this machine and do what Mr. Brock was wanting it to do,
15 it had to be converted in the hopper pitch, and conveyer
16 belt location, and pitch of the machine. Everything has
17 to be level. Everything has to be precise to be able to
18 screen the dirt and the amount of dirt Mr. Brock was
19 trying to screen.
20 Q And, Mr. Abernathy, that just seems like a lot of
21 hours just for that one piece of equipment.
22 A It -- it is a lot of hours. And, to be honest, for a
23 machine that's, you know, $225,000 and it's only a 65,000,
24 you know, offer, you would think that there would be a
25 substantial amount of work needed to be able to --

1 basically, it was junk. It -- it needed work. It needed
2 work. It -- to this day, it still needs work.
3 Q So are those hours accurate on that invoice?
4 A Yes, sir, to the tee.
5 Q And who did the work on that piece of equipment?
6 A My father, Mike Abernathy, and me myself, Jacob
7 Abernathy.
8 Q And did -- did Matthew Abernathy do any work on that
9 piece?
10 A He did not come to the site to work on it. When I --
11 when we were working on the machine, I had to go back and
12 forth to the shop. Because with the hopper angled and
13 everything -- we have a [inaudible] machine. And we lay
14 the sheets out. We marked them out. We had to set all
15 the X and the Y. So we set all of the plates. And
16 everything would fit perfectly.
17 My brother helped me at the shop with the heavy steel
18 plates, and stuff like that. But he did not help us on
19 site. It was me and my dad.
20 And the reason why my brother was not there is
21 because in the picture that I have in evidence, Mr. Brock
22 had a big piece of equipment there that would help us hold
23 the steel in place and set the steel inside of the hopper.
24 So we didn't need the extra hand at the time. We had a
25 piece of equipment there, you know, to chain the

1 dog [phonetic] off, and lift it up, and raise it above our
2 head, and put it in the machine.
3 Q And the next item underneath the shaker, could you
4 explain that?
5 A The shaker part of the machine is what shakes the
6 product to be able to shake out the debris, your rocks,
7 your sticks, your debris, and stuff like that. The shaker
8 platform -- I mean, it's just like anything else. It's --
9 it's -- it's a catchall. I mean, it's a vibration point
10 of the machine.
11 And it is one of the highest wear points of these
12 machines. And -- with it shaking 10-hour days, 12-hour
13 days, it, basically, beats itself to death. And the work
14 needed to -- to get that back up and running to the extent
15 of Mr. Brock's liking was substantial.
16 Q The next item on the invoice, could you briefly
17 explain that?
18 A Yes, sir. Cut and repair skid steer. That was a
19 Bobcat that Mr. Helms had brought to the -- to the yard.
20 He was, actually, wanting something completely different
21 at that time for the masts that Mr. Helms was talking
22 about and the blocks being extended. He didn't have time
23 to have it -- to get that done.
24 So while it was there, we noticed a crack on there on
25 the boom of the skid steer. Mr. Helms said, Well, you

1 might want to fix that because that's the main part of the
2 machine. And since it's going to auction, we need to get
3 it as -- most as we can.
4 Q All right. And can you briefly describe the next
5 item on the invoice?
6 A Cut and patch tracking, plus material. And at this
7 time, I could have told the secretary to detail better.
8 But at that time, Mr. Harold knows what I was talking
9 about, cut and patch tracking. The only tracking that he
10 has -- cut and patch the tracking as in -- he's got tracks
11 that we had to remove on his tracking unit to be able to
12 get to the steel plates that were cut and removed.
13 Q Could you briefly describe the next item on the
14 invoice?
15 A Removed and replaced hydraulic brackets [inaudible]
16 to be repaired. That was at the dozer that was at my
17 house. Mr. -- Mr. Larry brought it to the house and
18 unloaded it. And he said, I can't drive it too far
19 because it's leaking hydraulic fluid. When I say it's
20 leaking, it was eight gallons a minute.
21 So I had to remove -- the things I had to remove --
22 the cylinder, the lines to be able to get the cylinder
23 out. I mean, I had to remove the shield, the exhaust. I
24 mean, and I've only got six hours on there. There's a lot
25 of work involved on that one to be able to start my

1 property.
2 And Mr. Brock called -- I called Mr. Brock and told
3 him the issues of the cylinder. And he said, Look, I know
4 it's been going on a long time. This isn't something I
5 want you to think that you need to fix for me. I will,
6 clearly, pay for it.
7 Q Can you briefly describe the next item on the list?
8 A Welded trailer, axle leaf spring bracket, plus
9 materials. That was the trailer Mr. Helms brought in with
10 the Bobcat on it. You have to have a trailer to haul the
11 equipment. And then when he pulled in the trailer, the
12 axle and leaf spring were about to say see you.
13 So we did what we do best and lifted the trailer up
14 and welded his axle and leaf spring back into place so he
15 could further do his work for Mr. Brock.
16 Q And can you briefly describe the next item?
17 A Yes, sir. Forklift mast cut and repair, plus
18 materials. Those are the forklift masts that Mr. Helms
19 had brought over and was, actually, wanting them extended.
20 There was broken forks, one that didn't even have forks.
21 So we supplied through our used supplier. They
22 weren't used forks. They were -- they weren't new. They
23 were used forks through General Contractor Supply that I
24 went and got. And I paid $300, 150 each. And I fixed,
25 you know, his forklift masts to be repaired so they could

1 use them. So Mr. Brock can profit off jobs with them.
2 Q And then can you briefly describe the final item?
3 A Bobcat bucket fixed and repaired, two days, plus
4 materials. The Bobcat bucket he wanted was adjusted for a
5 certain width to be able to get into a backyard. We had
6 to cut both sides, cut out the bottom, rearrange the
7 mounting points of the Bobcat so it could accept this new
8 bucket that we were changing.
9 Q And the -- the work that's on that invoice, was all
10 of that done during the time of this 2018 agreement
11 between Brock and Abernathy Welding?
12 A Yes, sir. And if there isn't, which -- there isn't.
13 I was -- would be more than happy to take that off the
14 bill and had expressed that to Mr. Brock at that time.
15 I can't -- I'm not -- I'm human. I'm not -- nobody
16 is perfect. I told him if there was an issue, please, let
17 me know. And I did two issues that he had, one's for 585
18 and one's for 385. I mean, I'll take that off today if
19 there's an issue with that. And I apologize. But I know
20 the work was done.
21 Q So, Mr. Abernathy, I'm handing you now a photo that's
22 been marked as Defendant's Exhibit No. 8 for
23 identification purposes.
24 A Yes, sir.
25 Q And what is that photo of?

1 A This is that dirt rock shaker machine at Mr. Brock's
2 Piedmont yard.
3 Q And is that photo -- who took that photo?
4 A I took that photo. I took this photo before we
5 charged anybody anything on any invoice. Because we like
6 to guarantee our work. We're a mom and pop company. And
7 I have to guarantee what I say and what I do. And I
8 wanted to make sure that the machine was up and running
9 and in a fully operational, you know -- operational
10 setting for Mr. Brock to be able to profit off of it and
11 do what he needed to be doing with it.
12 Q Is this photo a fair and accurate depiction of the
13 shaker machine at the time after -- immediately after you
14 did the work?
15 A Correct. And that is, also, the machine sitting off
16 to the right-hand side that Mr. Brock used to help us load
17 the steel plates into the -- onto the left side and the
18 shaker plate.
19 MR. COLE: Your Honor, I'd move that this be admitted
20 as Defendant's Exhibit No. 8.
21 MR. RAFFINI: No objection, Your Honor.
22 THE COURT: Without objection.
23 (WHEREUPON, Defendant's Exhibit No. 8 was admitted into
24 evidence.)
25 MR. COLE: Your Honor, I'll pass up a copy for the

1 Court.
2 THE COURT: Thank you.
3 BY MR. COLE:
4 Q And, Mr. Abernathy, is that the shape that that piece
5 of equipment was in when you first started working on it?
6 A No, sir. No, sir. That piece of machinery was in
7 two pieces to be -- it was brought into the yard.
8 Mr. Brock wanted us to go over the equipment with the man
9 that he had gotten it from to make sure that the work was
10 performed to the man's liking that he traded it for,
11 or whatever. I'm not a part of that deal.
12 But we went over with the man that was installing the
13 batteries and making sure that the fuel system was not
14 tampered with during transportation.
15 Q And when -- when you and your father were working on
16 this piece of equipment, was anybody there, other than you
17 two?
18 A There was the one fellow. I forget his name that he
19 traded the equipment for. He was there that first day and
20 then a couple of hours the following.
21 Q For the other days, though, was anybody else there?
22 A No, sir. Mr. Brock would leave, you know. He's a
23 busy man just like everybody else is, and runs a business,
24 and tries to make it in this world like everybody else.
25 And he -- he would show up 10, 15 minutes, y'all need

1 anything? I'm going to run to the store. I'll grab you a
2 bag of ice or I'll drop you something back off, or
3 whatever you need. But then he would leave. And then it
4 would just be me and my father.
5 Q Mr. Abernathy, I'm handing you a photo that's been
6 marked as Defendant's Exhibit No. 9 for identification
7 purposes.
8 A Yes, sir.
9 Q And, first of all, who took that photo?
10 A That photo was taken by my father.
11 Q And is that photo -- what is that photo of?
12 A That photo is a picture of Mr. Harold's Bobcat. That
13 was brought to our shop for the cut and patch on the skid
14 steer wheel.
15 Q And when approximately was this photo taken in
16 relation to the other work that was done?
17 A This photo was taken while work was being done.
18 Q And so is this a fair and accurate representation of
19 the Bobcat that's listed on the invoice when the work was
20 being done?
21 A Yes, sir.
22 MR. COLE: Your Honor, I move this into evidence as
23 Defendant's Exhibit No. 9.
24 MR. RAFFINI: No objection, Your Honor.
25 THE COURT: All right. Without objection.

1 (WHEREUPON, Defendant's Exhibit No. 9 was admitted into
2 evidence.)
3 THE COURT: Is this my copy?
4 MR. COLE: Yes, Your Honor.
5 THE COURT: Okay.
6 BY MR. COLE:
7 Q And how many times was that Bobcat brought to your
8 shop to be fixed?
9 A This Bobcat, specifically, was only brought to our
10 shop once. I don't know how long Mr. Brock had had it,
11 but he -- if he had bought it and wanted to take it to an
12 auction. Because Mr. Helms said, I have to hurry up. I
13 got to get to Columbia.
14 So we welded it. And then quick fast in a hurry, I
15 threw some white primer over it. Dad took a picture and
16 it was done. But multiple Bobcats were being brought to
17 our shop for work -- to be worked on and not to be worked
18 with.
19 Q And so there was -- this is one of two Bobcats that
20 was brought to your office; is that correct?
21 A Correct. Yes, sir.
22 Q Mr. Abernathy, I'm going to show you a photo that has
23 been marked as Defendant's Exhibit No. 10 for
24 identification purposes.
25 A Yes, sir.

1 Q And can you -- what is this photo of?
2 A This photo is Mr. Brock on a packer. It is, also,
3 known as a sheep's foot. It vibrates your dirt as it's
4 being -- once it's spread, you can drive this over the
5 dirt to compact it.
6 This was the start of our project. The two different
7 colors of the -- you can, actually, see that Mr. Brock on
8 September the 6th is bringing in the dirt and packing it.
9 And there's, actually, a load that hasn't been spread yet.
10 And that was the start of the dirt project for our
11 business.
12 Q And who took this photograph?
13 A I did in my 2005 F-250.
14 Q And what type of application did you use to take this
15 photograph?
16 A A Samsung S21 Smartphone.
17 Q And the -- what is the date on the photograph?
18 A September the 6th.
19 Q And what year would that have been?
20 A That would have been 2018. And if anybody knows
21 Snapchat, you can swipe over through the app I was using
22 and it gives you different options of colors, dates, days.
23 And that's what I had did and just had posted it to my
24 Snapchat.
25 Q So was September the 6th, 2018, the date that this

1 was taken -- that you took it?
2 A Correct. Yes, sir. And if anybody knows Snapchat,
3 you -- you can't adjust that.
4 MR. COLE: Your Honor, I move this photo into
5 evidence as the Defendant's Exhibit No. 10.
6 THE COURT: Any objection?
7 MR. RAFFINI: No, Your Honor.
8 (WHEREUPON, Defendant's Exhibit No. 10 was admitted
9 into evidence.)
10 MR. COLE: Your Honor, I have a copy for the Court.
11 THE COURT: Thank you.
12 BY MR. COLE:
13 Q And as far as that photo goes, at what point of the
14 dirt work -- what -- what time period of the dirt work,
15 beginning, middle, or end, when was that taken?
16 A This was -- this was taken at the beginning of the
17 first few loads that were brought in. They were already
18 dug up by Mr. Brock. He loaded those trucks. And they
19 brought them.
20 Once they were already loaded, he followed them over
21 to the site and spread them with his bulldozer. He was
22 the only one on site the first day of the project
23 starting. And that's him there personally.
24 Q All right. I'm showing you a photo that's been
25 marked as Defendant's Exhibit No. 11 for identification

1 purposes. And what is that a photo of?
2 A This is a photo of Ronnie Dawson's property that
3 we -- that Mr. Brock had dug the dirt and that we had him
4 dig up for us.
5 Q And who took that photo?
6 A I did in my 2005 pickup truck at the time.
7 Q And did you take that with Snapchat as well?
8 A I did with the Samsung -- the same Samsung phone.
9 Q And what's the text on that photo? Could you read
10 that?
11 A Starting on my shop. Here comes dirt.
12 Q Who wrote that text?
13 A I did.
14 Q And what does that mean?
15 A I was talking to some -- talking to some -- some
16 friend that does a lot of work with us. And I was letting
17 him know that I was excited to start on the shop and here
18 comes the first few loads of dirt.
19 Q And so was this photo taken around the time of the --
20 of the start of the project?
21 A This was -- I hadn't even gotten out of my truck yet.
22 This was, like, the first two gallons of diesel fuel
23 burned in that machine.
24 Q So what month would this photo have been taken in?
25 A September.

1 MR. COLE: Your Honor, I move this photo into
2 evidence as Defendant's Exhibit No. 11.
3 THE COURT: Any objection?
4 MR. RAFFINI: No, Your Honor.
5 THE COURT: All right.
6 (WHEREUPON, Defendant's Exhibit No. 11 was admitted
7 into evidence.)
8 MR. COLE: Your Honor, I have a copy for the Court.
9 THE COURT: Thank you.
10 BY MR. COLE:
11 Q Mr. Abernathy, I have a photo that has been marked as
12 Defendant's Exhibit No. 12 for identification purposes
13 that I'm handing to you.
14 A Yes, sir.
15 Q And can you describe what's in that photo?
16 A This is Mr. Harold's finished grade dozer and the
17 sheep's foot in the earlier picture that he was riding on
18 and my 2020 side by side with five-gallon -- multiple
19 five-gallon buckets of hydraulic fluid that Mr. Harold
20 Brock wanted me to buy and put into his machines, which I
21 have listed on this work spreadsheet of $650 worth of
22 hydraulic fluid bought for his machines.
23 Q And who took this photograph?
24 A I did.
25 Q And where -- where are these equipment -- where is

1 this located?
2 A This is at our location of our business. The
3 driveway was already pre-done before Mr. Harold started
4 anything. He was just to do the pad of the shop. And the
5 road is, actually, right behind these pieces of equipment.
6 And that's when Mr. Larry said, you know, I have to park
7 as close to the road because there's -- I don't know how
8 much hydraulic fluid is in them because I don't know how
9 far it's going to go with the hydraulic fluid. So the
10 road is 20 feet behind him.
11 MR. COLE: Your Honor, I move this into evidence as a
12 Defendant's Exhibit No. 12.
13 MR. RAFFINI: No objection, Your Honor.
14 THE COURT: Without objection.
15 (WHEREUPON, Defendant's Exhibit No. 12 was admitted
16 into evidence.)
17 MR. COLE: Your Honor, I have a copy for the Court.
18 THE COURT: Thank you.
19 BY MR. COLE:
20 Q Mr. Abernathy, in this photo that is Defendant's
21 Exhibit No. 12, there are two pieces of equipment; is that
22 correct?
23 A Yes, sir.
24 Q If you're looking at the photo, the piece on the
25 right, what is that called?

1 A This is a -- a compacter sheep's foot that you can
2 put water in that front roller. And then it, also,
3 vibrates to help compact the dirt when you're doing grade
4 work.
5 Q And what -- was it used for this property -- or for
6 this project?
7 A It was. And the reason why I took this picture is
8 because to take note of what is being used and what is on
9 my property for insurance purposes just in case, you know,
10 somebody says something got took, or stolen, or whatnot.
11 So if there was any other pieces of equipment used, there
12 would be a picture and it would be involved with these
13 three -- or these two.
14 Q And the -- the piece of equipment on the left, what
15 is that?
16 A That is his finish-grade bulldozer. A finish-grade
17 bulldozer is completely different from a track loader used
18 at Ronnie's. A track loader is a foot machine. This is a
19 hand-controlled machine. It's a joy stick machine. And
20 it, also, has AC, radio. It's a lot different from a
21 track loader. This is used to finish grade job sites with
22 a six-way position pulled in the plate.
23 Q Were -- was any equipment, other than these two
24 pieces, used on the Abernathys property?
25 A Other than my side by side right there, no, sir.

1 Q And so I guess to put this in another way, was -- was
2 any of Brock's equipment, other than these two pieces,
3 used on the Abernathys property?
4 A No, sir.
5 Q And who used these pieces of equipment on the
6 Abernathys property?
7 A Mr. Harold Brock himself and Ricky Sweet.
8 Q And what are all those buckets that are in the front
9 of the picture?
10 A Those are the hydraulic buckets that I got at
11 Bargains in Pelzer. If anybody knows Bargains, they got a
12 lot of cheap stuff. And their hydraulic fluid beats
13 anybody in the upstate. So that's where I got the
14 hydraulic fluid from.
15 Q I'm handing you a photograph that's marked as
16 Defendant's Exhibit No. 13 for identification purposes.
17 A Yes, sir.
18 Q And can you describe this picture for me?
19 A Yes, sir. This is over halfway there with our --
20 that -- Mr. Brock is in the track machine there loading 23
21 Logistics trucks to be carried to our property.
22 Q And whose -- whose land is this that the photograph
23 is of?
24 A This is Mr. Dawson's. And I am in my 2005 F-250.
25 Q And then there's writing on this. Who wrote these

1 words on this photograph?
2 A I sent this to my girlfriend, load 61 and 62, letting
3 her know we're almost done. Because she was getting
4 aggravated of the days when we -- when it was involved
5 with doing our shop. I was gone a lot. I was there at
6 the shop, but then I wasn't there. And I was letting her
7 know, you know, I've got to bring in this dirt. This is a
8 pretty -- a pretty substantial thing that we have to do
9 when trucks are involved. And we're almost done,
10 basically.
11 Q So did you take this picture?
12 A Yes, sir.
13 Q And did you write this text on this picture?
14 A Yes, sir.
15 Q And the date, September 21st, 2018, is that the date
16 the picture was taken?
17 A Yes, sir. And, again, if anybody knows Snapchat,
18 when you slide over, it pulls up the date and then you
19 can, like, change the colors, and stuff.
20 MR. COLE: Your Honor, I'd like to move this into
21 evidence as Defendant's Exhibit No. 13.
22 MR. RAFFINI: No objection, Your Honor.
23 THE COURT: Without objection.
24 (WHEREUPON, Defendant's Exhibit No. 13 was admitted
25 into evidence.)

1 MR. COLE: Your Honor, I have a copy for the Court.
2 THE COURT: All right. Thank you.
3 Y'all, I'm about five minutes before I have to go.
4 MR. COLE: Thank you, Your Honor.
5 I'll try to get to a stopping point. I don't know
6 that I'm going to get through completely.
7 THE COURT: No. I understand. And I'm sorry for the
8 confusion.
9 MR. COLE: Oh, no problem, Your Honor.
10 BY MR. COLE:
11 Q As to Defendant's Exhibit No. 13, Mr. Abernathy,
12 the -- it says the loads -- the number of loads?
13 A Yes, sir.
14 Q 61 and 62. Where did that -- where did that come
15 from? Where'd that number come from?
16 A That number is through every day that Mr. Brock was
17 there, every day -- the entire nine days it took to get
18 that many loads of dirt to my shop, which was 160. It was
19 nine days total. And every day at the end of the day, I
20 said, Mr. Brock, how many loads are we at today?
21 And he'd say, Well, we carried 12, or we carried 20,
22 or we carried however many. And he said, Well, you've got
23 the -- you've got the count. Where are we at?
24 And with Snapchat and my notes, I would keep track of
25 the number of loads taken to my house.

1 Q And the dump trucks in that picture, who do those
2 dump trucks belong to?
3 A 23 Logistics. You can see the "23" on the side of
4 the truck.
5 Q And I'm handing you this photograph of -- that's
6 marked as Defendant's Exhibit No. 14 for identification
7 purposes.
8 A Yes, sir.
9 Q And can you briefly describe what this photograph is
10 of?
11 A This is a picture of Ronnie Dawson's driveway to the
12 left and his concrete driveway to the right. We took this
13 picture because when we confronted Mr. Brock about trucks
14 going into town, he had told us those trucks can't turn
15 right. There's no way for them to. And that was his
16 excuse, basically, of, you know, getting as many loads of
17 dirt off the property as he did.
18 Q And who took this picture?
19 A I want to say that was either my dad or my mom.
20 Q And is this picture -- what road is this?
21 A This is Cannon Bottom Road, Belton, South Carolina.
22 Q So is this picture a fair and accurate description of
23 Cannon Bottom Road and of Ronnie Dawson's driveway?
24 A Yes, sir.
25 MR. COLE: Your Honor, I'd move for this to be

1 admitted as Defendant's Exhibit No. 14.
2 MR. RAFFINI: No objection, Your Honor.
3 THE COURT: Without objection.
4 (WHEREUPON, Defendant's Exhibit No. 14 was admitted
5 into evidence.)
6 MR. COLE: Your Honor, I have a copy for the Court.
7 THE COURT: Thanks.
8 BY MR. COLE:
9 Q And, Mr. Abernathy, on -- if you're looking at that
10 photograph, on that photograph on the left, you see a
11 mailbox --
12 A Correct.
13 Q -- in the -- in the foreground in the front of the
14 photograph?
15 A Correct.
16 Q That -- that's not Mr. Dawson's driveway, is it?
17 A That is Mr. Dawson's driveway. That's the driveway
18 there down to a lower part of the property. And, to be
19 honest, that mailbox used to be on the other side of the
20 driveway. One of the 23 Logistics trucks hit the mailbox.
21 And Mr. Ronnie moved it to the opposite side of the
22 driveway.
23 Q So that is Mr. Dawson's driveway?
24 A Correct.
25 Q And are you familiar with that road and his driveway?

1 A Correct.
2 Q And can trucks turn left or right out of his
3 driveway?
4 A They can turn more right than left.
5 Q If you turn right, where does that head to?
6 A The town of Williamston. And that would be passing
7 towards Gail Glicks [phonetic] house that called my dad
8 when he seen the trucks. Because he knew we were doing
9 the shop. And he thought -- he hauls trucks, too. And he
10 was like, why are trucks going into town full and coming
11 back empty?
12 Q And if you turn left out of the driveway, where does
13 that go to?
14 A That goes down to our property that's just around the
15 corner just right there.
16 Q And did you see trucks coming out of that driveway
17 turning -- with dirt in them turning right, left, or both?
18 A That was, actually, the same day I took the picture
19 that I was on Ronnie Dawson's property there, the 21st.
20 I, actually, followed the two trucks to Ballard Road. And
21 they turned right out of that driveway just as quick as
22 they was turning left. And I followed them into
23 Williamston.
24 Q And turning right out of the driveway is the opposite
25 way of the Abernathy property; is that correct?

1 A Correct. Correct. Yes, sir.
2 Q All right. And this is a photograph that's been
3 marked as Defendant's Exhibit No. 15 for identification
4 purposes.
5 A Yes, sir.
6 Q And can you tell me what that photograph is a picture
7 of?
8 A That is a picture of Mr. Brock's cash payment.
9 Q And how much cash is in that?
10 A That is $14,000.
11 Q And had -- who -- where did you get that money?
12 A My mom -- my dad was, actually, sick at the time and
13 couldn't get out. So my mom wrote a check out for cash
14 and went to the bank where we had hundreds of thousands
15 for a building fund to be able to do this project. So she
16 went out and did a cash withdrawal to do a payment.
17 Q And who took this photograph?
18 A I did.
19 Q And the writing on the bottom, who -- who did that
20 writing?
21 A I did the writing with, again, the app called
22 Snapchat. It's not every day you hold 14,000. So I made
23 sure there was a picture taken of, at least, a reference
24 of -- to the date and to who it was going to.
25 Q And the second page of this exhibit, does it have a

1 date on it?
2 A It can.
3 Q The second page?
4 A Oh, yes.
5 Q What's that date?
6 A That is October the 2nd, 2018.
7 Q Is that the date you took this photograph?
8 A Yes, it is.
9 MR. COLE: Your Honor, I would move this photograph
10 into evidence as a Defendant's Exhibit No. 15.
11 THE COURT: Any objection?
12 MR. RAFFINI: No objection, Your Honor.
13 THE COURT: All right.
14 (WHEREUPON, Defendant's Exhibit No. 15 was admitted
15 into evidence.)
16 MR. COLE: Your Honor, I have a copy for the Court.
17 THE COURT: Thanks.
18 BY MR. COLE:
19 Q And, Mr. Abernathy, those -- those funds -- what did
20 you do with those funds after you took the picture?
21 A These funds were actually -- the reason why they were
22 in my hands, if anybody was concerned, is because my dad
23 was sick at the time. And I didn't know if he was going
24 to be able to get out of the hospital in time. And I
25 would have been the one to pay Mr. Brock when he came

1 later that afternoon.
2 My dad then got out of the hospital around 4:00. At
3 5:30, 6:00, Mr. Brock rolled in and -- to pick up the
4 money. And at that time, my mom was sitting on the porch.
5 Mr. Brock pulls in in his white four-door Chevrolet pickup
6 truck. My dad walks out there. He says, How are you
7 doing today?
8 And Mr. Brock says, We'll be doing a lot better if I
9 can get me something to eat.
10 And my dad said, Well, I got something a little
11 better for you, some cash.
12 And he said, I like cash. He said, I know I owe you
13 a lot of money. He said, I don't want you to think that
14 you're giving me something and I'm not giving you nothing
15 in return.
16 And that's when my mom was on the porch. Because at
17 the time, she was the one that got the money out of the
18 bank. And she was like, Why did we do all of that work
19 and here we are paying the man?
20 So she wanted to be -- she wanted to kind of listen
21 in to the conversation as well. That's why she was on the
22 porch.
23 But he said, I know I owe you a lot of money. At the
24 end of the week, we'll square up, which was the end of the
25 job. The -- the money given here wasn't the end of the

1 project.
2 MR. COLE: Your Honor, I believe that is probably a
3 good stopping point, if the Court --
4 THE COURT: Yeah. I think so. I'm sorry for the
5 problem. I'll see y'all at 10:30.
6 MR. COLE: Your Honor, could we go -- if we could --
7 if we could do 11:00, perhaps.
8 THE COURT: 11:00 is fine. I'm sorry. I forgot you
9 had a problem.
10 MR. COLE: And --
11 THE COURT: You go ahead -- we're -- we're still on
12 the record.
13 MR. COLE: I have a question unrelated, Your Honor.
14 THE COURT: Oh, okay.
15 MR. RAFFINI: While we're still on the record, Your
16 Honor, I'm just going to ask that the witness since he's
17 remaining on the stand prior to cross-examination or
18 finishing his testimony not to discuss it with anybody
19 overnight.
20 THE COURT: You can't speak about your testimony with
21 anyone.
22 THE WITNESS: I completely understand.
23 THE COURT: Not your father or your lawyer.
24 THE WITNESS: Yes, sir.
25 **********END OF TRANSCRIPT OF RECORD**********

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Anderson County, South Carolina, on the 4th day of June, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 27, 2025

Hollie Jenkins

Hollie M. Jenkins, Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	2019-CP-04-00760
COUNTY OF ANDERSON	)	
	)	
	)	
	)	
BROCK LANDSCAPE CONTRACTORS,	)	
LLC D/B/A BROCK LANDSCAPE,	)	
PLAINTIFF,	)	
	)	
vs.	)	
	)	
CLYDE E. ABERNATHY, SHARON M.	)	
ABERNATHY, LINDA M. ABERNATHY	)	
AND MICHAEL L. ABERNATHY,	)	
INDIVIDUALLY AND ABERNATHY	)	
WELDING & SANDBLASTING,	)	
DEFENDANTS.	)	
	)	
	)	TRANSCRIPT OF RECORD
_____	)	

June 5, 2024
Anderson, South Carolina

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JR., JUDGE

A P P E A R A N C E S:

JOSHUA BRENT RAFFINI, ESQ.
Attorney for the Plaintiffs

GREGORY LEE COLE, JR., ESQ
Attorney for the Defendants

CHERYL A. SMITH
Circuit Court Reporter

1 INDEX

2 (PW) - Denotes State's Witness
(DW) - Denotes Defense Witness

3

4 PAGE

5 (DW) JACOB ABERNATHY:
Direct Examination Continued by Mr. Cole 5
6 Cross-Examination by Mr. Raffini 14
Redirect Examination by Mr. Cole 58
7
(DW) MICHAEL ABERNATHY:
8 Direct Examination by Mr. Cole 60
Cross-Examination by Mr. Raffini 79
9
Defense Rests 93
10 Motion 93

11 (PW) HAROLD BROCK:
Direct Examination by Mr. Raffini 97
12 Cross-Examination by Mr. Cole 103

13 Motion 105
Certificate of Reporter 106
14

15

16

17

18

19

20

21

22

23

24

25

1 EXHIBITS

NO	DESCRIPTION	ID	EVD
	(Plaintiff's Exhibits)		
8	First Citizen's Bank Statement	**	32
9	Check Copies	**	35
10	Time Cards/Daily Reports	99	99
11	23 Logistics Load Counts	102	102
	(Defendant's Exhibits)		
1	Copy of Check 792459	**	66
3	Mortgage Amortization Loan Estimate	**	70
4	Loan Estimate	**	*71
5	Amortization Schedule of Loan if Refinanced	**	*73
16	Photo	**	6
17	USB Video and Transcript	**	10
18	Amortization Schedule at 5.625 Percent	**	74
19	Amortization Schedule at 2.25 Percent	**	*75

*Exhibit admitted for demonstrative purposes only.

**Exhibits premarked by counsel.

1 P R O C E E D I N G S

2 (WHEREUPON, proceedings commenced at 11:32 AM.)

3 THE COURT: All right. You've got your next witness?

4 MR. COLE: Yes, Your Honor.

5 THE COURT: All right. I appreciate y'all's

6 patience.

7 MR. COLE: Your Honor, we're continuing on from

8 yesterday's witness.

9 THE COURT: Oh, okay. That's right.

10 MR. COLE: A few more things. So Jacob Abernathy.

11 THE COURT: Mr. Abernathy, you're still under oath.

12 While you're coming up, I just need to ask you for the

13 record, you haven't had any conversations with your son,

14 any of the witnesses or any of the lawyers in this case;

15 is that right?

16 THE WITNESS: I have no kids, Your Honor. And no,

17 sir.

18 THE COURT: Oh, father. You haven't talked to

19 either.

20 THE WITNESS: No, sir.

21 THE COURT: Okay. All right.

22 MR. COLE: Your Honor, may I approach the witness?

23 THE COURT: Sure.

24 ///

25 ///

1 WHEREUPON,
2 JACOB ABERNATHY
3 After having been previously duly sworn, testified as
4 follows:
5 DIRECT EXAMINATION (Continued)
6 BY MR. COLE:
7 Q Mr. Abernathy, I'm handing you a photograph that's
8 been marked as Defendant's Exhibit 16 for identification
9 purposes. Are you familiar with that photograph?
10 A Yes, sir, I am.
11 Q And who took that photograph?
12 A That was myself.
13 Q And what is that photograph of?
14 A This is a photograph of Mr. Ronnie Dawson's property
15 after the seeding and the final prep work was finished of
16 Mr. Dawson's where our dirt was removed from.
17 Q And is that a fair and accurate representation of
18 what Mr. Dawson's field looked like when this project was
19 completed?
20 A Yes, sir.
21 MR. COLE: Your Honor, I move this photograph into
22 evidence as Defendant's Exhibit Number 16.
23 MR. RAFFINI: Without objection, Your Honor.
24 THE COURT: All right. Without objection.
25 ///

1 (WHEREUPON, Defendant's Exhibit Number 16 was admitted
2 into evidence.)
3 MR. COLE: Your Honor, I have a copy for the Court.
4 THE COURT: Thank you.
5 BY MR. COLE:
6 Q So, Mr. Abernathy, on this Exhibit 16, what is
7 significant about this picture to you?
8 A This picture is very significant to the fact that
9 when we started to bring dirt to our location for our
10 shop, in the previous picture of where we had started in
11 September, that if you notice on the telephone pole in
12 that where his track loader was located, in the process of
13 piling dirt, that there's almost no -- you can hardly tell
14 that any dirt has been removed from the property. If, you
15 know, there was that exceeding amount of dirt, that
16 telephone pole would have had to have been relocated
17 through the county.
18 Q Now, moving on, Mr. Abernathy, when this project was
19 over with, who paid Mr. Brock?
20 A The project -- Mr. Brock had showed up on a Friday
21 and had gotten with my father, and I was there as well.
22 He asked my dad if there was any way he could come up with
23 $16,000 due to the project was ended. The trucks were no
24 longer bringing dirt to our shop and there was one thing
25 left at Mr. Dawson's property that had to be picked up.

1 And my dad said sure, not a problem. My dad had $2,000
2 cash in the safe that Friday and said Monday I will get
3 you the rest.
4 Monday morning came, and that was a holiday or some
5 reason why the banks were closed. My dad then called
6 Mr. Brock and said that the banks were closed and that he
7 apologized that he couldn't get him the money until in the
8 morning.
9 Tuesday, which was October the 2nd, my mother wrote a
10 check from the building account for the $14,500, and the
11 $500 was just so my dad could have some pocket cash. And
12 when Mr. -- my dad then called Mr. Brock to say, hey, bud,
13 I've got your money. Mr. Brock said I will then be there
14 around 5:30 or 6 o'clock to get up with you.
15 At that time, 5:30, 6 o'clock rolled around,
16 Mr. Brock showed up. My mom was sitting on the porch. My
17 dad went to walk up to Mr. Brock's Chevrolet four-door
18 pickup truck. And they were talking about the job and
19 just, you know, what he had done that day and what was
20 going on with my dad medical-wise.
21 And then my dad went to give Mr. Brock the money, and
22 right before Mr. Harold took it, he said, now, Mike I want
23 you to know that I know I owe you a lot of money. He said
24 let me get to the office and get with my secretary and
25 I'll get you a receipt for your money, which we haven't

1 been able to get a receipt to this day for the cash that
2 my dad had given him.
3 Q Let me stop you right there, Mr. Abernathy. Is this
4 -- Exhibit 15, is this the cash that Mike Abernathy gave
5 to Mr. Brock?
6 A That it is.
7 And the reason why I have it is that day my dad had a
8 doctor's appointment, and just in case dad didn't make it
9 back in time, he didn't want to give Mr. Brock any excuses
10 on why he couldn't pick his money up that day.
11 Q Now, did Mr. Brock pay you or your father anything
12 that day?
13 A No, sir.
14 Q And did you present an invoice to Mr. Brock that day?
15 A No, sir. Because he told my father that -- this was
16 a Tuesday at 5:30, 6 o'clock. he said end of the week I
17 will bring you a receipt for your money and we'll tally up
18 with your bill.
19 Q And did Mr. Brock give you an invoice that day? The
20 day that he was paid, did he give you or Mr. Abernathy --
21 Mr. Michael Abernathy an invoice?
22 A No, sir. Because my dad had asked for one. He just
23 wanted something where he could write it down. And he
24 didn't have his receipt book with him and said I'll just
25 have my secretary do that this week and I'll get with you

1 around the end of the week.
2 Q So when were invoices exchanged?
3 A Invoices were exchanged Thursday, October the 4th.
4 Q And approximately how long was that after this cash
5 payment was made?
6 A Cash payment was made October 2nd at 5:30, 6 o'clock.
7 Receipts were switched from one another October the 4th,
8 around the same time.
9 Q And when you say "receipts," do you mean invoices?
10 A Invoices. Yes, sir.
11 Q And on October the 4th, who was present at the
12 exchange of invoices?
13 A That was me, myself, my brother Matthew Abernathy,
14 Harold Brock, Ricky Sweet and Larry Helms.
15 Q And did you take a video of that interaction?
16 A We did. And the reason why I did take a video is
17 because just in case that there was an issue through
18 another party, we were just -- we were told that you might
19 want to make a video because there could be issues or, you
20 know, going against what people said. And I wanted to
21 make sure that people stand behind what they say.
22 Q And I'm going to hand you, Mr. Abernathy, a document
23 that's marked Defendant's Exhibit Number 17 for
24 identification purposes, and as part of that, a flash
25 drive that is also part of Defendant's Exhibit Number 17

1 for identification purposes. Now, is that a -- on that
2 flash drive, is that the video that you made?
3 A It is. Correct.
4 Q And is that transcript a fair and accurate transcript
5 of what was said during that video?
6 A 150 percent.
7 MR. COLE: Your Honor, I'll move into evidence the
8 video and the transcript as joint -- Defendant's Exhibit
9 Number 17.
10 THE COURT: Any objection to that?
11 MR. RAFFINI: Your Honor, I just want to state for
12 the record I'm not objecting to it coming in. Having
13 reviewed the video, my only comment is that I cannot hear
14 everything that is on the video so I cannot say myself
15 that I believe the transcript is 100 percent accurate.
16 However, I don't object to it coming in based on the
17 witness's testimony.
18 THE COURT: Okay. All right. With that caveat, it's
19 admitted.
20 (WHEREUPON, Defendant's Exhibit Number 17 was admitted
21 into evidence.)
22 MR. COLE: Your Honor, and I would ask permission at
23 this time to play the video for the Court.
24 THE COURT: Sure.
25 MR. COLE: I have it on my laptop, the only way I

1 know to play it. I do have a copy of the transcript for
2 the Court as well.
3 THE COURT: Yeah. I'm more concerned about her. Why
4 don't you put it down there? You want to put it down
5 there in front of her?
6 THE REPORTER: So if that's a video, I don't take
7 that down.
8 THE COURT: Oh, okay.
9 (WHEREUPON, Defendant's Exhibit Number 17 was played in
10 open court.)
11 MR. COLE: Your Honor, if I may take this back.
12 THE COURT: Yeah. Can I have this?
13 MR. COLE: Yes, Your Honor.
14 BY MR. COLE:
15 Q Mr. Abernathy ---
16 A Yes, sir.
17 Q --- is the work that both of you were describing in
18 that video, does that work match up to what's on the
19 invoice that you gave to Mr. Brock that day?
20 A Yes, sir. We didn't change anything on our invoices,
21 not even a letter because I had given Mr. Brock an invoice
22 of the work that we had did on his equipment, and I did
23 not want to change anything other than what he had. And
24 the reason why there was pennies involved out of my mouth
25 when I said that, because I was there when my dad paid the

1 man $16,000, and his invoice said $16,771. $16,000 was
2 paid, due is $771. And to this day, I owe that man $771.
3 And that was what I was trying to -- that's what I was
4 going to take off of my bill so he would just cut me a
5 check for the remainder amount.
6 Q So to clarify, this invoice that's Defendant's
7 Exhibit 6, this was the invoice that you gave to Harold
8 Brock that day that's on that video.
9 A Correct.
10 Q Now, this invoice that is marked as Plaintiff's
11 Exhibit 1 from Mr. Brock, is this the invoice that he gave
12 you that day that's on that video?
13 A I never -- I -- he never gave me an invoice. He
14 actually snatched it out of my hand. And I actually have
15 never seen an invoice until -- because what had happened
16 was is it got heated. We were actually -- we didn't
17 contact anybody. I was actually hoping Mr. Brock and his
18 wife would come to the oyster roast and we could have a
19 talk like men and follow up with our agreement that we had
20 because it did get heated and this, that and the other.
21 And we were trying to stand behind our word. That's why
22 we didn't run and go put a mechanic's lien against
23 somebody. But I never received an invoice or a receipt
24 through Mr. Brock.
25 Q But is that the invoice that he showed you that day?

1 A This is an invoice. Basically, the only thing that's
2 the same is his landscaping contractor at the top. It was
3 only a two-page invoice, and at the other second page was
4 only half and it had $16,000 paid cash, remainder was $771
5 which was the crusher run.
6 Q So on this invoice that's Plaintiff's Exhibit 1, it
7 says that you owe a total -- or that Abernathy owes a
8 total to Brock of $16,711.31. That is with a credit for
9 the $16,000 that was already paid.
10 A Right.
11 Q So is this invoice accurate?
12 A No, it is not. Because October the 2nd we paid him
13 $16,000. He said I'll square up with you at the end of
14 the week. Thursday came. He showed up with the invoice
15 of $16,771, and $16,000 was already paid in cash. So I
16 just don't see where $16,000 was made between 36 hours.
17 Q So to clarify, the invoice that he showed you that
18 day said that you only owed him an additional $711.31?
19 A Correct.
20 Q And he did not allow you to keep that invoice that
21 day; is that correct?
22 A Correct.
23 MR. COLE: I have no further questions, Your Honor.
24 THE COURT: All right. Yes, sir.
25 MR. RAFFINI: Thank you, Your Honor. May it please

1 the Court.
2 CROSS EXAMINATION
3 BY MR. RAFFINI:
4 Q Mr. Abernathy, before we start, if I could ask, is it
5 okay if I call you Jacob? And the only reason I'm asking
6 you that is because we've got more than one Abernathy.
7 And for simplicity, is it okay if I call you Jacob?
8 A Yes, sir.
9 Q Okay. Some of what I need to do is just clarify,
10 make sure I understand what you testified to correctly.
11 And so if I'm wrong, certainly, I want you to tell me.
12 But the first thing is if I understood one of the
13 first things you said in your testimony is you are
14 familiar with every aspect of the agreement between the
15 parties and the job that was done at your family's
16 property; is that a fair statement?
17 A Correct. Yes, sir.
18 Q And are you also familiar with every aspect of the
19 welding work you're alleging was done for Mr. Brock?
20 A Correct. During -- after the first few jobs that we
21 did for Mr. Brock, my dad was -- that was between Mr. --
22 my dad and Mr. Brock. There was two or three jobs there.
23 But the agreement -- when the agreement started between my
24 dad and Mr. Brock, I know everything after that. I was
25 there.

1 Q So everything that's part of this case you know
2 about.
3 A Yes, sir. Yes, sir.
4 Q Okay. Now, I'm not sure I understood correctly, but
5 tell me your understanding of the agreement between
6 Mr. Brock and your dad about both welding and the dirt
7 haul operation.
8 A Okay. When that agreement started, we were working
9 on a piece of equipment. And at that time we were taking
10 a break. And dad said, you know, Harold, we're trying to
11 build us a shop and you don't know anywhere we can get any
12 dirt?
13 And Harold said, well, I'll get some dirt right now
14 but I really can't get a way -- a big hole to fill in.
15 And dad said, well, would you be interested in doing
16 the work for us?
17 And Harold would say, well, yeah, yeah. I'll be
18 interested in it. Finding dirt's going to be the problem.
19 And dad said, well, we can -- however you want to do
20 it, you know, cash, or we can work it out with an
21 agreement on doing some welding work and stuff. Dad said,
22 well, let me play it by ear. Let me see if I can get some
23 dirt and find the dirt and we'll go from there.
24 Dirt was located. And dad said, well, hey, I got my
25 dirt from a neighbor. And the work that we've accumulated

1 so far that you know about, the price and all where we
2 were at the time, and at that time it was around $10-,
3 $11,000. Dad said, well, I'm to the good. Do you think,
4 you know, you can -- want to work it out that way? That
5 way it's kind of like a -- you know, nobody's out a lot of
6 money, you know.
7 An agreement was made that Harold said, well, with
8 the trucks, we're -- we can benefit from the trucks
9 because 23 Logistics rents a building from me and I can
10 work that out with them at the end of the month when we
11 get finished up. And that way it will save us both some
12 money and I'll just take it off their rent or whatever,
13 you know. That started. And Harold said, yeah, I'd be
14 fine with that. I'll be good with that if you are,
15 Mr. Abernathy.
16 Q Let me ask something real simple, I think. Was your
17 understanding that the agreement, that essentially no
18 money was going to change hands between the parties?
19 A Correct.
20 Q Is that what you understood?
21 A Yes, sir.
22 Q Okay. Now, you know when your dad was working for
23 Mr. Brock before, he was charging him $95 an hour; do you
24 understand that?
25 A Yes.

1 Q And if I understand correctly, the current rate
2 you're charging is $225 to most of your customers.
3 A Yes, sir. And the reason why it went to $195 was
4 because it went from one person working on a piece of
5 equipment to two or three. And at that time, prices and
6 consumables were changing in price and cost. And we did
7 an evaluation of our loss and profit that year, which it
8 was the first of the year, the first month of the year.
9 And we realized that, you know, we can't work for free.
10 Nobody works for free, does any work for free. And Harold
11 said I'm completely fine with that, Mike. He said to be
12 honest, I'm right around the same price, so you know what?
13 It will work out in the end.
14 Q So is the $195 or $225, what your current rate is, is
15 that the rate for the whole company or is that the rate
16 per welder?
17 A That -- that's the rate for the whole company. $225,
18 that gives you three men. Usually, it's one man at the
19 shop, two men on the job. The $195 -- we had told
20 Mr. Brock that the $195 would cover any material in our
21 shop that's already been purchased by us, but no material
22 if we had to go to a steel warehouse and buy material.
23 Mr. Brock said let me know if you need to buy anything.
24 I'll pay for it. And Mr. Brock never paid for any
25 material for any jobs that were completed.

1 Q Okay. And we may talk about your invoice a little
2 more in a little bit, but just I want to make sure I'm
3 clear on this. When your invoice says $195 an hour for
4 12 hours, if I understand you correctly now, that's
5 12 hours for two people, two people working 12 hours; is
6 that right?
7 A Correct.
8 Q So if it says 12 hours at $195, we're actually
9 talking about a total of 24 what we may have used to call
10 man hours; is that accurate?
11 A No, sir. The $195 is two men is included in that
12 price, two -- two men on the job.
13 Q Two men are actually doing the welding.
14 A Correct.
15 Q And so two men are there for 12 hours?
16 A Yes, sir.
17 Q And so if I add their time together, that's a total
18 of 24 hours where you're invoicing against 12; is that
19 right?
20 A Each person works an hour, you know, themselves. And
21 if I was going to do it that way, I would do the $95 an
22 hour for each individual which would come to, you know,
23 the $195 as a whole.
24 Q Sure. That makes sense to me. But my point is this.
25 If you were doing it that way and you were charging $95

1 per person, it would actually be double hours, wouldn't
2 it?
3 A No, no. I mean, per person -- $95 per person, we
4 actually did $225. But since he had that amount of work,
5 we went to $195. And then that would cover some small
6 materials that were at our shop. $195 an hour covers, you
7 know, your fuel, your expenses to get there and the labor
8 for both men.
9 Q Okay. We can come back to it when -- because we'll
10 talk about some of the charges.
11 A Correct.
12 Q So you're familiar, though, with the lien that was
13 filed in this case; is that right?
14 A Correct.
15 Q And I know it wasn't addressed to you, but you
16 understood there was a letter sent once Mr. Brock had
17 retained counsel about initiating this case; are you aware
18 of that?
19 A Yes, sir.
20 Q And part of what was in that letter was a request
21 that really your family, because there were four people
22 named in the letter, let someone know if there was
23 anything in Mr. Brock's invoice that you disputed, let him
24 know about that; do you understand that?
25 A I -- I did. And that's when we retained a lawyer.

1 Q Okay. And in your testimony, I understood you to say
2 that Mr. Brock didn't even start working until September;
3 is that correct?
4 A Mr. Brock started to bring equipment the end of
5 October. And as everybody knows in the Upstate, that's
6 rainy season. He had brought equipment like the last
7 couple days of August. September 4th or September the
8 6th, Mr. Brock -- which it's been a long time -- he was --
9 actually come over himself, and as he testified, that he
10 was doing it on his spare time because he knew the
11 agreement that we had made and he didn't want to pay, you
12 know, out labor as well and doing the same thing that we
13 were doing. And he would come, and September the 4th
14 through the 6th was when he broke ground at Mr. Dawson's
15 property.
16 Q So he didn't start working until September.
17 A Correct.
18 Q And you received an invoice saying he started working
19 in May. Why did you wait some six years to mention for
20 the first time that he wasn't even on the property for
21 those first two and a half months?
22 A That's -- we didn't wait for six years. In the end
23 of August when he brought equipment, the reason why he
24 waited those few days with his equipment was because his
25 equipment was down and I had to work on them. He couldn't

1 use the equipment because it was broken.
2 And we didn't wait six years. When he came and we
3 were talking about -- when we paid the money Tuesday, we
4 were talking about, you know, how many loads did the
5 county sign off on, the inspection and all of that. And
6 we were talking about that. He said yeah -- I said yes,
7 sir. They signed off on it. And I said you know what,
8 Harold? They hit the nail on the head. I said the county
9 said 158 loads were brought in and you said 160. I said
10 you can't get no closer than that for loads of dirt. And
11 the county specifically said that where you needed to go
12 with your dirt, he said that if we didn't get there, that
13 he wouldn't sign off. And he had Harold's number in his
14 phone, I guess, to contact him to get a load count as
15 well.
16 Q Okay. Let's talk about that. If I understood your
17 testimony correctly, you said the county told you how many
18 loads of dirt you needed to get a permit.
19 A No. The county told me how many loads that was
20 needed for me to build a building that was not in a flood
21 zone area.
22 Q And they told you exactly how much dirt you had to
23 have to do that?
24 A Correct. He told me that to get out of the flood
25 zone area, they surveyed my area which was then timber,

1 and then they come out a second time and did a
2 measurement. And then that's when my testimony where we
3 -- me and the county got -- we painted a red mark on the
4 pine trees of where the dirt needed to come to which was
5 equivalent to around ten feet high.
6 Q Okay. But I understood you yesterday that you were
7 keeping very close count of all the loads that are coming
8 in ---
9 A Correct.
10 Q --- because you needed that information to get a
11 permit for this job.
12 A I had -- I had already pulled a permit for them to
13 sign off on the concrete. To be -- to start that process
14 of the permit and him sign off on the dirt to get out of
15 the flood zone, we needed a certain amount of loads to be
16 able to reach that point.
17 Q And you're saying Anderson County told you exactly
18 how many loads it took to do that.
19 A Anderson County was there with the surveyor that we
20 had to pay for, surveyed the property and gave him a cubic
21 feet survey on how they knew that of a range between -- he
22 gave him a range between 150 and 165 loads of dirt. And
23 the county said, well, if -- between that, I'll be good
24 with 160. And that was our number to hit when we were
25 hauling dirt. And I had to take record of that because I

1 was paying for the county to come out each time. It was
2 like a $65 fee every time they come out to, you know,
3 check off on how we were doing and did we reach that goal.
4 Q And so you called the county out to look at that
5 right after Mr. Brock completed his work?
6 A After the loads of dirt were brought in and the
7 crusher run was brought in, I then called the county to be
8 signed off so we can start the footers in the concrete
9 process.
10 Q And you said they had to do an inspection on the
11 amount of dirt that was brought in?
12 A No. They did an inspection on the compaction test of
13 the dirt so that size and weightness of the building could
14 be set in place. They brought out a pro. He stuck the
15 ground a couple times in about a 40-foot area and then did
16 a measurement and signed me off.
17 Q Do you know about when that inspection was?
18 A I can't give you an exact date, man. It's been such
19 a long time. But in the Anderson County records, that's
20 public records, it should be anybody can pull that up.
21 Q Okay. Then answer this for me. How come Anderson
22 County wouldn't have any record of any inspection done
23 other than the electrical for this building?
24 A Well, that would be on Anderson County because you
25 have to have a permit to build a building through Anderson

1 County. And I don't know what Anderson County would do
2 with their information. But I pulled a permit, and to
3 this day I still have the box that you nail on a tree with
4 the permits that put inside and still have all the permits
5 through Anderson County.
6 And we have to pay per the square footage of building
7 we're going to put up in Anderson County. And that was
8 where the number and everything came from.
9 Q Okay. And this was about a 3,000 square-foot
10 building; is that right?
11 A Yes, sir.
12 Q Okay. Now, how much did you expect the work that
13 Mr. Brock did for your family to cost?
14 A Well, actually, we had gotten about -- we do work for
15 a lot of people in the Upstate, and I know a lot of
16 landscapers and I work on heavy equipment and maintenance.
17 We actually got a quote and a price from three different
18 companies. And the price that we got -- you know, we got
19 a price on if we were given the dirt or we were going to
20 dig the dirt on our property it's free and just get a
21 price on somebody toting it up to our shop. We've gotten
22 two different prices to where if we were to buy the dirt
23 and to if we were to dig the dirt on our property, because
24 at the time, we did not know Mr. Dawson was going to give
25 us the dirt. The prices that we had gotten between the

1 other three or four companies that we used was sixteen --
2 actually, $15- to $18,5- if we supply the dirt and they
3 just get it compacted and all that. If they were to buy
4 the dirt and bring it to us, it was $34- to $40,000.
5 Q So my actual question is how much did you expect
6 Mr. Brock to charge you?
7 A Well, since we got the dirt for free, I said is -- if
8 we're -- where we're at on what we've worked for
9 Mr. Brock, you know, if he would stand with his agreement,
10 there shouldn't be, you know, anything given, I mean,
11 where we were at on the work that we performed for him. I
12 told dad, I said -- because at the time, I was about $10-,
13 $12-, $14,000 owed. And then March, April, May, June we
14 were still doing work until we found the free dirt. And
15 when he started in September, you know, the bill was 25,
16 24. And I said, well, dude, I mean, we're golden because
17 if the other company is giving a price between 15 and 18,
18 I said, well, we're well beyond that.
19 Q All right. Now, your testimony was that Mr. Brock
20 never paid -- or you never paid anything to Mr. Brock
21 until October; is that right?
22 A Yeah. Us paying Mr. Brock?
23 Q Correct.
24 A We did not pay Mr. Brock anything until October 2nd.
25 And that was the $16,000. It was $2,000 the Friday,

1 because that's all dad had in the safe, Monday the banks
2 was closed, Tuesday morning my mom went to the bank to get
3 the $14,000, gave it to me because my dad was at a
4 doctor's appointment. And October the 2nd, $14,000 was
5 handed to Mr. Brock.
6 Q Got all that. But you didn't pay him anything in
7 July. That's your testimony, right?
8 A Oh, no, no. Oh, no. No, sir.
9 Q Now, in addition to knowing everything about this
10 case, you also participated in the case itself including
11 discovery; is that right?
12 A Correct.
13 Q And you understand discovery. We just exchange
14 information to try to get ready for trial, nobody gets
15 surprised, that kind of thing; do you understand that?
16 A Correct.
17 Q So when we ask questions -- or actually, when
18 Mr. Brock's former counsel sent some questions, you were
19 one of the people listed to help answer those questions
20 and make sure everybody had accurate information; does
21 that sound familiar to you?
22 A Yes, sir.
23 Q So when you responded to questions about payments to
24 Mr. Brock, how come your first response was that you paid
25 Mr. Brock $16,000 in July of 2018?

1 A That was never my testimony. If $16,000 was ever
2 said out of my mouth, that was between me and him of where
3 he was at around on his welding bill was, hey, where am I
4 at? I said you're between probably $12-, $14-, $15-,
5 $16,000. And when we had that discussion, he said that
6 sounds about right.
7 Q All right. Well, I'm not talking about the welding
8 bill right now. Right now we're talking about responses
9 in discovery. And there was a question asked of you in
10 discovery: How much did you pay Mr. Brock and when? Do
11 you remember that?
12 A If it was, I don't remember the -- the last time I
13 remember talking to Mr. Brock was at a mediation.
14 Q We're not talking about an actual conversation with
15 Mr. Brock. Do you remember when we talked about
16 discovery, answering written questions as part of this
17 case?
18 A Correct.
19 Q And you said you participated in that; is that
20 correct?
21 A I participated in the -- you know, the process of
22 gathering information for the case and the work performed.
23 Q And providing information to your attorney so that
24 information can be exchanged; is that right?
25 A The information that I was involved in which was the

1 work.
2 Q So the question is, why would your response to a
3 question about payment indicate a payment was made in July
4 when you say he hadn't even started working yet?
5 A A payment in July, I don't ever remember saying that,
6 July. Because in July, we were working on Mr. Brock's
7 equipment. He wasn't working on ours. If I said anything
8 about July, I said there was no $16,000 given to us in
9 July.
10 Q Okay. So it's just a mistake then.
11 A Somebody made a big mistake.
12 Q Okay. Well, let me help you out. You did do a
13 supplemental response to those questions. And in those
14 supplemental responses, that's where, for the first time,
15 we see you say you gave Mr. Brock $16,000 around October
16 the 2nd of 2018; does that sound more accurate to you?
17 A $14,000, yes, sir.
18 Q Well, $14-. It was $2,000, and then later it was
19 $14- for a total of $16-. Does that sound right now?
20 A Correct, correct.
21 Q Okay. And as part of those discovery responses, you
22 also submitted some bank records to show that you couldn't
23 have made a payment in July because there wasn't any
24 corresponding payment.
25 A Correct.

1 Q So the July account wouldn't show anything that would
2 lead anyone to believe a payment had been made to
3 Mr. Brock; is that right?
4 A Correct. Because there was no work -- Mr. Brock
5 wasn't doing work at that time, but at that time, we were
6 paying for trees to get timbered and cut and to start the
7 process to bring in dirt of -- to the property.
8 MR. RAFFINI: Okay. If I could approach the witness,
9 Your Honor.
10 THE COURT: Sure.
11 BY MR. RAFFINI:
12 Q Handing you a copy of what I've marked for
13 identification at this point as Plaintiff's Exhibit
14 Number 8. If you can take a look at that, see if you can
15 tell me what it is, please.
16 A This is an account overview at First Citizens Bank of
17 our business account.
18 Q Okay. So that's for the Abernathy Welding &
19 Sandblasting? That's what's indicated there?
20 A Yes, sir.
21 Q That is for July of 2018; is that correct?
22 A July of 2018. Yes, sir.
23 Q Okay. And so that statement is the account that
24 would apply for this business that we're talking about.
25 Your business.

1 A Yes, sir.
2 Q Okay. And at the time you did your supplemental
3 responses, the indication was there was no payment that
4 could have been going to Harold Brock in July of 2018; do
5 you remember that?
6 A Yes, sir.
7 Q Okay. So if you look at that statement, look down
8 there where it says one check for $15,000. Are you
9 familiar with that?
10 A Yes, sir. To this day I am familiar with that one.
11 Q Okay. Tell me about it, please.
12 A That check right there was for my dad's IO-540
13 Lycoming engine that we went on vacation to Florida to
14 actually pick up an aircraft engine that my dad had
15 purchased and was going to build an airboat with it.
16 Q Okay. So you wrote him a check?
17 A What's that?
18 Q You wrote him a check for that since he had to go out
19 of state?
20 A No, sir. No. He had gotten the cash out and had
21 taken it with us.
22 Q Okay. So he took $15,000 in cash to pay for it and
23 an airboat.
24 A No. The cash that he got out that we actually took
25 with us was -- I think it was $9,500. And then the other

1 cash was put in the safety deposit -- or in our safe.
2 Q Okay. And about when was that trip to Florida?
3 A That was July -- whatever that date was. We were
4 there four days, five days.
5 So my dad wanted to leave my mom with money because
6 he wasn't sure if the trees were going to be taken down at
7 that time. Because at the time, we still had trees on the
8 property that had to be cleared and had to do all that
9 that Mr. Harold didn't have anything to do with.
10 Q So was it for a trip to Florida or was it for trees?
11 A No. We took $9,500 with us to Florida. The
12 remaining amount was left at home with my mom.
13 Q Okay. But let's see if we can narrow it down a
14 little bit. Do you remember if it was maybe earlier in
15 July, closer to the 4th around the holiday? later in July?
16 A No, sir. It was around the 4th because there was an
17 event down there that was for aircraft parts that we had
18 to make at that time.
19 Q Okay. So like a Fourth of July type of thing.
20 A Correct.
21 Q But that check, obviously, shows in the statement as
22 coming out during that July statement; is that right?
23 A Correct.
24 And the check is -- if that's the way he did it at
25 that time. They usually write a check as cash and then,

1 you know, have it cashed as -- you know, they write
2 themselves a check, I would guess, to pull the cash out.
3 Q That or a withdrawal or something like that?
4 A Correct.
5 Q But wanted to make sure you had it for this Fourth of
6 July then; is that accurate?
7 A True. Yes, sir. Yes, sir.
8 MR. RAFFINI: Your Honor, I'd ask the exhibit be
9 admitted as Plaintiff's Exhibit Number 8.
10 THE COURT: Any objection?
11 MR. COLE: No objection, Your Honor.
12 THE COURT: Without objection.
13 (WHEREUPON, Plaintiff's Exhibit Number 8 was admitted into
14 evidence.)
15 MR. RAFFINI: If I can approach the witness again,
16 Your Honor?
17 THE COURT: Sure.
18 BY MR. RAFFINI:
19 Q Handing you a copy of a single page that's been
20 marked for identification at this point as Plaintiff's
21 Exhibit Number 9. Take a look at that and see if you can
22 tell me what it is, please.
23 A This is the checking withdrawal for cash, cash. And
24 I guess that's a statement. It's not a check. I guess a
25 -- two statements and two copies of checks.

1 Q Okay. If you see the one at the top there, can you
2 tell me what that is?
3 A Checking, I don't know if it's a check. It's a -- I
4 guess a withdrawal slip or something for $15,000.
5 Q Okay. So that would be the $15,000 we were talking
6 about on the July statement?
7 A Yes, sir.
8 Q And it looks like it's dated July 17, 2018; is that
9 right?
10 A Correct.
11 Q So your dad took out $15,000 on July the 17th to go
12 to Florida for Fourth of July then.
13 A Correct.
14 Q Is that still your testimony?
15 A We went -- it wasn't like that day of event. It was
16 around the Fourth of July. It was the event that we went
17 to, yes, sir.
18 Q Okay. So it was around the Fourth of July. You
19 needed to get money for it two weeks after the fact.
20 A This check was at -- the check for the $15,000 was --
21 you handed it to me -- was taken out on the 4th. Or no.
22 The 6th. This statement was made the 17th.
23 Q Help me out. What statement are you talking about
24 was made on the 6th?
25 A So it isn't a check. It says "branch." And checking

1 withdrawal slip, account, and it says the date that you --
2 that they had did the -- I guess got that. It was 7/17.
3 And then it says here 7/6 that money was taken out.
4 MR. RAFFINI: And if I could approach the witness,
5 Your Honor, and have him identify what we're talking
6 about?
7 THE COURT: Absolutely. Sure, sure.
8 BY MR. RAFFINI:
9 Q Can you show me where you're seeing a 7/6, please.
10 A July, you have this one here. It's saying the 17th.
11 And then this one here I was reading was the date -- it
12 was a 7/05 and a 7 -- sorry. You've got 20 different
13 numbers. 7/3 to 7/05 and 7/13 and then 7 -- well, that
14 was a later date, other credits to your account. That was
15 something completely different. And 7/6. Where did I see
16 the 6 at? Let's see. 7/6. This is a lot. Yeah, yeah.
17 You have 7 -- you have 7/3 to 7/5 was the -- and then the
18 remaining amount, I guess, was -- after that money was
19 taken out was 400.
20 Q Okay. So in the section for deposits, that's where
21 you're talking about 7/6.
22 A Correct.
23 Q Is there anything else to indicate a withdrawal
24 during July of $15,000 other than that withdrawal on the
25 17th of July?

1 A The withdrawal statement period through 2018 -- I
2 just want to make sure I'm going through this correctly.
3 There's a lot of stuff on here. Okay. There's -- there's
4 where I seen the 7/6 here. You have -- that's 7/7. Okay.
5 Yeah. Because that's -- there you go. Because right
6 there at that time -- so you can clearly see here it's
7 7/20 classic airboats in Cocoa, Florida. That's when we
8 were down in Florida. And then you have some other
9 Florida locations. Hilton Head Island would be a good
10 stop for gas. That was from the visa. Yeah. So it was
11 -- that's -- that's -- that's right.
12 So 7/17, that's when the money was taken out for us
13 to go to Florida.
14 MR. RAFFINI: All right. So let's talk about
15 payments in October.
16 First, Your Honor, I'd ask that Exhibit 10 [sic] be
17 admitted into evidence.
18 MR. COLE: No objection, Your Honor.
19 THE COURT: All right. Without objection.
20 (WHEREUPON, Plaintiff's Exhibit Number 9 was admitted into
21 evidence.)
22 BY MR. RAFFINI:
23 Q As to October payments, you indicated that Mr. Brock
24 was paid a total of $16,000 in cash; is that correct?
25 A Correct.

1 Q Why was he paid in cash?
2 A Because my dad is the -- he's old-school, and he's
3 the type of person to where if you do something and you
4 work -- we work very hard for our money, and my dad's not
5 the type of person to make you go somewhere else to get
6 your money after you work very hard for it. He had called
7 Mr. Brock to let him know. Mr. Brock did not have to call
8 him one time to come pick up his money. My dad -- as soon
9 as the money was in hand, my dad called him and said I
10 have your cash. That way you're not on a rabbit hunt
11 trying to go collect your money. Like here's a check. Go
12 get it from somebody else.
13 Q And I understand. But if he needed his money, your
14 testimony was your mother had a checkbook, right?
15 A Correct.
16 Q So why did she have to go to the bank to write a
17 check to cash to give you the cash to take a picture of
18 and come back?
19 MR. COLE: Objection, Your Honor. He's asking why
20 his mother did something. And how would he know why his
21 mother did something?
22 THE COURT: Ask if he knows why. If he does for some
23 reason, then we'll have to figure out if it's hearsay.
24 MR. RAFFINI: I'll break it down a little bit, Your
25 Honor.

1 THE COURT: Okay.
2 BY MR. RAFFINI:
3 Q Jacob, you testified first that this was a payment in
4 cash. And then if I heard your testimony correctly, your
5 testimony already on record was your mother had the
6 checkbook; is that correct?
7 A My -- my father gave my mother the checkbook.
8 Q Okay. And so do you know why had to take the
9 checkbook to make a check out to cash to give Mr. Brock
10 his money?
11 A Because my father had medical issues at that time.
12 And that's -- like I said earlier, that's why my mother
13 had went to the bank with a check so she could -- that way
14 there's no record of it -- make a check out to cash
15 because she was on the account as well and that she could,
16 you know, do that. Because my father was having issues
17 with blood clots in his leg.
18 Q Let me ask it differently, if you know the answer to
19 this. Why not just write Mr. Brock a check?
20 A Because then, again, like I told you before, my dad's
21 old-school, and he wants to make sure that, you know, you
22 don't have to run somewhere else to get your money and
23 doesn't want to have somebody run into an issue of, hey,
24 they won't give me this or they won't -- they'll only give
25 me half till tomorrow because they don't have enough money

1 on hand. My dad was going to make sure that Mr. Brock was
2 handed his money in full and he didn't have to go
3 somewhere else to get his money.
4 Q And why did you take a picture of that cash?
5 A Well, it's not every day you owe $14,000. And then,
6 again, like I do -- and that's the reason why I have as
7 many pictures as I do. When you're working on equipment,
8 man, this stuff isn't $2,500. I mean, you're dealing with
9 hundreds of thousands of dollars worth of equipment. And
10 with equipment on my property and I'm working on equipment
11 or it's in my possession, I want to make sure that there's
12 documentations of the equipment or damage that I didn't do
13 or if something wasn't there and was told that it was and
14 it was stolen or something of that nature.
15 Q So you took a picture of the cash to make sure
16 equipment wasn't damaged ---
17 A No. I took a picture of the cash to make sure that
18 it has been documented that we were giving Mr. Brock
19 $16,000.
20 Q All right. So turning back to what I understood your
21 testimony to be yesterday, had to get this cash from the
22 account. This was a building fund y'all had to work on
23 this project; is that right?
24 A Correct.
25 Q And so it accumulated, obviously, a lot of money so

1 you could build this building.
2 A Correct.
3 Q What I understood is that you were saying, you know,
4 hundreds of thousands of dollars so this building could be
5 completed.
6 A There was hundreds of thousands of dollars in an
7 account that was, you know, a savings or however my dad
8 had done it. And as needed, we would move money to an
9 account to withdraw or to get out.
10 Q I understand that. I just want to make sure because
11 I wanted to clarify. I understood you to say yesterday
12 that the money came out of the same account where the
13 building fund was. Is that accurate or no?
14 A To be completely 100 percent honest, it could have
15 come out of either the savings or the building fund. I
16 don't know that part of it. I know that there was a cash
17 check given, and which account it comes out of, I don't
18 know. Obviously, there isn't a borrowing statement here
19 if there was cash in an account. And whether or not which
20 it come out of, I can't -- I can't testify to that.
21 Q So there may have been more than one. Is that what
22 you're telling me?
23 A There is multiple accounts at multiple different
24 banks.
25 MR. RAFFINI: Okay. I understand.

1 Your Honor, if I could retrieve Defendant's Exhibit 7
2 and hand it to the witness.
3 THE COURT: Sure.
4 And when you get to a minute to take a break, just
5 let me know.
6 MR. RAFFINI: Okay.
7 THE COURT: No hurry.
8 BY MR. RAFFINI:
9 Q Jacob, I'm going to hand you what was marked and
10 entered yesterday as Defendant's Exhibit 7. I believe
11 you're familiar with that; is that right?
12 A Yes, sir.
13 Q Is that all in your handwriting?
14 A Let me just double-check to give you the 100 percent
15 correct answer. Because I can tell the difference between
16 mine and my brother's.
17 (Reviews document) Every single one of them except
18 for the replace the batts [phonetic] box on track. Those
19 are my brother had written that down. And that's -- he
20 drew a little cross there because that was his tattoo on
21 his arm and that's why he did that, to make sure he was
22 the one who wrote that.
23 Q All right. I understand. And I understand this was
24 also your kind of record of your hours; is that right?
25 A Correct.

1 Q And tell me if I'm wrong, now, but what I have down
2 is that you needed to write all this down because you
3 didn't really trust your memory to keep the records unless
4 your wrote it all down at the time; is that right?
5 A Correct.
6 Q So looking about, I guess, halfway down that page
7 where you're talking about the grind or shaker machine.
8 Do you see where I'm talking about?
9 A Yes, sir.
10 Q And I heard correct. That's in your handwriting. So
11 you wrote that.
12 A Yes, sir.
13 Q And it appears there's a date there around June the
14 10th?
15 A Yes, sir.
16 Q So is that when you're saying the work would have
17 started on that project?
18 A Yes, sir.
19 Q And down at the bottom it says June the 20th. That's
20 when you're saying work would have ended on that project?
21 A Yes, sir.
22 Q So if you have trouble remembering when you're doing
23 things and all that, why would you wait ten days to write
24 down this total of hours that you're claiming?
25 A Because at that time, as you can see, we do ten-hour

1 days, and I wrote that in the corner here as you can see.
2 The hours, 30-minute lunches, those -- any dates that we
3 were not there between those days would have been wroten
4 [sic] down. Between 6/10/2018 and 6/20/18, every single
5 day which would equal up to ten days we were there
6 ten-hour days.
7 Q You were there ten hours for ten days.
8 A Ten-hour days of your -- the time in between both
9 days.
10 Q Where would it be written down what days you weren't
11 there?
12 A It would be wroten down -- it would be wrote down
13 because you have 30-minute lunches here. So if you take
14 30 minutes off of, you know, your hours of ten days.
15 Q I understand you don't trust your memory, so what I'm
16 trying to figure out is how you get from what you wrote
17 down here -- with the dates and the hours, how do you get
18 to the total of 78 hours?
19 A Because with the lunches that we had taken at that
20 time, because I don't do a job and then a month later go
21 back and put, oh, just this date to this date. At that
22 time, we were -- I was counting up hours for each day, and
23 each day equaled up to ten hours. Okay. Each day I would
24 write down welded new plates to conveyer, sides, cut out
25 panels along conveyer belt the next three or four days.

1 That's what that took. Welding ladder, that was a job.
2 Supply materials for that job when I would run back to
3 Superior Steel and get steel for the shop and get things
4 cut out. I mean, it was -- it was a long time on that
5 machine.
6 Q So you're saying there was a total of 78 hours.
7 A Correct.
8 Q And back to my question about how you're billing
9 this, is that 78 hours you were there?
10 A Correct.
11 Q And who else was there working on this machine?
12 A My father. And then the man that Mr. Harold, I
13 guess, traded or bought the machine from, he was there the
14 first day and a couple hours the second day.
15 Q Right. And so you were there when the machine was
16 delivered.
17 A No, sir. Nor my father was. The machine was already
18 there when we showed up.
19 Q Okay. You were there when the man Mr. Harold bought
20 it from was there; is that correct?
21 A We were there with the man that he had bought it
22 from. When we showed up, Mr. Harold wasn't there. We
23 were talking with the fellow there for about an hour until
24 Mr. Brock showed up.
25 Q Okay. But you were there when the person that sold

1 it was talking to you and your father.
2 A Correct.
3 Q And he told us -- he was here to tell us when he was
4 there and explained all this to you on May 20, 2018. Do
5 you remember him testifying about that?
6 A That wasn't in May. We worked -- I mean, the dates
7 are clearly here. When we worked on that machine, that
8 was on 6/10. And that would be month five.
9 Q Okay. I understand.
10 So you accounted for your 78 hours. That's how many
11 hours you were there.
12 A That was as many hours as me and my father were there
13 as a whole, yes, sir.
14 Q Okay. That's two different things. I want to make
15 sure I understand. When you're recording hours, you're
16 recording your hours or everybody's hours?
17 A I'm recording -- okay. Clearly, at $195 per hour
18 that we do, that is you get two men with that. Each hour
19 that is documented is a $195 per hour. That's why there
20 is a PH. That means "per hour." What is included in that
21 $195 an hour is two men on site, one in a shop helping if
22 we do need something cut or, you know, loaded.
23 MR. RAFFINI: Okay. Your Honor, that may be a good
24 place to take a brief recess here.
25 THE COURT: Yeah. Let's take ten minutes. All

1 right.
2 MR. RAFFINI: If I could ask, Your Honor, I think we
3 had talked a little bit before we started, and I think
4 we're going to push through today. May need a little bit
5 longer break so that we can instead of having a lunch
6 break, let everybody do what they need to do for maybe
7 15 minutes and then be back to start and push on through.
8 THE COURT: Yeah. Maybe 20.
9 MR. RAFFINI: 20? Yes, sir.
10 THE COURT: Yeah. We'll take ten minutes now and
11 then we'll power through it.
12 (WHEREUPON, a recess is taken at 12:35 PM; proceedings
13 reconvened at 1:07 PM.)
14 THE COURT: Okay. All right, sir. You're still
15 under oath.
16 MR. RAFFINI: Your Honor, before we start, I'll
17 probably just go ahead and retrieve the exhibits the
18 witness has in front of him to return them before we give
19 him any new ones.
20 THE COURT: Okay. And y'all have premarked all
21 these, right? Y'all premarked?
22 MR. COLE: Yes, Your Honor.
23 THE COURT: Okay.
24 MR. RAFFINI: And also to clarify on the record, Your
25 Honor, I believe I said that the last exhibit that was

1 admitted was Plaintiff's Number 10. It was actually
2 Plaintiff's Number 9. We have not admitted Plaintiff's
3 Number 10.
4 THE COURT: Okay.
5 MR. RAFFINI: So just to clarify for the record.
6 THE COURT: All right. Thanks.
7 MR. RAFFINI: And, Your Honor, I'm now retrieving
8 Defendant's Exhibit Number 6. If I can hand it to the
9 witness.
10 THE COURT: Sure.
11 BY MR. RAFFINI:
12 Q And, Jacob, you're familiar with that document; is
13 that correct?
14 A Yes, sir.
15 Q And just a few questions about that for you.
16 Now, how much of this work were you involved in?
17 A Every bit of it.
18 Q Okay. And this is what you're telling us corresponds
19 to your notebook sheet; is that correct?
20 A Yes, sir. Correct.
21 Q Okay. And I know we kind of danced around it a
22 little bit. I want to make sure I'm really clear that
23 when you're listing hourly charges, that's the hourly
24 charge for the company, that that is correct, okay? Is
25 that right?

1 A That is the hourly rate for the company, yes, sir.
2 Per hour.
3 Q Okay. Per hour for the whole company.
4 And so I want to make sure I understand that if the
5 whole -- if you have two welders there for three hours,
6 can we agree that means that there's six hours total of
7 work?
8 A As a paying period through the invoices or for the
9 payroll for my guys, each guy would get three hours each,
10 correct. But as at the job, there wasn't six hours done.
11 If there's three hours worth of work, there was three
12 hours worth of work for two men.
13 Q Okay. And so where it lists three hours, that means
14 the job would take two men three hours to complete; is
15 that right?
16 A Correct.
17 Q And so, for example, if you look at that third item
18 there about the exit gate, you see where I'm talking
19 about?
20 A Oh, yes, sir.
21 Q Okay. And so that one was straightening welding
22 panels, prepare entrance of exit gates at residence which
23 I believe was Mr. Brock's residence; is that right?
24 A Correct. Correct.
25 Q And so for that entry, you're telling me that it

1 would have taken two men 12 hours to complete that.
2 A The first day that my dad had went over there was
3 with Mr. Brock and my mother. That's when my mom had
4 talked with his wife at that time. They did a little bit
5 of work there, but since it was getting late, Mr. Brock
6 knew that my dad was taking my mother out to eat, he
7 didn't want to hold him up, so the following days we
8 continued that work.
9 Q So when would the 12 hours have occurred?
10 A In -- the dates -- the date started on the entry
11 gates was taken note of 12 hours after that.
12 Q So the first day only your dad was there.
13 A My dad and my mother, yes, sir. Yes, sir.
14 Q And did your mother do any welding?
15 A No, sir. She did a lot of talking.
16 Q And on the second day, who was there?
17 A That was me and my father.
18 Q Okay. And so on the second day, you and your father
19 welded for some part of that 12 hours.
20 A Yes, sir. Yes, sir.
21 Q But it's not broken down on either your notes or in
22 this invoice.
23 A Well, yeah. Just like I testified earlier about I
24 could have changed up my invoice for the courtroom to help
25 understand the work that was performed for Mr. Brock, but

1 we did not want to change the amount, the total, the
2 letter or nothing on any invoice so he would completely
3 have something completely different of what we turned in.
4 Mr. Brock knew the work that we had did at the time.
5 Every piece of work that was done was called through
6 Mr. Brock on my dad's phone and was told what to do and
7 when. And when we completed the project, my dad said,
8 hey, I've got 12 hours in it. He already knew our hourly
9 rate.
10 And just like the video, the only person that
11 testified in the video that was questioned about the hours
12 was an employee that was never there during the
13 conversation of the new hourly rate. And that's why
14 Mr. Brock did not say anything when that was said.
15 Q All right. I want to talk about that next item there
16 which is back to that dirt and rock machine we talked
17 about a lot ---
18 A Correct.
19 Q --- where there was a total of 78 hours. I
20 understand the billing now. I want to talk to you about
21 your understanding of that machine. If I heard you
22 correctly, you were thinking that machine was really
23 "jump." Did I hear that correctly?
24 A For the most part.
25 Q And so you testified also you met with Mr. Merritt

1 who sold the machine to Mr. Brock.
2 A Correct.
3 Q Was there to show you and your father what needed to
4 be done.
5 A Correct.
6 Q And he explained to you a couple of welds to put it
7 back into service. So you disagree with him on that,
8 don't you?
9 A I agreed with his testimony to get the machine back
10 to mulch, the application that that machine was doing. To
11 fix the machine back to a mulching standpoint was two
12 days, ten hours. The -- to get the machine to where
13 Mr. Brock wanted the machine, to convert it to sand was
14 the hours taken and, you know, occurred of the 78 hours to
15 convert it from mulch to sand.
16 Q Okay. So it wasn't converted from mulch to dirt
17 then.
18 A It was -- well, sand, dirt. Just dirt, basically.
19 Q Okay.
20 A Just screen dirt.
21 Q So make sure I understand. What you're saying is you
22 thought it needed a whole lot more work than what
23 Mr. Merritt thought it needed.
24 A Mr. -- me and the fellow there, Mr. Merritt, we were
25 on the terms of, hey, this needs to be fixed so Mr. Brock

1 is happy with the issues he knew that were on with the
2 machine. To get his items fixed with what was wrong with
3 the machine to continue the mulching job for that machine
4 was, like he said, ten hours. To convert the machine to
5 dirt, screen dirt was a whole lot more hours involved.
6 And that's why Mr. Merritt was not there because he wasn't
7 involved in the transition point of mulch to dirt.
8 Q I understand. So it would have taken ten hours to
9 kind of get it up to speed and keep the same use.
10 A For Mr. Merritt's use, correct.
11 Q Okay. But he also is explaining, Mr. Merritt, that
12 the work that needed to be done was, in part, to change
13 the use. You were here for that testimony, weren't you?
14 A To change the use from mulch to dirt was what
15 Mr. Brock was trying to do. He explained what was wrong
16 with the machine to begin with. He was not there during
17 the process of the leveling of the machine. Because if
18 it's unlevel, sand will go that way or rocks will go that
19 way. I mean, everything has to be all within, you know,
20 certain tolerances for that machine to operate in an
21 efficient way.
22 Q Okay. Now, obviously, you've heard the video that
23 was played a little earlier today and you were present for
24 that.
25 A Yes, sir.

1 Q And I don't just mean the video being played but
2 present when the video was made; is that right?
3 A Correct.
4 Q And am I understanding your testimony correctly that
5 you're saying that video was made on October the 4th?
6 A Yes, sir.
7 Q Okay. Which was, let's put it this way, two days
8 after you're saying you paid Mr. Brock.
9 A Correct.
10 Q Okay. And make sure I understand kind of the
11 background there. Mr. Brock is paid, according to you, on
12 October the 2nd; is that correct?
13 A Yes, sir. My dad had paid him the remaining of the
14 $14,000. I was standing right there when it was done.
15 Q And based on conversation that day that you heard,
16 there was a plan to meet two days later and we're going to
17 settle up; is that accurate?
18 A Yes, sir.
19 Q Okay. And if I heard you correct earlier today,
20 Mr. Brock handed you an invoice during the course of that
21 video.
22 A He handed me -- we were at the edge of his truck, and
23 he said, you know, this is, you know, your invoice and
24 this is what you paid and this is your remainder balance.
25 And when he said "remainder balance," I said, okay.

1 Now I need a COI, which is a certificate of insurance.
2 And before you -- you know, you want to see my bill so I
3 can -- will take off of what is owed on your bill off my
4 bill which was to this day I owe $771. And I just figured
5 it would be best for both parties for me to just take it
6 off my bill because that's why he said, yeah, yeah. Let
7 me see your bill.
8 And he wasn't questioning any work until he got to
9 the price. I mean, you can clearly hear him turning pages
10 and was happy with the work that we had done and knew what
11 we had worked on at the time but just wasn't happy with
12 the price.
13 Q So he didn't question anything till he got to the
14 price.
15 A Correct.
16 Q So when the first thing he says is 158 hours, that's
17 about the ---
18 A No. The first thing he said was $30,000.
19 Q Okay. So when he handed you an invoice, your
20 testimony is his invoice at that time said the total due
21 for all the work he did was $16,7-?
22 A Was -- for the work that Mr. Brock had done, total
23 was $16,771. And on his bill he said "paid," and then it
24 said "remainder, $771.92."
25 Q And you right now today say you still owe him that

1 $771.
2 A I did, yes, sir.
3 Q And earlier you told us that, based on other
4 estimates, you thought this total job should have been
5 about $16,000 or so worth of work.
6 A Me and my dad had that discussion at dinnertime.
7 Like he hit the nail on the head but didn't understand why
8 money was switched when -- he was more worried about
9 getting paid than more worried about even paying my bill.
10 Q Okay. I understand.
11 And so at that time, your testimony is you had not
12 seen a new invoice where he was saying that there was
13 still $16,711 due after the payment.
14 A No. The invoice that I'm seeing today is double, you
15 know, the -- from what -- basically, and what I don't
16 understand is, is how his loads of dirt matched my hours.
17 That's kind of a coincidence. I knew what was paid
18 because my dad had already paid him -- we paid him
19 $16,000. And in my mind that's simple math of what's
20 owed, $771. I owe the man $771. That was, you know,
21 pretty easy to understand.
22 Q Sure. And that was reasonable for this job; is that
23 right?
24 A Yes, sir. All day long.
25 Q That would be about what you expected.

1 A Yes, sir. Especially getting the dirt for free.
2 Q Sure. And so after Mr. Brock is unhappy with your
3 invoice and questions some of the charges, as he's
4 leaving, why is it the last thing you say to him is you're
5 charging me out the ass, Harold?
6 A Correct. Because he shouldn't have charged me to
7 begin with. He should have said, hey, what is your
8 bill? He knew we did all the work. He should have said,
9 okay, well, I -- you -- I owe you $11,000, whatever it
10 would have been on top of his $16-. He should have said,
11 well, I've got $16,771 of hours and labor, your bill's
12 $30-, I owe you 15 grand. How about we just do that and
13 square up? Good deal. All said and done, everybody
14 goes about their business and agrees to the agreement we
15 had.
16 Q That's not what you told him that day. You told him
17 he charged you too much, in other words, didn't you?
18 A Well, when you go with an agreement between working
19 between two parties of I'll do something for you if you do
20 something for me and then you get charged something, yes.
21 You charged me out the ass because that should have been
22 -- I shouldn't have been charged at all. I should have
23 been given money.
24 Q I understand.
25 So let's go back to the original agreement. Your

1 testimony is the original agreement is we're probably not
2 going to be exchanging any money at all. It's going to be
3 an exchange of services, right?
4 A Correct. And that was -- but when we were at that
5 time in the job working on his equipment at that time, it
6 equaled out to about $16,000, $18,000 of the amount of --
7 the extent of work we worked on for him.
8 Q And so ---
9 A But work kept continuing and continuing and
10 continuing.
11 Q I got that. But at least to a question when you say
12 Mr. Brock is wanting money at the end of September or
13 beginning of October and the agreement is made we're going
14 to pay you $16,000, if the agreement was we're going to
15 exchange services, when Mr. Brock asked for money, why do
16 you give him the money?
17 A Because he never gave us a chance to talk. He asked
18 for the money that night. That's why my mother was
19 sitting on the porch because she wanted it -- quitely
20 [sic] understand what's going on. Because if you're
21 exchanging services, then why are you paying him? That
22 was my mother's exact words.
23 So she sat on the porch and heard Mr. Brock say --
24 when my dad was getting ready to hand him the money, he
25 knew my dad was getting ready to ask him something. And

1 he said, Mike, I know I owe you a lot of money. We'll
2 square up at the end of the week.
3 Q Okay. But getting back to the point where the
4 agreement is we're exchanging services, if he shows up
5 asking for money, why don't you say, Harold, we don't owe
6 you any money?
7 A Well, at that time, that's where we said, okay, we'll
8 square up at the end of the week. I'll show you my bill.
9 There was no -- no hard feelings or any words that needed
10 to be said. He said everything he needed to say: I'll
11 square up at the end of the week. I know I owe you a lot
12 of money. Well, today's your turn to get paid. I guess
13 Thursday will be mine.
14 Q So squaring up at the end of the week would make
15 sense if both of you owe each other money, right?
16 A He did work for us, we did work for him.
17 Q So why pay anything before you both exchange your
18 invoices?
19 A Why ask for money to begin with if you had an
20 agreement with somebody?
21 MR. RAFFINI: All right. I don't have any further
22 questions for this witness, Your Honor.
23 THE COURT: All right. Anything?
24 MR. COLE: Very briefly, Your Honor.
25 THE COURT: All right.

1 REDIRECT EXAMINATION
2 BY MR. COLE:
3 Q Mr. Abernathy, as to the discovery responses, the
4 responses to Mr. Brock's interrogatories, you did not
5 write those out, did you?
6 A As of what?
7 Q You were questioned regarding your responses to -- or
8 the Abernathy's responses to interrogatories. Those were
9 prepared by me; is that correct?
10 A Correct.
11 Q And they were -- the first one that was mentioned
12 that there was a -- that you were asked about that said
13 something about a July payment, I gave that response in
14 July of 2021 to Mr. Brock's attorney; is that correct?
15 A Correct.
16 And another thing that I don't understand is on his
17 bill, payment of $16,000 was July 14th on Mr. Brock's
18 bill. Well, the money wasn't taken out of the bank until
19 7/17.
20 Q But two months later in September of 2021, I prepared
21 an amended response to their interrogatories and sent that
22 to them; is that correct?
23 A Correct, correct. Yes, sir.
24 Q And that had the correct time of October on the
25 payment; is that correct?

1 A Correct.
2 Q And did you write either one of those
3 interrogatories?
4 A No.
5 Q Who wrote those?
6 A You did.
7 Q And so if there was an error on the first one, whose
8 error would that have been?
9 A Yours.
10 MR. COLE: No further questions, Your Honor.
11 MR. RAFFINI: Nothing else, Your Honor.
12 THE COURT. All right. You can step down.
13 MR. COLE: Your Honor, I'd like to call Mike
14 Abernathy.
15 WHEREUPON,
16 MICHAEL ABERNATHY
17 After having been duly sworn, testified as follows:
18 THE CLERK: Thank you. You can have a seat in the
19 witness chair. And if you will, please state your full
20 name for the record and spell your last name.
21 THE WITNESS: Michael L. Abernathy,
22 A-B-E-R-N-A-T-H-Y.
23 Mr. COLE: Thank you, Your Honor. May it please the
24 Court.
25 THE COURT: Yes, sir.

1 DIRECT EXAMINATION
2 BY MR. COLE:
3 Q Mr. Abernathy, first of all, it's been introduced as
4 one of the plaintiff's exhibits, the deed to the property,
5 to your property at issue. It was in the name of you and
6 Linda Abernathy and also the other two parties to this
7 case, Clyde Abernathy and Sharon Abernathy; is that
8 correct?
9 A Yes, sir.
10 Q And where are Clyde and Sharon Abernathy?
11 A They passed away.
12 Q And so the property at issue, whose name is it in
13 now?
14 A Michael Abernathy and Linda Abernathy.
15 Q And so describe briefly your understanding of your
16 agreement with Mr. Brock in this situation.
17 A Well, basically, it was just a conversation where I
18 needed dirt hauled and he needed work done. We came to an
19 agreement on a price per hour if he told me about the
20 trucks per hour. We shook hands. It was a cash thing.
21 He said he liked cash. So I like dealing in cash. So
22 that's how that ended.
23 Q And which -- as far as the hauling of dirt, whose
24 trucks hauled the dirt?
25 A Logistics 23.

1 Q Did any of Mr. Brock's trucks haul the dirt?
2 A No, sir. He didn't have anything big enough to haul.
3 He had a truck, like a single-axle dump truck that hauled
4 a tractor or a flatbed to haul his equipment on, and
5 that's what Larry did. Larry never drove nothing but that
6 truck.
7 Q Did any of NW White's trucks haul any dirt?
8 A No, sir. Never seen NW White.
9 Q Do you have any types of certifications?
10 A Yes, sir.
11 Q What do you have?
12 A I'm a certified welder through AWS.
13 Q What is AWS?
14 A That's American Welder's Society or association,
15 whatever you want to call it.
16 Q How long have you been in the welding business?
17 A 45 years.
18 Q And who works for you?
19 A Me, my son Jacob, my other son Matthew, which he's no
20 longer with us.
21 Q Were you -- some of the work that's described in the
22 invoice that's been gone over, did you do some of that
23 work?
24 A Yes, sir, I did.
25 Q And some of the work did you not do?

1 A There was a lot of it that I wasn't able to do
2 because I had surgeries.
3 Q And the work that you didn't do, who did it?
4 A Jacob and Matthew.
5 Q And that's your two sons?
6 A Yes, sir.
7 Q And when did Mr. Brock start doing what I call the
8 dirt work? When did the dirt work start?
9 A To be honest with you, Mr. Cole, in the last four
10 years of my life, this has been a turmoil for surgeries
11 and stuff. I couldn't say. But I know it had to be, I
12 want to say, September.
13 Q And if you -- from based on your memory, how many
14 days would you say total that there was dirt work being
15 done?
16 A Well, at that time of the year, we had a lot of rain.
17 I want to say he had maybe a total of nine to 11 days
18 total.
19 Q And you've seen his invoice that's marked as one of
20 the plaintiff's exhibits. It has work over a period of
21 months; is that correct?
22 A We worked periods of months on his equipment, but he
23 didn't work periods of months on my -- on my property
24 getting the dirt.
25 Q So is his invoice correct based on the number of

1 hours that he's saying that he and his company worked for
2 you?
3 A No, sir. Not at all.
4 Q Would you say that they're less or more hours that he
5 actually worked?
6 A Well, I'm going to say the hours he's got on his
7 invoice now are in conjunction with the fact that he
8 didn't like our receipt on our bill, on our totals. So
9 after he seen that, he just went back and said he was
10 going to take me to court. He had plenty of time to go
11 back and get more hours added because the dates that he's
12 got on there don't add up, because you don't come to
13 somebody's house on September -- or October the 2nd to get
14 money and then October the 4th have a video to come get
15 the balance due which should have been $717 or $71 but
16 then sue me and then come back and now tells me I owe him
17 the same amount of money that he owed me. I'm not the
18 smartest guy in the world, but....
19 Q So did Mr. Brock ever tell you how many loads of dirt
20 he got from Mr. Dawson's property and put on your
21 property?
22 A No, sir. Because there was loads of dirt being
23 hauled off that weren't coming to my property, so ain't no
24 telling what I didn't get.
25 Q No. Well, did Mr. Brock ever tell you how many loads

1 of dirt that he used?
2 A I think the receipt that they said was like
3 160 loads.
4 Q And that's -- on his invoice, though, it says
5 260 loads.
6 A Well, yes, sir. Now it does now because after the
7 time that he came for that video, he went from that point
8 to now with a new invoice.
9 Q So did he do -- did he use 260 loads of dirt?
10 A If we had 260 loads of dirt, my building would have
11 been level with the road.
12 Q As far as the payment from you to Mr. Brock, tell me
13 how that came about.
14 A Well, Mr. Brock called me on Friday. Well, actually,
15 he called me -- he showed up there because he parked on
16 the side of the driveway by where we were working. And he
17 said, Mike, I need to get some money.
18 I said, What do you need?
19 He said, I need $16,000. This is at 5:30.
20 I said, Well, hell, I ain't got that kind of money
21 right now. I said, I've got $2,000. So I said, But
22 Monday I can go to the bank and get you the balance.
23 Well, I gave him the $2,000. And I said, Well,
24 Monday I'll go to the bank, get your money. And then come
25 to find out the banks were closed Monday. So Tuesday, my

1 wife, I gave her the checkbook. She wrote a check, went
2 and got the money because I was on a wound vac at the time
3 and I couldn't drive. So she went to the bank, got the
4 money, made a check out, got the cash. I told her to get
5 me $14,500 so I had a little spending cash on me because I
6 just gave Mr. Brock what cash I did have.
7 And I called Brock up, told him I've got your money
8 Tuesday afternoon. Tuesday evening he comes over, gets
9 the money. And we're standing right there and he told me,
10 he goes -- he said we're going to go ahead and square up.
11 I said, well -- he said, Mike, I know I owe you a lot of
12 money. As God is my witness, that man knows he said that.
13 MR. COLE: Your Honor, may I approach the witness?
14 THE COURT: Sure.
15 BY MR. COLE:
16 Q Mr. Abernathy, the document that I have placed in
17 front of you I have marked as Defendant's Exhibit Number 1
18 for identification purposes. Do you recognize that
19 document?
20 A Yes, sir.
21 Q And what is that document?
22 A That's the check my wife wrote to get -- at the bank
23 to get Mr. Brock his money.
24 Q And is that the funds that you used to pay Mr. Brock?
25 A Yes, sir, it is.

1 Q And is that a fair and accurate copy of the check
2 that your wife wrote to get cash out?
3 A Yes, sir.
4 MR. COLE: Your Honor, I move this into evidence as
5 the Defendant's Exhibit 1.
6 MR. RAFFINI: No objection, Your Honor.
7 THE COURT: Without objection.
8 (WHEREUPON, Defendant's Exhibit Number 1 was admitted into
9 evidence.)
10 MR. COLE: Your Honor, I have a copy for the Court.
11 THE COURT: Thank you.
12 BY MR. COLE:
13 Q And what is the date on that check?
14 A 10/2/18.
15 Q And was that around the same time that you paid the
16 cash to Mr. Brock?
17 A Yes, sir. That day.
18 Q There was -- previously, there was Plaintiff's
19 Exhibit Number 8 which shows a bank statement, and
20 Plaintiff's Exhibit Number 9 which goes along with that
21 and shows several other checks and bank records. Now,
22 there is -- and you have the copies of those exhibits in
23 front of you; is that correct?
24 A Yes, sir. I believe so. The checks, yeah.
25 Q Explain the situation with the $15,000 in July of

1 2018.
2 A 2018, July. That, I could not tell you because I was
3 buying a lot of aircraft engine stuff from Texas and in
4 Florida. In fact, Mr. Brock even looked at one. He
5 wanted -- he was thinking about buying it until he found
6 out it cost money. So that deal went through.
7 But no, sir. The $15,000, I know my building was
8 being -- in the process of being purchased. As far as
9 anything other than -- I couldn't tell you. I wouldn't --
10 I couldn't remember a lot of this stuff.
11 Q And, Mr. Abernathy, let me ask you, on Plaintiff's
12 Exhibit Number 9, there are four different instruments,
13 checks or withdrawal instruments on that exhibit; is that
14 correct?
15 A Yes, sir.
16 Q And for each one of those, why are they -- why --
17 what is the purpose of each one of those instruments?
18 A I think on 10/26, that one right there went to
19 Trinity Metal Buildings. That was a deposit on my
20 building. That was for $9,000.
21 The $14,500 on 10/5/18, that -- I couldn't tell you
22 about that one. The only one that I'm absolutely sure of
23 is right here on 10/2. I know where that one went. But
24 the rest of them, I have no clue. $14,500, I know -- I
25 know that $9,000 went to Trinity Metal Buildings. That

1 was -- that was on 10/26. On 10/5, that would have been
2 three days after I got that for Brock.
3 Q Let me ask you this, Mr. Abernathy. With this -- or
4 each of these are made out to cash; is that correct?
5 A Uh-huh. Yes, sir.
6 Q And was that a normal practice of yours?
7 A Yes, sir. Because at the time, I was paid cash
8 because if I could knock a couple grand off of my
9 concrete, if I could knock a couple grand off of the tree
10 guys taking lumber out, because I actually gave them my
11 timber and I didn't make a dime on that. So -- but if I
12 could -- and then I think we were doing -- oh, my pool.
13 We had a new pool liner put in and all the plastics and
14 everything done on that. So, you know, that should -- one
15 of those checks could have been for that. I have no clue.
16 But I think everything as far as what I've got right
17 there, I just deal in cash.
18 Q And, Mr. Abernathy, Defendant's Exhibit Number 2 has
19 previously been placed into evidence by stipulation. And
20 can you tell me what this document is?
21 A Oh, that's a mortgage on my home.
22 Q And does this mortgage, does it cover the property
23 that Mr. Brock was doing work on?
24 A Yes, sir.
25 Q And what was your interest rate -- or do you still

1 have this mortgage?
2 A Uh-huh.
3 Q I'm sorry?
4 A Yes, sir, I do.
5 Q And what is your interest rate under this mortgage?
6 A I think it's 5.5, or 5.6 right now.
7 Q You think it's 5.625 percent?
8 A Yes, sir. It sounds about right. I know it's a
9 lot.
10 Q And I'm going to hand you a document that is -- I've
11 marked as Defendant's Exhibit Number 3 for identification
12 purposes. Now, is this document -- does this document
13 accurately reflect the terms of your current mortgage, of
14 the mortgage that is in Plaintiff's Exhibit Number 2?
15 A Yes, sir.
16 Q And so is that -- you say this is a fair and accurate
17 representation of how much your principal and interest
18 payment is each month?
19 A Yes, sir.
20 MR. COLE: Your Honor, I move this amortization into
21 evidence as Plaintiff's Exhibit Number 3.
22 THE COURT: Okay. Any objection?
23 MR. RAFFINI: No objection except I believe it would
24 be Defendant's 3, just to correct, Your Honor.
25 MR. COLE: Yes, Your Honor. Defendant's Number 3.

1 THE COURT: We'll get them all straight.
2 (WHEREUPON, Defendant's Exhibit Number 3 was admitted into
3 evidence.)
4 MR. COLE: I've got a copy for the Court as well.
5 BY MR. COLE:
6 Q Mr. Abernathy, I'm going to hand you a document that
7 has been marked as Defendant's Exhibit Number 4 for
8 identification purposes. Can you tell me what this
9 document is?
10 A I think this was for a loan or a refinancing on my
11 property.
12 Q So is that to refinance the mortgage that we've been
13 discussing?
14 A Yes, sir.
15 Q And does this document, does it reflect a fair and
16 accurate statement of what the terms of the refinanced
17 mortgage would be as far as your interest and your
18 payments?
19 A Yes, sir. Yeah.
20 MR. COLE: Your Honor, I move this into evidence as
21 the Defendant's Exhibit Number 4.
22 MR. RAFFINI: Your Honor, I have an objection on
23 hearsay and foundation. It's coming from the bank. There
24 isn't anybody here to tell us what the offer would have
25 been, whether it could have been approved. I don't have

1 enough here to say whether this would relate to any issues
2 in the case.
3 MR. COLE: Your Honor, this exhibit is a loan
4 estimate. My client's testified that it's a fair and
5 accurate estimate of what he was -- of what his
6 understanding a refinance rate would be.
7 THE COURT: Did he refinance at these rates?
8 MR. COLE: He was not able to.
9 THE COURT: All right then. I will admit it for
10 demonstrative purposes only as potential amortization
11 rates. But since they weren't used, that's the only way
12 they'll come in.
13 (WHEREUPON, Defendant's Exhibit Number 4 was admitted into
14 evidence for demonstrative purposes only.)
15 MR. COLE: Thank you, Your Honor.
16 THE COURT: Sure.
17 MR. COLE: I have a copy for the Court.
18 THE COURT: Okay. Thanks.
19 You understand what I'm saying? I mean, it ---
20 MR. COLE: Yes, Your Honor.
21 BY MR. COLE:
22 Q And so did you attempt to refinance in 2020?
23 A Yes, sir.
24 Q And the attempted rate that you attempted to
25 refinance, what was that rate, interest rate?

1 A That was going to be at two point something I think
2 it was. Like way less than half. Two point --
3 2.25 percent.
4 Q And I'm handing you a document that's marked
5 Defendant's Exhibit Number 5 for identification purposes.
6 And, Mr. Abernathy, this document, does it show what the
7 terms of the mortgage would have been if you would have
8 been able to refinance at that rate?
9 A Yes, sir.
10 Q And is this a fair and accurate statement of what
11 your principal and interest payments and interest rate
12 would have been if you would have been able to refinance
13 at that rate?
14 A Yes, sir.
15 MR. COLE: Your Honor, I move this into evidence as
16 the Defendant's Exhibit Number 6.
17 THE COURT: Any objection?
18 MR. RAFFINI: I believe we already have a Defendant's
19 Exhibit 6. This might be Number 5.
20 THE WITNESS: Number 5. It says 5 at the top.
21 MR. COLE: I'm sorry. Defendant's Exhibit Number 5.
22 MR. RAFFINI: My objection would be the same as to
23 Defendant's Exhibit Number 4. And I would have no
24 objection to it being admitted for demonstrative purposes,
25 the same as Defendant's Exhibit 4.

1 THE COURT: Yeah. That's how I would admit it just
2 for purposes of -- so I know what the figures would have
3 been.
4 (WHEREUPON, Defendant's Exhibit Number 5 was admitted into
5 evidence for demonstrative purposes only.)
6 MR. COLE: Thank you, Your Honor.
7 THE COURT: But there wasn't a mortgage -- he wasn't
8 able to finance at this rate either.
9 MR. COLE: That's correct. This is what he attempted
10 to.
11 THE COURT: Okay.
12 MR. COLE: Thank you, Your Honor.
13 BY MR. COLE:
14 Q You were attempting to refinance and for the new
15 payments to start on December 1, 2020; is that correct?
16 A Yes, sir.
17 Q I'm handing you a document that's been marked as
18 Defendant's Exhibit Number 18 for identification purposes.
19 And does this document show from December of 2020 to June
20 of 2024 what your actual principal and interest payments
21 have been under the mortgage that you have on this
22 property?
23 A Yes, sir.
24 Q And is that an accurate total of $57,333.23?
25 A Well, I'm not a mathematician here, but I'm going to

1 say yes, sir. I'd say that's pretty close.
2 Q So would you agree that's the actual amount of
3 interest that you've paid to your bank ---
4 A Oh, yeah.
5 Q --- from December 1, 2020, to the present day?
6 A Yes, sir. I would say so.
7 MR. COLE: Your Honor, I move this into evidence as
8 Defendant's Exhibit Number 18.
9 MR. RAFFINI: No objection, Your Honor.
10 THE COURT: Without objection.
11 (WHEREUPON, Defendant's Exhibit Number 18 was admitted
12 into evidence.)
13 MR. COLE: Your Honor, I have a copy for the Court.
14 THE COURT: All right. Thanks.
15 BY MR. COLE:
16 Q Mr. Abernathy, I'm handing you a document that's been
17 marked for identification purposes as Defendant's Exhibit
18 Number 19. Now, is this a fair and accurate statement of
19 what your principal and interest payment would have been
20 if you would have been able to refinance at 2.25 percent
21 from December 1, 2020, until today?
22 A Yes, sir. Because if you cut that in half at 2.25
23 and then you're at five, six, twenty-five, I'd say that's
24 pretty accurate.
25 Q And so is the total interest that you would have paid

1 at that rate from December until today -- from December
2 2020 until today correct in the figure on this form,
3 $23,152.69?
4 A Yes, sir. I would say that's pretty accurate.
5 MR. COLE: Your Honor, I would move this amortization
6 into evidence for demonstrative purposes as with the
7 others for the attempted refinance.
8 MR. RAFFINI: And I would have no objection as
9 requested, Your Honor.
10 THE COURT: Sure. Thanks.
11 (WHEREUPON, Defendant's Exhibit Number 19 was admitted
12 into evidence for demonstrative purposes.)
13 MR. COLE: Your Honor, I have a copy for the Court.
14 THE COURT: All right. Thanks.
15 BY MR. COLE:
16 Q So, Mr. Abernathy, from those figures, you agree that
17 you have paid -- as we spoke, you paid interest to your
18 current bank. From December 2020 until today, you agree
19 you've paid interest in the amount of $57,333.23?
20 A Yes, sir.
21 Q And you agree that if you would have been able to
22 refinance -- during that same period of time, if you would
23 have been able to refinance at 2.25 percent, you would
24 have only paid $23,152.69?
25 A Yes, sir.

1 Q And I assume that you don't have a calculator up
2 there with you, but does it sound accurate that the
3 difference between those two numbers is $34,180.54?
4 A Right on the money.
5 Q Mr. Abernathy, were you able to refinance at that
6 lower rate?
7 A No, sir.
8 Q And why weren't you able to refinance?
9 A Because I guess Mr. Brock had taken a lien out on my
10 property.
11 Q And so are you asking for an award of damages,
12 basically, a judgment against Mr. Brock for that amount of
13 $34,180.54?
14 A Yes, sir. I'm asking for what's fair. Yeah. It's
15 one of them things.
16 Q When you first received the notice from Mr. Brock's
17 previous attorney that's in evidence that he intended --
18 that the funds were due to him and that he intended to
19 file a mechanic's lien, did you pay him any funds at that
20 time?
21 A No, sir. Because I was kind of shocked because I
22 didn't know you could put a lien against somebody for
23 $700. I thought it had to be more.
24 Q But with the letter that he gave you, it did state a
25 bigger amount; isn't that right?

1 A I can't -- I don't recall. He was just suing me for
2 more money, I think it was, or hours or loads or
3 something. I'm not -- I can't remember for sure. That's
4 why I had to retain a lawyer.
5 Q If I may refresh your recollection with Plaintiff's
6 Exhibit Number 5, do you remember receiving that from
7 Mr. Brock's previous attorney?
8 A I got -- we got like four or five different thick
9 packets that basically I didn't look over. But I just
10 took them to a lawyer, which I brought to you all. So as
11 far as I just knew I was having a lien put against my
12 property, oh, yeah, for the $16,771.
13 Q Did you pay that amount? After you received that
14 letter ---
15 A No.
16 Q --- did you pay that amount to Mr. Brock?
17 A No. I paid it before I received a letter.
18 Q And so why didn't you pay that to him when you
19 received that letter?
20 A Because I didn't -- I didn't think -- I said, well,
21 he's obviously telling me I owe him $16,000 because he's
22 claiming I didn't pay him. I said he's already been paid
23 $16,000. I owe him seven hundred -- I thought it was
24 $771, but he's saying seventy-one -- or $711. So that's
25 why I said, well, how can he sue me for that?

1 Q So when you got that letter, based on your knowledge
2 of the work that was done, you did not believe you owed
3 Mr. Brock that amount; is that correct?
4 A No, sir. Because, I mean, for nine days I figured
5 that's about fair. But to come back a day and a half
6 later and want another $16,000 I thought was kind of odd.
7 I paid him $16,000. He's been paid something and I've
8 been paid nothing.
9 Q But you paid him before you got that letter; is that
10 right?
11 A Yes. Yes, sir.
12 Q And you didn't pay him after you got that letter any
13 more.
14 A I haven't paid a dime since.
15 Q And the reason you didn't pay him after you got that
16 letter is because you did not believe you owed that to
17 him.
18 A Oh, no, sir. I mean, I tried to be as square with
19 him as I could. He even called me on the phone wanting to
20 try to settle for $16,000. So he obviously -- I mean, I
21 don't know what was going on with that, but he called us.
22 MR. COLE: No further questions, Your Honor.
23 THE COURT: Okay.
24 MR. RAFFINI: Just a few, Your Honor.
25 THE COURT: All right.

1 CROSS EXAMINATION
2 BY MR. RAFFINI:
3 Q Mr. Abernathy, I'm going to ask you the same thing I
4 asked your son. Is it okay if I call you Mike?
5 A Yes, sir. That's fine.
6 Q Okay. Just keep it clear.
7 A Yeah.
8 Q Just a few questions. Before 2018, Mr. Brock had
9 brought you some things to work on at least a couple
10 times; is that right?
11 A Yes, sir.
12 Q And those occasions, they were relatively small
13 projects; is that fair to say?
14 A Right. Yes, sir. We had just met, I think it was.
15 Q Yes, sir. And I think your testimony earlier was
16 that was maybe 2016 or somewhere thereabouts.
17 A Around 2016, yeah. I think we met him at an oyster
18 cook -- or through a mutual friend, and then we seen him
19 again at the oyster cook.
20 Q Yes, sir. And about three times he brought you a
21 piece of equipment and you did some welding work for him.
22 A Yeah. Three or four times, yeah.
23 Q And on those occasions, you presented him with an
24 invoice and then he'd make payment.
25 A Right.

1 Q And I believe in each occasion you present him with
2 an invoice, and he would immediately give you a check;
3 does that sound right?
4 A Yes, sir. He was pretty good about that.
5 Q And so then when you get into 2018 and start talking
6 about moving dirt, that's when he tells you he likes to
7 deal in cash; is that right?
8 A Oh, yes. That was our -- he didn't say he likes to
9 deal in cash, but I said, Do you take cash?
10 He said, I like cash, because he just showed me a big
11 bundle of it he had under his seat in case he sees a piece
12 of equipment. He said, I carry plenty of cash with me.
13 So I said, Okay. That's fine.
14 Q Now, Mr. Cole had some questions for you about the
15 letter that you received, the one you say you got the four
16 packets probably addressed to all four of the named
17 parties.
18 A Right.
19 Q Did you have a chance to kind of look through that
20 after you got it?
21 A When I got that, I knew what it was. I just called
22 Mr. Cox and talked to them, and then they put me in with
23 Mr. Cole.
24 Q But at least eventually you found out that there was
25 a copy of an invoice from Mr. Brock that showed the hours

1 he was claiming he had worked; is that right?
2 A Well, yes, sir. Because that was after the time of
3 the video. I got this after the video.
4 Q Okay. So after the video, that's when you found out
5 you ---
6 A Yes. Once he'd seen our bill, then that's when he
7 went back and "redocked" his original invoice.
8 Q I understand. And that's one of the things I wanted
9 to ask you about. You pointed out that your bill to
10 Mr. Brock is pretty close to the bill he submitted to the
11 Court here today for the total amount of money for this
12 project; is that right?
13 A Yes, sir. And I had no idea what his bill was. I
14 mean, our bill was already made up prior to him even
15 getting the $14,000 because I knew we were coming to the
16 end. He done let me know -- or let me -- he was already
17 -- he already informed me that he was close to the end. I
18 said we're close to the end? We hadn't done hardly
19 anything else for him because it was getting real close.
20 And, in fact, I think the last piece of equipment we
21 worked on was the last day he was at Ronnie's which was
22 the day before the video, I believe. He took a little
23 tractor and was doing a finger brake. And my sons went
24 down there to pick up the rocks that he was gathering up
25 because of that little grader. And my son, while he was

1 there, Jacob and Matthew welded on a bulldozer bucket that
2 was being loaded on Larry's truck the same day, that last
3 day.
4 Q Right. So the day this video was made is after you
5 went down and he was doing the power raking; is that
6 right?
7 A Let's see. The day -- it might have been the day --
8 day after the video. It was a day or two after the video,
9 yeah.
10 Q Okay. And you were here when Mr. Brock said that's
11 when you and him had a conversation about final payment;
12 is that accurate?
13 A There and at the house, I guess, with him and my son.
14 Q And that's when he told you he needed $16,000.
15 A Well, he told me he needed $16,000 at my house.
16 Q Okay. I understand.
17 So it looks like to me, when you put these two
18 invoices side by side, somebody must have known the other
19 party's invoice first; is that right?
20 A I would say that Mr. Brock looked at my invoice
21 because on the video, he states -- he's looking at it
22 flipping through the pages, and he questions maybe one or
23 two things on there. But once he's seen the bill and
24 flipped it over and says $30,000, well, if my bill would
25 have been $500 dollars, he was going to drive off and tell

1 me to sue him. He had no intentions of paying me. I was
2 going to get shafted.
3 So basically, what he done was he drove off -- they
4 got in a little argument, he drives off, he's got a month,
5 month and a half to go ahead and doctor up his hours.
6 So we -- I gave him money on September -- or October
7 the 2nd. I paid that man $14,000 -- or $16,000. I gave
8 him $2,000 on Friday, $14,000 on October 2nd. October the
9 4th, he comes to my house on a video because he's finished
10 up. How did you go from October the 4th into November
11 when -- then coming back saying I owe you $16,000 more
12 when you're there a day and a half later to tally out?
13 Q So you think if you had given Mr. Brock an invoice
14 for $500, you would have gotten shafted?
15 A I believe that man would have drove off because I'd
16 been -- I was forewarned about that man. And I tried -- I
17 said, you know, I'm taking somebody at face value. We
18 shook hands. I've been straight up with everybody I've
19 ever dealt with. The people that did my building,
20 nobody's had to call me for nothing. I said give me a day
21 or a day and a half ahead of time so I know I can have
22 your money.
23 Q So you were forewarned about him, but your own
24 experience with Mr. Brock is every time you gave him an
25 invoice, some of them for more than $500, he wrote you a

1 check the same day; isn't that right?
2 A Well, yes, sir. But when it came to him seeing he --
3 he didn't want to be the guy that had to pay more out than
4 what he was getting paid.
5 Q Okay. I understand. So you ---
6 A Because he knew he was getting the labor cheap.
7 Q You had been forewarned about Mr. Brock; is that
8 right?
9 A Several people had told me about him.
10 Q It must have been before October if several people
11 had warned you about him.
12 A Well, let me rephrase that. I wouldn't say I was
13 forewarned before the job. It was when I met the man,
14 people said just watch yourself.
15 Q Just kind of along the way you were ---
16 A Yes. As time went on, and then I got to notice
17 things happening. And then, you know, it was just certain
18 people that had work done by him, they weren't happy with
19 a lot of stuff. Even the man we did -- that got the dirt
20 from, he was not happy.
21 Q And that would make anybody leary, wouldn't it?
22 A Anybody would be a little cautious.
23 Q You have to be real careful from that point forward
24 once you had reason to worry about Mr. Brock; isn't that
25 right?

1 A Well, I'm not worried about Mr. Brock. Mr. Brock is
2 Mr. Brock. He does him. Desperate people do desperate
3 things.
4 Q But you had to worry about his behavior after hearing
5 all those bad things about him.
6 A Well, no. Mr. Brock is a good guy. I mean, I
7 thought we were going to be friends. But once he -- once
8 I seen the video -- because me and him never had words as
9 far as any contradictions of anything. He was always
10 trying -- square with me and I was as square with him as I
11 could be.
12 Q Well, which one is it? Is he a man you can trust or
13 is he someone ---
14 A I thought he was. I really did think he was until
15 after he seen my invoice. My invoice didn't reflect
16 anything about Mr. Brock or what he's done to me or what
17 we were doing with each other.
18 Q Well, help me understand this. You're saying people
19 forewarned you. After you hired him but before the job
20 was over ---
21 A Well, they just said Mr. Brock was the kind of guy,
22 he's high and he will -- he's going to want to come out on
23 top. And I said, well, look. Everybody wants to come out
24 on top. He's not going to work for free. I don't work
25 for free. I have bills. He has bills.

1 Q And so that gave you some concern.
2 A Just like he probably had concerns with me. He
3 didn't know me from Adam's house cat.
4 Q Sure.
5 A And I didn't know him from Adam's house cat. I'm
6 taking him at his face value and at his word as he was
7 taking me to mine. I even took Mr. Dawson to his house to
8 introduce him to Harold so they kind of get a feel for
9 each other.
10 Q I understand that.
11 And so the man you'd been forewarned about that you
12 were a little worried would try to come out on top, he
13 asked you for $16,000 in cash, you just gave it to him
14 without an invoice?
15 A Well, we were doing work. Well, no. I wanted a
16 receipt. I didn't get the receipt. If I owed the man
17 $16,000 and he asked me for it, why would I want to throw
18 a cog in the wheel when I'm trying to get dirt delivered
19 to my shop? I don't want to throw a -- cause a situation
20 to where we got "munch" now that he's not going to do the
21 work. I want the man to continue to haul dirt to my shop.
22 Q Absolutely. Except you've already testified he was
23 done by October the 2nd. So why did you need him to
24 continue working?
25 A Exactly. He went from October the 2nd to get the

1 money to October the 4th to come balance out. But why is
2 my bill from -- to -- into November?
3 Q That's not my question. You said you wanted to give
4 him money because you wanted him to keep working, but
5 you've already told us he was done working by then.
6 A Well, yeah. He was paid on October the 2nd. He said
7 he was done.
8 Q So why would you have to pay him to keep him working?
9 A Because he wanted money and then I paid him, okay?
10 He's not done. He's -- well, when I gave him that money,
11 he tells me, Mike, we'll square up in a couple days.
12 Well, if I was to say, no, I ain't giving you that money,
13 well, how do I know that I'm not going to get the rest of
14 my dirt? How am I going to know I'm not going to get it
15 compacted? I want to continue -- I've got people
16 scheduled to come in and do concrete. So if it makes him
17 happy to get $16,000 and then two days later come back,
18 yeah, I'm going to keep the man working.
19 Q He'd already brought you all the dirt, hadn't he?
20 A He brought me -- yes. And not all of it. Part of it
21 went to another jobsite somewhere.
22 Q That's not what we're talking about. Mr. Brock had
23 brought all the dirt to your property he was going to
24 bring.
25 A He brought me supposedly until -- because we got shut

1 down by Mr. Ronnie because he wasn't happy about the fact
2 of ---
3 Q Were you planning on Mr. Brock bringing any more
4 dirt?
5 A I would have liked to have gotten more, but we were
6 shut down like Mr. Brock said in his testimony. Because
7 Ronnie come to him and was not happy about the way his
8 pond was looking.
9 Q Did you need him to do any more compacting at your
10 property?
11 A He did -- let's see. He worked -- no. Because I say
12 on the day that I gave him that money, he was pretty much
13 done other than with Ronnie's.
14 Q So you didn't need him to do anything else after you
15 gave him the money, did you?
16 A I think we pretty much was done as far as that. I
17 mean, he had to finish up down at Ronnie's.
18 Q Okay. So on October 2nd when he asked you for money
19 and you agreed to give him the money, you already
20 believed, according to your invoice, that he owed you
21 almost $30,000.
22 A Well, yeah. We'd been working about seven and a half
23 to eight months on his equipment.
24 Q What in the world -- reason would you have to give
25 him money if he owed you more?

1 A Well, because he said that he owed -- he owed the
2 trucking company. He has hourly rates for that. And his
3 equipment rental. So I'm paying him for that.
4 Q But you've already testified and you've already put
5 an invoice into evidence that he owes you, according to
6 you, more than you owe him.
7 A Well, yes. Because I did seven and a half months
8 worth of work and he only did nine days worth of work.
9 Q So if someone that you say owes you $28,000 ---
10 A Right.
11 Q --- comes and says you me $16,000, help me understand
12 why you felt like you had to give the man any money.
13 MR. COLE: Objection. Asked and answered.
14 THE COURT: I'll let you ask it one more time because
15 I'm a little confused, too. But go ahead.
16 THE WITNESS: Okay. You're wanting to know why, if
17 he owed me $28,000, why would I give him $16,000. Because
18 I'm an honest guy. If I owed you $28,000 and you gave me
19 $16,000, I would say, hey, look, it's more or less a wash.
20 I owe you -- here's your $16,000. But you know what? It
21 probably would have been out to where we would have been
22 evened out and he -- you know, everybody would have went
23 their way.
24 BY MR. RAFFINI:
25 Q I understand. So that's ---

1 A And I would have -- hey. I could have said, hey,
2 there's $16,000 that I paid Mr. Brock to haul my dirt,
3 compact it. $16,000, you know, that was a cheap price to
4 pay.
5 Q I understand.
6 That's on October 2nd, and I believe we heard
7 testimony from your son at least that the video was on
8 October the 4th.
9 A October the 4th.
10 Q That's two days apart, right?
11 A Yes, sir.
12 Q And so you've also heard your son when he presents
13 your invoice to Mr. Brock say, hey, we've already run this
14 by our lawyers; is that right?
15 A I think we got -- I don't know. I mean, a lot of
16 things are said in the heat of the moment.
17 Q And so at that point when your son meets with
18 Mr. Brock, your son and Mr. Brock both say, hey, we're
19 ready to go to court, right?
20 A I guess so because I wasn't there.
21 Q No. I understand. But from your perspective based
22 on what you know, what happened in two days to go from I'm
23 giving you cash to we're ready to go to court now?
24 A Because he wasn't happy with our bill. That's why
25 we're here.

1 Q So everything was based on Mr. Brock not being happy
2 with your bill.
3 A Exactly right.
4 Q Okay. Let's talk a little bit about your refinance.
5 You never applied to refinance your mortgage, did you?
6 A Pardon me?
7 Q You never applied to refinance your mortgage in 2020,
8 did you?
9 A Yes, sir, we did. Because we called several
10 different companies. That's what we did.
11 Q Who called several different companies?
12 A Well, I did. I called -- I called -- because I'm a
13 VA, a veteran, so I called the VA people, and then I
14 called several other companies. And then my wife did a
15 thing on the Internet and we started getting phone calls
16 and people calling you about you can refinance your house.
17 Yeah.
18 Q But you never went through with the application
19 process is what I'm asking.
20 A Well, we had all the paperwork filed. In fact, the
21 company called Mr. Brock and said something about wanting
22 to -- wanting to pay the thing off, and he told him to go
23 "F" Abernathys.
24 Q I'm not asking about all your interpretation of what
25 happened afterwards. It's a very straightforward

1 question. You never actually completed the application
2 process, did you?
3 A I didn't get to because they called me and said there
4 was a lien against my property. Everything was pretty
5 much filled out. We were waiting for somebody to be sent
6 down and meet with us and fill out the paperwork. But
7 when we got the call that my property had a lien on it,
8 they couldn't do it.
9 Q You believed you could have saved money if you'd been
10 able to refinance?
11 A Oh, absolutely.
12 Q Were you aware you could have posted a bond to not
13 have Mr. Brock's lien on your property anymore?
14 A Well, that would have meant paying him off, right?
15 Q My question is were you aware you can post a bond to
16 remove the lien from the property? Were you aware of
17 that?
18 A Well, no, sir. I wasn't. I'm not -- I think it's
19 better off for me to just let it pay the place off.
20 Q Now, as you sit here today, you believe you owe
21 Mr. Brock anything?
22 A I owe that man $711 according to what his paperwork
23 is.
24 Q Okay. And you agree, if I heard you correctly
25 earlier, you don't think that he was on your property

1 working anytime before around September of 2018?
2 A A lot of his equipment was being brought in to be
3 worked on. It was sitting there. But my son had already
4 had the pad already cleaned off. All he had to do was
5 wait -- we had to find to get the dirt. That was the
6 whole process was finding dirt.
7 Q I understand. But just a simple straightforward
8 question. He didn't start working, according to you,
9 until September of 2018; is that accurate?
10 A I believe that's about right, yes, sir.
11 MR. RAFFINI: That's all the questions I have for
12 this witness, Your Honor.
13 MR. COLE: I have no redirect, Your Honor.
14 THE COURT: All right. You can sit down.
15 THE WITNESS: Thank you, sir.
16 You need these papers or anything?
17 MR. COLE: Your Honor, if I may approach to retrieve
18 the exhibits.
19 THE COURT: Sure.
20 MR. COLE: That's the defendant's case, Your Honor.
21 THE COURT: All right. You want to make a motion
22 just for the record?
23 MR. RAFFINI: Your Honor, at least as to the claim
24 for slander, I'll have to make a motion for a directed
25 verdict. There's been no proof of any damages there.

1 There's been no proof of anything that was done to
2 actually seek a mortgage on the property, to apply for it.
3 There's been speculation on what would have happened, but
4 I see nothing that would support a slander to title claim
5 based on the evidence presented.
6 THE COURT: Okay. Yes, sir.
7 MR. COLE: Your Honor, he testified, my client
8 testified that he did at least begin the application
9 process and it couldn't be -- couldn't be finished, that
10 he had this demonstrative exhibit showing what the rates
11 would have been at that time.
12 And also, Your Honor, the slander of title cause of
13 action, the lien being put on the property, if that lien
14 was false, then there would be damages in that situation,
15 Your Honor. Even without the -- even without the lien
16 being on the property for that period of time, there's
17 damages in that even without the not being able to
18 refinance.
19 THE COURT: Okay. I understand your motion. I'm
20 going to deny it now. I'm going to have to take all of
21 this into account anyway.
22 MR. RAFFINI: Yes, sir.
23 THE COURT: And to that end, you guys know this case
24 pretty well. It has been difficult to keep up, quite
25 frankly, with some of the ins and outs of it. So I'm

1 going to ask both of you, if you would, to just do a
2 one-page summary of your position, okay?
3 MR. RAFFINI: Be happy to, Your Honor.
4 THE COURT: No hurry. Because I'm on vacation for
5 the next two weeks, so no reason to get it to me. I'm
6 going to be in California.
7 MR. RAFFINI: Not to push it too far, Your Honor, I
8 did want to offer brief rebuttal testimony.
9 THE COURT: Sure.
10 MR. RAFFINI: But I have an issue because I have a
11 2:30 WebEx hearing that I have to go get a file for.
12 Would it be any issue to let everyone grab something to
13 eat, we do rebuttal after that 2:30 WebEx hearing?
14 THE COURT: No. As long as -- I need to be home by
15 about 4:30.
16 MR. RAFFINI: I don't think that will be a problem,
17 Your Honor.
18 THE COURT: You go do what you've got to do. Is that
19 all right with you?
20 MR. RAFFINI: If we can be back by around 3:00 or
21 3:15 even, I don't think it's going to be long rebuttal
22 testimony.
23 THE COURT: I mean, we can do it tomorrow by WebEx if
24 you want to. You're bringing a person in.
25 MR. RAFFINI: I'll be, I guess, probably in my office

1 doing my WebEx. It's Family Court, 15 minutes. It won't
2 be a big deal.
3 THE COURT: You have a live witness here.
4 MR. RAFFINI: I'll have a live witness here, yes,
5 sir.
6 THE COURT: Does that cause you any trouble?
7 MR. COLE: Well, Your Honor, it's -- I can make it
8 work. I have a real estate closing at 4 o'clock, but if I
9 have to move it, then I have to move it, Your Honor.
10 THE COURT: I'll work however y'all need to do. I'm
11 here tomorrow. I don't have anything planned tomorrow,
12 right?
13 MR. RAFFINI: If we can start at three, Your Honor.
14 That way ---
15 THE COURT: Well, we'll start right at three and
16 we'll make it real quick.
17 Mr. RAFFINI: Thank you, Your Honor.
18 THE COURT: All right. See y'all back at three.
19 (WHEREUPON, a recess is taken at 2:09 PM; proceedings
20 reconvened at 3:17 PM.)
21 THE COURT: Okay. You have one more witness; is that
22 right?
23 MR. RAFFINI: Just one in rebuttal, Your Honor.
24 THE COURT: Okay.
25 MR. RAFFINI: I call Harold Brock.

1 THE COURT: We're going to swear you in again.
2 THE CLERK: If you would, step forward and raise your
3 right hand.
4 WHEREUPON,
5 HAROLD BROCK
6 After having been duly sworn, testified as follows:
7 THE CLERK: Thank you. You can have a seat. And if
8 you would, please state your full name for the record
9 again and spell your last name.
10 THE WITNESS: Harold Brock, B-R-O-C-K.
11 MR. RAFFINI: Thank you, Your Honor. May it please
12 the Court.
13 DIRECT EXAMINATION
14 BY MR. RAFFINI:
15 Q Mr. Brock, we're not going back through everything.
16 We only have a few points to cover, okay?
17 You were in the courtroom as the defendants testified
18 that you never did work on their property before September
19 of 2018; is that right?
20 A No, sir.
21 Q No. You heard them say that, though; is that
22 correct?
23 A Yes, sir. Yes, sir.
24 Q And your testimony is that you began work in May of
25 2018; is that correct?

1 A Yes, sir.
2 Q How did you keep track of your records and time for
3 having spent work at the jobsite in this case?
4 A I kept with the time sheets.
5 Q Okay. And when you say time sheet, tell me a little
6 bit more about that, please.
7 A Dennis Rankin, who was there at the beginning, he
8 would present his time sheet each week to my secretary and
9 to where he accumulated all the way to the end of the job.
10 And then we kind of put it all in a summary sheet.
11 Q Now, when you say the time sheets, you keep every
12 single time sheet forever?
13 A Yes, sir. I still have some in my folder. Yes, sir.
14 Q Okay. But what do you do with that time sheet once
15 you get it? What is the use of a time sheet like that?
16 A Just to keep up with my time and my hours that we run
17 equipment there, how many loads of dirt we haul.
18 MR. RAFFINI: Your Honor, if I could approach the
19 witness.
20 THE COURT: Sure.
21 BY MR. RAFFINI:
22 Q I'll hand you what hasn't yet been marked but
23 consists of about four pages. Can you take a look and
24 tell me what that is, please?
25 A This is Dennis's time -- Rankin's time sheet when he

1 worked on Cannon Bottom Road down there at the Abernathys.
2 Q Okay. And are those sheets kind of a daily summary
3 of time Mr. Rankin spent?
4 A Yes, sir.
5 Q What are the dates on the sheets that you have in
6 front of you there?
7 A Started on May 3rd.
8 Q Okay. And is that the ---
9 A Yeah. May 3rd, May 4th, you got a May 8th and a
10 July 17th.
11 Q Okay. And so do those correspond with the dates that
12 Mr. Rankin testified to at the start of this trial that he
13 began work at this property?
14 A Yes, sir.
15 Q Okay. Are those accurate copies of the time sheets
16 you kept regarding the Abernathy property?
17 A Yes, sir.
18 MR. RAFFINI: Your Honor, I'd like to have these
19 marked and admitted. I believe these would be Plaintiff's
20 Exhibit Number 10.
21 THE COURT: Any objection?
22 MR. COLE: No objection, Your Honor.
23 THE COURT: Without objection.
24 (WHEREUPON, Plaintiff's Exhibit Number 10 was marked for
25 identification and admitted into evidence.)

1 BY MR. RAFFINI:
2 Q Now, Mr. Brock, I believe Mr. Rankin was working as
3 an employee of yours; is that correct?
4 A Yes, sir.
5 Q Is all time on a project kept in the same way?
6 A Yes, sir.
7 Q For your employees?
8 A Yes, sir. Larry would keep up with his time and
9 Ricky would keep up with his time, turn them in.
10 Q Okay. Was there any difference between how different
11 employees would keep track of their time?
12 A Dennis was more computer oriented, so he would, you
13 know, send those in to my secretary.
14 Q And so is that the type of thing you used to create
15 your invoice?
16 A Yes, sir.
17 Q And would that be true for the time sheets that are
18 now marked as Plaintiff's Exhibit Number 10 as well?
19 A Yes. That was Dennis's time on Mr. Abernathy's job.
20 Q Okay. Now, what did you do for any contractors you
21 had working? Not your employees. How did you keep track
22 of that time?
23 A They would turn in a sheet at the end of the day and
24 somebody, me or Larry would sign off or Ricky.
25 Q Now, what was the purpose for having those sheets

1 turned in?
2 A They would be marking off their loads they hauled
3 that day, keep up with their time to bill me.
4 MR. RAFFINI: May I approach the witness, Your Honor?
5 THE COURT: Sure.
6 BY MR. RAFFINI:
7 Q I'm handing you six little sheets of paper there. If
8 you'll take a minute, take a look and see if you can tell
9 me what that is, please.
10 A These are 23 Logistics's sheets that we signed every
11 day that they gave us a copy of.
12 Q And what type of information is recorded on those
13 sheets?
14 A It tells you how many loads and the time that they
15 haul through the time they left.
16 Q Is there a project or location listed?
17 A Cannon Bottom Road.
18 Q And what project were you doing on Cannon Bottom Road
19 corresponding with these sheets?
20 A Mr. Abernathy's was the only one I was doing there.
21 Q Okay. And what are the dates listed on these sheets?
22 A They started in May and went all the way up to July,
23 September, August. You've got some more.
24 Q Now, the same as we were talking about with
25 Mr. Rankin, you're not telling us necessarily this is all

1 the sheets you would have had for this project, are you?
2 A No, sir. I mean, Larry hauled probably the majority
3 of the dirt with one of my trucks.
4 Q But the sheets you have in front of you, those are
5 the ones you retained in your file regarding the Abernathy
6 property; is that correct?
7 A Yes, sir.
8 MR. RAFFINI: Your Honor, I'd like to have these
9 marked as Plaintiff's Exhibit Number 11 and admitted.
10 THE COURT: Any objection?
11 MR. COLE: No objection, Your Honor.
12 THE COURT: Without objection.
13 (WHEREUPON, Plaintiff's Exhibit Number 11 was marked for
14 identification and admitted into evidence.)
15 BY MR. RAFFINI:
16 Q Now, Mr. Brock, just to make clear, the purpose of
17 these sheets is a little different than your time sheets
18 for your employees; is that right?
19 A Yes, sir. They clock in on a time clock.
20 Q And so you would expect for a contractor to let you
21 know how much time they'd spent; is that correct?
22 A I didn't hear you. One more time on that.
23 Q You expect a contractor to let you know how much time
24 they've worked for you; is that right?
25 A Yes, sir.

1 Q And so would you expect to get a bill based on that?
2 A Yes, sir.
3 Q Okay. And did you actually make any payments based
4 off of these sheets?
5 A Yes, sir. I have in my folder cancelled checks.
6 Q Okay. And those would have been to the 23 Logistics?
7 A Yes, sir.
8 MR. RAFFINI: Okay. That's all the questions I have
9 for you, Mr. Brock. Please answer any questions Mr. Cole
10 may have.
11 MR. COLE: Your Honor, if I could beg the Court's
12 indulgence.
13 THE COURT: Sure.
14 MR. COLE: I just briefly saw these new exhibits
15 prior to ---
16 THE COURT: Take your time.
17 MR. COLE: If I can look for just a second.
18 (Pause in proceedings.)
19 CROSS EXAMINATION
20 BY MR. COLE:
21 Q Mr. Brock, you didn't provide any of this to my
22 client when you provided an invoice to him; is that
23 correct?
24 A No, sir.
25 Q That's not correct?

1 A I did -- I did provide many of them.
2 Q And on these sheets, how many of these loads went to
3 the Ballard Road property?
4 A None of them.
5 Q And you don't have any documentation for the NW White
6 doing any of these loads, right?
7 A I had NW White one time haul one day with two girls,
8 and that was the one that turned and made the wrong turn
9 and they -- I called the dispatcher, and they turned them
10 around and came back down the road. They didn't know that
11 the -- that was the first time they'd ever been there.
12 Q And, Mr. Brock, isn't it true that you just came up
13 with these documents for the purposes of this trial to
14 rebut what my client testified to?
15 A No, sir. I had them in my folder the whole time.
16 Nobody's ever asked me for them.
17 MR. COLE: No further questions, Your Honor.
18 THE COURT: Okay. Anything?
19 MR. RAFFINI: No redirect, Your Honor.
20 THE COURT: All right. Sir, you can step down.
21 That's it?
22 MR. RAFFINI: That's everything, Your Honor.
23 THE COURT: Okay. Again, the disadvantage coming
24 into a case like this is there's a lot of information that
25 I don't know. And you've got two weeks to do it because I

1 Will be in Yosemite as of Friday with my wife watching me,
2 you know, she claims fall off a rock and kill myself, so
3 it may not matter. But I'll take it under advisement.
4 And just send me just a summary page just of your
5 positions.
6 MR. COLE: Your Honor, may I also for the record
7 renew my motion for a directed verdict for the same
8 grounds as I did after the plaintiff's case?
9 THE COURT: I'm going to assume both of you have and
10 that you're incorporating your previous arguments and any
11 new arguments. And I will deny for the record.
12 MR. COLE: Thank you, Your Honor.
13 MR. RAFFINI: Thank you, Your Honor.
14 THE COURT: All right. Thank y'all. As always, it's
15 a pleasure trying cases with y'all.
16 (WHEREUPON, proceedings concluded at 3:29 PM.)
17
18
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER
2
3 STATE OF SOUTH CAROLINA)
4 COUNTY OF ANDERSON)
5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 Common Pleas for Anderson County, South Carolina, on the
14 5th day of June, 2024.
15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.
17
18 July 20, 2025
19
20
21 Cheryl A. Smith
22 Cheryl A. Smith, CVR-M
23 Court Reporter
24
25

PLAINTIFF'S EXHIBIT

'24 JUN 12 AM 10:46:15
Anderson, SC COC, CP/GS

Brock Landscape Contractors
2522 River Road, Piedmont, SC 29673
(p) 864/295-4435 (f) 864/295-2796
brocklandscape@bellsouth.net

Mike Abernathy/ Abernathy Welding & Sandblasting 11/12/18
1280 Cannon Bottom Road
Belton, SC 29627

Date	Equipment	Hours	Rate	Total	Loads
Initial Clean-up with Dozer		2	125.00	$250.00	
5/2	Dump Truck	1.5	85.00	$127.50	4
	Dozer	4.5	125.00	$562.50	
	Loader	4.5	125.00	$562.50	
	Roller	4.5	85.00	$382.50	
5/3	Dump Truck	6	85.00	$510.00	24
	23 Truck	3.5	85.00	$297.50	7
	Loader	6	125.00	$750.00	
	Dozer	6	125.00	$750.00	
	Roller	6	85.00	$510.00	
5/4	Dump Truck	8	85.00	$680.00	22
	Loader	8.5	125.00	$1062.50	
	Dozer	4	125.00	$500.00	
	Roller	2	85.00	$170.00	
5/5	Dump Truck	6.5	85.00	$552.50	24
	23 Truck	8.25	85.00	$701.25	14
	23 Truck	8.25	85.00	$701.25	11
	Dozer	2.5	125.00	$312.50	
	Loader	9.5	125.00	$1187.50	
	Roller	3	85.00	$255.00	
7/10	Dump Truck	6	85.00	$510.00	20
	Loader	5	125.00	$625.00	
	Dozer	1	125.00	$125.00	
			Total:	$12,085.00	126

7/11	Loader	7	125.00	$875.00	
	Dozer	2	125.00	$250.00	
	Roller	1	85.00	$85.00	
7/13	Dozer	3	125.00	$375.00	
7/14	Loader	9	125.00	$1125.00	
	23 truck	5	85.00	$425.00	18
	Dump Truck	7.5	85.00	$637.50	34
			Total	$16,857.50	
			Pd	$16,000.00	
			Balance Forward	$857.50	
7/16	Loader	11	125.00	$1375.00	
	Dump Truck	6	85.00	$510.00	20
7/17	Dozer	4	125.00	$500.00	
	Shot Grade with Ricky			$150.00	
	Loader	7	125.00	$875.00	
	Dozer	1	85.00	$85.00	
7/18	Loader	7	125.00	$875.00	
	Dump truck	7	85.00	$595.00	25
	23 truck	7	85.00	$595.00	16
	Dozer	2	125.00	$250.00	
	Roller	2	85.00	$170.00	
7/19	Dozer	9	125.00	$1125.00	
	Roller	2	85.00	$170.00	
	Shot Grade with Ricky			$100.00	
7/21	Dozer	4	125.00	$500.00	
	Roller	4	85.00	$ 340.00	
9/1	Loader (Harold) Push up dirt	6	125.00	$750.00	
9/8	Loader	4.5	125.00	$562.50	
	Dozer	4.5	125.00	$562.50	
	Roller	4.5	85.00	$382.50	
	23 truck	4.5	85.00	$362.50	11
	23 truck	4.5	85.00	$362.50	11

	Dozer		3.5	125.00	$437.50
	Laser		3	85.00	$255.00
9/14	Dozer (Ricky track slope)		2.5	125.00	$312.50
9/26	Dozer		6.5	125.00	$812.50
	Dump Truck	11-3	5	85.00	$425.00
	Crusher Run	3 loads	66 tons	$18.25	$1204.50
				Tax	$84.31
9/26	Dozer		2	125.00	$250.00
	Loader		3	125.00	$250.00
10/19	Tractor with power rake		5	125.00	$625.00 261

Total Due $16,711.31

'24 JUN 12 AM10:46:20
Anderson, SC CDC, CP/GS

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
Petitioner,	)	
vs.	)	**NOTICE AND CERTIFICATE OF MECHANIC'S LIEN**
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
Respondents.	)	

TO: THE RESPONDENTS ABOVE NAMED:

PLEASE TAKE NOTICE that the Petitioner, Brock Landscape Contractors, LLC d/b/a Brock Landscape ("Brock"), by virtue of the attached Statement of Account and Verification, hereby claims and holds a Mechanic's Lien upon the building and structures and upon the interest of the owners, Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy ("Owners"), for labor and materials supplied to the Owners. This lien is in the amount of Sixteen Thousand Seven Hundred Eleven Dollars and 31/100 ($16,711.31) for materials furnished and used in the construction of the improvements situated on the real estate commonly known as **1280 Cannon Bottom Road, located in Belton, South Carolina**. Said real estate is also further described in "**Exhibit A**" which is attached hereto and incorporated herein by reference.

FURTHER NOTICE IS HEREBY GIVEN that the labor and materials were last furnished within ninety (90) days of the date hereof; that Petitioner has and claims a lien on the stated premises, structures, buildings and tract of land, pursuant to § 29-5-10, et seq. of the Code of Laws of South Carolina, 1976, as amended, to secure the payment of the debt, an itemized and

Kenison, Dudley & Crawford, LLC
704 E. McBee Ave.
Greenville, SC 29601

verified statement of which is attached hereto and incorporated herein by reference; that the said Petitioner has a claim on said premises, structures, buildings and said tract of land to secure payments of an additional sum to cover the costs and disbursements of any action to foreclose the aforementioned lien, including reasonable attorneys' fees, all pursuant to the provisions of the statutes applicable to such cases.

This the 18 day of December, 2018.

Witness

Witness

By: _____
John T. Crawford, Jr., Esq.
Kenison, Dudley & Crawford, LLC
704-E McBee Ave.
Greenville, SC 29601
T: 864-242-4899
F: 864-242-4844
Attorneys for Petitoner

STATE OF SOUTH CAROLINA

ACKNOWLEDGEMENT

COUNTY OF GREENVILLE

I, Megan Goudy, Notary Public, do hereby certify that John T. Crawford, Jr., the attorney for Petitioner, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand this the 18th day of December, 2018.

Notary Public for South Carolina
My Commission Expires: May 23, 2027

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**STATEMENT OF ACCOUNT**
	)	
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
	)	
Respondents.	)	

PERSONALLY APPEARED before me, William H. Brock, Jr., who first being duly sworn, deposes and says:

1. That I am the Sole Member of Brock Landscape Contractors, LLC d/b/a Brock Landscape.

2. That the sum of Sixteen Thousand Seven Hundred Eleven Dollars and 31/100 ($16,711.31) is past due and owed to Brock Landscape Contractors, LLC d/b/a Brock Landscape.

3. That the same sum is past due for labor and materials supplied by Brock Landscape Contractors, LLC d/b/a Brock Landscape in connection with the certain improvements located at the real estate commonly known as **1280 Cannon Bottom Road, located in Belton, South Carolina** and further described in "**Exhibit A**" attached hereto and incorporated herein, which is owned by Respondents Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy.

FURTHER AFFIANT SAYETH NAUGHT.

William H. Brock, Jr., Sole Member
Brock Landscape Contractors, LLC d/b/a Brock Landscape

Sworn to and subscribed before me
this the 18th day of December, 2018.

Megan Goudy
Notary Public, State of South Carolina
My Commission Expires: May 23, 2027

Exhibit A

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract 2-D, containing 10.00 acres, more or less, on a plat made for AGTIM, In. by Dunn & Dunn, Inc., Barry K. Dunn, SCRLS #8857, dated October 25, 2001, recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Plat Slide 1277 at Page 4-A. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.

This being the same property conveyed unto Clyde E. Abernathy and Sharon M. Abernathy by deed of Mark L. Tanner and Sara T. Tanner dated December 20, 2006, and recorded December 28, 2006, in Record Book 7775 at Page 148 in the Anderson County, South Carolina Register of Deeds.

THIS conveyance is specifically made subject to any and all recorded rights-of-way, easements, restrictions and zoning ordinances pertaining to said premises, and in addition is subject to any of the foregoing which may appear from an inspection of said premises.

TMS No.: 261-00-02-008

Physical Address: 1280 Cannon Bottom Road, Belton, South Carolina 29627

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
Petitioner,	)	
vs.	)	**VERIFICATION**
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
Respondents.	)	

PERSONALLY APPEARED before me, William H. Brock, Jr., who first being duly sworn, deposes and says that he is a duly authorized representative for Petitioner, Brock Landscape Contractors, LLC d/b/a Brock Landscape; that he has read the foregoing Notice and Certificate of Mechanic's Lien and Statement of Account; that the materials set forth herein are true of his own knowledge, except those matters and things therein alleged on information and belief, and as to those he believes them to be true.

Further, Brock Landscape Contractors, LLC d/b/a Brock Landscape is not required to have a license pursuant to licensing statute.

William H. Brock, Jr.
Brock Landscape Contractors, LLC d/b/a
Brock Landscape

Sworn to and subscribed before me
this the 18th day of December, 2018.

Megan Goudy
Notary Public, State of South Carolina
My Commission Expires: May 23, 2027

030003312 12/18/2018 03:01:39 PM
FILED, RECORDED, INDEXED
Bk: 55 Pg: 247 Pages: 5
Rec Fee: 11.00 St Fee: 0.00
Co Fee: 0.00
REGISTER OF DEEDS, ANDERSON CO, SC
Wendy Reffel

KENISON, DUDLEY & CRAWFORD, LLC

ATTORNEYS AT LAW

KEVEN K. KENISON
(1964-2013)
THOMAS E. DUDLEY, III
Practicing Attorney in South Carolina and North Carolina
JOHN T. CRAWFORD, JR.
Practicing Attorney in South Carolina
BRIAN A. AUTRY
Practicing Attorney in South Carolina
F. JAMES WARMOTH
Practicing Attorney in South Carolina and North Carolina
MARK A. BIBLE, JR.
Practicing Attorney in South Carolina
VIRGIL K. THOMPSON, III
Practicing Attorney in South Carolina and California

'24 JUN 12 AM10:46:37
Anderson, SC COC, CP/GS

tabbies
PLAINTIFF'S EXHIBIT
S

December 14, 2018

Via Process Server
Michael L. Abernathy
Abernathy Welding & Sandblasting
1280 Cannon Bottom Road
Belton, SC 29627

Via Certified Mail
Sharon M. Abernathy
1280 Cannon Bottom Road
Belton, SC 29627

Via Certified Mail
Clyde E. Abernathy
1280 Cannon Bottom Road
Belton, SC 29627

Via Certified Mail
Linda M. Abernathy
1280 Cannon Bottom Road
Belton, SC 29627

Re: ***Brock Landscape Contractors, LLC***
Project: 1280 Cannon Bottom Road, Belton, South Carolina

Dear All:

This firm represents Brock Landscape Contractors, LLC d/b/a Brock Landscape ("Brock"). We have been asked to assist Brock in obtaining payment for labor and materials which have been provided to Michael L. Abernathy and Abernathy Welding & Sandblasting ("Abernathy") on the above-referenced project ("the Project") with the express consent of the owners, Michael L. Abernathy, Linda M. Abernathy d/b/a Abernathy Welding & Sandblasting, Clyde E. Abernathy, and Sharon M. Abernathy (collectively "Owners"). It is our understanding that Brock has fulfilled its obligations to Owners and has provided all materials requested on the Project, but, that Owners have nonetheless failed and refused to pay the outstanding balance of $16,711.31.

All prior attempts to amicably resolve this matter have been to no avail. Because Brock's prior demands and attempts to resolve this matter have been refused and unsuccessful, Brock, by and through its undersigned attorneys, herewith makes the following demands and gives the following Notices:

- This letter serves as Brock's demand for payment of $16,711.31 under its agreement with Abernathy on the Project. Pursuant to South Carolina Code Ann. § 27-1-15, you have a duty to make a reasonable and fair investigation of the merits of these claims and pay them, or whatever portion of it is determined to be valid, within forty-five (45) days from the date of mailing of this demand. If you unreasonably refuse to pay the claim or proper portion, you shall be liable for reasonable attorneys' fees and interest at the judgment rate from the date of this demand. At a minimum, such investigation should include you providing this office with complete

GREENVILLE
704 East McBee Avenue ▪ Greenville, South Carolina 29601
Phone 864.242.4899 ▪ Fax 864.242.4844

COLUMBIA
1320 Main Street, Suite 300 ▪ Columbia, South Carolina 29201
Phone 803.605.5271

ATLANTA
2346 Wisteria Drive ▪ Suite 220 ▪ Snellville, Georgia 30078
Phone 770.513.6400 ▪ Fax 770.513.3239

documentation of any evidence that the sums demanded are incorrect, as well as complete documentation of any claims you assert are properly offset from sums otherwise due Brock. This documentation should include, without limitation, documentation of costs incurred and compliance with legal and/or contractual notice requirements.

- Pursuant to the South Carolina Prompt Pay Act, South Carolina Code Ann. § 29-6-50, Brock herewith demands payment in full of the principal amount listed above. Further, pursuant to the Prompt Pay Act, you will be liable for 1% interest per month as set forth in the above-referenced statute.

- Please find enclosed, herewith and served upon you a copy of the Mechanic's Lien which is being filed against the Project.

Please direct all future correspondence concerning the outstanding amount to the undersigned at this law firm's Greenville, South Carolina office.

I appreciate your immediate response to this demand.

Regards,
KENISON, DUDLEY & CRAWFORD, LLC

John T. Crawford, Jr., Esq.

cc: Brock Landscape Contractors, LLC

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
Petitioner,	)	
vs.	)	**NOTICE AND CERTIFICATE OF MECHANIC'S LIEN**
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
Respondents.	)	

TO: THE RESPONDENTS ABOVE NAMED:

PLEASE TAKE NOTICE that the Petitioner, Brock Landscape Contractors, LLC d/b/a Brock Landscape ("Brock"), by virtue of the attached Statement of Account and Verification, hereby claims and holds a Mechanic's Lien upon the building and structures and upon the interest of the owners, Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy ("Owners"), for labor and materials supplied to the Owners. This lien is in the amount of Sixteen Thousand Seven Hundred Eleven Dollars and 31/100 ($16,711.31) for materials furnished and used in the construction of the improvements situated on the real estate commonly known as **1280 Cannon Bottom Road, located in Belton, South Carolina**. Said real estate is also further described in "**Exhibit A**" which is attached hereto and incorporated herein by reference.

FURTHER NOTICE IS HEREBY GIVEN that the labor and materials were last furnished within ninety (90) days of the date hereof; that Petitioner has and claims a lien on the stated premises, structures, buildings and tract of land, pursuant to § 29-5-10, et seq. of the Code of Laws of South Carolina, 1976, as amended, to secure the payment of the debt, an itemized and

verified statement of which is attached hereto and incorporated herein by reference; that the said Petitioner has a claim on said premises, structures, buildings and said tract of land to secure payments of an additional sum to cover the costs and disbursements of any action to foreclose the aforementioned lien, including reasonable attorneys' fees, all pursuant to the provisions of the statutes applicable to such cases.

This the 18 day of December, 2018.

Witness

Witness

By:

John T. Crawford, Jr., Esq.
Kenison, Dudley & Crawford, LLC
704-E McBee Ave.
Greenville, SC 29601
T: 864-242-4899
F: 864-242-4844
Attorneys for Petitoner

STATE OF SOUTH CAROLINA

ACKNOWLEDGEMENT

COUNTY OF GREENVILLE

I, Megan Goudy, Notary Public, do hereby certify that John T. Crawford, Jr., the attorney for Petitioner, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand this the 18th day of December, 2018.

Notary Public for South Carolina
My Commission Expires: May 23, 2027

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**STATEMENT OF ACCOUNT**
	)	
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
	)	
Respondents.	)	

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3. That the same sum is past due for labor and materials supplied by Brock Landscape Contractors, LLC d/b/a Brock Landscape in connection with the certain improvements located at the real estate commonly known as **1280 Cannon Bottom Road, located in Belton, South Carolina** and further described in "**Exhibit A**" attached hereto and incorporated herein, which is owned by Respondents Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy.

FURTHER AFFIANT SAYETH NAUGHT.

William H. Brock, Jr., Sole Member
Brock Landscape Contractors, LLC d/b/a Brock Landscape

Sworn to and subscribed before me
this the 18th day of December, 2018.

Megan Goudy
Notary Public, State of South Carolina
My Commission Expires: May 23, 2027

Exhibit A

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract 2-D, containing 10.00 acres, more or less, on a plat made for AGTIM, In. by Dunn & Dunn, Inc., Barry K. Dunn, SCRLS #8857, dated October 25, 2001, recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Plat Slide 1277 at Page 4-A. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.

This being the same property conveyed unto Clyde E. Abernathy and Sharon M. Abernathy by deed of Mark L. Tanner and Sara T. Tanner dated December 20, 2006, and recorded December 28, 2006, in Record Book 7775 at Page 148 in the Anderson County, South Carolina Register of Deeds.

THIS conveyance is specifically made subject to any and all recorded rights-of-way, easements, restrictions and zoning ordinances pertaining to said premises, and in addition is subject to any of the foregoing which may appear from an inspection of said premises.

TMS No.: 261-00-02-008

Physical Address: 1280 Cannon Bottom Road, Belton, South Carolina 29627

STATE OF SOUTH CAROLINA	)	IN THE OFFICE OF THE
	)	
COUNTY OF ANDERSON	)	REGISTER OF DEEDS
Brock Landscape Contractors, LLC d/b/a Brock Landscape,	)	
Petitioner,	)	
vs.	)	**VERIFICATION**
Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy, and Linda M. Abernathy,	)	
Respondents.	)	

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Further, Brock Landscape Contractors, LLC d/b/a Brock Landscape is not required to have a license pursuant to licensing statute.

William H. Brock, Jr.
Brock Landscape Contractors, LLC d/b/a
Brock Landscape

Sworn to and subscribed before me
this the 18th day of December, 2018.

Megan Goudy
Notary Public, State of South Carolina
My Commission Expires: May 23, 2027

PLAINTIFF'S EXHIBIT
6

'24 JUN 12 AM10:46:43
Anderson, SC COC, CP/GS

Prepared by: William R. Thomson
Attorney at Law
P.O. Box 428
Belton, SC 29627

File # 7/16 *No title exam requested or performed.

==========

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF ANDERSON)

KNOW ALL MEN BY THESE PRESENTS THAT, I, CLYDE E. ABERNATHY AND SHARON M. ABERNATHY, whether one or more, called the Grantor, in the State aforesaid, in consideration of the sum of FIVE AND NO/100 DOLLARS ($5.00), LOVE AND AFFECTION, and no other consideration (see affidavit filed) to Grantor(s) in hand paid at and before the sealing of these presents by **CLYDE E. ABERNATHY, SHARON M. ABERNATHY, MICHAEL L. ABERNATHY & LINDA M. ABERNATHY,** hereinafter, whether one or more, called Grantee (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said **Grantees, Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy & Linda M. Abernathy, for and during their joint lives and upon the death of either of them, then to the survivor of them, his or her heirs and assigns forever in fee simple, together with every contingent remainder and right of reversion, as joint tenants with rights of survivorship, and not as tenants in common,** the following described property:

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract 2-D, containing 10.00 acres, more or less, on a plat made for AGTIM, Inc. by Dunn & Dunn, Inc., Barry K. Dunn, SCRLS #8857, dated October 25, 2001, recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Plat Slide 1277 at Page 4-A. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.

This being the same property conveyed unto Clyde E. Abernathy and Sharon M. Abernathy by deed of Mark I. Tanner and Sara T. Tanner dated December 20, 2006, and recorded December 28, 2006, in Record Book 7775 at Page 148 in the Anderson County, South Carolina Register of Deeds.

THIS conveyance is specifically made subject to any and all recorded rights-of-way, easements, restrictions and zoning ordinances pertaining to said premises, and in addition is subject to any of the foregoing which may appear from an inspection of said premises.

ROLL-BACK TAXES: *Purchaser shall be responsible for the amount of any rollback as valorem property taxes for the year of purchase and any prior years which may result from a reclassification, if any, of the property. In the event the purchaser desires to attempt to have the property retain any qualified agricultural classification, the purchaser must apply promptly after closing for such classification.*

TMS # 261-00-02-008

Grantee's Address: 1280 Cannon Bottom Rd.
Belton, SC 29627

TOGETHER with all and singular the rights, members, hereditaments, easements and appurtenances to said premises belonging or in any wise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said **Grantees, Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy & Linda M. Abernathy, for and during their joint lives and upon the death of either of them, then to the survivor of them, his or her heirs and assigns forever in fee simple, together with every contingent remainder and right of reversion, as joint tenants with rights of survivorship, and not as tenants in common.**

And, the Grantor(s) do(es) hereby bind the Grantor(s) and the Grantor's(s') heirs, successors, executors, administrators and assigns to warrant and forever defend all and singular said premises unto the Grantee(s) and the Grantee's(s') heirs, successors or assigns from and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Grantor's (s') hand(s) and seal(s) this 21 day of JANUARY, 2016.

SIGNED, sealed and delivered in the presence of:

Susan Hendrix Susan Hendrix

Dan Bokuniewicz / Dan Bokuniewicz

Clyde E Abernathy (SEAL)
CLYDE E. ABERNATHY

Sharon M Abernathy (SEAL)
SHARON M. ABERNATHY

STATE OF FLORIDA)
) ACKNOWLEDGEMENT
COUNTY OF SEMINOLE **)**

I, the undersigned, a Notary Public for the State of Florida, do hereby certify that Grantor(s) personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN to before me this 21st day of JANUARY, 2016.

Daniel P. Bokuniewicz
Notary Public for Florida
My Commission Expires: 9/2/2017
WRT/ra 7/16

DANIEL P. BOKUNIEWICZ
Notary Public - State of Florida
My Comm. Expires Sep 2, 2017
Commission # FF 050350
Bonded Through National Notary Assn.

STATE OF SOUTH CAROLINA)
) AFFIDAVIT FOR EXEMPT TRANSFERS
COUNTY OF ANDERSON)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located at Lot referenced in deed description, South Carolina bearing Anderson County Tax Map Number 261-00-02-008 was transferred by Clyde E. Abernathy and Sharon M. Abernathy to Clyde E. Abernathy, Sharon M. Abernathy, Michael L. Abernathy & Linda M. Abernathy on January 21, 2016.

3. The deed is transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars.

4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantee/Grantor.

5. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to before me this 21st day of JANUARY, 2016.

Daniel P Bokuniewicz
Notary Public for Florida
My Commission Expires: 9/27/2017

Daniel P. Bokuniewicz

Clyde E. Abernathy
Responsible Person Connected with the Transaction

Clyde E. Abernathy
Print or Type Name Here

160001566 1/27/2016 09:52:39 AM
FILED, RECORDED, INDEXED
Bk: 12154 Pg: 00054 Pages:003
Rec Fee: 10.00 St Fee: EXEMPT
Co Fee: EXEMPT
REGISTER OF DEEDS, ANDERSON CO, SC
Wendy Reffel

Mike Abernathy
1280 Cannon Bottom Road
Belton, SC 29627

864-634-2962

$95.00 Per Hour

INVOICE

Invoice Number:

'24 JUN 12 AM10:46:48
Anderson, SC COC. CP/GS

Invoice Date:

1-17-17

Customer Information:

Billing Address:		Shipping Address:	
Company:	Brock landscape Contractor	Company:	
Name:		Name:	
Address:		Address:	
City/State/Zip		City/State/Zip	

Shipping Method:

Order Information:

	Product Description	Amount Each	Amount
2.	Bucketts & 2 forks	850.00	$850.00
	Teeth & Plates Repaired.		
	Supplied material Included.		
4	MASSES - Bobcat Straightened.		
	& Replaced metal Guards.	TOTAL:	
		$1335.00	$1335.00
	Auger Blade.		
		Total	2185.00

23 HRS.

Pd. CK# 14209
1-17-17.

Notes:

PLAINTIFF'S EXHIBIT 7 PH

01/24/17 $39.69

BROCK LANDSCAPE CONTRACTORS LLC
2522 RIVER ROAD 864-295-4435
PIEDMONT, SC 29673

14209
67-820/532

DATE 1/17/16

PAY TO THE ORDER OF Mike Abernathy $ 2185.00

Two thousand one hundred eighty five 00/100 DOLLARS

Carolina Alliance Bank

MEMO

⑈014209⑈ ⑆053208202⑆ 100039291⑈

#14209 01/18/17 $2,185.00

First Citizens Bank
Central Bank Operations - DAC02
P.O. Box 27131
Raleigh, NC 27611-7131

PLAINTIFF'S EXHIBIT 8

'24 JUN 12 AM 10:44:09
Anderson SC DOC, CP/GS

IM EST
487

Your Account(s) At A Glance

Checking Balance	5,362.80+

MICHAEL L ABERNATHY
DBA ABERNATHY WELDING & SANDBLASTING
1280 CANNON BOTTOM RD
BELTON SC 29627-9349

Statement Period: July 1 , 2018 Thru July 31, 2018 Account Number : 009161207222
Branch : 487

Basic Business Checking
Account Number : 009161207222 Enclosures In Statement: 0

Beginning Balance	3,132.89+	Statement Period Days	31
3 Deposits	3,580.00+	Average Ledger Balance	5,482.00+
2 Other Credits	15,139.01+		
1 Checks	15,000.00-		
8 Other Debits	1,489.10-		
Monthly Service Charge	0.00		
Ending Balance	5,362.80+		

Deposits To Your Account

Date	Amount	Date	Amount	Date	Amount
07-03	1,180.00	07-05	400.00	07-13	2,000.00

Other Credits To Your Account

Date	Description		Amount
07-16	Wire Transfer Ref Number = 006010	0	15,000.00
07-23	FDR Debit Card Visa #4025 Tractor-Supply-Co #044 Anderson SC		139.01
	Total		15,139.01

Checks Paid From Your Account

Check No.	Date	Amount
	07-17	15,000.00

*Prior Check Number(s) Not Included or Out of Sequence.

Direct Customer Inquiry Calls To
FIRST CITIZENS DIRECT
Telephone Banking At 1-888-323-4732.

Other Debits From Your Account

Date	Description	Amount
07-03	POS Signature- Visa #4025 Frankie Bones Restaura Hilton Head SC	77.37
07-06	POS Signature- Visa #4025 Auto Owners Insurance 517-323-1200 Mi	435.09
07-09	POS Signature- Visa #4025 Msd Llc 915-8575200 Tx	208.73
07-16	Wire Transfer Fee	16.00
07-20	Purchase Visa #4025 07-20 ATM 400002 Seq # 2107 Tractor-Supply 3719 Clemson Blv D Anderson S C	192.49
07-20	POS Signature- Visa #4025 Classic Airboats Cocoa Fl	389.72
07-23	POS Signature- Visa #4025 Outback 4117 Anderson SC	69.01
07-30	POS Signature- Visa #4025 Rack Room Shoes #0029 Simpsonville SC	100.69
	Total	1,489.10

Daily Balance Summary

Date	Balance	Date	Balance	Date	Balance
07-03	4,235.52+	07-13	5,991.70+	07-23	5,463.49+
07-05	4,635.52+	07-16	20,975.70+	07-30	5,362.80+
07-06	4,200.43+	07-17	5,975.70+		
07-09	3,991.70+	07-20	5,393.49+		

Name (Print) Mike Abernathy
Date 7/17/18
Account No. * 9161207222
Checking / Savings Withdrawal $ 15,000.00
Fifteen thousand Dollars
07/17 487104 0005 9161207222 CC $15,000.00 NON NEGOTIABLE
First Citizens Bank
Signature Mike Abernathy
⑆500904007⑆

Date:20180717 Check:0 Account:9161207222 Amount:15000.00

Seq: 00028 07/17/18 Batch 270,101
Branch: 487 - Williamston
Seq: 28
Batch: 270101
Date: 07/17/18

'24 JUN 12 AM 10:44:15
Anderson, SC COUNTY
CP/GS

PLAINTIFF'S EXHIBIT
9

Date:20180717 Check:0 Account:9161207222 Amount:15000.00

Name (Print) 792459
Account No. * 009161207222
DATE 10/02/18
PAY TO THE ORDER OF Cash $14,500.00
Fourteen thousand Five hundred and 00/100 DOLLARS
10/02 487106 0030 0091612072222CC $14,500.00
First Citizens Bank
FOR
Linda Abernathy
⑈792459⑈ ⑆053100300⑆ 94

Date:20181002 Check:792459 Account:9161207222 Amount:14500.00

Branch: 487 - Williamston
Seq: 30
Batch: 526681
Date: 10/02/18
Linda Abernathy

Date:20181002 Check:792459 Account:9161207222 Amount:14500.00

L Abernathy 792229
Name (Print)
Account No. * 009161207222
DATE 10/5/18
PAY TO THE ORDER OF Cash $14,500.00
Fourteen thousand five hundred dollars no/100 DOLLARS
First Citizens Bank
FOR
Linda Abernathy
⑈792229⑈ ⑆053100300⑆ 94

Date:20181005 Check:792229 Account:9161207222 Amount:14500.00

Branch: 487 - Williamston
Seq: 58
Batch: 540262
Date: 10/05/18
Linda Abernathy

Date:20181005 Check:792229 Account:9161207222 Amount:14500.00

Name (Print) Abernathy welding
Date 10/26/18
Account No. * 009161207222
Checking / Savings Withdrawal $ 9,000.00
Nine thousand 00/1000 Dollars
10/26/18 487106 0002 0091612072222CC $9,000.00 NON NEGOTIABLE
First Citizens Bank
Signature Michael L Abernathy
⑆500904007⑆

Date:20181026 Check:0 Account:9161207222 Amount:9000.00

Seq: 00106 10/26/18 Batch 609,217
Branch: 487 - Williamston
Seq: 106
Batch: 609217
Date: 10/26/18

Date:20181026 Check:0 Account:9161207222 Amount:9000.00

2201310014

'24 JUN 12 AM 10:44:26
Anderson, SC CCC, CP/GS

Daily Report

Project	Misc / Cannon Bottom
Date	May 3, 2018
Day	Thursday
Weather	
Station	

Pallets	
Units	
Blocks Laid	0

Project Personnel	Start	Lunch	End	Total Hrs	Wages
Dennis Rankin	7:45 AM	0.50	7:45 PM	11.50	$ 184.00
Hugo				0.00	$ 0.00
Valoise Garcia				0.00	$ 0.00
Vicente A Mendoza				0.00	$ 0.00
Mario Hernandez				0.00	$ 0.00
Sergio Realista				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
			Project Totals	11.50	$ 184.00

Project Events

Harold trash out.
Harold's cows fed.
Change oil on B1
Roll back to Breezys
Load trucks and push dirt at Cannon Bottom.
Topped off Track loader with diesel.

Problems & Delays

Equipment & Materials Received

PENGAD 800-631-6989
PLAINTIFF'S EXHIBIT
10

Daily Report

Project	Misc / Cannon Bottom
Date	May 4, 2018
Day	Friday
Weather	
Station	

Pallets	
Units	
Blocks Laid	0

Project Personnel	Start	Lunch	End	Total Hrs	Wages
Dennis Rankin	7:30 AM	1.00	8:30 PM	12.00	$ 192.00
Hugo				0.00	$ 0.00
Valoise Garcia				0.00	$ 0.00
Vicente A Mendoza				0.00	$ 0.00
Mario Hernandez				0.00	$ 0.00
Sergio Realista				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
			Project Totals	12	$ 192.00

Project Events

Get Diesel then knocked down plies and graded road behind Office in AM while Larry took Sergio gravel.

Went to Cannon Bottom, serviced Bull Dozer and Track Loader.

Load trucks at Cannon Bottom.

Tractor Supply for 2 Buckets Of Hydraulic Oil.

Problems & Delays

Equipment & Materials Received

Daily Report

Project	Cannon Bottom
Date	May 5, 2018
Day	Saturday
Street	
City/State	

Pallets	
Units	
Blocks Laid	0

Project Personnel	Start	Lunch	End	Total Hrs	Wages
Dennis Rankin	7:15 AM	0.50	5:30 PM	9.75	$ 156.00
Hugo				0.00	$ 0.00
Valoise Garcia				0.00	$ 0.00
Vicente A Mendoza				0.00	$ 0.00
Mario Hernandez				0.00	$ 0.00
Sergio Realista				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
			Project Totals	10	$ 156.00

Project Events

Added approximately 8 gallons of Hydraulic Oil to Bull Dozer.

First trucks showed up at 9:15 AM, then took long time to deliver, appears that they turned wrong way out of drive on first delivery. One driver had to go to town for bathroom.

Load trucks rest of day.

Problems & Delays

Equipment & Materials Received

Daily Report

Project	Various Task / Cotton Bottom
Date	Jul 17, 2018
Day	Tuesday
Weather	
Station	

Pallets	
Units	
Blocks Laid	0

Project Personnel	Start	Lunch	End	Total Hrs	Wages
Dennis Rankin	7:00 AM	1.00	7:15 PM	11.25	$ 180.00
Valoise Garcia				0.00	$ 0.00
Vicente A Mendoza				0.00	$ 0.00
Mario Hernandez				0.00	$ 0.00
Sergio Realista				0.00	$ 0.00
Hugo				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
				0.00	$ 0.00
			Project Totals	11.25	$ 180.00

Project Events

Cotton Bottom Services Machines, shoot grades with Harold.

Nature Trail trash.

Valoise with Mario, Vicente with Sergio.

Problems & Delays

Equipment & Materials Received

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16

KEEP GOOD LOAD COUNT

48 47 46 45 44 43 42 41

17 18 19 20 21 24

23 LOGISTICS, LLC

(864) 412-7323

23 LOGISTICS

Customer: Harold Brock

Project: Cannon Bottom Rd.

Location: Cannon Bottom Rd

Time Started: [redacted] 9:22

Time Stopped: 4:45

Total Time:

Driver: Brian

Truck #: 2317

Product: Dirt

Lunch: ☐ YES ☒ NO

Total Loads:

Date: 7-18-18 Signed: L Helms

40 39 38 37 36 35 34 33 32 31 30 29 28 27 26 25

'24 JUN 12 AM 10:44:37
Anderson, SC COC, CP/GS

PENGAD 800-631-6989

PLAINTIFF'S EXHIBIT 11

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16

KEEP GOOD LOAD COUNT

17 18 19 20 21 22 23 24

23 LOGISTICS, LLC

(864) 412-7323

Customer: BROCK LANDSCAPE

Project: CANNON BOTTOM RD

Location: BELTON

Time Started: 7:00 A.M.

Time Stopped: 11:42

Total Time:

Driver: DANIEL BEAMAN

Truck #: 2312

Product: DIRT

Total Loads:

Lunch: ☐ YES ☐ NO

Date: 8 SEPT 18 Signed:

25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48

X 1 | X 2 | X 3 | X 4 | X 5 | X 6 | X 7 | X 8 | X 9 | X 10 | X 11 | 12 | 13 | 14 | 15 | 16

KEEP GOOD LOAD COUNT

23 LOGISTICS, LLC

(864) 412-7323

Customer: Brock Landscape

Project: Cannon Bottom Rd.

Location: Cannon Bottom Rd ("Dumping 1 mile away from load site")

Time Started: 7:00 A.M.

Time Stopped: 11-42

Driver: David Lee

Total Time:

Truck #: 2313

Lunch: ☐ YES ☒ NO

Product: Dirt

Total Loads:

Date: 9-8-2018 Signed: X

48 | 47 | 46 | 45 | 44 | 43 | 42 | 41 | 40 | 39 | 38 | 37 | 36 | 35 | 34 | 33 | 32 | 31 | 30 | 29 | 28 | 27 | 26 | 25 | 24 | 23 | 22 | 21 | 20 | 19 | 18 | 17

KEEP GOOD LOAD COUNT

23 LOGISTICS, LLC

(864) 412-7323

Customer: Harold Brock

Project: Carrom Bottom Rd

Location:

Time Started: 4:38 pm

Time Stopped: 8:05

Driver: Walt

Total Time:

Truck #: 2315

Lunch: ☐ YES ☑ NO

Product: Dirt

Total Loads:

Date: 5-3-18 Signed:

9:22 | 10:10 | 10:40 | 11:25 | 12:05 | 12:41 | 1:12 | 1:45 | 2:26 | 3:17 | 3:56 | 4:16 | 4:46 | 5:02

KEEP GOOD LOAD COUNT

23 LOGISTICS, LLC

(864) 412-7323

Customer: Harold Brock 1611 Cannon Bottom

Project:

Location: 1611 Cannon Bottom Rd

Time Started: 8AM

Time Stopped: 5:15

Driver: Elisha Kennard

Total Time: 8:15

Truck #: 2314

Lunch: ☐ YES ☒ NO

Product: Dirt

Total Loads:

Date: 5/5/18 Signed:

9:15 10:15 10:58 11:35 12:30 1:35 2:05 2:45 3:38 4:36 5:02

KEEP GOOD LOAD COUNT

23 LOGISTICS, LLC

(864) 412-7323

Time Started: 8AM

Time Stopped: 5:10 pm

Total Time: _____

Lunch: ☐ YES ☐ NO

Date: 5-5-18 Signed: [signature]

Customer: BROCK 1611 Cannon Bottom Rd

Project: DIRT

Location: 1611 Cannon Bottom Rd

Driver: ASHA Gibson

Truck #: 2318

Product: DIRT

Total Loads: _____

Name (Print)

792459

Account No. * 009161207222

DATE 10/02/18

PAY TO THE ORDER OF Cash $14,500.00

Fourteen thousand Five hundred and 00/00 DOLLARS

0/02 '87106 0030 009161207222CC $14,500.00

FirstCitizensBank

FOR

Linda Abernathy

⑈792459⑈ ⑆053100300⑆ 94

ENDORSE HERE

X Linda Abernathy

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

Branch: 487 - Williamston
Seq: 30
Batch: 526681
Date: 10/02/18

Security features exceed industry standards and include:
- The patented Security Weave™ pattern on the back designed to deter check fraud (U.S. Patent No. 5,659,169)
- Microprint lines printed on front and back
- The words "ORIGINAL DOCUMENT" clearly appear across the back
- Padlock icon visible on front and back

Do not cash if:
- Any of the features listed above are missing or appear altered
- Fugitive ink on back leaks pink or has disappeared
- Brown stains and colored spots appear on both front and back
- The word "VOID" appears clearly to the right of this message

Account Number	Posting Date	Amount	Serial Number	Type	RT	Sequence Number
9161207222	10/2/2018	$14,500.00	792459	DEBIT	53100300	002800098832

DEFENDANT'S EXHIBIT
1

'24 JUN 12 AM10:44:44
Anderson, SC COC, CP/GS

DEFENDANT'S EXHIBIT 2

110008033 4/25/2011 Bk: 10003 Pg: 00245

'24 JUN 12 AM10:46:58 Anderson, SC COD. CP/GS

After Recording Return To:
BANK OF AMERICA, N.A.
ReconTrust Co./TX2-979-01-07
P.O. Box 619003
Dallas, TX 75261-9003

Prepared By:
ROLANDA J. FRANKS

AFTER RECORDING RETURN TO:
McDONNELL & ASSOCIATES, PA
P.O. BOX 12245
COLUMBIA, SC 29211
803-931-8793

ENV

[Space Above This Line For Recording Data] #1020365

00023424842404011
[Doc ID #]

MORTGAGE

DEFINITIONS

Words used in multiple sections of this document are *defined below* and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated APRIL 19, 2011, together with all Riders to this document.

(B) "Borrower" is

CLYDE E ABERNATHY, AND SHARON M ABERNATHY, JOINT TENANTS WITH RIGHT OF SURVIVORSHIP

Borrower is the mortgagor under this Security Instrument.

(C) "Lender" is
BANK OF AMERICA, N.A.
Lender is a NATIONAL ASSOCIATION
organized and existing under the laws of THE UNITED STATES
Lender's address is
101 South Tryon Street, Charlotte, NC 28255
Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated APRIL 19, 2011. The Note states that Borrower owes Lender
THREE HUNDRED FIFTY SEVEN THOUSAND ONE HUNDRED and 00/100

Dollars (U.S. $ 357,100.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than MAY 01, 2041

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

☐ Adjustable Rate Rider	☐ Condominium Rider	☐ Second Home Rider
☐ Balloon Rider	☐ Planned Unit Development Rider	☒ 1-4 Family Rider
☐ VA Rider	☐ Biweekly Payment Rider	☐ Other(s) [specify]

(H) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.
(I) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.
(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
(K) "Escrow Items" means those items that are described in Section 3.
(L) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.
(M) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.
(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.
(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.
(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY
This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and assigns, the following described property located in the

COUNTY of ANDERSON :
[Type of Recording Jurisdiction] [Name of Recording Jurisdiction]

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Parcel ID Number: 2610002008 which currently has the address of

1280 CANNON BOTTOM RD, BELTON ,
[Street/City]

South Carolina 29627-9349 ("Property Address"):
[Zip Code]

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that

any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections: Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until the Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 22 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument,

and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

23. Release. *Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become* null and void. Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Homestead Waiver. Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

25. Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE

DOC ID. #: 00023424842404011

MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in Section 12-37-250 of the South Carolina Code of Laws.

26. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to 150% of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Signed, ~~sealed~~ and delivered in the presence of:

Dionne Holloway

Clyde E. Abernathy (Seal)
CLYDE E. ABERNATHY -Borrower

Sonya Smith

Sharon Mae Abernathy (Seal)
SHARON M. ABERNATHY -Borrower

(Seal)
-Borrower

(Seal)
-Borrower

STATE OF ~~SOUTH CAROLINA~~ Florida, Orange County ss:

I, Dionne Holloway do hereby certify that Clyde E. Abernathy ~~&~~ Sharon M Abernathy, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 19 day of April, 2011.

Sonya Smith
Witness Sonya Smith

Notary Public for ~~South Carolina~~ Florida

My Commission Expires: 3/17/2014

DIONNE HOLLOWAY
MY COMMISSION EXPIRES 03-17-2014
NOTARY PUBLIC
#DD 968991
STATE OF FLORIDA

EXHIBIT A, PROPERTY DESCRIPTION

LEGAL DESCRIPTION

LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS ALL THAT CERTAIN PROPERTY SITUATED IN CITY OF BELTON IN THE COUNTY OF ANDERSON, AND STATE OF SOUTH CAROLINA AND BEING DESCRIBED IN A DEED DATED 12/20/2006 AND RECORDED 12/28/2006 IN BOOK 7775 PAGE 148 AMONG THE LAND RECORDS OF THE COUNTY AND STATE SET FORTH ABOVE, AND REFERENCED AS FOLLOWS:

BEING KNOWN AND DESIGNATED AS TRACT 2-D, CONTAINING 10.00 ACRES, MORE OR LESS, ON A PLAT MADE FOR AGTIM, INC., BY DUNN & DUNN, INC., BARRY K. DUNN, SCRLS #8857, DATED 10/25/2001, RECORDED IN THE ROD OFFICE FOR ANDERSON COUNTY IN PLAT SLIDE 1277 AT PAGE 4-A. REFERENCE IS HEREBY MADE TO THE MOST RECENT SURVEY FOR A MORE COMPLETE AND ACCURATE METES AND BOUNDS DESCRIPTION THEREOF.
BEING THE SAME PROPERTY CONVEYED TO CLYDE E. ABERNATHY AND SHARON M. ABERNATHY AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP FROM MARK I. TANNER AND SARAH T. TANNER IN DEED DATED 12/20/2006 RECORDED 12/28/2006 IN BOOK 7775 AT PAGE 148, ANDERSON COUNTY RECORDS.

PARCEL NO. 261-00-02-008

COMMONLY KNOWN AS:
1280 CANNON BOTTOM ROAD, BELTON, SC 29627

1-4 FAMILY RIDER
(ASSIGNMENT OF RENTS)

00023424842404011
[Doc ID #]

THIS 1-4 FAMILY RIDER is made this NINETEENTH day of APRIL, 2011, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to
BANK OF AMERICA, N.A.

(the "Lender") of the same date and covering the Property described in the Security Instrument and located at:
1280 CANNON BOTTOM RD, BELTON, SC 29627-9349

[Property Address]

1-4 FAMILY COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. ADDITIONAL PROPERTY SUBJECT TO THE SECURITY INSTRUMENT. In addition to the Property described in the Security Instrument, the following items now or hereafter attached to the Property to the extent they are fixtures are added to the Property description, and shall also constitute the Property covered by the Security Instrument: building materials, appliances and goods of every nature whatsoever now or hereafter located in, on, or used, or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, attached mirrors, cabinets, paneling and attached floor coverings, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Property covered by the Security Instrument. All of the foregoing together with the Property described in the Security Instrument (or the leasehold estate if the Security Instrument is on a leasehold) are referred to in this 1-4 Family Rider and the Security Instrument as the "Property."

B. USE OF PROPERTY; COMPLIANCE WITH LAW. Borrower shall not seek, agree to or make a change in the use of the Property or its zoning classification, unless Lender has agreed in writing to the change. Borrower shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property.

C. SUBORDINATE LIENS. Except as permitted by federal law, Borrower shall not allow any lien inferior to the Security Instrument to be perfected against the Property without Lender's prior written permission.

D. RENT LOSS INSURANCE. Borrower shall maintain insurance against rent loss in addition to the other hazards for which insurance is required by Section 5.

E. "BORROWER'S RIGHT TO REINSTATE" DELETED. Section 19 is deleted.

F. BORROWER'S OCCUPANCY. Unless Lender and Borrower otherwise agree in writing, Section 6 concerning Borrower's occupancy of the Property is deleted.

G. ASSIGNMENT OF LEASES. Upon Lender's request after default, Borrower shall assign to Lender all leases of the Property and all security deposits made in connection with leases of the Property. Upon the assignment, Lender shall have the right to modify, extend or terminate the existing leases and to execute new leases, in Lender's sole discretion. As used in this paragraph G, the word "lease" shall mean "sublease" if the Security Instrument is on a leasehold.

H. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. Borrower absolutely and unconditionally assigns and transfers to Lender all the rents and revenues ("Rents") of the Property, regardless of to whom the Rents of the Property are payable. Borrower authorizes Lender or Lender's agents to collect the Rents, and agrees that each tenant of the Property shall pay the Rents to Lender or Lender's agents. However, Borrower shall receive the Rents until: (i) Lender has given Borrower notice of default pursuant to Section 22 of the Security Instrument and (ii) Lender has given notice to the tenant(s) that the Rents are to be paid to Lender or Lender's agent. This assignment of Rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of default to Borrower: (i) all Rents received by Borrower shall be held by Borrower as trustee for the benefit of Lender only, to be applied to the sums secured by the Security Instrument; (ii) Lender shall be entitled to collect and receive all of the Rents of the Property; (iii) Borrower agrees that each tenant of the Property shall pay all Rents due and unpaid to Lender or Lender's agents upon Lender's written demand to the tenant; (iv) unless applicable law provides otherwise, all Rents collected by Lender or Lender's agents shall be applied first to the costs of taking control of and managing the Property and collecting the Rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, repair and maintenance costs, insurance premiums, taxes, assessments and other charges on the Property, and then to the sums secured by the Security Instrument; (v) Lender, Lender's agents or any judicially appointed receiver shall be liable to account for only those Rents actually received; and (vi) Lender shall be entitled to have a receiver appointed to take possession of and manage the Property and collect the Rents and profits derived from the Property without any showing as to the inadequacy of the Property as security.

If the Rents of the Property are not sufficient to cover the costs of taking control of and managing the Property and of collecting the Rents any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by the Security Instrument pursuant to Section 9.

Borrower represents and warrants that Borrower has not executed any prior assignment of the Rents and has not performed, and will not perform, any act that would prevent Lender from exercising its rights under this paragraph.

Lender, or Lender's agents or a judicially appointed receiver, shall not be required to enter upon, take control of or maintain the Property before or after giving notice of default to Borrower. However, Lender, or Lender's agents or a judicially appointed receiver, may do so at any time when a default occurs. Any application of Rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of Rents of the Property shall terminate when all the sums secured by the Security Instrument are paid in full.

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I. **CROSS-DEFAULT PROVISION.** Borrower's default or breach under any note or agreement in which Lender has an interest shall be a breach under the Security Instrument and Lender may invoke any of the remedies permitted by the Security Instrument.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this 1-4 Family Rider.

Clyde E. Abernathy (Seal)
CLYDE E. ABERNATHY - Borrower

Sharon M. Abernathy (Seal)
SHARON M. ABERNATHY - Borrower

_____ (Seal)
- Borrower

_____ (Seal)
- Borrower

MULTISTATE 1-4 FAMILY RIDER--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT **Form 3170 1/01**

1-4 Family Rider
1057R-XX (06/09)

110008033 4/25/2011 09:58:58 AM
FILED, RECORDED, INDEXED
Bk: 10003 Pg: 00245 Pages:014
Rec Fee: 20.00 St Fee:
Co Fee:
REGISTER OF DEEDS, ANDERSON CO, SC
Shirley McElhannon

DEFENDANT'S EXHIBIT
3

'24 JUN 12 AM10:44:55
Anderson, SC CDC, CP/GS

Amortization -- 2011 Mortgage

	Enter values
Loan amount	$ 357,100.00
Annual interest rate	5.625%
Loan period in years	30
Start date of loan	4/1/2011
Monthly payment	$ 2,055.67
Number of payments	360
Total interest	$ 382,940.85
Total cost of loan	$ 740,040.85

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
1	5/1/2011	$ 357,100.00	$ 2,055.67	$ 381.76	$ 1,673.91	$ 356,718.24
2	6/1/2011	$ 356,718.24	$ 2,055.67	$ 383.55	$ 1,672.12	$ 356,334.68
3	7/1/2011	$ 356,334.68	$ 2,055.67	$ 385.35	$ 1,670.32	$ 355,949.33
4	8/1/2011	$ 355,949.33	$ 2,055.67	$ 387.16	$ 1,668.51	$ 355,562.18
5	9/1/2011	$ 355,562.18	$ 2,055.67	$ 388.97	$ 1,666.70	$ 355,173.21
6	10/1/2011	$ 355,173.21	$ 2,055.67	$ 390.79	$ 1,664.87	$ 354,782.41
7	11/1/2011	$ 354,782.41	$ 2,055.67	$ 392.63	$ 1,663.04	$ 354,389.79
8	12/1/2011	$ 354,389.79	$ 2,055.67	$ 394.47	$ 1,661.20	$ 353,995.32
9	1/1/2012	$ 353,995.32	$ 2,055.67	$ 396.32	$ 1,659.35	$ 353,599.00
10	2/1/2012	$ 353,599.00	$ 2,055.67	$ 398.17	$ 1,657.50	$ 353,200.83
11	3/1/2012	$ 353,200.83	$ 2,055.67	$ 400.04	$ 1,655.63	$ 352,800.79
12	4/1/2012	$ 352,800.79	$ 2,055.67	$ 401.92	$ 1,653.75	$ 352,398.87
13	5/1/2012	$ 352,398.87	$ 2,055.67	$ 403.80	$ 1,651.87	$ 351,995.07
14	6/1/2012	$ 351,995.07	$ 2,055.67	$ 405.69	$ 1,649.98	$ 351,589.38
15	7/1/2012	$ 351,589.38	$ 2,055.67	$ 407.59	$ 1,648.08	$ 351,181.79
16	8/1/2012	$ 351,181.79	$ 2,055.67	$ 409.50	$ 1,646.16	$ 350,772.28
17	9/1/2012	$ 350,772.28	$ 2,055.67	$ 411.42	$ 1,644.25	$ 350,360.86
18	10/1/2012	$ 350,360.86	$ 2,055.67	$ 413.35	$ 1,642.32	$ 349,947.51
19	11/1/2012	$ 349,947.51	$ 2,055.67	$ 415.29	$ 1,640.38	$ 349,532.22
20	12/1/2012	$ 349,532.22	$ 2,055.67	$ 417.24	$ 1,638.43	$ 349,114.98
21	1/1/2013	$ 349,114.98	$ 2,055.67	$ 419.19	$ 1,636.48	$ 348,695.79
22	2/1/2013	$ 348,695.79	$ 2,055.67	$ 421.16	$ 1,634.51	$ 348,274.63
23	3/1/2013	$ 348,274.63	$ 2,055.67	$ 423.13	$ 1,632.54	$ 347,851.50
24	4/1/2013	$ 347,851.50	$ 2,055.67	$ 425.12	$ 1,630.55	$ 347,426.38
25	5/1/2013	$ 347,426.38	$ 2,055.67	$ 427.11	$ 1,628.56	$ 346,999.28
26	6/1/2013	$ 346,999.28	$ 2,055.67	$ 429.11	$ 1,626.56	$ 346,570.17

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
27	7/1/2013	$ 346,570.17	$ 2,055.67	$ 431.12	$ 1,624.55	$ 346,139.05
28	8/1/2013	$ 346,139.05	$ 2,055.67	$ 433.14	$ 1,622.53	$ 345,705.90
29	9/1/2013	$ 345,705.90	$ 2,055.67	$ 435.17	$ 1,620.50	$ 345,270.73
30	10/1/2013	$ 345,270.73	$ 2,055.67	$ 437.21	$ 1,618.46	$ 344,833.52
31	11/1/2013	$ 344,833.52	$ 2,055.67	$ 439.26	$ 1,616.41	$ 344,394.26
32	12/1/2013	$ 344,394.26	$ 2,055.67	$ 441.32	$ 1,614.35	$ 343,952.93
33	1/1/2014	$ 343,952.93	$ 2,055.67	$ 443.39	$ 1,612.28	$ 343,509.55
34	2/1/2014	$ 343,509.55	$ 2,055.67	$ 445.47	$ 1,610.20	$ 343,064.08
35	3/1/2014	$ 343,064.08	$ 2,055.67	$ 447.56	$ 1,608.11	$ 342,616.52
36	4/1/2014	$ 342,616.52	$ 2,055.67	$ 449.65	$ 1,606.01	$ 342,166.87
37	5/1/2014	$ 342,166.87	$ 2,055.67	$ 451.76	$ 1,603.91	$ 341,715.11
38	6/1/2014	$ 341,715.11	$ 2,055.67	$ 453.88	$ 1,601.79	$ 341,261.23
39	7/1/2014	$ 341,261.23	$ 2,055.67	$ 456.01	$ 1,599.66	$ 340,805.22
40	8/1/2014	$ 340,805.22	$ 2,055.67	$ 458.14	$ 1,597.52	$ 340,347.07
41	9/1/2014	$ 340,347.07	$ 2,055.67	$ 460.29	$ 1,595.38	$ 339,886.78
42	10/1/2014	$ 339,886.78	$ 2,055.67	$ 462.45	$ 1,593.22	$ 339,424.33
43	11/1/2014	$ 339,424.33	$ 2,055.67	$ 464.62	$ 1,591.05	$ 338,959.71
44	12/1/2014	$ 338,959.71	$ 2,055.67	$ 466.80	$ 1,588.87	$ 338,492.92
45	1/1/2015	$ 338,492.92	$ 2,055.67	$ 468.98	$ 1,586.69	$ 338,023.94
46	2/1/2015	$ 338,023.94	$ 2,055.67	$ 471.18	$ 1,584.49	$ 337,552.75
47	3/1/2015	$ 337,552.75	$ 2,055.67	$ 473.39	$ 1,582.28	$ 337,079.36
48	4/1/2015	$ 337,079.36	$ 2,055.67	$ 475.61	$ 1,580.06	$ 336,603.75
49	5/1/2015	$ 336,603.75	$ 2,055.67	$ 477.84	$ 1,577.83	$ 336,125.92
50	6/1/2015	$ 336,125.92	$ 2,055.67	$ 480.08	$ 1,575.59	$ 335,645.84
51	7/1/2015	$ 335,645.84	$ 2,055.67	$ 482.33	$ 1,573.34	$ 335,163.51
52	8/1/2015	$ 335,163.51	$ 2,055.67	$ 484.59	$ 1,571.08	$ 334,678.92
53	9/1/2015	$ 334,678.92	$ 2,055.67	$ 486.86	$ 1,568.81	$ 334,192.06
54	10/1/2015	$ 334,192.06	$ 2,055.67	$ 489.14	$ 1,566.53	$ 333,702.91
55	11/1/2015	$ 333,702.91	$ 2,055.67	$ 491.44	$ 1,564.23	$ 333,211.48
56	12/1/2015	$ 333,211.48	$ 2,055.67	$ 493.74	$ 1,561.93	$ 332,717.74
57	1/1/2016	$ 332,717.74	$ 2,055.67	$ 496.05	$ 1,559.61	$ 332,221.68
58	2/1/2016	$ 332,221.68	$ 2,055.67	$ 498.38	$ 1,557.29	$ 331,723.30
59	3/1/2016	$ 331,723.30	$ 2,055.67	$ 500.72	$ 1,554.95	$ 331,222.58
60	4/1/2016	$ 331,222.58	$ 2,055.67	$ 503.06	$ 1,552.61	$ 330,719.52
61	5/1/2016	$ 330,719.52	$ 2,055.67	$ 505.42	$ 1,550.25	$ 330,214.10
62	6/1/2016	$ 330,214.10	$ 2,055.67	$ 507.79	$ 1,547.88	$ 329,706.31
63	7/1/2016	$ 329,706.31	$ 2,055.67	$ 510.17	$ 1,545.50	$ 329,196.14
64	8/1/2016	$ 329,196.14	$ 2,055.67	$ 512.56	$ 1,543.11	$ 328,683.58
65	9/1/2016	$ 328,683.58	$ 2,055.67	$ 514.96	$ 1,540.70	$ 328,168.61

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
66	10/1/2016	$ 328,168.61	$ 2,055.67	$ 517.38	$ 1,538.29	$ 327,651.23
67	11/1/2016	$ 327,651.23	$ 2,055.67	$ 519.80	$ 1,535.87	$ 327,131.43
68	12/1/2016	$ 327,131.43	$ 2,055.67	$ 522.24	$ 1,533.43	$ 326,609.19
69	1/1/2017	$ 326,609.19	$ 2,055.67	$ 524.69	$ 1,530.98	$ 326,084.50
70	2/1/2017	$ 326,084.50	$ 2,055.67	$ 527.15	$ 1,528.52	$ 325,557.35
71	3/1/2017	$ 325,557.35	$ 2,055.67	$ 529.62	$ 1,526.05	$ 325,027.73
72	4/1/2017	$ 325,027.73	$ 2,055.67	$ 532.10	$ 1,523.57	$ 324,495.63
73	5/1/2017	$ 324,495.63	$ 2,055.67	$ 534.60	$ 1,521.07	$ 323,961.04
74	6/1/2017	$ 323,961.04	$ 2,055.67	$ 537.10	$ 1,518.57	$ 323,423.93
75	7/1/2017	$ 323,423.93	$ 2,055.67	$ 539.62	$ 1,516.05	$ 322,884.32
76	8/1/2017	$ 322,884.32	$ 2,055.67	$ 542.15	$ 1,513.52	$ 322,342.17
77	9/1/2017	$ 322,342.17	$ 2,055.67	$ 544.69	$ 1,510.98	$ 321,797.48
78	10/1/2017	$ 321,797.48	$ 2,055.67	$ 547.24	$ 1,508.43	$ 321,250.23
79	11/1/2017	$ 321,250.23	$ 2,055.67	$ 549.81	$ 1,505.86	$ 320,700.42
80	12/1/2017	$ 320,700.42	$ 2,055.67	$ 552.39	$ 1,503.28	$ 320,148.04
81	1/1/2018	$ 320,148.04	$ 2,055.67	$ 554.98	$ 1,500.69	$ 319,593.06
82	2/1/2018	$ 319,593.06	$ 2,055.67	$ 557.58	$ 1,498.09	$ 319,035.49
83	3/1/2018	$ 319,035.49	$ 2,055.67	$ 560.19	$ 1,495.48	$ 318,475.30
84	4/1/2018	$ 318,475.30	$ 2,055.67	$ 562.82	$ 1,492.85	$ 317,912.48
85	5/1/2018	$ 317,912.48	$ 2,055.67	$ 565.45	$ 1,490.21	$ 317,347.03
86	6/1/2018	$ 317,347.03	$ 2,055.67	$ 568.10	$ 1,487.56	$ 316,778.92
87	7/1/2018	$ 316,778.92	$ 2,055.67	$ 570.77	$ 1,484.90	$ 316,208.15
88	8/1/2018	$ 316,208.15	$ 2,055.67	$ 573.44	$ 1,482.23	$ 315,634.71
89	9/1/2018	$ 315,634.71	$ 2,055.67	$ 576.13	$ 1,479.54	$ 315,058.58
90	10/1/2018	$ 315,058.58	$ 2,055.67	$ 578.83	$ 1,476.84	$ 314,479.75
91	11/1/2018	$ 314,479.75	$ 2,055.67	$ 581.55	$ 1,474.12	$ 313,898.20
92	12/1/2018	$ 313,898.20	$ 2,055.67	$ 584.27	$ 1,471.40	$ 313,313.93
93	1/1/2019	$ 313,313.93	$ 2,055.67	$ 587.01	$ 1,468.66	$ 312,726.92
94	2/1/2019	$ 312,726.92	$ 2,055.67	$ 589.76	$ 1,465.91	$ 312,137.16
95	3/1/2019	$ 312,137.16	$ 2,055.67	$ 592.53	$ 1,463.14	$ 311,544.63
96	4/1/2019	$ 311,544.63	$ 2,055.67	$ 595.30	$ 1,460.37	$ 310,949.33
97	5/1/2019	$ 310,949.33	$ 2,055.67	$ 598.09	$ 1,457.57	$ 310,351.24
98	6/1/2019	$ 310,351.24	$ 2,055.67	$ 600.90	$ 1,454.77	$ 309,750.34
99	7/1/2019	$ 309,750.34	$ 2,055.67	$ 603.71	$ 1,451.95	$ 309,146.62
100	8/1/2019	$ 309,146.62	$ 2,055.67	$ 606.54	$ 1,449.12	$ 308,540.08
101	9/1/2019	$ 308,540.08	$ 2,055.67	$ 609.39	$ 1,446.28	$ 307,930.69
102	10/1/2019	$ 307,930.69	$ 2,055.67	$ 612.24	$ 1,443.43	$ 307,318.45
103	11/1/2019	$ 307,318.45	$ 2,055.67	$ 615.11	$ 1,440.56	$ 306,703.33
104	12/1/2019	$ 306,703.33	$ 2,055.67	$ 618.00	$ 1,437.67	$ 306,085.34

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
105	1/1/2020	$ 306,085.34	$ 2,055.67	$ 620.89	$ 1,434.78	$ 305,464.44
106	2/1/2020	$ 305,464.44	$ 2,055.67	$ 623.80	$ 1,431.86	$ 304,840.64
107	3/1/2020	$ 304,840.64	$ 2,055.67	$ 626.73	$ 1,428.94	$ 304,213.91
108	4/1/2020	$ 304,213.91	$ 2,055.67	$ 629.67	$ 1,426.00	$ 303,584.24
109	5/1/2020	$ 303,584.24	$ 2,055.67	$ 632.62	$ 1,423.05	$ 302,951.63
110	6/1/2020	$ 302,951.63	$ 2,055.67	$ 635.58	$ 1,420.09	$ 302,316.04
111	7/1/2020	$ 302,316.04	$ 2,055.67	$ 638.56	$ 1,417.11	$ 301,677.48
112	8/1/2020	$ 301,677.48	$ 2,055.67	$ 641.56	$ 1,414.11	$ 301,035.92
113	9/1/2020	$ 301,035.92	$ 2,055.67	$ 644.56	$ 1,411.11	$ 300,391.36
114	10/1/2020	$ 300,391.36	$ 2,055.67	$ 647.58	$ 1,408.08	$ 299,743.78
115	11/1/2020	$ 299,743.78	$ 2,055.67	$ 650.62	$ 1,405.05	$ 299,093.16
116	12/1/2020	$ 299,093.16	$ 2,055.67	$ 653.67	$ 1,402.00	$ 298,439.49
117	1/1/2021	$ 298,439.49	$ 2,055.67	$ 656.73	$ 1,398.94	$ 297,782.75
118	2/1/2021	$ 297,782.75	$ 2,055.67	$ 659.81	$ 1,395.86	$ 297,122.94
119	3/1/2021	$ 297,122.94	$ 2,055.67	$ 662.91	$ 1,392.76	$ 296,460.04
120	4/1/2021	$ 296,460.04	$ 2,055.67	$ 666.01	$ 1,389.66	$ 295,794.02
121	5/1/2021	$ 295,794.02	$ 2,055.67	$ 669.13	$ 1,386.53	$ 295,124.89
122	6/1/2021	$ 295,124.89	$ 2,055.67	$ 672.27	$ 1,383.40	$ 294,452.62
123	7/1/2021	$ 294,452.62	$ 2,055.67	$ 675.42	$ 1,380.25	$ 293,777.20
124	8/1/2021	$ 293,777.20	$ 2,055.67	$ 678.59	$ 1,377.08	$ 293,098.61
125	9/1/2021	$ 293,098.61	$ 2,055.67	$ 681.77	$ 1,373.90	$ 292,416.84
126	10/1/2021	$ 292,416.84	$ 2,055.67	$ 684.97	$ 1,370.70	$ 291,731.87
127	11/1/2021	$ 291,731.87	$ 2,055.67	$ 688.18	$ 1,367.49	$ 291,043.70
128	12/1/2021	$ 291,043.70	$ 2,055.67	$ 691.40	$ 1,364.27	$ 290,352.29
129	1/1/2022	$ 290,352.29	$ 2,055.67	$ 694.64	$ 1,361.03	$ 289,657.65
130	2/1/2022	$ 289,657.65	$ 2,055.67	$ 697.90	$ 1,357.77	$ 288,959.75
131	3/1/2022	$ 288,959.75	$ 2,055.67	$ 701.17	$ 1,354.50	$ 288,258.58
132	4/1/2022	$ 288,258.58	$ 2,055.67	$ 704.46	$ 1,351.21	$ 287,554.13
133	5/1/2022	$ 287,554.13	$ 2,055.67	$ 707.76	$ 1,347.91	$ 286,846.37
134	6/1/2022	$ 286,846.37	$ 2,055.67	$ 711.08	$ 1,344.59	$ 286,135.29
135	7/1/2022	$ 286,135.29	$ 2,055.67	$ 714.41	$ 1,341.26	$ 285,420.88
136	8/1/2022	$ 285,420.88	$ 2,055.67	$ 717.76	$ 1,337.91	$ 284,703.12
137	9/1/2022	$ 284,703.12	$ 2,055.67	$ 721.12	$ 1,334.55	$ 283,982.00
138	10/1/2022	$ 283,982.00	$ 2,055.67	$ 724.50	$ 1,331.17	$ 283,257.50
139	11/1/2022	$ 283,257.50	$ 2,055.67	$ 727.90	$ 1,327.77	$ 282,529.60
140	12/1/2022	$ 282,529.60	$ 2,055.67	$ 731.31	$ 1,324.36	$ 281,798.28
141	1/1/2023	$ 281,798.28	$ 2,055.67	$ 734.74	$ 1,320.93	$ 281,063.55
142	2/1/2023	$ 281,063.55	$ 2,055.67	$ 738.18	$ 1,317.49	$ 280,325.36
143	3/1/2023	$ 280,325.36	$ 2,055.67	$ 741.64	$ 1,314.03	$ 279,583.72

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
144	4/1/2023	$ 279,583.72	$ 2,055.67	$ 745.12	$ 1,310.55	$ 278,838.60
145	5/1/2023	$ 278,838.60	$ 2,055.67	$ 748.61	$ 1,307.06	$ 278,089.98
146	6/1/2023	$ 278,089.98	$ 2,055.67	$ 752.12	$ 1,303.55	$ 277,337.86
147	7/1/2023	$ 277,337.86	$ 2,055.67	$ 755.65	$ 1,300.02	$ 276,582.21
148	8/1/2023	$ 276,582.21	$ 2,055.67	$ 759.19	$ 1,296.48	$ 275,823.02
149	9/1/2023	$ 275,823.02	$ 2,055.67	$ 762.75	$ 1,292.92	$ 275,060.28
150	10/1/2023	$ 275,060.28	$ 2,055.67	$ 766.32	$ 1,289.35	$ 274,293.95
151	11/1/2023	$ 274,293.95	$ 2,055.67	$ 769.92	$ 1,285.75	$ 273,524.04
152	12/1/2023	$ 273,524.04	$ 2,055.67	$ 773.53	$ 1,282.14	$ 272,750.51
153	1/1/2024	$ 272,750.51	$ 2,055.67	$ 777.15	$ 1,278.52	$ 271,973.36
154	2/1/2024	$ 271,973.36	$ 2,055.67	$ 780.79	$ 1,274.88	$ 271,192.57
155	3/1/2024	$ 271,192.57	$ 2,055.67	$ 784.45	$ 1,271.22	$ 270,408.11
156	4/1/2024	$ 270,408.11	$ 2,055.67	$ 788.13	$ 1,267.54	$ 269,619.98
157	5/1/2024	$ 269,619.98	$ 2,055.67	$ 791.83	$ 1,263.84	$ 268,828.16
158	6/1/2024	$ 268,828.16	$ 2,055.67	$ 795.54	$ 1,260.13	$ 268,032.62
159	7/1/2024	$ 268,032.62	$ 2,055.67	$ 799.27	$ 1,256.40	$ 267,233.35
160	8/1/2024	$ 267,233.35	$ 2,055.67	$ 803.01	$ 1,252.66	$ 266,430.34
161	9/1/2024	$ 266,430.34	$ 2,055.67	$ 806.78	$ 1,248.89	$ 265,623.56
162	10/1/2024	$ 265,623.56	$ 2,055.67	$ 810.56	$ 1,245.11	$ 264,813.00
163	11/1/2024	$ 264,813.00	$ 2,055.67	$ 814.36	$ 1,241.31	$ 263,998.65
164	12/1/2024	$ 263,998.65	$ 2,055.67	$ 818.18	$ 1,237.49	$ 263,180.47
165	1/1/2025	$ 263,180.47	$ 2,055.67	$ 822.01	$ 1,233.66	$ 262,358.46
166	2/1/2025	$ 262,358.46	$ 2,055.67	$ 825.86	$ 1,229.81	$ 261,532.60
167	3/1/2025	$ 261,532.60	$ 2,055.67	$ 829.73	$ 1,225.93	$ 260,702.86
168	4/1/2025	$ 260,702.86	$ 2,055.67	$ 833.62	$ 1,222.04	$ 259,869.24
169	5/1/2025	$ 259,869.24	$ 2,055.67	$ 837.53	$ 1,218.14	$ 259,031.71
170	6/1/2025	$ 259,031.71	$ 2,055.67	$ 841.46	$ 1,214.21	$ 258,190.25
171	7/1/2025	$ 258,190.25	$ 2,055.67	$ 845.40	$ 1,210.27	$ 257,344.84
172	8/1/2025	$ 257,344.84	$ 2,055.67	$ 849.37	$ 1,206.30	$ 256,495.48
173	9/1/2025	$ 256,495.48	$ 2,055.67	$ 853.35	$ 1,202.32	$ 255,642.13
174	10/1/2025	$ 255,642.13	$ 2,055.67	$ 857.35	$ 1,198.32	$ 254,784.79
175	11/1/2025	$ 254,784.79	$ 2,055.67	$ 861.37	$ 1,194.30	$ 253,923.42
176	12/1/2025	$ 253,923.42	$ 2,055.67	$ 865.40	$ 1,190.27	$ 253,058.02
177	1/1/2026	$ 253,058.02	$ 2,055.67	$ 869.46	$ 1,186.21	$ 252,188.56
178	2/1/2026	$ 252,188.56	$ 2,055.67	$ 873.54	$ 1,182.13	$ 251,315.02
179	3/1/2026	$ 251,315.02	$ 2,055.67	$ 877.63	$ 1,178.04	$ 250,437.39
180	4/1/2026	$ 250,437.39	$ 2,055.67	$ 881.74	$ 1,173.93	$ 249,555.65
181	5/1/2026	$ 249,555.65	$ 2,055.67	$ 885.88	$ 1,169.79	$ 248,669.77
182	6/1/2026	$ 248,669.77	$ 2,055.67	$ 890.03	$ 1,165.64	$ 247,779.74

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
183	7/1/2026	$ 247,779.74	$ 2,055.67	$ 894.20	$ 1,161.47	$ 246,885.54
184	8/1/2026	$ 246,885.54	$ 2,055.67	$ 898.39	$ 1,157.28	$ 245,987.15
185	9/1/2026	$ 245,987.15	$ 2,055.67	$ 902.60	$ 1,153.06	$ 245,084.55
186	10/1/2026	$ 245,084.55	$ 2,055.67	$ 906.84	$ 1,148.83	$ 244,177.71
187	11/1/2026	$ 244,177.71	$ 2,055.67	$ 911.09	$ 1,144.58	$ 243,266.62
188	12/1/2026	$ 243,266.62	$ 2,055.67	$ 915.36	$ 1,140.31	$ 242,351.27
189	1/1/2027	$ 242,351.27	$ 2,055.67	$ 919.65	$ 1,136.02	$ 241,431.62
190	2/1/2027	$ 241,431.62	$ 2,055.67	$ 923.96	$ 1,131.71	$ 240,507.66
191	3/1/2027	$ 240,507.66	$ 2,055.67	$ 928.29	$ 1,127.38	$ 239,579.37
192	4/1/2027	$ 239,579.37	$ 2,055.67	$ 932.64	$ 1,123.03	$ 238,646.73
193	5/1/2027	$ 238,646.73	$ 2,055.67	$ 937.01	$ 1,118.66	$ 237,709.72
194	6/1/2027	$ 237,709.72	$ 2,055.67	$ 941.40	$ 1,114.26	$ 236,768.31
195	7/1/2027	$ 236,768.31	$ 2,055.67	$ 945.82	$ 1,109.85	$ 235,822.50
196	8/1/2027	$ 235,822.50	$ 2,055.67	$ 950.25	$ 1,105.42	$ 234,872.25
197	9/1/2027	$ 234,872.25	$ 2,055.67	$ 954.71	$ 1,100.96	$ 233,917.54
198	10/1/2027	$ 233,917.54	$ 2,055.67	$ 959.18	$ 1,096.49	$ 232,958.36
199	11/1/2027	$ 232,958.36	$ 2,055.67	$ 963.68	$ 1,091.99	$ 231,994.68
200	12/1/2027	$ 231,994.68	$ 2,055.67	$ 968.19	$ 1,087.48	$ 231,026.49
201	1/1/2028	$ 231,026.49	$ 2,055.67	$ 972.73	$ 1,082.94	$ 230,053.76
202	2/1/2028	$ 230,053.76	$ 2,055.67	$ 977.29	$ 1,078.38	$ 229,076.46
203	3/1/2028	$ 229,076.46	$ 2,055.67	$ 981.87	$ 1,073.80	$ 228,094.59
204	4/1/2028	$ 228,094.59	$ 2,055.67	$ 986.48	$ 1,069.19	$ 227,108.12
205	5/1/2028	$ 227,108.12	$ 2,055.67	$ 991.10	$ 1,064.57	$ 226,117.02
206	6/1/2028	$ 226,117.02	$ 2,055.67	$ 995.75	$ 1,059.92	$ 225,121.27
207	7/1/2028	$ 225,121.27	$ 2,055.67	$ 1,000.41	$ 1,055.26	$ 224,120.86
208	8/1/2028	$ 224,120.86	$ 2,055.67	$ 1,005.10	$ 1,050.57	$ 223,115.76
209	9/1/2028	$ 223,115.76	$ 2,055.67	$ 1,009.81	$ 1,045.86	$ 222,105.94
210	10/1/2028	$ 222,105.94	$ 2,055.67	$ 1,014.55	$ 1,041.12	$ 221,091.39
211	11/1/2028	$ 221,091.39	$ 2,055.67	$ 1,019.30	$ 1,036.37	$ 220,072.09
212	12/1/2028	$ 220,072.09	$ 2,055.67	$ 1,024.08	$ 1,031.59	$ 219,048.01
213	1/1/2029	$ 219,048.01	$ 2,055.67	$ 1,028.88	$ 1,026.79	$ 218,019.13
214	2/1/2029	$ 218,019.13	$ 2,055.67	$ 1,033.70	$ 1,021.96	$ 216,985.42
215	3/1/2029	$ 216,985.42	$ 2,055.67	$ 1,038.55	$ 1,017.12	$ 215,946.87
216	4/1/2029	$ 215,946.87	$ 2,055.67	$ 1,043.42	$ 1,012.25	$ 214,903.46
217	5/1/2029	$ 214,903.46	$ 2,055.67	$ 1,048.31	$ 1,007.36	$ 213,855.15
218	6/1/2029	$ 213,855.15	$ 2,055.67	$ 1,053.22	$ 1,002.45	$ 212,801.92
219	7/1/2029	$ 212,801.92	$ 2,055.67	$ 1,058.16	$ 997.51	$ 211,743.76
220	8/1/2029	$ 211,743.76	$ 2,055.67	$ 1,063.12	$ 992.55	$ 210,680.64
221	9/1/2029	$ 210,680.64	$ 2,055.67	$ 1,068.10	$ 987.57	$ 209,612.54

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
222	10/1/2029	$ 209,612.54	$ 2,055.67	$ 1,073.11	$ 982.56	$ 208,539.43
223	11/1/2029	$ 208,539.43	$ 2,055.67	$ 1,078.14	$ 977.53	$ 207,461.29
224	12/1/2029	$ 207,461.29	$ 2,055.67	$ 1,083.19	$ 972.47	$ 206,378.10
225	1/1/2030	$ 206,378.10	$ 2,055.67	$ 1,088.27	$ 967.40	$ 205,289.82
226	2/1/2030	$ 205,289.82	$ 2,055.67	$ 1,093.37	$ 962.30	$ 204,196.45
227	3/1/2030	$ 204,196.45	$ 2,055.67	$ 1,098.50	$ 957.17	$ 203,097.95
228	4/1/2030	$ 203,097.95	$ 2,055.67	$ 1,103.65	$ 952.02	$ 201,994.31
229	5/1/2030	$ 201,994.31	$ 2,055.67	$ 1,108.82	$ 946.85	$ 200,885.48
230	6/1/2030	$ 200,885.48	$ 2,055.67	$ 1,114.02	$ 941.65	$ 199,771.47
231	7/1/2030	$ 199,771.47	$ 2,055.67	$ 1,119.24	$ 936.43	$ 198,652.23
232	8/1/2030	$ 198,652.23	$ 2,055.67	$ 1,124.49	$ 931.18	$ 197,527.74
233	9/1/2030	$ 197,527.74	$ 2,055.67	$ 1,129.76	$ 925.91	$ 196,397.98
234	10/1/2030	$ 196,397.98	$ 2,055.67	$ 1,135.05	$ 920.62	$ 195,262.93
235	11/1/2030	$ 195,262.93	$ 2,055.67	$ 1,140.37	$ 915.29	$ 194,122.55
236	12/1/2030	$ 194,122.55	$ 2,055.67	$ 1,145.72	$ 909.95	$ 192,976.83
237	1/1/2031	$ 192,976.83	$ 2,055.67	$ 1,151.09	$ 904.58	$ 191,825.74
238	2/1/2031	$ 191,825.74	$ 2,055.67	$ 1,156.49	$ 899.18	$ 190,669.26
239	3/1/2031	$ 190,669.26	$ 2,055.67	$ 1,161.91	$ 893.76	$ 189,507.35
240	4/1/2031	$ 189,507.35	$ 2,055.67	$ 1,167.35	$ 888.32	$ 188,340.00
241	5/1/2031	$ 188,340.00	$ 2,055.67	$ 1,172.83	$ 882.84	$ 187,167.17
242	6/1/2031	$ 187,167.17	$ 2,055.67	$ 1,178.32	$ 877.35	$ 185,988.85
243	7/1/2031	$ 185,988.85	$ 2,055.67	$ 1,183.85	$ 871.82	$ 184,805.00
244	8/1/2031	$ 184,805.00	$ 2,055.67	$ 1,189.40	$ 866.27	$ 183,615.61
245	9/1/2031	$ 183,615.61	$ 2,055.67	$ 1,194.97	$ 860.70	$ 182,420.64
246	10/1/2031	$ 182,420.64	$ 2,055.67	$ 1,200.57	$ 855.10	$ 181,220.06
247	11/1/2031	$ 181,220.06	$ 2,055.67	$ 1,206.20	$ 849.47	$ 180,013.86
248	12/1/2031	$ 180,013.86	$ 2,055.67	$ 1,211.85	$ 843.81	$ 178,802.01
249	1/1/2032	$ 178,802.01	$ 2,055.67	$ 1,217.53	$ 838.13	$ 177,584.48
250	2/1/2032	$ 177,584.48	$ 2,055.67	$ 1,223.24	$ 832.43	$ 176,361.23
251	3/1/2032	$ 176,361.23	$ 2,055.67	$ 1,228.98	$ 826.69	$ 175,132.26
252	4/1/2032	$ 175,132.26	$ 2,055.67	$ 1,234.74	$ 820.93	$ 173,897.52
253	5/1/2032	$ 173,897.52	$ 2,055.67	$ 1,240.52	$ 815.14	$ 172,657.00
254	6/1/2032	$ 172,657.00	$ 2,055.67	$ 1,246.34	$ 809.33	$ 171,410.66
255	7/1/2032	$ 171,410.66	$ 2,055.67	$ 1,252.18	$ 803.49	$ 170,158.48
256	8/1/2032	$ 170,158.48	$ 2,055.67	$ 1,258.05	$ 797.62	$ 168,900.43
257	9/1/2032	$ 168,900.43	$ 2,055.67	$ 1,263.95	$ 791.72	$ 167,636.48
258	10/1/2032	$ 167,636.48	$ 2,055.67	$ 1,269.87	$ 785.80	$ 166,366.60
259	11/1/2032	$ 166,366.60	$ 2,055.67	$ 1,275.83	$ 779.84	$ 165,090.78
260	12/1/2032	$ 165,090.78	$ 2,055.67	$ 1,281.81	$ 773.86	$ 163,808.97

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
261	1/1/2033	$ 163,808.97	$ 2,055.67	$ 1,287.81	$ 767.85	$ 162,521.16
262	2/1/2033	$ 162,521.16	$ 2,055.67	$ 1,293.85	$ 761.82	$ 161,227.31
263	3/1/2033	$ 161,227.31	$ 2,055.67	$ 1,299.92	$ 755.75	$ 159,927.39
264	4/1/2033	$ 159,927.39	$ 2,055.67	$ 1,306.01	$ 749.66	$ 158,621.38
265	5/1/2033	$ 158,621.38	$ 2,055.67	$ 1,312.13	$ 743.54	$ 157,309.25
266	6/1/2033	$ 157,309.25	$ 2,055.67	$ 1,318.28	$ 737.39	$ 155,990.97
267	7/1/2033	$ 155,990.97	$ 2,055.67	$ 1,324.46	$ 731.21	$ 154,666.51
268	8/1/2033	$ 154,666.51	$ 2,055.67	$ 1,330.67	$ 725.00	$ 153,335.84
269	9/1/2033	$ 153,335.84	$ 2,055.67	$ 1,336.91	$ 718.76	$ 151,998.93
270	10/1/2033	$ 151,998.93	$ 2,055.67	$ 1,343.17	$ 712.49	$ 150,655.76
271	11/1/2033	$ 150,655.76	$ 2,055.67	$ 1,349.47	$ 706.20	$ 149,306.29
272	12/1/2033	$ 149,306.29	$ 2,055.67	$ 1,355.80	$ 699.87	$ 147,950.49
273	1/1/2034	$ 147,950.49	$ 2,055.67	$ 1,362.15	$ 693.52	$ 146,588.34
274	2/1/2034	$ 146,588.34	$ 2,055.67	$ 1,368.54	$ 687.13	$ 145,219.80
275	3/1/2034	$ 145,219.80	$ 2,055.67	$ 1,374.95	$ 680.72	$ 143,844.85
276	4/1/2034	$ 143,844.85	$ 2,055.67	$ 1,381.40	$ 674.27	$ 142,463.46
277	5/1/2034	$ 142,463.46	$ 2,055.67	$ 1,387.87	$ 667.80	$ 141,075.58
278	6/1/2034	$ 141,075.58	$ 2,055.67	$ 1,394.38	$ 661.29	$ 139,681.21
279	7/1/2034	$ 139,681.21	$ 2,055.67	$ 1,400.91	$ 654.76	$ 138,280.29
280	8/1/2034	$ 138,280.29	$ 2,055.67	$ 1,407.48	$ 648.19	$ 136,872.81
281	9/1/2034	$ 136,872.81	$ 2,055.67	$ 1,414.08	$ 641.59	$ 135,458.74
282	10/1/2034	$ 135,458.74	$ 2,055.67	$ 1,420.71	$ 634.96	$ 134,038.03
283	11/1/2034	$ 134,038.03	$ 2,055.67	$ 1,427.37	$ 628.30	$ 132,610.66
284	12/1/2034	$ 132,610.66	$ 2,055.67	$ 1,434.06	$ 621.61	$ 131,176.61
285	1/1/2035	$ 131,176.61	$ 2,055.67	$ 1,440.78	$ 614.89	$ 129,735.83
286	2/1/2035	$ 129,735.83	$ 2,055.67	$ 1,447.53	$ 608.14	$ 128,288.30
287	3/1/2035	$ 128,288.30	$ 2,055.67	$ 1,454.32	$ 601.35	$ 126,833.98
288	4/1/2035	$ 126,833.98	$ 2,055.67	$ 1,461.13	$ 594.53	$ 125,372.84
289	5/1/2035	$ 125,372.84	$ 2,055.67	$ 1,467.98	$ 587.69	$ 123,904.86
290	6/1/2035	$ 123,904.86	$ 2,055.67	$ 1,474.86	$ 580.80	$ 122,430.00
291	7/1/2035	$ 122,430.00	$ 2,055.67	$ 1,481.78	$ 573.89	$ 120,948.22
292	8/1/2035	$ 120,948.22	$ 2,055.67	$ 1,488.72	$ 566.94	$ 119,459.49
293	9/1/2035	$ 119,459.49	$ 2,055.67	$ 1,495.70	$ 559.97	$ 117,963.79
294	10/1/2035	$ 117,963.79	$ 2,055.67	$ 1,502.71	$ 552.96	$ 116,461.08
295	11/1/2035	$ 116,461.08	$ 2,055.67	$ 1,509.76	$ 545.91	$ 114,951.32
296	12/1/2035	$ 114,951.32	$ 2,055.67	$ 1,516.83	$ 538.83	$ 113,434.48
297	1/1/2036	$ 113,434.48	$ 2,055.67	$ 1,523.94	$ 531.72	$ 111,910.54
298	2/1/2036	$ 111,910.54	$ 2,055.67	$ 1,531.09	$ 524.58	$ 110,379.45
299	3/1/2036	$ 110,379.45	$ 2,055.67	$ 1,538.27	$ 517.40	$ 108,841.18

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
300	4/1/2036	$ 108,841.18	$ 2,055.67	$ 1,545.48	$ 510.19	$ 107,295.71
301	5/1/2036	$ 107,295.71	$ 2,055.67	$ 1,552.72	$ 502.95	$ 105,742.99
302	6/1/2036	$ 105,742.99	$ 2,055.67	$ 1,560.00	$ 495.67	$ 104,182.99
303	7/1/2036	$ 104,182.99	$ 2,055.67	$ 1,567.31	$ 488.36	$ 102,615.68
304	8/1/2036	$ 102,615.68	$ 2,055.67	$ 1,574.66	$ 481.01	$ 101,041.02
305	9/1/2036	$ 101,041.02	$ 2,055.67	$ 1,582.04	$ 473.63	$ 99,458.98
306	10/1/2036	$ 99,458.98	$ 2,055.67	$ 1,589.46	$ 466.21	$ 97,869.53
307	11/1/2036	$ 97,869.53	$ 2,055.67	$ 1,596.91	$ 458.76	$ 96,272.62
308	12/1/2036	$ 96,272.62	$ 2,055.67	$ 1,604.39	$ 451.28	$ 94,668.23
309	1/1/2037	$ 94,668.23	$ 2,055.67	$ 1,611.91	$ 443.76	$ 93,056.32
310	2/1/2037	$ 93,056.32	$ 2,055.67	$ 1,619.47	$ 436.20	$ 91,436.85
311	3/1/2037	$ 91,436.85	$ 2,055.67	$ 1,627.06	$ 428.61	$ 89,809.79
312	4/1/2037	$ 89,809.79	$ 2,055.67	$ 1,634.69	$ 420.98	$ 88,175.11
313	5/1/2037	$ 88,175.11	$ 2,055.67	$ 1,642.35	$ 413.32	$ 86,532.76
314	6/1/2037	$ 86,532.76	$ 2,055.67	$ 1,650.05	$ 405.62	$ 84,882.71
315	7/1/2037	$ 84,882.71	$ 2,055.67	$ 1,657.78	$ 397.89	$ 83,224.93
316	8/1/2037	$ 83,224.93	$ 2,055.67	$ 1,665.55	$ 390.12	$ 81,559.38
317	9/1/2037	$ 81,559.38	$ 2,055.67	$ 1,673.36	$ 382.31	$ 79,886.02
318	10/1/2037	$ 79,886.02	$ 2,055.67	$ 1,681.20	$ 374.47	$ 78,204.81
319	11/1/2037	$ 78,204.81	$ 2,055.67	$ 1,689.08	$ 366.59	$ 76,515.73
320	12/1/2037	$ 76,515.73	$ 2,055.67	$ 1,697.00	$ 358.67	$ 74,818.73
321	1/1/2038	$ 74,818.73	$ 2,055.67	$ 1,704.96	$ 350.71	$ 73,113.77
322	2/1/2038	$ 73,113.77	$ 2,055.67	$ 1,712.95	$ 342.72	$ 71,400.82
323	3/1/2038	$ 71,400.82	$ 2,055.67	$ 1,720.98	$ 334.69	$ 69,679.85
324	4/1/2038	$ 69,679.85	$ 2,055.67	$ 1,729.04	$ 326.62	$ 67,950.80
325	5/1/2038	$ 67,950.80	$ 2,055.67	$ 1,737.15	$ 318.52	$ 66,213.65
326	6/1/2038	$ 66,213.65	$ 2,055.67	$ 1,745.29	$ 310.38	$ 64,468.36
327	7/1/2038	$ 64,468.36	$ 2,055.67	$ 1,753.47	$ 302.20	$ 62,714.89
328	8/1/2038	$ 62,714.89	$ 2,055.67	$ 1,761.69	$ 293.98	$ 60,953.19
329	9/1/2038	$ 60,953.19	$ 2,055.67	$ 1,769.95	$ 285.72	$ 59,183.24
330	10/1/2038	$ 59,183.24	$ 2,055.67	$ 1,778.25	$ 277.42	$ 57,405.00
331	11/1/2038	$ 57,405.00	$ 2,055.67	$ 1,786.58	$ 269.09	$ 55,618.41
332	12/1/2038	$ 55,618.41	$ 2,055.67	$ 1,794.96	$ 260.71	$ 53,823.45
333	1/1/2039	$ 53,823.45	$ 2,055.67	$ 1,803.37	$ 252.30	$ 52,020.08
334	2/1/2039	$ 52,020.08	$ 2,055.67	$ 1,811.82	$ 243.84	$ 50,208.26
335	3/1/2039	$ 50,208.26	$ 2,055.67	$ 1,820.32	$ 235.35	$ 48,387.94
336	4/1/2039	$ 48,387.94	$ 2,055.67	$ 1,828.85	$ 226.82	$ 46,559.09
337	5/1/2039	$ 46,559.09	$ 2,055.67	$ 1,837.42	$ 218.25	$ 44,721.67
338	6/1/2039	$ 44,721.67	$ 2,055.67	$ 1,846.04	$ 209.63	$ 42,875.63

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
339	7/1/2039	$ 42,875.63	$ 2,055.67	$ 1,854.69	$ 200.98	$ 41,020.94
340	8/1/2039	$ 41,020.94	$ 2,055.67	$ 1,863.38	$ 192.29	$ 39,157.56
341	9/1/2039	$ 39,157.56	$ 2,055.67	$ 1,872.12	$ 183.55	$ 37,285.44
342	10/1/2039	$ 37,285.44	$ 2,055.67	$ 1,880.89	$ 174.78	$ 35,404.55
343	11/1/2039	$ 35,404.55	$ 2,055.67	$ 1,889.71	$ 165.96	$ 33,514.84
344	12/1/2039	$ 33,514.84	$ 2,055.67	$ 1,898.57	$ 157.10	$ 31,616.27
345	1/1/2040	$ 31,616.27	$ 2,055.67	$ 1,907.47	$ 148.20	$ 29,708.80
346	2/1/2040	$ 29,708.80	$ 2,055.67	$ 1,916.41	$ 139.26	$ 27,792.39
347	3/1/2040	$ 27,792.39	$ 2,055.67	$ 1,925.39	$ 130.28	$ 25,867.00
348	4/1/2040	$ 25,867.00	$ 2,055.67	$ 1,934.42	$ 121.25	$ 23,932.58
349	5/1/2040	$ 23,932.58	$ 2,055.67	$ 1,943.49	$ 112.18	$ 21,989.10
350	6/1/2040	$ 21,989.10	$ 2,055.67	$ 1,952.60	$ 103.07	$ 20,036.50
351	7/1/2040	$ 20,036.50	$ 2,055.67	$ 1,961.75	$ 93.92	$ 18,074.75
352	8/1/2040	$ 18,074.75	$ 2,055.67	$ 1,970.94	$ 84.73	$ 16,103.81
353	9/1/2040	$ 16,103.81	$ 2,055.67	$ 1,980.18	$ 75.49	$ 14,123.63
354	10/1/2040	$ 14,123.63	$ 2,055.67	$ 1,989.46	$ 66.20	$ 12,134.16
355	11/1/2040	$ 12,134.16	$ 2,055.67	$ 1,998.79	$ 56.88	$ 10,135.37
356	12/1/2040	$ 10,135.37	$ 2,055.67	$ 2,008.16	$ 47.51	$ 8,127.21
357	1/1/2041	$ 8,127.21	$ 2,055.67	$ 2,017.57	$ 38.10	$ 6,109.64
358	2/1/2041	$ 6,109.64	$ 2,055.67	$ 2,027.03	$ 28.64	$ 4,082.61
359	3/1/2041	$ 4,082.61	$ 2,055.67	$ 2,036.53	$ 19.14	$ 2,046.08
360	4/1/2041	$ 2,046.08	$ 2,055.67	$ 2,046.08	$ 9.59	$ 0.00

DEFENDANT'S EXHIBIT 4

'24 JUN 12 AM 10:45:07 Anderson, SC COC, CP/GS

Save this Loan Estimate to compare

Loan Estimate

DATE ISSUED 11/6/2020
APPLICANTS Clyde Abernathy
1280 Cannon Bottom Road
Belton, SC 29627
PROPERTY 1280 Cannon Bottom Road
Belton, SC 29627

PROP. VALUE $640,000

LOAN TERM 30 years
PURPOSE Refinance
PRODUCT Fixed Rate
LOAN TYPE ☐ Conventional ☐ FHA ☒ VA ☐ _____
LOAN ID #
RATE LOCK ☒ NO ☐ YES, until
Before closing, your interest rate, points, and lender credits can change unless you lock the interest rate. All other estimated closing costs expire on **11/19/2020** *at 5:00 PM EST*

Loan Terms

		Can this amount increase after closing?
Loan Amount	$320,776	NO
Interest Rate	2.25 %	NO
Monthly Principal & Interest *See Projected Payments below for your Estimated Total Monthly Payment*	$1,226.15	NO
		Does the loan have these features?
Prepayment Penalty		NO
Balloon Payment		NO

Projected Payments

Payment Calculation		Years 1-30
Principal & Interest		$1,226.15
Mortgage Insurance	+	0
Estimated Escrow *Amount can increase over time*	+	217
Estimated Total Monthly Payment		$1,443

		This estimate includes	In escrow?
Estimated Taxes, Insurance & Assessments *Amount can increase over time*	$650 Monthly	☒ Property Taxes ☒ Homeowner's Insurance ☐ Other:	NO YES

See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.

Costs at Closing

Estimated Closing Costs	$20,409	Includes $18,984 in Loan Costs + $1,425 in Other Costs - $0 in Lender Credits. *See page 2 for details.*
Estimated Cash to Close	$150	Includes Closing Costs. *See Calculating Cash to Close on page 2 for details.*

Visit **www.consumerfinance.gov/mortgage-estimate** for general information and tools.

Closing Cost Details

Loan Costs

A. Origination Charges	**$5,203**
1% of Loan Amount (Points)	$3,208
Origination Fee	$1,995
B. Services You Cannot Shop For	**$11,932**
Appraisal Fee	$595
Credit Report	$95
Flood Certification	$10
Tax Service	$85
VA Funding Fee	$11,147
C. Services You Can Shop For	**$1,849**
Pest Inspection Fee	$150
Title - Closing Protection Letter	$65
Title - Lender's Title Insurance	$479
Title - Settlement Fee	$100
Title - Title Endorsement Fee	$105
Title - Title Examination	$550
Title - Title Search	$250
Water Allotment Payment	$150
D. TOTAL LOAN COSTS (A + B + C)	**$18,984**

Other Costs

E. Taxes and Other Government Fees				**$45**
Recording Fees and Other Taxes				$45
Transfer Taxes				
F. Prepaids				**$297**
Homeowner's Insurance Premium (months)				
Mortgage Insurance Premium (months)				
Prepaid Interest ($19.7739 per day for 15 days @2.25 %)				$297
Property Taxes (months)				
G. Initial Escrow Payment at Closing				**$1,083**
Homeowner's Insurance	$216.67	per month for 5	mo.	$1,083
Mortgage Insurance		per month for	mo.	
Property Taxes		per month for	mo.	
H. Other				**$0**
I. TOTAL OTHER COSTS (E + F + G + H)				**$1,425**
J. TOTAL CLOSING COSTS				**$20,409**
D + I				$20,409
Lender Credits				

Calculating Cash to Close

Total Closing Costs (J)	$20,409
Closing Costs Financed (Paid from your Loan Amount)	-$20,259
Down Payment/Funds from Borrower	$0
Deposit	$0
Funds for Borrower	$0
Seller Credits	$0
Adjustments and Other Credits	$0
Estimated Cash to Close	$150

Additional Information About This Loan

LENDER		**MORTGAGE BROKER**	Central Mortgage Funding, LLC
NMLS/___ LICENSE ID		**NMLS/___ LICENSE ID**	1699966
LOAN OFFICER		**LOAN OFFICER**	Isaac H Munawar
NMLS/___ LICENSE ID		**NMLS/___ LICENSE ID**	1022375
EMAIL		**EMAIL**	isaacm@cmtgfunding.com
PHONE		**PHONE**	248-802-7126

Comparisons	**Use these measures to compare this loan with other loans.**
In 5 Years	$92,849 Total you will have paid in principal, interest, mortgage insurance, and loan costs. $39,632 Principal you will have paid off.
Annual Percentage Rate (APR)	2.306 % Your costs over the loan term expressed as a rate. This is not your interest rate.
Total Interest Percentage (TIP)	37.701 % The total amount of interest that you will pay over the loan term as a percentage of your loan amount.

Other Considerations

Appraisal	We may order an appraisal to determine the property's value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close. You can pay for an additional appraisal for your own use at your own cost.
Assumption	If you sell or transfer this property to another person, we ☒ will allow, under certain conditions, this person to assume this loan on the original terms. ☐ will not allow assumption of this loan on the original terms.
Homeowner's Insurance	This loan requires homeowner's insurance on the property, which you may obtain from a company of your choice that we find acceptable.
Late Payment	If your payment is more than *15* days late, we will charge a late fee of *4% of the payment.*
Liability after Foreclosure	Taking this loan could end any state law protection you may currently have against liability for unpaid debt if your lender forecloses on your home. If you lose this protection, you may have to pay any debt remaining even after foreclosure. You may want to consult a lawyer for more information.
Refinance	Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan.
Servicing	We intend ☐ to service your loan. If so, you will make your payments to us. ☒ to transfer servicing of your loan.

Confirm Receipt

By signing, you are only confirming that you have received this form. You do not have to accept this loan because you have signed or received this form.

DocuSigned by:
Clyde Abernathy
E5E9BDC0F2D4B9...
Applicant Signature

11/9/2020 | 12:30:09 PST
Date

DEFENDANT'S EXHIBIT
5

'24 JUN 12 AM 10:45:17
Anderson, SC COC, CP/GS

Amortization -- 2020 Mortgage

	Enter values
Loan amount	$ 299,743.78
Annual interest rate	2.250%
Loan period in years	30
Start date of loan	11/1/2020
Monthly payment	$ 1,145.76
Number of payments	360
Total interest	$ 112,729.43
Total cost of loan	$ 412,473.21

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
1	12/1/2020	$ 299,743.78	$ 1,145.76	$ 583.74	$ 562.02	$ 299,160.04
2	1/1/2021	$ 299,160.04	$ 1,145.76	$ 584.83	$ 560.93	$ 298,575.21
3	2/1/2021	$ 298,575.21	$ 1,145.76	$ 585.93	$ 559.83	$ 297,989.28
4	3/1/2021	$ 297,989.28	$ 1,145.76	$ 587.03	$ 558.73	$ 297,402.25
5	4/1/2021	$ 297,402.25	$ 1,145.76	$ 588.13	$ 557.63	$ 296,814.12
6	5/1/2021	$ 296,814.12	$ 1,145.76	$ 589.23	$ 556.53	$ 296,224.89
7	6/1/2021	$ 296,224.89	$ 1,145.76	$ 590.34	$ 555.42	$ 295,634.55
8	7/1/2021	$ 295,634.55	$ 1,145.76	$ 591.44	$ 554.31	$ 295,043.10
9	8/1/2021	$ 295,043.10	$ 1,145.76	$ 592.55	$ 553.21	$ 294,450.55
10	9/1/2021	$ 294,450.55	$ 1,145.76	$ 593.66	$ 552.09	$ 293,856.89
11	10/1/2021	$ 293,856.89	$ 1,145.76	$ 594.78	$ 550.98	$ 293,262.11
12	11/1/2021	$ 293,262.11	$ 1,145.76	$ 595.89	$ 549.87	$ 292,666.22
13	12/1/2021	$ 292,666.22	$ 1,145.76	$ 597.01	$ 548.75	$ 292,069.21
14	1/1/2022	$ 292,069.21	$ 1,145.76	$ 598.13	$ 547.63	$ 291,471.08
15	2/1/2022	$ 291,471.08	$ 1,145.76	$ 599.25	$ 546.51	$ 290,871.83
16	3/1/2022	$ 290,871.83	$ 1,145.76	$ 600.37	$ 545.38	$ 290,271.45
17	4/1/2022	$ 290,271.45	$ 1,145.76	$ 601.50	$ 544.26	$ 289,669.95
18	5/1/2022	$ 289,669.95	$ 1,145.76	$ 602.63	$ 543.13	$ 289,067.33
19	6/1/2022	$ 289,067.33	$ 1,145.76	$ 603.76	$ 542.00	$ 288,463.57
20	7/1/2022	$ 288,463.57	$ 1,145.76	$ 604.89	$ 540.87	$ 287,858.68
21	8/1/2022	$ 287,858.68	$ 1,145.76	$ 606.02	$ 539.74	$ 287,252.65
22	9/1/2022	$ 287,252.65	$ 1,145.76	$ 607.16	$ 538.60	$ 286,645.49
23	10/1/2022	$ 286,645.49	$ 1,145.76	$ 608.30	$ 537.46	$ 286,037.20
24	11/1/2022	$ 286,037.20	$ 1,145.76	$ 609.44	$ 536.32	$ 285,427.76
25	12/1/2022	$ 285,427.76	$ 1,145.76	$ 610.58	$ 535.18	$ 284,817.17
26	1/1/2023	$ 284,817.17	$ 1,145.76	$ 611.73	$ 534.03	$ 284,205.45

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
27	2/1/2023	$ 284,205.45	$ 1,145.76	$ 612.87	$ 532.89	$ 283,592.57
28	3/1/2023	$ 283,592.57	$ 1,145.76	$ 614.02	$ 531.74	$ 282,978.55
29	4/1/2023	$ 282,978.55	$ 1,145.76	$ 615.17	$ 530.58	$ 282,363.38
30	5/1/2023	$ 282,363.38	$ 1,145.76	$ 616.33	$ 529.43	$ 281,747.05
31	6/1/2023	$ 281,747.05	$ 1,145.76	$ 617.48	$ 528.28	$ 281,129.57
32	7/1/2023	$ 281,129.57	$ 1,145.76	$ 618.64	$ 527.12	$ 280,510.93
33	8/1/2023	$ 280,510.93	$ 1,145.76	$ 619.80	$ 525.96	$ 279,891.12
34	9/1/2023	$ 279,891.12	$ 1,145.76	$ 620.96	$ 524.80	$ 279,270.16
35	10/1/2023	$ 279,270.16	$ 1,145.76	$ 622.13	$ 523.63	$ 278,648.03
36	11/1/2023	$ 278,648.03	$ 1,145.76	$ 623.29	$ 522.47	$ 278,024.74
37	12/1/2023	$ 278,024.74	$ 1,145.76	$ 624.46	$ 521.30	$ 277,400.28
38	1/1/2024	$ 277,400.28	$ 1,145.76	$ 625.63	$ 520.13	$ 276,774.64
39	2/1/2024	$ 276,774.64	$ 1,145.76	$ 626.81	$ 518.95	$ 276,147.84
40	3/1/2024	$ 276,147.84	$ 1,145.76	$ 627.98	$ 517.78	$ 275,519.86
41	4/1/2024	$ 275,519.86	$ 1,145.76	$ 629.16	$ 516.60	$ 274,890.70
42	5/1/2024	$ 274,890.70	$ 1,145.76	$ 630.34	$ 515.42	$ 274,260.36
43	6/1/2024	$ 274,260.36	$ 1,145.76	$ 631.52	$ 514.24	$ 273,628.84
44	7/1/2024	$ 273,628.84	$ 1,145.76	$ 632.70	$ 513.05	$ 272,996.13
45	8/1/2024	$ 272,996.13	$ 1,145.76	$ 633.89	$ 511.87	$ 272,362.24
46	9/1/2024	$ 272,362.24	$ 1,145.76	$ 635.08	$ 510.68	$ 271,727.16
47	10/1/2024	$ 271,727.16	$ 1,145.76	$ 636.27	$ 509.49	$ 271,090.89
48	11/1/2024	$ 271,090.89	$ 1,145.76	$ 637.46	$ 508.30	$ 270,453.43
49	12/1/2024	$ 270,453.43	$ 1,145.76	$ 638.66	$ 507.10	$ 269,814.77
50	1/1/2025	$ 269,814.77	$ 1,145.76	$ 639.86	$ 505.90	$ 269,174.91
51	2/1/2025	$ 269,174.91	$ 1,145.76	$ 641.06	$ 504.70	$ 268,533.86
52	3/1/2025	$ 268,533.86	$ 1,145.76	$ 642.26	$ 503.50	$ 267,891.60
53	4/1/2025	$ 267,891.60	$ 1,145.76	$ 643.46	$ 502.30	$ 267,248.14
54	5/1/2025	$ 267,248.14	$ 1,145.76	$ 644.67	$ 501.09	$ 266,603.47
55	6/1/2025	$ 266,603.47	$ 1,145.76	$ 645.88	$ 499.88	$ 265,957.59
56	7/1/2025	$ 265,957.59	$ 1,145.76	$ 647.09	$ 498.67	$ 265,310.50
57	8/1/2025	$ 265,310.50	$ 1,145.76	$ 648.30	$ 497.46	$ 264,662.20
58	9/1/2025	$ 264,662.20	$ 1,145.76	$ 649.52	$ 496.24	$ 264,012.68
59	10/1/2025	$ 264,012.68	$ 1,145.76	$ 650.74	$ 495.02	$ 263,361.95
60	11/1/2025	$ 263,361.95	$ 1,145.76	$ 651.96	$ 493.80	$ 262,709.99
61	12/1/2025	$ 262,709.99	$ 1,145.76	$ 653.18	$ 492.58	$ 262,056.81
62	1/1/2026	$ 262,056.81	$ 1,145.76	$ 654.40	$ 491.36	$ 261,402.41
63	2/1/2026	$ 261,402.41	$ 1,145.76	$ 655.63	$ 490.13	$ 260,746.78
64	3/1/2026	$ 260,746.78	$ 1,145.76	$ 656.86	$ 488.90	$ 260,089.92
65	4/1/2026	$ 260,089.92	$ 1,145.76	$ 658.09	$ 487.67	$ 259,431.83

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
66	5/1/2026	$ 259,431.83	$ 1,145.76	$ 659.32	$ 486.43	$ 258,772.51
67	6/1/2026	$ 258,772.51	$ 1,145.76	$ 660.56	$ 485.20	$ 258,111.95
68	7/1/2026	$ 258,111.95	$ 1,145.76	$ 661.80	$ 483.96	$ 257,450.15
69	8/1/2026	$ 257,450.15	$ 1,145.76	$ 663.04	$ 482.72	$ 256,787.11
70	9/1/2026	$ 256,787.11	$ 1,145.76	$ 664.28	$ 481.48	$ 256,122.83
71	10/1/2026	$ 256,122.83	$ 1,145.76	$ 665.53	$ 480.23	$ 255,457.30
72	11/1/2026	$ 255,457.30	$ 1,145.76	$ 666.78	$ 478.98	$ 254,790.52
73	12/1/2026	$ 254,790.52	$ 1,145.76	$ 668.03	$ 477.73	$ 254,122.50
74	1/1/2027	$ 254,122.50	$ 1,145.76	$ 669.28	$ 476.48	$ 253,453.22
75	2/1/2027	$ 253,453.22	$ 1,145.76	$ 670.53	$ 475.22	$ 252,782.68
76	3/1/2027	$ 252,782.68	$ 1,145.76	$ 671.79	$ 473.97	$ 252,110.89
77	4/1/2027	$ 252,110.89	$ 1,145.76	$ 673.05	$ 472.71	$ 251,437.84
78	5/1/2027	$ 251,437.84	$ 1,145.76	$ 674.31	$ 471.45	$ 250,763.53
79	6/1/2027	$ 250,763.53	$ 1,145.76	$ 675.58	$ 470.18	$ 250,087.95
80	7/1/2027	$ 250,087.95	$ 1,145.76	$ 676.84	$ 468.91	$ 249,411.11
81	8/1/2027	$ 249,411.11	$ 1,145.76	$ 678.11	$ 467.65	$ 248,732.99
82	9/1/2027	$ 248,732.99	$ 1,145.76	$ 679.38	$ 466.37	$ 248,053.61
83	10/1/2027	$ 248,053.61	$ 1,145.76	$ 680.66	$ 465.10	$ 247,372.95
84	11/1/2027	$ 247,372.95	$ 1,145.76	$ 681.93	$ 463.82	$ 246,691.01
85	12/1/2027	$ 246,691.01	$ 1,145.76	$ 683.21	$ 462.55	$ 246,007.80
86	1/1/2028	$ 246,007.80	$ 1,145.76	$ 684.49	$ 461.26	$ 245,323.31
87	2/1/2028	$ 245,323.31	$ 1,145.76	$ 685.78	$ 459.98	$ 244,637.53
88	3/1/2028	$ 244,637.53	$ 1,145.76	$ 687.06	$ 458.70	$ 243,950.47
89	4/1/2028	$ 243,950.47	$ 1,145.76	$ 688.35	$ 457.41	$ 243,262.11
90	5/1/2028	$ 243,262.11	$ 1,145.76	$ 689.64	$ 456.12	$ 242,572.47
91	6/1/2028	$ 242,572.47	$ 1,145.76	$ 690.94	$ 454.82	$ 241,881.54
92	7/1/2028	$ 241,881.54	$ 1,145.76	$ 692.23	$ 453.53	$ 241,189.31
93	8/1/2028	$ 241,189.31	$ 1,145.76	$ 693.53	$ 452.23	$ 240,495.78
94	9/1/2028	$ 240,495.78	$ 1,145.76	$ 694.83	$ 450.93	$ 239,800.95
95	10/1/2028	$ 239,800.95	$ 1,145.76	$ 696.13	$ 449.63	$ 239,104.81
96	11/1/2028	$ 239,104.81	$ 1,145.76	$ 697.44	$ 448.32	$ 238,407.38
97	12/1/2028	$ 238,407.38	$ 1,145.76	$ 698.75	$ 447.01	$ 237,708.63
98	1/1/2029	$ 237,708.63	$ 1,145.76	$ 700.06	$ 445.70	$ 237,008.58
99	2/1/2029	$ 237,008.58	$ 1,145.76	$ 701.37	$ 444.39	$ 236,307.21
100	3/1/2029	$ 236,307.21	$ 1,145.76	$ 702.68	$ 443.08	$ 235,604.53
101	4/1/2029	$ 235,604.53	$ 1,145.76	$ 704.00	$ 441.76	$ 234,900.53
102	5/1/2029	$ 234,900.53	$ 1,145.76	$ 705.32	$ 440.44	$ 234,195.21
103	6/1/2029	$ 234,195.21	$ 1,145.76	$ 706.64	$ 439.12	$ 233,488.56
104	7/1/2029	$ 233,488.56	$ 1,145.76	$ 707.97	$ 437.79	$ 232,780.59

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
105	8/1/2029	$ 232,780.59	$ 1,145.76	$ 709.30	$ 436.46	$ 232,071.30
106	9/1/2029	$ 232,071.30	$ 1,145.76	$ 710.63	$ 435.13	$ 231,360.67
107	10/1/2029	$ 231,360.67	$ 1,145.76	$ 711.96	$ 433.80	$ 230,648.72
108	11/1/2029	$ 230,648.72	$ 1,145.76	$ 713.29	$ 432.47	$ 229,935.42
109	12/1/2029	$ 229,935.42	$ 1,145.76	$ 714.63	$ 431.13	$ 229,220.79
110	1/1/2030	$ 229,220.79	$ 1,145.76	$ 715.97	$ 429.79	$ 228,504.82
111	2/1/2030	$ 228,504.82	$ 1,145.76	$ 717.31	$ 428.45	$ 227,787.51
112	3/1/2030	$ 227,787.51	$ 1,145.76	$ 718.66	$ 427.10	$ 227,068.85
113	4/1/2030	$ 227,068.85	$ 1,145.76	$ 720.00	$ 425.75	$ 226,348.85
114	5/1/2030	$ 226,348.85	$ 1,145.76	$ 721.35	$ 424.40	$ 225,627.49
115	6/1/2030	$ 225,627.49	$ 1,145.76	$ 722.71	$ 423.05	$ 224,904.79
116	7/1/2030	$ 224,904.79	$ 1,145.76	$ 724.06	$ 421.70	$ 224,180.72
117	8/1/2030	$ 224,180.72	$ 1,145.76	$ 725.42	$ 420.34	$ 223,455.30
118	9/1/2030	$ 223,455.30	$ 1,145.76	$ 726.78	$ 418.98	$ 222,728.52
119	10/1/2030	$ 222,728.52	$ 1,145.76	$ 728.14	$ 417.62	$ 222,000.38
120	11/1/2030	$ 222,000.38	$ 1,145.76	$ 729.51	$ 416.25	$ 221,270.87
121	12/1/2030	$ 221,270.87	$ 1,145.76	$ 730.88	$ 414.88	$ 220,540.00
122	1/1/2031	$ 220,540.00	$ 1,145.76	$ 732.25	$ 413.51	$ 219,807.75
123	2/1/2031	$ 219,807.75	$ 1,145.76	$ 733.62	$ 412.14	$ 219,074.13
124	3/1/2031	$ 219,074.13	$ 1,145.76	$ 734.99	$ 410.76	$ 218,339.14
125	4/1/2031	$ 218,339.14	$ 1,145.76	$ 736.37	$ 409.39	$ 217,602.76
126	5/1/2031	$ 217,602.76	$ 1,145.76	$ 737.75	$ 408.01	$ 216,865.01
127	6/1/2031	$ 216,865.01	$ 1,145.76	$ 739.14	$ 406.62	$ 216,125.87
128	7/1/2031	$ 216,125.87	$ 1,145.76	$ 740.52	$ 405.24	$ 215,385.35
129	8/1/2031	$ 215,385.35	$ 1,145.76	$ 741.91	$ 403.85	$ 214,643.44
130	9/1/2031	$ 214,643.44	$ 1,145.76	$ 743.30	$ 402.46	$ 213,900.14
131	10/1/2031	$ 213,900.14	$ 1,145.76	$ 744.70	$ 401.06	$ 213,155.44
132	11/1/2031	$ 213,155.44	$ 1,145.76	$ 746.09	$ 399.67	$ 212,409.35
133	12/1/2031	$ 212,409.35	$ 1,145.76	$ 747.49	$ 398.27	$ 211,661.86
134	1/1/2032	$ 211,661.86	$ 1,145.76	$ 748.89	$ 396.87	$ 210,912.96
135	2/1/2032	$ 210,912.96	$ 1,145.76	$ 750.30	$ 395.46	$ 210,162.67
136	3/1/2032	$ 210,162.67	$ 1,145.76	$ 751.70	$ 394.05	$ 209,410.96
137	4/1/2032	$ 209,410.96	$ 1,145.76	$ 753.11	$ 392.65	$ 208,657.85
138	5/1/2032	$ 208,657.85	$ 1,145.76	$ 754.53	$ 391.23	$ 207,903.32
139	6/1/2032	$ 207,903.32	$ 1,145.76	$ 755.94	$ 389.82	$ 207,147.38
140	7/1/2032	$ 207,147.38	$ 1,145.76	$ 757.36	$ 388.40	$ 206,390.03
141	8/1/2032	$ 206,390.03	$ 1,145.76	$ 758.78	$ 386.98	$ 205,631.25
142	9/1/2032	$ 205,631.25	$ 1,145.76	$ 760.20	$ 385.56	$ 204,871.05
143	10/1/2032	$ 204,871.05	$ 1,145.76	$ 761.63	$ 384.13	$ 204,109.42

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
144	11/1/2032	$ 204,109.42	$ 1,145.76	$ 763.05	$ 382.71	$ 203,346.37
145	12/1/2032	$ 203,346.37	$ 1,145.76	$ 764.48	$ 381.27	$ 202,581.88
146	1/1/2033	$ 202,581.88	$ 1,145.76	$ 765.92	$ 379.84	$ 201,815.97
147	2/1/2033	$ 201,815.97	$ 1,145.76	$ 767.35	$ 378.40	$ 201,048.61
148	3/1/2033	$ 201,048.61	$ 1,145.76	$ 768.79	$ 376.97	$ 200,279.82
149	4/1/2033	$ 200,279.82	$ 1,145.76	$ 770.23	$ 375.52	$ 199,509.58
150	5/1/2033	$ 199,509.58	$ 1,145.76	$ 771.68	$ 374.08	$ 198,737.91
151	6/1/2033	$ 198,737.91	$ 1,145.76	$ 773.13	$ 372.63	$ 197,964.78
152	7/1/2033	$ 197,964.78	$ 1,145.76	$ 774.57	$ 371.18	$ 197,190.21
153	8/1/2033	$ 197,190.21	$ 1,145.76	$ 776.03	$ 369.73	$ 196,414.18
154	9/1/2033	$ 196,414.18	$ 1,145.76	$ 777.48	$ 368.28	$ 195,636.70
155	10/1/2033	$ 195,636.70	$ 1,145.76	$ 778.94	$ 366.82	$ 194,857.76
156	11/1/2033	$ 194,857.76	$ 1,145.76	$ 780.40	$ 365.36	$ 194,077.36
157	12/1/2033	$ 194,077.36	$ 1,145.76	$ 781.86	$ 363.90	$ 193,295.49
158	1/1/2034	$ 193,295.49	$ 1,145.76	$ 783.33	$ 362.43	$ 192,512.16
159	2/1/2034	$ 192,512.16	$ 1,145.76	$ 784.80	$ 360.96	$ 191,727.36
160	3/1/2034	$ 191,727.36	$ 1,145.76	$ 786.27	$ 359.49	$ 190,941.09
161	4/1/2034	$ 190,941.09	$ 1,145.76	$ 787.74	$ 358.01	$ 190,153.35
162	5/1/2034	$ 190,153.35	$ 1,145.76	$ 789.22	$ 356.54	$ 189,364.13
163	6/1/2034	$ 189,364.13	$ 1,145.76	$ 790.70	$ 355.06	$ 188,573.43
164	7/1/2034	$ 188,573.43	$ 1,145.76	$ 792.18	$ 353.58	$ 187,781.24
165	8/1/2034	$ 187,781.24	$ 1,145.76	$ 793.67	$ 352.09	$ 186,987.57
166	9/1/2034	$ 186,987.57	$ 1,145.76	$ 795.16	$ 350.60	$ 186,192.42
167	10/1/2034	$ 186,192.42	$ 1,145.76	$ 796.65	$ 349.11	$ 185,395.77
168	11/1/2034	$ 185,395.77	$ 1,145.76	$ 798.14	$ 347.62	$ 184,597.63
169	12/1/2034	$ 184,597.63	$ 1,145.76	$ 799.64	$ 346.12	$ 183,797.99
170	1/1/2035	$ 183,797.99	$ 1,145.76	$ 801.14	$ 344.62	$ 182,996.85
171	2/1/2035	$ 182,996.85	$ 1,145.76	$ 802.64	$ 343.12	$ 182,194.21
172	3/1/2035	$ 182,194.21	$ 1,145.76	$ 804.14	$ 341.61	$ 181,390.07
173	4/1/2035	$ 181,390.07	$ 1,145.76	$ 805.65	$ 340.11	$ 180,584.41
174	5/1/2035	$ 180,584.41	$ 1,145.76	$ 807.16	$ 338.60	$ 179,777.25
175	6/1/2035	$ 179,777.25	$ 1,145.76	$ 808.68	$ 337.08	$ 178,968.57
176	7/1/2035	$ 178,968.57	$ 1,145.76	$ 810.19	$ 335.57	$ 178,158.38
177	8/1/2035	$ 178,158.38	$ 1,145.76	$ 811.71	$ 334.05	$ 177,346.67
178	9/1/2035	$ 177,346.67	$ 1,145.76	$ 813.23	$ 332.53	$ 176,533.43
179	10/1/2035	$ 176,533.43	$ 1,145.76	$ 814.76	$ 331.00	$ 175,718.68
180	11/1/2035	$ 175,718.68	$ 1,145.76	$ 816.29	$ 329.47	$ 174,902.39
181	12/1/2035	$ 174,902.39	$ 1,145.76	$ 817.82	$ 327.94	$ 174,084.57
182	1/1/2036	$ 174,084.57	$ 1,145.76	$ 819.35	$ 326.41	$ 173,265.22

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
183	2/1/2036	$ 173,265.22	$ 1,145.76	$ 820.89	$ 324.87	$ 172,444.34
184	3/1/2036	$ 172,444.34	$ 1,145.76	$ 822.43	$ 323.33	$ 171,621.91
185	4/1/2036	$ 171,621.91	$ 1,145.76	$ 823.97	$ 321.79	$ 170,797.94
186	5/1/2036	$ 170,797.94	$ 1,145.76	$ 825.51	$ 320.25	$ 169,972.43
187	6/1/2036	$ 169,972.43	$ 1,145.76	$ 827.06	$ 318.70	$ 169,145.37
188	7/1/2036	$ 169,145.37	$ 1,145.76	$ 828.61	$ 317.15	$ 168,316.76
189	8/1/2036	$ 168,316.76	$ 1,145.76	$ 830.16	$ 315.59	$ 167,486.59
190	9/1/2036	$ 167,486.59	$ 1,145.76	$ 831.72	$ 314.04	$ 166,654.87
191	10/1/2036	$ 166,654.87	$ 1,145.76	$ 833.28	$ 312.48	$ 165,821.59
192	11/1/2036	$ 165,821.59	$ 1,145.76	$ 834.84	$ 310.92	$ 164,986.75
193	12/1/2036	$ 164,986.75	$ 1,145.76	$ 836.41	$ 309.35	$ 164,150.34
194	1/1/2037	$ 164,150.34	$ 1,145.76	$ 837.98	$ 307.78	$ 163,312.36
195	2/1/2037	$ 163,312.36	$ 1,145.76	$ 839.55	$ 306.21	$ 162,472.81
196	3/1/2037	$ 162,472.81	$ 1,145.76	$ 841.12	$ 304.64	$ 161,631.69
197	4/1/2037	$ 161,631.69	$ 1,145.76	$ 842.70	$ 303.06	$ 160,788.99
198	5/1/2037	$ 160,788.99	$ 1,145.76	$ 844.28	$ 301.48	$ 159,944.71
199	6/1/2037	$ 159,944.71	$ 1,145.76	$ 845.86	$ 299.90	$ 159,098.85
200	7/1/2037	$ 159,098.85	$ 1,145.76	$ 847.45	$ 298.31	$ 158,251.40
201	8/1/2037	$ 158,251.40	$ 1,145.76	$ 849.04	$ 296.72	$ 157,402.36
202	9/1/2037	$ 157,402.36	$ 1,145.76	$ 850.63	$ 295.13	$ 156,551.73
203	10/1/2037	$ 156,551.73	$ 1,145.76	$ 852.22	$ 293.53	$ 155,699.51
204	11/1/2037	$ 155,699.51	$ 1,145.76	$ 853.82	$ 291.94	$ 154,845.69
205	12/1/2037	$ 154,845.69	$ 1,145.76	$ 855.42	$ 290.34	$ 153,990.26
206	1/1/2038	$ 153,990.26	$ 1,145.76	$ 857.03	$ 288.73	$ 153,133.24
207	2/1/2038	$ 153,133.24	$ 1,145.76	$ 858.63	$ 287.12	$ 152,274.60
208	3/1/2038	$ 152,274.60	$ 1,145.76	$ 860.24	$ 285.51	$ 151,414.36
209	4/1/2038	$ 151,414.36	$ 1,145.76	$ 861.86	$ 283.90	$ 150,552.50
210	5/1/2038	$ 150,552.50	$ 1,145.76	$ 863.47	$ 282.29	$ 149,689.03
211	6/1/2038	$ 149,689.03	$ 1,145.76	$ 865.09	$ 280.67	$ 148,823.94
212	7/1/2038	$ 148,823.94	$ 1,145.76	$ 866.71	$ 279.04	$ 147,957.22
213	8/1/2038	$ 147,957.22	$ 1,145.76	$ 868.34	$ 277.42	$ 147,088.88
214	9/1/2038	$ 147,088.88	$ 1,145.76	$ 869.97	$ 275.79	$ 146,218.91
215	10/1/2038	$ 146,218.91	$ 1,145.76	$ 871.60	$ 274.16	$ 145,347.32
216	11/1/2038	$ 145,347.32	$ 1,145.76	$ 873.23	$ 272.53	$ 144,474.08
217	12/1/2038	$ 144,474.08	$ 1,145.76	$ 874.87	$ 270.89	$ 143,599.21
218	1/1/2039	$ 143,599.21	$ 1,145.76	$ 876.51	$ 269.25	$ 142,722.70
219	2/1/2039	$ 142,722.70	$ 1,145.76	$ 878.15	$ 267.61	$ 141,844.55
220	3/1/2039	$ 141,844.55	$ 1,145.76	$ 879.80	$ 265.96	$ 140,964.75
221	4/1/2039	$ 140,964.75	$ 1,145.76	$ 881.45	$ 264.31	$ 140,083.30

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
222	5/1/2039	$ 140,083.30	$ 1,145.76	$ 883.10	$ 262.66	$ 139,200.20
223	6/1/2039	$ 139,200.20	$ 1,145.76	$ 884.76	$ 261.00	$ 138,315.44
224	7/1/2039	$ 138,315.44	$ 1,145.76	$ 886.42	$ 259.34	$ 137,429.02
225	8/1/2039	$ 137,429.02	$ 1,145.76	$ 888.08	$ 257.68	$ 136,540.94
226	9/1/2039	$ 136,540.94	$ 1,145.76	$ 889.74	$ 256.01	$ 135,651.20
227	10/1/2039	$ 135,651.20	$ 1,145.76	$ 891.41	$ 254.35	$ 134,759.78
228	11/1/2039	$ 134,759.78	$ 1,145.76	$ 893.08	$ 252.67	$ 133,866.70
229	12/1/2039	$ 133,866.70	$ 1,145.76	$ 894.76	$ 251.00	$ 132,971.94
230	1/1/2040	$ 132,971.94	$ 1,145.76	$ 896.44	$ 249.32	$ 132,075.50
231	2/1/2040	$ 132,075.50	$ 1,145.76	$ 898.12	$ 247.64	$ 131,177.39
232	3/1/2040	$ 131,177.39	$ 1,145.76	$ 899.80	$ 245.96	$ 130,277.58
233	4/1/2040	$ 130,277.58	$ 1,145.76	$ 901.49	$ 244.27	$ 129,376.10
234	5/1/2040	$ 129,376.10	$ 1,145.76	$ 903.18	$ 242.58	$ 128,472.92
235	6/1/2040	$ 128,472.92	$ 1,145.76	$ 904.87	$ 240.89	$ 127,568.05
236	7/1/2040	$ 127,568.05	$ 1,145.76	$ 906.57	$ 239.19	$ 126,661.48
237	8/1/2040	$ 126,661.48	$ 1,145.76	$ 908.27	$ 237.49	$ 125,753.21
238	9/1/2040	$ 125,753.21	$ 1,145.76	$ 909.97	$ 235.79	$ 124,843.24
239	10/1/2040	$ 124,843.24	$ 1,145.76	$ 911.68	$ 234.08	$ 123,931.56
240	11/1/2040	$ 123,931.56	$ 1,145.76	$ 913.39	$ 232.37	$ 123,018.17
241	12/1/2040	$ 123,018.17	$ 1,145.76	$ 915.10	$ 230.66	$ 122,103.07
242	1/1/2041	$ 122,103.07	$ 1,145.76	$ 916.82	$ 228.94	$ 121,186.26
243	2/1/2041	$ 121,186.26	$ 1,145.76	$ 918.53	$ 227.22	$ 120,267.72
244	3/1/2041	$ 120,267.72	$ 1,145.76	$ 920.26	$ 225.50	$ 119,347.46
245	4/1/2041	$ 119,347.46	$ 1,145.76	$ 921.98	$ 223.78	$ 118,425.48
246	5/1/2041	$ 118,425.48	$ 1,145.76	$ 923.71	$ 222.05	$ 117,501.77
247	6/1/2041	$ 117,501.77	$ 1,145.76	$ 925.44	$ 220.32	$ 116,576.33
248	7/1/2041	$ 116,576.33	$ 1,145.76	$ 927.18	$ 218.58	$ 115,649.15
249	8/1/2041	$ 115,649.15	$ 1,145.76	$ 928.92	$ 216.84	$ 114,720.23
250	9/1/2041	$ 114,720.23	$ 1,145.76	$ 930.66	$ 215.10	$ 113,789.57
251	10/1/2041	$ 113,789.57	$ 1,145.76	$ 932.40	$ 213.36	$ 112,857.17
252	11/1/2041	$ 112,857.17	$ 1,145.76	$ 934.15	$ 211.61	$ 111,923.02
253	12/1/2041	$ 111,923.02	$ 1,145.76	$ 935.90	$ 209.86	$ 110,987.12
254	1/1/2042	$ 110,987.12	$ 1,145.76	$ 937.66	$ 208.10	$ 110,049.46
255	2/1/2042	$ 110,049.46	$ 1,145.76	$ 939.42	$ 206.34	$ 109,110.04
256	3/1/2042	$ 109,110.04	$ 1,145.76	$ 941.18	$ 204.58	$ 108,168.86
257	4/1/2042	$ 108,168.86	$ 1,145.76	$ 942.94	$ 202.82	$ 107,225.92
258	5/1/2042	$ 107,225.92	$ 1,145.76	$ 944.71	$ 201.05	$ 106,281.21
259	6/1/2042	$ 106,281.21	$ 1,145.76	$ 946.48	$ 199.28	$ 105,334.73
260	7/1/2042	$ 105,334.73	$ 1,145.76	$ 948.26	$ 197.50	$ 104,386.47

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
261	8/1/2042	$ 104,386.47	$ 1,145.76	$ 950.03	$ 195.72	$ 103,436.44
262	9/1/2042	$ 103,436.44	$ 1,145.76	$ 951.82	$ 193.94	$ 102,484.62
263	10/1/2042	$ 102,484.62	$ 1,145.76	$ 953.60	$ 192.16	$ 101,531.02
264	11/1/2042	$ 101,531.02	$ 1,145.76	$ 955.39	$ 190.37	$ 100,575.63
265	12/1/2042	$ 100,575.63	$ 1,145.76	$ 957.18	$ 188.58	$ 99,618.46
266	1/1/2043	$ 99,618.46	$ 1,145.76	$ 958.97	$ 186.78	$ 98,659.48
267	2/1/2043	$ 98,659.48	$ 1,145.76	$ 960.77	$ 184.99	$ 97,698.71
268	3/1/2043	$ 97,698.71	$ 1,145.76	$ 962.57	$ 183.19	$ 96,736.13
269	4/1/2043	$ 96,736.13	$ 1,145.76	$ 964.38	$ 181.38	$ 95,771.76
270	5/1/2043	$ 95,771.76	$ 1,145.76	$ 966.19	$ 179.57	$ 94,805.57
271	6/1/2043	$ 94,805.57	$ 1,145.76	$ 968.00	$ 177.76	$ 93,837.57
272	7/1/2043	$ 93,837.57	$ 1,145.76	$ 969.81	$ 175.95	$ 92,867.76
273	8/1/2043	$ 92,867.76	$ 1,145.76	$ 971.63	$ 174.13	$ 91,896.13
274	9/1/2043	$ 91,896.13	$ 1,145.76	$ 973.45	$ 172.31	$ 90,922.67
275	10/1/2043	$ 90,922.67	$ 1,145.76	$ 975.28	$ 170.48	$ 89,947.39
276	11/1/2043	$ 89,947.39	$ 1,145.76	$ 977.11	$ 168.65	$ 88,970.29
277	12/1/2043	$ 88,970.29	$ 1,145.76	$ 978.94	$ 166.82	$ 87,991.35
278	1/1/2044	$ 87,991.35	$ 1,145.76	$ 980.78	$ 164.98	$ 87,010.57
279	2/1/2044	$ 87,010.57	$ 1,145.76	$ 982.61	$ 163.14	$ 86,027.96
280	3/1/2044	$ 86,027.96	$ 1,145.76	$ 984.46	$ 161.30	$ 85,043.50
281	4/1/2044	$ 85,043.50	$ 1,145.76	$ 986.30	$ 159.46	$ 84,057.20
282	5/1/2044	$ 84,057.20	$ 1,145.76	$ 988.15	$ 157.61	$ 83,069.05
283	6/1/2044	$ 83,069.05	$ 1,145.76	$ 990.00	$ 155.75	$ 82,079.04
284	7/1/2044	$ 82,079.04	$ 1,145.76	$ 991.86	$ 153.90	$ 81,087.18
285	8/1/2044	$ 81,087.18	$ 1,145.76	$ 993.72	$ 152.04	$ 80,093.46
286	9/1/2044	$ 80,093.46	$ 1,145.76	$ 995.58	$ 150.18	$ 79,097.88
287	10/1/2044	$ 79,097.88	$ 1,145.76	$ 997.45	$ 148.31	$ 78,100.43
288	11/1/2044	$ 78,100.43	$ 1,145.76	$ 999.32	$ 146.44	$ 77,101.11
289	12/1/2044	$ 77,101.11	$ 1,145.76	$ 1,001.19	$ 144.56	$ 76,099.91
290	1/1/2045	$ 76,099.91	$ 1,145.76	$ 1,003.07	$ 142.69	$ 75,096.84
291	2/1/2045	$ 75,096.84	$ 1,145.76	$ 1,004.95	$ 140.81	$ 74,091.89
292	3/1/2045	$ 74,091.89	$ 1,145.76	$ 1,006.84	$ 138.92	$ 73,085.05
293	4/1/2045	$ 73,085.05	$ 1,145.76	$ 1,008.72	$ 137.03	$ 72,076.33
294	5/1/2045	$ 72,076.33	$ 1,145.76	$ 1,010.62	$ 135.14	$ 71,065.71
295	6/1/2045	$ 71,065.71	$ 1,145.76	$ 1,012.51	$ 133.25	$ 70,053.20
296	7/1/2045	$ 70,053.20	$ 1,145.76	$ 1,014.41	$ 131.35	$ 69,038.79
297	8/1/2045	$ 69,038.79	$ 1,145.76	$ 1,016.31	$ 129.45	$ 68,022.48
298	9/1/2045	$ 68,022.48	$ 1,145.76	$ 1,018.22	$ 127.54	$ 67,004.26
299	10/1/2045	$ 67,004.26	$ 1,145.76	$ 1,020.13	$ 125.63	$ 65,984.14

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
300	11/1/2045	$ 65,984.14	$ 1,145.76	$ 1,022.04	$ 123.72	$ 64,962.10
301	12/1/2045	$ 64,962.10	$ 1,145.76	$ 1,023.95	$ 121.80	$ 63,938.14
302	1/1/2046	$ 63,938.14	$ 1,145.76	$ 1,025.87	$ 119.88	$ 62,912.27
303	2/1/2046	$ 62,912.27	$ 1,145.76	$ 1,027.80	$ 117.96	$ 61,884.47
304	3/1/2046	$ 61,884.47	$ 1,145.76	$ 1,029.73	$ 116.03	$ 60,854.74
305	4/1/2046	$ 60,854.74	$ 1,145.76	$ 1,031.66	$ 114.10	$ 59,823.09
306	5/1/2046	$ 59,823.09	$ 1,145.76	$ 1,033.59	$ 112.17	$ 58,789.50
307	6/1/2046	$ 58,789.50	$ 1,145.76	$ 1,035.53	$ 110.23	$ 57,753.97
308	7/1/2046	$ 57,753.97	$ 1,145.76	$ 1,037.47	$ 108.29	$ 56,716.50
309	8/1/2046	$ 56,716.50	$ 1,145.76	$ 1,039.42	$ 106.34	$ 55,677.08
310	9/1/2046	$ 55,677.08	$ 1,145.76	$ 1,041.36	$ 104.39	$ 54,635.72
311	10/1/2046	$ 54,635.72	$ 1,145.76	$ 1,043.32	$ 102.44	$ 53,592.40
312	11/1/2046	$ 53,592.40	$ 1,145.76	$ 1,045.27	$ 100.49	$ 52,547.13
313	12/1/2046	$ 52,547.13	$ 1,145.76	$ 1,047.23	$ 98.53	$ 51,499.90
314	1/1/2047	$ 51,499.90	$ 1,145.76	$ 1,049.20	$ 96.56	$ 50,450.70
315	2/1/2047	$ 50,450.70	$ 1,145.76	$ 1,051.16	$ 94.60	$ 49,399.53
316	3/1/2047	$ 49,399.53	$ 1,145.76	$ 1,053.13	$ 92.62	$ 48,346.40
317	4/1/2047	$ 48,346.40	$ 1,145.76	$ 1,055.11	$ 90.65	$ 47,291.29
318	5/1/2047	$ 47,291.29	$ 1,145.76	$ 1,057.09	$ 88.67	$ 46,234.20
319	6/1/2047	$ 46,234.20	$ 1,145.76	$ 1,059.07	$ 86.69	$ 45,175.13
320	7/1/2047	$ 45,175.13	$ 1,145.76	$ 1,061.06	$ 84.70	$ 44,114.08
321	8/1/2047	$ 44,114.08	$ 1,145.76	$ 1,063.05	$ 82.71	$ 43,051.03
322	9/1/2047	$ 43,051.03	$ 1,145.76	$ 1,065.04	$ 80.72	$ 41,985.99
323	10/1/2047	$ 41,985.99	$ 1,145.76	$ 1,067.04	$ 78.72	$ 40,918.96
324	11/1/2047	$ 40,918.96	$ 1,145.76	$ 1,069.04	$ 76.72	$ 39,849.92
325	12/1/2047	$ 39,849.92	$ 1,145.76	$ 1,071.04	$ 74.72	$ 38,778.88
326	1/1/2048	$ 38,778.88	$ 1,145.76	$ 1,073.05	$ 72.71	$ 37,705.83
327	2/1/2048	$ 37,705.83	$ 1,145.76	$ 1,075.06	$ 70.70	$ 36,630.77
328	3/1/2048	$ 36,630.77	$ 1,145.76	$ 1,077.08	$ 68.68	$ 35,553.70
329	4/1/2048	$ 35,553.70	$ 1,145.76	$ 1,079.10	$ 66.66	$ 34,474.60
330	5/1/2048	$ 34,474.60	$ 1,145.76	$ 1,081.12	$ 64.64	$ 33,393.48
331	6/1/2048	$ 33,393.48	$ 1,145.76	$ 1,083.15	$ 62.61	$ 32,310.34
332	7/1/2048	$ 32,310.34	$ 1,145.76	$ 1,085.18	$ 60.58	$ 31,225.16
333	8/1/2048	$ 31,225.16	$ 1,145.76	$ 1,087.21	$ 58.55	$ 30,137.95
334	9/1/2048	$ 30,137.95	$ 1,145.76	$ 1,089.25	$ 56.51	$ 29,048.70
335	10/1/2048	$ 29,048.70	$ 1,145.76	$ 1,091.29	$ 54.47	$ 27,957.41
336	11/1/2048	$ 27,957.41	$ 1,145.76	$ 1,093.34	$ 52.42	$ 26,864.07
337	12/1/2048	$ 26,864.07	$ 1,145.76	$ 1,095.39	$ 50.37	$ 25,768.68
338	1/1/2049	$ 25,768.68	$ 1,145.76	$ 1,097.44	$ 48.32	$ 24,671.23

No.	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
339	2/1/2049	$ 24,671.23	$ 1,145.76	$ 1,099.50	$ 46.26	$ 23,571.73
340	3/1/2049	$ 23,571.73	$ 1,145.76	$ 1,101.56	$ 44.20	$ 22,470.17
341	4/1/2049	$ 22,470.17	$ 1,145.76	$ 1,103.63	$ 42.13	$ 21,366.55
342	5/1/2049	$ 21,366.55	$ 1,145.76	$ 1,105.70	$ 40.06	$ 20,260.85
343	6/1/2049	$ 20,260.85	$ 1,145.76	$ 1,107.77	$ 37.99	$ 19,153.08
344	7/1/2049	$ 19,153.08	$ 1,145.76	$ 1,109.85	$ 35.91	$ 18,043.23
345	8/1/2049	$ 18,043.23	$ 1,145.76	$ 1,111.93	$ 33.83	$ 16,931.30
346	9/1/2049	$ 16,931.30	$ 1,145.76	$ 1,114.01	$ 31.75	$ 15,817.29
347	10/1/2049	$ 15,817.29	$ 1,145.76	$ 1,116.10	$ 29.66	$ 14,701.19
348	11/1/2049	$ 14,701.19	$ 1,145.76	$ 1,118.19	$ 27.56	$ 13,583.00
349	12/1/2049	$ 13,583.00	$ 1,145.76	$ 1,120.29	$ 25.47	$ 12,462.70
350	1/1/2050	$ 12,462.70	$ 1,145.76	$ 1,122.39	$ 23.37	$ 11,340.31
351	2/1/2050	$ 11,340.31	$ 1,145.76	$ 1,124.50	$ 21.26	$ 10,215.82
352	3/1/2050	$ 10,215.82	$ 1,145.76	$ 1,126.60	$ 19.15	$ 9,089.21
353	4/1/2050	$ 9,089.21	$ 1,145.76	$ 1,128.72	$ 17.04	$ 7,960.50
354	5/1/2050	$ 7,960.50	$ 1,145.76	$ 1,130.83	$ 14.93	$ 6,829.66
355	6/1/2050	$ 6,829.66	$ 1,145.76	$ 1,132.95	$ 12.81	$ 5,696.71
356	7/1/2050	$ 5,696.71	$ 1,145.76	$ 1,135.08	$ 10.68	$ 4,561.63
357	8/1/2050	$ 4,561.63	$ 1,145.76	$ 1,137.21	$ 8.55	$ 3,424.43
358	9/1/2050	$ 3,424.43	$ 1,145.76	$ 1,139.34	$ 6.42	$ 2,285.09
359	10/1/2050	$ 2,285.09	$ 1,145.76	$ 1,141.47	$ 4.28	$ 1,143.61
360	11/1/2050	$ 1,143.61	$ 1,145.76	$ 1,143.61	$ 2.14	$ (0.00)

DEFENDANT'S EXHIBIT 7

'24 JUN 12 AM 10:47 FD
Anderson, SC COC. CLERKS

195 per hour not 225.00

Brock Landscaping

Replaced pin on Bulldozer/cut out Existing pin 3-22-2018 (3 hrs)

Removed panels And pins on Bulldozer (New property) 6 1/2 hrs 4-09-18

4-2018 Straightend panels And welded And repaired enter And Exit gates At harolds house 4-21-18 (12 hrs)

6-10-2018 Grinder/Shaker machine At office welded platform/shaker - welded new plates to conveyor sides cut out panels Along conveyor Belt welded ladder - finish 6-20-18 supplied material $2160 (10 hr days)

30 min lunches

78 hrs Total

6-27-18 helper Brought skidsteer track unit tightening tracks welded side Boom/Bucket 2 hrs

7-04-18/cut And replaced Bad spots on track dozer 3 1/2 hrs

Took off hydraulics cylinders/Brackets Took cylinders to Be Repaired 6 hrs 8-18-18

Bought $649.68 worth of hydralic fluid

· Fixed later on dozer Rewelded plates And ReBolted brackets

8-24-18 Welded trailer Axle leaf spring Brackets Both sides we supplied material ($ 441.68) litte over 3 hrs

fixed 3 forklift mast cut and Repaired Back sides Replaced Broken pieces supplied 4 forks for 2 of them 125 per set (1) 6hrs (2) 7hrs (3) 3hrs picked up 9-2-18

9-3-18 dropped off Bucket for Bobcat fixed And Repaired 2 days plus material we supplied material $1809

9-13-18 helper Brought skid steer Truck with tilting trailer welded side Boom Brackets 2 hrs

9-14-18 fixed teeth on Bulldozer Bucket knocked pins out 2 hrs (NO charge)

Machine we worked on

'24 JUN 12 AM10:47:18
Anderson, SC COC, CP/GS

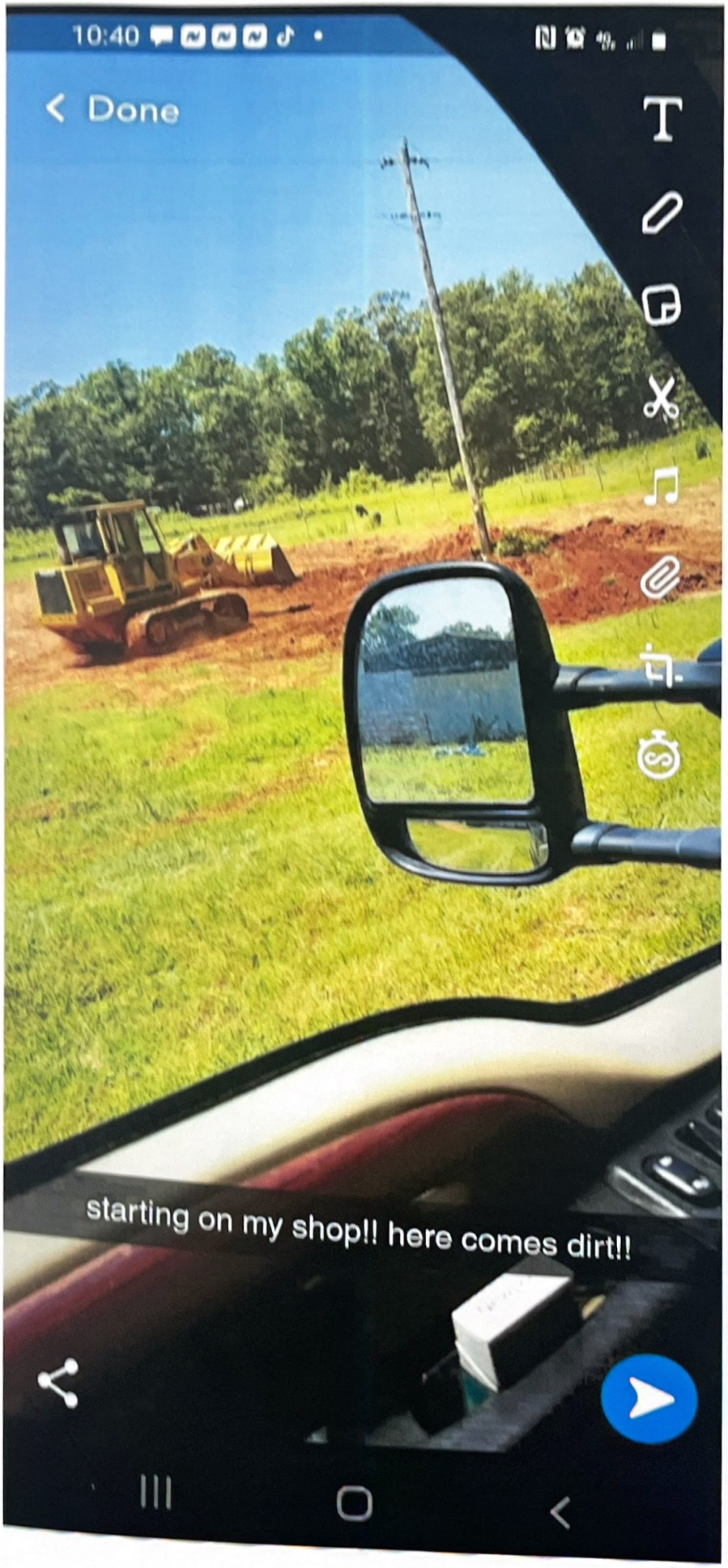
DEFENDANT'S EXHIBIT
8

BoBcat Boom harold is Questionny

DEFENDANT'S EXHIBIT
9

'24 JUN 12 AM10:47:33
Anderson, SC COC, CP/GS

DEFENDANT'S EXHIBIT
10



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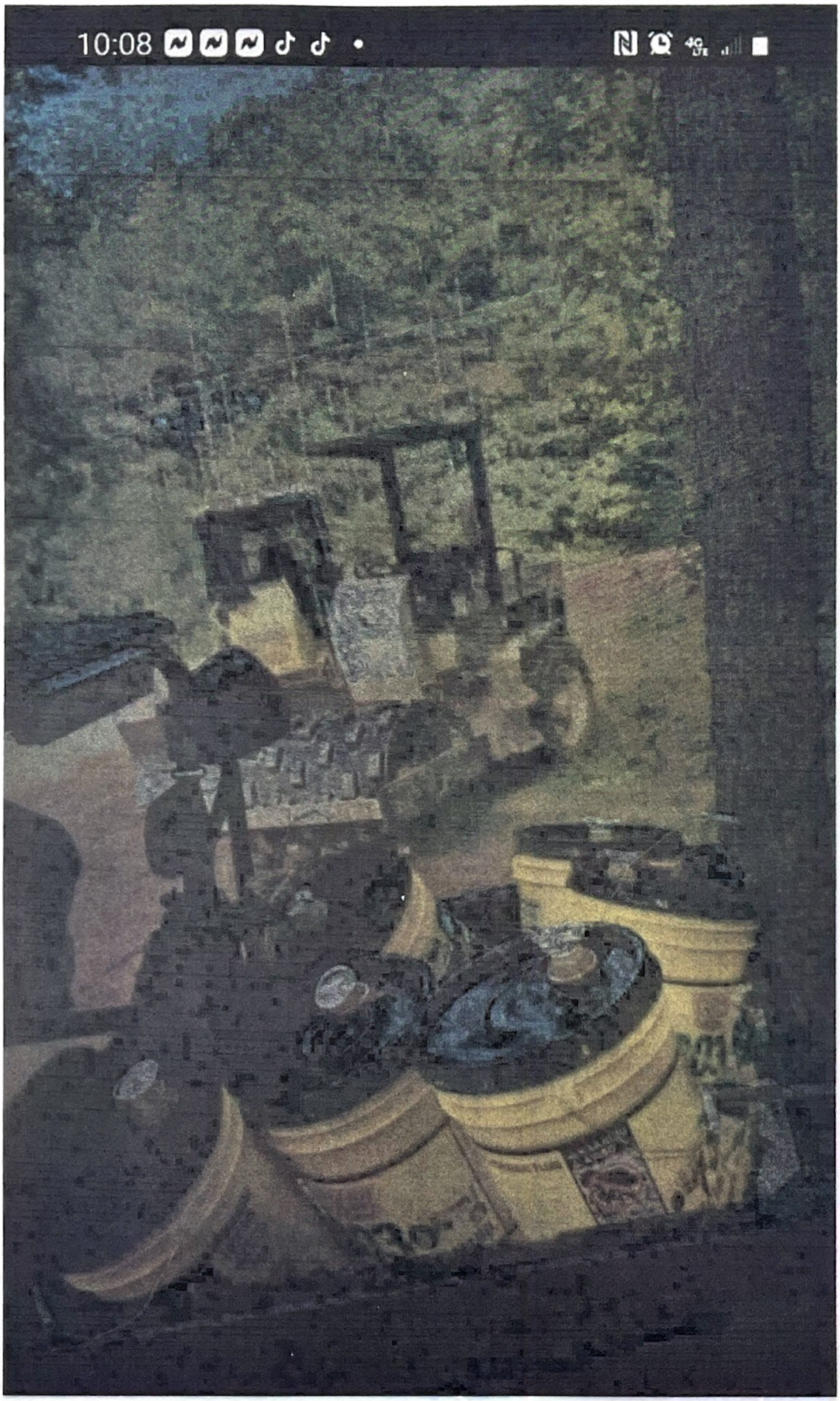
Anderson SC COC, CP/GS

DEFENDANT'S EXHIBIT
11



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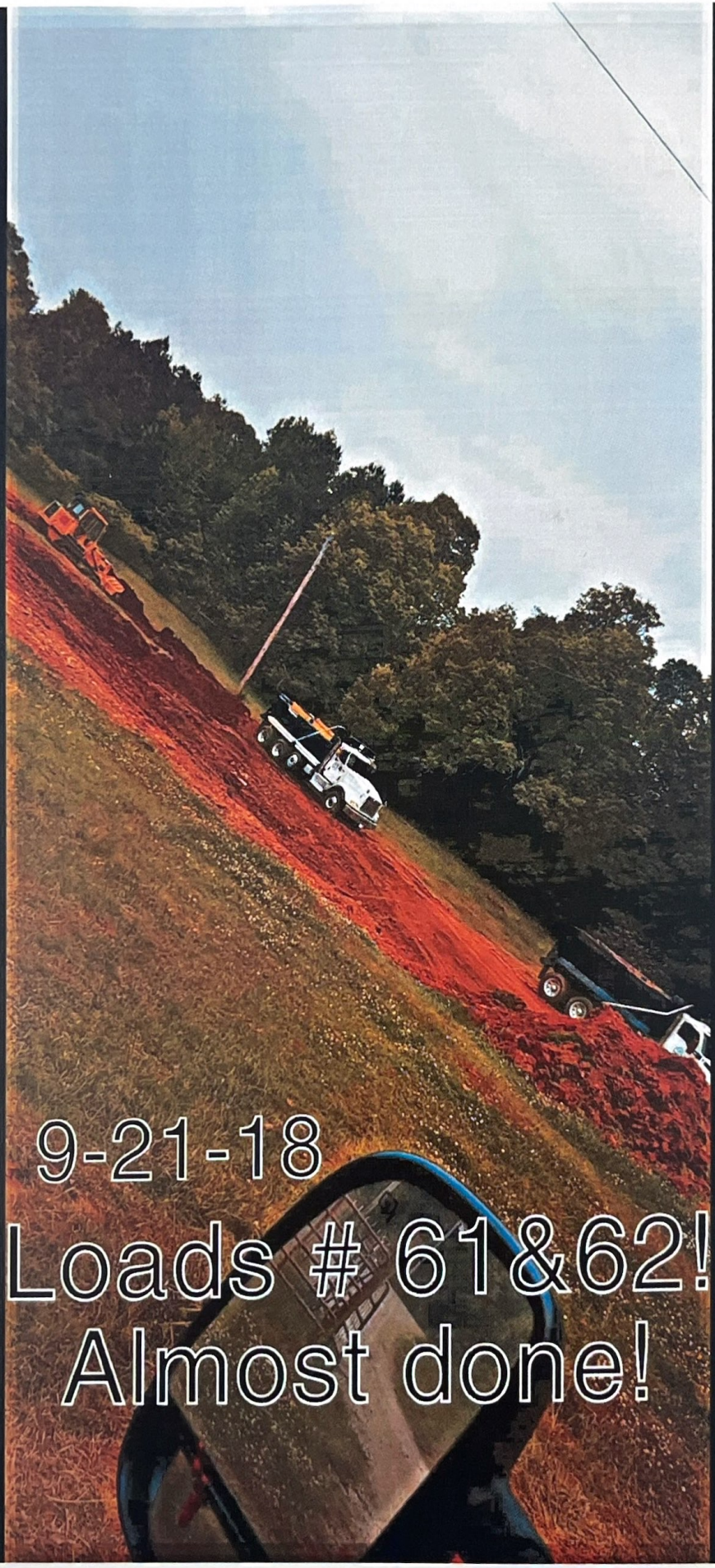
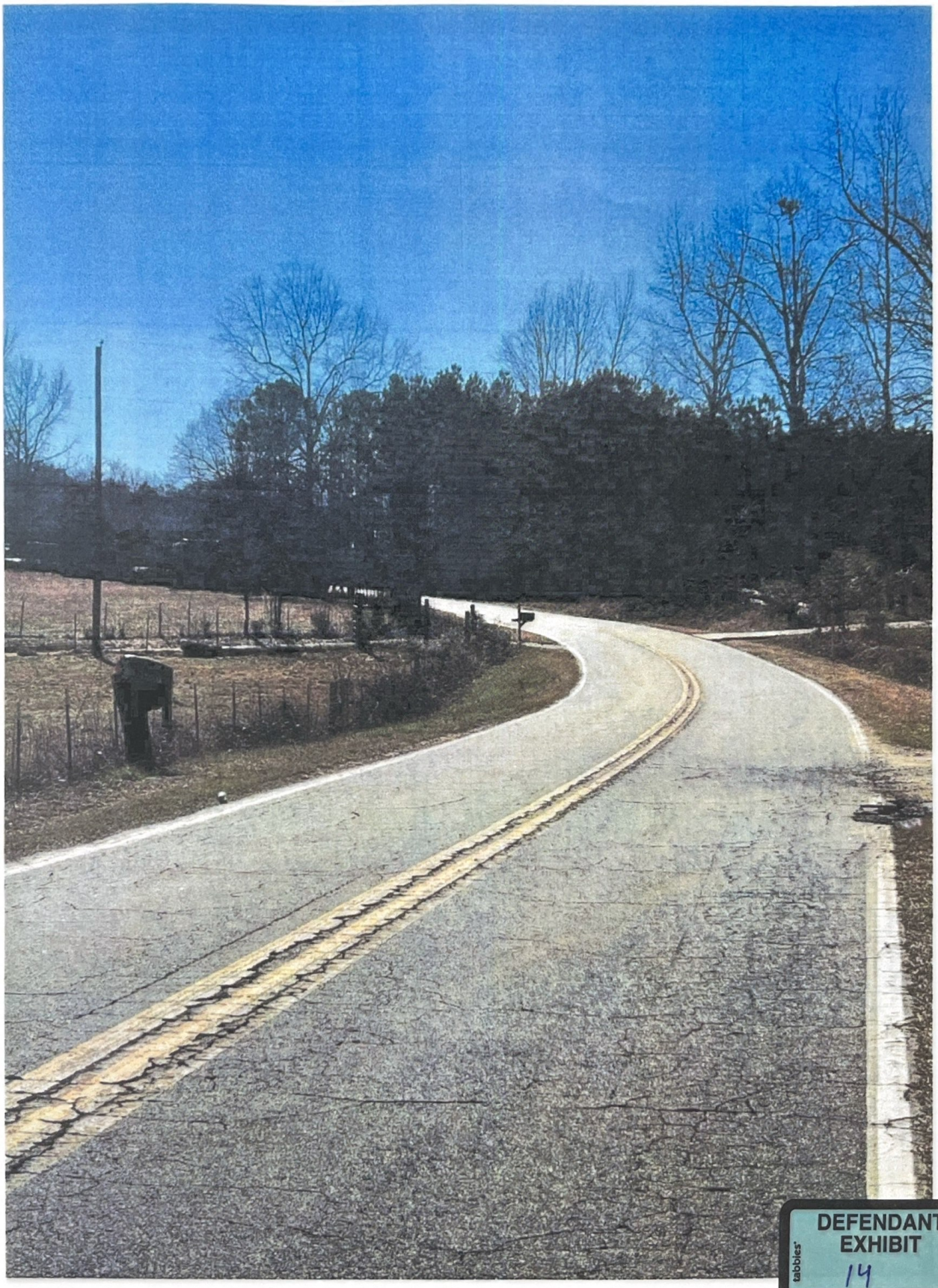
Anderson, SC COC, CP/GS

DEFENDANT'S EXHIBIT
12

'24 JUN 12 AM10:47:53
Anderson, SC COC, CP/GS



tabbies
DEFENDANT'S EXHIBIT
13



'24 JUN 12 AM10:47:58
Anderson, SC COC, CP/GS

DEFENDANT'S
EXHIBIT
14

DEFENDANT'S EXHIBIT
15
tabbies
'24 JUN 12 AM10:48:06
Anderson, SC COC. CP/GS

October 2, 2018, 10:56 AM

Export Snap

Delete Snap

'24 JUN 12 AM10:45:23
Anderson, SC COC, CP/GS

DEFENDANT'S EXHIBIT
16

HAROLD BROCK

JACOB ABERNATHY

'24 JUN 12 AM10:45:36
Anderson, SC COC, CP/GS

DEFENDANT'S EXHIBIT
17

1 HAROLD BROCK:
2 And asked him could I get it again. Here's the 20,
3 here's the 25, here's the 16. Here's the two 11's
4 right here.
5 JACOB ABERNATHY:
6 All right. All right. Well, yeah, that's -- that's
7 fine on this here since that's -- we got that all
8 ready, y'all sign off on that. I'm gonna need a COI
9 for this so I can give that to my agent on that.
10 And then on the rest, you know what I mean, before
11 we do anything you want to look at my bill and then
12 you (inaudible) you know --
13 HAROLD BROCK:
14 Yeah, I want to look at this bill.
15 JACOB ABERNATHY:
16 That way we -- you know, we pay the difference, you
17 know, today or whatever you want to do.
18 HAROLD BROCK:
19 Yeah, yeah.
20 JACOB ABERNATHY:
21 All right. This is your copy. That's got hours,
22 what we did, how much we are per hour, how many we
23 did.

1 HAROLD BROCK:
2 $30,000?
3 JACOB ABERNATHY:
4 Yeah, that's the hours. I think the hours are right
5 here, 158 at 195 an hour.
6 HAROLD BROCK:
7 Where did you -- where did you get 158 hours from?
8 JACOB ABERNATHY:
9 My red -- my red book in there. I've got everything
10 written down on what we -- what we done.
11 HAROLD BROCK:
12 What did you spend 158 hours on?
13 JACOB ABERNATHY:
14 We spent like 38 hours on just your tum -- concrete
15 machine.
16 HAROLD BROCK:
17 No, you spent -- you spent two days. I can call the
18 guy that was up there with you.
19 JACOB ABERNATHY:
20 That's fine. I've got the hours wrote down.
21 HAROLD BROCK:
22 Yeah, yeah, he's -- he -- he said you spent
23 basically about 10 hours up there. You come -- he

1 come over one day, got up there kind of late one
2 day, y'all worked any the first day and then the
3 second day --
4 JACOB ABERNATHY:
5 I was there --
6 HAROLD BROCK:
7 -- you came back with him.
8 JACOB ABERNATHY:
9 -- I was there the whole time.
10 HAROLD BROCK:
11 Yeah, the second day --
12 JACOB ABERNATHY:
13 (Inaudible) --
14 HAROLD BROCK:
15 -- you came back with him.
16 JACOB ABERNATHY:
17 I've got the hours on everything.
18 HAROLD BROCK:
19 I can call him on my phone right now he --
20 JACOB ABERNATHY:
21 That's fine. I understand.
22 HAROLD BROCK:
23 A hundred -- where's 158 hours come from?

1 JACOB ABERNATHY:
2 Everything we worked on, Harold. I mean, you can
3 look. Look at everything we've worked on. I mean -
4 - I mean, I -- don't start back-stepping. I mean --
5 HAROLD BROCK:
6 I'm not back-stepping.
7 JACOB ABERNATHY:
8 -- you -- you can look -- you can look right here,
9 you can look right here on everything we've done and
10 I've already talked with my lawyer about it and he -
11 - he done told me look, it is what it is. I mean,
12 my hours are what my hours. This is your copy.
13 HAROLD BROCK:
14 No, I won't need that. I'll -- I'll see you in
15 court.
16 JACOB ABERNATHY:
17 Okay, I was --
18 HAROLD BROCK:
19 Yeah.
20 JACOB ABERNATHY:
21 -- planning for that.
22 HAROLD BROCK:
23 Yeah, yeah. I'll see you in court.

1 JACOB ABERNATHY:
2 Uh-huh (affirmative).
3 HAROLD BROCK:
4 Yeah. I mean, that's -- 158 hours.
5 JACOB ABERNATHY:
6 That's what we have on all --
7 HAROLD BROCK:
8 Well what did you do?
9 JACOB ABERNATHY:
10 Me -- me -- it says right here, Harold, look.
11 HAROLD BROCK:
12 Yeah, but I mean I can tell you what you do. This
13 is why I got kind of memory I got.
14 JACOB ABERNATHY:
15 Yeah.
16 HAROLD BROCK:
17 Okay, I'm gonna tell you what you did.
18 JACOB ABERNATHY:
19 Uh-huh (affirmative).
20 HAROLD BROCK:
21 You come up -- your daddy come over and cut a pen
22 out one day with your mom.
23 JACOB ABERNATHY:

1 Replacement on bulldozer, that's right here.
2 HAROLD BROCK:
3 Yeah, your daddy come out there with -- with your
4 momma.
5 JACOB ABERNATHY:
6 With my momma, that was --
7 HAROLD BROCK:
8 Yeah.
9 JACOB ABERNATHY:
10 -- a weekend.
11 HAROLD BROCK:
12 Yeah.
13 JACOB ABERNATHY:
14 Yup, I remember -- I remember that specifically.
15 HAROLD BROCK:
16 Yeah.
17 MALE VOICE:
18 Pan was -- pan removed on bulldozer (inaudible).
19 HAROLD BROCK:
20 And he was over for a couple hours cutting that pen
21 out.
22 JACOB ABERNATHY:
23 And I have all the hours written down on it.

1 HAROLD BROCK:
2 Okay, okay. Then -- and then -- then the second
3 time y'all come up there to fix my --
4 JACOB ABERNATHY:
5 Yup. Straightened and welded your pen was repaired,
6 entrance on exit gates and residence. Dirt and rock
7 machine at office in Piedmont, welded back shaker,
8 platform, welded new plates on conveyor side, cut
9 and replace side panels along conveyor belt welded
10 ladder. Cut and repaired skid steer boom. Cut and
11 patched track unit plus material.
12 HAROLD BROCK:
13 Cut and repair skid steer boom?
14 JACOB ABERNATHY:
15 Yes, sir.
16 MALE VOICE:
17 What skid steer boom?
18 JACOB ABERNATHY:
19 Your -- your skid steer boom. I've got everything
20 wrote down on what it is.
21 HAROLD BROCK:
22 What skid steer boom did you --
23 JACOB ABERNATHY:

1 A track unit and then also removed and replaced
2 hydraulic cylinder brackets, took hydraulic
3 cylinders to be repaired.
4 HAROLD BROCK:
5 Your daddy ain't never worked on one of my skid
6 steers.
7 JACOB ABERNATHY:
8 I -- I mean, Harold, the hours in the -- the hours
9 don't --
10 HAROLD BROCK:
11 You've never been to my -- you never been up to work
12 on a skid steer.
13 JACOB ABERNATHY:
14 I --
15 HAROLD BROCK:
16 The only thing y'all worked on for me, you worked on
17 my thing at my office up there. Your daddy come
18 over and cut a pen out with your momma one day.
19 JACOB ABERNATHY:
20 I can't make this stuff up, Harold.
21 HAROLD BROCK:
22 Your daddy come over and heated up a -- my gate one
23 day.

1 JACOB ABERNATHY:
2 Uh-huh (affirmative).
3 HAROLD BROCK:
4 And bent and straightened it up.
5 JACOB ABERNATHY:
6 But you must have seemed to forgot about removed and
7 replaced all your hydraulic cylinder brackets, took
8 hydraulic cylinders to be repaired, which you paid
9 for the repairman. Welded trailer axles
10 (inaudible).
11 HAROLD BROCK:
12 How long did it take to pull a --
13 JACOB ABERNATHY:
14 Three forklift masses and repaired, cut and
15 replaced.
16 HAROLD BROCK:
17 Three forklift masses?
18 JACOB ABERNATHY:
19 Yeah, the ones that you had brought, you brought two
20 over, said you got one found at a job site that was
21 all crushed up --
22 HAROLD BROCK:
23 I only brought one over here.

1 JACOB ABERNATHY:
2 That was three. He bought one and a bucket and two
3 before that. Like I said, this has been going on
4 since March of ’22 and I have even more dates. This
5 is just breaks it down on what we did, welded,
6 installed plate on laser pole unit blade. He
7 brought some more buckets before a job you did in
8 Columbia that we did while he was here for -- that -
9 - that was three hours.
10 HAROLD BROCK:
11 You had one -- you had one Bobcat he brought that
12 had a little crack on it.
13 JACOB ABERNATHY:
14 That and as -- as well as with -- as with the forks
15 that he dropped off that day as well.
16 HAROLD BROCK:
17 Yeah, that day, yeah.
18 JACOB ABERNATHY:
19 And picked them up that (inaudible).
20 HAROLD BROCK:
21 This man right here has brought everything to you.
22 JACOB ABERNATHY:
23 I have -- I have three forklift --

1 MALE VOICE:
2 (Inaudible) and I welded it.
3 JACOB ABERNATHY:
4 Yeah, that's one bucket. Yeah, that was one bucket.
5 MALE VOICE:
6 That wouldn't be no three hours.
7 JACOB ABERNATHY:
8 No, that was three forklift mass is what I mean,
9 three fork lift mass cut and repaired.
10 HAROLD BROCK:
11 We ain't brought three fork masses over here. I
12 paid you for the forklift back when I picked all the
13 buckets up that day.
14 JACOB ABERNATHY:
15 You haven't paid anything on anything, Harold. I
16 thought this was -- this is all on -- all on the --
17 on my notepad on my (inaudible).
18 HAROLD BROCK:
19 Y'all fix -- you fixed my dump truck the back
20 (inaudible).
21 JACOB ABERNATHY:
22 That's on here, yes, sir.
23 HAROLD BROCK:

1 Okay.
2 JACOB ABERNATHY:
3 Yeah.
4 HAROLD BROCK:
5 I paid your daddy a check. I got all that at my
6 thing.
7 JACOB ABERNATHY:
8 Do you -- we --
9 HAROLD BROCK:
10 I paid for the mass --
11 JACOB ABERNATHY:
12 If -- if -- if he has paid then it isn't wrote down
13 on here so.
14 HAROLD BROCK:
15 Yeah, I -- the only thing I owe y'all for and I
16 didn't think you'd -- all you did was pull a -- a --
17 a thing off my thing. The other boy come over here
18 and pulled it off.
19 JACOB ABERNATHY:
20 Correct.
21 HAROLD BROCK:
22 And you took it --
23 JACOB ABERNATHY:

1 And I --
2 HAROLD BROCK:
3 -- and fixed it.
4 JACOB ABERNATHY:
5 -- and I took it and had it put -- and I put it back
6 on, correct?
7 HAROLD BROCK:
8 Yeah, you fixed it one time. Took it off and had to
9 fix. He come back here the second time and -- and
10 pulled it off and we took it and had it fixed.
11 JACOB ABERNATHY:
12 Yeah, you had another one that broke, yes, sir.
13 HAROLD BROCK:
14 Yeah. Yeah.
15 JACOB ABERNATHY:
16 I took the first one off --
17 HAROLD BROCK:
18 Yeah.
19 JACOB ABERNATHY:
20 -- and I ended up putting on that one back on.
21 HAROLD BROCK:
22 It don’t take long to stick a cylinder back on.
23 JACOB ABERNATHY:

1 I -- and I understand that and that's not -- there's
2 no -- there's 38 minutes, 45 --
3 HAROLD BROCK:
4 I don't know where you get 158 hours.
5 JACOB ABERNATHY:
6 There's 100 -- I'm telling you now that on all this
7 machine I've got 36 or 46 hours on just this
8 machine, platform, the shaker, Harold. I mean,
9 there was a lot of work on that machine. Call your
10 buddy.
11 MALE VOICE:
12 Did y'all not tell us that it was $90 an hour for
13 y'all's work?
14 JACOB ABERNATHY:
15 No, our -- our -- in our field we're -- we're 225
16 and then actually we did 195 an hourly rate and to
17 be honest you don't have a dog in this hunt so
18 you're an employee.
19 MALE VOICE:
20 Yeah, I do have a dog in this hunt.
21 JACOB ABERNATHY:
22 This is between me and -- this is between me --
23 HAROLD BROCK:

He got a pretty good dog (inaudible). That's why -- that's why that man's here.

JACOB ABERNATHY:

Well I -- and I understand that but you're on the other side of the truck and that's where you need to be. This is between me and Harold.

MALE VOICE:

Hey, let me tell you something. I'm just here because I know the hours that was worked. He asked me to come and I'm gonna be there with him in court.

JACOB ABERNATHY:

And I -- and I -- and that's fine and I understand and I'm prepared to go. I have Wes Holliday ready to go. I have everybody ready to go.

MALE VOICE:

Okay. We'll figure this --

JACOB ABERNATHY:

I -- the best thing we just need to do is I'll just see you in small claims court 'cause this is pennies.

MALE VOICE:

(Inaudible) tell you this.

HAROLD BROCK:

1 That ain't -- that ain't small claims. That's ain't
2 small claims, buddy.
3 JACOB ABERNATHY:
4 This is pennies.
5 MALE VOICE:
6 That ain't -- that's -- come on, let's just go.
7 Just leave him the job.
8 JACOB ABERNATHY:
9 That your entourage and go on.
10 MALE VOICE:
11 Just leave him the job and be done with it.
12 JACOB ABERNATHY:
13 I'll -- I'll see you in small claims court. You can
14 come get --
15 MALE VOICE:
16 You look like a dumbass (inaudible).
17 JACOB ABERNATHY:
18 Okay. Yeah, okay, Harold.
19 HAROLD BROCK:
20 I mean, you know, I go to (inaudible) --
21 MALE VOICE:
22 (Inaudible).
23 HAROLD BROCK:

1 -- to try to help y'all --
2 JACOB ABERNATHY:
3 Look, look, look --
4 HAROLD BROCK:
5 -- and charge (inaudible).
6 JACOB ABERNATHY:
7 Charge -- you charged me at -- charged me out the
8 ass is what you did, Harold. And you know what,
9 you're getting fucking amnesia, you know. Don't put
10 back -- even your friends have fucking forewarned us
11 about your ass. I'll see --
12 HAROLD BROCK:
13 You know what man --
14 JACOB ABERNATHY:
15 I'll see -- don't know what, I'll just see you in
16 court.
17 HAROLD BROCK:
18 Yeah.
19 JACOB ABERNATHY:
20 I'll let my lawyer handle this.
21 HAROLD BROCK:
22 Yeah, I -- I'll get my dirt out of there.
23 JACOB ABERNATHY:

1 I can tell you this --

2

3

4

CERTIFICATE

I, the undersigned, Jessica Antonucci, Notary Public in and for the State of South Carolina do hereby certify that:

That the foregoing tape was transcribed at the request of Lee Cole, Jr., Esquire;

A court reporter was not present at the proceedings and therefore cannot guarantee that every word of testimony could be heard or that the speaking parties are properly identified;

I further certify that I am neither counsel nor solicitor to any of the parties in said suit, nor interested in the event of the cause.

In witness whereof, I have hereunto set my hand and seal this 28th day of May, 2024.

_____
Jessica Antonucci
Notary Public for South Carolina
My Commission expires 7/06/2025

5.625%

No.	Payment Date	Payment	Principal	Interest	Ending Balance
116	12/1/2020	$ 2,055.67	$ 653.67	$ 1,402.00	$ 298,439.49
117	1/1/2021	$ 2,055.67	$ 656.73	$ 1,398.94	$ 297,782.75
118	2/1/2021	$ 2,055.67	$ 659.81	$ 1,395.86	$ 297,122.94
119	3/1/2021	$ 2,055.67	$ 662.91	$ 1,392.76	$ 296,460.04
120	4/1/2021	$ 2,055.67	$ 666.01	$ 1,389.66	$ 295,794.02
121	5/1/2021	$ 2,055.67	$ 669.13	$ 1,386.53	$ 295,124.89
122	6/1/2021	$ 2,055.67	$ 672.27	$ 1,383.40	$ 294,452.62
123	7/1/2021	$ 2,055.67	$ 675.42	$ 1,380.25	$ 293,777.20
124	8/1/2021	$ 2,055.67	$ 678.59	$ 1,377.08	$ 293,098.61
125	9/1/2021	$ 2,055.67	$ 681.77	$ 1,373.90	$ 292,416.84
126	10/1/2021	$ 2,055.67	$ 684.97	$ 1,370.70	$ 291,731.87
127	11/1/2021	$ 2,055.67	$ 688.18	$ 1,367.49	$ 291,043.70
128	12/1/2021	$ 2,055.67	$ 691.40	$ 1,364.27	$ 290,352.29
129	1/1/2022	$ 2,055.67	$ 694.64	$ 1,361.03	$ 289,657.65
130	2/1/2022	$ 2,055.67	$ 697.90	$ 1,357.77	$ 288,959.75
131	3/1/2022	$ 2,055.67	$ 701.17	$ 1,354.50	$ 288,258.58
132	4/1/2022	$ 2,055.67	$ 704.46	$ 1,351.21	$ 287,554.13
133	5/1/2022	$ 2,055.67	$ 707.76	$ 1,347.91	$ 286,846.37
134	6/1/2022	$ 2,055.67	$ 711.08	$ 1,344.59	$ 286,135.29
135	7/1/2022	$ 2,055.67	$ 714.41	$ 1,341.26	$ 285,420.88
136	8/1/2022	$ 2,055.67	$ 717.76	$ 1,337.91	$ 284,703.12
137	9/1/2022	$ 2,055.67	$ 721.12	$ 1,334.55	$ 283,982.00
138	10/1/2022	$ 2,055.67	$ 724.50	$ 1,331.17	$ 283,257.50
139	11/1/2022	$ 2,055.67	$ 727.90	$ 1,327.77	$ 282,529.60
140	12/1/2022	$ 2,055.67	$ 731.31	$ 1,324.36	$ 281,798.28
141	1/1/2023	$ 2,055.67	$ 734.74	$ 1,320.93	$ 281,063.55
142	2/1/2023	$ 2,055.67	$ 738.18	$ 1,317.49	$ 280,325.36
143	3/1/2023	$ 2,055.67	$ 741.64	$ 1,314.03	$ 279,583.72
144	4/1/2023	$ 2,055.67	$ 745.12	$ 1,310.55	$ 278,838.60
145	5/1/2023	$ 2,055.67	$ 748.61	$ 1,307.06	$ 278,089.98
146	6/1/2023	$ 2,055.67	$ 752.12	$ 1,303.55	$ 277,337.86
147	7/1/2023	$ 2,055.67	$ 755.65	$ 1,300.02	$ 276,582.21
148	8/1/2023	$ 2,055.67	$ 759.19	$ 1,296.48	$ 275,823.02
149	9/1/2023	$ 2,055.67	$ 762.75	$ 1,292.92	$ 275,060.28
150	10/1/2023	$ 2,055.67	$ 766.32	$ 1,289.35	$ 274,293.95
151	11/1/2023	$ 2,055.67	$ 769.92	$ 1,285.75	$ 273,524.04
152	12/1/2023	$ 2,055.67	$ 773.53	$ 1,282.14	$ 272,750.51
153	1/1/2024	$ 2,055.67	$ 777.15	$ 1,278.52	$ 271,973.36
154	2/1/2024	$ 2,055.67	$ 780.79	$ 1,274.88	$ 271,192.57
155	3/1/2024	$ 2,055.67	$ 784.45	$ 1,271.22	$ 270,408.11
156	4/1/2024	$ 2,055.67	$ 788.13	$ 1,267.54	$ 269,619.98
157	5/1/2024	$ 2,055.67	$ 791.83	$ 1,263.84	$ 268,828.16
158	6/1/2024	$ 2,055.67	$ 795.54	$ 1,260.13	$ 268,032.62

TOTAL INTEREST PAID **$ 57,333.23**

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DEFENDANT'S EXHIBIT
18

2.25% Interest

No.	Payment Date	Payment	Principal	Interest	Ending Balance
1	12/1/2020	$ 1,145.76	$ 583.74	$ 562.02	$ 299,160.04
2	1/1/2021	$ 1,145.76	$ 584.83	$ 560.93	$ 298,575.21
3	2/1/2021	$ 1,145.76	$ 585.93	$ 559.83	$ 297,989.28
4	3/1/2021	$ 1,145.76	$ 587.03	$ 558.73	$ 297,402.25
5	4/1/2021	$ 1,145.76	$ 588.13	$ 557.63	$ 296,814.12
6	5/1/2021	$ 1,145.76	$ 589.23	$ 556.53	$ 296,224.89
7	6/1/2021	$ 1,145.76	$ 590.34	$ 555.42	$ 295,634.55
8	7/1/2021	$ 1,145.76	$ 591.44	$ 554.31	$ 295,043.10
9	8/1/2021	$ 1,145.76	$ 592.55	$ 553.21	$ 294,450.55
10	9/1/2021	$ 1,145.76	$ 593.66	$ 552.09	$ 293,856.89
11	10/1/2021	$ 1,145.76	$ 594.78	$ 550.98	$ 293,262.11
12	11/1/2021	$ 1,145.76	$ 595.89	$ 549.87	$ 292,666.22
13	12/1/2021	$ 1,145.76	$ 597.01	$ 548.75	$ 292,069.21
14	1/1/2022	$ 1,145.76	$ 598.13	$ 547.63	$ 291,471.08
15	2/1/2022	$ 1,145.76	$ 599.25	$ 546.51	$ 290,871.83
16	3/1/2022	$ 1,145.76	$ 600.37	$ 545.38	$ 290,271.45
17	4/1/2022	$ 1,145.76	$ 601.50	$ 544.26	$ 289,669.95
18	5/1/2022	$ 1,145.76	$ 602.63	$ 543.13	$ 289,067.33
19	6/1/2022	$ 1,145.76	$ 603.76	$ 542.00	$ 288,463.57
20	7/1/2022	$ 1,145.76	$ 604.89	$ 540.87	$ 287,858.68
21	8/1/2022	$ 1,145.76	$ 606.02	$ 539.74	$ 287,252.65
22	9/1/2022	$ 1,145.76	$ 607.16	$ 538.60	$ 286,645.49
23	10/1/2022	$ 1,145.76	$ 608.30	$ 537.46	$ 286,037.20
24	11/1/2022	$ 1,145.76	$ 609.44	$ 536.32	$ 285,427.76
25	12/1/2022	$ 1,145.76	$ 610.58	$ 535.18	$ 284,817.17
26	1/1/2023	$ 1,145.76	$ 611.73	$ 534.03	$ 284,205.45
27	2/1/2023	$ 1,145.76	$ 612.87	$ 532.89	$ 283,592.57
28	3/1/2023	$ 1,145.76	$ 614.02	$ 531.74	$ 282,978.55
29	4/1/2023	$ 1,145.76	$ 615.17	$ 530.58	$ 282,363.38
30	5/1/2023	$ 1,145.76	$ 616.33	$ 529.43	$ 281,747.05
31	6/1/2023	$ 1,145.76	$ 617.48	$ 528.28	$ 281,129.57
32	7/1/2023	$ 1,145.76	$ 618.64	$ 527.12	$ 280,510.93
33	8/1/2023	$ 1,145.76	$ 619.80	$ 525.96	$ 279,891.12
34	9/1/2023	$ 1,145.76	$ 620.96	$ 524.80	$ 279,270.16
35	10/1/2023	$ 1,145.76	$ 622.13	$ 523.63	$ 278,648.03
36	11/1/2023	$ 1,145.76	$ 623.29	$ 522.47	$ 278,024.74
37	12/1/2023	$ 1,145.76	$ 624.46	$ 521.30	$ 277,400.28
38	1/1/2024	$ 1,145.76	$ 625.63	$ 520.13	$ 276,774.64
39	2/1/2024	$ 1,145.76	$ 626.81	$ 518.95	$ 276,147.84
40	3/1/2024	$ 1,145.76	$ 627.98	$ 517.78	$ 275,519.86
41	4/1/2024	$ 1,145.76	$ 629.16	$ 516.60	$ 274,890.70
42	5/1/2024	$ 1,145.76	$ 630.34	$ 515.42	$ 274,260.36
43	6/1/2024	$ 1,145.76	$ 631.52	$ 514.24	$ 273,628.84
	TOTAL INTEREST PAID			**$ 23,152.69**	

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DEFENDANT'S EXHIBIT 19

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
	)	
BROCK LANDSCAPE CONTRACTORS, LLC	)	**POST-TRIAL MEMORANDUM**
d/b/a BROCK LANDSCAPE,	)	
Plaintiff,	)	
vs.	)	
	)	
CLYDE E. ABERNATHY,	)	
SHARON M. ABERNATHY,	)	
LINDA M. ABERNATHY, and	)	CASE NUMBER: 2019-CP-04-0760
MICHAEL L. ABERNATHY,	)	
Individually, and d/b/a ABERNATHY	)	
WELDING & SANDBLASTING	)	
Defendants.	)	
	)	
AND	)	
	)	
MICHAEL L. ABERNATHY d/b/a	)	
ABERNATHY WELDING	)	
& SANDBLASTING,	)	
Third Party Plaintiff,	)	
	)	
vs.	)	
	)	
WILLIAM HAROLD BROCK, JR.,	)	
Third Party Defendant.	)	
_____	)	

This is a matter in which each party performed agreed-upon work for the other party. The Defendants promptly paid the requested sum of $16,000.00 to the Plaintiff for the Plaintiff's services. Instead of reciprocating, the Plaintiff and its sole member, the Third Party Defendant, William Harold Brock, Jr., refused to pay the Defendants and demanded exorbitant additional fees. The Plaintiff and Third Party Defendant then filed a fraudulent mechanic's lien against the Defendants' real property, and they are now seeking to foreclose said lien.

Testimony from the Defendant, Michael Abernathy, and other witnesses confirmed that the parties had an ongoing agreement for said Defendant, doing business as Abernathy Welding & Sandblasting, to perform welding and related services for the Plaintiff and Third Party Defendant. These services were performed by the Defendant, Michael Abernathy, and his sons, Jacob Abernathy and

Matthew Abernathy, at the request of the Plaintiff and Third Party Defendant.

In his testimony, Jacob Abernathy explained in detail the different projects that the Defendants completed for the Plaintiff and Third Part Defendant, the type of work that was performed on each project, and the time spent on each project. He also testified that, based upon this completed work, he produced an invoice in the amount of $30,810.00, and presented the same to the Plaintiff and Third Party Defendant.

Further, the video and transcript admitted into evidence during Jacob Abernathy's testimony showed that the Third Party Defendant immediately became hostile and combative when Jacob Abernathy gave him the Defendant's invoice. The Third Party Defendant then drove away and has never paid the Defendants anything for the services provided to him and the Plaintiff.

The Plaintiff and Third Party Defendant later sent the invoice presented at trial to the Defendants for purported additional services. The total amount claimed by the Plaintiff and Third Party Defendants was $33,568.81. Conveniently, this was very similar to amount of the above-referenced invoice previously given to the Third Party Defendant by Jacob Abernathy.

The preponderance of the evidence presented at trial shows that this invoice to the Defendants was inaccurate and unreasonably inflated. The Defendant, Michael Abernathy, Jacob Abernathy, and Gail Glick, all testified that that Plaintiff worked on the property for far less time than alleged in the invoice. In fact, Michael Abernathy and Jacob Abernathy testified that the Plaintiff's agents worked on the property for approximately ten (10) days. Gail Glick, an unbiased neighbor with no interest in this matter, also testified that he saw the Plaintiff's trucks hauling dirt away from the Defendants' property on more than one (1) occasion. This was corroborated by Jacob Abernathy who testified that he followed one of the trucks and witnessed it dumping dirt on a third party's property.

The testimony and evidence presented by the Defendant, Michael Abernathy, further shows that the fraudulent mechanic's lien filed by the Plaintiff and Third Party Defendants, based on the above-referenced inaccurate invoice, prevented the Defendants from refinancing the mortgage on their real property from its current rate of 5.625% to the rate of 2.25% in 2020. This has resulted in the Defendants

paying $34,180.54 in additional interest from December 1, 2020 through June 1, 2024, that they would not have been required to pay if they would have not been prevented from refinancing at the lower rate.

Therefore, the Defendants would request that the Court deny the Plaintiff's requested relief. Instead, the Defendants assert that they have proved that they have suffered actual damages in the amount of $30,810.00 as a result of the failure of the Plaintiff and Third Party Defendants to pay them for the above-described work performed. They have suffered further actual damages in the amount of $34,180.54 due the slander of title and the filing of this fraudulent mechanic's lien by the Plaintiff and Third Party Defendant. These actions by the Plaintiff and Third Party Defendants were willful and wanton, so the Defendants are also seeking an award of punitive damages. The Defendants aver that an appropriate amount of punitive damages to adequately punish the Plaintiff and Third Party Defendants and deter this type of conduct in the future would be $170,902.70. Finally, after the Court announces its verdict, the Defendants also intend to seek an award of reasonable attorney's fees and costs by post-trial motion pursuant to S.C. Code Ann. § 29-5-10, *et seq.*

RESPECTFULLY SUBMITTED,

s/ G. Lee Cole, Jr.
G. Lee Cole, Jr.
COX & COLE, ATTORNEYS AT LAW
SC Bar Number 100352
P.O. Box 315
Williamston, SC 29697
Tel. (864) 847-9289
Fax (888) 588-3142
LeeCole@CoxandCole.com

ATTORNEY FOR THE DEFENDANTS /
THIRD PARTY PLAINTIFF

Dated: **12/18/2024**

STATE OF SOUTH CAROLINA COUNTY OF ANDERSON	IN THE COURT OF COMMON PLEAS C.A. No. 2019-CP-04-00760
Brock Landscape Contractors, LLC d/b/a Brock Landscape Plaintiff, vs. Clyde E. Abernathy, Sharon M. Abernathy, Linda M. Abernathy and Michael L. Abernathy, individually and d/b/a Abernathy Welding & Sandblasting Defendants.	**PLAINTIFF'S POST-TRIAL MEMO**

Plaintiff respectfully submits this post-trial Memo outlining Plaintiff's Position.

This matter came before the Court, non-jury, on June 3-5 2024. Plaintiff initiated this mechanic's lien foreclosure action in 2019 regarding hauling and grading work done to improve the Defendant's property. Defendants answered and generally denied the substantive allegations of the Complaint and asserted counterclaims based on 1) Plaintiff's alleged failure to pay for certain prior welding work performed by one or more of Defendants, 2) slander to title. Plaintiff duly replied and denied the substantive allegations of the Counterclaims.

Plaintiff's position is that this is a relatively straightforward mechanic's lien initiated based on Defendants' failure to pay for work completed on their property and at their request. Plaintiff, through Harold Brock, testified that in all his years of contract work this is the first time he has been compelled to file a lien. As an initial matter, there are certain facts that appear undisputed:

- The parties, and in particular Harold Brock and Mike Abernathy, had a relationship prior to completion of the work referenced in the pleadings.
- Harold Brock knew Mike Abernathy from previously hiring him to complete welding work as needed at his usual rate of $95.00 per hour.
- For prior work, Mike Abernathy would bill Harold Brock and Mr. Brock promptly paid invoices via check. Prior invoices and payments were introduced into evidence.
- Plaintiff worked at Defendants' property hauling dirt and grading in anticipation of Defendants constructing a new shop.
- The parties did not discuss a set price for work performed prior to initiating the project.
- Plaintiff obtained dirt from an adjoining property owner for use at Defendant's property as opposed to having to pay for dirt required for grading.

- Defendants' paid a total of $16,000.00 to Plaintiff towards work at their property, identified in the pleadings. This payment was in cash.
- Plaintiff sent a demand letter to Defendants, a copy of which was admitted into evidence, for the outstanding balance of $16,711.31 and such letter was sent prior to filing of the mechanic's lien.
- Plaintiff's lien was timely filed within ninety (90) days of last work on the property.
- The parties met in early October, 2018, for Plaintiff to deliver a final invoice to Defendants through Jacob Abernathy. The interaction was recorded by video taken on behalf of the Defendants. During this meeting, Mr. Brock provided an invoice to Defendants. The Defendants then provided Mr. Brock with an invoice reflecting that they were owed $28,080 for welding work performed at various times at an hourly rate of $195.00 per hour. Prior to this meeting, neither party had seen the invoice presented by the other party.

Plaintiff and Plaintiff's witnesses testified about extensive work at Defendants' property that spanned between May, 2018 and October, 2018. Plaintiff, through Harold Brock, testified that work was completed around other obligations. Mr. Brock's testimony also reflected he requested, and received, a progress payment in the middle of July, 2018, in the amount of $16,000. Mr. Brock further testified that at or near completion of the project, he discussed with Mike Abernathy that the final payment would be approximately equal to the progress payment previously made. When the parties met in October, 2018, Mr. Brock testified he provided an invoice reflecting an amount due of $16,711.31, the same amount requested in his mechanic's lien and at trial. Plaintiff also testified regarding welding work performed by Defendants. He identified a total of fourteen (14) hours of work he agreed they completed, some of which he previously offered payment for with his offer refused. Plaintiff testified he was willing to pay for this work at the rate of $95.00 per hour but had not done so given Defendants' demands and as Defendants owed him a substantial amount of money.

Plaintiff provided several witnesses describing the work they performed on behalf of Plaintiff at Defendants' property consistent with Plaintiff's testimony. Plaintiff also presented the testimony of Douglas Merritt, an independent witness, who sold equipment to Plaintiff and assisted Defendants in identifying necessary repairs to this used equipment. Mr. Merritt testified that necessary repairs would take approximately one (1) day.

Defendants, through primarily Mike Abernathy and his son Jacob Abernathy, had a starkly contrasting view of the project that was the subject matter of the case. Defense witnesses testified about work completed in substantially less time, which they allege was wholly or mostly limited to September, 2018. Furthermore, Jacob Abernathy and Mike Abernathy testified that Harold Brock was paid $16,000 in October rather than July of 2018. Jacob Abernathy testified regarding welding work he alleged Defendants performed for Plaintiff and the amount due. Defendant Mike Abernathy testified he was unable to refinance his property due to Plaintiff's lien, although this witness also testified he had not pursued a bond to remove the lien or applied to refinance.

A substantial amount of time at trial involved the inconstant and incredible testimony of Jacob Abernathy. His testimony reflected the following:

- He admitted a poor memory and kept a notebook to track his work time. He could not explain why, with a poor memory, he waited- by his admission- some

2 weeks to then enter a total of 78 hours spent working on equipment that Douglas Merrit testified required a day of work.

- He testified, regarding the rate of charges for welding, that the higher $195.00 was actually the "shop rate" which is why it differed from the previous $95.00. According to his testimony, this rate included time for two (2) welders such that the entries on his invoice reflected twice the amount of time in actual man-hours.
- He testified that he came to believe he could not trust Harold Brock. Because of this stated lack of trust, he felt it important to property document payment which he- for reasons he could not explain- needed to go to the bank, get cash, take a picture of cash, post a picture of cash on "Snapchat", and then meet with Plaintiff.
- He could not explain why a check would not be better documentation of payment or why cash was withdrawn in the approximate amount of payment to Harold Brock in July 2018.
- He testified he knew Harold Brock did not do the amount of work claimed, based on loads of dirt hauled despite not being billed by the load, as he was told by Anderson County officials a precise number of loads of dirt required to obtain a permit for future construction.
- In response to questions about discovery, neither Jacob Abernathy nor Mike Abernathy could explain why they initially acknowledged payment to Harold Brock in July 2018 (admitting withdrawal of the amount reflected on their July 2018 bank statement and adding cash they already had on hand) before deciding that no payment had been made until October 2018.
- He testified to having over $100,000 available for payment on construction despite contrary evidence from bank records and no corroboration for any such funds to pay for work completed
- Most tellingly, the Abernathy witnesses- if their initial testimony is credited- decided they had been overcharged ("charged out the ass" to use their language) prior to the time when the claim they received the amount due. More specifically, the Abernathys testified about switched invoices where they allege Mr. Brock only claimed a small balance until he saw their invoice, but nevertheless complained about overcharging before the time they claim they knew what they were charged.

Plaintiff's position is that he is owed the full amount of the lien. He acknowledges he owes Defendants $1,330.00 for welding work actually performed. His view of the case is simple. He completed work for property owners who later determined they did not have the means to pay what was due. He requests that the Court order his lien foreclosed, the subject property sold, and his lien satisfied from the proceeds with credit to Defendants in the amount of $1,330.00.

Respectfully submitted,
/s Joshua B. Raffini
Attorney for the Plaintiff

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

C.A. No. 2019-CP-04-00760

Brock Landscape Contractors, LLC d/b/a Brock Landscape

Plaintiff,

vs.

Clyde E. Abernathy, Sharon M. Abernathy, Linda M. Abernathy and Michael L. Abernathy, individually and d/b/a Abernathy Welding & Sandblasting

Defendants.

AND

Michael L. Abernathy d/b/a Abernathy Welding and Sandblasting,

Third Party Plaintiff,

vs.

William Harold Brock, Jr.

Third Party Defendant.

ORDER

DATE OF TRIAL:	June 3-5, 2024
PRESIDING JUDGE:	J. Cordell Maddox, Jr.
PLAINTIFFS' ATTORENY:	Joshua B. Raffini
DEFENDANTS' ATTORNEY:	G. Lee Cole
COURT REPORTER:	Elizabeth B. Harris (6/3) Hollie M. Jenkins (6/4) Cheryl Smith (6/5)

This matter came before the Court, non-jury, on June 3-5, 2024. Plaintiff initiated this mechanic's lien foreclosure action on April 19, 2019, by filing its Summons and Complaint, together with Lis Pendens regarding the property for which Plaintiff's lien attached and for which

Plaintiff sought foreclosure. Plaintiff alleged, through its principal Harold Brock, that it had completed hauling and grading work to improve the Defendant's property for which Defendants had not paid in full. Defendants answered and generally denied the substantive allegations of the Complaint. Defendants also asserted counterclaims. Defendant Michael Abernathy filed a Third-Party Complaint against Harold Brock, individually. The Defendants, and Third-Party Plaintiff, alleged 1) Plaintiff failed to pay for certain prior welding work performed by one or more of Defendants, 2) slander to title as to the real property at issue in Plaintiff's mechanic's lien. Plaintiff duly replied and denied the substantive allegations of the Counterclaims, and claiming it was entitled to set-off for any damages awarded. The parties participated in various pre-trial motions and trial in this matter was continued on numerous occasions. Reference is invited to the Court's file for the full procedural history of this matter.

At the call of the case, Plaintiff was present through its principal Harold Brock together with Plaintiff's counsel. Defendants Michael Abernathy and Linday Abernathy appeared together with their attorney. Both parties presented testimony and evidence in support of their respective positions. At the conclusion of trial, Plaintiff moved for a directed verdict as to claims regarding slander of title. That motion was denied. The Court took the matter under advisement.

Based on evidence and testimony presented, arguments of counsel, applicable law, and all matters appearing of record, the Court finds in favor of the Plaintiff and that Plaintiff shall be entitled to enclose its mechanic's lien. The Court also finds for the Defendant, Michael L. Abernathy, in part and that Plaintiff's mechanic's lien shall be set off by the amount due said Defendant on account of his Counterclaim/Third-Party Complaint. In support thereof, the Court makes the following findings of fact and conclusions of law derived therefrom:

FINDINGS OF FACT

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

1. I find that the Plaintiff is a limited liability company organized and existing pursuant to the laws of the State of South Carolina, with its principal place of business in Anderson County, South Carolina.

2. I find that the Defendants are all citizens and residents of the County of Anderson, State of South Carolina, and are joined as Defendants by virtue of their interest in the real property (the "Property") that is the subject of this mechanic's lien foreclosure action, and more specifically described as follows:

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract 2-D, containing 10.00 acres, more or less, on a plat made for AGTIM, In. by Dunn & Dunn, Inc., Barry K. Dunn, SCRLS #8857, dated October 25, 2001, recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Plat Slide 1277 at Page 4-A. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.

This being the same property conveyed unto Clyde E. Abernathy and Sharon M. Abernathy by deed of Mark L. Tanner and Sara T. Tanner dated December 20, 2006, and recorded December 28, 2006, in Record Book 7775 at Page 148 in the Anderson County, South Carolina Register of Deeds. SEE ALSO Deed of Clyde E. Abernathy and Sharon M. Abernathy to grantors and Michael L. Abernathy and Linda M. Abernathy for their joint lives with remainder the survivor, said deed recorded January 27, 2016 in Deed Bk 12154 at Pg 00054 in the Office of the Register of Deeds for Anderson County.

TMS No.: 261-00-02-008

Physical Address: 1280 Cannon Bottom Road, Belton, South Carolina 29627

3. I find that Plaintiff, with the express consent of Defendants, previously provided labor and materials to improve Defendants' Property.

4. I find that when Plaintiff was not paid for labor and materials furnished in the improvement of Defendants' Property, Plaintiff sent a certified demand to Defendants on or about December 14, 2018 pursuant to SC Code § 27-1-15. A copy of said letter was admitted into evidence at trial.

5. I find that when Plaintiff was not paid pursuant to demand, Plaintiff recorded and served the underlying mechanic's lien, said lien recorded on December 18, 2018 in Bk 55 at page 247.
6. I find that Plaintiff alleged through its final invoice, a copy of which was admitted into evidence, and statement of account recorded with mechanic's lien that the amount of $16,711.31 was due and owing from the Defendants. I find that no further payments were made towards this balance subsequent to filing of the mechanic's lien.
7. I find that neither party made any pre-judgment offers of settlement in accordance with SC Code § 29-5-20 such that the Plaintiff's final offer was the amount of his lien and the Defendants' final offer was the amount of their counterclaim.
8. I find that, based on the testimony of the parties and witnesses for the parties, there are numerous undisputed facts. I find that the following facts were undisputed at the time of trial:
    a. The parties, and in particular Harold Brock and Michael ("Mike") Abernathy, had a relationship prior to completion of the work referenced in the pleadings that was the subject of this mechanic's lien for the Property.
    b. Harold Brock knew Mike Abernathy from previously hiring him to complete welding work as needed at his usual rate of $95.00 per hour.
    c. For prior work, Mike Abernathy would bill Harold Brock and Mr. Brock promptly paid invoices via check. Prior invoices and payments were introduced into evidence.
    d. Plaintiff worked at Defendants' Property hauling dirt and grading in

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

anticipation of Defendants constructing a new shop.

e. The parties did not discuss a set price for work performed prior to initiating the project.

f. Plaintiff obtained dirt from an adjoining property owner for use at Defendant's Property as opposed to having to pay for dirt required for grading.

g. Defendants paid a total of $16,000.00 to Plaintiff towards work at their Property. This payment was in cash.

h. Plaintiff's lien was timely filed within ninety (90) days of last work on the Property.

i. The parties met in early October, 2018, for Plaintiff to deliver a final invoice to Defendants through Jacob Abernathy. The interaction was recorded by video taken on behalf of the Defendants. During this meeting, Mr. Brock provided an invoice to Defendants. The Defendants then provided Mr. Brock with an invoice reflecting that they were owed $28,080 for welding work performed at various times at an hourly rate of $195.00 per hour. Prior to this meeting, neither party had seen the invoice presented by the other party.

j. Defendants, in particular Michael Abernathy and his sone Jacob Abernathy, provided some welding services for Plaintiff for which they have not yet been paid. Plaintiff did not dispute sufficient welding work which would entitle Defendants to payment in the amount of $1,330.00, although Defendants claimed a substantially higher amount was due.

9. I find that the parties dispute the length of time Plaintiff worked on the Property, the

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

total amount of work performed, when partial payment was made, and the amount of work Defendants performed for Plaintiff. Furthermore, Plaintiff disputed the rate charged for any work by Defendants which differed from prior practice between the parties.

10. I find that the Plaintiff presented credible testimony and evidence, including testimony by Harold Brock on behalf of Plaintiff, to substantiate the Plaintiff actually completed work at the Property as reflected on his final invoice. Testimony presented by the Plaintiff included explanation for how Plaintiff tracked time and expenses working at the Property, including but not limited to who actually performed work for Plaintiff and the manner in which time entries were maintained.

11. In contrast, I find that the testimony on behalf of Defendants was not wholly credible. Both Michael Abernathy and Jacob Abernathy testified they came to distrust Harold Brock and felt they were overcharged. However, neither witness could identify a reason for such lack of trust or explain the basis for any claim of being overcharged. More specifically, both of these witnesses claimed they felt they were overcharged prior to such time as they claimed to know what they were being charged.

12. Furthermore, I find that the testimony on behalf of Defendants was inconsistent in certain particulars. The Defendants presented testimony about cash payment to Plaintiff, but their account of the timing of such payment changed during the pendency of this action and neither witness could identify why cash payment- which they claim was withdrawn from the bank near the time of payment- was the appropriate method to document payment to someone they claim they could not trust.

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

13. I find that Plaintiff is entitled to payment for work performed at the Property in the full amount of the lien, specifically $16,711.31, subject to offset as set forth herein below.

14. As to Defendants' Counterclaim and the Third-Party Complaint, I find that the invoice presented by Defendant Michael Abernathy is not credible. Defendants offered no reasonable explanation for why the hourly rate doubled from prior work performed for Plaintiff. Furthermore, Defendants provided contradictory testimony about how hours were allegedly logged for work performed. Defendants did not offer any explanation for why Plaintiff was not billed for work, as he had been in the past, as opposed to presentment of a single, large invoice after Defendants owed Plaintiff for work performed at the Property.

15. I find that, based on Plaintiff's admission, Defendant/Third-Party Plaintiff Michael Abernathy is entitled to payment in the amount of $1,330.00, which represents fourteen (14) hours of work performed at the rate of $95.00 per hour. I find that this amount shall be an offset against the amount of Plaintiff's lien.

16. Accordingly, I find that Plaintiff is entitled to $15,381.31 in accordance with his lien as reduced by the offset for the amount the Court determined is due on the Counterclaim and Third-Party Complaint.

17. I find that, in order to accomplish payment, Plaintiff's lien shall be foreclosed, subject to any senior liens on the Property, and the proceeds disbursed in accordance with this Order.

CONCLUSIONS OF LAW

I conclude that this Court has jurisdiction over the parties and the subject matter of this

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

action. Venue is proper in Anderson County.

Plaintiff has complied with all conditions precedent for perfecting and foreclosing is mechanic's lien in accordance with § 29-5-10, et seq. Furthermore, I conclude that Plaintiff provided labor and materials actually used in improvement of Defendants' Property, that amounts due have not been paid as required, and that foreclosure of Plaintiff's lien is appropriate pursuant to statute.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. Plaintiff's mechanic's lien shall be foreclosed.
2. The subject Property, identified herein above, shall be sold subject to any senior liens on the Property, with the net proceeds applied as follows:
   a. Costs of sale and of this action, to be determined at the judicial sale by subsequent Order;
   b. Payment of attorney's fees, if awarded by subsequent Order;
   c. Payment of the net amount of Plaintiff's lien, to wit, $15,381.31.
   d. Any remaining surplus shall be held pending further Order to resolve any claims to such surplus.
3. In order to effectuate sale, this matter shall be referred to the Master in Equity for Anderson County for purposes of completing a judicial sale. However, such referral shall be stayed for ten (10) days to allow the parties to submit post-trial motions, including any motions for attorney's fees. This stay shall continue until resolution of any post-trial motions filed within the requisite period. Upon expiration of such period, the matter shall then be refereed for judicial sale as follows

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

a. FOR CASH: The Master in Equity for Anderson County will require, at the time of the bid, a deposit of five (5%) percent on the amount of the bid (in cash or equivalent) same to be applied on the purchase price if compliance is made; but in the event compliance is not made, the deposit may be forfeited without further hearing and applied first to costs of the action and then to Plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse to make the required deposit at the time of bid or comply with the other terms of the bid within twenty (20) days, then the property may be re-sold on the same terms and conditions on some subsequent sales day, but at the risk of the defaulting bidder(s).

b The sale shall be subject to taxes and assessments, existing easements and restrictions and easements and restrictions of record, and any other senior encumbrances.

4. That Master in Equity for Anderson County, will by advertisement according to law, give notice of the time, and place of sale, and the terms thereof; and will execute to the Purchaser, or Purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the Purchaser, or Purchasers, should fail to comply with the terms thereof within twenty (20) days after date of sale, then the undersigned Master in Equity for Anderson County may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

5. That the undersigned Master in Equity for Anderson County will apply the proceeds of sale as follows:

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court.
NEXT: To the payment to the Plaintiff or Plaintiff's attorney, of the amount of Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same.
NEXT: Any surplus will be held pending further Order of this Court.

11. That Plaintiff shall have judgment of foreclosure on its lien.

12. In the event the successful bidder is other than the Defendant in possession herein, upon the presentation of a Writ of Assistance, the Sheriff of Anderson County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in such peaceable possession. Pursuant to Rule 70, SCRCP, the Clerk, upon application of the successful bidder is hereby directed to execute a Writ of Assistance. All valid tenant rights pursuant to Protecting Tenants at Foreclosure Act of 2009 shall be protected.

13. That the deed of conveyance made pursuant to this sale shall be indexed in the grantor index by the Clerk of Court in the name of the owner of record of subject property immediately prior to execution of the deed, as well as in the name of the undersigned Master in Equity for Anderson County, who executes such deed as grantor.

16. The Master in Equity for Anderson County, shall direct the Clerk of Court to release of record the mechanic's lien being foreclosed, after the Order Confirming Sale and Disbursements has been executed and filed, which such lien recorded on December 18, 2018 in Bk 55 at page 247.

17. The Master in Equity for Anderson County will retain jurisdiction to do all the necessary acts incident to this foreclosure including, but not limited to, the issuance of a Supplemental Order to evidence additional debt incurred if the sale of the property is delayed by the filing of a bankruptcy petition, or an attempt of the parties to reach a settlement, the issuance

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

of a Supplemental Order to correct a harmless error in the action that does not substantially affect the rights of the parties, the issuance of a Writ of Assistance, disposing of any surplus funds pursuant to Rule 71(c), SCRCP, and hearing any issues involving appraisal proceedings under §29-3-680 et seq of the South Carolina Code of Laws (1976) as amended.

18. Property to be sold by the Master in Equity for Anderson County is more full described as follows:

ALL that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Anderson, being known and designated as Tract 2-D, containing 10.00 acres, more or less, on a plat made for AGTIM, In. by Dunn & Dunn, Inc., Barry K. Dunn, SCRLS #8857, dated October 25, 2001, recorded in the Office of the Register of Deeds for Anderson County, South Carolina in Plat Slide 1277 at Page 4-A. Reference is hereby made to the most recent survey for a more complete and accurate metes and bounds description thereof.

This being the same property conveyed unto Clyde E. Abernathy and Sharon M. Abernathy by deed of Mark L. Tanner and Sara T. Tanner dated December 20, 2006, and recorded December 28, 2006, in Record Book 7775 at Page 148 in the Anderson County, South Carolina Register of Deeds. SEE ALSO Deed of Clyde E. Abernathy and Sharon M. Abernathy to grantors and Michael L. Abernathy and Linda M. Abernathy for their joint lives with remainder the survivor, said deed recorded January 27, 2016 in Deed Bk 12154 at Pg 00054 in the Office of the Register of Deeds for Anderson County.

TMS No.: 261-00-02-008

Physical Address: 1280 Cannon Bottom Road, Belton, South Carolina 29627

IT IS SO ORDERED this _____ day of _____, 202__.

_____
J. Cordell Maddox, Jr.
Presiding Circuit Court Judge

Anderson, South Carolina

ELECTRONICALLY FILED - 2025 Jan 06 8:39 AM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

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Anderson Common Pleas

Case Caption: Brock Landscape Contractors LLC c/o William H. Brock Sr. , plaintiff, et al VS Clyde E Abernathy , defendant, et al

Case Number: 2019CP0400760

Type: Order/Other

So Ordered

s/ J. Cordell Maddox Jr.

Electronically signed on 2025-01-03 13:34:26 page 12 of 12

ELECTRONICALLY FILED - 2025 Jan 16 11:57 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	OF THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
	)	
BROCK LANDSCAPE CONTRACTORS, LLC	)	**MOTION TO RECONSIDER, ALTER, OR**
d/b/a BROCK LANDSCAPE,	)	**AMEND JUDGMENT AND**
Plaintiff,	)	**MOTION FOR NEW TRIAL**
vs.	)	
	)	
CLYDE E. ABERNATHY,	)	
SHARON M. ABERNATHY,	)	
LINDA M. ABERNATHY, and	)	CASE NUMBER: 2019-CP-04-0760
MICHAEL L. ABERNATHY,	)	
Individually, and d/b/a ABERNATHY	)	
WELDING & SANDBLASTING	)	
Defendants.	)	
	)	
AND	)	
	)	
MICHAEL L. ABERNATHY d/b/a	)	
ABERNATHY WELDING	)	
& SANDBLASTING,	)	
Third Party Plaintiff,	)	
	)	
vs.	)	
	)	
WILLIAM HAROLD BROCK, JR.,	)	
Third Party Defendant.	)	
_____	)	

TO: JOSHUA B. RAFFINI, ATTORNEY FOR THE PLAINTIFF
AND THIRD PARTY DEFENDANT

YOU WILL PLEASE TAKE NOTICE that, pursuant to Rule 52(b) and Rule 59, SCRCP, and other applicable law, the Defendants and Third Party Plaintiff, by and through their undersigned attorney, hereby move this Honorable Court to reconsider, alter, or amend its Order, filed January 6, 2025, or alternatively, to grant the Defendants and Third Party Plaintiff a new trial.

This Motion is based on any memoranda or supplemental documents that the Defendants and Third Party Plaintiff may file in support hereof, any arguments and evidence presented in any hearing in this mater, and the following:

ELECTRONICALLY FILED - 2025 Jan 16 11:57 PM - ANDERSON - COMMON PLEAS - CASE#2019CP0400760

1. The evidence presented at trial does not support the Court's findings and judgment in its Order, filed January 6, 2025, in favor of the Plaintiff and against the Defendants.
2. The evidence presented at trial does not support the Court's findings and judgment in its Order, filed January 6, 2025, in favor of the Third Party Defendant and against the Third Party Plaintiff.
3. The judgment granted by the Court in favor of the Plaintiff and against the Defendants in the amount of $15,381.31, plus costs, is excessive based upon the evidence presented at trial.
4. In effect, the Court granted a judgment in favor of the Defendants and against the Plaintiff in the amount of $1,330.00 by offsetting that amount against the amount of the Plaintiff's lien; however, this judgment amount is inadequate based upon the evidence presented at trial.
5. The evidence presented at trial, taken as a whole, does not support the finding that the Defendants / Third Party Plaintiff only performed fifteen (15) hours of work for the Plaintiff.

WORK PERFORMED BY THE DEFENDANTS / THIRD PARTY PLAINTIFF

6. Testimony from the Defendant, Michael Abernathy, and other witnesses confirmed that he and the Plaintiff and Third Party Defendant had an ongoing agreement for the Defendants / Third Party Plaintiff to perform welding and related services for the Plaintiff / Third Party Defendant for the amount of $195.00 per hour. In fact, in the testimony presented, the Third Party Defendant, William Harold Brock, Jr., does not make any claim that he objected to this hourly rate until all work was completed and he had received an invoice from the Defendants / Third Party Plaintiff.
7. The various services set forth on said invoice, a copy of which was introduced as evidence at trial, were performed by the Defendant, Michael Abernathy, and his sons, Jacob Abernathy and Matthew Abernathy, at the specific request of the Plaintiff / Third Party Defendant.
8. In his testimony, Jacob Abernathy explained in detail the different projects that the Defendants / Third Party Plaintiff completed for the Plaintiff and Third Part Defendant, the

type of work that was performed on each project, and the time spent on each project. He also testified that, based upon this completed work, he produced an invoice in the amount of $30,810.00, and presented the same to the Plaintiff and Third Party Defendant.

9. The most time-consuming work performed by the Defendants / Third Party Plaintiff involved the refurbishment of a large "shaker" machine owned by the Plaintiff and Third Party Defendant. One of the Plaintiff's witnesses, Douglas Merritt, testified sold the used "shaker" machine to the Plaintiff and Third Party Defendant. Mr. Merritt acknowledged that the Defendants / Third Party Plaintiff did approximately two (2) days of work on the machine while he was present. He further admitted that the Defendant, Michael L. Abernathy, was present and working on said machine for the entire time that Mr. Merritt was on site.

10. The Third Party Defendant, William Harold Brock, Jr., admitted that the Defendants / Third Party Plaintiff performed substantial work for him in the video recording and transcript thereof introduced into evidence by the testimony of Jacob Abernathy.

11. In said video, the Third Party Defendant, like Mr. Merritt, acknowledged that the Defendants / Third Party Plaintiff worked for "two days" making repairs to the shaker machine (Tr., P. 3, l. 17-18). While he questioned the total of seventy-eight (78) hours claimed by the Defendants / Third Party Plaintiff worked on said machine, his further statements on the video showed that he had no reasonable basis to question those hours. During the exchange, when Jacob Abernathy set forth in detail the work that the Defendants / Third Party Plaintiff did on the "shaker," the Plaintiff did not deny that they had fully performed said work. (Tr. P. 8, l. 4-17).

12. Similarly, in said video, the Third Party Defendant did not deny that the Defendants / Third Party Plaintiff had straightened and welded panels and gates for the Plaintiff and Third Party Defendant, which corresponds with twelve (12) hours of the work referenced on the invoice of the Defendants / Third Party Plaintiff. (Tr. P. 8, l. 4-17, P. 9 l. 21-23, P. 10, l. 1-4). He

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further admitted that the Defendant, Michael L. Abernathy, worked for a "couple hours" cutting out and replacing a pin on his bulldozer. (Tr. P. 7, l. 18-21).

13. The Third Party Defendant further admitted that the Defendants / Third Party Plaintiff removed and repaired hydraulic cylinders for him. (Tr. P. 13, l. 14-23 and P. 14, l. 1-23). That accounts for six (6) hours on the invoice of the Defendants / Third Party Plaintiff.

14. The Third Party Defendant also contradicted himself on the video by first stating that the Defendants had never worked on any of his skid steers (Tr. P. 9, l. 4-6), but later conceding that they did in fact work on at least one (1) of said machines (Tr. P. 11, l. 10-12). This corresponds to seventeen (17) total hours on the invoice of the Defendants / Third Party Plaintiff.

15. In fact, during his entire exchange with Jacob Abernathy, the only specific objection that the Third Party Defendant made to the invoice that he did not later retract was his assertion that the Defendants / Third Party Plaintiff only worked on one (1) forklift instead of three (3). He also claimed that he previously paid for the work on the forklift, but the evidence he presented at trial did not support this contention.

16. Therefore, in the video alone, the Third Party Defendant did not offer any objection to 115 hours of work that the Defendants / Third Party Plaintiff performed for him as set forth on their invoice. If only these hours were to be considered by the Court, the Defendants / Third Party Plaintiff would be entitled to a judgment in the amount $22,425.00 from the Plaintiff and Third Party Defendant.

WORK PERFORMED BY THE PLAINTIFF / THIRD PARTY DEFENDANT

17. The conduct of the Third Party Defendant during the aforementioned video show that the amount of work claimed on the invoice of the Plaintiff / Third Party Defendant is not accurate. In the video, the Third Party Defendant immediately became hostile and combative when Jacob Abernathy gave him the invoice of the Defendants / Third Party Plaintiff.

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18. After the conclusion of the video, the evidence at trial is uncontroverted that the Third Party Defendant drove away and never made any future payments to the Defendants / Third Party Plaintiff.
19. The Plaintiff and Third Party Defendant later sent the invoice presented at trial to the Defendants / Third Party Plaintiff for purported additional services. The total amount claimed by the Plaintiff and Third Party Defendants was $33,568.81. The Plaintiff and Third Party Defendant did not introduce any evidence at trial explaining why this happened to be very similar to the amount of the above-referenced invoice previously given to the Third Party Defendant by Jacob Abernathy.
20. On cross examination, the Third Party Defendant admitted that the last line item on his invoice should have been removed because it was not authorized by the Defendants / Third Party Plaintiff. Thus, the judgment against the Defendants / Third Party Plaintiff should be reduced by at least $625.00.
21. Moreover, this admission reduces the credibility of the invoice of the Plaintiff / Third Party Defendant as a whole. The Plaintiff / Third Party Defendant maintained that said invoice was correct when it was filed with the Register of Deeds as part of the initial Mechanic's Lien, the Plaintiff / Third Part Defendant represented to the Court that the invoice was correct in the Complaint, and the Third Party Defendant testified that it was correct during his direct examination. Then, by admitting that this portion was incorrect under cross examination, the Third Party Defendant effectively conceded that those previous representations to the Court had not been truthful.
22. The overall testimony of the agents and employees of the Plaintiff / Third Party Defendant was not credible as to the amount of work completed by the Plaintiff / Third Party Defendant.
23. The witnesses called by the Plaintiff / Third Party Defendant consistently maintained that all dirt moved from the neighboring property owner was dumped on the Defendants' property. However, Gail Glick, an independent and unbiased third party, credibly testified that he

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witnessed agents of the Plaintiff / Third Party Defendant hauling dirt away from the Defendants' property. The Plaintiff / Third Party Defendant did not offer any explanation for this during the trial as to this even during the Third Party Defendant's self-serving re-direct examination testimony.

24. During his re-direct examination, Third Party Defendant introduced documents that allegedly showed the number of truck loads of dirt moved for the Defendants / Third Party Plaintiff. However, these documents are not credible. The Plaintiff / Third Party Defendant failed to produce these documents during in discovery. Further, the Third Party Defendant did not mention the same during his initial direct examination at trial. In fact, he waited until the last day of trial after he had heard all the testimony in the case, and conveniently produced these documents to attempt to rehabilitate his case.

Therefore, for the reasons set forth above and pursuant to applicable law, the Defendants and Third Party Plaintiff respectfully requests the above-referenced relief from the Court.

I SO MOVE.

s/ G. Lee Cole, Jr.
G. Lee Cole, Jr.
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ATTORNEY FOR THE DEFENDANTS / THIRD PARTY PLAINTIFF

Dated: **01/16/2025**

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STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

C.A. No. 2019-CP-04-00760

Brock Landscape Contractors, LLC d/b/a Brock Landscape

Plaintiff,

vs.

Clyde E. Abernathy, Sharon M. Abernathy, Linda M. Abernathy and Michael L. Abernathy, individually and d/b/a Abernathy Welding & Sandblasting

Defendants.

AND

Michael L. Abernathy d/b/a Abernathy Welding and Sandblasting,

Third Party Plaintiff,

vs.

William Harold Brock, Jr.

Third Party Defendant.

MOTION FOR ATTORNEY'S FEES

TO: THE DEFENDANT/THIRD-PARTY PLAINTIFF THROUGH THEIR ATTORNEY G. LEE COLE

The Plaintiff and Third-Party Defendant, by and through their undersigned counsel, hereby move for an award of their reasonable attorney's fees and costs in this action. This Motion is based on SC Code Ann. § 29-5-10 and the Court's decision in favor of Plaintiff and Third-Party Defendant, such that the Plaintiff and Third-Party Defendant are the prevailing parties in this mechanic's lien action. Accordingly, Plaintiff and Third-Party Defendant request an award of their fees and costs in the amount of $$16,711.31. This amount reflects the full amount of Plaintiff's mechanic's lien

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as determined by the Court and, per statute, Plaintiff may not recover fees and costs in excess of the amount of its lien. Plaintiff would show that its fees and costs exceed the amount of the lien such than an award equivalent to the amount of the lien is appropriate, with evidence of such fees and costs to be provided at the hearing on this Motion. In support of such Motion, Plaintiff and Third-Party Defendant would show unto the Court as follows:

1. The Plaintiff initiated this action for foreclosure of its mechanic's lien. Defendant thereafter filed their Counterclaims and Third-Party Complaint seeking damages under various theories as set forth in the pleadings.

2. Neither party made an offer of settlement prior to trial such that the amount prayed for in the Complaint is deemed to be Plaintiff's final offer. Furthermore, the Court returned a verdict for the Plaintiff/Third-Party Defendant such that the Plaintiff and Third-Party Defendant are the prevailing parties within the meaning of SC Code Ann. § 29-5-10.

3. That the Plaintiff/Third-Party Defendant would show that their only claims involved the mechanic's lien, although based on the claims of Defendants/Third-Party Plaintiff some time was expended in defense of such claims.

4. The availability of attorney's fees is not affected merely because Plaintiff had to defend against counterclaims brought to seek avoidance of Plaintiff's mechanic's lien.[1]

5. That the request award of fees and costs is reasonable pursuant to the following factors:[2]

a. Nature, Extent, and Difficulty of the Case. This matter was not particularly complex, but did necessitate depositions and mediation prior to preparation and

[1] *See EFCO v. Renaissance On Charleston Harbor*, 635 S.E. 2d 922, 926, 370 S.C. 612 (Ct.App. 2006) (affirming award of attorney's fees to prevailing party despite dismissal due to failure to timely file foreclosure of lien)
[2] *Id. citing Jackson v. Speed*, 326 S.C. 289, 308, 486 S.E.2d 750, 760 (1997) (additional citations omitted).

attendance at three (3) days of trial such that the requested award of fees and costs is commensurate with the nature of the case.

b. Time Necessarily Devoted to the Case. All time provided in the Exhibits to be presented at the hearing on this motion was necessary to protect the interests of Plaintiff/Third-Party Defendant. In addition, while the mechanic's lien was not the only issue in this matter due to Counterclaim and Third-Party Complaint, the overall time devoted to the case was the same as it otherwise would have been such that the other claims did not materially alter the amount of time devoted to prosecuting of the mechanic's lien action.

c. Professional Standing of Counsel. Counsel for the Plaintiff/Third-Party Defendant is regularly engaged in litigation before this Court and other South Carolina Courts and is in good standing.

d. Contingency of Compensation. Compensation in this case was based on the undersigned's hourly rate rather than a contingency fee such that this factor has minimal significance in this case.

e. Beneficial Results Obtained. As indicated, Plaintiff/Third-Party Defendant prevailing at trial under the statute and obtained beneficial results in the Court's award of damages and favorable determination as to the mechanic's lien.

f. Customary Legal Fees for Similar Services. The undersigned would show that his normal hourly rate is $300.00 per hour, although the rate for this file was prior to an increase and set at $250.00 per hour, which is equivalent or less than the average hourly rate for customary legal services in the area for a case of this type.

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Accordingly, Plaintiff/Third-Party Defendant would move for an award of their attorney's fees and costs in the amount of $$16,711.31.

I SO MOVE.

PRUITT & PRUITT

s/ Joshua B. Raffini
Joshua B. Raffini
SC Bar No. 101338
101 N. Murray Ave.
Anderson, SC 29625
(864) 224-3121
Attorney for the Plaintiff and Third-Party Defendant

Anderson, South Carolina

January 13, 2025

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Anderson
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP0400760

Brock Landscape Contractors LLC et al
PLAINTIFF(S)

Clyde E Abernathy et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

Judge Maddox signed an Order deciding this case on January 6, 2025. Defendants then filed a Motion to Reconsider the Order on January 16, 2025. Judge Maddox is now DENYING Defendant's Motion to Reconsider.

ORDER INFORMATION

This order ☑ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/19/2025 .

William Harold Brock, Jr. for Brock Landscape Contractors, Llc,Brock Landscape Contractors LLC,Brock Landscape
Abernathy Welding And Sandblasting
Brock Landscape
Brock Landscape Contractors, Llc for William Harold Brock, Jr.
William Harold Brock, Jr.
Brock Landscape for William Harold Brock, Jr.
Brock Landscape Contractors LLC for Brock Landscape Contractors LLC c/o William H. Brock Sr.,William Harold Brock, Jr.
Brock Landscape Contractors LLC c/o William H. Brock Sr. for Brock Landscape Contractors LLC

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Anderson Common Pleas

Case Caption: Brock Landscape Contractors LLC , plaintiff, et al VS Clyde E Abernathy , defendant, et al

Case Number: 2019CP0400760

Type: Order/Electronic Form 4

So Ordered

s/ J. Cordell Maddox Jr.

Electronically signed on 2025-02-19 15:07:14 page 3 of 3

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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

September 4, 2026

s/ G. Lee Cole, Jr.

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Attorney for the Appellants

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SC Court of Appeals