

STATE OF SOUTH CAROLINA

MAGISTRATE'S COURT

COUNTY OF CHARLESTON

2014-CP-01829

JAMES R. ABBOTT, )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 MICHELE BLANK, )  
 )  
 Defendant, )

**RECEIVED**  
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 SC Court of Appeals  
 TRANSCRIPT OF RECORD

November 21, 2013

Charleston, South Carolina

BEFORE:

Henry W. Guerard, Magistrate

APPEARANCES:

James R. Abbott, Plaintiff  
Pro Se

Frampton Durban, Jr., Esquire  
Attorney for the Defendant

Gail A. Grady  
State of North Carolina  
General Court of Justice  
Judicial District 3B

The Court: This is Charleston County Small Claims Court, Judge Henry Guerard presiding, and this is the matter of Michele Blank versus James R. Abbott dba Abbott Construction, Small Claims Case 2013-CV-10-106-794, and this is Thursday, November 21, 2013. We had previously begun this case, uh, pretrial conference, okay, and it is my understanding that both parties withdrew their request for a jury trial, and we are hearing the case today on the merits before the court. Are we all on the same page there?

Durban: Yes, Your Honor. Thank you.

The Court: Um, in our last thrilling episode, we had discussed, um, what I sometimes call the prisoner exchange. We were going to try and resolve as many as much as possible the property disputes. Did we get anywhere on that? Personal property delivered back to one another?

Durban: No, Your Honor. I believe according to my client you had suggested that he drop a trailer off at her house, and give her a list of property that he wanted. Some of the items on here are rotted out, damaged, an outdoor grill, things like that. And he hasn't complied with that. He didn't bring the trailer.

The Court: Okay, so, what we discussed last time we were here, was you had a covered trailer, you were going to put whatever you had of hers on the trailer, carry it down to Charleston, leave it in her yard, give her overnight to empty the trailer of her things and fill it with your things, that never started? It didn't go well?

Durban: No, Your Honor, it didn't start.

The Court: Mr. Abbott.

Abbott: I sent her a list on Friday, November 1st, of all the things that were at her house that I could remember,

The Court: Right.

Abbott: Anticipating a response from her as to what it was, how much, when I could come, and so forth. And I never heard anything.

The Court: Okay, that wasn't exactly how I thought it would go. You got the list?

Blank: I got a list.

The Court: And, okay, what was, and where did you go from there?

Blank: I spoke to Mr. Durban and the list should have gone through him being as how he is my attorney.

The Court: So hand it to him.

Durban: I have a list, your honor.

The Court: Yeah. And...

Blank: And I started getting the things together, waiting for the trailer to show up in my yard,

The Court: Okay,

Blank: And a trailer never showed up in my yard.

The Court: Yeah, it didn't really need an approval. The things you have that you concede are hers, are hers, whether you get anything back for them or not. I mean, somebody's got to go first and you had the trailer. You were waiting for her to say yes, I've got all of this stuff, or yes...

Abbott: How much of it she has. I doubt she's got much of it.

The Court: Okay, see, my point was to get past the negotiation, whatever you got was what you got. We can argue over what's left. Whatever you took her is what you would have taken her. She can argue over what's left. But we obviously had some items that both of you are willing to concede that you have that are hers, and that she has that are yours. I would have thought at least those items could have changed hands. It didn't require further negotiation at all. It was simply... Did she send you a list of what to bring from Charlotte?

Abbott: I have one from last time. What she has....

The Court: Okay, but you're missing my point. Evidently I did not make myself clear at that time and that's fine, we are where we are, and we'll go on. But my point was this is why we are where we are in the first place. If neither side doesn't want to ever let go, they won't. Keeping the other side's property is just a way of keeping in touch with the other side. You know? We're now in a "can't live with, can't live without". We're not going to successfully stay together, but we're not going to let the other one go either. And what I was trying to do to the extent that it was possible was diffuse at least the obvious parts of that could be handled of, when I talked to both of you last time, you clearly had things of hers that you agreed were hers. I didn't care what they were. It's a starting point. I suggested that you put those items on a truck and carry it to her. And that you all didn't want to see each other, you didn't want to be around each other, it was a trailer, I said back it up in her driveway, unhook it, and drive off. And I looked at her and said get whatever's on that truck, take it off, put it in your house and mark those off your list, and put everything that you agreed that you have of his back on the truck, and he'll come by the next day, pick it up and haul it back to Charlotte. Isn't that about what I said?

Abbott: Yes, sir.

The Court: That didn't require any kind of negotiation at all. It just required I'll be there Thursday. End of story. It didn't require a list.

Abbott: Well, she ...

The Court: If you all could have done that, you would have done it.

Abbott: She needed to agree that what I put on ...

The Court: She didn't need to agree to a thing.

Abbott: Well, I'm supposed to bring her all her stuff and she's gonna say I don't have any of this?

The Court: Yeah.

Abbott: Basically...

The Court: Yeah, if that's what happened, that's what happened. Because it was never yours. You have no justification to have it, I don't care what you get back from her and likewise. This is never going to be yours, it's his. You have no justification to have it.

Abbott: I want to know what she has of mine left.

The Court: You'd have known if you had left the truck. It would be what showed up, and if it was three things, it was three things.

Abbott: And what if my \$7,000 worth of stuff, there's nothing left, and I brought hers all back? Then we'd have to...

The Court: That's what we'd be here today for, you'd get a judgment.

Abbott: Well...

The Court: That's all that's going to happen anyway.

Abbott: There you go, I can do that.

The Court: No, you can't – the window for that, the time is past.

Abbott: There are some things....

The Court: I made this clear last time we were here; I know I did because I went home to successfully explain it to my wife when she said how was your day today? And I said well, I did a small claims divorce today. Two people that were never married so they weren't entitled to the benefits of the family court, they ended up in small claims court. Yes sir?

Abbott: There are some things that I have of hers that she was not using and I do use them, and I'd like to purchase them from her. So I won't have, I won't have to bring the trailer with her stuff.

The Court: Hold on. Hold on. How long have you all been split up?

Abbott: A year.

The Court: And so in that twelve months, nowhere in there was there ever a time when you said, Hey, look, I can actually send you money for these things, you don't need them, and I can actually use them, and I will give you X amount of dollars, and she'd come back and say, well, that doesn't sound like enough money to me. And you could say, okay, well, then I'll give them back to you. That's how that works, and you had twelve months to do it, and you haven't done it yet.

Abbott: I've been told not to have any contact with her because of the criminal charges.

The Court: You were told, what criminal charges are we talking about?

Durban: There are no criminal charges.

Abbott: The bank fraud. The check that she was supposed to be...

The Court: Hold on. Has a detective ever talked to you about criminal charges?

Abbott: Yes, he did.

The Court: When?

Abbott: A couple times.

The Court: When?

Abbott: One time in June, and another time not too long ago over the phone.

The Court: Okay.

Abbott: I went up there and explained to him, showed him the paperwork, what needed to be...

The Court: Okay, hold on, stop, who told you not to talk to the other side?

Abbott: My attorneys.

The Court: What attorney? That chair is empty.

Abbott: Well, the one, Dotty Ford, that basically just leave it like it is, until we get the bank fraud thing settled.

The Court: Okay.

Durban: Your Honor, we met with the detective, Ms. Abbott and I, we had a long discussion with him.

The Court: About how long ago was that?

Durban: It was last summer, during the summer.

Blank: Uh huh.

The Court: Five or six months, three or four months ago.

Durban: We spoke with the detective. He agreed with us that this was just strictly a domestic dispute and had nothing to do with anything else, and he dropped the investigation.

The Court: All right. This was alleged bank fraud committed by whom toward whom?

Durban: Ms. Abbott worked for Mr. Abbott.

Blank: Blank.

The Court: Correct.

Durban: Excuse me, Ms. Blank worked for Mr. Abbott in addition to having a personal relationship with him.

The Court: Correct.

Durban: As part of her responsibilities, she was given signatory authority over the bank accounts.

The Court: Okay, So Mr. Abbott brought the charge, made the complaint.

Durban: Yes.

The Court: Mr. Abbott, since you're the complaining person,

Abbott: Yes sir.

The Court: I'm sorry, I thought you were the potential defendant.

Abbott: Yes, I am, in this.

The Court: Okay, so, have you brought charges or not?

Abbott: I have tried, I have tried, I don't know what's going on. My bank...

The Court: You haven't been able to convince the detective this is a chargeable offense yet, that's what's going on.

Abbott: A detective, yes. I don't understand where the detective has the right, you know, arrest her and let's put her in front of a judge and let the judge decide.

The Court: You have to have probable cause to believe it. It doesn't work quite that easy or we'd all be in jail. I'm tired of Mr. Durban so I'm going to make a complaint on him this afternoon and have him arrested. And since I'm a judge, I can sign the warrant myself.

Abbott: I did.

The Court: You did what? Signed a complaint.

Abbott: I (unintelligible) it, and they didn't do it. These two went to the thing and convinced the detective that this was a civil matter.

The Court: Right. Which it is. I agree. You'd have a hard time getting me to sign that warrant. But. One. You did or did not give her signatory privileges on that account?

Abbott: I did.

The Court: Okay. She didn't get there through criminal activity. Um, and your allegation was that she embezzled from you?

Abbott: I can, I have the ...

The Court: No, just say it. Yes or no. What's the complaint?

Abbott: No, I'm not sure it was fraud. What they told me is what she did was clearly wrong. The bank.

The Court: Who told you that?

Abbott: Branch Bank & Trust Company.

The Court: Okay, then, was BB&T willing to make a charge?

Abbott: No. They said they couldn't do it.

The Court: Why not?

Abbott: Because she was a signatory on the account.

The Court: Hello. What did I just ask him? We're going in short circles here.

Abbott: But I did not authorize her to write a check for \$10,000 and overdraw my account. She can't do that. If she could do that, anybody could do that.

The Court: Anybody you put on the account that has the right to sign the checks.

Abbott: That's right.

The Court: The \$10,000 was to pay her for something she thought was her righteous obligation?

Abbott: She quit her job and wrote her own severance pay.

The Court: Right, which you all talked about.

Abbott: No.

The Court: You did last time you were here.

Abbott: I threw her out of the house because she's a drunk, okay? I made her an offer to come back....

The Court: Hold on, hold on, hold on. I made some observations last time that were correct. I attempted some things which I hoped would diffuse it which were pointless, and so I'm going to quit wasting everybody's time with that endeavor. We're here. This is the day of trial. And Ms. Blank is the moving party. Mr. Durban, what witnesses are you calling?

Durban: I'm just going to call Michele Blank and perhaps Mr. Abbott himself.

The Court: Okay. But nobody else. Mr. Abbott, any other witnesses besides yourself?

Abbott: No sir.

The Court: If I remember correctly, you are a friend of Ms. Blank's, and you are with Mr. Durban. I can guess some things accurately. I sure guessed wrong last time on a bunch of things. Okay, we've gotten that far. And... let me do one thing. Just a moment here. All right, Mr. Durban, anything preliminary before we get started?

Durban: No, Your Honor.

The Court: And did you wish to make an opening or do you want to call your first witness?

Durban: I can just make a brief opening and just tell you what we've got here.

The Court: Certainly.

Durban: You know the basics. You've had these people in front of you before. You've heard what has occurred this morning. Mr. Abbott and Ms. Blank established a personal relationship. He asked her to come to work for him. She had various titles working for Abbott Construction including operations manager, site inspector, she was a safety overseer on various projects. She went with the business to Haiti, to North Carolina, to work on various jobs with him. She was given signatory authority over BB&T and did all the business for the company. She had, they had credit cards issued in both of their names. She was put on the accounts. She paid the bills. He was often out of town. She was here. She would take care of the business from here while he was gone. They went to Haiti together. They also own a boat but that issue is not in front of you. They still own that boat together. And at some point in time, this relationship has always been rocky on and off, we will present you with a series of emails from him, showing the up and down in this, and how finally in about December of 2012, between the 15<sup>th</sup> and 30<sup>th</sup> of December 2012, he terminated her from the business. He told her in those emails which we are going to present to you that he owed her \$5,000 for January and February, and that he would pay that. Now interestingly enough, he never did pay that. She remained on the account. He had left checks with her to pay the bills with. And so she honored his commitment to her

The Court: Rightly so

Durban: to pay herself. As soon as he found out that she had paid herself for that, he reversed the charges on that check and filed a fraud affidavit with BB&T which is signed under oath and which contains a materially false statement, at least one, probably two. And that led to this criminal investigation which has now been terminated with her. All she is trying to do is to get what is coming to her according to what he promised her when he terminated her, and that was two months' worth of pay at \$2,500 a month. And that's the reason we are in front of you. The items of property that she has listed, we will present that to you as well, are several items dealing with her business. She designs stained glass and sells them at shows all over the southeast. There are some items that deal with her

business that are there. She recognizes that she has some of his items at the place and has been trying to get him to come get them so that she can give them back to him ever since. She is still receiving some of his mail. He has never changed the address to get credit card statements and things like that, that are being sent to her address. So he just wanted to walk away and he can't walk away -- he may be able to walk away from the personal relationship but he can't walk away from the business relationship. And that's the only reason we are here today. In addition, even after he signed a fraud affidavit against her, we're going to show you he has still been trying to get her into bed. So that's the scope of our evidence, Your Honor. We are trying to get back the property or the value of the property. We're trying to get back what she's had to spend in doing this, pursuing this case with him, after a year of trying to negotiate with him and with Bobby Howe. And she's trying to get the cost of this action and the property value and the compensation that she was promised.

The Court: Okay. You've been dealing with, you said Bobby Howe?

Durban: Bobby Howe originally got in touch with me, well, he wrote a very threatening letter to Michele early on which I called him on because what he was doing was saying, trying to get, use the criminal prosecution

The Court: Okay.

Durban: as leverage in a civil matter and I called him on that, and he backed off of it. I sent him the emails that we had, I had two letters to him, one letter and two phone conversations from him, that's the last I ever heard from him.

The Court: And that was a year ago? And that was this past spring?

Durban: Yes sir.

The Court: Okay. And this action was filed in the first week of July. All right. If you would like to call your first witness.

Durban: Thank you. Michele Blank.

The Court: Ms. Blank if you could come up and take the stand for me please. And if you could just step over this way, place your left hand on the Bible right here and raise the right?

(The Witness was sworn in.)

The Court: Please have a seat and make yourself comfortable.

Durban: Your honor, can I ask my paralegal to come up and join me at the table to keep up with all the paperwork?

The Court: Please.

Durban: Michele, would you please give the judge your full name.

Blank: Michele Gail Blank.

Durban: And where do you live, Ms. Blank?

Blank: 1600 McCormick Drive, Mt. Pleasant, 29466.

Durban: And what is your current occupation?

Blank: I'm a stained glass artist.

Durban: And that's the only occupation that you have?

Blank: Yes sir.

Durban: How long have you been doing stained glass?

Blank: 42 years.

Durban: Now, you know James Abbott, the defendant.

Blank: I do.

Durban: And how long have you known Mr. Abbott?

Blank: We got together in August of 2009.

Durban: And you began to have a romantic relationship.

Blank: Immediately.

Durban: Did that relationship progress? Did you ever discuss marriage?

Blank: It was discussed. I refused to marry him. He had too much credit that he owed.

Durban: Okay. But you did make some sort of a commitment to each other in an unusual ceremony. Tell the court about that.

Blank: At the Power of Attorney, when we, at Beatrice Whitten's office, we exchanged Power of Attorney.

Durban: Okay. And you considered that your commitment to him and his commitment to you.

Blank: Yes sir.

Durban: Now, after you got together with him in 2009, did you ever get involved in his business?

Blank: Yes, sir, I did.

Durban: And why did you get involved in his business?

Blank: Because he needed the help and he asked me to do that, and he had helped me on and off at shows, so I felt kind of obligated to help him out.

Durban: And what is his business?

Blank: He's a marine contractor, marine construction.

Durban: And does he have employees?

Blank: Yes, he does.

Durban: And what was the nature of your obligations to that company when you first became employed?

Blank: First became employed, I set it up basically so that all the credit cards, all the bills, all the salaries, could be paid via online, and also internationally, because he had a, I think about a ten month contract in Haiti and so I was going to have to run the business from Haiti and that meant setting up international wire transfers and that kind of thing through BB&T, um, and I did not want to go to Haiti. It's a nasty, nasty place.

Durban: Did you pay the bills for the company?

Blank: I did.

Durban: And did he give you the authority to sign checks?

Blank: Yes, he did.

Durban: And did you in fact sign checks for the company?

Blank: Yes, I did. I wrote myself my salary checks. I wrote checks to West Hill, Tommy Hill, um, oh, several people. I also paid for plane tickets, uh, business expenses. Ummm. He was already in Haiti and I was basically paying all of his bills as they came in.

Durban: When did you begin these responsibilities for Abbott Construction?

Blank: I started working on getting everything straight right about January or February and then March, it was pretty much set up by then.

Durban: Okay.

The Court: Sorry. Which year?

Blank: 2012.

The Court: Okay.

Durban: And you were operating until the trip to Haiti from

Blank: From South Carolina, yes.

Durban: And he was, on the other hand, back and forth

Blank: Back and forth North Carolina, and back and forth Haiti.

Durban: Did your personal relationship continue?

Blank: It did.

Durban: Did you always ask him for the authority to write checks to pay the bills?

Blank: Oh, no. (chuckles)

Durban: That was your responsibility?

Blank: That was my responsibility.

Durban: And you retrieved some of the checks that you wrote yourself for your salary, is that correct?

Blank: Yes, sir.

Abbott: What's that?

Durban: I'm just showing it to you.

Abbott: Oh, I know that.

Durban: I am going to show you copies of four checks dated April 22, 2012, April 9 of 2012, June 27 of 2012, July 15 of 2012, and ask if you can identify those checks?

Blank: Yes sir, these are salary checks that I wrote to myself.

Durban: Is that your signature on those checks?

Blank: Yes it is.

Durban: And those checks cleared the bank as being valid checks.

Blank: Yes, sir.

Durban: Your honor, we'd like to ask to introduce these checks into evidence as Plaintiff's number one, one single exhibit.

The Court: Okay, just one moment. All right. Plaintiff's exhibit ... Oh, I'm sorry. Mr. Abbott, counsel showed you these. You recognize them or you acknowledge that they are on your account?

Abbott: Uh huh. Uh, yeah. I just want to make sure of the dates here.

The Court: You've seen these before or not?

Abbott: Oh yeah.

The Court: Okay.

Abbott: Just wanted to make sure July 15 was the last one she wrote.

The Court: Okay. Any objections?

Abbott: No, sir.

The Court: Thank you. Counsel?

Durban: Are those all the checks you wrote yourself during that time?

Blank: Uh, as far as I know.

Durban: Okay. Now, did you ever contribute any of your own money to Abbott Construction?

Blank: Uh, yes I did. We had credit cards together. I paid for plane fare for he and I to go to Haiti and back. I also paid for his employee to fly to Haiti on the credit card that we shared, different numbers but the same account. And at one point, he was a little short on, I offered to pay one of his bills on my credit card because he was short when he was in Haiti and that didn't have to be done, and twice we used my Square Register which I use for my business to take credit cards and ran his credit card through that because he needed a couple of loans which I then paid him cash or a check for.

Durban: And that came from your personal funds?

Blank: Yes.

Durban: And you offered because the business was short on enough money to be able to pay the bills, to put it on your personal credit card?

Blank: Yes I did, right.

Durban: Now I am going to show you an email, a block of emails beginning on March 15, 2012, excuse me, beginning March 14, 2012, to March 15, 2012, and ask if that March 14th entry at the bottom is the one where you offer to actually cover the shortage...

Blank: Yes, sir.

Durban: For the company, um, through your personal credit card?

Blank: Yes, sir, that's it.

Durban: Plaintiff's number two.

The Court: I'm sorry. What is it?

Durban: At the bottom is what we're referring to. This is where she offered to help bail the business out with her own personal credit card.

The Court: All right, the relevant part is starting "Happy Birthday"?

Durban: Oh no, all the way at the bottom the last one dated March 14.

The Court: "We're a little short"?

Durban: Yes sir.

The Court: "I have a zero percent check from my CC account I can use to pay off your high interest card good till May 13. Do it?" And this is 14 March 2012. Okay. Mr. Abbott, do you remember, do you recognize this correspondence?

Abbott: Well, I wrote a lot. I guess this. Yeah. I can't say that I agree with this fellow here about all this money. But, uh, uh,

The Court: Do you agree that this correspondence took place?

Abbott: Yes.

The Court: All right. Plaintiff's two.

Durban: Thank you. Now, how long did Mr. Abbott spend in Haiti?

Blank: Umm, the first trip was just several days or a week, I, I, I can't remember exactly, to be honest with you. And then when I joined him he had been there I think about a month. And I joined him, supposedly I was going to be there for several months, we were going to get paid \$4000 a week, but after two weeks of me being there, he was fired.

Durban: Do you know why he was fired?

Blank: (chuckles) Because he was arguing with the main man about the quality of the construction.

Durban: And so you left Haiti, now this was in March of 2012?

Blank: During a riot.

Durban: Okay. And you were there in March of 2012?

Blank: I'm sorry, I believe that was April.

Durban: Okay, for about two weeks.

Blank: Two weeks. April... I have the dates there. I think we left on April 16<sup>th</sup>? 11th till the 26<sup>th</sup>.

Durban: Now, when you returned from Haiti, did your responsibilities with the company remain the same?

Blank: It, yes, um, well, I wasn't actually terminated or anything. Umm, he began to start paying some of his own bills, but I still, he was living at my house and

Durban: You continued to work for the company and paid yourself at least from the checks we've got through July.

Blank: Right, except I never got paid for the time I was in Haiti.

Durban: Okay. In November of 2012, did he secure another position and wanted you to get trained in certain specialties in the construction industry?

Blank: Yes, and I went through the training, but I really wasn't qualified to do the job because it, it, I was supposed to have a basic understanding of the construction business, and I, I don't. He told me to just take the classes and we'd get paid something like \$6000 a month.

Durban: And what was your responsibility?

Blank: I was supposed to be the site safety officer at Cherry Point at Havelock, and I was supposed to be a substitute when he had to run out and just do it part time, and he ended up getting some dock jobs and I was there pretty much full time for several days.

Durban: Okay, and tell me what that entails.

Blank: Sitting around in steel toed boots and a hard hat in a construction trailer, um, on site, and just supposedly making sure that everything was done legally and to the, uh, specs, the government specs, of what safety was required.

Durban: These are the courses that he sent you to in November and December of 2012?

Blank: Yeah, there was also one other one, I think, at least these three, yes.

Durban: And he paid for those courses for you?

Blank: Oh yeah, I didn't want to take them.

Durban: And he was paying you to be in North Carolina with the Trader project?

Blank: Uh, paying me to be the substitute.

Durban: You actually attended meetings?

Blank: Yes.

Durban: Did you continue to have responsibility for paying some of the expenses of the company?

Blank: Um, I think he had taken that back over by then.

Durban: He was doing it himself?

Blank: Yes.

Durban: But you were still listed as a signatory on the BB&T account.

Blank: Yes, sir.

Durban: Plaintiff's number three, Your Honor. The courses that Mr. Abbott paid for.

The Court: Mr. Abbott, any objection to this?

Abbott: Um, no.

The Court: All right. Plaintiff's three.

Durban: Now things changed in December. What happened?

Blank: Um, well, I was supposed to have a studio in the garage of the house. He had two of his workers living in the house, so my room...

Durban: This is at your house, right?

Blank: His house, in North Carolina, where the job was.

Durban: His house.

Blank: And I was supposed to have my own bedroom there and instead it went to an employee, and my supposed studio never happened in the garage because it became a weight room. And I just couldn't take it anymore, and at one point he said to me, he said "Are you happy?" and I said "Heck no, I'm not happy" and he said "Well, get out." So, that was it.

Judge: I'm sorry, you said this was November?

Blank: December.

The Court: December. All right. Just this past December.

Blank: Um-hmm.

Durban: So December of 2012, you left North Carolina and returned here.

Blank: Yes sir.

Durban: Did you continue to communicate with him by email?

Blank: No.

Durban: Did he continue to communicate with you by email?

Blank: Yes.

Durban: And did he make any representations to you concerning your termination from the company?

Blank: Yes.

Durban: What did he tell you?

Blank: He said that he was going to pay me for January and February, \$2500 each month, um, and that he would send the, the records to his accountant, Doug Crowley, and ummm, what else did he say? Oh, first of all, he said we would get back together in three months. And then he said we would get back together in two years. And then he asked me to get together with him New Year's Eve, and then he asked me to get together with him mid-January, and then he sent me a card for Valentine's Day, and then he sent me a birthday card in March. And he basically gave me a diary of what was going on, and asked me to wait for him, basically.

Durban: And on December 30, 2012, excuse me, on December 31, 2012, did you receive that email from him?

Blank: Yes, I did.

Durban: And in that, does he mention his commitment to you for the compensation of \$5000?

Blank: Yes, he does. He said that he'll send it \$2500 for January and February. And part of the reason that I felt that he owed it to me was because I book my shows sometime months in advance and because I thought I was going to be working for him, I didn't book my shows. So I didn't have any other income and I think that's why, I assume that that's why he felt obligated to pay me.

Durban: At that time, December 30 of 2012, you were no longer working for him.

Blank: That's correct.

Durban: So the compensation he was giving you was in the nature of severance pay.

Blank: Exactly.

Durban: And he confirmed that again with you on Sunday, December 30 of 2012, as to exactly the amount that he felt he owed you. Is that correct?

Blank: That's correct.

Durban: Okay, and what is in that email? What does he say in that email?

Blank: He says I don't owe you anything but \$5000. I do not have any more time or money for you other than the January February payments.

Durban: Your Honor, we ask that these come in as Plaintiff's four and five.

The Court: I'm up to five and six. No, you're right. I'm sorry. Four and five. Okay. Mr. Abbott, these emails are accurate? They took place? You want to see them? He's handing you copies.

Abbott: Um, I'm aware of the situation and it's not being represented properly, but I'm pretty sure that's what it says.

The Court: Okay, these are accurate copies of what took place, the interpretation of what should be made of them obviously you disagree with.

Abbott: Yes.

The Court: But these are accurate as far as what you sent and what you received.

Abbott: Yes, sir.

The Court: Okay. Plaintiff's four and five. Okay. One of them is October 22, one of them's December 30<sup>th</sup>? Oh, wait a minute

Durban: No sir. It's actually, the original

The Court: Going forward, okay, December 30<sup>th</sup> and January 1, is that what we're looking at?

Durban: Yes sir, December 30<sup>th</sup> and December 31<sup>st</sup>.

The Court: Okay, December 30<sup>th</sup> and December 31<sup>st</sup>. I'll get down the forwards far enough in a minute to realize. Okay, so December 30<sup>th</sup> is four and December 31<sup>st</sup> is five.

Durban: Yes sir.

The Court: Okay, continue.

Durban: With the court's indulgence, just one second.

The Court: Please.

Durban: Now, after the 30<sup>th</sup> of December, did you still have possession of items dealing with Abbott Construction?

Blank: Ummm, no, not that.... Abbott Construction? No.

Durban: Okay. You still had personal effects of Mr. Abbott's.

Blank: Yes.

Durban: At your house.

Blank: Yes, well, what we had together on the boat that he had left at my house, I had some of that stuff.

Durban: And then on January 10<sup>th</sup> of 2013, he offered to rehire you.

Blank: He did, because he was going in for hip surgery and you'll notice that he attempted to rehire me at double or even more than that of what he originally was paying me.

Durban: This is January 10<sup>th</sup> of 2013. Is this the letter that you received from Mr. Abbott confirming the arrangement to rehire you at a compensation of \$3200 a month plus mileage, food and lodging?

Blank: Correct.

Durban: And you recognize that as his signature?

Blank: Yes, sir.

Durban: You received that from him.

Blank: I did.

Durban: Plaintiff's six.

The Court: Very good. Mr. Abbott, you sent this?

Abbott: Yes.

The Court: All right. Plaintiff's six.

Durban: Finally, when he did not come through on his promise, his commitment to pay you \$5000, and you were still in possession of checks from Abbott Construction,

Blank: Yes, sir.

Durban: And you were still a signatory on the account.

Blank: Yes, sir.

Durban: And he had left checks with you at your home.

Blank: Yes, sir.

Durban: And he left those checks with you so you could pay the bills.

Blank: Yes, sir.

Durban: He never did retrieve those checks.

Blank: That's correct.

Durban: He never did retrieve any other business records that you had from you.

Blank: No sir, and, and he never, I'm still getting credit card statements.

Durban: So you wrote yourself a check.

Blank: Yes, I did.

Durban: And he reversed that check.

Blank: He fraudulently filed fraud, fraudulently

The Court: Hold on, hold on, we'll deal with the fraud some other time, but what did he do? I don't need the editorial comments.

Durban: He stopped the check.

Blank: He stopped the payment on the check. I went to try to collect money on the check and they never gave it to me. They wouldn't give it to me. And then they closed my account.

Durban: And that occurred on or about the 30<sup>th</sup> of January, 2013?

Blank: Correct, since I had not received payment yet.

Durban: Now, so it's your position then that given his commitment to pay you a severance pay of \$5000 that you were entitled to do so since you were a signatory on the account and you had written yourself checks before and he had by those emails told you that that's what he was going to do.

Blank: That was my understanding.

Durban: Okay. Now, there were also between your two houses a number of items of property that were left.

Blank: Yes.

Durban: And those are all still there and they are unresolved at this time.

Blank: That's correct.

Durban: And you have prepared a list of what is in his house that you believe you're entitled to recover, is that correct?

Blank: That's correct.

Durban: Is this that list?

Blank: Yes, sir.

Durban: He has a copy of it, Your Honor. That's in your handwriting.

Blank: Yes, sir.

Durban: And today you recalled two other items and you added those to that list.

Blank: I did.

Durban: We ask that this be entered as Plaintiff's seven, Your Honor.

The Court: Okay. This is her inventory of personal items she believes that he has in his possession at this time?

Durban: Yes, sir.

The Court: All right.

Durban: Now, can you just explain a couple of these items so that we understand what we're talking about here. There's a Broyhill dresser/mirror, dresser and mirror

Blank: Yes. When he moved into my home he took over my son's old bedroom and he didn't want that in there because he wanted to put a big desk in there. So he took it out and said he could use it at the house in North Carolina. He also, we had, uh, my friend had given me a scale model pool table, it's a Brookstone pool table, and we took that up there. He wanted to take my wood burning stove up there. I have a miter saw I use for my business, a diamond grinder I use for my business, a hand painted shower curtain that was from an artist friend of mine, my work drafting table, workwise, boxes of bevels and miscellaneous glass supplies. I also had some personal jewelry including things his mother had given me, all of my music CDs that had been on the boat, and also my dog and cat feeding bowls and bed. And then he also had all of my keys. I changed all of my locks but I had to relinquish my safe deposit box and that key that he retained, I had to pay for that. He still has my PO box key.

Durban: And the two additional items?

Blank: The two stained glass panels that were hanging in the house. The third one he paid for so he can keep that, and then I also had, he gifted me a headset for flying and I'd like to get that back.

Durban: Now how big are these glass panels?

Blank: Umm, about two foot by three foot.

Durban: And in the market of your glass sales, what would those retail for?

Blank: Uh, about fifteen hundred each.

Durban: And you said there is one of them that he paid for.

Blank: Right, that's the third one.

Durban: The tools, the drafting table, the tools especially, are those the items that have the most value that are there, both to your business and market value?

Blank: Absolutely.

The Court: I'm sorry, which items?

Durban: The miter saw with the diamond grinder.

The Court: Umhmm. Okay.

Durban: Now, you also received a list from Mr. Abbott concerning the property he believes that you possess.

Blank: Yes sir, and just a note, he had moved out and taken what I thought he wanted with him.

Durban: I'm sorry. Your Honor, I believe you have a copy of his list or not?

The Court: Let's see. I may have. No, I don't have it.

Durban: And this is the list you received from Mr. Abbott.

Blank: Yes it is.

Durban: Dated Friday, November 1<sup>st</sup>, 2013. Number seven, no, it'll be Number eight.

The Court: Correct.

Durban: Now have you reviewed this list?

Blank: Yes I have.

Durban: You checked what's in your house.

Blank: I have looked all over.

Durban: Okay. Let's just take them by number. Can you tell the Court which items you still are in possession of, and explain why you are not in possession of the others.

Blank: Okay, I have Number one, I have Number two, Number three is there.

The Court: Okay, okay, can you go, Number one is the Rain marine navigation equipment?

Blank: Yes, sir.

The Court: And two is the moped.

Blank: Number two is the moped. Number three is the dinghy with oars, Number four is kayak with a paddle, not an oar. Number five, anchor for trimaran, I have a plug anchor. Number six, there were flags on the front of my house that he installed, but they broke off in a wind storm so those are gone. I mean, I have the flags, but they're broken. Number seven, two drive-on truck levelers, I have those. Number eight, he installed an outdoor shower. He can have that back. Number nine, two picnic tables, yes. Number ten, Smokey Joe and gas cooker. No, those rusted out long ago and were replaced. Number eleven, I don't even know what that is. Number twelve, the trickster skis are there. Number thirteen, the surf casting rods, they're there. Fourteen, two fishing rods, yeah we have between us a lot of fishing rods. There's a bunch of them in North Carolina too. I believe I have two tackle boxes, whether they are both his, I don't agree with that, but I'll give them back to him. Cast nets, I have a cast net, I have a clam

rake, I have some life jackets, I have deck baskets and I have pancake air compressor. The dart board was mine. The bed and frame, he threw out the one I had in that bedroom and wanted to put his own in there, so I think I am justified in keeping that. I do have a printer. I do have very little but some clothes and hats. I don't know that I have shoes. I do not have a Carhartt vest. I do not have any coveralls. I do have the knife set that I bought for him and he can have it back. You have got to be kidding on the hydrocortisone. I threw out all his personal ointments and toothpaste and things like that long ago. Coffee percolator, no, I believe we took that to the boat, don't have that. Don't have a coffee grinder. I do have the ceramic water dispenser. I don't have the wooden sailboat night light. Whether he took it with him or I threw it away, I don't know. I don't have the Blue Tooth DVD player. That went to his house. And the two Haitian art pictures that he bought me, he can have those back, too. And I do have a pair of binoculars. I don't know anything about a black digital camera. And I don't know what he is talking about with the fishing lures bought in Miami. They were on the boat. Having gotten this list, even if he had brought a trailer, I have to hire movers to pick a lot of this stuff up to carry it in there. I can't possibly carry this stuff out of the house.

Durban: But you are willing to release that property to him.

Blank: Absolutely. I wish it would go. But I have to pay somebody. Those picnic tables are heavy, the outdoor shower has to be uninstalled, boats, I can't pick that stuff up, and there is a steel desk that I'd like to get out too.

Durban: All right, now, Ms. Blank, since that, since that problem that you had back in January when Mr. Abbott stopped payment on the check and called you on fraud, have you had any further communication with him?

Blank: Not voluntarily, but he sent me cards. He sent me a card with a letter for Valentine's Day that was rather nasty, and then he sent me one for my birthday. I believe that's the one you're holding in your hand.

Durban: When is your birthday?

Blank: March 15<sup>th</sup>.

Durban: So in March after he had stopped payment on the check, after he had filed the fraud affidavit, he sends you a birthday card?

Blank: Yes, he did.

Durban: Okay. Is that the birthday card that you received from him?

Blank: Yes it is.

Durban: And did the birthday card include a handwritten letter?

Blank: Yes it did.

Durban: And do you recognize his handwriting?

Blank: Absolutely.

Durban: Is that in his handwriting?

Blank: Yes it is.

Durban: And what is the date on that letter from him?

Blank: Well, Sunday, March 10th, and then Monday, March 11<sup>th</sup>, Wednesday, March 13<sup>th</sup>, and March 14<sup>th</sup>, like a diary.

Durban: And in that, does he at some times during that correspondence, say that he wants to get back together with you?

Blank: Uh, yes.

Durban: And at sometimes does he call you some rather vulgar names?

Blank: Yes.

Durban: But this is, and he signed the birthday card how?

Blank: Love, Jimmy. Wish we weren't so far apart. Happy Birthday. Love, Jimmy.

Durban: Your Honor, I have the original of this card. I also have a copy of the card. I'd like to put the copy of the card in as Number eight. Nine.

The Court: Mr. Abbott, you sent this card and this letter?

Abbott: Absolutely.

The Court: Plaintiff's nine.

Durban: Thank you, Ms. Blank. I don't think I have any further questions.

The Court: Mr. Abbott, understanding that in a moment you are going to get a chance to testify and tell the court your entire side, do you have any questions you want to ask Ms. Blank?

Abbott: Ummm, not really, not in this courtroom.

The Court: (chuckles) Okay. Um, Ms. Blank, at the bottom of the list you gave us a minute ago, your Exhibit 8, um, there were a few other items you said were on the catamaran. The catamaran is not in your possession at this time?

Blank: No sir.

The Court: Okay. It's in Mr. Blank's, or has he disposed of it?

Blank: Mr. Abbott's?

The Court: Mr. Abbott.

Blank: Yes. As he admitted in the pretrial, he had it retitled in his name alone, and I have a copy of the original title.

The Court: Okay. You believe those items, the last time you knew anything about them, were on the catamaran.

Blank: Yes, sir. Except for the binoculars. They were at my house.

The Court: Right. And the rest of these items are in your possession, and are in reasonably similar condition to the condition they were in the last time Mr. Abbott probably saw them.

Blank: Uh, the ones that I, that I said that I had, yes, except for the flags that had broken off.

The Court: And the grill that's rusted out.

Blank: Yes, well, and then there's also the sump pump. I don't even know what that is.

The Court: It's a water pump that you put in the basement to evacuate condensation or accumulation of water in the floor of your basement.

Blank: I don't have a basement.

The Court: Just like the bilge pump in a boat.

Abbott: We pumped out the hot tub with it.

The Court: Hold on, I didn't invite comment.

Blank: I'm not aware that I have that.

The Court: Okay. You don't know what we're talking about. It's probably an item no bigger than something like this. It could be in the corner somewhere.

Blank: It's possible that it's something I haven't found yet

The Court: Have you ever had water problems in your basement?

Blank: I don't have a basement.

The Court: Okay, it's just sitting then.

Abbott: It was used to pump out her hot tub.

The Court: Do you remember a pump used to pump out the hot tub?

Blank: A little fish aquarium kind of pump?

Abbott: No, it was a 110 pump with a long green hose on it.

Blank: I don't remember it. I'll look further for it. Believe me, if I have it, you can have it back.

Abbott: It doesn't matter.

The Court: Okay guys, forget it. Thanks.

Abbott: It doesn't matter.

The Court: All right, what else was I going to do? Okay, today you're asking for the \$5000 you believe you are owed in compensation for working for the company. You also in your complaint indicated at the time you filed you believe he had personal items of yours worth approximately \$1200.

Blank: That's because I wasn't counting the stained glass panels.

The Court: I'm sorry?

Blank: I wasn't including the stained glass panels.

The Court: Okay. And you believe them to be worth \$1500?

Blank: Each.

The Court: Okay. Do you realize you've greatly exceeded my jurisdiction now? That the most I can do is give you a judgment for \$7,500 and you write off the balance.

Blank: That's fine.

The Court: It doesn't generate a second law suit. There is no way to get it back.

Blank: I understand that, sir.

The Court: You are capped. All issues before me today will become what is called \_\_\_\_\_ meaning "already decided", and they will be either achieved or forever written off. Are you good with that?

Blank: Yes, sir.

The Court: Okay. So, and you also asked for \$1000 in attorney's fees. At the time you wrote this, you were not represented by counsel. What attorney's fees were you asking for?

Blank: Because of the fraudulent check charge.

The Court: Okay. Not a matter before me. Plus there is nothing I have heard that would entitle you to attorney's fees anyway. You understand that.

Blank: I understand, sir.

The Court: And, Mr. Abbott, you did not have any questions at this time.

Abbott: No, sir.

The Court: And Mr. Durban, anything else?

Durban: Nothing further, Your Honor. The Plaintiff rests.

The Court: Thank you very much. You're not going to call Mr. Abbott?

Durban: I am not going to call Mr. Abbott.

The Court: That's great. All right, Mr. Abbott, grab whatever you need, come on up, it's your turn.

Abbott: I am a little bit at a disadvantage here. I wasn't expecting another attorney but I am going to have to ad lib this.

The Court: You were going to ad lib it anyway. That's the way it works.

Abbott: Yes sir.

The Court: You're not a lawyer.

Abbott: No, I'm not.

(Mr. Abbott is sworn in by The Court)

The Court: All right. Please have a seat and make yourself comfortable. Your full name?

Abbott: James Robin Abbott.

The Court: A B B O T T ?

Abbott: Yes, sir.

The Court: And you own Abbott Construction?

Abbott: I do.

The Court: Is it still in existence today?

Abbott: Yes it is.

The Court: And this is a sole proprietorship? Partnership? LLC?

Abbott: LLC.

The Court: It is? In what state?

Abbott: South Carolina.

(26)

The Court: It's Abbott Construction?

Abbott: Abbott Marine Construction.

The Court: You're the sole shareholder?

Abbott: I am.

The Court: All right. Abbott Marine Construction, LLC, a South Carolina corporation in good standing, for profit, James Robin Abbott, Sr., 526 Romaine Road, McClellanville.

Abbott: That's changed. That was the original address.

The Court: That's the latest information you provided to the Secretary of State. Created in April 13, 2007, amended December 22, 2008, and nothing else has changed per the Secretary. Okay. You're still in business?

Abbott: Yes, sir.

The Court: Have any contracts right now?

Abbott: Three or four.

The Court: Very good. Um, all right. Mr. Abbott, can you tell me your side of what's going on please.

Abbott: Well, we started on, I think about, she's correct, we met in August of 2009. She picked me up at the Isle of Palms at the VFW and took me home and invited me to stay, strongly, and as far as this uh, marriage thing goes, I knew from the get-go she was a practicing alcoholic and there was no way I was going to marry a practicing alcoholic from the get-go. So if there was any designs on marriage in this relationship, it was entirely in her head. Now, we did have a wonderful time over the years and I paid. Entertainment is expensive. I mostly helped her in her business, toting her glass, and going to art shows. Had a wonderful time. And when I was running out of money there, uh, I needed to get back to work. I worked a little bit but I really neglected it for a few years there. We, uh, I had an opportunity to go to Haiti. She wasn't keen on the idea. Um, I went. I went by myself for thirty days. She didn't want to go. And as her friend back here, Sharon, will say, why is she coming now? Because she was desperately lonely. You remember that, Sharon?

The Court: Wait a minute. It's not a dialogue. You're talking to me.

Abbott: Okay. All right. Sorry about that. So, uh, she had, prior to my going to Haiti, we had not planned on her coming. She had, uh, we got the Power of Attorney so she could conduct my business. I think, I gave her a signed check. I said if I get killed just take the money out of the bank quick as you can because it will all get tied up in court. I gave her a blank check. All right. She had taken control of my finances, my credit cards. We'd swap money back and forth. She was reimbursed completely on every penny that she ever sent, or spent. I don't know, we could get the records out on that but you can bet that it was a one-way affair here on the money. Okay, she came over after 30 days. We left. She says she

wasn't paid for Haiti. She was paid for Haiti and my law suit against the prime contractor is still ongoing, matter of fact, and it has not been paid to me. If it does get paid to me, it will be paid to her. I do not owe her for that.

The Court: Okay, time out. You said she'd been paid and then you said "and as soon as I get paid, she'll get paid." That's two totally contradictory inconsistent sentences. She's never seen a dime.

Abbott: Let me...

The Court: You're saying that you acknowledge she's owed.

Abbott: If I win the law suit...

The Court: Yes or no. I don't care about the lottery. That ain't gonna happen either.

Abbott: No, okay.

The Court: So. Hold on, she's been paid, yes, no.

Abbott: She's been paid.

The Court: How? When did she get the money?

Abbott: She got the money when I got the money.

The Court: When did you get it?

Abbott: Probably the week that, you know, that I was paid. She was paid immediately.

The Court: Okay, then, what's all this noise about a law suit and when you get paid?

Abbott: Well, she brought that up or her attorney did.

The Court: No, she didn't. You just did. Stop. Answer a straight question with a straight answer.

Abbott: Well, I must have misunderstood what he said. But I thought he said that she, that I owed her money from Haiti.

The Court: That's correct.

Abbott: I do not.

The Court: Her statement was "While I was in Haiti, I did not get paid."

Abbott: Wrong.

The Court: Okay. What's wrong with that?

Abbott: She was paid.

The Court: How? How much?

Abbott: She got paid I think it was \$2000 a week.

The Court: While she was in Haiti.

Abbott: I think so, yeah. (Unintelligible) ... records. I wasn't prepared for this.

The Court: It's on account, or did she...No, no, no. Stop. Okay, well you brought it up. If you're not going there, I'm not going there.

Abbott: No, he brought it up.

The Court: Okay, then, you believe she was paid while she was in Haiti.

Abbott: She was. She was paid in full for Haiti

The Court: All right, then, so I might follow what we're doing, you then went on to say just a minute ago that it's wrong that she's not been paid and that you have a lawsuit against the contractor, and that when you get paid, she will get paid.

Abbott: Okay.

The Court: Did I misunderstand that?

Abbott: No, but I need to elaborate on that a bit.

The Court: Yeah, just explain. Yes.

Abbott: Okay. We deserved two weeks' severance. The fellow fired me on the spot. So I put a lawsuit in for two weeks' severance for all of us. Michele, Tommy and I. If I get paid for that, they will get paid for that.

The Court: That's in addition to what she has already been paid?

Abbott: Yes.

The Court: And how long was she in Haiti?

Abbott: Uh, not long. Two weeks, three weeks, four weeks?

The Court: I'm pretty sure she said two.

Abbott: Two.

The Court: And then you got fired and you left.

Abbott: Yeah.

The Court: Okay. For those two weeks, what should she have been paid?

Abbott: You know, I can't remember, but whatever it was, she was paid that.

The Court: Okay. Moving on?

Abbott: All right, now, moving on, we came back, and uh, I wasn't going back to Haiti any more. I needed to get back to work in the United States. All right, now, we were having difficulty as far as managing the money. And I have always managed my own money. She says I needed help. I never needed help. I don't have any help now. She left, I'm still running my business just the way I always have. And like you asked before, I'm doing real well. So I asked her to help me. She had put all the credit cards on the electronic thing. I wasn't accustomed to that. I get the bills in the mail, I stack them up according to the time that they are due and I write them before they are due. I needed to do that. She didn't want to help me do that. She didn't want me to take over the finances. She didn't want to give it back to me. All right. Fine, I'll do it myself. I did. I missed some of them. I don't know where they're going now, all I know is it's a mess. But I'm handling it. It's not going to be something to do me in. Now, we were in turmoil there from May, uh, until December when I asked her to leave. Very unhappy, she was very unhappy. She had been accustomed to me giving her \$2500 a month minus taxes which I took taxes out. Now I owed her...

The Court: Okay, so she was an employee.

Abbott: She was an employee, yes, sir.

The Court: You filed a W-2 on her behalf.

Abbott: Yes, I did.

The Court: Okay.

Abbott: All right, now, uh, in December, it was early, and I still loved her, there's no question about it, but I could not run my business with her in the house at night arguing and fighting about what I needed to do to keep myself up. I knew what I needed to do was just get her out. But she could help me. I trained her. I paid to have her trained. The company we were working for, the prime, requested, required that she do it. Now, she has her own business. She's successful. She has a glass art business. She had art shows in January. I sent my help down. I have a hip that was going to be replaced in February. I sent my help to Florida to help her with her art shows. She stayed on the trimaran in January. She tried to sell the trimaran in the bar while she was charging drinks to my account. She became a persona non grata at this club where we had the trimaran. Okay, so I agreed that she was accustomed to getting the \$2500 a month. I owed her \$5000 for the trimaran. I paid her up through December when I asked her to leave. I said I will pay you \$2500 in January and \$2500 in February. It had nothing to do with Abbott Marine Construction. It had to do with her interest in the trimaran. She wanted to sell it. All right. I want it. All right. So on January 10<sup>th</sup>, I sent this letter. Sure did. This is the deal - I don't want you living with me, but you got the job. All right. You have to take your direction from the superintendent, Ernie Grant, not me. Nope, she didn't answer that, she didn't want that. She decided she was going to quit her job. All right, she wrote this check here. All right. I look at my bank account on Monday morning

and see that I am \$3000 overdrawn. I don't have copies of this, but I can show everybody this if you want to look at this.

The Court: Show what?

Abbott: To think that I allowed this or permitted this or this is legal or anything else is absolutely crazy.

The Court: What are the dates? Just tell me, you're looking at it.

Abbott: What the dates are?

The Court: Yeah.

Abbott: Okay, let me see. She wrote the check, it was, uh...

The Court: That won't tell you when she wrote it. It will tell you when the bank cleared it. Just tell me what that is.

Abbott: All right, hold on.

The Court: You highlighted it. Can't you read it?

Abbott: No, that's when they debited me back because I signed the...

The Court: Okay. Back to the first plan. Hand it to me.

Abbott: Okay.

The Court: Sit down.

Abbott: They credited me the money back because I signed the affidavit.

The Court: Right, I got that.

Abbott: It was nothing personal.

The Court: That's an interesting comment. Every time somebody says nothing's personal, it almost always is. That's why you're saying it. If it was no doubt about whether it was business or personal...

Abbott: No, in this case, it is not. It was for \$10,000. That's why I signed it. And that's why I agreed to it. It wasn't to get at her. I loved her. But I needed \$10,000 to go to the hospital to have my hip replaced.

The Court: Right.

Abbott: So I agreed to it.

The Court: Agreed to what?

Abbott: To hiring an attorney and arresting her.

The Court: Okay. Nothing personal in that.

Abbott: No, not at all, it was all business.

The Court: Okay. Okay, you handed me an Affidavit of Fraud, Craven County, North Carolina, City of Trenton, check number 5195, account 5100945012, amount \$10,000. Nothing else is checked. Unauthorized paper draft, um. I assert under oath that I individually as to the personal account on which the unauthorized payment order was drawn, or as authorized agent of the entity on which the unauthorized payment order was drawn, did not authorize issuance of check, paper draft or remotely created check to the payee in the amount described above. Okay. 4 September 13. Indemnification Agreement to Hold Harmless. I assume this is between you and BB&T. BB&T online account history printed out 2/25/13, on page two of the two-page attachment all BB&T account history with highlighted entries of 1/31/13, 5195 check number, \$10,000, 2/4/13 credit debit reversal \$10,000. Okay, you wanted me to see this because?

Abbott: Because this is not personal, all right? This was...

The Court: I can't tell that from looking at this. No one disputes. She's already testified on direct that she wrote herself a check for \$10,000 and you stopped it.

Abbott: I did.

The Court: That confirms that is the truth. We both agree on that.

Abbott: Yes. And I did it because I was required to do it to get my money back.

The Court: Okay, that's true. That would be the only way you would get that money back, is to say it was fraudulent because otherwise it's a check written on your account by a person with check-writing authority.

Abbott: But not authority to write that check.

The Court: Okay. What checks did she have the authority to write?

Abbott: She didn't have any authority to write any checks after I got back from Haiti, and I should have stopped everything.

The Court: You should have.

Abbott: All right. She made the check out...

The Court: All right. Hold on. At that point she was no longer an employee of yours.

Abbott: No, no, no, let me back up now. She wrote some checks. There was a transition period there. I would have allowed her to keep on doing this, to keep on running my business through the money. But she was arguing with me about how to run my business which I have run for 20 years as if she knew better. Now, it took a transition period there, I think she wrote her own check July 15th for her salary.

That may have been the last one she wrote. I took the checkbook back. All right. She took this check out of my checkbook in November, all right.

The Court: But in November, maybe I am getting the years screwed up, in November you were getting her certified to be your safety officer.

Abbott: Yes.

The Court: Sounds like she's still working for you to me.

Abbott: Yes.

The Court: Okay.

Abbott: But she was not writing any more checks in my business.

The Court: Okay, the safety officer doesn't write checks.

Abbott: No.

The Court: All right.

Abbott: Neither does the Quality Controller.

The Court: Which she was also doing at the time?

Abbott: Yes.

The Court: But you never went into BB&T and said, by the way, take her off...

Abbott: No, I did not, sir. I did not. My mistake. I trusted her.

The Court: Well, and at that point what had she done to betray your trust?

Abbott: She wrote a check for \$10,000.

The Court: That wasn't at that point. That was two months later.

Abbott: And tried to do me in before my hip operation.

The Court: Right. Okay. Where do you want to go from here?

Abbott: So. All right. I was required to do that. I came down here and hired Bobby Howe and he wrote a letter to her. Do we have that?

The Court: Mr. Durban acknowledged some correspondence with Attorney Howe in the spring of 2013. Are we addressing something particular?

Abbott: Something about the oldest trick in the book, stealing the whole page out of the checkbook.

The Court: Okay, I really don't care about Mr. Howe's correspondence aside from the fact that it's gross hearsay.

Abbott: I'll go along with that.

The Court: You're paying for it, not me.

Abbott: I did, but that's all I hired him for, all right? I told him that explicitly. This isn't a civil case. I'm required to arrest this girl. Please do it. None of this. None of this. You know, I'll handle this on my own, as soon as I get over my hip replacement here.

The Court: I'm sorry, you'll handle what on your own?

Abbott: Settling up with the personal possessions and the money owed, and all that.

The Court: Okay. So you hired Mr. Howe to do what?

Abbott: To arrest her, as required by the bank.

The Court: Okay. You wanted him to pursue the \$10,000 check case.

Abbott: Just do what the BB&T, I gave him this. I said do this, do this. It's required for me to have the money back.

The Court: And, so then what?

Abbott: So then, it wasn't done, it wasn't done, and then we started talking about this is a civil suit. And I wasn't really interested in any kind of a civil suit. I knew what I owed her. I owed her, well, let's go back. Okay, the January and February, I said I would pay her \$2500 a month. She was accustomed to getting \$2500 a month from me, from Abbott Marine Construction, for her salary. All right. Now, I owe you \$5000, I'll pay you \$2500 a month. That was for her interest in the trimaran, January and February. I didn't have a lot of money. All right. So, that money was not for salary. She didn't work. She had her own business in January to begin with. I wrote her a new contract because she wasn't living with me. If you agree to this, sign it, return it, and this is what you can do. You can come back when I have my hip replacement and everything's hunkey dory, but I can't live with you anymore. No personal relationship. But I need you to cover for me while I am recovering from my hip replacement. So she wrote herself a check for \$10,000 and told me to get screwed, basically. But, as I do, I held on, I sent her a card, uh, I sent her another card, and I have uh, uh, gotten over it. I've gotten over it. And I didn't know exactly, I know her son was at her house, and probably ripped her off again, probably took some of my stuff.

The Court: What are we talking about?

Abbott: What?

The Court: What are we talking about now?

Abbott: Okay. My personal stuff at her house, the personal items at the house. I wanted to get what I have, well really, I don't care. I mean you can have all your stuff. Keep all my stuff. I don't care. It's just a pain in the ass.

The Court: Whoa.

Abbott: What?

The Court: All right. Let me back up just a moment on one thing. You had your hip replacement when?

Abbott: February 12<sup>th</sup>.

The Court: 2013.

Abbott: Yes.

The Court: She wrote the check for \$10,000 on what date?

Abbott: Uh, January ...

The Court: 30<sup>th</sup>, 31<sup>st</sup>? The end of the month?

Abbott: It was something like that. January 30<sup>th</sup>, yeah. I didn't know about it until Monday or something like February 4<sup>th</sup>. It was a week, about ten days before the operation. Cleaned me out. Overdrew me. Good shot.

The Court: That sounds a little personal to me.

Abbott: That was.

The Court: Okay, don't need the cheap shots, don't need the cussing, I need you to stay on point.

Abbott: Yes, sir.

The Court: All right.

Abbott: All right, now, so, well basically, that's it. Although, okay, we go back to the trimaran. All right. Not only, okay, she's kept files, she's kept receipts, eight months of my taxes, uh, and she's kept my teeth, anyway, she's kept as much as she can keep for ransom here. And uh, the uh,

The Court: Hold on. She has business checks of yours? Cancelled checks?

Abbott: No. I stopped payment when I realized she took the whole page. In fact, what happened, she must have been at the bank, now I don't know this for sure.

The Court: Then don't speculate. Tell me what you know.

Abbott: Okay. A representative of her bank called me and asked me did I authorize her to write...

The Court: Wait a minute. Wait a minute. I don't need all the hearsay dialogue. What was the point? What happened?

Abbott: I cancelled the two other checks out of the page that she had. She has no more checks of mine that I know of.

The Court: Okay, but a minute ago you were saying she has business records of yours.

Abbott: Yes.

The Court: What records?

Abbott: Eight months of taxes, receipts, I don't know. You know, it's a box that I had at her house that I use for tax purposes, to file my taxes.

The Court: Okay. Stop right there for a moment. Time out. Do you have a box of his documents? Possibly cancelled checks, business records.

Blank: Yeah. He left them in a closet.

The Court: Okay. I take it he can have those back.

Blank: Absolutely. I already offered them back.

The Court: See, hold on. You all remind me of the hundreds of cases I've heard over the year, where here in court somebody's trying to collect a bill. And the other person says oh, I'm gonna pay that, or I've offered him that. You wouldn't be here with me if it already happened, and there's no reason it hasn't happened other than you don't want it to. So telling me I want him to have it is not genuine. If you wanted him to have them, he'd have them. So, um, anytime you all feel like giving in, you can. Anytime you want to return these items, you can. There's nothing contingent on them. They're not yours. If y'all keep holding each other hostage, and that's why I called it a prisoner exchange a moment ago, because that's exactly what it is then we have to negotiate some point where we draw a line in the middle of my parking lot and the two of you have everything on respective sleds, and you edge ever closer to the line dragging your sled, hoping that one won't get the other one's first. This is absurd. You all are adults. So quit telling me that I want him to have it, he can have it any time he wants. What are you doing here with me? That's simply not true. He can't have it today because you won't give it to him. She can't have it today because you won't give it to her. Or else we wouldn't be here.

Abbott: Not until we settle up on the money.

The Court: Bingo. Not till. Not till. I don't care what comes after the word till. Both of you keep saying "Not till". And you can look at me with a straight face and say hey, I didn't intend it once. All right, moving along.

Abbott: Yes, sir.

The Court: I think you were wrapping up?

Abbott: I was.

The Court: Uh, tell me about the catamaran, since you brought it up.

Abbott: Okay.

The Court: You believe you owe her \$5000 for the catamaran.

Abbott: That is true, and there's nothing written about that...

The Court: Which is, coincidentally, a dollar figure which equals the money she thinks she's owed which if I remember right was why you wrote yourself a check for \$10,000 and not \$5000? You were cleaning it all up.

Blank: Yes, sir. Trying to avoid all this.

The Court: What you told me at pre-trial was you thought he owed you \$5000 in back pay and \$5000 for the catamaran, \$10,000 covered it all, you wrote yourself a check, you were getting ready to say goodbye and then that all fell apart.

Blank: Yes, sir. Yes, sir.

The Court: All right. So, quick short version of the catamaran. Do you all agree that there's, God knows why I am wasting the time to do this but, do you all agree that her part of the catamaran is \$5000?

Blank: No.

The Court: I knew I was wasting time.

Abbott: Oh my God.

The Court: All right, so.

Abbott: Well, the catamaran is in my name completely,

The Court: It is now.

Abbott: And it is legally in my name, and that's all I'll say about it.

The Court: Okay. So the only reason you brought that up was to explain why you thought you owed her \$5000.

Abbott: That's right.

The Court: That it was not back pay.

Abbott: No. No.

LINE

1 The Court: That, that you thought her share of the catamaran was \$5000, so you kept telling her she was  
2 entitled to \$5000.

3 Abbott: That's correct.

4 The Court: And you kept telling her that she was used to getting \$2500 because that's why you were  
5 going to pay it in two installments,

6 Abbott: Yes.

7 The Court: Not to be confused with the fact that she was used to getting \$2500 a month for being your  
8 employee.

9 Abbott: That's right.

10 The Court: I'm on ya.

11 Abbott: Thank you.

The Court: Um. Cross?

Durban: Thank you, Your Honor. Mr. Abbott, did you send Ms. Blank this email on January 29, 2013?

Abbott: You were paid through December. When I get paid for January, I will let you know. But you can figure around February 8<sup>th</sup>. Yeah. I sure did. But it had nothing to do...

Durban: Will you keep reading it, please sir.

Abbott: What?

Durban: Keep reading.

The Court: Keep reading. He wants it in context.

Abbott: I don't have any more time or money for you other than that January-February payment. I don't have time for you or anyone else. I will send you the \$2500 January and February. I will make sure Doug sends your W-2s as soon as possible so I can file your taxes.

Durban: That sounds like a discussion of pay, doesn't it? W-2s, you got paid for December.

Abbott: Oh, get out of here, man. You know exactly what it was for.

The Court: Wait a minute. Quit arguing with him. Just yes or no.

Durban: I mean, you talked about W-2s, you talked about being paid through December.

Abbott: Okay, I talked about it.

~~30~~

APPENDANT'S DESIGNATION OF  
MATTER P. 79

LINE

Durban: Can I finish my question please? You talked about W-2s, you talked about being paid through December, and you said you'd send her \$2500 January and February. Now \$2500 was her salary, is that correct?

Abbott: That's correct.

Durban: And you paid her through December.

Abbott: Yes.

Durban: And you were going to pay her through January and February.

Abbott: I was going to pay off her share of the trimaran as she had been accustomed to being paid. Now you can see that.

Durban: The discussion about the boat was entirely different from the discussion about paying her for January and February.

Abbott: You're twisting this, man.

Durban: Would you answer my question?

Abbott: Sure.

Durban: Was this a completely different discussion? Is this your handwriting?

Abbott: Do you want me to read this?

Durban: I'm asking if that's your handwriting.

Abbott: Yeah.

19 Durban: Did you write that to Michele?

20 Abbott: This was written a lot earlier. This is when we were going to sell the trimaran, one of the times  
21 we were going to split, okay? I can't remember exactly what the date was, but this was a lot earlier.

22 Durban: But this is about the boat.

23 Abbott: Yes, it is about the boat.

24 Durban: And in that letter that's in your handwriting, in that letter you give her a breakdown of what the  
25 value of the boat is and what the cost of the boat is.

24 Abbott: I have the cost of the boat, I have the, and all the expenses, yes.

29 Durban: And at the bottom you said, what? The last paragraph?

~~29~~

APPELLANT'S DESIGNATION OF  
MATTER P. 80

Links

1 Abbott: I suggest we sell it as is, where it is, you get \$5000, I get \$16,000, we split the excess above  
2 \$20,000. What do you say? What'd she say?

3 Durban: So that is a discussion of the boat, \$5000 for the boat.

4 Abbott: Yes it is.

5 Durban: Okay, I'd like to put this in as Plaintiff's 10, I believe.

The Court: All right. It would be 10. And on, I'm sorry, do you acknowledge this is your handwriting?

Abbott: Yes.

The Court: You have no objection to it being entered.

Abbott: No, sir. I wrote it.

The Court: All right. I understand. Thank you.

Durban: Now, you went to BB&T in North Carolina on February 4<sup>th</sup> of 2013. Is that correct?

Abbott: Um, what's this now?

Durban: You went to BB&T to fill out an affidavit in February of 2013.

Abbott: Yes, I did.

Durban: And at the time you entered the business relationship with Ms. Blank, uh, you provided her with signature authority over that account,

Abbott: Um hmm.

Durban: You provided her with a credit card, a company credit card.

Abbott: Yes.

Durban: Issued in her name.

Abbott: Yes.

Durban: And you provided her with checks to write.

Abbott: She had the checkbook.

Durban: Okay. All right. So you provided her with checks to write. And she did that.

Abbott: Um hmm.

Durban: She paid the bills, she paid herself.

~~AB~~

APPELLANT'S RESIGNATION OF  
MATTER P. 81

Abbott: Um hmm.

Durban: So you wouldn't marry her because of your position that she is an alcoholic, but you would put her in charge of your business?

Abbott: I put her in charge of my money, yes I did.

Durban: You put her in charge of the money.

Abbott: Yes.

Durban: And you put her in charge of the business.

Abbott: No, I didn't put her in charge of the business. I put her in charge of managing the money. A lot of alcoholics can manage money.

Durban: Oh. Okay. So you put her in charge of managing your money.

Abbott: Yes.

Durban: But you would not marry her.

Abbott: No, man.

Durban: And you continued to have an intimate relationship.

Abbott: Yes, I did.

Durban: Okay.

The Court: Hold that thought for just a second. Just to clarify on Mr. Durban's question about putting her in charge of the business.

Abbott: Yes, sir.

The Court: Um, I think what's he's suggesting, and I'm going to make a mistake by putting words in his mouth but I'm going to try it anyway, um, that you weren't making her the contractor, but you were certainly making her head of the contracting firm's business office, were you not? She wasn't running the business but she was taking care of the business' business, paying its bills, paying its payroll.

Abbott: Mmmm, we shared.

The Court: At best, she became the head office clerk, if not office manager.

Abbott: Yes, basically yes.

The Court: So, Mr. Durban, you may or may not accept my reinterpretation of your question, but have we not gotten to where the answer to your question is Yes?

Durban: When I was, when I was asking about the business, I meant the business aspects of his construction firm, yes, sir.

The Court: So ultimately, this is a yes.

Durban: Yes.

The Court: All right. If I haven't totally derailed your train of thought...

Durban: No, sir. Thank you. And then you went to BB&T on February 4<sup>th</sup> of 2013 and signed this fraud affidavit, is that correct?

Abbott: Yes.

Durban: And that is your signature.

Abbott: Yes.

Durban: And that was signed before a Notary Public.

Abbott: Yes.

Durban: You understand what that means.

Abbott: Yes.

Durban: That it makes it a sworn statement.

Abbott: Yes.

Durban: Would you read, please, Paragraph 3 of that sworn statement?

Abbott: I did not leave a blank or incomplete check. I did not. I did leave it in an unsafe place because it was in her house, at my house, and she took it out.

Durban: You said you did not, you just testified that you gave her the checkbook.

Abbott: Oh, for God's sake, man. Here. You know what she did, everybody in this courtroom knows what she did.

The Court: Hold on, hold on. Can we just answer the questions that are asked? If you don't understand the questions, say so.

Durban: He has acknowledged his signature, Your Honor, and we ask that this be Number 12.

The Court: Uh, 11. Is it two pages?

Durban: Yes, sir. Now do you understand and acknowledge the pieces of property that Ms. Blank has listed that are in your possession?

Abbott: Yes.

Durban: Are those in your possession?

Abbott: Let me see, uh, I think I have, okay, uh, I have items, uh, let me see, I have numbered them here. I've got the dresser, I've got the pool table, the stove, the miter saw, the grinder, the shower curtain, the drafting table, the boxes of doubles, the jewelry. I can't find the music. I don't have that. If she might tell me where she put it, I could find it.

The Court: I'm sorry. What item are we talking about?

Durban: Music CDs.

The Court: Oh. Hold on. Yeah, okay.

Abbott: I only have one stainless steel feeding bowl. I can't find the other one. And I am at a loss for the keys but I brought the keys with me today and she can look through them. She can have them all. I don't know what they go to.

The Court: Okay. Stained glass, head set, do you have those?

Abbott: Yes, sir.

The Court: Okay, when you say that about keys, you mean you've got a key ring or something?

Abbott: Yes, sir.

The Court: And you want to let her look at it and see if the keys she is looking for are on it?

Abbott: Yes.

The Court: And the key, under safe key is the number 30, engraved on it? Is that what we're saying?

Abbott: I don't think I have that.

The Court: It says 30 on safe key.

Blank: Yeah. I've already closed that safe deposit box, and I had to pay the \$30 fee on that key.

The Court: Oh. Ah. That's what the 30 is. Where do you bank? They only charged you \$30 for a lost safe deposit key?

Blank: Well, because I had the other one, so they could make a copy. Yeah, I thought it was going to be more, and I think in my initial thing I had more on there, but because I had my one...

The Court: My bank made it abundantly clear to me if I couldn't return both keys, they would have to re-key it, and when they did that, I would be in for \$150.

Blank: That's what they told me, but then when I went to close it they gave, they said since you have the one key, we don't have to re-key it, we can make a copy.

The Court: Wow. Okay.

Blank: Yeah, I was lucky on that one.

The Court: Moving on.

Abbott: That's it.

Durban: So after the, okay, that's the list. So after you executed that fraud affidavit on February 4<sup>th</sup>, 2013, did you have any further correspondence with Ms. Blank?

Abbott: Yes I did. I think it was mostly one way. I think it was all one way.

Durban: Anything that you would consider to be menacing?

Abbott: No. No. Um umm.

Durban: Did you send her this card postmarked on February 12<sup>th</sup> of 2013?

Abbott: Probably. Why? Oh yeah, yeah, yeah. I sure did. (Chuckles)

Durban: And did you include in that card, you sent her a copy of the \$10,000 check that had been returned from BBB&T,

Abbott: Yeah, yeah.

Durban: And also a very revealing photograph of herself.

Abbott: Yes.

Durban: And you also sent her a bear dressed in prison garb.

Abbott: Uh huh. Yeah, yeah, yeah.

Durban: So you sent her all of that.

Abbott: Yes, I did.

Durban: On, on, on Valentine's Day.

Abbott: Yeah, I thought she was going to jail. Hell, it wasn't my, excuse me, it wasn't my choice. It was not my choice. \$10,000, sign the line, I said you got a deal.

Durban: Your Honor, I don't think I have any more questions.

The Court: Okay.

Abbott: Good for you, Michele. I don't care how it's decided, I've had a good time.

The Court: I hope so, because on that statement alone, you're running the substantial risk of getting to pay for the whole thing, so I hope you're getting your ride. Um, anything else you want to say, on point?

Abbott: No.

The Court: I'm going to protect you from yourself to the extent that I can, although the recent response to Mr. Durban's questioning, um, wasn't the most constructive thing you could have done.

Abbott: Well, I'm sorry, but this is the conclusion of a...

The Court: No, I'm going to stop you right there too. I know where you're going. You can have a seat. Thank you. All right. Mr. Abbott, did you have anything else you wished to present or that you wanted the court to know?

Abbott: No.

The Court: You believe I have all the information I need to decide your case.

Abbott: Yes, sir.

The Court: And Mr. Durban? Anything in rebuttal, reply, or anything further?

Durban: Nothing in rebuttal, Your Honor, thank you.

The Court: So both sides have presented everything they want, whatever evidence, witnesses? Um, let me do one thing. Are we still hoping, that since we've sort of identified the actual items in play that we are going to voluntarily transfer these items to one another, or are you expecting me to put a money value on each of them and give you a judgment?

Abbott: Yes.

The Court: Well, yes, what? That was an either/or, A or B?

Abbott: Money value.

The Court: Mr. Durban? I take it you were going to pick A at first.

Durban: We were more concerned about getting her personal property back.

The Court: Right.

Durban: She would love to give him all the property. She doesn't need it around there. She doesn't use it. It's just sitting there being stored. Now if we're going to give it a money value, then we ought to assess storage charges against it for the time that she's had it in her house.

The Court: I'm not going to do that but I need to know what each person thinks their property's worth. Nobody's testified to that, so...

Durban: She's perfectly willing to do that under your arrangement that you made during the pretrial. If he brings that trailer...

The Court: That's still the most effective thing to do.

Durban: The problem is a lot of this stuff she can't carry herself. I mean, we've got a kayak there, and a dinghy, and um, uh,

Blank: Picnic tables.

Durban: Picnic tables, and things like that, that she can't carry, so she's going to have to hire somebody to get it off her property.

The Court: Yes, sir.

Abbott: I have this arranged.

The Court: I'm sorry?

Abbott: I have it arranged, if she'll go along with it. I'm going to bring a young man with me to unload her stuff and put it where she wants, and to help me get my stuff on the trailer.

The Court: Okay, how should we supervise that?

Abbott: With the sheriff and a gun.

The Court: The sheriff is not going to be at all interested in doing this. The property, this exchange is going to take place in the Town of Mt. Pleasant.

Blank: County of Charleston.

Durban: It is Charleston County, Your Honor.

The Court: It is in the county.

Durban: East of the Cooper.

Your Honor: Um.

Abbott: They're familiar with the property.

The Court: Mr. Durban, any suggestions or did I prematurely cut off the option of the sheriff? (Laughs) Do you want to call them and see if, in the interest of maintaining peace, they would be willing to come by one Saturday?

Durban: In other domestic situations we have asked for a deputy to be present.

The Court: And it can happen.

Durban: When it's an exchange like that. To enforce, to enforce your judgment, your judgment is going to be essentially a claim of delivery against each other.

The Court: Right.

Durban: The deputy or a constable could be there for that.

The Court: Yes, sir?

Abbott: This has happened before.

The Court: What's happened before?

Abbott: Between the two of us where I moved my stuff out. And I called them and they came, and they were familiar...

The Court: Right. I cut if off too soon.

Abbott: Okay.

The Court: Um. All right. So we will leave that part of the case open and anticipate this time a successful transfer of personal property, and if that is correct then what I am trying to determine today is whether or not Ms. Blank is entitled to \$5000 in what she has referred to as severance pay from the company, or whether or not I accept Mr. Abbott's explanation that at that time he was discussing her equity in the boat, which is not before me today. Am I on track here?

Abbott: Yes, sir.

Durban: Yes, sir.

The Court: So it's whether or not she gets \$5000. All other issues, the personal property is held in abeyance, the rest of it is not on the table today. Okay. Mr. Durban, closing?

Durban: Your Honor, I think if you review those emails and that note from Mr. Abbott you can see that there are clearly two discussions going on. There is one discussion that is a handwritten note, I believe that was 10, 10, that clearly discusses the entire boat situation. Then you have emails from him where he discusses the work situation. You were paid in December. I will pay you for January and February. Obviously the fact that that's \$2500 per month, and the boat is \$5000 may be confusing. But if you look at the tenor of both of those sets of correspondence, you see that when he wants to talk about the boat, he talks about the boat, when he wants to talk about the pay, he talks about the pay. We also have a problem here that this man signed a false affidavit by saying...

The Court: Hold on, hold on. Mr. Abbott, where are we headed?

Abbott: Oh my God.

Durban: That he had not given any checks to her, that he had not left checks in an unsafe place. He gave her the checkbook. He gave her the checkbook, he gave her signatory authority, she wrote checks for him, and at the time he terminated her in December of 2012, he promised to pay her \$5000 and send her W-2s. Now that is a discussion of salary. And then he offered to hire her back at an even greater salary. So obviously there was something that was ongoing about his confidence in her ability to run the business aspects of Abbott Marine Construction, uh, and that continued. All she's trying to do, Your Honor, is to recover what he promised her he would pay. That's the part of this before you. The boat, you're absolutely correct, is not before you. But those two issues are separate and you can tell that from his correspondence. You can tell that from her statement to you when she was testifying, as well as to his admission that he promised to pay her that. As far as the personal property goes, Your Honor, she is going to need to some help getting it out of there. If we want to see if we can get a deputy sheriff to go when the transfer is made, I think that would be a wonderful idea. Uh, if he's got enough people to help him move all his stuff in and out of the trailer, let's do that. I would ask that those arrangements be made through my office and not directly from her. She does not want to hear anything from him anymore.

The Court: Right.

Durban: I'll be happy to arrange this so there will be witnesses and there'll be somebody there that can just keep the peace as that's going on. So those are the issues before you, Your Honor. I believe that clearly reviewing those emails and the evidence that's been presented, uh, he promised to pay her two months. He didn't pay her two months, she took it, he stopped payment on it, she wants to get reimbursed.

The Court: Thank you, sir. Your last word on the subject.

Abbott: I was, uh, came back from Haiti. I was in a transition to take my business back over. She was drinking heavily. I tried to get my checkbook and my checks and my credit cards and everything else back to where I was functioning as I normally did. To get her out of it. This job that she was trained to do, it's a federal job, Cherry Point Marine Corps Air Station, had nothing to do with Abbott Marine Construction. All right. It had to do with the management of the quality control of the job there that I was hired to do and that the people operated in a safe manner. That had nothing to do with Abbott Marine Construction. All right? Do you know what I'm talking about?

The Court: Well, I'm listening.

Abbott: Okay.

The Court: I mean, you're actually testifying again, but no one's objected, so I'm not objecting.

Abbott: In other words, she had no reason, I had no reason to write any checks for that job, or to receive any money other than my salary and I shared that salary with her as long as she was there. Now in December, I was done with it, could not function. I said you've got to go. She went home. I came to see

Hide

her at Christmas. We had a wonderful Christmas, if you'll remember, and I said I'll come back and see you again at New Years. She couldn't live in my home and in my business with my people. All right. That's all it was. In January she went to Florida to do her art shows. I sent my helpers down there to help her. I couldn't go. I couldn't go this time. Been helping her for years. She refused it. She stayed on the trimaran. She cleaned the trimaran out of all her personal possessions and a few things more. Don't worry about it. All right. So then I said I've got to have her to cover for me. I've trained her. I've paid to have her trained. Here's all the certificates. I got the same thing. I'll put her up in another place. I'll flower it up. I know she's mad at me. Make it a big salary. See if she'll come back. Wrote her a check. She severed herself. I never fired her.

The Court: When did you write this check? You said wrote her a check.

Abbott: She wrote her check.

The Court: Oh, go ahead.

Abbott: She wrote the check. January 30<sup>th</sup>.

The Court: Oh, yeah. Okay. Hold on. I thought you were talking about something else.

Abbott: That was in her response to coming back. No, I'm not going to come back. I'm going to take you for everything I can take you for. She was watching. She had my accounts on her, uh, she knew how to get into my bank accounts. I mean it had been awhile since I had \$10,000 in the bank. I was trying to accumulate cash so I could pay my bills when I was down and out with this hip and couldn't go to work. So I had that little booty in there a week before the thing, and she took it, all right, she took it. That's personal. What isn't personal is when I went to the bank and they said we'll give you the money back if you agree to have her arrested, I said yeah. No doubt. I'll need that. We'll worry about it later on. In fact I think I offered to make her house payments and take care of her cats and dogs while she was doing time.

Durban: Your Honor, now he's adding new testimony to his story.

The Court: Yeah, can we stay on point, what we discussed before?

24 Abbott: Okay. Well, anyway, I was not, I had no intention, I never paid her ahead, and I never would  
27 have. She got paid as she went like everybody else. There was no contract. There was no nothing. The  
28 money was for the trimaran.

The Court: Okay. Mr. Durban, anything else?

Durban: Nothing further, Your Honor. Thank you.

The Court: And that was everything you wanted to say, right? All right, we'll be in recess for a few minutes and I'll be right back. Yes?

Abbott: Oh, you said something about the value of the property.

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Life

The Court: Not if we're going to exchange it.

Abbott: Okay. How about my expenses for coming down here and all?

The Court: Thank you. We appreciate your contribution.

Abbott: Thank you, sir.

5 [Judge Guerard leaves and then returns to the bench.]

6 The Court: In reviewing the evidence and testimony, I became particularly intrigued and challenged by  
7 Plaintiff's exhibit 10; the handwritten letter boat situation from Mr. Abbott. Um, I missed when this got  
8 written.

9 Blank: August.

10 Durban: I think it was August. I tried to get her to see if she could estimate that when I was talking to her  
11 in preparation for this.

Blank: No, the cover sheet on that has the date on it.

The Court: The cover sheet?

Blank: You pulled the cover sheet off when you signed it. I've got it somewhere.

Durban: The handwritten, it was prior to this letter about (unintelligible).

Blank: It was in August.

The Court: Right. August? Okay, '12? End of the summer, year before last? Sounds about right?

Durban/Blank: (Unintelligible discussion about date and cover sheet)

Abbott: After we came back from Haiti.

The Court: Haiti was in March. The letter refers to something about Haiti, about money. Um, when did you buy the boat?

Abbott: February of '10, no February of '12.

The Court: Before you left for Haiti.

Abbott: Yes.

The Court: And then you were already talking about getting rid of it when you got back from Haiti?

Abbott: We were breaking up on and off for a while after Haiti.

The Court: All spring and summer. All during, am I wrong or right? Y'all got back from Haiti in March?

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Abbott: April, the end of April. The first part of May, we were in Jacksonville, Florida.

The Court: What was going on there?

Abbott: My grievance with the Navy.

4 Your Honor: Ms. Blank, do you actually having something that dates it?

5 Blank: I did. The cover sheet. I have it here somewhere.

6 The Court: All right. Take your time.

7 Blank: It was like August.

8 The Court: When did you put it in your name?

9 Abbott: I think it was in August about a year later.

10 The Court: Just this past August? '13?

11 Abbott: Yes. A few months ago. Here it is.

12 The Court: I don't need to see it. Just tell me what the date is on it.

13 Abbott: August 5<sup>th</sup>, 2013.

14 The Court: You think it sounds about right you wrote this sometime in August of 2012?

15 Abbott: Yes.

16 The Court: Okay.

Durban: One thing, Your Honor, just from the note itself it suggests the um, that it was written during the summer because if you look at this breakdown of the costs in the middle of it, the last one was called May expenses.

The Court: Yeah. Well, the only thing there, that's what I was trying to nail down the Haiti trip because he makes his, just above that, I paid for the plane tickets and car rentals and other expenses in May for our return from Haiti and four days in Miami, so I'm assuming...

Blank: That has me questioning that too.

The Court: Okay.

Blank: Why that goes against the boat cost.

The Court: But his timeline is why I'm worried here, about not whether he's fair or accurate in who gave what and how the money should be divided on the boat, but the idea being that he's thrown in, whether right or wrong, um, return from Haiti, four days in Miami, it sounds like you stopped in Miami,

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did you stop in Miami on the way back from Haiti, or is this two different trips and you threw it in because you thought it was all related?

Abbott: We came back from Haiti together and went to the boat for four days.

The Court: Right. Okay.

Blank: I can't put my finger on it, but I know it was August.

Abbott: Are you talking about the value, is this where you are headed on this?

The Court: No, I just want the timeline straight, what happened when. Okay, then, let's do this. I had said that I would review this and give you a ruling on the \$5000 issue but we still need to get rid of this personal property issue. And something tells me that if I rule on the \$5000, I'll never get a good result on the property. And so, and that I really, in light of the history of this case, would be keeping, I decided this earlier before I left the bench, that I would end up having to keep the file open in the hopefully not-to-occur event that this doesn't happen, and that we end up back before me seeking damages anyway. At this point processing that and how I was going to give my ruling, it hit me that I've got the order wrong. So, as soon as y'all tell me the property is exchanged, I'll tell you what my ruling is.

Durban: Your Honor, they have tentatively set a date for the week after Thanksgiving.

The Court: Excellent! That's what I was going to suggest. I'm going to be out of town all next week anyway so I don't care, and I was hoping y'all could get rid of it the next week, first week in December?

Durban: They're working on Tuesday or Wednesday of that week.

The Court: Perfect. Y'all are reading my mind, anticipating my every action. Um, so, y'all see if you can get that done. Have a nice Thanksgiving.

Durban: And I will inform the Court if that occurs during that week.

The Court: And we will rule on all outstanding issues at that time. If it becomes necessary to have a subsequent hearing, we still have that available.

Durban: Thank you, Your Honor.

The Court: Will that work?

Abbott: Yes, sir.

The Court: Thank you.