

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

CASE NO.: 2009-CP-15-0595

THE SPRIGGS GROUP, P.C., ... Respondent,

v.

GENE R. SLIVKA, ... Appellant.

RECORD ON APPEAL, VOLUME 1

Robert T. Lyles, Esquire
Lyles & Lyles, LLC
342 East Bay Street
Charleston, South Carolina 29401
(843) 577-7730
Rtl@lylesfirm.com
Attorneys for Appellants

James A. Bruorton, IV, Esquire
A. Bright Ariail, Esquire
Rosen, Rosen & Hagood, LLC
Post Office Box 893
Charleston, S.C. 29402
(843) 577-6726
cbruorton@rrhlawfirm.com
bariail@rrhlawfirm.com
Attorney for Respondent

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STATE OF SOUTH CAROLINA
COUNTY OF COLLETON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2009CP1500595

2010 MAR -2 PM 2:10

CLERK OF COURT
COMMON PLEAS

Spriggs Group Pc vs. Gene R Slivka

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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

IT IS ORDERED AND ADJUDGED:

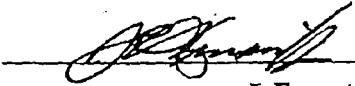
☐ See attached order;

☐ Statement of Judgment by the Court

The Motion to Strike filed 1/12/10 is withdrawn per J. Reaves McLeod. The Motion to Dismiss filed 12/16/09 is respectfully denied.

Dated at Walterboro, South Carolina, this 2 day of March 2010.

Court Reporter:


PRESIDING JUDGE - J. Ernest Kinard Jr.

This judgment was entered on the 2d day of March 2010, and a copy mailed first class this 2d day of March 2010, to attorneys of record or to parties (when appearing pro se) as follows:

Anne Bright Atrial Rosen Rosen & Hagood,
LLC P.O. Box 893 Charleston, SC 29402

J. Reaves McLeod McLeod Fraser & Cone
P.O.Box 230 Walterboro, SC 29488

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

SCRPC APP-24/FORM 4



Patricia C Grant - Clerk of Court

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STATE OF SOUTH CAROLINA
COUNTY OF COLLETON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2009CP1500595

Spriggs Group Pc vs. Gene R Slivka

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
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- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy: _____
- ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other: _____

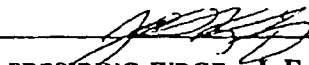
NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

The Motions for Summary Judgment are denied in part and granted in part. Formal Orders are to be submitted.

Dated at Walterboro, South Carolina, this 12 day of April 2011.

Court Reporter: *Missy Brown*


PRESIDING JUDGE - J. Ernest Kinard

This judgment was entered on the 12th day of April 2011, and a copy mailed first class this 15th day of April 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Anne Bright Ariail Rosen Rosen & Hagood, LLC
P.O. Box 893 Charleston, SC 29402

J. Reaves McLeod McLeod Fraser & Cone P.O.Box
230 Walterboro, SC 29488
Robert T. Lyles Jr. Lyles & Lyles, LLC P.O. Box
773 Charleston, SC 29402

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Patricia C. Grant
Patricia C Grant - Clerk of Court

IN THE COURT OF COMMON PLEAS

) FOURTEENTH JUDICIAL CIRCUIT

) CASE NO.: 2009-CP-15-595

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**ORDER DENYING DEFENDANT'S
MOTION FOR JNOV and/or FOR NEW
TRIAL**

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PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS

1. Defendant is not entitled to judgment notwithstanding the verdict as to Plaintiff's claims pursuant to S.C. Code Ann. § 27-1-15 as the evidence supports the jury's verdict.

Defendant argues that it was undisputed that an investigation had taken place into the Plaintiff's claim and the Defendant did not unreasonably refuse to pay the claim upon the demand. Clearly, a factual issue existed as to whether a fair and reasonable investigation was made by the Defendant. Defendant admitted on several occasions during trial that he owed Plaintiff at least half of \$151,000. Defendant admitted he received the March 15, 2010 demand letter under S.C. Code Ann § 27-1-15 and did not pay the amount he admits was undisputed. Defendant's explanation for not paying was that he had paid the money into the Court. Further, Defendant wrote Plaintiff a letter in June of 2009, after he had paid money into the Court, indicating he would pay 50% of the \$151,000 upon receipt of a corrected invoice. The issue as

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to whether a reasonable and fair investigation of Plaintiff's claim had been made is one for the jury to decide. Likewise, the issue of whether a valid portion of Plaintiff's claim, to the extent one exists, was paid in a timely manner in compliance with the statute is an issue for the jury to decide. After a full week of listening to the evidence in this case, the jury unanimously determined that the Defendant had not made a reasonable and fair investigation of Plaintiff's claim and failed to properly pay the proper portion of Plaintiff's claim deemed valid.

Defendant argues that discovery in the lawsuit amounts to a fair and reasonable investigation into Plaintiff's claims under the statute. Defendant relies upon Carolina Steel Corporation v. Palmetto Bridge Construction, 444 F.Supp.2d 577 (D.S.C. 2006) stating that the court found that because an investigation had occurred and a dispute existed, no attorney's fees pursuant to the statute would be awarded. In Carolina Steel, the Defendant made an investigation of the claims of the Plaintiff prior to Plaintiff's demand under the statute and paid what was considered valid. This court finds Carolina Steel distinguishable from this case in that the Defendant never paid Plaintiff either prior to Plaintiff's demand or after Plaintiff's demand despite admitting he owes Plaintiff at a minimum one half of \$151,000.00. This Court finds that recovery under S.C. Code Ann. § 27-1-15 is not barred when a demand under the statute is made after litigation has commenced. Further, this Court finds that payment to the Court to bond off a mechanic's lien claim does not constitute compliance with S.C. Code Ann. § 27-1-15.

Under S.C. Code Ann. § 27-1-15, it is the duty of the person upon whom the claim is made to make a reasonable and fair investigation of the merits of the claim and to pay it, *or whatever portion of it is determined valid*, within forty-five days from the date of mailing the demand. Defendant admitted owing Plaintiff a minimum of one half of \$151,000 and admitted he made no further payments to Plaintiff after the initial contract payment in February 2007. If a person fails to make a fair investigation or otherwise unreasonably refuses to pay the claim or

proper portion, he is liable for reasonable attorney's fees and interest at the judgment rate from the date of the demand. See S.C. Code Ann. § 27-1-15. Defendant never made payment to the Plaintiff of the undisputed amount he admits he owes to the Plaintiff; therefore, the verdict rendered as to Plaintiff's claim for failure to comply with S.C. Code Ann. § 27-1-15 is supported by the evidence presented.

2. Defendant is not entitled to judgment notwithstanding the verdict on Plaintiff's claim under the mechanic's lien statute as the evidence supports the jury's verdict.

Defendant argues there was no evidence that Plaintiff performed work which entitled it to a lien within ninety days of filing the mechanic's lien that is the subject of this action. Plaintiff presented evidence by way of invoices, timesheets, emails and testimony that Plaintiff performed work on this project up to January 14, 2009 and then again in May 2009 for 3.5 hours. See Plaintiff's Exhibits 8(a), 19, and 21. The Defendant testified that the Plaintiff was authorized to respond to questions from the field from various contractors and admitted that he never told Plaintiff to stop responding to these questions prior to the services performed in January 2009. Plaintiff's mechanic's lien was filed on April 13, 2009, which is within ninety (90) days of January 14, 2009 and prior to the work performed in May 2009. See Plaintiff's Exhibit 10.

Plaintiff's claim against a mechanic's lien in this matter arises out of statutory law. It is undisputed that the Plaintiff provided labor and services connected with Defendant's construction project. In accordance with § 29-5-10, Plaintiff properly filed a mechanic's lien for services furnished in the erection, alteration, and repair of Defendant's building within ninety days of the last work performed based upon the evidence presented. See Butler Contracting, Inc. v. Court Street, LLC, 369.S.C. 121, 131, 631 S.E.2d 252, 257 (2006) ("The deadline to serve and record a mechanic's lien begins running from the date the last material was furnished or work performed, *regardless of whether such material or work is insignificant and regardless of*

whether the final work is delayed, provided the reason for the delay is not to improperly extend the period for perfecting the lien.”) (emphasis added).

Defendant argues that the services performed by Plaintiff in January 2009 are not part of the invoices specified in the Plaintiff’s mechanic’s lien. Under S.C. Code Ann. § 29-5-100, “no inaccuracy in such statement relating to the property to be covered by the lien, if the property can be reasonably recognized, or *in stating the amount due for labor* or materials shall invalidate the proceedings, unless it appear that the person filing the certificate has wilfully and knowingly claimed more than is his due.” Plaintiff’s error in the amount stated for labor due does not invalidate its lien. The only requirement of the law is that the account be filed within ninety (90) days after person seeking lien ceases to labor on or furnish labor or materials for such building or structure. See Wood v. Hardy, 235 S.C. 131, 110 S.E.2d 157 (1959). Regardless of when the invoices were submitted, the Plaintiff presented evidence by way of timesheets, emails and testimony of Andy Bozeman and Ken Spriggs showing that the Plaintiff labored on the project within ninety (90) days of the date in which the mechanic’s lien was filed on Defendant’s property. Because Plaintiff properly followed the statutory requirements and Defendant has failed to pay for labor and services provided by Plaintiff within the scope of the mechanic’s lien statute, the evidence supports the verdict rendered on Plaintiff’s cause of action under S.C. Code of Laws § 29-5-10, *et al.*

Defendant further argues that the services performed by Plaintiff in January 2009 are not the type of services for which a lien is allowed. However, the Defendant did not argue that the services performed in May 2009 by Plaintiff were not the type of services for which a lien is

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allowed¹. Defendant's argument as to the January 2009 services is that the S.C. Mechanic's lien statute does not provide for lien rights associated with the performance of construction administration services. Defendant argues that because the statute defines labor to include the preparation of plans, specifications, and design drawings that it excludes contract administration services from the type of labor for which a lien is allowed. The statute provides as follows:

"As used in this section, labor performed or furnished in the erection, alteration, or repair of any building or structure upon any real estate includes the preparation of plans, specifications, and design drawings and the work of making the real estate suitable as a site for the building or structure. The work is considered to include, but not be limited to, the grading, bulldozing, leveling, excavating, and filling of land (including the furnishing of fill soil), the grading and paving of curbs and sidewalks and all asphalt paving, the construction of ditches and other drainage facilities, and the laying of pipes and conduits for water, gas, electric, sewage, and drainage purposes, and the disposal of any construction and demolition debris, as defined in Section 44-96-40(6), including final disposal by a construction and demolition landfill. Any private security guard services provided by any person at the site of the building or structure during its erection, alteration, or repair is considered to be labor performed or furnished within the meaning of this section."

See S.C. Code Ann. 29-5-10 (emphasis added).

This Court finds that it is implausible that construction administration services would be excluded from the description of "labor performed or furnished in the erection, alteration, or repair of any building." Clearly, construction administration work is instrumental in delivering an appropriate residence or structure. In a 1918 decision, the South Carolina Supreme Court held that an architect who furnished the plans and specifications and supervised the construction of a building had furnished labor within the meaning of South Carolina's mechanic's lien statute. Williamson v. Hotel Melrose, 110 S.C. 1, 96 S.E.2d 407 (1918). In so holding, the Court ruled that "labor furnished" was not limited to manual labor, but also encompassed mental labor. Id.

¹ Plaintiff provided design sketches for an appraisal of Defendant's property. Andy Bozeman testified he was contacted by an appraiser for the Defendant and asked to provide floor plan sketches and room name information for preparation of the appraisal of Defendant's home.

This Court finds that construction administration services are the type of labor for which a lien can be filed under South Carolina's mechanic's lien statute as those services actually support the erection, alteration or repair of a building more so than the preparation of plans, specifications and design drawings related to the project.

Other jurisdictions provide for contract administration services to support a lien and specifically exclude the preparation of plans, specifications and design drawings from the labor for which lien rights arise. In Pennsylvania, an architect has no lien for merely drawing plans and specifications for the building, but does have rights to a lien for providing construction administration services that furthers the plans and specifications prepared. See Lee v. Du-Rite Products, Co., Inc., 366 Pa. 548, 79 A.2d 218 (1951). To infer that South Carolina's legislature allows a lien for preparation of plans, specifications and design drawings but excludes the services that further and support the design and actually result in improvements to the building or structure is contrary to legislative intent and without merit. Thus, the evidence presented supports the jury's verdict on Plaintiff's mechanic's lien cause of action.

3. Defendant is not entitled to a judgment notwithstanding the verdict or a new trial as the jury was presented with factual issue of whether Plaintiff's lien is valid and timely.

Defendant argues that the jury was asked improperly to interpret whether contract administration by a design professional is included in the definition of "labor" under § 29-5-90. At the conclusion of the trial, the jury was charged as to what the law in South Carolina is as it relates to filing and enforcing a mechanic's lien. At that time, both the Plaintiff and the Defendant indicated they were in agreement as to the charge given to the jury on the mechanic's lien law. The jury was asked to determine whether Plaintiff's lien was valid and timely. The jury unanimously determined that based upon the evidence presented, Plaintiff's lien was valid.

4. Defendant is not entitled to a new trial based upon the Court omission of Defendant's Charge Number 6 as the Court properly charged the Jury as to the law.

Defendant argues that the Court omitted Defendant's Charge Number 6 related to Plaintiff's claim for failure to comply with S.C. Code Ann. § 27-1-15. Defendant argues that the Court should have included language from Carolina Steel Corporation v. Palmetto Bridge Constructors, 444 F.Supp.2d 577 (D.S.C. 2006) related to a fair and reasonable investigation. As discussed previously, the Defendant in Carolina Steel made payment to the Plaintiff for the undisputed amount. The Court held the Defendant was not subject to attorneys fees because an investigation had occurred, undisputed fees had been paid, and a dispute existed concerning the remaining fees. Id. The Defendant's requested charge would have been misleading to the jury given the distinguishing characteristics of this case from Carolina Steel.

A jury charge is correct if, when the charge is read as a whole, it contains the correct definition and adequately covers the law. Yolanda Burroughs v. John W. Worsham, 352 S.C. 382, 574 S.E.2d 215 (Ct. App. 2002)(citing Keaton ex rel. Foster v. Greenville Hosp. Sys., 334 S.C. 488, 514 S.E.2d 570 (1999). "The substance of the law is what must be instructed to the jury, not any particular verbiage." Id. at 392. "A jury charge which is substantially correct and covers the law does not require reversal." Id. The charge given by the Court as to S.C. Code Ann. § 27-1-15 was substantially correct and covered the law of the statute. To warrant reversal for refusal to give a requested charge, a party must show both error and prejudice. Cohens v. Atkins, 333 S.C. 345, 509 S.E.2d 286 (Ct. App. 1998). Defendant has not presented this Court with any evidence of prejudice based upon the alleged incorrect charge. Plaintiff's recovery of interest and attorney's fees are provided for by the jury's verdict on Plaintiff's cause of action for foreclosure of mechanic's lien and breach of contract and not solely dependent upon the cause of action for failure to comply with S.C. Code Ann. § 27-1-15.

5. Defendant is not entitled to a new trial based upon the Thirteenth Juror Doctrine as the evidence supports the verdict rendered.

Defendant argues that the jury's verdict is contrary to the preponderance of the evidence because (a) the Plaintiff did not comply with the duty of good faith and fair dealing implied in its contract, (b) the Defendant made a fair and reasonable investigation of Plaintiff's claims under S.C. Code Ann. § 27-1-15, (c) the work performed subject to the mechanic's lien is not work for which Plaintiff is entitled to assert a lien, and (d) Plaintiff's mechanic's lien was untimely as a matter of law.

Specifically, Defendant argues that "it is undisputed that Plaintiff did not comply with the covenant of good faith and fair dealing in its billing practices with the Defendant." Whether the Plaintiff complied with the covenant of good faith and fair dealing in its billing practices with the Defendant is an issue of fact to be determined by the jury. Based upon the evidence presented at trial, a legitimate dispute as to the terms of the contract existed and eleven respectable jurors made a competent decision after a week of testimony that the Plaintiff was entitled to a verdict in the amount of \$173,990.53. Defendant's arguments as to S.C. Code Ann. § 27-1-15 and the entitlement to a mechanic's lien have previously been addressed by this Court within this Order.

The arguments presented by the Defendant that the verdict is contrary to the preponderance of the evidence all present issues of fact to be determined by the jury. Plaintiff in this action bears the burden to prove its claims by the greater weight or preponderance of the evidence. See Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992)(findings of fact based upon a preponderance of the evidence are those supported by the greatest weight, amount, credibility of truth, as reflected by the whole of the evidence before the court, or evidence which convinces as to its truth). After a full week trial on the merits, a competent jury of eleven unanimously found that the evidence presented by both the

Plaintiff and the Defendant when weighed together tipped the scale in favor of the Plaintiff. Plaintiff met its burden of proof as to all causes of action submitted to the jury and the verdict rendered is supported by the evidence.

6. The Jury's verdict rendered is not excessive.

Defendant argues it is entitled to a new trial because the amount of the jury's verdict is grossly inadequate or excessive. In the alternative, Defendant asks the court to reduce the jury's verdict because it is excessive in light of the evidence presented. "The consideration for a motion for a new trial *nisi remittitur* requires the trial judge to consider the adequacy of the verdict in light of the evidence presented." Proctor v. Dept. of Health and Env. Control, 368 S.C. 297, 628 S.E.2d 496 (Ct. App. 2006). An excessive verdict is one that results from the jury's passion or prejudice and thereby shocks the court's conscience. See Black's Law Dictionary, 7th Edition (1999).

Under the evidence presented at trial, the jury's verdict is clearly not excessive and does not shock the court's conscience as it is less than the amount of actual damages claimed by the Plaintiff. Plaintiffs claimed actual damages for design services due in the total dollar amount of \$201,773.03. See Plaintiff's Exhibit 23. Plaintiff provided evidence through testimony, drawings, time sheets and invoices to substantiate the dollars claimed. See Plaintiff's Exhibits 8, 8(a), 8(b), 13-18, 21 & 23. After listening to the testimony and reviewing the evidence presented, the jury determined that Plaintiff is entitled to a verdict in the amount of \$173,990.53. While the jury's verdict is not equal to the actual damages claimed by the Plaintiff, the verdict rendered is supported by the evidence presented at trial.

THEREFORE, for the reasons set forth herein, Defendant's Motion for Judgment Notwithstanding the Verdict and/or For a New Trial is denied.

IT IS SO ORDERED this 30th day of August, 2011.



The Honorable William H. Seals, Jr.
Presiding Judge

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
) CASE NO.: 2009-CP-15-595

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PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS

Pursuant to S.C. Code Ann. § 29-5-10, et seq., the costs which may arise in enforcing or defending against the lien, including a reasonable attorney's fee, may be recoverable by the prevailing party. See S.C. Code Ann. § 29-5-10. The fee must be determined by the court in which the action is brought but the fee and court costs may not exceed the amount of the lien. Id. For purposes of the award of attorney's fees, the party whose offer is closer to the verdict

reached is considered the prevailing party in the action. Id. In this case, Plaintiff's offer of \$198,834.53 is closer to the verdict reached than Defendant's offer of \$100,000.00, which was filed with the Court in accordance with the S.C. Mechanic's Lien Statute prior to the commencement of trial. Thus, the Plaintiff is the prevailing party in the action and can be awarded attorney's fees and costs pursuant to the statute. The determination as to the amount of attorney fees which should be awarded under the mechanic's lien statute is addressed to the sound discretion of the trial court. See Seckinger v. Vessel Excalibur, 326 S.C. 382, 483 S.E.2d 775 (S.C. App. 1997).

In addition to the attorney's fees and costs allowable under the verdict rendered on Plaintiff's foreclosure of mechanic's lien claim, S.C. Code Ann. § 27-1-15 also provides for a recovery of attorney's fees and interest at the judgment rate on the money claimed due. See S.C. Code Ann. § 27-1-15. The express provisions of S.C. Code Ann. § 27-1-15 do not limit the recovery of attorney's fees to the amount of the lien as expressed in the S.C. Mechanic's Lien Statute. Id. Thus, the allowable attorney's fees and costs are not required to be capped by the amount of the mechanic's lien.

Also, Plaintiff sought pre-judgment interest in its complaint as to all causes of action against Defendant and has moved the Court for an award of the same. See Atrial Affidavit ¶ 13. South Carolina law allows prejudgment interest on obligations to pay money from time when payment is demandable, if sum due is capable of being reduced to certainty. See GTR Rental, LLC v. DalCanton, 547 F.Supp.2d 510 (2008). S.C. Code Ann. § 27-1-15 provides for interest to be awarded from the date of the demand being sent pursuant to the statute. In this case, the evidence in the record indicates that the sum due Plaintiff was demandable as of February 9, 2009. In addition, Plaintiff sent a demand to Defendant pursuant to S.C. Code Ann. § 27-1-15 on

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March 15, 2010. Under South Carolina law, the fact that a sum due is disputed does not render the claim unliquidated for purposes of an award of prejudgment interest. Id.

In determining an award of attorney's fees, the court considers six factors: (1) nature, extent, and difficulty of legal services rendered; (2) time and labor devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) fee customarily charged in locality for similar services; and (6) beneficial results obtained. See Collins v. Collins, 239 S.C. 170, 122 S.E.2d 1 (1961); Blumberg v. Nealco, Inc., 310 S.C. 492, 427 S.E.2d 659 (1993); Dedes v. Stickland, 307 S.C. 155, 414 S.E.2d 134 (1992). Consideration should be given to all six criteria in establishing reasonable attorney's fees; none of these factors is considered controlling. Baron Data Systems, Inc. v. Loter, 297 S.C. 382, 377 S.E.2d 296 (1989)(citing Darden v. Witham, 263 S.C. 183, 209 S.E.2d 42 (1974)).

To support its Motion for Interest, Attorney's Fees and Costs, Plaintiff submitted the Affidavits of A. Bright Ariail and N. Keith Emge, Jr. Included in the Affidavit of A. Bright Ariail are detailed bills for legal services rendered setting forth each task performed, who performed the task and the amount of time spent on each task shown in six minute increments. Upon evaluation of the nature, extent and difficulty of the legal services rendered, Plaintiff was required to expend considerably more time and effort on this case due to specific actions of the Defendant who created unnecessary delays, filed meritless motions, and forced Plaintiff to incur additional attorney's fees and costs above and beyond what would otherwise have been incurred. See Ariail Affidavit ¶ 5. A review of the billing records submitted by Plaintiff clearly indicates that they are properly detailed and that the time and labor spent by Plaintiff's counsel is both reasonable for the effort required to litigate this case and not duplicative in any manner. See Exhibits C-F of Ariail Affidavit. Plaintiff's team of legal counsel consists of experienced, skilled

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attorneys, of high professional standing in the community and in good standing with the Bar of this State. The fees charged in this matter were on an hourly basis and not based upon a contingency of compensation. The hourly fees charged by Plaintiff's counsel are of those customarily charged in the locality for similar legal services. See Emge Affidavit ¶¶ 5-6. Plaintiff obtained a substantial benefit from the legal services provided by receiving an award in close proximity to the total damages claimed and avoiding thousands of dollars in liability on Defendant's counterclaims.

This Court finds that Plaintiff is entitled to the recovery of attorney's fees and costs in this matter pursuant to S.C. Code Ann. § 29-5-10 and S.C. Code Ann. § 27-1-15 in the amount of \$235,030.31. Further, this Court finds that the attorney's fees and costs awarded are reasonable based upon the six criteria established by the Supreme Court of South Carolina for determining attorney's fees. There is no requirement that an attorney's fee be less than or comparable to a party's monetary judgment. See Taylor v. Medenica, 331 S.C. 575, 503 S.E.2d 458 (1998). South Carolina courts have approved awards of attorney's fees where the fee substantially exceeded the actual recover. Id. at 582; see also Baron Data Systems, Inc. v. Loter, 297 S.C. 382, 377 S.E.2d 296 (1989)(finding that trial court did not abuse its discretion in awarding attorney fees to Plaintiff greater than recovery realized by Plaintiff).

Plaintiff is also entitled to an award of prejudgment interest on the verdict reached in the amount of \$37,413.92 being calculated at the legal rate of interest as set forth in S.C. Code Ann. § 34-31-20(A) from February 9, 2009.

THEREFORE, judgment in the total amount of \$446,434.76 is to be entered in this matter against the Defendant in favor of the Plaintiff.

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FURTHER, the Bond for Release of Mechanic's Lien deposited with the Court in the amount of \$265,112.71 and filed with the Register of Deeds Office in Colleton County at Book 1742 at Page 276 shall be released to the Plaintiff in full, along with any interest accrued thereon.

IT IS SO ORDERED this 30th day of August, 2011.



The Honorable William H. Seals, Jr.
Presiding Judge

) IN THE COURT OF COMMON PLEAS

FOURTEENTH JUDICIAL CIRCUIT

) CASE NO.: 2009-CP-15-595

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ORDER FOR AWARD OF INTEREST FEES AND COSTS TO PLAINTIFF

PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS
2011 OCT -3 PM 1:47

This matter came before the Court for a trial on the merits on July 18, 2011 and concluded with a jury verdict being rendered in favor of the Plaintiff in the amount of \$173,990.53 on July 22, 2011. The jury found in favor of Plaintiff on Plaintiff's claims for foreclosure of mechanic's lien, breach of contract, and failure to comply with South Carolina Statute § 27-1-15. Plaintiff has moved this Court, pursuant to Rule 54 of the South Carolina Rules of Civil Procedure, for an award of attorney's fees and costs to be added to the verdict rendered as the prevailing party under the South Carolina Mechanic's Lien Statute and pursuant to S.C. Code Ann. § 27-1-15. Further, Plaintiff has moved for an award of interest to be added to the verdict rendered as prayed for in Plaintiff's Complaint and provided for by S.C. Code Ann. § 27-1-15. Plaintiff timely submitted this motion within ten (10) days from the conclusion of trial per instructions from the bench.

Pursuant to S.C. Code Ann. § 29-5-10, et seq., the costs which may arise in enforcing or defending against the lien, including a reasonable attorney's fee, may be recoverable by the prevailing party. See S.C. Code Ann. § 29-5-10. The fee must be determined by the court in which the action is brought but the fee and court costs may not exceed the amount of the lien. Id. For purposes of the award of attorney's fees, the party whose offer is closer to the verdict

#1 2/18

reached is considered the prevailing party in the action. Id. In this case, Plaintiff's offer of \$198,834.53 is closer to the verdict reached than Defendant's offer of \$100,000.00, which was filed with the Court in accordance with the S.C. Mechanic's Lien Statute prior to the commencement of trial. Thus, the Plaintiff is the prevailing party in the action and can be awarded attorney's fees and costs pursuant to the statute. The determination as to the amount of attorney fees which should be awarded under the mechanic's lien statute is addressed to the sound discretion of the trial court. See Seckinger v. Vessel Excalibur, 326 S.C. 382, 483 S.E.2d 775 (S.C. App. 1997).

In addition to the attorney's fees and costs allowable under the verdict rendered on Plaintiff's foreclosure of mechanic's lien claim, S.C. Code Ann. § 27-1-15 also provides for a recovery of attorney's fees and interest at the judgment rate on the money claimed due. See S.C. Code Ann. § 27-1-15. The express provisions of S.C. Code Ann. § 27-1-15 do not limit the recovery of attorney's fees to the amount of the lien as expressed in the S.C. Mechanic's Lien Statute. Id. Thus, the allowable attorney's fees and costs are not required to be capped by the amount of the mechanic's lien.

Also, Plaintiff sought pre-judgment interest in its complaint as to all causes of action against Defendant and has moved the Court for an award of the same. See Ariail Affidavit ¶ 13. South Carolina law allows prejudgment interest on obligations to pay money from time when payment is demandable, if sum due is capable of being reduced to certainty. See GTR Rental, LLC v. DalCanton, 547 F.Supp.2d 510 (2008). S.C. Code Ann. § 27-1-15 provides for interest to be awarded from the date of the demand being sent pursuant to the statute. In this case, the evidence in the record indicates that the sum due Plaintiff was demandable as of February 9, 2009. In addition, Plaintiff sent a demand to Defendant pursuant to S.C. Code Ann. § 27-1-15 on

March 15, 2010. Under South Carolina law, the fact that a sum due is disputed does not render the claim unliquidated for purposes of an award of prejudgment interest. Id.

In determining an award of attorney's fees, the court considers six factors: (1) nature, extent, and difficulty of legal services rendered; (2) time and labor devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) fee customarily charged in locality for similar services; and (6) beneficial results obtained. See Collins v. Collins, 239 S.C. 170, 122 S.E.2d 1 (1961); Blumberg v. Nealco, Inc., 310 S.C. 492, 427 S.E.2d 659 (1993); Dedes v. Stickland, 307 S.C. 155, 414 S.E.2d 134 (1992). Consideration should be given to all six criteria in establishing reasonable attorney's fees; none of these factors is considered controlling. Baron Data Systems, Inc. v. Loter, 297 S.C. 382, 377 S.E.2d 296 (1989)(citing Darden v. Witham, 263 S.C. 183, 209 S.E.2d 42 (1974)).

To support its Motion for Interest, Attorney's Fees and Costs, Plaintiff submitted the Affidavits of A. Bright Ariail and N. Keith Emge, Jr. Included in the Affidavit of A. Bright Ariail are detailed bills for legal services rendered setting forth each task performed, who performed the task and the amount of time spent on each task shown in six minute increments. Upon evaluation of the nature, extent and difficulty of the legal services rendered, Plaintiff was required to expend considerably more time and effort on this case due to specific actions of the Defendant who created unnecessary delays, filed meritless motions, and forced Plaintiff to incur additional attorney's fees and costs above and beyond what would otherwise have been incurred. See Ariail Affidavit ¶ 5. A review of the billing records submitted by Plaintiff clearly indicates that they are properly detailed and that the time and labor spent by Plaintiff's counsel is both reasonable for the effort required to litigate this case and not duplicative in any manner. See Exhibits C-F of Ariail Affidavit. Plaintiff's team of legal counsel consists of experienced, skilled

attorneys, of high professional standing in the community and in good standing with the Bar of this State. The fees charged in this matter were on an hourly basis and not based upon a contingency of compensation. The hourly fees charged by Plaintiff's counsel are of those customarily charged in the locality for similar legal services. See Emge Affidavit ¶¶ 5-6. Plaintiff obtained a substantial benefit from the legal services provided by receiving an award in close proximity to the total damages claimed and avoiding thousands of dollars in liability on Defendant's counterclaims.

This Court finds that Plaintiff is entitled to the recovery of attorney's fees and costs in this matter pursuant to S.C. Code Ann. § 29-5-10 and S.C. Code Ann. § 27-1-15 in the amount of \$235,030.31. Further, this Court finds that the attorney's fees and costs awarded are reasonable based upon the six criteria established by the Supreme Court of South Carolina for determining attorney's fees. There is no requirement that an attorney's fee be less than or comparable to a party's monetary judgment. See Taylor v. Medenica, 331 S.C. 575, 503 S.E.2d 458 (1998). South Carolina courts have approved awards of attorney's fees where the fee substantially exceeded the actual recover. Id. at 582; see also Baron Data Systems, Inc. v. Loter, 297 S.C. 382, 377 S.E.2d 296 (1989)(finding that trial court did not abuse its discretion in awarding attorney fees to Plaintiff greater than recovery realized by Plaintiff).

Plaintiff is also entitled to an award of prejudgment interest on the verdict reached in the amount of \$37,413.92 being calculated at the legal rate of interest as set forth in S.C. Code Ann. § 34-31-20(A) from February 9, 2009.

THEREFORE, judgment in the total amount of \$446,434.76 is to be entered in this matter against the Defendant in favor of the Plaintiff.

FURTHER, the Bond for Release of Mechanic's Lien deposited with the Court and transferred to the Register of Deeds for Colleton County in the amount of \$265,112.71 as documented by the Receipt for Bond Posted for the Release of Mechanic's Lien Filed in BK 1742 PG 276 that is and filed with the Register of Deeds Office in Colleton County at Book 1742 1753 at Page 276-81 shall be released by the Register of Deeds for Colleton County to the Plaintiff in full, along with any interest accrued thereon.

IT IS SO ORDERED this 12th day of ~~August~~ September, 2011.


The Honorable William H. Seals, Jr.
Presiding Judge

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF COLLETON	)	CASE NO.: 2009-CP-15-595
	)	
THE SPRIGGS GROUP, PC.	)	
	)	
Plaintiff,	)	
	)	ORDER DENYING DEFENDANT'S
v.	)	MOTION TO ALTER/AMEND COURT'S
	)	ORDER DENYING DEFENDANT'S
GENE R. SLIVKA	)	MOTION FOR JNOV and/or FOR NEW
	)	TRIAL
Defendant.	)	

PATRICIA C. GRANT
 COLLETON COUNTY
 COMMON PLEAS
 2011 NOV 22 PM 12:38

This matter is before the Court upon the Defendant's motion pursuant to SCRCP 59(e) to alter/amend the Court's Order of September 7, 2011 denying Defendant's Motion for JNOV and/or For New Trial. Defendant's motion sets forth two arguments for the Court's consideration. First, Defendant asserts that the Court's Order contains an error of law in its ruling that the lien that is the subject of this action was timely filed. Second, Defendant asserts that the Defendant's failure to pay undisputed funds after receiving the demand from the Plaintiff pursuant to S.C. Code Ann. § 27-1-15 was not unreasonable and the Defendant is entitled to judgment under this claim as a matter of law.

Both of these arguments were briefed by the Defendant in its Motion for JNOV and/or For New Trial and by the Plaintiff in its response to Defendant's Motion for JNOV and/or For New Trial. Having carefully reviewed Defendant's original Motion for JNOV and/or For New Trial and Defendant's Motion Pursuant to SCRCP 59(e) Regarding the Court's Order Denying Defendant's Motion for JNOV and/or for New Trial, this Court sees no basis to alter or amend its prior Order filed September 7, 2011.

THEREFORE, Defendant's SCRCP 59(e) motion regarding the Court's Order denying Defendant's motion for JNOV and/or for new trial is hereby denied.

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IT IS SO ORDERED this ^{Not} 3 day of September, 2011.


The Honorable William H. Seals, Jr.
Presiding Judge

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
) CASE NO.: 2009-CP-15-595

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PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS
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the Second Affidavit of A. Bright Ariail in support thereof, this Court finds that Defendant's Motion is denied for the following reasons:

1. Plaintiff is entitled to recover all of its fees as it prevailed under the Mechanic's Lien Statute and S.C. Code Ann. § 27-1-15.

Determination as to the amount of attorney's fees which should be awarded under the mechanic's lien statute is addressed to the sound discretion of the trial court. Seckinger v. Vessel Excalibur, 326 S.C. 382, 483 S.E.2d 775 (S.C. App. 1997). Defendant argues that because the Court is basing its award on one or both of the referenced statutes, it must specify what fees are awarded under which statute. Plaintiff is entitled to recover all of its fees and costs by the cumulative affect of reading both statutes. Under South Carolina's mechanic's lien statute, the prevailing party S.C. Code Ann. § 29-5-10, et seq., the costs which may arise in enforcing or defending against the lien, including a reasonable attorney's fee, may be recoverable by the prevailing party up to the amount of the lien. See S.C. Code Ann. § 29-5-10. The verdict reached as to Defendant's failure to comply with S.C. Code Ann. § 27-1-15 provides for a recovery of attorney's fees and interest at the judgment rate on the money claimed due, but the express provisions of the statute do not limit the recovery of attorney's fees to a maximum amount like the mechanic's lien statute. See S.C. Code Ann. § 27-1-15. Thus, Plaintiff is entitled to attorney's fees and costs up to the amount of the mechanic's lien. Additionally, any fees and costs over and above the amount of the mechanic's lien are recoverable under S.C. Code Ann. § 27-1-15. Alternatively, Plaintiff could have recovered all fees and costs incurred after March 15, 2010 under S.C. Code Ann. § 27-1-15 if its mechanic's lien action had failed.

Defendant also argues that Plaintiff asserted and prosecuted and defended several causes of action which are separate from the claims under the Mechanic's Lien Statute and S.C. Code Ann. § 27-1-15. All claims submitted by Plaintiff were ancillary to Plaintiff's mechanic's lien

action, which serves as the primary basis for the damages sought by Plaintiff. Plaintiff's quantum meruit/unjust enrichment, which was voluntarily dismissed at trial, and breach of contract causes of action relied upon the same facts and seek the same damages as those sought under the mechanic's lien cause of action. See Ariail Second Affidavit ¶ 4. Attorney's fees and costs related to these causes of action are indistinguishable from those incurred related to the mechanic's lien action. See Ariail Second Affidavit ¶ 4. Defendant's counterclaims for Slander of Title, Violation of the Frivolous Claims Sanction Act, and Tortious Interference with Contractual Relationships with Third-Parties Resulting from Defective Notice of Mechanic's Lien all relate to the mechanic's lien action brought by Plaintiff. The Mechanic's Lien statute allows for a party to recover attorney's fees related to the mechanic's lien action. See S.C. Code Ann. § 29-5-10, et seq.

2. The fees and costs awarded to the Plaintiff are reasonable and not excessive

In determining the award of attorney's fees, the court considered six factors: (1) nature, extent, and difficulty of legal services rendered; (2) time and labor devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) fee customarily charged in locality for similar services; and (6) beneficial results obtained. See Collins v. Collins, 239 S.C. 170, 122 S.E.2d 1 (1961); Blumberg v. Nealco, Inc., 310 S.C. 492, 427 S.E.2d 659 (1993); Dedes v. Stickland, 307 S.C. 155, 414 S.E.2d 134 (1992). The Court gave consideration to all six criteria in establishing the attorney's fees awarded and none of these factors was controlling. Baron Data Systems, Inc. v. Loter, 297 S.C. 382, 377 S.E.2d 296 (1989)(citing Darden v. Witham, 263 S.C. 183, 209 S.E.2d 42 (1974)). The Court based its award on the evidence presented through the Affidavits of A. Bright Ariail and N. Keith Emge along with its impression of the case presented by Plaintiff's counsel at trial. The Court analyzed all six factors under Collins thoroughly and made specific findings as to each factor, which supports the award given.

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WIB

3. The total recovery under the Mechanic's Lien Statute is not limited to the amount of the cash bond posted by the Defendant.

Defendant argues that a bond was posted with the Court pursuant to S.C. Code Ann. § 39-5-110 which limits Plaintiff's total recovery to the amount of posted bond. The statutory language of S.C. Code Ann. § 39-5-110 does not limit a mechanic's lien judgment to the amount of the cash bond posted. See S.C. Code Ann. § 39-5-110. Under South Carolina's Mechanic's Lien Statute, the costs which may arise in enforcing or defending against the lien, including a reasonable attorney's fee, may be recoverable by the prevailing party up to the amount of the lien. See S.C. Code Ann. § 29-5-10. The express language of the Mechanic's Lien Statute indicates that a party is entitled to a judgment up to twice the amount of the lien. Defendant's interpretation of S.C. Code Ann. § 39-5-110 is inconsistent with the express language of S.C. Code Ann. § 29-5-10.

4. The South Carolina Mechanic's Lien Statute does not exclude staff members from the definition of attorney's fees.

Defendant argues that time spent by staff members is not recoverable in its claim for attorney's fees under the statutes. South Carolina's Mechanic's Lien Statute does not define what is considered to be included as attorney's fees. Attorneys fees, as defined by Black's Law Dictionary, is the charge to a client for services performed for the client, such as an hourly fee, a flat fee, or a contingent fee. See Black's Law Dictionary 7th Edition (1999). The definition does not restrict the charge to a client solely to services provided by an attorney. Plaintiff's fee agreement with counsel sets forth that time billed by attorneys, paralegals and law clerks are part of the legal services being provided. See Ariail Second Affidavit ¶ 3.

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WLB

Both paralegals, Ms. Skelly and Mrs. Whitsett, are qualified legal professionals with thirty (30) years of combined paralegal experience whose time billed in this matter supported the legal services provided and furthered the prosecution of the case. See Atrial Second Affidavit ¶¶ 6-7. The hours spent by law clerks in performing legal research in support of the case also constitutes legal services performed on behalf of the client. The Court finds that the fees incurred by the Plaintiff for attorney, paralegal and law clerk time are the types of legal services intended to be included in the attorney's fees award pursuant to S.C. Code Ann. § 29-5-10 and S.C. Code Ann. § 27-1-15.

5. Plaintiff is entitled to an award of pre-judgment interest.

This Court's award of pre-judgment interest is based upon Plaintiff's demand in its Complaint and is calculated from February 9, 2009 per the South Carolina interest statute. See S.C. Code Ann. § 34-31-20(A). Plaintiff's breach of contract claim allows for recovery of prejudgment interest based upon the pleadings. South Carolina law allows prejudgment interest on obligations to pay money from time when payment is demandable, if the sum due is capable of being reduced to certainty. See GTR Rental, LLC v. DalCanton, 547 F.Supp.2d 510 (2008). The fact that a sum due is disputed does not render the claim unliquidated for purposes of an award of prejudgment interest. Id.

THEREFORE, Defendant's SCRCP 59 motion regarding the Court's Order For Award of Interest, Fees and Costs to Plaintiff is hereby denied.

IT IS SO ORDERED this 3 day of ^{Nov.} October, 2011.


The Honorable William H. Seals, Jr.
Presiding Judge

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)
THE SPRIGGS GROUP, PC)
Plaintiff,)
vs.)
GENE R. SLIVKA)
Defendant.)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.

COMPLAINT

(Enforcement of Claim Against Mechanic's
Lien Bond , Breach of Contract, Unjust
Enrichment)

The Plaintiff, The Spriggs Group, PC, ("The Spriggs Group"), complaining of Defendant
Gene R. Slivka ("Slivka"), alleges and states as follows:

1. The Spriggs Group is a corporation organized and existing under the laws of the state of Georgia and is licensed to do business in the state of South Carolina.
2. Slivka is, upon information and belief, a resident of the state of South Carolina.
3. On or about November 27, 2006, The Spriggs Group provided a written proposal (the "Proposal"), Exhibit 1, to perform architectural and engineering design services for Slivka for renovations on property known as the New Julianton Plantation (also known as the Myrtle Grove Plantation or the Myrtle Grove Tract) in Colleton County, South Carolina (the "Project").
4. The Proposal estimated the total fee at \$161,500.00 and indicated that some work would be done at an additional cost based on hourly rates.
5. At Slivka's request and pursuant to the terms of the Proposal, The Spriggs Group provided architectural and engineering design services for renovation of the Project.
6. The Spriggs Group performed its obligations and responsibilities under the contract with Slivka.
7. The Spriggs Group performed additional work pursuant to oral direction from Slivka.

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PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS

8. The Spriggs Group has presented four proper invoices to Slivka totaling One Hundred, Ninety Eight Thousand, Eight Hundred and Thirty Four Dollars and Fifty Three Cents (\$198,834.53); however, Slivka has failed to make a single payment for services rendered.
9. The Spriggs Group last performed services related to the project on February 13, 2009.
10. Slivka has not paid The Spriggs Group for its work despite its contractual obligations and its demands for payment from The Spriggs Group.
11. Slivka has retained the benefit of the services performed by The Spriggs Group.
12. Pursuant to Section 29-5-10, et. seq. of the South Carolina Code, The Spriggs Group timely notified Slivka that it had not been paid in full and subsequently filed a Notice of Mechanic's Lien which was filed in Volume 1742 at Page 276 at the Register of Deeds Office for Colleton County, SC.
13. Subsequent to filing of the Mechanic's Lien, Slivka posted a cash bond with the Clerk of Court for Colleton County, SC which is filed in Volume 1751 at Page 118.
14. On or about May 15, 2009, the cash bond was transferred from the Clerk of Court to the Register of Deeds for Colleton County, South Carolina. A receipt for the bond is filed in Volume 1753 at Page 81 with the Colleton County Register of Deeds.

FOR A FIRST CAUSE OF ACTION
(Enforcement of Claim against Mechanic's Lien Bond)

15. The Spriggs Group realleges and incorporates the allegations contained in paragraphs 1-14 above as if they were restated herein verbatim.
16. The Spriggs Group has filed a Notice and Certificate of Mechanic's Lien and an Affidavit and Statement of Account, which is attached as Exhibit 2, for architectural and

engineering services provided for the Project stating that Defendant Slivka has failed to pay The Spriggs Group for those services.

17. The services provided for which it has not been paid total \$198,834.53 and were performed within ninety (90) days of the filing of the Notice and Certificate of Mechanic's lien and within six months of the date of the filing of this Complaint.
18. As of the date of this Complaint, Slikva's mechanic's lien is still unsatisfied in at least the amount of \$198,834.53.
19. Slikva filed a cash bond (the "Bond") in the amount of two hundred Sixty Five Thousand, One Hundred Twelve and 71/100 Dollars (\$264,112.71) to take the place of the real property upon which The Spriggs Group's lien existed, such Bond now being subject to The Spriggs Group's lien.
20. The Spriggs Group is judgment against the Bond in the sum of \$198,834.53, plus pre-judgment interest, costs and reasonable attorneys' fees incurred as allowed by the mechanic's lien statutes.

FOR A SECOND CAUSE OF ACTION
(Breach of Contract)

21. The Spriggs Group realleges and incorporates the allegations contained in paragraphs 1-20 above as if they were restated herein verbatim.
22. The Spriggs Group and Slivka entered into a contract with modifications wherein Slivka agreed to pay The Spriggs Group for the performance of architectural and engineering design services for renovation of the New Julianton Plantation property.
23. Slivka breached its contract with The Spriggs Group by failing to remit full payment to The Spriggs Group for the performance of architectural and engineering design services for renovation of the New Julianton Plantation property.

24. As a direct and proximate cause of Slivka's breach of its contractual obligations, The Spriggs' Group has suffered damages.

25. The Spriggs Group is entitled to payment of the amounts due under the contract, plus consequential damages, pre-judgment interest, and attorneys' fees.

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

26. The Spriggs Group realleges and incorporates the allegations contained in paragraphs 1-25 above as if they were restated herein verbatim.

27. Slivka has received a benefit from the architectural and engineering design services performed by The Spriggs Group for renovation of the New Julianton Plantation property.

28. While Slivka has realized and retained the benefit conferred, The Spriggs Group has not been paid for the value of the service provided to the Project.

29. Equity demands that The Spriggs Group be paid for the value of the architectural and engineering design services performed for Slivka and provided to renovate the Project for which Slivka has not reimbursed The Spriggs Group.

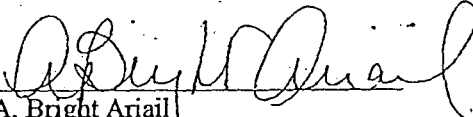
30. The Spriggs Group is entitled to a judgment against Slivka for the value of the architectural and engineering design services performed for renovation of the New Julianton Plantation project and remaining owed to The Spriggs Group, plus prejudgment interest, costs and attorneys' fees.

WHEREFORE, Plaintiff prays that the Court grant the following relief:

1. Grant judgment against Slivka in the amount of at least \$198,834.53 plus prejudgment interest, costs and reasonable attorney's fees for the prosecution of this action, together with interest thereon as allowed by the mechanic's lien statute in an amount not to exceed the amount of the bond;

2. Grant judgment against Slivka for actual damages, including incidental and consequential damages as may be proven at trial;
3. Grant judgment against Slivka for the costs incurred in prosecuting this action, including reasonable attorneys' fees;
4. Award prejudgment interest against the sum certain amount set forth in the Notice and Certificate of Mechanic's Lien and Affidavit of Mechanic's Lien; and
5. Award such other and further relief as the Court deems just and appropriate.

ROSEN, ROSEN & HAGOOD, LLC

By: 

A. Bright Ariail

Timothy J.W. Muller

P. O. Box 893

Charleston, SC 29402

134 Meeting Street, Suite 200

Charleston, SC 29401

(843) 577-6726

ATTORNEY(S) FOR THE SPRIGGS
GROUP, PC

Charleston, South Carolina
July 8, 2009.

The
Spriggs
Group
P.C.

27 November 2006

27th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Reference: New Residence and Outbuildings
Julianton Plantation

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Dear Gene:

For your project, I have provided three focus areas for your consideration. The first is an estimate of probable construction cost for each of seven buildings. The second is our estimate of drawings and specifications needed by the contractor to build the structures. The third is our fee proposal to complete the architectural and engineering work with restrictions and limitations noted. I have enclosed national average fee schedules from 2005 for this type of project. for your information.

Estimated Construction Cost Based on Program Outlined in 5 October 2006 Letter

Main House

Total Gross Heated Space	13,056 SF x \$250/SF	\$3,264,000
Basement	7,168 SF x \$ 70/SF	501,760
Porches	1,152 SF x \$ 60/SF	69,120
Exterior Porch Stairs	4 x \$12,000 each	48,000
Total Main House		\$3,882,880

Conservatory

Total Gross Space	864 SF x \$150/SF	\$ 129,600

Stable

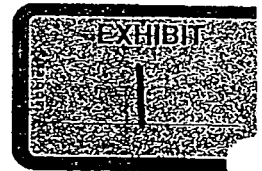
Total Gross Ground Space	2,250 SF x \$125/SF	\$ 315,000
Hay Loft	1,000 SF x \$70/SF	70,000
Total Stable		\$ 385,000

Garages

Total Gross Ground Space	1,300 SF x \$90/SF	\$ 117,000
Attic (No HVAC)	900 SF x \$75/SF	67,500
Total Each Garage		\$ 184,500
Total Garages		\$ 369,000

Pavilion and Grotto

Total Gross Space	200 SF x \$100/SF	\$ 20,000



Boat House		
Total Gross Space	540 SF x 110/SF	\$ 59,400

Total Buildings		\$4,845,880

Walls at Conservatory and Stable (4 F High x 100 LF)	400 SF x \$40/SF	\$ 16,000

Additional Costs

Site Grading
Civil: Wells & Piping.
Septic Tanks & Drain Fields
Solar Energy System
Grassing & Landscaping

Drawings and Specifications

Main House
Sheet Number-Description
A1-Site Plan (includes adjacent out-buildings)
A2-Foundation Plan & Details
A3-Basement & First Floor Plans
A4-Second Floor & Attic Plans
A5 & 6-Enlarged Partial Plans
A7-Building & Wall Sections & Details
A8-Schedules
A9 & 10-Elevations
A11- Roof Plan & Details
A12 & 13-Framing Plans
A14-Structural Details
P1-Plumbing Basement & First Floor Plans
P2-Plumbing Second Floor & Attic Plans
P3-Plumbing Riser Plans & Schedules
M1-Mechanical Basement & First Floor Plans
M2-Mechanical Second Floor & Attic Plans
M3-Mechanical Schedules & Details
E1-Electrical Basement & First Floor Plans (Power & Lighting)
E2-Electrical Second Floor & Attic Plans (Power & Lighting)
E3-Electrical Schedules & Details

Conservatory
Sheet Number-Description
A1-Foundation & Floor Plans & Details
A2-Elevations
A3-Framing Plan, Building & Wall Sections

Conservatory Continued

A4-Window & Door Elevations & Details

PME1-Plumbing, Mechanical & Electrical Plans

PME2-Plumbing, Mechanical & Electrical Details

Stable

Sheet Number-Description

A1-Foundation Plan & Details

A2-Floor & Hay Loft/Attic Plans

A3-Building & Wall Sections

A4-Elevations

A5-Schedules & Details

A6-Framing & Details

A7-Roof & Details

PME1-Plumbing, Mechanical & Electrical Plans

PME2-Plumbing, Mechanical & Electrical Schedules

PME3-Plumbing, Mechanical & Electrical Details

Garages

Sheet Number-Description

A1-Foundation & Floor Plans

A2-Attic & Roof Plans

A3-Elevations & Sections

A4-Framing Plans & Details

PME1-Plumbing, Mechanical, Electrical Plans & Details

Grotto

Sheet Number-Description

A1-Foundation & Floor Plans & Details

A2-Roof Plan, Elevations & Details

PE1-Plumbing & Electrical Plans & Details

Boat House

Sheet Number-Description

A1-Site Plan, Foundation & Floor Plans & Details

A2-Elevations & Sections

A3-Framing Plan & Details

PE1-Plumbing & Electrical Plans & Details

Total drawings: 52 sheets consisting of 34 architectural and 18 engineering drawings plus cover sheet.

Specifications

Applicable sections of 16-Division Master Format. Preliminary estimate is approximately 100 pages.

Fee Proposal

Concept Design sit-down sessions and
Design Refinement for six building types
Project architect 80 hours @ \$175/hr \$ 14,000

Project Management
Internal - Project architect 40 hours @ \$175/hr 7,000
Consultants - project architect 40 hours @ \$175/hr 7,000

Construction Documents
Drawing set-up, lay-outs, design details, and schedules
24 hours/sheet @ \$105/hr X 34 sheets 85,680
Cover sheet 4 Hours @ \$105/hr 420

Specifications
Project architect 80 hours @ \$175/hr 14,000
Clerical 40 hrs @ \$35/hr 1,400

Consultants
Plumbing, mechanical, electrical engineering 20,000
Structural engineering 12,000

Total Fee \$161,500

Estimated Reimbursable Expenses \$ 1,000
Computer plots, printing, copying

You are welcome to use material samples, catalogs and other resources at our office.
This proposal is based on the following assumptions:

- 1) You will layout the kitchen and will work with a supplier such as Home Depot who will produce a floor plan and cabinet elevations for our use to confirm room size and dimensions and to determine plumbing locations and hood exhaust location.
- 2) You will select all kitchen appliances and will provide manufacturers, model numbers, and cut sheets for our use in preparing applicable plumbing and electrical plans.
- 3) You will work with a stair builder who will provide a stair shop drawing for the main house central stair for our use to determine structural support and framing.
- 4) You will contact and work with a solar energy system provider who will give us all information about panel locations, support requirements, and connections for our use to determine structural framing, connections, and ventilation of storage batteries.

- 5) You will provide molding and trim supply sources and model numbers for our inclusion on the drawings.
- 6) You will select all lighting fixtures and will supply manufacturers and models for our use in preparing electrical schedules.
- 7) You will contract directly with a civil engineering firm, landscape architect and/or nursery . We will be provided with site drawings for water wells, septic tanks, and drain fields locations to determine our water and sanitary line entries to the buildings.
- 8) You will engage a testing laboratory to provide soils tests requested by our structural engineer.
- 9) You will engage a testing laboratory to provide tests for concrete requested by our structural engineer.
- 10) You will select brick manufacturer, color, and style.
- 11) You will select roofing material, manufacturer, and style.
- 12) You will select flooring material, colors, and styles and will provide manufacturer, and model numbers for our inclusion on finish schedules.
- 13) You will select interior and exterior colors and will provide manufacturers and numbers for our inclusion on finish schedules.
- 14) We will select door, window, and shutter hardware for your review and approval.
- 15) We will select plumbing fixtures for your review and approval.
- 16) We will provide shop drawing review for mechanical systems, site visits for electrical inspection prior to cover up, and final plumbing, mechanical, and electrical punch list.
- 17) We will provide structural foundation inspections and one framing inspection for each building.
- 18) We will provide any requested construction phase services by the project architect or staff on an hourly basis.
- 19) Once we begin construction documents, any changes in room layouts, sizes, window locations, door locations, and exterior elevation designs will be performed on an hourly basis.
- 20) We have not included any dock design for the boat house area since none was mentioned earlier.

I am concerned that we may not have estimated enough time for this project and that our fee is too low. However, I am going on the information you gave over the telephone. If you look at the attached fee schedule, you will see that fees range from 15 to 19 percent of construction cost for custom single family dwellings. Typically fees breakdown by phases with the following percentages of fee by phase: schematic design - 15%, design development - 15%; construction documents - 45%; bidding or contractor negotiations - 5%; construction administration - 20%. For the construction documents phase, our proposed fee is less than half the fee that would be charged under national averages.

Gene, this is an exciting project, and I think that my estimates are accurate. I suggest you might contact Jim Turner and his chief estimator Mark Hiott to go over my projections. Let me know his review turns out. I will happy to talk with you further about the project.

Yours very truly,

THE SPRIGGS GROUP, P.C.



C. Kenneth Spriggs, AIA

CKS:bwp

FEEES

2005

FEEES FOR PROFESSIONAL DESIGN SERVICES

A GUIDELINES PUBLICATION

	Typical Fee Range as % of construction cost	Scope of Design Services			Highest Level Full-Service Fees
		Baseline Economy	Standard Average	Comprehensive Superior	

**Dwellings, Single Family
(Developer, Quality Tract)**

New Construction 3 - 8% 3% 6.4% 8% 8 - 12%

Typical construction cost range: \$56 to \$130
Average cost: \$85 sq. ft. (not including sitework)
Typical range of building sizes: 1,400 - 3,000 sq. ft.
Average size: 1,900 sq. ft.

Note: Higher priced tract housing is rarely designed by architects, and unlicensed designer or drafting service fees are considerably lower than those cited above.

Renovation/Additions (Not applicable.)

**Dwellings, Single Family
(Developer, Luxury)**

New Construction 7.5 - 12.5% 7.5% 9.5% 12.5% 12.5 - 14%

Typical construction cost range: \$105 to \$262
Average cost: \$140 sq. ft. (not including sitework)
Typical range of building sizes: 2,500 - 6,000 sq. ft.
Average size: 3,500 sq. ft.

Renovation/Additions n/a - 16% n/a 15% 16% 16 - 18%

**Dwellings, Single Family
(Custom Luxury)**

New Construction n/a - 17.5% n/a 15.2% 17.5% 17.5 - 19%

Typical construction cost range: \$117 to \$295
Average cost: \$175 sq. ft. (not including sitework)
Typical range of building sizes: 3,000 - 9,000 sq. ft.
Average size: 3,900 sq. ft.

Renovation/Additions n/a - 20% n/a 18.5% 20% 20 - 22%

The architectural fee percentages include normal structural, mechanical, and electrical engineering fees.
See page 4 for an explanation of building size and construction cost information.
See page 5 for more details about what is and what is not included in consultant pass-through fees.
See page 6 for an explanation of how to read and use the information in this survey.

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

THE SPRIGGS GROUP, PC

Plaintiff,

vs.

GENE R. SLIVKA

Defendant.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.

NOTICE OF MECHANIC'S LIEN

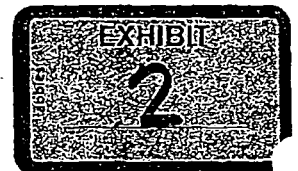
200900011272
Filed for Record in
COLLETON COUNTY SC
KARLA DADDIECO
04-13-2009 At 02:44 pm.
MECH LIEN 17.00
OR Volume 1742 Page 276 - 286

TO THE DEFENDANT ABOVE NAMED AND ALL OTHERS CONCERNED;

YOU WILL PLEASE TAKE NOTICE that the Plaintiff above named, by virtue of the attached Affidavit, does hereby claim a mechanic's lien of real estate hereinafter described, said lien being in the amount of One Hundred Ninety Eight Thousand, Eight Hundred and Thirty-Four Dollars and Fifty Three Cents (\$198,834.53) plus prejudgment interest, costs and attorney's fees, for labor, services and materials furnished and used for the improvements situated on the below described real estate. Such having been authorized by the Owner, or made by virtue of and in agreement with and by consent of the owner of such improvements or some person or agent having authority from or rightfully acting for such owner of the procuring or furnishing of such materials.

The property upon which this lien is attached includes those parcels below for which architectural and engineering services have been provided by The Spriggs Group, PC and is more particularly described as follows:

All those pieces, parcels and tracts of land containing two thousand seven hundred ninety-three and seven-tenths (2,793.7) acres, more or less, together with the buildings and improvements thereon, situate in the County of Colleton, State of South Carolina, known as Myrtle Grove Plantation, and delineated on two (2) survey plats prepared by S.S. Snook, Registered Land Surveyor, one delineated as containing one hundred eleven and three-tenths (111.3) acres, dated May 7, 1980, and recorded November 3, 1982, in Plat book 21 at Page 150; and the other delineated as containing two thousand six hundred eighty-two and four-tenths (2,682.4) acres, dated July 11, 1980, and recorded November 3, 1982, in Plat Cabinet C at Slide 47, in the Office of the Clerk of Court for Colleton County, South Carolina.

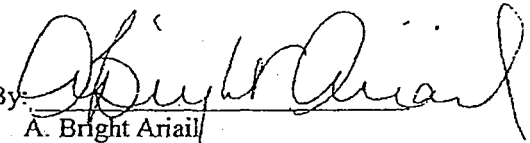


LESS AND EXCEPT All that certain tract or parcel of land lying and being in Colleton County, South Carolina and being know as Five (5) acres which parcel is a portion of the property more commonly known as MYRTLE GROVE TRACT, as shown on that certain map recorded in the Colleton County Register of Deeds, Colleton County, South Carolina in Deed Book CX, Page 47, and being more particularly described as follows: beginning 200 feet due North from the Northeast corner of the Myrtle Grove House being the POINT OF BEGINNING and running East for a distance of 200 feet; thence running due South for a distance of 900 feet; thence due West for a distance of 2420 feet; thence due North for a distance of 900 feet; thence due East for a distance of 700 feet to the POINT OF BEGINNING. Said tract to include the house currently known as Myrtle Grove.

BEING ALL OF TMS#: 282-00-00-021.000/271-00-00-082.000/282-00-00-020.000/282-00-00-008.000/281-00-00-057.000/ and 291-00-00-002.000 AND the remaining Portion of 291-00-00-001.000 and/or 282-00-00-021/271-00-00-082/282-00-00-020/282-00-00-008/281-00-00-057 and 291-00-00-002 AND the remaining Portion of 291-00-00-001

This being the same property conveyed to Berwind LLC by Limited Warranty Deed from William Henry Varn, dated February 22, 2007, recorded in Deed Book 1474, Page 61, recorded in the Office of the Register of Deeds for Colleton County, South Carolina.

ROSEN, ROSEN, & HAGOOD, LLC.

By: 
A. Bright Ariail
134 Meeting Street, Suite 200
Post Office Box 893
Charleston, SC 29402
(843) 577-6726

ATTORNEYS FOR PLAINTIFF
THE SPRIGGS GROUP, PC

Charleston, South Carolina

April 13, 2009

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

THE SPRIGGS GROUP, PC

Plaintiff,

vs.

GENE R. SLIVKA,

Defendant.

) IN THE COURT OF COMMON PLEAS

)

) CIVIL ACTION NO.

)

) AFFIDAVIT OF MECHANIC'S LIEN

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PERSONALLY appeared before me, The Spriggs Group, PC, a professional corporation, by C. Kenneth Spriggs, its President, who, being first duly sworn, deposes and states that certain labor, services and/or materials were furnished for the improvement of the property described in the attached Notice of Mechanic's Lien, such materials having been furnished at the special instance and request of the owner of said property or by consent of the owners or some person or agent having authority from or rightfully acting for such owner or authorized by the owner and were last furnished within ninety (90) days from the date of this Affidavit.

Deponent further states that there is past due and owing from the owners of said property to it the sum of One Hundred Ninety Eight Thousand, Eight Hundred and Thirty-Four Dollars and Fifty-Three Cents (\$198,834.53), representing the sum to which materials are reasonably worth as evidenced by the statement of account (attached hereto and incorporated herein as Exhibit "A") plus prejudgment interest, costs and reasonable attorney's fee.

THE SPRIGGS GROUP, P.C.

By: C. Kenneth Spriggs
C. KENNETH SPRIGGS
PRESIDENT

SWORN TO before me this

10th Day of April, 2009.

Olivia Mason
NOTARY PUBLIC FOR [state]

My Commission Expires:

OLIVIA MASON
Notary Public, Chatham County, GA
My Commission Expires December 3, 2010

The Spriggs Group P.C.
New Julianton Plantation
Architectural/Engineering Services

Statement of Account

<u>Invoice</u>	<u>Amount Due</u>
0609-2	\$ 163,574.00
0609-3	\$ 11,849.50
0609-4	\$ 19,532.50
0609-5	\$ 3,878.53
	\$ 198,834.53

**Spriggs
Group
P.C.**

**INVOICE
0609-2**

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

January 2007 through December 2008:

Design and preparation of final drawings based on
formula stated in our proposal letter dated 27 November 2006.

Main House	42 sheets x 24 hours/sheet x \$105/hr.	\$105,840
Conservatory	6 sheets x 24 hours/sheet x \$105/hr.	15,120
Potting Shed	6 sheets x 24 hours/sheet x \$105/hr.	15,120
Barn	12 sheets x 24 hours/sheet x \$105/hr.	30,240
Garages (2)	18 sheets x 24 hours/sheet x \$105/hr.	45,360
Grotto	3 sheets x 24 hours/sheet x \$105/hr.	7,560

Total Preparation of Final Drawings	\$219,240
Consultants Paid by Architect	20,535
Sub-Total	239,775

Previous Invoice 0609-1 Credit	(76,201)

Total this Invoice	\$163,574

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

9 February 2009

30th Year Anniversary

545 East York Street
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Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Additional Services and Changes based on items
listed in our proposal letter dated 27 November 2006:

August 2007:

Re-design rear wall system and change
construction documents for potting shed. 6 hrs. @ \$105/hr. \$ 650.00

October 2007:

Drafting for steps and retaining walls at garden.
Meet with contractor and prepare grid plan. 11 hrs. @ \$75/hr. 825.00

March - April 2008:

Research dentil mouldings at Taft House Museum,
Cincinnati; contact Historic American Building Survey
(HABS), obtain drawing and photo, develop and
reproportion original mouldings for barn and garages.
Reproportion original moulding for Main House.
Develop alternative moulding details for barn and
garages. 32 hrs. @ \$105/hr. 3,360.00

May 2008:

Research dog wash equipment and provide
cut sheets of products. 1.5 hrs. @ \$105/hr. 157.50
Design interior trim and details to incorporate
existing doors from Julianton Plantation,
McIntosh County, Georgia. 4 hrs. @ \$105/hr. 420.00

9 February 2009

Page 2

August 2008:

Redesign front entry windows, delete
palladian exterior window and change
6 foot window to 8 feet.

15 hrs. @ \$105/hr. 1,575.00

Provide manufacturer sources for slate,
millwork, mouldings.

9.5 hrs. @ \$105/hr. 997.50

Research Rinnai hotwater system.

1.5 hrs. @ \$105/hr. 157.50

September 2008:

Column redesign.

7 hrs. @ \$105/hr. 735.00

Chimney redesign from steel frame to
masonry.

23.5 hrs. @ \$105/hr. 2,467.00

Interior Palladian window redesign.

5 hrs. @ \$105/hr. 525.00

Total this Invoice

\$11,849.50

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

9 February 2009

30th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Construction Administration Services.

Distribute documents for bid pricing, identify trade contractors, answer field questions and produce field sketches for garages, barn, main house and grotto. Do quantity take-offs for main house sheet rock panels.

May 2008:

Project Architect (P.A.)	2 hrs. @ \$175/hr.	350.00
Project Architectural Designers (P.A.D.)	2.5 hrs. @ \$105/hr.	262.50

June 2008:

P.A.	2 hrs. @ \$175/hr.	350.00
P.A.D.	3 hrs. @ \$105/hr.	315.00

July 2008:

P.A.D.	8 hrs. @ \$105/hr.	840.00

August 2008:

P.A.	.5 hrs. @ \$175/hr.	87.50
P.A.D.	19 hrs. @ \$105/hr.	1,995.00

September 2008:

P.A.	1.5 hrs. @ \$175/hr.	262.50
P.A.D.	13.5 hrs. @ \$105/hr.	1,417.50

October 2008:

P.A.	14.5 hrs. @ \$175/hr.	2,537.50
P.A.D.	44.4 hrs. @ \$105/hr.	4,672.50

November 2008:

P.A.	9.5 hrs. @ \$175/hr.	1,662.50
P.A.D.	1 hr. @ \$105/hr.	105.00

December 2008:

P.A.	10.5 hrs. @ \$175/hr.	1,837.50
P.A.D.	27.5 hrs. @ \$105/hr.	2,887.50

Total this Invoice**\$19,532.50**

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

9 February 2009

30th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Reimbursable Expenses:

January 2007 through December 2008:

Copies: Xerox, Laser, Fax

B/W \$ 397.50

Color 33.20

Postage: \$ 27.07

Blue Prints: 51.03

Computer Plots: 964.50

Coastal Digital Reprographics

Paid Invoices \$2,270.51

Savannah Blue Print Co.

Paid Invoices \$ 134.72

Total \$3,878.53

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

THE SPRIGGS GROUP, PC.,

Plaintiff,

vs.

GENE R. SLIVKA,

Defendant.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2009-CP-15-595

ANSWER AND COUNTERCLAIM

2009 SEP 10 AM 9:16

PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS

TO THE ABOVE NAMED PLAINTIFF AND ITS ATTORNEY A. BRIGHT
ARIAIL:

The Defendant above named, answering the Complaint herein and
Counterclaiming of Defendant, would show this Honorable Court as
follows:

FIRST, RESPONDING TO THE GENERAL ALLEGATIONS

1. The Defendant denies each and every allegation of the
Complaint not herein specifically admitted.

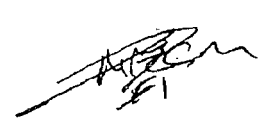
2. Defendant is without sufficient information to form an
opinion or belief as to the allegations contained in Paragraph 1 of
Plaintiff's Complaint and, therefore, denies same and demands
strict proof thereof.

3. Defendant admits those allegations contained in Paragraphs
2, 3, 5, 13 and 14 of Plaintiff's Complaint.

4. Defendant denies those allegations contained in Paragraphs
4, 6, 7, 9, 10 and 11 of Plaintiff's Complaint and demands strict
proof thereof.

5. Defendant admits only those portions of Paragraph 8 of

MF&C



Plaintiff's Complaint as state that the Plaintiff presented four invoices but denies the remaining portions of Paragraph 8 and demands strict proof thereof.

6. Answering Paragraph 12 of Plaintiff's Complaint, the Defendant admits that Plaintiff filed a Notice of Mechanics Lien on April 13, 2009, but asserts that such filing was not timely. Defendant denies the remaining allegations contained in Paragraph 12 of Plaintiff's Complaint and demands strict proof thereof.

SECOND, FOR A FIRST DEFENSE TO PLAINTIFF'S FIRST CAUSE OF ACTION
(Statute of Limitation - Filing of Lien)

7. Plaintiff's Mechanic's Lien was not filed within the time prescribed by statute for the filing of mechanic's liens.

THIRD, FOR A SECOND DEFENSE TO PLAINTIFF'S FIRST CAUSE OF ACTION
(Statute of Limitation - Service of Lien)

8. Plaintiff's Mechanic's Lien was not served within the time prescribed by statute for the filing of mechanic's liens.

FOURTH, FOR A THIRD DEFENSE TO PLAINTIFF'S FIRST CAUSE OF ACTION
(Statute of Limitation - Filing of Suit
to Enforce Mechanic's Lien)

9. Plaintiff's suit to enforce the lien of Plaintiff's Mechanic's Lien was not filed within the time prescribed by statute for the filing of suits to enforce mechanic's liens.

FIFTH, FOR A FOURTH DEFENSE TO PLAINTIFF'S FIRST CAUSE OF ACTION
(General Denial)

10. Defendant, responding to Paragraph 15 of Plaintiff's Complaint, incorporates all preceding paragraphs of this Answer and Counterclaim as if rewritten here verbatim.

11. Defendant admits the allegations contained in Paragraphs

16 and 19 of Plaintiff's Complaint.

12. Defendant denies those allegations contained in Paragraphs 17, 18 and 20 of Plaintiff's Complaint and demands strict proof thereof.

SIXTH, FOR A FIRST DEFENSE TO PLAINTIFF'S SECOND CAUSE OF ACTION
(General Denial)

13. Defendant, responding to Paragraph 21 of Plaintiff's Complaint, incorporates all preceding paragraphs of this Answer and Counterclaim as if rewritten here verbatim.

14. Defendant denies those allegations contained in Paragraphs 22, 23, 24 and 25 of Plaintiff's Complaint and demands strict proof thereof.

SEVENTH, FOR A FIRST DEFENSE TO PLAINTIFF'S THIRD CAUSE OF ACTION
(General Denial)

15. Defendant, responding to Paragraph 26 of Plaintiff's Complaint, incorporates all preceding paragraphs of this Answer and Counterclaim as if rewritten here verbatim.

16. Defendant denies the allegations contained in Paragraphs 27, 28, 29 and 30 of Plaintiff's Complaint and demands strict proof thereof.

EIGHTH, FOR A FIRST COUNTERCLAIM
(Declaratory Judgement - Mechanic's Lien Not Timely Filed)

17. Defendant and Counter-claimant incorporates all preceding paragraphs of this Answer and Counterclaim as if rewritten here verbatim.

18. This Counterclaim is brought, in part, pursuant to the Uniform Declaratory Judgments Act, Section 15-13-10, et seq, of the

MF&C

Code of Laws of South Carolina, 1976.

19. Defendant is a citizen and resident of Colleton County, South Carolina.

20. Defendant is informed and believes that the Plaintiff is a professional corporation, organized and existing under the laws of the State of South Carolina.

21. On April 13, 2009, Plaintiff filed a Notice of Mechanic's Lien, with Affidavit of Mechanic's Lien, in Volume 1742 at Pages 276 - 286, in the Office of the Register of Deeds for Colleton County, South Carolina, claiming a mechanic's lien upon certain real estate owned by the Defendant located in Colleton County, South Carolina, and a copy of said Mechanic's Lien is attached to Plaintiff's complaint as Exhibit 2.

22. The Statements of Account attached to and incorporated in said Affidavit of Mechanic's Lien showed that last work or services, for which the lien was claimed, was performed in December 2008.

23. That Section 29-5-90 of the Code of Laws of South Carolina, 1976, provides, among other things, that any claimed mechanic's lien shall be dissolved unless the claimant thereof files a statement or Notice of Lien with the Clerk of Court within ninety (90) days after he ceases to perform labor or services for which the lien is claimed and serves same upon the owner within said time.

24. The Notice of Mechanic's Lien, referred to in Paragraph

20 above, should have been filed by the end of March 2009 in order be timely; in that the Statement of Account, referred to in Paragraph 19 above, showed that the last work or services in question was performed in December 2008

25. The same was served upon Gene R. Slivka on April 13, 2009, although for the lien to be valid, it should have been served by the end of March 2009.

26. On May 12, 2009, pursuant to Section 29-5-110 of the Code of Laws of South Carolina, 1976, Defendant duly filed, with the Clerk of Court for Colleton County, his undertaking or bond for the discharge of his property from said mechanic's lien and deposited cash with said Clerk in the amount of Two Hundred Sixty-five Thousand One-hundred and Twelve and 71/100 (\$265,112.71) Dollars as security therefore.

27. Said transaction was referred to in an Order dated May 12, 2009, signed by the Honorable Perry M. Buckner, Judge for the Court of Common Pleas, Fourteenth Judicial Circuit, which is on file with the Clerk of Court, which provided that the mechanic's lien be released and the said bond and cash so deposited were substituted therefor; and said Order further provided that said cash be deposited in an interest bearing account for the benefit of the parties as their interests may be determined and that the posting of said bond and cash security should not prejudice the right of Gene R. Slivka to contest said alleged lien or from having said bond cancelled and said cash returned to him.

28. Defendant is entitled to an Order of this Honorable Court declaring that said mechanic's lien is invalid and was invalid *ab initio*, that the mechanic's lien is dissolved as not being timely filed, that the mechanic's lien is of no force and effect, that the bond or undertaking posted in connection therewith is unnecessary as the mechanic's lien for which it was substituted was invalid *ab initio*, and ordering that the undertaking or bond hereinabove referenced be cancelled, and ordering that said Clerk of Court return the cash deposited as security for said bond, to Plaintiff with accrued interest.

NINTH, FOR A SECOND COUNTERCLAIM

(Declaratory Judgement - Civil Action Not Timely Filed)

29. Defendant and Counter-claimant incorporates all preceding paragraphs of this Answer and Counterclaim as if rewritten here verbatim.

30. This Counterclaim is brought, in part, pursuant to the Uniform Declaratory Judgments Act, Section 15-13-10, *et seq*, of the Code of Laws of South Carolina, 1976.

31. That Section 29-5-120 of the Code of Laws of South Carolina, 1976, provides that any claimed mechanic's lien shall be dissolved unless the claimant thereof filed a suit for enforcing the lien within six months after he ceases to perform labor or services for which the lien is claimed.

32. The suit should have been filed by the end of June 2009 in order to be timely in that the last work or services in question were performed in December 2008; and no suit was filed by the

MF&C

Plaintiff until on or about July 20, 2009, which was not timely, as aforesaid.

33. Defendant is entitled to an Order of this Honorable Court declaring that said mechanic's lien is dissolved as no suit was timely filed, that said mechanic's lien is of no force and effect, and ordering that the undertaking or bond hereinabove referenced be cancelled, and ordering that said Clerk of Court return the cash deposited as security for said bond to Plaintiff with accrued interest.

TENTH, FOR A THIRD COUNTERCLAIM

(Declaratory Judgement - Lien Filed on Wrong Property)

34. Defendant and Counter-claimant incorporates all preceding paragraphs of this Answer and Counterclaim as if rewritten here verbatim.

35. This Counterclaim is brought, in part, pursuant to the Uniform Declaratory Judgments Act, Section 15-13-10, et seq, of the Code of Laws of South Carolina, 1976.

36. That Section 29-5-90 of the Code of Laws of South Carolina, 1976, provides, among other things, that any claimed mechanic's lien shall be filed in the office of the registrar of deeds or clerk of court in which the building or structure is situated with a statement of a just and true account of the amount due, together with a description of the property intended to be covered by the lien that is sufficiently accurate.

37. Plaintiff failed to properly follow Section 29-5-90 as Plaintiff, in its lien and suit did not list the property on which

MF&C

MPC
#7

the alleged contract work was done, and specifically excluded the property on which the alleged contract for work was allegedly done or to be done.

38. No work was done by Plaintiff on the property described in the mechanic's lien.

39. Defendant is entitled to an Order of this Honorable Court declaring that said mechanic's lien is dissolved and of no force and effect, ordering that the undertaking or bond hereinabove referred to be cancelled, and ordering that said Clerk of Court return said cash so deposited as security to Plaintiff with accrued interest.

ELEVENTH, FOR A FOURTH COUNTERCLAIM

(Request for an Award of Attorneys Fees and Costs
on Defense of Mechanic's Lien)

40. Defendant and Counter-claimant incorporates all preceding paragraphs of this Answer and Counterclaim as if rewritten here verbatim.

41. Due to the actions of the Plaintiff in wrongfully filing and serving the within mentioned mechanic's lien and filing and serving a suit to enforce the mechanic's Defendant has been forced to incur attorneys fees and incur costs in defending the suit to enforce the mechanic's lien.

42. Plaintiff should be required to reimburse or pay directly the attorneys fees and costs incurred by Defendant in defending the suit to enforce mechanic's lien file by Plaintiff.

TWELFTH, FOR A FIFTH COUNTERCLAIM
(Slander of Title)

39. Defendant and Counter-claimant incorporates all preceding paragraphs of this Answer and Counterclaim as if rewritten here verbatim.

40. Plaintiff did some work for Defendant on a five (5) acre, more or less, tract of land in Colleton County, South Carolina owned by Defendant.

41. Defendant and Counter-claimant also owns a tract of land containing two thousand seven hundred eighty-eight (2,788) acres, more or less, in Colleton County, South Carolina, on which no work was contracted for with Plaintiff and on which no work was done for Defendant by Plaintiff.

42. On April 13, 2009, Plaintiff filed a Notice of Mechanic's Lien, with Affidavit of Mechanic's Lien, in Volume 1742 at Pages 276 - 286, in the Office of the Register of Deeds for Colleton County, South Carolina, claiming a mechanic's lien upon this tract of land owned by the Defendant, and a copy of said Mechanic's Lien is attached to Plaintiff's complaint as Exhibit 2.

43. Said mechanic's lien was false in one or more or all of the following particulars:

- a. In stating Plaintiff had entered a contract to do work on a tract of land on which Plaintiff had not been contract to do work;
- b. In stating Plaintiff had done work on a tract of land on which Plaintiff had done no work; and

c. In stating Plaintiff was entitled to file a mechanic's lien when the time period for filing a mechanic's lien had expired.

44. Plaintiff published said mechanic's lien.

45. Plaintiff filed and published said mechanic's lien in reckless and/or wanton disregard of the rights of Defendant and/or without legal justification and/or with other intentions of malice.

46. As a result of Plaintiff's actions the quality of Defendant's title and the value of Defendant's property, used as collateral to secure his credit line was diminished in the eyes of his lender.

47. As a result of Plaintiff's actions, Defendant directly and immediately suffered pecuniary loss, from the effect of Plaintiff's actions on Defendant's lender and others, to wit: expenses, including, but not limited to, attorney fees, abstract fees, title fees, title insurance fees, bank fees, interest payments on loans and the like, in funding a bond to lift said mechanic's lien, so that Defendant could exercise his right to take down advances he was permitted to take down under the terms of his credit line secured by a mortgage on the two thousand seven hundred eighty-eight (2,788) acres, more or less, tract.

48. Defendant has also incurred attorneys fees and other costs in defending this action and Plaintiff should be required reimburse him for said attorneys fees or to pay said attorneys fees.

49. Plaintiff should be required to pay punitive damages to

Defendant because of Plaintiff's reckless and/or wanton disregard of the rights of Defendant and/or because Plaintiff's actions were without legal justification and/or because Plaintiff's actions were taken with other intentions of malice.

THIRTEENTH, FOR A SIXTH COUNTERCLAIM
(Breach of Contract)

50. Defendant and Counter-claimant incorporates all preceding paragraphs of this Answer and Counterclaim as if rewritten here verbatim.

51. Plaintiff breached its contract with the Defendant, and as a natural consequence and proximate result of said breach Defendant suffered damages in that Defendant's completion of his project has been delayed and he has to incur additional expenses in completion of his project, which Plaintiff, knew or should have known Defendant would have to incur if Plaintiff did not complete it's contracted for work.

52. Plaintiff knew or should have known that it performed no work on said tract of land, yet acting in a negligent, grossly negligent, wanton and willful manner it filed said mechanic's lien on this large tract of land.

WHEREFORE, having fully answered the Plaintiff's Complaint, Defendant prays:

1. That the Complaint be dismissed with costs; and
2. That Defendant be granted judgement for the declaratory relief he seeks in his First Counterclaim, including an Order determining, adjudging and decreeing that Plaintiff's mechanic's

lien is dissolved and of no force and effect and cancelling the Defendant's undertaking or bond and directing the Clerk of Court to return the cash deposited as security for said bond to the Plaintiff with accrued interest; and

3. That Defendant be granted judgement for the declaratory relief he seeks in his Second Counterclaim, including an Order determining, adjudging and decreeing that Plaintiff's mechanic's lien is dissolved and of no force and effect and cancelling the Defendant's undertaking or bond and directing the Clerk of Court to return the cash deposited as security for said bond to the Plaintiff with accrued interest; and

4. That Defendant be granted judgement for the declaratory relief he seeks in his Third Counterclaim, including an Order determining, adjudging and decreeing that Plaintiff's mechanic's lien is dissolved and of no force and effect and cancelling the Defendant's undertaking or bond and directing the Clerk of Court to return the cash deposited as security for said bond to the Plaintiff with accrued interest; and

5. That Defendant be awarded judgement for the attorneys fees he seeks in his Fourth Counterclaim; and

6. That Defendant be awarded judgement for the actual and punitive damages he seeks in his Fifth Counterclaim; and

7. That Defendant be awarded judgement for the damages he seeks in his Sixth Counterclaim; and

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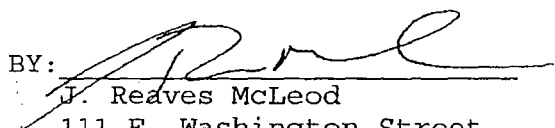
MF&C 30-105

8. As to all counterclaims before the court, that the Defendant be awarded, prejudgement interest where warranted by the facts and allowed by law; and

9. As to all claims and counterclaims before the court, that the Defendant be awarded, the costs and expenses of this action; and

10. As to all claims and counterclaims before the court, that the Court award Defendant such other and further relief as the Court deems to be just, proper and equitable and as the nature of such claim or counterclaim may require.

MCLEOD, FRASER & CONE

BY: 

J. Reaves McLeod
111 E. Washington Street
Post Office Drawer 230
Walterboro, SC 29488
(843) 549-2516
Attorneys for Gene R. Slivka

September 9, 2009

Walterboro, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF COLLETON)
)
THE SPRIGGS GROUP, PC)
Plaintiff,)
)
vs.)
)
GENE R. SLIVKA)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO. 2009-CP-15-595

AMENDED COMPLAINT
(Jury Trial Requested)

2010 MAY -5 AM 8:53
CLERK OF COURT
COMMON PLEAS

The Plaintiff, The Spriggs Group, PC, ("The Spriggs Group"), complaining of Defendant Gene R. Slivka ("Slivka"), alleges and states as follows:

1. The Spriggs Group is a professional corporation organized and existing under the laws of the state of Georgia and is licensed to do business in the state of South Carolina.
2. Slivka is, upon information and belief, a resident of the state of South Carolina.
3. On or about November 27, 2006, The Spriggs Group provided a written proposal (the "Proposal"), Exhibit 1, to perform architectural and engineering design services for Slivka for improvements on property known as the New Julianton Plantation (also known as the Myrtle Grove Plantation or the Myrtle Grove Tract) in Colleton County, South Carolina (the "Project").
4. The Proposal estimated the total fee for preparation of fifty-two design drawings at \$161,500.00 plus reimbursable expenses and indicated that other work such as changes to the design or construction phase services would be done at an additional cost based on hourly rates.
5. After receipt of the Proposal, Slivka verbally deleted the requirement for Boat House drawings, reduced the fee accordingly to \$152,420, and indicated that he would pay one-

half of that fee (\$76,210) up front and the remainder upon completion of the remaining drawings.

6. Work commenced on the design on or about January 3, 2007. Despite Slivka's promise to pay one-half of the fee up front, The Spriggs Group did not receive payment until February 26, 2007.
7. At Slivka's request and pursuant to the terms of the Proposal, The Spriggs Group provided architectural and engineering design services for the Project and ultimately produced eighty-five drawings for the project.
8. The Spriggs Group performed its obligations and responsibilities under its agreement with Slivka.
9. The Spriggs Group performed additional work, including modifications to the design during construction document preparation, research and design of numerous custom details, and construction administration services, all pursuant to oral direction from Slivka.
10. The Spriggs Group has presented five proper invoices for completion of the work to Slivka totaling One Hundred, Ninety Nine Thousand, Nine Hundred and Nineteen Dollars and Fifty Three Cents (\$199,919.53); however, Slivka has failed to make payment for those services as rendered.
11. During March 2009, Slivka indicated that he would pay an additional \$76,210 for services accomplished by The Spriggs Group, but would not pay additional monies due for preparation of the additional drawings, for the modifications during construction document preparation, for custom details, or for construction administration services, all as requested by Slivka.

12. The Spriggs Group last performed services related to the project on January 13, 2009.
13. Slivka has not paid The Spriggs Group for its work despite Slivka's contractual obligations and demands for payment from The Spriggs Group.
14. Slivka has retained the benefit of the services performed by The Spriggs Group.
15. Slivka acknowledges owing certain amounts to The Spriggs Group but has refused to tender additional payment unless The Spriggs Group releases him from claims related to additional sums The Spriggs Group is due for services provided for the Project.
16. Pursuant to Section 29-5-10, et. seq. of the South Carolina Code, The Spriggs Group timely notified Slivka that it had not been paid in full and subsequently filed a Notice of Mechanic's Lien which was filed in Volume 1742 at Page 276 at the Register of Deeds Office for Colleton County, SC.
17. Subsequent to filing of the Mechanic's Lien, Slivka posted a cash bond with the Clerk of Court for Colleton County, SC which is filed in Volume 1751 at Page 118.
18. On or about May 15, 2009, the cash bond was transferred from the Clerk of Court to the Register of Deeds for Colleton County, South Carolina. A receipt for the bond is filed in Volume 1753 at Page 81 with the Colleton County Register of Deeds.
19. On March 15, 2010, The Spriggs Group made a proper demand for payment of outstanding fees pursuant to S.C. Code Ann. §27-1-15.

FOR A FIRST CAUSE OF ACTION
(Enforcement of Claim against Mechanic's Lien Bond)

20. The Spriggs Group realleges and incorporates the allegations contained in paragraphs 1-19 above as if they were restated herein verbatim.
21. The Spriggs Group has filed a Notice and Certificate of Mechanic's Lien and an Affidavit and Statement of Account, which is attached as Exhibit 2, for architectural and

engineering services provided for the Project stating that Defendant Slivka has failed to pay The Spriggs Group for those services.

22. The services provided for which it has not been paid total \$199,919.53 and were performed within ninety (90) days of the filing of the Notice and Certificate of Mechanic's lien and within six months of the date of the filing of this Complaint.
23. As of the date of this Complaint, Slivka's mechanic's lien is still unsatisfied in at least the amount of \$198,834.53.
24. Slivka filed a cash bond (the "Bond") in the amount of Two Hundred Sixty-Five Thousand, One Hundred Twelve and 71/100 Dollars (\$264,112.71) to take the place of the real property upon which The Spriggs Group's lien existed, such Bond now being subject to The Spriggs Group's lien.
25. The Spriggs Group is due a judgment against the Bond in the sum of \$198,834.53, plus pre-judgment interest, costs and reasonable attorneys' fees incurred as allowed by the mechanic's lien statutes.

FOR A SECOND CAUSE OF ACTION
(Breach of Contract)

26. The Spriggs Group realleges and incorporates the allegations contained in paragraphs 1-25 above as if they were restated herein verbatim.
27. The Spriggs Group and Slivka entered into a contract wherein Slivka agreed to pay The Spriggs Group for the performance of architectural and engineering design services, modifications to the design during construction document preparation, research and design of numerous custom details, and construction administration services for the Project.

28. Slivka breached its contract with The Spriggs Group by failing to remit full payment to The Spriggs Group for the performance of architectural and engineering design services, modifications to the design during construction document preparation, research and design of numerous custom details, and construction administration services for the Project.
29. As a direct and proximate cause of Slivka's breach of its contractual obligations, The Spriggs' Group has suffered damages.
30. The Spriggs Group is entitled to payment of the amounts due under the contract, plus consequential damages, pre-judgment interest, and attorneys' fees.

FOR A THIRD CAUSE OF ACTION
(Breach of Contract Accompanied by Fraudulent Acts)

31. The Spriggs Group realleges and incorporates the allegations contained in paragraphs 1-30 above as if they were restated herein verbatim.
32. The breaches of contract by Slivka were accompanied by fraudulent acts which included, without limitation:
- a. In inducing The Spriggs Group to perform additional work related to the Project based on an agreement that Slivka would pay The Spriggs Group for the additional work when, in fact, Slivka intended at the time of the agreement not to make payment in full to The Spriggs Group; and
 - b. In withholding payment he acknowledges is due to The Spriggs Group in an effort to exact a reduction or forgiveness in other sums due to The Spriggs Group.

33. The breaches of contract accompanied by fraudulent acts by Slivka were committed intentionally, wrongfully, without justification and maliciously, thereby justifying an award of punitive damages against Slivka.
34. As a direct and proximate cause of Slivka's breach of its contractual obligations, The Spriggs' Group has suffered damages.
35. The Spriggs Group is entitled to payment of the amounts due under the contract, plus consequential damages, pre-judgment interest, attorneys' fees and punitive damages.

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

36. The Spriggs Group realleges and incorporates the allegations contained in paragraphs 1-35 above as if they were restated herein verbatim.
37. Slivka has received a benefit from the architectural and engineering design services, modifications to the design during construction document preparation, research and design of numerous custom details, and construction administration services for the Project.
38. While Slivka has realized and retained the benefit conferred, The Spriggs Group has not been paid for the value of the services provided to the Project.
39. Equity demands that The Spriggs Group be paid for the value of the architectural and engineering design services, modifications to the design during construction document preparation, research and design of numerous custom details, and construction administration services performed for Slivka and provided for the Project for which Slivka has not reimbursed The Spriggs Group.

40. The Spriggs Group is entitled to a judgment against Slivka for the value of the architectural and engineering design services, modifications to the design during construction document preparation, research and design of numerous custom details, and construction administration services performed for the Project and remaining owed to The Spriggs Group, plus prejudgment interest, costs and attorneys' fees.

FOR A FIFTH CAUSE OF ACTION
(Failure to Comply with S. C. Code Ann. §27-1-15)

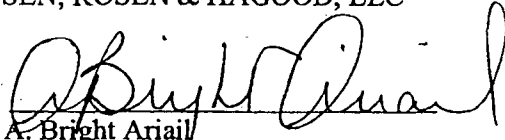
41. The Spriggs Group realleges and incorporates the allegations contained in paragraphs 1-40 above as if they were restated herein verbatim.
42. The Spriggs Group provided notice via certified mail to Slivka on March 15, 2010, making a demand pursuant to the statutory requirements of S.C. Code Ann. § 27-1-15.
43. Slivka has failed to make a fair and reasonable investigation of the merits of The Spriggs Group's claim and has further failed to pay it or a portion of it to date.
44. Upon the passage of forty-five (45) days from the date of the notice pursuant to the statutory requirements of S.C. Code Ann. § 27-1-15, The Spriggs Group is entitled to its attorney's fees as well as interest at the judgment rate from the date Slivka was first notified of The Spriggs Group's claim.

WHEREFORE, Plaintiff prays that the Court grant the following relief:

1. Grant judgment against Slivka in the amount of at least \$199,919.53 plus prejudgment interest, punitive damages, costs and reasonable attorney's fees for the prosecution of this action, together with interest thereon as allowed by the mechanic's lien statute and by S.C. Code Ann. § 27-1-15;
2. Grant judgment against Slivka for actual damages, including incidental and consequential damages, as may be proven at trial;

3. Grant judgment against Slivka for the costs incurred in prosecuting this action, including reasonable attorneys' fees;
4. Award prejudgment interest against the sum certain amount set forth in the Notice and Certificate of Mechanic's Lien and Affidavit of Mechanic's Lien;
5. Award interest pursuant to S.C. Code Ann. § 27-1-15; and
6. Award such other and further relief requested herein and as the Court deems just and appropriate.

ROSEN, ROSEN & HAGOOD, LLC

By: 

A. Bright Ariail

Timothy J.W. Muller

P. O. Box 893

Charleston, SC 29402

134 Meeting Street, Suite 200

Charleston, SC 29401

(843) 577-6726

ATTORNEY(S) FOR THE SPRIGGS
GROUP, PC

Charleston, South Carolina

April 28, 2010.

**The
Spriggs
Group
P.C.**

27th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

27 November 2006

Mr. Gene Slivka

Reference: New Residence and Outbuildings
Julianton Plantation

Dear Gene:

For your project, I have provided three focus areas for your consideration. The first is an estimate of probable construction cost for each of seven buildings. The second is our estimate of drawings and specifications needed by the contractor to build the structures. The third is our fee proposal to complete the architectural and engineering work with restrictions and limitations noted. I have enclosed national average fee schedules from 2005 for this type of project. for your information.

Estimated Construction Cost Based on Program Outlined in 5 October 2006 Letter

Main House

Total Gross Heated Space	13,056 SF x \$250/SF	\$3,264,000
Basement	7,168 SF x \$ 70/SF	501,760
Porches	1,152 SF x \$ 60/SF	69,120
Exterior Porch Stairs	4 x \$12,000 each	48,000
Total Main House		\$3,882,880

Conservatory

Total Gross Space	864 SF x \$150/SF	\$ 129,600

Stable

Total Gross Ground Space	2,250 SF x \$125/SF	\$ 315,000
Hay Loft	1,000 SF x \$70/SF	70,000
Total Stable		\$ 385,000

Garages

Total Gross Ground Space	1,300 SF x \$90/SF	\$ 117,000
Attic (No HVAC)	900 SF x \$75/SF	67,500
Total Each Garage		\$ 184,500
Total Garages		\$ 369,000

Pavilion and Grotto

Total Gross Space	200 SF x \$100/SF	\$ 20,000



Boat House		
Total Gross Space	540 SF x 110/SF	\$ 59,400

Total Buildings		\$4,845,880

Walls at Conservatory and Stable (4 F High x 100 LF)	400 SF x \$40/SF	\$ 16,000

Additional Costs

Site Grading
Civil: Wells & Piping.
Septic Tanks & Drain Fields
Solar Energy System
Grassing & Landscaping

Drawings and Specifications

Main House

Sheet Number-Description

A1-Site Plan (includes adjacent out-buildings)
A2-Foundation Plan & Details
A3-Basement & First Floor Plans
A4-Second Floor & Attic Plans
A5 & 6-Enlarged Partial Plans
A7-Building & Wall Sections & Details
A8-Schedules
A9 & 10-Elevations
A11- Roof Plan & Details
A12 & 13-Framing Plans
A14-Structural Details
P1-Plumbing Basement & First Floor Plans
P2-Plumbing Second Floor & Attic Plans
P3-Plumbing Riser Plans & Schedules
M1-Mechanical Basement & First Floor Plans
M2-Mechanical Second Floor & Attic Plans
M3-Mechanical Schedules & Details
E1-Electrical Basement & First Floor Plans (Power & Lighting)
E2-Electrical Second Floor & Attic Plans (Power & Lighting)
E3-Electrical Schedules & Details

Conservatory

Sheet Number-Description

A1-Foundation & Floor Plans & Details
A2-Elevations
A3-Framing Plan, Building & Wall Sections

Conservatory Continued
A4-Window & Door Elevations & Details
PME1-Plumbing, Mechanical & Electrical Plans
PME2-Plumbing, Mechanical & Electrical Details

Stable
Sheet Number-Description
A1-Foundation Plan & Details
A2-Floor & Hay Loft/Attic Plans
A3-Building & Wall Sections
A4-Elevations
A5-Schedules & Details
A6-Framing & Details
A7-Roof & Details
PME1-Plumbing, Mechanical & Electrical Plans
PME2-Plumbing, Mechanical & Electrical Schedules
PME3-Plumbing, Mechanical & Electrical Details

Garages
Sheet Number-Description
A1-Foundation & Floor Plans
A2-Attic & Roof Plans
A3-Elevations & Sections
A4-Framing Plans & Details
PME1-Plumbing, Mechanical, Electrical Plans & Details

Grotto
Sheet Number-Description
A1-Foundation & Floor Plans & Details
A2-Roof Plan, Elevations & Details
PE1-Plumbing & Electrical Plans & Details

Boat House
Sheet Number-Description
A1-Site Plan, Foundation & Floor Plans & Details
A2-Elevations & Sections
A3-Framing Plan & Details
PE1-Plumbing & Electrical Plans & Details

Total drawings: 52 sheets consisting of 34 architectural and 18 engineering drawings plus cover sheet.

Specifications
Applicable sections of 16-Division Master Format. Preliminary estimate is approximately 100 pages.

Fee Proposal

Concept Design sit-down sessions and
Design Refinement for six building types
Project architect 80 hours @ \$175/hr \$ 14,000

Project Management
Internal - Project architect 40 hours @ \$175/hr 7,000
Consultants - project architect 40 hours @ \$175/hr 7,000

Construction Documents
Drawing set-up, lay-outs, design details, and schedules
24 hours/sheet @ \$105/hr X 34 sheets 85,680
Cover sheet 4 Hours @ \$105/hr 420

Specifications
Project architect 80 hours @\$175/hr 14,000
Clerical 40 hrs@\$35/hr 1,400

Consultants
Plumbing, mechanical, electrical engineering 20,000
Structural engineering 12,000

Total Fee \$161,500

Estimated Reimbursable Expenses \$ 1,000
Computer plots, printing, copying

You are welcome to use material samples, catalogs and other resources at our office.
This proposal is based on the following assumptions:

- 1) You will layout the kitchen and will work with a supplier such as Home Depot who will produce a floor plan and cabinet elevations for our use to confirm room size and dimensions and to determine plumbing locations and hood exhaust location.
- 2) You will select all kitchen appliances and will provide manufacturers, model numbers, and cut sheets for our use in preparing applicable plumbing and electrical plans.
- 3) You will work with a stair builder who will provide a stair shop drawing for the main house central stair for our use to determine structural support and framing.
- 4) You will contact and work with a solar energy system provider who will give us all information about panel locations, support requirements, and connections for our use to determine structural framing, connections, and ventilation of storage batteries.

- 5) You will provide molding and trim supply sources and model numbers for our inclusion on the drawings.
- 6) You will select all lighting fixtures and will supply manufacturers and models for our use in preparing electrical schedules.
- 7) You will contract directly with a civil engineering firm, landscape architect and/or nursery . We will be provided with site drawings for water wells, septic tanks, and drain fields locations to determine our water and sanitary line entries to the buildings.
- 8) You will engage a testing laboratory to provide soils tests requested by our structural engineer.
- 9) You will engage a testing laboratory to provide tests for concrete requested by our structural engineer.
- 10) You will select brick manufacturer, color, and style.
- 11) You will select roofing material, manufacturer, and style.
- 12) You will select flooring material, colors, and styles and will provide manufacturer, and model numbers for our inclusion on finish schedules.
- 13) You will select interior and exterior colors and will provide manufacturers and numbers for our inclusion on finish schedules.
- 14) We will select door, window, and shutter hardware for your review and approval.
- 15) We will select plumbing fixtures for your review and approval.
- 16) We will provide shop drawing review for mechanical systems, site visits for electrical inspection prior to cover up, and final plumbing, mechanical, and electrical punch list.
- 17) We will provide structural foundation inspections and one framing inspection for each building.
- 18) We will provide any requested construction phase services by the project architect or staff on an hourly basis.
- 19) Once we begin construction documents, any changes in room layouts, sizes, window locations, door locations, and exterior elevation designs will be performed on an hourly basis.
- 20) We have not included any dock design for the boat house area since none was mentioned earlier.

Mr. Gene Slivka
20 November 2006

I am concerned that we may not have estimated enough time for this project and that our fee is too low. However, I am going on the information you gave over the telephone. If you look at the attached fee schedule, you will see that fees range from 15 to 19 percent of construction cost for custom single family dwellings. Typically fees breakdown by phases with the following percentages of fee by phase: schematic design - 15%, design development - 15%; construction documents - 45%; bidding or contractor negotiations - 5%; construction administration - 20%. For the construction documents phase, our proposed fee is less than half the fee that would be charged under national averages.

Gene, this is an exciting project, and I think that my estimates are accurate. I suggest you might contact Jim Turner and his chief estimator Mark Hiott to go over my projections. Let me know his review turns out. I will happy to talk with you further about the project.

Yours very truly,

THE SPRIGGS GROUP, P.C.



C. Kenneth Spriggs, AIA

CKS:bwj

FEEES

2005

FEEES FOR PROFESSIONAL DESIGN SERVICES

A GUIDELINES PUBLICATION

HOUSING

	Typical Fee Range as % of construction cost	Scope of Design Services			Highest Level Full-Service Fees
		Baseline Economy	Standard Average	Comprehensive Superior	
Dwellings, Single Family (Developer, Quality Tract)					
New Construction	3 - 8%	3%	6.4%	8%	8 - 12%
Typical construction cost range: \$56 to \$130 Average cost: \$85 sq. ft. (not including sitework) Typical range of building sizes: 1,400 - 3,000 sq. ft. Average size: 1,900 sq. ft.					
Note: Higher priced tract housing is rarely designed by architects, and unlicensed designer or drafting service fees are considerably lower than those cited above.					
Renovation/Additions (Not applicable.)					
Dwellings, Single Family (Developer, Luxury)					
New Construction	7.5 - 12.5%	7.5%	9.5%	12.5%	12.5 - 14%
Typical construction cost range: \$105 to \$262 Average cost: \$140 sq. ft. (not including sitework) Typical range of building sizes: 2,500 - 6,000 sq. ft. Average size: 3,500 sq. ft.					
Renovation/Additions	n/a - 16%	n/a	15%	16%	16 - 18%
Dwellings, Single Family (Custom Luxury)					
New Construction	n/a - 17.5%	n/a	15.2%	17.5%	17.5 - 19%
Typical construction cost range: \$117 to \$295 Average cost: \$175 sq. ft. (not including sitework) Typical range of building sizes: 3,000 - 9,000 sq. ft. Average size: 3,900 sq. ft.					
Renovation/Additions	n/a - 20%	n/a	18.5%	20%	20 - 22%

The architectural fee percentages include normal structural, mechanical, and electrical engineering fees.
 See page 4 for an explanation of building size and construction cost information.
 See page 5 for more details about what is and what is not included in consultant pass-through fees.
 See page 6 for an explanation of how to read and use the information in this survey.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF COLLETON	)	CIVIL ACTION NO.
	)	
THE SPRIGGS GROUP, PC	)	NOTICE OF MECHANIC'S LIEN
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
GENE R. SLIVKA	)	
	)	
Defendant.	)	

200900011272
 Filed for Record in
 COLLETON COUNTY SC
 KARLA DADDIEO
 04-13-2009 At 02:44 pm.
 MECH LIEN 17.00
 OR Volume 1742 Page 276 - 286

TO THE DEFENDANT ABOVE NAMED AND ALL OTHERS CONCERNED;

YOU WILL PLEASE TAKE NOTICE that the Plaintiff above named, by virtue of the attached Affidavit, does hereby claim a mechanic's lien of real estate hereinafter described, said lien being in the amount of One Hundred Ninety Eight Thousand, Eight Hundred and Thirty-Four Dollars and Fifty Three Cents (\$198,834.53) plus prejudgment interest, costs and attorney's fees, for labor, services and materials furnished and used for the improvements situated on the below described real estate. Such having been authorized by the Owner, or made by virtue of and in agreement with and by consent of the owner of such improvements or some person or agent having authority from or rightfully acting for such owner of the procuring or furnishing of such materials.

The property upon which this lien is attached includes those parcels below for which architectural and engineering services have been provided by The Spriggs Group, PC and is more particularly described as follows:

All those pieces, parcels and tracts of land containing two thousand seven hundred ninety-three and seven-tenths (2,793.7) acres, more or less, together with the buildings and improvements thereon, situate in the County of Colleton, State of South Carolina, known as Myrtle Grove Plantation, and delineated on two (2) survey plats prepared by S.S. Snook, Registered Land Surveyor, one delineated as containing one hundred eleven and three-tenths (111.3) acres, dated May 7, 1980, and recorded November 3, 1982, in Plat book 21 at Page 150; and the other delineated as containing two thousand six hundred eighty-two and four-tenths (2,682.4) acres, dated July 11, 1980, and recorded November 3, 1982, in Plat Cabinet C at Slide 47, in the Office of the Clerk of Court for Colleton County, South Carolina.

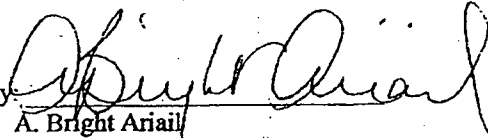


LESS AND EXCEPT All that certain tract or parcel of land lying and being in Colleton County, South Carolina and being know as Five (5) acres which parcel is a portion of the property more commonly known as MYRTLE GROVE TRACT, as shown on that certain map recorded in the Colleton County Register of Deeds, Colleton County, South Carolina in Deed Book CX, Page 47, and being more particularly described as follows: beginning 200 feet due North from the Northeast corner of the Myrtle Grove House being the POINT OF BEGINNING and running East for a distance of 200 feet; thence running due South for a distance of 900 feet; thence due West for a distance of 2420 feet; thence due North for a distance of 900 feet; thence due East for a distance of 700 feet to the POINT OF BEGINNING. Said tract to include the house currently known as Myrtle Grove.

BEING ALL OF TMS#: 282-00-00-021.000/271-00-00-082.000/282-00-00-020.000/282-00-00-008.000/281-00-00-057.000/ and 291-00-00-002.000 AND the remaining Portion of 291-00-00-001.000 and/or 282-00-00-021/271-00-00-082/282-00-00-020/282-00-00-008/281-00-00-057 and 291-00-00-002 AND the remaining Portion of 291-00-00-001

This being the same property conveyed to Berwind LLC by Limited Warranty Deed from William Henry Varn, dated February 22, 2007, recorded in Deed Book 1474, Page 61, recorded in the Office of the Register of Deeds for Colleton County, South Carolina.

ROSEN, ROSEN, & HAGOOD, LLC.

By: 

A. Bright Ariail
134 Meeting Street, Suite 200
Post Office Box 893
Charleston, SC 29402
(843) 577-6726

ATTORNEYS FOR PLAINTIFF
THE SPRIGGS GROUP, PC

Charleston, South Carolina

April 13, 2009

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

THE SPRIGGS GROUP, PC

Plaintiff,

vs.

GENE R. SLIVKA,

Defendant.

) IN THE COURT OF COMMON PLEAS

) CIVIL ACTION NO.

) AFFIDAVIT OF MECHANIC'S LIEN

)

)

)

)

)

)

)

)

)

PERSONALLY appeared before me, The Spriggs Group, PC, a professional corporation, by C. Kenneth Spriggs, its President, who, being first duly sworn, deposes and states that certain labor, services and/or materials were furnished for the improvement of the property described in the attached Notice of Mechanic's Lien, such materials having been furnished at the special instance and request of the owner of said property or by consent of the owners or some person or agent having authority from or rightfully acting for such owner or authorized by the owner and were last furnished within ninety (90) days from the date of this Affidavit.

Deponent further states that there is past due and owing from the owners of said property to it the sum of One Hundred Ninety Eight Thousand, Eight Hundred and Thirty-Four Dollars and Fifty-Three Cents (\$198,834.53), representing the sum to which materials are reasonably worth as evidenced by the statement of account (attached hereto and incorporated herein as Exhibit "A") plus prejudgment interest, costs and reasonable attorney's fee.

THE SPRIGGS GROUP, P.C.

By: C. Kenneth Spriggs
C. KENNETH SPRIGGS
PRESIDENT

SWORN TO before me this

10th Day of April, 2009.

Olivia Mason
NOTARY PUBLIC FOR [state]

My Commission Expires:

OLIVIA MASON
Notary Public, Chatham County, GA
My Commission Expires December 1, 2010

EXHIBIT A

The Spriggs Group P.C.
New Julianton Plantation
Architectural/Engineering Services

Statement of Account

<u>Invoice</u>	<u>Amount Due</u>
0609-2	\$ 163,574.00
0609-3	\$ 11,849.50
0609-4	\$ 19,532.50
0609-5	\$ 3,878.53
	\$ 198,834.53

**The
Spriggs
Group
P.C.**

**INVOICE
0609-2**

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

January 2007 through December 2008:

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Design and preparation of final drawings based on
formula stated in our proposal letter dated 27 November 2006.

Main House	42 sheets x 24 hours/sheet x \$105/hr.	\$105,840
Conservatory	6 sheets x 24 hours/sheet x \$105/hr.	15,120
Potting Shed	6 sheets x 24 hours/sheet x \$105/hr.	15,120
Barn	12 sheets x 24 hours/sheet x \$105/hr.	30,240
Garages (2)	18 sheets x 24 hours/sheet x \$105/hr.	45,360
Grotto	3 sheets x 24 hours/sheet x \$105/hr.	7,560

Total Preparation of Final Drawings	\$219,240
Consultants Paid by Architect	20,535
Sub-Total	239,775

Previous Invoice 0609-1 Credit (76,201)

Total this Invoice \$163,574

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

INVOICE
0609-3

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Additional Services and Changes based on items
listed in our proposal letter dated 27 November 2006:

August 2007:

Re-design rear wall system and change
construction documents for potting shed. 6 hrs. @ \$105/hr. \$ 650.00

October 2007:

Drafting for steps and retaining walls at garden.
Meet with contractor and prepare grid plan. 11 hrs. @ \$75/hr. 825.00

March - April 2008:

Research dentil mouldings at Taft House Museum,
Cincinnati; contact Historic American Building Survey
(HABS), obtain drawing and photo, develop and
reproportion original mouldings for barn and garages.
Reproportion original moulding for Main House.
Develop alternative moulding details for barn and
garages. 32 hrs. @ \$105/hr. 3,360.00

May 2008:

Research dog wash equipment and provide
cut sheets of products. 1.5 hrs. @ \$105/hr. 157.50
Design interior trim and details to incorporate
existing doors from Julianton Plantation,
McIntosh County, Georgia. 4 hrs. @ \$105/hr. 420.00

Mr. Gene Slivka
9 February 2009

August 2008:

Redesign front entry windows, delete
palladian exterior window and change
6 foot window to 8 feet.

15 hrs. @ \$105/hr. 1,575.00

Provide manufacturer sources for slate,
millwork, mouldings.

9.5 hrs. @ \$105/hr. 997.50

Research Rinnai hotwater system.

1.5 hrs. @ \$105/hr. 157.50

September 2008:

Column redesign.

7 hrs. @ \$105/hr. 735.00

Chimney redesign from steel frame to
masonry.

23.5 hrs. @ \$105/hr. 2,467.00

Interior Palladian window redesign.

5 hrs. @ \$105/hr. 525.00

Total this Invoice

\$11,849.50

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

INVOICE
0609-4

9 February 2009

30th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Construction Administration Services.
Distribute documents for bid pricing, identify
trade contractors, answer field questions and
produce field sketches for garages, barn, main
house and grotto. Do quantity take-offs for
main house sheet rock panels.

May 2008:

Project Architect (P.A.)	2 hrs. @ \$175/hr.	350.00
Project Architectural Designers (P.A.D.)	2.5 hrs. @ \$105/hr.	262.50

June 2008:

P.A.	2 hrs. @ \$175/hr.	350.00
P.A.D.	3 hrs. @ \$105/hr.	315.00

July 2008:

P.A.D.	8 hrs. @ \$105/hr.	840.00

August 2008:

P.A.	.5 hrs. @ \$175/hr.	87.50
P.A.D.	19 hrs. @ \$105/hr.	1,995.00

September 2008:

P.A.	1.5 hrs. @ \$175/hr.	262.50
P.A.D.	13.5 hrs. @ \$105/hr.	1,417.50

October 2008:

P.A.	14.5 hrs. @ \$175/hr.	2,537.50
P.A.D.	44.4 hrs. @ \$105/hr.	4,672.50

**The
Spriggs
Group
P.C.**

**INVOICE
0609-5**

9 February 2009

30th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Reference: Architectural/Engineering Services
New Julianon Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

Reimbursable Expenses:

January 2007 through December 2008:

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Copies: Xerox, Laser, Fax	
B/W	\$ 397.50
Color	33.20
Postage:	\$ 27.07
Blue Prints:	51.03
Computer Plots:	964.50
Coastal Digital Reprographics	
Paid Invoices	\$2,270.51
Savannah Blue Print Co.	
Paid Invoices	\$ 134.72

Total	\$3,878.53

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

FOURTEENTH JUDICIAL CIRCUIT

CASE NO: 2009-CP-15-595

COUNTY OF COLLETON)

THE SPRIGGS GROUP, PC

Plaintiff,

v.

GENE R. SLIVKA,

Defendant.

**ANSWER AND COUNTERCLAIMS TO
AMENDED COMPLAINT**

2010 MAY 18 PM 2:45
CLERK OF COURT
COLLETON COUNTY
COMMON PLEAS

TO THE ABOVE NAMED PLAINTIFF AND ITS ATTORNEY A. BRIGHT ARIAIL:

The Defendant above named, answering the Complaint herein and Counterclaiming against Plaintiff, would show this Honorable Court as follows:

ANSWER

1. The Defendant (herein also "Mr. Slivka") denies each and every allegation of the Amended Complaint which is not specifically admitted herein.

2. Mr. Slivka is without sufficient information upon which to formulate a belief as to the truth or falsehood of the material allegations contained in paragraph 1 Plaintiff's Amended Complaint; and they are, therefore, denied, and strict proof is demanded thereof.

3. The material allegations contained in paragraphs 2, 17 and 18, of Plaintiff's Amended Complaint are admitted.

4. Responding to the material allegations contained in paragraphs 3 and 4 of Plaintiff's Amended Complaint, it is admitted that Exhibit "1" attached to the Amended Complaint speaks for itself, but its completeness, contents, construction, relevance and

enforceability are denied, and strict proof is demanded thereof; and all other material allegations contained in those paragraphs are denied, and strict proof is demanded thereof.

5. Responding to the material allegations contained in paragraphs 5 and 11 of Plaintiff's Amended Complaint, it is admitted that the parties engaged in negotiations; but any and all other material allegations of those paragraphs are denied, and strict proof is demanded thereof.

6. Responding to the material allegations contained in paragraphs 6-9 of Plaintiff's Amended Complaint, it is admitted that the Plaintiff performed some work; and that Mr. Slivka paid for it; but any and all other material allegations of those paragraphs are denied, and strict proof is demanded thereof.

7. Responding to the material allegations contained in paragraphs 10 and 19, of Plaintiff's Amended Complaint, it is admitted that the Plaintiff has demanded additional payment from Mr. Slivka; but any and all other material allegations of that paragraph are denied, and strict proof is demanded thereof.

8. The material allegations of paragraphs 12 and 16 of Plaintiff's Amended Complaint are denied.

9. Responding to the material allegations contained in paragraphs 13-15 of Plaintiff's Amended Complaint, it is admitted that the parties engaged in negotiations; that Plaintiff performed some work; and that Mr. Slivka paid for it; but any and all other material allegations of those paragraphs are denied, and strict proof is demanded thereof.

10. To the extent relevant, the preceding and following paragraphs are re-stated and incorporated hereat by reference in answer to Paragraphs 20, 26, 31, 36 and 41 of Plaintiff's Amended Complaint.

11. Responding to the material allegations contained in paragraphs 21-25 of Plaintiff's Amended Complaint, it is admitted that Exhibit "2" attached to the Amended Complaint speaks for itself; but its completeness, contents, construction, relevance and enforceability are denied, and strict proof is demanded thereof; and all other material allegations contained in those paragraphs are denied, and strict proof is demanded thereof.

12. Responding to the material allegations contained in paragraphs 27-30; 32-35; 37-40; and 42-44 of Plaintiff's Amended Complaint, it is admitted that the parties engaged in negotiations; that Plaintiff performed some work; and that Mr. Slivka paid for it. The remaining material allegations contained in those paragraphs amount to conclusions of law requiring no response from Mr. Slivka; but, to the extent that a response is deemed to be required, all remaining material allegations in those paragraphs are denied, and strict proof is demanded thereof.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE
(Rule 12(b)6)

13. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

14. Plaintiff has failed to state a valid claim for relief against Mr. Slivka; and Plaintiff's Amended Complaint should be dismissed, with prejudice.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE
(Statutes of Limitations and/or Repose)

15. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

16. Pursuant to the contents of its Exhibit "2" to the Amended Complaint Plaintiff has judicially admitted that it ended its work at issue in this matter on or before December 31, 2008.

17. Pursuant to the contents of its Exhibit "2" to the Amended Complaint Plaintiff has judicially admitted that it first filed its Notice of Mechanic's lien on April 13, 2009.

18. Mr. Slivka hereby requests that this Court take judicial notice of the fact that April 13, 2009 is more than 90 days following December 31, 2008.

19. The Court's record of this matter reflects that Plaintiff filed its law suit in this matter on July 20, 2009.

20. Mr. Slivka hereby requests that this Court take judicial notice of the fact that July 20, 2009 is more than 6 months following December 31, 2008.

21. Plaintiff's claims of right under its mechanic's lien, notice of mechanic's lien, and/or mechanic's lien bond are completely barred by Plaintiff's judicially admitted failures to comply with the requirements of the statutes of limitations and/or repose, contained within S.C. Code Ann. Title 29, Chapter 5, including, but not limited to §29-5-90 and §29-5-120, in that Plaintiff failed to file and serve a valid Notice of Mechanic's Lien within 90 days of its last work on the property described therein; and it further failed to file this law suit within 6 months of its last work on that property.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE
(Material Defect in Notice of Mechanic's Lien)

22. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

23. Pursuant to the contents of its Exhibit "2" to the Amended Complaint, Plaintiff's Notice of Mechanic's Lien was filed and attached to real property other than the real property where work was performed by the Plaintiff, in violation of statute; and this amounts to an uncured and incurable material defect voiding Plaintiff's lien and Notice of lien, *ab initio*.

24. Plaintiff's claims of right under its mechanic's lien, notice of mechanic's lien, the original filing of this lawsuit, and/or mechanic's lien bond are completely barred by Plaintiff's failures to comply with the requirements of the Mechanic's Lien statutes contained in S.C. Code Ann. Title 29, Chapter 5, including, but not limited to §29-5-90; and Mr. Slivka should be awarded all his costs and fees incurred in defending this matter pursuant to the same statutes.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE
(Frivolous Lien)

25. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

26. All of the facts alleged above, together with the contents of Plaintiff's Exhibit "2" to the Amended Complaint, demonstrate that Plaintiff filed a frivolous lien, as contemplated by S.C. Code Ann. Title 29, Chapter 5, including, but not limited to §29-5-15.

27. As a result of all of the above, Plaintiff's frivolous lien claims should be dismissed with prejudice, and all costs and attorneys fees should be awarded in favor of the Defendant, pursuant to S.C. Code Ann. Title 29, Chapter 5, including, but not limited to §29-5-20.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE
(Payment)

28. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

29. Plaintiff's Amended Complaint, at its paragraphs 5 and 6, judicially admits that Mr. Slivka paid the Plaintiff \$76,210.00; and this payment is pled as an affirmative defense and complete bar to some or all of the claims contained in Plaintiff's Amended Complaint.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

(Waiver)

30. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

31. Plaintiff is bound by its admissions as follows:

(a) Plaintiff's Amended Complaint, at its paragraph 3, judicially admits that its Exhibit "1" is a "Proposal" rather than a "contract";

(b) Its paragraph 4 judicially admits that Exhibit "1" is an "estimate", rather than a "contract";

(c) Its paragraph 5 judicially admits that Mr. Slivka was permitted to make verbal changes to its Exhibit "1", including the material terms of amount of payment; scope of work; and time for payment;

(d) Its paragraphs 6, 7, 8 and 9 judicially admit that Plaintiff began work and continued to perform work when Mr. Slivka was allegedly in breach of the payment term; and,

(e) One or more of these judicially admitted facts constitute waiver of any and all rights of the Plaintiff to the relief it seeks under any and all of its causes of action.

32. Waiver is pled as an affirmative defense and complete bar to the Plaintiffs' Amended Complaint.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

(Modification/Ratification)

33. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

34. Plaintiff's Amended Complaint, at its paragraphs 3-9, judicially admits that the terms stated in its "Proposal" were modified by acts and/or omissions of one or more of the parties, and the modification was assented to and ratified by acts of the Plaintiff.

35. Modification and ratification are pled as an affirmative defense and complete bar to any and all rights of the Plaintiff to the relief it seeks under any and all of its causes of action.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE
(Statute of Frauds, S.C.Code Ann. § 32-3-10).

36. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

37. Plaintiff's Amended Complaint, at its paragraph 6, judicially admits that work allegedly contracted for began on January 3, 2007; its paragraph 12 judicially admits that it last worked on the same project on January 13, 2009 (this date is disputed by Mr. Slivka and contradicted by Plaintiff's Exhibit "2"; but it is alleged here that its allegation in paragraph 12 is a binding judicial admission by the Plaintiff).

38. Plaintiff's pleadings demonstrate that Plaintiff's causes of action based upon a "contract" (at its paragraph 27) or "agreement" (at its paragraph 32) are completely barred by the Statute of Frauds, S.C.Code Ann. § 32-3-10(5), because the contract was not to be performed within the space of one year; and no written agreement was signed by Mr. Slivka.

39. The Statute of Frauds is pled as an affirmative defense and complete bar to the Plaintiff's Amended Complaint.

AS AND FOR A FIRST COUNTERCLAIM
(Slander of Title)

40. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

41. As is alleged throughout this responsive pleading, the Plaintiff published a false Notice of Mechanic's lien, with false and defective attachments in support thereof, on April 13, 2009, as to real property owned by Mr. Slivka, upon which Plaintiff did not perform work. (Plaintiff's Exhibit "2" and attachments thereto are incorporated herein by this reference.)

42. Plaintiff's false publication was made knowingly, intentionally and with malice.

43. Plaintiff's false publication was compounded by the filing of this law suit, in furtherance of additional knowing and intentional false statements claiming legitimacy of the Notice of Mechanic's Lien.

44. Plaintiff's false publication(s) was derogatory to plaintiff's title to the property to which it attached its Notice of Mechanic's Lien.

45. As a direct and proximate result of Plaintiff's false publication(s), Plaintiff suffered special damages as a result of diminished value of Mr. Slivka's property in the eyes of one or more third parties; and, as a result of all of the above, Mr. Slivka is entitled to recover special and punitive damages, together with all his attorneys fees and costs herein, from the Plaintiff.

AS AND FOR A SECOND COUNTERCLAIM
(Violation of the Frivolous Claims Sanctions Act)
(S.C.Code Ann. § 15-36-10)

46. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

47. Plaintiff's Complaint and Amended Complaint were signed; and this litigation has been maintained and continued, in violation of the Frivolous Claims Sanctions Act; and as a result, Mr. Slivka is entitled to sanctions and all his costs and attorneys fees incurred as a result of the Act violations by the Plaintiff with regard to this litigation.

AS AND FOR A THIRD COUNTERCLAIM

(Tortious Interference with Contractual Relationships with Third Parties Dependent Upon Performance by Plaintiff)

48. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

49. At all times relevant to this matter, the Plaintiff knew of the existence of one or more valid contracts between Mr. Slivka and one or more third parties, engaged in various, mutually dependent and time sensitive aspects of a substantial construction and landscaping project on real property owned by Mr. Slivka.

50. At one or more times relevant to this matter, the Plaintiff intentionally or recklessly, in utter disregard for the rights of the Plaintiff, failed to perform work as it had promised, upon which work, Plaintiff knew, other contracts between Mr. Slivka and third parties depended.

51. As a result of Plaintiff's failure to perform its work as it had promised, Plaintiff intentionally or recklessly, in utter disregard for the rights of the Plaintiff, procured the breach of, and caused the breach of, one or more of these contracts, without justification therefor.

52. As a proximate result of the acts and omissions of the Plaintiff, in failing to perform its work as it had promised, the overall project was delayed, additional costs and expenses were incurred; and Mr. Slivka suffered damages, in amounts to be proved at the trial of this matter, for which Plaintiff should be held liable.

AS AND FOR A FOURTH COUNTERCLAIM

(Tortious Interference with Contractual Relationships with Third Parties Resulting From Defective Notice of Mechanic's Lien)

53. The preceding paragraphs are incorporated here by this reference as if re-stated here verbatim.

54. At all times relevant to this matter, the Plaintiff knew, or should have known, that it did not perform work on the tract of land to which it falsely attached its Notice of Mechanic's Lien.

55. At all times relevant to this matter, Plaintiff knew or should have known of the existence of one or more valid contracts between Mr. Slivka and one or more third parties, in the form of mortgages or other secured interests in the tract of land to which Plaintiff falsely attached its Notice of Mechanic's Lien.

56. The false filing, on April 13, 2009, of Plaintiff's Notice of Mechanic's Lien, intentionally, or recklessly, in utter disregard for the rights of the Plaintiff, procured the breach of, and caused the breach of, one or more of these contracts, without justification therefor.

57. As a proximate result of the acts and omissions of the Plaintiff, in falsely attaching its Notice of Lien to property on which it had not performed work, Mr. Slivka was deprived of his contractual rights to advances of credit, secured by a mortgage on the property to which the Notice of Mechanic's Lien attached; and this deprivation is, in and of itself, an injury and damage; and, he suffered additional resulting damages, in amounts to be proved at the trial of this matter, for which Plaintiff should be held liable.

WHEREFORE, having fully answered the Plaintiff's Amended Complaint, and having Counterclaimed against the Plaintiff, Mr. Slivka prays for the following relief:

1. That Plaintiff's Amended Complaint be dismissed, with prejudice;
2. That a judgment be entered in favor of Mr. Slivka, awarding him damages on each of his four Counterclaims: Slander of Title; Violation of the Frivolous Claims Sanctions Act; Tortious Interference with Contractual Relationships with Third Parties Dependent Upon

Performance by Plaintiff; and Tortious Interference with Contractual Relationships with Third Parties Resulting From Defective Notice of Mechanic's Lien;

3. That punitive damages be awarded to Mr. Slivka on his Counterclaims and affirmative defenses, as allowed by law;

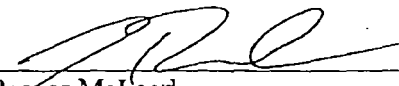
4. That all costs and attorneys fees be awarded to Mr. Slivka, as allowed by law;

5. That pre- and post-judgment interest be applied to any judgment in Mr. Slivka's favor, as allowed by law;

6. That an Order issue from this Court, directing the Clerk of Court to release and return to Mr. Slivka his undertaking or cash bond, in the amount of \$264,112.71, plus accrued interest;

7. That this Court award all other, different or additional relief to Mr. Slivka as it deems to be just, proper and equitable in this matter.

MCLEOD, FRASER & CONE

By: 

J. Reaves McLeod
111 E. Washington Street
Post Office Drawer 230
Walterboro, SC 29488
(843)549-2516

Attorneys for Defendant, Gene R. Slivka

Walterboro, South Carolina

May 18, 2010.

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT

2 COUNTY OF COLLETON

2009-CP-15-00595

3
4 SPRIGGS GROUP, PC,
Plaintiff,

5 -vs-

TRANSCRIPT OF RECORD

6 GENE R. SLIVKA,
7 Defendant.

VOLUME ONE

8
9 Heard on Monday, July 18, 2011

10 & Tuesday, July 19, 2011

11 & Wednesday, July 20, 2011

12 in

13 Walterboro, South Carolina

14 BEFORE:

15 THE HONORABLE WILLIAM H. SEALS, JR.

16 AND A JURY

17 APPEARANCES:

18 Counsel on Behalf of the Plaintiff:

19 A. Bright Ariail, Esq.

20 James A. Bruorton, Esq.

21 Counsel on Behalf of the Defendant:

22 Robert T. Lyles, Jr., Esq.

23 Cheri L. Young, RPR
Circuit Court Reporter
P O Box 1154
24 Aiken, SC 29802-1154
25

1 half of that. Mr. Hughes fixed the wall and then sent him
2 a bill for \$130,000.

3 That has no relevance at all to this case and so to
4 the extent that is the reason for these witnesses, we
5 would strongly object to their being allowed to testify.

6 THE COURT: Any reply?

7 MR. BRUORTON: Yes, Your Honor. I passed up a brief
8 to you earlier today that I believe sets forth all the
9 reasons on why we're entitled to get this testimony in.

10 The evidence is admissible under Rule 401, 404-B, and
11 under Rule 406. Part of our claims in this matter is a
12 breach of contract accompanied by fraudulent act which
13 requires the proof of three things.

14 Number one is breach of contract. Number two is
15 fraudulent intent relating to the breach. And number
16 three is a fraudulent act accompanying the breach. And
17 intent normally is proven by circumstances surrounding the
18 breach.

19 And fraudulent intent -- and in Campus Sweater versus
20 MB Conn case, that's a district court case in the State of
21 South Carolina from 1979. It states that the fraudulent
22 intent is an issue of character allowing it to be
23 supported by the use of similar bad acts under 404-B.

24 A fraudulent act under Harper versus Ethridge which
25 is a 1986 South Carolina case, 29 South Carolina 112, a

1 counterclaim for Mr. Hughes for about a million dollars
2 because as it turns out Mr. Hughes was recommended to
3 Mr. Slivka by Mr. Spriggs, was not licensed in the State
4 of South Carolina to do any business, and was practicing
5 in engineering without a license.

6 So what does his testimony have to do with whether or
7 not there's a breach of contract in this case?

8 The Superior Heating and Air representative, they
9 were also in litigation and they recently settled that
10 case. So there's no common scheme, there's no common
11 evidence, that this evidence is completely irrelevant and
12 has no probative value whatsoever.

13 THE COURT: Go ahead and move on to your next
14 motion.

15 MR. LYLES: Yes, sir. The next motion that we have,
16 this is the, I think, what's-good-for-the-goose-is-good-
17 for-the-gander motion.

18 Last week we received a number of documents from
19 Mr. Spriggs which has not been previously produced. And
20 we have moved -- those were documents identified as
21 Spriggs 04-337 through 04-350. And then Friday we got
22 documents 04-351 through 04-439. This is all contained in
23 our motion.

24 I will candidly tell the Court that those documents
25 appear to be a number of invoices from vendors, presumably

1 them and see if I have them down right. The motion to
2 strike the offer of settlement made by the Plaintiff. I'm
3 going to deny that motion.

4 The next motion was in reference 14-7-1320 to allow
5 the jury to view the premises. I'm going to deny that
6 motion as well. This is a contract case and I think it
7 would be prejudicial to have them go out there and see a
8 wealthy plantation owner and all of that good stuff. And
9 I think the Defendant is very, very wealthy and they can
10 go back there and try to base some opinion on that. I
11 think they should have everything they need in front of
12 them in this courtroom for this particular trial.

13 Excluding Cathleen Slivka. I'm going to grant that
14 motion.

15 Also there was the exclusion of statute of frauds.
16 29-9-15, frivolous claims act. That's granted because
17 everybody's consented to that.

18 The Plaintiff's fourth motion has been resolved as we
19 just discussed.

20 All right. The defendant's motion in limine to
21 exclude the three witnesses. I'm going to grant that.
22 And I'm going to find that even though their testimony may
23 be relevant, I find that it substantially is prejudicial.
24 And that their testimony would start getting into other
25 disputes, other cases, other facts not necessarily

GENE RAYMOND SLIVKA - DIRECT

1 Q. And you paid them that money?

2 A. Yes, ma'am.

3 Q. And you paid that in February of 2007; correct?

4 A. Yes, ma'am. That's right.

5 Q. And you paid that prior to receiving an invoice;
6 didn't you?

7 A. I asked for an invoice at the time. But, yes, I paid
8 it prior to receiving the invoice.

9 Q. Okay. And you admit that you owe them the additional
10 76,210; right?

11 A. I admit that I owe them 76,210 as the remainder of
12 that contract, but less the \$20,000 that I claim in
13 damages for structural issues, and less the \$50,000 that I
14 claim for having had my \$265,000 tied up for three years.
15 So, less those, yes, I --

16 Q. You've made no demand for these so-called structural
17 issues in the amount of \$20,000. There's nothing that's
18 been submitted to Mr. Spriggs --

19 A. During my deposition you asked me about those things.
20 And, absolutely, I submitted them to you along with the
21 invoices for the cost of having that work done.

22 Q. So your testimony is that you have submitted invoices
23 specifically relating to structural problems at your home?

24 A. Yes, ma'am. And I believe we did it the day you took
25 my deposition. You asked me about them. I talked to you.

GENE RAYMOND SLIVKA - DIRECT

1 these invoices? Chaffin Construction?

2 A. Chaffin Construction.

3 Q. Is there anybody else?

4 A. Yes, ma'am. The other one would be the masonry
5 company, Randolph's his name. I can't think of the name
6 of the company at the moment, but masonry, I think it's
7 Low Country Masonry.

8 Q. So you admit that you owe a portion of the \$76,210 to
9 the Spriggs Group; right?

10 A. Yes, ma'am.

11 Q. And you have not paid them that today?

12 A. I placed that money in escrow in the courts.

13 Q. And they've had to actually sue you and spend money
14 suing you to go after that money; right?

15 A. I don't know how to answer that question --

16 Q. In addition to --

17 A. -- I mean --

18 Q. -- the contract services that are in this document,
19 there was also a requirement that you pay them an hourly
20 basis for construction administration services; right?

21 A. Yes, ma'am. That's right.

22 Q. And you agreed to that; right?

23 A. Yes, ma'am. I did.

24 Q. And they have performed construction administration
25 services at your request; haven't they?

GENE RAYMOND SLIVKA - DIRECT

1 Q. You called them courtesy things. He's not supposed to
2 get paid for doing that?

3 A. Well, it wasn't something that I asked him to do.
4 It's something that he offered to do. I think it was a
5 nice thing to do for somebody who's giving you \$150,000.

6 Q. Which you haven't done; have you?

7 A. Yes, ma'am. I've given him \$76,200 and I have another
8 \$265,000 sitting over in the courthouse, though. So I've
9 paid my money, thank you.

10 Q. Earlier you mentioned inspections on site and
11 reviewing work in place. Those are actually covered by
12 other paragraphs in this agreement; right? They're not
13 covered by the construction phase service paragraph?

14 A. Yes, ma'am.

15 Q. And you also agreed to pay the Spriggs Group in the
16 event that once they had the drawings done, if there were
17 changes that you requested, you agreed to pay for those
18 changes; right?

19 A. Yes, ma'am. That's right.

20 Q. And that, again, was supposed to be done on an hourly
21 basis?

22 A. Yes, ma'am. That's right.

23 Q. And you asked them to design a garden stair for you;
24 right?

25 A. Yes, ma'am. I did.

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1 Q. And that was over and above the original scope of work
2 in the original contract?

3 A. Not only was it over and above the original scope, I
4 specifically went to him because I knew it was out of the
5 scope of the work. And when I knew it was out of the
6 scope of the work, I went to him and said, like I do with
7 everybody and everything I do in life, how much is it
8 going to cost to do this?

9 When you are -- I think anybody, I think anybody today
10 in our society asks up front, how much is it going to
11 cost? If you are rich, you ask it instantly. You
12 instantly ask it because if you don't, the bill that was
13 going to be a \$100 is \$200 just because they think that's
14 what the traffic will bear.

15 So I ask instantly on anything that I think's going to
16 cost me extra money. So I went to him and I said: How
17 much will this cost? He told me: I will bill it to you
18 by the hour, which would have been the \$105. When the
19 work was done I asked how many hours had been put in on
20 it. And that is what the bill reflects. And that's
21 fine. And I'm happy to pay that \$787 which also I think
22 includes the two hours for the construction.

23 Q. No, actually you agreed to pay \$825 for the garden
24 stairs?

25 A. 825? Okay. Thank you.

GENE RAYMOND SLIVKA - DIRECT

1 Q. And you haven't paid that; have you?

2 A. I have \$265,000 sitting in the court.

3 Q. But you have not paid it to the Spriggs Group; have
4 you?

5 A. But there's a lawsuit going on. No. How can it be
6 released until this gets resolved?

7 Q. And you mentioned the two-hour construction meeting,
8 and you agreed to pay him for that; right?

9 A. Yes, ma'am. And I will add that that is the only time
10 in two years where he ever says to me something about
11 extra charge. In that case he says, you know what would
12 be a good idea is before we start building on this house
13 that you get all of the contractors together, the
14 plumbers, the electricians, the air-conditioning,
15 everybody, in a construction meeting.

16 But, I am going to have to charge you for that. I
17 said, well, that will be fine. Let's go ahead and do it.
18 It was a two-hour meeting. Money well spent. I'm
19 appreciative of the suggestion.

20 Q. And that meeting was attended by both Mr. Spriggs and
21 Mr. Bozeman; right?

22 A. Yes, ma'am.

23 Q. And you have not paid them for those charges; have
24 you?

25 A. Once again, I've got \$265,000 sitting over there.

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1 Don't make it sound like I'm not willing to pay these
2 people. Clearly willing to pay these people. That's why
3 I've got the money in the court.

4 Q. But you haven't paid the Spriggs Group; have you? And
5 they're the ones that performed the work.

6 A. Ma'am, we're in a lawsuit. I don't know how else to
7 do this.

8 Q. Why didn't you pay them before the lawsuit?

9 A. I offered to pay them. He sends me the letter in
10 February for the final bill. I get this thing. I'm blown
11 away by it because I'm -- I'll tell you, I'm so naive. I
12 thought he wasn't going to bill me. I wanted this job
13 done in six months. And it drags out two years and
14 they've done a horrible job.

15 I pull unfinished plans in December of that year,
16 still not completed. The insides of the buildings have
17 never been done. The interior elevations have never been
18 done. I'm thinking, well, you know, maybe he feels so bad
19 about this thing that he's just not going to charge me the
20 balance of this. That's how stupid I am.

21 So anyway, February I get the bill from him. It's not
22 for \$76,000. It's for \$163,000 plus the additional things
23 on the other invoices.

24 I immediately call him up. I tell him, Ken, this is
25 not what we agreed to. You, you send me a corrected

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1 invoice and I'll pay it. He doesn't send me a corrected
2 invoice. Instead, he files a lawsuit.

3 So what am I to do?

4 Q. You mentioned picking up what you call incomplete
5 drawings in December of 2008, but you already had a permit
6 to build the house; didn't you?

7 A. They were so far behind and this creates cost problems
8 and all kinds of things throughout the entire job. If
9 they had had these drawings ready in six months, which is
10 what I anticipated from them, none of this kind of stuff
11 would have occurred.

12 When I pull that permit in August, we're taking to the
13 county an incomplete, inaccurate set -- I won't use the
14 word incomplete, an inaccurate set of drawings that they
15 still don't reflect where we're going because they're not
16 done. But it was sufficient to get the permit and at
17 least begin to get the work moving along.

18 Q. Colleton County thought they were done enough to issue
19 a permit; right?

20 A. Certainly the drawings were complete enough to issue a
21 permit, but they weren't complete enough to construct
22 properly what was to be constructed.

23 Q. And that's because you made a bunch of changes to the
24 design; correct?

25 A. There were no substantive changes in those drawings

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1 development stage. I understand that the plans were
2 submitted but what I'm telling you again is that those
3 plans were not complete, not accurate, and were just
4 submitted to get the project moving.

5 So they were working on design development after the
6 permit date.

7 Q. You admit that you've received invoices one through
8 seven from the Spriggs Group; right?

9 A. Yes, ma'am. I do.

10 Q. Mr. Slivka, I'm going to ask you to identify this
11 document.

12 A. These -- this is Ken's letter of February the 9th of
13 '09, and reflects the invoices. Is that a good
14 definition?

15 Q. Okay. And tell me which numbered invoices are
16 attached to that letter actually.

17 A. Invoice -- use my last number, like one?

18 Q. Sure.

19 A. Invoice one, two, three, four, and five.

20 Q. And you received that letter in February of '09?

21 A. Yes, ma'am.

22 MS. ARIAIL: I'd like to enter Plaintiff's Eight.

23 THE COURT: Any objections?

24 MR. LYLES: No objection.

25 THE COURT: Plaintiff's Number Eight into evidence

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1 without objection.

2 (Thereupon, Plaintiff's Exhibit No. 8, 11-09-09
3 letter, was received into evidence.)

4 BY MS. ARIAIL:

5 Q. I'm going to show you another document and ask you to
6 identify that for me.

7 A. Document number six.

8 Q. Document number six?

9 A. Invoice number six.

10 Q. Invoice number six. And what's the date on that
11 invoice?

12 A. This is May of 2009. May 21st, 2009.

13 Q. And did you receive that invoice?

14 A. Yes, I did.

15 Q. All right. And I pre-marked that as Exhibit Eight-A;
16 is that correct?

17 A. Yes, ma'am. It is.

18 Q. All right. And another one. Tell me what that is.

19 A. This one is dated November 16th of 2009, invoice
20 number seven, Exhibit Eight-B.

21 Q. And did you receive that invoice?

22 A. I did.

23 MS. ARIAIL: All right. I'd like to admit Exhibit
24 Eight-A, and B, also into evidence.

25 THE COURT: Any objections?

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1 MR. LYLES: None.

2 THE COURT: Eight-A, and Eight-B are into evidence
3 without objection.

4 (Thereupon, Plaintiff's Exhibit No. 8-A, invoice
5 dated 05-21-09, and No. 8-B, invoice dated 11-16-09, were
6 received into evidence.)

7 BY MS. ARIAIL:

8 Q. Invoice one is for the original \$76,000 which you paid
9 in; correct?

10 A. Yes, ma'am. It is.

11 Q. And with the exception of that invoice number one,
12 you've made no payment to the Spriggs Group towards any of
13 these other invoices; right?

14 A. Couldn't. He filed a lawsuit and I immediately put
15 the \$265,000 in court.

16 Q. You allege that you terminated the Spriggs Group on
17 December 12th of 2008; right?

18 A. Yes, ma'am.

19 Q. And as of that date the conservatory, the stables, the
20 garages, the potting shed, and the grotto had all been
21 built; hadn't they?

22 A. Prior to that date?

23 Q. Yes.

24 A. No, the grotto, the grotto had not yet been built.

25 Q. The other buildings had been built?

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1 A. Yes, ma'am.

2 Q. And as of that date, December 12, 2008, the house
3 foundation had been built also; correct?

4 A. Yes, ma'am.

5 Q. And as of that date, you had a full set of drawings
6 for the original -- for the main house, right, which had
7 been permitted?

8 A. I had everything except the correct mechanical,
9 electrical, plumbing. And I had no interior drawings or
10 interior elevations to complete the inside of the house.
11 So I had the external drawings and structural drawings.

12 Q. Your testimony is that there were no architectural
13 drawings for the main house?

14 A. My testimony is that there were no architectural
15 elevations and drawings for the interior of the house,
16 only for the exterior of the house.

17 Q. On December 12th of 2008?

18 A. Yes, ma'am.

19 Q. And the mechanical and the electrical drawings, they
20 actually were complete at the date the permit was issued
21 and the things that were added in the fall of 2008 were
22 all at your request; correct?

23 A. They were never correct when the plan -- when the
24 plans were submitted to the County for permitting in
25 August, the mechanical, electrical and plumbing were not

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1 that are made, but they are corrections which reflect the
2 original plan.

3 Q. Now you actually met with Mr. Spriggs after a social
4 event and asked for a litany of changes to the mechanical,
5 electrical and plumbing in November of '08; didn't you?

6 A. Well, I don't remember the social event but, excuse
7 me, I certainly remember he and I sitting down and going
8 over the inaccuracies in the plan that he had so that they
9 reflected what it was that we originally needed and
10 wanted. So certainly I remember the meeting with him. I
11 can't tell you that sequence.

12 Q. I show you another document. It's been pre-marked as
13 Plaintiff's Exhibit Nine. Identify that document for me.

14 A. This is a demand letter from your law firm.

15 Q. And what's the date on that letter?

16 A. I think that's right. And the date of it is March
17 15th of 2010.

18 Q. And did you receive that letter on or about that same
19 time frame?

20 A. Yes, ma'am.

21 Q. Okay. And attached to that document is invoices one
22 through seven?

23 A. Yes, ma'am.

24 MS. ARIAIL: I'd like to submit Plaintiff's Exhibit
25 Nine.

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1 THE COURT: Any objections?

2 MR. LYLES: No objections.

3 THE COURT: Plaintiff's Number Nine into evidence
4 without objection.

5 (Thereupon, Plaintiff's Exhibit No. 9, 03-15-10
6 letter, was received into evidence.)

7 BY MS. ARIAIL:

8 Q. All right. You said you received this letter in the
9 time frame that it was mailed, March of 2010. This letter
10 asks that you make an investigation into the moneys that
11 you owe, that you agree that you owe the Spriggs Group;
12 doesn't it?

13 A. Yes, ma'am.

14 Q. And it tells you that you've got 45 days to make that
15 investigation; right?

16 A. Yes, ma'am.

17 Q. And you didn't make an investigation; did you?

18 A. All right. You asked me this question in my
19 deposition. And, you know, I didn't understand what you
20 meant by the word investigation. It's such an unusual
21 word to me.

22 Anyway, when you're asking somebody to look at money
23 or talking about money, did you make a review of the
24 invoices? Did you look to see if these were legitimate
25 invoices? Did you consider how they should be paid, or if

GENE RAYMOND SLIVKA - DIRECT

1 they should be paid?

2 In that sense, if that's what you meant by the word
3 investigation, I'm telling you, yes, I absolutely
4 investigated. Not only did I investigate them but I
5 already had an attorney. There was already a lawsuit
6 filed and we had an attorney representing us. So surely
7 they were investigated.

8 And had already put \$265,000 in the court.

9 Q. So now your testimony is that you did investigate to
10 determine how much money that you owed the Spriggs Group
11 at that time?

12 A. I investigated that when I received his first
13 invoice. And that's why I immediately went back to him
14 and said, whoa, this isn't what we agreed to. I'm not
15 paying you this additional money. You give me an invoice
16 for the \$76,000 I owe you, and I'm going to pay that.

17 Q. This letter --

18 A. So I investigated early on.

19 Q. This letter says, demand for payment of moneys due is
20 hereby made to pursuant to South Carolina Code Annotated
21 27-1-15, which requires the person upon whom the claim is
22 made to make a reasonable and fair investigation of the
23 merits of the claims and to pay it or whatever portion of
24 it is determined is valid within 45 days after the date of
25 the mailing of this demand.

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1 MR. LYLES: No objection.

2 THE COURT: Plaintiff's 10 and 11 into evidence
3 without objection.

4 (Thereupon, Plaintiff's Exhibit No. 10, mechanic's
5 lien, and Plaintiff's Exhibit No. 11, bond to discharge
6 mechanic's lien, were received into evidence.)

7 BY MS. ARIAIL:

8 Q. There was nothing preventing you from paying the
9 amount that you owe the Spriggs Group when you received
10 the invoices; were there?

11 A. No. Originally when I get the invoices in February?

12 Q. Right. There was nothing preventing you from paying
13 what you agreed that you owed them at that time; was
14 there?

15 A. Yes, there was, because no sooner do I receive those
16 invoices, I call him and tell him that I will pay if he'll
17 send me a corrected invoice. He immediately files a
18 lawsuit. So there's no opportunity.

19 Q. The lawsuit was filed in the Summer of 2009. And the
20 invoices, I believe, are dated February; right?

21 A. I -- you may be right, but I think that it's sooner
22 than that. I believe that the lawsuit was filed maybe in
23 March.

24 Q. No, actually the mechanic's lien was filed in April;
25 right? We just looked at that.

GENE RAYMOND SLIVKA - DIRECT

1 A. Well, you had to file a lawsuit before you filed a
2 mechanic's lien; don't you? I'm not an attorney here,
3 but...

4 Q. No. Actually the mechanic's lien was filed on April
5 13th.

6 A. All right. So he immediately files the mechanic's
7 lien, and then he files a lawsuit after that. Is that how
8 it goes?

9 Q. Actually, actually the invoices are dated February
10 9th --

11 A. Right.

12 Q. -- of 2009. It's your testimony that you couldn't pay
13 him what you owed him based on those invoices because the
14 mechanic's lien was filed in April of '09?

15 A. Yeah, that's exactly right. I asked him for a
16 corrected invoice. He could have sent one which I would
17 have received in March. Instead he files a mechanic's
18 lien and then I subsequently put the \$265,000 in the
19 court. How else could it have been done?

20 Q. But you didn't need a corrected invoice; did you?
21 Because originally you paid him for the first 76,000
22 without an invoice.

23 A. Why would you pay something when you don't have an
24 agreement on it and a correct amount? Sure. I wanted a
25 correct invoice. Absolutely I wanted a correct invoice.

GENE RAYMOND SLIVKA - DIRECT

1 Why not?

2 Q. You didn't require an invoice for the first payment;
3 did you?

4 A. I absolutely did. I asked for one and I got one.

5 Q. After the fact.

6 A. Unfortunately, I -- that's your client, not me.

7 Q. Please let --

8 THE COURT: All right. Let's don't talk over
9 everybody.

10 MS. ARIAIL: Please let me finish the question then
11 say your answer.

12 THE COURT: You say your question --

13 THE WITNESS: I'm sorry. My blood pressure is
14 getting up to here (indicating).

15 THE COURT: I understand. Pause for a second and
16 then you answer. And then you pause and then she'll ask
17 another.

18 MS. ARIAIL: Thank you, Your Honor.

19 Q. The original \$76,000 that was paid at the start of the
20 agreement was paid without an invoice; wasn't it?

21 A. Yes, it was.

22 Q. Thank you.

23 A. And an invoice was requested.

24 MS. ARIAIL: Thank you. That's all I have.

25 THE COURT: Cross?

GENE RAYMOND SLIVKA - CROSS

1 Q. Mr. Slivka, did the mechanic's lien have the effect of
2 impacting the title to your property when they filed it?

3 A. Of course it did.

4 Q. And in response to that, did you post a cash bond
5 pursuant to the mechanic's lien statute?

6 A. Yes, sir.

7 Q. And the amount of that cash bond was \$265,000?

8 A. Yes, sir.

9 Q. And does it cost you to have that money sitting in the
10 court?

11 A. Absolutely. I mean, I have to pay the bank every
12 month on this \$265,000. I had to borrow the money, so I
13 pay the bank interest on this money every month and have
14 for three years, and that's like \$50,000.

15 Q. And that was in an effort to get that cloud off the
16 title to your property?

17 A. Of course. And particularly because this -- it'd been
18 different if they had just even filed a mechanic's lien on
19 the house and the house is on a five-acre tract. If they
20 had just filed a mechanic's lien on the house, that might
21 have been one thing. But to file it on every piece of
22 property that I own, some of it three miles from the
23 house, I mean, it's just crazy.

24 Q. Now I'm going to show you what's been marked as
25 Exhibit 10, Plaintiff's Exhibit 10. See if you recognize

GENE RAYMOND SLIVKA - CROSS

1 Q. Did you have to pay your attorney?

2 A. Tens of thousands of dollars.

3 Q. Are you continuing to pay attorneys?

4 A. Unfortunately.

5 Q. Let me show you what I have marked or what is
6 previously marked as Plaintiff's Exhibit 8-A. Do you
7 recognize that?

8 A. This is probably the most extraordinary of all the
9 invoices, yes.

10 Q. You do recognize it?

11 A. Oh, absolutely.

12 Q. Tell the jury what that is.

13 A. This is an invoice for \$437.50.

14 Q. What's the date of the invoice?

15 A. And this invoice is dated May 21st of 2009.

16 Q. Was that after you received the mechanic's lien?

17 A. It was after the mechanic's lien. We're already in a
18 lawsuit. We're in a lawsuit. And we're in a lawsuit
19 about him charging me for stuff and not clearing it with
20 me. He's trying to charge me -- I did this so I'm going
21 to charge you for this, and never discussed it ahead of
22 time.

23 This -- I had some -- I had an appraisal done on the
24 house for the bank. And the appraisal company,
25 unbeknownst to me, calls Ken Spriggs' office and they ask

GENE RAYMOND SLIVKA - CROSS

1 him for something. I don't -- I guess to generate a small
2 floor plan of the house or something.

3 And, he goes -- he's in a lawsuit with me. He's not
4 getting paid for what he did. And he's in a lawsuit. And
5 he goes ahead and he does the work for this woman and
6 sends me a bill for \$437. It's the most incredible thing
7 I ever heard of. Would anybody ever do that?

8 Q. Was that before or after you had to bond off the lien
9 that he had filed?

10 A. This would be after. I've already put \$265,000 in the
11 court. We've got attorneys. We're fighting this thing
12 out and he goes out and for a woman -- he doesn't even
13 know this woman, and goes out and does, just because she
14 calls him up on phone, does this work and then bills me
15 for it.

16 Q. Does invoice Eight-A reflect any time billed or any
17 work performed in January of '09?

18 A. No.

19 Q. Let me show you what's been marked as Exhibit 8-B.
20 And what is that?

21 A. This is invoice number seven. This is the bill for
22 \$1,000 that he sends out in November of 2009. This is now
23 for work in January. This is the one I'm telling you
24 where I think that it's a bogus bill.

25 He decides I'm not going to meet my mechanic's lien

GENE RAYMOND SLIVKA - CROSS

1 Q. Was there any way for you to determine, based on
2 invoice number two, what he was contending were additional
3 services and whether or not you believed those were
4 justified, correct, proper at all?

5 A. No, because he comes up with a total so he'll say, the
6 architectural services for the main house are \$105,000.
7 But that's not what we agreed to. We agreed to \$150,000
8 for all of the buildings. He's saying just for house it's
9 105,000. So there's no way for me to know how he comes up
10 with these numbers or why.

11 Q. At the time you received the letter from the Rosen
12 Firm, May 15th, 2010 letter, had your lawyer been engaged
13 in what we call discovery?

14 A. Yes.

15 Q. To you, what does that mean, discovery?

16 A. Discovery means trying to find out the facts of the
17 case.

18 Q. And so is that an investigation?

19 A. Yes, that word. An investigation, yes.

20 Q. If it is determined by this Court and the jury that
21 the title to your property was slandered and that you are
22 entitled to recover damages against Mr. Spriggs, and you
23 are entitled to recover your attorney's fees and any costs
24 that might be overlooked, do you think then that anything
25 you would be awarded should be offset by anything

GENE RAYMOND SLIVKA - REDIRECT

1 based on the program outlined in the 5 October 2006
2 letter, it refers to the main house and it shows the total
3 gross heated space. What was that square footage?
4 A. 13,056.
5 Q. Okay. And then it shows the square footage for the
6 basement, too; doesn't it?
7 A. Yes, ma'am.
8 Q. And, what is that amount?
9 A. 7168.
10 Q. And that's actually an entire floor depicted here --
11 A. Yes, ma'am. That's right.
12 Q. -- on Exhibit Three; right?
13 A. Yes, ma'am.
14 Q. So that square footage should be added to the square
15 footage of the house; correct?
16 A. It can. Sure.
17 Q. And the house is complete; right?
18 A. Yes. Pretty much. The interior lacks stuff, but it's
19 pretty much complete.
20 Q. And the Spriggs Group was the only architectural firm
21 that provided design services to you for construction of
22 that house; right?
23 A. Yes, ma'am.
24 Q. And you don't have an architectural background; do
25 you?

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1 A. You're hurting my feelings here. No.

2 Q. And you don't know what the technical requirements are
3 to get a permit for a house; right?

4 A. No.

5 Q. And you couldn't have gotten a permit from the
6 sketches that you provided and that we've marked as
7 Exhibit Six; right?

8 A. No.

9 Q. I'm going to ask you to look at the first and second
10 floor plans that are contained within Exhibit Six.

11 A. Yes, ma'am.

12 Q. I understand that you testified earlier that there
13 were many walls in the house that were thicker than
14 normal. I want you to look at that plan and tell me --
15 when you look at that plan, I want you to tell me where
16 the walls are indicated that they are greater than regular
17 width.

18 A. The wall in the left side and the right side of the
19 first floor, two rooms had to be thicker to accommodate
20 the fireplace.

21 Q. Okay. And that's the wall that supports the two
22 niches on the first floor; right?

23 A. What do you mean by niche?

24 Q. You don't know what a niche is?

25 A. Well, I know what a niche is, but I don't know that I

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1 Q. It's actually a historic building, a historic house
2 that you had barged onto that site; right?

3 A. That was already on the property. We had it moved
4 from one portion of the property to another. Yes, ma'am.

5 Q. So you didn't need design services related to that
6 house; right?

7 A. Well, yes, I didn't use design services but we did
8 extensive building to that. We added two flanker wings to
9 it and added the garage to it and built a pavilion, and
10 built a chapel and all kind of things.

11 Q. But that's not part of the main house?

12 A. Oh no, no, no.

13 Q. So you did not have architectural services that were
14 required as part of that?

15 A. I used no architectural services at the old
16 plantation, period, for anything.

17 Q. You never told the Spriggs Group that you were
18 terminating them; did you?

19 A. I absolutely did. I don't know how I could have made
20 it in a nice way any clearer than I did. And that was
21 that I've had it. And they knew this. I mean, this was
22 building up.

23 And I was three months, I'm trying to get these
24 mechanical stuff and, you know, I'm calling Andy and
25 screaming and hollering at Andy and on a couple occasions

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1 when I'm doing the same thing with Ken.

2 So they knew I was at a breaking point with it but I
3 did not walk in there and say, you are terminated. I
4 said, I'm done. I've had it. Give me my drawings. I'm
5 coming to pick them up tomorrow. And that's it.

6 Q. In fact, that's all you picked up from them was a few
7 sets of drawings; right? You said you picked up their
8 whole file, but you just picked up a hand full of
9 drawings.

10 A. I picked up the mechanical drawings.

11 Q. Right. And you never told them, this means I don't
12 want you performing any more work on this project; did
13 you?

14 A. Well, since I never ever spoke to them again, I surely
15 would have thought they would have understood that.

16 Q. But they had your permission to take calls and
17 questions from the contractors that were working?

18 A. Absolutely not. I was done with them at that point.
19 I never contacted them again. I never asked anyone to
20 contact them.

21 Q. Throughout the period of the design and the
22 construction, they had your permission to take calls from
23 the contractors and the vendors that were working on the
24 house?

25 A. Yes, ma'am.

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1 Q. So how were they supposed to know? You never said,
2 that's it, stop, don't take any more calls. You never
3 told the Spriggs Group, Mr. Bozeman or Mr. Spriggs, do not
4 take calls from the contractors any more; did you?

5 A. I told them that I was finished with them. And for a
6 guy who's talking to them on the phone just about every
7 day, and all of a sudden you don't ever hear from him
8 again, I think you understand that you're done.

9 Q. No. You told them that you were finished with the
10 mechanical, with the engineers; didn't you?

11 A. No. I told them I was finished, period.

12 Q. You never --

13 A. When I -- I'm sorry.

14 Q. You never told the contractors that were working on
15 your house not to call anyone from the Spriggs Group for
16 information after that; did you?

17 A. I don't know that the conversation came up. If it
18 had, I would have told them not to.

19 Q. But you never told them not to. You never told the
20 contractors --

21 A. -- if someone asked me.

22 Q. -- or the, excuse me. You never told the contractors
23 or the Spriggs Group --

24 A. Uh-huh.

25 Q. -- that they were not to contact the Spriggs Group for

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1 further information related to your project?

2 A. There was no public announcement. But if a contractor
3 came to me and said, I've got a question about this, can I
4 call Spriggs? I certainly would have told them, no, do
5 not call Spriggs.

6 Q. And how was the Spriggs Group supposed to know that
7 they weren't supposed to take those calls if you didn't
8 tell them?

9 A. Well, I think when you have the kind of scene that I
10 had with them and you tell them, I've had it, I'm done,
11 get my plans ready, I'm coming by to pick them up
12 tomorrow, I think that's pretty explicit.

13 Q. We've marked earlier Exhibit 10 which is the
14 mechanic's lien. You've described Julianston Plantation,
15 the one in South Carolina, as being made up of a multitude
16 of different properties that you somehow assembled and
17 because of it being a multitude of properties that somehow
18 the Spriggs Group incorrectly liened your property, is the
19 allegation as I understand it.

20 A. Yes, ma'am.

21 Q. I want you to look at the property description that's
22 contained in the mechanic's lien on the first page.

23 A. Yes, ma'am.

24 Q. It actually starts out saying, all of those pieces,
25 parcels and tracts of land containing 2,793 and seven-

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1 of my house.

2 Q. And didn't you testify a little bit earlier about an
3 appraisal?

4 A. Oh, I'm not denying an appraisal was done. I am
5 shocked that you would have a copy of a confidential
6 appraisal that should have only been available to my
7 bank. I mean, it's not anything to do with this case
8 particularly, but it offends me personally.

9 Q. Well, you did tell me that there are some services
10 that are appearing on, I believe it's on invoice number
11 six --

12 A. 437-50.

13 Q. -- that relate to this appraisal. I'm sorry. I don't
14 know what that was in response to. That wasn't my
15 question. This is an appraisal that you asked to have
16 performed; correct?

17 A. Yes, ma'am.

18 Q. And the Spriggs Group has invoiced you for some
19 services related to it; correct?

20 A. Yes, ma'am.

21 Q. Okay. And if you'll look at page, pages 12 through 17
22 of the appraisal itself, aren't those documents that were
23 prepared by the Spriggs Group as -- to support this
24 appraisal?

25 A. Yes, ma'am.

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1 Q. All right. And if you look on page four, can you tell
2 me what the value of the appraisal was?

3 MR. LYLES: Objection, Your Honor.

4 THE COURT: What grounds?

5 MR. LYLES: On the basis of relevance and hearsay.

6 (Off-the-record discussion.)

7 THE COURT: In fact, Ms. Ariail, why don't you go
8 ahead and take those two posters down? That way everybody
9 can have a clear half to walk in, see each other, unless
10 you need them at the present time.

11 MS. ARIAIL: No, sir.

12 Q. And what was the purpose of having the appraisal done?

13 A. I took out a loan with the bank and they wanted an
14 appraisal on the house.

15 Q. And this was about the same time that the mechanic's
16 lien was filed on the property?

17 A. Yes. Interestingly, that's the money I borrowed.

18 Q. And it shows that the house is substantially complete,
19 it's at a certain percentage of complete; correct?

20 A. Well, at the time they did this appraisal it was
21 particularly incomplete.

22 Q. There is actually a percentage shown on this appraisal

23 --

24 A. I don't know. I've never seen this appraisal before,
25 so you'd have to show me, but ...

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1 Q. If you look at the -- towards the bottom of page two,
2 the appraisal itself.

3 A. Okay.

4 Q. There is a portion that, the left-hand block is called
5 improvements. And there's some areas that are filled in
6 and then it's got a narrative.

7 And, it says: Per information gathered from architect
8 firm, the Spriggs Group, the total square heated and
9 cooled square footage is 19,900 square feet; correct?

10 A. Yes, I see where you're reading. Uh-huh.

11 Q. And the basement has 10,042 total gross square foot of
12 which 3,761 square feet is heated and cooled; right?

13 A. Yes. It's not accurate but that's what it says here.

14 Q. Then the next sentence that's not a part of the form
15 itself says, the subject property improvement was an
16 estimated 60 to 70 percent completed at the time of
17 inspection; right?

18 A. Yes, ma'am.

19 Q. And this is about the same time that the mechanic's
20 lien was filed; right?

21 A. Yes, ma'am.

22 Q. And all of the works to construct the house to that
23 point was done pursuant to the design prepared by the
24 Spriggs Group; right?

25 A. Yes, ma'am.

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1 Savannah grade brick; a number of historic windows and
2 doors from his previous property at Julianston.

3 Q. And what impact did the fact that the house was being
4 built in Colleton County versus McIntosh County, Georgia,
5 have on the project?

6 A. A large impact. Primarily in structural drawings.
7 Basically architects or even home builders can do
8 structural drawings on residences. However, that's true
9 in most of South Carolina and Georgia, but certain local
10 jurisdictions have higher regulation requirements and here
11 they certainly did.

12 Q. And what did they require here in Colleton County?

13 A. They required a structural engineer to stamp, even
14 garage buildings, you know. They had a structural
15 engineer involved in every building, I believe. Well,
16 certainly the garages, stable, main house, conservatory,
17 potting shed. Yeah, all of those.

18 Q. Okay. And what major changes to the main house
19 drawings did Mr. Slivka request after receiving the
20 permitted set?

21 A. After receiving the permitted set, we had a variety of
22 things added. We had things like the dog wash added. We
23 had the dental moldings first tried to applied to the
24 stable but then we determined it should be on the main
25 house. That was a huge research effort to mimic a

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1 historic thing.

2 We had -- let's see. We changed the medallions at the
3 grotto. We had subtle changes to the porches. We had --
4 yeah, the whole dog wash downstairs development. There
5 was supposed to be a place to wash your dog at the stable
6 and then they put it in the basement of the main house.

7 There was trust adjustments after the original
8 foundation was poured differently than the permitted set.

9 Let's see. There's the drainage, the storm drainage
10 system as it went out to the ponds from the roof of the
11 house. That had to happen internally and the way we
12 originally planned it on the exterior of the building
13 because he wanted to plant his trees first and so he
14 didn't want to trench after that landscaping was done as I
15 remember.

16 I'm sure there are more. There was a HVAC diffuser
17 whole effort where we were at first hiding diffusers in
18 cornice lines so you couldn't see any modern equipment.

19 Geez. What else?

20 Q. What was the point of putting the downspouts and
21 putting the HVAC equipment internal to the wall?

22 A. That was to mimic historic buildings that didn't have
23 such modern conveniences as HVAC. And the internal
24 downspouts, he didn't want to see downspouts on the house
25 but he certainly needed to take care of the runoff. It

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1 would do damage to the landscaping and the pond if he
2 didn't catch it and route it out.

3 Q. What impact did that have on the drawings?

4 A. Well, it was designed in sort of a more standard way
5 where you collect all your storm water and you direct it
6 where it will flow properly. But since the landscaping
7 was done first, then we had to do an internal to the
8 basement perimeter, catch all the rain water and direct it
9 out through the wall system.

10 It's very complicated. I haven't seen anything like
11 it, really, before.

12 Q. Can you tell me what changes were made to the chimney
13 during the design?

14 A. Oh, yes, the chimney. The chimney started with
15 particular requirements for fireplaces and historic
16 details. The chimney heights relative to, say, today's
17 code, were asked to be much taller. Mr. Slivka thought it
18 would look better, and that's fine.

19 But to have very small fireplaces and very tall
20 chimneys is hard to do in the traditional way.
21 Traditional brick masonry would be wide if you're going
22 that tall, otherwise it would fall down.

23 So the idea presented to us was, we'll just do it in a
24 skeletal frame and put brick above the roof. And we're
25 using a lot of gas fireplaces with flues that come in at

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1 angles in some cases. It would be easy to feed these into
2 these small chimneys from multiple fireplace, smaller in
3 fact than a wood burning one. So it was about the only
4 feasible way to do it.

5 After we had the engineer design it and it was a real
6 effort because they were so tall and had wind load
7 issues. The prices came in and Mr. Slivka thought it was
8 too expensive and he would go ahead and do it in concrete
9 block reinforced masonry as opposed to the traditional
10 without reinforcement. That way we could be just a hair
11 bigger at the fireplace size and still the same size he
12 liked way up high at the top of the chimney.

13 The fireplaces, he didn't really want to go wider to
14 accommodate the block until he had to, what with the
15 pricing implication of the other way. But he said it was
16 okay once we had to go with that method that his historic
17 mantles that he bought and the fireboxes that were
18 appropriately sized for them could be the thickness of the
19 block plus the fire brick.

20 Q. And what changes were required to be made to the
21 drawings from the metal supported chimneys to the masonry
22 chimneys?

23 A. I had to replace that aspect of the drawings. So,
24 while it's the same number of sheets, I had to erase the
25 old and put in the new. And I also had to develop the

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1 fireplace sections where -- fireplaces have to be built a
2 certain way or else they won't draw correctly. So there's
3 pieces that I had to research and put in and get all of
4 that right within the concrete block with fire brick
5 facing in order for it to work. There was a lot of
6 effort.

7 Q. I have pre-marked as Plaintiff's Exhibit 13 a roll of
8 drawings that I would like you to look at and identify
9 these for me.

10 A. Okay. This is the main house basement exterior walls
11 and foundation. This is up top it says, issued for permit
12 November 19th, '07. Revisioned permit is January 29th,
13 '08.

14 Q. And why did you have to do a separate set of basement
15 drawings for the main house?

16 A. I think this had to do with his schedule for
17 landscaping which we weren't really privy to, but he
18 needed to plant by a certain time. And he needed to
19 backfill the dirt that he was planting onto the main
20 house's basement to prepare for that.

21 And so while we weren't done designing the main house,
22 he wanted to get this in the ground so he could do his
23 landscaping in time, for his schedule. So, that's that.

24 Q. I've marked -- pre-marked as Plaintiff's Exhibit 14,
25 another roll of drawings. And I'd ask you to identify

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1 these for me.

2 A. Okay. this is the main house above the basement.

3 This says, main house. And issued for permit 8-1-08. So
4 October 1st (sic) of '08.

5 Q. Okay. I have another roll of drawings that are
6 pre-marked as Plaintiff's Exhibit 15. I'd like for you
7 to identify those for me.

8 A. Again, they say, main house. Just like the last one.
9 They have the same permit date. Oh. But this is the one
10 that says, office copy of permit set and subsequent
11 prints, up here.

12 So that means that all the prints that we did after
13 the permit was issued for changes requested or required
14 are in here.

15 Q. So, what's the difference? So I understand, what's
16 the difference between this roll of drawings which is
17 Exhibit 14, main house --

18 A. Uh-huh.

19 Q. -- issued for permit and that roll?

20 A. Well, this roll has certain drawings that reflect
21 changes Mr. Slivka required, such as the elimination of
22 the palladium window on the exterior. And, you know, this
23 has no palladium window. That one does. And a variety of
24 changes of that sort.

25 And as I recall, I think there are some engineering

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1 drawings that have been revised as well. So what we have
2 here is a permitted set, but for-construction changes have
3 been made.

4 Q. Okay. Thank you.

5 At this time, I'd like to submit Exhibits 13, 14 and
6 15 as evidence.

7 THE COURT: Any objections?

8 MR. LYLES: No objections.

9 THE COURT: All right. Plaintiff's 13, 14 and 15 are
10 into evidence without objection.

11 (Thereupon, Plaintiff's Exhibit No. 13, main house
12 plans issued 11-19-08; Plaintiff's Exhibit No. 14, main
13 house plans issued 08-01-08; and Plaintiff's No. 15,
14 office copy of permit set with subsequent prints, were
15 received into evidence.)

16 BY MS. ARIAIL:

17 Q. Mr. Bozeman, are you familiar with this set of
18 documents?

19 A. I have seen that top one. Yes, I have, indeed.

20 Q. Okay. And how about the remaining documents?

21 A. I tell you what. Let's go through them.

22 Q. Okay.

23 A. Okay. What this is, is --

24 Q. Let's -- I'm going to get you to stand up here --

25 A. Okay.

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1 Q. -- so that the jury -- let's put it on the easel.

2 A. Okay.

3 Q. Tell me what that first sheet is.

4 A. Okay. This is talking about roof drainage. And what
5 we have here at the top is a roof plan. And it has all
6 the different roof slopes. These are all differing
7 slopes, really. It's a complex roof, really. It looks
8 good.

9 And then from each of these downspout locations, you
10 can see the DS label. It goes into these DS locations and
11 they sit in this perimeter drainage system. And it exits
12 in a couple different spots.

13 And so this is the interior drainage system I was
14 talking about earlier. Typically you do a loop around the
15 house this way and it just goes straight out. Most people
16 have their downspouts on the exterior so.

17 Q. What's the title of that drawing?

18 A. This is A-15, storm water drainage system.

19 Q. Do you know if that drawing was contemplated by the
20 original agreement between the Spriggs Group and
21 Mr. Slivka?

22 A. I believe it was not part of that list.

23 Q. Are you familiar with what's been marked as
24 Plaintiff's Exhibit Number Seven?

25 A. I have seen this before, yes. This is the 27 November

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1 letter.

2 Q. And that contains a list of the drawings that are
3 contemplated by that agreement?

4 A. Yes. Let's see. Sure. This goes for the main house
5 up to A-14. So that clearly is beyond that.

6 And really this, this list doesn't include any of the
7 structural drawings because at this time they weren't
8 required. We thought we were working in a place that it
9 wasn't required.

10 Q. And where in that letter does it indicate what
11 drawings are required for the main house?

12 A. It's on page -- I got it a listed here as 178. And it
13 says, main house drawings and specifications here. It
14 goes A-1 site plan through -- you want architectural or
15 everything?

16 Q. Everything.

17 A. Well, E-3 is electrical.

18 Q. Tell me how many architectural drawings are required.

19 A. I've got 14.

20 Q. Okay. And how many mechanical?

21 A. I got three.

22 Q. And how many electrical?

23 A. Three.

24 Q. How many plumbing?

25 A. Three.

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1 Q. How many structural?

2 A. None.

3 Q. Okay. All right. Let's look at the next sheet that's
4 on this. Tell me what that sheet is.

5 A. This is S-01 which is the structural general notes and
6 some of the calculations they use for structural engineer
7 to do his work.

8 Q. Okay. And was that drawing contemplated by the
9 original agreement?

10 A. No.

11 Q. All right. And tell me what the, I think you call it
12 a cloud and a carrot?

13 A. Right. A cloud and a carrot is what we say. If you
14 do a revision, the carrot ends up here in the submittal
15 zone, at least in our firm. It's typical in all firms.
16 So if you have an issue occurring up top and you revise
17 something, and the inspection department needs to know
18 about it, you submit it with a revision. And that tells
19 them what change and the cloud just shows them in what
20 area the change occurred.

21 Q. I'm going to look at the next number. Hold that for
22 me. This will make it a little bit easier for us. Okay.

23 A. Next --

24 Q. Let's look at the next sheet. Tell me what that one
25 is.

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1 A. That's another structural sheet. It's S-02. Doesn't
2 have a revision, but the plot date is January 29, '08.
3 This is details. This is the sort of thing the inspection
4 department looks for. This is drafting details at a sheer
5 wall, I believe. This is a sheer wall? Yeah. This is
6 sheer wall and wind load details.

7 So, this is a sort of thing that we could include in
8 our architectural set, but in this case since an engineer
9 has to stamp it, he has to do all the production.

10 Q. And was that sheet contemplated by the 27 November '06
11 letter?

12 A. No.

13 Q. All right. Let's look at the next one.

14 A. All right.

15 Q. Tell me what drawing, what that drawing is.

16 A. This is a foundation plan for the main house. You can
17 see the clouds and carrots by all these chimneys. Here.
18 That's that chimney truss substitution that happened after
19 the pricing came out.

20 Q. And how do you tell when those changes were made?

21 A. Well, the carrot is up here and dated as 10-24-08.

22 And so it's clouded here. There's the carrot. Here's the
23 reference.

24 Q. And what was the -- was there -- was this a permitted
25 set of drawings initially?

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1 A. Yeah. I had issued for permit October 1st, '08.

2 Q. All right. Let's look at the next drawing.

3 A. Okay.

4 Q. And before you flip it. Was that drawing contemplated
5 by the November 27, '06 letter?

6 A. No.

7 Q. All right. Let's look at the next one. Tell me what
8 that one is.

9 A. This is, it's S-03 structural. It's the first floor
10 framing plan. And it's real similar to the last one in
11 that there are clouds and carrots at the chimney
12 locations. This one has clouds and carrots by the porch
13 columns over on these three sides.

14 Q. Can you show me where the porches are on that drawing?

15 A. This is a porch here. That's a porch there. That is
16 one and that is one.

17 Q. And what is the significance of the clouds on these
18 drawings at the porches?

19 A. The porches had their columns changed toward -- at
20 construction, really. The permitted porches had sort of
21 more standard detail where we had steel column that you
22 frame into, and then you wrap it with a column wrap. It's
23 easier for the framers to work that way. They have
24 something sturdy at which they can frame, and then they
25 put the esthetic piece on last.

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1 Mr. Slivka had been dealing with a column supplier and
2 he was keen on the columns being structural themselves.
3 And you can do that. You'll see these here don't have
4 particular -- well, there's no cloud. These are
5 monumental. They go two stories up. These have
6 balconies. And it's the framing of the balconies at the
7 mid point of the column that's difficult.

8 So these guys had to have adjustments according to the
9 manufacturer's method. So there's what we designed and
10 got permitted. And there's what the column manufacturer
11 had available as a structural column, reinforced to take
12 the framing at the balcony level.

13 Q. And when was that change identified?

14 A. This is October 24th, '08 is the date here. So that's
15 the carrot and the cloud. And there's the reference.

16 Q. And what was the permit date or submitted for permit?

17 A. Submitted for permit, October 1st, '08. I'm sorry.
18 August 1st, '08. I said that wrong. October 24th is the
19 revision. August.

20 Q. August is the permit date?

21 A. Yeah.

22 Q. Tell me what the next date is.

23 A. Very similar. It's the second floor plan. It's
24 structural. And the same areas are being highlighted.
25 There's also some other ones associated with the chimney.

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1 This is steel framing underneath the hearth of the
2 chimneys. Well, at least this one here is. And that
3 was -- this one is over here as well.

4 And so those -- this one's a mezzanine. And there's a
5 protruding sort of a round element or elliptical element
6 where an antique desk, I believe, was displayed. I
7 haven't seen it, but anyway, we had to do that in steel in
8 order to cantilever out like that.

9 Q. Okay. And what was the date of the changes to that
10 drawing?

11 A. Just like the previous one. It's 24 October for the
12 carrot and the clouds. And it's August 1st for the
13 permit.

14 Q. And flipping back to the last drawing --

15 A. Uh-huh.

16 Q. -- tell me what drawing number this is.

17 A. This is S-03. This is S-04.

18 Q. Were either of those drawings contemplated by the
19 letter agreement of 27 November '06?

20 A. Can't see any S's at all.

21 Q. All right. Let's look at the next drawing.

22 A. Okay.

23 Q. Tell me what that is.

24 A. I've got re-framing plan as the title. The clouds and
25 carrots are similar. This has to do with the porches and

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1 the upper framing of the porches at the top of the column.

2 That would also be the case there, and there.

3 And this is chimney substitution in concrete block.

4 Q. And what's the drawing number?

5 A. This is S-05.

6 Q. And tell me the significance of the S in the drawing
7 number.

8 A. That means structural sheet.

9 Q. Okay. And was, what's the date of the changes there?

10 A. It's October 24th for carrot, and the permit is the
11 same as the rest, in August.

12 Q. August of what year?

13 A. August '08. And carrots.

14 Q. And was that --

15 A. That's interesting, too. That's a pre-engineered
16 truss but -- and which means our engineer didn't have to
17 do it, but we had enough of these guys in here, recesses,
18 so where you can push something up into it. That he -- he
19 drew it. This is one, I believe, it goes over, over one
20 of the wings. I believe it's this one.

21 Q. Okay. Help me understand. You said you pushed
22 something up in it, tell me what you mean.

23 A. This is a tray ceiling element. He had an historic --
24 it's a series of glass and a sort of elliptical window set
25 up and he wanted it recessed into a tray ceiling over the

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1 study here and then while there isn't a skylight over it,
2 we were going to back-light it. And so it would look as
3 though it was glowing with daylight. And so this is the
4 detailing to allow for that. The pre-engineer truss
5 manufacturer had to produce it, but that's how we got that
6 in.

7 Q. Okay. And what's the date of the changes that are
8 shown on that drawing?

9 A. October 24th, '08.

10 Q. And what about the permit date?

11 A. August 1st, '08.

12 Q. And was that drawing -- tell me the name of the
13 drawing.

14 A. This is roof framing plan.

15 Q. And what's the number?

16 A. S-05.

17 Q. And was it contemplated by the 27 November, '06
18 letter?

19 A. No. This one in particular with prefabricated
20 trusses, we didn't expect to have to do that.

21 Q. Okay. Let's look at the next one.

22 A. Okay.

23 Q. Tell me what that one is.

24 A. This is a wall section of the main house. This is --
25 it's the combination of the foundation plan that was down

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1 here, with the upper floor plans up here. Let's see.

2 This has been modified. It is a structural drawing and so
3 the modification structurally was this truss right here.

4 Q. And why was that required?

5 A. Okay. The foundation plan, as I was saying up on the
6 chair, he wanted to get it done and in the ground in order
7 to backfill on a certain schedule. He had a contractor at
8 the time we began this. The contractor was working with
9 me to get a permit.

10 Meanwhile, Mr. Slivka asked us to provide him with
11 names of other contractors who did the same work. He was
12 going to check pricing. And so, while the contractor who
13 had the job was busy getting the permit, other contractors
14 were pricing the work.

15 When the foundation was poured, the first contractor
16 had been dismissed. And the second contractor poured this
17 according to non-permitted drawings. And so, the effort
18 of the first contractor to get a permit was on a different
19 tract than the guys who had -- bid this independently on a
20 drawing that wasn't permitted yet. It had an engineer's
21 stamp, but it wasn't permitted yet.

22 So by the time this was poured, we had adjusted the
23 elevation of the basement based on the flood zone
24 requirements of that particular locale which is different
25 than other places where you have to be a foot higher than

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1 the flood zone for your basement.

2 That meant that if we stacked this as one big solid
3 piece it would be six inches too high at a floor level
4 here, relative to what he had already put in ground, over
5 here. He had reflecting pools.

6 And so the way we fixed it is instead of one solid
7 truss which is the same thickness all the way over it, we
8 adjusted it six inches right here. And I was able to put
9 in at the right heights and everybody was pleased.

10 Q. And when was that change made?

11 A. October 24th, '08 is the cloud and the carrot.

12 Q. And what was the original date of that drawing?

13 A. This is the August 1st permit set.

14 Q. And what is the drawing number?

15 A. The drawing number S-06, typical wall sections.

16 Q. And was that contemplated by the original agreement
17 between the Spriggs Group and Mr. Slivka?

18 A. No.

19 Q. Okay. Let's look at the next drawing.

20 A. Okay.

21 Q. Tell me what that drawing illustrates.

22 A. This is that tray ceiling thing I was just talking
23 about. So it's, the prefabricated truss manufacturer, and
24 we always say pre-engineered on our drawings, had to --
25 there's one truss just like this that goes across straight

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1 on the bottom. And there's another truss that goes back
2 up and goes back down to, to allow that tray element to go
3 in here.

4 Okay. Here's that same elevation in here that's been
5 changed.

6 Q. All right.

7 A. Let's see. There's a blocking detail. I remember
8 this. This is the 16-inch-on-center spacing of studs.

9 Q. How was that modified?

10 A. Actually we got the engineer to agree with the way we
11 wanted to do it. So it took me going over the head of the
12 draftsman of the engineer. So, the draftsman wanted to
13 make it at 12-inch-on-center, and I got his boss to agree
14 that we'd go with fewer studs.

15 Q. What were the dates of those changes? When were those
16 changes made to that drawing?

17 A. Same as previously. It's October 24th of '08 for
18 the -- it seems general right here. That's a structural
19 drawing and it's permit set is August 1st '08.

20 Q. And what's the title and the number of that drawing?

21 A. It says hyphen wall section. We call these link
22 elements hyphens. And S-07 is the drawing number.

23 Q. You mentioned the hyphen. And explain to me what a
24 hyphen is.

25 A. Okay. Here's a big block. Here's a big block and

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1 here's one. They're connected by these one-story guys.
2 That's -- a link is a good enough word but they're often
3 called in historic building hyphens, sort of a horizontal
4 thing, like the hyphen.

5 Q. Does it have roof on it?

6 A. Yes, yes. It has a pretty elaborate roof.

7 Q. Is it totally enclosed?

8 A. Yeah. Well, there's an exterior porch element, you
9 can see here in the photo. And really it's kind of a
10 complicated roof. Can I show them?

11 Q. Sure.

12 A. If you look, this is pretty normal roof sure. It's
13 slate but, you know, just a basic dimensions of it. But
14 then there's this this number here is 12 to one. You will
15 have a difficult time finding a metal roof manufacturer,
16 and that's what this ended up being, who will warranty a
17 roof slope that that's low. You can't get a warranty on
18 it.

19 And so the traditional way to handle these low slopes,
20 it's a tricky kind of construction where it's a flat seam
21 metal roof. You have to essentially solder together the
22 seams as they hold them together, you put them together,
23 you fold them over and then you mop them with a solder
24 like a copper solder or a lead solder.

25 So, I can't recall if these were lead-coated copper

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1 sealed roof panels or not. But that's the technique they
2 have to use. So to get this low slope to cover the porch,
3 we had to go with that historic technique.

4 Q. You mentioned that that was a 12-to-one slope.

5 A. Uh-huh.

6 Q. Explain that to me.

7 A. The slope of the roof is, like here's a four-to-12
8 slope. And so it means you go over 12 inches and up four,
9 and that gives you the slope of your roof.

10 Q. So what's a 12 to one?

11 A. A 12 to one is this lower slope one. So for every 12
12 inch out you go, since it's dropping out, you go one inch
13 thick.

14 Twelve to four would be 12 and four. That's pretty
15 good. It's the difference between that pitch and that
16 pitch.

17 Q. Okay. And I might have asked you this, but tell me
18 the name and the number of that drawing.

19 A. This is the hyphen wall section, S-07.

20 Q. Was that drawing contemplated by the original
21 agreement between the Spriggs Group and Mr. Slivka?

22 A. Not as a structural drawing, no.

23 Q. Let's look at the next one. Tell me what that drawing
24 is.

25 A. This is S-08, typical porch section. You can see it's

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1 been modified and carrotted here for the same reason down
2 below.

3 This -- okay. This here is that original steel
4 column. Right here. And so the -- eventually he got
5 columns that were fiberglass with, I think, six by six
6 laminated into one side of the fiberglass which is
7 different than a straight steel column you frame into it
8 and you wrap it with column wrap

9 Q. And when -- tell me what this was over here, this over
10 here, this lower cloud.

11 A. Yeah, this here is dealing with the connection at that
12 modified truss, right here. And I see there's a double
13 plate ledger to receive these porch joists.

14 So, under your floor is what you call a joist unless
15 it's a truss. So these guys got a double ledger. We
16 ended up with a double ledger at the garages at the
17 insistence of the local authority having jurisdiction.
18 That inspection department liked double ledgers. And so
19 we have them there as well as the garage.

20 Q. And that's another structural drawing?

21 A. Uh-huh. It's S-08, typical porch section.

22 Q. And was that drawing contemplated by the original
23 agreement?

24 A. No.

25 Q. Let's look at the next one.

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1 A. Okay.

2 Q. Tell me what that one is.

3 A. The next one, S-09, typical sections some details.
4 That's structural.

5 Q. Okay. And what's included on there?

6 A. Let's see. I've got a typical interior double wall,
7 and how it's supported on a beam, here. That's a steel
8 beam in the basement is what they're implying.

9 This is typical hollow column hold-down anchor. This
10 is basically a tension guide with a coupler right here so
11 you can tighten it up once you put it together. So this
12 resists against wind uplift. So if wind got caught under
13 this column and started pulling, this steel cable
14 essentially keeps it from lifting. So that's a structural
15 calculation you have to run in order to get that.

16 This is that same modified basement truss, right
17 there.

18 Q. Okay. And what changes are shown on that drawing?

19 A. It's the basement truss.

20 Q. Okay. And what date were the changes made?

21 A. Just like the previous, I got October 24th, '08 for
22 the change. And I've got August 1st, '08 for the permit.

23 Q. And was that drawing contemplated by the original
24 agreement between the Spriggs Group and Mr. Slivka?

25 A. No.

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1 Q. All right. Let's look at the next one.

2 A. Okay.

3 Q. Tell me what that is.

4 A. These are my modified chimneys. Now they're made out
5 of concrete block instead of trusses, steel trusses.

6 Q. And how are the changes illustrated on that drawing?

7 A. Well, there's a pretty big cloud over this section.
8 So that half of the sheet is the new system for concrete
9 block that's reinforced. You couldn't do this without
10 reinforcement. It's a modern building technique. That's
11 rebar and that's block.

12 Q. And what date was that modification made?

13 A. Same as the others; October 24th, '08 is the
14 modification. August 1st, '08 is the permit.

15 Q. And if I looked at the original August 1st permit
16 drawings, what would be reflected on that side of the
17 sheet?

18 A. I'd have to look to the specific sheet, but I bet you
19 that it has trusses there.

20 Q. This is Exhibit 14. How about finding that for me?

21 A. Okay. S-10. See if we got it here. (Looking through
22 documents).

23 Typical sections and details, schematic exterior
24 wall. Okay. That's S-10 here.

25 Yeah. There it is. All right. There you go.

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1 Q. Is there any way we can put that up here?

2 A. I think I got it. Okay. Want me to just hold it
3 under?

4 Q. Sure. Describe for me what the change is from this
5 drawing to that drawing.

6 A. Got it?

7 Q. Yep.

8 A. Okay. You can see that these are all concrete
9 blocks. Those are pretty easy to tell. You can see this
10 is a steel system with cross bracing. That all had to be
11 designed structurally to include as little steel as
12 possible and yet cover all the wind loads associated with
13 it as well as gravity loads and so forth.

14 So to work that out, to get it priced, to understand
15 that, okay, we can live with the size associated with
16 this, that's a great deal of effort.

17 Q. All right. And tell me the title of that drawing.

18 A. It's schematic exterior wall elevation.

19 Q. And was that drawing contemplated by the original
20 agreement --

21 A. No.

22 Q. -- between the Spriggs Group and Mr. Slivka?

23 A. No.

24 Q. Okay. Let's look at the next one.

25 A. It is called typical details, S-11. I see that he

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1 changed the size of a particular member here. This level
2 of detail, I'd have to go into the set to find out what
3 reference it goes to here, but I bet this is column
4 related.

5 Here's that beam in the basement that holds the
6 connecting trusses. See, here, they're just flat instead
7 of like at the perimeter where it goes up six inches.
8 That's a beam that they designed there to take care of
9 that.

10 That whole foundation plan, it was supposed to be a
11 retaining wall effort so dirt could be poured so plants
12 could be done. The inspection department however required
13 that the first floor framing plan be attached to that
14 foundation plan because they needed to verify that the
15 connections to the framing were appropriate.

16 So that's the extra effort aside from just the
17 retaining walls that was being pursued by his first
18 contractor even as pricing was being double-checked.

19 Q. Okay. And what was the date the changes were made to
20 the drawing?

21 A. I've got it as 10-24-08 for the change, and 8-01-08
22 for the permit.

23 Q. What was the drawing number?

24 A. S-11.

25 Q. Was the drawing contemplated by the original

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1 agreement?

2 A. No.

3 Q. Tell me what that is.

4 A. This is typical sheer wall details. And that's
5 exactly what it is, it's typical. This is sort of typical
6 framing details that the inspector goes to check.

7 But, every general contractor and framer already knows
8 how to do this stuff. At certain points it's critical to
9 point out that this is a sheer wall, but the details
10 itself, we don't particularly have to produce. It varies
11 by circumstance. I don't want to go too far with that,
12 but these were typical sheer wall details. You can get
13 them out of catalogs.

14 Q. And what is a sheer wall?

15 A. A sheer wall is a wall that, -- say you have a
16 building that's long like this and short on the sides.
17 And it gets a whole lot of wind pushing against it this
18 way (indicating). Well, that means you have to brace
19 against it within the building like this. Those are sheer
20 walls that do that.

21 So, you know, if here's a box, wind's blowing hard
22 this way, these end walls aren't going to do the job all
23 by themselves. You need sheer walls in here to help
24 resist the pressure. So, sheer walls.

25 Q. Were there any changes made to that drawing?

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1 A. I see a carrot right here. I don't see a cloud. I
2 don't particularly see that other than that it's included
3 at all.

4 Q. Okay. The last structural drawing we have?

5 A. That's it for structural, yeah.

6 Q. Okay. And were any of those structural drawings that
7 we've just looked at contemplated by the original
8 agreement?

9 A. No, no. This was the last one. Number 12, and no.

10 Q. If you were originally going to put the structural
11 details required for this project on the architectural
12 drawings, what ended up taking up all the room on all
13 these architectural drawings that are listed in the
14 agreement?

15 A. There's a bunch of additional details.

16 Q. Okay.

17 THE COURT: Can y'all hear on the back row, back
18 there in the corner, can you hear him?

19 THE JUROR: Yes, sir.

20 THE COURT: Be sure to speak up.

21 THE WITNESS: I'll try.

22 BY MS. ARIAIL:

23 Q. I've got a microphone, if you want it.

24 A. I'll try a little harder.

25 Q. Okay. Let me -- identify these drawings again for

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1 me.

2 A. Okay. This one is the main house, main house set.

3 This is above the foundation. This is issued for permit
4 in August 1st, '08. You've got it as 19 -- well, 14.

5 Q. We marked it as 14?

6 A. Okay.

7 Q. You said that there are additional details that were
8 required on the architectural details. I want you to show
9 us some of those. You can put it up here once you get to
10 the right page.

11 A. Okay. We can start on page one. This is sheet
12 that's --

13 Q. I'm happy to help.

14 A. I tell you what, why don't we put it on the floor real
15 quick? I do this all the time.

16 Q. Okay. A-01, I believe, what we have here.

17 A. Okay.

18 Q. Does that help?

19 A. That's the same thing. Good.

20 Q. Okay.

21 A. So, this is similar to what we started with as an
22 idea, but if you get into this, what you'll find is that
23 we've developed an entire driveway system where we have a
24 brick border and gravel drive in this area. There's a
25 bridge here. We have 12-inch wide brick border with

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1 diamond pavers here. It goes around this whole gardening
2 complex. Here's the buildings we did of the conservatory
3 and the potting shed.

4 But all this driveway and all the walls that go into
5 it, we didn't know that up front. All of these connecting
6 walkways and the drive to the side of the horse stable,
7 all of that, didn't really know about. And all of this
8 basic placement we thought was going to be provided to
9 us. That would be the civil engineer.

10 Q. And how was that identified to you?

11 A. Well, we put it in our letter.

12 Q. Okay. The letter, the proposal letter?

13 A. Yeah, yeah. We said we understand that you will
14 provide us with site information.

15 Q. And did they do that?

16 A. No, no.

17 Q. All right. Is there another architectural drawing
18 that shows the details that you're talking about?

19 A. That's sort of a site thing. I'm sorry. I got off
20 topic. Basically I can do this on sheets I suspect.

21 Q. The next one I've actually got on board also if you'd
22 like to use it.

23 A. That's fine. I'm just going to leave that out.

24 Q. Okay.

25 A. Okay. Well, that's a note to me.

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1 Well, extra detail. Well, how about this dental
2 molding here?

3 All of this was that dental molding that was asked
4 about at the level of the stable. Great deal of research
5 and modification to make it work. In the end he agreed
6 that it's more appropriate here and it ended up here but
7 not there. I thought that was the right decision about
8 utilitarian buildings in the primary focus.

9 So all of this dental molding is just an extra
10 assignment. It has nothing to do with the permit. And
11 really a good contractor, you can do that on site.

12 Now a lot of this molding he says -- and really on the
13 interior, the basic idea would be he would give us model
14 numbers and we include it.

15 Well that's done on a schedule. You just put the
16 model numbers to the room and that's it.

17 In this case we had to develop the whole thing at one
18 size to a historic museum. That overhang is like three
19 feet. So we got all the research material which was an
20 effort, and then we traced the profiles of the dental
21 moldings, these little blocks that stick out, decorative,
22 into a crown molding not unlike these guys here. And then
23 we had to shrink it down proportionately to the overhangs
24 at his property.

25 After that he went to molding suppliers and found

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1 similar shapes and gave it to me and said, now, draw these
2 into it. And that's what you have.

3 Now that's a far cry from providing me with model
4 numbers to put on the schedule. So there you have it. So
5 that was all extra.

6 Q. And tell me about the research that you had to perform
7 for that dental molding in the first place. Where did you
8 get those details?

9 A. We were asked to do the dentals from the Taft House.
10 So when you dive in, the most famous Taft is the
11 president. But it's really the Taft House Museum in
12 Cincinnati which is a different reference.

13 And so we found out after looking at the wrong thing
14 first. He told us which one. So we finally went, called
15 the museum trying to do it as quickly and as efficiently
16 as possible to see if they had some photographs. You
17 know, I can do pretty good with photographs, scaling with
18 nearby things that I can identify the size of.

19 But they couldn't do that. And so we went to the
20 Historic American Building Survey at the Library of
21 Congress. And Mr. Slivka asked us to do that. He knew
22 all about it.

23 And so we got the materials. They shipped them to us,
24 and it was off of those really enormous .tif files,
25 computer files, that are hard to work with because they're.

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1 so big, that I was able to do this work.

2 Q. What other research did you do for Mr. Slivka?

3 A. The dog wash was a fun one.

4 Q. Tell me about the dog wash research.

5 A. It was the -- we were at the stable when it started.

6 He has big dogs, Newfoundland pups, and they get dirty and
7 the idea was that we would --

8 THE COURT: Hold on one second. Would it help the
9 court reporter out if he got back in the chair? Or does
10 he need to stay at those drawings?

11 THE WITNESS: Should I use a mic?

12 THE COURT: The mic would help a lot. The court
13 reporter's having a hard time hearing and I know over
14 there in the corner it's got to be hard.

15 (Pause.)

16 BY MS. ARIAIL:

17 Q. I'll put him back in the chair shortly.

18 A. So, so -- is this close enough? Dog wash at the
19 stable. Originally I thought that would be something like
20 a bathtub with a hose wash on it.

21 He asked me to research what the, kind of the state of
22 the art of dog washing is. And so I did. I went to Google
23 and between images and websites narrowed down the prints
24 that I could make where he could judge what they were
25 doing.

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1 And that ranged from salons where people have a
2 coffee shop as well as dog washing stations to these vans
3 that pull up to neighborhoods and wash dogs.

4 In the end, we went through a stack about like this
5 (indicating), and he said things like, that one's a little
6 too fancy, that's not suitable. And he found one that he
7 liked, and we modified the design to suit what he wanted
8 in his basement.

9 So that's the development of the dog wash.

10 Q. Let's -- while you're up, let's go ahead and look at
11 the other architectural drawings. And find another detail
12 drawing that has a series of details on it for me.

13 A. I'll let somebody hold this. I have a basic floor
14 plan sheet. So much -- okay. I guess that's not too
15 extra. (Looking through documents.)

16 Q. Why don't you tell me what those drawings are that you
17 just flipped through.

18 A. I flipped through the basement plan. I flipped
19 through the basement plan, and the first and second floor
20 plan. And they all have elevations near them so, you
21 know, you have a direct relationship between the plan and
22 your elevation.

23 And I'm looking over the details of things like thick
24 walls. I wouldn't call that extra at this stage. Maybe
25 at that stage, but this is a fairly well-developed plan.

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1 So I'm going to keep looking past the first floor and
2 second floor framing and elevations. This one here, this
3 is a pretty good one.

4 THE COURT: If the jury needs to stand up and look
5 over the rail, feel free to do it.

6 BY MS. ARIAIL:

7 Q. Let's see if we can get it on the board.

8 A. Okay. Can you hold it while I point? Is that...

9 MS. ARIAIL: Thanks, Mr. Lyles.

10 THE WITNESS: What we have here is a roof plan. All
11 those roof slopes here. And then this is an interior
12 elevation. It's a building section, is the proper term,
13 but includes all these interior elevations. These are all
14 interior elevations.

15 And what you have to do is develop these things to
16 this level in order to incorporate things like the crown
17 molding into the door so it fits. I couldn't get this
18 roof height of 11-8 unless I knew exactly the height of
19 his door from the other property, and the crown molding
20 that goes in as well as the tray that's to fit his
21 historic skylight.

22 So, this is a pretty serious interior elevation.
23 It's printed at a small scale, but I could blow this thing
24 up to real size. It's that accurate. So this is a whole
25 lot of Information on a simple drawing. So, that's,

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1 that's what that one shows.

2 BY MS. ARIAIL:

3 Q. What was the level of detail that was contemplated by
4 the drawing of the architectural drawings for the house?

5 A. Well, there's a permit set where you can build it by,
6 build it by floor plan. And, you know, a good contractor
7 and everything that's critical for an inspector to approve
8 of, in there.

9 And then there's multiple interior sections, like
10 this, building sections that include interior elevations.
11 So we worked out everything that you can see when you cut
12 through the building at that spot.

13 So that's a chop right through the middle there.

14 Q. Thank you. You can sit down.

15 A. (Complying.)

16 Q. All right. I'm going to ask you to go back to this
17 board.

18 A. Okay.

19 Q. And tell me what the next drawing is.

20 A. All right. This is a plumbing waste plan. It's
21 P-01. It's issued for permit date.

22 Q. And what did the original contract call for -- this is
23 for the main house?

24 A. This is the main house.

25 Q. What did the original contract call for on plumbing

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1 drawings?

2 A. I've got P-1 , -2, and -3. The first one is plumbing
3 basement first floor plan. The second one is plumbing
4 second floor and attic plan. The third is plumbing water
5 plan and sketches.

6 Q. So there's going to be three sheets?

7 A. Three sheets.

8 Q. What was actually produced?

9 A. I've got P-07. Is the last one.

10 Q. And tell me why it took that many more plumbing
11 drawings than was contemplated by the original agreement.

12 A. Well, more detail by the plumbing engineer. With
13 residential plans, we do have plumbing engineers but
14 depending on the scale, I can do a great deal of drafting,
15 give them the drawing, and then they can finish it.

16 At the level of this project, they had to do it
17 themselves. And it's very similar with the structural.
18 If you look at the structural you'll see it's my drawing,
19 their names. I did the work.

20 And this isn't so different. I did all these plans,
21 but they had to fit all of this information on them. And
22 there's enough of this kind of information that they had
23 to go with seven sheets.

24 Q. Okay. Tell me what on the first sheet, P-01.

25 A. Yeah. This is plumbing waste plan. So this is, this

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1 is, looks like just the first floor or basement floor
2 plan. So this is the waste runs, you know, when you flush
3 the toilet, you have a sink, you have all of that stuff.
4 It goes out these pipes.

5 Q. What's on P-02?

6 A. P-02. This is plumbing water plan. It's in the same
7 basement area so this is water supply to the basement as
8 opposed to removal, like waste.

9 Q. Where was that information supposed to be found on the
10 plumbing drawings that were contemplated by the agreement?

11 A. It looked like the P-1 was supposed to include both
12 the basement and the first floor for both supply and
13 waste.

14 Q. Okay.

15 A. And I could do that if it was a bit less complex.

16 Q. Tell me what the next drawing is.

17 A. This is, looks like the first and second floor. It's
18 plumbing waste plan. So same purpose.

19 Q. And what's the next one?

20 A. This is plumbing water plan. Same idea. It's the
21 first and second floor water supply.

22 Q. And where is the information shown on those two
23 drawings supposed to be shown on the drawings that were
24 contemplated by the original agreement?

25 A. This is first and second floor. So that would be,

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1 it's kind of a split between P-1 and P-2 here.

2 Q. And tell me what the next drawing is, next plumbing
3 drawing is.

4 A. Okay. This is P-05, hydronic water plan.

5 Q. What is that?

6 A. This has to do with the mechanical system. This is
7 water relating to that, and that gets a little outside of
8 my expertise.

9 Q. Okay.

10 A. But it's, it's a plumbing supply to handle the -- this
11 is a water source heat pump detail. So water source heat
12 pump.

13 Q. So water has to be piped to the --

14 A. HVAC system. Mechanical system.

15 Q. That's what hydronic is?

16 A. That's what this is.

17 Q. Tell me what the next two drawings are.

18 A. I've got P-06 plumbing waste risers. This is, you
19 know, the waste diagram. And P-07 is plumbing water
20 riser, the water diagram.

21 Q. Okay. All right. Let's look at the next drawings.
22 Tell me -- just look at that last drawing. Tell me what
23 the dates are on those plumbing drawings.

24 A. I've got it as August 1st, '08.

25 Q. Does it designate what that drawing is?

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- 1 A. Issued for permit.
- 2 Q. Okay. Thank you. Tell me what the next drawing is.
- 3 A. I have E-01 which is the power plan, electrical power
- 4 plan.
- 5 Q. And what does the E designation mean?
- 6 A. Electrical.
- 7 Q. How many electrical drawings were contemplated in the
- 8 original agreement?
- 9 A. Three.
- 10 Q. And how many were actually produced?
- 11 A. Five.
- 12 Q. And why did it take so many more electrical drawings?
- 13 A. Like the plumbing, it's more detail, scope of the
- 14 project and, yes, complexity of the systems.
- 15 Q. Can you tell me what E-01, what that drawing is?
- 16 A. The power plan. This is what it states, the power
- 17 plan. And it's power outlets, you know, plugs.
- 18 Q. What floor is that for?
- 19 A. This is for the basement it looks like. Yeah.
- 20 Basement.
- 21 Q. What's the next drawing?
- 22 A. This is the lighting plan. It's in the basement.
- 23 Q. Okay. How about the next one?
- 24 A. First and second floor power plan, E-03.
- 25 Q. And what is the next one?

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1 A. First and second floor lighting plan. That's E-04.

2 Q. And what was the next one?

3 A. Electrical details, schedules and risers.

4 Q. And what did, I think you said there were three
5 drawings in the agreement. What were they to include?

6 A. Well, the last sheet, E-3, is very similar to this.
7 The first two anticipated a lot of the previous sheets.
8 So what we anticipated in two there was four here.

9 Q. And why couldn't you combine information like the
10 original agreement contemplates?

11 A. Size and complexity of the project.

12 Q. All right. Let's go to the next drawing and tell me
13 what that is.

14 A. Okay. This is the foundation plan and roof framing
15 plan for the structural, S-1-1.

16 Q. For what building?

17 A. Oh. That is a different building. Yeah. This is
18 garage building west.

19 Q. How many garages were there?

20 A. Two.

21 Q. Tell me what the next drawing is.

22 A. Okay. S-1-2, foundation roof framing plan, garage
23 building east.

24 Q. And how many structural drawings were contemplated for
25 the garage in the original agreement?

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- 1 A. None.
- 2 Q. And can you find that for me on this?
- 3 A. I find a lack of S drawings, yes.
- 4 Q. Okay. And that is, I'm going to hand you Exhibit
- 5 Seven.
- 6 A. Okay.
- 7 Q. Just confirm for me that this is, which page this is
- 8 out of that exhibit.
- 9 A. This is page 0177 at the top.
- 10 Q. Which is -- does this on the board, is that from this
- 11 document?
- 12 A. Yes.
- 13 Q. Okay.
- 14 A. Hold on a second. I'm on a different page.
- 15 Q. Yes, you are.
- 16 A. Sorry. Now, it matches.
- 17 Q. Okay. And is the garage shown on that page?
- 18 A. Yeah.
- 19 Q. And what page is that?
- 20 A. This is 0179.
- 21 Q. Okay. So that's what we're looking at on the blow up?
- 22 A. Yeah.
- 23 Q. All right. And again, tell me how many drawings were
- 24 originally estimated to be prepared for the garages.
- 25 A. You mean structural drawings or all?

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1 Q. All. Total.

2 A. One, two, three, four, five.

3 Q. And how many structural drawings were estimated for
4 the garages?

5 A. None.

6 Q. Okay. And why were structural drawings required for
7 the garages?

8 A. That would be the local jurisdiction having authority.

9 Q. And you've shown me two separate structural drawings,
10 one for the west garage and one for the east garage. Why
11 did you have to do two?

12 A. There was a siting issue near tree. There's a tree
13 that Mr. Slivka really liked and he wanted the garage to
14 be tucked in next to it and yet if you poured a foundation
15 you'd kill the root and so the tree would die.

16 And so rather than re-siting the garage or getting rid
17 of the tree what we did is a grade beam plan. So instead
18 of having a deeper foundation into the root zone what we
19 did we had a grade beam, structural engineer had to design
20 it that skirted across the top of the roots and didn't
21 kill them. So that's a different foundation plan than the
22 other garage.

23 Q. Okay. Which was the garage with the tree issue?

24 A. Let me look at my -- I think it was the west but let
25 me check my ...

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1 Where's my grade detail? Okay. The grade beam is
2 here. And that section, C-2-1. And so checking back
3 here, looked for C-2-1. C-2-1, that's the grade beam
4 section right there.

5 Q. So this location is where --

6 A. Right. So grade beam happened right here where the
7 C's are. These two reference markers. And I guess the
8 tree roots were going right around here.

9 Q. Okay. And what did you understand to be the level of
10 design required for the attics in the garage, the two
11 garage buildings, when the contract was entered into with
12 Mr. Slivka?

13 A. They are unfinished. They're garages.

14 Q. Okay. And what was on the second floor?

15 A. Nothing. There was mention to develop later
16 apartments. That's what eventually happened but
17 originally, no, these were garage buildings.

18 Q. And what level of detailing did the Spriggs Group end
19 up providing for those upstairs apartments?

20 A. We made residential apartments that met every code for
21 a building you can live in which is different than a
22 garage.

23 Q. Let's look at the next drawing. And tell me what that
24 is.

25 A. Okay. This is S-2-1. It's typical details and

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1 general notes. It's structural drawing. It includes that
2 grade beam specialty detail as well as more typical
3 details.

4 We had to have -- I believe this ledger here worked
5 out carefully. I believe it's this one. See how this is
6 two boards thick right here and right here? That is not
7 standard practice. That's preferred by the local
8 inspection department.

9 Now, engineers don't normally have to do this kind of
10 drawing, but the local inspection department required that
11 plus the extra thick ledger. So, that's not just standard
12 all the time. That was asked above and beyond.

13 Q. Okay. What's the next drawing?

14 A. I have P-01 --

15 THE COURT: Hold that microphone right in front of
16 you. Just pretend like you're John Denver and you're at a
17 concert.

18 (Laughter.)

19 THE WITNESS: I'm trying to do my best.

20 MS. ARIAIL: You're blushing.

21 THE WITNESS: So P-01. And it's plans and elevations
22 for the plumbing is what it says. First floor plan
23 plumbing.

24 BY MS. ARIAIL:

25 Q. All right. And what was contemplated by the original

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1 agreement for plumbing for the garage buildings?

2 A. Other than a hose bib, I don't know that we had any
3 idea of plumbing going to the garages.

4 Q. Okay. How about, what's the next drawing?

5 A. This is P-02. Garage buildings plans and elevations.
6 There it says second floor plan plumbing waste. So, it's
7 the waste from all the fixtures of the apartment on the
8 second floor.

9 Q. And describe that apartment for me. Tell me what you
10 got up there.

11 A. Okay. Well, we have a stair coming from down low.
12 Underneath is the hot water heater, the supply is up
13 here. We have a kitchen. We have a living area. We have
14 a bedroom. We have a washer and dryer, bathroom and
15 closet.

16 And while it's hard to tell on this drawing, we have a
17 mechanical system that runs this whole perimeter to run
18 air-conditioner to it.

19 Q. And let's look at the next drawing.

20 A. Okay.

21 Q. Tell me what that one is.

22 A. P-03, plans and elevations. It says second floor plan
23 plumbing water. So it's water supply to the second floor
24 apartment.

25 Q. And is that the last plumbing drawing?

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1 A. Yep.

2 Q. So how many plumbing drawings were prepared for the
3 garages?

4 A. Three.

5 Q. And how many were contemplated by the original letter
6 agreement?

7 A. I see one on this PME here. That's a combination of
8 plumbing, mechanical and electrical on one.

9 Q. Okay. Let's look at the next drawing.

10 A. Okay. This is --

11 Q. What is that?

12 A. -- M-01 garage building, plans and elevations. Here
13 it says first floor plan HVAC.

14 Q. What does the M mean?

15 A. Mechanical. And this would be the kind of engineer
16 that does HVAC systems, air-conditioning systems.

17 Q. What's on the next drawing?

18 A. This is sheet M-02. It says plans and elevations
19 there second floor plan HVAC. It's a mechanical drawing
20 for the apartment.

21 Q. Is that the last mechanical drawing for the garages?

22 A. Yeah.

23 Q. And how many mechanical drawings were contemplated by
24 the original agreement?

25 A. That combines PME. Yeah. So that's, all of those

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1 were supposed to be on one drawing because it was just an
2 empty garage.

3 Q. What do you mean by all of those?

4 A. It means the disciplines of plumbing engineer,
5 electrical engineer and mechanical engineer. All of those
6 came out of the same firm and at least at the level of a
7 garage can fit on one sheet real easily. You don't have
8 HVAC in an open garage.

9 Q. Thank you. All right. Let's look at the next one.
10 Tell me what that one is.

11 A. E-01. Plans and elevations, first floor plan,
12 electrical.

13 Q. That's for what building?

14 A. These are the garage buildings.

15 Q. Okay. And what -- and what does this particular
16 diagram show?

17 A. I see lighting and power. These are lights overhead.
18 That's power outlets on the walls. Here's a switch.
19 Here's a panel that coordinates it all. This is power
20 going to the water heater.

21 Q. And which floor is that?

22 A. This is on the first floor where you park your cars.

23 Q. And let's look at the next one.

24 A. Okay.

25 Q. Tell me what that shows.

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1 A. E-02. Plans and elevations, second floor plan,
2 power. So it's the power plan for the apartment above.

3 Q. And what is it powering?

4 A. I see the air-conditioning, air handling unit there.
5 Just everything you get in an apartment from all the
6 kitchen appliances through the laundry area to what's
7 required in a bedroom by code, to your bathroom which gets
8 ground fault in case water hits your outlet, you got to
9 have a particular kind. So, yeah, an apartment.

10 MR. LYLES: If you don't mind.

11 (Pause.)

12 BY MS. ARIAIL:

13 Q. And what is the next drawing?

14 A. This is E-03. Plans and elevations, second floor
15 plan, lighting. And it's that.

16 Q. All right. And why were these additional plumbing,
17 mechanical and electrical drawings required for the garage
18 apartments?

19 A. Because apartments were added.

20 Q. And who requested that those apartments be added?

21 A. Mr. Slivka.

22 Q. Okay. Let's move on to the potting shed. Let's look
23 at next drawing there.

24 A. Okay. There you go.

25 Q. How many drawings were contemplated by the original

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1 agreement for the potting shed?

2 A. There was no potting shed originally.

3 Q. Okay. And tell me what this drawing is.

4 A. This is wall sections. It's A-03. And it shows
5 exterior stud wall section, non-bearing stud wall section,
6 and section after the covered entry.

7 So, this includes -- well, if you go into it. You got
8 a basement foundation, you have a won't-rot-if-it-touches-
9 moisture ledger here, and then wood stud construction up
10 here. Instead is how you would put a window within that,
11 historic windows in this case, and then brick veneer on
12 the outside, vent space into the attic and so forth.

13 This is an interior non-bearing stud wall of a similar
14 construction.

15 This is the portico.

16 This is the whole roof structure that has that sort of
17 historic reference, and its impediment right here.

18 Q. Let's flip to the next drawing and see what you got.

19 A. Okay. I have S-1-1 potting shed. Foundation plan and
20 roof framing plan.

21 Q. And what is the other -- are there other changes on
22 there?

23 A. Yeah. I see architect's note. Four-inch minimum
24 concrete in lieu of brick pavers. And it has a reference
25 point to another drawing.

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1 This is an architect's note. Area to be enclosed with
2 wood stud walls in lieu of double-wide brick walls per
3 detail BS-1 which is this detail here, BS-1.

4 Q. Speak English and tell me what that change was.

5 A. Okay. This detail says void. This detail matches the
6 conservatory. This is brick on both sides. And because
7 it is two rows of brick real close together, there's grout
8 holding it together and rebar had to be added in order to
9 meet all of our wind load and uplift requirements,
10 basically the hurricane code requirements of this area.

11 So we had it designed as requested to match the
12 conservatory. This half of the potting shed was
13 originally intended to be, as I understand it, sort of a
14 display area. We have an historic sink involved. We have
15 interior walls that look like they're built of brick,
16 whereas this side is storage. You have plywood panels
17 that's cover the historic windows that are required for
18 the hurricane. You have wheelbarrows and ladders and
19 such.

20 I think, so when he switched from this construction to
21 this construction it was less expensive, saved money.

22 Q. And who asked you to do that?

23 A. Mr. Slivka.

24 Q. See if the next drawing is a potting shed drawing.

25 A. It is.

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1 Q. Okay. Let's look at that one. Tell me which one that
2 is.

3 A. This is potting shed. It's PME-01 is the drawing
4 number. It says, plumbing HVAC and electrical plans. And
5 it looks like it got stretched in reproduction.

6 Q. Okay. Before we talk about that one, tell me what --
7 I'm going to hand you a document that's noted as
8 Plaintiff's Exhibit, labeled as Plaintiff's Exhibit Number
9 17. Tell me what that roll of drawings is.

10 A. This is potting shed. It says issued for pricing, on
11 the first issue date at 6-18-07. It says issued for
12 permit at the second submission date of 8-31-07.

13 Q. Did you prepare these drawings?

14 A. Yeah.

15 MS. ARIAIL: Your Honor, I'd like to submit
16 Plaintiff's Exhibit Number 17 as evidence.

17 THE COURT: 17? Any objection?

18 MR. LYLES: No objection.

19 THE COURT: Plaintiff's 17 into evidence.

20 (Thereupon, Plaintiff's Exhibit No. 17, potting shed
21 drawings, was received into evidence.)

22 BY MS. ARIAIL:

23 Q. We're going to roll these out.

24 A. Okay.

25 Q. Tell me what this drawing is.

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1 A. That is a potting shed. This is the exterior
2 elevations of it, piece of wall attaching to it. Up here
3 on the right is the millwork elevations. This is where
4 that fancy sink was in the more display area where it had
5 the great wall on the interior originally before it was
6 changed.

7 So, here's a whole complex of garden walls that I
8 showed on the site plan that were drafted beyond the
9 buildings themselves. Well, that's how it eventually
10 connects in.

11 This detail here, you can see it here. This is called
12 a niche. This is a little recessed area of a wall where
13 you can display things. In this case, a statute, I
14 believe. Windows. Garden gates.

15 We have open shelving above listed but here, but I
16 actually drew them out here. The soapstone sink. So
17 that's an historic sink. Here's a toilet back here. And
18 that was really difficult to fit in. It ended up we had
19 two-by-four studs right across here rather than two by
20 sixes to met a minimum code requirement.

21 So as we built this out, that cut into the bathroom
22 zone. We were so tight for inches to meet code that we
23 shortened our stud only in this zone in order to fit it
24 in, by two inches.

25 Q. All right. Let's go back to, I believe it's a

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1 plumbing drawing. You were actually -- tell me what that
2 is.

3 A. Plumbing, mechanical and electrical-01 for the potting
4 shed. So it's all the disciplines combined of mechanical,
5 electrical and plumbing engineering on one sheet.

6 Q. And I think you mentioned -- what's included with the
7 plumbing again?

8 A. In the plumbing, I've got toilet and I've got a
9 soapstone sink. So that's going to be supply and waste.

10 Q. How about on the HVAC plan, what's that?

11 A. I've got an exhaust fan for the bathroom.

12 Q. And what's required by the electrical plan for the
13 potting shed?

14 A. I have various outlets that I'm seeing. I have light
15 switches and the exhaust fan. So that's essentially it.
16 Lights, power outlets, exhaust. It looks like there's a
17 J-box for something in the portico.

18 Q. Okay. This has been marked as Plaintiff's Exhibit
19 16. Tell me what those drawings are.

20 A. It says garage buildings. I've got two dates issued
21 for pricing; 6-18-07 and 7-26-07. At 9-26-07, it was
22 issued for permit. And at 11-12-07 it was issued for
23 pricing again.

24 Q. Okay.

25 MS. ARIAIL: I'd like to submit Exhibit 16.

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1 THE COURT: Any objection?

2 MR. LYLES: No.

3 THE COURT: Plaintiff's Exhibit 16 into evidence
4 without objection.

5 (Thereupon, Plaintiff's Exhibit No. 16, garage
6 building drawings, was received into evidence.)

7 BY MS. ARIAIL:

8 Q. I hand you another set of drawings I've got pre-marked
9 as Plaintiff's Exhibit 18. Identify those for me, please,

10 A. It's the garden wall and stair drawings.

11 Q. What's the date on those?

12 A. Got 10-15-07 issued for review.

13 Q. Okay.

14 MS. ARIAIL: Your Honor, I'd like to submit Exhibit
15 Number 18 into evidence.

16 THE COURT: Any objections?

17 MR. LYLES: No objection.

18 THE COURT: Plaintiff's Exhibit 18 into evidence
19 without objection.

20 (Thereupon, Plaintiff's Exhibit No. 18, garden wall
21 and stair drawings, was received into evidence.)

22 BY MS. ARIAIL:

23 Q. All right. let's look at the next drawing that we
24 have on this stack.

25 A. Okay.

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1 Q. And tell me what that is.

2 A. That's the garden wall and stair.

3 Q. Okay.

4 A. What we have is an elevation change on site. I
5 believe it is sort of toward the garden side. Title helps
6 you know that.

7 And you can see a stepped wall. This is a retaining
8 wall. It's holding dirt on the other side. So you enter
9 at the top of the hill, here. And you can walk down this
10 side and go down this diamond paver path. It's the same
11 on both sides. You can see. So this is in plan. That's
12 in elevation. Here's another niche you can put a statue
13 or something in there.

14 Q. Why did the Spriggs Group prepare this document?

15 A. We were asked to by Mr. Slivka.

16 Q. And what was the agreement on payment for this?

17 A. This would be an hourly charge because it wasn't
18 foreseen.

19 Q. Okay. And how many drawings did you end up having to
20 do?

21 A. I remember him talking about this as a particular
22 sign. And so it was discussed, but at hourly charge.

23 Q. And how many drawings did you produce for the garden
24 stair?

25 A. In the end it was three. So, I did this drawing which

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1 shows the majority of it from my perspective, plan
2 elevation and the section here.

3 And then the next page shows how dimensionally you can
4 lay this stuff out. That was difficult for the
5 contractor. And I've dealt with that before. And so I
6 eventually gave them a third sheet that put it on a grid
7 that he can mark on the ground and rather than get these
8 curves with, and making his own giant scale compasses and
9 such, he can just put a grid down and essentially scratch
10 it out on the ground to see what the profile of it was.

11 Q. So when the Spriggs Group initially agreed to prepare
12 a set of garden stair drawings, how many drawings were
13 contemplated?

14 A. This would have done it. Well, I guess you'd say two
15 because I do explain how to do all of this stuff on the
16 next sheet.

17 Q. All right. Show us the next sheet. How does that
18 explain how to do all that?

19 A. This is how you do an ellipse mathematically and
20 graphically. I guess it's geometry. So ellipses are a
21 favorite shape. They look great. We have plenty of them
22 in the job. All of our arches are elliptical.

23 But, it's -- as you can see by the dimensions and
24 shapes and the math here, this is not an easy thing to
25 do. An ellipse is an odd shape. So this is how you would

1 explain it to somebody to get it exactly right.

2 So, that's what that does.

3 Q. All right. And flip to the next sheet for me. Tell
4 me what that is and why you prepared that.

5 A. This is the same profile as on the other sheet. And
6 yet that's difficult for a guy to have his work crew do.
7 However, if you put out a line on the ground, and I'm
8 thinking stakes and string, to produce a grid, then you
9 can mark this on the ground according to the grid and be
10 so close to accurate that you don't have to do the
11 calculations on the previous sheet. You can do this in
12 real, you know, one-to-one space. You put your grid out
13 and you mark it according to the grid.

14 Q. And why did you prepare that drawing?

15 A. The contractor was having difficulty. He asked me to
16 do it.

17 Q. All right. Are there any more drawings on that board?

18 A. No, that's it.

19 Q. Okay. You can have a seat. Thank you very much.

20 THE COURT: Let's take a 15-minute break. We'll be
21 at ease until then.

22 (Jury exits courtroom at 4:30 p.m.)

23 THE COURT: 15 minutes.

24 (Thereupon, a break was taken at 4:30 p.m., at
25 4:44 p.m., the trial resumed:)

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1 accepted the job, or rather, who Mr. Slivka hired, we
2 would incorporate their details.

3 So those are the ones that come to mind right off.

4 Q. And are those considered construction administration
5 functions?

6 A. Those are considered general contractor functions.

7 Q. Okay. How about material takeoffs, what did you
8 perform material takeoffs for?

9 A. Drywall. And eventually -- I'd described earlier,
10 subtracting the paneling where it existed.

11 Q. Okay. And what services did you provide related to an
12 appraisal that was made in the Spring of 2009?

13 A. I got a call from an appraiser who was working for
14 Mr. Slivka and she needed to print out some floor plans at
15 eight and a half by 11 format, a normal sheet of paper.
16 And she was having trouble doing that. And she also
17 needed a translation of the room numbers into room names.
18 Appraisers have to say, you have this many bathrooms,
19 bedrooms, kitchens, whatever.

20 And Mr. Slivka had all the rooms numbered rather than
21 named. I think it was a privacy thing.

22 So, going through the e-mails, you can see in a rather
23 short period I gave her eight and a half by 11 .pdf's and
24 gave her her room name chart. There's a number here, name
25 there. Just a chart.

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1 MS. ARIAIL: May I approach, Your Honor?

2 THE COURT: Sure.

3 BY MS. ARIAIL:

4 Q. Mr. Bozeman, I've just given you a stack of
5 documents. And just tell me generally what those are.

6 A. These are my time sheets of -- well, this is a pile of
7 time sheets. I see Mr. Spriggs' name up top.

8 Q. Okay. And I'd like for you to look at the last time
9 sheet in that stack, the very last one. That's all you
10 and I are going to talk about.

11 A. Okay. That's me.

12 Q. Can you tell me what time period that was for?

13 A. That's January 1st through 15th, 2009.

14 Q. All right. And how do you identify on that time sheet
15 what time is related to the Spriggs project?

16 A. The Slivka project? I mean, they're all Spriggs
17 projects.

18 Q. I'm sorry. Well, the Spriggs design project.

19 A. Yeah. Well, basically I have every project we have
20 listed. And on some projects I have it broken down into
21 particular activities. And I have the days up top. I put
22 the number of hours, or down to the half-hour level in
23 each activity described.

24 Q. Okay. Is there a project number specific to the
25 Slivka --

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1 A. Yeah. This is 06-09. And if you guys can see just
2 the chunk, those are subcategories under that project.
3 These are all just simple, single lines for those
4 projects.

5 Q. And would you read for me from that time sheet --

6 A. Uh-huh.

7 Q. -- what you billed time for on these Slivka projects?
8 Specifically, give me the date and then what the service
9 was that you performed.

10 A. Okay. I guess I'll start with the 2nd. And I have
11 one hour under grotto, construction administration. Then
12 on the 5th, I have one and a half hours on balcony framing
13 flashing.

14 On the 7th I have a half hour under meet slash phone,
15 explain to Gene, Mr. Slivka. On that same day I have one
16 hour for balcony framing flashing. And at the bottom is
17 something associated with the project but not charged to
18 Mr. Slivka which is Carl Lewis, conservatory research.
19 He's the former contractor. He called in to ask about a
20 date that day.

21 Moving on -- actually I think that's it. Yeah, that's
22 it on the 7th.

23 Q. Is there anything on the 13th? I'm not sure if you
24 mentioned that.

25 A. Oh, yes. Yes, there is. I'm sorry.

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1 I have one and a half hours on the 13th. And it just
2 says Slivka residence and out buildings.

3 Q. Do you recall what you did that day?

4 A. I believe the 13th is the day that the -- I believe
5 the 13th is the day the drainage question came in. That's
6 the day that the plumbing sub called in to ask for a
7 substitution of three-inch plumbing lines for what was
8 called for as four-inch plumbing lines.

9 Q. I hand you a document pre-marked as Plaintiff's
10 Exhibit Number 19.

11 A. Okay.

12 Q. I'll give you a minute to look at that, and then I
13 want you to tell me what it is.

14 A. All right. This is a printout of e-mail
15 correspondence from January 13th, 2009. And it is the
16 e-mail back and forth between me and the engineer who
17 designed the lines in the first place to approve the
18 three-inch substitution.

19 Q. And what was the original question from that
20 gentleman?

21 A. Basically I asked Kayton if -- it says here, please
22 verify that you're comfortable with three-inch waste lines
23 serving each bathroom or explain the circumstances if
24 four-inch line is required.

25 And Kayton's response, if you'd like?

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1 Q. Sure.

2 A. The use of three-inch waste lines instead of four-inch
3 waste branch and stack lines is acceptable on this
4 project. The initial decision for using four inch is that
5 the cost difference, parentheses, three inches versus
6 four, is small and reduces the opportunity for waste lines
7 to become fully obstructed. Horizontal slope minimum, and
8 eighth-inch-per-foot requirements apply to both sizes.

9 Q. Who is Kayton Smith?

10 A. Kayton Smith is the mechanical engineer who did the
11 mechanical, electrical and plumbing.

12 Q. I'll hand you another document that was identified
13 yesterday as an appraisal.

14 A. Oh, okay.

15 Q. And I want you to look through that and find -- you
16 said you performed some services. See if there are
17 documents included in that appraisal that you prepared.

18 A. Okay. Yeah. Here's a floor plan that's at the right
19 size.

20 Q. What's it a floor plan of?

21 A. This is the main house there. And this is most likely
22 the .pdf that she wanted done at eight and a half by 11.
23 That's this size paper.

24 Second floor plan is right after it.

25 Basement plan is after that.

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1 A. Right.

2 Q. And this among you mentioned extra work that you did
3 in developing sources for materials?

4 A. Correct.

5 Q. Is it your testimony that the work that you performed
6 in connection with all those tasks was additional work,
7 that is, not within the original scope of services?

8 A. My testimony is that the original scope of services
9 defined a finite goal in that we had a clause that
10 described what would be additional work. I also think
11 that once we lost the ability to work with a general
12 contractor, those activities that are normally taken on by
13 the general contractor that I was asked to do would be
14 extra and covered by that clause.

15 Q. So it is your testimony that each of those items
16 represents additional work that is not within the
17 contemplation of the parties?

18 A. It was contemplated in the form of the clause. And
19 so, yes.

20 Q. That it --

21 A. Do you follow what I mean?

22 Q. That -- you were referring to Paragraphs 18 and 19?

23 A. I guess that's their number.

24 Q. Okay. Let me make sure. I have lost the letter that
25 I said I was going to put up here and not lose. You're

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1 referring to the provision of agreement that says if we do
2 something extra we're going to charge by the hour?

3 A. That's what I'm referring to.

4 Q. Okay. Is it your testimony to the jury, was it your
5 point yesterday, that each of those items that I just
6 mentioned was not contemplated by the original agreement
7 and it was, therefore, additional?

8 A. That's correct.

9 Q. And in no instance, save the garden and retaining
10 wall, did you document to Mr. Slivka that you believed
11 that all of those tasks were additional?

12 A. I didn't correspond with Mr. Slivka in writing.

13 Q. Okay.

14 A. He is a verbal person.

15 Q. Did you advise him orally that these items, each of
16 these items save the garden and retaining wall, because
17 we're going to talk about that separately --

18 A. Okay.

19 Q. -- did you advise him, in each instance when you were
20 performing these tasks that, Mr. Slivka, this is not
21 covered by the original scope of services and I'm going to
22 bill you extra for it?

23 A. No. No.

24 Q. Okay. Now, did these items add significant work?

25 A. They did.

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1 Q. Now, what I'd like to do is to turn your attention to
2 -- let me turn your attention to what yesterday was marked
3 as Plaintiff's Exhibit Nine.

4 A. Okay.

5 Q. And in Exhibit Nine are a number of invoices sent by
6 the Spriggs Group to Mr. Slivka.

7 A. Okay. Yeah, I see that.

8 Q. In February of 2009 initially, and then that letter
9 was dated May or March of 2010, I believe.

10 A. Let me catch up to you real quick.

11 Q. Sure.

12 A. This is -- the cover sheet that you're talking about
13 is March 15th?

14 Q. Of 2010.

15 A. '10, yeah.

16 Q. But the invoices are dated February of 2009; right?

17 A. Correct.

18 Q. Okay. I would like for you to turn to invoice number
19 three --

20 A. Okay.

21 Q. -- which Mr. Slivka received in February of 2009.

22 A. Uh-huh.

23 Q. Would you agree with me that invoice three reflects
24 additional services that go all the way back to August of
25 2007?

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1 Q. Okay.

2 A. -- or object to anything.

3 Q. So in terms of billing, that wasn't your
4 responsibility but you've shared with the jury yesterday
5 and today things that you believed would be additional
6 services?

7 A. I did.

8 Q. And if Mr. Slivka's opinion or belief about what's
9 additional and what's not is different than yours, who's
10 to say he's not right?

11 A. I see your point. Yes.

12 Q. Okay. In fact, the line between what's additional and
13 what was basic except where you have a discussion with
14 Mr. Slivka like on the retaining wall, that line is
15 completely subjective based on what somebody's
16 understanding may be?

17 A. That seems true.

18 Q. Okay. Now you mentioned -- and we looked at invoice
19 number four which is contract administration.

20 Now, you explained, I thought, well for the jury what
21 contract administration is. And that is, your services
22 beyond the preparation of plans and specifications in
23 furtherance of the project; is that right?

24 A. Yeah. We title it construction administration, but
25 the -- both terms get used in the industry.

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1 A. No. I see two garages and an estimate of sheets and
2 hours, but nothing breaks it out to apartments.

3 Q. Okay. The additional sheets that were prepared for
4 the garage appear on that invoice; correct?

5 A. We are looking at invoice two?

6 Q. Yes.

7 A. Okay. Yeah, the additional sheets. Yes.

8 Q. Do you recall how many sheets were originally required
9 by the --

10 A. For the garages, I believe it was something like four,
11 if that. Let's see. What do we have?

12 Q. If you look at Exhibit Number, I think it's Seven?

13 A. Four plus engineering. So it's five.

14 Q. Okay. Did you ever review the actual construction of
15 the main house on site?

16 A. No.

17 Q. Do you have any knowledge related to whether or not it
18 was properly constructed by the contractors?

19 A. Not personally.

20 Q. Do you have any knowledge as to whether or not the
21 contractors constructed the house in accordance with the
22 requirements of the drawings that you guys produced?

23 A. Not personally, no.

24 Q. Did you have authority to take calls from the field?

25 A. I did.

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1 A. He asked me what my hourly charge is and he paid me
2 that day.

3 Q. Okay. And what was the next occasion that you had to
4 work for Mr. Slivka?

5 A. In 2006, I think it was April, he contacted us and
6 said that he was concerned about the flood areas of
7 Julianton Plantation and McIntosh County. And he had the
8 idea of taking the existing buildings that he had on-site
9 and raising them up in the air approximately 12 feet.
10 Quite -- shall I say, quite a task to achieve.

11 And wanted us to go about looking at the building and
12 what the implications were.

13 Q. And did you perform those design services?

14 A. We did perform those services as well as some work in
15 detailing fencing in an enclosure area for his swimming
16 pool and tennis courts.

17 Q. How was your fee computed for those services?

18 A. I guess it's the old-friend syndrome. What we did is
19 we took our hours, I wrote him a letter. We did the hours
20 we worked on and then I gave him a fairly low rate of
21 hourly work and put it together and took our hours and
22 sent a bill.

23 Q. And did he pay for that work?

24 A. Yes, he paid for that work.

25 Q. Do you know if that construction was actually

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1 performed?

2 A. No, it wasn't.

3 Q. Okay. Do you know why?

4 A. At the time that we were in the middle of this, and we
5 were actually still working at, in McIntosh County on the
6 project up until the end of September, I believe, of
7 2006. And in the same time, he had decided that he
8 perhaps wasn't going to undertake raising these buildings
9 up 12 feet but that he was going to do a new house.

10 And he briefly described as he did, verbally, that it
11 would be so long and this way and that way, and so, we
12 attempted to make a diagram of what he wanted.

13 And so, we are still finishing at McIntosh and we
14 assumed that this is just another place on the
15 plantation. And we drew them out and it sort of sat there
16 for a while.

17 Q. Okay. And what did you understand the new project to
18 include?

19 A. Well, he came back again and said that he would like
20 not only a main house, but some garages, two garages, I
21 think, and a stable sometimes referred to as barn. And a
22 conserv--

23 MR. LYLES: Your Honor, one moment.

24 THE COURT: Excuse me one second.

25 MR. LYLES: We have a witness that came in we agreed

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1 to sequester.

2 THE COURT: Any objections?

3 MR. BRUORTON: No.

4 THE COURT: Go ahead.

5 MS. ARIAIL: Thank you.

6 Q. I'm sorry. Go ahead. You were describing what you
7 understood the project to include?

8 A. Let me just give the outline again because we just
9 sort of stopped and started and you'll get confused. A
10 main house and a series of outbuildings we frequently
11 refer to this is as support building, in this case it
12 would be two garages and a, I'm going to call it a
13 greenhouse but we've now know it's a conservatory, and a
14 boat house and a stable and a grotto which I think we've
15 described before which is some cave-like structure.

16 Q. And where did you understand that was going to be --
17 that project was going to take place?

18 A. Well, we never had a site for where this was going to
19 occur. We really talked about buildings, what these
20 buildings were going to be.

21 So at that time we had a group of buildings that he
22 wanted to pursue. And we had no specific site of where it
23 was going although we were at McIntosh County at Julianston
24 Plantation and assumed that it would go somewhere there.

25 Q. And what information did Mr. Slivka give you at that

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1 point that described the project?

2 A. Well, it evolved. That he came back and I believe he
3 gave us these sketches which I think you all have seen and
4 they're hand drawn and said basically, this is what I am
5 thinking about doing.

6 Q. I've handed you Exhibit Six.

7 A. Yes.

8 Q. Are those the sketches that you're referring to?

9 A. That's correct.

10 Q. What did you understand his requirements to be?

11 A. Well, he told me besides showing these sketches, that
12 these buildings would be very different from Julianston.
13 And the difference that they were not historic buildings
14 originally, that these would all be new buildings and that
15 they would be constructed of new materials.

16 And he went on to say that there would be products
17 involved for windows and moldings and various things but
18 all of these would come from a manufacturer or something
19 that he would give us.

20 Q. What was your understanding when you were given those
21 sketches as to the requirements for the thickness of the
22 walls?

23 A. Well, really, in this, in these drawings there are no
24 wall thicknesses shown. There's only one mention of a
25 thickness of a wall on the first floor plan.

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1 Q. And what did that apply to?

2 A. Well actually, it says 12-inch thick wall comes out of
3 interior dimensions. This was noted earlier but what
4 there is is an arrow that goes from that comment to an
5 interior wall that separates the front foyer, where you
6 come in, and the next room you go into. And there he
7 specifically said, I want to make a 12-inch wall.

8 Q. And where else were there increased wall sizes shown
9 on those sketches?

10 A. There are no other locations of increased wall sizes.

11 Q. I've pre-marked another exhibit, Number 20. I'd like
12 you to take a look at that and tell me what that is.

13 A. In response to Mr. Slivka's description of what he
14 wanted, I went back and sat down and tried to write a
15 scope of work.

16 This is the beginning of what I call verbal
17 instructions that came to us from the very beginning of
18 the project throughout its entire life. And so I took the
19 diagrams that we had drawn, these boxes and shapes that he
20 described in dimensions and I realized, of course, we
21 would need some engineering, mechanical, electrical,
22 plumbing and some structural work because these,
23 particularly the main house would involve that.

24 So I wrote or talked to our consultants and they came
25 back with a series of questions.

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1 So the October letter is really an understanding of
2 listening to Mr. Slivka, talking with our consultants and
3 then coming up with sort of a list of what we thought
4 would be involved in the project.

5 And I did that by each building, and the sizes in this
6 case just by how long they are and how big they are. And
7 I wrote this back with a series of questions to say, if
8 there's any more information, I believe at the end, he had
9 asked us to prepare a proposal.

10 Well, you can imagine with all of these buildings and
11 all we had to make some assumptions. And so we asked some
12 questions and then we said, we will start trying to put
13 together a fee proposal to you.

14 Q. Okay. And what's the date of that letter again?

15 A. The date of the letter is October 5th, 2006.

16 Q. And if you look at the third page of that letter,
17 you've mentioned the assumptions. Tell me what the first
18 assumption that you've made and that you identified there
19 is.

20 A. I'll have to show my age, just a moment. (Puts on
21 glasses.)

22 The first assumption at the top of the pages, we
23 assumed the project will be located in an area of
24 Julianston Plantation. All soils test we require for
25 design of structural foundations will be directly

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1 contracted by you.

2 Q. In October of 2006, what did you understand Julianton
3 Plantation to be?

4 A. Well, Julianton Plantation is a magnificent property
5 of 3,300 acres. So there's a little bit of room to put a
6 few buildings around if you want to be in a different
7 location --

8 Q. Okay --

9 A. -- within the plantation.

10 Q. Excuse me. When you prepared this letter, who did you
11 understand would be the contractor?

12 A. Mr. Slivka told me at the beginning of this project
13 that he was going to hire JT Turner Contractor. And that
14 he was going to hire a civil engineer for site work,
15 Thomas and Hutton Engineering.

16 Q. And what was the significance of the -- who he
17 identified as the contractor?

18 A. In the first place, Turner Construction is an
19 excellent contractor. We have worked on a number of
20 projects with them. I know Jim Turner very well. And
21 they are first-rate builders.

22 So we knew that we would have someone who was a good
23 builder, that we could rely on and that would, frankly,
24 organize the construction process and that we felt
25 comfortable, given the number of buildings and the nature

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1 of this, with Turner Construction.

2 Q. How did that affect your pricing or your decision to
3 do this project?

4 A. Actually if we did not have a contractor identified
5 and one that we knew well, and that this was going to be
6 sort of done in another manner, I had serious reservations
7 of taking the project.

8 Q. And you mentioned the civil engineer that had been
9 identified. What was the importance of that?

10 A. The importance of a civil engineer, basically the
11 civil engineer is responsible for what we call horizontal
12 construction. And that is pipes, paving, sidewalks,
13 also -- how I do want to call it -- grading and drainage.

14 And so with a civil engineer we knew that we could
15 design these buildings and basically our responsibility
16 stopped. And this is a typical way that you connect a
17 building is five feet from the edge of the building. So
18 someone else has utilities that come up to the building or
19 whatever, our work would stop at that point.

20 Q. And how did that affect your pricing for the project
21 or your decision to pursue this project?

22 A. Mr. Slivka had said, I -- these sketches are exactly
23 what I want. You're just going to draw up the project and
24 it will be constructed. And I said to myself, if we have
25 the engineering for all of this work we'll know where

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1 these buildings are supposed to go on the site, and we'll
2 know where we have to take our mechanical and our
3 electrical and plumbing work out from the buildings and,
4 I'll use the term, hook them up.

5 Q: And did you receive a response from Mr. Slivka from
6 this letter?

7 A. We received no written response.

8 There's some notes that he wrote on it. And he
9 said -- I said -- if I may cite the notes or do you --

10 Q. Well, my question is: How did he provide additional
11 information to you?

12 A. Again, some of it verbal and some of it, I believe,
13 and I'm not sure whether -- I think he delivered this
14 letter back with some handwritten notes on it.

15 Q. Thank you. Your Honor, at this time I'd like to offer
16 Plaintiff's Exhibit Number 20 into evidence.

17 THE COURT: Any objection?

18 MR. LYLES: No objection.

19 THE COURT: Plaintiff's 20 into evidence without
20 objection.

21 (Thereupon, Plaintiff's Exhibit No. 20, 10-05-06
22 letter, was received into evidence.)

23 BY MS. ARIAIL:

24 Q. You mentioned a proposal. Did you prepare a proposal
25 to send to Mr. Slivka for doing the project for his work?

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1 A. I did prepare a proposal. And based on what I knew, I
2 did my best to try to put all of the parameters, if you
3 would, together and prepared a letter in November.

4 Q. All right. I'm going to hand up Plaintiff's Exhibit
5 Number Seven. And tell me what that is.

6 A. That's the letter that I prepared in late November.

7 Q. And what's the date on that letter?

8 A. The date is the 27th of November, 2006.

9 Q. And what type of services did you propose to provide
10 to Mr. Slivka?

11 A. Based on what Mr. Slivka said, I focused on three
12 areas in the letter. The first, I tried to determine the
13 size. I wanted to confirm, since we had these diagrams,
14 how big these buildings were.

15 And also, I thought it was important to at least begin
16 to note the probable construction cost of these
17 buildings. In part that was to say, they're going -- they
18 may cost this much money or more and so are we fine with
19 that.

20 The second was our estimate of drawings and
21 specifications. And you can imagine, with some diagrams
22 and some sketches, you have to sit down and figure out
23 what would it take me to describe these buildings so that
24 someone could build them.

25 So the second part of the proposal was to come up with

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1 a list of drawings. What did I think we would need to
2 build this building, and how many drawings might we need
3 for the different engineering services.

4 So I prepared a list.

5 Q. Okay.

6 A. And then the third focus was really based on the sizes
7 of these buildings, based on the number of drawings that
8 we had. It's a difficult proposal to put together because
9 you have minimum information, but I said that we would
10 have several areas. One that we would sit down and take
11 what he gave us. And we'd have some meetings to put this
12 together.

13 Now, remember I understood that this is exactly what
14 he wanted, we're going to draw it up. So I estimated
15 some, maybe two weeks' worth of work. Then I said that
16 there was some project management. That's the organizing
17 of both our staff and our consultants.

18 Q. Tell me what page you're on.

19 A. I'm on page four.

20 Q. I'd like to go through it in a little more detail.

21 A. Okay.

22 Q. If you -- but just a general question. When you
23 proposed to perform the project for Mr. Sliyka, what did
24 you anticipate providing to him?

25 A. Since he said that he would be involved in all of the

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1 interior work and he knew exactly what he wanted, our
2 project was to put together drawings that would allow the
3 permitting of these buildings, basically to put together a
4 permit set of drawings and, that they would contain a
5 certain degree of detail.

6 Q. And what do you mean by a permit set of drawings?

7 A. Well, a permit set of drawings is what is necessary
8 for either a county or a city department. They want to
9 know what the foundations are of a building. They want to
10 know the structure of the building. They want to know
11 what it looks like, in some cases where there are
12 restrictions, how high, how tall.

13 So you have a series of elevations.

14 And the mechanical, electrical, plumbing that would be
15 involved in the buildings so that they can make a judgment
16 of, does this building or buildings meet current codes.

17 Q. Okay. All right. You mentioned that your letter was
18 broken or provided three different things. And the first
19 one -- let's look at the very first page of the letter.

20 You've got here an estimated construction cost based on
21 program outlined in 5 October 2006 letter. And then you
22 list each of the structures that you're proposing to
23 design.

24 And you've come up with -- tell me how you determined
25 the cost to construct each one of those structures. Run

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1 me through that analysis.

2 A. Well, each of the buildings has a certain number of
3 square feet. And in the case of the main house, a number
4 of floors.

5 So listening to what Mr. Slivka wanted to do and based
6 on my experience of new construction as opposed to
7 historic renovation or other work, I used some preliminary
8 square foot costs for each of the parts of the main house
9 and then for each of the other buildings.

10 Q. And how did you determine those square-foot costs?

11 A. Well, at the time in 2006, for a house or a residence
12 like this, from anywhere from 225, to frankly it could be
13 as high as \$400 a square foot. We've seen houses of this
14 level cost that much.

15 So I used \$250 saying that this is new construction.
16 There are products that are made by others that we can
17 assemble together and it was a first effort to put a cost
18 on the project.

19 Q. And is that a normal way to estimate the cost of
20 construction of a structure?

21 A. Certainly at this stage of design.

22 Q. Okay. And where did you get square footages for each
23 one of these buildings?

24 A. The square footages came from taking the sketches that
25 we had and putting them on our computer database,

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1 basically to draw straight lines that are so wide and so
2 long and that tells me about how many square feet. Now
3 there's no design yet, it's just the layout of those
4 spaces.

5 Q. Okay. And what was the total estimated cost of the
6 construction based on your proposal?

7 A. The cost of the buildings was around -- well, it's,
8 specifically I said the total estimate was \$4,845,880.
9 Then we -- he mentioned that there might be some walls
10 around the greenhouse. So I estimated a four foot high
11 wall at \$100 a linear foot and came up with \$16,000.

12 Now, these walls weren't laid out. We just assumed
13 there'd be that many -- well, actually at \$40 a square
14 foot. I'm sorry. We allowed for a hundred feet.

15 Q. Okay. And what did you identify as being potential
16 additional costs?

17 A. Well, the additional costs, certainly think of these
18 as just seven buildings sitting on the ground. So the
19 site grading, the civil work which were wells, piping,
20 septic tanks, drain fields.

21 He mentioned interest in a solar energy system. So I
22 said that's, you know, there's no cost that I can put.
23 And also that obviously they're going to sit on sites that
24 are going to be grassed and landscaped.

25 So all of those civil, if you would, costs would be

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1 additional.

2 Q. Okay. And the next item shows a list of drawings and
3 specifications. How did you determine how many drawings
4 were needed for each one of the buildings?

5 A. Well, from our experience in designing residence and
6 commercial buildings and series of buildings, we knew that
7 we had to have a site plan saying where the buildings
8 would be.

9 Certainly the usual parts that I mentioned. You have
10 to have a foundation plan. You have to have, in this case
11 we contemplated a basement. So that would be a plan.

12 First floor, second floor. And so I identified the items
13 that would need to be depicted in each of the buildings
14 and I gave them numbers to distinguish the different
15 disciplines.

16 So A for architecture, P for plumbing, M for
17 mechanical, E for electrical. And I listed them.

18 Q. Why aren't there any structural drawings listed?

19 A. Well, in Georgia and certainly in a residential
20 project, you can do the structural work as a licensed
21 architect and put the structural details in your
22 drawings.

23 And so, we felt that all of the structural work would
24 be part of our A drawings. And actually A-14 was what I
25 call structural details.

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1 were what Mr. Slivka was going to do and then the
2 remainder of the items were some of the things we would do
3 and also restrictions of since at this time we have not
4 really started. So we set up, if we are requested to do
5 construction phase work, how would we do that work. And
6 so I said it was on an hourly basis.

7 And then if we began documents and we're in the middle
8 of drawing based on the time that we estimated, if we
9 started to change those documents, we would bill on an
10 hourly basis.

11 And then finally I noted that we were not going to
12 design a dock for the boat house.

13 Q. Okay. Well, let's back up a bit. You mentioned the
14 first 13 items were items that Mr. Slivka was to perform;
15 right?

16 A. Correct.

17 Q. Okay. Did he perform some of those?

18 A. He, to an extent performed one, two and three. I'll
19 just outline quickly, kitchens and layouts, some of that.
20 A stair builder, he would provide that. And then he did
21 not take on solar energy work. It was going to be given
22 to us.

23 He provided some molding and trim information but not
24 all. Lighting fixtures were --

25 Q. Which page are you on now?

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1 A. I'm on page two -- excuse me. I'm on page five. I
2 need my glasses.

3 Q. All right. Keep going. I'm sorry.

4 A. Okay. You will contract directly with a civil
5 engineering firm and we will be provided site drawings.
6 That never occurred.

7 You will engage a testing laboratory to provide soils
8 tests. I'm not aware that any were done.

9 You will engage a testing laboratory for concrete
10 frequently. I don't know what that is. I'm not sure -- I
11 have no knowledge that any testing laboratory was
12 engaged.

13 He did select the brick.

14 He did select roofing material.

15 Flooring material, to the extent that we got into it.

16 And then exterior colors and interior colors, really
17 never evolved that much, but he would have picked those.

18 Q. Okay.. And, how did -- you identified these
19 assumptions at the time you prepared the proposal for the
20 work. How did that affect your pricing on the proposal
21 itself?

22 A. Well, obviously I'm trying to estimate a number of
23 things and it was important that all of these would be
24 done by someone else. In this case, through the owner.

25 Q. And how does that impact your fee?

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1 book. And it serves two purposes: Are you charging
2 enough, because this is what is being charged elsewhere;
3 or, do you want to show a potential client a range that he
4 could expect to pay for --

5 Q. Okay.

6 A. -- such services.

7 Q. And why did you include this as an attachment to that
8 proposal?

9 A. Well, Mr. Slivka is sort of his own person
10 particularly down at Julianston. And although he had
11 worked with us for the raising of these buildings as I
12 told you, it was really to give a sense of what could be
13 charged and then what we were actually charging to give
14 you a feel of what -- was this a reasonable price.

15 Q. And by using that document, what do you feel like the
16 percentage that that document would support is?

17 A. You mean our fee, where it fell?

18 Q. For this sort of project?

19 A. Oh. If -- probably, not probably. It would be at
20 least in the 15 percent range and depending on the
21 involvement of construction, could go up to 19 percent.

22 Q. And this document is what you reached an agreement
23 with Mr. Slivka for design of his project on, based on;
24 right?

25 A. Yes. Based on the information I was given and the

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1 understanding of what our, the amount of our role would
2 be.

3 Q. Okay. And how was the fee that was proposed by this
4 letter modified before you reached an agreement?

5 A. The first thing Mr. Slivka did is he said that he
6 didn't, he decided not to do, or to have a boat house, to
7 design it.

8 So he went to the list of drawings that I did, and he
9 used the prices that we estimated, that is, the number of
10 hours per sheet times the person who did the sheets rate.
11 And said, you have four sheets. So I'd like to delete
12 that and I'd like to reduce your fee because of the
13 absence of that building. And I believe it was \$10,000.

14 Q. Okay. Let's look at page three of your document, your
15 proposal. And tell me what sheets were deleted from the
16 scope of work.

17 A. On the boards, you all can see, down toward the bottom
18 is the titled boat house. And there were four sheets,
19 three architectural and then one combined plumbing and
20 electrical. Remembering that any structural work for a
21 boat house would be in one of those three architectural
22 drawings.

23 Q. So you've deleted four sheets?

24 A. Correct.

25 Q. And in looking at page four of your proposal, tell me

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1 how again you determined the deduction to make for those
2 four sheets that were deleted.

3 A. Well, we had a total number of sheets. And if you
4 take the hours --

5 Q. Tell me specifically where you're looking.

6 A. Oh. The deduction would come under the title
7 construction documents.

8 Q. Okay. And you deleted four sheets. How did you
9 determine the amount of money to delete?

10 A. Mr. Slivka took the rate that we showed, 24 hours per
11 sheet times \$105 times the number of sheets.

12 Q. And so what was the total fee that was agreed upon?

13 A. The \$10,000 reduction produced a fee of \$151,500.

14 Q. Actually the agreement was 152,420; correct?

15 A. Yes.

16 Q. Okay.

17 A. I was doing that in my head.

18 Q. Okay. And I understand that the Spriggs Group
19 designed a potting shed. Tell me when that was added to
20 the project and what your understanding of that was.

21 A. Well, let's take the name. It's a shed. And let's
22 imagine what a shed is. It's -- I thought at the time it
23 was a utilitarian building that might be out near the
24 greenhouse to store tools.

25 Q. And how was that added to the scope of work?

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1 And then Mr. Bozeman, Andy Bozeman, started setting up
2 the drawings, the databases that we were going to work off
3 of and began what I would call the preliminary drawing
4 process. What are these plans going to be and how are we
5 going to develop them.

6 And it sort of became an interactive, an interactive
7 way of developing this project.

8 Q. Okay. And how did you first learn that the project
9 was going to be built in Colleton County instead of at
10 Julianston Plantation in McIntosh County, Georgia?

11 A. Well, I wrote the proposal thinking it was in McIntosh
12 County, Georgia. And then I didn't hear anything and we
13 learned from Jim Turner's people that they were making
14 some visit to property in South Carolina. And I said,
15 well, no, I think it's in Georgia. And the other person
16 said, no, we, we've been to the site, which I had never,
17 had never seen.

18 Q. And who was this other person?

19 A. It was a representative of Turner Construction.

20 Q. Okay.

21 A. And, and it may be that anywhere from sometime in
22 December I heard the first discussion of that, to after
23 the first of the year.

24 Q. Okay. And how did you learn that you actually had to
25 provide stamped structural engineering drawings?

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1 A. Well, actually not for some time. It really ended up
2 almost in the spring because being in South Carolina or
3 being in Georgia was not so much the real issue, because
4 we work in both states.

5 It's that when we, as we always do, when we're in a
6 different location, is we call the inspections
7 department. We introduce ourselves, said who we are.
8 We're going to be doing this project, we want to work with
9 you.

10 And as the first project, and I believe it was the
11 conservatory, the local inspector for Colleton County
12 which is out of Walterboro said, I want all of the
13 structure, structural work that you do has to be sealed by
14 a structural engineer. And that's the first time I really
15 learned of that, is we're down the line a little and then
16 how do we shift and delineate those drawings.

17 Q. And when did that occur?

18 A. It was in the spring because we were, we were going to
19 produce the potting shed and conservatory first.

20 Q. Okay. Spring of what year?

21 A. Spring of 2007.

22 Q. Okay. And how did that impact the design effort that
23 was required by the Spriggs Group?

24 A. Well, the first thing we had to do with each building
25 is separate out what items would be structural. And for

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1 that it would be the foundation because that's what the
2 building is built on, the structure itself, and any
3 details that would be required.

4 Q. How did that impact the fee?

5 A. Well, the first impact would be that we had to pay the
6 structural engineer to produce drawings or even if they --
7 databases were given to them, that they would -- all of
8 the drawings and they would produce separate sheets. And
9 there was no -- there was no way to contemplate how many
10 drawings that would be until you got into each building.

11 Q. Okay. And originally you had a list of the
12 architectural drawings that you expected to produce for
13 each building. And you've testified earlier that that was
14 going to include certain structural details.

15 What ended up taking the room on those drawings when
16 you removed the structural details from the architectural
17 drawings and moved them to individual structural sheets?

18 A. Well, it became an evolutionary process in that
19 removing structural details may not necessarily leave a
20 blank space. As each of these buildings evolved, the
21 complexity at many times increased and so other details
22 took up those spaces on the sheets.

23 Q. And can you give me just briefly a couple of examples
24 of those types of details?

25 A. Well, I guess we could visit the potting shed. The

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1 potting shed was not a shed as we know it. It was a
2 little jewel of a traditional building complete with entry
3 columns and an entry gable. A gable is a roof that comes
4 out from the building.

5 And then it had the introduction of reusing historic
6 windows from Julianston. It had interior requirements that
7 were beyond my image of what a shed would be. So they
8 took up space.

9 Q. Okay. And you mentioned reusing existing materials
10 from the other plantation. How did that affect the design
11 effort required by the Spriggs Group?

12 A. Well, depending on what those items were, it could be
13 simply the substitution of a door for a manufactured
14 door. On the other hand, if it was an unusual door, it
15 took a different way of framing it and containing it.

16 The other impact, and this is important to note, is we
17 are now under current codes. So how we framed the door in
18 the 1900s compared to what we have to do for wind impact,
19 which is the particular emphasis, and I might add that
20 Mr. Slivka wrote down that he wanted 140 mile-an-hour wind
21 impact capability.

22 So you get into how do you reinforce these buildings,
23 the doors, the windows, and any of the items that could be
24 impacted by wind.

25 Q. Tell me what effect the fact that there was no civil

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1 in other cases from the owner, quantity takeoffs of
2 various material items.

3 Q. And who was the -- who was Mr. Slivka's primary
4 contact at the Spriggs Group during both the construction
5 and the design phase?

6 A. For day-to-day work, Mr. Bozeman was Mr. Slivka's
7 contact, although he was certainly free to contact me if
8 he so wished.

9 Q. And how did Mr. Slivka treat Mr. Bozeman?

10 A. Mr. Slivka started off in what I would call a civil
11 manner, but as the project evolved he was, Mr. Bozeman was
12 frequently screamed at over the phone, yelled at. I think
13 in some cases a better terminology would be tantrum. And
14 it was -- if it weren't for Andy Bozeman's personality, I
15 don't know that many people would take that behavior
16 toward them.

17 Q. When did the Spriggs Group actually finish its work
18 effort for Mr. Slivka?

19 A. The final work effort was after the -- that was the
20 first month of January 2009.

21 Q. And what work did the Spriggs Group perform for
22 Mr. Slivka during January of 2009?

23 A. Well, there were several items. We received a call
24 directly, which I actually also investigated, from the
25 plumber. And he requested, at Mr. Slivka's urging I

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1 believe, that the size of the waste line, and that's the
2 line that goes down from a sink or goes down from a
3 toilet, the main line that collects these at least through
4 the floors, be reduced from a four foot, excuse me, a
5 four-inch diameter, that's across, pipe to a three-inch
6 pipe.

7 And, before we did anything else, I wanted to look at
8 the plumbing drawings myself because there are numbers of
9 bathroom, kitchen and a whole series of plumbing-related
10 fixtures to see if that size would be workable. And it
11 seemed like it would be feasible.

12 So I then asked Andy Bozeman to contact our plumbing
13 engineer, Kayton Smith, who was mentioned earlier, who
14 needed to look at the amount of water flow and see if it
15 was acceptable.

16 It's important to note that in sizing pipe you have
17 to consider a certain percentage of all of these toilets
18 and sinks and fixtures are being used at the same time in
19 order to ensure that there's proper drainage.

20 The second item is that we got a call from the
21 framer, Todd Sauls, whom we've talked with on a number of
22 occasions, asking about, I believe it was flashing details
23 and some other connections.

24 When Mr. Bozeman said, well, you can see this one
25 item on drawing A-whatever-it-was, he said, I never was

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1 given those drawings. So we had to assume that not
2 everything was presented to Mr. Sauls to do the work and
3 therefore we clarified it for him.

4 Q. And when did you send Mr. Slivka a bill or an invoice
5 for the second half of the services?

6 A. You mean the January services or the --

7 Q. All -- the second half -- you received one payment up
8 front; right?

9 A. We received one payment one and a half months after we
10 started.

11 Q. Okay. When did you send him the next invoice for
12 services that were done by the Spriggs Group?

13 A. We sent invoices in February of 2009..

14 Q. All right. I'm going to give you what's been marked
15 as Plaintiff's Exhibit Number Eight and ask you: Did you
16 prepare the letter that is the front portion of Exhibit
17 Eight?

18 A. I did prepare the letter.

19 Q. Okay. And what was the purpose of that letter?

20 A. The purpose of the letter was to orient Mr. Slivka to
21 what had taken place over the course of the project and to
22 identify a series of invoices covering specific parts of
23 the project.

24 Q. Okay. And generally -- let's see. Tell me which
25 invoices are attached to that letter.

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1 A. The first invoice is a recognition of the payment in
2 February of 2007 as his initial payment.

3 The second invoice is a listing of the sheets that
4 were, that represent the final preparation of all
5 documents. That is, all the buildings that we were
6 assigned to prepare.

7 The third invoice is additional services and changes
8 based on that initial proposal letter in which I had noted
9 what Mr. Slivka was to do, what we were to do and what
10 would be considered hourly additional services.

11 The fourth invoice is a compilation of construction
12 administrative services itemized by the months that they
13 occurred and identifying the individuals by type, i.e.,
14 project architect or project architectural designers.

15 And the fifth invoice is a compilation of the
16 reimbursable expenses that we had from January through --
17 January of 2007 through December 2008.

18 Q. Let's go back to your letter. And those are actually,
19 those invoices are numbers one through five; is that
20 right?

21 A. One through five; that's correct.

22 Q. Let's go back to your letter, the first page of the
23 letter. And looking at Paragraph two, tell me what you
24 indicate in this letter is the reason behind invoice
25 number two.

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1 A. It covers the design and preparation of -- preparation
2 of construction documents over a two-year period to obtain
3 permits for all of these buildings.

4 And then a second set of drawings was prepared for the
5 main house after the permit was obtained in August of
6 2008.

7 Q. Okay. And what did those drawings incorporate?

8 A. I noted that the total sets of drawings for all
9 building comprised 85 sheets.

10 Q. And the -- specifically the second set of drawings
11 that were prepared for the main house after the permit set
12 was received, what does this paragraph indicate or what
13 does this letter indicate was included on those, that
14 second set of drawings?

15 A. From, from August all of the, all of the changes that
16 the owner wished to make throughout the house were
17 recorded changes made. They may have influenced various
18 drawing sheets, and then they were put back together as an
19 updated drawing set of the main house.

20 Q. Okay. And the next paragraph gives a narrative
21 related to invoice number three; right?

22 A. Yes.

23 Q. And just briefly, again, tell me again what that
24 invoice encompasses.

25 A. It encompasses services in addition to the basic work

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1 that was discussed in our initial letter required for the
2 preparation of construction documents of the seven
3 buildings.

4 I also noted the following. At the onset, we
5 anticipated creating one set of documents for all the
6 buildings which were to be constructed by your selected
7 contractor, JT Turner Construction Company. However, you
8 directed us to produce documents for the buildings in a
9 sequence you chose and that could start as each building
10 set was completed.

11 Q. Okay. The next paragraph references invoice number
12 three again. Tell me what it describes.

13 A. Actually, the last paragraph on the first page has a
14 typo. The notice is a second paragraph for invoice
15 three. But it is actually invoice four.

16 Q. Okay. And how do you know that?

17 A. I know that because it covers construction-phase
18 services for activities that the owner requested us to
19 undertake.

20 Q. And, briefly, what does that paragraph describe as the
21 services you performed for him?

22 A. Well, I noted that after the first buildings were
23 underway, that he chose to terminate Turner and enter into
24 negotiations with independent contractors for specialty
25 trades that would normally have been subcontractors to the

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1 general contractor.

2 And we assisted in recommending a number of companies,
3 distributed drawings for pricing, and once the independent
4 contractors were engaged by Mr. Slivka, we answered field
5 questions and provided additional information for them.

6 Q. Okay. Let's go to page two. And if you go down three
7 paragraphs it references invoice number five. Tell me
8 what that briefly describes as being contained in invoice
9 number five.

10 A. The invoice number five covers all the expenses, the
11 printing that we incurred, mailing, all of the items that
12 had costs. And I noted that my original estimate for
13 reimbursable costs was based on your identification of a
14 contractor, JT Turner, who usually asks us for digital
15 drawings. Those are drawings on a disk or sent over the
16 Internet, and then produces all the copies needed for
17 actual pricing and construction. As your consultant after
18 terminating Turner, we were charged with providing and
19 distributing all those documents.

20 Q. Okay. Skip down to the last paragraph on that page,
21 on page two. And you're expressing some concerns there.
22 Tell me what concerns you expressed in this letter.

23 A. Well, we had -- I used the term we were rounding the
24 bend. Actually by the end of 2008, all seven buildings
25 were under construction in one form or another.

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1 And I said that, we were asked to do a number of.
2 items, a number of things. And then I said, our invoices
3 are based on my friendship with you and the modest amounts
4 charged. I would not want these figures to be made public
5 knowing that the construction costs of seven buildings is
6 well over \$7 million. Normally construction costs for a
7 project like this one, our fees would be between 10 to 15
8 percent. Our total invoices amount to just 3.9 percent.
9 I'm sure you will keep our fees in confidence.

10 Q. All right. Let's go to the last paragraph of the
11 letter which appears on page three.

12 And tell me at that time frame what services the
13 Spriggs Group indicates here it was still performing.

14 A. Well, I noted that here we are in February at this
15 time, the beginning of February. And I said, we've
16 occasionally received calls from your contractors and we
17 always have responded to these past two months of 2009.
18 I'm sure there are many things you may still want to do
19 and as always we will support you to achieve your goals.
20 Just let me know how we may assist.

21 Q. Okay. Flip the page and look at invoice number one.

22 A. Yes.

23 Q. Tell me how much that invoice was for.

24 A. The invoice number one is for 76,000 and it's a typo
25 down below, it's 76,210.

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1 Q. And what's the date of that invoice?

2 A. The date of the invoice is 26 February 2007.

3 Q. And when did you actually receive the money for that
4 initial work?

5 A. It was in, I'm going -- I'm going to say approximately
6 mid February of that month.

7 Q. This invoice is dated 26 February.

8 A. I'm sorry.

9 Q. Why did you issue an invoice after you received the
10 money?

11 A. Well, in the first place, we, we needed to record the
12 date when the actual money was paid. It certainly wasn't
13 the first week in January. So I documented that we had
14 received the amount of money. And I can't remember if in
15 a later conversation whether Mr. Slivka said he wanted it
16 dated at that time.

17 Q. Who did you send this invoice number one to?

18 A. We were requested to send this invoice to one of
19 Mr. Slivka's attorneys in Savannah. I believe it was at
20 firm Oliver, Maner and Gray.

21 Q. Okay. And is that what you did?

22 A. And that's what we did.

23 Q. All right. Let's look at number two. Walk me through
24 in detail what this invoice is for.

25 A. When we made our initial proposal and we were to

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1 document what would be involved in each of the buildings,
2 we had estimated a number of sheets.

3 When the project was completed permits were issued and
4 our final sets were done. We, we took the number of
5 sheets actually produced for each of the buildings and
6 used the same formula which is an hourly-based formula of
7 which we take the number of hours for each sheet times the
8 number of sheets times the rate that we agreed to, to
9 categorize sheets at \$105 an hour. And we then produced
10 totals for all of the drawings in the final sets.

11 Q. And you said that's an estimate of 24 hours per
12 sheet. Do you know how many hours per sheet you actually
13 or was actually expended by the Spriggs Group creating
14 these documents?

15 A. Easily on the work that ended up involving, I guess
16 I'm a bad estimator, because they were at least
17 approximately 36 hours, some cases more, to produce the
18 most complicated sheets.

19 Q. And why didn't you charge \$36 per hour for these
20 sheets?

21 A. Because we had an agreement with a formula. And I
22 felt that it was important to keep the same formula that
23 we established and therefore that's what I used.

24 Q. All right. There's also line item on invoice number
25 two that says consultants paid by architect. Tell me what

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1 that includes.

2 A. Those are the moneys that were paid to the structural
3 engineer and payments to date of the mechanical
4 engineer -- well, actually in this case mechanical,
5 electrical and plumbing engineering.

6 Q. And how much was that?

7 A. That was \$20,535.

8 Q. And going back to the number of drawings produced and
9 the formula here, 24 hours per sheet times \$105 per hour,
10 why aren't there any fees there or sheet rates there for
11 175, which I understand was your rate?

12 A. This was the formula we used in the beginning in our
13 proposal. My rates were for project management and for
14 activities that I was to supervise.

15 Q. And you show a credit on invoice number two. Tell me
16 why that credit appears here.

17 A. That was the credit -- this was, the subtotal was for
18 total work that we did. And then we credited the payment
19 in February of 76,000. And, again, I'm bad at
20 arithmetic. It's 210, not 201.

21 Q. So that's a typo?

22 A. Typo.

23 Q. All right. Let's look at invoice number three. Tell
24 me generally what this invoice is for.

25 A. These items were identified as additional requests and

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1 include the dental moldings that I had mentioned. The
2 research and the dog wash and the various activities that
3 occurred on an hourly rate, additional work.

4 Q. Okay.

5 A. And it also -- excuse me. It includes the agreed
6 drafting for the steps and the wall that we looked at
7 earlier.

8 Q. Okay. I'm going to hand you Plaintiff's Exhibit
9 Number Seven which is the November 27th, 2006 agreement.
10 And tell me which paragraph in that agreement that this
11 additional work falls under.

12 A. The additional work in invoice number three, this
13 falls under Paragraph 19. Once we begin construction
14 documents any changes in room layouts, sizes, window
15 locations, door locations, exterior elevation designs, it
16 lists a series of items, would be done on an hourly basis.

17 Q. Okay. Let's go back to invoice number three and just
18 hold onto Exhibit Eight for me.

19 A. I'm at invoice number?

20 Q. I think it's seven. I'm sorry. Look at Exhibit
21 Eight, invoice number three.

22 A. Yes.

23 Q. Okay. Tell me what you charged for, what work you
24 charged for that was performed in August of 2007.

25 A. In August of 2007, it was the redesign of the rear

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1 wall system. This is the exterior wall of the potting
2 shed once the construction documents had been completed.

3 And then it's changing those documents.

4 Q. And what was your charge for that work?

5 A. It was for six hours at \$105 an hour.

6 Q. Which totals?

7 A. \$650.

8 Q. And how did you determine that was six hours of time?

9 A. The time sheets show work during August and then we
10 also have a transmittal and dates of when these drawings
11 were changed and we knew how much time was spent on each
12 drawing.

13 Q. Okay. How about October of 2007? What work did you
14 perform that you're invoicing by invoice number three in
15 October of '07?

16 A. That was the agreed work for the garden wall which I
17 mentioned earlier with a pair of steps that go up, and
18 that was for completing that work.

19 Q. And what was your charge for that?

20 A. \$825.

21 Q. And how was that computed?

22 A. It was computed by the actual drafting work and also
23 the time to meet with the contractor. And you may have
24 seen the grid that was talked about yesterday that was put
25 out on the ground, the preparation of that drawing.

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1 Q. Go ahead and take a drink.

2 A. Thank you. (Complying.)

3 Q. How many hours were charged for the garden wall?

4 A. Eleven hours were charged for the garden wall.

5 Q. And what was the rate?

6 A. The rate was \$75 an hour.

7 Q. And that's a new rate. What is that rate?

8 A. That is a rate for someone doing pure drafting. And
9 it was in a way, Mr. Bozeman did it who is normally at
10 \$105 an hour.

11 So we, said, it really didn't end up as drafting. It
12 was a lot more than that but we agreed to that price and
13 that's what we charged.

14 Q. And do you recall how many drawings were actually
15 produced for the garden wall?

16 A. I believe at least two plus a grid drawing would make
17 three drawings.

18 Q. Okay. What is the work that was performed during
19 March and April, March through April of 2008, that appears
20 on invoice number three?

21 A. We noted earlier that we received a request to do what
22 is a rather elaborate -- a soffit is the underside of a
23 roof that overhangs from the building and the roof comes
24 up. This surface is known as the soffit.

25 And Mr. Slivka had decided that he wanted a rather

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1 elaborate series of moldings, that are called dental
2 moldings. And a dental is a series of little blocks that
3 go along in a row. And it also had quite an elaborate
4 series of recesses in it.

5 And he referenced the Taft House Museum. Andy Bozeman
6 mentioned yesterday, you may remember, when you think of
7 Taft you think of President Taft. So we were looking up
8 what is at the Taft House Museum for President Taft. And
9 then Mr. Slivka calls, no, no, no. I meant the Taft House
10 in Cincinnati. So off we went to Cincinnati to look for
11 the moldings.

12 And you may remember that Mr. Bozeman went into some
13 detail of what it took including going to the Library of
14 Congress, requesting photographs. And then what took a
15 particular amount of time is that the overhang, that's the
16 amount of, that the roof comes out from the side of the
17 building, at the Taft Museum is three feet. And we had to
18 reduce this to two feet.

19 And then when he mentioned the barns, what he thought
20 he would do there, he would use them in all the places.
21 We had some concern because those are much smaller.

22 So if you took a quick look, that's the overhang with
23 this elaborate underside and we're going (using tape
24 measure), down to here and we just have to, we have to
25 miniaturize, shrink, all of this elaborate work, and to an

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1 overhang of that measure.

2 Q. How many hours were billed for that work?

3 A. That was a total of 32 hours.

4 Q. And at what rate?

5 A. At \$105 an hour.

6 Q. So what was the total for that work?

7 A. \$3,360.

8 Q. All right. Describe for me the work that was
9 performed during May of 2008 that appears on invoice
10 number three.

11 A. That was the adventure with the dog wash. And it
12 originally started for a dog wash out at the stable or
13 barn on the ground and basically comprising an area like a
14 tub to put a dog with a hose bib to hook up a hose and
15 wash a dog.

16 But then Mr. Slivka decided to move the dog wash into
17 the basement of the main house. It's interesting that
18 there is no direct access to the basement so you have to
19 come in either front door or one of the side doors, go
20 through the house, go down the stairs to the basement and
21 that's where this dog wash would be located.

22 But in this case we needed to come up with something
23 in which an older dog could get up and you could wash him
24 at, let's say, standing height. So it needed a ramp and
25 so we began to look at commercial spas for dogs, and

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1 veterinarian-type equipment in order to wash.

2 At least one or two of the dogs were Great Pyrenees
3 and if you're not familiar, they're very large dogs. And
4 so we came up with probably a half-dozen varieties after
5 going through this and then he decided to select one. And
6 then we needed to figure out how you have to hook it up,
7 where the drainage would go, and if it needed any
8 electricity and also whether we needed to rearrange some
9 lighting so you could look down at the dog.

10 Q. Other than the dog wash research, what other work took
11 place in May of 2008 that's billed on this invoice?

12 A. It's -- there were, there were several doors that were
13 taken from Julianston Plantation in McIntosh County,
14 Georgia. And these were thin, original doors. By thin I
15 mean there was a certain delicacy to them. And they had
16 to be accommodated.

17 And you may remember Mr. Bozeman referred to the
18 hyphens. These are the little connecting pieces of the
19 main house. So we have the big main house, the hyphens
20 and then the wings.

21 And so, we also had some head height issues in there
22 and we had to work out using those doors and what kind of
23 interior trim. And Andy alluded, this -- this is trim and
24 how you make all of this work around the doors.

25 Q. Okay. And how much time was billed on invoice number

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1 three for the dog wash research?

2 A. The dog wash was one and a half hours.

3 Q. At what rate?

4 A. \$105 an hour.

5 Q. For a total charge of what?

6 A. \$157.50.

7 Q. Okay. And the details to incorporate the existing
8 doors from Juliananton, how many hours did that work take?

9 A. That took four hours.

10 Q. What was the rate for that?

11 A. \$420.

12 Q. And what is the total for that charge?

13 A. Well, it was four hours at 100 -- I'm sorry, four
14 hours at \$105, and the charge was \$420.

15 Q. Okay. And on page one of invoice number three, you
16 show, on each one of those you show a number of hours that
17 are associated with a particular task. Where do you get
18 those hours from?

19 A. We go to our time sheets and look at activities. And
20 if they're specific, we document them directly from that
21 task list. When we started out we had the subject of
22 Juliananton main house and out buildings. And we simply
23 totaled the hours as we went along.

24 As this became more complicated and as more things
25 came up, we began to try to identify these different

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1 tasks. But we always could tell the hours because we
2 could see what drawings were done that day. And we could
3 see if there was any correspondence to other parties and
4 determine if we had nine hours shown for a day whether
5 some task was four hours, six hours.

6 Q. Okay. Let's look at page two of invoice number
7 three. And tell me what services, what additional
8 services were performed during August of 2008 that are
9 shown on this invoice.

10 A. We redesigned the front entry windows. This is on the
11 elevation. You may remember of the front of the building
12 with the two-story columns coming in and the main front
13 entrance.

14 And Mr. Slivka had very specific windows in his
15 sketches that he wanted. But during August he, he felt
16 they just really didn't look right. There was something
17 not in proportion.

18 And I listened to it. And I suggested that the
19 palladium window was a little squat, it was compressed.
20 And that I showed some other historic houses in which we
21 had taller, double-hung windows. And he liked that very
22 much and asked us to go in and basically change the
23 windows out at the second floor.

24 Q. And how many hours of effort was related to that?

25 A. Doing the windows and re-detailing them was 15 hours'

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1 worth of work.

2 Q. And what rate did you apply to that?

3 A. We used the rate for Mr. Bozeman at \$105 an hour.

4 Q. And what was your total charge for that?

5 A. \$1,575. And I didn't charge my time.

6 Q. What's the next item that was accomplished in August
7 of 2008 that's invoiced on invoice number three?

8 A. The other was we were, we were still designing and he
9 asked us to provide manufacturing sources for slate
10 millwork and moldings.

11 The work here is distinct in that from the original
12 proposal we noted that Mr. Slivka will pick the moldings.
13 He will tell us who the manufacturers are and then we will
14 simply be able to make a schedule and say in room 111
15 you're going to use molding 3204 by Pine Grove
16 Manufacturing. Instead he said, go out and find these
17 manufacturers and come up with molding numbers and
18 product.

19 And also, go out and look for sources for slate and
20 millwork. Millwork is finished trim that you see around
21 the windows. And we did that work.

22 Q. Okay. And how many hours were related with that?

23 A. That took nine and a half hours.

24 Q. What was the rate applied?

25 A. The rate was \$105 an hour.

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1 Q. What's the total charge?

2 A. The total charge was \$997.50.

3 Q. What's the next item of work that was performed in
4 August of 2008 that's charged on invoice number three?

5 A. This is to research Rinnai hot water system and a
6 little brief explanation. It's a particular type of
7 point-of-source water heater. And you may or may not have
8 seen these. They are tankless and basically they have a
9 heating coil in them and then you can put these under
10 cabinets and you have immediate hot water right at that
11 source.

12 Mr. Slivka thought that maybe he didn't want the hot
13 water tanks that we had in the basement. If you can
14 imagine, this house is very long. There are bathrooms
15 here. There are bathrooms down there. So we had to look
16 at that specific water system.

17 He had a friend who had one installed in a much
18 smaller house in downtown Savannah.

19 We got into it. We found that one of the other
20 implications is it needed to be gas fired. So you were
21 going to have to get a gas system and then vent it out.
22 And that became a little bit cumbersome, so that was
23 abandoned.

24 Q. And how much time was charged for that work?

25 A. We spent one and a half hours.

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1 Q. What was the rate?

2 A. \$105 an hour.

3 Q. Go ahead with the total.

4 A. The total was \$157.50.

5 Q. All right. Tell me what work was performed that was
6 additional work during September of 2008.

7 A. In September of 2008, we had a series of columns. You
8 may be familiar with seeing the pictures of the porches on
9 the outside. And there was an exercise that we undertook
10 to see if the columns were this large in diameter, and by
11 that I mean 24 inches, 18 inches. We had already had them
12 at a particular diameter.

13 And also the columns had to be structural. And
14 Mr. Bozeman talked a little bit about that, that they had
15 to have a special inset set in these columns so that you
16 could attach into them, and frame into the porch into the
17 columns.

18 Q. And how much time was spent performing that task?

19 A. That took seven hours at \$105 an hour for a total of
20 \$735.

21 Q. All right. What was the next item of work that was
22 performed in September 2008 that was additional work?

23 A. Well, we talked earlier of the chimneys, and the idea
24 of making them wider. And we needed to go back into the
25 architectural drawings and redesign the masonry work and

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1 also the width and depths of these columns as they made
2 their way down to the basement.

3 Q. And how much time was spent on that effort?

4 A. That took 23 and a half hours at \$105 an hour for a
5 total of \$2,467.

6 Q. What was the last item of work that was performed in
7 September of 2008 that was additional to the contract?

8 A. Mr. Bozeman noted earlier a palladium window and we
9 became familiar with the arched central window then
10 stepped down two sidelight windows. These are the smaller
11 windows that are on either side.

12 But Mr. Slivka decided that he wanted to replicate the
13 palladium window that is in President Washington or
14 General Washington's house at Mount Vernon, Virginia. And
15 this window is rather elaborate. I may be mistaken, it
16 has an eagle but it has flares on it.

17 It's quite a spectacular window but it also had to be
18 sized and proportioned to work with this project.

19 Q. And how much time was spent on that?

20 A. That took five hours at \$105 an hour and resulted in a
21 cost of \$525.

22 Q. Okay. So what was the total amount of fees invoiced
23 to Mr. Slivka for the additional work that was
24 contemplated by Paragraph 19 of your contract?

25 A. \$11,849.50.

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1 Q. And how much of that's been paid?

2 A. None of that has been paid.

3 Q. Let's actually flip back to invoice number two that we
4 looked at a minute ago. What's the total of that invoice?

5 A. Invoice number two is for \$163,574.

6 Q. How much of that invoice has been paid?

7 A. None has been paid.

8 Q. Let's look at invoice number four. Got it?

9 A. Yes.

10 Q. All right. This invoice is also dated February 9th of
11 2009 and indicates that it's for construction

12 administration services; right?

13 A. Yes.

14 Q. What paragraph of your agreement that you've got in
15 front of you allows for additional charges related to
16 construction administration services?

17 A. Paragraph -- well, number 18 of the conditions which
18 is on page five of the proposal: We will provide any
19 requested construction phase services by the project
20 architect or staff on an hourly basis.

21 Q. And tell me what services were charged for by invoice
22 number four.

23 A. If you will remember, we now have seven buildings
24 potentially all going on at different times. So we were
25 asked to get bids. That was more for, more of an activity

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1 for the main house. We identified trade contractors. We
2 answered field questions. Sometimes we had to produce
3 field sketches for the garages, barn and main house.

4 These would be sketches that would be done on an,
5 either a normal letter size and sent out to the field or
6 may require a larger drawing. But whatever was
7 appropriate.

8 And then we had quantity takeoffs for the main house
9 with all these sheet rock panels. And then we, that was
10 sort of a highlighting of the different kinds of work and
11 then we went in on the time sheets and took the various --
12 either myself or Mr. Bozeman and we took the hours and
13 then we put them month by month.

14 Q. So, for example, May of 2008, you've got both listed a
15 project architect. Who is that?

16 A. That's myself.

17 Q. And your rate is?

18 A. At \$175 an hour.

19 Q. And you also have listed a project architectural
20 designer.

21 A. That's Mr. Bozeman at \$105 an hour.

22 Q. Okay. And let's look at your charge for May 2008.

23 How many hours did you work?

24 A. My charge for May 2008 was two hours.

25 Q. And what's the total there?

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1 A. \$350.

2 Q. And do -- Mr. Bozeman, how many hours did you charge
3 for his services in May of 2008?

4 A. He had two and a half hours at \$105 an hour.

5 And the total cost for his activity in May 2008 was
6 \$262.50.

7 Q. And where did you find the number of hours for each of
8 these months as listed on this invoice?

9 A. We went to our time sheets and also if we needed to we
10 checked our documents for plot dates and any other time --
11 and possibly transmittal sheets if necessary to determine
12 exactly for a day what activity was done and then how many
13 hours.

14 Q. And what months does invoice four bill Mr. Slivka for
15 construction administration services that were performed
16 by the Spriggs Group?

17 A. The 9th of February, 2009.

18 Q. What months did work occur --

19 A. Oh.

20 Q. -- that's shown on this invoice?

21 A. Oh. The work occurred from May of 2008 through
22 December, 2008.

23 Q. Okay. And what is the total for the services pursuant
24 to Paragraph 18 of your agreement with Mr. Slivka that you
25 are invoicing him for by invoice four?

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1 A. \$19,532.50.

2 Q. And how much of that's been paid?

3 A. None has been paid.

4 Q. Okay. Let's look at invoice number five. And tell me
5 what that is.

6 A. Invoice five is the amount of printing, copies, any
7 blueprinting from January 2007 through December 2008.

8 Q. All right. And tell me what charges are included on
9 this invoice.

10 A. In our office through our own copy machines we made a
11 number of both black and white and color copies. I'll
12 just do a quick add. It's about 430-some dollars.

13 We had postage of \$27.07.

14 Blueprints at \$51. These are all made in our office
15 and we keep sheets in which we mark down the number of
16 copies, and we go back and add them up.

17 And then computer plots. And these are plots -- we
18 have a large machine that if you're sending a drawing out,
19 like these drawings that you've seen, they go through a
20 plotter. And they come out in sheets this large
21 (indicating). And it actually physically with pens, draws
22 the sheet that you see there.

23 Then we frequently, if we need lots of printing
24 quickly, we'll go to a copy company, a printing company.

25 And so, with one of two local firms, Coastal Digital

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1 Graphics, we paid out in invoices \$2,270.51. And then to
2 another local blueprint company, Savannah Blueprint, we
3 paid \$134.72.

4 Q. Okay. So the first copies that are listed on this
5 invoice were copies produced in-house?

6 A. That's correct.

7 Q. And they're about 430, \$430?

8 A. \$430.70.

9 Q. Okay. The next item you said was postage. That's
10 postage out of your office?

11 A. Yes.

12 Q. And what was the total of that?

13 A. \$27.07.

14 Q. And the blueprints, what's the charge for that?

15 A. Those are prints that we did ourself in-house and we
16 have rates for those. And it was a total of \$51.03.

17 Q. And the computer plots, I believe you said those are
18 in-house plots?

19 A. Yes.

20 Q. How do you determine the price for that?

21 A. We take -- a number of years ago we take the
22 equipment, we expense it over a five-year period, then we
23 buy ink. We -- and these are plotting pens. You have to
24 look at them. They go along a roll.

25 Then we take the cost of paper. And we use our total

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1 cost for a year, we divide into the copies that we make
2 and we come up with a rate, whether it's an intermediate
3 sheet is one rate and a bigger sheet is another rate.

4 Q. What was your total charge on invoice number five for
5 your in-house computer plots?

6 A. \$964.50.

7 Q. You've already mentioned the total for the out-of-the
8 office copies. Tell me what your total invoice for
9 reimbursable expenses was.

10 A. \$3,878.53.

11 Q. And have you been paid that by Mr. Slivka?

12 A. No.

13 Q. Let's go back to your letter that is at the beginning
14 of Exhibit Number Eight, the cover letter to the
15 invoices.

16 When you wrote that letter in February of 2009, did
17 you understand that the Spriggs Group had allegedly been
18 terminated?

19 A. No.

20 Q. And you mentioned on page two that you wanted to keep
21 your fee in confidence. Why did you want to keep your fee
22 in confidence?

23 A. Well, frankly, for all that we went through, the
24 amount of work we did, in my opinion it was extremely,
25 extremely low. And I could not take on a project even

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1 remotely like this scale and charge what we charged.

2 Q. I'm going to hand you Plaintiff's Exhibit Eight-A and
3 Eight-B. And tell me what Plaintiff's Exhibit Eight-A
4 is.

5 A. Exhibit Eight-A is an invoice, it's number six. And
6 it's for services that we did for an appraisal company
7 that contacted us on behalf of Mr. Slivka to obtain
8 documents that the individual, or that she needed to put
9 together her appraisal.

10 Q. And what services did the Spriggs Group perform?

11 A. She contacted me several times and said that she
12 was -- she's actually here in Walterboro, and said that it
13 would be very difficult for her to take our large drawing
14 sheets and reduce them down. She might have to send it to
15 Charleston and several other problems.

16 Also she needed to identify rooms. Mr. Slivka decided
17 on his drawings, particularly the main house, to take all
18 the names of the rooms off. He didn't actually want
19 people to know what these rooms were, particularly when
20 they came in for permit.

21 So we changed a bedroom which might be on the second
22 floor to number 207. If it's a large dining room on the
23 first floor, it might be 115. And for the appraiser, she
24 said, I can't identify these numbers. Would you please
25 take all the numbers and put all the room names back? So,

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1 to -- and she said, I'd really be grateful if you could do
2 this.

3 So I gave that work to Andy Bozeman and then he went
4 back and we made a list for her that said, here are the
5 room numbers, here are the work.

6 Then she wanted to know if I could give her totals of
7 bedrooms. And these are typical things that appraisers
8 need to give a probable cost. And so we did those and
9 then we put them in a file. And you may not be familiar
10 with this format, it's called .PDF.

11 And Andy Bozeman alluded to that. It's a -- you
12 translate whatever document you're working in into this
13 universal file and anyone can read it. So I can send it
14 to someone who has a Mac computer or someone with any
15 computer and you can call these up and read them.

16 So we translated them and sent them to her.

17 Q. Do you remember the name of the appraisal company?

18 A. Oh, boy. Maybe something like Compass or --

19 Q. Okay. And what was your -- how many hours did you
20 work on -- or did you bill for that?

21 A. Well, I just billed an hour of my time because I
22 listened to her, I responded to her several times and then
23 I worked with Andy. And then Mr. Bozeman spent two and a
24 half hours shrinking these drawings down so she could use
25 to a size, you've seen these earlier, to letter size and

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1 then putting them into a package. And that saved her a
2 lot of time.

3 Q. What was your total charge for the services that you
4 performed to support this appraisal?

5 A. \$437.50.

6 Q. And has that been paid by Mr. Slivka?

7 A. No.

8 Q. All right. Let's look at, I guess it's Eight-B. Tell
9 me what that document is.

10 A. This is invoice number seven. It's dated the 16th of
11 November, 2009.

12 Q. And what kind of services is that invoice for?

13 A. This was picking up the construction phase services
14 after the first of the year. The previous documents that
15 I sent to him basically summarized all the work from the
16 beginning of January 2007 through the end of 2008.

17 So we were picking up the last work that we did
18 directly related to the buildings on the site and we
19 totaled our hours. And then we used the same -- we also
20 had to because of a request, had to contact our consulting
21 engineer and he, too, charged us for the time he spent.

22 Q. Okay. Can you read the description of what the work
23 was that is covered by this invoice?

24 A. Yes. Received requests from independent contractors
25 in the field for details concerning main house balcony

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1 framing, flashing -- framing flashing, including use of
2 alternate materials. Request to substitute main house
3 plumbing waste line size above basement level, research
4 and coordination with plumbing engineer, go over details
5 for grotto pavilion, provide explanation to owner of what
6 is shown on various drawings.

7 Q. And what was your charge for, as the project
8 architect, how many hours?

9 A. One and a half hours at \$175 an hour for a total of
10 \$262.50.

11 Q. And whose time was that?

12 A. That's my time.

13 Q. And what's the next charge that appears?

14 A. For Mr. Bozeman's time labeled project architectural
15 designers, six and a half hours at \$105 an hour, for a
16 total of \$682.50.

17 Q. And what's the third charge that appears on this
18 invoice?

19 A. The third charges are consultant engineer who did
20 receive the information about the size I noted earlier of
21 this waste pipe and how it was reduced. And then run --
22 to run the calculations to see whether it was acceptable
23 and that was one hour at \$140 an hour.

24 Q. And who was that consultant engineer?

25 A. That consultant engineer was Kayton Smith of Smith and

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1 Vandembulck.

2 Q. And what did Mr. Smith, what did he perform throughout
3 the project?

4 A. He performed various engineering tasks including
5 mechanical, electrical and plumbing engineering.

6 Q. All right. And what was your total for invoice number
7 seven for the construction administration services in
8 January of 2009?

9 A. \$1,085.

10 Q. And has that been paid by Mr. Slivka?

11 A. No.

12 Q. Why is that -- why was that invoice sent in November
13 of 2009?

14 A. It was interesting that we still got calls, random
15 calls as construction was going on. And we also had a
16 decision to make of whether any other invoices might come
17 in.

18 And so, we -- and we also were becoming less and less
19 familiar of what was being done out at the site. So I
20 chose that clearly we weren't going to be asked any more
21 and then totaled that work up.

22 Q. All right. Flip back to Exhibit Eight-A. That's
23 invoice six?

24 A. Yes.

25 Q. Who asked you actually to perform that work, the

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1 A. That's the time sheet for Mr. Bozeman.

2 Q. And what's the period?

3 A. It is the period, time period or pay period ending the
4 15th of January 2009.

5 Q. And, again, you have several projects listed on here
6 but you also have the Slivka project; right?

7 A. Yes.

8 Q. What services did Mr. Bozeman perform on January 2nd?

9 A. On January 2nd there was some work, construction
10 administration work for the grotto.

11 Q. How about on January 5?

12 A. On January 5, there was an hour and a half relating to
13 balcony framing flashing.

14 Q. And what work did Mr. Bozeman perform on January 7th?

15 A. On January 7th, balcony framing flashing and then he
16 spent a half hour that said meet slash phone explain to
17 Gene.

18 Q. Okay.

19 A. That's Mr. Slivka.

20 Q. And finally, what work did he perform on January 13th
21 of 2009, according to this time sheet?

22 A. He had an hour and a half time. I believe it was for
23 general coordination.

24 Q. Okay.

25 A. That's the 13th.

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1 Q. And what does that bond consist of?

2 A. The bond, I believe, consists of a cash payment to the
3 Court in the amount of the lien, plus a percentage, and
4 I'm not sure of the exact percentage, but it's
5 approximately \$265,000.

6 Q. Why did you file a lawsuit against that bond and
7 against Mr. Slivka for breach of contract and other
8 actions?

9 A. We had the issue that we were -- by that time my
10 opinion, we were not going to get paid, and we were going
11 to have to pursue another path in order to recoup our
12 costs and our invoices.

13 Q. What is your understanding of the demand that was made
14 to Mr. Slivka under state law 27-1-15?

15 A. The demand says that if you agree that certain moneys
16 have to be -- that you owe the person or the company an
17 amount of money, but you may not agree with the rest of
18 moneys requested, that you are to pay what you agree that
19 you owe. And you can then dispute the difference.

20 Q. Mr. Slivka has alleged that he terminated the Spriggs
21 Group services in December of 2008. Was the Spriggs Group
22 terminated in 2008?

23 A. No. He came to pick up the last drawings and said, I
24 don't want any more drawings. But that was the only, the
25 only direction that we got.

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1 And in fact, we did get calls after that time by
2 contractors. I'm going to call them contractors.
3 Normally they would be subcontractors to a general
4 contractor. And so we continued performing those
5 services.

6 Q. What -- the drawings that he picked up in December of
7 '08, what did those drawings include?

8 A. Those drawings were corrections that he had requested
9 earlier for redistribution of all the mechanical registers
10 and returns. And for you to understand, they would be
11 what you see in the ceilings here, providing
12 air-conditioning and return air to the various rooms
13 throughout the main house.

14 Q. When did he request that those services be performed?

15 A. We were at a mutual function for the Telfair Museum of
16 Art that was an appreciation evening for former trustees.
17 I think it ran from about five to seven or 7:30,
18 approximately the middle part of November 2008.

19 And he approached me and said, let me -- I want to go
20 to your office and sit down and go through all this
21 mechanical work. So at 7:30 in the evening, I went to the
22 office, worked for the next three to four hours. He
23 wanted to go over all of these possibilities and I sat
24 there and worked room through room with him.

25 Q. Okay. I've marked, pre-marked as Plaintiff's Exhibit

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1 A. We made three trips to the site but since we were not
2 allowed to know what phase of the construction was going
3 on and we received no request to do that, it became very
4 difficult to make an observation.

5 Q. Okay. And the last time you went out and actually
6 observed construction was at the completion of the
7 basement?

8 A. No. The last time I went out was during the framing
9 of the house above the basement, and the rebuilding of the
10 chimneys and masonry construction. And I had concern as
11 to how that was going to -- how it was being done.

12 Q. And was in 2007 or 2008?

13 A. I believe it was in 2008.

14 Q. Okay. Now, construction observation as a term of art
15 in the architectural profession involves only observing
16 construction. It specifically does not include the
17 architect in any way directing or otherwise controlling
18 the means and methods of construction?

19 A. That's correct.

20 Q. And the idea is as an architect you're willing to go
21 look and see conditions but you're not assuming
22 responsibility for those conditions?

23 A. That's correct.

24 Q. And you're not directing the work; is that right?

25 A. No.

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1 Q. And you're not ordering the work in any particular
2 sequence or method or means?

3 A. That's correct.

4 Q. Okay. And you're not as part of the observation
5 services supervising construction?

6 A. That's correct.

7 Q. I will show you again what has been marked as
8 Plaintiff's Exhibit Number Seven. And that is the
9 agreement between you and Mr. Slivka.

10 Isn't it true that you knew that Mr. Slivka wanted a
11 fee to be quoted to him; isn't that right?

12 A. He asked for a fee based on what he told me verbally
13 and some sketches.

14 Q. Well, he expressly did not agree to a relationship
15 where you simply billed him by the hour on a periodic
16 basis and it was open ended.

17 A. No. He did make a suggestion of periodic payments in
18 the proposal as we progressed through the project which he
19 rejected.

20 Q. But you -- but you would agree with me that it wasn't
21 simply an open-ended arrangement where you simply billed
22 him at whatever interval for whatever time you expended on
23 the project?

24 A. It's not open ended, but it is not a closed end,
25 either based on the stipulations within the document that

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1 translate that into some understandable form.

2 Q. You mentioned a formula. Do you believe that your
3 letter of November of 2006 contained a billing formula
4 based on the sheets?

5 A. It certainly was the basis of putting together the fee
6 proposal together with other activities.

7 Q. Okay.

8 A. It was the heart of the construction documents as a
9 product.

10 Q. Now, with regard to these invoices, when you billed
11 Mr. Slivka in February of 2009, you did not include in
12 here any time that you had ostensibly spent in January of
13 2009; isn't that correct?

14 A. The invoices we presented him at the time were to
15 summarize the year, the two years from our start to our
16 finish.

17 Q. Okay.

18 A. And that's where I chose to stop at that moment in
19 order to -- we had accumulated so much cost that we were
20 basically going to present the majority of our work.

21 Q. So simply stated, those invoices do not include any
22 time that you ostensibly did in January of 2009?

23 A. At the time we prepared them we had already incurred
24 that time.

25 Q. And they were not included on the invoices?

CHARLES KENNETH SPRIGGS - CROSS

1 A. They were not included in the invoices that were to be
2 through December 31st.

3 Q. Let me show you what I marked as Plaintiff's (sic)
4 Exhibit 10. This is your notice of mechanic's lien. Ask
5 you to review that for me.

6 And you'll notice on there there is a sworn statement
7 of account. Sworn by you?

8 A. Yes.

9 Q. And the date of that document is April 13th in 2009?

10 A. That's correct.

11 Q. And in your sworn statement of account you do not
12 include any time for any services you performed in
13 January?

14 A. The dollar value of the time was not included but the
15 time was expended and documented.

16 Q. It was not included in your sworn statement of account
17 in April of 2009?

18 A. The time that was expended was documented.

19 Q. It was not included in your sworn statement of account
20 from April the 13th of 2009?

21 A. The dollars included do not, do not end the services.

22 Q. Mr. Spriggs, I'll ask the jury to read that.

23 Let me show you what's been marked as Exhibit Eight-A.
24 This is your invoice number six from May of 2009?

25 A. Correct.

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT
2009-CP-15-00595

2 COUNTY OF COLLETON

3
4 SPRIGGS GROUP, P.C.,
Plaintiff,

5 -vs-

TRANSCRIPT OF RECORD

6 GENE R. SLIVKA,
7 Defendant.

VOLUME TWO

8
9 Heard on Thursday, July 21, 2011

10 & Friday, July 22, 2011

11 in

12 Walterboro, South Carolina

13
14 BEFORE:

15 THE HONORABLE WILLIAM H. SEALS, JR.

16 AND A JURY

17 APPEARANCES:

18 Counsel on Behalf of the Plaintiff:

19 A. Bright Ariail, Esq.

James A. Bruorton, Esq.

20 Counsel on Behalf of the Defendant:

21 Robert T. Lyles, Jr., Esq.

22 Cheri L. Young, RPR
23 Circuit Court Reporter
P O Box 1154
24 Aiken, SC 29802-1154
25

CHARLES KENNETH SPRIGGS - CROSS

1 Q. Okay. And what you did there in that line, that
2 \$32,000 which was included in your fee proposal, I think
3 you testified yesterday that was for the consultants,
4 meaning the engineers, to prepare the plans that were
5 going to be necessary?

6 A. Or to draw or review details prepared by us or to draw
7 details which we would then incorporate in the
8 architectural drawings.

9 Q. Okay.

10 A. At that level you could call it a collaborative effort
11 of getting information and then placing it on drawings and
12 in some places for mechanical, electrical and plumbing,
13 the engineers would prepare drawings based on our input
14 and their information and calculations.

15 Q. Now let's go to invoice six. I'm going to go ahead
16 and give you invoices six and seven. That's in Exhibits
17 Eight-A and Eight-B.

18 Now, again, invoice number six was a charge that you
19 sent Mr. Slivka in May of 2009. That was after you filed
20 a mechanic's lien against him?

21 A. That's correct.

22 Q. Right. And those charges are based upon work that you
23 did or information that you gave to an appraiser who
24 called you or sent you an e-mail; right?

25 A. I sent several e-mails.

CHARLES KENNETH SPRIGGS - CROSS

1 Q. Okay. And Mr. Slivka never authorized you to provide
2 those services?

3 A. We were told that she was preparing an appraisal for
4 Mr. Slivka or of the Slivka property. So we had to assume
5 that she would not be calling us if there was not some
6 knowledge that she needed documents for that appraisal on
7 his behalf.

8 Q. Let's do it this way. You never talked to Mr. Slivka
9 before you provided those services about providing those
10 services; did you?

11 A. I didn't talk with him but she said that they
12 represented Mr. Slivka. And also this was needed pretty
13 quickly.

14 Q. Mr. Spriggs --

15 A. This was something --

16 Q. -- she did not represent to you that she represented
17 Mr. Slivka. She told you that she was an appraiser and
18 she was doing an appraisal on the Slivka property --

19 A. That's correct.

20 Q. -- and needed information?

21 A. That's correct.

22 Q. You didn't talk to Mr. Slivka about it and you were
23 not authorized by Mr. Slivka to do the work.

24 A. We were asked to do the work in order to complete the
25 appraisal.

CHARLES KENNETH SPRIGGS - CROSS

1 A. I didn't --

2 Q. You didn't produce those until we were in discovery.

3 A. The opportunity was there to look at them and also,
4 frankly, other documents and to go through these
5 thoroughly. And I was ready to avail myself to go over
6 anything that he wanted.

7 But, I was told in one quick telephone call, send me a
8 bill for half. That's it. And that opportunity was lost.

9 Q. Okay. Now, if you will, stay with Exhibit Number
10 Eight. And go back to invoice number two.

11 A. Yes.

12 Q. The first thing. Invoice number two, you state,
13 design in preparation of final drawings. And then you
14 say, based on formula stated in our proposed -- proposal
15 letter dated 27 November 2006?

16 A. That's correct.

17 Q. You referred there to the formula; correct?

18 A. Yes.

19 Q. Okay. Now, in invoice number two and we reviewed this
20 a little bit yesterday, did you list the number of sheets
21 that were prepared for billing?

22 A. That's correct.

23 Q. Okay. And then what you do in invoice -- and you
24 provide a charge for the sheets which you say is pursuant
25 to the formula in your agreement; is that right?

CHARLES KENNETH SPRIGGS - CROSS

1 A. That's correct.

2 Q. And then you reflect that you have paid consultants
3 \$20,535?

4 A. That's correct.

5 Q. And you give a subtotal, then you subtract what he had
6 paid, minus the typo, 76,210?

7 A. That's correct.

8 Q. And you reflected an invoice amount or an amount due
9 of \$163,574. Now, in invoice number two as you're
10 counting up the sheets you don't distinguish between A
11 sheets and PME sheets and S sheets; do you?

12 A. It is a total of all of those sheets.

13 Q. And so you don't distinguish between the types of
14 sheets?

15 A. That's correct.

16 Q. So Mr. Slivka, when he receives this, has no way to go
17 back and figure out for example how many A sheets you're
18 billing him?

19 A. All he had to do when he received these invoices is to
20 call and say, Ken, I would like to find out this
21 information.

22 Q. Okay.

23 A. And he did not do that.

24 Q. Your invoice; right?

25 A. That's correct.

CHARLES KENNETH SPRIGGS - CROSS

1 Q. And this is how you chose to bill him?

2 A. That's correct.

3 Q. Okay. Are you willing to be bound by the formula
4 stated in your February, excuse me, your November of 2006
5 agreement, Mr. Spriggs?

6 A. I want to look at the agreement.

7 Q. I believe it's Exhibit Seven.

8 A. In the agreement, the number of sheets and the formula
9 does not distinguish in the pricing the different
10 sheets --

11 Q. Okay.

12 A. -- the A sheets, M sheets, E sheets or P sheets. It's
13 a total number.

14 Q. Okay.

15 A. Now, it is based on the anticipated sheets that were
16 listed earlier.

17 Q. Okay.

18 A. And in a similar manner, using the total for each of
19 the buildings. They're summarized in invoice number two.

20 Q. Okay.

21 A. They are not distinguished nor were they distinguished
22 in the proposal.

23 Q. Okay. You're willing to live and be bound by the
24 formula that you created in your November 26, 2006
25 agreement; is that correct?

CHARLES KENNETH SPRIGGS - CROSS

1 A. Bound in what manner, sir?

2 Q. You referred to the formula. I'm just asking if
3 you're willing to be bound by the formula set forth in
4 your agreement, the one that you referred to in invoice
5 number two.

6 A. Based on the individual buildings and the Actual
7 sheets produced?

8 Q. You're qualifying whether or not you want to be bound
9 by your own formula?

10 A. No. I'm asking because your question is general and
11 it doesn't refer specifically to each of the buildings or
12 to some total or -- you did not qualify it.

13 Q. I'm referring to the formula that you refer to on
14 invoice number two, that you're asking, you're telling
15 Mr. Slivka he's bound by in February of '09. I'm just
16 asking you if you want to be bound by it.

17 A. The total number of sheets for each of the buildings
18 that we had times the rate that we saw, times 24 hours
19 would be the totals.

20 Q. Okay. Let me turn your attention real quickly to
21 Paragraph 23. I'll try to move through this as quickly as
22 we can.

23 A. Excuse me. You were saying --

24 Q. Exhibit 23. If you will look at Exhibit 23. I think
25 I gave that to you earlier. It's your damages summary in

CHARLES KENNETH SPRIGGS - REDIRECT

1 understand where he's going with this.

2 THE COURT: Come on up.

3 (Off-the-record discussion).

4 MS. ARIAIL: I'll withdraw that question.

5 Q. After you sent the bills to -- the invoices to
6 Mr. Slivka, he never requested or even allowed you to
7 provide further documentation to support those; did he?

8 A. No. Approximately 30 days after the invoice, I
9 received a call and he said, I don't accept these
10 invoices. I'll pay you, I think it was the 76,210. Send
11 me an invoice.

12 And as I reiterated earlier, based on the situation, I
13 wasn't going to do that.

14 Q. And earlier today Mr. Lyles made a big deal about
15 invoice number four and the fact that you just have the
16 months that construction administration services
17 occurred. And you just list those services at the top,
18 but you don't exactly take every one of those items and
19 list when it occurred.

20 If you went through your time sheets, can't you
21 support each one of those items and show when it occurred
22 by looking, by referring back to your time sheets?

23 A. Oh; yes.

24 Q. Do you have Defense Exhibit Three? Defense Exhibit
25 Three indicates that he will pay 50 percent of the

MYLES IVAN GLICK - DIRECT

1 full scope of drawings.

2 Q. What is your professional opinion as to how the fee
3 was to be determined for this project based on the count?

4 MR. LYLES: Objection, Your Honor. The contract says
5 what the contract says.

6 THE COURT: Overruled: Go ahead.

7 THE WITNESS: Based on the contract, the fee was
8 derived on a sheet basis, number of drawings, those two
9 words are interchangeable, for a basic set of drawings
10 based on a standard set of house plans.

11 The services during construction were called out to
12 be hourly. And what's interesting is there was a
13 deletion. We talk about adds to a contract. Mr. Spriggs
14 deleted one of the buildings, the boat house, from this
15 contract. Mr. Slivka received a credit by taking off the
16 number of sheets.

17 So clearly it was acknowledged that the fee basis on
18 this project was based on the number of sheets or the
19 number of drawings. You add to it if you want more work
20 done or you take away from it. Very, very fair for both
21 sides.

22 Q. Are you aware of the total number of sheets that were
23 produced by the Spriggs Group in this case?

24 A. My understanding that the total was about 43 sheets
25 for the main house as opposed to 22 originally. And I

MYLES IVAN GLICK - DIRECT

1 think the overall sheet count was 87 total.

2 Q. In your opinion, why did the sheet count exceed from
3 the original proposal?

4 A. The sheet count exceeded the original proposal quite a
5 bit by the nature of the requests from the owner. The
6 owner consistently requested additional work, the
7 inclusion of more details, chimneys, thicker walls,
8 drainage systems.

9 He also asked to include rooms. Mr. Slivka had
10 purchased or owned historic rooms and Mr. Spriggs had to
11 include those kind of details in the drawings. He was
12 requested to design a cupula that represented George
13 Washington's Mount Vernon home. You just don't draw that
14 as an architect. You've got to research it. You've got
15 to take the proportions of not only the cupula but how
16 does that proportion relate to the barn. This takes
17 tremendous time.

18 In the case of details for the Taft Museum House in
19 Cincinnati, he had to do the same thing. He had to
20 proportion the soffit details, the scale of that soffit,
21 meaning where the shingles came down and hits that board
22 that you normally see in your house. That's called the
23 soffit. He had to proportion that for all the houses.
24 The houses are different sizes, both the main house and
25 the other buildings on the plantation.

MYLES IVAN GLICK - DIRECT

1 So he had to do quite a bit of work. So all those
2 things add more effort, more time and more drawings. So
3 there was constant requests for that and it added to the
4 drawing count.

5 Q. On the projects that you performed on a sheet count
6 basis, what hourly rate did you charge for that?

7 A. For this type project, I would typically use a \$100 an
8 hour as a blended rate between a \$75 draftsman and a
9 \$125 per hour project architect. This would be an
10 experienced architect with 10 or 15 years' experience
11 who's licensed.

12 And then I take that hourly rate, \$100, times number
13 of hours per sheet. In my office we use 30 hours per
14 sheet.

15 Q. Are you aware of what the formula calculation is in
16 the November proposal that's in front of you as Exhibit
17 Seven?

18 A. Yes, sir. The Spriggs Group used \$105 an hour which
19 is pretty close to mine. But they only had 24 hours per
20 sheet. I think that's a little low in the industry. I
21 think there's a lot of value given in this proposal.

22 Q. Now you talked about contracts that you've had for a
23 fixed fee. On your fixed-fee contract, does that allow
24 for additional services to be paid on an hourly basis?

25 A. Yes, it allows for additional services because even

1 though a contract is fixed, it's still only fixed with
2 what somebody wants you to do. An architect is strictly
3 working for a client. He's going to go out of his way or
4 she's going to go out of her way to make that client
5 happy. It's their money.

6 So at some point you got to say, I'm going to do X.
7 If you wanted more, this is additional services.

8 Q. Okay. Does the contract in this case, which is in
9 front of you as Exhibit Seven, provide for additional
10 services to be compensated as an hourly rate?

11 A. Yes, it does.

12 Q. That's in addition to the fee that's set forth in the
13 contract?

14 A. Yes, yes, it is.

15 Q. For design service fees, how are payments generally
16 made?

17 A. Well, again, those are business decisions by the
18 contracting parties. This contract, you pay half in the
19 beginning, and then half at the end of the job. So
20 there's only one methodology to bill the additional
21 services and also the reimbursable expenses.

22 You could estimate reimbursable expenses, meaning
23 costs of blueprints, copies, long distance phone calls,
24 but you don't know what it's going to be at the end of the
25 job because you don't know how long a job is going to

MYLES IVAN GLICK - DIRECT

1 expenses?

2 A. Absolutely nothing would prevent Mr. Spriggs from
3 invoicing the full costs associated with the project which
4 is normal.

5 Q. What does the contract say about what work the owner
6 would perform?

7 A. It's quite extensive. It states that the owner will
8 deal with issues of solar energy, talks about the owner
9 providing a civil engineer and a landscape architect
10 rather than the architect doing it.

11 This had major implications in terms of the drainage
12 system. Drainage systems are handled by civil engineers.
13 Mr. Spriggs ended up doing all that work. No civil
14 engineer was provided by the owner. Mr. Spriggs wanted to
15 get the job done and get it done right, he provided that
16 extra work. Those are two examples.

17 Q. Based on the November 27 agreement, what services were
18 to be performed by the Spriggs Group on an hourly basis?

19 A. The construction administration. These are these
20 services during construction.

21 Q. Okay. Can you give us some examples of what that
22 would include?

23 A. Well, normally construction administration would be
24 visits to the sites beyond what was agreed to originally.
25 It would be answering questions from the contractor. And

MYLES IVAN GLICK - DIRECT

1 it's really critical to have a general contractor with
2 this size project. The minute you don't have a general
3 contractor, the architect's work goes up exponentially.
4 It goes through the roof in terms of time allocated.

5 Q. Do you have any knowledge as far as the sequence of
6 how the design of the individual structures was performed
7 on this project?

8 A. Well, the proposal is a pretty straight forward
9 proposal. And it assumes that you're going to sit down
10 and you're going to design one building, go to the next
11 building and complete the work, in that manner. That's
12 what we call a good work flow. It makes a lot of sense.

13 What in fact happened is that the owner requested that
14 Mr. Spriggs and the Spriggs Group work on one building and
15 then immediately change to another building and change to
16 another building. And what that does to an architect is
17 adds tremendously to the time and effort. Once again,
18 it's the start and the stopping of that sequence that --
19 it's very much like a lawyer. You can't work on one case
20 and then someone says work on another case for a day and
21 then go back to the other case. You got to remember what
22 you did, who worked on what.

23 And with an architect, you got to remember: What was
24 working with the engineers? Where was the dimensions?
25 Was I coordinating the sheets? Where did I leave off?

MOTIONS

1 our lunch break until about 1:45. All right. Don't talk
2 about the case and enjoy your lunch.

3 (Jury exits courtroom at 12:10 p.m.)

4 THE COURT: All right. Does the Plaintiff rest?

5 MS. ARIAIL: Yes, sir.

6 MR. BRUORTON: We do, Your Honor.

7 THE COURT: Any motions from the defense?

8 MR. LYLES: Yes, sir. I have a number of motions.

9 The first motion is for a directed verdict. I'm old
10 school. I graduated in '87.

11 Based on the Plaintiff's cause of action under
12 Statute 27-1-15, and that is the demand for payment
13 statute. I believe that the statute has been provided to
14 the Court and it clearly says that when a demand for
15 payment is made appropriately, and this one was
16 appropriate, that someone receiving the demand for payment
17 has an obligation to investigate the claim and to make
18 payment of the portions of the claim being valid. That
19 cause of action doesn't apply in this case and is legally
20 unsustainable for the following reasons.

21 First of all, the demand for payment in this case was
22 made in May, I believe, or March of 2010, some eight or
23 nine months after the claim had already begun.

24 The testimony from Mr. Slivka is that by the time the
25 demand was received he had retained a lawyer, he was

MOTIONS

1 disputing the charge and that the lawyers were engaged in
2 discovery which, as Mr. Slivka pointed out, was a form of
3 investigation.

4 Additionally, as Mr. Slivka pointed out, whether or
5 not he owes anything, and if anything how much he would
6 owe Mr. Spriggs, is going to be something for the jury and
7 the Court to decide at this point.

8 Again, that demand for payment had been made after
9 litigation had been commenced between these parties.

10 The authority that we submitted to the Court that
11 says even if a Defendant or someone who receives the
12 demand is incorrect about the amount that he or she may
13 owe, they're still not liable under the statute.

14 THE COURT: When was the complaint filed?

15 MR. LYLES: In July of 2009.

16 THE COURT: And when was the demand made?

17 MR. LYLES: In March of 2010.

18 THE COURT: Well, any response from the Plaintiff?

19 MR. BRUORTON: Yes, Your Honor. I actually have -- we
20 were moving for directed verdict on the same thing. And I
21 have a written motion prepared.

22 THE COURT: All right, sir.

23 MR. BRUORTON: I'll pass it up. It includes an
24 affidavit of attorney fees for Ms. Ariail.

25 THE COURT: Thank you.

MOTIONS

1 MR. BRUORTON: During the course of Mr. Slivka's
2 testimony in this case he made admissions to the Court
3 that he agrees he owes the Plaintiffs the \$76,210 as the
4 second half of the contract.

5 He also admitted that he owed for the two-hour
6 construction meeting that was attended by both Mr. Bozeman
7 and Mr. Spriggs at their hourly rate. He also admitted
8 that he owes the Plaintiff \$825 for the potting shed
9 design which is a total of \$77,595 that he admitted he
10 owes the Plaintiff.

11 Now, their only defense to not paying that is that
12 they had paid the money into Court to bond off the
13 mechanic's lien. That's not payment to the Spriggs Group,
14 and there's nothing, there's no cases that prevent
15 Mr. Slivka from making a payment of the undisputed amounts
16 as determined under the Section 27-1-15 of the statute to
17 the Spriggs Group.

18 The mechanic's lien would have been reduced by the
19 amount of money that he admits that he owes Mr. Spriggs.
20 And their offer of settlement would be reduced by that
21 same amount.

22 Because what they're doing now is they're trying to
23 take advantage of the amount that he knows that he owes
24 them to position themselves with their offer of settlement
25 on the additional services that are in dispute.

MOTIONS

1 All that should be before the jury is what's in
2 dispute. That \$77,595 is not in dispute. He's failed to
3 comply with the statute by not making payment for the
4 undisputed amount within 45 days of receiving the -- of
5 actually with the demand letter being issued which is what
6 the statute says.

7 I'm not aware of any cases that say because a lawsuit
8 has been commenced there cannot be payment made under that
9 statute.

10 So we would move for a directed verdict based off the
11 admissions made by Mr. Slivka in the amount of \$77,595 for
12 the undisputed amount, plus the attorney's fees and
13 interest that the statute provides as set forth in
14 Ms. Ariail's affidavit which is for a total directed
15 verdict of \$256,185.17 under Statute Section 27-1-15.

16 THE COURT: I'll take it under advisement over lunch
17 and come back to you on that.

18 MR. LYLES: Okay. I have just a couple more points
19 on that.

20 THE COURT: All right.

21 MR. LYLES: And what he doesn't take into
22 consideration is the fact that we believe, and have
23 asserted a cause of action for slander of title because of
24 an untimely-filed lien which created an item of damage on
25 the part of Mr. Slivka which obviously would be set off

MOTIONS

1 against any sums that Mr. Slivka at any point in time did
2 believe would have been due and owing.

3 Filing the mechanic's lien changed the dynamics of
4 this entire situation as it relates to what was due. He's
5 incurred attorney's fees and he's incurred interest, and
6 he testified as to both of those.

7 And then the other point, the money has been paid
8 into the Court pursuant to the mechanic's lien statute.
9 That was our obligation under the statute. And there's
10 certainly nothing that obligates us to pay the money
11 twice, even if he hasn't been damaged, and even if he
12 believes it was due and owing.

13 Our next motion --

14 MR. BRUORTON: Your Honor, may I just briefly reply to
15 that?

16 THE COURT: Very briefly.

17 MR. BRUORTON: We're not asking that they pay twice.
18 What we're saying the money should have been released from
19 the Court to pay the undisputed amount in the mechanic's
20 lien.

21 Also the damages that he claims related to the
22 interest on the slander of title is a voluntary damage
23 that he incurred by bonding off the lien. He didn't have
24 to bond off the lien. He voluntarily bonded off the lien
25 to get that mechanic's lien off his property.

MOTIONS

1 A mechanic's lien cause is separate from the 27-1-15
2 and we believe we're entitled to a directed verdict on the
3 27-1-15.

4 THE COURT: Move to your next one.

5 MR. LYLES: Yes, sir. That's on the timeliness of the
6 mechanic's lien. The mechanic's lien was filed on April
7 the 13th, 2010. As Your Honor, knows it has to be filed
8 within 90 days of the last date of the provision of the
9 labor or materials performed by the party filing the lien.

10 The statute is obviously applicable. It must be
11 strictly complied and the law in South Carolina is very
12 explicit on that point.

13 The mechanic's lien statute defines labor as
14 including the preparation of design specification and
15 other project drawings. It does not include the provision
16 of contract administration services. Very explicitly, the
17 legislature if it intended to include contract
18 administration services, telephone calls to clients, so on
19 and so forth, could have said that.

20 It's the provision of claims actually used in the
21 erection or alteration of the improvement to real property
22 that is allowed to be the subject of a mechanic's lien.

23 Here, it is undisputed based on the testimony of all
24 the witnesses that the last date that the Spriggs Group
25 provided labor in the form of the development of plans or

MOTIONS

1 design documents was in December of 2008.

2 The only thing that the Spriggs Group did in January
3 of 2009, if you believe that they did what they billed for
4 in November of 2009, the only thing they did would be
5 qualified and characterized as contract administration
6 services.

7 And that is not the subject of a mechanic's lien by
8 the definition of the mechanic's lien statute.

9 There's a case called Preferred Savings and Loan
10 Association versus Laurel Garden which I submitted in our
11 pretrial brief. It says: When a party files a notice of
12 lien under Section 25-5-90 he's asserting that at a time
13 within 90 days before this he has performed work for which
14 he is entitled to assert a lien.

15 And that did not occur here. The mechanic's lien is
16 untimely.

17 THE COURT: All right.

18 MS. ARIAIL: Your Honor, I disagree with Mr. Lyles
19 that the mechanic's lien somehow limits the -- what's lien
20 able by an architect in preparation of plans and specs.

21 There are South Carolina cases that talk about mental
22 labor, not just physical labor. Williamson versus Hotel
23 Melrose. I can give you a cite for that. The general
24 principle that's contained within that case, it says: Any
25 person that has contributed by his labor, and again this

MOTIONS

1 is talking about mental labor, to the improvement of the
2 property has a claim against that property for his
3 compensation.

4 That case also talks specifically about other states'
5 laws as they relate to mechanic's liens. And
6 interestingly, other states generally -- there are many
7 other states out there that don't allow for mechanic's
8 liens associated with the preparation of plans and specs,
9 but they do allow an architect to file a lien when there
10 are construction administration-type services. Because
11 that is what is actually contributing to the improvement
12 of the property.

13 For example, there's a Pennsylvania case, Allen
14 Porter Lee versus Do Right Products, 366 Pennsylvania
15 548. Their statute specifically does not allow for plans
16 and specs, but they do allow for liens related to the
17 improvement of property as perpetuated by construction
18 administration services.

19 There are -- I haven't heard an argument about the
20 significance of the work but the South Carolina cases
21 absolutely support that it doesn't have to be the lion's
22 share of work. It can be the most insignificant piece of
23 work that allows the mechanic's lien to be filed within
24 that 90 days.

25 There are cases where a plumber came out and did

MOTIONS

1 maintenance work. There are cases where a contractor
2 provided additional ceiling tile and because he performed
3 some labor, then that has triggered that 90 days.

4 And that's from the express language of the statute.
5 29-5-90 says: 90 days after he ceases to labor. And I
6 would say that this is obviously work that the architect
7 performed as mental labor, answering questions of the
8 contractors that were on-site performing work.

9 THE COURT: How about your next motion?

10 MR. LYLES: May I address the Williamson case?

11 THE COURT: Quick.

12 MR. LYLES: Very briefly. She cited the Williamson
13 case. There are actually a couple of South Carolina cases
14 that talk about an architect being entitled to recover for
15 construction supervision services. And the Williamson
16 case that she cited versus Hotel Melrose turns out the
17 architect in that case was actually serving as the project
18 superintendent.

19 If you will recall in the cross-examination of
20 Mr. Spriggs, I had him articulate the definition of the
21 terms of art between construction phase services,
22 construction administration and observation. And then he
23 said very specifically, supervision is different than
24 that.

25 The statute says what it says as it relates to

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1 architects. And the statute's to be strictly construed.

2 There are a number of cases on that point.

3 So that's what I would say with respect to the
4 Williamson case.

5 MS. ARIAIL: Quick reply?

6 THE COURT: Sure.

7 MS. ARIAIL: The statute does not expressly prohibit
8 construction administration cases, or services.

9 I believe that Mr. Spriggs' testimony was that the
10 construction services that -- the observation-type
11 services are very similar to the construction
12 administration services. The point is, it all relates to
13 the improvements that are being made to the property.

14 And the whole purpose of the mechanic's lien statute
15 is to allow somebody that is owed money from doing those
16 types of services to collect their money and if they don't
17 to lien the property.

18 THE COURT: How about your next motion?

19 MR. LYLES: With respect to the quantum meruit cause
20 of action, as I indicated in the pretrial, everybody has
21 admitted there is a contract --

22 MR. BRUORTON: We've dropped that claim.

23 THE COURT: That claim is gone.

24 Mr. LYLES: Oh, I'm sorry. I missed that.

25 THE COURT: Thank you.

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1 MR. LYLES: I would move for directed verdict as to
2 the breach of contract claim.

3 There is -- there is -- Mr. Spriggs has admitted and
4 I think that the evidence conclusively establishes, that
5 Mr. Spriggs agreed to perform the services in connection
6 with this project for \$152,000, together with whatever
7 additional services were caused by the agreement. There
8 is no language in that contract or in that agreement
9 calling for Mr. Slivka to pay Mr. Spriggs additional sums
10 based on the number of sheets which is largely their
11 theory of the case. There's simply no contractual
12 obligation to do that.

13 As I indicated or as I got Mr. Spriggs to admit
14 during his testimony, even if the agreement can somehow be
15 construed to be a by-the-sheet agreement, he admitted that
16 the only by-the-sheet cost was for A drawings.

17 They have tens and tens of thousands of drawings for
18 MEP and S that he never -- was never a part of the
19 agreement to be billed on an hourly basis.

20 He also testified that he has never invoiced
21 Mr. Slivka for the cost of the consultant services beyond
22 the \$20,000 that was included in his invoice number two of
23 which Mr. Slivka had already paid \$17,000 as part of the
24 original agreement.

25 But, the concept that this is somehow a by-the-sheet

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1 contract is simply not supported by the evidence or the
2 testimony in the case. And I'd move for directed verdict
3 on that basis.

4 THE COURT: Brief reply.

5 MR. BRUORTON: Your Honor, I disagree with that. And
6 I believe that at a minimum there's a factual dispute on
7 that issue.

8 We also are moving for directed verdict on our breach
9 of contract and mechanic's lien claim if you find the
10 mechanic's lien to be timely. I think we looked at
11 express contract provisions that specifically allow for
12 the services that were billed by the Spriggs Group to
13 Mr. Slivka.

14 The contract provides for contract administration
15 services per provision -- per Paragraph Number 18. That
16 relates to invoice four, seven and six. The contract
17 provides for an hourly rate on the changes after the
18 issuance of the contract drawings for permit. That
19 relates to invoice number three.

20 The contract provides for reimbursable expenses
21 estimated at \$1,000. The total was 3,878.53. That
22 relates to invoice number five.

23 The construction documents in the contract were based
24 on a formula of 24 hours per sheet at \$105 an hour times
25 34 sheets which has been testified that it's actually

1 probably low and should be increased. But that relates to
2 invoice two.

3 And there's additional sheets that we went through
4 and counted up how much additional sheets they are as set
5 forth in Exhibit 23 for that total amount set forth in
6 invoice number two.

7 The only defense that Defendants have to our breach
8 of contract claim is that the invoices were untimely and
9 that the invoices are unclear. And that's just simply not
10 a basis to defend a claim.

11 We've heard testimony from Mr. Glick. We've heard
12 testimony from Mr. Spriggs. All the time sheets are
13 documented to reflect what's in the invoices. He deserves
14 to be paid for those services and we believe we're
15 entitled to a directed verdict on the mechanic's lien.

16 THE COURT: I believe if everything was that clear we
17 wouldn't be here on Thursday afternoon. Those motions are
18 now denied. Any more motions?

19 MR. LYLES: No, sir.

20 THE COURT: Anything from the Plaintiff?

21 MR. BRUORTON: That's it from us, Your Honor.

22 THE COURT: All right. We'll be back at 1:45 and go
23 from there, and I'll address those motions at that time.

24 (Thereafter, the lunch break was taken at 12:30 p.m.
25 After lunch at 1:45 p.m., the trial resumed:)

1 and I think it's just a great example of how the process
2 builds. You know, the more you talk about this stuff, and
3 this is a personal thing for me, this has been a horrible
4 experience, you get excited about it. And I'm getting
5 more and more excited.

6 And the first year it was okay, but by the second
7 year, you know, it really had gotten to the point where it
8 was getting unpleasant. And I had yet to have, you know,
9 really hostile kind of outburst with Ken, but I had one
10 with him around this period of time.

11 And -- and don't get me wrong, it's just this
12 excitement that you're seeing right now, a little louder
13 in volume. I'm not an angry guy and so I've not been mean
14 to Ken or Andy but real, real vocal.

15 Q. At any point in time other than with respect to the
16 construction meeting and the garden wall, did Mr. Spriggs
17 or Mr. Bozeman for that matter, tell you what you're
18 asking for is not within the contemplation of the original
19 agreement and will be additional services?

20 A. No.

21 Q. Had you been told in 2006, early 2007 that extensive
22 structural engineering services were going to be required,
23 is that something that you would have accepted?

24 A. It -- I don't know whether I would have accepted it or
25 not accepted it. I can tell you this, that if I had

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1 And I think they understood and should have understood
2 that I was not going to talk to them again.

3 And when I don't -- you know, this is a guy that's
4 calling their office every couple days, and all of a
5 sudden no calls in January, no calls, you know, I think
6 they should have had the idea.

7 Q. At the time you terminated Mr. Spriggs' services in
8 December '08, did you expect to get a bill for the other
9 half of the services?

10 A. I did.

11 Q. And did you receive one in December?

12 A. No.

13 Q. And how about January?

14 A. No.

15 Q. And, if I could direct your attention to Exhibit
16 Eight.

17 A. Okay.

18 Q. And is that the letter you received from Mr. Spriggs
19 in February of '09?

20 A. Yes.

21 Q. Were you surprised when you got that letter?

22 A. Yes.

23 Q. Why were you surprised?

24 A. Well, because I had already told the jury on Monday
25 when I do get a bill in December and didn't get one in

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1 Q. In May of 2009, did you authorize an appraiser to
2 contact Mr. Spriggs to talk to him about the house or
3 anything in connection with an appraisal?

4 A. No. And I want the jury to understand -- and you saw
5 my shock when I saw that appraisal guy come in. It wasn't
6 that I cared about what was in it, but the banks must
7 order these appraisals themselves. And they do it and you
8 have no control of it. They want this distance.

9 So Enterprise Bank ordered that confidential appraisal
10 from the appraiser. I had never seen it. And so, you
11 know, the relationship is completely with them. I was
12 really floored that it ended up here.

13 But at any rate, the point is that I had nothing to do
14 with that. They did send the appraiser out to the house.
15 I let the appraiser into the house but beyond that I have
16 no relationship with the appraiser. I didn't pay her. It
17 was paid through the bank.

18 Q. And in May you got another invoice from Mr. Spriggs;
19 do you recall that? It's Exhibit Eight-A. It's a single
20 sheet. That's Exhibit Eight. You need Exhibit Eight-A.

21 A. Eight. Oh. I see here. Okay. I thought that's the
22 one we just talked about.

23 Q. Yeah. And you got that invoice and after that you
24 wrote that letter to Mr. Spriggs; right?

25 A. Yes, sir.

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1 Thank you.

2 Q. Well, you took \$25,000 a year for three years and you
3 built it into the property that you own in Georgia, that
4 you still own, and this amazing plantation estate in South
5 Carolina; right?

6 A. Yes, ma'am.

7 Q. Okay. And this is just the house. We haven't seen
8 pictures of the rest of it; have we?

9 A. No, ma'am.

10 Q. And you said earlier that you deal with contracts all
11 the time.

12 A. Yes, ma'am.

13 Q. Okay. But now you want us to believe that you didn't
14 understand that anything that's not included in this
15 contract would be extra; is that right?

16 A. No. I'm not asking you to do that at all. I
17 understood from 18 and 19 that if there were extra charges
18 that they would be billed.

19 What we're taking exception with is that we don't know
20 what those charges are. Ken gets to decide what those
21 charges are. And Ken decided not to tell anybody for two
22 years what those charges were.

23 That's the problem in this case; not my objecting to
24 those provisions and paying additionally on them. I read
25 the contract. I understood the contract.

1 Q. You admit that they had your authority to provide
2 sketches to the vendors and the contractors working on
3 your home; correct?

4 A. I don't know there was ever a discussion about it.
5 Certainly if you're talking about the course of the
6 project, if -- and, really, these calls, and Andy
7 testified to this same thing, the calls were really
8 limited to Todd Sauls and the plumber. The rest of the
9 people really didn't seem to have particular questions.

10 But certainly if they looked at the plans and they
11 were trying to build something and it didn't work out, and
12 the case of Todd Sauls, he goes to frame up the second
13 floor and it's not lining up with down below because of
14 where the foundation was. You know, all kinds of
15 different things that just mechanically didn't work out.
16 Then they called and Andy helped them over the phone and
17 told them whatever and maybe then supplied sketches, I
18 don't know. But I never had any particular discussions
19 about additional sketches.

20 Q. You've already said that they did not have authority
21 to take calls from your contractors.

22 A. I thought you were referring to this period after
23 December 11th. You asked me about --

24 Q. So sometimes they did have your authority and some
25 they didn't?

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1 A. You've just gone through this questioning of me about
2 terminating the contract December 11th. And then you
3 asked that. So I thought you were asking me from December
4 11 after I terminated where I authorized them to take
5 calls and my answer was no.

6 Q. Okay. Prior to that time --

7 A. Yes, ma'am.

8 Q. -- did they have your authority to take calls from the
9 contractors and vendors?

10 A. Yes, ma'am.

11 Q. And how were they supposed to know that that authority
12 had been taken away from them?

13 A. I guess that's a legitimate question. I don't know if
14 I discussed it with them or not; I don't know.

15 Q. So you never told them, do not take calls from any
16 contractors or vendors from December 11th or 12th on; did
17 you?

18 A. I don't remember. I don't think so.

19 Q. And you also didn't tell them not to prepare sketches
20 if they were asked by the contractors; did you?

21 A. Well, that certainly I wouldn't have approved.

22 Q. But you didn't tell them to stop; did you?

23 A. Well, I -- nobody got any sketches. So, it's a moot
24 point. I can tell you that.

25 Q. Are you testifying that they did not have authority to

1 prepare sketches for your subcontractors and vendors if
2 those subcontractors and vendors had questions?

3 A. Absolutely.

4 Q. They did or did not?

5 A. Did not.

6 Q. They did not?

7 A. Because the only way my vendors could have gotten
8 sketches would have been via me.

9 Q. Do you remember being deposed on November 29th, 2010?

10 A. I do.

11 Q. Your Honor --

12 THE COURT: You can go ahead and open it if you want
13 to.

14 BY MS. ARIAIL:

15 Q. (Opens sealed deposition transcript.) Mr. Slivka,
16 I'm going to hand you the original transcript from your
17 deposition that was taken on November 29th, 2010. I'm
18 going to ask you to turn to page 70.

19 A. Okay.

20 Q. I'm going to ask you to find line 11 where I asked you
21 a question. Go ahead and read that.

22 A. It says: Did the contractor have the access to the
23 Spriggs Group to ask construction-related questions, and I
24 answered affirmatively.

25 Q. What was your answer?

1 A. I think so.

2 Q. And what's the next question?

3 A. Did you authorize that? I don't know. There wasn't
4 an objection to it, so I guess the answer is yes.

5 Q. All right. Keep going.

6 A. Did the Spriggs Group provide any sketches during the
7 construction phase to clarify detail or answer a
8 construction-related question that you were aware of? I
9 said, I think I do.

10 Q. Okay. Keep going.

11 A. Did you authorize that? I don't know that I'm the one
12 but I don't know that I asked for those but certainly it
13 was all right for them to do that.

14 Q. Okay. So when you were deposed in November of 2010 it
15 was okay for them to provide sketches but now you're
16 testifying that it's not okay, it wasn't okay.

17 A. No, I didn't change my testimony at all. I'm saying
18 the same thing. We're talking, again, about this period
19 after December 11th. If you're talking about during the
20 construction thing, I'm telling you that if they had a
21 question and they had a problem, and I used the example of
22 Todd, and they needed sketches, fine.

23 Q. Mr. Slivka --

24 A. Am I not doing it right?

25 Q. -- one minute it's okay for them to provide sketches.

1 One minute it's not. One minute it's okay for them to
2 take phone calls from subcontractors and vendors. One
3 minute it's not.

4 If that is what your testimony is, then when did you
5 tell them it was no longer okay for them to either take
6 calls from vendors or subcontractors or produce sketches
7 for them?

8 A. Well, I think, one, I may be going crazy but I think
9 I'm answering the question the same way both times. And
10 that is that I didn't have any objections to it. I didn't
11 stop them from doing it. It was not a problem for me.

12 And after December 11th and my termination with
13 Spriggs, there were never any more calls or anything to
14 Andy. I mean, most of these calls were really prompted by
15 me. So that if there's a problem, you know, the guy comes
16 to me and says, I can't work with this. And then I will
17 call Andy and if I can't explain it back to the guy I'll
18 have the guy call them. So it kind of all gets filtered
19 through me anyway, but I'm not changing my position on it
20 in any way.

21 It may be a little confusing about what happens after
22 December 11th, but.

23 Q. So now you're saying there was no contact from your
24 vendors or subcontractors to Mr. Bozeman after December
25 11th?

1 A. Not that I'm aware of.

2 Q. And you were here yesterday when Mr. Bozeman
3 testified; right?

4 A. Yes, ma'am.

5 Q. And you looked at the time sheets and you heard him
6 say that he performed worked for you --

7 A. Yes, ma'am.

8 Q. -- as late as January 13th; correct?

9 A. Yes, ma'am.

10 Q. And Plaintiff's Exhibit 19 is an e-mail from
11 Mr. Smith, Kayton Smith, to Mr. Bozeman on January 13th
12 where they're talking about changing four-inch waste line
13 on the main house to a three-inch waste line. Do you
14 remember that?

15 A. No, ma'am. I remember the -- in the courtroom, I
16 remember.

17 Q. All right. I'm going to let you look at Exhibit 19.

18 A. Okay.

19 Q. And when you're comfortable that you have looked at
20 that and understand it...

21 A. (Reviewing document.) Okay.

22 Q. All right. And are you somehow now testifying that
23 you think that Mr. Bozeman fabricated that e-mail?

24 A. Oh, gosh. I hate for you to put it like that.

25 No, I don't think he necessarily fabricated the e-mail

1 at all.

2 Q. But didn't you just say he had no contract with your
3 subcontractors or vendors after December 11th?

4 A. Well this, these gas lines actually were put in by
5 the, oh, Carmichael here in town which is the only thing
6 that they did out at the plantation. Carmichael Company
7 put in the gas lines. I don't know. Maybe they called
8 him, I don't know. But they would not have been regular
9 workers on the property.

10 Q. Yesterday Mr. Bozeman testified that he got a call
11 from the plumbing contractor. This isn't about gas. This
12 is about plumbing.

13 A. Uh-huh.

14 Q. And changing the waste line which is the drain
15 lines --

16 A. I see.

17 Q. -- from four inches to three inches?

18 A. Okay.

19 Q. In response to the contractor's question about
20 reducing the waste line from four inches to three inches
21 he contacted, Mr. Bozeman contacted Kayton Smith.

22 A. I see.

23 Q. And then they responded.

24 A. Okay.

25 Q. That's the subject of this e-mail. Has nothing to do

1 with the gas lines.

2 A. I see.

3 Q. Are you disputing --

4 A. I don't know, I guess would be the best answer.

5 Q. You have no reason to think that Mr. Bozeman
6 fabricated this; do you?

7 A. No.

8 MS. ARIAIL: Just one minute. (Pause.) That's all I
9 have, Your Honor.

10 THE COURT: Mr. Lyles?

11 MR. LYLES: I don't think I have any further
12 questions.

13 THE COURT: All right. You may step down. Thank
14 you. Go ahead and call your next witness.

15 MR. LYLES: That would be Mr. Scott Harvey.

16 THE COURT: This is your last witness.

17 SCOTT ANTHONY HARVEY, having been duly sworn, was
18 examined and testified as follows:

19 THE CLERK: Have a seat on the witness stand. State
20 your full name for the record and spell your last name.

21 THE WITNESS: My full name is Scott Anthony Harvey.
22 Last name is H-A-R-V-E-Y.

23 DIRECT EXAMINATION

24 BY MR. LYLES:

25 Q. Good afternoon, Mr. Harvey.

1 practice with agreements between architects and clients
2 with the provision of architectural services?

3 A. Yes, I have.

4 Q. Have you been involved in the preparation of those
5 agreements?

6 A. Yes.

7 Q. And tell the jury, if you will, what other types of
8 experiences you've had as an architect besides new
9 construction that you think is relevant to your testimony
10 in this case today.

11 A. Again, aside from the new construction, most of what
12 I've been doing since Applied Building Sciences, since
13 2005, is, or since starting with Applied Building Sciences
14 is repair, renovation and investigation of buildings as
15 well as analyzing contracts that somebody gives to me to
16 review to see if it includes the content that it should,
17 repair -- or reviewing specifications for particular
18 designs and doing design reviews for other architects.

19 Q. I'd like to move to qualify Mr. Harvey as an expert in
20 the area of architectural standards and practices.

21 THE COURT: Any objection?

22 MS. ARIAIL: No objection.

23 BY MR. LYLES:

24 Q. Mr. Harvey, have you reviewed anything in connection
25 with this litigation, this dispute between Mr. Spriggs and

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1 have agreed to do for me, is that an alteration of the
2 scope of the work?

3 A. Yes.

4 Q. And at that point does that ethical, or rule of
5 professional conduct compel the architect to say to the
6 client, you are asking me to do something that's not
7 included in the original scope of work?

8 A. Yes, I believe it does.

9 Q. And if an architect fails to do that, is the architect
10 in violation of that rule of professional conduct?

11 A. Yes.

12 Q. And the applicable standard of care?

13 A. Yes.

14 Q. When you have a fixed-price contract and it doesn't
15 spell out specifically -- strike that.

16 If you have a fixed-price contract, who determines
17 whether or not some design service is within the original
18 scope or is additional service?

19 A. It's no one entity. It's an agreement between the
20 owner and the architect as to what is an additional
21 service. It has to be discussed to figure out whether
22 both parties are in agreement as to that particular item
23 being an additional scope of work.

24 Q. Okay. Now, you -- as part of your work in this case,
25 have you counted the drawings that were done by

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1 language.

2 Q. Are you talking about the AIA document B-141?

3 A. Yes, that's correct.

4 Q. That is a standard document that's promulgated by the
5 AIA; right?

6 A. That's correct.

7 Q. That has absolutely no bearing on this contract. This
8 is not the contract between Mr. Slivka and the Spriggs
9 Group; is it?

10 A. That is not the contract, but it includes the same
11 basic language in regards to the standard of care for
12 additional services.

13 Q. Okay. And where is the standard of care for
14 additional services in the contract between the Spriggs
15 Group and Mr. Slivka? Do you have that document? Exhibit
16 Seven, I believe.

17 A. Yes, I believe it's up here.

18 Q. Okay. Where is the standard of care related to
19 changes in the work in that letter?

20 A. There's nothing specifically included within this
21 contract or within this proposal that addresses additional
22 services.

23 Q. Not as far as it relates to the standard of care;
24 right?

25 A. Yes. I'm sorry.

1 Q. In fact, there's no notice requirement in there,
2 either; is there? There's nothing in there that says
3 every time a change is contemplated, every time the owner
4 directs Mr. Spriggs to make a change to his design he's
5 supposed to stop and provide some type of notice. There's
6 nothing in there that requires that; does it?

7 A. No, there's not.

8 Q. And in fact, there are very specific terms in the
9 contract that talk about how changes will be -- what they
10 are and how they will be paid for, specifically Paragraph
11 Number 18 which says, we will provide any requested
12 construction phase services by the project architect or
13 staff on an hourly basis.

14 That identifies how those changes are going to be
15 made; doesn't it?

16 A. It addresses how construction phase services will be
17 provided.

18 Q. So if the owner or his contractors are given
19 permission to contact the Spriggs Group and ask questions
20 and the owner asks for takeoffs and other things that are
21 considered construction phase services, then the contract
22 already addresses how those are going to be paid; doesn't
23 it?

24 A. Yes, in regards to construction-phase services.

25 Q. And also any changes to the design documents

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1 THE COURT: Any motions?

2 MR. BRUORTON: Yes, Your Honor. We're making a motion
3 for a directed verdict on their slander of title claim. I
4 don't believe they've carried their burden of proof as
5 relates to that claim.

6 The damages that they seek were voluntarily
7 undertaken due to the bonding off the lien. And there's
8 been plenty of evidence to show that the mechanic's lien
9 that was filed on that property was timely, therefore
10 there should be no slander of title claim.

11 THE COURT: Any response?

12 MR. LYLES: With regard to the damages, it was in the
13 form of mitigation of damages which is what Mr. Slivka
14 testified to. He was trying to get the cloud off the
15 title, particularly since they've liened his whole 2800
16 acres.

17 If the lien is untimely, it's a wrongful lien and the
18 law in South Carolina is that there is a slander of title
19 if they wrongfully filed a lien.

20 THE COURT: Motion is denied. Any other motions?

21 MR. BRUORTON: That's it, Your Honor.

22 THE COURT: Let me go over what I put together, and
23 my law clerk put together for the charge.

24 Of course, I'm going to have a small introduction;
25 duties of the Judge and jury; direct and circumstantial

1 ON FRIDAY, JULY 22, 2011 AT 9:35 A.M.:

2 THE COURT: Everybody ready?

3 MS. ARIAIL: Yes, sir.

4 MR. LYLES: Your Honor, I have a couple points based
5 on your rulings yesterday.

6 Your Honor, I just want to make sure that I've
7 preserved my arguments particularly with respect to
8 27-1-15 which is the mechanic's lien statute.

9 Yesterday the Court denied the Plaintiff's motion for
10 a directed verdict on the slander of title. There is a
11 colorful dispute that's going to be submitted to this jury
12 between these parties about who owes what.

13 And I believe that under 27-1-15 that establishes as
14 a matter of law that there was not a particularly valid
15 amount of money that was due at the time this demand was
16 received from Mr. Spriggs to Mr. Slivka. They were in the
17 middle of litigation over valid disputes.

18 And as a matter of law, I think that that provision
19 doesn't apply.

20 On the mechanic's lien statute, the only thing that
21 I'd like to know about -- I'd like to point out on the
22 mechanic's lien statute is, I'm aware that the jury can
23 decide issues of fact relative to the mechanic's lien.
24 And, clearly, the timeliness of the lien is a question of
25 fact.

1 But it seems to me that whether or not an architect's
2 provision of contract administration services is an issue
3 for the Court. That is, it's an interpretation of the
4 statute whether or not that type of service qualifies in
5 the statute because that requires an interpretation and
6 application of the statute.

7 And I was sort of getting ready to argue that to the
8 jury but I don't know that I argue to the jury that they
9 need to interpret a South Carolina statute. And I think
10 that that's the issue with regards to the provision of
11 contract administration services.

12 And I just want to point that out to the Court, that
13 that seems to me that it is an issue for Your Honor as
14 opposed to the jury. Even though, obviously, if you find
15 that that is the type of activity that's covered by the
16 mechanic's lien statute, then we'll argue the timeliness
17 of facts to the jury.

18 THE COURT: And your response to that?

19 MR. BRUORTON: I'll address the 27-1-15 and then I'll
20 let her address the mechanic's lien since that's kind of
21 how we argued it to you yesterday.

22 I disagree with the characterization of 27-1-15 as
23 the way that the statute clearly reads is that it says, if
24 a party after a reasonable investi -- fair investigation,
25 which they say was ongoing through discovery, fails to --

1 refuses to pay the claim for a proper portion.

2 The Defendant has admitted that he owes half of what
3 is the proposal fee on the contract that was admitted into
4 evidence. So there's no dispute that that 76,210 is that
5 money should have been paid to the Defendant (verbatim)
6 regardless of what was deposited into the Court. And I
7 believe that statute does apply and Your Honor can rule
8 after the jury gives their verdict as to whether or not
9 we're entitled to fees and interest in accordance with
10 that statute.

11 THE COURT: About the mechanic's lien?

12 MS. ARIAIL: Your Honor, concerning the mechanic's
13 lien statute, obviously the statute can't list every
14 specific instance of work that could potentially be
15 applied to construct a building. It even includes
16 language like -- it includes but it is not limited to. It
17 clearly allows for the preparation of plans and specs.
18 That's an express term in the statute.

19 As I mentioned yesterday, there -- it doesn't make
20 sense to allow that and then somehow not allow the
21 construction administration services which are in the
22 furtherance of the actual construction on-site.

23 THE COURT: In other words, is it for me to decide or
24 for the jury to decide?

25 MS. ARIAIL: It's for the jury to decide. This is a

1 question of fact whether or not -- my understanding of
2 their position has been that it wasn't timely. And that's
3 an issue for the jury to find.

4 I think the statute clearly addresses work of an
5 architect.

6 THE COURT: Why don't we take a 10-minute recess and
7 I'll think about it and come back to you?

8 MR. BRUORTON: Thank you, Your Honor.

9 MR. LYLES: Thank you, Your Honor.

10 (Thereupon a break was taken at 9:40 a.m., until
11 10:00 a.m., when the trial resumed as follows:)

12 THE COURT: In reference to 27-1-15, you know, what
13 makes that a little bit interesting is that the demand was
14 made after a lawsuit had already been instituted. And
15 whether or not the litigation process is a reasonable
16 investigation or not, and whether or not having all this
17 money, even though it's applicable to the mechanic's lien,
18 deposited with the Court, it's safe with the Court, it's
19 there to be had and there's a counterclaim which may be
20 some offset.

21 I mean, the idea of just paying it out in the middle
22 of the litigation process seems a little strange to me.
23 I'm going to leave it to the jury and y'all can argue it
24 and let them decide whether or not all of this is
25 reasonable after paying money into the Court and a demand

1 made after the lawsuit is filed and all of that kind of
2 stuff.

3 The mechanic's lien itself, I'm just going to submit
4 it to the jury. I'm going to read them the statute. I'm
5 going to give them the charge. They can carry it back
6 there to the jury room. They can look at it and they can
7 read it. It's not very, very complex. It's kind of long
8 and redundant but y'all can argue whether that is service
9 that falls within the mechanic's lien statute.

10 And of course you can argue the timeliness and all of
11 that kind of stuff. We'll give it to the Colleton County
12 and let them decide. Right, wrong or in between, that
13 seems like the fair thing to do.

14 MR. LYLE: I gotcha.

15 I have one more issue that I'd like to take up. It's
16 our view that you ruled that certain evidence in terms of
17 invoices that have been submitted to Mr. Spriggs by
18 consultants but never produced could not come into
19 evidence. I think Bright and I talked about that and made
20 that agreement.

21 You allowed her to elicit testimony about those
22 invoices, however. But in her examination of Mr. Spriggs
23 she did not elicit that testimony. There was no testimony
24 about invoices that he had received from consultants that
25 either had been paid or had not not paid.

CLOSING ARGUMENT ON BEHALF OF THE PLAINTIFF

1 Mr. Slivka the scope of work.

2 Construction documents. This is important. Drawing
3 setup, layout, design details and schedules; 24 hours per
4 sheet at 105 hours times 34 sheets. That was the total
5 for the engineering sheets -- I mean, for the
6 architectural sheet. Excuse me.

7 So this sheet count -- fee proposal for the sheets is
8 based on an hourly rate. Clearly delineated in the
9 contract.

10 Specifications. Sub-out consultants.

11 Both Mr. Bozeman and Mr. Spriggs testified that, yes,
12 they had to have plumbing, mechanical and electrical
13 engineers to prepare all those MEP drawings that we've
14 talked about.

15 And the structural engineering, their intentions when
16 they entered into the contract and when this contract was
17 written, was that, structural engineer, they would hire
18 one who would provide details and review what they put,
19 they as architects, put on the architectural drawings.
20 That's why we've got no structural drawings. That's why
21 for the main house we have structural-related details
22 occurring on the architectural drawings.

23 That's what this money was.

24 All right. So the total fee, 161-50 (verbatim), and
25 then you add to that, estimated. Mr. Slivka wants you to

JUDGE'S CHARGE TO THE JURY

1 THE COURT: All right. Members of the jury, it is
2 now my duty as the Trial Judge to instruct you on the law
3 applicable to this case.

4 It is your duty as jurors to accept and apply the law
5 as I now state it to you. Furthermore, it is your
6 exclusive duty to decide all the issues of fact in this
7 case and to determine the effect, value, weight and truth
8 of the evidence.

9 Both the parties have the right to expect that you
10 will carefully consider the value, weigh the evidence, and
11 apply the laws applicable to it so that in the end both
12 parties will have received a fair trial.

13 During this trial you and I have separate duties to
14 perform. As the Trial Judge, it is my responsibility to
15 preside over this trial and to rule upon the admissibility
16 of the evidence offered during the trial.

17 In that regard you are to consider only the evidence
18 before you. Thus, you are to consider only the testimony
19 which has been presented from this witness stand, together
20 with any exhibits admitted into the record of this case.

21 Furthermore, I have the additional duty to charge you
22 on the law applicable to this case. And in that regard it
23 is your duty to accept and apply the law as I now state it
24 to you.

25 If you have any preconceived ideas as to what the law

JUDGE'S CHARGE TO THE JURY

1 is or what the law -- or what you think the law ought to
2 be, and it does not agree with what I tell you the law is,
3 you are to abandon those preconceptions and accept the law
4 as I now give it to you.

5 In this trial you are the sole and exclusive judge of
6 facts. Do not infer that I have any opinion about the
7 facts in this case from anything I have said or done
8 during the course of this trial. In that regard the law
9 simply does not permit me to have an opinion about the
10 facts.

11 As jurors it is your duty alone to determine the
12 effect, value, weight and truth of the evidence presented
13 during the course of this trial.

14 Furthermore, it is your job as jurors to determine
15 the credibility and believability of the witnesses who
16 have testified in this case. You must evaluate the
17 evidence and determine which evidence convinces you of its
18 truth.

19 In determining the believability of witnesses who
20 have testified in this case, you may believe one witness
21 over many or many over one. You may believe a part of the
22 testimony of a witness and reject the remaining part. You
23 may believe the testimony of a witness in its entirety or
24 reject it in full. You may consider whether the witness
25 has an interest in the result of the trial, whether the

JUDGE'S CHARGE TO THE JURY

1 witness is prejudiced toward either party, the witness's
2 opportunity for the witness to have seen the matters and
3 things about which the witness may testify, and the way
4 the witness acts on the witness stand.

5 Furthermore, evidence may be direct or
6 circumstantial. Direct evidence is testimony by a witness
7 about what the witness personally saw or heard or did.

8 Circumstantial evidence is indirect evidence. In
9 other words, it is proof from one or more facts from which
10 one can find another fact. You may consider both direct
11 and circumstantial evidence equally.

12 The burden of proof in this case is by a
13 preponderance of the evidence. A preponderance of
14 evidence simply means the greater weight of the evidence.
15 In other words, it is evidence that as a whole shows that
16 the facts sought to be proved is more likely true than not
17 true.

18 This can be illustrated by imagining a set of
19 scales. When the case begins, the scales are even. After
20 all of the evidence has been presented, if the scales
21 remain even or if they tip even slightly in favor of the
22 Defendant, the Plaintiff has failed to meet the burden of
23 proof and would not be entitled to recover in this case.

24 If, on the other hand, the scales tip even slightly
25 in favor of the Plaintiff, the Plaintiff will have met the

JUDGE'S CHARGE TO THE JURY

1 burden of proof and you should return a verdict for the
2 Plaintiff.

3 Furthermore, this also holds true in regards to the
4 Defendant's counterclaim which I will discuss further in
5 this charge.

6 The preponderance of the evidence is not determined
7 by the number of witnesses. Instead, it must be
8 determined by the greater weight of all the evidence.

9 Furthermore, the rules of evidence ordinarily do not
10 permit witnesses to testify to opinions or conclusions.
11 An exception to this rule exists for witnesses we call
12 expert witnesses.

13 A witness who by education and experience has become
14 an expert in some art, science or profession may give an
15 opinion as to the subject the witness claims to be an
16 expert in, and may also give the reasons for the opinion.

17 You should consider any expert opinion given by a
18 witness and, like any other evidence, give it the weight
19 you think it deserves. If you decide that an expert
20 witness's opinion is not based on sufficient education or
21 experience, or if you decide that the reasons given in
22 support of the opinion are not sound or that the opinion
23 is outweighed by other evidence, you may disregard the
24 opinion entirely.

25 An expert witness's testimony is to be given no

JUDGE'S CHARGE TO THE JURY

1 greater weight than that of other witnesses simply because
2 the witness is an expert. And you do not have to accept
3 an expert's opinion even though it is uncontradicted.

4 In this case there has been a conflict of testimony
5 of expert witnesses. To that end, you must weigh one
6 expert's opinion against that of the other. And you must
7 consider the reasons given by one as compared with those
8 of the other. And you should consider the relative
9 credibility and knowledge of the experts who have
10 testified. Then you should find in favor of the expert
11 testimony which in your opinion is entitled to the greater
12 weight.

13 In this case certain testimony has been presented
14 into evidence by deposition. A deposition is testimony
15 taken under oath before a trial and preserved in writing.
16 You are to consider that testimony as if the witness had
17 given it in court.

18 Furthermore, in our courts no distinction is made
19 between corporations and individuals. A corporation is a
20 person in the eyes of the law. A corporation is entitled
21 to the same fair and impartial consideration and to
22 justice by the same legal standards as an individual.

23 A person to whom a debt is due for labor performed or
24 furnished or for materials furnished and actually used in
25 the erection, alteration or repair of a building or

JUDGE'S CHARGE TO THE JURY

1 structure upon real estate or the lowering and equipping
2 of wells by virtue of an agreement with or by consent of
3 the owner of the building or structure or a person having
4 authority from or rightfully acting for the owner in
5 procuring or furnishing the labor or materials shall have
6 a lien upon the building or structure and upon the
7 interest of the owner of the building or structure and the
8 lot of land upon which it is situate to secure the payment
9 of the debt due to him.

10 As used in this section, labor performed or furnished
11 in the erection, alteration or repair of any building or
12 structure upon any real estate includes the preparation of
13 plans, specifications, and design drawings and the work of
14 making the real estate suitable as a site for the building
15 or structure.

16 The work is considered to include but not be limited
17 to the grading, bulldozing, leveling, excavating and
18 filling of land, including the furnishing of fill soil,
19 the grading and paving of curbs and sidewalks and all
20 asphalt pavement, the construction of ditches and other
21 drainage facilities, and the laying of pipes and conduits
22 for water, gas, electric, sewage and drainage purposes,
23 and the disposal of any construction and demolition debris
24 including final disposal by a construction and demolition
25 landfill.

JUDGE'S CHARGE TO THE JURY

1 Any private security guard services provided by any
2 person at the site of the building or structure during its
3 erection, alteration or repair is considered labor
4 performed or furnished within the meaning of this
5 section. As used in this section materials furnished and
6 actually used include tools, appliances, machinery or
7 equipment supplied for use on the building or structure to
8 the extent of their reasonable rental value during their
9 actual use.

10 Person as used in this section means any individual,
11 corporation, partnership, proprietorship, firm,
12 enterprise, franchise, association, organization or other
13 entity. For the purposes of this section, the term
14 materials includes flooring, floor coverings and wall
15 coverings.

16 In order to protect and enforce a mechanic's lien the
17 person asserting the lien, one, must serve upon the owner
18 or person in possession and file with the Registry of
19 Deeds or Clerk of Court a notice or certificate of lien
20 containing the lien amount, a description of the real
21 property and other required information within 90 days
22 after he ceases to labor on or furnish labor or materials
23 for such building or structure.

24 Two, must commence a lawsuit seeking to enforce the
25 lien within six months after ceasing to provide labor or

JUDGE'S CHARGE TO THE JURY

1 materials for such real property.

2 And, three, must file a notice of the pending action
3 which is called a lis pendens within six months after
4 ceasing to provide labor or materials for such real
5 property.

6 No inaccuracy in such statement relating to the
7 property to be covered by the lien, if the property can be
8 reasonably recognized, or in stating the amount due for
9 labor or materials, shall invalidate the proceedings
10 unless it appears that the person filing the certificate
11 has willfully and knowingly claimed more than he is due.

12 The deadline to serve and record a mechanic's lien
13 begins running from the date the last material was
14 furnished or work performed, regardless of whether such
15 material or work is insignificant, regardless of whether
16 the final work is delayed, provided the reason for the
17 delay is not to improperly extend the period for
18 perfecting the lien.

19 In this case, the Plaintiff claims that the Defendant
20 breached a contract that existed between the parties.

21 In order to recover for a breach contract, the
22 Plaintiff must prove the claim by a preponderance or the
23 greater weight of the evidence. In this case, the parties
24 have stipulated a contract existed between them.

25 A contract is an agreement entered into by two or

1 will bring in the items of evidence and instruct you to
2 begin your deliberations at that time.

3 Also, should you have any questions during your
4 deliberations you must put them in writing and send them
5 to me by way of the bailiff. The Court bailiff will be
6 placed immediately outside of the jury room door to
7 provide security and assistance for you during your
8 deliberations.

9 Once you have reached your verdict, please knock on
10 the jury room door and ask the bailiff to advise the Court
11 that you have reached a verdict and we will return to the
12 courtroom as promptly as possible thereafter.

13 Thank you. And you may now retire to the jury room,
14 but, again, do not begin your deliberations until you have
15 been advised to do so.

16 Food should be brought in any given moment. You can
17 eat and deliberate, take a break, deliberate, whatever you
18 want to do, but do not begin until I tell you.

19 (Jury exits courtroom at 12:56 p.m.)

20 THE COURT: Any objections to the charge given from
21 the Plaintiff?

22 MS. ARIAIL: No, Your Honor.

23 THE COURT: From the Defendant?

24 MR. LYLE: I would request that the Court instruct the
25 jury on 27-1-15 that, simply because they determine that

1 the Plaintiff prevails, if in fact they do, does not mean
2 that Mr. Slivka is automatically liable under 27-1-15 as
3 long as there is evidence of a probable dispute they can
4 find if the investigation was reasonable and he didn't
5 violate the statute which is consistent with the holding
6 in Carolina Steel versus Palmetto Ridge Construction case.
7 It's a 2006 District Court case. That's 444 F. Sup Second
8 577.

9 THE COURT: Does the Plaintiff have any problem with
10 that?

11 MR. BRUORTON: I think the charge that was given was
12 clear, Your Honor.

13 THE COURT: That didn't answer my question. Do you
14 have a problem with that? Apparently it's good law.

15 MR. BRUORTON: Can I read the case?

16 THE COURT: Sure. Take your time.

17 (Pause.)

18 MR. BRUORTON: It's a little different, Your Honor,
19 in that in this case there was a reasonable investigation
20 made by the Defendant and an amount of money actually paid
21 to the Plaintiff. In this case that hasn't happened. The
22 Plaintiff has admitted that he owes certain moneys to the
23 Plaintiff -- I mean, the Defendant has admitted that he
24 owes certain moneys to the Plaintiff.

25 This is not the case. I think this case is not on

1 point in the fact that the request from the Defendant for
2 the additional instructions to the jury would create a
3 little bit of an issue with the way that the statute
4 actually reads.

5 THE COURT: I think I'm just going to leave it as I
6 stated. I read the statute verbatim.

7 You already did very well and you did, too. And I
8 think they have taken in all they could possibly take in.

9 All right. Why don't you take a look at the
10 exhibits, make sure they're all in order?

11 (Attorneys comply.)

12 THE COURT: Is that correct from the Plaintiff's
13 perspective?

14 MR. LYLE: Yes, sir.

15 THE COURT: Before we adjourn, I do want to tell the
16 parties that regardless of the outcome in this case you
17 both have very good lawyers. They have worked a long time
18 and they have worked very hard, and they have exhausted
19 themselves mentally and physically. And regardless of the
20 outcome, you can't blame your lawyer. They've done a good
21 job.

22 MR. LYLE: Thank you, Judge.

23 THE COURT: And I appreciate y'all doing that and
24 acting the way you've acted.

25 MR. BRUORTON: Thank you, Your Honor. It's been a

STATE OF SOUTH CAROLINA)

COUNTY OF COLLETON)

COURT OF COMMON PLEAS
2009-CP-15-00595

THE SPRIGGS GROUP, P.C.)
PLAINTIFF)

vs.)

TRANSCRIPT OF RECORD

GENE R. SLIVKA)
DEFENDANT)

July 22, 2011
Walterboro, South Carolina

B E F O R E:

HON. WILLIAM H. SEALS, JR., Judge and a jury.

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

A. BRIGHT ARIAIL, ESQ.
JAMES A. BRUORTON, IV, ESQ.
Attorneys for the Plaintiff

ROBERT T. LYLES, JR., ESQ.
Attorney for the Defendant

CAROL M. THUEME, RPR
Official Court Reporter

1 (During jury deliberations, Court Reporter Cheri
2 Young was replaced by Court Reporter Carol Thueme.)

3 THE COURT: Go ahead and bring the jury in.

4 (The jury came into open court at approximately
5 4:15 p.m.)

6 THE CLERK: Madam Forelady, have you reached a
7 verdict?

8 THE FOREPERSON: Yes, ma'am, we have.

9 THE COURT: I find that the verdict form is in
10 order. You may publish the verdict.

11 You all may have a seat. Thank you.

12 THE CLERK: In Case 2009-CP-15-595, the Spriggs
13 Group, P.C. versus Gene R. Slivka, with regard to the
14 Plaintiff's claim for foreclosure of mechanic's lien
15 against the Defendant, we find for the Plaintiff.

16 With regard to the Plaintiff's breach of
17 contract claim against the Defendant, we find for the
18 Plaintiff.

19 With regard to the Plaintiff's claim based on
20 Defendant's failure to comply with South Carolina Statute
21 27-1-15, we find for the Plaintiff.

22 With regard to the Defendant's slander of title
23 claim against the Plaintiff, we find for the Plaintiff.

24 If you find for the Plaintiff on Questions 1, 2,
25 and 3, you should consider Question 5. No. 5 is, We

1 reward the Plaintiff \$173,990.53 in actual damages.

2 If you find for the Defendant on Question 4, you
3 should consider Question 6. We award the Defendant zero
4 dollars in actual damages.

5 I certify that this decision is the unanimous
6 decision of the jury, signed by the foreperson, Matrell H.
7 Causey, July 22nd, 2011.

8 Ladies and gentlemen of the jury, if this is
9 your verdict, will you please raise your right hand.

10 (All hands are raised.)

11 THE CLERK: Thank you.

12 THE COURT: Thank you very much.

13 Is there need for further polling from the
14 Plaintiff?

15 MR. BRUORTON: No, Your Honor.

16 THE COURT: How about from Defense?

17 MR. LYLES: No.

18 THE COURT: All right. Members of the jury, I
19 want to thank you. You reached your verdict on 4:15 on
20 Friday afternoon. You have been here all week and you
21 have worked hard. And you have sat through this and
22 listened to all of the evidence and listened to all of the
23 witnesses. You have paid attention. Some of you haven't
24 even felt good and you stayed and did your job. I'm very,
25 very appreciative of that.

1 I want to let you know that you are dismissed
2 for the week, of course. You have earned a three-year
3 exemption by being here and serving this week. And you
4 will also get paid.

5 When you get your check, do not think I had
6 anything to do with it. I didn't sign it, I didn't set
7 the amount of money you get, take that to your politician,
8 but that is a small token of our appreciation.

9 Thank you very much, and you are dismissed.

10 THE JUROR: Excuse me, Your Honor. I believe
11 you said a small token?

12 THE COURT: A small token.

13 THE JUROR: All right. That's okay.

14 (The jury was excused at 4:18 p.m.)

15 THE COURT: All right. Any motions from the
16 Plaintiff?

17 MR. BRUORTON: No, Your Honor.

18 THE COURT: Any motions from the Defense?

19 MR. LYLES: Not at the present time. I would
20 like to reserve the right to make some post-trial motions
21 within a week to ten days.

22 THE COURT: Ten days. Ten days for both sides.

23 MR. BRUORTON: Your Honor, that would give us
24 time to get together obviously our motion for -- and I
25 guess I might just make that now -- our motion for

1 attorney's fees, interest and costs pursuant to 27-1-15,
2 and also the mechanic's lien statute, the prevailing
3 party, but we would ask for some time to submit that
4 documentation to the Court.

5 THE COURT: Right. You can do that. That would
6 be fine.

7 Thank you very much. You all have a good
8 weekend.

9 (The proceedings were concluded.)

10 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

The Spriggs Group, P.C.

Plaintiff,

vs.

Gene R. Slivka,

Defendant.

C/A NO. 2009-CP-15-000595

Verdict

1. With regard to the PLAINTIFF's claim for foreclosure of a mechanic's lien against the Defendant, we find:

☐ For the Defendant.
☒ For the Plaintiff.

2. With regard to the PLAINTIFF's breach of contract claim against the Defendant, we find:

☐ For the Defendant.
☒ For the Plaintiff.

3. With regard to the PLAINTIFF's Claim based on Defendant's failure to comply with South Carolina Statute § 27-1-15, we find:

☐ For the Defendant.
☒ For the Plaintiff.

4. With regard to the DEFENDANT's Slander of Title claim against the Plaintiff, we find:

☒ For the Plaintiff.
☐ For the Defendant.

Continued on Following Page.

If you find for the Plaintiff on Questions 1, 2, or 3 you should consider Question 5.

5. We award the Plaintiff \$173,990.53 in actual damages.

If you find for the Defendant on Question 4, you should consider Question 6.

6. We award the Defendant 0 in actual damages.

I certify that this decision is the unanimous decision of the jury.

Foreperson

July 22nd, 2011

The Spriggs Group, P.C. v. Gene R. Slivka
Appellate Case No. 2011-204366

PLAINTIFF'S EXHIBIT 2

OVERSIZED

(Main House Site Plan, Sheet A01)

(Issued for Permit 8/01/08)

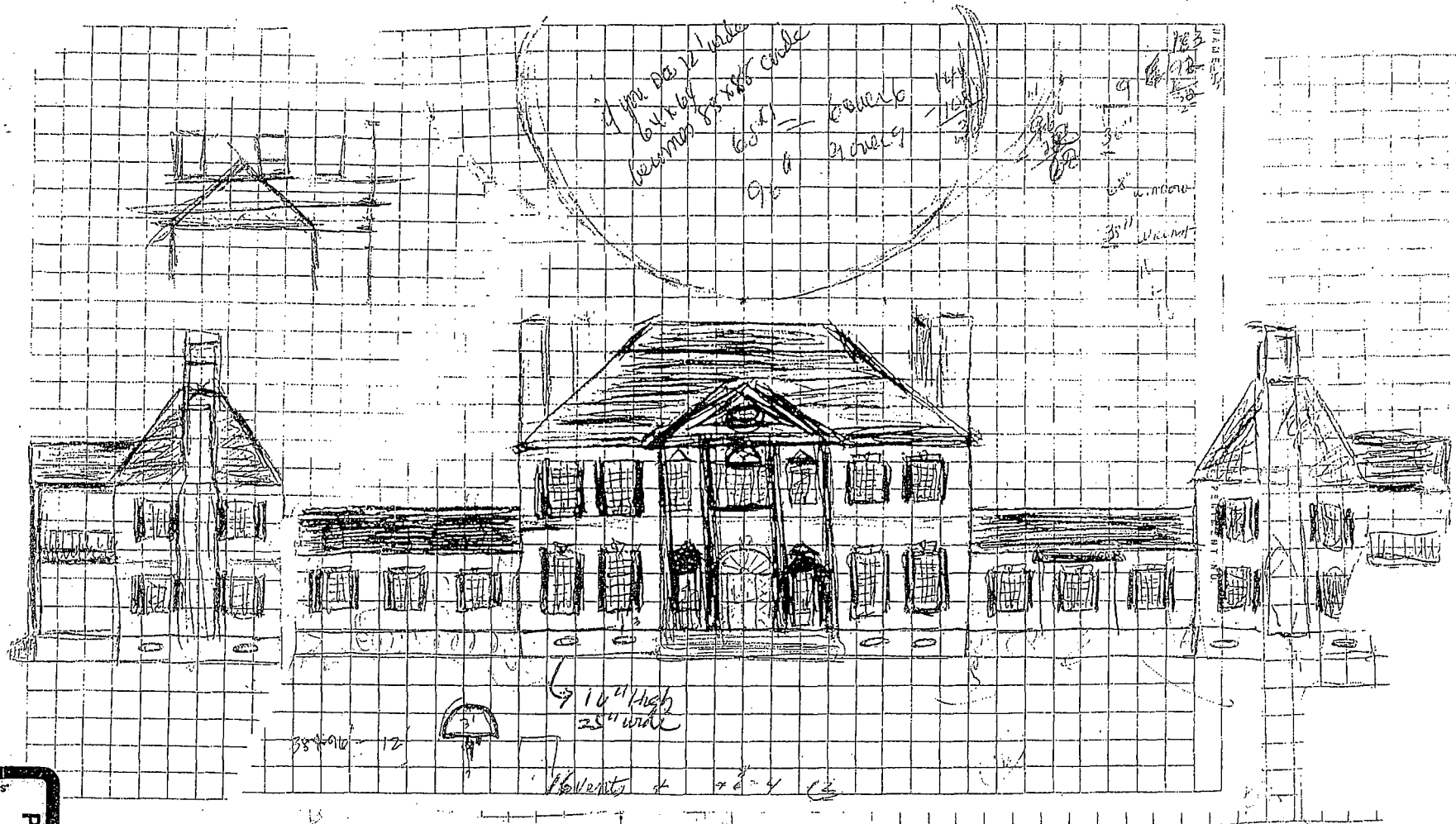
The Spriggs Group, P.C. v. Gene R. Slivka
Appellate Case No. 2011-204366

PLAINTIFF'S EXHIBIT 3

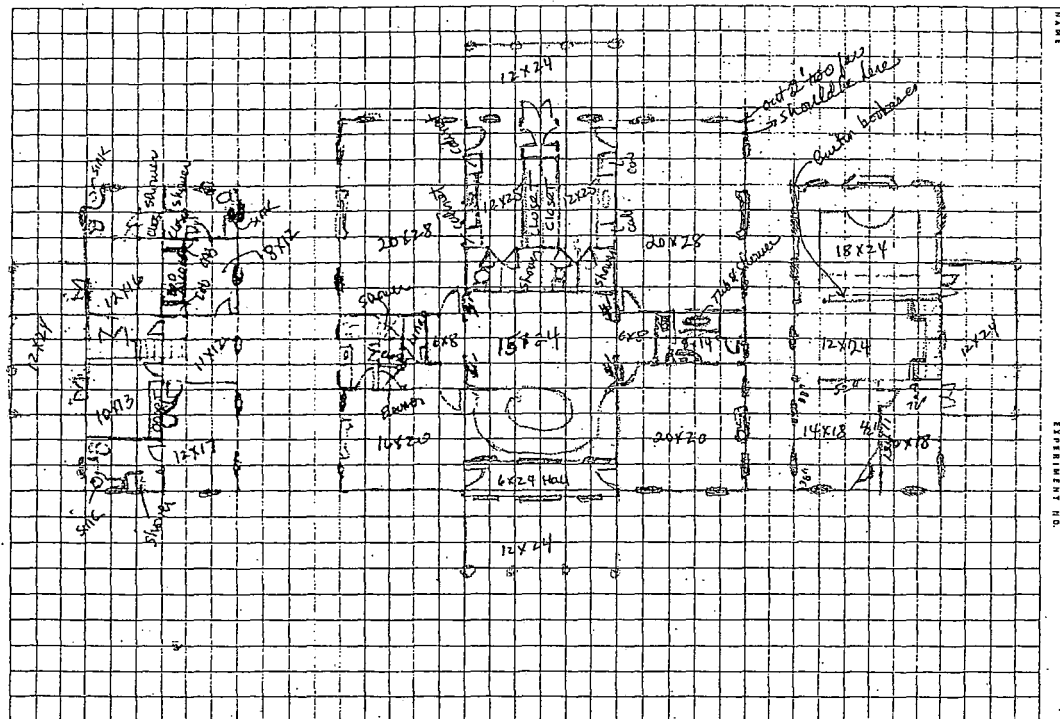
OVERSIZED

(Main House Site Plan, Sheet A02)

(Issued for Permit 8/01/08)







The
Spriggs
Group
P.C.

27 November 2006

27th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10052
Savannah
Georgia
31412
USA

Reference: New Residence and Outbuildings
Julianton Plantation

Planning
Architecture
Interior Design

Dear Gene:

Tel. 912.232.6441
Fax. 912.232.6443
tsq@spriggsgroup.com
www.spriggsgroup.com

For your project, I have provided three focus areas for your consideration. The first is an estimate of probable construction cost for each of seven buildings. The second is our estimate of drawings and specifications needed by the contractor to build the structures. The third is our fee proposal to complete the architectural and engineering work with restrictions and limitations noted. I have enclosed national average fee schedules from 2005 for this type of project, for your information.

Estimated Construction Cost Based on Program Outlined in 5 October 2006 Letter

Main House		
Total Gross Heated Space	13,056 SF x \$250/SF	\$3,264,000
Basement	7,168 SF x \$ 70/SF	501,760
Porches	1,152 SF x \$ 60/SF	69,120
Exterior Porch Stairs	4 x \$12,000 each	48,000
Total Main House		\$3,882,880

Conservatory		
Total Gross Space	864 SF x \$150/SF	\$ 129,600

Stable		
Total Gross Ground Space	2,250 SF x \$125/SF	\$ 315,000
Hay Loft	1,000 SF x \$70/SF	70,000
Total Stable		\$ 385,000

Garages		
Total Gross Ground Space	1,300 SF x \$90/SF	\$ 117,000
Attic (No HVAC)	900 SF x \$75/SF	67,500
Total Each Garage		\$ 184,500
Total Garages		\$ 369,000

Pavilion and Grotto		
Total Gross Space	200 SF x \$100/SF	\$ 20,000

PLAINTIFF'S
EXHIBIT

7

Mr. Gene Slivka
20 November 2006

Boat House		
Total Gross Space	540 SF x 110/SF	\$ 59,400
Total Buildings		\$4,845,880

Walls at Conservatory and Stable (4 F High x 100 LF)	400 SF x \$40/SF	\$ 16,000

Additional Costs

Site Grading
Civil: Wells & Piping
Septic Tanks & Drain Fields
Solar Energy System
Grassing & Landscaping

Drawings and Specifications

Main House

Sheet Number-Description

A1-Site Plan (includes adjacent out-buildings)
A2-Foundation Plan & Details
A3-Basement & First Floor Plans
A4-Second Floor & Attic Plans
A5 & 6-Enlarged Partial Plans
A7-Building & Wall Sections & Details
A8-Schedules
A9 & 10-Elevations
A11- Roof Plan & Details
A12 & 13-Framing Plans
A14-Structural Details
P1-Plumbing Basement & First Floor Plans
P2-Plumbing Second Floor & Attic Plans
P3-Plumbing Riser Plans & Schedules
M1-Mechanical Basement & First Floor Plans
M2-Mechanical Second Floor & Attic Plans
M3-Mechanical Schedules & Details
E1-Electrical Basement & First Floor Plans (Power & Lighting)
E2-Electrical Second Floor & Attic Plans (Power & Lighting)
E3-Electrical Schedules & Details

Conservatory

Sheet Number-Description

A1-Foundation & Floor Plans & Details
A2-Elevations
A3-Framing Plan, Building & Wall Sections

Mr. Gene Slivka
20 November 2006

Conservatory Continued

A4-Window & Door Elevations & Details
PME1-Plumbing, Mechanical & Electrical Plans
PME2-Plumbing, Mechanical & Electrical Details

Stable

Sheet Number-Description
A1-Foundation Plan & Details
A2-Floor & Hay Loft/Attic Plans
A3-Building & Wall Sections
A4-Elevations
A5-Schedules & Details
A6-Framing & Details
A7-Roof & Details
PME1-Plumbing, Mechanical & Electrical Plans
PME2-Plumbing, Mechanical & Electrical Schedules
PME3-Plumbing, Mechanical & Electrical Details

Garages

Sheet Number-Description
A1-Foundation & Floor Plans
A2-Attic & Roof Plans
A3-Elevations & Sections
A4-Framing Plans & Details
PME1-Plumbing, Mechanical, Electrical Plans & Details

Grotto

Sheet Number-Description
A1-Foundation & Floor Plans & Details
A2-Roof Plan, Elevations & Details
PE1-Plumbing & Electrical Plans & Details

Boat House

Sheet Number-Description
A1-Site Plan, Foundation & Floor Plans & Details
A2-Elevations & Sections
A3-Framing Plan & Details
PE1-Plumbing & Electrical Plans & Details

Total drawings: 52 sheets consisting of 34 architectural and 18 engineering drawings
plus cover sheet.

Specifications

Applicable sections of 16-Division Master Format. Preliminary estimate is
approximately 100 pages.

Mr. Gene Slivka
20 November 2006

Fee Proposal

Concept Design sit-down sessions and
Design Refinement for six building types
Project architect 80 hours @ \$175/hr \$ 14,000

Project Management
Internal - Project architect 40 hours @ \$175/hr 7,000
Consultants - project architect 40 hours @ \$175/hr 7,000

Construction Documents
Drawing set-up, lay-outs, design details, and schedules
24 hours/sheet @ \$105/hr X 34 sheets 85,680
Cover sheet 4 Hours @ \$105/hr 420

Specifications
Project architect 80 hours @ \$175/hr 14,000
Clerical 40 hrs @ \$35/hr 1,400

Consultants
Plumbing, mechanical, electrical engineering 20,000
Structural engineering 12,000

Total Fee \$161,500

Estimated Reimbursable Expenses \$ 1,000
Computer plots, printing, copying

You are welcome to use material samples, catalogs and other resources at our office.
This proposal is based on the following assumptions:

- 1) You will layout the kitchen and will work with a supplier such as Home Depot who will produce a floor plan and cabinet elevations for our use to confirm room size and dimensions and to determine plumbing locations and hood exhaust location.
- 2) You will select all kitchen appliances and will provide manufacturers, model numbers, and cut sheets for our use in preparing applicable plumbing and electrical plans.
- 3) You will work with a stair builder who will provide a stair shop drawing for the main house central stair for our use to determine structural support and framing.
- 4) You will contact and work with a solar energy system provider who will give us all information about panel locations, support requirements, and connections for our use to determine structural framing, connections, and ventilation of storage batteries.

Mr. Gene Slivka
20 November 2006

- 5) You will provide molding and trim supply sources and model numbers for our inclusion on the drawings.
- 6) You will select all lighting fixtures and will supply manufacturers and models for our use in preparing electrical schedules.
- 7) You will contract directly with a civil engineering firm, landscape architect and/or nursery . We will be provided with site drawings for water wells, septic tanks, and drain fields locations to determine our water and sanitary line entries to the buildings.
- 8) You will engage a testing laboratory to provide soils tests requested by our structural engineer.
- 9) You will engage a testing laboratory to provide tests for concrete requested by our structural engineer.
- 10) You will select brick manufacturer, color, and style.
- 11) You will select roofing material, manufacturer, and style.
- 12) You will select flooring material, colors, and styles and will provide manufacturer, and model numbers for our inclusion on finish schedules.
- 13) You will select interior and exterior colors and will provide manufacturers and numbers for our inclusion on finish schedules.
- 14) We will select door, window, and shutter hardware for your review and approval.
- 15) We will select plumbing fixtures for your review and approval.
- 16) We will provide shop drawing review for mechanical systems, site visits for electrical inspection prior to cover up, and final plumbing, mechanical, and electrical punch list.
- 17) We will provide structural foundation inspections and one framing inspection for each building.
- 18) We will provide any requested construction phase services by the project architect or staff on an hourly basis.
- 19) Once we begin construction documents, any changes in room layouts, sizes, window locations, door locations, and exterior elevation designs will be performed on an hourly basis.
- 20) We have not included any dock design for the boat house area since none was mentioned earlier.

Mr. Gene Slivka
20 November 2006

I am concerned that we may not have estimated enough time for this project and that our fee is too low. However, I am going on the information you gave over the telephone. If you look at the attached fee schedule, you will see that fees range from 15 to 19 percent of construction cost for custom single family dwellings. Typically fees breakdown by phases with the following percentages of fee by phase: schematic design - 15%, design development - 15%; construction documents - 45%; bidding or contractor negotiations - 5%; construction administration - 20%. For the construction documents phase, our proposed fee is less than half the fee that would be charged under national averages.

Gene, this is an exciting project, and I think that my estimates are accurate. I suggest you might contact Jim Turner and his chief estimator Mark Hiett to go over my projections. Let me know his review turns out. I will happy to talk with you further about the project.

Yours very truly,

THE SPRIGGS GROUP, P.C.


C. Kenneth Spriggs, AIA

CKS:bwp

FEEES

2005

FEEES FOR PROFESSIONAL DESIGN SERVICES

A GUIDELINES PUBLICATION

HOUSING

	Typical Fee Range as % of construction cost	Scope of Design Services			Highest Level Full-Service Fees
		Baseline Economy	Standard Average	Comprehensive Superior	
Dwellings, Single Family (Developer, Quality Tract) New Construction	3 - 8%	3%	6.4%	8%	8 - 12%

Typical construction cost range: \$56 to \$130
 Average cost: \$85 sq. ft. (not including sitework)
 Typical range of building sizes: 1,400 - 3,000 sq. ft.
 Average size: 1,900 sq. ft.

Note: Higher priced tract housing is rarely designed by architects, and unlicensed designer or drafting service fees are considerably lower than those cited above.

Renovation/Additions (Not applicable.)

Dwellings, Single Family (Developer, Luxury) New Construction	7.5 - 12.5%	7.5%	9.5%	12.5%	12.5 - 14%

Typical construction cost range: \$105 to \$262
 Average cost: \$140 sq. ft. (not including sitework)
 Typical range of building sizes: 2,500 - 6,000 sq. ft.
 Average size: 3,500 sq. ft.

Renovation/Additions	n/a - 16%	n/a	15%	16%	16 - 18%

Dwellings, Single Family (Custom Luxury) New Construction	n/a - 17.5%	n/a	15.2%	17.5%	17.5 - 19%

Typical construction cost range: \$117 to \$295
 Average cost: \$175 sq. ft. (not including sitework)
 Typical range of building sizes: 3,000 - 9,000 sq. ft.
 Average size: 3,900 sq. ft.

Renovation/Additions	n/a - 20%	n/a	18.5%	20%	20 - 22%

The architectural fee percentages include normal structural, mechanical, and electrical engineering fees.
 See page 4 for an explanation of building size and construction cost information.
 See page 5 for more details about what is and what is not included in consultant pass-through fees.
 See page 6 for an explanation of how to read and use the information in this survey.

**The
Spriggs
Group
P.C.**

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443

www.spriggsgroup.com

9 February 2009

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianon Plantation
Colleton County, South Carolina

Dear Gene:

Enclosed are invoices for our work from January 2007 through December 2008 focusing on seven buildings forming the main part of your new development for a single family residence. The project is located on land in Colleton County and borders Whitehall Road in Greenpond, South Carolina. I chose to divide our work into four invoices dealing with specific topics. They are numbered 0609-2 through 0609-5. The first invoice 0609-1 dated 26 February 2007 and paid that day was the initial payment for services based on our letter dated 27 November 2006 outlining our understanding of the project at the time.

Invoice 0609-2 covers the design and preparation of constructions documents over a two-year period and which you used to obtain permits for each building. A second set of drawings was prepared for the Main House after a permit was obtained in August 2008. Those drawings incorporated changes which you wished to make for various aspects of the house. The total sets of drawings for all buildings comprised 85 sheets.

Invoice 0609-3 covers services in addition to the basic work discussed in the referenced letter and changes requested during preparation of construction documents for the seven buildings. At the onset we anticipated creating one set of documents for all the buildings which were to be constructed by your selected contractor J. T. Turner Construction Company. However, you directed us to produce documents for the buildings in a sequence you chose and that could start as each building set was completed.

Invoice 0609-3 covers construction phase services for activities you requested us to undertake. After the first buildings were under way, you chose to terminate Turner and enter into negotiations with and obtain pricing from independent contractors for specialty trades who normally would have been subcontractors to a general contractor such as Turner. We assisted in recommending a number of companies, distributed drawings for pricing, and once they were engaged by you, we answered field questions and provided additional information for their use.

PLAINTIFF'S
EXHIBIT

8

Mr. Gene Slivka
9 February 2009
Page

I am pleased that we recommended Chatham Concrete Construction Inc., for as you noted, the company's price for poured-in-place concrete and masonry block work was \$250,000 less than prices you received from the general contractor.

Our knowledge of unusual specialty contractors also was helpful in building your grotto. Last May at New Julianston, we introduced you to Dave Manwarren whose company D. L. Manwarren Corporation is located in Rancho Cucamonga, California. We are working with him on our museum project in Conway, South Carolina. He successfully developed and constructed out of concrete your quarter-sphere grotto structure within the brick pavilion. Your desire was to have the appearance of dry stacked rock with slow-dripping water covering the surface as found in old grottos in Europe. You also asked Dave if he could construct a large bolder out of poured concrete to serve as the base of your waterfall feature located near the gardens adjacent to the Conservatory. I believe he is just completing that work.

Invoice 0609-5 covers all our reimbursable expenses for providing copies, prints, mailing, and other items over a two-year period. My original estimate of reimbursable costs was based on your identification of the contractor, J. T. Turner, who usually asks us for digital drawings and then produces all the copies needed for actual pricing and construction. As your consultant after terminating Turner, we were charged with producing and distributing all documents.

Over the past two years you have certainly challenged us to achieve your goals and schedules as you got further into the project. To accommodate your obligations on site, we met with you regularly after 6 PM in our office to go over areas of interests, concerns, and clarifications. When you mentioned that you could not read detailed drawings, Andy Bozeman from our office and I explained the intricacies of construction details and why certain sequences and materials had to be employed. I remember one session which started at 7 PM one evening and went to 2 AM in the morning of the next day. On another occasion, I heard the door bell ring at my house one Sunday morning at 7 AM and saw you standing there asking for drawings to take back to South Carolina. As you know, my friend, trying to satisfy all your verbal directives, sometimes I forget. That time I thought you said you were coming by at "evening" and you thought you said "morning".

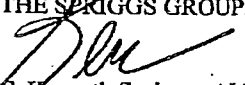
After two years from start to "rounding the bend", I am excited that you have all seven buildings up with the Main House enclosed and receiving interior finishes. I do ask one thing. Our invoices are based on my friendship with you and the modest amounts we charged. I would not want these figures to be made public, knowing that the construction cost of the seven buildings is well over \$7,000,000. Normally, as a percentage of construction cost for a project like this one, our fees would be between 10 to 15 per cent. Our total invoices amount to just 3.9%. I'm sure you will keep our fees in confidence.

Mr. Gene Slivka
9 February 2009
Page

We have occasionally received calls from your contractors, and we always have responded during these past two months of 2009. I am sure there are many things you may still want to do, and as always, we will support you to achieve your goals. Just let me know how we may assist.

Yours very truly,

THE SPRIGGS GROUP, P.C.


C. Kenneth Spriggs, AIA
Principal

enc.

CKS:bwp

**The
Spriggs
Group
P.C.**

**INVOICE
0609-1**

26 February 2007

29th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Reference: Architectural/Engineering Services
New Julianston Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

Item:

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Design Services for Main House, 2 garage buildings
with apartments above, conservatory, potting building,
stable, and pavilion with grotto, based on letter
dated November 27, 2006 from The Spriggs Group, P.C.

Initial Payment for Services \$76,210.00

Total this Invoice \$76,201.00

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

INVOICE
0609-2

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

January 2007 through December 2008:

Design and preparation of final drawings based on
formula stated in our proposal letter dated 27 November 2006.

Main House	42 sheets x 24 hours/sheet x \$105/hr.	\$105,840
Conservatory	6 sheets x 24 hours/sheet x \$105/hr.	15,120
Potting Shed	6 sheets x 24 hours/sheet x \$105/hr.	15,120
Barn	12 sheets x 24 hours/sheet x \$105/hr.	30,240
Garages (2)	18 sheets x 24 hours/sheet x \$105/hr.	45,360
Grotto	3 sheets x 24 hours/sheet x \$105/hr.	7,560

Total Preparation of Final Drawings	\$219,240
Consultants Paid by Architect	20,535
Sub-Total	239,775

Previous Invoice 0609-1 Credit	(76,201)

Total this Invoice	\$163,574

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

INVOICE
0609-3

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Additional Services and Changes based on items
listed in our proposal letter dated 27 November 2006:

August 2007:

Re-design rear wall system and change
construction documents for potting shed. 6 hrs. @ \$105/hr. \$ 650.00

October 2007:

Drafting for steps and retaining walls at garden.
Meet with contractor and prepare grid plan. 11 hrs. @ \$75/hr. 825.00

March - April 2008:

Research dentil mouldings at Taft House Museum,
Cincinnati; contact Historic American Building Survey
(HABS), obtain drawing and photo, develop and
reproportion original mouldings for barn and garages.
Reproportion original moulding for Main House.
Develop alternative moulding details for barn and
garages. 32 hrs. @ \$105/hr. 3,360.00

May 2008:

Research dog wash equipment and provide
cut sheets of products. 1.5 hrs. @ \$105/hr. 157.50
Design interior trim and details to incorporate
existing doors from Julianton Plantation,
McIntosh County, Georgia. 4 hrs. @ \$105/hr. 420.00

Mr. Gene Slivka
9 February 2009
Page

August 2008:

Redesign front entry windows, delete palladian exterior window and change 6 foot window to 8 feet.	15 hrs. @ \$105/hr.	1,575.00
Provide manufacturer sources for slate, millwork, mouldings.	9.5 hrs. @ \$105/hr.	997.50
Research Rinnai hotwater system.	1.5 hrs. @ \$105/hr.	157.50

September 2008:

Column redesign.	7 hrs. @ \$105/hr.	735.00
Chimney redesign from steel frame to masonry.	23.5 hrs. @ \$105/hr.	2,467.00
Interior Palladian window redesign.	5 hrs. @ \$105/hr.	525.00

Total this Invoice	\$11,849.50

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

**INVOICE
0609-4**

9 February 2009

30th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
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31412
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Reference: Architectural/Engineering Services
New Julianston Plantation
Colleton County, South Carolina

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Fax. 912.232.6443
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www.spriggsgroup.com

Construction Administration Services.
Distribute documents for bid pricing, identify
trade contractors, answer field questions and
produce field sketches for garages, barn, main
house and grotto. Do quantity take-offs for
main house sheet rock panels.

May 2008:

Project Architect (P.A.)	2 hrs. @ \$175/hr.	350.00
Project Architectural Designers (P.A.D.)	2.5 hrs. @ \$105/hr.	262.50

June 2008:

P.A.	2 hrs. @ \$175/hr.	350.00
P.A.D.	3 hrs. @ \$105/hr.	315.00

July 2008:

P.A.D.	8 hrs. @ \$105/hr.	840.00

August 2008:

P.A.	.5 hrs. @ \$175/hr.	87.50
P.A.D.	19 hrs. @ \$105/hr.	1,995.00

September 2008:

P.A.	1.5 hrs. @ \$175/hr.	262.50
P.A.D.	13.5 hrs. @ \$105/hr.	1,417.50

October 2008:

P.A.	14.5 hrs. @ \$175/hr.	2,537.50
P.A.D.	44.4 hrs. @ \$105/hr.	4,672.50

Mr. Gene Slivka
9 February 2009
Page 2

November 2008:

P.A.	9.5 hrs. @ \$175/hr.	1,662.50
P.A.D.	1 hr. @ \$105/hr.	105.00

December 2008:

P.A.	10.5 hrs. @ \$175/hr.	1,837.50
P.A.D.	27.5 hrs. @ \$105/hr.	2,887.50

Total this Invoice

\$19,532.50

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

**INVOICE
0609-5**

9 February 2009

30th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

Reimbursable Expenses:

January 2007 through December 2008:

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Copies: Xerox, Laser, Fax	
B/W	\$ 397.50
Color	33.20

Postage:	\$ 27.07
Blue Prints:	51.03
Computer Plots:	964.50

Coastal Digital Reprographics	
Paid Invoices	\$2,270.51

Savannah Blue Print Co.	
Paid Invoices	\$ 134.72

Total	\$3,878.53

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

INVOICE
0609-6

21 May 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianston Plantation
Colleton County, South Carolina

Appraisal Services:

Prepare room name schedule corresponding to room numbers on plans, calculate square footages, provide breakdowns requested by appraiser, reduce plans to letter size format and convert to pdf format.

Architect	1 hr. @ \$175 per hr.	\$175.00
Designer	2.5 hrs. @ \$105 per hr.	\$262.50

Total		\$437.50

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

INVOICE
0609-7

16 November 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Construction Phase Services:

1 -13 January 2009

Receive requests from independent contractors in the field for details concerning main house balcony framing flashing including use of alternate materials, request to substitute main house plumbing waste line size above basement level, research and coordination with plumbing engineer, go over details for Grotto Pavilion. Provide explanation to owner of what is shown on various drawings.

Project Architect 1.5 hrs @\$175/hr	\$ 262.50
Project Architectural Designer 6.5 hrs @ \$105/hr	\$ 682.50
Consultant Engineer 1 hr @ \$140/hr	\$ 140.00

Total	\$1,085.00

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

ROSEN, ROSEN & HAGOOD, LLC

ATTORNEYS AND COUNSELLORS AT LAW

134 MEETING STREET, SUITE 200

P.O. Box 893

CHARLESTON, SOUTH CAROLINA 29402

PHONE (843) 577-6726

FAX (843) 724-8036

www.rrhlawfirm.com

A. Bright Ariail
barail@rrhlawfirm.com

March 15, 2010

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Gene Slivka

REGISTERED MAIL - RETURN RECEIPT REQUESTED

J. Reaves McLeod
McLeod Fraser & Cone
PO Box 230
Walterboro, SC 29488

Re: The Spriggs Group, P.C. v. Gene Slivka

Dear Mr. Slivka and Mr. McLeod:

Pursuant to the Agreement between Mr. Slivka ("Slivka") and The Spriggs Group, PC ("Spriggs"), Spriggs performed architectural and engineering design services for Slivka for renovations on property known as the New Julianton Plantation (also known as the Myrtle Grove Plantation or the Myrtle Grove Tract) in Colleton County, South Carolina (the "Project"). Currently, fees totaling \$199,919.53 have been billed by the attached invoices (No. 0609-2 through 0609-5 and 0609-7).

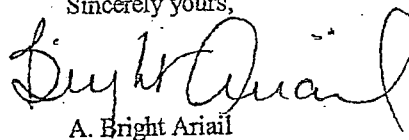
Demand for payment of monies due is hereby made pursuant to S. C. Code Ann. § 27-1-15 which requires the person upon whom the claim is made to make a reasonable and fair investigation of the merits of the claim and to pay it, or whatever portion of it is determined as valid, within forty-five days from the date of the mailing of this demand. Failure to make a proper investigation or to pay it, or whatever portion of it is determined as valid may make you liable for attorney's fees and interest.

Pursuant to the terms of S. C. Code Ann. § 27-1-15, I am making this demand on behalf of The Spriggs Group, PC directly on Mr. Slivka and his attorney of record, Mr. McLeod.



March 15, 2010
Page

Sincerely yours,

A handwritten signature in cursive script, appearing to read "A. Bright Ariail".

A. Bright Ariail

ABA/aba

**The
Spriggs
Group**
P.C.

INVOICE
0609-2

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

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formula stated in our proposal letter dated 27 November 2006.

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Total Preparation of Final Drawings	\$219,240
Consultants Paid by Architect	20,535
Sub-Total	239,775

Previous Invoice 0609-1 Credit (76,201)

Total this Invoice \$163,574

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

**INVOICE
0609-3**

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

Additional Services and Changes based on items
listed in our proposal letter dated 27 November 2006:

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

August 2007:

Re-design rear wall system and change
construction documents for potting shed. 6 hrs. @ \$105/hr. \$ 650.00

October 2007:

Drafting for steps and retaining walls at garden.
Meet with contractor and prepare grid plan. 11 hrs. @ \$75/hr. 825.00

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Cincinnati; contact Historic American Building Survey
(HABS), obtain drawing and photo, develop and
reproportion original mouldings for barn and garages.
Reproportion original moulding for Main House.
Develop alternative moulding details for barn and
garages. 32 hrs. @ \$105/hr. 3,360.00

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Research dog wash equipment and provide
cut sheets of products. 1.5 hrs. @ \$105/hr. 157.50
Design interior trim and details to incorporate
existing doors from Julianton Plantation,
McIntosh County, Georgia. 4 hrs. @ \$105/hr. 420.00

Mr. Gene Slivka
9 February 2009
Page .

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Interior Palladian window redesign.	5 hrs. @ \$105/hr.	525.00

Total this Invoice		\$11,849.50

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

INVOICE
0609-4

9 February 2009

30th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Reference: Architectural/Engineering Services
New Julianon Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

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Construction Administration Services.

Distribute documents for bid pricing, identify
trade contractors, answer field questions and
produce field sketches for garages, barn, main
house and grotto. Do quantity take-offs for
main house sheet rock panels.

May 2008:

Project Architect (P.A.)	2 hrs. @ \$175/hr.	350.00
Project Architectural Designers (P.A.D.)	2.5 hrs. @ \$105/hr.	262.50

June 2008:

P.A.	2 hrs. @ \$175/hr.	350.00
P.A.D.	3 hrs. @ \$105/hr.	315.00

July 2008:

P.A.D.	8 hrs. @ \$105/hr.	840.00

August 2008:

P.A.	.5 hrs. @ \$175/hr.	87.50
P.A.D.	19 hrs. @ \$105/hr.	1,995.00

September 2008:

P.A.	1.5 hrs. @ \$175/hr.	262.50
P.A.D.	13.5 hrs. @ \$105/hr.	1,417.50

October 2008:

P.A.	14.5 hrs. @ \$175/hr.	2,537.50
P.A.D.	44.4 hrs. @ \$105/hr.	4,672.50

Mr. Gene Slivka
9 February 2009
Page

November 2008:

P.A.	9.5 hrs. @ \$175/hr.	1,662.50
P.A.D.	1 hr. @ \$105/hr.	105.00

December 2008:

P.A.	10.5 hrs. @ \$175/hr.	1,837.50
P.A.D.	27.5 hrs. @ \$105/hr.	2,887.50

Total this Invoice	\$19,532.50

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

**INVOICE
0609-5**

9 February 2009

30th Year Anniversary

Mr. Gene Slivka

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

Reimbursable Expenses:

January 2007 through December 2008:

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Copies: Xerox, Laser, Fax
B/W
Color

\$ 397.50
33.20

Postage: \$ 27.07
Blue Prints: 51.03
Computer Plots: 964.50

Coastal Digital Reprographics
Paid Invoices \$2,270.51

Savannah Blue Print Co.
Paid Invoices \$ 134.72

Total \$3,878.53

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

**INVOICE
0609-7**

16 November 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Construction Phase Services:

1 -13 January 2009

Receive requests from independent contractors in the field for details concerning main house balcony framing flashing including use of alternate materials, request to substitute main house plumbing waste line size above basement level, research and coordination with plumbing engineer, go over details for Grotto Pavilion. Provide explanation to owner of what is shown on various drawings.

Project Architect 1.5 hrs @\$175/hr \$ 262.50

Project Architectural Designer 6.5 hrs @ \$105/hr \$ 682.50

Consultant Engineer 1 hr @ \$140/hr \$ 140.00

Total \$1,085.00

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
☒ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ☒ Print your name and address on the reverse so that we can return the card to you. ☒ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <i>Quinton E. Bell</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: J. Reeves McLeod McLeod Fraser & Cone P.O. Box 230 Walterboro, SC 29488		B. Received by (Printed Name) <i>Quinton E. Bell</i> C. Date of Delivery 3	
		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☒ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
		4. Restricted Delivery? (Extra Fee) ☐ Yes	
2. Article Number (Transfer from service label)		7008 1830 0003 7734 0717	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540			

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
☒ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ☒ Print your name and address on the reverse so that we can return the card to you. ☒ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <i>X Evelyn M. Miller</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: Gene Slivka		B. Received by (Printed Name) <i>Evelyn M. Miller</i> C. Date of Delivery 3-17-18	
		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☒ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
		4. Restricted Delivery? (Extra Fee) ☐ Yes	
2. Article Number (Transfer from service label)		7008 1830 0003 7734 0700	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540			

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF COLLETON)

CIVIL ACTION NO.

THE SPRIGGS GROUP, PC)

NOTICE OF MECHANIC'S LIEN

Plaintiff,)

vs.)

GENE R. SLIVKA)

Defendant.)

200900011272
Filed for Record in
COLLETON COUNTY SC
KARLA DADDIECO
04-13-2009 At 02:44 pm.
MECH LIEN 17.00
OR Volume 1742 Page 276 - 286

TO THE DEFENDANT ABOVE NAMED AND ALL OTHERS CONCERNED;

YOU WILL PLEASE TAKE NOTICE that the Plaintiff above named, by virtue of the attached Affidavit, does hereby claim a mechanic's lien of real estate hereinafter described, said lien being in the amount of One Hundred Ninety Eight Thousand, Eight Hundred and Thirty-Four Dollars and Fifty Three Cents (\$198,834.53) plus prejudgment interest, costs and attorney's fees, for labor, services and materials furnished and used for the improvements situated on the below described real estate. Such having been authorized by the Owner, or made by virtue of and in agreement with and by consent of the owner of such improvements or some person or agent having authority from or rightfully acting for such owner of the procuring or furnishing of such materials.

The property upon which this lien is attached includes those parcels below for which architectural and engineering services have been provided by The Spriggs Group, PC and is more particularly described as follows:

All those pieces, parcels and tracts of land containing two thousand seven hundred ninety-three and seven-tenths (2,793.7) acres, more or less, together with the buildings and improvements thereon, situate in the County of Colleton, State of South Carolina, known as Myrtle Grove Plantation, and delineated on two (2) survey plats prepared by S.S. Snook, Registered Land Surveyor, one delineated as containing one hundred eleven and three-tenths (111.3) acres, dated May 7, 1980, and recorded November 3, 1982, in Plat book 21 at Page 150; and the other delineated as containing two thousand six hundred eighty-two and four-tenths (2,682.4) acres, dated July 11, 1980, and recorded November 3, 1982, in Plat Cabinet C at Slide 47, in the Office of the Clerk of Court for Colleton County, South Carolina.



LESS AND EXCEPT All that certain tract or parcel of land lying and being in Colleton County, South Carolina and being know as Five (5) acres which parcel is a portion of the property more commonly known as MYRTLE GROVE TRACT, as shown on that certain map recorded in the Colleton County Register of Deeds, Colleton County, South Carolina in Deed Book CX, Page 47, and being more particularly described as follows: beginning 200 feet due North from the Northeast corner of the Myrtle Grove House being the POINT OF BEGINNING and running East for a distance of 200 feet; thence running due South for a distance of 900 feet; thence due West for a distance of 2420 feet; thence due North for a distance of 900 feet; thence due East for a distance of 700 feet to the POINT OF BEGINNING. Said tract to include the house currently known as Myrtle Grove.

BEING ALL OF TMS#: 282-00-00-021.000/271-00-00-082.000/282-00-00-020.000/282-00-00-008.000/281-00-00-057.000/ and 291-00-00-002.000 AND the remaining Portion of 291-00-00-001.000 and/or 282-00-00-021/271-00-00-082/282-00-00-020/282-00-00-008/281-00-00-057 and 291-00-00-002 AND the remaining Portion of 291-00-00-001

This being the same property conveyed to Berwind LLC by Limited Warranty Deed from William Henry Varn, dated February 22, 2007, recorded in Deed Book 1474, Page 61, recorded in the Office of the Register of Deeds for Colleton County, South Carolina.

ROSEN, ROSEN, & HAGOOD, LLC.

By: 

A. Bright Ariail
134 Meeting Street, Suite 200
Post Office Box 893
Charleston, SC 29402
(843) 577-6726

ATTORNEYS FOR PLAINTIFF
THE SPRIGGS GROUP, PC

Charleston, South Carolina

April 13, 2009

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

THE SPRIGGS GROUP, PC

Plaintiff,

vs.

GENE R. SLIVKA,

Defendant.

) IN THE COURT OF COMMON PLEAS

) CIVIL ACTION NO.

) AFFIDAVIT OF MECHANIC'S LIEN

PERSONALLY appeared before me, The Spriggs Group, PC, a professional corporation, by C. Kenneth Spriggs, its President, who, being first duly sworn, deposes and states that certain labor, services and/or materials were furnished for the improvement of the property described in the attached Notice of Mechanic's Lien, such materials having been furnished at the special instance and request of the owner of said property or by consent of the owners or some person or agent having authority from or rightfully acting for such owner or authorized by the owner and were last furnished within ninety (90) days from the date of this Affidavit.

Deponent further states that there is past due and owing from the owners of said property to it the sum of One Hundred Ninety Eight Thousand, Eight Hundred and Thirty-Four Dollars and Fifty-Three Cents (\$198,834.53), representing the sum to which materials are reasonably worth as evidenced by the statement of account (attached hereto and incorporated herein as Exhibit "A") plus prejudgment interest, costs and reasonable attorney's fee.

THE SPRIGGS GROUP, P.C.

By: C. Kenneth Spriggs
C. KENNETH SPRIGGS
PRESIDENT

SWORN TO before me this

10th Day of April, 2009.

Olivia Mason
NOTARY PUBLIC FOR [state]

My Commission Expires:

OLIVIA MASON
Notary Public, Chatham County, GA
My Commission Expires December 3, 2010

EXHIBIT A

The Spriggs Group P.C.
New Julianton Plantation
Architectural/Engineering Services

Statement of Account

<u>Invoice</u>	<u>Amount Due</u>
0609-2	\$ 163,574.00
0609-3	\$ 11,849.50
0609-4	\$ 19,532.50
0609-5	\$ 3,878.53
	\$ 198,834.53

**The
Spriggs
Group**
P.C.

INVOICE
0609-2

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

January 2007 through December 2008:

Design and preparation of final drawings based on
formula stated in our proposal letter dated 27 November 2006.

Main House	42 sheets x 24 hours/sheet x \$105/hr.	\$105,840
Conservatory	6 sheets x 24 hours/sheet x \$105/hr.	15,120
Potting Shed	6 sheets x 24 hours/sheet x \$105/hr.	15,120
Barn	12 sheets x 24 hours/sheet x \$105/hr.	30,240
Garages (2)	18 sheets x 24 hours/sheet x \$105/hr.	45,360
Grotto	3 sheets x 24 hours/sheet x \$105/hr.	7,560

Total Preparation of Final Drawings	\$219,240
Consultants Paid by Architect	20,535
Sub-Total	239,775

Previous Invoice 0609-1 Credit (76,201)

Total this Invoice \$163,574

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

INVOICE
0609-3

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Additional Services and Changes based on items
listed in our proposal letter dated 27 November 2006:

August 2007:

Re-design rear wall system and change
construction documents for potting shed. 6 hrs. @ \$105/hr. \$ 650.00

October 2007:

Drafting for steps and retaining walls at garden.
Meet with contractor and prepare grid plan. 11 hrs. @ \$75/hr. 825.00

March - April 2008:

Research dentil mouldings at Taft House Museum,
Cincinnati; contact Historic American Building Survey
(HABS), obtain drawing and photo, develop and
reproportion original mouldings for barn and garages.
Reproportion original moulding for Main House.
Develop alternative moulding details for barn and
garages. 32 hrs. @ \$105/hr. 3,360.00

May 2008:

Research dog wash equipment and provide
cut sheets of products. 1.5 hrs. @ \$105/hr. 157.50
Design interior trim and details to incorporate
existing doors from Julianton Plantation,
McIntosh County, Georgia. 4 hrs. @ \$105/hr. 420.00

Mr. Gene Slivka
9 February 2009
Page

August 2008:

Redesign front entry windows, delete palladian exterior window and change 6 foot window to 8 feet.	15 hrs. @ \$105/hr.	1,575.00
Provide manufacturer sources for slate, millwork, mouldings.	9.5 hrs. @ \$105/hr.	997.50
Research Rinnai hotwater system.	1.5 hrs. @ \$105/hr.	157.50

September 2008:

Column redesign.	7 hrs. @ \$105/hr.	735.00
Chimney redesign from steel frame to masonry.	23.5 hrs. @ \$105/hr.	2,467.00
Interior Palladian window redesign.	5 hrs. @ \$105/hr.	525.00

Total this Invoice		\$11,849.50

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

INVOICE
0609-4

9 February 2009

30th Year Anniversary

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Construction Administration Services.

Distribute documents for bid pricing, identify trade contractors, answer field questions and produce field sketches for garages, barn, main house and grotto. Do quantity take-offs for main house sheet rock panels.

May 2008:

Project Architect (P.A.)	2 hrs. @ \$175/hr.	350.00
Project Architectural Designers (P.A.D.)	2.5 hrs. @ \$105/hr.	262.50

June 2008:

P.A.	2 hrs. @ \$175/hr.	350.00
P.A.D.	3 hrs. @ \$105/hr.	315.00

July 2008:

P.A.D.	8 hrs. @ \$105/hr.	840.00

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P.A.	.5 hrs. @ \$175/hr.	87.50
P.A.D.	19 hrs. @ \$105/hr.	1,995.00

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P.A.D.	13.5 hrs. @ \$105/hr.	1,417.50

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P.A.	14.5 hrs. @ \$175/hr.	2,537.50
P.A.D.	44.4 hrs. @ \$105/hr.	4,672.50

Mr. Gene Slivka
9 February 2009
Page

November 2008:

P.A.	9.5 hrs. @ \$175/hr.	1,662.50
P.A.D.	1 hr. @ \$105/hr.	105.00

December 2008:

P.A.	10.5 hrs. @ \$175/hr.	1,837.50
P.A.D.	27.5 hrs. @ \$105/hr.	2,887.50

Total this Invoice

\$19,532.50

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

**The
Spriggs
Group
P.C.**

**INVOICE
0609-5**

9 February 2009

30th Year Anniversary

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Georgia
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Interior Design

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Fax. 912.232.6443
tsg@spriggsgroup.com
www.spriggsgroup.com

Mr. Gene Slivka

Reference: Architectural/Engineering Services
New Julianton Plantation
Colleton County, South Carolina

Reimbursable Expenses:

January 2007 through December 2008:

Copies: Xerox, Laser, Fax	
B/W	\$ 397.50
Color	33.20

Postage:	\$ 27.07
Blue Prints:	51.03
Computer Plots:	964.50

Coastal Digital Reprographics	
Paid Invoices	\$2,270.51

Savannah Blue Print Co.	
Paid Invoices	\$ 134.72

Total	\$3,878.53

Please remit to:

The Spriggs Group, P.C.
P. O. Box 10062
Savannah, GA 31412

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	FOURTEENTH JUDICIAL CIRCUIT
THE SPRIGGS GROUP, PC,	)	
Plaintiff,	)	BOND FOR RELEASE OF
vs.	)	MECHANIC'S LIEN
GENE R. SLIVKA,	)	FILED IN BK 1742 PG 276
Defendant.	)	

I, Gene R. Slivka, the undersigned, do hereby stand fully bound to the Plaintiff for the payment of any judgment obtained in this matter and do herewith post with the Clerk of Court for Colleton County, as security for said bond cash in the amount of Two Hundred Sixty-Five Thousand One Hundred Twelve and 71/100 Dollars (\$265,112.71), said amount being one and one-third (1 1/3) times the amount of the lien recorded at Volume 1742 at Page 276 in the Office of the ROD for Colleton County, South Carolina, as required by S.C. Code Ann. § 29-5-110 (2008).

In witness whereof I have hereunto set my hand and seal this 12th day of May 2009.

Gene R. Slivka
Gene R. Slivka, Defendant

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

ACKNOWLEDGMENT

I G.W. Cone, a Notary Public, do hereby certify that Gene R. Slivka, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this the 12th day of May 2009.

G.W. Cone (Seal)
Notary Public for South Carolina
My Commission Expires: 6-7-16

PLAINTIFF'S
EXHIBIT

11

200900012007
Filed for Record in
COLLETON COUNTY SC
KARLA DADDIECCO
05-15-2009 AT 03:43 PM.
AGREE N/C
OR Volume 1753 Page 81

81

STATE OF SOUTH CAROLINA)

COUNTY OF COLLETON)

THE SPRIGGS GROUP, PC,)

Plaintiff,)

vs.)

GENE R. SLIVKA,)

Defendant.)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUITRECEIPT FOR BOND POSTED FOR THE
RELEASE OF MECHANIC'S LIEN
FILED IN BK 1742 PG 276

200900012007
MCLEOD FRASER & CONE
ATTORNEYS AT LAW

WHEREAS, Gene R. Slivka previously deposited cash in the amount of Two Hundred Sixty-Five Thousand One Hundred Twelve and 71/100 Dollars (\$265,112.71) with Patricia S. Grant, Clerk of Court for Colleton County, South Carolina as security for his bond in this matter; and

WHEREAS, no suit has been filed to foreclose the Mechanic's Lien in this matter and the Clerk of Court wishes to transfer the funds deposited with her to the ROD for Colleton County, South Carolina in whose office the Mechanic's Lien is filed; NOW, THEREFORE,

I, Karla Daddiecco, ROD for Colleton County do hereby acknowledge receipt of the cash security for the bond of Gene R. Slivka referenced above in the amount of Two Hundred Sixty-Five Thousand One Hundred Twelve and 71/100 Dollars (\$265,112.71) from Patricia S. Grant, Clerk of Court for Colleton County, South Carolina.

Karla Daddiecco
Karla Daddiecco,
ROD for Colleton County

Date: 5/15/09

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF COLLETON	)	
THE SPRIGGS GROUP, PC,	)	
	)	
Plaintiff,	)	ORDER ACCEPTING BOND
	)	AND RELEASING MECHANIC'S LIEN
vs.	)	FILED IN BK 1742 PG 276
	)	
GENE R. SLIVKA,	)	
	)	
Defendant.	)	

IT APPEARING TO THE COURT, that Patricia C. Grant, Clerk of the Court of Common Pleas for Colleton County, has acknowledged receipt of the bond of Gene R. Slivka in this matter and cash in the amount of Two Hundred Sixty-Five Thousand Twelve and 71/100 Dollars (\$265,112.71) from Gene R. Slivka as security for said bond.

#1

PWS

THEREFORE, sufficient bond and cash security having been posted for the payment of debt evidenced by a mechanic's lien recorded at Volume 1742, Page 276 in the Office of the R.O.D. for Colleton County, South Carolina,

IT IS ORDERED that said mechanic's lien is hereby released and there is substituted therefor the bond of Gene R. Slivka and the cash security posted with said bond; and

IT IS FURTHER ORDERED that any *Lis Pendens* filed in connection with the foreclosure of said mechanic's lien is hereby released; and

IT IS FURTHER ORDERED that the ROD for Colleton County shall mark the County records so as to reflect the posting of the bond and the release of the Mechanic's Lien and *Lis Pendens* filed in connection therewith, if any; and

IT IS FURTHER ORDERED that said funds be deposited in an

interest bearing account, with the accrued interest being added to the cash posted as security for the bond for the benefit of the parties as their interests may be determined by the Court; and

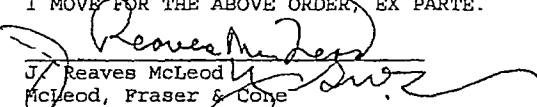
IT IS FURTHER ORDERED that the posting of the bond and cash security shall not prejudice the right of Defendant to contest the correctness or timeliness of the filing, perfecting or foreclosing of the lien, including without limiting the generality of the foregoing, the right to contest the timeliness of filing of the Mechanic's Lien and the Lis Pendens for the foreclosure thereof and if successful from receiving an Order cancelling the bond and directing the Clerk of Court to refund to Defendant the cash security posted.

AND IT IS SO ORDERED the 12th day of May, 2009.

Walterboro, South Carolina


Judge, Court of Common Pleas
Fourteenth Judicial Circuit

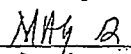
THE ABOVE ORDER BEING ALLOWED BY
S.C. CODE ANN. § 29-5-110 (2008),
I MOVE FOR THE ABOVE ORDER, EX PARTE.


J. Reaves McLeod
McLeod, Fraser & Cone
Post Office Drawer 230
Walterboro, SC 29488
(843) 549-2516
(843) 549-2306 facsimile
SC Bar No. 70283

200900011894
Filed for Record in
COLLETON COUNTY SC
KARLA DADDIECO
05-12-2009 At 03:17 pm.
REL MECH LN 10.00
DR Volume 1751 Page 115 - 118

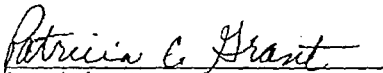
200900011894
MCLEOD FRASER & CONE
ATTORNEY AT LAW

Attorneys for Defendant


Mary B., 2009
Walterboro, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	FOURTEENTH JUDICIAL CIRCUIT
THE SPRIGGS GROUP, PC,	)	
Plaintiff,	)	RECEIPT FOR BOND POSTED FOR THE
vs.	)	RELEASE OF MECHANIC'S LIEN
GENE R. SLIVKA,	)	FILED IN BK 1742 PG 276
Defendant.	)	

I, Patricia C. Grant, Clerk of the Court of Common Pleas for Colleton County, do hereby acknowledge receipt of the bond of Gene R. Slivka in this matter and cash in the amount of Two Hundred Sixty-Five Thousand One Hundred Twelve and 71/100 Dollars (\$265,112.71) from Gene R. Slivka as security for said bond.


Patricia C. Grant
Clerk of Court for Colleton
County

The Spriggs Group, P.C. v. Gene R. Slivka
Appellate Case No. 2011-204366

PLAINTIFF'S EXHIBIT 13

OVERSIZED

(Main House Basement Plan)

(Issued for Permit 11/19/08 & Rev. 1 for Permit 1/29/08)

The Spriggs Group, P.C. v. Gene R. Slivka
Appellate Case No. 2011-204366

PLAINTIFF'S EXHIBIT 14

OVERSIZED

(Main House Plan)

(Issued for Permit 8/01/08)

The Spriggs Group, P.C. v. Gene R. Slivka
Appellate Case No. 2011-204366

PLAINTIFF'S EXHIBIT 15
OVERSIZED
(Office Copy of Permit Plan Set)
(With Subsequent Prints)

The Spriggs Group, P.C. v. Gene R. Slivka
Appellate Case No. 2011-204366

PLAINTIFF'S EXHIBIT 16

OVERSIZED

(Garage Buildings Plans)

(Issued for Pricing 6/18/07, 7/26/07, 11/12/07 &

Issued for Permit 9/26/07)

The Spriggs Group, P.C. v. Gene R. Slivka
Appellate Case No. 2011-204366

PLAINTIFF'S EXHIBIT 17

OVERSIZED

(Potting Shed Plans)

(Issued for Pricing 6/18/07 & Issued for Permit 8/31/07)

The Spriggs Group, P.C. v. Gene R. Slivka
Appellate Case No. 2011-204366

PLAINTIFF'S EXHIBIT 18

OVERSIZED

(Garden Wall and Stair Plans)

(Issued for Review, 10/15/07)

From: Andy Bozeman
Sent: Tuesday, January 13, 2009 3:13 PM
To: 'Kayton Smith'
Subject: RE: Follow-up on 3" waste line change

Thanks. I like to be reassured about these things. It's also useful for me to hear about the price difference being small, as these things sometimes get exaggerated by certain parties.

~TAB

From: Kayton Smith [mailto:Kayton@savengineer.com]
Sent: Tuesday, January 13, 2009 2:31 PM
To: Andy Bozeman
Subject: RE: Follow-up on 3" waste line change

The use of 3" waste lines instead of 4" waste branch and stack lines is acceptable on this project. The initial decision for using 4" is that the cost difference (3" vs. 4") is small and reduces the opportunity for waste lines to become fully obstructed. Horizontal slope minimum (1/8" per ft) requirement applies to both sizes.

Kayton Smith Jr., P.E.

Vice President

Smith and VandenBulck

A Division of SAV Engineering, Inc.

5 Oglethorpe Professional Blvd., Suite 130

Savannah, GA 31406

Phone 912-354-5249

Fax 912-352-8429

Cell 912-660-0636

From: Andy Bozeman [mailto:ABozeman@spriggsgroup.com]
Sent: Tuesday, January 13, 2009 12:31 PM
To: Kayton Smith
Subject: Follow-up on 3" waste line change

I mentioned the question to Ken, & he didn't hesitate to approve the



change from 4" to 3" waste lines from each bathroom to the 4" line in the basement. I thought I should not only update you on that decision, but also inquire if you are uncomfortable with that smaller sizing in any particular instance that drove the initial decision to use larger pipes.

Please verify that you are comfortable with 3" waste lines serving each bathroom or explain which circumstance(s) a 4" line is required.

~TAB

Thomas A. Bozeman
The Spriggs Group, P.C.
545 East York Street
Savannah, Georgia 31401
Tel: (912) 232-6441
Fax: (912) 232-6443
Web: www.spriggsgroup.com <<http://www.spriggsgroup.com/>>
E-mail: abozeman@spriggsgroup.com <<mailto:abozeman@spriggsgroup.com>>

**The
Spriggs
Group**
P.C.

545 East York Street
P.O. Box 10062
Savannah
Georgia
31412
USA

Planning
Architecture
Interior Design

Tel. 912.232.6441
Fax. 912.232.6443
tsg@spriggsgroup.com

5 October 2006

Mr. Gene Slivka

Reference: New Residence and Outbuildings

Dear Gene:

Our engineers have had several questions relating to the scope of work for your project. Highlighted below is the summary scope of work as I understand it for your confirmation.

We will have a sit-down session in which you will go over each building. We will determine floor plan layouts, massing, window patterns and style, roof shapes, and appropriate details. For the main house, we will determine the kitchen layout with locations for equipment and cabinets. These discussions will be documented on drawings which will be the basis for our development of construction documents.

You mentioned that you will obtain plans of a house that you wish to use as the basis of design for your residence. Whether the proportions, sizes of spaces, overall dimensions of building parts, roof and window styles are the same or will be modified will be determined at the sit-down session.. We would prefer to review the plans first if possible.

Our work will include structural, mechanical, electrical, and plumbing engineering. Utility lines will be taken to 5 feet from the building for connection by other consultants under your supervision, including deep and shallow wells, septic tanks and drainage fields, solar energy systems, underground electrical and potable water distribution. We will not be responsible for site work, walkways, garden walls, or landscaping.

All buildings will have a brick exterior at solid wall surfaces.

You will select all kitchen equipment, plumbing fixtures, and lighting fixtures. We will specify all door, cabinet, and shutter hardware based on our sit-down session.

All buildings will be designed to current codes as related to wind loads, energy consumption, and fire safety.

We will prepare a base site plan for buildings locations which can be used by your civil engineer. We are assuming that you have a surveyed site plan.

Building Information

Main House

Organization is two-story central building with connecting one-story hyphens at each side and linking two-story wing buildings. Porches will occur at front entry, rear side, and outside face of each wing.

There will be a basement with clear head height of 8'. The basement will be partially below grade with a tapered berm surrounding the structure, thus exposing approximately 4' in height of the perimeter walls.

Stop
312 6441
140 mph



Mr. Gene Slivka
5 October 2005

The HVAC system will be water source fed by a deep well. My estimate of the system size differs from Brunson Heating & Air. The estimator may not have known of the two-story parts of the house. The hyphen/ wings would be supplied by 5 to 6-ton units each. The central building would be supplied by a 14-ton unit.

Dimensions are 64' wide by 56' deep for central building with 32' wide by 20' deep hyphens, and 48' deep by 24' wide wing buildings. All porches are 24' wide by 12' deep.

Based on the above dimensions the main house square footage will be:

1 st floor	3584
2 nd floor	3584
Hyphen	640
Hyphen	640

Wing	
1 st floor	1152
2 nd floor	1152

Wing	
1 st floor	1152
2 nd floor	1152

Total Heated 13,056

Basement 7168

Porches 1152

Conservatory

Footprint will be 36' wide by 24' deep. Total square footage is 864.

Stable

Footprint will be 84' wide by 30' deep. Total square footage is 2520.

There will be 8 stalls, a tack room, and a workshop. You will confirm if an attic with hay storage will be included.

Garages

There will be two four-car garages. Together with the stable, they will form a U-shape grouping but will not be connected.

Footprints for each garage will be approximately 50' wide by 26' deep. Total square footage will be 1300. A possible attic may be developed with square footage matching the ground floor for up to 1300 square feet.

Grotto

A raised flat-roof pavilion with four columns will front a stone grotto. The pavilion will be 12' by 12'. The stone grotto will be a semi-circle with 6-foot radius (12' wide by 6' deep). There be a pool and base to house a statue. Please confirm the size and relationship of the grotto to the pavilion.

Boathouse

The boathouse will house a flat-bottom pontoon boat. The structure will be approximately 18' wide by 30' deep. Total square footage will be 540. The building will be constructed on a spit of land which will be excavated to the adjacent water to create a channel to the boathouse.

Mr. Gene Slivka
5 October 2006

We assume the project will be located in an area of Julianston Plantation. All soil tests we require for design of structural foundations will be directly contracted by you.

Please let us know if this information is correct and provide any additional items you may decide are important.

Will we review submittals and shop drawings for architectural casework, hardware, mechanical, electrical, and plumbing systems? *yes*

Will we make any site visits during construction to review building foundations, structural framing, electrical wiring and plumbing lines before cover-up? *no*

Do you want us to review contractor pay requests? *no*

Do you want us to make a final punch list prior to close-out of construction? *no*

We are in the process of preparing a fee proposal and can complete our work upon confirmation of the program and clarification of questions we have raised.

Thank you for asking us to be involved in this exciting project.

Yours very truly,

THE SPRIGGS GROUP, P.C.

[Signature]
C. Kenneth Spriggs, AIA

CKS:bwip

Architects

4/31/2008

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

Total hours / pay period:

2

Architects

Pay Period Ending

4/15/2008

D Specifications
E Bidding / Negotiation
F Construction Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

Total hours / pay periods:

Architects

Pay Period Ending

3/15/2008

D Specifications
E Bidding / Negotiation
F Construction Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

[illegible]

Architects

Employee **Thomas A. Bozeman**

Pay Period Ending

5/15/2008

A Schematic Design

B Design Development
C Construction Documents

D Specifications

E Bidding / Negotiation

F Construction Administration

G Program

H Fee / Negotiation

J General Administration

L P/C and P/C

M Consulting / Studies

N Promotional

P Holiday

[illegible]

Architects

Pay Period Ending

5/31/2008

D Specifications
E Bidding / Negotiation
F Construction Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

Total hours / pay period:

The Spriggs Group

Architects

Employee **Thomas A. Bozeman**
Phase Codes

Pay Period Ending **8/31/2008**

A Schematic Design
B Design Development
C Construction Documents

D Specifications
E Bidding / Negotiation
F Construction Administration

G Program
H Fee / Negotiation
J General Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

Project No.	Project Name Description of work	Code	Hours Worked																												Total Hours
			16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31													
																															0.00
																															0.00
0410	CGCC Phys. Ed.	F																													0.00
	Submittal Review/RFI	F																													0.00
	Libraries																														0.00
	Natalcrium																														0.00
0602	Horry Co. Museum	C																													0.00
																															0.00
0604	ADA Libraries	C																													0.00
																															0.00
0606	Andrew Low House Museum	C																													0.00
0809	Slivka Residence & Outbldgs.																														0.00
	Meet/Explain to Gene	B				1	1	0.5	0.5			0.5	0.5	2.5		0.5												0.5			7.00
	Main House CDs	C						1.5																			2.5				4.00
	Engineering Coord.	C					0.5																				1				1.50
																															0.00
	Research MH Skirt/Gutter	M			2	3																									5.00
	Research Rinnai HW Sys.	M			0.5																										0.50
	Refine/Redesign Windows	C				0.5	2.5	2	0.5				1.5	3	1																11.00
	M-H CA/GC Efforts & Distrib	F			2.5	1.5	1																				2.5	1.5			9.00
	Mfr. Coord.	F						1.5	1				3	3	1																9.50
																															0.00
																															0.00
																															0.00
	Garage/Stable C.A.	F					1																								1.00
	Grotto	C																													0.00
																															0.00
																															0.00
	Project Devel. - RFP	L																													0.00
																															0.00
	Computer Administration	J			0.5	0.5	0.5	0.5	0.5				0.5	0.5	0.5	0.5	0.5														5.00
	Comp. Admin. - Patrick	J																													0.00
	Comp Admin. - CAD	J																													0.00
																															0.00
	Administration	J			3.5	2.5	2.5	2.5	1				4	2	3.5	2.5	1.5														25.50
																															0.00
	Awards	N																													0.00
																															0.00
	Holiday	P																													0.00
	Other Time																														0.00
	Vacation																														0.00
																															0.00
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Architects

Employee **Thomas A. Bozeman**
Phase Codes

Pay Period Ending

8/15/2008

A Schematic Design
B Design Development
C Construction Documents

D Specifications
E Bidding / Negotiation
F Construction Administration

G Program
H Fee / Negotiation
J General Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

[illegible]

Architects

Pay Period Ending

9/30/2008

Phase Codes

D Specifications

G Program

L P/C and P/C

E Bidding / Negotiation

H Fee / Negotiation

M Consulting / Studies

F Construction Administration

J General Administration

N Promotional

P Holiday

Total hours / pay period:

Architects

9/15/2008

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

411

The Spriggs Group

Architects

Employee Ken Spriggs
Phase Codes

Pay Period Ending 5/31/2008

A Schematic Design D Specifications G Program L P/C and P/C
B Design Development E Bidding / Negotiation H Fee / Negotiation M Consulting / Studies
C Construction Documents F Construction Administration J General Administration N Promotional
P Holiday / Vacation
CE Cont Ed

Project No.	Project Name Description of Work	Code	Hours Worked																												Total Hours
			16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31													
0602	Horry County Hist. Museum	J																												0.00	
	Demolition Project	C/D																												0.00	
	Exhibits	B																												0.00	
	Consultants	B																												0.00	
	Consultant Contracts	J																												0.00	
	Travel	G																												0.00	
	Design Development	B				0.5																								0.50	
	Tel/E-mail/ Meetings	B																												0.00	
	SC Grants	M																												0.00	
0604	CGCC Library ADA Restroom	F																												0.00	
	Consultants	F																												0.00	
	Construction	F					1	0.5	0.5	0.5					1	0.5														4.00	
	Submittals					1.5																								1.50	
0811	TitleMax HQ Expansion	F																												0.00	
	Administration	J																												0.00	
	Sybil Jones	M																												0.00	
0606	Andrew Low House	J																												0.00	
	Modifications	M																												0.00	
	Contractor	F	0.5						0.5																					1.00	
	Client Meetings/E-Mails	F							1.5																					1.50	
	Lighting Consulting	M							1.5																					1.50	
	Smith & VandenBulck	F																												0.00	
	Submittals	F																												0.00	
	Vacation/Princeton	P															4	8												12.00	
0502	Kennickell Residence	J																												0.00	
	Interior Designer	F																												0.00	
	Roof Deck	M																												0.00	
	Contractor	F				1.5												0.5												2.00	
	Consultants	F																												0.00	
	E-mail/tel conf	F																												0.00	
	TerraceDetails	M																												0.00	
	Main Stair Review	M																												0.00	
0607	O.T. Consulting	M																												0.00	
0704	Rick Meyer	M																												0.00	
	Telfair Consulting	M																												0.00	
0609	New Slivka Residence	J																												0.00	
	Consultant/MEP	B																												0.00	
	Meetings/ Tel Conf	B																												0.00	
	Foundation/Basement Mods	C																												0.00	
	Grotto	B																												0.00	
	Consultant/Structural	B															4	2												6.00	
	Construction Clarifications	M	1.5										0.5																	2.00	
	Main House	B	0.5						0.5	0.5	0.5																			2.50	
	Mia Flores Thesis	N																	1											1.00	
0410	CGCC Phys Ed. Renov	J						1																						1.00	
	Natatorium Modification	F					1	1.5	1						0.5	3	1													8.00	
	Travel Brunswick	F																												0.00	
	Consultants	C																												0.00	
	Construction	F	1			0.5	1.5								0.5															3.50	
	Client Meetings/ Tel Conf	F				0.5									0.5															1.00	
	Submittals	F				1.5									0.5															2.00	
	Travel	J													2.5															2.50	
0408	Anesthesiology Consultants	F				0.5			0.5	1.5					1.5	0.5														4.50	
	Medical	J	2				1.5		2	0.5																	2			8.00	
	Herty Pilot Plant	M																												0.00	
	Administration	J	2.5				2.5	2	2	3	4.5				1	1	2	3												23.50	
Total hours / pay period:			8.0			9.0	8.0	6.0	08	3.0		10.0	5.0	10.0	8.0	3.0	8.0	0.0												90.00	

Architects

5/31/2008

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

413

The Spriggs Group

Architects

Employee Ken Spriggs
Phase Codes

Pay Period Ending 6/30/2008

A Schematic Design	D Specifications	G Program	L P/C and P/C
B Design Development	E Bidding / Negotiation	H Fee / Negotiation	M Consulting / Studies
C Construction Documents	F Construction Administration	J General Administration	N Promotional
			P Holiday / Vacation
			CE Cont Ed

Project No.	Project Name / Description of Work	Code	Hours Worked																Total Hours
			16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
0602	Horry County Hist. Museum	J																	0.00
	Demolition Project	C/D	3	5	6	4.5	5												23.50
	Exhibits	B																	0.00
	Consultants	B										1	0.5						1.50
	Consultant Contracts	J																	0.00
	Travel	G																	0.00
	Design Development	B										0.5							0.50
	Tel/E-mail/ Meetings	B	0.5								0.5								1.00
	SC Grants	M																	0.00
0804	CGCC Library ADA Restroom	F									0.5								0.50
	Consultants	F																	0.00
	Construction	F									0.5								0.50
	Submittals																		0.00
0611	TitleMax HQ Expansion	F																	0.00
	Administration	J																	0.00
	Sybil Jones	M																	0.00
0608	Andrew Low House	J																	0.00
	Modifications	M																	0.00
	Contractor	F								1									1.00
	Client Meetings/E-Mails	F																	0.00
	Lighting Consulting	M																	0.00
	Smith & VandenBulck	F																	0.00
	Submittals	F																	0.00
0801	Massie Heritage Preservation	H											3	4					7.00
0502	Kennickell Residence	J										4							4.00
	Contractor	F																	0.00
	E-mail/tel conf	F																	0.00
	Punch List	F																	0.00
	Power Point	F																	0.00
	433 Habersham	J									2								2.00
0408	Anesiology Consultants	F																	0.00
0607	O.T. Consulting	M																	0.00
0704	Rick Meyer	M																	0.00
	Telfair Consulting	M																	0.00
0609	New Slivka Residence	J																	0.00
	Consultant/MEP	B					0.5												0.50
	Meetings/ Tel Conf	B																	0.00
	Foundation/Basement Mods	C																	0.00
	Grotto	B																	0.00
	Consultant/Structural	B	0.5	1			0.5												2.00
	Construction Clarifications	M																	0.00
	Main House	B	0.5		0.5	0.5						1		1					3.50
	Submittals/Shop Drawings	F					0.5			1.5									2.00
0410	CGCC Phys Ed. Renov	J									0.5								0.50
	Natatorium Modification	F																	0.00
	Travel Brunswick	F																	0.00
	Consultants	C																	0.00
	Construction	F	0.5	1	0.5	0.5				1	0.5		0.5	2.5			1.5		8.50
	Client Meetings/ Tel Conf	F				0.5											1.5		2.00
	Interior FF&E	B									1.5						1.5		3.00
	New Project Funding	M								3			0.5				1		4.50
	Travel Brunswick																2.5		2.50
	Medical	J				1.5							1.5						1.50
	Herty Pilot Plant	M																	0.00
	Administration	J	3	1	1	0.5	1.5			1.5	2	1.5	2	1.5	4		8		27.50
Total hours / pay period:			8.0	08.0	3.0	8.0	2.0		0.0	8.0	2.5	5.0	2.5	9.0	4.0		16.0	0.0	93.00

Architects

6/31/2008

G Program
H Fee / Negotiation
J General Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

[illegible]

Architects

6/15/2008

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

416

The Spriggs Group

Architects

Employee **Ken Spriggs**
Phase Codes

Pay Period Ending **8/31/2008**

A Schematic Design	D Specifications	G Program	L P/C and P/C
B Design Development	E Bidding / Negotiation	H Fee / Negotiation	M Consulting / Studies
C Construction Documents	F Construction Administration	J General Administration	N Promotional
			P Holiday / Vacation
			CE Cont Ed

Project No.	Project Name	Ccode	Hours Worked																												Total Hours
			16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31													
0602	Horry County Hist. Museum	J				0.5																							0.50		
	Demolition Project	E					1.5	2	0.5																				4.00		
	Exhibits	B																											0.00		
	Consultants	B																											0.00		
	Consultant Contracts	J																											0.00		
	Travel	G																											0.00		
	Design Development	B																											0.00		
	Tel/E-mail/ Meetings	B																											0.00		
																													0.00		
0804	CGCC Library ADA Restroom	F																											0.00		
	Consultants	F																											0.00		
	Construction	F															0.5												0.50		
	Submittals																												0.00		
																													0.00		
	USGBC	N																											0.00		
																													0.00		
0808	Andrew Low House	J																											0.00		
	Modifications	M																											0.00		
	Contractor	F																											0.00		
	Client Meetings/E-Mails	F																											0.00		
	Lighting Consulting	M																											0.00		
	Smith & VandenBulck	F																											0.00		
	Submittals	F																											0.00		
0801	Massie Heritage Preservation	H																								2			2.00		
0502	Kennickell Residence	J																											0.00		
	Contractor	F																											0.00		
	E-mail/tel conf	F																											0.00		
	Punch List	F					1																						1.00		
	Power Point	F																											0.00		
0802	Kingsland Municipal Expand	J															0.5												0.50		
	433 Habersham	J																											0.00		
																													0.00		
P0807	Health Sciences Bldg CCG	L				2.5		2.5	1.5	2																			8.50		
	Project Development	L																											0.00		
	SF 254/255 Update	L							5								0.5	1.5											7.00		
0609	New Slivka Residence	J				0.5											1												1.50		
	Consultant/MEP	C																											0.00		
	Meetings/ Tel Conf	C								0.5							2.5												3.00		
	Foundation/Basement Mods	C																											0.00		
	Grotto	C																											0.00		
	Consultant/Structural	C																											0.00		
	Construction Clarifications	M																0.5											0.50		
	Main House	C			0.5	0.5	0.5		0.5							1													3.00		
	Submittals/Shop Drawings	F																											0.00		
0410	CGCC Phys Ed. Renov	J				0.5																							0.50		
	Natorium Modification	F																											0.00		
	Travel Brunswick	F																											0.00		
	Consultants	F																											0.00		
	Construction	F			0.5					0.5						1	0.5	0.5	0.5										3.50		
	Client Meetings/ Tel Conf	F														4													4.00		
	Interior FF&E	C							1	1.5					0.5	1.5	1	1	0.5										7.00		
	New Project Funding	M						1																					1.00		
	Travel Brunswick																												0.00		
	Medical	J														2.5													2.50		
	Personel/Staff Preparation	J																0.5	0.5										1.00		
	Administration	J				4.5	5	2.5	1.5	2.5						4	2.5	4	5										31.50		
Total hours / pay period:						8.0	8.0	3.0	9.0	0.5	0.0		8.0	3.0		6.0	3.0	0.0	0.0										73.00		

Architects

Pay Period Ending

8/15/2008

A Schematic Design

D Specifications

G Program

L P/C and P/C

B Design Development

E Bidding / Negotiation

H Fee / Negotiation

M Consulting / Studies

C Construction Documents

F Construction Administration

J General Administration

N Promotional

P Holiday

418

Architects

Phase Codes

8/31/2008

D Specifications
E Bidding / Negotiation
F Construction Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

[illegible]

The Spriggs Group

Architects

Employee **Ken Spriggs**
Phase Codes

Pay Period Ending **9/15/2008**

A Schematic Design
B Design Development
C Construction Documents
D Specifications
E Bidding / Negotiation
F Construction Administration
G Program
H Fee / Negotiation
J General Administration
L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday / Vacation
CE Cont Ed

Project No.	Project Name Description of Work	Code	Hours Worked															Total Hours
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
0802	Hony County Hist. Museum	J																0.00
	Demolition Project	E																0.00
	Exhibits	B																0.00
	Consultants	B																0.00
	Consultant Contracts	J														1.5		1.50
	Travel	G																0.00
	Design Development	B																0.00
	E-mail/tel conf	F																0.00
0804	CGCC Library ADA Restroom	J																0.00
	Construction	F																0.00
0802	Kingsland Municipal Bldg	H		1.5	2	0.5												4.00
	Set-up	G				1				0.5	0.5					0.5		2.50
	Travel Kingsland	G									3							3.00
	Site Meeting										3							3.00
0801	Massie Heritage Preservation	H		0.5	0.5													1.00
	Programming/Meetings	G										3						3.00
0808	Andrew Low House	J																0.00
	Submittals	F																0.00
	Contractor	F			0.5	0.5												1.00
	Client Meetings/E-Mails	F																0.00
	Exterior Lighting	M																0.00
	Smith & VandenBulck	F																0.00
	Site Visits	F		0.5														0.50
																		0.00
0502	Kennickell Residence	J																0.00
	Photo Album & CD	N																0.00
	E-mail/tel conf	N																0.00
	Contractor	F																0.00
																		0.00
	Project Development	L																0.00
P0807	Health Sciences Bldg, CCG	L								0.5								0.50
	Owens-Thomas Advisory	N								2.5								2.50
	Labor Day	P	8															8.00
0408	Anesthesiology Close-Out	J																0.00
	Web Site	N			0.5													0.50
0809	New Slivka Residence	J																0.00
	Consultant/MEP	F																0.00
	Meetings/ Tel Conf	F			3													3.00
	Shop Drawings	F																0.00
	Construction Coordination	F			1	0.5												1.50
	Consultant/Structural	F																0.00
	Stairs/Retaining Wall	M																0.00
	Main House	F		1	0.5					0.5	0.5					0.5		3.00
	Grotto	F																0.00
0410	CGCC Phys Ed. Renov	J																0.00
	Fire Marshal	F																0.00
	FF&E	E		1	1	2												4.00
	Consultants	C														1.5		1.50
	Construction	F		0.5		2				2.5								5.00
	Client Meetings/ Tel Conf	F																0.00
	Submittals	F																0.00
	Portfolio	L		0.5														0.50
	Medical	J										0.5						0.50
	NYC Trip	J										1.5						1.50
	545 East York	P		0.5									8	8				16.50
	Administration	J		4	2	2.5	2			2.5	1.5	2.5					6	
Total hours / pay period:			8.0	10.0	11.0	9.0	2.0			6.0	3.0	2.0	3.0	2.0			10.0	90.00

Architects

Employee **Thomas A. Bozeman**

Pay Period Ending

9/15/2008

A Schematic Design

D Specifications

G Program

L P/C and P/C

Project No.	Project Name Description of work	Code	Hours Worked															Total Hours
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
		F															0.00	
																	0.00	
0410	CGCC Phys. Ed.	F															0.00	
	Submittal Review/RFI	F															0.00	
	Natatorium	F															0.00	
		F															0.00	
0602	Horry Co. Museum	C															0.00	
																	0.00	
0808	Andrew Low House Museum	F															0.00	
																	0.00	
0609	Slivka Residence & Outbldgs																0.00	
	Main House CD's	C			2												2.00	
	Meet/Explain to Gene	F			4						4.5		0.5			0.5	9.50	
	Redesign Windows	B							0.5	2.5	0.5						3.50	
	Chimney Redesign	B		2.5	2	0.5				1	4	3				2	15.00	
	Coord. Engineering Docs	C				0.5	0.5					1				1	3.00	
	Main House CA	F														0.5	0.50	
	Distr. For Pricing	F				2	0.5		2.5								5.00	
	Submittal Review	F				1.5						0.5				0.5	2.50	
	Meet with M. Sikes	C											2				2.00	
																	0.00	
	Grotto	C										0.5					0.50	
	Garage & Stable CA	F		1.5													1.50	
																	0.00	
																	0.00	
																	0.00	
	Project Devel. - RFP	L															0.00	
																	0.00	
																	0.00	
	Computer Administration	J		0.5	0.5	0.5	1.5		0.5	0.5	0.5	0.5	0.5			0.5	6.00	
	Comp. Admin. - Patrick	J		1.5													1.50	
	Comp. Admin. - Laptop	J		1.5		3	0.5		2								7.00	
																	0.00	
	Administration	J		1.5	3	1	1		3.5	3	3	2.5	1.5			4	24.00	
																	0.00	
	Awards	N															0.00	
																	0.00	
	Holiday	P		9													9.00	
																	0.00	
	Vacation																0.00	
	Other Time																0.00	
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Architects

Phase Codes

Pay Period Ending

9/30/2008

B Design Development

E Bidding / Negotiation

H Fee / Negotiation

M Consulting / Studies

Total hours / pay period:

The Spriggs Group

Architects

Employee Ken Spriggs
Phase Codes

Pay Period Ending 10/15/2008

A Schematic Design
B Design Development
C Construction Documents

D Specifications
E Bidding / Negotiation
F Construction Administration

G Program
H Fee / Negotiation
J General Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday / Vacation
CE Cont Ed

Project No.	Project Name Description of Work	Code	Hours Worked															Total Hours
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
0602	Horry County Hist. Museum	J																0.00
	Demolition Project	E														0.5		0.50
	Exhibits	B																0.00
	Consultants	B																0.00
	Consultant Contracts	J														1		1.00
	Travel	G																0.00
	Design Development	B			0.5			0.5							0.5			1.50
	Stair Project	M	0.5	2	2.5			4	5									14.00
0604	CGCC Library ADA Restroom	J																0.00
	Construction	F	0.5															0.50
0802	Kingsland Municipal Bldg	H																0.00
	Report	G	1					1									1	3.00
	Pricing	G								1	1				0.5	0.5	0.5	3.50
	Schematic Design							4	4	2								10.00
0801	Massie Heritage Preservation	H																0.00
	Programming/Meetings	G	0.5							0.5	0.5				0.5	1		3.00
0606	Andrew Low House	J																0.00
	Submittals	F																0.00
	Contractor	F							0.5							0.5		1.00
	Client Meetings/E-Mails	F																0.00
	Exterior Lighting	M																0.00
	Smith & VandenBulck	F																0.00
	Site Visits	F																0.00
																		0.00
0502	Kennickell Residence	J																0.00
	Photo Album & CD	N																0.00
	E-mail/tel conf	N																0.00
	Contractor	F																0.00
																		0.00
	Project Development	L	0.5					0.5								2.5		3.50
P0807	Health Sciences Bldg, CCG	L																0.00
	Owens-Thomas Advisory	N																0.00
																		0.00
0408	Anesthesiology Close-Out			2	0.5											0.5		3.00
	Web Site	N		0.5								0.5						1.00
0609	New Sivka Residence	J																0.00
	Consultant/MEP	F														2.5		2.50
	Meetings/ Tel Conf	F																0.00
	Shop Drawings	F																0.00
	Construction Coordination	F						0.5		0.5		0.5				1		2.50
	Consultant/Structural	F													1.5			1.50
	Stairs/Retaining Wall	M																0.00
	Main House	F	0.5	0.5	1.5			0.5				0.5			0.5	0.5		4.50
	Grotto	F																0.00
0410	CGCC Phys Ed, Renov	J										0.5						0.50
	Fire Marshal	F																0.00
	FF&E	E	0.5												1	0.5		2.00
	Consultants	C																0.00
	Construction	F			0.5			0.5		1	0.5	0.5			0.5			3.50
	Client Meetings/ Tel Conf	F																0.00
	Submittals	F	0.5	1	0.5			0.5	0.5	1	0.5							4.50
	Portfolio	L													3	1.5	2	6.50
	Medical	J																0.00
																		0.00
	Administration	J	2.5	2	2			2	1	1	1.5	2			2	2.5	1	0.00
Total hours /pay period:			7.0	08.0	8.0			9.0	08	8.0	8.0	8.0		10.0	2.0	10.0	0.0	93.00

The Spriggs Group

Architects

Employee Ken Spriggs
Phase Codes

Pay Period Ending 10/31/2008

A Schematic Design D Specifications G Program L P/C and P/C
B Design Development E Bidding / Negotiation H Fee / Negotiation M Consulting / Studies
C Construction Documents F Construction Administration J General Administration N Promotional
P Holiday / Vacation
CE Cont Ed

Project No.	Project Name Description of Work	Code	Hours Worked											Total Hours
			16	17	18	19	20	21	22	23	24	25	26	
0602	Horry County Hist. Museum	J		2					0.5					2.50
	Demolition Project	E												0.00
	Exhibits	B												0.00
	Consultants	B	0.5										1	1.50
	Consultant Contracts	J												0.00
	Travel	G												0.00
	Design Development	B												0.00
	Tel/E-mail Meetings	B		0.5					0.5					1.00
	Stair/Aquarium	H		1			4						0.5	5.50
0604	CGCC Library ADA Restroom	F												0.00
	Consultants	F												0.00
	Construction	F											0.5	0.50
	Submittals													0.00
P0810	VA Measurements	L											0.5	0.50
0606	Andrew Low House	J												0.00
	Construction Phase	F						1						1.00
	Client Meetings/E-Mails	F	0.5											0.50
	MEP Consultant	F												0.00
0801	Massie Heritage Preservation	J												0.00
	Scheduling/E-mails	J												0.00
	Programming	G												0.00
	Data Base	A		0.5			1	0.5					0.5	3.50
0502	Kennickell Residence	J												0.00
	Contractor	F												0.00
	E-mail/tel conf	F												0.00
	Punch List	F												0.00
	Power Point	F												0.00
0802	Kingsland Municipal Expand	J												0.00
	Report Preparation	G											0.5	0.50
P0809	Historic Consultant Directory	L											2	3.00
	Project Development	L					0.5		0.5				1.5	2.50
0609	New Slivka Residence	J												0.00
	Consultant/MEP	C											0.5	0.50
	Meetings/ Tel Conf	C												0.00
	Foundation/Basement Mods	C												0.00
	Grotto	C											0.5	1.00
	Consultant/Structural	C												0.00
	Construction Clarifications	M	0.5										1	1.50
	Main House	C						0.5	0.5	0.5	0.5		1	8.00
	Submittals/Shop Drawings	F												0.00
	Travel to Site	F											2.5	2.50
0410	CGCC Phys Ed. Renov	J		0.5										0.50
	Travel Brunswick	F											2.5	2.50
	Consultants	F												0.00
	Construction	F	0.5				1	2.5		2	5		1.5	19.00
	Client Meetings/ Tel Conf	F											2.5	2.50
	Interior FF&E	C						0.5	6	1.5	1.5		1.5	12.00
														0.00
P0808	Footlight Players 20 Queen	L		4										4.00
	Administration	J		2	3			1.5	3	1.5	2.5	1	8	29.00
Total hours / pay period:			8.0	02.0			8.0	8.0	08	3.0	3.0	0.0	8.0	90.00

Architects

Employee **Thomas A. Bozeman**

Pay Period Ending 10/15/2008

A Schematic Design

D Specifications

G Program

L P/C and P/C

[illegible]

Architects

Employee **Thomas A. Bozeman**

Pay Period Ending

10/15/2008

A Schematic Design

D Specifications

G Program

L P/C and P/C

[illegible]

The Spriggs Group

Architects

Employee **Ken Spriggs**
Phase Codes

Pay Period Ending **11/15/2008**

A Schematic Design
B Design Development
C Construction Documents

D Specifications
E Bidding / Negotiation
F Construction Administration

G Program
H Fee / Negotiation
J General Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday / Vacation
CE Cont Ed

		Hours Worked																			Total Hours
Project No.	Project Name Description of Work	Code	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15				
0602	Horry County Hist. Museum	J																		0.00	
	Demolition Project	F										1	0.5	0.5						2.00	
	Exhibits	B																		0.00	
	Consultants	B			0.5															0.50	
	Consultant Contracts	J																		0.00	
	Travel	G																		0.00	
	Design Development	B																		0.00	
	Stair Project	M																		0.00	
0604	CGCC Library ADA Restroom	J																		0.00	
	Construction	F																		0.00	
0802	Kingsland Municipal Bldg	J														0.5				0.50	
	Report	G						3.5	1.5			0.5	2.5	2	1.5					11.50	
	Pricing	G						1												1.00	
0801	Massie Heritage Preservation	J																		0.00	
	Meetings/e-mail	B			0.5									1.5		1.5				3.50	
	Design Development	B							1.5						0.5	2.5				4.50	
	Consultant MEP	A			0.5									2						2.50	
	Consultant Structural	B			0.5											0.5				1.00	
	Consultant Timber Framing	B												0.5	0.5					1.00	
0606	Andrew Low House	F																		0.00	
	Construction	F							0.5			0.5	0.5							1.50	
	Final Punch List	F																		0.00	
	Close-out	F																		0.00	
																				0.00	
0502	Kennickell Residence	J																		0.00	
	Photo Album & CD	N																		0.00	
	E-mail/tel conf	N																		0.00	
	Contractor	F																		0.00	
																				0.00	
	Project Development	L																		0.00	
																				0.00	
	Owens-Thomas Advisory	N																		0.00	
0408	Anesthesiology Close-Out	F																		0.00	
0609	New Slivka Residence	J																		0.00	
	Consultant/MEP	F							1				1.5		2					4.50	
	Meetings/ Tel Conf	F											1.5							1.50	
	Shop Drawings	F																		0.00	
	Construction Coordination	F											0.5							0.50	
	Consultant/Structural	F							0.5											0.50	
	Main House	F					0.5	1	1.5			3								6.00	
	Grotto	F																		0.00	
																				0.00	
0410	CGCC Phys Ed. Renov	J																		0.00	
	Fire Marshal	F																		0.00	
	FF&E	E				1.5										1	0.5			3.00	
	Consultants	C			0.5															0.50	
	Construction	F			2.5	1.5						1	1	1	0.5					7.50	
	Client Meetings/ Tel Conf	F																		0.00	
	Submittals	F																		0.00	
0803	VA Clinic Report	M					1										0.5			1.50	
																				0.00	
	Administration	J			3	5	6.5	2.5	2			2	2	1.5	1.5	2.5				0.00	
Total hours / pay period:					8.0	8.0	2.0	8.0	0.5			8.0	10.0	9.0	8.0	8.0				83.00	

Architects

Pay Period Ending 11/30/2008

D Specifications
E Bidding / Negotiation
F Construction Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday / Vacation
CE Cont Ed

Total hours / pay period:

Architects

Employee **Thomas A. Bozeman**

Pay Period Ending 11/15/2008

A Schematic Design
B Design Development
C Construction Documents

D Specifications
E Bidding / Negotiation
F Construction Administration

G Program
H Fee / Negotiation
J General Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

[illegible]

Architects

Employee: Thomas A. Bozeman

Pay Period-Ending

10/15/2008

A Schematic Design

B Design Development

C: Construction Documents

D Specifications

E-Bidding / Negotiation

F. Construction Administration:

G Program

H Fee / Negotiation

J. General Administration

L P/C and P/O:

M Consulting Studies

N: Promotional

P-Holiday

Project No.	Project Name Description of work	Code	Hours Worked															Total Hours
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
		F																0.00
		F																0.00
0410	CGCC Phys. Ed.	F																0.00
	Submittal Review/RFI	F																0.00
	Natatorium	E																0.00
		F																0.00
0602	Horry Co. Museum	C																0.00
																		0.00
0606	Andrew Low House Museum	F																0.00
																		0.00
0609	Silvka Residence & Outbldgs																	0.00
	Main House CD's	C																0.00
	Meet/Phone Explain to Gene	F					0.5											0.50
	Laundry Chute Location	B					1											1.00
	Chimney/Hearth Redesign	B				1	2	1.5										4.50
	Coord. Engineering Docs	C						1										1.00
	Main House CA	F																0.00
	Dist. For Pricing (Roof Bld)	F																0.00
	Submittal Review	F				2.5												2.50
	Meet with M. Sikes	C																0.00
	Update Permit Docs	C																0.00
	Coord. Subs	F																0.00
	Grotto	C																0.00
	Garage & Stable CA	F																0.00
																		0.00
																		0.00
0803	Sav. V.A. Clinic	M			3	4	2											9.00
																		0.00
	Project Develop. RFP	L																0.00
																		0.00
																		0.00
	Computer Administration	J			0.5	0.5	0.5	0.5										2.00
	Comp. Admin. - Patrick	J																0.00
	Comp. Admin. - Laptop	J																0.00
																		0.00
																		0.00
	Administration	J			3	2.5	2	1										8.50
																		0.00
	Awards	N																0.00
																		0.00
	Holiday	P																0.00
																		0.00
	Vacation							8	5			8	8	8	8	8	8	53.00
	Other Time																	0.00
																		0.00
																		0.00
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</																		

The Spriggs Group

Architects

Employee **Ken Spriggs**
Phase Codes

Pay Period Ending **12/15/2008**

A Schematic Design	D Specifications	G Program	L P/C and P/C
B Design Development	E Bidding / Negotiation	H Fee / Negotiation	M Consulting / Studies
C Construction Documents	F Construction Administration	J General Administration	N Promotional
			P Holiday / Vacation
			CE Cont Ed

Project No.	Project Name	Code	Hours Worked															Total Hours
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
0602	Horry County Hist. Museum	J																0.00
	Demolition Project	F	0.5				1.5					0.5		1				3.50
	Site Documentation	C					3											3.00
	Consultants	B									1	0.5						1.50
	Consultant Contracts	J																0.00
	Travel	G					7.5											7.50
	Design Development	B															0.5	0.50
	Stair Project	M			1	4						0.5		0.5				6.00
0804	CGCC Library ADA Restroom	J																0.00
	Construction	F										0.5						0.50
0802	Kingsland Municipal Bldg	J										0.5						0.50
0801	Massie Heritage Preservation	J									1							1.00
	Cost Estimating	B								1.5	0.5		1.5					3.50
	Site Review Fred Ecker	B		2														2.00
	Meetings/e-mail	B									1.5							1.50
	Schematic Design	A								1		1	2	1				5.00
	Consultant MEP	A									1	2						3.00
	Consultant Structural	A	0.5									0.5						1.00
	Consultant Timber Framing	B					0.5											0.50
	Site Documentation	B	1.5		0.5					0.5			0.5					3.00
	Power Point Presentation	A															6	6.00
0606	Andrew Low House	J																0.00
	Construction	F	1							0.5								1.50
	Close-out	F																0.00
0502	Kennickell Residence	J																0.00
	Photo Album & CD	N																0.00
	E-mail/tel conf	N																0.00
	Contractor	F																0.00
	Project Development	L																0.00
	Owens-Thomas Advisory	N																0.00
0408	Anesthesiology Close-Out	F																0.00
0609	New Slivka Residence	J																0.00
	Consultant/MEP	F	1	2	2.5	1				1	1	1	1	1				11.50
	Meetings/ Tel Conf	F		1	1					0.5								2.50
	Shop Drawings	F																0.00
	Construction Coordination	F			1	0.5												1.50
	Consultant/Structural	F	2															2.00
	Main House	F	0.5	1	1.5	1.5				1	1		0.5	1.5				8.50
	Grotto	F																0.00
0410	CGCC Phys Ed. Renov	J								0.5				0.5				1.00
	Fire Marshal	F																0.00
	FF&E	E				0.5				0.5							0.5	1.50
	Consultants	C		0.5														0.50
	Construction	F		0.5	1					2	1.5		0.5					5.50
	Client Meetings/ Tel Conf	F									0.5							0.50
	Submittals	F																0.00
																		0.00
																		0.00
																		0.00
	Administration	J	2	2	1.5	2				2		2	2	2.5			1	0.00
Total hours / pay period:			9.0	10.0	6.0	9.0	12.0			11.0	9.0	10.0	8.0	6.0			3.0	104.00

The Spriggs Group

Architects

Employee Ken Spriggs.
Phase Codes

Pay Period Ending 12/31/2008

A Schematic Design
B Design Development
C Construction Documents
D Specifications
E Bidding / Negotiation
F Construction Administration
G Program
H Fee / Negotiation
J General Administration
L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday / Vacation
CE Cont Ed

Project No.	Project Name Description of Work	Code	Hours Worked																												Total Hours
			16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31													
0602	Hony County Hist. Museum	J																												0.00	
	Demo Project	F	1	0.5						0.5	1.5							2.5	3	1										10.00	
	Stair/Aquarium	B																1												1.00	
	Consultants	B																												0.00	
	Consultant Contracts	J																												0.00	
	Travel	G																												0.00	
	Design Development	B					1																				0.5			1.50	
	Tel/E-mail/ Meetings	B																												0.00	
	Exhibits	J																												0.00	
																														0.00	
0604	CGCC Library ADA Restroom																													0.00	
	Construction	F																0.5												0.50	
																														0.00	
	Holiday/Vacation	P												6	8	6														20.00	
																														0.00	
0608	Andrew Low House	J																												0.00	
	Construction	F																												0.00	
	Punch List/Close-out	F																												0.00	
																														0.00	
																														0.00	
																														0.00	
																														0.00	
0502	Kennickell Residence	J																												0.00	
																														0.00	
																														0.00	
0801	Massie Heritage Center	J																												0.00	
	Schematic Design	A			3	2			1																					6.00	
	Rosser	B																												0.00	
	Fischetti	B			0.5																								0.50		
	Contracts	J																												0.00	
	Site Documentation	B																		2.5	1								3.50		
	Power Point	A	4	3																										7.00	
	Drawings/Specs	B																		1.5									1.50		
0809	New Slivka Residence	J																												0.00	
	Consultant/MEP	F																												0.00	
	Meetings/ Tel Conf	F																												0.00	
	Main House	F																							0.5				0.50		
	Grotto	F								0.5																				0.50	
	Consultant/Structural	F	1	2.5	3																									6.50	
																														0.00	
																														0.00	
																														0.00	
0410	CGCC Phys Ed. Renov	J																												0.00	
	Construction	F																		1							1		2.00		
	FF&E																										0.5			0.50	
	IT/AV																													0.00	
	Client Meetings/ Tel Conf	F																												0.00	
																														0.00	
	Portfolio	N																												0.00	
																														0.00	
	CADD Review	J					2																							2.00	
	Holiday Cards	N								5	5	2																		12.00	
	Administration	J	2	2	1.5	3				1	1.5				2					1.5	2	4								20.50	
Total hours / pay period:			6.0	6.5	8.0	8.0	0.0		0.8	6.0	5.0	3.0	2.0		0.0	2.0	2.0	8.0	8.0											90.00	

Architects

12/15/2008

A Schematic Design
B Design Development
C Construction Documents

D Specifications
E Bidding / Negotiation
F Construction Administration

G Program
H Fee / Negotiation
J General Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

433

Architects

12/31/2008

P Holiday

434

The Spriggs Group

Architects

Employee **Ken Spriggs**
Phase Codes

Pay Period Ending **01/1-15/2009**

A Schematic Design
B Design Development
C Construction Documents

D Specifications
E Bidding / Negotiation
F Construction Administration

G Program
H Fee / Negotiation
J General Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday / Vacation
CE Cont Ed

Project No.	Project Name Description of Work	Code	Hours Worked															Total Hours
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
0602	Horry County Hist. Museum	J																0.00
	Demolition Project	F		0.5			0.5	0.5			0.5				0.5			2.50
	Site Documentation	C																0.00
	Consultants	B					0.5	2						1.5	0.5			4.50
	Consultant Contracts	J							2.5					0.5				3.00
	Travel	G																0.00
	Design Development	B									0.5			0.5	1.5	1		3.50
	Stair Project	M																0.00
	Demolition Scope Mods	F		1.5			0.5	2	1.5									5.50
	Meetings/e-mails	B											0.5		0.5			1.00
	Exhibit Next Phase	B													1	0.5		1.50
0801	Massie Heritage Preservation	J		0.5														0.50
	Cost Estimating	B					0.5											0.50
	Site Review Fred Ecker	B					0.5	0.5	1									2.00
	Meetings/e-mail	B																0.00
	Consultant MEP	B					1	0.5		0.5				0.5				2.50
	Consultant Structural	B					0.5								2			2.50
	Site Documentation	B																0.00
	New Scope Estimate	J					0.5	0.5										1.00
	Design Development	B								0.5				0.5	0.5	2		3.50
	Product Research	B														2		2.00
0506	Andrew Low House	J								0.5								0.50
	Construction	F																0.00
	Close-out	F																0.00
0502	Kennickell Residence	J																0.00
	Photo Album & CD	N												0.5				0.50
																		0.00
	Holiday	P	8															8.00
																		0.00
	Project Development	L								0.5								0.50
																		0.00
	Portfolio	N												2.5	0.5			3.00
																		0.00
0408	Anesthesiology Close-Out	F																0.00
																		0.00
0609	New Slivka Residence	J																0.00
	Consultant/MEP	F																0.00
	Meetings/ Tel Conf	F																0.00
	Shop Drawings	F																0.00
	Construction Coordination	F																0.00
	Consultant/Structural	F														2		2.00
	Main House	F					0.5		0.5									1.00
	Grotto	F		0.5														0.50
																		0.00
0410	CGCC Phys Ed, Renov	J									2					0.5		2.50
	Fire Marshal	F																0.00
	FF&E	E									0.5							0.50
	Consultants	C																0.00
	Construction	F					0.5	0.5	2	2	0.5							5.50
	Client Meetings/ Tel Conf	F						0.5		2								2.50
	Final Punch List	F																0.00
	Travel Brunswick	F								2.5								2.50
0604	CCGA ADA Library Restroom	J		0.5														0.50
	Construction	F								0.5	0.5							1.00
																		0.00
	Administration	J		4.5			2.5	1	0.5	0.5	2			4	2.5	1.5	2	20.00
Total hours / pay period:				05.0			8.0	3.0	08	6.0	3.0			8.0	6.0	3.0	8.0	80.00

Architects

Pay Period Ending

1/15/2009

D Specifications
E Bidding / Negotiation
F Construction Administration

L P/C and P/C
M Consulting / Studies
N Promotional
P Holiday

Total hours / pay period:

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

CASE NO.: 2009-CP-15-0595

THE SPRIGGS GROUP, P.C., ... Respondent,

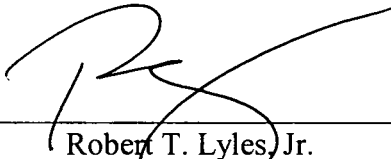
v.

GENE R. SLIVKA, ... Appellant.

PROOF OF SERVICE

I certify that I have served the Final Record on Appeal on Respondent by depositing a copy of it in the United States Mail, postage prepaid, on July 19, 2012, addressed to their attorneys of record, A. Bright Ariail, Esquire, Rosen, Rosen & Hagood, LLC, 151 Meeting Street, Suite 400, Charleston, S.C. 29402.

July 19, 2012


Robert T. Lyles, Jr.
Lyles & Lyles, LLC
342 East Bay Street (29401)
Post Office Box 773
Charleston, South Carolina 29402
(843) 577-7730
Rtl@lylesfirm.com
Attorney for Appellant

RECEIVED
JUL 20 2012
SC Court of Appeals

LYLES & LYLES, LLC
ATTORNEYS AT LAW
342 East Bay Street
P.O. Box 773 (29402)
Charleston, South Carolina 29401
Telephone: (843) 577-7730
Facsimile: (843) 577-7172

Robert T. Lyles, Jr.
Member

Direct: (843) 735-5560
E-mail: rtl@lylesfirm.com

July 19, 2012

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

Re: *The Spriggs Group, P.C. vs. Slivka*,
Colleton County Case No. 2009-CP-15-0595
Court of Appeals Case Number: 2011204366

Dear Ms. Gee:

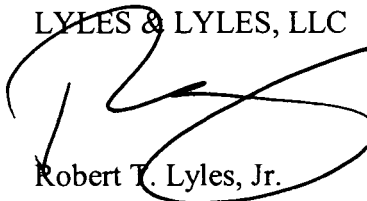
Enclosed for filing with regard to the above referenced matter, please find fifteen (15) copies of the following:

- 1) Final Brief of Appellant with Proof of Service;
- 2) Final Reply Brief of Appellant with Proof of Service; and
- 3) Record on Appeal with Proof of Service.

If you have any questions, please feel free to give me a call. With kind regards, I remain

Very truly yours,

LYLES & LYLES, LLC



Robert T. Lyles, Jr.

RTL/daw

Enclosures

cc: A. Bright Ariail Esquire
Gene R. Slivka

RECEIVED
JUL 20 2012
SC Court of Appeals

LYLES & LYLES, LLC
ATTORNEYS AT LAW
342 East Bay Street
P.O. Box 773 (29402)
Charleston, South Carolina 29401
Telephone: (843) 577-7730
Facsimile: (843) 577-7172

Robert T. Lyles, Jr.
Member

Direct: (843) 735-5560
E-mail: rtl@lylesfirm.com

July 17, 2012

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

RECEIVED
JUL 19 2012
SC Court of Appeals

Re: *The Spriggs Group, P.C. vs. Gene R. Slivka*
Colleton County Case Number: 2009-CP-15-0595
Court of Appeals Case Number: 2011204366

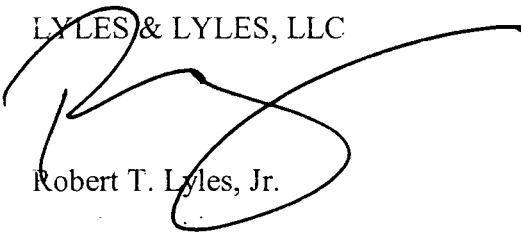
Dear Ms. Gee:

Enclosed is a page which has been added to the Record of Appeal by consent of the parties.
If you have any questions, please feel free to give me a call.

With kind regards, I remain

Very truly yours,

LYLES & LYLES, LLC


Robert T. Lyles, Jr.

Enclosure

cc: James A. Bruorton, IV, Esquire
A. Bright Ariail, Esquire

I so consent to the addition of page 120a to the Record of Appeal.

James A. Bruorton, IV, Esquire
A. Bright Ariail, Esquire
Attorneys for Respondent

LYLES & LYLES, LLC
ATTORNEYS AT LAW
342 East Bay Street
P.O. Box 773 (29402)
Charleston, South Carolina 29401
Telephone: (843) 577-7730
Facsimile: (843) 577-7172

Robert T. Lyles, Jr.
Member

Direct: (843) 735-5560
E-mail: rtl@lylesfirm.com

July 17, 2012

The Honorable Tanya Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

Re: *The Spriggs Group, P.C. vs. Gene R. Slivka*
Colleton County Case Number: 2009-CP-15-0595
Court of Appeals Case Number: 2011204366

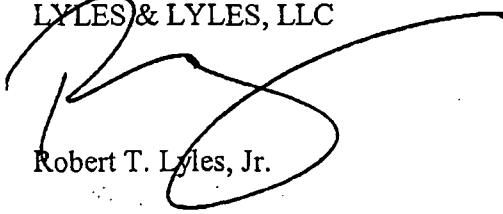
Dear Ms. Gee:

Enclosed is a page which has been added to the Record of Appeal by consent of the parties.
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With kind regards, I remain

Very truly yours,

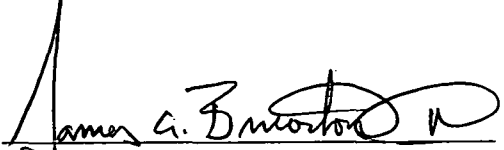
LYLES & LYLES, LLC


Robert T. Lyles, Jr.

Enclosure

cc: James A. Bruorton, IV, Esquire
A. Bright Ariail, Esquire

I so consent to the addition of page 120a to the Record of Appeal.


James A. Bruorton, IV, Esquire
A. Bright Ariail, Esquire
Attorneys for Respondent

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JUL 20 2012
SC Court of Appeals

GENE RAYMOND SLIVKA - DIRECT

1 THE COURT: Any objections?

2 MR. LYLES: No objections.

3 THE COURT: Plaintiff's Number Nine into evidence 2012
4 without objection.

5 (Thereupon, Plaintiff's Exhibit No. 9, 03-15-10
6 letter, was received into evidence.)

7 BY MS. ARIAIL:

8 Q. All right. You said you received this letter in the
9 time frame that it was mailed, March of 2010. This letter
10 asks that you make an investigation into the moneys that
11 you owe, that you agree that you owe the Spriggs Group;
12 doesn't it?

13 A. Yes, ma'am.

14 Q. And it tells you that you've got 45 days to make that
15 investigation; right?

16 A. Yes, ma'am.

17 Q. And you didn't make an investigation; did you?

18 A. All right. You asked me this question in my
19 deposition. And, you know, I didn't understand what you
20 meant by the word investigation. It's such an unusual
21 word to me.

22 Anyway, when you're asking somebody to look at money
23 or talking about money, did you make a review of the
24 invoices? Did you look to see if these were legitimate
25 invoices? Did you consider how they should be paid, or if

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SC Court of Appeals